

HONORABLE JAMAL N. WHITEHEAD

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

COMPASS, INC. AND COMPASS
WASHINGTON, LLC,

Plaintiffs,

v.

NORTHWEST MULTIPLE LISTING
SERVICE,

Defendant.

Case No. 2:25-cv-00766-JNW

**DEFENDANT NORTHWEST
MULTIPLE LISTING SERVICE’S
ANSWER, AFFIRMATIVE
DEFENSES, AND COUNTERCLAIM**

Defendant Northwest Multiple Listing Service (“*NWMLS*”), by and through its counsel, answers the allegations set forth in the Complaint filed by Plaintiffs Compass, Inc. and Compass Washington, LLC (collectively, “*Compass*”), alleges additional and/or affirmative defenses, and asserts counterclaims as follows. To the extent not specifically and expressly admitted, allegations of the Complaint are denied. Section headings are occasionally included only for purposes of clarity and organization, and NWMLS does not admit, but rather specifically denies, any factual or legal allegations in the headings used in the Complaint.

ANSWER

1. The allegations include legal conclusions to which no response is required. To the extent a response is required, NWMLS admits that it is a private, member-owned, not-for-profit corporation. NWMLS further admits that it is governed by a Board of Directors which has included a Compass broker until the Compass broker resigned from the Board. NWMLS admits that its

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1 Board of Directors is made up of brokers from a variety of brokerage firms, which has included
2 Windermere; Lori Gill & Associates; Compass; CB Cascade; Century 21 Lund; John L. Scott;
3 RE/MAX Platinum Services; NextHome 365 Realty; Van Dorm Realty; Keller Williams/Premier
4 Partners; Ensemble; Lake & Company; and Best Choice Realty. NWMLS denies that it is a
5 “monopolist and a combination of competing real estate brokers.” NWMLS further denies that it
6 has any interest in limiting competition among Seattle real estate brokers and any implication that
7 the decisions of its Board are influenced by anticompetitive motivations. As to any remaining
8 allegations, NWMLS denies the same.

9 2. The allegations include legal conclusions to which no response is required. To the
10 extent a response is required, NWMLS admits that its members have adopted Bylaws and Rules
11 and Regulations which are designed to promote competition in residential real estate and protect
12 consumer interests by ensuring all members and consumers have fair and equal access to listings.
13 NWMLS denies that its Rules force brokers and consumers to use its platform. NWMLS further
14 denies that it is or has ever engaged in anticompetitive or tortious conduct, including conduct that
15 harms homeowners, Compass, or Compass brokers. As to any remaining allegations, NWMLS
16 denies the same.

17 3. NWMLS is without sufficient information or knowledge to form a belief
18 concerning the truth or falsity of Compass’s allegations and therefore denies the same.

19 4. NWMLS is without sufficient information or knowledge to form a belief
20 concerning the truth or falsity of Compass’s allegations and therefore denies the same.

21 5. NWMLS is without sufficient information or knowledge to form a belief
22 concerning the truth or falsity of Compass’s allegations and therefore denies the same.

23 6. Denied.

24 7. The allegations include legal conclusions to which no response is required. To the
25 extent a response is required, NWMLS is without sufficient information or knowledge to form a
26 belief concerning the truth or falsity of Compass’s allegations and therefore denies the same.

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1 8. NWMLS is without sufficient information or knowledge to form a belief
2 concerning the truth or falsity of Compass's allegations and therefore denies the same.

3 9. NWMLS is without sufficient information or knowledge to form a belief
4 concerning the truth or falsity of Compass's allegations and therefore denies the same.

5 10. The allegations include legal conclusions to which no response is required. To the
6 extent a response is required, NWMLS admits that its Board of Directors adopts and amends
7 NWMLS Rules and Regulations from time to time according to its Bylaws. The documents speak
8 for themselves, and NWMLS denies any mischaracterization. As to any remaining allegations,
9 NWMLS denies the same.

10 a. NWMLS admits that it engaged in communications with Compass and
11 declined to revise its Rules as requested by Compass. As to remaining
12 allegations, NWMLS denies the same.

13 b. The allegations include legal conclusions to which no response is required.
14 NWMLS admits that it amended Rule 4, consistent with its Bylaws. As to
15 remaining allegations, NWMLS denies the same.

16 c. The allegations include legal conclusions to which no response is required.
17 To the extent a response is required, NWMLS admits that it found Compass
18 to be out of compliance with the Rules. As to remaining allegations,
19 NWMLS denies the same.

20 11. The allegations include legal conclusions to which no response is required.
21 NWMLS admits that, in accordance with its Rules, Bylaws, and Data Use Policy, it temporarily
22 suspended Compass's access to Compass' IDX data feed for approximately 48 hours. As to
23 remaining allegations, NWMLS denies the same.

24 12. The allegations include legal conclusions to which no response is required. To the
25 extent a response is required, denied.

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1 13. The allegations include legal conclusions to which no response is required. To the
2 extent a response is required, NWMLS is without sufficient information or knowledge to form a
3 belief concerning the truth or falsity of Compass's allegations and therefore denies the same.

4 14. The allegations include legal conclusions to which no response is required. To the
5 extent a response is required, denied.

6 15. The allegations include legal conclusions to which no response is required. To the
7 extent a response is required, denied.

8 16. The allegations include legal conclusions to which no response is required. To the
9 extent a response is required, denied.

10 17. Denied.

11 18. The allegations include legal conclusions to which no response is required. To the
12 extent a response is required, denied.

13 19. The allegations include legal conclusions to which no response is required. To the
14 extent a response is required, denied.

15 20. NWMLS is without sufficient information or knowledge to form a belief
16 concerning the truth or falsity of Compass's allegations regarding its corporate status, office
17 locations, or affiliated brokers. NWMLS denies remaining allegations.

18 21. NWMLS is without sufficient information or knowledge to form a belief
19 concerning the truth or falsity of Compass's allegations.

20 22. Denied.

21 23. Denied.

22 24. NWMLS admits that it is a not-for-profit corporation registered in the State of
23 Washington with its principal place of business in Kirkland, Washington. NWMLS states that any
24 statements on its website speak for themselves. NWMLS admits that its service area covers
25 Washington and parts of Oregon. NWMLS denies remaining allegations.

26
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1 25. NWMLS denies that it is controlled by brokers. Remaining allegations are
2 admitted.

3 26. The allegations include legal conclusions to which no response is required. To the
4 extent a response is required, NWMLS admits and states that it is a member-owned, not-for-profit
5 corporation currently led by a Board of Directors. NWMLS further admits that five of its current
6 Board members are affiliated with separately owned and operated Windermere franchisees.
7 NWMLS is without sufficient information or knowledge to form a belief as to the truth or falsity
8 regarding Compass's allegation that its members work for "traditional" brokerages and therefore
9 denies the same. NWMLS admits that a Compass broker sat on its Board, until the Compass
10 broker's voluntary resignation. NWMLS is without sufficient information or knowledge to form a
11 belief regarding the truth or falsity of Compass's allegation as to why the Compass broker resigned
12 and therefore denies the same. NWMLS denies remaining allegations.

