

**IN THE CIRCUIT COURT OF ST. LOUIS COUNTY
STATE OF MISSOURI**

MATTHEW GIANCRISTOFARO and
WILLIAM POFFENBERGER, *individually,*
and on behalf of all others similarly situated,

Case. No. 23SL-CC04108

Plaintiff,

v.

IMA PIZZA, LLC d/b/a &Pizza,

Defendant.

NOTICE OF CLASS ACTION SETTLEMENT

The Circuit Court has authorized this Notice. This is **NOT** a solicitation from a lawyer. Please read this Notice carefully as it may affect your legal rights. **Do not be alarmed. You have not been sued; nor have you “filed” a lawsuit.**

This Notice is being sent to you because you may be among a group or “Class” of persons who received text messages from Ima Pizza, LLC d/b/a &Pizza (“Defendant”) after requesting that Defendant stop texting you.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS CASE

These rights and options and the deadlines to exercise them are explained below.

IF YOU WANT TO PARTICIPATE FULLY IN THIS CASE	If you want to be included in this case, <u>then you must submit a valid Claim Form. If you submit a valid claim, you are expected to receive \$372 per post-opt out text received from Defendant.</u> If you do not submit a Claim Form you will not receive any payment and will give up claims against Defendant regarding the Telephone Consumer Protection Act. You must submit a claim by March 18, 2024. The relief afforded to you is described in Section 7 below and in the Settlement Agreement available on the Settlement Website, www.OptOutPizzaSettlement.com .
IF YOU <u>DO NOT</u> WANT TO PARTICIPATE IN THIS CASE AT ALL	If you do not want to participate or be included in this case, then you must send written notice by mail that you wish to exclude yourself from the Settlement, postmarked or uploaded to www.OptOutPizzaSettlement.com no later than February 16, 2024. Instructions for doing so are in Section 8 below.

	If you choose not to participate in this case, you give up the possibility of getting money or benefits that may come from the Settlement of this case. You keep any rights to sue Defendants about certain legal claims arising from communications directed to you, but the statute of limitations (the deadline for you to file your potential claims) continues to run.
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Your options are explained in this Notice.

1. WHAT IS THIS LAWSUIT ABOUT?

Plaintiffs Matthew Giancristofaro and William Poffenberger (“Plaintiffs”) filed a civil lawsuit against Defendant. Plaintiffs filed the lawsuit on behalf of themselves and as a class action on behalf of the group or “class” of persons who were sent text messages after requesting Defendant stop sending them text messages. Plaintiffs allege Defendant violated the Telephone Consumer Protection Act (“TCPA”) by sending these post opt-out text messages. Defendant denies these allegations.

2. WHAT IS A CLASS ACTION AND WHO IS INVOLVED?

In a class action case, one or more persons sue on behalf of other people who have similar claims. The person who sues is called the named Plaintiff or the named Plaintiffs. The named Plaintiff(s) represent all similarly situated people in the court. The named Plaintiffs in this Lawsuit are Matthew Giancristofaro and William Poffenberger.

3. WHY DID I RECEIVE THIS NOTICE?

This Notice is being made available to you because Defendant’s records reflect that a text message was sent to you after you requested that Defendant no longer send you text messages. If this is the case, you may be a member of the “Class.”

Do not be alarmed. **You have not been sued; nor have you “filed” a lawsuit.** This Notice simply informs you of the named Plaintiffs’ Lawsuit and lets you know that you have been identified as a potential member of the Class and to advise you of your rights and options as a Class member.

4. HAS THE JUDGE DECIDED WHO IS RIGHT?

No. By certifying the Class and issuing this Notice, the judge is not suggesting that the named Plaintiffs or the Class would have won or lost the case.

5. HOW DO I KNOW IF I AM A MEMBER OF THE CLASS?

By Order dated November 28, 2023, the Court certified the following Class of persons in the Lawsuit, for Settlement purposes:

All persons identified by the records of Defendant to whom Defendant has sent text messages after the recipient requested to no longer receive text messages from Defendant.

If you are not sure whether you are a member of the Class, you should contact the lawyers representing the Class, who are listed in paragraph 6 below.

6. WHO IS CLASS COUNSEL?

The Court appointed the named Plaintiffs’ attorneys in the Lawsuit as Counsel for the Class (“Class Counsel”). Class Counsel are Christopher E. Roberts and David T. Butsch of Butsch Roberts & Associates LLC and Jacob U. Ginsburg of Kimmel & Silverman, P.C. You are not required to hire your own lawyer because Class Counsel will be working on your behalf as a member of the Class. If you want to hire your own lawyer you are permitted to do so at your own expense.

7. WHAT WILL I RECEIVE AS PART OF THE SETTLEMENT?

If you submit a valid Claim Form, you will receive \$372 per post opt-out text message you received from Defendant (excluding any confirmatory opt-out text messages). The social security number is for tax reporting purposes as required by the IRS.

Defendant will pay no more than \$750,000.00 to pay Class Members’ claims, the cost of settlement administration, Class Representative service awards and Class Counsel’s attorneys’ fees and expenses. In the event the number of claims would cause the amount of payout to exceed \$750,000.00, then your claim could be subject to a pro rata reduction from \$372 per text.

8. WHAT DO I NEED TO DO TO RECEIVE THE BENEFIT OF THE SETTLEMENT?

If you wish to receive the Settlement benefits, you **must submit a valid Claim Form, a copy of which is included with this Notice, and which is also available at www.OptOutPizzaSettlement.com**. You may submit a completed Claim Form at **www.OptOutPizzaSettlement.com** or send to:

&Pizza TCPA Settlement
c/o Atticus Administration, LLC
PO Box 64053
Saint Paul, MN 55164

Email: PizzaSettlement@atticusadmin.com

Your Claim Form must be submitted at www.OptOutPizzaSettlement.com by March 18, 2024, or postmarked by March 18, 2024.

