

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss.

SUPERIOR COURT
DEPARTMENT OF THE TRIAL COURT
CA No. 1777-CV-00331D

CARLOS A. VARGAS, on behalf of himself and
all other similarly situated individuals,
Plaintiff,

v.

CROWNINSHIELD MANAGEMENT
CORPORATION and COLARIS, INC.
Defendants.

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

To: All individuals whose tenancy with a property managed by Crowninshield Management Corporation, and/or owned by Colaris, Inc. has ceased for more than thirty-days, and who:

- A. Paid to the Crowninshield Management Corporation (and/or its principal(s)) and/or Colaris, Inc. a security deposit;
- B. Had an amount of money withheld from their security deposit at the termination of their tenancy; and
- C. Within thirty-days of the date of termination of their tenancy, never received documentation, signed under the pains and penalties of perjury, itemizing in precise detail the nature of the damage and of the repairs necessary to correct such damage, and written evidence, such as estimates, bills, invoices or receipts, indicating the actual or estimated cost thereof, or otherwise had security deposit funds impermissibly withheld, including accrued interest.

**THIS NOTICE DESCRIBES YOUR OPTIONS
WITH RESPECT TO THIS CLASS ACTION**

Summary Description of Action and Settlement

This Notice explains the Settlement of a Class action lawsuit between Plaintiff, Carlos Vargas (“Plaintiff” or “Vargas”) and Crowninshield Management Corporation (“Crowninshield”) and Colaris, Inc. (“Colaris”) (collectively “Defendants”) (collectively with Plaintiff the “Parties”). Plaintiff alleges that Defendants wrongfully withheld certain sums from the Class Members’ security deposits without providing the requisite itemization of damages subscribed and sworn to under the pains and penalties of perjury. The Settlement Agreement has been preliminarily approved by the Essex County Superior Court and this Notice now provides information relating to your rights under the proposed Settlement Agreement.

PLEASE TAKE NOTICE THAT on Thursday, September 27th, 2018, in Courtroom 1 of the ESSEX Superior Court, 43 Appleton Way, Lawrence, Massachusetts, at 2:00 PM, a hearing shall be conducted to determine whether to grant final approval to the Settlement Agreement, consider any timely objections to the Settlement and rule on the fee and expense application submitted by Plaintiff in this Class action lawsuit.

In the following Notice, you are being told about the features of the proposed Settlement and asked to decide whether you would like to oppose the Settlement.

READ THIS NOTICE CAREFULLY.

1. Why did you receive this Notice?

Defendants' records indicate that you lived at a unit owned and/or managed by Crowninshield and/or Colaris after March 9th, 2013 and paid a security deposit at or before the inception of your tenancy. Defendants' records also indicate that Defendants may have deducted therefrom an amount purportedly for damages, and contemporaneously failed to provide the proper paperwork itemizing said damages under the pains and penalties of perjury. You have received this notice in order to inform you of the settlement and provide you with an opportunity to object to the settlement.

2. Who are the Parties in this Class action?

Carlos Vargas is the named Plaintiff. Mr. Vargas contends that he and other tenants paid a security deposit to the Defendants, and at the end of their respective tenancies, had amounts deducted from their respective security deposits in violation of M.G.L. c. 186, § 15B. Mr. Vargas filed this lawsuit as a putative Class action to assert his own individual claims and to represent a Class of tenants who have similar claims. The Defendants are Crowninshield Management Corporation and Colaris Inc., and they either own or operate facilities within which the Class Members resided. The case is pending in the Essex County Superior Court, Ca No. 1777-CV-00331D.

3. Who are the members of the Class?

All individuals whose tenancies in a property managed by Crowninshield Management Corporation, and/or owed by Colaris, Inc. has ceased for more than thirty-days, and who:

- A. Paid to the Crowninshield (and/or its principal(s)) and/or Colaris, a security deposit;
- B. Had an amount of money withheld from their security deposit at the termination of their tenancy; and
- C. Within thirty-days of the date of termination of their tenancy, never received documentation, signed under the pains and penalties of perjury, itemizing in precise detail the nature of the damage and of the repairs necessary to correct such damage, and written evidence, such as estimates, bills, invoices or receipts, indicating the actual or estimated cost thereof, or otherwise had security deposit funds impermissibly withheld, including accrued interest.

1. What is this lawsuit about?

Plaintiff alleges that Defendants wrongfully withheld certain sums from the Class Members' respective security deposits without providing the requisite itemization of damages subscribed and sworn to under the pains and penalties of perjury as required by M.G.L. c. 186, § 15B.

Defendants have denied these allegations and contend that it properly handled said security deposits.

