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THE SUPERIOR COURT  
By Joanne Downie, Deputy

CASE NUMBER:  
**RG21094645**

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10 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **IN AND FOR THE COUNTY OF ALAMEDA – UNLIMITED JURISDICTION**

12 EVELYN RIVAS, FELIX MARTINEZ,  
13 MATILDA OCHOA, ELIZABETH  
14 BARRERA, RUBEN TAPIA, NORMA  
15 ACEVEDO, DOLORES ISABEL TAPIA  
16 BARRERA, OSCAR BARRERA,  
17 JAQUELINE CRUZ BARRERA, LUZ  
18 MARIA ACEVEDO, JORGE ALBERTO  
19 FLORES, REINA RODRIGUEZ,  
20 VINCENTE RIVAS, JOSE MELENDEZ,  
21 JOSE RIVAS, ANGELICA RUIZ MUNIZ,  
22 CESAR DOMINGUEZ, ISAAC RIVAS,  
23 ADAN RIVAS MARTINEZ, MARIA  
24 RIVAS, MIGUEL ANGEL MARTINEZ,  
25 MARTA NAVARETE as Guardian ad Litem  
for minor RUBEN TAPIA, SANDRA  
26 RIVAS HERNANDEZ as Guardian ad Litem  
for minors NORBERTO RIVAS and  
27 MADISON MELENDEZ, LUIS RIVAS as  
Guardian ad Litem for minors JASMIN  
NAJERA and VALERIA NAJERA,

24 Plaintiffs,

25 vs.

26 BYLD 2 LLC, MICHAEL YOU, and DOES  
27 1 to 25, Inclusive

28 Defendants.

Case No.

**PLAINTIFFS' COMPLAINT FOR  
(1) VIOLATION OF CITY OF OAKLAND  
TENANT PROTECTION ORDINANCE,  
(2) BREACH OF WARRANTY OF  
HABITABILITY, (3) VIOLATION OF CIVIL  
CODE §§ 1941, 1941.1, 1941.3, 1954, HEALTH  
& SAFETY CODE §17920.3, (4) BREACH OF  
WRITTEN CONTRACT, (5) NEGLIGENCE,  
(6) NUISANCE, (7) VIOLATION OF  
OAKLAND RESIDENTIAL TENANT  
RELOCATION ORDINANCE, (8) BREACH  
OF WARRANTY OF QUIET ENJOYMENT,  
(9) VIOLATION OF OAKLAND RENT  
CONTROL ORDINANCE, (10) BREACH OF  
IMPLIED IN FACT CONTRACT,  
(13) RETALIATION, (14) NEGLIGENT  
INFLECTION OF EMOTIONAL DISTRESS,  
(15) BREACH OF DUTY OF GOOD FAITH**

**REQUEST FOR INJUNCTIVE RELIEF**

**DEMAND FOR JURY TRIAL**

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## SUMMARY OF ALLEGATIONS

1. In blatant violation of local and state laws, Defendants have engaged in concerted and unlawful efforts to force out Plaintiffs, who are long-term tenants living in rent and eviction-controlled units, in order to increase profits by raising the rents and/or selling the apartment building that Plaintiffs call home.

2. Plaintiffs charge Defendants with violating state and local laws by failing to maintain rental property in a safe and habitable condition. Defendants are not only violating well-established rights protected by state and local laws, but they are also putting at risk of displacement and even homelessness some of the most vulnerable Oakland residents: low-income individuals Latino families living on the edge of poverty.

3. Plaintiffs, comprising nineteen adults and seven children living in a six-unit apartment building, have suffered for years from substandard conditions Defendants have refused to correct. These hazardous and unlawful conditions include cockroach and mice infestations, inadequate hot water, inadequately draining plumbing, very low water pressure, broken windows and damaged walls and floors, including damage that allows moisture into the units, extensive mold, malfunctioning stoves and refrigerators, and nonfunctioning heating systems, as set forth in more detail below.

4. Plaintiffs demanded immediate mediation under paragraph 40 of the parties' lease agreements but were unable to resolve these issues with Defendants.

5. Having nowhere else to turn, Plaintiffs bring this action to address the numerous uninhabitable, inhumane, and hazardous conditions rampant throughout their apartment homes. Knowing that their tenants are of limited resources and income, Defendants exploited Plaintiffs for years by subjecting them to substandard housing conditions and mistreatment. This action seeks to end the abuse of Plaintiffs and their co-tenants. Plaintiffs' only option for protecting their lawful rights to live in safe and sanitary housing conditions is to bring this legal action against owners and managers of the property, BYLD 2 LLC and Michael You, for claims including harassment, retaliation, and intentional infliction of emotional distress, negligence, nuisance, and other grounds.

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## GENERAL ALLEGATIONS

Plaintiffs allege as follows:

6. Plaintiffs, Felix Martinez, Matilda Ochoa, Elizabeth Barrera, Ruben Tapia, Norma Acevedo, Dolores Isabel Tapia Barrera, Oscar Barrera, Jacqueline Cruz Barrera, Luz Maria Acevedo, Jorge Alberto Flores, Reina Rodriguez, Evelyn Rivas, Vicente Rivas, Jose Melendez, Jose Rivas, Angelica Ruiz Muniz, Adan Rivas Martinez, Maria Rivas, Miguel Angel Rivas, Cesar Dominguez, and Isaac Rivas are at all times mentioned herein competent adults.

7. Plaintiff Ruben Tapia (jr.), a minor, by his guardian ad litem; his parent Elizabeth Barrera will request the court to appoint a guardian ad litem for him in this action.

8. Plaintiffs Norberto Rivas, Madison Melendez, minors, by their guardian ad litem; their parent Evelyn Rivas will request the court to appoint a guardian ad litem for them in this action.

9. Plaintiffs Jasmin Najera, Valeria Najera, minors, by their guardian ad litem; their parent Angelica Ruiz Munoz will request the court to appoint a guardian ad litem for them in this action.

10. All Plaintiffs listed above are herein referred to collectively as "Plaintiffs"

11. At all times mentioned herein, except as otherwise stated, Plaintiffs have been tenants residing in a six-unit residential rental building located at 1821-1825 28th Avenue, Oakland, California 94601, referred to herein as "the Property."

12. At all times mentioned herein, the Property has been located in the county of Alameda and city of Oakland, and the Property is subject to the City of Oakland Rent Ordinance, Oakland Municipal Code Section 8.22.010 et seq., the City of Oakland Tenant Protection Ordinance, Oakland Municipal Code Section 8.22.600 et. seq., the City of Oakland Just Cause Ordinance, Oakland Municipal Code Section 8.22.300 et seq., City of Oakland Uniform Residential Tenant Relocation Ordinance, Oakland Municipal Code Section 8.22.800 et seq., City of Oakland Code Compliance Relocation Ordinance, Oakland Municipal Code Section 15.60.010 et seq., Civil Code §§ 1941, 1941.1, 1941.3, 1954, Health & Safety Code § 17920.3, and various additional state and local laws and ordinances.

