

**NOTICE OF CLASS ACTION**

*This is a court-approved notice.  
It is not an attorney solicitation or advertisement.  
Kivett, et al. v. Flagstar Bank, FSB  
U.S.D.C. Cal. Case No. 3:18-cv-05131-WHA.*

**Please read this notice carefully as it explains a lawsuit that affects your legal rights.** If you were directed to this website by an email or postcard, this notifies you that you may be a member of a class (the “Class”) in the case *William Kivett, et al. vs. Flagstar Bank, FSB* (the “Lawsuit”), which is now pending in the United States District Court for the Northern District of California (the “Court”).

The Court has certified the Lawsuit as a class action addressing the alleged failure by Flagstar Bank, FSB (“Flagstar Bank”) to pay interest as required under California law on California mortgage escrow accounts. The Court defined the class of persons potentially entitled to relief under the Lawsuit as follows:

All persons who at any time on or after April 18, 2014 through September 30, 2019 had mortgage loans serviced by Flagstar Bank, FSB (“Flagstar”) on 1–4 unit residential properties in California and paid Flagstar money in advance to hold in escrow for the payment of taxes and assessments on the property, for insurance, or for other purposes relating to the property, but did not receive interest on the amounts held by Flagstar in their escrow accounts (excluding, however, any such persons (a) whose mortgage loans originated on or before July 21, 2010, or (b) who would be owed less than \$1 in interest-on-escrow as of September 30, 2019 if plaintiffs’ allegations are proven) (the “Class”).

The Court then ordered notifications to all Class members by email and postcards directing them to the Notice of Class Action (“Notice”) website for further information.

The Lawsuit has not yet been decided. If you are a member of the Class, however, your legal rights are affected and you have a choice to make now:

**DO NOTHING:**                    **Stay in the Lawsuit. Await the Outcome. Give up the right to sue Flagstar Bank separately for this claim.**

If you wish to remain in the Lawsuit, you do not need to do anything. You will keep the possibility of getting money or benefits that may come from a trial or settlement of the Lawsuit. But you will give up any rights to sue Flagstar Bank separately for the same legal claim at issue in this Lawsuit.

**ASK TO BE EXCLUDED:**      **Get out of the Lawsuit. Get no benefits from it. Keep the right to sue Flagstar Bank separately for this claim.**

If you do not wish to remain in the Lawsuit, you can ask to be excluded. If any money or benefits are later awarded, you will not share in them. But you will keep any rights to sue Flagstar Bank separately for the same legal claim at issue in this Lawsuit.

This Notice explains your options. To be excluded, you must act before **March 2, 2020**.

The purpose of this Notice is to explain to you:

1. Why you are getting this Notice;
2. What the Lawsuit is about;
3. What a class action is;
4. Who is included in the Class;
5. What attorneys represent the Class;
6. What your rights and options are as a Class member;
7. That it will not cost you anything to be in the Class regardless of outcome;
8. That you do not have to be a Class member;
9. How you may exclude yourself from the Class; and
10. How to obtain further information about the Lawsuit.

### **1. Why did I get this Notice?**

The Court authorized this Notice because Class members have a right to know about the Lawsuit and about their legal rights and options as they pertain to the Lawsuit. This Notice explains the Lawsuit and your legal rights as a Class member. **If you received an email and/or postcard directing you to this Notice, that is because Flagstar Bank records indicate that you are a member of the Class.**

### **2. What is the Lawsuit about?**

This Lawsuit involves the portion of mortgage payments that Flagstar Bank collects for some borrowers in advance and holds in escrow to pay for property taxes, property insurance, and other charges related to the property. The Lawsuit alleges that a California law, known as section 2954.8(a) of the Civil Code (“section 2954.8”), requires Flagstar Bank to pay interest on these funds at the rate of two percent during the period that it holds the funds in escrow on the borrowers’ behalves. Flagstar Bank asserts that it does not have to comply because section 2954.8 is preempted by federal law and complying with section 2954.8 would significantly interfere with its banking powers.

Judge William Alsup, of the United States District Court for the Northern District of California, presides over this Lawsuit, entitled *William Kivett and Bernard and Lisa Bravo v. Flagstar Bank, FSB*, Case No. 3:18-cv-05131-WHA. The named persons who brought this Lawsuit are known as the “Lead Plaintiffs.” Judge Alsup has certified them to represent the “Class.” Flagstar Bank is also known as the “Defendant.”

