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M.D. Fla. (Tampa Division)
Phillip v. The Michaels Organization, LLC
No. 8:26-cv-02634

FIRST AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL

PRELIMINARY STATEMENT

1. Staff Sergeant David Phillip serves in the United States Marine Corps. The Marine Corps stationed him at MacDill Air Force Base. He, his wife Carly Phillip, and their three children needed a home. AMC East Communities, LLC leased them one at 8468 Fortress Drive. Before the family moved in, Harbor Bay's Assistant Community Director, Geri Leto, said the house had been "newly renovated" after a hurricane. No one told the family that two military families had lived in that house before them and had reported mold. No one told the family that those earlier occupants had reported neurological symptoms.

2. The family moved in. On or about September 10, 2022, Carly Phillip found mold around the kitchen air vents and the attic access panel. She reported it. A Harbor Bay technician called it "dust." Contractors cleaned the ducts while the family stayed inside. No one set up containment. On December 10, 2022, water came through the kitchen ceiling. A technician blamed "too much water in the tub upstairs." The upstairs bathroom was dry. The technician placed fans and closed the work order. Through 2023 Carly Phillip reported the mold at least four more times. Each time the answer was "dust."

3. On or about November 1, 2023, Carly Phillip lost her vision, collapsed, and

had seizures. She was pregnant. Surgeons delivered her son about four weeks early. Imaging found a brain tumor. She had neurosurgery, then radiation, then chemotherapy. She came home to the same vents and the same attic access panel. The mold was still there. The answer was still "dust."

4. Hurricane Milton struck in October 2024. The family came home to roof failure and water in all four bedrooms. Harbor Bay told them the house was "not a priority." Harbor Bay moved them out after two weeks of requests. Six weeks later Harbor Bay said the repairs were done and sent them back. The stains had been painted over. The mold around the attic access panel remained.

5. C.P. now has a diagnosed mold allergy. P.P. and S.P. had one respiratory illness after another. David Phillip's skin conditions worsened and he developed insomnia. Carly Phillip had headaches and brain fog through cancer treatment. Rent was paid for that house every month.

I. PARTIES

6. Plaintiff David Phillip is a Staff Sergeant in the United States Marine Corps. At all times relevant to this Complaint, David Phillip was stationed at MacDill Air Force Base in Tampa, Florida ("MacDill").

7. David Phillip signed the residential lease for 8468 Fortress Drive, MacDill (the "Residence"). David Phillip resided at the Residence at all times relevant to this Complaint.

8. Plaintiff Carly Phillip is the spouse of David Phillip. Carly Phillip resided at the Residence at all times relevant to this Complaint.

9. Plaintiff C.P. is a minor child of David Phillip and Carly Phillip. C.P.

resided at the Residence at all times relevant to this Complaint. C.P. sues through David Phillip and Carly Phillip as next friends.

10. Plaintiff P.P. is a minor child of David Phillip and Carly Phillip. P.P. resided at the Residence at all times relevant to this Complaint. P.P. sues through David Phillip and Carly Phillip as next friends.

11. Plaintiff S.P. is a minor child of David Phillip and Carly Phillip. S.P. resided at the Residence at all times relevant to this Complaint. S.P. sues through David Phillip and Carly Phillip as next friends.

12. Plaintiff R.P. is a minor child of David Phillip and Carly Phillip. R.P. was born in 2023. R.P. resided at the Residence from R.P.'s discharge from the hospital after birth. R.P. sues through David Phillip and Carly Phillip as next friends.

13. Defendant The Michaels Organization, LLC ("Michaels") is a New Jersey limited liability company with its principal place of business at 2 Cooper Street, Camden, New Jersey 08102. Michaels is registered to do business in Florida.

14. Defendant AMC East Communities, LLC ("AMC") is a Delaware limited liability company with its principal place of business at 2 Cooper Street, Camden, New Jersey 08102.

15. Defendant MMS Air Force, LLC ("MMS") is a New Jersey limited liability company with its principal place of business at 2 Cooper Street, Camden, New Jersey 08102. MMS is registered to do business in Florida.

16. "Harbor Bay at MacDill" ("Harbor Bay") is a name under which leasing, management, and maintenance of military housing at MacDill were conducted. Harbor Bay is not registered as a legal entity with the Florida Department of State, Division of

Corporations. Section III identifies the Defendants that acted under the Harbor Bay name.

II. JURISDICTION AND VENUE

17. This Court has subject-matter jurisdiction under 28 U.S.C. § 1331.

18. The Residence is located within MacDill.

19. On March 29, 1950, the Governor of Florida executed a Deed of Cession ceding to the United States exclusive jurisdiction over the land that constitutes MacDill. The Florida Secretary of State recorded the Deed of Cession on April 4, 1950.

20. MacDill is a federal enclave. Plaintiffs are aware of no development since 1950 that has changed that status.

21. The exposure, inspections, maintenance work, and repair work alleged in this Complaint occurred at the Residence, within MacDill. The injuries alleged in this Complaint were sustained at the Residence.

22. Because the acts, omissions, and injuries giving rise to Plaintiffs' claims occurred within a federal enclave, Plaintiffs' claims arise under federal law for purposes of 28 U.S.C. § 1331.

23. This civil action is brought to recover on account of injuries sustained at the Residence. Under 28 U.S.C. § 5001(b), in such an action "the rights of the parties shall be governed by the law of the State in which the place is located."

24. The Lease provides that Florida law applies.

25. Venue is proper under 28 U.S.C. § 1391(b)(2). The Residence is in this District. The maintenance work, communications, exposure, and injuries alleged in this Complaint occurred in this District.

26. This Court has personal jurisdiction over AMC under Fla. Stat. § 48.193(1)(a)1. and 2. AMC leased the Residence, which is in Florida, to David Phillip. AMC received rent for the Residence. AMC's obligations under the Lease were to be performed at the Residence. The breaches and torts alleged against AMC occurred at the Residence.

27. This Court has personal jurisdiction over MMS under Fla. Stat. § 48.193(1)(a)1. and 2. MMS acted as property manager for housing at MacDill. MMS received maintenance requests, dispatched technicians, engaged contractors, and communicated with Plaintiffs in Florida about the Residence. The torts alleged against MMS occurred at the Residence.