1           13. At all times mentioned herein, Michael You individually, BYLD 2 LLC and and  
2 Does 1 to 25, jointly and/or individually, were the owners of the Property and/or managers of  
3 the Property, and in control of the Property. Michael You and BYLD 2 LLC, and Does 1 to 25  
4 are referred to herein collectively as "Defendants".

5           14. Plaintiffs do not presently know the true names and capacities of the Defendants  
6 sued herein as DOES 1 through 25, inclusive. Plaintiffs will seek leave of court to amend this  
7 complaint to allege said Defendants' true names and capacities as soon as Plaintiffs ascertain  
8 them.

9           15. Plaintiffs are informed and believe and thereon allege that each Defendant is the  
10 agent and/or employee and/or employer of the remaining Defendants and acting in the course  
11 and scope of such agency and/or employment when doing the acts complained about herein.

12           16. Each Defendant was negligent in doing the acts alleged herein and said  
13 negligence caused harm to Plaintiffs and proximately caused injury to Plaintiffs.

14           17. The conduct of Defendants, and each of them, proximately caused Plaintiffs to  
15 suffer injury and harm.

16           18. On or about October 2018, Plaintiffs began renting the Property from  
17 Defendants. Plaintiffs rented the property pursuant to written rental agreements with the prior  
18 owner of the Property, to which Defendants became parties when Defendants took title to the  
19 property. All Plaintiffs resided in the Property continuously from 2010 through the present  
20 date, except as otherwise stated herein.

21           19. On or about October 2018, Defendants were physically present at the property  
22 and inspected the property. At the time of this visit, Plaintiffs complained to Defendant You  
23 about unsafe and unlawful housing conditions. Defendants verbally promised to make repairs to  
24 Plaintiffs' units.

25           20. As described in greater details below, since 2018, Defendants have made other  
26 verbal promises to Plaintiffs make repairs to their units. In 2019, Defendants promised to fix a  
27 bathroom in unit 5 and instead removed the bathroom all together. In December 2020 and  
28

1 January 2021, on at least four different occasions Defendants' agents verbally told Plaintiffs at  
2 the property that Defendants would "fix" certain conditions but failed to do so.

3 21. Plaintiffs have made repeated requests for repairs since October 2018.

4 22. Plaintiffs moved into the property at various times between 1998 and 2013.

5 23. All six units at the Property are two-bedroom units, and the tenants in each unit  
6 pay Defendants rent that ranges from approximately \$1,050 to \$1,450 per month.

7 24. On or about October 2018, the prior landlord for the property issued estoppel  
8 agreements with Plaintiffs continuing terms of Plaintiffs' existing month-to-month leases. The  
9 lease agreements entitle the prevailing party in any action arising out of the agreement to  
10 reasonable attorneys' fees. The leases were signed by the prior landlord and assumed by Mr.  
11 You and BYLD 2 LLC when they took ownership of the Property.

12 25. Since October 2018, Defendants have neglected the Property, giving rise to  
13 unsafe and unsanitary living conditions for Plaintiffs and their families. These include  
14 cockroach and rodent infestations, inadequate hot water and low water pressure, inadequately  
15 draining plumbing, broken windows and damaged walls and floors, including damage that  
16 allows moisture into the units, extensive mold, malfunctioning stoves and refrigerators,  
17 malfunctioning heating systems, exposure to raw sewage, and other structural defects.

18 26. On or about August 2020, Plaintiffs made complaints to the City of Oakland  
19 Code Enforcement.

20 27. In December 2020, Plaintiffs sent a demand letter to Defendants.

21 28. Since December 2020, Defendants have sent dozens of workers, other agents,  
22 inspectors, and potential buyers to the property and into the Plaintiffs' rental units without  
23 providing prior notice as required by state law and local ordinances. On some occasions,  
24 individuals have entered Plaintiffs' units ostensibly to perform repairs and then have failed to  
25 make any repairs.

26 29. Between December 2020 and January 2021, on six different occasions,  
27 individuals who were agents of Defendants entered unit 4. During two visits Defendants' agents  
28 took photographs and did nothing else, another two visits occurred to look at the roach and mice

1 problem, but did not remediate this issue during the remaining two visits the individuals who  
2 arrived stated that they were there to provide quotes for the plumbing issues. No prior notice  
3 was provided to the tenants in Unit 4 of these visits and no repairs were made during this time  
4 period.

5 30. In January 2021, four agents of Defendants arrived at the Property unannounced  
6 with soiled used stoves and refrigerators for each unit. The individual who delivered the  
7 appliances was rude and disrespectful to the tenants and demanded to know whether tenants  
8 were planning to sue their landlord.

9 31. In January 2021, an agent of Defendants arrived at the property without prior  
10 notice and told Plaintiffs that he was there to fix the water problems and that he had to turn the  
11 water off for thirty minutes. Plaintiffs had received no prior notice of his arrival and asked him  
12 to return the next day. When Defendants' agent returned the next day, he turned the water off  
13 for over ten hours. Despite the shutoff, Plaintiffs' water was not repaired.

14 32. Defendants have both actual and constructive knowledge of the unsafe and  
15 unhealthy living conditions at the property. Shortly after the purchase, in about October 2018,  
16 Defendant You visited the property. Several tenants immediately complained to him of  
17 extensive habitability issues in person while he was at the property, and he viewed the interior  
18 and exterior of each unit, which contained many obvious habitability defects. All six units  
19 complained of mice infestations, cockroach infestations, and mold. The Defendants have  
20 previously been notified that many apartments also suffer, among other things, from plumbing  
21 problems, leaking ceilings and walls, and inadequate water pressure.

22 33. In willful disregard of Plaintiffs' concerns, the Defendants made no attempt to  
23 reply or attend to these problems. On several occasions, in response to requests for repairs,  
24 Defendants and/or Defendants' agents have stated that they would only make repairs if  
25 Plaintiffs acquiesced to unlawful rent increases.

26 34. Defendants knew that the deplorable conditions existed and were dangerous to  
27 Plaintiffs. Despite having the opportunity, means, and legal obligations to correct these  
28 conditions, Defendants deliberately and intentionally failed and refused to do so. Defendants

1 have allowed the Property to exist in complete disrepair, engaged in predatory tactics, and  
2 deprived their tenants of the basic dignity of living in a clean and safe home.

3 35. Instead of properly addressing these hazardous conditions, Defendants attempted  
4 to evict all of the Plaintiffs at least three times by issuing termination notices demanding that  
5 tenants either pay rent or move out of their units. Defendants and their agents also harassed the  
6 Plaintiffs by making frequent in-person visits to the units, asking tenants to move out, and  
7 constantly demanding rent payments either by letter, phone, or in person -- even after Plaintiffs  
8 served COVID-related declarations of hardship on Defendants and during the term of a local  
9 eviction moratorium that applied to Defendants' units.

