

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

JENNIFER NOSALEK, RANDY
HIRSCHORN, and TRACEY HIRSCHORN,
individually and on behalf of all others similarly
situated,

Plaintiffs,

vs.

MLS PROPERTY INFORMATION
NETWORK, INC., REALOGY HOLDINGS
CORP., HOMESERVICES OF AMERICA,
INC., BHH AFFILIATES, LLC, HSF
AFFILIATES, LLC, RE/MAX LLC, and
KELLER WILLIAMS REALTY, INC.,

Defendants.

No. 1:20-cv-12244-PBS

CLASS ACTION

JURY TRIAL DEMANDED

**DEFENDANT MLS PIN'S ANSWER AND AFFIRMATIVE DEFENSES
TO PLAINTIFFS' AMENDED COMPLAINT**

Defendant MLS Property Information Network, Inc. ("MLS PIN"), by and through its attorney, responds as follows to the allegations set forth in Plaintiffs' Complaint ("Complaint").

To the extent not specifically admitted herein, all of the allegations of the Complaint are denied.

I. INTRODUCTION

1. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 1 of the Complaint. MLS PIN denies the remaining allegations in paragraph 1 of the Complaint.

2. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 2 of the Complaint. MLS PIN denies the remaining allegations in paragraph 2 of the Complaint.

3. MLS PIN denies the allegations in paragraph 3 of the Complaint.

II. JURISDICTION

4. MLS PIN admits that this Court has subject matter jurisdiction. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the number of purported class members or the aggregate amount in controversy and therefore denies the same. MLS PIN denies the remaining allegations in paragraph 4 of the Complaint.

5. MLS PIN admits that this Court has personal jurisdiction over MLS PIN, that MLS PIN resides in this District and has its headquarters in Shrewsbury, Massachusetts, and transacts substantial business in this District. MLS PIN denies that it has transacted substantial business with members of the Class throughout the District or committed substantial acts in furtherance of any unlawful scheme in this District. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 5 of the Complaint and therefore denies the same.

6. The allegations regarding proper venue are legal conclusions to which no response is required. MLS PIN admits that it has transacted business in this District and resides in this District. MLS PIN denies any conduct giving rise to Plaintiffs' claims. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 6 of the Complaint and therefore denies the same.

III. PARTIES AND NON-PARTIES

A. Plaintiffs

7. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 7 of the Complaint and therefore denies the same.

8. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 8 of the Complaint and therefore denies the same.

B. Defendants

9. MLS PIN admits the allegations in the first sentence of paragraph 9 of the Complaint that t360.com is a management consultancy specializing in the real estate industry and has published on its website that MLS PIN is the seventh largest MLS in the country. MLS PIN denies the remaining allegations in the first sentence of paragraph 9 of the Complaint. MLS PIN admits the allegations in the second sentence of paragraph 9. MLS PIN admits that it made the statement in the third sentence of paragraph 9 of the Complaint more than a year ago but denies that the statement is currently accurate. MLS PIN admits that it made the statement in the fourth sentence of paragraph 9 of the Complaint nine months ago but denies that the statement is currently accurate. MLS PIN admits the allegation in the fifth sentence of paragraph 9 of the Complaint that it is governed by a board of directors but denies the remainder of that sentence. MLS PIN denies the allegations in the sixth sentence of Paragraph 9 of the Complaint. MLS PIN denies the remaining allegations in paragraph 9 of the Complaint.

10. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 10 of the Complaint and therefore denies the same.

11. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 11 of the Complaint and therefore denies the same.

12. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 of the Complaint and therefore denies the same.

13. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 of the Complaint and therefore denies the same.

14. MLS PIN denies the allegations in paragraph 14 of the Complaint.

15. MLS PIN denies the allegations in paragraph 15 of the Complaint.

16. MLS PIN denies the allegations in paragraph 16 of the Complaint.

IV. INTERSTATE TRADE AND COMMERCE

17. MLS PIN denies the allegations in paragraph 17 of the Complaint.

18. MLS PIN denies the allegations in paragraph 18 of the Complaint.

19. MLS PIN denies the allegations in paragraph 19 of the Complaint.

20. MLS PIN denies the allegations in paragraph 20 of the Complaint.

21. MLS PIN denies that it has members and that it has engaged in any conspiracy.

MLS PIN admits that it is engaged in interstate commerce and activities affecting interstate commerce in the Covered Area. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 21 of the Complaint.

