

Residential Real Estate Buyer Brokerage Commissions Class Action Notice of Proposed Settlement and Opt-Out Deadline

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons **wherever they may reside or be domiciled (including persons who reside or are domiciled outside of Canada)**, who sold residential real estate on a multiple listing service owned and operated by a real estate board or association defendant between March 11, 2010 and July 31, 2025 (“Class” and “Class Members”).

A settlement has been reached with RE/MAX Ontario-Atlantic Canada Inc. (“RE/MAX”) in two class actions in the Federal Court (“Court”): *Sunderland v. Toronto Regional Real Estate Board et al.* (Court File No. T-595- 21) (“Sunderland Action”) and *McFall v. Canadian Real Estate Association et al.* (Court File No. T-119-24) (“McFall Action”, and together, “Actions”). This notice contains important details about the settlement.

IMPORTANT DEADLINES

Objection and Comment Deadline (to object to or comment on the settlement, class counsel’s fee and disbursement request or the plaintiffs’ honoraria, you should do so by): September 22, 2025

Opt-Out Deadline (for Class Members to exclude themselves from the Actions and the settlement): September 22, 2025. **THIS IS YOUR ONLY OPPORTUNITY TO OPT OUT OF AND EXCLUDE YOURSELF FROM THE ACTIONS. THERE WILL NOT BE ANOTHER OPPORTUNITY TO OPT OUT. IF YOU DO NOT OPT OUT BY THIS DEADLINE, YOU WILL BE BOUND BY THE SETTLEMENT AND ANY JUDGMENT OR OTHER RESULTS IN THE CLASS ACTIONS AGAINST THE REMAINING DEFENDANTS. PLEASE SEE PAGE 2 FOR MORE DETAILS.**

THE NATURE OF THE CLAIMS ASSERTED AND THE HISTORY OF THE ACTIONS

The Actions were commenced by the plaintiffs Mark Sunderland and Kevin McFall. The Actions allege that residential real estate brokerages in Canada entered into an agreement, arrangement or conspiracy to fix, maintain, increase or control the price for the supply of buyer brokerage services for residential real estate in Canada between March 11, 2010 and July 31, 2025.

The Actions name three categories of defendants: (1) brokerage defendants alleged to have entered into an alleged agreement, arrangement or conspiracy; (2) franchisor defendants alleged to have aided, abetted and counselled the alleged agreement, arrangement or conspiracy; and (3) real estate board or association defendants who are also alleged to have aided, abetted and counselled the alleged agreement, arrangement or conspiracy. RE/MAX was named as a franchisor defendant.

On behalf of the Class, the Actions seek damages under s. 36 of the *Competition Act*. The Defendants, including RE/MAX, deny these allegations.

In September 2023, the Court granted an order dismissing the Sunderland Action against the franchisor defendants, including RE/MAX, but allowing the Sunderland Action to proceed as against the brokerage and real estate board or association defendants. In October 2024, the Federal Court of Appeal heard appeals of the Court order. The Federal Court of Appeal's decision has not yet been released.

THE CERTIFICATION ORDER

By Order dated July 24, 2025, the Court certified the Actions as class proceedings for settlement purposes as against RE/MAX. The Court appointed the plaintiffs Mark Sunderland and Kevin McFall as representative plaintiffs for the Class.

THE SETTLEMENT

On April 29, 2025, the plaintiffs and RE/MAX executed a settlement agreement, which is subject to approval by the Court. In consideration of the full and final settlement of the claims of Class Members as against RE/MAX, the settlement requires RE/MAX to: (1) pay \$7.8 million; (2) cooperate in the ongoing prosecution of the Actions against the non-settling defendants; and (3) implement a number of practice changes going forward, including ending the practice of requiring its franchisees and their affiliated brokers, salespersons and agents to join or to be members of a real estate board or association defendant or to follow the rules alleged to give rise to damages claimed in this proceeding.

The settlement provides that if approved by the Court, the claims of Class Members will be fully and finally released as against RE/MAX and the Actions will be dismissed as against RE/MAX. The full scope of the release is in the settlement agreement.

The settlement is not an admission of liability, wrongdoing, or fault on the part of RE/MAX. RE/MAX denies that it participated in any wrongdoing or has any liability and disagrees with the allegations in the lawsuit.

SETTLEMENT APPROVAL HEARING

The settlement is conditional on Court approval. The settlement will be approved if the Court determines that it is fair and reasonable and in the best interests of the Class Members.

