

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA**

**NOTICE OF CLASS CERTIFICATION/A CLASS HAS BEEN CERTIFIED**

**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND SETTLEMENT APPROVAL HEARING**

**If You Have Lived at the Empyrean Towers Located at 344 13<sup>th</sup> Street, Oakland, CA, You May be a Member of a Certified Class**

*This Notice Has Been Authorized by the Court. Please Read This Notice Carefully as the Proposed Settlement Described Below May Affect Your Legal Rights and Provide You Potential Benefits. This is not a solicitation from an attorney. You are not being sued.*

The Plaintiffs in this class action lawsuit ("Action") are Logan Mendez, Kyle Niemier and Nicole Lenoir ("Plaintiffs"). The Action is pending in the Superior Court of California, County of Alameda ("Court") against Defendants Empyrean Towers, LLC, Prize Group, LLC, Innovistech Realty Company and Alice Tse ("Defendants"). The Court has approved the Action as a class action. The Plaintiffs in this Action claim Defendants instituted a policy requiring tenants to check out of their single room occupancies after 21 days in order to deprive tenants of the protection of the Oakland Tenant Protection Ordinance, Civil Code section 1940.1 and Bus. & Prof. Code section 17200 et seq. Defendants deny any wrongdoing.

You may be included in this Action regarding the alleged unlawful policy of requiring tenants to check out of their single room occupancies after 21 days in order to deprive tenants of various statutory protections. The Court has not decided whether any law has been broken. There is a proposed Settlement Agreement ("Settlement Agreement") in this Action which could affect your rights and you have a choice to make now. Additionally, if you have signed a release agreement with the Defendant, your right to participate in this Action may be impacted. Your options are explained in this notice. To ask to be excluded, you must act by **March 5, 2018**.

<b>YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT</b>	
<b>DO NOTHING</b>	<b>Stay in the lawsuit. Await the outcome. Share in the possible benefits of the Settlement Agreement. Give up certain rights.</b> By doing nothing, you keep the possibility of getting money or other benefits that may come from settlement but you give up any right to sue on your own about the same legal claims in this lawsuit.
<b>ASK TO BE EXCLUDED</b>	<b>Get out of this lawsuit. Get no benefits from it. Keep the right to file your own lawsuit.</b> If you ask to be excluded and money or benefits are later awarded through settlement, you won't share in those. But, you keep any rights to sue on your own about the same legal claims in this lawsuit.

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QUESTIONS? CALL (510) 834-3300, VISIT [www.awolfflaw.com](http://www.awolfflaw.com), OR SEND AN INFORMATION REQUEST  
TO [info@awolfflaw.com](mailto:info@awolfflaw.com), Hablamos Español

## BASIC INFORMATION

### 1. Why was this notice issued?

The Court has approved, or “certified”, this case as a class action lawsuit that may affect you if you lived at Empyrean Towers Located at 344 13<sup>th</sup> Street, Oakland, CA (“Premises”) at any time between April 8, 2014 through June 26, 2015. If this describes you, you have legal rights and options before the Court decides whether to approve the Settlement Agreement.

Judge Ioana Petrou of the Superior Court of California for the County of Alameda is currently overseeing this case. The case is known as *Mendez, et al. v. Empyrean Towers, LLC, et al.*, Case No. RG15765508. The persons who sued are called a Plaintiff. The entities and individual Plaintiffs are suing are called the Defendants.

The Court has also preliminary approved a Settlement Agreement in this Action. The purpose of this Notice as to the Settlement Agreement is:

- (a) To advise you of a proposed settlement of this lawsuit pending against Defendants.
- (b) To advise you that you may be part of this Action;
- (c) To summarize your rights under the Settlement; and
- (d) To inform you of a court hearing to consider whether to finally approve the Settlement, to be held on **March 21, 2018**, at 9 a.m. before the Honorable Ioana Petrou, Alameda County Superior Court, 1221 Oak Street, 3<sup>rd</sup> Floor, Department 17, Oakland, CA 94612 (“Court Approval Hearing”).

### 2. What is a class action?

In a class action, one or more people called Class Representatives (Plaintiffs) sue on behalf of people who have similar claims. Together, these people are called a Class or Class Members. One court resolves the issues for all Class Members, except for those who exclude themselves from the Class.

