Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

STATE OF MINNESOTA | DISTRICT COURT

COUNTY OF HENNEPIN | FOURTH JUDICIAL DISTRICT
Case Type: Other Civil

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

Plaintiffs,

v.

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

Defendants.

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

SECOND AMENDED COMPLAINT

JURY TRIAL DEMANDED

Barry Sewall, Shamika Gregory, and Jerome Gregory, each individually and on behalf of all others similarly situated, bring this action against Home Partners Holdings LLC, SFR Acquisitions I LLC, and OPVHHJV LLC, d/b/a Pathlight Property Management (collectively "Defendants"), and allege as follows:

INTRODUCTION

1. A pillar of landlord-tenant law is that landlords, not tenants, are responsible for ensuring that the homes they rent are in "reasonable repair," in compliance with applicable health and safety laws, and are fit for their intended use. Minn. Stat. § 504B.161.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

2. These mandatory landlord duties and the rights they confer on tenants, the Covenants of Habitability, originated in common law but have since been codified in Minnesota Statutes.

3. Minnesota law explicitly forbids landlords from entering into agreements with tenants that waive or modify the Covenants.

4. Nonetheless, under the guise of offering a potential home to own, Defendants routinely require tenants to enter into contracts of adhesion that purport to waive and modify the Covenants, through several different lease provisions found in Defendants' uniform adhesion contracts.

5. Minnesota law also provides for landlord remedies in the event the disrepair has been caused by a tenant's "willful, malicious, or irresponsible conduct." *Id.*

6. But during and at the end of tenancies, Defendants pursue their tenants for payment of pre-existing or other damage to Defendants' real and personal property, which was not caused by the tenants at all, much less due to "willful, malicious, or irresponsible" conduct. This conduct violates the Covenants and statutory consumer protection laws.

7. In addition, Defendants require tenants to pay multiple fees that shift the costs of lease management and administration, property insurance, and utility service to tenants, in violation of Minnesota law.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

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

10. In effect, these large entities are building a new corporate landlord-tenant scheme across the country.[1]

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

12. However, over time, these corporations have displaced individual home buyers (or individual landlords and property owners) not only in housing markets decimated by foreclosure, but also in healthy urban, suburban and exurban residential real estate markets, leading to "higher prices throughout the market, greater competition at the time of sale, and out-of-state landlords showing less care for properties and renters."[2]

---

[1] https://www.theatlantic.com/technology/archive/2019/02/single-family-landlords-wall-street/582394/ (last visited Aug. 10, 2022).

[2] https://www.startribune.com/national-investors-are-snapping-up-twin-cities-area-houses-to-rent/600123709/ (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

PARTIES

13. Barry Sewall is an adult residing in Bloomington, Minnesota, and is a citizen of Minnesota.

14. Shamika and Jerome Gregory are adults residing in Brooklyn Center, Minnesota, and are citizens of Minnesota.

15. Defendant Home Partners Holdings LLC ("Home Partners") is incorporated in Delaware with its principal place of business in Chicago, Illinois.

16. Upon information and belief, Defendant Home Partners or one of its subsidiaries operates and purchases homes through separately incorporated shell limited liability companies ("LLCs"), but Defendant Home Partners (or one of its officers or employees) is a member of those LLCs.

17. Defendant SFR Acquisitions I LLC ("SFR Acquisitions"), an LLC incorporated in the State of Delaware with its principal place of business in Chicago, Illinois, is one of these LLCs. Upon information and belief, Defendant SFR Acquisitions I LLC formerly did business through separately incorporated shell LLCs, incorporated in Delaware and registered in various states where the homes are located.

18. Plaintiffs' leases indicate they each entered into agreements with HP Minnesota 1 LLC, which now does business as SFR Acquisitions. SFR Acquisitions, and these other LLCs were, at all relevant times, the agents, servants, employees, alter-egos or joint venture of Defendant Home Partners, and acted within the course and scope of such agency, employment, alter-ego and/or in furtherance of the joint venture, and with the permission and consent of each of the other Defendants.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

19. Defendant OPVHHJV LLC, d/b/a Pathlight Property Management ("Pathlight") is a subsidiary, agent, and alter ego of Home Partners of America. Pathlight is incorporated in Texas with its principal place of business in Texas.

JURISDICTION AND VENUE

20. This Court has subject matter jurisdiction over this action pursuant to Minnesota Statutes sections 8.31, 325F.68 to 325F.69, 325D.43 to 325D.48, and 504B.001 to 504B.471, and under common law.

21. This Court has personal jurisdiction over Defendants because they rent to, and have committed acts causing injury to, Minnesota residents.

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

FACTUAL ALLEGATIONS

I. Defendants' Lease to Purchase Scheme

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

24. According to the Federal Reserve Bank of Minneapolis, "[i]nvestor ownership of single family homes has exploded, both nationally and in the Minneapolis-St. Paul metropolitan area." As of 2021, Defendants were the second largest owner and investor of single family residences in Minnesota, owning at least 857 properties in the Twin Cities area.[3]

[3] *See* Tu-Yuen Tran, et al., *Understanding the Rise of Investor Owned Homes*, Federal Reserve Bank of Minneapolis, Nov. 21, 2021, *available at* https://www.minneapolisfed.org/article/2021/understanding-the-rise-of-investor-owned-homes (last visited Dec. 23, 2022); Kim Eng Ky, et al., *New Property Data*

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

25. Defendant Home Partners is now a subsidiary of Blackstone Inc., a New York City-based investment firm.[4]

26. In a $6-billion dollar deal, Blackstone purchased Defendant Home Partners through an investment fund called Blackstone Real Estate Income Trust.

