

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
Case Type: Other Civil

Barry Sewall, Shamika Gregory, and Jerome Gregory, each individually and on behalf of all others similarly situated,

Court File No.: 27-cv-22-10389
Judge Christian Sande

Plaintiffs,

**DEFENDANTS' ANSWER AND
COUNTERCLAIM**

v.

Home Partners Holdings LLC, SFR Acquisitions 1 LLC, and OPVHHJV LLC, d/b/a Pathlight Property Management,

Defendants.

Defendants Home Partners Holdings LLC (“Home Partners”), SFR Acquisitions 1 LLC (“SFR”) and OPVHHJV LLC, d/b/a Pathlight Property Management (“Pathlight”) (collectively “Defendants”), in answer to Plaintiffs Barry Sewall, Shamika Gregory, and Jerome Gregory’s (“Plaintiffs”) Class Action Second Amended Complaint (“Second Amended Complaint”), responds to each of Plaintiffs’ numbered allegations as follows, and denies all allegations except as expressly admitted below. Defendants do not admit, and instead deny, any factual allegations contained in the unnumbered headings in Plaintiffs’ Second Amended Complaint.

Each numbered response in this Answer is made subject to the following limitations as if fully set forth therein.

First, to the extent the Second Amended Complaint attempts to characterize documents, Defendants respond generally that such documents speak for themselves and incorporates by reference this response in each Response below as if fully set forth therein.

Second, except as expressly and specifically admitted herein, Defendants deny each and every allegation in the Second Amended Complaint.

Third, the Second Amended Complaint contains twenty-four (24) footnotes. Defendants' understanding is that these footnotes are not part of the allegation in the Second Amended Complaint. To the extent Plaintiffs intended for the allegations in the Second Amended Complaint to include the footnotes, Defendants deny any allegations in the footnotes unless otherwise admitted. Further, to the extent the footnotes contain characterizations of or quotations from documents, Defendants state that those documents speak for themselves and deny the allegations in the footnotes to the extent they mischaracterize or misquote the referenced documents.

INTRODUCTION

1. With respect to the allegations in Paragraph 1 of the Second Amended Complaint, they are statements about the law to which no response is necessary. To the extent a response is required, Defendants deny the allegations of Paragraph 1.

2. With respect to the allegations in Paragraph 2 of the Second Amended Complaint, they are statements about the law to which no response is necessary. To the extent a response is required, Defendants deny the allegations of Paragraph 2.

3. With respect to the allegations in Paragraph 3 of the Second Amended Complaint, they are statements about the law to which no response is necessary. To the extent a response is required, Defendants deny the allegations of Paragraph 3.

4. With respect to the allegations in Paragraph 4 of the Second Amended Complaint, Defendants deny that they use a "guise" or "routinely require tenants to enter into contracts of adhesion." Answering further, to the extent that Plaintiffs characterize the contents of any

leases, their terms speak for themselves. Defendants deny the remaining allegations of Paragraph 4.

5. With respect to the allegations in Paragraph 5 of the Second Amended Complaint, they are statements about the law to which no response is necessary. To the extent a response is required, Defendants deny the allegations of Paragraph 5.

6. With respect to the allegations in Paragraph 6 of the Second Amended Complaint, Defendants deny them.

7. With respect to the allegations in Paragraph 7 of the Second Amended Complaint, Defendants deny them.

8. With respect to the allegations in Paragraph 8 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

9. With respect to the allegations in Paragraph 9 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

10. With respect to the allegations in Paragraph 10 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

11. With respect to the allegations in Paragraph 11 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

PARTIES

12. With respect to the allegations in Paragraph 12 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

13. With respect to the allegations in Paragraph 13 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

14. With respect to the allegations in Paragraph 14 of the Second Amended Complaint, Defendants admit them.

15. With respect to the allegations in Paragraph 15 of the Second Amended Complaint, Defendants admit that the lease programs that are the subject of this lawsuit are offered and administered by Home Partners Holdings LLC (“Home Partners”). Defendants admit that Home Partners is incorporated in Delaware and has its principal place of business in Illinois. Answering further, the single-family homes operated in Minnesota have been purchased by corporate entities in which Home Partners has an interest. Defendants deny any remaining allegations of Paragraph 15.

16. With respect to the allegations in Paragraph 16 of the Second Amended Complaint, Defendants admit that limited liability companies in which Home Partners has an interest purchased the single-family homes at issue in this lawsuit. Defendants deny that any such companies were “shell limited liability companies.” Defendants also deny that Home Partners (or one of its officers or employees) was a member of those limited liability companies. Defendants deny the remaining allegations of Paragraph 16.

17. With respect to the allegations in Paragraph 17 of the Second Amended Complaint, Defendants admit that SFR Acquisitions 1 LLC is a Delaware limited liability company with its principal place of business in Chicago, Illinois. Defendants deny that SFR Acquisitions 1 LLC purchased any homes at issue in this lawsuit. Defendants affirmatively state that SFR Acquisitions 1 LLC was the signatory to some of the leases at issue in this lawsuit. Defendants affirmatively state that on April 6, 2022, SFR Acquisitions 1 LLC merged with and into SFR Borrower 2022-1 LLC, a Delaware limited liability company with its principal place of business in Chicago, Illinois. Defendants deny the remaining allegations in Paragraph 17.

18. With respect to the allegations in Paragraph 18 of the Second Amended Complaint, Defendants indicate that the named Plaintiffs entered agreements with HP Minnesota I LLC. Defendants further state that SFR Acquisitions 1 LLC is the successor entity to HP Minnesota I LLC. The remaining allegations are statements about the law to which no response is necessary. To the extent a response is required, Defendants' deny the remaining allegations of Paragraph 18.

19. With respect to Paragraph 19, Defendants admit that properties leased by Home Partners are managed by a wholly owned subsidiary, OPVHHJV LLC, which is a property management company that does business as Pathlight Property Management ("Pathlight"). Defendants further admit that Pathlight is organized in, and has its principal place of business in, Texas. Defendants deny the remaining allegations in Paragraph 19.

JURISDICTION AND VENUE

20. With respect to the allegations in Paragraph 20 of the Second Amended Complaint, Defendants admit that this Court has subject matter jurisdiction of named Plaintiffs' individual claims.

21. With respect to the allegations in Paragraph 21 of the Second Amended Complaint, Defendants admit that this Court has personal jurisdiction over them.

22. With respect to the allegations in Paragraph 22 of the Second Amended Complaint, Defendants admit that this venue is proper.

FACTUAL ALLEGATIONS

23. With respect to the allegations in Paragraph 23 of the Second Amended Complaint, Defendants admit that the Home Partners website discloses that it has purchased more than 28,000 homes, helped more than 62,000 residents, and serves more than 2,200 cities as of January 10, 2023. Defendants deny the remaining allegations in Paragraph 23.

24. With respect to the allegations in Paragraph 24 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

25. With respect to the allegations in Paragraph 25 of the Second Amended Complaint, Defendants admit that Blackstone, Inc. has an ownership interest in Home Partners. Defendants deny the remaining allegations in Paragraph 25.

26. With respect to the allegations in Paragraph 26 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

27. With respect to the allegations in Paragraph 27 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

28. With respect to the allegations in Paragraph 28 of the Second Amended Complaint, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

29. With respect to the allegations in Paragraph 29 of the Second Amended Complaint, Defendants admit that they entered the real estate market whereby Home Partners would operate and own the single-family home leasing programs and Pathlight would manage the homes. To the extent that Plaintiffs fail to identify which Defendant(s) made alleged statements in an unidentified medium, Defendants are without knowledge or information sufficient to form a belief and therefore deny them. Defendants deny the remaining allegations of Paragraph 29.

