

## NOTICE OF CLASS ACTION SETTLEMENT

**TO: ALL PEOPLE IN THE UNITED STATES WITH DISABILITIES AS THAT TERM HAS BEEN DEFINED BY 42 U.S.C. § 12102(2), INCLUDING THOSE PERSONS WHO HAVE AN IMPAIRMENT THAT SUBSTANTIALLY LIMITS A MAJOR LIFE FUNCTION, INCLUDING BUT NOT LIMITED TO MOBILITY, HEARING, AND SIGHT, WHO SEEK, HAVE SOUGHT, OR WILL SEEK ACCESS TO OR USE OF ANY GOOD, SERVICE, PROGRAM, FACILITY, PRIVILEGE, OR ACCOMMODATION OF THE FACILITIES OF SPRING BRANCH MEDICAL CENTER, INC. LOCATED AT 8850 LONG POINT RD, HOUSTON, TX 77055.**

**You are covered by and will be bound by the settlement of a class action lawsuit involving physical access barriers at the Facilities of Spring Branch Medical Center, Inc. d/b/a Spring Branch Medical Center. This Notice is to inform you of facts which affect your legal rights.**

### SUMMARY OF THE LAWSUIT

A class action lawsuit entitled Access Now, Inc., et al. v. Ambulatory Surgery Center Group, Ltd., et al., Case No. 99-0109-CIV-GARBER, is currently pending in the United States District Court for the Southern District of Florida involving disability access at the facilities of Spring Branch Medical Center, Inc. ("Medical Center"). The complaint alleges on behalf of all disabled individuals, including individuals with mobility, visual, or hearing impairments, that the Medical Center is in violation of the Americans with Disabilities Act and its implementing regulations. The complaint alleges that the Medical Center has failed to provide equal access for persons with disabilities to the Medical Center's facilities, because numerous physical, communication, structural, and program barriers exist at the Medical Center. The Medical Center has denied these allegations. By entering into a settlement of this action, the Medical Center does not admit or imply that it engaged in any wrongful action or inaction, or damages or injured anyone in any fashion.

This lawsuit has been certified by the Court as a class action. The Named Plaintiffs serve as class representatives, and their counsel are Miguel M. de la O and David E. Marko of the law firm de la O, Marko, Magolnick & Leyton. Those lawyers serve as counsel for the class. The Medical Center is represented by Pedro Forment of the law firm Ford & Harrison LLP.

### DEFINITION OF THE CLASS

You are a member of the class if you are an individual with any type of disability whatsoever, and seek, have sought, or will seek access to or use of any facility of Medical Center.

### SUMMARY OF PROPOSED SETTLEMENT

The named plaintiffs and the Medical Center have reached a proposed settlement of this class action lawsuit as to the Medical Center. The United States District Court has preliminarily approved that settlement, although the Court has made no findings and offers no opinion with respect to the merits of the settlement. The proposed settlement provides in substance that the Medical Center will make modifications and alterations to its Facilities, including public restrooms, paths of travel, parking, and other public areas within the facilities, with the express purpose of improving and/or providing equal access to and usability of the Facilities by persons with disabilities. No money damages are to be paid to members of the class.

### PROCEDURES CONCERNING THE SETTLEMENT

**Court Hearing.** On **April 1, 2010, at 10:00 a.m.**, the court will hold a hearing at the United States District Court, Southern District of Florida, Courtroom Four, 10<sup>th</sup> Floor, 99 N.E. 4<sup>th</sup> Street, Miami, Florida 33132, to determine whether the proposed settlement agreement is fair and reasonable and should be given Final Approval, and to consider the application of Named Plaintiffs' counsel for attorneys' fees and costs.

**Objections to the Settlement.** If you believe the Court should not approve the settlement, you may advise the Court of your objections and a special hearing will be scheduled on a date to be determined by the Court. To be considered by the Court, however, any objections to the final approval of the settlement must state the basis for the objection and must be timely filed in writing, along with all other papers or briefs the objector wishes the Court to consider, with the

office of the Clerk of the United States District Court for the Southern District of Florida, 301 N. Miami Avenue, Miami, Florida, 33128, and served upon Class Counsel and counsel for Defendant on or before **March 17, 2010** ("Cutoff Date"). All objections must include at the top of the document the case name, the case number, and the name of the Defendant to whom the objections relate. If any attorney will be representing an individual objecting to the settlement, the attorney shall file a notice of appearance with the Court and serve counsel for all parties on or before the Cutoff Date.

Any member of the class who does not timely file and serve a written objection in the manner prescribed herein (1) shall not be permitted to raise such objection, except for good cause shown, and (2) shall be deemed to have waived, and shall be foreclosed from raising, any such objection.

**Entry of Judgment.** If the settlement is approved by the Court, the order approving the proposed settlement and a judgment dismissing this action with prejudice as to Medical Center, will be entered on or after **April 1, 2010**. You should not expect to receive any further notices concerning the entry of such order and judgment, or of the proceedings which occur before such entry. All class members will be bound by the judgment. **The judgment will bar all class members from asserting any claims under or related to Title III of the ADA and its implementing regulations against the Medical Center** concerning physical, communication, structural and program access barriers in accordance with the terms of the Agreement. Also, pursuant to the terms of the settlement agreement in this matter, all class members are deemed to have waived the protection provided by any state statutes or codes with respect to unknown claims at the time of a general release, and the general release in this action will be effective to **forever discharge any claims relating to physical, communication, structural and program access barriers under or related to Title III of the ADA and its implementing regulations**, if any, at the Medical Center by a class member at the time of the settlement agreement whether known or unknown to the class member.

### FURTHER INFORMATION

The nature of this lawsuit and the proposed settlement are summarized in this Notice. More detailed information about the settlement of the Action, including a complete copy of the settlement agreement, may be obtained from class counsel at:

Miguel M. de la O and David E. Marko  
de la O, Marko, Magolnick & Leyton  
3001 S.W. 3<sup>rd</sup> Ave.  
Miami, Florida 33129

or by consulting the public file on the case at the Office of the Clerk of the Court, United States District Court, Southern District of Florida, 301 N. Miami Avenue, Miami, Florida.

Please Follow the Procedures Set out Above.  
Please Do Not Contact the Judge or the Clerk of the  
Court With Any Question About the Settlement