

United States District Court, Northern District of Illinois

NOTICE OF CLASS ACTION SETTLEMENT REGARDING UNSOLICITED
FASCIMILE ADVERTISEMENTS

The Court authorized this notice. This is not a solicitation from a lawyer.

IF BETWEEN AUGUST 16, 2016 AND OCTOBER 5, 2016, YOU RECEIVED ONE OR MORE FASCIMILE ADVERTISEMENTS FROM GIL KERKBASHIAN. THIS NOTICE CONTAINS IMPORTANT INFORMATION THAT PERTAINS TO YOU. PLEASE READ IT CAREFULLY. YOU COULD GET A PAYMENT FROM A CLASS ACTION SETTLEMENT, BUT YOU NEED TO SUBMIT A FORM TO DO SO.

YOUR LEGAL RIGHTS AND OPTIONS WITH THIS SETTLEMENT:	
RECEIVE YOUR SHARE OF THE SETTLEMENT	If you are a member of the Settlement Class, then you will be eligible for a payment if you submit a properly completed Claim Form by December 20, 2017 . You will be bound by the Release described in Question 12.
EXCLUDE YOURSELF	Get no payment. This is the only option that allows you to be part of any other lawsuit against Gil Kerkbashian and the Inland Bank defendants based on the allegations made in this case. The deadline for excluding yourself from the Settlement is December 5, 2017 .
OBJECT	Write to the Court about why you don't like the Settlement. The deadline for submitting a written objection to the Settlement is December 5, 2017 .
GO TO THE FINAL APPROVAL HEARING	You are not required to attend or speak at the Final Approval Hearing. If you submit a timely and valid written objection to the Settlement, the Court will consider your objection without any further action on your part. But, if you wish, you may request permission to speak at the Final Approval Hearing by following the directions in Question 22. The Final Approval Hearing is presently scheduled for January 18, 2018 .

- Defendants INLAND BANCORP, INC., INLAND HOME MORTGAGE COMPANY, LLC, INLAND BANK AND TRUST, and GIL KERKBASHIAN (collectively "Defendants") have agreed to pay a total of \$2,455,500 in an Illinois statewide settlement of all claims alleged against Defendants in *iMove Chicago, Inc. v. Inland Bancorp, Inc., et. al*, Case No. 16-cv-10106 (USDC ND Illinois) ("the Action"). The proposed settlement ("the Settlement") is a compromise of all claims alleging that unsolicited facsimile advertisements were sent to individuals and businesses. Defendants deny the allegations, deny liability, and assert numerous defenses. The Settlement avoids the costs and risks from continuing the lawsuit, pays money to the individuals and businesses who received the facsimile advertisements, and releases Defendants from further liability.

- The two sides disagree on how much money could have been recovered if individuals and businesses who received the unsolicited facsimile advertisements were to succeed at trial.
- **Your legal rights are affected whether you act or don't act.** Please read this notice carefully.
- Your rights and options – **and the procedures and your deadlines to exercise them** – are explained in more detail below. Please note, however, that this Notice is only a summary of the proposed Settlement. For the complete terms and conditions of the proposed Settlement, you should read the document called the Settlement Agreement, which was filed with the Court and is available from the Settlement Administrator (1-888-755-9508) or the official Settlement website www.InlandBankFaxSettlement.com.
- The Court in charge of this case still must decide whether to approve the proposed Settlement. Payments will not be made until the Court approves the Settlement and any appeals are resolved. Please be patient.

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BASIC INFORMATION

1. Why did I get this notice?

You received this notice because our records show that you or someone with your facsimile number received one or more facsimile advertisements from Gil Kerkbashian on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and/or October 5, 2016. As such, you are a Class Member and are eligible to receive monetary compensation from the Settlement Fund.

The Court required that this notice be sent to you because you have a right to know about a proposed Settlement of a class action lawsuit, and about all your legal options, before the Court decides whether to approve the Settlement. The Court has preliminarily approved the Settlement. If the Court gives the Settlement its final approval, and after any objections and appeals are resolved, the Settlement Administrator appointed by the Court will make the payments that the Settlement allows. Please check the Settlement Website for updates on the status of the Settlement. This package explains the lawsuit, the Settlement, your legal rights, what benefits are available, who is eligible for them, and how to get them.