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

28. In the wake of the 2007 housing market crash, as thousands of American families lost their homes, the federal government launched a pilot program that allowed Blackstone and other private investors, some of whom facilitated the financial crisis in the first place, to purchase swaths of foreclosed homes from Fannie Mae.

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

30. Defendants state they rent single-family homes to persons in three primary demographics: (1) recent transferees to an unfamiliar or new city or suburb;

Tool Reveals Patterns of Investor Ownership in Twin Cities Area, Federal Reserve Bank of Minneapolis, Nov. 21, 2021, *available at* *https://www.minneapolisfed.org/article/2021/new-property-data-tool-reveals-patterns-of-investor-ownership-in-the-twin-cities-area* (last visited Dec. 23, 2022).

[4] https://www.wsj.com/articles/blackstone-bets-6-billion-on-buying-and-renting-homes-11624359600 (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

(2) persons desiring to live in a single-family home, but who lack the creditworthiness to obtain a mortgage; and (3) persons who want to rent a single-family home but who are "uncertain" about home ownership.

31. Defendants peddle to these demographics through targeted marketing to real estate agents, and through online and print advertisements that promote the availability of homes. Defendants market themselves as a joint entity: Pathlight's web site contains a Home Partners' logo, demonstrating their interlocking relationship, and Home Partners' web site states, "[f]rom 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."[5]

32. Defendants market extensively through their own web sites as well as local real estate agencies like Century 21, Edina Realty, and Coldwell Banker.

33. Cementing their alter ego relationship, Pathlight states on its website that both Pathlight and Home Partners "are proud to offer" lease programs to prospective tenants.[6]

34. Once a prospective tenant expresses interest in a particular property, Defendants together claim that they expend significant effort and resources to

[5] https://www.homepartners.com/faqs/Move-In-Pathlight/Pathlight-Property-Management-/When-does-Pathlight-become-the-main-point-of-contact-for-incoming-residents (last visited Aug. 10, 2022).

[6] https://www.pathlightmgt.com/ (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

purchase a particular home on the prospective tenant's behalf. Though Defendants claim in their form documentation that they are purchasing properties specifically selected by a prospective tenant prior to rental, Defendant Home Partners (either wholly or through its alter ego LLCs) likely already owns the home. Indeed, a recent search of Pathlight's property listing of available homes in the Minneapolis-St. Paul area yielded 70 available homes in all corners of the metropolitan market.[7]

35. To induce persons to go through Home Partners and the lease-to-purchase program, Home Partners represents that "[o]nce a home is identified and approved by Home Partners, Home Partners will attempt to purchase the home – the outcome of which will depend on certain conditions being met such as agreeing on a purchase price with the seller, a satisfactory inspection, attorney review of the purchase contract, and other closing conditions being satisfied."[8]

36. Home Partners thus represents the house is "qualified" and has passed its inspection.

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

---

[7] https://www.pathlightmgt.com/metro/minneapolis-st-paul?sort=available_date-desc (last visited Aug. 10, 2022).

[8] https://www.homepartners.com/how-it-works (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

38. For each house, Defendants set both a monthly base rent for each year in which a tenant occupies a house. Base rent increases by up to 3.75% year over year, which is above average for the metropolitan Twin Cities and other areas where Defendants rent homes. Defendant also establishes an "Estimated Acquisition Cost" (also defined in Defendants' form documents as the "Purchase Price")[9] if the tenant chooses to exercise the "right" to purchase during or at the end of the lease. Incorporated into the Estimated Acquisition Cost are "make ready" costs allegedly expended by Defendants prior to move-in and during the tenancy.

39. Defendants state and admit they do not negotiate these amounts with tenants,[10] and unilaterally set the house's estimated purchase price above the actual amount expended to purchase the house, closing costs included.[11] Nonetheless, in contradiction of the foregoing statements, which are provided to the general public and tenants before they sign any lease, Home Partners later represents in its form adhesion leases that "the amount of Rent was negotiated with the express

[9] The Estimated Acquisition Cost is the product of the house's "baseline purchase price," which is not the actual cost to Defendants to purchase the house, but rather, the cost to Defendants with a substantial increase, and a flat cost "maintenance adjustment," defined as a "make-ready costs price adjustment," meaning Defendants seek to recoup from their tenants/would-be purchasers the maintenance and repair costs that they are obligated to bear as landlords.

[10] https://app.pathlightmgt.com/help/detail/Lease-Information/360043853871/Is-rent-negotiable (last visited Aug. 10, 2022).

[11] https://www.homepartners.com/how-it-works/the-math (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

understanding that Tenant will be responsible for the maintenance needs of the Premises."

