

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF CLASS ACTION AND PROPOSED SETTLEMENT

LAWRENCE WEINSTEIN, individually and on behalf
of all others similarly situated,

Plaintiffs,

v.

MORTGAGE CONTRACTING SERVICES, LLC, and
DOES 1-50,

Defendants.

Case No.: 5:14-cv-02521-JGB-JP

NOTICE OF CLASS ACTION
SETTLEMENT

TO: ALL PERSONS WHO PERFORMED RESIDENTIAL HOME INSPECTIONS IN CALIFORNIA AT THE DIRECT OR INDIRECT REQUEST OF MCS (“CLASS MEMBER”) AT ANY TIME FROM FEBRUARY 4, 2010 THROUGH THE DATE THE COURT GRANTS PRELIMINARY APPROVAL OF THE SETTLEMENT (“CLASS PERIOD”).

PLEASE READ THIS NOTICE CAREFULLY

IF YOU ARE AN ELIGIBLE PUTATIVE CLASS MEMBER, YOU CAN RECEIVE MONEY BY TIMELY COMPLETING AND SENDING THE ENCLOSED GREEN CLAIM FORM AS DIRECTED BELOW.

AN ESTIMATE OF YOUR SHARE OF THE SETTLEMENT IS SET FORTH ON THE GREEN CLAIM FORM.

ELIGIBLE CLASS MEMBERS ARE ESTIMATED TO RECEIVE \$0.88 PER INSPECTION FOR EACH MCS INSPECTION THEY PERFORMED IN CALIFORNIA DURING THE CLASS PERIOD.

THIS NOTICE WAS AUTHORIZED BY A U.S. DISTRICT COURT. THIS IS NOT A SOLICITATION FROM A LAWYER.

This notice is a summary of a settlement. For the precise terms of the Settlement, you can consult the detailed “Joint Stipulation of Class Settlement and Release Between Plaintiffs and Defendants,” which is on file with the Clerk of the Court, along with other papers in the lawsuit. You can view them during business hours at the Office of the Clerk of the United States District Court for the Central District of California, Eastern Division, 3470 Twelfth Street, Riverside, California 92501-3801. You can also view them on the PACER website of the United States Courts at <http://ecf.cand.uscourts.gov> or by going to www.MCSsettlement.com.

I. INTRODUCTION

This Notice describes a proposed settlement of a class action lawsuit. The settlement covers **ALL PERSONS WHO PERFORMED RESIDENTIAL HOME INSPECTIONS IN CALIFORNIA AT THE DIRECT OR INDIRECT REQUEST OF MCS** (“Putative Class Member”) at any time during the period from February 4, 2010 to February 8, 2018 (“Class Period”). You have received this notice because records collected and reviewed in the course of the lawsuit indicate that you are a Putative Class Member.

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**Any Questions? Please call the Claims Administrator toll-free at 1-888-350-3932
Claim Forms must be postmarked no later than June 19, 2018**

The lawsuit is entitled *Lawrence Weinstein v. Mortgage Contracting Services, LLC*, Case No. 5:14-cv-02521-JGB-SP, United States District Court for the Central District of California (the “Lawsuit”). The court overseeing the lawsuit has preliminarily approved the Settlement. The Settlement provides money to persons who performed residential home inspections directly or indirectly for MCS in California at any time during the Class Period if they file timely claims. The lawsuit contains allegations that although Putative Class Members were not on MCS’ payroll, and were not considered employees by MCS, MCS was responsible for compliance with California’s minimum wage, overtime, rest and meal break, reimbursement, wage statement, and timely payment of wages laws. The Settlement will resolve all claims as stated in the section below entitled **EFFECT OF THE SETTLEMENT – RELEASE OF MORTGAGE CONTRACTING SERVICES**.

The following table summarizes your options in responding to this Notice, and the result of each option.