28. This Court has personal jurisdiction over Michaels under Fla. Stat. § 48.193(1)(a)1. and 2. Michaels is registered to do business in Florida. Michaels holds itself out as providing housing at MacDill. Michaels acquired the assets of the MacDill housing contractor in 2021. On information and belief, employees of Michaels communicated with Plaintiffs in Florida about leasing and maintenance of the Residence. The torts alleged against Michaels occurred at the Residence.

III. THE DEFENDANTS' ROLES AT THE RESIDENCE

29. In November 2007, AMC East, LLC and the United States Air Force entered into a 50-year ground lease to privatize military housing at MacDill (the "Ground Lease").

30. AMC East, LLC and the Air Force entered into an operating agreement that created AMC (the "Operating Agreement").

31. On information and belief, AMC holds the lessee's interest under the

Ground Lease.

32. On information and belief, the Lease identifies AMC as "Owner."

33. The Air Force pays Defendants for management and maintenance of MacDill housing. Those payments consist of a monthly base fee and an incentive fee paid upon achieving performance criteria. To obtain the incentive fee, Defendants submit documentation and a statement that they satisfied performance criteria, including objectives related to maintenance work orders and customer satisfaction.

34. In 2021, Michaels acquired the assets of AMC East, LLC and AMC.

35. Michaels, directly or through its subsidiaries or affiliates, assumed the obligations of the MacDill housing contractor, including obligations under the Ground Lease, the Operating Agreement, the property management agreements, and the residential leases.

36. Michaels' public website identifies MacDill as a location at which Michaels provides "[q]uality housing from Coast to Coast."

37. On information and belief, employees of Michaels communicated with residents at MacDill, including the Phillip family, about leasing and maintenance. The e-mail addresses and signature blocks of those employees identified Michaels.

38. MMS acted as property manager for housing at MacDill at all times relevant to this Complaint.

39. On information and belief, the Lease identifies "Harbor Bay at MacDill, through Michaels Management Services, Inc." as Property Manager and Community Manager.

40. On information and belief, the mold addendum to the Lease identifies

Harbor Bay as "Landlord/Lessor."

41. In *Mullins v. The Michaels Organization, LLC*, No. 8:25-cv-02637-SDM-AAS (M.D. Fla.), Doc. 22, MMS appeared individually and as successor in interest to Interstate Realty Management Company, Michaels Management Services, Inc., and Michaels Management Services, LLC, and represented that MMS had assumed the assets and liabilities of those companies.

42. Leasing, inspection, maintenance, repair, and resident communications for the Residence were conducted under the Harbor Bay name.

43. The persons who leased, inspected, maintained, repaired, and communicated with the Phillip family about the Residence under the Harbor Bay name, including Geri Leto, the technicians, the representatives, and the contractors those persons engaged, were employees or agents of MMS or of Michaels Management Services, Inc., whose liabilities MMS assumed. MMS and Michaels Management Services, Inc. are referred to together as the "property manager."

44. In the alternative, on information and belief, those persons were employees or agents of Michaels. In *Mullins*, AMC represented that Harbor Bay is a "common or trade name" of Michaels and not a distinct legal entity. Employees identified by their e-mail addresses and signature blocks as Michaels employees communicated with MacDill residents about leasing and maintenance.

45. On information and belief, AMC engaged the property manager, under a property management agreement, to perform AMC's obligations under the Lease to inspect, maintain, and repair the Residence, and AMC retained the right to direct that work. The property manager performed those obligations on AMC's behalf.

46. Each act of a Harbor Bay technician, representative, or contractor alleged in this Complaint was performed within the scope of that person's assignment to lease, inspect, maintain, or repair housing at MacDill, including the Residence. The identities of those persons are known to Defendants and are within their possession, custody, or control.

47. Defendants state publicly that they embrace the tenant rights set out in 10 U.S.C. § 2890 and incorporate those protections into their MacDill housing program.

IV. FACTUAL ALLEGATIONS

A. The Lease

48. Before the Phillip family moved into the Residence, David Phillip signed a residential lease with AMC for the Residence (the "Lease").

49. Carly Phillip, C.P., P.P., and S.P. moved into the Residence with David Phillip and occupied it with him under the Lease. R.P. occupied the Residence with the family after R.P.'s discharge from the hospital.

50. David Phillip's Basic Allowance for Housing ("BAH") was paid to AMC as rent for the Residence. The BAH was David Phillip's entitlement as a service member and was transferred to AMC on his behalf.

51. Under the Lease, AMC undertook to provide and maintain habitable housing and to remedy leaks, moisture, mold, and other conditions in the Residence.

52. On information and belief, the Lease represented that, before move-in, the Residence was in safe, clean, and habitable condition and free of mold, mildew, and signs of water intrusion.

53. The Lease contains warnings about moisture and mold. The Resident

Guidelines and Community Handbook instruct residents to report signs of leaks, moisture, or mold immediately.

B. Earlier Occupants Had Reported Mold in the Residence

54. Before the Phillip family moved in, two military families had occupied the Residence.

55. Each of those families reported mold contamination while living in the Residence.

56. Each of those families reported neurological symptoms while living in the Residence.

57. The Residence had a history of repeated mold complaints before the Phillip family moved in.

58. Through their roles in leasing, managing, and maintaining the Residence, Defendants kept and had access to the maintenance history of the Residence, including the earlier occupants' complaints.

59. Defendants have long known about mold problems at MacDill. Military families have for years submitted complaints to Defendants about mold and about health issues caused by exposure to mold.

60. On information and belief, Harbor Bay personnel did not follow Defendants' mold policies and procedures in responding to the reports described below.

C. Geri Leto Described the Residence Before the Family Moved In

61. Geri Leto held the position of Assistant Community Director for Harbor Bay.

62. Before the Phillip family moved into the Residence, Leto represented to

the Phillip family that the Residence had been "newly renovated" following a previous hurricane.

63. Leto did not disclose that earlier occupants had reported mold contamination in the Residence.

64. Leto did not disclose that earlier occupants had reported neurological symptoms while living in the Residence.

65. Leto did not disclose that the Residence had a history of repeated mold complaints.

66. Leto made the representation in the course of leasing the Residence to the Phillip family on behalf of the property manager and AMC.

67. When Leto made the representation, the property manager and AMC knew of the earlier occupants' reports and the Residence's history of mold complaints, or made the representation without any reasonable basis for knowing whether the renovation had addressed those conditions.