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

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

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

43. At bottom, and as further described herein, Defendants' lease-to-purchase program is an elaborate ruse designed to induce and convince prospective customers that they are renting a specially chosen, "qualified" i.e., quality home that is different than, and an alternative to, a traditional rental—and then to convince consumers to agree to take on substantial homecare burdens foisted on tenants by Defendants' adhesive form leases.[12] Despite their effort to establish an extra-legal relationship with their tenants through these elaborate contracts of adhesion, Defendants cannot write their way out of their statutory legal obligations to their tenants.

[12] https://www.homepartners.com/how-it-works/program-summary?position=advantages (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

II. Defendants' Form Contracts Shift the Burden of Maintenance and Repair Onto Tenants.

44. Since at least 2016, Defendant Home Partners has included provisions in its carefully crafted form leases that illegally purport to shift its "reasonable repair" obligations onto tenants, including for situations where the damage is not caused by the Tenant's "willful, malicious, or irresponsible" conduct:

- "**Tenant shall, at Tenant's expense, maintain the Premises (including all appliances, systems and fixtures located thereon…)…and keep same in a clean, safe and healthy condition and in good working order."** (emphasis in original)
- **"Tenant agrees to pay for (a) all repairs, maintenance or replacement required to the Premises,** including the walls, windows, storms (*sic*) doors/windows and screens, ceilings, paint, plastering, plumbing work, pipes, and fixtures belonging to the Premises, whenever damage or injury to the same shall have resulted from misuse, waste or neglect by the Tenant…" (emphasis in original)

45. Defendant Home Partners further disclaims in its form leases any obligation to comply with the Covenants of Habitability, stating that "Tenant hereby represents, warrants and acknowledges that it is leasing the Premises in its 'AS-IS, WHERE-IS, WITH ALL FAULTS' condition, fitness for any particular purposes, merchantability, habitability or any other warranty of any kind, nature, or type

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

whatsoever[.]" These provisions are designed to obscure, mislead and misrepresent Defendants' true legal obligations to renters.

46. As further evidence of its intent to mislead and misrepresent obligations to renters and to shift the costs of repair onto tenants, Home Partners represents that as a component of its lease-to-purchase program, the parties have a "mutual responsibility to maintain the home," in contrast to the traditional landlord-tenant relationship, and that this alleged "mutual responsibility" creates an advantage for the tenant over the traditional landlord-tenant relationship.[13] Defendants fail to disclose, however, that nothing in their unwieldy, lengthy "Residential Lease Agreement" can abridge a tenant's rights, nor does the lease create anything other than a traditional landlord-tenant relationship.

47. Defendants' "as-is" and burden-shifting repair provisions mislead consumers about their guaranteed rights and remedies under applicable state law by misrepresenting to consumers that they, not Defendants, are required to keep Defendants' properties in reasonable repair and further mislead consumers into paying costs associated with Defendants' lease management and administration. Thus, in addition to misrepresenting tenants' rights, Defendants' leases are agreements with tenants that purport to waive or modify the Covenants of Habitability in direct violation of the law.

[13] https://www.homepartners.com/how-it-works/program-summary?position=advantages (last visited Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

48. Defendants' burden-shifting maintenance and repair and lease administration provisions not only contravene the Covenants of Habitability and other state laws, but also deceptively and misleadingly suggest to tenants that their signatures on the lease constitute a waiver of their right to habitable housing. Such unlawful provisions have and continue to have the effect of fraudulently stripping consumers of their legal rights and burdening them with repair efforts and expenses that the law explicitly requires Defendants to bear.

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

50. Instead, these inspections or appraisals are given to Defendants and undertaken on Defendants' behalf prior to Home Partners' purchase of the home. As owners and property managers of the home, they are in the best position to obtain and provide that information. Thus, no Defendant discloses the existence of any pre-existing damage to the home of which they may have already been aware.

51. Defendant Pathlight further represents that due the fact that the property being purchased will be a rental, county or municipal inspections may occur only after Home Partners closes on a home, allowing Defendants to rent the home under local licensing requirements. Therefore, despite attempting to lock tenants into a lease of a specific start date, property may actually be unavailable for rent upon closing, and it may not be available until it passes the mandatory inspection. No Defendant discloses the results of these inspections.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

52. During the tenancy, and in contradiction of Defendants' pre-lease representations about the alleged quality of the homes offered for rental, as described herein, Defendant Pathlight often refuses to make even basic repairs or unduly delays repairs based upon the "AS IS" representations in the lease, including those affecting health or safety, or to undertake repairs required by the form lease, and suppresses tenants' ability to report their repair concerns and to have repairs completed. This is due in part to the fact that instead of employing a local agent or property manager who personally responds to a tenant's maintenance request, that request is directed to an out-of-town call center or a web site that purports to be managed by Pathlight, which then assigns a maintenance worker, who requires the tenant be on-site to make the repair – that is, if Pathlight agrees to the repair in the first place.