30. With respect to the allegations in Paragraph 30 of the Second Amended Complaint, because Plaintiffs fail to identify which Defendant(s) made alleged statements in an unidentified medium, Defendants are without knowledge or information sufficient to form a belief and therefore deny them. Defendants deny the remaining allegations of Paragraph 30.

31. With respect to the allegations in Paragraph 31 of the Second Amended Complaint, Defendants admit that the Pathlight website provides the following Q&A: “When does Pathlight become the main point of contact for incoming residents? From the beginning, Home Partners and Pathlight communicate with residents throughout the entire process. Once the house has closed and the Make-Ready renovations have been completed, Pathlight will send a Welcome Email to residents that outlines the move-in process and answers questions that may arise during the lease term. For questions on move-in and maintenance, please reach out to Pathlight.” Answering further, Defendants admit that they have marketing materials for their business operations, which speak for themselves. Defendants deny the remaining allegations of Paragraph 31.

32. With respect to the allegations in Paragraph 32 of the Second Amended Complaint, Defendants admit that they market their business operations in various channels and their marketing materials speak for themselves. Because Plaintiffs provide no metric for “extensively,” Defendants are without knowledge or information sufficient to form a belief as to the quantity of their marketing materials. Defendants deny the remaining allegations of Paragraph 32.

33. With respect to Paragraph 33 of the Second Amended Complaint, Defendants admit that Pathlight’s website states that “Pathlight Property Management (“Pathlight”) and Home Partners of America are proud to offer two lease programs.” Defendants deny the remaining allegations of Paragraph 33.

34. With respect to the allegations in Paragraph 34 of the Second Amended Complaint, Defendants admit that approved applicants, like Plaintiffs, are not limited to Home Partners’ existing inventory of owned rental homes and, instead, can select a home from housing inventory on the Multiple Listing Service (“MLS”), within certain parameters. Answering further, once a qualifying home is selected by a potential resident, Home Partners attempts to purchase the home with the goal of leasing the home to the potential resident and providing the potential resident with a right to purchase the home at predetermined prices during the lease. Answering further, Defendants’ “form documentation” and Pathlight’s website speaks for themselves. Answering further, because Plaintiffs fail to identify where, when, who, and to whom certain statements were allegedly made, Defendants are without knowledge or information sufficient to form a belief and therefore deny the same. Defendants deny any remaining allegations of Paragraph 34.

35. With respect to the allegations in Paragraph 35 of the Second Amended Complaint, the quoted language speaks for itself and Defendants admit that they intend to accurately

describe how the lease program works. Defendants deny the remaining allegations of Paragraph 35.

36. With respect to the allegations in Paragraph 36 of the Second Amended Complaint, Defendants admit that the quoted language speaks for itself and deny the remaining allegations of Paragraph 36.

37. With respect to the allegations in Paragraph 37 of the Second Amended Complaint, Defendants admit that the quoted language speaks for itself and deny the remaining allegations of Paragraph 37.

38. With respect to the allegations in Paragraph 38 of the Second Amended Complaint, Defendants admit that tenants sign leases that contain a monthly base rent for each year in which a tenant occupies a house (and has not exercised their purchase right). Answering further, year-over-year price increases are set forth in the leases, which speak for themselves. Defendants are without knowledge sufficient to form a belief regarding average year-over-year base rent increases for the metropolitan Twin Cities and therefore deny the same. To the extent that the remaining allegations characterize Defendants' "form documents," they speak for themselves. Defendants deny the remaining allegations of Paragraph 38.

39. With respect to the allegations in Paragraph 39 of the Second Amended Complaint, Defendants admit that Home Partners' website contains the following Q&A: "What effect does the appraisal have on the purchase price? The Right to Purchase Agreement does not provide for any negotiation of the purchase price. If the home appraises for less than the purchase price, we are willing to terminate the purchase contract and return your earnest money deposit, provided we receive a copy of the appraisal for our records. If the home appraises for more than the purchase price, then you will receive the cost benefit." To the extent that the allegations pertain

to documents, the documents speak for themselves. Defendants deny the remaining allegations of Paragraph 39.

40. With respect to the allegations in Paragraph 40 of the Second Amended Complaint, Defendants admit that Home Partners is not a lender. As to the remaining allegations of Paragraph 40, Defendants are without knowledge or information sufficient to form a belief and therefore deny them.

41. With respect to the allegations in Paragraph 41 of the Second Amended Complaint, Defendants affirmatively state that the lease and right to purchase documents speak for themselves. Defendants deny the remaining allegations of Paragraph 41.

42. With respect to the allegations in Paragraph 42 of the Second Amended Complaint, Defendants lack knowledge or information regarding what geographical region or time period Plaintiffs are referring to and therefore cannot form a belief as to the allegations and therefore deny them.

43. With respect to the allegations in Paragraph 43 of the Second Amended Complaint, Defendants deny them.

44. With respect to the allegations in Paragraph 44 of the Second Amended Complaint, Defendants affirmatively state that the lease and right to purchase documents speak for themselves. Defendants deny the remaining allegations of Paragraph 44.

45. With respect to the allegations in Paragraph 45 of the Second Amended Complaint, Defendants affirmatively state that the lease and right to purchase documents speak for themselves. Defendants deny the remaining allegations of Paragraph 45.

46. With respect to the allegations in Paragraph 46 of the Second Amended Complaint, Defendants affirmatively state that the lease and right to purchase documents speak for themselves. Defendants deny the remaining allegations of Paragraph 46.

47. With respect to the allegations in Paragraph 47 of the Second Amended Complaint, Defendants deny them.

48. With respect to the allegations in Paragraph 48 of the Second Amended Complaint, Defendants deny them.

49. With respect to the allegations in Paragraph 49 of the Second Amended Complaint, Defendants admit that they obtain inspection reports of properties before purchasing them. Defendants further admit that they do not routinely share such inspection reports with tenants. Defendants deny the remaining allegations in Paragraph 49.

50. With respect to the allegations in Paragraph 50 of the Second Amended Complaint, Defendants admit that they obtain inspection reports of properties before purchasing them. Defendants deny the remaining allegations of Paragraph 50.

51. With respect to the allegations in Paragraph 51 of the Second Amended Complaint, Defendants admit that they obtain rental licenses to the extent required in the municipality. Defendants deny the remaining allegations of Paragraph 51.

52. With respect to the allegations in Paragraph 52 of the Second Amended Complaint, Defendants deny them.

53. With respect to the allegations in Paragraph 53 of the Second Amended Complaint, Defendants deny them.

54. With respect to the allegations in Paragraph 54 of the Second Amended Complaint, Defendants admit that they offer tenants a liability coverage program, as outlined in the lease

documents. Defendants further admit that tenants can either obtain liability coverage through Defendants' program or obtain their own liability coverage. Defendants further state that the lease documents and their website speak for themselves. Defendants deny the remaining allegations of Paragraph 54.

55. With respect to the allegations in Paragraph 55 of the Second Amended Complaint, Defendants deny them.

56. With respect to the allegations in Paragraph 56 of the Second Amended Complaint, Defendant admit that the lease provides for a Utility Billing Service Fee, as stated in the lease, which speaks for itself. Defendants deny the remaining allegations of Paragraph 56.

57. With respect to the allegations in Paragraph 57 of the Second Amended Complaint, Defendants admit that they use a vendor named Conservice to help manage the utilities and services paid by Defendants. Defendants further admit that the utilities and services paid by Defendants that are the responsibility of tenants are charged to tenants on their tenant ledgers. Defendants deny the remaining allegations of Paragraph 57.

58. With respect to the allegations in Paragraph 58 of the Second Amended Complaint, Defendants admit that the Utility Service Billing Fee has been \$9.95 and that the amount has varied. Defendants affirmatively state that the lease terms speak for themselves. Defendants deny the remaining allegations of Paragraph 58.