SUMMARY OF LEGAL RIGHTS AND OPTIONS	
OPTION	RESULT
Submit a claim form, along with completed form W-9 and for W-4	This is the only way to receive a payment from the lawsuit. You will release claims against MCS consistent with the below.
Submit an exclusion form	You can opt out of the settlement and retain your rights to make your own claims in your own lawsuit or some other legal proceeding.
Object	You can write to the Court and explain any concerns you have about the Settlement.
Attend hearing	At a hearing described below, you can speak to the Court about your views of the fairness of the Settlement.
Do nothing	If you do nothing, you will receive no payment, and you will give up your right to make your own claim for what the settlement covers. If you do nothing, you will release claims against MCS consistent with the below.

II. CRITICAL DATES

- June 19, 2018:** The last date to sign, complete and mail the enclosed Claim Form to receive your share of the Settlement proceeds.
- June 19, 2018 :** The last date to sign, complete and mail the enclosed Request for Exclusion Form to opt out of the Settlement and retain your rights to make your own claim.
- June 19, 2018:** The last date to mail any written objections to the Settlement.
- August 20, 2018:** The date of the Court hearing where the Court will decide whether the proposed Settlement is fair, reasonable and adequate and will be approved.

III. BACKGROUND OF THE CASE

Lawrence “Larry” Weinstein, a residential home inspector (“Plaintiff”), who formerly indirectly performed inspections for MCS in California, and was paid money for that work by a vendor of MCS, filed a proposed class action complaint against MCS on behalf of himself and others.

Plaintiff alleges that MCS was his joint employer, even though he was engaged and paid by a vendor of MCS for inspection work. Plaintiff alleges that inspectors did not consistently receive the minimum wage for their work, overtime pay they were owed, timely unpaid meal breaks and paid rest breaks, proper wage statements, reimbursements for expenses and timely payment of wages, including wages they were owed once they stopped performing MCS inspections. Plaintiff also alleges that he, other inspectors, and the State are entitled to an award of penalties pursuant to California’s Private Attorneys General Act.

MCS contends that the lawsuit lacks merit and that neither it nor its vendors were employers of the inspectors in the proposed class. MCS denies that inspectors who performed MCS inspections in California are entitled to any relief whatsoever. MCS denies any liability whatsoever.

The Plaintiff and MCS participated in a mediation facilitated by Robert Kaplan, who is viewed by many as one of the nation’s leading mediators. With the assistance of Robert Kaplan, the parties reached a settlement.

IV. SUMMARY OF THE PROPOSED SETTLEMENT

The settlement provides that MCS will be paying a maximum of four million dollars (\$4,000,000.00) to settle the Lawsuit.

Who is included in the Settlement? All persons who performed residential home inspections in California at the direct or indirect request of MCS at any time from February 4, 2010 to February 8, 2018.

What will I receive from the Settlement? The attached Green Claim Form sets forth an estimate of the amount you will receive. If you submit a Claim Form on time, you will receive an estimated \$0.88 per inspection, less the employee share of payroll taxes for the wage portion of the settlement payment. This is only an estimate. You could receive more or less.

When will I receive my Settlement Payment? The settlement payments will be paid in approximately October 2018.

Incentive Payment to Plaintiff: Subject to approval by the Court, the Plaintiff will be paid \$20,000.00 from the settlement. This payment is to compensate Plaintiff for his efforts and risk in instigating and prosecuting the litigation from its inception through the present.

Attorneys’ Fees and Costs: Subject to approval by the Court, the attorneys for the Plaintiffs and for the Class Members will seek an award of attorneys’ fees up to twenty-five percent (25%) of the maximum settlement amount. The maximum attorneys’ fees they will seek is \$1,000,000.00. In addition, they will ask to be reimbursed for their actual costs in the lawsuit up to \$30,000.00.

California Labor & Workforce Development Agency Payment of PAGA Penalties: Subject to approval by the Court, \$18,750.00 will be paid to the California Labor & Workforce Development Agency (“LWDA”) for its share of PAGA penalties.

Claims Administrator: The Court has appointed Phoenix Settlement Administrators to act as the independent claims administrator. The claims administrator processes the settlement money, claims, and other paperwork

related to the settlement. Subject to approval by the Court, the claims administrator will be paid up to \$108,500.00 for administering this settlement.