The Court in charge of the settlement approval process is the U.S. District Court for the Northern District of Illinois, Hon. Andrea R. Wood (the court in which the Action is pending). iMove Chicago, Inc., who sued Defendants in the Action, is called the Plaintiff.

2. What is the lawsuit about?

Plaintiff brought the Action on behalf of everyone who received one or more unsolicited facsimile advertisements from Gil Kerkbashian on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016. Plaintiff alleges that Defendants sent the facsimile advertisements in violation of various laws that prohibit unsolicited faxes. Defendants deny the allegations, deny liability, and assert numerous defenses.

3. Why is this a class action?

In a class action, one or more people called Class Representatives (in this case, iMove Chicago, Inc.) sue on behalf of people who have similar claims. The Class Representative seeks to have a single court resolve the issues for all members of the class, except for those who wish to exclude themselves from the class.

4. Why is there a Settlement?

The Court did not decide in favor of either Plaintiff or Defendants. The proposed Settlement is a compromise of disputed claims. Rather than continuing to argue in court, both sides agreed to participate in mediation before a highly experienced and respected mediator, and through those efforts, the Parties were able to agree to the Settlement.

Before entering into the mediation with Defendants, the lawyers for the Plaintiff in the Action (“Class Counsel”) conducted an extensive investigation of the facts, including formal and informal discovery, reviewing numerous documents produced by Defendants, and reviewing numerous interrogatories answered by Defendants. After conducting their extensive investigation of the facts, Class Counsel analyzed the significant risks associated with the continued litigation of this Action, including risks relating to: (a) prevailing on class certification; (b) overcoming Defendants’ defenses; and (c) calculating class-wide damages. Based on all these considerations, Class Counsel and the Class Representative think the Settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT

To see if you will get money from this Settlement, you first must determine if you are a Settlement Class Member.

5. How do I know if I am part of the Settlement?

The Settlement Class is comprised of “all persons and entities who received one or more of the five facsimile advertisements sent by Gil Kerkbashian on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016.”

The Settlement Class *does not* include the 1,301 persons and entities to whom Gil Kerkbashian attempted to send a total of 8,977 faxes on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016, but which were not successfully transmitted to and received by a fax machine.

If you received Facsimile Notice or Postcard Notice of this Settlement from the Settlement Administrator, then our records indicate that you (or someone with your facsimile number) received one or more of the facsimile advertisements sent by Gil Kerkbashian on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016. Therefore, if you received Facsimile Notice or Postcard Notice of this Settlement, then our records indicate that you are a Settlement Class Member.

6. Are there exceptions to being included?

Yes. Even if you fall within the Settlement Class as described in Question 5, you are not a Settlement Class Member if you are: (1) a current and former employee, officer and director of Defendants and their agents, subsidiaries, parents, successors, predecessors, or any entity in which they or their parents have a controlling interest; (2) Class Counsel or their immediate family members; (3) the judge to whom this case is assigned or part of the judge’s immediate family; (4) any person who executes and files a timely request for exclusion from the Class; (5) any person who has had their claims in this matter finally adjudicated and/or otherwise released; and (6) the legal representative, successor or assign of any such excluded person.

7. What if I am still not sure if I am included?

If you are still not sure whether you are included, you can ask for free help. You can call the Settlement Administrator at 1-888-755-9508 or visit www.InlandBankFaxSettlement.com for more information.

THE SETTLEMENT BENEFITS—WHAT YOU GET

8. What does the settlement provide?

Defendants have agreed to pay a total of \$2,455,500 (“the Settlement Amount”) into a settlement fund for the benefit of Settlement Class Members.

YOU MUST SUBMIT A CLAIM FORM TO PARTICIPATE IN THE SETTLEMENT. The Claim Form is included in this Notice package. An electronic version of the Claim Form that you can fill out and submit online is also included on the Settlement Website.

The Settlement authorizes Class Counsel to seek an award of attorney’s fees of up to a maximum amount of one-third (33 1/3%) of the Settlement Amount and to request reimbursement of the out-of-pocket litigation expenses they have already paid in connection with the Action.

In addition, Class Counsel will ask the Court to approve payment out of the settlement fund to the Settlement Administrator of class notice and settlement administration costs. Furthermore, subject to the Court’s approval, iMove Chicago, Inc. will receive a payment of \$5,000 for its efforts in undertaking the litigation, assisting Class Counsel with the prosecution of the Action, subjecting itself to discovery, and serving as the Class Representative.