V. SUBSTANTIVE ALLEGATIONS

A. The Real Estate Industry

22. MLS PIN denies the allegations in paragraph 22 of the Complaint.

23. MLS PIN admits that satisfactorily completing the agent curriculum in real estate education and passing a written examination is one method of becoming licensed in Massachusetts. MLS PIN denies the remaining allegations in paragraph 23 of the Complaint.

24. MLS PIN admits the allegations in paragraph 24 of the Complaint.

25. MLS PIN admits the allegations in paragraph 25 of the Complaint.

26. MLS PIN admits that the 2020 Profile of Home Buyers and Sellers published by the National Association of Realtors (“NAR”) states that 89% of sellers sold their homes with the assistance of a real estate broker, and 88% of buyers purchased their homes with the assistance of a real estate broker. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegation in the second sentence of paragraph 26 of the Complaint and therefore denies the same. MLS PIN denies the remaining allegations in paragraph 26 of the Complaint.

27. MLS PIN admits that one practice in the residential real estate industry is to compensate brokers and agents with commissions that are calculated as a percentage of a home’s sale price. MLS PIN lacks knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 27 of the Complaint and therefore denies the same.

28. MLS PIN admits the allegations set forth in paragraph 28 of the Complaint.

29. MLS PIN admits that the broker’s compensation can be specified in the listing agreement between the seller and his or her broker (i.e. the seller-broker or listing broker). MLS PIN further admits that, in addition to setting the commission, the listing agreement can include terms granting the broker the exclusive right to market and sell; setting the length of time the broker is given to sell the real property; and other listing terms. MLS PIN lacks knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 29 of the Complaint and therefore denies the same.

30. MLS PIN denies the allegations in paragraph 30 of the Complaint.

31. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 of the Complaint and therefore denies the same.

32. MLS PIN denies the allegations in paragraph 32 of the Complaint.

33. MLS PIN denies the allegations in paragraph 33 of the Complaint.

34. MLS PIN lacks knowledge on information sufficient to form a belief as to the truth of the remaining allegations in paragraph 34 of the Complaint and therefore denies the same.

B. Multiple Listing Services and “Pinergy”

35. MLS PIN admits that state and local Realtor Associations can own and operate in their markets a centralized database of properties listed for sale in the region known as a Multiple Listing Service. MLS PIN denies that it is owned or operated by any state or local Realtor Associations. MLS PIN admits that it owns the application known as Pinergy. MLS PIN denies the remaining allegations in paragraph 35 of the Complaint.

36. MLS PIN denies the allegations in paragraph 36 of the Complaint.

37. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the first sentence in paragraph 37 of the Complaint and therefore denies the same. MLS PIN admits the allegations in the second sentence of paragraph 37 of the Complaint. MLS PIN admits that listing brokers can use Pinergy to market sellers’ properties to other broker and agent participants and, through those other brokers and agents, to potential home buyers. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 37 of the Complaint and therefore denies the same.

38. MLS PIN denies the allegations in paragraph 38 of the Complaint.

39. MLS PIN admits that t360.com has published that MLS PIN was the seventh largest MLS in the country as of December 5, 2020. MLS PIN denies the remaining allegations in paragraph 39 of the Complaint.

40. MLS PIN admits that the use of Pinergy is governed by rules and regulations of MLS PIN. MLS PIN denies the remaining allegations in paragraph 40 of the Complaint.

41. MLS PIN admits the allegations set forth in paragraph 41 of the Complaint.

42. MLS PIN admits its website contains a webpage entitled “Audits, Warnings & Fines” that stated that there were 14 audits, 18 fines, and 54 warnings in September 2020. MLS PIN denies the remaining allegations set forth in paragraph 42 of the Complaint.

C. The Buyer-Broker Commission Rule in MLS PIN’s Rules and Regulations

43. MLS PIN admits the allegations set forth in paragraph 43 of the Complaint.

44. MLS PIN admits the allegations set forth in the first sentence of paragraph 44 of the Complaint, including nominal compensation as low as one cent. MLS PIN admits that the block quote following the second sentence of paragraph 44 of the Complaint accurately quotes a portion of Section 5 of the MLS PIN Rules except that no “Emphasis [is] added” in Section 5 of the MLS PIN Rules. MLS PIN denies the remaining allegations in paragraph 44 of the Complaint.