V. YOUR LEGAL REPRESENTATION

The Court has appointed the following attorneys to represent you and all other Class Members and has determined that they are qualified to do so.

Dennis F. Moss (California State Bar No. 77512) Moss Bollinger, LLP 15300 Ventura Blvd., Suite 207 Sherman Oaks, CA 91403 Telephone: (310) 773-0323 dennis@mossbollinger.com
Samuel Deskin (California State Bar No. 216974) Deskin Law Firm 16944 Ventura Blvd., Suite 8 Encino, CA 91316 Telephone: (800) 700-8978

These attorneys are called “Class Counsel.” You do not need to hire your own attorney because Class Counsel is working on your behalf. You have the right to have your own attorney other than the above Class Counsel; however, if you hire your own attorney, you must pay his or her fees. If you opt-out of the settlement, Class Counsel will not be your attorneys.

VI. WHAT ARE YOUR RIGHTS AND OPTIONS?

- A. Submitting a Claim:** You can submit a claim for a share of the settlement money. To do that, you must:
1. Complete and sign the enclosed green claim form, form W-9 and form W-4.
 2. Mail these items to the claims administrator at the address below, **POSTMARKED** no later than **June 19, 2018**. The address of the claims administrator is:

MCS CALIFORNIA INSPECTOR SETTLEMENT
c/o Phoenix Settlement Administrators
PO Box 7208
Orange, CA 92863

Before you mail your claim form, you should keep a copy of it and the envelope. If you go to the post office to mail it, they will give you a piece of paper showing the date of the postmark.

If you lose, misplace, or need another Claim Form or a Request for Exclusion Form, you should contact the Claims Administrator.

B. Disputing Information on the Claim Form – Along With Submitting Your Claim:

i. If MCS has a record that you performed MCS Inspections in California during the Class period and the number of inspections you performed, the claim form mailed to you with this Notice lists the following: (“MCS’s records”):

- a. The number of MCS-related inspections you performed in California between February 4, 2010 and February 8, 2018.
- b. The estimated actual payment you will receive.

If you believe the number of inspections stated on your claim form is incorrect, the claim form sets forth the steps you must take to dispute the number of inspections. **Even if you dispute the number of inspections on your claim form, you will be considered as a Class Member who is participating in the settlement.**

Although MCS' records will be presumed correct, the claims administrator will evaluate the information, papers and other evidence you mail in, and the claims administrator will determine whether to adjust the number of inspections. The decision of the claims administrator is final, and you cannot exclude yourself from the settlement if you do not agree with the claim administrator's determination.

ii. If MCS has a record that you performed MCS Inspections in California during the Class period but does not have the number of inspections you performed, the claim form mailed to you with this Notice lists the following: ("MCS's records"):

- a. The average number of MCS-related inspections performed by class members in California, during the class Period between February 4, 2010 and February 8, 2018.
- b. The estimated actual payment you will receive based on that average.

If you believe you performed more inspections during the class period in California than the average number, and you want more than the estimated payment based on your belief, the claim form sets forth the steps you must take to possibly receive an increased payment. **Even if you seek more than the average, you will be considered as a Class Member who is participating in the settlement.**

The claims administrator will evaluate the information, papers and other evidence you mail in, and the claims administrator will determine whether to adjust the number of inspections. The decision of the claims administrator is final, and you cannot exclude yourself from the settlement if you do not agree with the claim administrator's determination.

iii. If MCS has no record of you and you file a claim, you will not receive a Settlement share absent proof acceptable to the administrator establishing that you personally performed MCS Inspections in California during the Class Period, February 4, 2010- February 8, 2018. The claim form sets forth the steps you must take to receive a Settlement payment.