### 3. Why is this lawsuit a class action?

The Court decided that this lawsuit could proceed as a class action because it meets the requirements of California law, which governs class actions in California Superior Court. For instance, the Court found that:

QUESTIONS? CALL (510) 834-3300, VISIT [www.awolfflaw.com](http://www.awolfflaw.com), OR SEND AN INFORMATION REQUEST TO [info@awolfflaw.com](mailto:info@awolfflaw.com), **Hablamos Español**

- The people affected share common characteristics, so they will be able to identify themselves as Class Members.
- It would not be practical to bring each individual member of the Class before the Court (because the Premises which is owned by Defendant, is composed of many separate units);
- There is at least one question of law or fact common to all Class Members;
- The legal claims of the Class Representatives are typical of the claims of the Class Members because they were required to check out of their single room occupancies after 21 days in order to deprive them of various protections;
- The Class Representatives and their attorneys will fairly and adequately represent all of the Class Members; and
- A class action would be a fair, efficient, and superior way to resolve this lawsuit.

More information about why the Court is allowing this lawsuit to be a class action is in the (1) Order, Preliminary Approving Settlement, Provisional Class Certification, Approval of Class Representatives, Incentive Payment Awards, Class Counsel, Class Notice, and Administration and (2) the Plaintiffs Complaint, which you may view at [www.awolfflaw.com](http://www.awolfflaw.com) or for a small fee at: <http://www.alameda.courts.ca.gov/pages.aspx/domainweb> by inserting the following case number RG15765508. You may also view any documents filed in this case free of charge by using one of the computer terminals kiosks available at each Alameda County court location that has facility for civil filings. Alternatively, contact class counsel (see question #21, below) to request information.

## **THE CLAIMS IN THE LAWSUIT**

### **4. What does the lawsuit complain about?**

In this Action, the Plaintiffs claim the Defendants instituted a policy requiring tenants to check out of their single room occupancies after 21 days in order to deprive tenants of various statutory protections.

### **5. How do Defendants answer?**

Defendants deny the claims and allegations in the Action. Defendants' Answers to the Complaint can be viewed at [www.awolfflaw.com](http://www.awolfflaw.com) or for a nominal charge at DomainWeb: <http://www.alameda.courts.ca.gov/pages.aspx/domainweb> by inserting the following case number RG15765508. You may also view any documents filed in this case free of charge by using one of the computer terminals kiosks available at each Alameda County court location that has facility for civil filings. Alternatively, contact class counsel (see question #21, below) to request information.

**6. Has the Court decided who is right?**

No. The Court has not decided whether the Plaintiffs or the Defendants are right. By establishing the Class and ordering that this Notice be provided, the Court is not suggesting Plaintiff will win or lose this case, however, there is a Settlement Agreement the Court has preliminary approved.

**7. What are the Plaintiffs asking for in the Settlement Agreement?**

Plaintiffs want (1) Class Members to receive an award payable to each Class Member who does not become a Successful Opt-Out as \$500.00 multiplied by the number of violations of Civil Code section 1940.1 to which that Class Member was subject. The compensation of each Class Member shall be subject to a limitation of no more than \$6,000. The allocation of funds shall be made in two phases. All claims submitted by the submission deadline will be paid \$500 per violation, up to a total of no more than \$3,000 per Class Member. Any funds remaining after that first phase shall be tallied, and any remaining funds shall be paid to those Class Members who experienced more than six violations of Civil Code section 1940.1, at the rate of \$500 per additional violation up to an additional amount of no more than \$3,000 per Class Member. That second phase allocation of funds shall be limited to the total funds remaining after the first phase allocation. If there are not sufficient funds remaining after the first phase allocation to compensate Class Members at \$500 per additional violation for each violation above six that any Class Member experienced, the second allocation shall be made on a proportional basis; and (2) Reasonable attorney fees, costs, and expenses.

## **WHO IS IN THE CLASS**

**8. How do I know if I am part of this?**

The Court decided that the Class shall include any person who has been a resident of the Empyrean Towers who was required to check out pursuant to a policy requiring tenants to check out of their single room occupancies after 21 days in order to deprive tenants of various protections during the period April 8, 2014 through June 26, 2015.