13 27. Admitted.

14 28. Admitted.

15 29. Admitted that personal jurisdiction and venue are proper in this Court. NWMLS
16 denies remaining allegations as to purported harm.

17 30. The allegations include legal conclusions to which no response is required. To the
18 extent a response is required, NWMLS states that the cited press release speaks for itself.

19 31. NWMLS is without sufficient information or knowledge to form a belief
20 concerning the truth or falsity of Compass's allegations and therefore denies the same.

21 32. NWMLS admits that real estate brokerages that are members of NWMLS typically
22 submit their listings to NWMLS. NWMLS denies the characterization of NWMLS's ownership
23 and control, affirmatively stating that it is a member-owned, not-for-profit corporation. NWMLS
24 denies remaining allegations.

25 33. The allegations include legal conclusions to which no response is required. To the
26 extent a response is required, NWMLS admits and states that, as a result of the cooperative efforts

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1 of its collective members, its database contains many of the homes sold through members,
2 including historical data, which is equally accessible, and provides benefits to both sellers and
3 buyers. As to remaining allegations, NWMLS denies the same.

4 34. NWMLS admits that the statements on its website speak for themselves. NWMLS
5 further admits that it provides valuable services described in paragraph 34 of the Complaint to its
6 members, among others. NWMLS is without sufficient information or knowledge to form a belief
7 as to the truth or falsity of the remainder of allegations in this paragraph and therefore denies the
8 same.

9 35. NWMLS denies that real estate brokers cannot access NWMLS listings if they are
10 not members. NWMLS is without sufficient information or knowledge to form a belief concerning
11 the truth or falsity of Compass's remaining allegations and therefore denies the same.

12 36. NWMLS admits and states that it promulgates Rules and Regulations from time to
13 time, in accordance with its Bylaws. NWMLS further admits and states that final Rules are voted
14 upon by its Board of Directors. NWMLS further admits and states that the violation of its Rules
15 and related policies, including its Data Use Policy, may result in sanctions in the form of fines or
16 other penalties against the individual sanctioned or their brokerage firm, including the temporary
17 suspension of their access to the IDX data feed. As to remaining allegations, NWMLS denies the
18 same.

19 37. NWMLS is without sufficient information or knowledge to form a belief as to the
20 truth or falsity of the allegations and therefore denies the same.

21 38. NWMLS is without sufficient information or knowledge to form a belief as to the
22 truth or falsity of the allegations and therefore denies the same.

23 39. NWMLS is without sufficient information or knowledge to form a belief as to the
24 truth or falsity of the allegations and therefore denies the same.

25 40. NWMLS is without sufficient information or knowledge to form a belief as to the
26 truth or falsity of the allegations and therefore denies the same.

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1 41. NWMLS is without sufficient information or knowledge to form a belief as to the
2 truth or falsity of the allegations and therefore denies the same.

3 42. NWMLS is without sufficient information or knowledge to form a belief as to the
4 truth or falsity of the allegations and therefore denies the same.

5 43. NWMLS is without sufficient information or knowledge to form a belief as to the
6 truth or falsity of the allegations and therefore denies the same.

7 44. NWMLS is without sufficient information or knowledge to form a belief as to the
8 truth or falsity of the allegations and therefore denies the same.

9 45. NWMLS is without sufficient information or knowledge to form a belief as to the
10 truth or falsity of the allegations and therefore denies the same.

11 46. NWMLS is without sufficient information or knowledge to form a belief as to the
12 truth or falsity of the allegations and therefore denies the same.

13 47. NWMLS is without sufficient information or knowledge to form a belief as to the
14 truth or falsity of the allegations and therefore denies the same.

15 48. NWMLS is without sufficient information or knowledge to form a belief as to the
16 truth or falsity of the allegations and therefore denies the same.

17 49. NWMLS is without sufficient information or knowledge to form a belief as to the
18 truth or falsity of the allegations and therefore denies the same.

19 50. NWMLS is without sufficient information or knowledge to form a belief as to the
20 truth or falsity of the allegations and therefore denies the same.

21 51. NWMLS is without sufficient information or knowledge to form a belief as to the
22 truth or falsity of the allegations and therefore denies the same.

23 52. NWMLS is without sufficient information or knowledge to form a belief as to the
24 truth or falsity of the allegations and therefore denies the same.

25 53. NWMLS is without sufficient information or knowledge to form a belief as to the
26 truth or falsity of the allegations and therefore denies the same.

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1 54. NWMLS is without sufficient information or knowledge to form a belief as to the
2 truth or falsity of the allegations and therefore denies the same.

3 55. NWMLS is without sufficient information or knowledge to form a belief as to the
4 truth or falsity of the allegations and therefore denies the same.

5 56. NWMLS states that Rule 2 speaks for itself. As to remaining allegations, NWMLS
6 denies the same.

7 57. NWMLS admits that a meeting between Compass and Justin Haag occurred. As to
8 remaining allegations characterizing the meeting, NWMLS is without sufficient information or
9 knowledge to form a belief as to the truth or falsity of the allegations, and therefore denies the
10 same.

11 58. NWMLS states that it declined Compass's proposed change to Rule 2 based upon
12 a recommendation from the Bylaws and Rules Committee. As to remaining allegations, NWMLS
13 denies the same.

14 59. NWMLS states that the email speaks for itself.

15 60. NWMLS denies the characterization of his communication.

16 61. NWMLS states that the email speaks for itself.

17 62. NWMLS states that, before amending Rule 4 on March 28, 2025, NWMLS did not
18 facilitate members taking "open" listings. NWMLS is without sufficient information or knowledge
19 to form a belief as to the truth or falsity of the allegations and therefore denies the same.

20 63. NWMLS is without sufficient information or knowledge to form a belief as to the
21 truth or falsity of the allegations and therefore denies the same.

22 64. NWMLS states that it informed Compass by telephone that it had received
23 complaints regarding Compass's failure to enter listings into NWMLS, and directed compliance.
24 NWMLS further admits that it received an email from Compass regarding its intent to continue its
25 conduct. NWMLS further states that, on March 25, 2025, NWMLS issued Compass a discipline
26 complaint. As to remaining allegations, NWMLS denies the same.

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1 65. NWMLS states that the referenced emails and press release speak for themselves.
2 As to remaining allegations, NWMLS denies the same.

3 66. The allegations include legal conclusions to which no response is required. To the
4 extent a response is required as to allegations relating to NAR policy and other multiple listing
5 services, NWMLS admits that it does not follow NAR policy and states that is because NWMLS
6 is not NAR-affiliated. NWMLS is without sufficient information or knowledge to form a belief as
7 to the truth or falsity of remaining allegations and therefore denies the same.

8 67. NWMLS is without sufficient information or knowledge to form a belief as to the
9 truth or falsity of the allegations and therefore denies the same.