45. MLS PIN admits that paragraph 45 of the MLS PIN Rules accurately quotes Note 1 to Section 5 of the MLS PIN Rules except that no “Emphasis [is] added” in Note 1 to Section 5 of the MLS PIN Rules. MLS PIN denies the remaining allegations in paragraph 44 of the Complaint.

46. MLS PIN admits that paragraph 46 of the Plaintiffs’ Complaint accurately quotes a portion of Note 1 to Section 5 of MLS PIN Rules except that no “Emphasis [is] added” in Note 1 to Section 5 of the MLS PIN Rules. MLS PIN denies the remaining allegations in paragraph 46 of the Complaint.

47. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 47 of the Complaint and therefore denies the same.

48. MLS PIN admits that paragraph 48 of the Complaint accurately quotes the definition of “Listing Broker” in the MLS PIN Rules and Regulations. MLS PIN denies the remaining allegations in paragraph 48 of the Complaint.

49. MLS PIN admits that the first sentence of paragraph 49 of the Complaint accurately quotes a portion of the definition of “Participant” in the MLS PIN Rules. MLS PIN admits that the second sentence of paragraph 49 of the Complaint accurately quotes a portion of the definition of “Participation” in the MLS PIN Rules. MLS PIN denies the remaining allegations in paragraph 49 of the Complaint.

50. MLS PIN admits that paragraph 50 accurately quotes the definition of “Cooperating Broker” in the MLS PIN Rules and Regulations except that no “Emphasis [is] added” in the definition of “Cooperative Broker” in the MLS PIN Rules. MLS PIN denies the remaining allegations in paragraph 50 of the Complaint.

51. MLS PIN admits that paragraph 51 accurately quotes a portion of the MLS PIN Participant Agreement/Application except that no “emphasis [is] added” in the MLS PIN Participant Agreement/Application and the word “company” is capitalized at the end of the quotation. MLS PIN denies the remaining allegations in paragraph 51 of the Complaint.

52. MLS PIN admits that paragraph 52 accurately quotes a portion of the MLS PIN Participant Agreement/Application except that no “emphasis [is] added” in the MLS PIN Participant Agreement/Application. MLS PIN denies the remaining allegations in paragraph 52 of the Complaint.

53. MLS PIN denies the allegations in paragraph 53 of the Complaint.

54. MLS PIN denies the allegations in paragraph 54 of the Complaint.

55. MLS PIN admits the allegations in paragraph 55 of the Complaint that when a buyer retains a broker, the buyer can enter into a contract with that broker and that a contract between a buyer and a broker can disclose that the buyer-broker will be compensated by receiving a commission from the seller-broker. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 55 of the Complaint and therefore denies the same.

56. MLS PIN denies the allegations in paragraph 56 of the Complaint.

57. MLS PIN denies the allegation in the first sentence of paragraph 57 of the Complaint. MLS PIN admits that if a buyer represented by a broker purchases the home, the buyer-broker may receive the offered commission. MLS PIN denies the remaining allegations in paragraph 57 of the Complaint.

58. MLS PIN admits that the allegations in paragraph 58 of the Complaint are one of a myriad of ways that a brokerage transaction might work. MLS PIN denies the remaining allegations in paragraph 58 of the Complaint.

D. THE ANTICOMPETITIVE AGREEMENT¹

59. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 of the Complaint and therefore denies the same.

60. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60 of the Complaint and therefore denies the same.

61. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 of the Complaint and therefore denies the same.

¹ MLS PIN denies any allegations against it in the headings of the Complaint.

62. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 62 of the Complaint and therefore denies the same.

63. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 of the Complaint and therefore denies the same.

64. MLS PIN denies the allegations set forth in paragraph 64 of the Complaint.

65. MLS PIN denies the allegations set forth in paragraph 65 of the Complaint.

66. MLS PIN denies the allegations set forth in paragraph 66 of the Complaint.

67. MLS PIN admits the allegations set forth in the first sentence of paragraph 67 of the Complaint. MLS PIN denies the remaining allegations set forth in paragraph 67 of the Complaint.