68. David Phillip and Carly Phillip relied on Leto's representation in accepting the Residence and moving the family into it. They would not have moved the family into the Residence had they known of the earlier reports.

D. Harbor Bay Called the September 2022 Mold "Dust" and Cleaned the Ducts Without Containment

69. On or about September 10, 2022, Carly Phillip observed visible mold around the kitchen air vents and the attic access panel.

70. Carly Phillip submitted a maintenance request to Harbor Bay.

71. A Harbor Bay technician responded. The technician told Carly Phillip that

the growth around the kitchen vents and the attic access panel was "dust."

72. The technician ordered a duct cleaning and nothing else.

73. The technician represented to Carly Phillip that the attic area had already been addressed.

74. After the technician left, Carly Phillip examined the attic access panel. Nothing around the attic access panel had changed.

75. Harbor Bay hired contractors to perform the duct cleaning.

76. The contractors performed the duct cleaning while David Phillip, Carly Phillip, C.P., P.P., and S.P. remained inside the Residence.

77. The contractors established no containment.

78. The duct cleaning disturbed the mold and spread it through the Residence. The family inside was exposed to the disturbed mold.

E. Harbor Bay Blamed the December 2022 Leak on the Bathtub and Closed the Work Order

79. On December 10, 2022, Carly Phillip discovered water leaking through the kitchen ceiling from the upstairs bathroom.

80. Carly Phillip immediately submitted an emergency work order.

81. A Harbor Bay technician responded. The technician attributed the leak to "too much water in the tub upstairs."

82. No evidence supported that explanation. The upstairs bathroom had no wet conditions.

83. Harbor Bay performed no meaningful investigation into the source of the water intrusion.

84. The technician placed drying fans inside the Residence and closed the work order without identifying or correcting the source of the water.

F. Harbor Bay Repeated the "Dust" Response Through 2023

85. During 2023, Carly Phillip reported mold around the kitchen vents and the attic access panel to Harbor Bay on at least four additional occasions.

86. On each occasion, Harbor Bay maintenance personnel characterized the visible mold as "dust" and closed the work order.

87. On none of those occasions did Harbor Bay personnel conduct mold testing, identify the source of the moisture intrusion, or perform remediation.

88. Water intrusion, elevated moisture, and mold continued in the Residence throughout 2023.

G. Carly Phillip's Illness and the Continued "Dust" Response During Her Treatment

89. During the summer of 2023, while pregnant with R.P., Carly Phillip began experiencing repeated episodes of peripheral vision loss and blackouts.

90. On or about November 1, 2023, Carly Phillip lost her vision, collapsed, and suffered back-to-back seizures.

91. Emergency medical personnel transported Carly Phillip to Tampa General Hospital. Imaging revealed a brain mass.

92. Physicians performed an emergency Cesarean section. R.P. was delivered approximately four weeks prematurely and required oxygen support in the Neonatal Intensive Care Unit.

93. Pathology confirmed that Carly Phillip had a Grade III astrocytoma.

94. On November 28, 2023, Carly Phillip underwent neurosurgery. The tumor could not be completely removed.

95. As a result of the surgery and the tumor's location, Carly Phillip permanently lost the peripheral vision in her left eye and sensation in portions of her left leg.

96. Carly Phillip then underwent multiple rounds of radiation and chemotherapy. She completed radiation in March 2025 and chemotherapy in June 2025.

97. Carly Phillip's physicians have advised that the tumor is expected to recur and will require lifelong monitoring.

98. During radiation and chemotherapy, Carly Phillip was immunocompromised.

99. While Carly Phillip recovered from surgery and underwent treatment, mold continued developing around the Residence's vents and attic access panel. Carly Phillip reported it. Harbor Bay again dismissed the growth as "dust."

H. Hurricane Milton Damaged the Residence and Harbor Bay Called It "Not a Priority"

100. Hurricane Milton struck the MacDill area in October 2024. The family evacuated.

101. Harbor Bay maintenance personnel entered the Residence during the evacuation.

102. Harbor Bay informed the family that its personnel had observed "some water damage" and would schedule repairs.

103. The family returned to the Residence on or about October 11, 2024.

104. The family found substantial roof failure, water intrusion in all four bedrooms, ceiling damage, and water damage around the attic access panel.

105. Harbor Bay hired a third-party contractor to assess the Residence. The contractor documented widespread saturation within the walls and ceilings of the Residence.

106. The family repeatedly asked Harbor Bay to relocate them.

107. Harbor Bay informed the family that the Residence was "not a priority."

108. When Harbor Bay said that, Carly Phillip was undergoing chemotherapy and radiation.

109. After approximately two weeks of repeated requests, Harbor Bay relocated the family to an on-base Temporary Living Facility.

I. Harbor Bay Sent the Family Back After Painting Over the Damage

110. The Temporary Living Facility contained mold.

111. Approximately six weeks after the relocation, Harbor Bay directed the family to return to the Residence and represented that all repairs had been completed.

112. When the family returned, water stains remained on the ceilings and mold remained around the attic access panel.

113. The apparent repairs consisted largely of painting over the existing damage.

114. Carly Phillip complained. Harbor Bay representatives repeatedly instructed her to "put in a ticket." She did. No meaningful follow-up occurred.

115. In January 2025, Carly Phillip attended a Harbor Bay town hall meeting. Harbor Bay staff collected her contact information and assured her that someone would follow up. No one did.

J. Each Plaintiff's Exposure and Injuries

116. During the tenancy, David Phillip, Carly Phillip, C.P., P.P., and S.P. came into contact with, inhaled, and ingested mold in the Residence. R.P. came into contact with, inhaled, and ingested mold in the Residence from R.P.'s arrival at the Residence after birth.

117. David Phillip developed worsening skin conditions during the tenancy. David Phillip also developed sleep issues and insomnia.

118. Carly Phillip developed brain fog and headaches during the tenancy.

119. Carly Phillip's exposure to mold in the Residence continued during her radiation and chemotherapy, while she was immunocompromised.

120. C.P. developed a mold allergy during the tenancy. A physician diagnosed the allergy.

121. P.P. suffered persistent respiratory illnesses during the tenancy.

122. S.P. suffered persistent respiratory illnesses during the tenancy.

123. R.P. was born prematurely and remained medically fragile. R.P. was exposed to mold in the Residence from infancy, including after the post-Milton saturation and after the family's return. R.P. requires ongoing medical evaluation because of that exposure.

