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**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

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Frank Richmond, Michael McDermott and  
Kelley McDermott, each individually and  
on behalf of all others similarly situated,

Case No.: 3:22-CV-05704-DGE

Plaintiffs,

vs.

Home Partners Holdings LLC, HP  
Washington I LLC, HPA Borrower 2017-1  
LLC, SFR Borrower 2022-2 LLC, SFR  
Borrower 2021-2 LLC, and OPVHHJV  
LLC, d/b/a Pathlight Property  
Management,

**FOURTH AMENDED COMPLAINT  
JURY TRIAL DEMANDED**

Defendants.

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Fourth Amended Complaint - 1

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1 Frank Richmond, Michael McDermott and Kelley McDermott, each individually  
2 and on behalf of all others similarly situated, bring this action against Home Partners  
3 Holdings LLC (“Home Partners”), HP Washington I LLC, HPA Borrower 2017-1 LLC,  
4 SFR Borrower 2022-2 LLC, SFR Borrower 2021-2 LLC, and OPVHHJV LLC, d/b/a  
5 Pathlight Property Management (“Pathlight”), and allege as follows:

6 **INTRODUCTION**

7 1. Landlord-tenant law is predicated on the relationship it confers upon the  
8 parties to a rental agreement. If that agreement contains illegal provisions drafted by and  
9 favoring the landlord, and which cannot be negotiated by the tenants, it is unenforceable.

10 2. A pillar of that relationship is that landlords, not tenants, are responsible  
11 for ensuring they “keep the premises fit for human habitation[.]” Wash Rev. Code §  
12 59.18.60.

13 3. The law also provides for landlord remedies in the event the disrepair has  
14 been caused by a tenant’s conduct.

15 4. These mandatory landlord duties and the rights they confer on tenants  
16 originated in common law as the Covenants of Habitability, but are codified in  
17 Washington’s statutes.

18 5. Indeed, Washington law imposes duties upon landlords, and those duties  
19 are significantly more stringent than those of the common law.

20 6. Washington statutes enumerate a series of specific landlord duties,  
21 including maintaining the premises in compliance with any applicable code, statute,  
22 ordinance or regulation, and maintaining various structural components not only in  
23

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1 habitable condition, but “in reasonably good repair so as to be usable[.]” Wash. Rev. Code  
2 § 59.18.060.

3 7. Further, Washington law explicitly forbids parties from waiving many of  
4 the protections the statute provides for tenants. Wash. Rev. Code § 59.18.230.

5 8. Nonetheless, under the guise of offering a potential home to own,  
6 Defendants routinely enter into adhesive form leases that purport to waive and modify a  
7 landlord’s duties through several different lease provisions found in Defendants’  
8 uniform adhesion contracts.

9 9. During and at the end of tenancies, Defendants pursue their tenants for  
10 payment of pre-existing or other damage to Defendants’ real and personal property,  
11 which was not caused by the tenants at all. This conduct violates statutory landlord-  
12 tenant and consumer protection laws.

13 10. In addition, Defendants require tenants to pay multiple fees that shift the  
14 costs of lease administration, property insurance, and utility service to tenants, in  
15 violation of Washington law.

16 11. Defendants are some of the many corporate investors of residential real  
17 estate who have swarmed into metropolitan area real estate markets, hoping to profit  
18 from the growing demand for single-family homes.

19 12. Large private equity groups, hedge funds and other large investors spent a  
20 combined \$36 billion on more than 200,000 homes between 2011 and 2017.

21 13. In effect, these large entities are building a new corporate landlord-tenant  
22 scheme across the country.

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1 14. While large corporate entities have been involved in the housing market  
2 since before the 2010 foreclosure crisis, their involvement only continues to grow. These  
3 corporate landlords claim their buying efforts will stabilize the country's most  
4 dilapidated housing markets, and further claim they will be even better landlords than  
5 traditional, local landlords by using their capital to maintain the homes, and make home  
6 rentals easy and affordable.

7 15. However, over time, these corporations have displaced individual home  
8 buyers (or individual landlords and property owners) not only in housing markets  
9 decimated by foreclosure, but also in healthy urban, suburban and exurban residential  
10 real estate markets, leading to "higher prices throughout the market, greater competition  
11 at the time of sale, and out-of-state landlords showing less care for properties and  
12 renters."

13 **PARTIES**

14 16. Frank Richmond ("Richmond") is an adult residing in Port Orchard,  
15 Washington, and is a citizen of Washington.

16 17. Michael and Kelley McDermott ("the McDermotts") are adults residing in  
17 Tacoma, Washington, and are citizens of Washington.

18 18. Defendant Home Partners Holdings LLC is incorporated in Delaware with  
19 its principal place of business in Chicago, Illinois.

20 19. Richmond's lease indicates he entered into an agreement with Defendant  
21 HP Washington I LLC.

22 20. Defendant HP Washington I LLC merged with and into SFR Acquisitions 1  
23 LLC, which after merged with and into SFR Borrower 2022-1 LLC

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1           21.    The McDermotts entered into a lease agreement with Defendant HPA  
2 Borrower 2017-1 LLC.

3           22.    HPA Borrower 2017-1 LLC merged with and into SFR Borrower 2021-2  
4 LLC.

5           23.    Upon information and belief, Home Partners or one of its subsidiaries  
6 operates and purchases homes through separately incorporated shell limited liability  
7 companies (“LLCs”).

8           24.    Home Partners (or one of its officers or employees) is a member of those  
9 LLCs. Defendants HP Washington I LLC (now SFR Borrower 2022-1 LLC) and HPA  
10 Borrower 2017-1 LLC (now SFR Borrower 2021-2 LLC) are two of these entities. Both are  
11 incorporated in the State of Delaware with their principal place of business in Chicago,  
12 Illinois.

13           25.    Upon information and belief, Defendants conduct business through  
14 multiple, separately incorporated shell LLCs incorporated in Delaware and registered in  
15 various states where the homes are located.

16           26.    HP Washington I LLC (now SFR Borrower 2022-1 LLC), HPA Borrower  
17 2017-1 LLC (now SFR Borrower 2021-2 LLC) and these other LLCs were, at all relevant  
18 times, the agent, servant, employee, alter-ego or joint venture of Defendant Home  
19 Partners, and acted within the course and scope of such agency, employment, alter-ego  
20 and/or in furtherance of the joint venture, and with the permission and consent of each  
21 of the other Defendants.

22           27.    Defendant OPVHHJV LLC, d/b/a Pathlight Property Management is a  
23 subsidiary, agent, and alter ego of Home Partners of America.

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1 28. Pathlight is incorporated in Texas with its principal place of business in  
2 Texas.

3 **JURISDICTION AND VENUE**

4 29. This Court has original subject matter jurisdiction over this controversy  
5 pursuant to the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), because  
6 Plaintiffs and members of the proposed Class are citizens of states different than  
7 Defendants’ home states, and the aggregate amount in controversy exceeds \$5 million,  
8 exclusive of interests and costs.

