

Pet Parade, Inc. v. Stokes Healthcare, Inc. d/b/a Epicur Pharma
United States District Court for the Southern District of Florida,
Case No. 1:20-cv-24279-KMW

If you received a facsimile advertisement from Epicur Pharma
YOU MAY BE ENTITLED UP TO \$500 CASH
under a class action settlement.

A Federal Court authorized this Notice. This is not a solicitation from a lawyer.

- **The Action:** Pet Parade filed a Class Action Complaint against Stokes Healthcare, Inc., doing business as Epicur Pharma (referenced herein as “Epicur”), asserting claims under the Junk Fax Prevention Act (“JFPA”) provisions of the Telephone Consumer Protection Act (“TCPA”). Pet Parade alleges that it and members of the class received unsolicited facsimile advertisements from Epicur advertising various veterinary medications, and which did not include required language on how to “opt out” of future faxes. Epicur denies Plaintiff’s allegations that the faxes were unsolicited or unlawful whatsoever. Epicur further asserts that most, if not all, the facsimile advertisements were either sent in the course of an existing business relationship or were welcomed by the recipient. The Court has not ruled on the merits of Plaintiff’s claims or Epicur’s defenses. Epicur has agreed to enter into the Settlement, and by doing so has not conceded the truth or validity of any of the claims against it.
- **The Class Definition:** All persons identified on Epicur’s Master Fax List who (1) during the four-year period prior to the filing of this action through the date of preliminary approval, (2) were sent a telephone facsimile message advertising the commercial availability or quality of any property, goods, or services by or on behalf of Epicur, (3) that did not display an opt-out notice on the first page stating that the recipient may make a request to the sender of the advertisement not to send any future advertisements to a telephone facsimile machine or machines and that failure to comply, within 30 days, would be unlawful. These persons are called “Settlement Class Members.”
- **The Settlement Fund:** Epicur has agreed to make cash payments of **up to \$500 to Settlement Class Members** who submit a valid and timely claim form (“Claim Form”) and pay for attorneys’ fees and expenses and a potential Service Award to Plaintiff (the “Settlement Fund”), if approved by the Court, to fully settle and pay for a release of claims of the Settlement Class Members.
- Your rights and options, and the deadlines to exercise them, are explained more fully in this Notice. **Your legal rights are affected whether you act or don’t act. Read this Notice carefully.** Some of your rights include:
 - **Your Right to Hire an Attorney:** Any Settlement Class Member may enter an appearance in this lawsuit through an attorney if the member so desires. You are not required to hire any attorney, however, to exercise your rights.
 - **How to Exclude Yourself:** To exclude yourself, you must request an exclusion. To be valid, you must mail a written notice of exclusion to the Administrator, so

that it is postmarked no later than **January 13, 2022** (the “Opt-Out Deadline”). To exclude yourself, follow the procedures described under Question 13 below.

- **The Binding Effect of a Class Judgement:** Unless you exclude yourself, the Court will find you have agreed to the Settlement, and you will be part of the Settlement Class and will be bound by the release of claims in the Settlement. This means that if the Settlement is approved, you cannot pursue or continue to pursue any Released Claim, as explained more fully below, against Epicur or any other Released Parties, whether on your own or as part of any other lawsuit. It also means that all of the Court’s orders will apply to you and legally bind you. In summary, unless you exclude yourself, the Court will find you have agreed to release Epicur and any other Released Parties, as defined in the Settlement Agreement and Release, from any and all claims that were asserted in the litigation and all claims that relate to or arise from Epicur sending facsimile advertisements.
- **The Final Approval Hearing:** The Court will hold a Final Approval Hearing at **11:00 a.m. on February 15, 2022** at Room 11-3 in the United States District Court for the Southern District of Florida, The Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Miami, Florida 33128. At this hearing, the Court must still decide whether the Settlement is fair, reasonable and adequate.
- **The Claim Deadline:** If you submit a valid Claim Form by **January 13, 2022**, you will receive a payment and will give up your rights to pursue or continue to pursue a Released Claim. Claim Forms may be submitted by mail to Epicur Settlement, c/o Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103 or online at **www.EpicurSettlement.com**.
- The Court in charge of this case must still decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after any appeals are resolved. Please be patient.