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

54. In addition to paying out of pocket for repairs to Defendants' properties as they arise, or from their security deposits at the end of tenancy, tenants also use their own scarce funds every month to comply with Defendants' so-called "liability coverage" requirement. Tenants are required to procure this "liability coverage" in the amount of $300,000 ($500,000 for a house with a pool) for "damage to our property

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

during your lease term."[14] Pathlight force places tenants in its own "liability program" through its "preferred provider Assurant" for $13 per month if tenants do not procure their own renters' insurance containing this coverage, with Defendant Home Partners named as an additional insured on the policy. However, Pathlight discourages tenants from procuring outside insurance, stating that "using an outside provider may cost $20 per month or more."[15]

55. What Defendants additionally do not disclose is that they intend for tenants (or their independently procured insurance coverage) to pay for and cover pre-existing, accidental, or normal wear and tear damage to Defendants' buildings and real property, not caused by tenants, which are not covered by the typical renters' insurance policy.[16] In other words, Defendants deliberately foist the burden of insuring their own real property onto tenants.

56. Defendants also require tenants to pay various fees associated with lease management and administration, including a "Utility Billing Service Fee" (UBSF). The UBSF is a "pay-to-pay" fee for utilities and services that that must be

---

[14] https://app.pathlightmgt.com/help/detail/Move-In/360043425512/Am-I-required-to-have-renter's-insurance (last visited Aug. 10, 2022).

[15] https://app.pathlightmgt.com/help/detail/Move-In/360043425512/Am-I-required-to-have-renter's-insurance (last visited Aug. 10, 2022).

[16] "Liability insurance provides coverage against a claim or lawsuit resulting from bodily injury or property damage to others caused by an accident while on the policyholder's property…Your landlord's coverage only covers damage to the building's structure. However, if you want to protect your personal belongings, you may want to consider buying a renters insurance policy." *Renters Insurance*, https://mn.gov/commerce/consumers/your-home/protect/other/renters-insurance/ (last checked Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

kept in the Landlord and property owners' name. Tenants do not have the option to opt out of the UBSF.

57. Defendants employ a third party, Conservice, to manage those utilities and services kept in Defendants' names, such as water, trash and sewer. Conservice bills the utilities to the tenants, through a separate bill, but all utility amounts are reflected on the tenants' ledgers and tenants can remit payment directly to Defendants.

58. In Minnesota, Defendants' pay-to-pay UBSF is at least $9.95 per month, although the amount has varied over time. The amount of this fee is not specified in the lease agreement. Defendants reserve to themselves the discretion to increase the fee during the lease term. This fee is non-negotiable.

59. Upon information and belief, Conservice, as Defendants' agent and acting jointly with Defendants, uniformly and deceptively charges more than the actual amount billed for utilities. For example, Defendants charged Plaintiffs Shamika and Jerome Gregory $115.37 for "sewer recovery" in April and July 2022. At no time in 2022 did the City of Brooklyn Center charge $115.37 to residents for the sanitary sewer utility. Similarly, in 2022, Defendants charged the Gregorys $25.46 per month for their water utility. At no time in 2022 did the City of Brooklyn Center charge any residential unit more than $24.91 for the water utility. [17] Thus, in addition to being charged $9.95 per month for Defendants' administrative UBSF, the

[17] *See* City of Brooklyn Center, Resolution 2021-147 & https://www.ci.brooklyn-center.mn.us/government/departments/fiscal-support-services/utility-billing/water-sewer-rate-information

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

Gregorys were overcharged for utilities that if they had been permitted by Defendants to set up themselves, they would have paid less.

60. In keeping with its nickel and diming, Defendant also requires tenants to pay an "HVAC filter fee," in the amount of $15 per month. This amount is non-negotiable. Defendant contracts with a third party, Second Nature, to deliver air filters to tenants every 60 days, and per the form lease and addenda thereto, tenants are not permitted to opt out of this payment obligation and to supply their own air filters purchased from other sources. The lease further requires tenants to install the filters within two days after delivery, for the purpose of ensuring that the "air quality in your home is safe and your system is functioning properly," meaning that the air filter is specifically for the purpose of ensuring the health and safety of the tenants and the habitability of the units. Further, this cost is shifted even where Defendant agrees that furnace and HVAC cleaning and servicing is the landlord's responsibility under the lease agreement.

61. Finally, Defendant also requires tenants to pay for Defendants' attorneys to review their ledgers for purposes of determining whether a tenant is allegedly in default of any lease obligation. Defendants charge the tenants for this attorney review, regardless of whether Defendants attempt to enforce any lease obligation through a legal action. These legal fees assessments violate Minnesota law, which only permits fee-shifting to tenants subject to residential leases if the landlord is a prevailing party in "*an action* between landlord and tenant." Minn. Stat. § 504B.172 (emphasis added).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

III. Defendants Assess Illegal Late Fees.

62. All of the above fees are non-negotiable and are deemed "additional rent" under the form lease. If any fee is unpaid by the time the "monthly base rent" is due—and even if a tenant has fully paid their base rent—Defendant has discretion to charge a late fee under the lease agreement, in the amount of $100 or eight percent of the unpaid rent amount, whichever is greater.