10 68. NWMLS states that it temporarily suspended Compass's access to the IDX data
11 feed for 48 hours beginning April 15, 2025 in response to Compass's non-compliance with Rule
12 2. As to remaining allegations, NWMLS denies the same.

13 69. NWMLS states that it provides useful data for members, subscribers, and the buyers
14 and sellers that they represent. As to remaining allegations, NWMLS denies the same.

15 70. NWMLS states that it restored Compass's listing data access on April 17, 2025.
16 NWMLS is without sufficient information or knowledge to form a belief as to the remaining
17 allegations and therefore denies the same.

18 71. The allegations include legal conclusions to which no response is required. To the
19 extent a response is required, NWMLS is without sufficient information or knowledge to form a
20 belief as to the truth or falsity of the allegations and therefore denies the same.

21 72. NWMLS is without sufficient information or knowledge to form a belief as to the
22 truth or falsity of the allegations and therefore denies the same.

23 73. NWMLS is without sufficient information or knowledge to form a belief as to the
24 truth or falsity of the allegations and therefore denies the same.

25
26

1 74. NWMLS denies the allegations to the extent they characterize NWMLS's intent.
2 NWMLS is without sufficient information or knowledge to form a belief as to the truth or falsity
3 of the allegations and therefore denies the same.

4 75. NWMLS denies the allegations to the extent they characterize NWMLS's intent.
5 The allegations include legal conclusions to which no response is required. To the extent a response
6 is required, NWMLS is without sufficient information or knowledge to form a belief as to the truth
7 or falsity of the allegations and therefore denies the same.

8 76. The allegations include legal conclusions to which no response is required. To the
9 extent a response is required, NWMLS is without sufficient information or knowledge to form a
10 belief as to the truth or falsity of the allegations and therefore denies the same.

11 77. The allegations include legal conclusions to which no response is required. To the
12 extent a response is required, NWMLS is without sufficient information or knowledge to form a
13 belief as to the truth or falsity of the allegations and therefore denies the same.

14 78. The allegations include legal conclusions to which no response is required. To the
15 extent a response is required, NWMLS is without sufficient information or knowledge to form a
16 belief as to the truth or falsity of the allegations and therefore denies the same.

17 79. The allegations include legal conclusions to which no response is required. To the
18 extent a response is required, NWMLS is without sufficient information or knowledge to form a
19 belief as to the truth or falsity of the allegations and therefore denies the same.

20 80. The allegations include legal conclusions to which no response is required. To the
21 extent a response is required, denied.

22 81. The statement from the U.S. Department of Justice speaks for itself.

23 82. NWMLS's website speaks for itself. Remaining allegations include legal
24 conclusions to which no response is required. To the extent a response is required, NWMLS is
25 without sufficient information or knowledge to form a belief as to the truth or falsity of the
26 allegations and therefore denies the same.

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1 83. The allegations include legal conclusions to which no response is required. To the
2 extent a response is required, NWMLS admits and states that, in accordance with its Bylaws, its
3 Board of Directors maintains Rules, and from time to time adopts new Rules or amends existing
4 Rules. As to remaining allegations, NWMLS denies the same.

5 84. The allegations include legal conclusions to which no response is required. To the
6 extent a response is required, denied.

7 85. The allegations include legal conclusions to which no response is required. To the
8 extent a response is required, denied.

9 86. The allegations include legal conclusions to which no response is required. To the
10 extent a response is required, NWMLS is without sufficient information or knowledge to form a
11 belief as to the truth or falsity of the allegations and therefore denies the same.

12 87. The allegations include legal conclusions to which no response is required. To the
13 extent a response is required, NWMLS is without sufficient information or knowledge to form a
14 belief as to the truth or falsity of the allegations and therefore denies the same.

15 88. The allegations include legal conclusions to which no response is required. To the
16 extent a response is required, denied.

17 89. The allegations include legal conclusions to which no response is required. To the
18 extent a response is required, denied.

19 90. The allegations include legal conclusions to which no response is required. To the
20 extent a response is required, denied.

21 91. The allegations include legal conclusions to which no response is required. To the
22 extent a response is required, denied.

23 92. The allegations include legal conclusions to which no response is required. To the
24 extent a response is required, denied.

25 93. The allegations include legal conclusions to which no response is required. To the
26 extent a response is required, denied.

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1 94. The allegations include legal conclusions to which no response is required. To the
2 extent a response is required, denied.

3 95. The allegations include legal conclusions to which no response is required. To the
4 extent a response is required, denied.

5 **CAUSES OF ACTION**

6 **Count I: Section 1 of the Sherman Act**

7 96. NWMLS incorporates its prior responses by reference.

8 97. Section 4 of the Clayton Act speaks for itself. NWMLS denies that paragraph 97
9 contains a complete recitation.

10 98. NWMLS admits that Section 1 of the Sherman Act (not the “Sherman Act” as
11 alleged), 15 U.S.C. § 1, is an antitrust law.

12 99. The allegations include legal conclusions to which no response is required. To the
13 extent a response is required, denied.

14 100. The allegations include legal conclusions to which no response is required. To the
15 extent a response is required, denied.

16 101. The allegations include legal conclusions to which no response is required. To the
17 extent a response is required, denied.

18 102. The allegations include legal conclusions to which no response is required. To the
19 extent a response is required, denied.

20 103. The allegations include legal conclusions to which no response is required. To the
21 extent a response is required, denied.

22 104. The allegations include legal conclusions to which no response is required. To the
23 extent a response is required, denied.

24 105. The allegations include legal conclusions to which no response is required. To the
25 extent a response is required, denied.

26
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1 106. The allegations include legal conclusions to which no response is required. To the
2 extent a response is required, denied.

3 **Count II: RCW 19.86.020 and 19.86.030**

4 107. NWMLS incorporates its prior responses by reference.

5 108. RCW 19.86.090 speaks for itself. NWMLS denies that paragraph 108 contains a
6 complete recitation.

7 109. The allegations include legal conclusions to which no response is required. To the
8 extent a response is required, denied.

9 110. The allegations include legal conclusions to which no response is required. To the
10 extent a response is required, denied.

11 111. The allegations include legal conclusions to which no response is required. To the
12 extent a response is required, denied.

13 112. The allegations include legal conclusions to which no response is required. To the
14 extent a response is required, denied.

15 113. The allegations include legal conclusions to which no response is required. To the
16 extent a response is required, denied.

17 114. The allegations include legal conclusions to which no response is required. To the
18 extent a response is required, denied.

19 115. The allegations include legal conclusions to which no response is required. To the
20 extent a response is required, denied.

21 116. The allegations include legal conclusions to which no response is required. To the
22 extent a response is required, denied.

23 **Count III: Section 2 of the Sherman Act**

24 117. Section 4 of the Clayton Act speaks for itself. NWMLS denies that paragraph 97
25 contains a complete recitation.

1 118. NWMLS admits that Section 2 of the Sherman Act (not the “Sharman Act” as
2 alleged), 15 U.S.C. § 2, is an antitrust law.

3 119. NWMLS incorporates its prior responses by reference.