10 36. On or about August 2020, Plaintiffs requested code enforcement inspections by  
11 the City of Oakland. City code enforcement personnel inspected three of the six units at the  
12 Property. On October 12, 2020, the City's code enforcement agency issued Notices of Violation  
13 for Unit Nos. 1 and 6. On October 22, 2020, the City issued a Notice of Violation for Unit 4.  
14 The Notices found and cited serious violations pursuant to the Oakland Municipal Code.

15 37. Unit 1 is occupied by Felix Martinez and Matilda Ochoa. They moved into the  
16 unit in 2010 and pay \$1,096.00 per month in rent. Their unit is infested with cockroaches, mice,  
17 and other rodents. There is mold growing in one bedroom, a closet, and the bathroom. There is  
18 no hot water in the kitchen. There are several holes in the floors, including a large hole in the  
19 living room and several others in the kitchen and bedroom. The windows in the unit do not open  
20 properly and have gaps that let air into the apartment. There are several electrical issues in the  
21 unit, including an outlet in the kitchen that sparks when tenants try to use it and a non-  
22 functioning light in the dining room.

23 38. Unit 2 is occupied by Elizabeth Barrera, Ruben Tapia, Oscar Tapia, Jacqueline  
24 Tapia and two minor children. They moved into the unit in 2013 and pay \$1,172.00 per month  
25 in rent. Their unit is infested with cockroaches, mice, and other rodents. There is mold growth  
26 throughout the unit which is especially notable near windows, in the closets, and near the beds.  
27 The ceiling in the bathroom and kitchen is leaking water from a unit above. The refrigerator in  
28 the unit was not in working order and the tenants were forced to purchase their own. There are

1 several holes in the walls and floors throughout the unit. The front door does not close properly.  
2 There is no working heater. There is no hot water in the bathroom.

3 39. Unit 3 is occupied by Luz Maria Acevedo, Jorge Alberto Flores and their three  
4 minor children. They moved into the unit in 2012 and pay \$1,055.00 per month in rent. The unit  
5 is infested with cockroaches, mice, and other rodents. There is also black and yellow mold near  
6 appliances, near the bathroom in the hallway, and on the dining room ceiling. There are several  
7 holes in the walls measuring approximately two by two inches. The ceiling in the kitchen  
8 appears to be collapsing. There is very low water pressure in the kitchen. There is a hole under  
9 the sink that allows tenants to look into Unit 2. The freezer is broken. The heater does not  
10 work. The front and back windows do not lock. The restroom window is too big for its frame  
11 and allows cold air to enter the unit. None of the doorknobs close or lock properly.

12 40. Unit 4 is occupied by Reina Rivas, Evelyn Rivas, Jose Rivas, and their two  
13 minor children. They moved into the unit prior to 2010 and pay \$1,450.00 per month in rent.  
14 Their unit is infested with cockroaches, mice, and other rodents. There is mold growth on the  
15 ceilings throughout the unit. There is no hot water in the kitchen or the bathroom. The vent  
16 above the stove does not turn on, leaving the stove unventilated. The heater does not work. The  
17 pipes in the unit do not drain properly and regularly back up. The wood around the window in  
18 the living room is deteriorated and allows water to enter the unit through the frame when it  
19 rains. The tenants paint their unit every year due to lack of upkeep by their landlord and  
20 replaced their carpet at their own expense because the old carpet had mold growing out of it.

21 41. Unit 5 is occupied by Angelica Rivas Munoz, Cesar Dominguez, Isaac Rivas,  
22 and their two minor children. They moved into the unit in 2004 and pay \$1,115.00 per month in  
23 rent. Their unit is infested by cockroaches, mice, and other rodents. There is mold growth  
24 throughout the unit on the ceilings and walls. The bathroom wall in particular is rotting and has  
25 significant black and yellow mold growth. There is no hot water in the bathroom sink. Tenants  
26 in this unit often have to heat up water in the kitchen and carry buckets into the bathroom with  
27 them when they want to shower or must shower at their neighbors' home. The carpet in the unit  
28 has never been replaced. There is a large hole in the kitchen floor.



1           42.     Unit 6 is occupied by Adan Rivas, Maria Rivas and Miguel Angel. They moved  
2 into the unit in 1998 and pay \$1,450.00 per month in rent. Their unit is infested with roaches  
3 and mice. There is no hot water in the kitchen. The heaters do not work. Leaks in the kitchen  
4 and restroom have caused peeling paint and mold in the apartment. The water heater for the  
5 unit is not properly installed or secured, and it lacks important safety features.

6           43.     Petitions for Appointment as Guardian ad Litem for the five minor Plaintiffs  
7 identified in this Complaint were filed concurrently with the filing of this Complaint. One of  
8 the 26 Plaintiffs named herein is a minor child under the age of fourteen, and four of the  
9 Plaintiffs named herein are minor children over the age of fourteen. These children have a  
10 substantial interest in the claims and causes of action identified herein and, based thereon, are  
11 entitled to preference in trial setting pursuant to Code of Civil Procedure section 36(b).

12           44.     These unlawful conditions have had severe impacts on the lives of the Plaintiffs.  
13 For instance, one family lacks privacy due to holes so large that their neighbors can overhear  
14 their private conversations. The lack of hot water pressure in the showers forces another family  
15 to heat up water in the kitchen and carry buckets into the restroom with them when they want to  
16 shower, requiring them to wake up much earlier than would otherwise be necessary. Plaintiffs  
17 have repeatedly lost food due to defects in refrigeration and rodent and insect infestations.  
18 Plaintiffs have been forced to spend money, sacrifice other necessities, and spend time to buy  
19 products to mitigate the cockroach and rodent infestations, and to make certain repairs on their  
20 own, such as painting and replacing carpets. Plaintiffs have also overpaid rent because  
21 Defendants failed to provide habitable conditions and due to unlawful rent increases.

22           45.     Defendants negligently owned, managed and maintained the Property.

23           46.     Defendants negligently hired and/or supervised contractors to perform  
24 remediation work in the Property and other repairs in the Property.

25           47.     Defendants caused Plaintiffs to suffer severe emotional distress by negligent  
26 maintenance of the Property.

27           48.     Defendants and their agents entered Plaintiffs' homes without providing  
28 Plaintiffs with reasonable prior notice in compliance with California Civil Code section 1954.

1           49. Defendants engaged in a continuous course of harassing conduct toward  
2 Plaintiffs.

3           50. Defendants negligently failed to install smoke alarms in the Property in violation  
4 of Health & Safety Code sections 13113.7(a)(1), (d)(3).

5           51. Defendants acted willfully and intentionally and/or recklessly when doing the  
6 acts alleged herein.

7           52. Defendants acted in bad faith in doing the acts alleged herein.

8           53. Defendants' conduct caused harm and injury to Plaintiffs.

9           54. Defendants' conduct proximately caused Plaintiffs emotional distress, serious  
10 emotional distress, annoyance and discomfort, denial of quiet enjoyment of the Property,  
11 property damage, loss of use of property, economic damages, increased PG&E expenses,  
12 attorney fees and court costs.