59. With respect to the allegations in Paragraph 59 of the Second Amended Complaint, Defendants deny them.

60. With respect to the allegations in Paragraph 60 of the Second Amended Complaint, Defendants admit that they offer tenants an HVAC filter program, for delivery of new HVAC filters for a monthly fee. Defendants affirmatively state that the terms of the Air Filter

Addendum to the lease speak for themselves. Defendants deny the remaining allegations of Paragraph 60.

61. With respect to the allegations in Paragraph 61 of the Second Amended Complaint, Defendants state that the lease terms and Minnesota Statute 504B.172 speak for themselves. Defendants otherwise deny the remaining allegations of Paragraph 61.

62. With respect to the allegations in Paragraph 62 of the Second Amended Complaint, Defendants state that the lease terms speak for themselves. Defendants otherwise deny the remaining allegations of Paragraph 62.

63. With respect to the allegations in Paragraph 63 of the Second Amended Complaint, Defendants state that the lease terms speak for themselves. Defendants otherwise deny the remaining allegations of Paragraph 63.

64. With respect to the allegations in Paragraph 64 of the Second Amended Complaint, Defendants state that the lease terms speak for themselves. Defendants otherwise deny the remaining allegations of Paragraph 64.

65. With respect to the allegations in Paragraph 65 of the Second Amended Complaint, Defendants state that the lease terms speak for themselves. Defendants otherwise deny the remaining allegations of Paragraph 65.

66. With respect to the allegations in Paragraph 66 of the Second Amended Complaint, Defendants state that the lease terms speak for themselves. Answering further, to the extent that Plaintiffs characterize the contents of any leases, their terms speak for themselves. To the extent a further response is required, Defendants deny the allegations of Paragraph 66.

67. With respect to the allegations in Paragraph 67 of the Second Amended Complaint, they are statements about the law to which no response is required. Defendants state that the

lease terms speak for themselves. Answering further, to the extent that Plaintiffs characterize the contents of any leases, their terms speak for themselves. To the extent a further response is required, Defendants deny the allegations of Paragraph 67.

68. With respect to the allegations in Paragraph 68 of the Second Amended Complaint, Defendants deny them.

69. With respect to the allegations in Paragraph 69 of the Second Amended Complaint, Defendants admit that Sewall rented a home in Minnetonka, Minnesota, from Defendants on or around July 29, 2016. Defendants lack sufficient information to form a belief about the remaining allegations of Paragraph 69 and therefore deny them.

70. With respect to the allegations in Paragraph 70 of the Second Amended Complaint, Defendants admit that Sewall received the lease documents and had an opportunity to review them before signing them. Defendants deny the remaining allegations in Paragraph 70.

71. With respect to the allegations in Paragraph 71 of the Second Amended Complaint, Defendants admit that Sewall's base rent for the first year was \$2,970 per month, that the rent increased each year, and that the rent in Sewall's fifth and final year was \$3,440 per month. Defendants affirmatively state that there was nothing that prevented Sewall from not signing the lease if he did not like the terms. Defendants lack sufficient information to form a belief about the allegations in the last sentence of Paragraph 71, and therefore deny them. Defendants deny the remaining allegations in Paragraph 71.

72. With respect to the allegations in Paragraph 72 of the Second Amended Complaint, Defendants admit them. Defendants affirmatively state that either party to the lease could end the lease at the end of each yearly term by providing notice to the other side; by not providing such notice to Defendants, Sewall opted to renew for five consecutive one-year terms.

73. With respect to the allegations in Paragraph 73 of the Second Amended Complaint, Defendants admit that Sewall made certain payments to Defendants during his lease term. Defendants deny that Sewall paid Defendants all amounts Defendants are owed under the lease. Defendants lack sufficient information to form a belief about the allegations in the last sentence of Paragraph 73, and therefore deny them. Defendants deny the remaining allegations in Paragraph 73.

74. With respect to the allegations in Paragraph 74 of the Second Amended Complaint, Defendants lack sufficient information to form a belief about the first sentence of Paragraph 74. With respect to the second and third sentences of Paragraph 74, Defendants admit that Sewall made certain repair and maintenance requests to Pathlight during his five-year tenancy. Defendants deny that Sewall made maintenance and repair requests to Pathlight regarding all of the issues listed in Paragraph 74 and deny the remaining allegations of Paragraph 74.

75. With respect to the allegations in Paragraph 75 of the Second Amended Complaint, Defendants admit that Sewall made some repair and maintenance requests but deny that Sewall made maintenance and repair requests to Pathlight regarding all of the maintenance issues listed in Paragraph 75. Defendants deny the second and third sentences of Paragraph 75.

76. With respect to the allegations in Paragraph 76 of the Second Amended Complaint, Defendants lack sufficient information to form a belief about the allegations in Paragraph 76, and therefore deny them.

77. With respect to the allegations in Paragraph 77 of the Second Amended Complaint, Defendants lack sufficient information to form a belief about the allegations in Paragraph 77, and therefore deny them.

78. With respect to the allegations in Paragraph 78 of the Second Amended Complaint, Defendants admit that Sewall made some repair and maintenance requests but deny that Sewall reported all of the issues listed in Paragraphs 74–77 to Pathlight. Defendants lack sufficient information to form a belief about what Sewall reported to “Defendants’ maintenance vendors” and therefore denies those allegations in the first sentence of Paragraph 78. Defendants deny the remaining allegations in Paragraph 78.

79. With respect to the allegations in Paragraph 79 of the Second Amended Complaint, Defendants admit them.

80. With respect to the allegations in Paragraph 80 of the Second Amended Complaint, Defendants admit that the property was listed for rental after Sewall provided his notice of intent to vacate. Defendants deny the remaining allegations in Paragraph 80..

81. With respect to the allegations in Paragraph 81 of the Second Amended Complaint, Defendants deny that Sewall moved out on the date stated and deny the remaining allegations in the first sentence of Paragraph 81. Defendants deny that its real estate agent began showing the property immediately. Defendants lack sufficient information to form a belief about the allegations in Paragraph 81, and therefore deny them. Defendants deny the remaining allegations in Paragraph 81.

82. With respect to the allegations in Paragraph 82 of the Second Amended Complaint, Defendants admit that they sent Sewall a Security Deposit Disposition letter that included a \$15,000 remediation and build-back charge. Defendants lack sufficient information to form a belief about the allegations in Paragraph 82, and therefore deny them. Defendants deny the remaining allegations in Paragraph 82.

83. With respect to the allegations in Paragraph 83 of the Second Amended Complaint, Defendants deny that Pathlight failed to apply the required statutory interest to Sewall's initial security deposit of \$5,940 and deny the remaining allegations in Paragraph 83.

84. With respect to the allegations in Paragraph 84 of the Second Amended Complaint, Defendants deny the allegations in the first sentence of Paragraph 84. With regard to the second and third sentences of Paragraph 84, Defendants state that Pathlight's response speaks for itself and denies the remaining allegations of the second and third sentences of Paragraph 84. With regard to the fourth and fifth sentences of Paragraph 84, Defendants lack sufficient information to form a belief about the allegations the fourth and fifth sentences of Paragraph 84, and therefore deny them. Defendants deny the remaining allegations in Paragraph 84.

85. With respect to the allegations in Paragraph 85 of the Second Amended Complaint, Pathlight denies them.

86. With respect to the allegations in Paragraph 86 of the Second Amended Complaint, Defendants admit that they asked Sewall to reach out to his renter's policy to see if there was coverage. Defendants deny the remaining allegations of Paragraph 86.

87. With respect to the allegations in Paragraph 87 of the Second Amended Complaint, Defendants admit that Sewall makes certain demands, but denies that Sewall is entitled to a return of his security deposit or any other relief from Defendants and denies the remaining allegations in Paragraph 87.