9 30. This Court has personal jurisdiction over Defendants because they have  
10 conducted substantial business in this District and intentionally and purposefully  
11 market, promote, and place their homes into the stream of commerce throughout the  
12 United States.

13 31. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a  
14 substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in this  
15 District. Defendants marketed, advertised, leased and sold the affected homes, as well as  
16 conducted extensive business, within this District.

17 **FACTUAL ALLEGATIONS**

18 **I. Defendants’ lease to purchase scheme**

19 32. Defendants collectively own, lease, and manage approximately 17,000  
20 homes in 70 markets located in 32 states.

21 33. Cementing their alter ego relationship, Pathlight states on its website that  
22 both Pathlight and Home Partners “are proud to offer” lease programs to prospective  
23 tenants.

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1           34. Home Partners is now a subsidiary of Blackstone Inc., a New York City-  
2 based investment firm.

3           35. In a \$6-billion dollar deal, Blackstone purchased Home Partners through an  
4 investment fund called Blackstone Real Estate Income Trust.

5           36. Blackstone is one of many large firms to capitalize off of the 2010 foreclosure  
6 crisis precipitated by the Great Recession.

7           37. As thousands of families lost their homes, the federal government launched  
8 a pilot program that allowed Blackstone and other private investors, some of whom  
9 facilitated the financial crisis in the first place, to purchase swaths of foreclosed homes  
10 from Fannie Mae.

11           38. Against this background, Home Partners and Pathlight entered the  
12 residential real estate market in 2012 as a real estate investment and property  
13 management group, claiming that by purchasing homes on behalf of residents in markets  
14 nationwide, they would help thousands of home-seekers live in a home they otherwise  
15 were not yet ready to purchase, under terms that best fit their needs.

16           39. Defendants state they rent single-family homes to persons in three primary  
17 demographics: (1) recent transferees to an unfamiliar or new city or suburb; (2) persons  
18 desiring to live in a single-family home, but who lack the creditworthiness to obtain a  
19 mortgage; and (3) persons who want to rent a single-family home but who are  
20 “uncertain” about home ownership.

21           40. Defendants peddle to these demographics through targeted marketing to  
22 real estate agents, and through online and print advertisements that advertise the  
23 availability of homes.

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1 41. Defendants market themselves as a joint entity: Pathlight's website  
2 (<https://www.pathlightmgt.com/>)<sup>1</sup> contains a Home Partners' logo and reference<sup>2</sup>,  
3 demonstrating their interlocking relationship.

4 42. Specifically, Pathlight's website makes numerous references to Home  
5 Partner's lease and refers to [homepartners.com](http://homepartners.com) for terms and conditions.

6 43. In addition, Pathlight's website also states, in relevant part, "Home Partners  
7 of America is committed to making homeownership a reality for more people by  
8 providing a clear path to homeownership. Our process is easy, transparent, and built on  
9 a foundation of choice and flexibility. Home Partners is helping people get into great  
10 homes, in neighborhoods they love, with the opportunity to build a more secure financial  
11 future."

12 44. Home Partners' web site states, "[f]rom the beginning, Home Partners and  
13 Pathlight communicate with residents throughout the entire process. Once the house has  
14 closed and the Make-Ready renovations have been completed, Pathlight will send a  
15 Welcome Email to residents that outlines the move-in process and answers questions that  
16 may arise during the lease term."

17 45. Defendants market extensively through their own websites as well as local  
18 real estate agencies.

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21  
22 <sup>1</sup> Last visited on August 6, 2022.

23 <sup>2</sup> Compare with the logo at Home Partners' website: <https://www.homepartners.com/>.  
24 Last visited on August 6, 2022.



1           46. Once a prospective tenant expresses interest in a particular property,  
2 Defendants together claim they expend significant effort and resources to purchase a  
3 particular home on the prospective tenant's behalf.

4           47. Though Defendants claim in their form documentation that they are  
5 purchasing properties specifically selected by a prospective tenant prior to rental, Home  
6 Partners (either wholly or through its alter ego LLCs) likely already owns the home.

7           48. Indeed, a recent search of Pathlight's property listing of available homes  
8 yielded more than 60 available homes across the state of Washington.

9           49. To induce persons to go through Home Partners and the lease-to-purchase  
10 program, Home Partners represents "[o]nce a home is identified and approved by Home  
11 Partners, Home Partners will attempt to purchase the home - the outcome of which will  
12 depend on certain conditions being met such as agreeing on a purchase price with the  
13 seller, a satisfactory inspection, attorney review of the purchase contract, and other  
14 closing conditions being satisfied." Thus, Home Partners represents the house is  
15 "qualified" and has passed its inspection.

16           50. Pathlight further represents, for every home available for lease, that the  
17 home is "[p]rofessionally managed by Pathlight Property Management, the exclusive  
18 property manager for Home Partners of America, offering excellent customer service,  
19 24/7 emergency maintenance service, online application and payments, and pet-friendly  
20 options."

21           51. For each house, Defendants set a monthly base rent for each year in which  
22 a tenant occupies a house.

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1           52.     Base rent increases by up to 3.75% year over year, which is above average  
2 for many metropolitan areas where Defendants rent homes.

3           53.     Defendants also establish an “Estimated Acquisition Cost” (also defined in  
4 Defendants’ form documents as the “Purchase Price”) if the tenant chooses to exercise  
5 the “right” to purchase during or at the end of the lease. Incorporated into the Estimated  
6 Acquisition Cost are “make ready” costs allegedly expended by Defendants prior to  
7 move-in and during the tenancy.

8           54.     Defendants state and admit they do not negotiate these amounts with  
9 tenants, and unilaterally set the house’s estimated purchase price above the actual  
10 amount expended to purchase the house, closing costs included.

11           55.     Nonetheless, in contradiction of the foregoing statements, which are  
12 provided to the general public and tenants before they sign any lease, Home Partners  
13 later represents in its form adhesion leases that “the amount of Rent was negotiated with  
14 the express understanding that Tenant will be responsible for the maintenance needs of  
15 the Premises.”

16           56.     Home Partners is not a lender. Consumers who wish to exercise the option  
17 to purchase must secure a mortgage from a third party, just as with any traditional home  
18 purchase.

19           57.     Home Partners does not apply or credit any amount paid in rent or on  
20 maintenance or repair during the lease term to reduce the purchase price or to be applied  
21 as a down payment. In other words, consumers who rent through Defendants do not  
22 build equity in the home.

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1           58.     Only 20% of the persons who enter the lease-to-purchase agreements with  
2 Home Partners eventually purchase the home.

3           59.     At bottom, and as further described herein, Defendants’ lease-to-purchase  
4 program is an elaborate ruse designed to induce and convince prospective customers that  
5 they are renting a specially chosen, “qualified” i.e., quality home that is different than,  
6 and an alternative to, a traditional rental – and then to convince consumers to agree to  
7 take on substantial homecare burdens foisted on tenants by Defendants’ adhesive form  
8 leases.

9           60.     Despite their effort to establish an extra-legal relationship with their tenants  
10 through these elaborate contracts of adhesion, Defendants cannot write their way out of  
11 their statutory legal obligations to their tenants.

