

If you received an unsolicited Fax Advertisement from Keeler Instruments, Inc., between August 3, 2014, and July 22, 2019, a class action Settlement may affect your rights. More information about this Settlement is set forth in this Notice.

Please read it carefully as your rights may be impacted even if you do nothing at all.

*A federal court authorized this Notice.
This is not a solicitation from a lawyer.*

SUMMARY

- On August 3, 2018, Retina Associates Medical Group, Inc. (“Retina Associates” or “Plaintiff”) filed suit in the United States District Court for the Central District of California, captioned *Retina Associates Medical Group, Inc. v. Keeler Instruments, Inc.*, Case No. 8:18-cv-01358-CJC-DFM (“Action”). Retina Associates alleged that Keeler Instruments, Inc., (“Keeler” or “Defendant”) violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”), by sending unsolicited fax advertisements that did not contain the required opt-out notice and without prior express invitation or permission of Retina Associates and the putative class members. On October 25, 2018, Retina Associates filed an amended complaint with similar allegations.
- A proposed Settlement has been reached in the Action, and you may be a Settlement Class Member. You are a Settlement Class Member if you are a person or business entity in the United States who from August 3, 2014, until July 22, 2019 were sent an unsolicited telephone facsimile message of material advertising the commercial availability or quality of any property, goods, or services by or on behalf of Keeler.
- If the Settlement is finally approved by the Court, Settlement Class Members who submit a timely claim that satisfies the requirements in this Notice will receive payment of up to \$1,500, depending on the number of claims submitted.
- Your legal rights are affected whether you act or not, and you have a choice to make now:

YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT	
Do Nothing	<p>You will get no benefit from the Settlement.</p> <p>You will give up any right to ever be a part of any other lawsuit against Defendant that relates in any way to the use of a telephone facsimile machine, computer, or other device to send a facsimile advertisement to Settlement Class Members.</p>
Submit a Claim Form by December 10, 2019	<p>You will receive payment of up to \$1,500 depending on the number of valid claims submitted, if you submit a timely Claim Form that satisfies the requirements for making a claim, and the Court finally approves the Settlement.</p> <p>You will also give up any right to ever be a part of any other lawsuit against Defendant that relates in any way to the use of a telephone facsimile machine, computer, or other device to send a facsimile advertisement to Settlement Class Members.</p> <p>A Claim Form is available at www.RetinaTCPASettlement.com.</p>
Ask to be Excluded by September 25, 2019	<p>You will not receive a benefit from the Settlement.</p> <p>You will keep the ability to sue Defendant in a different lawsuit for the claims at issue in this lawsuit.</p> <p>This is the only option that allows you to ever be part of any other lawsuit against Defendant that relates in any way to the use of a telephone facsimile machine, computer, or other device to send a facsimile advertisement to Settlement Class Members.</p>
Submit an Objection by October 11, 2019	<p>You may choose to stay in the lawsuit and the Settlement Class, but object to this Settlement.</p> <p>By objecting to the Settlement you give up your right to be excluded from the Settlement and your right to file your own action. If you object to the Settlement, you may ask a lawyer to represent you at your own cost.</p> <p>The Court will hold a Final Approval Hearing in this case on December 13, 2019, to consider whether to approve the Settlement, and the request by the lawyers representing Settlement Class Members for attorneys’ fees and costs. To object to the Settlement or the application for attorneys’ fees and costs, you must timely file a written objection meeting the requirements set forth later in this Notice with the Court, and serve a copy on Class Counsel and Defendant’s counsel at the addresses listed below. If you have filed such an objection, you may appear at the hearing to explain your objection further.</p>

BASIC INFORMATION

1. What is this Notice about?

The Court issued this Notice because you have a right to know about a proposed Settlement in the class action lawsuit, *Retina Associates Medical Group, Inc. v. Keeler Instruments, Inc.*, Case No. 8:18-cv-01358-CJC-DFM, pending in the United States District Court for the Central District of California. This lawsuit is based on certain unsolicited fax advertisements that Defendant sent to Settlement Class Members.

This Notice explains the Settlement (including your legal rights), who is a Class Member, the benefit available to Class Members, and how to make a claim for a benefit.