The Court has not decided whether the Lead Plaintiffs or Defendant are correct; this is the subject of a trial which will be set for March, April, or May of 2020. By certifying the Class and authorizing this Notice, the Court is not suggesting that the Class will prevail at trial on this case. The Class must prove its claims at trial.

### **3. What is a class action?**

In a class action, one or more people called class representatives (in this case, William Kivett and Bernard and Lisa Bravo) sue on behalf of people who have similar claims. Often this occurs because the individual value of each claim is insufficient to warrant litigation, but the collective value of the claims is substantial. Once a class is certified, the lawsuit is resolved for all of the people in the class, except for those who timely exclude themselves from the class.

### **4. Who is included in the Class?**

In sum, the Class generally consists of all California residential mortgage loan borrowers who had Flagstar mortgage escrow accounts at any time between April 18, 2014 through September 30, 2019, but did not receive interest on the funds in those escrow accounts for some or all of that time. Mortgage escrow accounts hold money that lenders or loan servicers collect in advance for the payment of property taxes, insurance, and the like. The formal Class definition is:

All persons who at any time on or after April 18, 2014 through September 30, 2019 had mortgage loans serviced by Flagstar Bank, FSB (“Flagstar”) on 1–4 unit residential properties in California and paid Flagstar money in advance to hold in escrow for the payment of taxes and assessments on the property, for insurance, or for other purposes relating to the property, but did not receive interest on the amounts held by Flagstar in their escrow accounts (excluding, however, any such persons (a) whose mortgage loans originated on or before July 21, 2010, or (b) who would be owed less than \$1 in interest-on-escrow as of September 30, 2019 if plaintiffs’ allegations are proven) (the “Class”).

**If you received an email and/or postcard directing you to this Notice, that is because Flagstar Bank records indicate that you are a member of the Class.**

### **5. Which attorneys represent the Class?**

The following law firms and attorneys have been certified by the Court to serve as attorneys for the Class (“Class Counsel”):

Thomas E. Loeser Hagens Berman Sobol Shapiro LLP 1301 Second Avenue, Suite 2000 Seattle, WA 98101 (206) 268-9337 toml@hbsslw.com	Peter B. Fredman Law Office of Peter Fredman PC 2550 Ninth Street, Suite 111 Berkeley, CA 94710 (510) 868-2626 peter@peterfredmanlaw.com
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These attorneys will represent you as part of the Class, unless you timely exclude yourself from the Class.

You have the right to hire your own attorney at your own expense. Class Counsel represents the Class on a contingency basis and will only receive attorneys' fees and reimbursement of their expenses if there is a recovery for the Class and the Court awards attorneys' fees and costs. Payment to Class Counsel for attorneys' fees and expenses may be made from any recovery obtained from Flagstar Bank.

**6. What are my rights and options as a Class member?**

If you want to remain a member of the Class, **you do not need to take any action. You will be bound by any judgment**, favorable or unfavorable, in this Lawsuit. This means that you will participate in any settlement or judgment in the Lawsuit.

You will not need to appear at Court or participate in any trial. You are welcome to attend at your own expense.

**7. Could it cost me anything to be a Class member?**

No. If you remain in the Class, you will not be responsible for any costs regardless of the outcome of the Lawsuit.

**8. Do I have to be a Class member?**

No. You may elect not to be a Class member by requesting exclusion from the Class. You have to decide whether to stay in the Class or whether to exclude yourself by no later than March 2, 2020.

**9. How do I exclude myself from the Class?**

To ask to be excluded from the Class, send a letter that contains all of the following information: (1) the full name and current address of the person seeking exclusion, (2) the address of the property subject to the mortgage loan and escrow account, (3) the Flagstar Bank loan number, and (4) a sentence stating: "The undersigned hereby requests exclusion from the Class."

You must sign the letter and mail it postmarked by March 2, 2020, to:

Flagstar Interest on Escrow Class Action  
Attn: EXCLUSIONS  
c/o A.B. Data, Ltd.  
P.O Box 173001  
Milwaukee, WI 53217

**10. How do I obtain further information about this Lawsuit?**

This Notice website includes key litigation documents and will be updated periodically as new information or key documents become available.

Complete copies of all public pleadings, Court rulings, and other filings in this lawsuit are available for review by accessing the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.cand.uscourts.gov>.

**Please do not contact the Court regarding the Lawsuit.** If you cannot find the information you need, you can contact the administrator by email at [info@Flagstar-Interest-On-Escrow-Class-Action.com](mailto:info@Flagstar-Interest-On-Escrow-Class-Action.com) or Class Counsel at the addresses and/or telephone numbers above.