4 120. The allegations include legal conclusions to which no response is required. To the
5 extent a response is required, denied.

6 121. The allegations include legal conclusions to which no response is required. To the
7 extent a response is required, denied.

8 122. The allegations include legal conclusions to which no response is required. To the
9 extent a response is required, denied.

10 123. The allegations include legal conclusions to which no response is required. To the
11 extent a response is required, denied.

12 124. The allegations include legal conclusions to which no response is required. To the
13 extent a response is required, denied.

14 125. The allegations include legal conclusions to which no response is required. To the
15 extent a response is required, denied.

16 **Count IV: RCW 19.86.020 and 19.86.040**

17 126. NWMLS incorporates its prior responses by reference.

18 127. RCW 19.86.090 speaks for itself. NWMLS denies that paragraph 127 contains a
19 complete recitation.

20 128. The allegations include legal conclusions to which no response is required. To the
21 extent a response is required, denied.

22 129. The allegations include legal conclusions to which no response is required. To the
23 extent a response is required, denied.

24 130. The allegations include legal conclusions to which no response is required. To the
25 extent a response is required, denied.

1 131. The allegations include legal conclusions to which no response is required. To the
2 extent a response is required, denied.

3 132. The allegations include legal conclusions to which no response is required. To the
4 extent a response is required, denied.

5 133. The allegations include legal conclusions to which no response is required. To the
6 extent a response is required, denied.

7 **Count V: Tortious Interference with Contract**

8 134. NWMLS incorporates prior responses by reference.

9 135. The allegations include legal conclusions to which no response is required. To the
10 extent a response is required, denied.

11 136. Denied.

12 137. The allegations include legal conclusions to which no response is required. To the
13 extent a response is required, denied.

14 138. The allegations include legal conclusions to which no response is required. To the
15 extent a response is required, denied.

16 139. The allegations include legal conclusions to which no response is required. To the
17 extent a response is required, denied.

18 **Count VI: Tortious Interference with Business Expectancy**

19 140. NWMLS incorporates prior responses by reference.

20 141. The allegations include legal conclusions to which no response is required. To the
21 extent a response is required, denied.

22 142. Denied.

23 143. The allegations include legal conclusions to which no response is required. To the
24 extent a response is required, denied.

25 144. The allegations include legal conclusions to which no response is required. To the
26 extent a response is required, denied.

1 145. The allegations include legal conclusions to which no response is required. To the
2 extent a response is required, denied.

3 **PRAYER FOR RELIEF**

4 NWMLS denies that Compass has been damaged by any act, whether direct or indirect, or
5 omission of NWMLS. NWMLS denies that Compass is entitled to any of the relief sought in the
6 Prayer for Relief, or in any other part of its Complaint. NWMLS further denies that Compass is
7 entitled to attorneys' fees in the sum or sums alleged.

8 **JURY DEMAND**

9 NWMLS denies that Compass is entitled to a jury trial on all claims and requests for relief.

10 **DEFENSES AND AFFIRMATIVE DEFENSES**

11 NWMLS asserts the following defenses and affirmative defenses. By asserting distinct
12 defenses together and in the alternative, NWMLS does not assume the burden of proof as to any
13 matters that are to be borne by Compass. NWMLS reserves the right to assert additional defenses
14 and affirmative defenses as established by the facts of this case and additional discovery.

15 **FIRST DEFENSE**

16 **Failure to State a Cause of Action**

17 Compass's Complaint, and each purported cause of action alleged, fails to state facts
18 sufficient to support a cause of action against NWMLS.

19 **SECOND DEFENSE**

20 **Lack of Antitrust Standing**

21 Compass's claims are barred, in whole or in part, because Compass lacks antitrust standing,
22 or because Compass's injuries, if any, are too remote to confer standing.

1 **THIRD DEFENSE**

2 **Lack of Antitrust Injury**

3 Compass's claims are barred, in whole or in part, because Compass has not suffered
4 antitrust injury and/or is not an efficient enforcer of the antitrust laws.

5 **FOURTH DEFENSE**

6 ***Noerr-Pennington Doctrine***

7 Compass's claims are barred, in whole or in part, by application of the *Noerr-Pennington*
8 doctrine.

9 **FIFTH DEFENSE**

10 **Legitimate Business Justification**

11 Compass's claims are barred, in whole or in part, because NWMLS had and now has
12 legitimate, non-competitive, non-tortious business justifications for the conduct alleged in this
13 action.

14 **SIXTH DEFENSE**

15 **Statute of Limitations**

16 Compass's claims are barred, in whole or in part, by application of the statute of limitations.

17 **SEVENTH DEFENSE**

18 **Unclean Hands/Waiver/Estoppel**

19 Compass's claims are barred by the equitable doctrines of unclean hands, waiver and/or
20 estoppel.

21 **EIGHTH DEFENSE**

22 **Consent**

23 Compass's claims are barred because Plaintiff, as a member of NWMLS, acquiesced or
24 consented to the conduct about which it now complains.

1 **NINTH DEFENSE**

2 **Fault of Plaintiff/Third Parties**

3 Any injury or damage allegedly suffered by Compass was caused or contributed to by the
4 negligence, fault, bad faith, breach of contract, or other wrongful or tortious conduct of Compass
5 and its brokers, agents, employees, officers, independent contractors or affiliates, and such conduct
6 offsets, eliminates, or comparatively reduces the liability of NWMLS, if any.

7 **TENTH DEFENSE**

8 **Fault of Third Parties**

9 Any injury or damage allegedly suffered by Compass was caused or contributed to by the
10 negligence, fault, bad faith, breach of contract, or other wrongful or tortious conduct of third parties
11 and such conduct offsets, eliminates, or comparatively reduces the liability of NWMLS, if any.

12 **ELEVENTH DEFENSE**

13 **Failure to Plead a Cognizable Relevant Market**

14 Compass's claims are barred, in whole or in part, because Compass fails to plead a
15 cognizable relevant market.

16 **TWELFTH DEFENSE**

17 **Proximate Cause Defense**

18 Compass's claims are barred, in whole or in part, because NWMLS's alleged conduct was
19 not the proximate cause of any damages suffered by Compass.

20 **THIRTEENTH DEFENSE**

21 **Speculative Damages**

22 Compass's claims are barred, in whole or in part, because any injury and/or damage it
23 claims to have suffered is speculative and/or difficult to estimate.

1 **FOURTEENTH DEFENSE**

2 **Promotion of Interbrand Competition**

3 Compass's claims are barred, in whole or in part, because the conduct alleged in the
4 Complaint promotes Interbrand competition and/or improves the quality of services provided by
5 firms which are members in NWMLS.

6 **FIFTEENTH DEFENSE**

7 **Competitor's Privilege**

8 To the extent that Compass claims that it is a competitor of NWMLS, its claims are barred,
9 in whole or in part, because any alleged interference on the part of NWMLS was through lawful
10 competition.

