

Hennessy v. Mid-America Apartment Communities, Inc.
United States District Court for the Western District of Missouri,
Case No. 17-cv-00872-BCW

You have been identified as one of the approximately 500 persons who either (i) had security deposits withheld relating solely to physical damage done to an apartment unit; or (ii) paid money directly to either Defendant relating solely to physical damage done to an apartment unit. You are entitled to benefits under a class action settlement.

A federal Court authorized this Notice. This is not a solicitation from a lawyer.

- Plaintiffs allege that Defendants Mid-America Apartments Communities, Inc. (“MAA”) & Mid-America Apartments, L.P (“MAALP,” and together with MAA, “Defendants”) violated the Missouri Merchandising Practices Act, R.S. Mo. § 407.020 *et seq.* (“MMPA”) and Missouri Landlord-Tenants Actions, R.S.Mo. § 535.300 and engaged in Unjust Enrichment and/or Breach of Contract by withholding security deposits or collecting payment related solely to physical damage done to an apartment unit without providing adequate notice of inspection as required by Missouri law. Defendants deny Plaintiffs’ allegations and deny any wrongdoing whatsoever. The Court has not ruled on the merits of Plaintiffs’ claims or Defendants’ defenses. By entering into the settlement, Defendants have not conceded the truth or validity of any of the claims against it.
- A proposed settlement will provide a total of \$277,150.91 consisting of \$189,000 for distribution to the Settlement Class as detailed below and \$88,150.91 consisting of the Defendants’ release of the MAA Released Claims (the “Settlement Fund”) to fully settle and release claims of the approximately 500 persons who either (i) had security deposits withheld relating solely to physical damage done to an apartment unit; or (ii) paid money directly to either Defendant relating solely to physical damage done to an apartment unit (the “Settlement Class”).
- The Settlement Fund will also be used to pay the costs of administrating the settlement as well as reasonable attorneys’ fees and expenses to attorneys representing Plaintiffs and the Settlement Class (“Class Counsel”), and any service award for Plaintiffs.
- Class Counsel estimates you will receive around \$400 if you paid a security deposit, but your claim will be more or less depending on the amount of your security deposit retained for damages. If you did not have a security deposit, but were charged damages, Class Counsel estimates that the average amount of damages charged to Settlement Class members was around \$176. This means that, on average, if you file a claim and MAA did not have a security deposit, you will receive around \$176.
- Your rights and options, and the deadlines to exercise them, are explained in this Notice. Your legal rights are affected whether you act or don’t act. Read this Notice carefully.
- The Court in charge of this case still has to decide whether to approve the settlement. Payments will be made if the Court approves the settlement and after any appeals are resolved. Please be patient.

YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:

TO RECEIVE A PAYMENT	To remain in the class and receive a pro rata share of the settlement funds you are required to submit a claim form by June 3, 2019. Settlement funds will be disbursed to all class members who submit a claim form. If you do nothing, you will still receive the Debt Release as part of this settlement.
EXCLUDE YOURSELF OR “OPT-OUT” OF THE SETTLEMENT	If you ask to be excluded, you will not receive a payment. This is the only option that allows you to pursue your own claims against Defendants and/or other released parties in the future. The deadline for excluding yourself is June 3, 2019.

OBJECT TO THE SETTLEMENT	Write to the Court about why you believe the settlement is unfair in any respect. The deadline for this is June 3, 2019. To obtain a benefit from this settlement, you must still submit a Claim Form. If you only submit an objection and the settlement is approved you will give up your right to sue Defendants and/or any other released parties on a released claim. If you request exclusion from the settlement you cannot file an objection.
GO TO THE FINAL APPROVAL HEARING	Ask to speak in Court about the fairness of the settlement if you object to the settlement. To speak at the Final Approval Hearing, you must file a document including your name, address, telephone number and your signature with the Court stating your intention to appear, by no later than June 3, 2019.