**9. Help me understand whether I am included.**

If you received a copy of this notice via US Mail, Defendants records indicate that you are a member of the Class.

**10. I'm still not sure if I am included.**

If you are still not sure whether you are included, or believe that you should have received a copy of this Notice (but did not) you can call the Law Offices of Andrew Wolff, P.C. at (510) 834-3300 or send an Information Request to [info@awolfflaw.com](mailto:info@awolfflaw.com), for more information.

## YOUR RIGHTS AND OPTIONS

You have to decide whether to stay in the Class or whether to exclude yourself before final approval of the Settlement Agreement, and you have to decide this by **March 5, 2018**.

### 11. Terms of the Proposed Settlement

The main terms of the proposed Settlement Agreement are as follows:

**SETTLEMENT AMOUNT.** The maximum aggregate amount Defendants have agreed to pay under the Settlement, if the Settlement is approved by the Court is \$250,000. This amount includes all amounts that Defendants have agreed to be paid by Defendants under the Settlement Agreement, including all Settlement Shares to eligible Class Members who are not Successful Opt-Outs; the Class Representative Awards, if any; the Attorney Fee/Litigation Cost Award, if any; and all Settlement Administration Costs.

**SETTLEMENT BENEFIT.** Each Class Member who does not become a Successful Opt-Out shall be sent a Benefit Check. The "Benefit Balance" shall be calculated as the Settlement Amount less any and all Administration Costs, Representative Plaintiff Awards, and Attorneys' Fee/Litigation Cost Award; the Administrator shall then calculate the Settlement Share payable to each Class Member who does not become a Successful Opt-Out as \$500.00 multiplied by the number of violations of Civil Code section 1940.1 to which that class member was subject. The compensation of each Class Member shall be subject to a limitation of no more than \$6,000. The allocation of funds shall be made in two phases. All claims submitted by the submission deadline will be paid \$500 per violation, up to a total of no more than \$3,000 per Class Member. Any funds remaining after that first phase shall be tallied, and any remaining funds shall be paid to those Class Members who experienced more than six violations of Civil Code section 1940.1, at the rate of \$500 per additional violation up to an additional amount of no more than \$3,000 per Class Member. That second phase allocation of funds shall be limited to the total funds remaining after the first phase allocation. If there are not sufficient funds remaining after the first phase allocation to compensate Class Members at \$500 per additional violation for each violation above six that any Class Member experienced, the second allocation shall be made on a proportional basis.

**RELEASE.** Upon Final Approval, and in consideration of the promises and covenants set forth in the Settlement Agreement, each Representative Plaintiff and each Class Member who is not a Successful Opt-Out, and each of their respective spouses, children, executors, representatives, guardians, wards, heirs, estates, successors, predecessors, legal representatives, attorneys, agents and assigns, and all those who claim through them or who assert claims (or could assert claims) on their behalf (including the government, including but not limited to in its capacity as *parens patriae* or on behalf of creditors or estates of the releasors), and each of them (collectively and individually, the "Releasing Persons"), will be deemed to have completely released and forever discharged EMPYREAN TOWERS LLC, PRIZE GROUP LLC, RICHARD SINGER, the TSE DEFENDANTS, INNOVISTECH REALTY COMPANY, ROYCE MICHAEL PAGESMITH, RECEIVER MARK ADAMS, CALIFORNIA RECEIVER GROUP, RANDY SUGARMAN, as an individual and in his capacity as the Official Chapter 11 Trustee, and each of their executives, administrators, employees, attorneys, officers, directors, members, successors, predecessors,