Based on the information available to both sides, and the risks involved in a trial, attorneys for the Class have concluded that the proposed Settlement of this Action is fair, reasonable, and adequate, and that it serves the best interest of all Class Members.

2. What compensation will the Settlement provide?

The Settlement, if it is finally approved by the Court, provides the following:

Defendants shall pay a Settlement Amount to be determined in the manner set forth below to resolve the Action and the Asserted Claims:

- A. Defendants, either jointly or severally, shall make payments to identified Class Members in the amount of three (3) times the amount of money withheld for the Class Members' Security deposit for purported damages to the leased residential unit (plus interest at the rate of interest applicable to each bank account holding each subject security deposit, running from the time when each such class member last received an interest credit or interest payment upon his/her security deposit through the time when each Class Member received the remainder of his/her security deposit after the termination of the tenancy, or, if none of the security deposit was returned, through the termination of his/her tenancy, provided, however, that any tenant that owed unpaid rent and water charges that exceeded the amount of his or her security deposit at the time his or her tenancy terminated, and who was notified of such fact by the Defendants, shall not be considered a "Class Member" for the purposes of settlement of this action and shall not be entitled to compensation;
- B. Defendants, either jointly or severally, shall also make payments to identified Class Members in the amount of additional interest on the amount of money previously withheld from the Class Members after the termination of the tenancy at 12% per annum beginning three days from the date of any check sent to a Class Member for a partial return of his/her security deposit (or in the event no partial security deposit amount was returned, then beginning the day after the termination of the Class Member's tenancy at 12% per annum) through the date of the draft used to make payment to each Class Member in accordance with this proposed settlement.
- C. Section 1(A) and 1(B) above shall represent the "Settlement Amount".
- D. The Parties agree that any Settlement Amount unclaimed shall be distributed to the Massachusetts IOLTA committee.
- E. Defendants agree, by way of a final order and judgment, to stop the practice of deducting sums from a tenant's security deposit without providing said tenant with an affidavit itemizing said damages in accordance with M.G.L. c. 186, § 15B.

3. How much money will the attorneys be paid and who will pay it?

Plaintiff shall apply for a representative stipend and an award of fees and expenses with respect to his Counsel’s representation. Plaintiff seeks these funds separate and apart from the Settlement Amount awarded to Plaintiff and the Class. Defendants have agreed not oppose an award of a representative stipend and an award of fees and expenses not to exceed \$100,000.00. Defendants shall be responsible for any award issued on Plaintiff’s and the Class Members’ Application for Costs and Attorney Fees and/or a class representative stipend in connection with the Action.

In any event, none of the fees and expenses awarded will be deducted from the payments made to the Class from the Settlement Amount.

The Parties’ agree that should any Class Member fail to cash the check sent to them within one hundred and twenty (120) days of its issuance, and after reasonable efforts to assist said Class Members in cashing said check, such unclaimed funds shall be paid by Defendants to the Massachusetts Interest on Lawyer Trust Accounts (“IOLTA”) in accordance with the provisions of Mass. R. Civ. P. 23(e).

4. What are your options?

As a member of the Class, you have the following options:

- A. If you wish to remain as a participant in the Settlement, you do not have to do anything.
- B. If you disagree with any part of the Settlement or Plaintiff’s Attorney Fee and Expense Application, you may file an objection as described below.

5. How do you file an objection?

Class Members who wish to present objections to the Agreement and/or the Costs and Fees Application at the Fairness Hearing must do so in writing in the manner set forth in this Section and by mailing the objection to all of the following:

<u>To the Court:</u> Superior Court of Essex County Civil Clerk’s Office Re: CA No. 1777-CV-00331D 43 Appleton Way Lawrence, MA 01841	<u>Class Counsel:</u> Forrest, LaMothe, Mazow, McCullough, Yasi & Yasi, P.C. Attn: Vargas v. Crowninshield Settlement 2 Salem Green, Suite 2 Salem, MA 01970	<u>Defendants’ Counsel</u> Jeffrey J. Phillips, Esq., Phillips & Angley Attn: Vargas v. Crowninshield Settlement One Washington Mall, 7 th Floor Boston, MA 02108
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- A. Bar Date. Any Class Member wishing to object to the approval of this Agreement and/or Plaintiff’s Costs and Fees Application, shall inform the Court and the Parties in writing of his or her intent to so object by following the procedure set forth in the Notice within thirty (30) days from the date of the Notice distribution, but no later than forty-five (45) days

from the entry of the Preliminary Approval Order or such number of days as the Court shall specify.