If approved by the Court, these attorney’s fees, expenses, costs and service award will be paid from the Settlement Amount. After payment of the fees, expenses, costs and service payment awarded by the Court, the remainder of the fund (“the Net Settlement Amount”) will be divided among Settlement Class Members who submit a timely and valid Claim Form.

9. How much will my payment be?

The Net Settlement Amount will be distributed pursuant to a Plan of Allocation to be approved by the Court. Each Settlement Class Member who submits a valid claim form will be entitled to a payment of \$250 for every facsimile advertisement that they received from Gil Kerkbashian, subject to any adjustment as described below.

PLEASE NOTE: The above-specified payment amounts may be adjusted up or down depending on the number of Claim Forms received, so as to fully and fairly allocate and pay out the entire Net Settlement Amount to Settlement Class Members who submit Claim Forms. None of the money in the Settlement Amount will revert back to any Defendant.

HOW YOU GET A PAYMENT—PARTICIPATING IN THE SETTLEMENT

10. How can I get a payment?

To qualify for a payment, you do not need to do anything other than submit a Claim Form, either by mail or online by **December 20, 2017**, confirming your status as a Settlement Class Member (see responses to Question Nos. 5 & 6 above). If the Court approves the Settlement, you will be sent money by check from the Settlement Administrator to the address specified in your Claim Form.

If you are a member of the Settlement Class and do not submit a Request for Exclusion, but you fail to submit a timely and valid Claim Form, you will not receive any money from the Settlement, but you will still be bound by all of the terms of the Settlement Agreement, including the Final Approval Order and the release of Plaintiff's Released Claims.

11. When will I get my payment?

The Court will hold a hearing on **January 18, 2018** to decide whether to approve the Settlement. If the Court approves the Settlement, there may be one or more appeals. It's always uncertain whether these appeals can be resolved, and resolving them may take time, often more than a year. Once any and all appeals are resolved, the Settlement Administrator can distribute the Net Settlement Amount.

12. What am I giving up to get a payment or stay in the Settlement Class?

Unless you exclude yourself, you will stay in the Settlement Class, and all of the Court's orders will apply to you and legally bind you. That means that you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the alleged sending of unsolicited facsimile advertisements by Gil Kerkbashian on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016. If you stay in the Settlement Class, you will release and forever discharge any and all direct, individual, or class claims, rights or causes of action or liabilities whatsoever, whether known or unknown, whether accrued or unaccrued, and whether arising under federal, state, local, statutory, common or any other law, rule, or regulation that were or could have been asserted against Defendants and their present and former affiliates, agents, officers, directors, employees, insurers, attorneys, parents, subsidiaries, predecessors, successors and assigns, by Plaintiff or any other Settlement Class Members in the Action arising out of or relating to the conduct of the sending of the Facsimile Advertisements, including claims for violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227, the Illinois Consumer Fraud and Deceptive Trade Practices Act, 815 ILCS 505/1, *et seq.*, for conversion, and all other claims alleged or which could have been alleged in the Action. ***Plaintiff's Released Claims do not, however, include any claims relating to the substance of the facsimile advertisements, and any other claims not arising out of or relating to the conduct of the sending of the facsimile advertisements at issue. The 1,301 persons and entities to whom Gil Kerkbashian attempted to send a total of 8,977 faxes on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016, but which were not successfully transmitted to and received by a***

fax machine, are not included in the Settlement Class and do not release any claims against Defendants.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the Settlement?

To exclude yourself from the Settlement, you must send the Settlement Administrator a letter by mail saying that you want to be excluded from the Settlement. Your request for exclusion must include all of the following:

- (a) Your name and address;
- (b) Your physical signature;
- (c) The name and number of the Action (that is, “*iMove Chicago, Inc. v. Inland Bancorp, Inc., et. al*, Case No. 16-cv-10106”); and
- (d) A statement that you wish to be excluded from the Settlement Class.