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

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

65. The lease further provides that the monthly base rent and additional rent must be paid on the first of the month, and that "…Landlord shall have the right to apply any funds received from or on behalf of Tenant first to any attorneys' fees or costs incurred to enforce Tenant's payment obligations under this Lease, then to Overdue Payment Amounts and Late Payment Fees, then to other non-Monthly Base Rent obligations of Tenant (including but not limited to Returned Payment Fees, pet fees, other items of Additional Rent and other payment obligations of Tenant under this Lease including utility charges) and then to Monthly Base Rent and Pro-Rated Rent due, regardless of when such obligations arose, or in such other order as Landlord shall determine in its sole discretion."

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

67. If a late fee has been assessed in the prior month, and the tenant's full balance is not paid by the fifth of the next month, a late fee will continue to be assessed on the remaining balance at a rate of eight percent—even if a tenant has fully paid all "base rent." In other words, Pathlight calculates the initial late fee based on the eight percent of the unpaid monthly base rent (unless it applies a flat $100 fee). Because (1) it applies tenant payments to non-base rent items first, irrespective of whether those items are actually rent (i.e., amounts charged for use of the premises) and when they were incurred in the calendar month, and (2) then rolls a late fee into "additional rent," tenants are faced with cumulative late fees in violation of Minnesota law.

68. Even if Defendants did not enforce their illegal lease provisions, these provisions are nonetheless deceptive because consumers who read them or are told of them are likely to believe they are enforceable or that they have contractually waived their legal rights not to be responsible for maintenance and ordinary wear and tear repairs to Defendants' own property.

IV. Plaintiffs' Experiences

Barry Sewall

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

69. Sewall rented a Home Partners-owned home in Minnetonka, Minnesota, beginning on or around July 29, 2016.[18] In the spring and early summer of 2016, Sewall was looking to rent a home, and rented through Defendants because their representations, as described above, led him to believe they would provide a quality, pre-inspected home that would not require substantial upkeep or maintenance, based upon the assurance of quality and inspection provided by Defendants. Sewall required a low-maintenance home due to his work, which frequently required out-of-town travel. He was not committed to purchasing the home through Defendants, but instead, considered it a possibility.

70. Sewall received Defendants' form "Residential Lease Agreement," drafted by Home Partners' lawyers and consisting of 47 clauses and 16 pages of approximately 8-point Times New Roman font, plus numerous attachments and addenda, and which incorporated a "Residential Right to Purchase Agreement."

71. The written form lease initially set a base rent of $2,970 per month for the first year of the tenancy, with yearly rent hikes of approximately 3.6% year over year. During the fifth and last year of his tenancy from July 29, 2020 through July 29, 2021, Sewall's monthly rent was $3,440. Sewall was not provided an opportunity to negotiate these amounts, nor any other amounts due under the lease and deemed "additional rent." Sewall believes this rental amount was above market rates for a similar-sized home in the relevant market.

[18] The exact address is known; however, because information such as current and former residential addresses can be used fraudulently by third parties, it is not stated in this publicly filed complaint.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

73. Sewall paid the amounts due and owing under the lease during his tenancy, and also maintained and provided evidence that he maintained the allegedly required insurance liability coverage. While Sewall understood that he would be required to pay for utilities, maintain the lawn, change lightbulbs, etc., he did not agree to pay for any pre-existing damage, nor was he provided any reimbursement or consideration for undertaking any repairs.

74. After moving into the house, Sewall began noticing several issues related to the maintenance and repair of his house, which were not evident upon his move-in inspection. During the entire period of his tenancy, Sewall made repeated maintenance requests to Pathlight regarding continued issues with moisture and wetness in numerous areas of the house, including but not limited to water issues in or near the equipment room, causing the carpet outside the equipment room to be wet (which was also observed by an HVAC repair person in 2018 and reported to Pathlight); condensation or wetness in the equipment and storage room; an improperly draining shower drain in the master bathroom, which more than one plumber hired by Pathlight feebly attempted to address, and which required the plumber to cut a hole in a mid-level bedroom ceiling and install a trap under the drain; damage after an ice dam caused water to drip into the interior of the home; and water in the garage after a rain, as well as during most of the winter when

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

thawed ice or snow would seep into the garage. Sewall also reported a poorly-working oven in or around 2020-21.

75. Sewall reported these maintenance issues to Pathlight through Pathlight's on-line "Zendesk" web portal email, or by calling its 800-number. All of Defendants' tenants were required to report maintenance issues in this manner. Defendants were already aware of pre-existing water damage in the garage because evidence of it existed when Sewall moved in.

76. In or around 2018, at his own expense and at considerable inconvenience to him, Sewall also had to address an ice dam over the house's front stairs.

77. Sewall also repaired a pre-existing large gap between the driveway and garage slab floor, hoping it would reduce the constant water in the garage. It did not, leading him to believe the garage water issues were due to a foundation or roof issue that Pathlight would not address because of the "AS-IS" language in the lease.

78. Sewall reported these issues to Pathlight and Defendants' maintenance vendors. When it responded to Sewall's requests at all, Pathlight or its agents unreasonably responded, requiring that Sewall be present when its authorized repair persons were on the property, despite the fact that Pathlight had available a network of local real estate agents to whom it provided keys to the property, and who could have been employed to handle these repair appointments.