11 **SIXTEENTH DEFENSE**

12 **No Improper Means/Improper Purpose**

13 Compass's claims are barred, in whole or in part, because NWMLS did not engage in any
14 wrongful conduct, use any improper means, or have an improper purpose.

15 **SEVENTEENTH DEFENSE**

16 **State Action Defense**

17 Compass's claims are barred, in whole or in part, because NWMLS acted in accordance
18 with the laws, regulations, and authorized policies of the State of Washington, including but not
19 limited to RCW 18.86, et seq.

20 **RIGHT TO AMEND**

21 Because Compass's Complaint is couched in conclusory terms which are based upon
22 speculation, conjecture, and vague references to information and belief, NWMLS cannot fully
23 anticipate all affirmative defenses that may be applicable to this action. Discovery is ongoing.
24 Accordingly, NWMLS reserves the right to amend its Answer to assert additional defenses and
25 counterclaims in the future and to supplement those asserted herein upon further investigation and
26 discovery.

1 **NORTHWEST MULTIPLE LISTING SERVICE’S COUNTERCLAIMS**

2 By way of further Answer, and as Counterclaims against Counterclaim Defendants
3 Compass, Inc. and Compass Washington, LLC (collectively, “*Compass*”), Counterclaim Plaintiff
4 Northwest Multiple Listing Service (“*NWMLS*”) alleges as follows:

5 **I. PARTIES**

6 1. Counterclaim Plaintiff NWMLS is a member-owned, Washington not-for-profit
7 corporation with its primary place of business at 11430 NE 120th Street, Kirkland, Washington,
8 98034-8220.

9 2. One such member of NWMLS is Counterclaim Defendant Compass Washington,
10 LLC (“*Compass Washington*”). Upon information and belief, Counterclaim Defendant Compass
11 Washington is a Delaware limited liability company registered in Washington as a foreign limited
12 liability company.

13 3. Upon information and belief, Compass Washington is the wholly-owned subsidiary
14 of Compass Brokerage, LLC, which is not a party to this lawsuit.

15 4. Upon information and belief, Counterclaim Defendant Compass, Inc. is a Delaware
16 corporation with its principal place of business located in New York City, New York, and is the
17 parent company of Compass Brokerage, LLC.

18 **II. JURISDICTION AND VENUE**

19 5. The Court has subject matter jurisdiction over NWMLS’s counterclaim for
20 declaratory judgment pursuant to 28 U.S.C. § 2201-2202, the Declaratory Judgment Act, and over
21 NWMLS’s state law counterclaims under 28 U.S.C. § 1367, which should be exercised in the
22 interests of judicial economy, convenience, and fairness because NWMLS’s state law claims are
23 so related to claims over which the Court has original jurisdiction that it forms part of the same
24 case or controversy under Article III of the United States Constitution.

25 6. The Court has personal jurisdiction over Compass by virtue of the underlying
26 lawsuit by Compass, and because Compass regularly transacts business in Washington State.

1 7. Venue is proper with pursuant to 28 U.S.C. § 1391(b)(1) and (2) because Compass
2 and NWMLS transact business in the State of Washington and the events or omissions giving rise
3 to NWMLS’s counterclaims occurred in Washington.

4 **III. FACTUAL BACKGROUND**

5 **A. NWMLS’s Rules Foster Fairness, Efficiency, and Transparency in Real Estate**
6 **Transactions.**

7 8. For decades, NWMLS has served consumers and brokerages across Washington
8 and parts of Oregon. NWMLS’s subscribers include more than 30,000 real estate brokers who
9 represent both sellers and buyers. It is governed by an independent Board of Directors
10 representative of brokerages with different business models.

11 9. Brokerages who join NWMLS’s member-owned network agree to abide by a set of
12 operating rules—the NWMLS Bylaws (“*Bylaws*”) and NWMLS Rules and Regulations (“*Rules*”).
13 Brokerage firms and their brokers who subscribe to NWMLS’s services agree to abide by the
14 Bylaws and Rules.

15 10. NWMLS’s commitment to transparency and equal access benefits all parties
16 involved in real estate transactions, including home buyers, sellers, listing brokers, buyer brokers,
17 and appraisers. NWMLS establishes rules for its participating members to ensure that consumers,
18 and the brokers they choose to have represent them, have access to residential real estate listings
19 and property data on equal terms, regardless of sex, marital status, sexual orientation, race, creed,
20 color, national origin, citizenship or immigration status, families with children status, honorably
21 discharged veteran or military status, the presence of any sensory, mental, or physical disability,
22 or the use of a trained dog guide or service animal by a person with a disability. These listings and
23 property data include, but are not limited to, the number of days a property has been listed on the
24 market—in short, how long it has been for sale—as well as listing price changes, a seller’s offer
25 of broker compensation (if any), tax records, and sales histories.

1 11. In addition to operating its own platform that centralizes data for consumers and
2 brokers, NWMLS also supports access to listings and property data through its Internet Data
3 Exchange (“*IDX*”) program, which consolidates all its members’ listings in a data feed that
4 member firms can then license to use to populate their own public facing websites.

5 12. To ensure fairness and transparency for all and to prevent free-riding by recalcitrant
6 members, NWMLS Rules prohibits members from promoting or advertising any property for
7 which listing data has not been submitted.

8 13. Thus, NWMLS Rule 2 provides:

9 a. Initial Listing Input. The listing firm shall deliver to NWMLS or input all listings
10 not later than the date specified in the listing agreement (“List Date”), which date
11 shall not be more than 90 days from the effective date of the agreement.

12 * * *

13 c. No Promotion/Advertising When Listing Not Published. Members shall not
14 promote or advertise any property in any manner whatsoever, including, but
15 not limited to yard or other signs, flyers, websites, e-mails, texts, mailers,
16 magazines, newspapers, open houses, previews, showings, and tours, unless
17 a listing for that property has been delivered to NWMLS or input by the
18 member and has not been cancelled, expired, or taken temporarily off the
19 market.

20 14. In addition to the many choices for sellers (e.g., various marketing options, control
21 over showings and property access, undisclosed seller information), NWMLS Rules and policies
22 provide for important exceptions to accommodate a seller’s unique privacy, health, safety, or
23 security concerns. For example, NWMLS’s Undisclosed Address/Tax Identification or
24 Unpublished Listing Policy allows listing brokers to comply with NWMLS Rule 2 while also
25 accommodating their clients’ potential unique needs.

1 **B. Compass Engages in Unfair and Deceptive Marketing Practices.**

2 15. Marketing strategies that emphasize exclusivity and exclusion are not only
3 detrimental to competition and consumers, but also contrary to the principles of fair housing. That
4 is because “listings through private “pre-marketing” or “off market”” programs are just that,
5 exclusionary—they create a two-tiered system that limits access to people and brokers who are not
6 part of the self-selected private, exclusionary network.

7 16. Compass’s Three-Phased Marketing Strategy (“*3PM*”) represents a prime example
8 of an exclusionary marketing strategy which disadvantages potential purchasers and brokers
9 seeking to represent buyers who are not affiliated with Compass.