88. With respect to the allegations in Paragraph 88 of the Second Amended Complaint, Defendants lack sufficient information to form a belief about the allegations of Paragraph 88, and therefore deny them.

89. With respect to the allegations in Paragraph 89 of the Second Amended Complaint, Defendant's affirmatively state that their lease with the Gregorys is dated July 27, 2021. Upon information and belief, Defendants believe that the Gregorys moved into their Brooklyn Center, Minnesota home on or about September 9, 2021. Defendants deny the remaining allegations of Paragraph 89.

90. With respect to the allegations in Paragraph 90 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the first two sentences of Paragraph 90, and therefore deny them. Defendants admit that they qualified the Gregorys for the lease purchase program in or around July, 2021. Defendants lack sufficient information to form a belief as to the fourth sentence of Paragraph 90, and therefore deny them. Defendants deny the allegations in the fifth sentence of Paragraph 90. Defendants deny the remaining allegations in Paragraph 90.

91. With respect to the allegations in Paragraph 91 of the Second Amended Complaint, Defendants admit that the Gregorys received the lease and right to purchase documents and had an opportunity to review them before signing them. Defendants deny the remaining allegations in Paragraph 91.

92. With respect to the allegations in Paragraph 92 of the Second Amended Complaint, Defendants affirmatively state that there was nothing that prevented the Gregorys from not signing the lease or right to purchase if they did not like the terms. Defendants lack sufficient information to form a belief as to the remaining allegations of Paragraph 92, and therefore deny them.

93. With respect to the allegations in Paragraph 93 of the Second Amended Complaint, Defendants admit that an email was sent by Defendants to the Gregorys about their move-in date

on August 23, 2021. Defendants affirmatively state that earlier correspondence about the move-in date was also sent by Defendants to the Gregorys. Defendants deny the remaining allegations in Paragraph 93.

94. With respect to the allegations in Paragraph 94 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations of Paragraph 94, and therefore deny them.

95. With respect to the allegations in Paragraph 95 of the Second Amended Complaint, Defendants admit that they contacted the Gregorys on August 29, 2021, regarding their move-in date. Defendants deny the remaining allegations of Paragraph 95.

96. With respect to the allegations in Paragraph 96 of the Second Amended Complaint, Defendant lack sufficient information to form a belief as to the allegations in the first sentence of Paragraph 96, and therefore deny them. Defendants admit that they provided the Gregorys with a \$500 credit. Defendants deny the remaining allegations in Paragraph 96.

97. With respect to the allegations in Paragraph 97 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations, and therefore deny them.

98. With respect to the allegations in Paragraph 98 of the Second Amended Complaint, Defendants admit that the lease agreement was updated to reflect a September 9, 2021 move-in date. Defendants deny the remaining allegations of Paragraph 98.

99. With respect to the allegations in Paragraph 99 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations in the first sentence of Paragraph 99, and therefore deny them. Defendants admit that the Gregorys enrolled in their liability waiver program. Defendants deny the remaining allegations in Paragraph 99.

100. With respect to the allegations in Paragraph 100 of the Second Amended Complaint, Defendants deny the allegations in the first sentence of Paragraph 100. With respect to the allegations in the second sentence of Paragraph 100, Defendants lack sufficient information to form a belief as to the allegations, and therefore deny them; Defendants affirmatively state that they had not authorized anyone to live in the home prior to the Gregorys' move-in. Defendants lack sufficient information to form a belief as to the allegations in the third and fourth sentences of Paragraph 100, and therefore deny them. Defendants deny the remaining allegations in Paragraph 100.

101. With respect to the allegations in Paragraph 101 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests during their tenancy, including with respect to certain flooring in their home. Defendants further admit that they have paid for the floors to be repaired. Defendants lack sufficient information to form a belief as to the last sentence of Paragraph 101, and therefore deny them. Defendants deny the remaining allegations of Paragraph 101.

102. With respect to the allegations in Paragraph 102 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests, including with respect to their refrigerator. Defendants further admit that they paid for the Gregorys' refrigerator to be repaired. Defendants lack sufficient information to form a belief as to the allegations in the last two sentences of Paragraph 102, and therefore deny them. Defendants deny the remaining allegations of Paragraph 102.

103. With respect to the allegations in Paragraph 103 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests,

including with respect to their garage roof. Defendants deny the remaining allegations in Paragraph 103.

104. With respect to the allegations in Paragraph 104 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations in the first two sentences of Paragraph 104, and therefore deny them. Defendants admit that problems with a washer or dryer are the residents' responsibility, as is plainly disclosed in the lease and other material provided to tenants, which speak for themselves. Defendants deny the remaining allegations in Paragraph 104.

105. With respect to the allegations in Paragraph 105 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations in the first sentence of Paragraph 105, and therefore deny them. Defendants admit that the Gregorys have made certain repair and maintenance requests, including with respect to their washer and dryer and that Defendants paid to fix a tube behind the units. Defendants lack sufficient information to form a belief as to the allegations in the last two sentences of Paragraph 105, and therefore deny them. Defendants deny the remaining allegations in Paragraph 105.

106. With respect to the allegations in Paragraph 106 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests, including with respect to their washer and dryer. Defendants further admit that problems with the washer and dryer are the residents' responsibility, as is plainly disclosed in the lease and other material provided to tenants. Defendants deny the remaining allegations in Paragraph 106.

107. With respect to the allegations in Paragraph 107 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests, including with respect to their washer and dryer. Defendants further admit that problems with a

washer or dryer are the residents' responsibility, as is plainly disclosed in the lease and other material provided to tenants, which speak for themselves. Defendants lack sufficient information to form a belief as to whether a "foul smell was still present approximately 10 days after Pathlight closed the first ticket," and therefore deny those allegations of Paragraph 107. Defendants deny the remaining allegations in Paragraph 107.

108. With respect to the allegations in Paragraph 108 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations of Paragraph 108, and therefore deny them.

109. With respect to the allegations in Paragraph 109 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests, including with respect to their washer and dryer. Defendants further admit that they attempted to make certain repairs related to the gas fittings at their own expense. Defendants deny the remaining allegations in Paragraph 109.

110. With respect to the allegations in Paragraph 110 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to the allegations of Paragraph 110, and therefore deny them.

111. With respect to the allegations in Paragraph 111 of the Second Amended Complaint, Defendants admit that the Gregorys have made certain repair and maintenance requests, including with respect to their washer and dryer. Defendants further admit that they attempted to make certain repairs related to the gas fittings at their own expense. Defendants further admit that problems with a washer or dryer are the residents' responsibility, as is plainly disclosed in the lease and other material provided to tenants, which speak for themselves. Defendants lack sufficient information to form a belief as to the allegations regarding when the Gregorys were

without gas, and therefore deny those allegations of Paragraph 111. Defendants deny the remaining allegations of Paragraph 111.

112. With respect to the allegations in Paragraph 112 of the Second Amended Complaint, Defendants admit that the Gregorys have made payments to Defendants over the course of their tenancy, as reflected in Defendants' accounting records. Defendants deny the remaining allegations of Paragraph 112.

113. With respect to the allegations in Paragraph 113 of the Second Amended Complaint, Defendants admit that payment was made to them by the Minnesota Housing Finance Agency ("RentHelpMN") on behalf of the Gregorys on August 9, 2022. Defendants further admit that the Gregorys' rental payments were late. Defendants deny that they were responsible for any problems related to receipt of the public assistance funds. Defendants admit that the Gregorys were charged a \$30 fee related to legal fees incurred, and paid, by Defendants to open and then close an eviction file related to non-payment of rent by the Gregorys. Defendants deny the remaining allegations in Paragraph 113.

