

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA, MOBILE DIVISION**

**Family Medicine Pharmacy, LLC v. Impax Laboratories, Inc.,  
No. 1:17-cv-00053 (S.D. Ala.)**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**

**THIS IS NOT A SOLICITATION.**

**THE SENDING OF THIS NOTICE BY FACSIMILE OR MAIL HAS BEEN APPROVED BY THE COURT.**

**YOU RECEIVED THIS NOTICE BECAUSE THE RECORDS OF DEFENDANT INDICATE  
YOU MAY BE A MEMBER OF THE PROPOSED SETTLEMENT CLASS IN THIS CASE.**

**PLEASE READ THIS NOTICE CAREFULLY. IF YOU WISH TO BE PAID BENEFITS  
UNDER THIS SETTLEMENT, YOU MUST SUBMIT A CLAIM FORM BY JANUARY 5, 2018.**

**I. WHY YOU RECEIVED THIS NOTICE**

You received this notice because the records of Defendant Impax Laboratories, Inc. ("Impax" or "Defendant") show that you may have received an unsolicited fax advertisement from Impax and therefore you may be a member of the Settlement Class.

**II. WHAT IS THE LAWSUIT ABOUT?**

Plaintiff Family Medical Pharmacy LLC ("Plaintiff") sued Impax, alleging that it received unsolicited facsimile advertisements sent by Defendant promoting Defendant's goods and/or services, without prior consent or an established business relationship, in violation of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. Plaintiff sought to represent a class of persons to whom Defendant sent the allegedly unsolicited facsimile advertisements. Defendant denies these allegations but has agreed to settle these claims solely to avoid the costs and uncertainties of litigation. Defendant will vigorously defend the lawsuit if the proposed settlement is not approved. Plaintiff has brought this action on behalf of itself and the Settlement Class set forth below. The Court has preliminarily certified the Settlement Class which has been defined as:

All individuals and/or entities whom or which received one or more unsolicited advertisements via facsimile from Defendant between December 1, 2013 and the date of entry of the Preliminary Approval Order.

The Notice List is compiled from records maintained by Defendant's agent showing the facsimile numbers of persons who potentially received allegedly violative fax advertisements from Defendant from December 1, 2013 through and including September 29, 2017.

**III. WHO REPRESENTS YOU**

The Court has appointed McFerrin Law Firm LLC and Zarzaur Mujumdar & Debrosse to represent the Settlement Class. Counsel for Plaintiff and the Settlement Class Members may be contacted at:

McFerrin Law Firm LLC, 3117 Manitou Lane,  
Birmingham, Alabama 35216; Tel.: (205) 910-8597, Fax:  
(205) 637-7212;

and

Zarzaur Mujumdar & Debrosse, 2332 2nd Avenue North,  
Birmingham, Alabama 35203; Tel.: (205) 983-7985, Fax:  
(888) 505-0523.

**IV. WHAT IS THE PROPOSED SETTLEMENT?**

The parties to the lawsuit have agreed to settle after extensive negotiations. Under the proposed settlement, Defendant has agreed to (1) pay a total of \$4,815,700 to settle the claims of Plaintiff and the Settlement Class (the "Settlement Amount") and (2) pay up to \$75,000.00 towards reasonable costs of notice and settlement administration costs ("Administration Costs"). If this settlement is approved by the Court, the Settlement Amount will cover an incentive award to the Plaintiff, Family Medical Pharmacy LLC, for its service as class representative (up to **\$20,000.00**), attorneys' fees to Counsel for Plaintiff and the Settlement Class (up to **1/3** of the Settlement Amount less Administration Costs), plus any Administration Costs in excess of \$75,000. Counsel for Plaintiff and the Settlement Class will file a petition for attorneys' fees by **February 2, 2018**. After these amounts are deducted from the Settlement Amount, each Settlement Class Member who submits a valid claim by **January 5, 2018** will receive a pro rata share of the remaining Distributable Settlement Fund not to exceed \$500.00 per fax transmission. **Your share of the Distributable Settlement Fund depends on how many Settlement Class members submit Claim Forms and how many allegedly violative faxes (in the aggregate) they claim to have received.** Although the exact number of Settlement Class Members and allegedly violative faxes is not currently known, the parties estimate based on a review of Defendants' records that there could be approximately 40,000 or more allegedly violative faxes.

## V. SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS

Members of the Settlement Class have the following options:

**(1) Remain a member of the Settlement Class and submit a Claim Form to receive a portion of the Distributable Settlement Fund.** In order to receive a cash payment under this settlement, you must fully complete and submit the Claim Form at the end of this notice in the manner indicated (see instructions on Claim Form) by **January 5, 2018**. If you do not submit a fully completed Claim Form by the date indicated, you will not receive a payment from the settlement fund and you will still remain a member of the Settlement Class and be bound by the terms of the Settlement Agreement entered into with respect to this lawsuit. 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. This is a one page form that asks for basic identification information. If you are entitled to recover payment in excess of \$599.99 and you do not submit a completed W-9 form in addition to your Claim Form, then the Settlement Administrator will deduct tax withholdings from the settlement payment.