agents, insurers, trusts, trustees, trust beneficiaries, and assignees, if any; all insureds under any insurance policy issued to EMPYREAN TOWERS, LLC, the TSE DEFENDANTS, INNOVISTECH REALTY COMPANY, and/or the CHING FUNG TSUI TRUST; and all other claimed or asserted tortfeasors in accordance with section 877 of the Code of Civil Procedure of the State of California (the "Released Persons"), from any claim, right, demand, charge, complaint, action, cause of action, obligation, or liability of any and every kind, including without limitation (i) those known or unknown or capable of being known, (ii) those which are unknown but might be discovered or discoverable based upon facts other than or different from those facts known or believed at this time, including facts in the possession of and concealed by any Released Person, and (iii) those accrued, unaccrued, matured or not matured, at all times to and including the Final Approval Date, arising from or relating in any way to Plaintiffs allegations that Defendants, past and present owners/operators of the Empyrean Towers, had instituted a policy requiring them to check out of their single room occupancies after 21 days in order to deprive them of the protection of the Oakland Protection Ordinance and other laws in violation of Civil Code section 1940.1, any allegations which were or could have been asserted in the Litigation captioned as *Logan Mendez et al. v. Empyrean Towers, LLC, et al.*, No. RG15765508 in the Superior Court of California, County of Alameda, and for any benefits under any insurance policy issued to any Releasee(s). Upon Final Approval, each Class Member shall be deemed to have covenanted and agreed not to sue any Released Person upon any Released Claim. The Release shall be included as part of any final Approval Order or judgment, so that all future attempts to assert Released Claims shall be barred by principles of res judicata, collateral estoppel, and claim and issue preclusion, in addition to principles of release under California law, including Civil Code section 1541. The Settlement Agreement also provides that each Representative Plaintiff and each Class Member who is not a Successful Opt-Out will waive all unknown claims pursuant to Civil Code section 1542 upon entry of a Final Approval Order by the Court. Except to the extent expressly released in the Release, the rights and obligations of Class Members and Defendants under any written lease or other written agreement shall remain in full force and effect.

**ATTORNEY FEES/LITIGATION COSTS AND CLASS REPRESENTATIVES.** Class counsel may make written application to the Court for an award of attorney fees and actual Litigation costs incurred in the prosecution of the Litigation not to exceed, in the aggregate, twenty five (25%) percent of the \$250,000.00 Settlement Amount. Plaintiffs and class counsel may make written application to the Court for a total award not to exceed \$45,000.00 to be paid to the three Representative Plaintiffs for his or her service as a class representative.

**SETTLEMENT ADMINISTRATION.** The Settlement Administration Costs shall be paid exclusively from, and not in addition to, the Settlement Amount.

The above Settlement Agreement provisions provide only a general summary of the terms of the proposed Settlement Agreement. You should consult the Settlement Agreement for more information about the exact terms of the Settlement. The Settlement Agreement is available at [www.awolfllaw.com](http://www.awolfllaw.com)

## **12. What are the reasons for the proposed settlement?**

Plaintiffs and Defendants agreed on all of the terms of the proposed Settlement through extensive arms-length negotiations between Plaintiffs' Counsel ("Class counsel") and Counsel for the



Defendants, and with the assistance of a third-party mediator. Plaintiffs have entered into the proposed Settlement after weighing the benefits of the Settlement against the probabilities of success or failure in the Action, the expense in pursuing the Action, and against the delays that would be likely if the Action proceeded to trial, and after trial, to appeal.

Plaintiffs and Class counsel have concluded that the proposed Settlement provides substantial benefits to the Class; resolves substantial issues without prolonged litigation; avoids significant risks and delays; provides the Class with significant individual benefits, as well as in the aggregate; and is in the best interests of the Class. Plaintiffs and Class counsel have concluded that the proposed Settlement is fair, reasonable, and adequate.

Although Defendants deny any wrongdoing and any liability whatsoever, Defendants believe that it is in their best interest to settle the Action on the terms set forth in the Settlement Agreement in order to avoid further expense, uncertainty, and inconvenience in connection with the Action.

### **13. What do you need to do now?**

**A. You can participate in the settlement.** If the Settlement is approved, and you are a Class Member, at the Court Approval Hearing, you will automatically be included as a participant in the Settlement and will be mailed the Benefit Check described in this Notice. If that is what you want, you need not take any action.

If you participate, your interests as a Class Member will be represented by Plaintiffs and Class counsel. You will not be billed for their services. Class counsel will receive a fee only if the Court approves the Settlement, and the fee award, if any, will be set by the Court.

Unless you request to be excluded, you will be bound by any judgment or other final disposition of the Action, including the Release set forth in the Settlement Agreement, and you will be precluded from pursuing claims against Released Persons separately if those claims are within the scope of the Release.