114. With respect to the allegations in Paragraph 114 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to what the Gregorys understood, and therefore deny those allegations in Paragraph 114. As to the allegations in Paragraph 114 regarding what the Gregorys "agreed to," the lease documents speak for themselves. Defendants deny the remaining allegations in Paragraph 114.

115. With respect to the allegations in Paragraph 115 of the Second Amended Complaint, Defendants deny them.

116. With respect to the allegations in Paragraph 116 of the Second Amended Complaint, Defendants lack sufficient information to form a belief as to those allegations, and therefore deny them.

117. With respect to the allegations in Paragraph 117 of the Second Amended Complaint, to the extent that Plaintiffs fail to identify what “complaints” are being referenced in Paragraph 117, Defendants are without knowledge or information sufficient to form a belief and therefore deny the allegations in Paragraph 117.

118. With respect to the allegations in Paragraph 118 of the Second Amended Complaint, to the extent that Plaintiffs fail to identify what tenants are being referenced in Paragraph 118, Defendants are without knowledge or information sufficient to form a belief and therefore deny the allegations in Paragraph 118.

119. With respect to the allegations in Paragraph 119 of the Second Amended Complaint, Defendants admit only that Plaintiffs have included in Paragraph 119 certain information that they allege to have found online. Defendants affirmatively state that the allegations in Paragraph 119 are inadmissible hearsay. Given that full names are not provided, there is no way for Defendants to assess or respond to the content of the alleged online complaints quoted by Plaintiffs in Paragraph 119. Defendants are accordingly without knowledge or information sufficient to form a belief and therefore deny the allegations in Paragraph 119.

120. With respect to the allegations in Paragraph 120 of the Second Amended Complaint, to the extent that Plaintiffs fail to identify what “complaints” are being referenced in Paragraph 120, Defendants are without knowledge or information sufficient to form a belief and therefore deny the allegations in Paragraph 120.

121. With respect to the allegations in Paragraph 121 of the Second Amended Complaint, Defendants admit only that they are involved in other lawsuits. Defendants deny the remaining allegations in Paragraph 121.

122. With respect to the allegations in Paragraph 122 of the Second Amended Complaint, to the extent that Plaintiffs fail to identify what “actions” are being referenced in the first two sentences of Paragraph 122, Defendants are without knowledge or information sufficient to form a belief and therefore deny the allegations in the first two sentences of Paragraph 122. To the extent that Plaintiffs reference certain documents from a particular lawsuit in Minnesota, those documents speak for themselves. Defendants deny the remaining allegations of Paragraph 122.

123. With respect to the allegations in Paragraph 123 of the Second Amended Complaint, Defendants deny them.

CLASS ACTION ALLEGATIONS

124. With respect to the allegations in Paragraph 124 of the Second Amended Complaint, Defendants admit that Plaintiffs seek to represent a class. Defendants deny that Plaintiffs’ claims are suitable for class resolution and deny that any class can be certified under Minnesota Rule of Civil Procedure 23.

125. With respect to the allegations in Paragraph 125 of the Second Amended Complaint, Defendants deny them, including the allegations in subparts a. through d.

126. With respect to the allegations in Paragraph 126 of the Second Amended Complaint, Defendants deny them.

127. With respect to the allegations in Paragraph 127 of the Second Amended Complaint, Defendants deny them, including the allegations in subparts a. through c.

COUNT I

128. Defendants re-allege here all prior paragraphs in response to paragraphs 1-127 of Plaintiffs' Second Amended Complaint.

129. With respect to the allegations in Paragraph 129 of the Second Amended Complaint, Defendants assert that Minnesota Statute section 325F.69 speaks for itself. Defendants deny any remaining allegations in Paragraph 129.

130. With respect to the allegations in Paragraph 130 of the Second Amended Complaint, Defendants assert that Minnesota Statute section 325F.69 speaks for itself. Defendants deny any remaining allegations in Paragraph 130.

131. With respect to the allegations in Paragraph 131 of the Second Amended Complaint, Defendants assert that Minnesota Statute sections 325F.69 and 325F.68 speak for themselves. Defendants deny any remaining allegations in Paragraph 131.

132. With respect to the allegations in Paragraph 132 of the Second Amended Complaint, Defendants deny them.

133. With respect to the allegations in Paragraph 133 of the Second Amended Complaint, Defendants deny them.

COUNT II

134. Defendants re-allege here all prior paragraphs in response to paragraphs 1–133 of Plaintiffs' Second Amended Complaint.

135. With respect to the allegations in Paragraph 135 of the Second Amended Complaint, Defendants assert that Minnesota Statute section 325D.44 speaks for itself. Defendants deny any remaining allegations in Paragraph 135.

136. With respect to the allegations in Paragraph 136 of the Second Amended Complaint, Defendants deny them, including subparts a. through d.

137. With respect to the allegations in Paragraph 137 of the Second Amended Complaint, Defendants deny them.

COUNT III

138. Defendants re-allege here all prior paragraphs in response to paragraphs 1–137 of Plaintiffs’ Second Amended Complaint.

139. With respect to the allegations in Paragraph 139 of the Second Amended Complaint, Defendants assert that Minnesota Statute section 504B.161 speaks for itself. Defendants deny any remaining allegations in Paragraph 139.

140. With respect to the allegations in Paragraph 140 of the Second Amended Complaint, Defendants assert that Minnesota Statute section 504B.161 speaks for itself. Defendants deny any remaining allegations in Paragraph 140.

141. With respect to the allegations in Paragraph 141 of the Second Amended Complaint, Defendants deny them.

COUNT IV

142. Defendants re-allege here all prior paragraphs in response to paragraphs 1–141 of Plaintiffs’ Second Amended Complaint.

143. With respect to the allegations in Paragraph 143 of the Second Amended Complaint, Minnesota Statutes section 504B.178 speaks for itself. Defendants deny any remaining allegations in Paragraph 143.

144. With respect to the allegations in Paragraph 144 of the Second Amended Complaint, Minnesota Statutes section 504B.178 speaks for itself. Defendants deny any remaining allegations in Paragraph 144.

145. With respect to the allegations in Paragraph 145 of the Second Amended Complaint, Defendants deny them.

COUNT V

146. Defendants re-allege here all prior paragraphs in response to paragraphs 1–145 of Plaintiffs’ Second Amended Complaint.

147. With respect to the allegations in Paragraph 147 of the Second Amended Complaint, Minnesota Statutes section 504B.177 speaks for itself. Defendants deny any remaining allegations in Paragraph 147.

148. With respect to the allegations in Paragraph 148 of the Second Amended Complaint, Defendants deny them.

149. With respect to the allegations in Paragraph 149 of the Second Amended Complaint, Defendants deny them.

COUNT VI

150. Defendants re-allege here all prior paragraphs in response to paragraphs 1–149 of Plaintiffs’ Second Amended Complaint.

151. With respect to the allegations in Paragraph 151 of the Second Amended Complaint, they are statements about the law to which no response is necessary. To the extent a response is required, Defendants deny the allegations of Paragraph 151.

152. With respect to the allegations in Paragraph 152 of the Second Amended Complaint, they are statements about the law to which no response is necessary. To the extent a response is required, Defendants deny the allegations of Paragraph 152.

153. With respect to the allegations in Paragraph 153 of the Second Amended Complaint, Defendants deny them.

154. With respect to the allegations in Paragraph 154 of the Second Amended Complaint, Defendants deny them.

155. With respect to the allegations in Paragraph 155 of the Second Amended Complaint, Defendants deny them.

156. With respect to the allegations in Paragraph 156 of the Second Amended Complaint, Defendants deny them.

COUNT VII

157. Defendants re-allege here all prior paragraphs in response to paragraphs 1–156 of Plaintiffs' Second Amended Complaint.