13           55. Plaintiffs are informed and believe and thereon allege that Defendants violated  
14 the City of Oakland Uniform Residential Tenant Relocation Ordinance by seeking to force  
15 Plaintiffs to relocate without paying Plaintiffs a reasonable relocation fee in compliance with  
16 the Relocation Ordinance.

17           56. Plaintiffs reasonably believed the Property was in a habitable condition when  
18 they rented the Property. A reasonable person would have reasonably believed the Property  
19 was in a habitable condition when Plaintiffs moved into the Property.

20           57. Plaintiffs discovered that the Property was not habitable after they moved into  
21 the Property. After they moved into the Property, Plaintiffs discovered that the Property was  
22 defective and uninhabitable. The property continued to deteriorate and conditions worsened  
23 over the years.

24           58. Prior to filing this lawsuit, by letter dated December 31, 2020, Plaintiffs notified  
25 Defendants about these dangerous and defective conditions at the Property, and requested  
26 Defendants correct these specified defects in the Property, including the following repairs:

- 27           1. Replace missing/expired fire extinguishers and smoke detectors  
28           2. Control pest and rodent infestations  
            3. Repair broken/inoperable heating systems

4. Repair faulty plumbing systems/water pressure failures
5. Repair and/or replace broken/improper door locks
6. Repair sewage leaks from drains/pipes/sinks
7. Replace illegal window bars
8. Repair leaking roof/ceiling/windows
9. Repair water heaters improperly installed/attached
10. Repair stoves/cooktops not working properly

59. Plaintiffs gave Defendants more than fifteen days to cure these defects, in compliance with the Oakland Tenant Protection Ordinance. Plaintiffs attempted in good faith to resolve this matter through mediation before resorting to court action.

60. Defendants' negligent failure to properly inspect and maintain the Property substantially contributed to the existence of these dangerous and defective conditions.

49. Defendants failed to take all reasonable action to remediate the dangerous conditions in the Property within a reasonable period of time after learning that the Property was dangerous.

61. Plaintiffs substantially complied with the terms and conditions of their contract for rental of the Property.

62. At all times alleged herein, Defendants knew Plaintiffs were renting the Property to use as their residences when Defendants rented the Property to Plaintiffs.

63. Defendants' conduct caused harm to Plaintiffs. Defendants' conduct alleged herein proximately caused Plaintiffs to suffer emotional distress, serious emotional distress, worry anxiety, inconvenience, annoyance and discomfort, denied Plaintiffs the quiet enjoyment of the Property, caused Plaintiffs economic loss, caused Plaintiffs to pay Defendants more rent for the use of the Property than the fair rental value of the Property, caused Plaintiffs to incur relocation expenses, caused Plaintiffs to retain an attorney and incur attorney fees and court costs, all to Plaintiffs' injury, harm and damage.

64. Plaintiffs hereby demand a jury trial.

**FIRST CAUSE OF ACTION**  
**Violation of City of Oakland Tenant Protection Ordinance**  
**(Directed At All Defendants)**

65. Plaintiffs reallege and incorporate in this cause of action each and every allegation contained in the complaint herein as though fully set forth herein.

1           66. Defendants, and each of them, acted in bad faith toward Plaintiffs when doing  
2 the acts alleged herein. Defendants, by doing the acts alleged herein, harassed Plaintiffs and/or  
3 endeavored to obtain possession of the Property without just or good cause in violation city of  
4 Oakland, Tenant Protection Ordinance, section 8.22.640(A). Defendants, by doing the acts  
5 alleged herein, unreasonably interrupted and or terminated Plaintiffs' tenancies and failed to  
6 provide housing services required by contract or by State, County or municipal housing, health  
7 or safety laws, or threatened to do so; failed to perform repairs and maintenance required by  
8 contract or by State, County or municipal housing, health or safety laws, or threatened to do so;  
9 failing to exercise due diligence in competing repairs and maintenance once undertaken or  
10 failed to follow appropriate industry repair, containment or remediation protocols designed to  
11 minimize exposure to mold, asbestos, or other building materials with potentially harmful  
12 health impacts; abusing the owner's right of access into a rental housing unit as that right is  
13 provided by law; attempted to influence Plaintiffs to vacate the Property through fraud,  
14 intimidation or coercion, substantially and directly interfered with Plaintiffs' right to quiet use  
15 and enjoyment of the Property; and performed other repeated acts or omissions of such  
16 significance as to substantially interfere with or disturb the comfort, repose, peace or quiet of  
17 Plaintiffs and caused, or intended to cause Plaintiffs or are intended to cause Plaintiffs to vacate  
18 the Property or to surrender or waive any rights in relation to such occupancy.

19           67. By failing to perform repairs and maintenance and failing to exercise due  
20 diligence in completing repairs, Defendants attempted to circumvent the City of Oakland  
21 Uniform Residential Tenant Relocation Ordinance and force Plaintiffs to move out of their  
22 homes without notifying them of their right to temporarily vacate with relocation payments and  
23 re-occupy their units once repairs were completed and without paying them relocation payments  
24 required by law. Plaintiffs complied with all notice requirements of the Oakland Tenant  
25 Protection Ordinance prior to filing the lawsuit against Defendants herein. Plaintiffs notified  
26 Defendants or Defendants' designated agent regarding specific issues and allowed fifteen days  
27 for the Defendants to correct the problem, before filing the lawsuit herein.  
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1 68. Defendants' conduct was done intentionally and/or recklessly; and done with  
2 malice, fraud or oppression, for the purpose of denying Plaintiffs' rights to the Property so  
3 Defendants could increase the rents. Defendants' conduct was outrageous and despicable,  
4 entitling Plaintiffs to punitive damages.

5 69. Defendants' violation of the City of Oakland Tenant Protection Ordinance  
6 proximately caused Plaintiffs to suffer emotional distress, serious emotional distress, loss of  
7 quiet enjoyment of the Property, annoyance and discomfort, economic damages, to pay rent for  
8 the Property in excess of the fair rental value of the Property; to pay higher rent than rent of the  
9 Property, property damages, loss of personal property, loss of use of personal property, and  
10 attorney fees and court costs.

11 70. Plaintiffs request damages, treble damages, punitive damages, attorney fees and  
12 court costs, pre-judgment interest and post judgment interest, and injunctive relief.

13 **SECOND CAUSE OF ACTION**  
14 **Breach of Implied Warranty of Habitability**  
15 **(Directed At All Defendants)**

16 71. Plaintiffs reallege and incorporate in this cause of action each and every  
17 allegation contained in this complaint as though fully set forth herein.

18 72. The conduct of Plaintiffs and Defendants alleged herein gave rise to an implied  
19 warranty of habitability by Defendants.

20 73. Defendants breached the implied warranty of habitability by doing the acts  
21 alleged herein.

22 74. Defendants' breach of the implied warranty of habitability proximately caused  
23 harm and injury to Plaintiffs.