124. The Phillip family endured chronic sleep disruption and persistent fatigue during the tenancy.

125. The physical injuries alleged in paragraphs 116 through 124 were accompanied by emotional distress, including ongoing stress and anxiety regarding the deteriorating condition of the Residence and the risks the conditions posed to Carly Phillip because of her immunocompromised condition.

126. Had the Phillip family known the true history and condition of the Residence, they would not have moved into or remained in the Residence.

K. Property and Financial Losses

127. Water intrusion and mold damaged personal property belonging to the Phillip family.

128. The family incurred costs and inconvenience from displacement after Hurricane Milton, including the stay in the Temporary Living Facility. AMC did not fully compensate the family for those costs.

129. Plaintiffs incurred medical expenses for diagnosis and treatment of the injuries alleged in Section IV.J.

130. BAH was paid to AMC throughout the tenancy, including the months in which the Residence had mold around the kitchen vents and attic access panel, water intrusion, or saturated walls and ceilings.

131. In that condition, the Residence was worth a fraction of the rent paid for it.

V. CAUSES OF ACTION

COUNT I — Breach of the Lease
(David Phillip against AMC)

132. David Phillip incorporates paragraphs 6 through 53, 69 through 115, and

127 through 131.

133. The Lease is a valid contract between David Phillip and AMC.

134. Under the Lease, AMC was obligated to provide and maintain habitable housing and to remedy leaks, moisture, mold, and other conditions in the Residence.

135. David Phillip performed his obligations under the Lease. His BAH was paid to AMC as rent. Carly Phillip reported leaks, moisture, and mold as the Lease and the Resident Guidelines and Community Handbook required.

136. AMC breached the Lease. AMC did not remedy the mold around the kitchen vents and attic access panel reported in September 2022 and on at least four occasions in 2023. AMC did not identify or repair the source of the December 2022 leak. AMC did not repair the roof failure and saturated walls and ceilings after Hurricane Milton. AMC represented the post-Milton repairs complete when the work consisted largely of painting over the damage.

137. The property manager performed AMC's maintenance and repair obligations on AMC's behalf. AMC is responsible for that performance.

138. David Phillip was damaged by the breaches. Rent was paid for a Residence that was not in the condition the Lease required. He incurred displacement costs after Hurricane Milton that AMC did not fully compensate. Personal property was damaged. He incurred other out-of-pocket expenses caused by the breaches.

139. David Phillip seeks attorney's fees and costs to the extent the Lease provides for them.

COUNT II — Negligence

(All Plaintiffs against AMC, MMS, and Michaels)

140. Plaintiffs incorporate paragraphs 6 through 131.

141. Before the Phillip family moved in, AMC, as lessor of the Residence, knew that earlier occupants had reported mold and neurological symptoms in the Residence and that the Residence had a history of repeated mold complaints. AMC did not disclose those facts to the family. Those conditions were not observable on a walkthrough of a Residence described as newly renovated.

142. AMC owed Plaintiffs a duty to reasonably inspect the Residence before the family took possession, to make the repairs necessary to deliver a reasonably safe dwelling, and, after the family took possession, to exercise reasonable care to repair dangerous conditions upon notice.

143. MMS, as property manager, undertook to inspect, maintain, and repair the Residence. MMS received Plaintiffs' maintenance requests, dispatched technicians, engaged contractors, and closed work orders. Having undertaken that work, MMS owed Plaintiffs a duty to perform it with reasonable care.

144. On information and belief, Michaels participated in the management and maintenance of the Residence through employees who handled leasing and maintenance communications for the Residence and as the entity that assumed the MacDill housing contractor's obligations in 2021. In the alternative, on information and belief, the Harbor Bay personnel who inspected, maintained, and repaired the Residence were employees of Michaels. On either basis, Michaels owed Plaintiffs a duty to perform that work with reasonable care.

145. Defendants had notice of mold and water intrusion in the Residence from

the earlier occupants' reports; from Carly Phillip's report on or about September 10, 2022; from her emergency work order of December 10, 2022; from her at least four additional reports in 2023; from her reports during her cancer treatment; and from the third-party contractor's documentation of saturation after Hurricane Milton.

146. AMC breached its duty. AMC delivered the Residence without inspecting and repairing the conditions earlier occupants had reported. After each notice described in paragraph 145, AMC did not repair the mold, the leak, or the saturated structure.

147. MMS breached its duty through the Harbor Bay personnel it employed. The technician who responded in September 2022 characterized visible mold as "dust," ordered only a duct cleaning, and represented that the attic area had been addressed when nothing there had changed. The contractors engaged for the duct cleaning established no containment while the family was inside. The technician who responded in December 2022 attributed the leak to the bathtub without a meaningful investigation of the source, placed fans, and closed the work order. Maintenance personnel characterized mold as "dust" and closed at least four more work orders in 2023 without testing, source identification, or remediation. After Hurricane Milton, personnel left the family in a Residence with roof failure and saturated walls and ceilings for approximately two weeks. Personnel then painted over the water-damaged surfaces, left mold around the attic access panel, and directed the family to return.

148. MMS did not require the duct-cleaning contractors to establish containment and did not supervise their work to ensure that containment was established.

149. Michaels, on the bases alleged in paragraph 144, is responsible for the breaches alleged in paragraphs 147 and 148.

150. The property manager performed AMC's inspection, maintenance, and repair obligations as AMC's agent. AMC is liable for the property manager's negligence in performing those obligations.

151. Each breach exposed Plaintiffs to mold and moisture-damaged conditions in the Residence or prolonged that exposure.

152. That exposure caused the physical injuries alleged in paragraphs 116 through 124: David Phillip's skin conditions and insomnia; Carly Phillip's headaches and brain fog; C.P.'s mold allergy; P.P.'s respiratory illnesses; S.P.'s respiratory illnesses; and R.P.'s exposure requiring ongoing medical evaluation.

153. Plaintiffs were damaged. Each Plaintiff seeks damages for those physical injuries, for the medical expenses of diagnosing and treating them, for the emotional distress that accompanied them, and for the losses alleged in paragraphs 127 through 129.