Class Counsel Contact Information

Seth M. Lehrman, Esq.
EDWARDS POTTINGER, LLC
425 North Andrews Avenue, Suite 2
Fort Lauderdale, FL 33301
Telephone: 954-524-2820
E-mail: seth@epllc.com

Joshua H. Eggatz, Esq.
Michael J. Pascucci, Esq.
EGGNATZ | PASCUCCI
7450 Griffin Rd., Suite 230
Davie, FL 33314
Telephone: 954-889-3359
E-mail: JEggatz@JusticeEarned.com

Claims Administrator Contact Information

Epicur Settlement
c/o Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103
Email: info@EpicurSettlement.com
Toll-Free: 844-955-2115

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS	
SUBMIT A CLAIM FORM	If you submit a valid Claim Form by January 13, 2022 , and the Court approves the Settlement, you will receive a payment and will give up your rights to pursue or continue to pursue a Released Claim, as defined in the Settlement Agreement, against Epicur and/or any other Released Parties. Claim Forms may be submitted by mail to Epicur Settlement, c/o Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103 or online at www.EpicurSettlement.com .
EXCLUDE YOURSELF OR “OPT-OUT” OF THE SETTLEMENT	If you ask to be excluded, you will not receive a payment. This is the only option that allows you to pursue or continue to pursue a Released Claim against Epicur and/or other Released Parties on your own. The deadline for excluding yourself is January 13, 2022 .
OBJECT TO THE SETTLEMENT	You may write to the Court about why you believe the Settlement is unfair in any respect, including any requested amounts of attorneys’ fees, expenses, and Service Award. The deadline for objecting is January 13, 2022 . If you object, you must still submit a Claim Form. If you submit an objection without a Claim Form you will not receive any benefit from the Settlement, and you will give up your rights to pursue or continue to pursue a Released Claim against Epicur and/or any other Released Parties.
DO NOTHING	<u>If you do nothing, you will not receive any monetary award and you will give up your rights</u> to pursue or continue to pursue a Released Claim against Epicur and/or any other Released Parties.
GO TO THE FINAL APPROVAL HEARING	You may ask to speak in Court about the fairness of the Settlement, if you object to the Settlement. To speak at the Final Approval Hearing, you must comply with the requirements set forth in Question 21 below no later than January 13, 2022 .

BASIC INFORMATION

1. What is the purpose of this Notice?

The purpose of this Notice is to inform you that a proposed Settlement has been reached in the class action lawsuit styled *Pet Parade, Inc. v. Stokes Healthcare, Inc. d/b/a Epicur Pharma*, Case No. 1:20-cv-24279-KMW (S.D. Fla.). Because your rights will be affected by this Settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the Settlement and your rights under it.

2. What does it mean if I received a postcard or e-mail about this Settlement?

If you received a postcard or e-mail describing this Settlement, it is because Epicur's records indicate that you are a member of the Settlement Class in this action. The Settlement Class is defined in question 5 below.

3. What is this class action lawsuit about?

In a class action, one or more people called Class Representatives (here, Plaintiff) sue on behalf of people who allegedly have similar claims. This group is called a class and the persons included are called class members. One court resolves the issues for all of the class members, except for those who exclude themselves from the class.

Here, Pet Parade alleges that it and Settlement Class Members received unsolicited facsimile advertisements from Epicur advertising various veterinary medications, and which did not include required language on how to "opt out" of future faxes. Epicur denies Plaintiff's allegations, denies that the faxes were unsolicited or unlawful, and denies any wrongdoing whatsoever. Epicur further asserts that most, if not all, the facsimile advertisements were either sent in the course of an existing business relationship or were welcomed by the recipient. The Court has not ruled on the merits of Plaintiff's claims or Epicur's defenses. Epicur has agreed to enter into the Settlement, and by doing so has not conceded the truth or validity of any of the claims against it.

The Court has conditionally certified a class action for settlement purposes only. The Honorable Kathleen M. Williams is the judge in charge of the lawsuit.

4. Why is there a settlement?

The Court did not decide in favor of Plaintiff or Epicur. Instead, both sides agreed to this Settlement. That way, they avoid the risk and cost of a trial, and the Settlement Class Members will receive compensation. Plaintiff and Class Counsel think the Settlement is best for all Settlement Class Members.

WHO IS IN THE SETTLEMENT CLASS?