You must mail your request for exclusion postmarked no later than **December 5, 2017** to:

Inland Bank Unsolicited Fax Settlement Administrator
P.O. Box 3614
Minneapolis, MN 55403-0614

If you ask to be excluded, you will not get any Settlement payment, you cannot object to the Settlement, and you cannot ask to speak at the Final Approval Hearing. You will not be legally bound by anything that happens in the Action. Depending upon the applicable statute of limitations, you may be able to sue (or continue to sue) Defendants on you own regarding the issues raised in the Action.

14. If I don't exclude myself, can I sue Defendants for the same thing later?

No. Unless you exclude yourself, you give up any right to sue any Defendant for the claims that this Settlement resolves. *Your released claims do not, however, include any claims relating to the substance of the facsimile advertisements, and any other claims not arising out of or relating to the conduct of the sending of the facsimile advertisements at issue. The 1,301 persons and entities to whom Gil Kerckshian attempted to send a total of 8,977 faxes on August 16, 2016, August 24, 2016, August 31, 2016, September 14, 2016, and October 5, 2016, but which were not successfully transmitted to and received by a fax machine, are not included in the Settlement Class and do not release any claims against Defendants.* If you have a pending lawsuit against any Defendant (or any of its related parties as described in answer to Question No. 12 above), speak to your lawyer in that case immediately. You may have to exclude yourself from the Settlement Class to continue your own lawsuit against a Defendant or any of its related parties. Remember, the exclusion deadline is **December 5, 2017**.

15. If I exclude myself, can I get money from this Settlement?

No. If you exclude yourself, you will not receive any money from the Settlement. But, you are free to sue, continue to sue, or be part of a different lawsuit against Defendants.

THE LAWYERS REPRESENTING YOU

16. Do I have a lawyer in this case?

The Court has appointed Thomas A. Zimmerman, Jr. of Zimmerman Law Offices, P.C. as Lead Class Counsel for the Settlement Class (“Lead Class Counsel”). You will not be charged for his services. If you want to be represented by your own lawyer, you may hire one at your own expense.

17. How will the lawyers be paid?

Class Counsel will ask the Court to approve payment of attorney’s fees in an amount not to exceed one-third (33 $\frac{1}{3}$ %) of the Settlement Amount, after payment of up to a maximum amount of \$5,000 to iMove Chicago, Inc. for its service as the Class Representative, plus reimbursement of its litigation expenses. The attorney’s fees would pay Class Counsel for investigating the facts, litigating the case and negotiating the Settlement. The Court may award less than the amounts requested. The amounts paid for attorney’s fees, litigation expenses and the service award will be paid out of the Settlement Amount and will reduce the \$2,455,500 available for Settlement Class Members. In addition, the costs for providing notice to the Settlement Class Members and the costs to administer the Settlement will also reduce the fund available for Settlement Class Members.

OBJECTING TO THE SETTLEMENT

You can tell the Court that you don’t agree with the Settlement or some part of it.

18. How do I tell the Court that I don’t like the Settlement?

If you are a Settlement Class Member, you can object to the Settlement if you don’t like any part of it and tell the Court why you feel the Settlement should not be approved. The Court will consider your views. To object, you must mail or your lawyer must file a document with the Court stating that you object to the Settlement. Your objection must include:

- Case name (*iMove Chicago, Inc. v. Inland Bancorp, Inc., et. al*);
- Case number (Case No. 16-cv-10106);
- Your name and address;
- Your physical signature;
- A statement that you are a Settlement Class Member;
- The date(s) on which you received the facsimile advertisement(s) from Gil Kerkbashian;
- The fax number(s) at which you received the facsimile advertisement(s) from Gil Kerkbashian;
- The reasons that you object to the proposed Settlement, along with any supporting documents; and
- A statement indicating whether you intend to appear at the Fairness Hearing.

In addition to you mailing or your attorney filing your objection with the Court, the objection must also be mailed to each of the following addresses, postmarked no later than **December 5, 2017**:

COURT	LEAD CLASS COUNSEL	DEFENSE COUNSEL
Clerk of the Court U.S. District Court for the Northern District of Illinois Everett McKinley Dirksen United States Courthouse 219 S. Dearborn St. Chicago, IL 60604	Thomas A. Zimmerman, Jr. Zimmerman Law Offices, P.C. 77 W. Washington St., Suite 1220 Chicago, IL 60602	Thomas P. Cimino, Jr. Vedder Price P.C. 222 N. LaSalle St., Suite 2600 Chicago, IL 60601 Cornelius P. Brown Cohon Raizes & Regal LLP 208 S. LaSalle St., Suite 1440 Chicago, IL 60604

19. What's the difference between objecting and excluding?

Objecting is simply telling the Court that you do not like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

The Court has preliminarily approved the Settlement. The Court will hold a Final Approval Hearing to decide whether to give final approval to the Settlement. Although you don't have to, you may attend and, if you filed a timely, written objection, you can ask to speak at the hearing.