2. What is this lawsuit about?

Plaintiff claims that Defendant violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 (“TCPA”), by sending to Plaintiff and the putative Class Members unsolicited fax advertisements that did not contain the required opt-out notice and without prior express invitation or permission or an established business relationship. Defendant denies wrongdoing or liability of any kind related to Plaintiff’s claim but has agreed to settle the case solely to avoid the uncertainties, expenses, and time of further litigation.

3. What is a class action?

In a class action lawsuit, persons called “Class Representatives” (in this case, Plaintiff Retina Associates) sue on behalf of others, called “Class Members,” who have similar claims. In a class action, one court resolves in one case the claims of all Class Members except for those who choose to exclude themselves from the Class. Plaintiff and Defendant have agreed to treat this case as a class action for purposes of this Settlement. The Court has agreed for the reasons set forth in the Court’s Preliminary Approval Order available at www.RetinaTCPASettlement.com.

4. Why is there a Settlement in this case?

The Court did not decide in favor of Plaintiff or Defendant. Instead, both sides agreed to a Settlement. That way, they avoid the risk and expense of continued litigation and trial, and Class Members who satisfy certain conditions will receive a benefit without the risk that their claims ultimately may be found to lack merit if this case were to proceed through litigation. Plaintiff and Class Counsel believe this Settlement is in the best interest of all Class Members.

WHO IS IN THE CLASS?

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

The Court has decided that everyone who fits this description is a Class Member:

All persons or business entities in the United States who from August 3, 2014, until July 22, 2019 were sent an unsolicited telephone facsimile message of material advertising the commercial availability or quality of any property, goods, or services by or on behalf of Defendant.

6. Are there exceptions to the Settlement Class?

Yes. The Class does not include Defendant, its employees and agents, and members of the judiciary.

7. I am still not sure I am included.

If you are not sure whether you are included, you can get help by calling toll-free 1-866-480-6638, visiting www.RetinaTCPASettlement.com, or writing with questions to Retina-Keeler TCPA Administrator, P.O. Box 43501, Providence, RI, 02940-3501. You can also contact Class Counsel Seth Lehrman of Edwards Pottinger LLC, 425 North Andrews Avenue, Suite 2, Fort Lauderdale, FL 33301, telephone (954) 323-2066, seth@epllc.com, or Ronald J. Eisenberg of Schultz & Associates LLP, 640 Cepi Drive, Suite A, Chesterfield, MO 63005, telephone (636) 733-6647, reisenberg@sl-lawyers.com.

THE SETTLEMENT

8. What benefit is available under the Settlement?

The Settlement provides that Defendant shall pay Settlement Benefits totaling \$310,000 and, after certain deductions including Settlement administration costs and attorneys’ fees, to pay a pro rata share up to \$1,500 to each Class Member who submits a timely and valid claim. If any balance remains thereafter, it shall be distributed to two charitable organizations approved by the Court.

9. Are any payments available now?

No. The Court has not yet decided whether to approve the Settlement. If the Court does not approve the Settlement, no payments will be made. If you want to participate in the Settlement, however, you must submit the Claim Form available at www.RetinaTCPASettlement.com by December 10, 2019.

YOUR RIGHTS AND OPTIONS

10. What am I giving up if I stay in the Settlement Class?

If you stay in the Settlement Class, then you cannot sue Defendant for claims that relate to the use of a telephone facsimile machine, computer, or other device to send a facsimile advertisement to Class Members. If the Court finally approves the Settlement then you will be bound by the Settlement Agreement available at www.RetinaTCPASettlement.com.

11. How can I make a claim?

To receive payment, you must submit a valid Claim Form. Your Claim Form must include all of the required information, must be verified by you, and must be submitted postmarked on or before December 10, 2019. You may obtain a Claim Form online at www.RetinaTCPASettlement.com, then print and mail it to Retina-Keeler TCPA Administrator, P.O. Box 43501, Providence, RI, 02940-3501, obtain a Claim Form by phone at 1-866-480-6638 or you may submit the Claim Form attached to the Class Notice you received.

12. How can I get out of the Settlement Class?

To exclude yourself from the Settlement Class, you must send a letter to the Claims Administrator at Retina-Keeler TCPA Administrator, P.O. Box 43501, Providence, RI, 02940-3501, postmarked no later than September 25, 2019. In your letter, you must include your name, address, telephone number, and a written statement that you wish to be excluded from the Settlement Class.