158. With respect to the allegations in Paragraph 158 of the Second Amended Complaint, Defendants deny them.

159. With respect to the allegations in Paragraph 159 of the Second Amended Complaint, Defendants deny them.

160. With respect to the allegations in Paragraph 160 of the Second Amended Complaint, Defendants deny them.

161. With respect to the allegations in Paragraph 161 of the Second Amended Complaint, Defendants deny them.

162. With respect to the allegations in Paragraph 162 of the Second Amended Complaint, Defendants deny them.

163. With respect to the allegations in Paragraph 163 of the Second Amended Complaint, Defendants deny them.

164. With respect to the allegations in Paragraph 164 of the Second Amended Complaint, Defendants deny them.

165. With respect to the allegations in Paragraph 165 of the Second Amended Complaint, Defendants deny them.

COUNT VIII

166. Defendants re-allege here all prior paragraphs in response to paragraphs 1–165 of Plaintiffs’ Second Amended Complaint.

167. With respect to the allegations in Paragraph 167 of the Second Amended Complaint, Defendants deny them.

168. With respect to the allegations in Paragraph 168 of the Second Amended Complaint, Defendants deny them.

169. With respect to the allegations in Paragraph 169 of the Second Amended Complaint, Defendants deny them.

COUNT IX

170. Defendants re-allege here all prior paragraphs in response to paragraphs 1–169 of Plaintiffs’ Second Amended Complaint.

171. With respect to the allegations in Paragraph 171 of the Second Amended Complaint, Defendants deny them, including subparts a. through f.

172. With respect to the allegations in Paragraph 172 of the Second Amended Complaint, Defendants deny them.

COUNT X

173. Defendants re-allege here all prior paragraphs in response to paragraphs 1–172 of Plaintiffs’ Second Amended Complaint.

174. With respect to the allegations in Paragraph 174 of the Second Amended Complaint, Defendants deny them.

175. With respect to the allegations in Paragraph 175 of the Second Amended Complaint, Defendants deny them.

176. With respect to the allegations in Paragraph 176 of the Second Amended Complaint, Defendants deny them.

PRAYER FOR RELIEF

177. Defendants deny that Plaintiffs are entitled to any of the relief requested in the section entitled “PRAYER FOR RELIEF,” including its subparts 1 through 8.

178. Defendants admit that Plaintiffs have demanded a jury trial. Defendants deny that Plaintiffs are entitled to a jury trial.

AFFIRMATIVE AND OTHER DEFENSES

For its affirmative and other defenses, and without assuming any burdens of proof or persuasion that would otherwise rest on Plaintiffs, Defendants state the following:

1. Plaintiffs’ Second Amended Complaint fails to state facts sufficient to constitute any cause of action upon which relief can be granted.
2. Plaintiffs’ claims and/or the claims of putative class members are barred, in whole or in part, by the doctrines of waiver and/or ratification.

3. Plaintiffs' claims and/or the claims of putative class members are barred, in whole or in part, because any award would constitute unjust enrichment.

4. Plaintiffs' claims and/or the claims of putative class members are barred, in whole or in part, by the doctrines of estoppel and equitable estoppel.

5. Plaintiffs' claims and/or the claims of putative class members are barred, in whole or in part, for lack of any actual injury or standing to assert a claim.

6. If Plaintiffs are seeking actual damages on behalf of themselves or putative class members, Plaintiffs' claims or the claims of putative class members are barred, in whole or in part, because they failed to mitigate their damages, if any.

7. Plaintiffs' claims on behalf of the putative class are barred because this case is not maintainable as a class action under Federal Rule of Civil Procedure 23 because the proposed class does not satisfy the requirements described therein including, but not limited to, class definition, ascertainability, numerosity, commonality, typicality, predominance, adequacy of representation, superiority, and manageability.

8. Plaintiffs' claims on behalf of the putative class are barred because Plaintiffs are not proper representatives to bring this action on behalf of any proposed class.

9. Plaintiffs' claims and/or the claims of putative class members are barred, in whole or in part, by the applicable statutes of limitations.

10. Plaintiffs' claims, and/or the claims of putative class members are barred, in whole or in part, by the doctrine of laches.

11. Plaintiffs' claims, and/or the claims of putative class members are barred, in whole or in part, by the doctrine of unclean hands.

12. To the extent that Plaintiff or the putative class may seek recovery of attorneys' fees,

such fees are not recoverable under Minnesota law.

Defendants specifically reserve all additional or affirmative defenses that they may have against each Plaintiff and putative class member which may arise, and which are not identified above. At this time, it is not possible for Defendants to delineate all such defenses against the putative class members or the class members against whom such defenses may apply because no putative class members have been identified, no classes have been certified (if any can be, which Defendants deny) and the putative class members are not parties to the litigation.

Defendants also expressly reserve and assert all affirmative defenses available under any applicable law. Defendants reserve their right to supplement their Answer and to assert additional defenses in the event that discovery or other means indicate that such additional defenses would be applicable.

WHEREFORE, Defendants respectfully request that the Court:

- A. Dismiss all of Plaintiffs' claims against Defendants with prejudice and on the merits;
- B. Award Defendants all costs, disbursements, and reasonable attorneys' fees allowed by law; and
- C. Grant Defendants such other further relief the Court deems just and appropriate.

DEFENDANTS' COUNTERCLAIM AGAINST BARRY SEWALL

Defendants, for their Counterclaim against Plaintiff, Barry Sewall, allege as follows:

INTRODUCTION

1. Sewall rented a single-family home in Minnetonka, Minnesota, from Defendants for over five years.
2. Sewall signed a contract (lease) which governed the obligations and rights of each party during Sewall's tenancy.
3. The lease required Sewall to notify Home Partners of any moisture accumulation or visible evidence of mold growth or any other causality to the home and to reimburse Home Partners for the cost of repair due to a violation of the lease or his negligence.
4. During Sewall's tenancy, water penetrated the interior of the home, including the garage, entryway, landing, stairwell, hallway, and furnace room causing obvious water damage and mold growth.
5. If given prompt notice of the water intrusion, as required by Sewall's lease, Defendants would have paid the full cost of repair.
6. Sewall, however, failed to notify Defendants of the open, obvious, and extensive water intrusion and mold growth, causing substantial damage to the home.
7. Defendants found out about the damage only after Sewall vacated the home.
8. Defendants were forced to restore the home at a far greater cost than it would have incurred with timely notice.

PARTIES

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

10. OPVHHJV LLC, d/b/a Pathlight Property Management (“Pathlight”) is incorporated in Texas with its principal place of business in Texas.

11. SRF Acquisitions 1 LLC is incorporated in Delaware with its principal place of business in Chicago, Illinois.

12. OPVHHJV LLC, d/b/a Pathlight Property Management and SRF Acquisitions 1 LLC are wholly owned subsidiaries of Home Partners Holding LLC.

13. Barry Sewall is an adult residing in Bloomington, Minnesota, and is a citizen of Minnesota. Barry Sewall rented a house in Minnetonka, Minnesota, through Defendants’ Lease Purchase Program.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this compulsory counterclaim pursuant to Minnesota Rule of Civil Procedure 13.01 and under common law.

15. This Court has personal jurisdiction over Barry Sewall because he is a Minnesota resident and has committed acts causing injury to Defendants in Minnesota.

16. Venue in Hennepin County is proper because the cause of action arose in Hennepin County.

FACTS

Home Partners’ Lease Purchase Program

17. Home Partners helps people in Minnesota rent homes and provides them with a potential path to homeownership by giving individuals and families the ability to lease, and the right to purchase, single-family homes through its Lease Purchase Program. Once a qualifying home is selected by a potential resident, Home Partners attempts to purchase the home so as to then lease it to the potential resident.