68. MLS PIN denies the allegations set forth in paragraph 68 of the Complaint.

69. MLS PIN denies the allegations set forth in paragraph 69 of the Complaint.

70. MLS PIN denies the allegations set forth in paragraph 70 of the Complaint.

71. MLS PIN denies the allegations set forth in paragraph 71 of the Complaint.

72. MLS PIN denies the allegations set forth in paragraph 72 of the Complaint.

73. MLS PIN denies the allegations set forth in paragraph 73 of the Complaint.

74. MLS PIN denies the allegations set forth in paragraph 74 of the Complaint.

75. MLS PIN denies the allegations set forth in the first sentence of paragraph 75 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the second sentence of paragraph 75 of the Complaint and therefore denies the same.

76. MLS PIN denies the allegations set forth in paragraph 76 of the Complaint.

77. MLS PIN denies the allegations set forth in paragraph 77 of the Complaint.

78. MLS PIN denies the allegations set forth in paragraph 78 of the Complaint.

79. MLS PIN denies the allegations set forth in paragraph 79 of the Complaint.

80. MLS PIN denies the allegations set forth in the first sentence of paragraph 80 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to whether the statements in the second and third sentence in paragraph 80 of the Complaint were made and therefore denies the same. MLS PIN denies the remaining allegations in paragraph 80 of the Complaint.

81. MLS PIN lacks knowledge or information sufficient to form a belief as to whether the statement in paragraph 81 of the Complaint was made and therefore denies the same. MLS PIN denies the remaining allegations in paragraph 81 of the Complaint.

82. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 82 of the Complaint and therefore denies the same.

83. MLS PIN lacks knowledge or information sufficient to form a belief as to the allegations in paragraph 83 of the Complaint and therefore denies the same.

84. MLS PIN denies the allegations set forth in paragraph 84 of the Complaint.

85. MLS PIN denies the allegations set forth in paragraph 85 of the Complaint.

86. MLS PIN denies the allegations set forth in paragraph 86 of the Complaint.

87. MLS PIN denies the allegations set forth in paragraph 87 of the Complaint.

88. MLS PIN denies the allegations set forth in the first sentence of paragraph 88 of the Complaint. MLS PIN admits that the block quote following the second sentence of paragraph 88 of the Complaint accurately quotes a portion of the MLS PIN Rules. MLS denies the remaining allegations set forth in paragraph 88 of the Complaint.

89. MLS PIN denies the allegations set forth in paragraph 89 of the Complaint.

90. MLS PIN denies the allegations set forth in paragraph 90 of the Complaint.

91. MLS PIN denies the allegations set forth in paragraph 91 of the Complaint.

92. MLS PIN denies the allegations set forth in paragraph 92 of the Complaint.

93. MLS PIN denies the allegations set forth in paragraph 93 of the Complaint.

94. MLS PIN denies the allegations set forth in paragraph 94 of the Complaint.

95. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 95 of the Complaint and therefore denies the same.

96. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 96 of the Complaint and therefore denies the same.

97. MLS PIN denies the allegations set forth in paragraph 97 of the Complaint.

98. MLS PIN denies the allegations set forth in paragraph 98 of the Complaint.

99. MLS PIN denies the allegations set forth in paragraph 99 of the Complaint.

100. MLS PIN denies the allegation set forth in paragraph 100 of the Complaint.

E. All participants in Pinergy agree to these anticompetitive restraints

101. MLS PIN denies the allegations set forth in paragraph 101 of the Complaint.

102. MLS PIN denies the allegations set forth in paragraph 102 of the Complaint.

103. MLS PIN denies the allegations set forth in paragraph 103 of the Complaint.

104. MLS PIN denies the allegations set forth in paragraph 104 of the Complaint.

F. Broker Defendants participate in, facilitate, and implement the conspiracy

105. MLS PIN denies the allegations set forth in paragraph 105 of the Complaint.

106. MLS PIN denies the allegations set forth in paragraph 106 of the Complaint.

107. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 107 of the Complaint and therefore denies the same.

108. MLS PIN denies the allegations set forth in paragraph 108 of the Complaint.

109. MLS PIN denies the allegations set forth in paragraph 109 of the Complaint.

110. MLS PIN denies the allegations set forth in paragraph 110 of the Complaint.

111. MLS PIN denies the allegations set forth in the first sentence of paragraph 111 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 111 of the Complaint and therefore denies the same.

112. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 112 of the Complaint and therefore denies the same.

113. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 113 of the Complaint and therefore denies the same.

114. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 114 of the Complaint and therefore denies the same.

115. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 115 of the Complaint and therefore denies the same.