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

The Court has certified this case as a class action for settlement purposes only. The Settlement Class includes:

All persons identified on Epicur's Master Fax List who (1) during the four-year period prior to the filing of this action through the date of preliminary approval, (2) were sent a telephone facsimile message advertising the commercial availability or quality of any property, goods, or services by or on behalf of Epicur, (3) that did not display an opt-out notice on the first page stating that the recipient may make a request to the sender of the advertisement not to send any future advertisements to a telephone facsimile machine or machines and that failure to comply, within 30 days, would be unlawful.

Notwithstanding the foregoing, the Settlement Class specifically excludes persons in the following categories: (A) individuals who are or were during the Class Period officers or directors of Epicur or any of its respective affiliates; (B) the district judge and magistrate judge presiding over this case, and the judges of the United States Court of Appeals for the Eleventh Circuit, their spouses, and persons within the third degree of relationship to any of them; and (C) all persons who file a timely and proper request to be excluded from the Settlement Class in accordance with Section III(D) of the Settlement Agreement and Release.

If you are still not sure whether you are included in the Settlement Class, you can visit other sections of the Settlement Website, www.EpicurSettlement.com, or you may write to or call the Administrator for more information:

Epicur Settlement
c/o Administrator
1650 Arch Street, Suite 2210
Philadelphia, PA 19103
Email: info@EpicurSettlement.com
Toll-Free: 844-955-2115

THE LAWYERS REPRESENTING YOU

6. Do I have lawyers in this case?

The Court has appointed lawyers from the law firms of Edwards Pottinger, LLC and Eggnatz Pascucci, P.A. as Class Counsel to represent you and the other persons in the Settlement Class. You will not be personally charged by these lawyers.

7. How will Class Counsel be paid?

Class Counsel will ask the Court to approve payment of up to \$495,000 to them for attorneys' fees, plus reasonable expenses not to exceed \$15,000. Class Counsel also will ask the Court to

approve a potential payment of up to \$5,000.00 to the Plaintiff for the service provided as Class Representative. The Court may award less than these amounts.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What does the settlement provide?

Settlement Fund. Epicur has agreed to make available \$1,650,000.00 to cover: (1) payments to Settlement Class Members who submit timely and valid Claim Forms; (2) an award of attorneys' fees and expenses to Class Counsel; (3) a potential Service Award to Plaintiff; and (4) the costs of notice and administration of the Settlement.

Payments. All Settlement Class Members are eligible to submit a Claim Form and receive a payment. To submit a Claim Form, follow the procedures described under Question 11 below.

9. How much will my payment be?

If you submit a timely and valid Claim Form **you will receive up to \$500.** The amount you receive will depend on how many Settlement Class Members submit a timely and valid Claim Form and how much of the Settlement Fund is allocated to the costs of notice and administration, attorneys' fees, a potential Service Award, and other expenses.

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

You are giving up your right to legally pursue the Released Claims, as defined in the Settlement Agreement and Release. This means that if the Settlement is approved, you cannot pursue or continue to pursue any Released Claim against Epicur or any other Released Parties, whether on your own or as part of any other lawsuit, as explained in the Settlement Agreement and Release. It also means that all of the Court's orders will apply to you and legally bind you. Unless you exclude yourself from the Settlement, the Court will find you have agreed to be part of the Settlement Class have agreed to release Epicur and any other Released Parties, as defined in the Settlement Agreement and Release, from any and all claims that were asserted in the litigation and all claims that relate to or arise from Epicur sending facsimile advertisements.

In summary, the Released Claims includes, without limitation, all claims that were asserted or could have been asserted in the litigation based on Epicur sending facsimile advertisements, including, but not limited to, claims under the TCPA and JFPA or any other statute or the common law, for any form of relief.

If you have any questions about the release or what it means, you can speak to Class Counsel, listed under Question 6, for free, or you can, at your own expense, talk to your own lawyer. The release does not apply to persons in the Settlement Class who timely exclude themselves.

HOW TO OBTAIN A PAYMENT

11. How can I get a payment?

To receive a payment, you must submit a Claim Form by the deadline of **January 13, 2022**. You may get a Claim Form on the Settlement Website, www.EpicurSettlement.com, or by calling the Toll-Free Settlement Hotline, 844-955-2115. **Read the instructions carefully. To be valid, the Claim Form MUST be filled out completely and accurately, signed by you, and submitted on a timely basis.**

You may submit a Claim Form by mail or online:

A Claim Form may be submitted by mail to the Administrator at: Epicur Settlement, c/o Administrator, 1650 Arch Street, Suite 2210, Philadelphia, PA 19103. The Claim Form must be postmarked by **January 13, 2022**; or

A Claim Form may be submitted online on the Settlement Website at: www.EpicurSettlement.com.