10 17. Compass is a long-standing member of NWMLS and as a member, is familiar with
11 the Bylaws and Rules. Indeed, until recently a Compass broker held a seat on NWMLS’s Board
12 of Directors. A Compass broker also serves on NWMLS’s Bylaws and Rules Committee.

13 18. Despite agreeing to abide by, and previously complying with, the Bylaws and
14 Rules, in March 2025, Compass launched 3PM in Washington.

15 19. The first phase of 3PM is called the Private Exclusive phase (the “*Private Phase*”).
16 In the Private Phase, Compass claims that it allows sellers to “test price, gather insights, and build
17 anticipation before going public.”¹

18 20. In the Private Phase, a property is not publicly marketed or listed on NWMLS, but
19 it is most certainly available for sale to a potential purchaser working with a Compass agent.
20 Compass admits this. In the Private Phase, according to Compass’s advertising materials,
21 properties are “only accessible to Compass agents and their serious buyers.” Thus, while Compass
22 claims that it is engaging in the Orwellian-named practice of “pre-marketing,” the Private Phase
23 is a façade to gain entry to the marketplace at a critical juncture—when the property is new to the
24 marketplace—while simultaneously withholding listing information from buyers and other
25

26 ¹ See Compass Private Exclusives, <https://www.compass.com/private-exclusives/> (last accessed Mar. 6, 2026).

1 brokers who are not working with a Compass agent. Such exclusionary marketing hurts sellers,
2 buyers, and other brokers, and only benefits Compass and its brokers by allowing them a greater
3 opportunity to participate on both sides of the sale (the sale side and the buy side), allowing
4 Compass to receive the full commissions on the sale of a home rather than just one side of the
5 transaction, and to serve as a recruiting tool for brokers licensed with Compass competitors.

6 21. While touting the purported benefits of 3PM, according to Compass’s marketing
7 materials, Compass admits that the Private Phase fails to result in sales almost 95% of the time.
8 When the Private Phase fails, Compass’s 3PM proceeds to a second phase called “Compass
9 Coming Soon” (the “*Private Coming Soon Phase*”). In the Private Coming Soon Phase, again, a
10 property is not publicly marketed. Instead, a property is accessible only on the Compass website,
11 and only viewable by select brokers and their buyers who are subscribed to or visit Compass.com.
12 Private Coming Soon Phase properties are not listed with NWMLS. A Private Coming Soon listing
13 is not actually “coming soon,” it is most certainly available for sale—in fact, even where the listing
14 is marketed as “coming soon,” if the listing broker receives an offer or other communication from
15 a potential buyer or their broker, the listing broker is required by RCW 18.86 to timely present it
16 to the seller.

17 22. According to Compass’s marketing materials, Compass also admits that most
18 properties fail to sell in the second, Private Coming Soon Phase. Only in the third phase of 3PM
19 does Compass finally submit the listing to NWMLS, where all buyers and brokers can compete on
20 equal terms for the sale of the property.

21 23. Concerningly, Compass’s practices do not end with manipulating the timing of
22 listing properties on NWMLS. In addition, while properties in 3PM are in at least the first two
23 phases of the program, Compass intentionally withholds material facts regarding the listing from
24 consumers and other brokers, including the time the property was listed “privately and
25 exclusively” with Compass or any price changes that occurred while the property was in the Private
26 Phase or Private Coming Soon Phase. Compass refers to such information as “negative insights”

1 that a listing broker and seller should not disclose to a buyer's broker or buyer. Compass admits
 2 to this practice, promising listing brokers participating in 3PM that they will be able to list the
 3 property "without accumulating days on market and price drop history."² In short, Compass
 4 deliberately misleads consumers and brokers accessing information from NWMLS claiming that
 5 the 3PM property has not been available for sale, while Compass knows very well that the property
 6 has been available for sale and viewing for a significant period of time. Consumers and brokers
 7 accessing the property for the first time through NWMLS have thus been deprived of material and
 8 valuable information about the property, putting them at a distinct disadvantage to Compass-
 9 represented buyers and Compass brokers.

10 24. "Negative insights" are valuable information and material facts a buyer should
 11 know before making an offer on a property.

12 25. The Private Phase and the Private Coming Soon Phase of Compass's 3PM (jointly,
 13 the "Private Phases") also harm consumers by excluding those buyers and brokers the listing
 14 broker or seller wish to exclude from a portion of the housing market.

15 26. The Private Phases often result in worse outcomes for sellers, who end up simply
 16 delaying publicly marketing their property, and as a result, reducing their listing's exposure and
 17 accruing unproductive days on the market. Compass itself admits the Private Phases are generally
 18 ineffective for their sellers, conceding that "the vast majority of Compass' listings are ultimately
 19 marketed publicly to all buyers and sold on the local MLS."³

20 27. Despite the inefficiencies, ineffectiveness, poor consequences, and misinformation
 21 of the Private Phases for buyers and sellers, Compass still promotes the use of Private Phases
 22 because they serve the interests of Compass and its brokers.

24 ² See Compass, Disclosure Regarding The Compass Three-Phased Marketing Strategy,
 25 [https://docs.google.com/document/d/11XXXogG2LbxB2evu5Sv2dOM7-
 25 ji2Xc5Ex7XGxRsuHqI/edit?tab=t.0](https://docs.google.com/document/d/11XXXogG2LbxB2evu5Sv2dOM7-ji2Xc5Ex7XGxRsuHqI/edit?tab=t.0) (last updated May 27, 2025).

26 ³ See Compass Newsroom, "Compass Sets the Record Straight: NWMLS's Claims Are Baseless
 and Self-Serving," [https://www.compass.com/newsroom/press-
 releases/1DGIyUiV32ByzQdW423Hxb/](https://www.compass.com/newsroom/press-releases/1DGIyUiV32ByzQdW423Hxb/) (July 2, 2025).

1 28. At the time Compass launched 3PM in Washington, Compass knew that the Private
2 Phases violated NWMLS Rule 2. Indeed, before launching, Compass tried to get NWMLS to
3 change its Rules to allow Compass to privately market properties to its own brokers and select
4 buyers, and avoid public marketing. NWMLS’s Bylaws and Rules Committee and the Board of
5 Directors, which both included a Compass broker, declined to change the Rules to allow for such
6 practices.

7 29. Instead of complying with NWMLS Rules, marketing properties to all brokers and
8 consumers, and adhering to the values of fairness and transparency, Compass created a strategy to
9 flout the rules and plowed forward with 3PM.

10 30. At all times, Compass knew that the Private Phases of 3M violated the letter and
11 spirit of NWMLS Rules.