116. MLS PIN denies the allegations set forth in paragraph 116 of the Complaint.

G. Effects of the Conspiracy

117. MLS PIN denies the allegations set forth in paragraph 117 of the Complaint.

118. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence of paragraph 118 of the Complaint and therefore denies the same. MLS PIN denies the remaining allegations set forth in paragraph 118 of the Complaint.

119. MLS PIN denies the allegations set forth in paragraph 119 of the Complaint.

120. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 120 of the Complaint and therefore denies the same.

121. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 121 of the Complaint and therefore denies the same.

122. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 122 of the Complaint and therefore denies the same.

123. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 123 of the Complaint and therefore denies the same.

124. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 124 of the Complaint and therefore denies the same.

125. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 125 of the Complaint and therefore denies the same.

126. MLS PIN denies the allegations set forth in the first sentence of paragraph 126 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 126 of the Complaint and therefore denies the same.

127. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 127 of the Complaint and therefore denies the same.

128. MLS PIN denies the allegations set forth in the first sentence of paragraph 128 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remainder of the allegations in paragraph 128 of the Complaint and therefore denies the same.

VI. MARKET POWER

129. MLS PIN denies the allegations set forth in paragraph 129 of the Complaint.

130. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations set forth in the first and last sentences of paragraph 130 of the Complaint.

MLS PIN denies the remaining allegations in paragraph 130 of the Complaint.

131. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 131 of the Complaint and therefore denies the same.

132. MLS PIN denies the allegations set forth in paragraph 132 of the Complaint.

133. MLS PIN denies the allegations set forth in paragraph 133 of the Complaint.

134. MLS PIN denies the allegations set forth in paragraph 134 of the Complaint.

135. MLS PIN denies the allegations set forth in the first and second sentences of paragraph 135 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 135 of the Complaint and therefore denies the same.

136. MLS PIN denies the allegations set forth in paragraph 136 of the Complaint.

VII. THE CONSPIRACY

137. MLS PIN denies the allegations set forth in paragraph 137 of the Complaint.

138. MLS PIN denies the allegations set forth in paragraph 138 of the Complaint.

139. MLS PIN denies the allegations set forth in paragraph 139 of the Complaint.

140. MLS PIN denies the allegations set forth in paragraph 140 of the Complaint.

141. MLS PIN denies the allegations set forth in paragraph 141 of the Complaint.

142. MLS PIN denies the allegations set forth in paragraph 142 of the Complaint.

143. MLS PIN denies the allegations set forth in the first sentence of paragraph 143 of the Complaint and that any “inference is bolstered” in the second sentence of paragraph 143 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 143 of the Complaint and therefore denies the same.

144. MLS PIN lacks knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 144 of the Complaint and therefore denies the same.

145. MLS PIN denies the allegations set forth in paragraph 145 of the Complaint.

VII. THE UNREASONABLE RESTRAINT OF TRADE

146. MLS PIN lacks knowledge or information sufficient to form a belief as to the allegations set forth in paragraph 146 of the Complaint and therefore denies the same.

147. MLS PIN denies the allegations set forth in paragraph 147 of the Complaint.

148. MLS PIN denies the allegations set forth in the first sentence of paragraph 148 of the Complaint. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 148 of the Complaint and therefore denies the same.

149. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 149 of the Complaint and therefore denies the same.

150. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 150 of the Complaint and therefore denies the same.

151. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 151 of the Complaint and therefore denies the same.

152. MLS PIN denies the allegations set forth in paragraph 152 of the Complaint.

153. MLS PIN denies the allegations set forth in paragraph 153 of the Complaint.

154. MLS PIN denies the allegations set forth in paragraph 154 of the Complaint.

155. MLS PIN denies the allegations set forth in paragraph 155 of the Complaint.

156. MLS PIN denies the allegations set forth in paragraph 156 of the Complaint.

157. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 157 of the Complaint and therefore denies the same.

158. MLS PIN denies the allegations set forth in paragraph 158 of the Complaint.

159. MLS PIN denies the allegations set forth in paragraph 159 of the Complaint.

160. MLS PIN denies the allegations set forth in paragraph 160 of the Complaint.

161. MLS PIN denies the allegations set forth in paragraph 161 of the Complaint.

162. MLS PIN denies the allegations set forth in paragraph 162 of the Complaint.

163. MLS PIN denies the allegations set forth in paragraph 163 of the Complaint.

IX. INJURY

164. MLS PIN denies the allegations set forth in paragraph 164 of the Complaint.

165. MLS PIN denies the allegations set forth in paragraph 165 of the Complaint.

CLASS ACTION ALLEGATIONS

166. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 166 of the Complaint and therefore denies the same.

167. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 167 of the Complaint and therefore denies the same.

168. MLS PIN denies the allegations set forth in paragraph 168 of the Complaint.

169. MLS PIN denies the allegations set forth in paragraph 169 of the Complaint.

170. MLS PIN lacks knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 170 of the Complaint and therefore denies the same.

171. MLS PIN denies the allegations set forth in paragraph 171 of the Complaint.

172. MLS PIN denies the allegations set forth in paragraph 172 of the Complaint.

173. MLS PIN denies the allegations set forth in paragraph 173 of the Complaint.

174. MLS PIN denies the allegations set forth in paragraph 174 of the Complaint.

COUNT I

Violation of Section 1 of the Sherman Act, 15 U.S.C. § 1

175. MLS PIN repeats and incorporates by reference each of the foregoing responses to in this Answer to the allegations in the Complaint.

176. MLS PIN denies the allegations set forth in paragraph 176 of the Complaint.

177. MLS PIN denies the allegations set forth in paragraph 177 of the Complaint.

178. MLS PIN denies the allegations set forth in paragraph 178 of the Complaint.

179. MLS PIN denies the allegations set forth in paragraph 179 of the Complaint.

180. MLS PIN denies the allegations set forth in paragraph 180 of the Complaint.

181. MLS PIN denies the allegations set forth in paragraph 181 of the Complaint.

182. MLS PIN denies the allegations set forth in paragraph 182 of the Complaint.

183. MLS PIN denies the allegations set forth in paragraph 183 of the Complaint.

184. MLS PIN denies the allegations set forth in paragraph 184 of the Complaint.

COUNT II

Violation of State Antitrust Laws

185. MLS PIN repeats and incorporates by reference each of the foregoing responses in this Answer to the allegations in the Complaint.

186. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 186 of the Complaint.

187. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 187 of the Complaint.

188. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 188 of the Complaint.

189. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 189 of the Complaint.

190. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 190 of the Complaint.

191. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 191 of the Complaint.

192. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 192 of the Complaint.

193. Plaintiffs have abandoned their claims under Count II of this Complaint so no response is necessary. To the extent that a response is necessary, MLS PIN denies the allegations in paragraph 193 of the Complaint.

PRAYER FOR RELIEF

194. MLS PIN denies the allegations in paragraph 194 of the Complaint.

JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38, MLS PIN hereby demands a trial by jury.

AFFIRMATIVE DEFENSES

By alleging the following affirmative defenses, MLS PIN is not agreeing or conceding that it has the burden of proof on any of the issues or that any particular issue or subject matter herein is relevant to Plaintiffs' allegations. MLS PIN asserts the following affirmative defenses against the named Plaintiffs and any putative class members on behalf of whom Plaintiffs purports to bring claims. MLS PIN reserves the right to amend, withdraw, supplement, or modify these defenses.

1. Plaintiffs' Complaint fails to state a claim on which relief may be granted.
2. Plaintiffs' claims are barred, in whole or in part, by the applicable statutes of limitation or repose.
3. Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.
4. Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.
5. Plaintiffs' claims are barred, in whole or in part, due to the doctrine of payment.
6. Plaintiffs' claims are barred, in whole or in part, by the doctrine of estoppel.
7. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs do not have Article III standing or antitrust standing to bring this action.

8. Plaintiffs have no standing to bring this action for injunctive relief, and are not entitled to such relief, because the alleged violation of the antitrust laws does not threaten immediate, irreparable loss or damage within the meaning of 15 U.S.C. § 26.

9. Plaintiffs' claims should be dismissed because they and/or one or more members of the proposed class have not suffered an actual, cognizable antitrust injury of the type antitrust laws are intended to remedy.

10. Plaintiffs' claims are barred, in whole or in part, because MLS PIN acted at all times without malice, for legitimate procompetitive purposes, and without any intent to injure competition or interfere with Plaintiffs' business and had procompetitive effects that outweighed any alleged harm.

11. Plaintiffs' claims are barred, in whole or in part, by the doctrines of *in pari delicto* and/or unclean hands.

12. Plaintiffs' claims are barred, in whole or in part, because they acquiesced in, and consented to, or ratified the conduct constituting the alleged wrongdoing and benefited from some or all of the actions of which they complain.