24 75. Plaintiffs request damages for injuries proximately caused by Defendants'  
25 breach of the implied warranty of habitability; including but not limited to general damages,  
26 economic damages, rents, punitive damages, pre-judgment interest, post-judgment interest,  
27 attorney fees and court costs.  
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**THIRD CAUSE OF ACTION**  
**Violation of Civil Code §§ 1941, 1941.1, 1941.3, 1954,**  
**Health & Safety Code §17920.3**  
**(Directed At All Defendants)**

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76. Plaintiffs reallege and incorporate in this cause of action each and every allegation contained in the complaint as though fully set forth herein.

77. The defective conditions in the Property and the conduct of Defendants, and each of them, alleged herein this complaint violates California Civil Code sections 1941, 1941.1., 1941.3, 1954 and Health and Safety Code §17920.3.

78. The Property was substandard housing as defined by Health and Safety Code §17920.3 and uninhabitable during the time Plaintiffs have resided at the Property. The Property contained dampness in habitable rooms in violation of §17920.3(a)(11) and visible mold in violation of §17920.3(a)(13). The Defendants failed to maintain operable electrical sockets in the Property in violation of §17920.3(d).

79. Defendants, and each of them, failed to make reasonable repairs on the premises within a reasonable amount of time after learning of the existence of the defective, untenable conditions in the Property.

80. Defendants violated California Civil Code §1941 and §1941.1 by doing the acts alleged herein. Defendants also violated Civil Code §1941.1 due to Defendants' violation of Health & Safety Code §17920.3.

81. Defendants entered Plaintiffs' units at the Property on at least ten occasions without first giving written notice twenty-four hours in advance including the date, approximate time, and reason for each entry, in violation of Civil Code §1954.

82. Defendants abused the right of access to the Property to harass Plaintiffs in violation of §1954.

83. Plaintiffs are informed and believe and thereon allege that Defendants, and each of them, aided and abetted each other in violating the laws, statutes and ordinances referred to herein and/or conspired with each other to violate the statutes, laws and ordinances referred to herein.

1           84.     The conduct of Defendants, and each of them proximately caused Plaintiffs to  
2 suffer serious emotional distress, denied Plaintiffs the full use and quiet enjoyment of the  
3 Property, caused Plaintiffs to pay monthly rent above the fair rental value of the Property, and  
4 to incur attorney fees and court costs, all to Plaintiffs' injury, harm and damage.

5           85.     Plaintiffs are informed and believe and thereon allege that Defendants acted with  
6 malice, fraud and/or oppression and in bad faith when doing the acts alleged herein.

7           86.     Defendants' conduct was outrageous and despicable and entitles Plaintiffs to  
8 recover punitive damages and attorney fees, in addition to actual damages and or general  
9 damages and economic damages.

10   **FOURTH CAUSE OF ACTION**  
11   **Breach of Written Contract**  
12   **(Directed At All Defendants)**

13           87.     Plaintiffs reallege and incorporate in this cause of action each and every  
14 allegation contained in this complaint as though fully set forth herein.

15           88.     On or about October 2018 Plaintiffs entered into written rental agreements with  
16 Defendants for the exclusive use and possession of the Property, in consideration for Plaintiffs  
17 paying rent to Defendants.

18           89.     Plaintiffs have substantially performed all of terms and conditions of the rental  
19 agreement and/or their performance has been excused.

20           90.     Defendants and each of them, breached the written lease agreement by doing the  
21 acts alleged herein.

22           91.     Defendants breached the written rental agreement by failing to put the premises  
23 in a condition fit for human occupancy and make repairs within a reasonable period of time  
24 and/or doing the acts and failing to act as alleged herein.

25           92.     Defendants breached the written rental agreement by doing the acts alleged  
26 herein.

27           93.     Plaintiffs incurred attorney fees arising out of a breach of the written rental  
28 agreement and/or because of defendants' breach of the written contract.

1 94. Defendants' conduct proximately deprived Plaintiffs of the exclusive use of the  
2 premises, and caused them to lose the enjoyment of the premises, to pay more rent for the  
3 premises than the fair rental value of the premises, Property damage, loss of use of personal  
4 Property, loss of use of real Property to incur attorney fees and court costs.

5 **FIFTH CAUSE OF ACTION**  
6 **Negligence**  
7 **(Directed At all Defendants)**

8 95. Plaintiffs reallege and incorporate into this cause of action each and every  
9 allegation contained in the complaint as though fully set forth herein.

10 96. Defendants, each of them, at all times mentioned herein, negligently owned,  
11 maintained and/or managed the Property, and/or negligently hired, trained and or supervised  
12 agents and/or employees to manage the Property and/or to make repairs to the Property and  
13 negligently failed to warn Plaintiffs of the hazardous condition of the Property.

14 97. Defendants negligently failed to obtain required permits prior to starting repair  
15 work.

16 98. Defendants negligently maintained the Property, resulting in hazardous  
17 conditions due to Defendants performing remediation in a negligent manner.

18 99. Defendants negligently failed to inform or notify Plaintiffs of when to expect the  
19 repairs to be commenced or completed.

20 100. Plaintiffs are informed and believe and thereon allege that each Defendant  
21 ratified the negligent conduct of the remaining Defendants.

22 101. Plaintiffs reasonably satisfied all their promises and obligations of the written  
23 rental agreement for the Property.

24 102. Defendants, and each of them, breached the written contract and/or breached the  
25 implied contract by doing the acts and/or by failing to act, as alleged herein.

26 103. Defendants, and each of them owed Plaintiffs a duty to exercise reasonable care  
27 when owning, managing and maintaining the building and when hiring and/or supervising  
28 employees and/or agents relating to the Property.



1 104. Defendants, and each of them breached his/her duty of care to Plaintiffs by  
2 failing to exercise reasonable care when owning, managing and/or maintaining and/or repairing  
3 the Property the Property and/or failing to exercise reasonable care when hiring, training and/or  
4 supervising agents and/or employees performing work on the Property and/or managing and/or  
5 maintaining the Property.

6 105. Defendants' conduct violated California Civil Code sections 1941, 1941.1, and  
7 the City of Oakland Code Compliance Relocation Ordinance and Uniform Residential Tenant  
8 Relocation Ordinance, and the City of Oakland Tenant Protection Ordinance.

9 106. The negligence of Defendants and each of them proximately caused Plaintiffs to  
10 suffer serious emotional distress, worry, anxiety, inconvenience, annoyance, discomfort, to lose  
11 possession of the Property, to lose the quiet enjoyment of the Property, to suffer property  
12 damage, loss of property, loss of use of property, to incur incidental expenses, to incur  
13 increased rents, to pay more rent for the Property than the reasonable rental value of the  
14 Property, and to incur attorney fees and court costs.

15 107. Defendants' negligence proximately caused Plaintiffs to rent the Property when  
16 the Property was not fit for human occupancy, proximately caused Plaintiffs to pay more rent  
17 for the Property than the reasonable rental value of the Property, proximately caused Plaintiffs  
18 worry, anxiety, inconvenience, emotional distress, serious emotional distress, annoyance and  
19 discomfort, economic loss, attorney fees and court costs.

20 108. Plaintiffs are entitled to and hereby request general damages, actual damages,  
21 economic damages, attorney fees and court costs.