The Court will hear a motion for approval of the settlement on October 6, 2025 at 10:00 a.m. E.T. The hearing will be held in person and by videoconference. The hearing location and a Zoom link will be made available by request from and registration with the Administrator. Class Members may also request the link by emailing the Administrator at canadarealestateclassaction@veritaglobal.com

DEADLINE TO OPT OUT OF THE ACTIONS

If you are a Class Member and you do **not** want to be bound by the outcome of the Actions, including the terms of the settlement if approved, you must “opt out”, meaning that you must exclude yourself from the Actions in accordance with the following procedure. **THIS IS YOUR ONLY OPPORTUNITY TO OPT OUT OF THE ACTIONS. THERE WILL NOT BE ANOTHER OPPORTUNITY TO OPT OUT. IF YOU DO NOT OPT OUT BY THIS DEADLINE, YOU WILL BE BOUND BY THE SETTLEMENT AND ANY JUDGMENT OR OTHER RESULTS IN THE CLASS ACTIONS AGAINST THE REMAINING DEFENDANTS.**

Class Members who do not opt out will: (1) be entitled to participate in the settlement; (2) be bound by the terms of the settlement; (3) be bound by subsequent settlements or judgments in the Actions; and (4) not be permitted to bring other legal proceedings in relation to the matters alleged in the Actions against any of the Defendants, or any person released by the settlement. If the Actions are not successful, there will be no financial consequences for Class Members who do not opt out. Conversely, if you opt out of the Actions, you will not be able to make a claim to receive compensation from the settlement or any other settlements or judgment in the Actions, but you will maintain the right to pursue your own claim against the Defendants relating to the matters alleged in the Actions, subject to applicable limitation periods.

To opt out of the Action, you must complete, sign and return (by email, mail or courier) the opt-out form, which is available on the Administrator’s website: canadarealestateclassaction.ca

For your opt-out to be valid, your complete and signed opt-out form must be postmarked or received by the Administrator by no later than **September 22, 2025**.

CLASS COUNSEL’S FEES AND OTHER EXPENSES

The plaintiffs and the Class are represented by class counsel consisting of Kalloghlian Myers LLP, Paul Bates, John Syme and Henein Hutchison LLP. Class counsel are conducting the Actions on a contingency fee basis. The contingency fee retainer agreement in the Sunderland Action states that counsel legal fees shall be calculated as 33% of recovery. The contingency fee retainer agreement in the McFall Action states that counsel legal fees shall be calculated as up to 33% of recovery. On October 6, 2025, class counsel will make a motion to the Court for approval of \$2,340,000.00 in legal fees, representing 30% of the settlement fund, reimbursement for expenses incurred in the litigation of \$614,533.51 (Sunderland Action) and \$29,864.63 (McFall Action) and for costs incurred for notice and administration of this settlement, plus applicable taxes on the fees and expenses.

The Court previously approved third-party funding agreements in the Actions. The funding agreements provide for payment to the funder of 10% of the settlement fund, net of class counsel fees, taxes, honoraria, notice and administration costs. The plaintiffs are seeking an interim payment of \$371,140.19 for the funder.

On October 6, 2025, class counsel will also seek the Court’s approval for the payment of honoraria to the Plaintiffs in the amount of \$5,000.00. Class counsel will be requesting that the honorarium be deducted directly from the settlement amount.

The fees of the Administrator, including costs of implementing the notice plan, will also be paid

from the settlement.

CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

The remainder of the settlement funds will be distributed at a later date. Class counsel will return to Court in the future to seek approval of a plan to distribute the net settlement proceeds to the Class.

PARTICIPATION IN THE APPROVAL MOTION

The following material will be posted on the Administrator's website dedicated to the Actions on or before the dates set out below:

1. the settlement agreement (posted prior to or at the time of the publication of this notice); and
2. a summary of the basis upon which Class Counsel recommends the settlement agreement (posted by September 1, 2025).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement, the honoraria, or the fees and disbursements of Class Counsel should deliver (by email, mail or courier) a written submission to Class Counsel, listing the name and contact information of the Class Member, as well as any comments or objections, to received no later than **September 22, 2025**, at the following email address or mailing address:

canadarealestateclassaction@veritaglobal.com

Canada Real Estate Class Action Notice Administrator

PO Box 3355

London, ON N6A 4K3

All comments and objections delivered by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver a comment or objection. Class Members who wish to have a lawyer speak on their behalf at the hearing may retain one to do so at their own expense.

ADDITIONAL INFORMATION

This notice has been approved by the Federal Court. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on the Administrator's website: canadarealestateclassaction.ca

Questions relating to the Action may be directed to the Administrator using the contact details above.

Si vous avez besoin d'aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

The publication of this notice was authorized by the Federal Court