13. Plaintiffs' claims are barred, in whole or in part, by the doctrine of ratification.

14. Plaintiffs' claims are barred, in whole or part, because any claimed injury or damage has been offset by benefits Plaintiffs received with respect to the challenged conduct.

15. Plaintiffs' claims are barred, in whole or in part, because any injury to the Plaintiffs was caused by their own conduct, representations, failure to protect their interests, or the conduct of third persons/parties of which MLS PIN had no control or responsibility, and not by the actions or omissions of MLS PIN.

16. Plaintiffs' claims are barred, in whole or in part, because any alleged injuries and damages were not legally or proximately caused by any acts or omissions of MLS PIN and/or were caused, if at all, solely and proximately by the conduct of Plaintiffs themselves or third parties, including, without limitations, the prior, intervening or superseding conduct of Plaintiffs or third parties.

17. Plaintiffs' claims are barred, in whole or in part, because MLS PIN's conduct was not the but for cause of Plaintiffs' injury.

18. Plaintiffs' claims are barred, in whole or in part, because of their failure to mitigate their alleged damages and other alleged injuries.

19. Plaintiffs' claims are barred, in whole or in part, because the equitable relief demanded by Plaintiffs would not further the public interest, public policy or equity and would cause harm to third parties far beyond any benefit to Plaintiffs.

20. Plaintiffs' claims are barred, in whole or in part, to the extent they are based on alleged acts, conduct or statements that are specifically permitted by law.

21. Plaintiffs' claims are barred, in whole or in part, because the alleged damages sought are too speculative and uncertain, and cannot be practically ascertained or allocated.

22. Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs suffered any alleged damages after the filing of her original complaint.

23. Plaintiffs' claims are barred, in whole or in part, to the extent that Plaintiffs have released, settled, entered into an accord and satisfaction or otherwise compromised their claims. Without admitting that Plaintiffs are entitled to recover any damages in this matter, MLS PIN is entitled to set off any amount paid to Plaintiffs by any other Defendant who has settled, or does settle, Plaintiffs' claims in this matter from any recovery they may obtain against MLS PIN.

24. Plaintiffs' claims are barred, in whole or in part, because any action taken by or on behalf of MLS PIN was justified, constituted bona fide business competition, and was ancillary to the pursuit of its own legitimate business and economic interests.

25. Plaintiffs' claims are barred, in whole or in part, to the extent that such conduct was committed by any individual acting ultra vires.

26. Plaintiffs' request for class certification is barred, in whole or in part, because they cannot meet the requirements for class certification under Fed. R. Civ. P. 23.

27. Plaintiffs' claims are barred, in whole or in part, by the direct-purchaser requirement of *Illinois Brick Co. v. Illinois*, 431 U.S. 720 (1977).

28. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs' Complaint failed to allege proper relevant product and geographic markets.

29. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs have failed to join one or more necessary and/or indispensable parties.

30. Plaintiffs' claims are barred, in whole or in part, by the applicable limitations period set out in contracts and/or agreements executed by Plaintiffs.

31. Plaintiffs' claims are barred, in whole or in part, to the extent that they have agreed to arbitration or chosen a different forum for the resolution of their claims.

32. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs may not rely upon the doctrine of fraudulent concealment as they cannot show concealment, actual and reasonable reliance on such affirmative acts of concealment, and/or due diligence in discovery of their claim. Plaintiffs have failed to plead fraudulent concealment with particularity, as required by Fed. R. Civ. P. 9(b).

MLS PIN hereby gives notice that it intends to rely upon any other matter constituting an

avoidance or affirmative defense as set forth in Rule 8(c) of the Federal Rules of Civil Procedure.

WHEREFORE, MLS PIN requests that the Court enter judgment in its favor and against Plaintiffs on all issues raised in the Complaint, that Plaintiffs take nothing by way of their Complaint, the Court order Plaintiffs to pay MLS PIN's costs and reasonable attorneys' fees incurred in defending this action, and for all other just and proper relief.

Dated: March 14, 2022

Respectfully submitted,

/s/ Jon M. Anderson

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MLS Property Information Network, Inc.

CERTIFICATE OF SERVICE

I hereby certify that this document has been electronically filed with the Court on March 14, 2022, that it is available for viewing and downloading from the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

/s/ Jon M. Anderson