BASIC INFORMATION

1. What is the purpose of this Notice?

The purpose of this Notice is to inform you that a proposed Settlement has been reached in the class action lawsuit entitled *Hennessy, et al. v. Mid-America Apartment Communities, Inc., et al.* 4:17-cv-00872-BCW (W.D. Mo.). Because your rights will be affected by this settlement, it is extremely important that you read this Notice carefully. This Notice summarizes the settlement and your rights under it.

2. What does it mean if I received a notice about this settlement?

If you received this notice, it is because Defendants' records indicate that you are a member of the Settlement Class in this action.

3. What is this class action lawsuit about?

In a class action, one or more people called a Class Representatives (here, Plaintiffs Samantha Hennessy and Morgan Willis) sue on behalf of people who allegedly have similar claims. This group is called a class and the persons included are called class members. One court resolves the issues for all of the class members, except for those who exclude themselves from the class.

Here, Plaintiffs allege that Defendants violated the MMPA and Missouri Landlord-Tenants Actions, R.S.Mo. § 535.300 and engaged in Unjust Enrichment and/or Breach of Contract by withholding security deposits or collecting payment related solely to physical damage done to an apartment unit without providing adequate notice of inspection as required by Missouri law. Defendants deny Plaintiffs' allegations and deny any wrongdoing whatsoever. The Court has not ruled on the merits of Plaintiffs' claims or Defendants' defenses. By entering into the settlement, Defendants have not conceded the truth or validity of any of the claims against them. The Honorable Brian C. Wimes is the judge in charge of the lawsuit.

4. Why is there a settlement?

The Court has not decided in favor of Plaintiffs or Defendants. Instead, both sides have agreed to this settlement. That way, they avoid the risk and cost of a trial, and the members of the Settlement Class will receive compensation. Plaintiffs and Class Counsel believe that the settlement is best for all persons in the Settlement Class. Defendants have agreed to the settlement to avoid the risks and costs of protracted litigation.

WHO IS IN THE SETTLEMENT CLASS?

5. How do I know if I am a part of the settlement class?

The Court has preliminarily certified this case as a class action for settlement purposes. The Settlement Class is defined as:

Those individuals who (A) were residents of (i) the Dentons apartment community from January 15, 2015, the date of its acquisition by MAALP, through February 8, 2018 or (ii) the Market Station apartment community from September 20, 2012, the date of its acquisition by MAALP, through February 8, 2018 and (B) who either (i) had security deposits withheld relating solely to physical damage done to an apartment unit; or (ii) paid money directly to either Defendant relating solely to physical damage done to an apartment unit.

By way of clarification, amounts paid to either Defendant that do not relate to payments for physical damage to an apartment unit are not at issue in this case and are not to be paid to the Settlement Class.

Notwithstanding the foregoing, in compliance with 28 U.S.C. § 455, this class specifically excludes persons in the following categories: (A) The district judge and magistrate judge presiding over this case and the judges of the United States Court of Appeals for the Eighth Circuit; (B) the spouses of those in category (A); (C) any person within the third degree of relationship of those in categories (A) or (B); and (D) the spouses of those within category (C).

This class also specifically excludes persons employed by Defendants at any time from September 20, 2012 through February 8, 2018.

If you are still not sure whether you are included, you can visit other sections of the Settlement Website, www.missourisecuritydepositclassactionmaa.com, you may write to the Settlement Administrator at Missouri Security Deposit Class Action, PO Box 23648, Jacksonville, FL 32241-3648, or you may call Class Counsel at 866.726.1092, for more information.

THE LAWYERS REPRESENTING YOU

6. Do I have lawyers in this case?

The Court has appointed lawyers from the law firms of Stecklein & Rapp Chartered, and Keogh Law, LTD as Class Counsel to represent you and the other persons in the Settlement Class. You will not be personally charged by these lawyers.

7. How will Class Counsel be paid?

The Named Plaintiffs will petition the Court for reasonable attorney's fees equal to one-third of the Settlement Fund, which is \$92,383.64, plus reasonable costs.

THE SETTLEMENT BENEFITS – WHAT YOU GET

8. What does the settlement provide?

Settlement Fund. This Settlement Fund will be reduced by the following amounts: (1) the Incentive Payment to the Named Plaintiffs that the Court approves; (2) the reasonable attorneys' fees, costs, and expenses to Class Counsel that the Court approves; and (3) the fees and expenses of the Settlement Administrator that the Court approves.