12           **II.     Defendants’ form contracts shift the burden of maintenance and repair**  
13           **onto tenants**

14           61.     Since at least 2016, Defendant Home Partners has included provisions in its  
15 carefully crafted form leases that illegally purport to shift its maintenance obligations  
16 onto tenants, including for situations where the damage is not caused by the tenant’s  
17 conduct:

18           a.     “Tenant shall, at Tenant’s expense, maintain the Premises (including all  
19 appliances, systems and fixtures located thereon...)...and keep same in a clean, safe and  
20 healthy condition and in good working order.” (emphasis in original)

21           b.     “Tenant agrees to pay for (a) all repairs, maintenance or replacement  
22 required to the Premises, including the walls, windows, storms (sic) doors/windows and  
23 screens, ceilings, paint, plastering, plumbing work, pipes, and fixtures belonging to the  
24

1 Premises, whenever damage or injury to the same shall have resulted from misuse, waste  
2 or neglect by the Tenant..." (emphasis in original)

3 62. Defendants further disclaim in form leases any obligation to comply with  
4 the Covenants of Habitability, stating "Tenant hereby represents, warrants and  
5 acknowledges that it is leasing the Premises in its 'AS-IS, WHERE-IS, WITH ALL  
6 FAULTS' condition, fitness for any particular purposes, merchantability, habitability or  
7 any other warranty of any kind, nature, or type whatsoever[.]"

8 63. These lease provisions are designed to obscure, mislead and misrepresent  
9 Defendants' true legal obligations to renters.

10 64. As further evidence of an intent to mislead and misrepresent obligations to  
11 renters and to shift the costs of repair onto tenants, Home Partners represents that as a  
12 component of its lease-to-purchase program, the parties have a "mutual responsibility to  
13 maintain the home," in contrast to the traditional landlord-tenant relationship, and that  
14 this alleged "mutual responsibility" creates an advantage for the tenant over the  
15 traditional landlord-tenant relationship.

16 65. Defendants fail to disclose, however, that nothing in their unwieldy,  
17 lengthy "Residential Lease Agreement" can abridge a tenant's rights, nor does the lease  
18 create anything other than a traditional landlord-tenant relationship.

19 66. Defendants' "as-is" and burden-shifting repair provisions mislead  
20 consumers about their guaranteed rights and remedies under applicable state law by  
21 misrepresenting to consumers that they, not Defendants, are required to keep  
22 Defendants' properties in reasonable repair. Thus, in addition to misrepresenting tenants'  
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1 rights, Defendants' leases are agreements with tenants that purport to waive or modify  
2 the landlord's duties in direct violation of the law.

3 67. Defendants' burden-shifting maintenance and repair provisions not only  
4 contravene the common law covenants of habitability and state statutes, but also  
5 deceptively and misleadingly suggest to tenants that their signatures on the lease  
6 constitute a waiver of their right to habitable housing.

7 68. These unlawful provisions have and continue to have the effect of  
8 fraudulently stripping consumers of their legal rights and burdening them with repair  
9 efforts and expenses that the law explicitly requires Defendants to bear.

10 69. Defendants obtain an independent inspection and property appraisal,  
11 allegedly for the benefit of the tenant, yet none of the Defendants provide tenants with  
12 the inspection report or the appraisal.

13 70. When tenants request a copy of the inspection report, Defendants refuse to  
14 produce it.

15 71. Instead, these provisions are given to Defendants and undertaken on  
16 Defendants' behalf prior to Home Partners' purchase of the home.

17 72. As owners and property managers of the home, they are in the best position  
18 to obtain and provide that information.

19 73. Thus, no Defendant discloses the existence of any pre-existing damage to  
20 the home of which they may have already been aware.

21 74. Pathlight further represents that due to the fact that the property being  
22 purchased will be a rental, county or municipal inspections may occur only after Home  
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1 Partners closes on a home, allowing Defendants to rent the home under local licensing  
2 requirements.

3 75. Therefore, not only may a property be unavailable for rent upon closing,  
4 but it may not be available until it passes the mandatory inspection.

5 76. Pathlight does not disclose the results of these inspections.

6 77. Despite the lengthy and specific list of duties Washington statutes confer  
7 on every landlord, during the tenancy, and as described herein, Pathlight often refuses to  
8 make even basic repairs, undertake repairs required by the form lease and statute, and  
9 suppresses tenants' ability to report their repair concerns and to have repairs completed.

10 78. This is due in part to the fact that instead of employing a local agent or  
11 property manager who personally responds to a tenant's maintenance request, that  
12 request is directed to an out-of-town call center or a website that purports to be managed  
13 by Pathlight, which then assigns a maintenance worker who requires the tenant be on-  
14 site to make the repair - that is, if Pathlight agrees to the repair in the first place.

15 79. Pathlight requires tenants to use an online "Resident Portal" for all  
16 communications, including repair requests.

17 80. Pathlight claims to respond to tenants within 24 hours, yet they rarely reply.

18 81. If they do actually reply, the reply is often sent well beyond the 24-hour  
19 timeline Pathlight promises.

20 82. Because Pathlight frustrates tenants' attempts to successfully make  
21 maintenance requests, the result is a system whereby tenants, not Defendants, are forced  
22 to pay for repairs and maintenance that they are not required to make under the lease or  
23 applicable state law.

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1           83. In addition to paying out of pocket for repairs to Defendants' properties as  
2 they arise, or from their security deposits at the end of tenancy, tenants also use their own  
3 scarce funds every month to comply with Defendants' so-called "Minimum Required  
4 Insurance," which is listed as a clause within the lease and also as an addendum to the  
5 lease. Tenants are required to procure their own insurance in the amount of \$300,000 for  
6 "damage to our property during your lease term," otherwise, Defendants automatically  
7 enroll tenants into their "Master Resident Liability Program" in the amount of \$100,000,  
8 which solely covers Defendants' property.

9           84. Pathlight force places tenants in this "Master Resident Liability Program"  
10 for \$13 per month if tenants do not procure their own renters' insurance with the  
11 understanding that "such policy will be purchased by the Landlord for its own benefit."  
12 Pathlight discourages tenants from procuring outside insurance, stating that "using an  
13 outside provider may cost \$20 per month or more."

14           85. If tenants procure their own insurance, tenants are required to name  
15 Pathlight as an "additional interested party" on the general liability portion of the policy.

16           86. Defendants additionally do not disclose that they intend for tenants (or  
17 their independently-procured insurance coverage) to pay for and cover pre-existing,  
18 accidental, or normal wear and tear damage to Defendants' buildings and real property,  
19 not caused by tenants, which are not covered by the typical renters' insurance policy.

20           87. In other words, Defendants deliberately foist the burden of insuring their  
21 own real property onto tenants.

22           88. Defendants also require tenants to pay various fees associated with lease  
23 administration and management, including a "Utility Billing Service Fee" (UBSF). The  
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1 UBSF is a “pay-to-pay” fee for utilities and services that must be kept in the Landlord  
2 and property owners’ name and must be paid by them. Tenants do not have the option  
3 to opt out of the UBSF.