The Claim Form must be submitted online by **January 13, 2022**.

ANY CLAIM BEING MADE IS IN RELATION TO A LEGAL PROCEEDING. ANY KNOWINGLY FALSE CLAIM COULD BE SUBJECT TO CIVIL OR CRIMINAL PENALTIES.

WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?

12. When will I receive a Settlement payment?

The Court will hold a Final Approval Hearing to decide whether to approve the Settlement. If the Court approves the Settlement, after that, there may be appeals. If there are appeals, it is uncertain when they will conclude, but resolving them can take time, perhaps more than a year. Everyone who sends in a Claim Form will be informed of the progress of the Settlement through information posted on the Settlement Website at www.EpicurSettlement.com. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How can I get out of the Settlement?

If you want to keep your rights to pursue or continue to pursue any Released Claim against Epicur and/or any Released Parties, as defined in the Settlement Agreement and Release, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or opting-out of, the Settlement Class. If you exclude yourself you will not be legally bound by anything that happens in this lawsuit.

To exclude yourself from the Settlement, you must submit an exclusion request form by mail or online.

An exclusion request form can be found on the Settlement Website and must be submitted by mail to the Administrator at: Epicur Settlement, c/o Administrator, PO Box 58220, Philadelphia, PA 19102. The exclusion request must be postmarked by **January 13, 2022**; or

An exclusion request form may be submitted online on the Settlement Website at: www.EpicurSettlement.com.

The exclusion request must be submitted online by **January 13, 2022**.

To be valid, your exclusion form must be postmarked or submitted online no later than **January 13, 2022** (the “Opt-Out Deadline”), and shall clearly state the following in the written notice of exclusion: (a) identify the case name; (b) identify the name, address, and telephone number of the Settlement Class Member; (c) identify the facsimile telephone number(s) where the person received a facsimile advertisement from Epicur relating to the litigation; (d) contain the statement that indicates a desire to be excluded from the Settlement Class in the litigation, “I hereby request that I be excluded from the proposed Settlement Class in *Pet Parade, Inc., v. Stokes Healthcare, Inc., d/b/a Epicur Pharma*, Case No. 1:20-cv-24279-KMW (S.D. Fla.);” and (e) be personally signed by the Settlement Class Member requesting exclusion. No request for exclusion will be valid unless all of the information described above is included. No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

To be valid, your exclusion request must be postmarked or submitted online no later than January 13, 2022 to the Administrator at Epicur Settlement, Attn: Exclusion Request, PO Box 58220, Philadelphia, PA 19102.

14. If I do not exclude myself, can I sue Epicur for the same thing?

No. If you do not exclude yourself, you give up any rights to pursue (or continue to pursue) any Released Claims against Epicur and/or any Released Parties.

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

No. If you ask to be excluded, you will not be able to submit a Claim Form for a Settlement payment, and you cannot object to the Settlement.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I do not think the Settlement is fair?

If you are in the Settlement Class, you can object to the Settlement or any part of the Settlement that you think the Court should reject, and the Court will consider your views. If you do not provide a written objection in the manner described below, you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness,

reasonableness, or adequacy of the Settlement or the award of any attorneys' fees and expenses and/or Service Award.

To be valid, the written objection must include: (a) the case name and number of the litigation; (b) the name, address, and telephone number of the Settlement Class Member objecting and, if represented by counsel, of his/her counsel with counsel's contract information; (c) the facsimile number(s) where he/she received a facsimile advertisement from Epicur relating to the litigation; (d) a description of the specific factual and legal basis for each objection raised; (e) a list of any other objections filed to any other proposed class action settlements in any court for the past five (5) years; (f) if he or she is represented by counsel, a list of objections filed to any other proposed class action settlements by that counsel in any court for the past (5) years; (g) any and all agreements that relate to the objection or the process of objecting—whether written or oral—between objector or objector's counsel and any other person or entity; and (h) a statement of whether he/she intends to appear at the Final Approval Hearing, either with or without counsel.

Any objection must be personally signed by the Settlement Class Member. Class or group objections shall be prohibited.