**(2) Exclude yourself from the Settlement.** If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement by sending (via US Mail) a letter of notice of your intent to be excluded from the Settlement to the Settlement Administrator, JND Class Action Administration, PO Box 6998, Broomfield, CO 80021. The notice of exclusion must state your name (or the name of your company), address, the fax number at which you were sent a fax from Defendant, the case name and number at the top of this notice, and state that you wish to be excluded from the Settlement Class. The Notice of Exclusion must be postmarked on or before **January 5, 2018** or you will remain a Settlement Class Member. If you exclude yourself from the Settlement, you will not be eligible to receive a payment from the settlement fund and you will not be releasing any claims you may have against Defendant.

**(3) Object to the Settlement.** You have the right to tell the Court that you object to the Settlement or some part of it by filing a written objection with the Clerk of the Court advising the Court of your objection. If you wish to object to the Settlement, you must remain a member of the Settlement Class and you cannot exclude yourself from the Settlement Class. Either on your own or through an attorney you can file an objection explaining why you think the Court should not approve the settlement. You must file the objection with the Clerk of the United States District Court, Southern District of Alabama, United States Courthouse, 113 St. Joseph Street, Mobile, AL 36602. The objection must contain the case name and number – *Family Medicine Pharmacy, LLC v. Impax Laboratories, Inc.*, No. 1:17-cv-00053 – at the top; your name, address and the fax number to which you were sent the fax by Defendant; a statement of your objection to the Settlement Agreement, an explanation of the legal and factual basis for the objection; and documentation, if any, to support your objection. The objection must be filed with the Clerk of the Court on or before **January 5, 2018**. The Court will consider your objection if you properly submit an objection on time. You must also mail a copy of your objection to Plaintiff's Counsel

at the address provided in paragraph III and to Defendants' Counsel at the following address: S. Stewart Haskins II, Zachary A. McEntyre, Anush Emelianova, King & Spalding LLP, 1180 Peachtree Street, NE, Atlanta, GA 30309, Tel: (404) 572-4600, Fax: (404) 572-5100.

**(4) Do Nothing.** You are not required to take any action and may simply do nothing. If you do nothing you will remain a member of the Settlement Class but you will not receive any recovery and will be bound by all the terms of the Settlement Agreement including, but not limited to, a release of any claims you may have against Defendant for allegedly sending you an unsolicited fax advertisement.

## VI. WHAT AM I GIVING UP UNDER THE SETTLEMENT?

If the settlement becomes final, you will be releasing Defendant and the Released Parties for any claims you may have against them under the TCPA, any comparable statutes of any state, and any other federal or state statutory, regulatory, or common law, and for relief under any equitable theory that was asserted or could have been asserted based on or relating to the transmission of unsolicited advertising facsimiles to you by Defendant. This release is more fully explained in the Settlement Agreement, which is available at the Clerk's Office during regular business hours, United States District Court, Southern District of Alabama, United States Courthouse, 113 St. Joseph Street, Mobile, AL 36602, and is also posted on [www.zarzaur.com](http://www.zarzaur.com) and on the website of the Settlement Administrator, [www.fmpvimpaxsettlement.com](http://www.fmpvimpaxsettlement.com).

## VII. FINAL APPROVAL HEARING

The Court has scheduled a final approval hearing for **March 6, 2018 at 10:00 a.m.** in the United States District Court, Southern District of Alabama, United States Courthouse, 113 St. Joseph Street, Mobile, AL 36602. You do not have to appear at this hearing. You or your attorney may attend this hearing if you desire and may request to address the Court regarding any matters relating to this Settlement.

## VIII. WHERE CAN I GET MORE INFORMATION?

This notice is intended only as a summary of the lawsuit and proposed settlement. It is not a complete statement of the lawsuit or the proposed settlement. You may inspect the pleadings and other papers (including the proposed Settlement Agreement) that have been filed in this case number, 1:17-cv-00053, at the office of the Clerk of the Court, United States District Court, Southern District of Alabama, United States Courthouse, 113 St. Joseph Street, Mobile, AL 36602. This Claim Notice, the Claim Form, the Preliminary Approval Order, the Settlement Agreement (excluding exhibits) and Plaintiff's Counsel's Petition for Attorney's Fees are also available on [www.zarzaur.com](http://www.zarzaur.com) and on the website of the Settlement Administrator, [www.fmpvimpaxsettlement.com](http://www.fmpvimpaxsettlement.com). If you have questions about this notice or the proposed settlement, you may contact Settlement Class Counsel at the address and phone number listed above.

**PLEASE DO NOT CONTACT THE COURT FOR INFORMATION.**

BY ORDER OF THE U.S. DISTRICT COURT, S.D. ALA.