20. When and where will the Court decide whether to approve the Settlement?

The Court will hold the Final Approval Hearing at 10:00 a.m. on **January 18, 2018** at the U.S. District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois 60604. At this hearing, the Court will consider whether the Settlement with Defendants is fair, reasonable, adequate and in the best interests of the Settlement Class. The Court will also consider whether to approve the proposed Plan of Allocation of the Settlement proceeds to the Settlement Class. The Court will also consider (a) the application by Class Counsel for payment of attorney's fees and reimbursement of expenses out of the Settlement Fund created through their efforts, and (b) the application for the payment of Service Award to the Class Representative.

If there are any timely objections to the Settlement, the Court will consider them. The Court will listen to people who have asked to speak at the hearing. After the hearing, the Court will decide whether to approve the Settlement and how much to pay Class Counsel and the Class Representative. We do not know how long these decisions will take.

The Final Approval Hearing may be continued or adjourned by the Court without further notice to the Settlement Class. Settlement Class Members who may attend the Final Approval Hearing can check the Settlement Website for updates.

21. Do I have to come to the hearing?

No. Class Counsel will answer questions the Court may have. But you are welcome to attend at your own expense. If you send an objection, you don't have to come to the hearing to talk about it. As long as you mailed your written objection on time, the Court will consider it. If you hired your own lawyer, you may have to pay your own lawyer to attend, but it's not necessary that he or she do so.

22. Can I speak at the hearing?

You cannot speak at the hearing if you excluded yourself from the Settlement. If you filed a timely, written objection, you (or your own lawyer) may appear and speak at the Final Approval Hearing but, to do so, a notice of your intention to appear must be filed with the Court.

IF YOU DO NOTHING

23. What happens if I do nothing at all?

If you do nothing, then, if you are eligible and not excluded (as described in Questions 5 and 6 above), you'll automatically be part of the Settlement Class and (if you send in the Claim Form) be sent money from this Settlement based on the Plan of Allocation if the Settlement is approved by the Court. You will also be bound by the Final Approval Order approving the Settlement and cannot start a lawsuit, continue with a lawsuit, or be part of any other lawsuit against Defendants about the issues in the Action.

GETTING MORE INFORMATION

24. Are there more details about the Settlement?

This notice summarizes the proposed Settlement. More details are in the Settlement Agreement. If you wish to review the Settlement Agreement, you may do so by visiting www.InlandBankFaxSettlement.com.

25. How do I get more information?

You can call the Settlement Administrator at 1-888-755-9508, write to the Settlement Administrator at Inland Bank Unsolicited Fax Settlement Administrator, P.O. Box 3614, Minneapolis, MN 55403-0614 or visit the Settlement Website at www.InlandBankFaxSettlement.com, where you will find answers to common questions about the Settlement, plus other information to help you determine whether you are member of the Settlement Class and whether you are eligible for payment. The most important documents in this case can be viewed, free of charge, on the Settlement website. You can also call Lead Class Counsel at (312) 440-0020, email Lead Class Counsel at tom@attorneyzim.com, write to Lead Class Counsel at 77 W. Washington St., Suite 1220, Chicago, IL 60602, or visit Lead Class Counsel's website at www.attorneyzim.com.

If you wish to review all of the pleadings and other records in the Action, including the Settlement Agreement, they may be examined online on PACER at www.pacer.gov/findcase.html. After arriving at the website, click the 'Search the PACER Case Locator' link, then follow the directions and enter **16-cv-10106** as the case number and click 'SEARCH.' Images of every document filed in the case may be viewed at a minimal charge. You may also view images of every document filed in the case free of charge by using one of the computer terminal kiosks available at the U.S. District Court for the Northern District of Illinois, Everett McKinley Dirksen United States Courthouse, 219 S. Dearborn Street, Chicago, Illinois 60604.

Date: September 21, 2017.