COUNT III — Gross Negligence
(All Plaintiffs against AMC, MMS, and Michaels)

154. Plaintiffs incorporate paragraphs 6 through 131.

155. On information and belief, Michaels participated in the management and maintenance of the Residence through its employees and as the entity that assumed the MacDill housing contractor's obligations, or, in the alternative, employed the Harbor Bay personnel who inspected, maintained, and repaired the Residence.

156. AMC, as lessor, and MMS and Michaels, as the entities that managed and

maintained the Residence, owed Plaintiffs a duty of reasonable care in inspecting, maintaining, and repairing the Residence.

157. Before the Phillip family moved in, Defendants knew that earlier occupants had reported mold and neurological symptoms in the Residence.

158. From on or about September 10, 2022, Defendants knew that mold was present around the kitchen vents and attic access panel of the Residence.

159. From December 10, 2022, Defendants knew that water was entering the Residence through the kitchen ceiling from a source Defendants had not identified.

160. Throughout 2023, Defendants knew from at least four further reports that the mold persisted in the same locations.

161. In October 2024, Defendants knew from their own contractor's documentation that the walls and ceilings of the Residence were saturated.

162. Those conditions presented a danger to the health of the occupants that a reasonable landlord or property manager would know would probably result in injury.

163. With that knowledge, Defendants' personnel closed work orders without remediation, cleaned ducts without containment while the family was inside, told the family the Residence was "not a priority," painted over saturated surfaces, and directed the family to return.

164. That conduct was carried out or directed by Harbor Bay management personnel, including the personnel who decided when to relocate the family and when to return the family to the Residence.

165. That course of conduct caused the physical injuries alleged in paragraphs 116 through 124 and the losses alleged in paragraphs 127 through 129.

166. Plaintiffs were damaged.

COUNT IV — Breach of the Landlord's Statutory Obligation to Maintain the Premises
(All Plaintiffs against AMC)

167. Plaintiffs incorporate paragraphs 6 through 53 and 69 through 131.

168. AMC is the landlord of the Residence.

169. David Phillip is the tenant under the Lease. Carly Phillip, C.P., P.P., S.P., and R.P. occupied the Residence with him under the Lease.

170. Section 83.51(1), Florida Statutes, requires the landlord, "at all times during the tenancy," to "[c]omply with the requirements of applicable building, housing, and health codes" or, "[w]here there are no applicable building, housing, or health codes, maintain the roofs, windows, doors, floors, steps, porches, exterior walls, foundations, and all other structural components in good repair and capable of resisting normal forces and loads and the plumbing in reasonable working condition."

171. AMC did not maintain the plumbing of the Residence in reasonable working condition. In December 2022, water leaked from the upstairs bathroom through the kitchen ceiling. AMC did not identify or repair the source.

172. AMC did not maintain the roof, ceilings, walls, and other structural components of the Residence in good repair. After Hurricane Milton, the roof had failed, water had entered all four bedrooms, and the walls and ceilings were saturated. AMC painted over the damaged surfaces. AMC did not repair the roof or the saturated structure.

173. To the extent applicable building, housing, or health codes governed the

Residence, AMC did not comply with them. The Residence was maintained with mold around the kitchen vents and attic access panel, water intrusion, and saturated walls and ceilings.

174. AMC had notice of each condition from Plaintiffs' maintenance requests, from the emergency work order, and from the contractor's documentation.

175. Section 83.55, Florida Statutes, provides a right of action for damages to a party aggrieved by the other party's noncompliance with the rental agreement or with Part II of Chapter 83.

176. AMC's noncompliance caused the moisture and mold conditions that caused the physical injuries alleged in paragraphs 116 through 124.

177. Plaintiffs were damaged. Each Plaintiff seeks damages for those physical injuries, for the medical expenses of diagnosing and treating them, for the emotional distress that accompanied them, and for the losses alleged in paragraphs 127 through 129.

COUNT V — Breach of Contract as Intended Third-Party Beneficiaries (All Plaintiffs against AMC, MMS, and Michaels)

178. Plaintiffs incorporate paragraphs 6 through 53 and 69 through 131.

179. The Operating Agreement is a contract between AMC East, LLC and the Air Force. The Operating Agreement contains language establishing that residents of MacDill housing are intended beneficiaries of the contractor's obligations to provide, maintain, and repair that housing. On information and belief, the current version of the Operating Agreement under which AMC operates contains the same or similar language. AMC is bound by the Operating Agreement.

180. The Ground Lease is a contract between AMC East, LLC and the Air Force. On information and belief, the Ground Lease contains language establishing that residents of MacDill housing are intended beneficiaries of the lessee's obligations to maintain that housing. On information and belief, AMC holds the lessee's interest and is bound by the Ground Lease.

181. On information and belief, one or more property management agreements govern the management and maintenance of MacDill housing, and those agreements contain provisions establishing that residents are intended beneficiaries of the manager's obligations. On information and belief, MMS, as property manager, is a party to or bound by those agreements.

182. On the basis alleged in paragraph 35, Michaels assumed the obligations under the Operating Agreement, the Ground Lease, and the property management agreements.

183. Each of those contracts was entered into to further the goal of the Military Housing Privatization Initiative to improve housing for service members. The contracting parties intended to benefit the service members living at MacDill and their families. David Phillip is a service member living at MacDill with his family. The maintenance obligations were included in those contracts to ensure that service members, including Plaintiffs, would be provided safe and habitable housing.

184. Defendants breached those contracts by failing to provide suitable management, maintenance, operation, and repair of the Residence in the respects alleged in paragraphs 69 through 115.

185. Defendants also breached the duty of good faith and fair dealing implied in

those contracts.

186. The breaches caused the physical injuries alleged in paragraphs 116 through 124 and the losses alleged in paragraphs 127 through 129. Plaintiffs were damaged.

COUNT VI — Negligence Per Se
(All Plaintiffs against AMC, MMS, and Michaels)

187. Plaintiffs incorporate paragraphs 6 through 53 and 69 through 131.

188. On information and belief, the Residence lies within the present corporate limits of the City of Tampa.

189. Section 19-231 of the Code of Ordinances of the City of Tampa provides: "No person shall occupy or let to another for occupancy or offer to let to another for occupancy any dwelling or dwelling unit which does not comply with the following standard."

190. Section 19-231(17) provides: "General condition of rental unit. Each dwelling unit let or offered to let shall be clean, sanitary, fit for human habitation and in a good state of repair."