Debt Release. Defendants will release any claims against members of the Settlement Class for physical damage done to apartment units. For any member of the Settlement Class, Defendants will release and not attempt to directly or indirectly seek to collect any such amounts or transfer or sell any such purported debts. Any credit reporting relating

to the damages claimed will be deleted or updated to show a zero balance. This value of this release totals \$88,150.91 as of February 8, 2018.

No Portion of the Settlement Fund Will Return to Defendants. All money in the Settlement Fund, after administration expenses and any court-approved Incentive Payment and attorneys' fees and costs have been paid, will be divided and paid pro rata to the members of the Settlement Class who do not submit a valid and timely request for exclusion. All unclaimed funds from any uncashed checks shall be paid to the following charity as a *cy pres* award agreed to by the parties and approved by the Court: Legal Aid of Western Missouri a 501(c)(3) charitable organization.

9. How much will my payment be?

Class Counsel estimates you will receive around \$400 if you paid a security deposit, but your claim will be more or less depending on the amount of your security deposit retained for damages.

If you did not have a security deposit, but were charged damages, Class Counsel estimates that the average amount of damages charged to Settlement Class members was around \$176.

10. What am I giving up to stay in the Settlement Class?

Unless you exclude yourself from the settlement, you will be part of the Settlement Class and will be bound by the release of claims in the settlement. This means that if the settlement is approved, you cannot rely on any released claim to sue or continue to sue Defendants or any other released parties, whether on your own or as part of any other lawsuit, as explained in the settlement agreement. It also means that all of the Court's orders will apply to you and legally bind you. Unless you exclude yourself from the settlement, you will agree to release Defendants and any other released parties, as defined in the settlement agreement, from any and all claims arising under the Missouri Merchandising Practices Act, R.S. Mo. § 407.020 *et seq.* ("MMPA"), Missouri Landlord-Tenants Actions, R.S.Mo. § 535.300 or for Unjust Enrichment and/or Breach of Contract.

If you have any questions about the Release or what it means, you can speak to Class Counsel, listed under Question 6, for free, or you can, at your own expense, talk to your own lawyer. The Release does not apply to persons in the Settlement Class who timely exclude themselves.

HOW TO OBTAIN A PAYMENT

11. How can I get a payment?

To receive a portion of the Settlement Fund you must submit a claim either through the mail or at the Settlement Website, <http://www.missourisecuritydepositclassactionmaa.com>. Claim forms must be submitted no later than June 3, 2019.

WHEN WILL I RECEIVE MY SETTLEMENT PAYMENT?

12. When would I receive a settlement payment?

The Court will hold a hearing August 9, 2019 after preliminary approval to decide whether to approve the settlement. If the Court approves the settlement, after that, there may be appeals. It is always uncertain whether these appeals can be resolved, and resolving them can take time, perhaps more than a year. All members of the Settlement Class will be informed of the progress of the settlement through information posted on the Settlement Website at <http://www.missourisecuritydepositclassactionmaa.com>. Please be patient.

EXCLUDING YOURSELF FROM THE SETTLEMENT

13. How do I get out of the settlement?

If you want to keep the right to sue or continue to sue Defendants or a released party, as defined in the settlement agreement, then you must take steps to get out of the Settlement Class. This is called excluding yourself from, or opting-out of, the Settlement Class.

To exclude yourself from the settlement you must send, by first-class U.S. mail, written notice addressed to the Settlement Administrator indicating your name and address and stating that you desire to opt-out of the settlement or otherwise do not want to participate in the settlement. No request for exclusion will be valid unless all of the information described above is included. No person in the Settlement Class, or any person acting on behalf of or in concert or participation with that person in the Settlement Class, may exclude any other person in the Settlement Class from the Settlement Class.

To be valid, you must mail your exclusion request postmarked no later than June 3, 2019 to the Settlement Administrator at Missouri Security Deposit Class Action, PO Box 23648, Jacksonville, FL 32241-3648.