**B. You can opt-out.** If you do not wish to be a Class Member, and do not want to participate in the Settlement, you may exclude yourself from the Class by completing and mailing the accompanying notice of intention to opt-out (referred to as an "Opt-Out") to the following address, Empyrean Towers Settlement Administrator, PO Box 404017, Louisville, KY 40233-9817, postmarked no later than **March 5, 2018**.

You may use the Opt-Out Form at the end of this Notice to opt-out. Any Opt-Out should (a) set forth the Class Member's full name, address, email address and telephone number; (b) identify the Building and Unit Number as to which the Class Member seeks exclusion; (c) contain the Class Member's personal signature or the signature of a person previously authorized by law, such as a trustee, guardian or person acting under a power of attorney, to act on behalf of the Class Member with respect to a claim or right such as those in the Action, in original or by fax or scan; and (d) clearly state the Class Member's intent to be excluded from the Class, not to participate in the Settlement, and to waive all rights to the benefits of the Settlement. In those instances where a Class Member includes persons who were co-tenants, the Class Member shall be deemed a Successful Opt-Out as to that tenancy only if all co-tenants as to that tenancy elect

to opt-out in accordance with the Order and the terms of the Settlement Agreement. Class Members who do not mail in a timely and valid Opt-Out will remain Class Members and will be bound by the Settlement.

### **C. You can object or take other actions**

**C. Objections to the Settlement.** Any Class Member who has not elected to opt-out may object to the approval of the Settlement, to any aspect of the Settlement or the Settlement Agreement, to the application for attorney fees and costs, and/or to the application for a class representative award to Plaintiff. To object, you must serve a written objection to the following address, Empyrean Towers Settlement Administrator, PO Box 404017, Louisville, KY 40233-9817, postmarked no later than **March 5, 2018**. Any objection should (a) set forth the Class Member's full name, current address, email address, telephone number, and signature; (b) contain the address of the building and unit number occupied by the Class Member and approximate dates of his or her tenancy; (c) state that the Class Member objects to the Settlement, in whole or in part; (d) set forth a statement of the legal and/or factual basis for the objection; and (e) provide copies of any documents that the Class Member wishes to submit in support of his or her position. The Court may treat as invalid Objections that are not timely filed with the Settlement Administrator.

(1) **Appearances at the Court Approval Hearing.** It is not necessary for you to appear at the Court Approval Hearing. If you have not opted-out from the Settlement and plan to appear and/or speak at the Court Approval Hearing, whether personally or through a lawyer, you must no later than 30 days after mailing of this Notice, file a Notice of Appearance with the Court, mail the Notice of Appearance to Class counsel and Counsel for Defendant or file a valid objection to the Settlement.

### **14. What will take place at the Court approval hearing?**

The Court Approval Hearing will occur on **March 21, 2018** at 9:00 a.m. in Department 17 of the Alameda Superior Court located at 1221 Oak Street, 3<sup>rd</sup> Floor, Oakland, CA. At that time, the Court will determine, among other things: (a) whether the Settlement should be finally approved as fair, reasonable and adequate, (b) whether the terms of the Settlement Agreement should be final and binding, and (c) whether all requirements of any statute, rule and state and federal Constitutions necessary to effectuate the Settlement have been met and satisfied. The Court Approval Hearing may be postponed, adjourned, or continued by Order of the Court without further notice to the Class. Any change to date or time of the Court Approval hearing will be posted at [www.awolfflaw.com](http://www.awolfflaw.com).

### **15. How can you get additional information about the action, the proposed Settlement Agreement, or the Notice?**

The descriptions of the Action and the Settlement that are contained in this Notice are only a general summary. In the event of a conflict between this Notice and the Settlement Agreement, the terms of the Settlement Agreement shall control. The full Settlement Agreement and other documents are available for you to inspect and copy at [www.awolfflaw.com](http://www.awolfflaw.com) or from Class

counsel by contacting them at the address, email, or telephone number set forth in Section 16 below.

Any questions concerning this Notice, the Settlement Agreement, or the Settlement may be directed to Class counsel in writing at the address, email, or telephone number set forth in Section 16.