191. Section 19-231(10) provides: "Every floor, wall and ceiling shall be capable of affording privacy and shall be maintained in a good state of repair."

192. Section 19-231(13) provides: "Plumbing fixtures and pipes. Every plumbing fixture and water and waste pipe shall be maintained in good working condition, free from defects, leaks and obstructions."

193. Section 19-232(7) provides: "The owner shall be responsible for the repair and replacement of all plumbing facilities and equipment."

194. Those provisions protect occupants of let dwelling units from injury caused by unsanitary, unrepaired, and leaking dwellings. Plaintiffs occupied a let dwelling unit.

195. AMC let the Residence to David Phillip. MMS offered the Residence to let and maintained it on AMC's behalf. Michaels, on the bases alleged in paragraphs 35 and 44, assumed the contractor's obligations for the Residence or employed the personnel who maintained it.

196. The Residence was let and maintained with mold around the kitchen vents and attic access panel, with water intrusion, and with saturated walls and ceilings. In that condition the Residence was not clean, sanitary, fit for human habitation, or in a good state of repair.

197. The ceilings and walls of the Residence were not maintained in a good state of repair after the December 2022 leak or after Hurricane Milton.

198. The plumbing that leaked from the upstairs bathroom through the kitchen ceiling in December 2022 was not maintained free from leaks. AMC, as owner, did not repair it.

199. Those violations caused the moisture and mold conditions that caused the physical injuries alleged in paragraphs 116 through 124.

200. Plaintiffs were damaged.

COUNT VII — Unjust Enrichment, Pleaded in the Alternative
(David Phillip against AMC)

201. David Phillip incorporates paragraphs 6 through 53, 69 through 115, and 127 through 131.

202. This Count is pleaded in the alternative to Count I under Rule 8(d)(2). It applies if the Court determines that no enforceable contract between David Phillip and AMC governs the rent paid for the Residence or AMC's obligation to provide and maintain habitable housing.

203. David Phillip conferred a benefit on AMC. His BAH was transferred to AMC monthly as rent for the Residence.

204. AMC knew of and accepted the BAH payments.

205. AMC accepted the BAH payments as rent for safe and habitable housing. For the months described in paragraph 130, the Residence had mold around the kitchen vents and attic access panel, water intrusion, or saturated walls and ceilings. AMC did not fully compensate the family for the displacement after Hurricane Milton.

206. AMC's retention of the full BAH payments, without providing housing of the value for which they were paid, is inequitable.

207. David Phillip is entitled to restitution of the portion of the BAH payments that exceeded the value of the housing AMC provided.

COUNT VIII — Negligent Misrepresentation Before Occupancy
(David Phillip, Carly Phillip, C.P., P.P., and S.P. against AMC, MMS, and Michaels)

208. David Phillip, Carly Phillip, C.P., P.P., and S.P. incorporate paragraphs 6 through 131.

209. Before the Phillip family moved into the Residence, Leto represented to the Phillip family that the Residence had been "newly renovated" following a previous hurricane. Leto made the representation as Harbor Bay's Assistant Community

Director, on behalf of the property manager, in leasing the Residence for AMC.

210. In context, the representation conveyed that the renovation had addressed the condition of the Residence and that the Residence was fit for the family to occupy.

211. The representation was materially incomplete. Earlier occupants had reported mold contamination and neurological symptoms in the Residence. The Residence had a history of repeated mold complaints. Leto did not disclose those facts.

212. On information and belief, the Lease, which AMC prepared and presented to David Phillip for signature, represented that the Residence was in safe, clean, and habitable condition and free of mold, mildew, and signs of water intrusion.

213. Within approximately one year after the family moved in, mold was visible around the kitchen vents and attic access panel, and water intrusion followed. The family encountered many of the same conditions the earlier occupants had reported.

214. Defendants made those representations without exercising reasonable care to learn whether they were true. Defendants kept the maintenance history of the Residence, which recorded the earlier occupants' complaints.

215. Defendants made the representations to induce David Phillip to sign the Lease and the Phillip family to accept and move into the Residence.

216. David Phillip and Carly Phillip justifiably relied on the representations. They accepted the Residence. David Phillip signed the Lease. They moved the family into the Residence. They relied on their own behalf and on behalf of C.P., P.P., and S.P., for whom they selected the Residence. They would not have moved the family into the Residence had the history been disclosed.

217. That reliance caused the family to occupy the Residence and to be exposed

to the conditions alleged in Section IV. That exposure caused the physical injuries alleged in paragraphs 116 through 122 and 124 and the losses alleged in paragraphs 127 through 129.

218. David Phillip, Carly Phillip, C.P., P.P., and S.P. were damaged.

COUNT IX — Negligent Misrepresentation Concerning Repairs
(All Plaintiffs against AMC, MMS, and Michaels)

219. Plaintiffs incorporate paragraphs 6 through 53 and 69 through 131.

220. After Carly Phillip's report on or about September 10, 2022, a Harbor Bay technician told Carly Phillip at the Residence that the growth around the kitchen vents and attic access panel was "dust" and that the attic area had already been addressed. The growth was mold. Nothing around the attic access panel had changed.

221. On or about December 10, 2022, a Harbor Bay technician told Carly Phillip at the Residence that the water coming through the kitchen ceiling was from "too much water in the tub upstairs." The upstairs bathroom had no wet conditions. The technician had not meaningfully investigated the source.

222. On at least four occasions during 2023, Harbor Bay maintenance personnel told Carly Phillip at the Residence that the growth around the kitchen vents and attic access panel was "dust." The growth was mold.

223. During Carly Phillip's cancer treatment, Harbor Bay personnel again told her that the growth was "dust." The growth was mold.

224. Approximately six weeks after relocating the family, Harbor Bay represented to the family that all repairs to the Residence had been completed. Water stains remained on the ceilings. Mold remained around the attic access panel. The work

performed consisted largely of painting over the damage.

225. Each statement was made by Harbor Bay personnel of the property manager, in the course of responding to maintenance requests for the Residence, and on behalf of AMC, whose repair obligations the property manager performed.

226. Each statement concerned the existing condition of the Residence or the work that had been performed on it.

227. Each speaker made the statement without exercising reasonable care to learn whether it was true. No speaker tested the growth before calling it dust. The December 2022 technician did not meaningfully investigate the source before attributing the leak to the tub. The post-Milton statement was made when the work performed consisted largely of painting over damage that Defendants' own contractor had documented as saturation.