18. Home Partners provides potential residents with the right to purchase the home at predetermined prices.

19. The leases under the Lease Purchase Program typically have a one-year term, with four guaranteed one-year extensions at a specified rental rate (if the resident elects to extend), thus giving residents transparency regarding rental rates and allowing them to plan for multiple years.

20. Pathlight is the exclusive property manager for Home Partners and offers 24/7 professional property management and landlord services.

Barry Sewall's Tenancy

21. Sewall applied to Home Partners' Lease Purchase Program on or around May 2016. Home Partners approved Sewall's application shortly thereafter.

22. Sewall worked with his personal real estate agent to select a qualifying home in Minnetonka, Minnesota.

23. On or about June 19, 2016, Home Partners emailed Sewall stating that they were prepared to make an offer on the home Sewall selected.

24. Home Partners provided Sewall with an estimated purchase price, closing costs, make ready costs, and renovation costs. Home Partners also provided Sewall with the estimated yearly rent and the estimated purchase price.

25. Home Partners successfully secured the home Sewall selected.

26. On or about July 15, 2016, Sewall executed a written lease, right to purchase, and related documents for his tenancy at his chosen home and paid his security deposit.

27. Under the parties' lease, Home Partners agreed to “. . . use reasonable efforts to maintain, at its cost . . . the foundations, roof, mechanical systems (including HVAC systems,

hot water heater, electrical and plumbing systems and sump pump, if any), exterior walls and structural members of the residence located at the Premises, in good condition and repair . . .”

28. Sewall agreed to “use reasonable efforts to maintain the Premises in such a condition as to prevent accumulation of moisture and the growth of mold, and to notify Landlord in writing promptly of any moisture accumulation that occurs or of any visible evidence of mold discovered by Tenant.”

29. He further agreed to “provide Landlord with immediate notice of any fire or other casualty that occurs and causes damage to the Premises” and to “promptly reimburse Landlord for all loss, damage, government fines, and cost/expenses of repairs or service due to a violation of Tenant’s obligations under this lease or the improper use, negligence or intentional misconduct by Tenant or any Occupant.”

30. Sewall moved into his home on or about August 4, 2016, where he remained as a tenant until he moved out on or about August 31, 2021.

31. Around June 29, 2021, Sewall provided notice of his intent to vacate the home, stating he would vacate on September 1, 2021.

32. And then, four days prior to Sewall’s selected move-out date, he contacted Pathlight to state his new intent to vacate by August 31, 2021.

33. Additionally, in the same communication, Sewall noted that the furnace and water heater were sweating, that the carpet outside the utility room is wet, and that he placed a fan on the same location.

34. Then, on August 31, 2021, Sewall contacted Pathlight and stated that he vacated the home.

Open, Obvious, and Extensive Water Intrusion and Mold Growth

35. Three days later, on September 3, 2021, Defendants sent a vendor to Sewall's home for purposes of assessing the home for further rental or sale.

36. The vendor observed open, obvious, and extensive water intrusion and mold growth in the garage, entryway, landing, stairwell, hallway, and furnace room of the home.

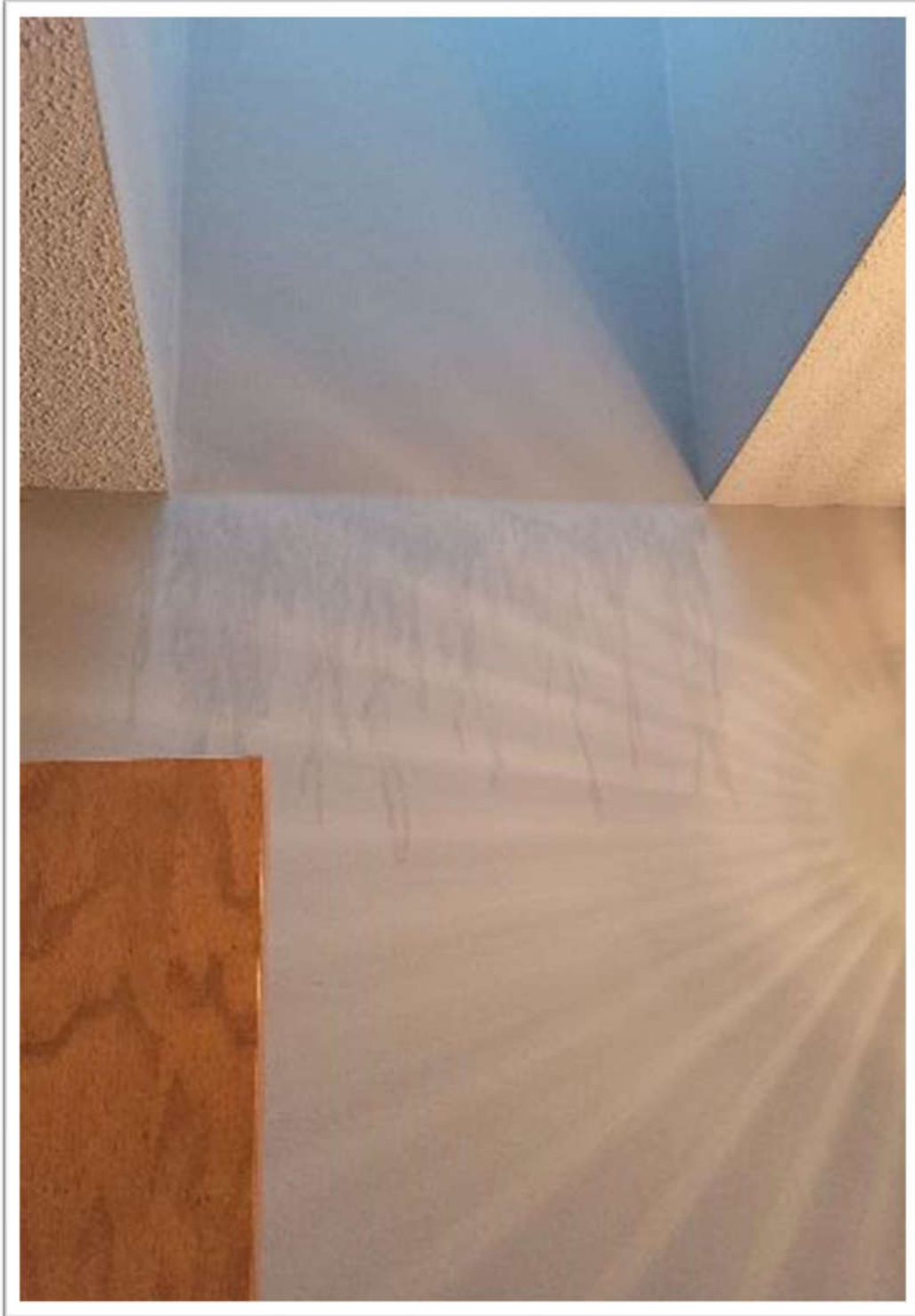
37. On September 3, 2021, the vendor took pictures of the damaged areas and reported the damage to Defendants.

38. Three days after Sewall vacated the home, the mold growth in the garage was open, obvious, and extensive. The damage and mold growth were so extensive that they could not possibly have occurred in only the three days between when Sewall left the property and when the vendor arrived.

39. The vendor took the following pictures of the leased premises on September 3, 2021:



40. The vendor also observed extensive water intrusion in the entryway, stairwell, landing, hallway, and furnace room of the home. The vendor took the following picture of the home on September 3, 2021:



41. On or about September 8, 2021, Defendants estimated that the remediation of the mold growth and water damage along with the repair necessary to return the home to its pre-tenancy condition would cost between \$30,000 and \$40,000.