Failing to make a claim, will mean you will not receive compensation and will give up certain TCPA claims against Defendant. However, you have a choice. You also have the right to exclude yourself from the Lawsuit and the Class or object to the Settlement. Each of these choices has consequences that you should understand before making your decision.

A. If you want to participate as a member of the Class.

You must submit a valid Claim Form to receive the financial benefit of this Settlement. Your rights and claims against Defendant, if any, concerning the text messages Defendant placed to you (or had communications placed on your behalf), will be determined in the Lawsuit.

If you do not exclude yourself from the Settlement:

1. The named Plaintiffs and Class Counsel will represent you in the Lawsuit. By joining this case, you designate the named Plaintiffs, to the fullest extent possible, to make decisions on your behalf concerning the case, the method and manner of conducting the case, the entering of an agreement with Class Counsel regarding payment of attorney's fees and litigation costs, the approval of settlements and all other matters pertaining to this case. These decisions and agreements made and entered into will be binding on you if you do not opt out of the case. You may be required to provide information and documents, appear for a deposition and/or testify in court. You will also be permitted to attend any hearings in this matter. You will also release certain claims against Defendant regarding communications placed to you by Defendants or those acting on their behalf as detailed more thoroughly in the Settlement Agreement available on the Settlement Website www.OptOutPizzaSettlement.com.
2. As a member of the Class, you will be entitled to share in any monetary recovery that the named Plaintiff obtains for the Class. You will also receive the benefit of any other relief that the Court may award the Class.
3. Your ability to recover from Defendant will depend on the results of the Lawsuit. It is important to understand that as a member of the Class in this case **you will be bound by any judgment entered by the Court, whether favorable or unfavorable.**

B. If you want to exclude yourself from the Class or object to the Settlement.

If you do not want to be a member of the Class and participate in this Lawsuit, you can ask the Court to exclude you from the Lawsuit and allow you to "opt out" by sending such correspondence in writing to:

&Pizza TCPA Settlement
c/o Atticus Administration, LLC
PO Box 64053
Saint Paul, MN 55164

To be effective, the request to exclude yourself to the Settlement must be completed, signed and postmarked by February 16, 2024.

If you choose to be excluded from the Class:

1. Your claims against Defendant, if any, will not be decided in the Lawsuit and you will not share in any recovery that the named Plaintiffs obtain for the Class.
2. You will not be bound by any determinations or any judgment that the Court makes or enters in the Lawsuit, whether favorable or unfavorable.
3. You will not be entitled to any further notice with regard to the Lawsuit.
4. You may pursue any claims you have against Defendant at your own expense and risk by filing your own separate lawsuit, should you choose to do so, and assuming you have a claim and the applicable statute of limitations to file a case has not run.
5. Be aware that any claims that you have or may have against Defendant are limited by the applicable statute of limitations and declining to participate in this case by opting out, or by proceeding separately, may result in some or all of your claims expiring as a matter of law.

Any Class Member who wishes to object to the Settlement or wishes to appear at the Final Approval Hearing and show cause, if any, why the same should not be approved as fair, reasonable, adequate, and in the best interests of the Settlement Class, or why a final judgment should not be entered thereon, must serve and file written objections. The objection must contain the objector's full name, telephone number, and current address; must declare that the objector is a member of the Class; and must provide a detailed statement of the objector's specific objections to any matter before the Court and the grounds of the objection. Said objections must be mailed to:

&Pizza TCPA Settlement
c/o Atticus Administration, LLC
PO Box 64053
Saint Paul, MN 55164

To be effective, the request to object to the Settlement must be completed, signed and postmarked by February 16, 2024.

9. HOW WILL CLASS COUNSEL AND THE CLASS REPRESENTATIVE BE PAID?

Class Counsel will seek an award of attorney's fees and expenses of up to \$240,000.00. The Court will determine the amount of fees and expenses that should be awarded to Class Counsel. Plaintiff Giancristofaro will seek an award of \$10,000.00 for his service as Class Representative. Plaintiff Poffenberger will seek an award of \$5,000.00 for his service as Class Representative.

10. WHAT IF I HAVE QUESTIONS?

You should not contact the Clerk of The Court, Judge, or Defendants' Counsel with questions about this case. Instead, if you have any questions about your claim or rights or would like more information, you should call Class Counsel Christopher E. Roberts of Butsch Roberts & Associates LLC at 314-863-5700 or Jacob U. Ginsburg of Kimmel & Silverman, P.C. at 267-468-5374. You can also speak with your own attorney.

You can review and obtain copies of the Lawsuit, the Court's Order granting Preliminary Approval of the Settlement and any other pleadings and filings in the Lawsuit directly from Class Counsel, by contacting Class Counsel at the number above. You can also review and obtain copies of these papers at your own expense at the Clerk of the Court in the Circuit Court of St. Louis County, State of Missouri.

11. IMPORTANT DEADLINES AND DATES TO REMEMBER

March 18, 2024, is the deadline to submit your Claim Form.

February 16, 2024, is the deadline to exclude yourself from the Settlement or object to the Settlement.

The Final Approval Hearing will take place on March 27, 2024, at 12:00 p.m. before Judge Brian May, Division 1, of the Circuit Court of St. Louis County, Missouri, 105 South Central Avenue, Clayton, MO 63105. The hearing may also take place via video conference at:

<https://mocourts.webex.com/wbxmjs/joinservice/sites/mocourts/meeting/download/3357e8a103b5f0fad7860c97c9e4d959>.

Dated: December 19, 2023

This Notice is being made available pursuant to Federal Rule of Civil Procedure 23 and by Order of the Court.