Any Settlement Class Member who fails to object to the Settlement in the manner described above shall be deemed to have waived any such objection, shall not be permitted to object to any terms or approval of the Settlement at the Final Approval Hearing, and shall be foreclosed from seeking any review of the Settlement or the terms of the Settlement Agreement by appeal or other means.

To be considered, you must file your objections with the Court, or mail to the Court at the address below and be postmarked no later than January 13, 2022:

Clerk of Court
Wilkie D. Ferguson, Jr. U.S. Courthouse
400 North Miami Avenue
Miami, FL 33128
(305) 523-5100

Attention: "Pet Parade, Inc. v. Stokes Healthcare, Inc., Case No. 1:20-cv-24279-Williams

Your objections must also be mailed to the addresses below and postmarked no later than January 13, 2022.

For Plaintiff:

Joshua H. Eggnatz, Esq.
EGGNATZ | PASCUCCI
7450 Griffin Rd., Suite 230
Davie, FL 33314

For Epicur:

Holly M. Hamilton, Esq.
MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN
2400 East Commercial Blvd., Suite 1100
Fort Lauderdale, FL 33308

If you file an objection and you want to obtain a benefit from this Settlement, you must submit a Claim Form. If you object, but fail to submit a Claim Form, you will not receive any monetary award.

17. What is the difference between objecting and excluding yourself?

Objecting is telling the Court that you oppose something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself means 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.

IF YOU DO NOTHING

18. What happens if I do nothing at all?

If you do nothing, you will not receive any monetary award and you will give up your rights to pursue or continue to pursue Released Claims against Epicur and/or any other Released Parties. For information relating to what rights you are giving up, see Question 10.

THE FINAL APPROVAL HEARING

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

The Court will hold a Final Approval Hearing at **11:00 a.m. on February 15, 2022** at Room 11-3 in the United States District Court for the Southern District of Florida, The Wilkie D. Ferguson, Jr. United States Courthouse, 400 North Miami Avenue, Miami, Florida 33128. At this hearing, the Court will consider whether the Settlement is fair, reasonable and adequate. If there are valid objections that comply with the requirements in Question 16 above, the Court will also consider them and will listen to people who have asked to speak at the hearing. The Court will also decide how much to pay to Class Counsel and Plaintiff.

The Final Approval Hearing may be moved to a different date or time without additional mailed notice, so please [check the Settlement Website for updates](#).

20. Do I have to come to the hearing?

No. Class Counsel will appear on behalf of the Settlement Class. But, you are welcome to come, or have your own lawyer appear, at your own expense.

21. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing, but only in connection with an objection that you have timely submitted to the Court according to the procedure set forth in Question 16 above. To speak at the Final Approval Hearing, you must also file a document with the Court stating your intention to appear. For this document to be considered, it must include: (a) the case name and number of the litigation; (b) the Settlement Class Member's name, address, telephone number, and signature, and, if represented by counsel, their contact information; (c) the facsimile number(s) where he/she received a facsimile

advertisement from Epicur relating to the litigation; (d) copies of any papers, exhibits, or other evidence that the objecting Settlement Class Member will present to the Court in connection with the Final Approval Hearing; and (e) identify any witnesses that the Settlement Class Member intends to call. The document must be filed with the Court no later than **January 13, 2022**. You cannot speak at the hearing if you exclude yourself from the Settlement.

To be considered, you must file your Notice of Intention to Appear with the Court by mailing to the address below and postmarked no later than January 13, 2022:

Clerk of Court
Wilkie D. Ferguson, Jr. U.S. Courthouse
400 North Miami Avenue
Miami, FL 33128
(305) 523-5100

Attention: “Pet Parade, Inc. v. Stokes Healthcare, Inc., Case No. 1:20-cv-24279-Williams

GETTING MORE INFORMATION

22. How do I get more information?

This Notice is only a summary of the proposed Settlement. You can get a complete copy of the Settlement Agreement by visiting the Settlement Website, www.EpicurSettlement.com, or you can write to the address below or call the Toll-Free Settlement Hotline, 844-955-2115.

DO NOT CALL OR WRITE TO THE COURT, THE CLERK OF THE COURT, EPICUR, OR EPICUR’S COUNSEL ABOUT THE SETTLEMENT. ALSO, TELEPHONE REPRESENTATIVES WHO ANSWER CALLS MADE TO THE TOLL-FREE NUMBER ARE NOT AUTHORIZED TO CHANGE THE TERMS OF THE SETTLEMENT OR THIS NOTICE.