The claims administrator will evaluate the information, papers and other evidence you mail in, and the claims administrator will determine the number of inspections, if any, to be attributed to you. The decision of the claims administrator is final, and you cannot exclude yourself from the settlement if you do not agree with the claim administrator's determination. **You will be considered as a Class Member who is participating in the settlement.**

C. Excluding Yourself from the Settlement:

Unless you exclude yourself from the settlement, you will be releasing claims as stated in the section below entitled **EFFECT OF THE SETTLEMENT – RELEASE**. If you do not want to release any of the released parties, or you do not want to be bound by the settlement for some other reason, you must submit a written request for exclusion from the settlement that sets forth (1) your name, address, phone number and the last four digits of your social security number; (2) the case name as follows: Weinstein v. MCS; and (3) a statement that you want to opt out of the Settlement or words to that effect. In addition, you must sign and date it; and you must mail it to the claims administrator at the address below, with a **POSTMARK** no later than **June 19, 2018**.

The address of the Claims Administrator is:

MCS CALIFORNIA INSPECTOR SETTLEMENT
c/o Phoenix Settlement Administrators
PO Box 7208
Orange, CA 92863

NOTE: An incomplete, unsigned, or late request for exclusion will be deemed invalid unless remedied in a timely manner after you receive notice from the administrator of the deficiencies.

NOTE: If you submit a complete request for exclusion form on time, you will be excluded from the settlement, and you will not be entitled to receive any money from the settlement or participate in it in any way. However, at your own expense, you may pursue any claims you might have against MCS.

DO NOT SUBMIT BOTH A SIGNED CLAIM FORM AND A SIGNED REQUEST FOR EXCLUSION FORM. IF YOU SUBMIT BOTH, YOU WILL BE GIVEN AN OPPORTUNITY TO CHOOSE ONE OR THE OTHER. IF YOU DO NOT TIMELY CHOOSE, YOUR CLAIM WILL BE OPERATIVE, AND YOUR REQUEST FOR EXCLUSION WILL BE INEFFECTIVE.

D. Objecting to the Settlement:

Those Class Members who do not opt-out of participation in the settlement can object to the settlement before final approval by the Court. However, if the Court rejects your objection, you will still be bound by the terms of the settlement and you will be giving MCS and the other released parties the release described below.

To object to the Settlement, no later than June 19, 2018: (a) you must file a written objection and a notice of intention to appear at the final approval hearing, currently set for **August 20, 2018 at 9:00 a.m.** in Department 1, with the Clerk of the United States District Court for the Central District of California, Eastern Division, 3470 Twelfth Street, Riverside, California 92501-3801, and (b) you must also mail copies of your objection to the following:

CLASS COUNSEL

Dennis F. Moss
Moss Bollinger LLP
15300 Ventura Blvd., Suite 207
Sherman Oaks, CA 91403
Telephone: (310) 773-0323
dennis@mossbollinger.com

DEFENDANT'S COUNSEL

Liat Yamini
Jones Day
555 S. Flower St., 50th Floor
Los Angeles, California 90071
Telephone: 213-243-2317

Your written objection must state each specific reason for your objection and any legal support for each reason. Your objection must also state your full name, address, telephone number, and the calendar years within the class period that you performed MCS-related inspections. You must sign your objection.

Your objection must be filed with the Clerk of the Court and served upon each of the above-listed attorneys no later than June 19, 2018. **DO NOT TELEPHONE THE COURT.**

If you choose to file an objection to the terms of this settlement, you will be solely responsible for the fees and costs of your own attorney.

On June 1, 2018, Plaintiff's motion for attorney's fees and costs will be filed and placed on the website the administrator set up for this case at www.MCSsettlement.com. To object to the fees and cost award, the objection process and time limits set forth above must be followed, with objections to fees and costs filed with the Court, and sent by mail no later than June 19, 2018.

IF YOU INTEND TO OBJECT TO THE SETTLEMENT OR ANY ASPECT OF IT BUT WISH TO RECEIVE YOUR SHARE OF THE SETTLEMENT PROCEEDS, YOU MUST TIMELY FILE YOUR CLAIM FORM AS STATED ABOVE. IF THE COURT APPROVES THE SETTLEMENT DESPITE ANY OBJECTIONS, AND YOU DO NOT HAVE A TIMELY CLAIM ON FILE, YOU WILL NOT RECEIVE ANY SETTLEMENT PROCEEDS.

