

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Fulton Dental, LLC v. Bisco Inc., Civil Action No. 15-cv-11038

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

YOU RECEIVED A NOTICE BECAUSE THE RECORDS OF DEFENDANT INDICATE YOU ARE 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 30, 2018.

I. WHY YOU RECEIVED A NOTICE

You received a notice of this lawsuit by fax because the records of Defendant Bisco, Inc. (“Bisco” or “Defendant”) show that you were sent one or more facsimiles during the period December 8, 2011 to December 8, 2015. If this is true, then you may be a member of the Settlement Class in a class action lawsuit filed against Bisco, and if you submit a claim, you may receive money.

II. WHAT IS THE LAWSUIT ABOUT?

Plaintiff Fulton Dental, LLC (“Plaintiff”) sued Bisco alleging that it received a facsimile advertisement sent by Bisco promoting its goods or services for sale. Plaintiff further alleges that the faxes in question did not contain an opt-out notice as required by the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227. Plaintiff alleged that the sending of these faxes violated the TCPA. Plaintiff sought to represent a class of persons to whom Bisco sent the alleged unsolicited advertising facsimiles. Bisco denies these allegations, but has agreed to settle to avoid the costs and uncertainties of litigation. 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 persons or entities within the United States to whom Bisco, Inc. or Bisco Dental Products Co. sent a facsimile from December 8, 2011 through December 8, 2015, and who are identified by their fax numbers in Bisco’s fax log Bates numbered B00020-1307.

III. WHO REPRESENTS YOU

The Court has appointed Broderick & Paronich, P.C., The Law Office of Matthew P. McCue, McCallum Methvin & Terrell and Burke Law Offices, LLC to represent the Settlement Class as Class Counsel. Class Counsel may be contacted at: **Broderick & Paronich, P.C., 99 High St., Suite 304, Boston, MA 02110, Phone: (508) 221-1510, E-mail: anthony@broderick-law.com.**

IV. WHAT IS THE PROPOSED SETTLEMENT?

The parties to the lawsuit have agreed to settle after extensive negotiations. Under the proposed settlement, Bisco has agreed to fund a Settlement Fund in the amount of \$262,500 (the “Settlement Fund”). If this settlement is approved by the Court, notice and administrative expenses will be paid from the Settlement Fund. The Net Settlement Fund remaining will cover up to a \$5,000 incentive award to the plaintiff, attorneys’ fees to Settlement Class Counsel (for up to 1/3 of the total Settlement Fund), and costs. After these amounts are deducted, each Class Member who submits a valid claim by **January 30, 2018** will receive an equal (pro rata) share of the remaining funds. Your share of the Net Settlement Fund depends on how many Settlement Class Members submit valid claims. This notice is being sent to approximately 25,127 Settlement Class Members. The recovery to each Settlement Class Member who submits a valid claim will be determined based on the number of Settlement Class Members who submit claims.

V. SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS

(1) Remain a member of the Settlement Class and submit a claim to receive a portion of the Net Settlement Fund. In order to receive a payment under this settlement, you must fully complete and submit the Claim Form available on this website in the manner indicated (see instructions on claim form) by **January 30, 2018** (“Claims Deadline”). If you do not submit a fully completed Claim Form by the Claims Deadline, you will not receive any payment, you will still remain a member of the Settlement Class, and you will be bound by the terms of the Settlement Agreement. The value of each individual settlement payment cannot be determined until the Claims Deadline has passed and all claims have been verified.

(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 a letter

of notice of your intent to be excluded from the Settlement to Burke Law Offices, LLC, 155 N. Michigan Ave., Suite 9020, Chicago, IL 60601 or the Settlement Class Administrator, *Fulton Dental, LLC v. Bisco, Inc.* Settlement Class Administrator, P.O. Box 404041, Louisville, KY 40233-4041, which must state your name (or the name of your company), address, and the fax number at which you were sent a fax from Bisco or Bisco Dental Products Co.; must state that you wish to be excluded from the Settlement Class; and must be signed by you. The letter must be sent or postmarked on or before **January 30, 2018**, or you will remain a Settlement Class member. If you exclude yourself from the settlement you will not be eligible to receive a cash payment under the Settlement Agreement, and you will not be releasing any claims you may have against Bisco.

(3) Object to the Settlement. You have the right to tell the Court that you object to the settlement or any 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 any objection with the Clerk of the United States District Court, Northern District of Illinois, 219 S. Dearborn, Chicago, IL 60604, in the case of *Fulton Dental, LLC v. Bisco, Inc.*, No. 15-cv-11038 (N.D. Ill.). The objection must identify your name, address and your fax number on which you were sent the fax by Bisco or Bisco Dental Products Co.; a statement of your objection to the Settlement; an explanation of the legal and factual basis for the objection; and include any documentation in support. Any objection must be filed with the Clerk of the Court on before **January 30, 2018**. The Court will consider your objection if you properly submit an objection on time.

(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 a cash recovery and will be bound by all the terms of the Settlement Agreement, including but not limited to a release of any claim(s) you may have against Bisco or Bisco Dental Products Co. for sending you any fax advertisements.

VI. WHAT AM I GIVING UP UNDER THE SETTLEMENT?

Claims for improper faxes under the TCPA range from \$500 to \$1,500 per violation, plus injunctive relief. If you exclude yourself, you can attempt to obtain more

money than you will get pursuant to this settlement. However, Bisco will assert all available defenses in any such lawsuit, and you could get nothing. This settlement provides less money than you would get if you sued on your own, but removes the risk you might have if you were to do so.

If the settlement becomes final, you will be releasing Bisco and applicable Released Parties from any TCPA and related claims that you may have accrued from December 8, 2011 to the settlement's Effective Date. This release is more fully explained in the Settlement Agreement, which is available at the Clerk's Office during regular business hours, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., Chicago, IL 60604, and is also posted on the Court Documents section of this website.

VII. FINAL APPROVAL HEARING

The Court has scheduled a final approval hearing before Judge Edmond Chang on **March 7, 2018 at 10:00 a.m.** in Courtroom 2119 of the United States District Courthouse for the Northern District of Illinois at 219 S. Dearborn St., Chicago, IL 60604. You do not have to appear at this hearing. However, you or your attorney may attend this hearing if you desire and 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, at the office of the Clerk of the Court, U.S. District Court for the Northern District of Illinois, 219 S. Dearborn St., 20th Fl., Chicago, IL 60604. The Settlement Agreement (excluding exhibits) is also available on the Case Documents section of this website. 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. **DO NOT CONTACT THE COURT OR DEFENDANT FOR INFORMATION.**

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