228. Defendants made the statements to cause the family to remain in the Residence and to accept the work performed as sufficient.

229. David Phillip and Carly Phillip justifiably relied on the statements. The family remained in the Residence after each statement. The family returned to the Residence after Harbor Bay represented that all repairs had been completed. David Phillip and Carly Phillip relied on their own behalf and on behalf of C.P., P.P., S.P., and, after R.P.'s birth, R.P.

230. That reliance prolonged the family's exposure to mold and moisture-damaged conditions. The prolonged exposure caused or worsened the physical injuries alleged in paragraphs 116 through 124 and the losses alleged in paragraphs 127 through 129.

231. Plaintiffs were damaged.

COUNT X — Fraudulent Inducement
(David Phillip, Carly Phillip, C.P., P.P., and S.P. against AMC, MMS, and Michaels)

232. David Phillip, Carly Phillip, C.P., P.P., and S.P. incorporate paragraphs 6 through 131.

233. Leto's representation, before the family moved in, that the Residence had been "newly renovated" following a previous hurricane, made without disclosure of the earlier occupants' reports, was a statement of material fact about the condition and history of the Residence.

234. On information and belief, the Lease's representation that the Residence was in safe, clean, and habitable condition and free of mold, mildew, and signs of water intrusion was a statement of material fact.

235. When those statements were made, Defendants knew that earlier occupants had reported mold contamination and neurological symptoms in the Residence and that the Residence had a history of repeated mold complaints. Defendants kept the maintenance history of the Residence.

236. Defendants knew that the statements, made without disclosure of that history, were false or misleading.

237. Defendants made the statements intending that David Phillip would sign the Lease and that the family would accept and move into the Residence, causing David Phillip's BAH to be paid to AMC.

238. David Phillip and Carly Phillip relied on the statements. David Phillip

signed the Lease. They moved the family into the Residence. They relied on their own behalf and on behalf of C.P., P.P., and S.P. They would not have signed the Lease or moved the family into the Residence had the history been disclosed.

239. That reliance caused the family to occupy the Residence and to be exposed to the conditions alleged in Section IV. That exposure caused the physical injuries alleged in paragraphs 116 through 122 and 124 and the losses alleged in paragraphs 127 through 129.

240. David Phillip, Carly Phillip, C.P., P.P., and S.P. were damaged.

COUNT XI — Fraudulent Misrepresentation Concerning Repairs
(All Plaintiffs against AMC, MMS, and Michaels)

241. Plaintiffs incorporate paragraphs 6 through 53 and 69 through 131.

242. The statements alleged in paragraphs 71, 73, 81, 86, 99, and 111 were statements of material fact about the condition of the Residence or the work performed on it.

243. Defendants knew the true condition of the Residence. Defendants' own personnel inspected the Residence and performed the repair work at the Residence.

244. When the September 2022 technician represented that the attic area had already been addressed, Defendants knew, from their own personnel's visits to the Residence, that the attic area had not been addressed. Nothing around the attic access panel had changed.

245. Each time Harbor Bay personnel characterized the growth as "dust," Defendants knew, from the repeated reports and from their own personnel's visits, that the growth was mold recurring in the same locations and that Defendants had not

remediated it.

246. When Harbor Bay represented that all repairs had been completed, Defendants knew the scope of the work performed. Defendants knew that their contractor had documented saturation within the walls and ceilings. Defendants knew that the work performed consisted largely of painting over the damage and that mold remained around the attic access panel.

247. Defendants made the statements intending that the family would remain in the Residence, would accept the work performed as sufficient, and would return to the Residence.

248. David Phillip and Carly Phillip relied on the statements. The family remained in the Residence. The family returned to the Residence. David Phillip and Carly Phillip relied on their own behalf and on behalf of C.P., P.P., S.P., and, after R.P.'s birth, R.P. They would not have remained in or returned to the Residence had they known the statements were false.

249. That reliance prolonged the family's exposure. The prolonged exposure caused or worsened the physical injuries alleged in paragraphs 116 through 124 and the losses alleged in paragraphs 127 through 129.

250. Plaintiffs were damaged.

COUNT XII — Fraudulent Concealment Before Occupancy
(David Phillip, Carly Phillip, C.P., P.P., and S.P. against AMC, MMS, and Michaels)

251. David Phillip, Carly Phillip, C.P., P.P., and S.P. incorporate paragraphs 6 through 131.

252. Before the family accepted the Residence, Defendants knew that earlier occupants had reported mold contamination and neurological symptoms in the Residence and that the Residence had a history of repeated mold complaints.

253. David Phillip and Carly Phillip did not know those facts. The facts were not observable on inspection of a Residence described as newly renovated.

254. Having described the Residence as "newly renovated," and having represented in the Lease, on information and belief, that the Residence was free of mold and signs of water intrusion, Defendants were obligated to disclose the history those statements omitted.

255. In the alternative, Defendants, as lessor and property manager with possession of the maintenance history, knew of facts materially affecting the habitability of the Residence that were not readily observable and were not known to the family, and were obligated to disclose them.

256. Defendants did not disclose those facts.

257. Defendants concealed those facts intending that David Phillip would sign the Lease and that the family would move into the Residence.

258. David Phillip and Carly Phillip relied on the absence of any disclosed mold history. They accepted the Residence and moved the family into it. They relied on their own behalf and on behalf of C.P., P.P., and S.P. They would not have done so had the history been disclosed.

259. That reliance caused the family to occupy the Residence and to be exposed to the conditions alleged in Section IV. That exposure caused the physical injuries alleged in paragraphs 116 through 122 and 124 and the losses alleged in paragraphs 127

through 129.

260. David Phillip, Carly Phillip, C.P., P.P., and S.P. were damaged.

COUNT XIII — Fraudulent Concealment Concerning Repairs
(All Plaintiffs against AMC, MMS, and Michaels)

261. Plaintiffs incorporate paragraphs 6 through 53 and 69 through 131.

262. After the September 2022 duct cleaning, Defendants knew that the attic area had not been addressed and that the mold remained.

263. After December 2022, Defendants knew that the source of the kitchen-ceiling leak had not been identified or corrected.