4 89. Defendants employ a third party, Conservice, to manage those utilities and  
5 services kept in Defendants’ names, such as water, trash and sewer. Conservice then bills  
6 the utilities to the tenants, by separate bill, and all amounts are reflected on tenants’  
7 ledgers and tenants can remit payment to Defendants.

8 90. In Washington, Defendants’ UBSF is at least \$9.95 per month. This fee is  
9 non-negotiable.

10 91. Upon information and belief, Conservice, as Defendants’ agent and acting  
11 jointly with Defendants, uniformly, unfairly and deceptively charge more than the actual  
12 amount billed for utilities.

13 92. Defendants also require tenants to pay an “HVAC filter fee” pursuant to an  
14 Air Filter Addendum and “Utility & Maintenance Reduction Program” of \$15 per month.  
15 This amount is non-negotiable. Defendants contract with a third party, Second Nature,  
16 to deliver air filters to tenants every 60 days, and per the form lease and addenda, tenants  
17 are not permitted to opt out of this obligation and supply their own air filters purchased  
18 from other sources at considerably less expense. The lease further requires tenants to  
19 install the filters within two days after delivery, for the purpose of ensuring “that you  
20 have the best possible air quality in your home.” This cost is shifted even where  
21 Defendant agrees that “Furnace/HVAC cleaning and servicing” is the landlord’s  
22 responsibility under the lease agreement. Defendants also require tenants to pay for  
23 Defendants’ attorneys to review their ledgers for purposes of determining whether a  
24

Fourth Amended Complaint - 16

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1 tenant is allegedly in default of any lease obligation. Defendants charge the tenants for  
2 this attorney review, regardless of whether Defendants attempt to enforce any lease  
3 obligation through legal action. These legal fees violate Washington law, which prohibits  
4 rental agreements from shifting the landlord's attorney's fees to the tenant. Wash. Rev.  
5 Code § 59.18.230.

6 93. All of the above fees are non-negotiable and are deemed "additional rent"  
7 under the form lease. If any fee is unpaid by the time the "monthly base rent" is due—  
8 and even if a tenant has fully paid their base rent—Defendant has discretion to charge a  
9 late fee under the lease agreement, in the amount of \$20 or ten percent of the unpaid rent  
10 amount, whichever is greater.

11 94. The "monthly base rent" is defined in relation to the amount stated in the  
12 lease and which is to be paid in a calendar month to Pathlight, presumably for use of the  
13 premises, but is given no formal definition in the lease.

14 95. "Additional rent" means "any and all sums (exclusive of Monthly Base Rent  
15 and Pro-Rated Rent) that are required to be paid to Landlord...". Included in those  
16 amounts due and payable by the Tenant are any utilities, the force-placed "liability  
17 coverage," cancelled service call fees, - late fees and the administrative utility fee.

18 96. The lease further provides that the monthly base rent and additional rent  
19 must be paid on or before five days from the date due, and that Landlord shall have the  
20 right to apply any funds received from or on behalf of Tenant "shall be applied to the  
21 oldest outstanding monetary obligation owed by Tenant to Landlord".  
22  
23  
24

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1 97. Together, these provisions mean tenants must pay all amounts billed,  
2 including the “liability coverage,” UBSF, utilities (to the extent not paid separately), and  
3 other miscellaneous fees in full by the time their next rent payment comes due.

4 98. If a late fee has been assessed in the prior month, and the tenant’s full  
5 balance is not paid by the fifth of the next month, a late fee will continue to be assessed  
6 on the remaining balance at a rate of ten percent – even if a tenant has fully paid all “base  
7 rent.” In other words, Pathlight calculates the initial late fee based on the ten percent of  
8 the unpaid monthly base rent. Because (1) it applies tenant payments to non-base rent  
9 items first, irrespective of whether those items are actually rent (i.e., amounts charged for  
10 use of the premises) and when they were incurred in the calendar month, and (2) then  
11 rolls a late fee into “additional rent,” tenants are faced with cumulative late fees in  
12 violation of Washington law. "A landlord must first apply any payment made by a tenant  
13 toward rent before applying any payment toward late payments, damages, legal costs, or  
14 other fees, including attorneys' fees." Wash. Rev. Code § 59.18.283.

15 99. Even if Defendants did not enforce their illegal lease provisions, these  
16 provisions are nonetheless deceptive because consumers who read them or are told of  
17 them are likely to believe they are enforceable or that they have contractually waived  
18 their legal rights not to be responsible for repairs to Defendants’ own property.

19 **III. Plaintiff Richmond’s experience**

20 100. Richmond and his family began renting a home through Defendants in Port  
21 Orchard, Kitsap County, Washington in September 2021.

22 101. Richmond was looking to rent a home and rented through Defendants  
23 because Defendants’ representations, as described above, led him to believe they would  
24

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1 provide a quality home that would not require substantial upkeep or maintenance, based  
2 upon the assurance of quality and inspection provided by Defendants.

3 102. Richmond was not committed to purchasing the home through Defendants,  
4 but considered it a possibility.

5 103. Defendants had already purchased multiple homes in the area, and there  
6 were very few to choose from.

7 104. Richmond received Defendants' form "Residential Lease Agreement,"  
8 drafted by Home Partners' lawyers and consisting of 47 clauses and 21 pages of  
9 approximately 8-point font, plus numerous attachments and addenda, and incorporated  
10 a "Residential Right to Purchase Agreement."

11 105. The written form lease initially set a base rent of \$3,060 per month, plus a  
12 monthly \$30 pet fee, for the first year of the tenancy, with yearly rent hikes of  
13 approximately 3.6% year over year.

14 106. Richmond was not provided an opportunity to negotiate these amounts.

15 107. The lease term was for a period of one year, and was subject to an automatic  
16 yearly renewal provision of up to four renewals, i.e., for a total of five years.

17 108. Upon move-in, the entire home was full of dirt and trash and had not been  
18 cleaned.

19 109. Per Richmond's lease, Defendants are responsible for furnishing and  
20 maintaining certain appliances upon commencement of the lease period, including a  
21 refrigerator.

22 110. Defendants did not supply a refrigerator until one week and several phone  
23 calls later.

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1 111. Richmond documented various damage to the house, including, but not  
2 limited to: chipped paint throughout the home; a broken fence; a back door that had been  
3 screwed shut; bubbling sheetrock joint tape, dents, nails and screws in the walls and  
4 ceiling; cracks in the garage floor; broken window screens; light fixtures hung improperly  
5 and dangerously; and broken light switch plates.

6 112. Richmond requested through Defendants' rental paperwork that the  
7 interior walls be re-painted.

8 113. Defendants sent a painting crew to the home, who informed him that paint  
9 had worn off the home's exterior trim.

10 114. With Washington's wet weather, the painters told Richmond that the  
11 exposed wood could soak up water and begin to rot.

12 115. The painters said they would acquire a work order through Pathlight to  
13 repaint the exposed trim.

