



# **\$39M Settlement Reached for Mortgage Insurance Kickbacks in Florida, New Jersey**

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A federal magistrate has preliminarily approved three settlements totaling nearly \$15 million in a national class action accusing mortgage servicers of taking kickbacks from residential insurers.

According to the complaint, the mortgage companies forced borrowers to buy inflated policies from insurers that funneled some of the money back in the guise of commissions, reimbursements and the provision of below-cost services.

Under the terms of the settlements preliminary approval by U.S. Magistrate Jonathan Goodman of the Southern District of Florida on Aug. 10, tens of thousands of borrowers will receive between 6 percent and 10.5 percent of the premiums they were overcharged and forced to buy since 2008.

The settlements include Carrington Mortgage Services LLC, Fay Servicing LLC and Residential Credit Solutions Inc. The insurers are American Modern Home Insurance Co. and Southwest Business Corp.

The settlements include attorney fees capped at nearly \$2.3 million for the plaintiffs lawyers: Adam Moskowitz, Thomas Ronzetti, Rachel Sullivan and Robert Neary of Kozyak Tropin & Throckmorton in Coral Gables; Lance Harke, Sarah Engel and Howard Bushman of Miami's Harke Clasby & Bushman; and Aaron Podhurst, Peter Prieto, John Gravante III and Matthew Weinshall of Podhurst Orseck in Miami.

A final approval hearing is scheduled before Goodman in January.

Defense attorneys include Brian Toth of Holland & Knight in Miami; Mark Johnson, Rodger Eckelberry and Robert Tucker of Baker & Hostetler in Columbus, Ohio; Elizabeth Campbell of Locke Lord in West Palm Beach; and Keith Olin of Bressler, Amery & Ross in Fort Lauderdale.

None of the defense counsel responded to a request for comment.

The agreement comes on the heels of another force-placed insurance class action settlement worth nearly \$24 million in New Jersey District Court. Judge Noel Hillman approved that settlement July 27. Nearly 75,000 people are members of that class.

The plaintiffs were represented by Moskowitz, Harke and Bushman; Peter Muhic, Donna Moffa and Samantha Holbrook of Pennsylvania's Kessler Topaz Meltzer & Check; and a team of lawyers at Radnor.

The defendants in that case were PHH Mortgage Corp. and Assurant Insurance.

Defense attorneys Robert DiUbaldo and Frank Burt of Carlton Fields did not immediately respond to requests for comment.

Moscowitz and his team have taken a leading role in challenging force-placed insurance abuses since 2010, settling 27 class actions nationally on behalf of some 5.8 million homeowners.

"We've worked with 57 law firms all around the country working out these settlements," Moscowitz said. "It's been a wonderful experience, and we've really been able to transform the force-placed insurance industry."

"Most of the conduct we complained about beginning six years ago has been prohibited, but the homeowners are still out the money they paid."

Creditor-placed or force-placed insurance is common in the mortgage industry, where lenders require borrowers to maintain insurance on property securing a loan and can demand the purchase of new coverage in case a policy lapses.

As alleged in multiple suits and investigations around the country, including the just-settled actions, in some instances mortgage service companies have allowed insurers an exclusive right to monitor their loan portfolios and force place policies on borrowers in return for kickbacks disguised as commissions for assisting in issuing policies, expense reimbursements and payments for purported services that had nothing to do with the issuance of insurance.

Moscowitz said that about 15 class actions involving allegations of wrongdoing involving force-placed insurance were filed in the Southern District of Florida, the state where most such policies are sold.

He and his team have been involved in many of them, including a \$217 million settlement with Ocwen Loan Servicing and Nationstar Mortgage in 2015.

"I do give a lot of credit to some of the early providers that decided to settle with us," Moscowitz said. "A settlement take two parties ... A lot of these [insurers] want to the right thing and protect their consumers."