Security Deposit Disposition Letter

42. On September 20, 2021, as required by Minnesota law, Pathlight furnished Sewall with a written security deposit disposition letter.

43. The security deposit disposition letter included a line item totaling \$15,000 to remediate the mold and repair the water damage to restore the home to its pre-tenancy condition. Minnesota law permits a landlord to deduct from a tenant's security deposit those amounts reasonably necessary to restore a premises to its pre-tenancy condition, excluding ordinary wear and tear.

44. Due to the fact that Minnesota law required Pathlight to furnish Sewall with a security deposit disposition letter within three weeks, the final cost of the remediation and repair was unknown to Defendants at the time they were required to send Sewall his Security Deposit Disposition. Because Defendants did not know what the cost to remediate and repair the damage would ultimately be, Defendants charged to Sewall only a very conservative estimate—\$15,000. Home Partners chose this amount out of an abundance of caution in case the amount to remediate and repair the damage came back much lower than was estimated.

45. As allowed by Minnesota law, Sewall's security deposit was withheld and an additional amount of \$9,700.24 was requested by Defendants of Sewall to cover the remaining balance due under the terms of the lease and Minnesota law.

46. Sewall disputed the charges, and Pathlight provided him, on October 1, 2021, with the pictures taken on September 3, 2021, of the damaged areas and explained the charges.

47. Sewall has not paid the amount owed to Defendants under the terms of the lease and Minnesota law.

48. Sewall instead initiated this class action on May 13, 2022, claiming, in part, that Defendants' withholding of his security deposit was wrongful.

Remediation and Repair to Pre-Tenancy Condition

49. The remediation and repair of the home Sewall leased involved contracting with several specialists and took approximately four months to complete.

50. In the garage, the mold remediation specialist tore out the wet and water-stained drywall. They tore out the falling down drywall tape throughout the garage. They used a HEPA vacuum, cleaned the floors, and applied an anti-microbial agent.

51. In the entryway, stairwell, and landing, the mold remediation specialist tore out the contaminated drywall. They tore out and hauled away the wet and contaminated insulation. They tore out the contaminated carpet and carpet pad. They used a HEPA vacuum, cleaned the walls and ceiling, applied an anti-microbial agent, and applied a sealing paint to the now exposed framing.

52. In other areas of the home affected with mold, including the storage room, closet, and furnace room, the mold remediation specialist tore out the contaminated carpet and carpet pad, cleaned and painted contaminated walls and ceilings, used a HEPA vacuum, and applied an anti-microbial agent to the contaminated areas. Then, a professional mold level testing company performed airborne mold level testing using air samples and microbial

analysis. They also performed a visual inspection. The testing was performed to ensure habitability and effectiveness of the remediation. To restore the home to its pre-tenancy condition, a general repair specialist replaced the now torn out insulation and drywall. They repainted where necessary, addressed water intrusion points of entry, and performed other tasks necessary to restore the affected areas of the home to its pre-tenancy condition. And finally, a flooring specialist replaced the mold-contaminated carpet and carpet pad in the affected areas.

53. In sum, due to Sewall's failure to notify Defendants of the open, obvious, and extensive water damage and mold growth, Defendants were required to expend a considerable sum, approximately \$30,000, to remediate and repair the home to its pre-tenancy condition.

COUNT I: BREACH OF CONTRACT

54. Defendants re-allege all prior paragraphs of this Counterclaim.

55. The parties executed a written contract (lease) on or about July 15, 2016, for the rental of the premises Sewall selected and which Defendants rented to him. Sewall subsequently renewed that lease yearly until he decided to vacate the premises on August 31, 2021. At all times of his tenancy, the terms of the written lease governed Sewall's tenancy of the premises.

56. Under section 15 of his lease, Sewall agreed to "use reasonable efforts to maintain the Premises in such a condition as to prevent accumulation of moisture and the growth of mold, and to notify Landlord in writing promptly of any moisture accumulation that occurs or of any visible evidence of mold discovered by Tenant."

57. Under section 16 of his lease, Sewall also agreed to “provide Landlord with immediate notice of any fire or other casualty that occurs and causes damage to the Premises.”

58. And under section 16 of his lease, Sewall further agreed to “promptly reimburse Landlord for all loss, damage, government fines, and cost/expenses of repairs or service due to a violation of Tenant’s obligations under this Lease or the improper use, negligence or intentional misconduct by Tenant or any Occupant.”

59. In breach of the express terms of the parties’ lease, Sewall failed to promptly notify Defendants—in writing or otherwise—of moisture accumulation and visible evidence of mold growth.

60. In further violation of the parties’ lease, Sewall refused repeated demands to promptly reimburse Defendants for the cost associated with repairs due to his violation of the terms of the lease and/or his improper use, negligence, or intentional misconduct.

61. Sewall’s breach of contract caused damage to Defendants. Defendants were required to repair the substantial damage to the home that was caused by Sewall’s failure to provide notice or reimbursement. Sewall’s breach of contract caused damages to Defendants in a sum provable at trial but not less than \$9,700.24.

COUNT II: NEGLIGENCE

62. Defendants re-allege all prior paragraphs in this Counterclaim.

63. A tenant is liable in tort to its landlord for damages to the leased property caused by the tenant’s negligence. *See Ram Mut. Ins. Co. v. Rohde*, 820 N.W.2d 1, 13 (Minn. 2012).

64. Sewall, as a tenant of the premises, owed Defendants a duty to act reasonably and responsibly with regard to the condition of the leased premises in a manner that would protect Defendants from foreseeable harm.

65. Sewall's duty arose from: (1) his lease, (2) the landlord-tenant relationship, and (3) Minnesota law. Those duties included, but are not limited to, notifying Defendants of obvious, open, and extensive water intrusion and mold growth at his leased premises, and to act as a reasonable prudent person under the circumstances.

66. Sewall breached this duty when he unreasonably failed to promptly notify Defendants of the obvious, open, and extensive water intrusion and mold growth. Sewall's failure to promptly notify Defendants constitutes a breach of his duty to act as a reasonable prudent person under the circumstances.

67. As a direct and proximate result of Sewall's failure to promptly notify Defendants of the obvious, open, and extensive water intrusion and mold growth, Defendants were required to spend a considerable sum to remediate the mold and water intrusion and to restore the premises back to its pre-tenancy conditions.

68. Defendants have suffered damages because of Sewall's negligence, the amount of which will be proven at trial, but not less than \$9,700.24.

WHEREFORE, Defendants seek:

- A. Judgment against Barry Sewall in the amount not less than \$9,700.24 as owed by him to Defendants under the lease and Minnesota law;
- B. An order awarding Defendants' attorneys' fees and costs as allowed by law; and
- C. All other relief that the Court deems just, proper, and equitable.

Dated: February 23, 2023

/s/ Nathan Brennaman

Michael F. Cockson (280549)

Nathan A. Brennaman (0331776)

Elle Ottaviani (398851)

Diego E. Garcia (0403581)

Representing Defendants:

Home Partners Holdings LLC

SFR Acquisitions 1 LLC, and

OPVHHJV LLC, d/b/a Pathlight Property

Management

FAEGRE DRINKER BIDDLE & REATH LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402

Tel. (612) 766-7000

Fax (612) 766-1600

Michael.Cockson@faegredrinker.com

Nate.Brennaman@faegredrinker.com

Elle.Ottaviani@faegredrinker.com

Diego.Garcia@faegredrinker.com

ACKNOWLEDGMENT

The undersigned hereby acknowledges that pursuant to Minn. Stat. § 549.211, Subd. 3, sanctions may be imposed if, after notice and a reasonable opportunity to respond, the Court determines that the undersigned has violated the provisions of Minn. Stat. § 549.211, Subd. 2.

/s/ Nathan Brennaman

Nathan A. Brennaman