14 116. Pathlight did not approve of the repair, so the wood remains exposed to the  
15 elements.

16 117. Defendants informed Richmond he must sign up for Defendants' renter's  
17 insurance plan.

18 118. Richmond declined, informing them he already had his own liability  
19 coverage through a different provider.

20 119. Despite presenting proof of his own liability insurance plan, Defendants  
21 enrolled Richmond in their "Master Resident Liability Program" without his consent, and  
22 have continued to bill him each month, effectively forcing him to pay for their insurance  
23 despite the fact that he already had his own.

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1           120. Despite his repeated requests, Defendants have not reimbursed for their  
2 policy that he continues to pay.

3           121. Richmond has continued to pay the amounts due and owing under the  
4 lease during his tenancy, and also maintained and provided evidence that he maintained  
5 the allegedly required renter's insurance coverage.

6           122. While Richmond understood that he would be required to pay for some  
7 utilities, he did not agree to pay for any pre-existing damage, nor was he provided any  
8 reimbursement or consideration for undertaking any repairs.

9           123. Upon signing the rental agreement, Richmond was informed that because  
10 the house was equipped with proper ducting, Pathlight would install a new air  
11 conditioning unit prior to move-in.

12           124. During the three-week window between Defendants closing on the home  
13 and the Richmonds moving in, the air conditioning unit was never installed.

14           125. Finally, two weeks after the Richmonds moved in, Pathlight sent an air  
15 conditioning company to the home to provide an estimate.

16           126. The air conditioning unit was eventually installed one month later.

17           127. In late spring 2022, the carbon monoxide alarm in the garage began  
18 sounding an alarm every day. Pathlight agreed to send a service technician, who  
19 determined the exhaust system for the furnace and hot water heater was improperly  
20 installed when the air conditioning unit was put in. The service technician remedied the  
21 issue, but approximately three weeks later, the alarm began to sound again. The  
22 Richmonds again notified Pathlight, but Pathlight refused to send a technician as the  
23 carbon monoxide alarm is a "resident care item."

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1 128. Defendants, stating they allegedly care about air quality in their homes,  
2 force tenants, including Richmond, to pay for monthly air filter replacements for the air  
3 conditioning unit.

4 129. Defendants' lease contains an "Air Filter Addendum" which requires  
5 residents to enroll in their "Utility & Maintenance Reduction Program" and pay a  
6 monthly \$15 fee for air filter replacements.

7 130. The "Air Filter Addendum" states "[t]here is not an opt-out option for this  
8 program, as it is designed to ensure that the air quality in your home is safe, and your  
9 system is functioning properly."

10 131. The new air filtration system requires the air filters to be replaced once per  
11 year. Richmond was given an extra filter to serve as the first replacement filter.

12 132. Defendants first sent and billed Richmond for air filters. The air filters only  
13 fit the old unit that had already been replaced.

14 133. The air filters he continued to receive and pay for did not fit the new unit.  
15 Defendants reimbursed Richmond for some of the filters he received, but continued to  
16 keep this charge on his ledger..

17 134. In addition, Defendants required the Richmonds to pay the monthly  
18 "Utility Billing Service Fee" along with the Monthly Base Rent for each month where  
19 Landlord provides Tenant a bill for reimbursement for any Excluded Utility & Service  
20 paid for by Landlord plus (b) the Utility One-Time Fee..."

21 135. Employees from All County Septic Service ("ACSS") informed Richmond  
22 that the home's septic system is in violation of various codes, and that the septic system  
23 had been in violation since before he began renting.

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1 136. ACSS informed Richmond that Defendants had outstanding payments for  
2 septic services rendered before the Richmonds moved in.

3 137. When the septic system alarm went off, Richmond called ACSS per the  
4 information sticker on the alarm box.

5 138. ACSS informed him he needed to contact Pathlight to fix the issue. Pathlight  
6 never responded to his requests and the Richmonds went more than two days without  
7 water.

8 139. ACSS informed Richmond that because there was still a balance due on the  
9 account, they weren't required to tend to the alarm.

10 140. However, because they were aware of Pathlight's reputation, and because  
11 the Richmonds themselves did not cause the alarm to sound, ACSS agreed to provide  
12 service despite never receiving a response from Pathlight.

13 141. Months after signing the lease, Defendants sent Richmond an agreement  
14 via email denoting an increase in the purchase price of the home, as well as increased  
15 monthly base rent for the remaining four years of the lease.

16 142. This agreement was to be signed and returned to Defendants. Defendants  
17 have sent several email reminders requesting the Richmonds execute the agreement.

18 143. Richmond did not agree to these increased prices and did not sign the  
19 agreement.

20 144. After vacating the premises, Defendants withheld portions of the  
21 Richmonds' security deposit without lawful basis for items like "Liability Coverage",  
22 "Service Fee", "Water Utility Recovery", "Utility Billing Service Fee" and a "Late Fee  
23 Charge.

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1           145. In addition, in December 2022, two months after Richmond and his family  
2 left the home but after Richmond had filed suit in this case, Defendants charged the  
3 Richmonds a \$250 “legal services recovery fee” (i.e., an attorneys fee). Defendants did not  
4 provide the Richmonds notice of this fee when they assessed it.

5           146. Defendants then sent this amount to collections, using their debt collector  
6 “Rent Debt”.

7           147. Plaintiff Richmond’s wife Shannon received an unsolicited call from Rent  
8 Debt on or about May 10, 2023. The Richmonds then asked Rent Debt to send written  
9 correspondence regarding the alleged debt, as required by the Fair Debt Collection  
10 Practices Act.

11           148. Rent Debt sent a collections letter stating that “as of 10/4/2022” the  
12 Richmonds owed Pathlight \$250.

13           149. The Richmonds did not understand why this debt was owed or what it was  
14 for. Pathlight had partially refunded their security deposit, less disputed amounts, as  
15 described in paragraph 144.

16           150. The undersigned counsel sent a letter to Defendants demanding that  
17 collection actions be stopped and requesting confirmation that the debt was not owed.

18           151. Defendants agreed to cease collections but did not confirm the alleged debt  
19 for alleged attorneys fees was not owed.

20           **IV. Plaintiffs McDermotts’ experience**

21           152. Plaintiffs Michael and Kelley McDermott currently rent a home through  
22 Defendants in Tacoma, Washington.

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1           153. The McDermotts began renting a home through Defendants because their  
2 representations, as described above, led them to believe they would provide a quality  
3 home that would not require substantial upkeep or maintenance, based on the assurance  
4 of quality and inspection provided by Defendants.

5           154. The McDermotts received Defendants' form, "Residential Lease  
6 Agreement," drafted by Home Partners' lawyers.

7           155. The lease consists of numerous pages of approximately 8-point font, plus  
8 numerous attachments and addenda, which incorporated a "Residential Right to  
9 Purchase Agreement."

10           156. The McDermotts have paid the amounts due and owing under the lease  
11 during their tenancy, and also maintained and provided evidence that they maintained  
12 the allegedly required insurance liability coverage.