22 **SIXTH CAUSE OF ACTION**  
23 **Nuisance**  
24 **(Directed At all Defendants)**

25 109. Plaintiffs reallege and incorporate in this cause of action each and every  
26 allegation contained in the complaint herein as though fully set forth herein.  
27  
28

1 110. Defendants’ conduct created a nuisance. Defendants’ conduct was injurious to  
2 Plaintiffs’ health and welfare, offensive to Plaintiffs’ senses; said conduct substantially  
3 interfered with Plaintiffs’ use, occupancy and quiet enjoyment of the Property.

4 111. Defendants’ conduct violated California Civil Code §§3479, 3481, and/or 3480.

5 112. The nuisance created by Defendants’ conduct proximately caused Plaintiffs to  
6 suffer annoyance, discomfort, to lose possession of the Property, to lose the quiet enjoyment of  
7 the Property, to suffer property damage, loss of property, loss of use of property, to incur  
8 incidental expenses, to pay more rent for the Property than the reasonable rental value of the  
9 Property, and to incur attorney fees and court costs.

10 **SEVENTH CAUSE OF ACTION**  
11 **Violation of City of Oakland Code Compliance Relocation Ordinance**  
12 **(Directed At All Defendants)**

13 113. Plaintiffs reallege and incorporate in this cause of action each and every  
14 allegation contained in the complaint herein as though fully set forth herein.

15 114. The conduct of Defendants, and each of them, violated the city of Oakland  
16 Uniform Residential Tenant Relocation Ordinance and Code Compliance Relocation  
17 Ordinance.

18 115. The city of Oakland Code Compliance Relocation Ordinance, Oakland  
19 Municipal Code Section 15.60.010 et seq. and the Uniform Residential Tenant Relocation  
20 Ordinance, Oakland Municipal Code Section 8.22.800 et seq., require a landlord make specified  
21 relocation payments to a tenant where the tenant is temporarily displaced to allow the landlord  
22 make repairs that are necessary for Code Compliance.

23 116. Since 2018, Defendants have failed to temporarily relocate Plaintiffs in order to  
24 allow major repairs to be made to their units and in doing so avoided paying Plaintiffs  
25 relocation payments.

26 117. Defendants intentionally and with bad faith engaged in the conduct alleged  
27 herein to interfere with Plaintiffs’ quiet enjoyment of the Property.

1           118. Plaintiffs are informed and believe and thereon allege that Defendants, and each  
2 of them, intentionally and/or recklessly delayed making repairs to the Property to harass  
3 Plaintiffs and cause them to move out of their homes without Defendants paying required  
4 relocation fees and to circumvent the Code Compliance Relocation Ordinance.

5           119. Defendants' conduct was done intentionally; and done with malice, fraud or  
6 oppression, for the purpose of denying Plaintiffs' rights to the Property and to force Plaintiffs to  
7 move from the Property so defendants could increase the rents and/or deny Plaintiffs' legal  
8 rights relating to the Property. Defendants acted with a reckless disregard to Plaintiffs' rights.  
9 Defendants' conduct was outrageous and despicable, entitling Plaintiffs to punitive damages.

10           120. Defendants, and each of them, including, but not limited to managerial officers  
11 and/or managers of the corporate Defendants, and Does 1 to 25, and each of them, carried out  
12 the actions herein with malice, fraud or oppression. Their conduct was outrageous and  
13 despicable, entitling Plaintiffs to recover punitive damages from each of them.

14           121. Defendants' violation of City of Oakland Code Compliance Relocation  
15 Ordinance and Uniform Residential Tenant Relocation Ordinance proximately caused Plaintiffs  
16 to suffer emotional distress, serious emotional distress, loss of quiet enjoyment of the Property,  
17 loss of exclusive use of the Property, relocation expenses, economic damages, to incur attorney  
18 fees and court costs. Plaintiffs request actual damages, punitive damages, treble damages,  
19 attorney fees and court costs, injunctive relief, relocation fees and/or expenses, pre-judgment  
20 interest and post-judgment interest, and injunctive relief.

21                                   **EIGHTH CAUSE OF ACTION**

22                   **Breach of Warranty of Quiet Enjoyment/Private Nuisance/Constructive Eviction**  
23                                   **(Directed At All Defendants)**

24           122. Plaintiffs reallege and incorporate in this cause of action each and every  
25 allegation contained in this complaint as though fully set forth herein.

26           123. The conduct of Plaintiffs and Defendants alleged herein gave rise to an implied  
27 warranty of quiet enjoyment by Defendants.  
28

1 124. Defendants breached the implied warranty of quiet enjoyment by doing the acts  
2 alleged herein.

3 125. Defendants' breach of the implied warranty of quiet enjoyment proximately  
4 caused harm and injury to Plaintiffs.

5 126. Plaintiffs request damages for injuries proximately caused by Defendants'  
6 breach of the implied warranty of quiet enjoyment; including but not limited to general  
7 damages, economic damages, rents, punitive damages, pre-judgment interest, post-judgment  
8 interest, attorney fees and court costs.

9 **NINTH CAUSE OF ACTION**

10 **Violation of Oakland Rent Control Ordinance, Section 8.22.010 et seq.**  
11 **(Plaintiffs Felix Martinez and Matilde Ochoa; Directed At All Defendants)**

12 127. Plaintiffs reallege and incorporate in this cause of action each and every  
13 allegation contained in this complaint as though fully set forth herein.

14 128. The property is subject to Oakland's Rent Control Ordinance (Oakland  
15 Municipal Code § 8.22.010, et seq.) and its associated regulations.

16 129. Oakland's Rent Control Ordinance limits yearly rent increases for existing  
17 residential tenancies. A landlord attempting to charge a higher percent than the permissible  
18 amount must first petition the Rent Adjustment Program for permission to impose the rent  
19 increase. The Rent Control Ordinance also requires that rent increase notices for rent-controlled  
20 tenancies occur in accordance with state law. A rent increase that violates the Rent Control  
21 Ordinance is void.

22 130. Civil Code Section 827 requires a landlord to serve written notice of a rent  
23 increase on a tenant no less than thirty days in advance of its effective date.

24 131. Violations of the Oakland Rent Control Ordinance subject Defendants to  
25 damages, injunctive relief, and

26 132. Defendants have violated the Oakland Rent Control Ordinance by demanding  
27 and imposing unlawful rent increases and increasing rent for Plaintiffs Felix Martinez and  
28 Matilde Ochoa verbally, in response to their request for repairs, and failing to provide written

1 notice of rent increase. Defendants increased Plaintiffs' rent without using the procedures  
2 required under Civil Code 827 and the Oakland Rent Control Ordinance and in excess of the  
3 amount allowed for under the Rent Control Ordinance.

4 133. Defendants' conduct damaged and harmed Plaintiffs Felix Martinez and Matilde  
5 Ochoa and caused them to overpay rent to Defendants.

6 134. Plaintiffs Felix Martinez and Matilde Ochoa request damages for their  
7 overpayment of rent and injunctive relief to restore their monthly rent to its lawfully permitted  
8 amount.