264. After Hurricane Milton, Defendants knew from their contractor that the walls and ceilings of the Residence were saturated. Defendants knew that the work performed before the family's return consisted largely of painting over the damage. Defendants knew that mold remained around the attic access panel.

265. When Harbor Bay directed the family to return, the family did not know that the saturated structure had been painted rather than repaired. The painted surfaces concealed the condition beneath them.

266. Having represented that the attic area had been addressed and that all repairs had been completed, Defendants were obligated to disclose that those conditions remained. In the alternative, as lessor and property manager with knowledge of the contractor's findings and the scope of the work performed, Defendants were obligated to disclose those facts.

267. Defendants did not disclose those facts. Defendants concealed them by painting over the damage and by representing that repairs had been completed.

268. Defendants concealed those facts intending that the family would remain in and return to the Residence.

269. David Phillip and Carly Phillip relied on the absence of any disclosure. The family remained in the Residence. The family returned to the Residence. David Phillip and Carly Phillip relied on their own behalf and on behalf of C.P., P.P., S.P., and R.P.

270. That reliance prolonged the family's exposure. The prolonged exposure caused or worsened the physical injuries alleged in paragraphs 116 through 124 and the losses alleged in paragraphs 127 through 129.

271. Plaintiffs were damaged.

COUNT XIV — Florida Deceptive and Unfair Trade Practices Act: Deceptive Acts
(David Phillip against AMC, MMS, and Michaels)

272. David Phillip incorporates paragraphs 6 through 53, 61 through 68, 69 through 115, and 130 through 131.

273. AMC leased the Residence to David Phillip in exchange for his BAH. MMS provided property management services for the Residence. On information and belief, Michaels held itself out as the provider of housing at MacDill and, through its employees, participated in leasing and maintenance communications for the Residence. In doing so, each Defendant engaged in trade or commerce within the meaning of Fla. Stat. § 501.204.

274. David Phillip was a consumer. He leased the Residence for his family's use.

275. Defendants engaged in deceptive acts in that trade or commerce. Leto represented that the Residence had been "newly renovated" without disclosing its

history of mold reports. On information and belief, the Lease represented that the Residence was free of mold and signs of water intrusion. Harbor Bay personnel characterized visible mold as "dust" in September 2022, on at least four occasions in 2023, and during Carly Phillip's treatment. A technician attributed the December 2022 leak to "too much water in the tub upstairs." Harbor Bay represented that all post-Milton repairs had been completed when the work consisted largely of painting. Each statement was likely to mislead a consumer acting reasonably in the circumstances.

276. Those acts caused David Phillip to accept the Residence, to remain in it, and to return to it, and caused his BAH to be paid to AMC at the rate for habitable housing.

277. In its condition, the Residence was worth a fraction of the rent paid for it. David Phillip's actual damages are the difference between the value of the housing as represented and the value of the housing received.

278. On this Count, David Phillip seeks those actual damages under Fla. Stat. § 501.211, together with attorney's fees and court costs as the FDUTPA provides. On this Count, David Phillip does not seek damages for personal injury, emotional distress, or damage to property other than his leasehold interest in the Residence.

COUNT XV — Florida Deceptive and Unfair Trade Practices Act: Unfair Acts (David Phillip against AMC, MMS, and Michaels)

279. David Phillip incorporates paragraphs 6 through 53, 61 through 68, 69 through 115, and 130 through 131.

280. AMC leased the Residence to David Phillip in exchange for his BAH. MMS provided property management services for the Residence. On information and belief,

Michaels held itself out as the provider of housing at MacDill and participated through its employees in leasing and maintenance communications for the Residence. Each Defendant engaged in trade or commerce within the meaning of Fla. Stat. § 501.204.

281. David Phillip was a consumer. He leased the Residence for his family's use.

282. Defendants engaged in unfair and unconscionable acts in that trade or commerce. Defendants let the Residence for the full BAH knowing its history of mold reports. Defendants closed mold work orders without testing or remediation. Defendants left the family in a Residence with saturated walls and ceilings for approximately two weeks while telling the family the Residence was "not a priority." Defendants returned the family to the Residence after painting over the damage. On information and belief, Defendants did not follow their own mold policies and procedures.

283. Those acts offended established public policy and were substantially injurious to consumers.

284. In its condition, the Residence was worth a fraction of the rent paid for it. David Phillip seeks the difference between the value of the housing as represented and the value of the housing received as actual damages under Fla. Stat. § 501.211, together with attorney's fees and court costs as the FDUTPA provides. On this Count, David Phillip does not seek damages for personal injury, emotional distress, or damage to property other than his leasehold interest in the Residence.

VI. DAMAGES

285. Each Plaintiff seeks damages for the physical injuries alleged in paragraphs 116 through 124, including past and future pain and suffering, physical

impairment, loss of enjoyment of life, and the emotional distress that accompanied those injuries.

286. David Phillip and Carly Phillip seek the past and future medical, diagnostic, and care expenses incurred for themselves and for C.P., P.P., S.P., and R.P. during the children's minority. Each child seeks the medical expenses the child will incur after reaching majority.

287. David Phillip and Carly Phillip each seek lost income and lost earning capacity to the extent each sustained them.

288. David Phillip and Carly Phillip seek the displacement costs, out-of-pocket expenses, and personal-property losses the family incurred.

289. Plaintiffs seek future diagnostic and treatment expenses reasonably necessary because of the injuries caused or aggravated by Defendants' conduct.

290. Plaintiffs seek punitive damages on Counts III, X, XI, XII, and XIII against each Defendant whose conduct is alleged in those Counts.

291. No Plaintiff seeks to recover more than once for the same loss.

PRAYER FOR RELIEF

Plaintiffs request that the Court enter judgment:

A. Awarding each Plaintiff compensatory damages on the Counts on which that Plaintiff sues, in an amount to be determined at trial, without duplicate recovery for any single loss;

B. Awarding David Phillip restitution on Count VII, in the alternative to Count I;

C. Awarding punitive damages on Counts III, X, XI, XII, and XIII, in an amount to be determined at trial;

D. Awarding David Phillip attorney's fees and costs on Count I to the extent the Lease provides, and on Counts XIV and XV as the FDUTPA provides;

E. Awarding pre-judgment and post-judgment interest as permitted by law; and

F. Granting such other relief as the Court finds just.

DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues so triable.

Signature block omitted.