- B. **Objection to Agreement and/or Costs and Fees Application.** To be effective, any objection to the Agreement and/or the Costs and Fees Application shall include the following:
- i. A heading which properly refers to the Action;
 - ii. The name, address, telephone number and signature of the Class Member filing the objection;
 - iii. A statement whether the objector intends to appear at the Fairness Hearing, either in person or through counsel, and, if through counsel, identifying counsel by name, Board of Bar Overseers No., address and phone number;
 - iv. A statement of the legal and factual bases for each and every objection, and if through counsel, a legal memorandum in support of the objection;
 - v. A description of any and all evidence the objector may offer at the Fairness Hearing, if the objector intends to speak at the hearing; and
 - vi. Documentary proof of membership in the Class. If the Class Member is represented by an attorney, he/she or it must comply with all applicable Massachusetts laws and rules for filing pleadings and documents in Massachusetts courts.
 - vii. Any Settlement Class Member who fails to timely file such a written statement of his/her or its intention to object or oppose shall be foreclosed from making any objection to this Settlement Agreement and/or filing any opposition to the Fee and Expense Application, except as permitted by the Court.
- C. To be effective, the objection must also be sent by the Class Member or a legally authorized representative on an individual basis and not as part of a group, class or subclass.
- D. Any Class Member who fails to timely file such an objection shall be foreclosed from making any objection to this Agreement and/or the Costs and Fees Application, except as permitted by the Court.
- E. An objector may withdraw his or her objection at any time.
- F. Objections shall be filed with the Court and should Class Counsel or Defendants' Counsel choose they may submit written responses to objections, no later than five (5) business days before the Final Fairness Hearing.

6. When will the Court conduct the Final Approval Hearing?

On Thursday, September 27th, 2018, in Courtroom 1 of the Essex Superior Court, 43 Appleton Way, Lawrence, Massachusetts, at 2:00 PM, a hearing shall be conducted to determine whether to grant final approval to the Settlement Agreement, consider any timely objections to the Settlement and rule on the fee and expense application submitted by Plaintiff in this Class action lawsuit.

7. Effect of Settlement Approval, including Release of All Claims.

If the Order and Judgment approving Settlement is entered by the Court, Plaintiff and Class Members, on behalf of themselves and their respective, current, former, and future heirs, spouses, executors, administrators, agents, and attorneys fully release and discharge Defendants, their subsidiaries, and their successors, predecessors, subsidiaries, divisions, affiliates, officers, directors, owners, employees, attorneys, stockholders, principals, clients and agents with respect to claims against Defendants as set in the First Amended Complaint arising from the acts or

omissions of Defendants from the Asserted Claims, any claims that were or could have been asserted in the Action, and any claims going back four (4) years from the filing of this Action through the date of Final Approval arising from the mishandling of Security Deposit funds under M.G.L. c. 186, § 15B.

Plaintiff and the Class shall not generally release or waive other potential claims against Defendants arising outside of the acts or omissions of Defendants that are being released hereunder or as set forth in the Action.

Under this Release, you, your heirs, executors, administrators successors and/or assigns shall release, waive, withdraw, retract, and forever discharge any and all known and Unknown Claims, actions, causes of action, claims, demands, liabilities, obligations, fees, costs, sanctions, proceedings and /or rights of any nature and description whatsoever, including violations of any state or federal statutes, rules or regulations, or principles of common law, whether liquidated or unliquidated, whether in law or in equity, debts, liens, liabilities, agreements, interest, costs, expenses, attorneys' fees, losses or damages (whether actual, consequential, treble, statutory and/or punitive or exemplary or other), whether or not concealed or hidden, that have been asserted in this Action or that might have been asserted in this Action by Plaintiff, concerning, regarding, arising out of the alleged mishandling of Security Deposit funds under M.G.L. c. 186, § 15B. between March 9, 2013, and the Final Approval Date.

8. Where can you get additional information?

This Notice provides only a summary of the matters regarding the lawsuit. The documents, Settlement Agreement and orders in the lawsuit provide greater detail and may clarify matters that are described only in general or summary terms in this Notice. Copies of the Settlement Agreement, other documents, court orders and other information related to the lawsuit may be obtained found on the website of Plaintiff's counsel, available at <http://forrestlamothe.com/class-notices/>, or from Plaintiff's Attorneys identified above. Direct any inquiries concerning a claim or other matters described in this Notice to Class Counsel.

If you wish, you may seek the advice and guidance of your own attorney, at your own expense.

PLEASE DO NOT CONTACT THE COURT, COUNSEL FOR DEFENDANTS OR ANY REPRESENTATIVE FOR THE DEFENDANT FOR INFORMATION, EXCEPT AS OTHERWISE SET FORTH HEREIN.