9  
10 **TENTH CAUSE OF ACTION**  
**Breach of Implied In Fact Contract**  
**(Directed At All Defendants)**

11 135. Plaintiffs reallege and incorporate in this cause of action each and every  
12 allegation contained in the complaint as though fully set forth herein.

13 136. The conduct of Plaintiffs and Defendants alleged herein gave rise to an implied  
14 in fact contract between Plaintiffs and Defendants.

15 137. Defendants breached the implied in fact contract by doing the acts alleged  
16 herein.

17 138. Defendants' breach of the implied in fact contract proximately caused harm and  
18 injury to Plaintiffs.

19 139. Plaintiffs request damages for injuries proximately caused by Defendants'  
20 breach of the implied in fact contract; including but not limited to economic damages, rents,  
21 punitive damages, pre-judgment interest, post-judgment interest, attorney fees and court costs.

22  
23 **ELEVENTH CAUSE OF ACTION**  
**Violation of Business & Professions Code §17200 et seq.**  
**(Directed At All Defendants)**

24 140. Plaintiffs reallege and incorporate in this cause of action each and every  
25 allegation contained in this complaint as though fully set forth herein.

26 141. Defendants failed and refused to make repairs, cure defective conditions in the  
27 Property, or to allow Plaintiffs to reside in the Property in accordance with local and state laws.  
28

1 142. Plaintiffs do not have an adequate plain, speedy remedy at law.

2 143. Plaintiffs will suffer irreparable harm unless the court issues an order requiring  
3 Defendants to immediately take the following actions:

4 A. For unit 1: repair extremely low water pressure

5 B. For unit 2: replace or repair inoperable heater; restore access to hot water in bathroom;  
6 repair extremely low water pressure

7 C. For unit 3: replace or repair inoperable heater; repair extremely low water pressure

8 D. For unit 4: replace or repair inoperable heater; repair extremely low water pressure

9 E. For unit 5: replace or repair inoperable heater; restore access to hot water in the kitchen  
10 and bathrooms; repair extremely low water pressure

11 F. For unit 6: replace or repair inoperable heater, restore access to hot water in the kitchen

12 144. The conduct of Defendants and each of them has caused Plaintiffs to fear being  
13 unlawfully removed from and/or deprived of exclusive possession of the Property and denied  
14 access to the Property. Defendants threatened to cause Plaintiffs to lose possession of the  
15 Property, lose the use of Property and the quiet enjoyment of the Property and to incur  
16 expenses, attorney fees and court costs.

17 145. Plaintiffs will suffer irreparable harm unless the court issues an order for  
18 Defendants to pay the following, including Plaintiffs' increased rental charges, to keep  
19 Plaintiffs apprised of when the repair work will be completed, and to pay Plaintiffs' attorney  
20 fees and court costs.

21 **TWELFTH CAUSE OF ACTION**  
22 **Fraud & Deceit**  
23 **(Directed At All Defendants)**

24 146. Plaintiffs reallege and incorporate in this cause of action each and every  
25 allegation contained in this complaint as though fully set forth herein.

26 147. In October 2018, when Defendant was physically present at the Property,  
27 Defendant You fraudulently stated Defendants would make repairs to the Property. To this  
28 date, Defendants have not acted as promised.

1           148. Plaintiffs are informed and believe, and thereon allege, that Defendants knew of  
2 the defects in the Property, including the defects listed above, throughout the time Defendants  
3 rented the Property to Plaintiffs.

4           149. Defendants intentionally misrepresented material facts to Plaintiffs as alleged  
5 herein, to deceive Plaintiffs into believing that the Property was habitable.

6           150. Defendants negligently misrepresented material facts to Plaintiffs as alleged  
7 herein to deceived Plaintiffs into believing that the Property was habitable.

8           151. Defendants intentionally failed to disclose material facts to Plaintiffs and/or  
9 concealed material facts from Plaintiffs, as alleged herein to deceive Plaintiffs into believing  
10 that the Property would be made habitable.

11           152. Defendants negligently failed to disclose and/or concealed material facts from  
12 Plaintiffs relating to the defective conditions of the Property.

13           153. Plaintiffs reasonably relied on Defendants' statements and/or conduct when  
14 deciding to continue renting the Property.

15           154. A reasonable person would have reasonably relied on Defendants' statements  
16 and/or comments when deciding to continue renting the Property.

17           155. Defendants' statements and/or conduct relating to the Property were false.

18           156. Plaintiffs would not have continued paying to rent the Property if Plaintiffs had  
19 known the true facts: that the Defendants did not intend to bring the Property into a habitable  
20 condition.

21           157. Defendants' conduct violated California Civil Code §§ 1572 (Fraud), 1573  
22 (Constructive Fraud), and 1709 (Deceit).

23           158. Defendants' conduct was done intentionally and with malice, fraud and/or  
24 oppression, to deceive Plaintiffs and/or induce Plaintiffs to continue renting the Property and  
25 deny Plaintiffs their legal rights.

26           159. Defendants' conduct proximately caused injury and harm to Plaintiffs, including  
27 causing them to incur rents, increased rents, and caused Plaintiffs to incur attorney fees and  
28 court costs.

1 160. Defendants' conduct was outrageous and despicable and entitles Plaintiffs to  
2 recover punitive damages from Defendants.

3 161. Plaintiffs request damages for injuries proximately caused by Defendants' deceit  
4 and fraud, including but not limited to general damages, economic damages, rents, treble  
5 damages, punitive damages, pre-judgment interest, post-judgment interest, attorney fees and  
6 court costs.

7 **THIRTEENTH CAUSE OF ACTION**  
8 **Violation of Civil Code § 1942.5: Unlawful Retaliation**  
9 **(Directed At All Defendants)**

10 162. Plaintiffs reallege and incorporate in this cause of action each and every  
11 allegation contained in the complaint herein as though fully set forth herein.

12 163. Plaintiffs are informed and believe and thereon allege that Defendants, and each  
13 of them, aided and abetted each other in violating the laws, statutes and/ordinances referred to  
14 herein and/or conspired with each other to violate the statutes, laws and ordinances referred to  
15 herein.

16 164. Plaintiffs have made repeated requests for repairs since October 2018. Plaintiffs  
17 have also refused unlawful rent increases.

18 165. On or about August 2020, Plaintiffs made complaints to the City of Oakland  
19 Code Enforcement regarding their units.

20 166. In December 2020, Plaintiffs sent a demand letter to Defendants requesting that  
21 he cease violating state and local tenant protection law and make repairs to Plaintiffs' units.

22 167. Since December 2020, Defendants have sent dozens of workers, other agents,  
23 inspectors, and potential buyers to the property and into the Plaintiffs' rental units without  
24 providing prior notice or without providing adequate notice.

25 168. In response to requests for repairs, Defendants have also demanded that  
26 Plaintiffs' rent be increased and/or actually imposed unlawful rent increases on PLaintiffs

27 169. The conduct of Defendants, and each of them, proximately caused Plaintiffs to  
28 suffer emotional distress, serious emotional distress, denied Plaintiffs the full use and quiet



1 enjoyment of the Property, caused Plaintiffs to pay monthly rent above the fair rental value of  
2 the Property, to incur attorney fees and court costs, all to Plaintiffs' injury, harm and damage.

