

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

<b>MARY DUDZIENSKI</b> , individually, and on behalf of all others similarly situated,	)	
	)	
Plaintiff,	)	No. 07-CV-3911
	)	
v.	)	Hon. Blanche M. Manning
	)	
<b>GMRI, INC.</b> , a Florida corporation, individually and d/b/a THE OLIVE GARDEN, and d/b/a THE OLIVE GARDEN ITALIAN RESTAURANT; and <b>DOES</b> <b>1-10</b> ,	)	Magistrate Judge Jeffrey Cole
	)	
Defendants.	)	

**NOTICE OF  
CERTIFIED CLASS ACTION SETTLEMENT**

**To:** All persons who used a credit or debit card at an Olive Garden restaurant in the United States between December 4, 2006 and August 10, 2007 -- **YOU ARE ELIGIBLE TO RECEIVE A VOUCHER THAT CAN BE USED TO PURCHASE AN APPETIZER**, as set forth below.

**YOU HAVE NOT BEEN SUED. THIS NOTICE IS INTENDED TO INFORM YOU ABOUT LITIGATION THAT MAY AFFECT YOUR LEGAL RIGHTS. PLEASE READ IT CAREFULLY.**

On behalf of the named plaintiff and all members of the class, the United States District Court for the Northern District of Illinois (the "Court") has preliminarily approved a settlement. This notice is not to be construed as an expression of any opinion by the Court with respect to the merits of the respective claims or defenses of the parties. Rather, this notice is sent merely to inform you of legal rights you may have with respect to the settlement.

**I. BACKGROUND OF THE LITIGATION.**

Mary Dudzienski, on behalf of all members of the class, ("Plaintiff") has asserted that GMRI, Inc. ("GMRI") violated certain requirements imposed by the Fair and Accurate Credit Transactions Act ("FACTA"). Specifically, Plaintiff claims that GMRI printed more than the last five digits of its customers' credit or debit card numbers on guest receipts presented to them at Olive Garden restaurants, in violation of FACTA, as specifically set forth in the Complaint on file and available at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604. **NEITHER PLAINTIFF NOR ANY CLASS MEMBER HAS SUSTAINED ANY ACTUAL MONETARY INJURY AS A RESULT OF THE ISSUES IN DISPUTE IN THIS LITIGATION. HOWEVER, THE SETTLING PARTIES AGREE THAT FACTA PROHIBITS THE DISPLAY OF MORE THAN THE LAST FIVE DIGITS OF ACCOUNT NUMBERS ON CREDIT AND DEBIT CARD RECEIPTS**

PRESENTED TO CUSTOMERS AT THE POINT OF SALE.

## **II. CURRENT STATUS.**

On April 3, 2009, the Court preliminarily approved the settlement for the class as fair, adequate, and reasonable. If finally approved, the settlement will certify a class that will bind the named plaintiff and all absent class members who do not exclude themselves from the class.

Under the terms of the settlement, class members will be entitled to receive a voucher worth Nine Dollars (\$9.00) that can be used for the purchase of an appetizer at any Olive Garden restaurant in the United States.

The amount paid in this settlement reflects an evaluation of the claims and potential recovery, considering the facts as known to counsel after discovery and careful investigation, the likelihood of prevailing at trial, and the likelihood that this litigation, if not settled now, would be further protracted and involve complex issues of fact and law. The amount is also based upon an evaluation of the potential recovery available under FACTA.

Class counsel believes that the settlement is fair and reasonable and that the class members should accept this settlement. In light of the risks and expenses of litigation and GMRI's potential defenses, class counsel believes it is in the best interests of the class that the case be settled and that the settlement terms are fair and reasonable.

## **III. EFFECT OF SETTLEMENT ON CLASS MEMBERS.**

If you elect to be excluded from the class, you will not be bound by the terms and

releases of the settlement or judgment of dismissal and orders in the above-captioned action, but you will not be entitled to share in the benefits or receive any relief from this settlement. Any class member who does not request to be excluded will automatically be included in this action as a member of the class represented by the named plaintiff, will be subject to and deemed to consent to the jurisdiction of the Court and its orders, and will be deemed to have released and thereafter be forever barred from asserting any claims against the released parties with respect to any credit or debit account information that was printed on a receipt presented to such class member at the point of sale during the class period (December 4, 2006 through August 10, 2007). A complete description of the released claims is available in the Court file maintained at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604.

## **IV. EXCLUSION FROM THE CLASS.**

If you do not wish to participate in this settlement, you must notify the Claims Administrator in writing of your intention to be excluded. Your election to opt-out must be signed by the class member opting-out and must contain the following information: (1) the name of the class member, (2) the current address of the class member, (3) the date signed, and (4) a copy of the Olive Garden's customer receipt. No class member may opt-out through an actual or purported agent or attorney acting on behalf of the class member unless a fully lawful power of attorney, letters testamentary or other comparable documentation or court order accompanies the request. Further, the letter must be postmarked on or before **June 4, 2009**, and must be addressed to the following: GMRI Class Action Exclusion Request, GMRI FACTA Litigation Settlement, c/o Analytics, Inc., P.O. Box 2002, Chanhassen, MN 55317-2002.

Failure to opt-out by the deadline, or to follow the above procedures, will result in a class member being bound by any judgments and orders in this case.

**V. OBJECTIONS TO THE SETTLEMENT AND RIGHT TO INTERVENE.**

Only class members may object to the settlement, and persons who opt-out of the class may not object to the settlement agreement. If you wish, you may enter an appearance in the action personally or through your own attorney at your own expense. You may also seek to intervene if at any time you believe your interests are not being fairly and adequately represented by the class representative and class counsel.