12 31. Compass leadership, however, actively and knowingly encouraged brokers to
13 violate NWMLS Rules by engaging in the Private Phases. Compass CEO Robert Reffkin praised
14 Compass brokers who breached their contract with NWMLS by engaging in the Private Phases
15 and only marketing properties privately. Instead of urging compliance with longstanding
16 Washington policies promoting transparency and fairness, Mr. Reffkin disparaged NWMLS’s pro-
17 competitive, consumer-protective Rules as “restrictive”⁴ and “control[ling].”⁵

18 32. Compass knew that encouraging brokers to engage in the Private Phases violated
19 NWMLS Rules. Compass brokers reported to the press that Compass leadership told brokers it
20 “remain[ed] committed” to covering any sanctions incurred by brokers for violating NWMLS’s
21 Rules.⁶

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23
24 ⁴ https://www.instagram.com/p/DHn64egxco-/?img_index=1

25 ⁵ Robert Reffkin, LinkedIn https://www.linkedin.com/posts/robertreffkin_agents-shouldnt-be-fined-by-mlss-or-banned-activity-7358099611397283841-KmRN/

26 ⁶ See AJ LaTrace, “How Compass Staged Its Pre-Marketing Blitz in Seattle,” Real Estate News (Apr. 4, 2025), <https://www.realestatenews.com/2025/04/04/how-compass-staged-its-pre-marketing-blitz-in-seattle>.

1 33. Compass also subverted NWMLS Rules by encouraging sellers to execute listing
2 agreements to avoid input requirements by attempting to subvert Rule 4 and Rule 6.

3 34. Beginning in March 2025, NWMLS notified Compass that its practices were not in
4 compliance with the Rules. Compass refused to come into compliance. As a result, after weeks of
5 communications with Compass and weeks of Compass publicly flouting NWMLS Rules, NWMLS
6 temporarily suspended Compass's IDX data feed license for 48 hours beginning April 15, 2025.

7 35. NWMLS advised Compass how to receive a Participant Only feed, as well as how
8 to have the IDX data feed license restored by providing evidence that all of Compass's listings had
9 been entered, and warranting that all of Compass's future listings would be entered consistent with
10 the Rules.

11 36. While Compass's IDX data feed license was suspended, Compass still qualified to
12 receive a Participant Only feed (which contains Compass' listings). Compass did not avail itself
13 of that opportunity.

14 37. During the temporary suspension of its IDX data feed license, Compass brokers
15 also continued to have full access to the NWMLS member site, its comprehensive listing data,
16 listing input and transaction forms, and the complete array of other services.

17 38. After Compass agreed to comply with the Rules NWMLS restored Compass's IDX
18 feed data license on April 17, 2025.

19 **C. Washington Enacts Law Codifying NWMLS's Rule 2 Public Marketing**
20 **Requirement.**

21 39. On March 3, 2026, the Washington State Legislature passed Substitute Senate Bill
22 6091 ("the "***Public Marketing Law***"), which was signed by the Governor on March 17, 2026. The
23 Public Marketing Law takes effect June 11, 2026.

24 40. The Public Marketing Law adds a new section to Chapter 18.86 of the Revised
25 Code of Washington, which governs real estate brokerage relationships. The new section dovetails
26

1 with and effectively codifies NWMLS Rule 2, requiring marketing concurrently to (1) the general
2 public and (2) to all other real estate brokers. It provides, in relevant part:

3 A broker may not market the sale or lease of residential real estate to a
4 limited or exclusive group of prospective buyers or brokers, or any
5 combination thereof, unless the real estate is concurrently marketed to the
6 general public and all other brokers, except as reasonably necessary to
7 protect the health or safety of the owner or occupant. Marketing to the
8 general public does not require an owner to allow access onto the residential
9 real estate or into the residence.

10 SSB 6091, Sec. 1, 69th Leg. (Reg. Sess. 2026).

11 41. In other words, Washington lawmakers have determined that it is unlawful for a
12 broker to engage in selective, private marketing to either an exclusive group of consumers or a
13 selective group of brokers. Any such practice requires simultaneous public marketing and
14 marketing to all brokers.

15 42. In enacting the Public Marketing Law, the Legislature recognized that requiring
16 brokers to publicly market to all consumers and all brokers is pro-competitive, and supported
17 fairness in access to housing for first-time buyers and other marginalized groups. The Legislative
18 history reflects:

19 This bill is about competition and fairness in access to housing. It addresses
20 an emerging model in which real estate firms and brokers only market
21 property to a select group of buyers, renters, or brokers. It creates a two-
22 tiered system where insiders get to see and compete for inventory earlier
23 and with less competition, while outsiders including first-time homebuyers,
24 immigrants, and lower wealth households may be shut out of opportunities.

25 * * *

26 Subtle forms of discrimination persist, often hidden within exclusive
marketing strategies or selective outreach. Discrimination can be explicit,
implicit, or simply unconscious. One study found that hidden listings may
be reinforcing racial divides. ... ***This is about the largest company in the
country wanting to get both sides, the buyer's side and the seller's side, of
the compensation.***

Senate Bill Report, SB 6091, 69th Leg. (Reg. Sess. Jan. 30, 2026) (emphasis added).

1 43. Compass knows that when the Public Marketing Law takes effect on June 11, 2026,
2 the Private Phases and related practices will violate state law.

3 **FIRST CAUSE OF ACTION**

4 **DECLARATORY JUDGMENT ACT**

5 44. NWMLS incorporates the preceding paragraphs by reference.

6 45. An actual and justiciable controversy exists between NWMLS and Compass as to
7 whether the Private Phases of Compass’s 3PM and related practices violate NWMLS’s Bylaws
8 and Rules.

9 46. An actual and justiciable controversy exists between NWMLS and Compass as to
10 whether NWMLS’s Bylaws and Rules, on which NWMLS relies to prohibit the Private Phases of
11 Compass’s 3PM and related practices, are lawful and enforceable.

12 47. Under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq.*, NWMLS seeks a
13 judgment that its Bylaws and Rules, on which NWMLS relies to prohibit the Private Phases of
14 Compass’s 3PM and related practices, are lawful and enforceable, and that the Private Phases of
15 Compass’s 3PM and related practices violate NWMLS’s Bylaws and Rules.

16 **SECOND CAUSE OF ACTION**

17 **VIOLATION OF CONSUMER PROTECTION ACT**

18 48. NWMLS incorporates the preceding paragraphs by reference.

19 49. The Washington Consumer Protection Act (“CPA”), RCW 19.86.020, prohibits
20 “[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any
21 trade or commerce.” The fundamental purpose of the CPA is to “complement the body of federal
22 law governing restraints of trade, unfair competition and unfair, deceptive, and fraudulent acts or
23 practices in order to protect the public and foster fair and honest competition.” RCW 19.86.920.

24 50. Compass has engaged in unfair and deceptive practices through the Private Phases
25 of 3PM and related practices which, among other things, fail to publicly market listings, control
26 who has access to listings, and conceal material information concerning properties that Compass

1 ultimately elects to list on a multiple listing service, such as NWMLS. Compass's concealment of
2 material information concerning the properties it provides NWMLS deceives consumers, deceives
3 the broker members of NWMLS, and thus ultimately causes harm to NWMLS because the value
4 of the information it provides has been severely degraded.