13           157. While the McDermotts understood that they would be required to pay for  
14 some utilities, they did not agree to pay for any pre-existing damage, nor were they  
15 provided any reimbursement or consideration for undertaking any repairs.

16           158. Upon move-in, the entire property was covered in weeds and overgrown  
17 grass. Pathlight did not respond to the McDermotts' requests to address this issue.

18           159. The McDermotts paid out-of-pocket to eradicate the weeds.

19           160. Pathlight refused to fix the fence that had fallen in a storm, and stated they  
20 needed the McDermotts to provide their neighbor's information in order for their  
21 neighbor to pay for half of the fence.

22           161. They did not attempt to get this information themselves. Instead, Pathlight  
23 required the McDermotts' to obtain this information.

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1 162. The McDermotts ultimately paid out of pocket to repair the fence.

2 163. The McDermotts' dishwasher stopped functioning during their tenancy.  
3 The McDermotts reported the malfunction as soon as the dishwasher stopped working.

4 164. Three months later, and after requesting Pathlight replace the unit multiple  
5 times, Pathlight finally furnished a functioning dishwasher.

6 165. In October 2021, the McDermotts discovered black mold on the walls of  
7 their dining room.

8 166. Pathlight sent a water remediation assessor to their home, who determined  
9 the entire wall, as well as the dining room floor, would need to be torn out.

10 167. By removing the wall, their home became exposed to the outdoors and was  
11 replaced with plywood over the winter, which caused the McDermotts' heat bill to  
12 increase.

13 168. Pathlight sent multiple contractors to assess the black mold in the home.

14 169. Upon discovering the black mold had permeated nearly the entire home,  
15 contractors tore off the entire front of the home.

16 170. Work was stalled for months over the course of the winter.

17 171. Since the McDermotts' initial call in October 2021, Pathlight had sent  
18 multiple contractors to the home.

19 172. The McDermotts lived in a home constructed largely of plywood for nearly  
20 an entire year.

21 173. The entire front of the home was covered in tarp from approximately  
22 October 2021 to August 2022.

23 174. The replacement plywood is currently growing mold.

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1           175. The McDermotts' floors remain in disrepair and Pathlight's contractor has  
2 been, and continues to reschedule the service appointment.

3           176. The McDermotts attempted to negotiate a rent credit with Pathlight due to  
4 their inability to use multiple rooms in the house, as well as their concerns with health  
5 hazards associated with mold.

6           177. Pathlight told the McDermotts they would negotiate once the work was  
7 completed.

8           178. Because a tremendous length of time has passed since the issue was first  
9 discovered, and the McDermotts' inability to use multiple rooms in the home, the  
10 McDermotts considered hiring a contractor of their own to complete the work on the  
11 house, but have not yet done so.

12           179. The McDermotts estimate they have spent over 25 hours over the phone  
13 with Pathlight representatives and days taken off work to meet with the multiple,  
14 different contractors Pathlight sent to handle the black mold issue.

15           180. Each contractor who reported to the McDermotts' home was unaware of  
16 the extent of the damage.

17           181. A contractor visited the home on May 20, 2022 with a work order indicating  
18 mere "discoloration" within the structural components of the home.

19           182. In April 2022, Pathlight sent the McDermotts an agreement to renew the  
20 lease with a \$300 increase in monthly rent.

21           183. Due to the tremendous demand in the rental market in the Tacoma,  
22 Washington area, and their desire to keep their children in the same school district, the  
23 McDermotts felt they have had no choice but to continue renting through Defendants.

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1           **V.     Numerous tenants nationwide complain**

2           184.    Plaintiffs are not alone.

3           185.    Across the country, numerous complaints have been lodged against either  
4 Home Partners or Pathlight through social media such as LinkedIn or Facebook, through  
5 the Better Business Bureau, or in conciliation or housing court litigation, for their failure  
6 to return security deposits owed, or to keep their properties in reasonable repair.

7           186.    As reported by numerous tenants, Defendants often ignore tenant repair  
8 requests or wait an inordinately long time before addressing the repair.

9           187.    For example, the Better Business Bureau contains the following litany of  
10 recent complaints:

11           MB

12           1 star

13           12/15/2021

14           BEWARE, SAFETY HAZARDS. To start, we found an electrical box on the  
15 outside wall of our home with open wires touching insulation. Later, our home flooded  
16 from the floor of the second story and ceiling of the first story during freezing winter  
17 storms. The flood damaged the kitchen and dining room ceilings, kitchen cabinets, trim,  
18 drawers, and three different types of flooring (wood, tile, and carpet) in the kitchen,  
19 dining area, and living room. Pathlight's homeowners insurance should have covered  
20 this per the lease agreement yet I don't even think Pathlight filed a homeowners  
21 insurance claim. It took two weeks for the plumbing to be fixed and we were not  
22 compensated for staying at a hotel. Despite contacting Pathlight repeatedly and putting  
23

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1 in work orders for ALL the damages, it took 4-5 months for them to replace the carpet  
2 alone. When they pulled up the pad it was covered in mold. We had told them for  
3 months we were living in a moldy, water damaged home and they did not care!! More  
4 safety hazards. In the end, they didn't repair half of the damages from the flood.  
5 Pathlight Property Management did not uphold their end of the terms of our lease  
6 agreement. To add insult to injury, we never received our \$1,995 deposit back despite  
7 reaching out to try and receive it. If I could give Pathlight 0 stars, I would!!

8 Paula F

9 1 star

10 12/07/2021

11  
12  
13 One star is even too much for this company. I am a professional and work 10-12  
14 hours a day as does my husband. We choose a rental through this company because  
15 they were offering option to buy, however- it has been a nightmare and we have only  
16 been in our house for two months. These people are impossible to get ahold of, when  
17 you call you are on hold for 20 minutes to an hour then you get someone who cannot  
18 help you and say they are transferring you to someone who can and you are on hold  
19 another 20 minutes then get hung up on. I had a horrible pool company where they  
20 were not even maintaining my pool, they were just checking the water, I sent this video  
21 to Pathlight who sent me an addendum after several phone calls and emails to maintain  
22 my own pool. I hired a reliable pool company and who comes on Monday? The creepy  
23 pool guy from pathlights company to check my water and take a picture of my house!

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1 "all of this on video" I was charged 100.00 for a pool maintenance fee which I should  
2 not pay as my pool was not maintenance! I also was charged a 13.00 liability charge the  
3 second month but I have my own liability insurance and have proven that to them. I get  
4 an email stating it was a mistake then the next day I get an email telling me I own it! Do  
5 not,,,, I repeat ... I am warning you! I looked over all the red flags and did it anyway, do  
6 not rent from these people! If it looks too good to be true believe it!!! I am currently on  
7 hold the second time for ten minutes now waiting for the people w"o "can really  
8 help"me" trust me this will not happen! I am going to the better business bureau and  
9 any social media outlet that I can this is a horrible horrible company!