79. On or about June 29, 2021, Sewall provided his notice of intent to vacate the property to Pathlight, later requesting that he be permitted to rent for an additional month beyond the expiration of the lease term, i.e., through August 31,

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

2021. Pathlight permitted Sewall to rent for an additional month, for an additional premium of $860.00, bringing his total monthly rent for the month of August to $4,300.

80. Pathlight, through its agent, inspected or had the opportunity to inspect the property in June, July, and August 2021, due to the fact that it had listed the property for rental after Sewall provided his notice of intent to vacate.

81. Sewall vacated the property on August 25, 2021, ensuring his compliance with all of Pathlight's move-out instructions, including the requirement that the property be professionally cleaned. Defendants' real estate agent began showing the property immediately, locking Sewall's cleaner out of the property on or about August 28, 2021, necessitating a return trip by the cleaner.

82. On or about September 22, 2021, Pathlight sent Sewall its "Security Deposit Disposition." Among the line items in that letter, including false claims of "unpaid rent," "unpaid rent premium," and "unpaid late fees," which Sewall disputed and later resolved, Pathlight assessed Sewall for $15,000 for a "Remediation and Buildback" charge. This charge was shocking and outrageous to Sewall.

83. In its Security Deposit Disposition, Pathlight did not apply required statutory interest to Sewall's initial security deposit of $5,940.

84. When Sewall followed up with Pathlight to dispute the majority of the fees assessed in the "Security Deposit Disposition," including the "Remediation and Buildback" $15,000 charge, Pathlight demurred. Pathlight did not respond to Sewall's request regarding the outrageous $15,000 charge until October 1, 2021,

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

stating the charge was "due to a non-reported leak that caused extensive damage to the home. Our records show you were not enrolled in our liability program, therefore charges have been charged back to the account. We encourage you to reach out to your renters policy to see if there would be any coverage." Pathlight attached four close-up pictures to select areas allegedly showing this "extensive damage to the home." Sewall recognized only the photograph showing the access panel the plumber Pathlight hired to cut and install the trap in the bedroom ceiling under the master shower drain. The other pictures were unfamiliar.

85. Despite claiming that Sewall owed $15,000 for a "Remediation and Buildback," Pathlight was unable to document or support total "remediation" costs in the amount of $15,000.

86. Pathlight nevertheless continued to pursue Sewall requesting he tender this charge to his renters' insurance.

87. Sewall disputed, and continues to dispute, that he owes Home Partners or Pathlight for any "Remediation and Buildback," and demands a full return of his $5,940 security deposit, plus interest, penalties and other damages provided by law, and any other damages or equitable relief as the Court may order.

88. Had Sewall known of the burdensome repairs that he would have to undertake while a tenant, or that Defendants would attempt to shift the full costs of maintenance and repair of the home that they alone bear onto him, he would have paid considerably less in monthly rent, or would have rented a different house.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

Shamika and Jerome Gregory

89. Shamika and Jerome Gregory began renting a home through Defendants in Brooklyn Center, Minnesota on or about September 9, 2021.

90. The Gregorys were initially looking to purchase a home in the summer of 2021. They had been living in North Minneapolis, and were seeking a home that could provide peace and a refuge from the turbulence in their neighborhood following the death of George Floyd. Defendant Pathlight qualified them for the lease-to-purchase program in or around July 2021. They rented through Defendants because their representations, as described above, led them to believe Defendants would provide a quality, pre-inspected home that would not require substantial upkeep or maintenance, based upon the assurance of quality and inspection provided by Defendants. Further, because Defendants had already purchased multiple homes in the area, there were very few homes in the Gregorys' price range available.

91. The Gregorys received Defendants' form "Residential Lease Agreement," drafted by Home Partners' lawyers and consisting of multiple pages and dozens of clauses, plus numerous attachments and addenda, and which incorporated a "Residential Right to Purchase Agreement."

92. The Gregorys were not provided an opportunity to negotiate the amount of rent, nor the yearly rent hikes, nor any other amount due under the lease and deemed "additional rent."

93. Defendants initially scheduled the Gregorys for a lease start and move-in date of August 26, 2021. However, approximately three days before the move-in

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

date, Pathlight emailed the Gregorys informing them there was an issue that would push out their move-in date a few days.

94. This surprise delay effectively rendered the Gregorys and their four children homeless as their lease from the previous home they rented was up. The Gregorys had nowhere to live, and nowhere to store their belongings, including the furniture they scheduled for delivery on their initial move-in date.

95. Pathlight contacted the Gregorys a second time on or about August 29, 2021 informing them that the move-in date would be pushed back even longer than initially anticipated. Pathlight refused to tell the Gregorys the nature of the issue preventing their move-in.

96. The Gregorys had to pay $2,800 to live in a hotel while the home was under repair from August 26 through September 8, 2021. Pathlight refused to cover the cost of the hotel, providing a $250 "good will" credit instead.

97. Because of their delayed tenancy, the Gregorys decided to call the Brooklyn Center city inspector. They learned the reason for the delay was that the home was not up to code and Defendants could not rent the property, and that Defendants had not informed the city that their tenancy was imminent.