5 51. By first engaging in Private Phases with select participants, and not simultaneously
6 marketing listings publicly and to the brokerage community, Compass later submits inaccurate or
7 misleading data to NWMLS. Compass knows that days on market and pricing data are material
8 pieces of information concerning a property for sale in Washington, and are material to prospective
9 purchasers' decisionmaking. By failing to account for days on market and pricing data associated
10 with Private Phases, Compass makes material misrepresentations that have the capacity to deceive
11 a substantial portion of the public. That is because buyers, especially those who are unrepresented
12 by brokers, have no way to independently verify which Compass listings contain accurate data and
13 which do not.

14 52. Compass's practices occur in the context of trade or commerce, as they involve the
15 advertisement, marketing, and sale of assets affecting the people of the state of Washington.

16 53. Compass's practices impact the public interest. Compass promotes the Private
17 Phases of 3PM in the regular course of its business and as a core component of its business model.

18 54. Compass and Washington consumers do not occupy equal bargaining positions.

19 55. Compass's practices have a substantial likelihood of repetition, as Compass has
20 continued to promote and defend its practices throughout the course of this litigation.

21 56. Compass's unfair and deceptive practices harm consumers, NWMLS (and its
22 broker members), and the public interest. Compass's unfair and deceptive practices undermine the
23 values of consumer transparency, erode integrity and consumer trust in the residential real estate
24 market, violate NWMLS Bylaws and Rules, and harm consumers.

25 57. Compass's practices are the proximate cause of harm to NWMLS and consumers.
26

1 58. As a result of Compass’s CPA violations, NWMLS has been damaged in an amount
2 to be proven at trial.

3 **THIRD CAUSE OF ACTION**

4 **FRAUDULENT MISREPRESENTATION**

5 59. NWMLS incorporates the preceding paragraphs by reference.

6 60. Under RCW 18.86.030(b) and (d), licensed real estate brokers have mandatory
7 disclosure requirements, including the duty “[t]o deal honestly and in good faith” and “[t]o disclose
8 all existing material facts known by the broker and not apparent or readily ascertainable to a party.”

9 61. Under RCW 18.86.090(1), Compass is vicariously liable for its brokers’ violations
10 of RCW Chapter 18.86 if it “participated in or authorized the act, error, or omission.”

11 62. On information and belief, Compass brokers who engaged in the Private Phases of
12 3PM and related practices made material misrepresentations in NWMLS listings that (a) subverted
13 their obligations to deal honestly and in good faith with buyers and the buyers’ brokers, and (b)
14 circumvented their duty to disclose material facts to third parties.

15 63. Compass deceptively marketed “non-exclusive” listings as “private exclusives.”

16 64. Compass deceptively marketed properties as “coming soon” where properties were
17 not, in fact, “coming soon” but were available for purchase.

18 65. Compass encouraged and directed brokers to input false or misleading information
19 into NWMLS listings.

20 66. Compass failed to disclose to customers that their listings contained false or
21 misleading information.

22 67. Compass knew, or had reason to know, that directing its brokers to misrepresent
23 material information in listings was a breach of brokers’ respective disclosure obligations under at
24 least RCW 18.86.030(b) and (d).

25 68. Consumers, brokers, appraisers and members of the public rely upon NWMLS data
26 in real estate transactions to be accurate.

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1 69. Compass’s concealment of material information concerning the properties it
2 provides NWMLS deceives consumers, deceives the broker members in NWMLS, and thus
3 ultimately causes harm to NWMLS because the value of the information it provides has been
4 severely degraded.

5 70. As a result of Compass’s fraudulent misrepresentations, NWMLS has been
6 damaged in an amount to be proven at trial.

7 **FOURTH CAUSE OF ACTION**

8 **TORTIOUS INTERFERENCE WITH CONTRACT**

9 71. NWMLS incorporates the preceding paragraphs by reference.

10 72. NWMLS Bylaw 2, entitled “Bylaw[s] and Rules Contract Between NWMLS and
11 Member” provides that the Bylaws and the Rules of NWMLS constitute a contract and agreement
12 between the members with respect to the rights and obligations set forth herein.

13 73. Members and brokers who subscribe to NWMLS’s services are parties to a user
14 agreement with NWMLS, under which they agree to abide by the Bylaws and Rules.

15 74. The user agreement provides that brokers “shall comply with the then current
16 NWMLS Bylaws, Rules and Regulations, and related policies.” Members and brokers
17 acknowledge that they “may be subject to disciplinary action for [their] failure to comply,
18 including monetary sanctions, suspension or termination of services, and other penalties.”

19 75. Compass, as a member of NWMLS, knows of the user agreement between brokers
20 and NWMLS.

21 76. Compass intentionally interfered with NWMLS’s agreements with brokers by
22 encouraging and inducing brokers to violate Rules. Indeed, Compass actively incentivized brokers
23 to violate Rules.

24 77. Compass’s interference was based on improper means because Compass knew, or
25 had reason to know, that directing its brokers to misrepresent material information in listings was
26

1 a breach of brokers' obligations under at least RCW 18.86.030(b) and (d), RCW 18.85.361(3), and
2 NWMLS Rules.

3 78. As a result of Compass's tortious interference with contracts, NWMLS has been
4 damaged in an amount to be proven at trial.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, having answered the Complaint, asserted affirmative and/or additional
7 defenses, and alleged its counterclaims, NWMLS seeks the following relief:

8 A. Dismissal of the Complaint with prejudice and without recovery or relief of any
9 kind to Compass;

10 B. A declaration that NWMLS's Bylaws and Rules, on which NWMLS relies to
11 prohibit the Private Phases of Compass's 3PM and related practices, are lawful and enforceable,
12 and that the Private Phases of Compass's 3PM and related practices violate NWMLS's Bylaws
13 and Rules.

14 C. Judgment in favor of NWMLS and against Compass on NWMLS's counterclaims,
15 and an award of damages in an amount to be proven at trial;

16 D. An award of pre-judgment and post-judgment interest to the extent permitted by
17 law;

18 E. An award of fees, costs, and expenses, including, but not limited to, reasonable
19 attorneys' fees and costs, to the extent permitted by law; and

20 F. Such other relief as the Court deems just and proper.
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DATED: April 2, 2026

Respectfully submitted

s/ Vanessa Soriano Power

Vanessa Soriano Power, WSBA No. 30777

Harrison L.E. Owens, WSBA No. 51577

STOEL RIVES LLP

600 University St

Suite 3600

Seattle, WA 98101-3197

Telephone: 206-386-7653

Email: vanessa.power@stoel.com

Email: harrison.owens@stoel.com

Claude Szyfer (admitted pro hac vice)

HOGAN LOVELLS US LLP

390 Madison Avenue

New York, NY 10017

Telephone: 212-918-3000

Email: claude.szyfer@hoganlovells.com

Liam Phibbs (admitted pro hac vice)

HOGAN LOVELLS US LLP

Columbia Square

555 Thirteenth St NW

Washington, DC 20004-1109

Telephone: 202-637-5600

Email: liam.phibbs@hoganlovells.com

Attorneys for Defendant Northwest

Multiple Listing Service

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