13. How do I tell the Court that I do not like the Settlement?

If you are a Class Member and have not excluded yourself from the Class, you can object to the Settlement if you do not agree with any part of it. Your objection should include reasons why you think the Court should not finally approve the Settlement, and the Court will consider your views. To object, you must file your written objection with the Court no later than October 11, 2019, and must mail it to Class Counsel and Counsel for Defendant, postmarked no later than October 11, 2019.

<u>Court</u>	<u>Class Counsel</u>	<u>Counsel for Defendant</u>
U.S. District Court Central District of California 350 W 1st Street Suite 4311 Los Angeles, CA 90012-4565	Seth M. Lehrman Edwards Pottinger LLC 425 North Andrews Ave. Suite 2 Fort Lauderdale, FL 33301	Karen S. Hockstad Dinsmore & Shohl, LLP 191 W. Nationwide Blvd. Suite 300 Columbus, OH 43215

Your objection must be signed by you or your attorney and must include your name, address and facsimile phone number, must state with specificity the grounds for the objection, and include any documentation to support the objection. If you intend to call witnesses at the Final Approval Hearing, you must identify them.

14. 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 Settlement no longer affects you.

15. What happens if I do nothing?

If you do nothing, you will be included in the Class, but you will not receive any payment. To receive payment, you must submit a timely and valid Claim Form. If you do nothing, once the Settlement is finally approved, you will not be able to start, continue, or be part of any other lawsuit against Defendant that relates in any way to the use of a telephone facsimile machine, computer, or other device to send a facsimile advertisement to Settlement Class Members.

THE COURT’S FINAL APPROVAL HEARING

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

The Court has scheduled a Final Approval Hearing at 9:00 A.M., on December 13, 2019, in United States District Court, Central District of California, 350 W. 1st Street, Courtroom 7C, 7th Floor, Los Angeles, CA 90012. At this hearing, the Court will consider whether the Settlement should be approved by the Court as fair, reasonable, and adequate. If there are objections, the Court will consider them. The Court will listen to people who have asked to speak at the hearing and will make its decisions.

17. What else will be decided at the Final Approval Hearing?

At the Final Approval Hearing, Class Counsel will ask the Court for an award of attorneys’ fees up to \$77,500 (25% of the \$310,000 in Settlement Benefits), plus costs and expenses. The Court will also consider Class Counsel’s request for a class representative award of up to \$5,000 for Retina Associates for the services it has rendered and the benefit it obtained for the class.

18. Do I have to come to the hearing?

Not unless you filed an objection to the Settlement. Otherwise, Class Counsel will answer any questions that the Court may have, but you may come to the hearing.

THE LAWYERS REPRESENTING YOU

19. Do I have a lawyer in this case?

The Court appointed Seth M. Lehrman of Edwards Pottinger LLC and Ronald J. Eisenberg of Schultz & Associates LLP as Class Counsel to represent you should you submit a claim. You do not have to pay Class Counsel.

20. Should I get my own lawyer?

Class Counsel will represent you if you choose to stay in the Class. You may retain your own lawyer if you want someone other than Class Counsel to represent you, but you will be responsible for paying that lawyer. You are not required to pay Class Counsel. If you ask to be excluded from the Class, Class Counsel will not represent you. If you want a lawyer to represent you with respect to any claim you may have, then you will be required to pay that lawyer.

21. How will Class Counsel be paid?

If the Settlement is finally approved, Class Counsel will be paid their attorneys' fees and costs from the Settlement Benefits in this case. Class Counsel will file a motion asking the Court for an award of attorneys' fees and expense as explained in Paragraph 17 above.

GETTING MORE INFORMATION

22. Where can I find more details about the Settlement?

If you have questions about the Settlement, write to Class Counsel at the address above. Include the case number, your name, your fax number, and your current street address on any correspondence. Alternatively, you can call Class Counsel Seth M. Lehrman at (954) 323-2066 or Ronald J. Eisenberg at (636) 733-6647. You may also contact the Retina-Keeler TCPA Administrator at 1-866-480-6638 or visit the Settlement website, www.RetinaTCPASettlement.com.

PLEASE DO NOT CALL OR DIRECT ANY INQUIRIES TO DEFENDANT