98. After giving notice of the first delay, Pathlight sent the Gregorys an updated lease agreement that still showed a move-in date of August 26, 2021. The Gregorys refused to sign this new lease until the rent was pro-rated reflecting and the lease reflected a start date of September 9, 2021. Pathlight eventually provided an updated lease reflecting the correct move-in date.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

99. The Gregorys had already purchased renter's insurance of their own. However, Pathlight told them this insurance was not on Pathlight's approved list, and told the Gregorys they must sign up for Defendants' renter's insurance program instead, which the Gregorys did. The Gregorys have continued to pay for Pathlight's renter's insurance each month of their tenancy.

100. When they were finally allowed to move in, the Gregorys noted the home had clearly never been cleaned, despite Pathlight's representation that the home would be cleaned and "move-in ready" prior to move-in. In addition, upon move-in, the Gregorys discovered someone had actually been living in the home while it was being repaired. This individual's belongings were piled in the Gregorys' back yard. The Gregorys paid approximately $200 out-of-pocket to have the house cleaned.

101. Since they have moved in, the Gregorys have provided notice to Pathlight of needed repairs. For example, before the Gregorys moved in, the city inspector cited Pathlight for city code violations related to the flooring throughout the home. Pathlight sent a maintenance worker to repair the floors in approximately May of 2022. When the worker pulled up the floors, he determined they were in worse condition than previously anticipated. The worker could not complete the floors until Pathlight approved the added cost, but Pathlight did not respond to the worker for several days, leaving the Gregorys and their four children with no flooring and hundreds of nails and tons of debris exposed.

102. In October 2021, the Gregorys' refrigerator died and the Gregorys immediately submitted a work order through Pathlight's renter portal, but it took a

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

week before a maintenance worker reported to their home. In July 2022, the refrigerator died a second time and began leaking water and oil. Despite promptly notifying Pathlight via Pathlight's renter portal that day, yet again it took a week before a maintenance worker reported to their home. The Gregorys went months without a working refrigerator, which was finally fixed in October 2022. Both incidents resulted in the loss of approximately $600 worth of food for the Gregorys and their four children.

103. Shortly after move-in, the Gregorys reported the roof over their garage was leaking and a collapse appeared imminent. Despite the fact that the city inspector confirmed the roof needed repair, and potentially needed to be replaced entirely, Pathlight has not yet fixed the roof, though the entire roof continues to cave and leak.

104. Upon move-in, a washing machine and dryer were included in the home, but did not clean nor dry clothing properly. The dryer emitted a foul odor. Pathlight refused to replace or fix the units and informed the Gregorys this was "resident responsibility."

105. In the spring of 2022, the Gregorys noticed a foul odor near the washer and dryer units and submitted a maintenance request through the rental portal. Pathlight agreed to complete the work order and fixed a corroded tube behind the units. However, both units continued to malfunction and emit a foul odor. The Gregorys had to use a laundromat because they could not afford the cost of repairing or replacing the two units.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

106. In November 2022, the Gregorys again noticed a foul odor near the washer and dryer units and submitted a maintenance request through the rental portal. Pathlight closed the maintenance ticket because it was "outside our standard scope of occupied home repairs and maintenance" and was allegedly the resident's responsibility.

107. The Gregorys submitted a second work order as the foul smell was still present approximately 10 days after Pathlight closed the first ticket. Despite the Gregorys' concerns about the odor and their safety, Pathlight again refused to complete the work order as washers and dryers are "considered resident responsibility."

108. Approximately one week later, the Gregorys noticed a strong gas smell near the dryer and were forced to evacuate their home and call CenterPoint Energy. The CenterPoint representative discovered a serious gas leak near the gas line and a corroded dryer fitting. CenterPoint shut off the gas and instructed the Gregorys to provide the notification tag to Pathlight because Defendants owned the home.

109. The Gregorys informed Pathlight of the gas leak that night and a Pathlight representative said he would "escalate" their request. Over one week later, Pathlight closed the work order without sending anyone to address the gas leak. The Gregorys informed Pathlight their gas was still cut off, and Pathlight agreed to open a new work order and schedule maintenance on December 9.

110. A maintenance representative contacted the Gregorys, apparently believing the work order was to haul away the washer and dryer rather than fixing

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

the gas leak. The Gregorys informed the representative of the gas leak, who told them the gas leak required a different specialist, but she would correct the work order and inform Pathlight.

111. One week later, Pathlight finally sent a different vendor who addressed the gas leak and informed the Gregorys the dryer needed to be replaced. The Gregorys went without gas from November 21 to December 15, and Pathlight again refused to replace the washer and dryer units.

112. The Gregorys have paid and continue to pay the amounts due and owing under the lease during their tenancy, and pay the allegedly required insurance liability coverage.

113. In the spring of 2022, the Gregorys, like thousands of tenants throughout Minnesota, received public assistance for some of their rent obligations, due in part to the hotel and other moving expenses they had to incur in September 2021. For reasons passing understanding, and despite the Gregorys' good faith concerted attempt to communicate with Defendants regarding this payment, Defendants returned the public assistance payment twice, including on June 28, 2022. Defendants continued to charge the Gregorys late fees. Defendants did not credit the public assistance payment until August 9, 2022. Defendants thereafter charged the Gregorys for "legal fees recovery," despite the fact that no action was ever filed by Defendants in any court.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

114. While the Gregorys understood they would be required to pay for utilities, maintain the lawn, change lightbulbs, etc., they did not agree to pay for any pre-existing damage, nor were they provided any reimbursement or consideration.