10 Frank K

11 1 star

12 12/06/2021

13  
14  
15 I moved out, left the property in great shape. The dishwasher worked the whole  
16 time I was in the property. They said it wouldn't start, they had no proof of it not  
17 working but they replaced the dishwasher without having a repairman come out. They  
18 charged me \$750 without contacting me. They will not return emails or have any one  
19 return calls. They are very unprofessional. Very disappointed with this company  
20 ripping me off.

21 Complaint Type: Problems with Product/Service

22 Status: Answered

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1 12/20/2021

2 I used this company as a rent to own or rent with a right to purchase but had to  
3 end/term lease early due to domestic violence. This company uses a property  
4 management company called \*\*\*\*\* who is wrongfully withholding  
5 my security deposit. Based on \*\*\*\*\* laws they have 21 days to return my deposit to  
6 me have not done so, the property management company has also not reached out or  
7 notified me in any way.  
8

9 188. These are not isolated complaints.

10 189. Hundreds of these complaints exist.

11 190. Indeed, a private Facebook group called “Home Partners of America—  
12 Company of Stolen Dreams” contains over 1,500 members.

13 191. Only Defendants, however, are aware of the total number of complaints  
14 lodged against them, including through Pathlight’s online portal and 800-number.

15 192. Defendants’ advertising that they will quickly make repairs and be  
16 available 24/7 misrepresents the service Defendants actually provide.

17 193. In reality, Defendants sometimes never make requested repairs or make  
18 insufficient repairs.

19 194. This court was recently faced with a similar action between Defendants and  
20 their tenants in *Norwood v. HPA Borrower 2018-1 LLC*, No. C21-5843JLR, 2021 WL 5630961  
21 (W.D. Wash. Dec. 1, 2021). In *Norwood*, the plaintiffs entered into a lease agreement with  
22 Defendants and reported multiple instances of roof leakage, mold, ceiling damage,  
23 insulation damage and plumbing issues that Defendants failed to remedy.

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1 195. These substandard living conditions and resulting health issues forced  
2 plaintiffs to vacate their home.

3 **CLASS ACTION ALLEGATIONS**

4 196. Plaintiffs bring this action pursuant to Federal Rule of Civil Procedure 23  
5 and seeks to represent a class of:

6 All persons who entered into a rental agreement with Defendants  
7 in Washington since January 2014 to the present.  
8

9 197. The requirements for class certification under Federal Rule of Civil  
10 Procedure 23 are met as follows:

11 a. Plaintiffs are informed and believe, and on that basis allege, that between  
12 January 2014 and the present (the "Class Period,") there are thousands of persons who  
13 have entered into rental agreements with Home Partners. As such, the members of the  
14 Class are so numerous that joinder of all members in one proceeding would be  
15 impracticable.

16 b. There are common questions of law and fact common to the Class,  
17 including without limitation:

18 i. Whether Defendants' contracts of adhesion illegally disclaim the covenants  
19 of habitability and violate Washington's RLTA;

20 ii. Whether Defendants' lease provisions mislead;

21 iii. Whether Defendants illegally required tenants to obtain insurance to cover  
22 damage to Defendants' property;

23 iv. Whether Defendants have failed to return security deposits in full  
24 compliance with the law;

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1 v. Whether Defendants misrepresented the nature of their services through  
2 advertising with the intent to induce persons to sign their contracts of adhesion; and

3 vi. Whether the members of the Class are entitled to damages and equitable  
4 relief, including injunctive and monetary relief.

5 c. The claims of the Plaintiffs are typical of the claims of the members of the  
6 Class, who entered into rental agreements with Defendants and are now contractually  
7 bound to the misleading and unlawful terms of those agreements that breach the  
8 covenants of habitability and severely limit any recourse available to Plaintiffs and all  
9 members of the Class.

10 d. The Plaintiffs will fairly and adequately represent the members of the Class  
11 and have retained counsel who are competent and experienced in class action and  
12 complex litigation.

13 198. The requirements of Rule 23(b)(2) are met as described below in Plaintiffs'  
14 request for injunctive relief.

15 199. The requirements of Rule 23(b)(3) are met in that:

16 a. The questions of law common to the members of the Class predominate  
17 over any questions affecting only individual members.

18 b. A class action is superior to other methods for the fair and efficient  
19 adjudication of this controversy. Because the damages suffered by many individual  
20 members of the Class may be relatively small in relation to the costs of litigation, the  
21 expense and burden of individual litigation make it difficult, if not impossible, for  
22 members of the Class to redress the wrongs done to them individually. Furthermore,  
23 many of the members of the Class may be unaware that claims exist against Defendants.

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1 c. Plaintiffs know of no difficulty that will be encountered in the management  
2 of this litigation that would preclude its maintenance as a class action. The names and  
3 addresses of the members of the Class are available from Defendants. Notice will be  
4 provided to the members of the Class via first class mail and/or by the use of techniques  
5 and a form of notice similar to those customarily used in class actions.

6 **COUNT I**

7 **VIOLATION OF WASHINGTON RESIDENTIAL LANDLORD-**  
8 **TENANT ACT, WASH. REV. CODE § 59.18**

9 200. Plaintiffs re-allege all prior paragraphs of this Third Amended Complaint.

10 201. Washington's Residential Landlord Tenant Act (RLTA), Wash. Rev. Code  
11 §§ 59.18, et. seq., "in addition to pursuit of remedies otherwise provided him or her by  
12 law[,]" preserves certain tenant remedies by allowing a tenant to notify the landlord of  
13 its failure to carry out duties required by Wash. Rev. Code § 59.18.060 or by the rental  
14 agreement. Wash. Rev. Code § 59.18.070.

15 202. Defendants have violated various provisions of Wash. Rev. Code §§ 59.18,  
16 *et seq.*, by failing to maintain the rented premises in a safe, habitable, and compliant  
17 condition.

18 203. Defendants have failed to carry out duties pursuant to Wash. Rev. Code §  
19 59.18.060, including, but not limited to:

20 a. Failing to maintain the premises to substantially comply with any  
21 applicable code, statute, ordinance or regulation governing their maintenance or  
22 operation in violation of § 59.18.060(1);  
23  
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1           b. Failing to maintain the structural components of the properties, including  
2 roofs, floors, walls, chimneys, fireplaces and foundations in “reasonably good repair so  
3 as to be usable” in violation of § 59.18.060(2);

4           c. Failing to make repairs and arrangements necessary to put and keep the  
5 premises in as good condition as it by law or rental agreement should have been, at the  
6 commencement of the tenancy, in violation of § 59.18.060(5);

7           d. Failing to maintain electrical, plumbing, heating, and other facilities and  
8 appliances supplied by Defendants in reasonably good working order in violation of §  
9 59.18.060(8);

10           e. Failing to maintain the dwelling unit in reasonably weathertight condition  
11 in violation of § 59.18.060(9); and

12           f. Failing to provide facilities adequate to supply heat and water and hot  
13 water as reasonably required by the tenant in violation of § 59.18.060(11).