You may also seek the advice and counsel of your own attorney, at your own expense, if you desire. Additional copies of this Notice can be obtained at [www.awolfflaw.com](http://www.awolfflaw.com) or from the Settlement Administrator upon written request.

**DO NOT WRITE OR TELEPHONE THE COURT, THE CLERK'S OFFICE, OR DEFENDANTS IF YOU HAVE ANY QUESTIONS ABOUT THIS NOTICE, THE SETTLEMENT, OR THE SETTLEMENT AGREEMENT.**

**16. What are the addresses you may need?**

Class counsel:

Andrew Wolff, Esq.  
The Law Office of Andrew Wolff, P.C.  
1615 Broadway, 4<sup>th</sup> Floor  
Oakland, CA 94612  
(510) 834-3300  
[andrew@awolfflaw.com](mailto:andrew@awolfflaw.com)

Settlement Administrator:

Empyrean Towers Settlement Administrator  
PO Box 404017  
Louisville, KY 40233-9817  
(866) 654-2974  
[empyreantowerssettlement@kcellc.com](mailto:empyreantowerssettlement@kcellc.com)

**17. What information must you include in any document that you send regarding the action?**

In sending any document to the Settlement Administrator, to the Court, to Class counsel, or to Counsel for the Defendants, it is important that both your envelope and any documents inside contain the following case name and identifying number: Mendez, et al. v. Empyrean Towers, et al. RG15765508. In addition, you must include your full name, address, email, and a telephone number at which you can be reached.

**18. What are the important deadlines you should know?**

**March 5, 2018:** All OPT-OUTS must be postmarked and mailed or hand-delivered to the Settlement Administrator.

**March 5, 2018:** All OBJECTIONS must be postmarked and mailed or hand-delivered to the Settlement Administrator. If not postmarked by this date the court may decline to consider the objection.

**March 21, 2018** at 9:00 a.m.: COURT APPROVAL HEARING at the Alameda County Superior Court, Department 17 which is located at 1221 Oak Street, 3<sup>rd</sup> Floor, Oakland, CA.

**19. What happens if I do nothing at all?**

By doing nothing, you are staying in the Class, you will be legally bound by all of the decisions that the Court makes and you may be eligible to receive a share of any settlement proceeds if the Court approves the Settlement Agreement. No matter whether the Plaintiffs win, lose or settle the case, you will not be able to sue, or continue to sue, the Defendants about the legal claims in this case, ever again.

**20. What happens if I exclude myself?**

If you exclude yourself from the Class and the Class gets money or benefits (as a result of final court approval of the Settlement Agreement or trial), you will not be able to get any of that money or those benefits. However, if you exclude yourself, you will not be legally bound by the Court's judgments. You will be able to sue, or continue to sue the Defendants on your own about the same legal claims that are involved in this case, now or in the future.

If you do pursue your own lawsuit after you exclude yourself, you'll have to hire and pay for your own attorney, and you'll have to prove your claims, without the benefit of the work performed by the attorneys in this class action.

## **THE ATTORNEYS REPRESENTING YOU**

**21. Do I have an attorney in this case?**

Yes. The court appointed The Law Offices of Andrew Wolff, P.C., to represent you as Class counsel. More information about this, their practice, and their lawyers' experience is available at [www.awolfflaw.com](http://www.awolfflaw.com). This law firm is experienced in handling similar cases. Class counsel can be reached at (510) 834-3300. Hablamos español. Complete contact information for this law firm can be found at [www.awolfflaw.com](http://www.awolfflaw.com).

**22. Should I get my own attorney?**

You do not need to hire your own attorney because Class counsel is working on your behalf. But, if you want your own attorney, you will have to pay that attorney. You can ask your own attorney to appear in Court for you if you want someone other than Class counsel to speak for you.

**23. How will the attorneys be paid?**

If Class counsel obtains money or benefits for the Class, they will ask the Court for attorney fees, costs, and expenses. You don't have to pay any of these fees and expenses. If the Court grants their request, the fees and expenses would be deducted from any money obtained for the Class, or paid separately by the Defendants.