14. If I do not exclude myself, can I sue Defendants for the same thing later?

No. If you do not exclude yourself, you give up any right to sue (or continue to sue) Defendants or any released parties for the claims that this settlement resolves.

15. If I exclude myself, can I get a benefit from this settlement?

No. If you ask to be excluded, you will not be able to submit a Claim Form for a settlement payment and you cannot object to the settlement.

OBJECTING TO THE SETTLEMENT

16. How do I tell the Court that I do not think the settlement is fair?

If you are in the Settlement Class, you can object to the settlement or any part of the settlement that you think the Court should reject, and the Court will consider your views. If you do not provide a written objection in the manner described below, you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the settlement or the award of any attorneys' fees and expenses and/or service award.

To object, you must make your objection in writing, stating that you object to the settlement in *Hennessy, et al. v. Mid-America Apartment Communities, Inc., et al.* 4:17-cv-00872-BCW (W.D. Mo.). To be considered by the Court, the written objection must: (i) attach documents establishing, or provide information sufficient to allow the parties to confirm that the objector is a member of the Settlement Class; (ii) include a statement of the specific objections; and (iii) state the grounds for objection, as well as identify any documents which the objector desires the Court to consider.

To be considered, you must file your objections with the Court and mail your objections to the addresses below no later than June 3, 2019.

For Plaintiff:

A.J. Stecklein
Michael H. Rapp
Stecklein & Rapp Chartered
748 Ann Avenue
Kansas City, Kansas 66101

For Defendants:

Barry Goheen, Esq.
KING & SPALDING LLP
1180 Peachtree Street, N.E.
Atlanta, Georgia 30309

If you file a request for exclusion from the settlement you shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, reasonableness, or adequacy of the settlement or the award of any attorneys' fees and expenses and/or service award.

17. What is the difference between objecting and excluding yourself?

Objecting is telling the Court that you oppose something about the settlement. You can object only if you stay in the Settlement Class. Excluding yourself means that you do not want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the settlement no longer affects you.

THE FINAL APPROVAL HEARING

18. When and where will the Court decide whether to approve the settlement?

The Court will hold a Final Approval Hearing at 10:00 a.m. on August 9, 2019 at the United States District Court for the Western District of Missouri, U.S. Federal Building and Courthouse, 400 E. 9th St., Court Room 7D, Kansas City, MO 64106. At this hearing, the Court will consider whether the settlement is fair, reasonable and adequate. If there are valid objections that comply with the requirements in Question 16 above, the Court will also consider them and will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel and Plaintiffs.

The Final Approval Hearing may be moved to a different date or time without additional notice, so it is a good idea to check the Settlement Website for updates.

19. Do I have to come to the hearing?

No. Class Counsel will appear on behalf of the Settlement Class. But, you are welcome to come, or have your own lawyer appear, at your own expense.

20. May I speak at the hearing?

You may ask the Court for permission to speak at the Final Approval Hearing, but only in connection with an objection that you have timely submitted to the Court according to the procedure set forth in Question 16 above. To speak at the Final Approval Hearing, you must also file a document with the Court stating your intention to appear. For this document to be considered, it must include your name, address, telephone number and your signature. The document must be filed with the Court no later than **June 3, 2019**. You cannot speak at the hearing if you exclude yourself from the settlement.

GETTING MORE INFORMATION

21. How do I get more information?

This notice is only a summary of the proposed settlement. You can get a complete copy of the settlement agreement by visiting the Settlement Website, <http://www.missourisecuritydepositclassactionmaa.com>, or you can write to the Settlement Administrator or call class counsel with any questions at 866.726.1092.

DO NOT CALL OR WRITE TO THE COURT, THE CLERK OF THE COURT, DEFENDANTS OR DEFENDANTS' COUNSEL ABOUT THE SETTLEMENT. ALSO, TELEPHONE REPRESENTATIVES WHO ANSWER CALLS MADE TO THE TOLL-FREE NUMBER ARE NOT AUTHORIZED TO CHANGE THE TERMS OF THE SETTLEMENT OR THIS NOTICE.