14           204. Pursuant to Wash. Rev. Code § 59.18.115(2)(a), Defendants have failed to  
15 fulfill substantial obligations that substantially endanger and impair the health and safety  
16 of their tenants, including, but not limited to:

- 17           a. Exposure of the occupants to the weather;
- 18           b. Plumbing and sanitation defects;
- 19           c. Lack of water;
- 20           d. Heating or ventilation systems that are not functional;
- 21           e. Hazardous electrical systems; and
- 22           f. Defective or inadequate exits.

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1           205. Plaintiffs have fully performed all obligations as tenants in accordance with  
2 Washington State law and properly notified Defendants of defective conditions that  
3 deprive them of basic human needs pursuant to Wash. Rev. Code § 59.18.070 and §  
4 59.18.115.

5           206. Defendants have failed to remedy defective conditions pursuant to the  
6 timelines prescribed by Wash. Rev. Code § 59.18.070.

7           207. Under the RLTA, “Rent ... means recurring and periodic charges identified  
8 in the rental agreement for the use and occupancy of the premises, which may include  
9 charges for utilities. Except ... [Rent] do[es] not include nonrecurring charges for costs  
10 incurred due to late payment, damages, deposits, legal costs, or other fees, including  
11 attorneys’ fees.” Wash. Rev. Code § 59.18.030.

12           208. Under the RLTA, a landlord may only charge late fees on “rent” that is more  
13 than five days past due. Wash. Rev. Code § 59.18.170(2).

14           209. Defendants have violated the RLTA by charging late fees on the cumulative  
15 balance, including amounts not authorized by the RLTA.

16           210. Defendants have unlawfully retained portions of Plaintiffs’ security  
17 deposits in violation of Wash. Rev. Code § 59.18.280.

18           211. Pursuant to certain conditions under Wash. Rev. Code § 59.18.360,  
19 Defendants and tenants may agree, in writing, to exempt themselves from the provisions  
20 of RCW, including but not limited to 59.18.060. None of those conditions have been met  
21 because (1) there is no separate agreement in writing outside of the form lease; (2) there  
22 is substantial inequality in the bargaining position between Defendants and their tenants;  
23 (3) through Defendants’ internal policies and practices, Defendants have exempted  
24

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1 themselves from adhering to the provisions of the RTLA in violation of public policy  
2 ensuring safe and sanitary housing; or (4) no local county prosecutor's office, the  
3 consumer protection division of the attorney general's office, nor attorneys for any tenant  
4 have approved in writing any application for exemption.

5 212. In addition to the foregoing, UBSF, HVAC, MRLP and attorneys' fees are  
6 imposed illegally on Plaintiffs and Class Members. The Court's order on Defendants'  
7 partial motion to dismiss held that the UBSF, HVAC, MRLP, and late fees described  
8 above are "specifically contemplated by the RLTA" and "covered by the RLTA" (Doc. 48,  
9 at 10-11).

10 213. Multiple provisions of the RLTA also contemplate an award of reasonable  
11 attorneys' fees to prevailing parties in actions brought under the RLTA. But the RLTA  
12 does not permit landlords to use leases to require tenants to pay the landlord's attorneys'  
13 fees even where the landlord is not the prevailing party. Wash. Rev. Code §  
14 59.18.230(1)(c). Defendants' leases require tenants to pay for their attorneys' fees  
15 irrespective of whether they are the prevailing parties in an action, and Defendants  
16 enforce these lease provisions.

17 214. Defendants, through their conduct, are liable for causing economic and  
18 noneconomic damages to Plaintiffs and Class Members in an amount to be proven at trial.

19 215. As a result of Defendants' conduct, Plaintiffs and Class Members are  
20 entitled to recover costs and attorney fees incurred in bringing this action and any other  
21 relief the court deems just and proper under Wash. Rev. Code §§ 59.18 *et seq.*

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**COUNT II**

**BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING**

216. Plaintiffs re-allege all prior paragraphs of this Third Amended Complaint.

217. Defendants' residential leases contain a contractual duty of good faith and fair dealing that includes, but is not limited to, maintaining their rental properties in accordance with the Covenants of Habitability.

218. In addition, Defendants are required to respond to Plaintiffs' maintenance requests and not unduly hinder Plaintiffs' ability to receive timely repairs.

219. Defendants' actions and uniform course of conduct, including, but not limited to their constructive refusal to make even basic repairs or to unduly delay repairs, breach their contractual duty of good faith and fair dealing and unjustifiably hinder Plaintiffs' performance under the contracts.

220. Defendants have acted in bad faith by refusing to perform their contractual duties, effectively foisting the burden of maintaining their homes onto their Tenants in order to generate more revenue and cut their own costs.

221. Plaintiffs have not impeded Defendants from performing their obligations under their lease agreements in any way.

222. Defendants' actions caused Plaintiffs injury and damages, entitling Plaintiffs to the categories of remedies discussed herein.

**COUNT III**

**DECLARATORY RELIEF**

223. Plaintiffs re-allege all prior paragraphs of this Third Amended Complaint.



1 228. Plaintiffs and the Proposed Class have been injured and damaged, and are  
2 threatened with injury and damage, by Defendants' continued, unlawful refusal to  
3 maintain the homes Defendants themselves own, as well as through Defendants'  
4 continued use of misleading, unconscionable lease agreements, and Plaintiffs and the  
5 Proposed Class have no adequate remedy at law.

6 229. Defendant has acted, and threatened to act, on grounds generally  
7 applicable to the individual members of the Proposed Class, thereby making appropriate  
8 preliminary and permanent injunctive relief enjoining Defendants and their agents from  
9 continuing the unlawful practices alleged.

10 **COUNT V**

11 **UNJUST ENRICHMENT**

12 230. Plaintiffs re-allege all prior paragraphs of this Third Amended Complaint.

13 231. Plaintiffs and the Proposed Class conferred a benefit on the Defendants by,  
14 among other things, paying rent and for the costs of maintenance that Defendants should  
15 have paid.

16 232. Defendants voluntarily accepted and retained through today the benefits  
17 conferred by Plaintiffs and the Proposed Classes' payments for rent and the costs of  
18 maintenance. The circumstances are such that it would be inequitable for the Defendants  
19 to retain these payments.

20 233. Defendants consciously accepted the benefits that Plaintiffs and the  
21 Proposed Class conferred and those benefits were not conferred gratuitously.  
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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully asks this Court to award judgment against Defendants as follows:

1. Declaring that Defendants' actions, as set forth above, constitute multiple, separate violations of Wash. Rev. Code § 59.18; and that Defendants' form lease agreements are void;

2. Enjoining Defendants and their employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from waiving or modifying the Covenants of Habitability in violation of Wash. Rev. Code 59.18.230;

3. Awarding judgment against Defendants for rescission, restitution and disgorgement under the general equitable powers of this Court, and any other authority, for all persons injured by Defendants' acts as described in this Complaint;

4. Awarding Plaintiffs their costs and attorneys' fees, as permitted by the Court and as authorized by Wash. Rev. Code § 59.18.010;

5. Awarding Prejudgment interest; and

6. Granting such further relief as provided by law or equity or as the Court deems appropriate and just.

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Respectfully submitted,

Date: January 8, 2023

**MILBERG COLEMAN BRYSON  
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