## TRIAL

### 24. How and when will the Court decide who is right?

If the case is not dismissed or settled, Plaintiffs will have to prove their claims at a trial yet to be scheduled at the Alameda County Superior Court, 1221 Oak Street, 3<sup>rd</sup> Floor, Department 17, Oakland, California 94612. The trial may be moved to a different date or time without additional notice, so it is a good idea to check

<http://www.alameda.courts.ca.gov/pages.aspx/domainweb>. During the trial, the Judge, and/or a Jury, will hear all of the evidence, so that a decision can be reached about whether Plaintiffs or Defendants is right about the claims in the lawsuit. The Plaintiffs will have to prove their claims. There is no guarantee that Plaintiffs will win any money or benefits for the Class.

### 25. Do I have to come to any trial if the case is not settled?

You will not need to attend the trial unless you choose to do so, or you are asked to attend by the Court. Class counsel will present the case for Plaintiffs, and the lawyers for the Defendants will present their defenses. You and/or your own attorney are welcome to come, at your own expense. Check the Court's website <http://www.alameda.courts.ca.gov/pages.aspx/domainweb> to be kept informed of the trial schedule.

### 26. Will I get money after the trial?

If the Plaintiff obtains money or benefits as a result of approval of the Settlement Agreement or trial, you will be notified about how to obtain your share. Thus, if your mailing address changes, it is important to notify Class counsel, so that you will receive any future notices to the class.

Important information about the case may also be posted on the court website,

<http://www.alameda.courts.ca.gov/pages.aspx/domainweb>. Check

<http://www.alameda.courts.ca.gov/pages.aspx/domainweb>, **as it becomes available. You can access the website, whether you stay in the lawsuit or exclude yourself, to obtain current information about this case.**

## GETTING MORE INFORMATION

### 27. Are more details available?

Visit [www.awolfflaw.com](http://www.awolfflaw.com) or the court website at

<http://www.alameda.courts.ca.gov/pages.aspx/domainweb>, where for a small fee you can view the (1) Order. Preliminary Approving Settlement, Provisional Class Certification, Approval of

Class Representatives, Incentive Payment Awards, Class Counsel, Class Notice, and Administration; (2) the Plaintiff's Complaint and (3) Defendant's Answer to the Plaintiff's Complaint, among other court documents. Click "Search by Case Number" and then enter: RG15765508. You may also call (510) 834-3300 for more information, or write to The Law Offices of Andrew Wolff, P.C. 1615 Broadway, 4<sup>th</sup> Floor, Oakland, California 94612. Class counsel can provide you with information and copies of key documents at no charge.

**NOTICE OF INTENTION TO OPT-OUT OF SETTLEMENT AND CLASS**

*Mendez, et al. v. Empyrean Towers, et al.*

*Case No.: RG15765508*

1. **Full Name:** \_\_\_\_\_
2. **Current Address:** \_\_\_\_\_
3. **Telephone Number:** \_\_\_\_\_
4. **Email Address:** \_\_\_\_\_
5. **Identify Address lived in at the Empyrean Towers (“Premises”):** \_\_\_\_\_  
\_\_\_\_\_

*(If you lived in more than one unit at the above apartment complex, you need to clearly indicate for which unit you want to opt out. If you do not, it will understood that you wish to opt out for all units in which you lived.)*

6. **Estimated Length of Time Living at Above Unit:** \_\_\_\_\_
7. **Estimated Dates Living at Above Unit:** \_\_\_\_\_

**I wish to be excluded from the Settlement in this class action. I understand that by excluding myself from this case I waive any and all rights that I may have to receive any money from this class action.**

**Dated:** \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
**(Print and Sign Your Name)**

*Please mail this completed form to: Empyrean Towers Settlement Administrator, PO Box 404017, Louisville, KY 40233-9817, no later than March 5, 2018.*

## ADDRESS CORRECTION FORM

*Mendez, et al. v. Empyrean Towers, et al.*

*Case No.: RG15765508*

If you need to update your address or contact information for purposes of this class action lawsuit, please provide the relevant information below and immediately mail the completed form to Empyrean Towers Settlement Administrator, PO Box, 404017, Louisville, KY 40233-9817.

