

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

AMY JOSEPH, individually, and on behalf )  
of all others similarly situated, )  
 )  
Plaintiff, )

v. )

Case No. 13 cv 4798

MARBLES LLC, an Illinois limited liability )  
company, and MARBLES HOLDINGS, INC., )  
a Delaware corporation, )  
 )  
Defendants. )

Magistrate Judge Michael Mason

**NOTICE OF  
CERTIFIED CLASS ACTION SETTLEMENT**

**To:** All persons who received an electronically printed receipt from any Marbles store in the United States at the point of sale or transaction or via any internet purchase from the Marbles website occurring between December 6, 2012 and July 5, 2013, which receipt displays the person's credit card or debit card expiration date -- **YOU ARE ELIGIBLE TO RECEIVE A 25% DISCOUNT OFF YOUR TOTAL PRE-TAX PURCHASE PRICE FROM ANY MARBLES STORE AND/OR THROUGH THE MARBLES WEBSITE ON "CUSTOMER APPRECIATION DAYS," WHICH WILL BE HELD ON 24 (TWENTY-FOUR) SEPARATE DATES OVER THE COURSE OF 14 (FOURTEEN) MONTHS (FROM FEBRUARY 5, 2014 THROUGH APRIL 1, 2015). THIS DISCOUNT CANNOT BE APPLIED TO ANY ITEM ALREADY ON SALE AND THE MAXIMUM DISCOUNT PER TRANSACTION PER DAY IS \$100 (ONE HUNDRED DOLLARS). ALL PERSONS, REGARDLESS OF WHETHER OR NOT THEY ARE MEMBERS OF THE CLASS, SHALL BE ENTITLED TO RECEIVE THE AUTOMATIC DISCOUNT ON THESE CUSTOMER APPRECIATE DAYS.**

**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.**

Amy Joseph (“Plaintiff”), on behalf of all members of the class, has alleged that Marbles LLC and Marbles Holdings, Inc. (“Defendants”) violated certain requirements imposed by the Fair and Accurate Credit Transactions Act (“FACTA”). Specifically, Plaintiff claims that Defendants printed the expiration dates of its customers’ credit or debit cards on customer receipts presented to them at Marbles store locations 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 CREDIT OR DEBIT CARD EXPIRATION DATES ON CREDIT AND DEBIT CARD RECEIPTS PRESENTED TO CUSTOMERS AT THE POINT OF SALE.

## **II. CURRENT STATUS.**

On September 4, 2013, 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 plaintiffs and all absent class members who do not exclude themselves from the class.

Under the terms of the settlement, class members and any other members of the public making a purchase transaction at or from the listed Marbles store locations or website shall receive an automatic discount of twenty-five percent (25%) off the total pre-tax purchase price subject to the above-limitations, at or from Marbles store locations and website during any or all of the twenty-four (24) Customer Appreciation Days to be held over the course of 14 (fourteen) months (from February 5, 2014 through April 1, 2015). The dates of these Customer Appreciation Days will be advertised on Marbles’ website and in the Marbles’ stores. The Marbles store locations and website are listed at the end of this notice.

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 Defendants’ 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. 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 between December 6, 2012 and July 5, 2013. 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 Class Counsel 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 customer's 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 **November 4, 2013**, and must be addressed to the following: Thomas A. Zimmerman, Jr., Zimmerman Law Offices, P.C., 77 West Washington Street, Suite 1220, Chicago, IL 60602. 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 **November 4, 2013**, 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.

On or before **November 4, 2013**, 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.  
ZIMMERMAN LAW OFFICES, P.C.  
77 West Washington Street  
Suite 1220  
Chicago, IL 60602

John P. Buckley  
UNGARETTI & HARRIS LLP  
3500 Three First National Plaza  
Chicago, IL 60602

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 at **10:30 a.m. on December 19, 2013** at the Court at the Dirksen Federal Building, 219 South Dearborn Street, Room No. 2266, 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 and costs in the amount of \$80,000. The Court must approve this amount.

**QUESTIONS AND ANSWERS**

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

If you believe you are a member of the class and desire to participate in the settlement, you need only make a purchase or multiple purchases from any of the listed Marbles store locations or website on any or all of the 24 Customer Appreciation Days which will be advertised on the Marbles website and at the store locations.

**2. WHO REPRESENTS THE CLASS?**

- (a) **Class Representative:** The named plaintiff is the class representative and she alleges that she received a receipt from Defendants at the point of sale that displayed the expiration date of her credit card.
- (b) 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 \$5,000, which the Defendants have agreed to pay separately, and not from amounts available for class members.
- (c) **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., Adam M. Tamburelli, and Frank J. Stretz 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?

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., 77 West Washington Street, Suite 1220, Chicago, IL 60602; alternatively, you may call the offices of the firm at (312) 440-0020.

/s/ The Honorable Michael Mason  
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.**

#### **California**

6600 N. Topanga Canyon  
Blvd.  
Canoga Park, CA 91303

401 Newport Center Drive  
Newport Beach, CA 92660

3251 20th Avenue  
San Francisco, CA 94132

845 Market Street  
San Francisco, CA 94103

395 Santa Monica Place  
Santa Monica, CA 90401

14006 Riverside Drive  
Sherman Oaks, CA 91423

#### **Maryland**

2460 Annapolis Mall Rd.  
Annapolis, MD 21401

7101 Democracy Blvd, #1292  
Bethesda, MD 20817

10300 Little Patuxent Pkwy,  
#1960  
Columbia, MD 21044

825 Dulaney Valley Road  
Towson, MD 21204-1010

#### **Massachusetts**

250 Granite Street  
Space #2230A  
Braintree, MA 02184

1245 Worcester Turnpike  
Natick, MA 01760

#### **New Jersey**

100 Menlo Park  
Space #2565  
Edison, NJ 08837

3710 Route 9  
Freehold, NJ 07728

One Garden State Plaza  
Paramus, NJ 07652

#### **Pennsylvania**

690 W. DeKalb Pike  
Mall Location CT-G (The  
Court)  
King of Prussia, PA 19406

#### **Washington**

129 Bellevue Square  
Bellevue, WA 98004

**Delaware**

132 Christiana Mall  
Newark, DE 19702

**Illinois**

4745 North Lincoln Avenue  
Chicago, IL 60625

845 Michigan Avenue  
Level 4  
Chicago, IL 60611

123 S. Washington St.  
Naperville, IL 60540

5 Woodfield Mall  
Schaumburg, IL 60173

4999 Old Orchard Center,  
K26  
Skokie, IL 60077

210 Andover St.  
Peabody, MA 01960

**Minnesota**

216 N. Garden  
Bloomington, MN 55425

309 Rosedale Center  
Space #120  
Roseville, MN 55113

400 Pine Street  
Seattle, WA 98101

**WEBSITE**

<http://marblesthebrainstore.com>