Any class member who wishes to be heard orally at the Fairness Hearing, or who wishes for any objection to be considered, must file a written notice of objection by **June 4, 2009**, and include the following information with the objection: (1) a statement of the desire to be heard at the Fairness Hearing and/or a statement of each objection asserted, (2) a detailed description of the facts underlying each objection (if any); and (3) a copy of any documents which the objector may offer during the Fairness Hearing, including a copy of the receipt giving rise to your claims.

The objector must file the above documents with the Clerk of the Court at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604, and serve notice of the objection to plaintiffs' class counsel and defense counsel at the following addresses:

Thomas A. Zimmerman, Jr., Esq.  
ZIMMERMAN LAW OFFICES, P.C.  
100 West Monroe Street  
Suite 1300  
Chicago, IL 60603

Richard M. Hoffman, Esq.  
COHEN, SALK & HUVARD, P.C.  
630 Dundee Road  
Suite 120  
Northbrook, IL 60062

Objectors who fail to properly or timely file their objections with the Court, or to serve them as provided above, shall not be heard during the Fairness Hearing, nor shall their objections be considered by the Court.

**VI. FINAL FAIRNESS HEARING.**

The District Court will hold a hearing to decide whether to approve the settlement. You may attend and you may be able to speak, but it is not required. The Fairness Hearing will be held on **July 13, 2009 at 9:00 a.m.** at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Room No. 1838, Chicago, Illinois 60604. At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections or requests to be heard, the Court may consider them at the hearing. Defendant has agreed to pay class counsel fees in the amount of \$130,000.00, plus costs not to exceed \$5,000. The Court must approve this amount. Additionally, as part of this settlement GMRI will make a Five Thousand Dollar (\$5,000.00) payment to a charity approved by the Court.

**QUESTIONS AND ANSWERS**

**1. WHAT DO I NEED TO DO TO PARTICIPATE IN THE SETTLEMENT?**

- (a) If you believe you are a member of the class and desire to participate in this settlement, you should completely fill out the "Voucher Claim Form" that accompanies this Notice and mail it to the following address: GMRI Class Action - Claims, GMRI FACTA Litigation

Settlement, c/o Analytics, Inc., P.O. Box 2002, Chanhassen, MN 55317-2002. The "Voucher Claim Form" must be postmarked on or before **June 4, 2009**. Failure to fully follow these procedures will result in a class member receiving no relief under the settlement, but nonetheless being bound by any judgments, orders, and releases in this case.

**2. WHO REPRESENTS THE CLASS?**

- (a) **Class Representative:** The named plaintiff is the class representative and is a person who received a receipt from GMRI at the point of sale that displayed more than the last five digits of her credit or debit card number.

The class representative has assisted class counsel in coordinating the prosecution of this action and in providing information needed to pursue the claims of all class members. The class representative will be applying for an incentive award of \$2,500.00, which the Defendant has agreed to pay separately, and not from amounts available for class members.

- (b) **Class Counsel:** In its order granting preliminary approval of the settlement and certifying the class for settlement, the District Court appointed Thomas A. Zimmerman, Jr., as class counsel to represent the named plaintiff and to represent the interests of the absent class members.

**3. WHERE DO I GET ADDITIONAL INFORMATION?**

- (a) The foregoing is only a summary of the circumstances surrounding the litigation, the claims asserted, the class, the settlement, and related matters. You may seek the advice and guidance of your own private attorney, at your own expense, if you desire. For more detailed information, you may review the pleadings, records, and other papers on file in this litigation, which may be inspected during regular business hours at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604. If you wish to communicate with class counsel identified above, you may do so by writing to Thomas A. Zimmerman, Jr., ZIMMERMAN LAW OFFICES, P.C., 100 West Monroe Street, Suite 1300, Chicago, IL 60603; alternatively, you may call the offices of the firm at (312) 440-0020.

*/s/ The Honorable Blanche Manning*  
United States Magistrate Judge

IF YOU HAVE ANY QUESTIONS OR CONCERNS, ADDRESS ALL INQUIRIES TO CLASS COUNSEL IN THE MANNER SET FORTH ABOVE. THE COURT AND THE CLERK WILL NOT ANSWER LEGAL QUESTIONS FROM INDIVIDUAL CLAIMANTS. BY ISSUING THIS NOTICE, THE COURT EXPRESSES NO OPINION AS TO THE MERITS OF ANY CLAIMS OR DEFENSES ASSERTED IN THIS CIVIL ACTION. **PLEASE DO NOT CONTACT THE COURT.**

**OLIVE GARDEN'S VOUCHER CLAIM FORM**

I certify, under penalty of perjury as provided in 28 U.S.C. § 1746, that:

- (1) I made a purchase using a debit or credit card between December 4, 2006 and August 10, 2007 at an Olive Garden restaurant in the United States.
- (2) No other member of my household has submitted a Voucher Claim Form in this lawsuit.
- (3) I am eighteen (18) years of age or older.

I request a voucher from Olive Garden by regular mail.

I acknowledge the request will render me a member of the settlement class.

Name

Address

City

State

Zip

Telephone

Signed

Date

This voucher request must be postmarked by **June 4, 2009** to: GMRI Class Action - Claims, GMRI FACTA Litigation Settlement, c/o Analytics, Inc., P.O. Box 2002, Chanhassen, MN 55317-2002.