VII. EFFECT OF THE SETTLEMENT – RELEASE OF MCS AND OTHER RELEASED PARTIES

Each Class Member who does not timely exclude himself or herself from the settlement, regardless of whether that Class Member submitted a timely claim form, on behalf of himself or herself, and on behalf of his or her current, former, and future heirs, spouses, executors, administrators, attorneys, agents, assigns, and any entities or businesses in which any of them have a controlling ownership interest, fully finally release and discharge MCS and its former and present parents, subsidiaries, affiliated corporations and entities, clients, and vendors and independent contractors through which MCS conducts business, and each of their respective current, former and future officers, directors, members, managers, employees, consultants, vendors, independent contractors, clients, partners, shareholders, joint venturers and third-party agents, and any successors, assigns, or legal representatives (“Released Parties”) from the following, referred to in this notice as the “Released Claims”:

All applicable California wage and hour claims, rights, demands, liabilities and causes of action of every nature and description, whether known or unknown, arising from or related to the claims litigated in the *Weinstein* matter or that could have been asserted based on the facts alleged in the *Weinstein* matter against MCS, including but not limited to claims for: violations of California Labor Code §§ 226.7, 226.8, 510, 512, 558, 1197, 2753, or 2802; failure to pay all wages in a timely manner in violation of California Labor Code §§ 200, 201, 202, 203; failure to provide accurate wage statements in violation of California Labor Code § 226; unfair competition; violations of the California Labor Code Private Attorney General Act, Labor Code § 2698 *et seq.*; claims under California Business & Professions Code §§ 17000 and 17200, *et seq.*; and any damages, penalties, restitution, disgorgement, interest or attorneys’ fees as a result thereof.

If you are a Class Member and do not elect to exclude yourself from the settlement as provided in this Notice, you will be deemed to have entered into this release and to have released the Released Parties from the Released Claims if the settlement is approved by the Court and becomes final. If the settlement is not approved by the Court or does not become final for some other reason, the Lawsuit will continue and your claims will not be released.

With respect to any and all Released Claims (including Unknown Claims), you understand that you have expressly waived the provisions, rights and benefits of California Civil Code Section 1542 which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

“Unknown Claims” means: Any and all claims, demands, rights, liabilities and causes of action alleged in the Litigation and/or arising from the facts alleged in the Litigation and which you do not know or suspect to exist at the time of the release of the Releasees which, if known, might affect your release of any or all of the Releasees, or might affect your decision not to object to the settlement terms.

VIII. FINAL SETTLEMENT APPROVAL HEARING

The Court will hold a hearing in Courtroom 1 of the United States District Court for the Central District of California, Eastern Division, 3470 Twelfth Street, Riverside, California 92501-3801 on **August 20, 2018 at 9:00 a.m.**, to determine whether the settlement should be finally approved as fair, reasonable and adequate. The Court also will be asked to approve class counsel's request for attorneys' fees and reimbursement of costs and expenses. The hearing may be postponed without further notice to the Class.

It is not necessary for you to appear at the hearing unless you have timely filed an objection with the Court. If you timely filed an objection, you may appear yourself or through an attorney of your own at your own expense.

IX. ADDITIONAL INFORMATION

The above is a summary of the basic terms of the settlement. For the complete and precise terms of the settlement, you should consult the detailed "Joint Stipulation of Class Settlement and Release" between plaintiffs and defendants, which is on file with the Clerk of the Court. That stipulation, and the pleadings and other papers and records in the Lawsuit may be examined during regular business hours at the Office of the Clerk of the United States District Court for the Central District of California, Eastern Division, 3470 Twelfth Street, Riverside, California 92501-3801.

PLEASE DO NOT TELEPHONE THE COURT OR THE OFFICE OF THE CLERK FOR INFORMATION REGARDING THIS SETTLEMENT OR THE CLAIM PROCESS. ANY QUESTIONS SHOULD BE DIRECTED TO CLASS COUNSEL (NOT DEFENDANT'S COUNSEL) OR THE CLAIMS ADMINISTRATOR LISTED HEREIN BY ORDER OF THE COURT.