3 170. Plaintiffs are informed and believe and thereon allege that Defendants acted with  
4 malice, fraud and/or oppression and in bad faith when doing the acts alleged herein.

5 Defendants' conduct was outrageous and despicable and entitles Plaintiffs to recover punitive  
6 damages and attorney fees, in addition to actual damages and/or general damages and economic  
7 damages.

8 **FOURTEENTH CAUSE OF ACTION**  
9 **Negligent Infliction of Emotional Distress**  
10 **(Directed At All Defendants)**

11 171. Plaintiffs reallege and incorporate in this cause of action each and every  
12 allegation contained in this complaint as though fully set forth herein.

13 172. Plaintiffs are informed and believe, and thereon allege, that Defendants knew of  
14 the defects in the Property throughout the time Defendants rented the Property to Plaintiffs.

15 173. Defendants intentionally misrepresented material facts to Plaintiffs as alleged  
16 herein, to deceive Plaintiffs into believing that the Property would be made habitable.

17 174. Defendants negligently misrepresented material facts to Plaintiffs as alleged  
18 herein to deceived Plaintiffs into believing that the Property was habitable.

19 175. Defendants intentionally failed to disclose material facts to Plaintiffs and/or  
20 concealed material facts from plaintiff, as alleged herein to deceive Plaintiffs into believing that  
21 the Property was habitable.

22 176. Defendants negligently failed to disclose and/or concealed material facts from  
23 Plaintiffs relating to the defective conditions of the Property.

24 177. Plaintiffs reasonably relied on Defendants' statements and/or conduct when  
25 deciding to continue renting the Property.

26 178. A reasonable person would have reasonably relied on Defendants' statements  
27 and/or comments when deciding to continue renting the Property.

28 179. Defendants' statements and/or conduct relating to the Property were false.

1 180. Plaintiffs would not have continued paying to rent the Property if Plaintiffs had  
2 known the true facts: that the Property was not in a habitable condition and Defendants did not  
3 intend to make the repairs necessary to correct these dangerous and defective conditions.

4 181. Defendants' conduct violated California Civil Code §§ 1572 (Fraud), 1573  
5 (Constructive Fraud), and 1709 (Deceit).

6 182. Defendants' conduct was done intentionally and with malice, fraud and/or  
7 oppression, to deceive Plaintiffs and/or induce Plaintiffs to continue paying to rent the Property  
8 and deny Plaintiffs their legal rights.

9 183. Defendants' conduct proximately caused injury and harm to Plaintiffs, including  
10 causing Plaintiffs to incur rents, increased rents, relocation expenses, and attorney fees and  
11 court costs.

12 184. Defendants' conduct was outrageous and despicable and entitles Plaintiffs to  
13 recover punitive damages from Defendants.

14 185. Plaintiffs request damages for injuries proximately caused by Defendants' deceit  
15 and fraud, including but not limited to general damages, economic damages, rents, treble  
16 damages, punitive damages, pre-judgment interest, post-judgment interest, attorney fees and  
17 court costs.

18 **FIFTEENTH CAUSE OF ACTION**  
19 **Breach of Duty of Good Faith and Fair Dealing**  
20 **(Directed At All Defendants)**

21 186. Plaintiffs reallege and incorporate in this cause of action each and every  
22 allegation contained in this complaint as though fully set forth herein.

23 187. Defendants had a legal duty to act in good faith and proceed in fair dealing with  
24 Plaintiffs concerning their rental of the Property.

25 188. Plaintiffs are informed and believe, and thereon allege, that Defendants knew of  
26 the defects in the Property, throughout the time Defendants rented the Property to Plaintiffs.

27 189. Defendants intentionally misrepresented material facts to Plaintiffs as alleged  
28 herein, to deceive Plaintiffs into believing that the Property was habitable.

1 190. Defendants' misrepresentations violated their duty of good faith and fair dealing  
2 to Plaintiffs. Defendants intentionally failed to disclose material facts to Plaintiffs and/or  
3 concealed material facts from Plaintiffs, as alleged herein, to deceive Plaintiffs into believing  
4 that the Property was habitable.

5 191. Plaintiffs reasonably relied on Defendant's statements and/or conduct when  
6 deciding to rent the Property.

7 192. A reasonable person would have reasonably relied on Defendants' statements  
8 and/or comments when deciding to rent the Property.

9 193. Defendants' statements and/or conduct relating to the Property was false.

10 194. Defendants' conduct was done intentionally and with malice, fraud and/or  
11 oppression, to deceive Plaintiffs and/or induce Plaintiffs to rent the Property and deny Plaintiffs  
12 their legal rights.

13 195. Defendants' conduct proximately caused injury and harm to plaintiff; to incur  
14 rents, increased rents, relocation expenses, caused Plaintiffs to incur attorney fees and court  
15 costs.

16 196. Defendants' conduct was outrageous and despicable and entitles Plaintiffs to  
17 recover punitive damages from Defendants.

18 197. Plaintiffs request damages for injuries proximately caused by Defendants'  
19 breach of their duty to act in good faith with fair dealing, including but not limited to general  
20 damages, economic damages, rents, treble damages, punitive damages, pre-judgment interest,  
21 post-judgment interest, attorney fees and court costs.

22 **WHEREFORE, Plaintiffs Pray for:**

- 23 1. An Order requiring Defendants to immediately restore heat and water service,  
24 2. For general damages, pain, emotional distress, serious emotional distress, and severe  
25 emotional distress, according to proof,  
26 3. Annoyance and discomfort damages, according to proof,  
27 4. For loss of possession of the Property and lose of use and quiet enjoyment of the  
28 Property,

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- 5. For economic damages, according to proof,
- 6. Property damage and loss of use of Property,
- 7. Rent payments, and/or over payments,
- 8. Statutory damages and penalties
- 9. Restitution,
- 10. For treble damages
- 11. For Pre-judgment interest,
- 12. For Post-judgment interest,
- 13. For a Court Order requiring Defendants to pay relocation expenses, and to apprise  
the Plaintiffs of when repair work will be completed,
- 14. For punitive damages, according to proof,
- 15. For reasonable attorneys' fees, including pursuant to CCP § 1021.5
- 16. For costs of suit including an award of reasonable attorney fees, as the prevailing  
party for breach of written contract, California Civil Code §1717, City of Oakland  
Code Enforcement Relocation Ordinance, Chapter 15.60 of Oakland Municipal  
Code, City of Oakland Tenant Protection Ordinance, City of Oakland Uniform  
Residential Tenant Relocation Ordinance, City of Oakland Rent Control Ordinance,  
and based on all other legal authority.
- 17. For such other and further relief as the Court deems just and proper.

Date: April 5, 2021

LAW OFFICE OF DAVID M. LEVIN



David M. Levin, Attorney For All Plaintiffs