1. **Full Name:** \_\_\_\_\_
2. **Current Address:** \_\_\_\_\_
3. **New Address:** \_\_\_\_\_
4. **Telephone Number:** \_\_\_\_\_
5. **Email Address:** \_\_\_\_\_



1 **PROOF OF SERVICE**

2 **MENDEZ, et al.,**

**CASE NO. RG15765508**

3 **Plaintiff,**

4 **v.**

5 **EMPYREAN TOWERS, LLC, et al.**

6 **Defendants.**

7 I, Andrea Ortiz, declare that I am a citizen of the United States, am over the age of eighteen  
8 years, am employed in the city of Oakland, County of Alameda, and not a party to the  
9 within action. My business address is The Law Office of Andrew Wolff, 1615 Broadway,  
4<sup>th</sup> Fl., Oakland, California 94612. On this day I served the foregoing:

10 **[PROPOSED] ORDER PRELIMINARILY APPROVING SETTLEMENT,**  
11 **PROVISIONAL CLASS CERTIFICATION, CLASS REPRESENTATIVES,**  
**INCENTIVE PAYMENT AWARDS, CLASS COUNSEL, CLASS NOTICE AND**  
**ADMINISTRATION**

12 On the Interested Parties By:

13 **( X ) MAIL (CCP §1013(a), 2015.5)** - I placed true copies thereof in envelopes, sealed, with  
14 First Class postage prepaid, and deposited for collection and mailing, following  
ordinary business practices. Each envelope (if applicable) was addressed as follows:

15 Douglas N. Akay, Esq.  
16 Akay Law  
333 Bush Street, Ste. 2250  
San Francisco, CA 94104

Steve Whitworth, Esq.  
Law Offices of Steve Whitworth  
517 7<sup>TH</sup> Street  
Sacramento, CA 95814

17 Howard M. Garfield, Esq.  
18 Lesser Law Group  
1010 B Street, Suite 300  
19 San Rafael, California 94901

Steven Sheriff Abern, Esq.  
Haapala, Thompson & Abern, LLP  
1939 Harrison Street, Suite 800  
Oakland, CA 94612

20 James A. Tiemstra, Esq.  
21 TIEMSTRA LAW GROUP, PC  
1111 Broadway, Suite 1501  
Oakland, CA 94607-4036

Lydia Ko, Esq.  
Stone & Associates  
2125 Ygnacio Valley Rd., Ste. 101  
Walnut Creek, CA 94598

22 Byron Z. Moldo, Esq.  
23 Irvin, Cohen & Jessup LLP  
9401 Wilshire Boulevard, 9th Floor  
24 Beverly Hills, CA 90212

Andrew M. Zacks, Esq.  
Zacks, Freedman & Patterson, P.C.  
235 Montgomery St Ste 400  
San Francisco, CA 94104

25 Patricia H. Lyon, Esq.  
26 French & Lyon  
1990 N. California Blvd., Ste. 300  
Walnut Creek, CA 94596

Steven Morger, Esq.  
Wendel, Rosen, Black & Dean LLP  
1111 Broadway, 24th Floor  
Oakland, CA 94607

1 M. Joseph Hoffman, Esq.  
2 Weinberg-Hoffman, LLP  
3 679 Bridgeway  
4 Sausalito, CA 94965

Monique D. Jewett-Brewster, Esq.  
Hopkins & Carley  
70 South First Street  
San Jose, CA 95113

4 Maria Bee, Esq.  
5 Melosa Granda, Esq.  
6 Office of Oakland City Attorney  
7 One Frank H. Ogawa Plaza, 6th Floor  
8 Oakland, CA 94612

8 ( ) **FACSIMILE TRANSMISSION** - I sent a true copy thereof via telephone facsimile  
9 transmission to the following individuals:

10 ( ) **HAND DELIVERY** - I delivered them personally to the following addresses and/or  
11 individuals:

12 ( ) **SPECIAL DELIVERY - OVERNIGHT EXPRESS VIA UPS** to the following address  
13 and/or individual:

14 ( ) **COURIER** - I called a professional courier with instructions for personal delivery this  
15 day to:

16 I declare under penalty of perjury, under the laws of the State of California that the  
17 foregoing is true and correct. Executed on **January 10, 2018, in** Oakland, California.

18  
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20  
21  
22  
23  
24  
25  
26  
27  
28  

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Andrea Ortiz