115. When Pathlight responded to the Gregorys' requests at all, Pathlight or its agents unreasonably responded, requiring at least one of the Gregorys be present when its authorized repair persons were on the property, despite the fact that Pathlight had available a network of local real estate agents to whom it provided keys to the property, and who could have been employed to handle these repair appointments.

116. Had the Gregorys known of the true condition of their home or that Defendants would attempt (constructively or actually) to shift the full costs of maintenance and repair of the home and lease management and administration, which Defendants alone bear, they would have paid considerably less in monthly rent, or would have rented a different house.

V. Numerous Tenants Nationwide Complain.

117. Plaintiffs are not alone. Across the country, numerous complaints have been lodged against either Home Partners or Pathlight through social media such as LinkedIn or Facebook, through the Better Business Bureau, or in conciliation or housing court litigation, for their failure to return security deposits owed, or to keep their properties in reasonable repair.

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

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

119. For example, the Better Business Bureau contains the following litany of recent complaints:

> MB
> 1 star
> 12/15/2021
> BEWARE, SAFETY HAZARDS. To start, we found an electrical box on the outside wall of our home with open wires touching insulation. Later, our home flooded from the floor of the second story and ceiling of the first story during freezing winter storms. The flood damaged the kitchen and dining room ceilings, kitchen cabinets, trim, drawers, and three different types of flooring (wood, tile, and carpet) in the kitchen, dining area, and living room. Pathlight's homeowners insurance should have covered this per the lease agreement yet I don't even think Pathlight filed a homeowners insurance claim. It took two weeks for the plumbing to be fixed and we were not compensated for staying at a hotel. Despite contacting Pathlight repeatedly and putting in work orders for ALL the damages, it took 4-5 months for them to replace the carpet alone. When they pulled up the pad it was covered in mold. We had told them for months we were living in a moldy, water damaged home and they did not care!! More safety hazards. In the end, they didn't repair half of the damages from the flood. Pathlight Property Management did not uphold their end of the terms of our lease agreement. To add insult to injury, we never received our $1,995 deposit back despite reaching out to try and receive it. If I could give Pathlight 0 stars, I would!![19]
>
> Paula F
> 1 star
> 12/07/2021
> One star is even too much for this company. I am a professional and work 10-12 hours a day as does my husband. We choose a rental through this company because they were offering option to buy, however- it has been a nightmare and we have only been in our house for

[19] https://www.bbb.org/us/tx/plano/profile/property-management/pathlight-property-management-0875-90620230/customer-reviews (last checked Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

two months. These people are impossible to get ahold of, when you call you are on hold for 20 minutes to an hour then you get someone who cannot help you and say they are transferring you to someone who can and you are on hold another 20 minutes then get hung up on. I had a horrible pool company where they were not even maintaining my pool, they were just checking the water, I sent this video to Pathlight who sent me an addendum after several phone calls and emails to maintain my own pool. I hired a reliable pool company and who comes on Monday? The creepy pool guy from pathlights company to check my water and take a picture of my house! "all of this on video" I was charged 100.00 for a pool maintenance fee which I should not pay as my pool was not maintenance! I also was charged a 13.00 liability charge the second month but I have my own liability insurance and have proven that to them. I get an email stating it was a mistake then the next day I get an email telling me I own it! Do not,,,, I repeat ... I am warning you! I looked over all the red flags and did it anyway, do not rent from these people! If it looks too good to be true believe it!!! I am currently on hold the second time for ten minutes now waiting for the people who "can really help me" trust me this will not happen! I am going to the better business bureau and any social media outlet that I can this is a horrible horrible company![20]

Frank K
1 star
12/06/2021
I moved out, left the property in great shape. The dishwasher worked the whole time I was in the property. They said it wouldn't start, they had no proof of it not working but they replaced the dishwasher without having a repairman come out. They charged me $750 without contacting me. They will not return emails or have any one return calls. They are very unprofessional. Very disappointed with this company ripping me off.[21]

---

[20] https://www.bbb.org/us/tx/plano/profile/property-management/pathlight-property-management-0875-90620230/customer-reviews (last checked Aug. 10, 2022).

[21] https://www.bbb.org/us/tx/plano/profile/property-management/pathlight-property-management-0875-90620230/customer-reviews (last checked Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

> **Complaint Type:** Problems with Product/Service
> **Status:** Answered
> 12/20/2021
> I used this company as a rent to own or rent with a right to purchase but had to end/term lease early due to domestic violence. This company uses a property management company called ********** who is wrongfully withholding my security deposit. Based on ******** laws they have 21 days to return my deposit to me have not done so, the property mgmt company has also not reached out or notified me in any way. I submitted a complaint against ********** mgmt as well 078942dd-61cc-11ec-a163-0e63a05a1194[22]

120. These are not isolated complaints.[23] Hundreds of these complaints exist. Indeed, private Facebook group called "Home Partners of America—Company of Stolen Dreams" contains over 1,500 members.[24] Only Defendants, however, are aware of the total number of complaints lodged against them, including through Pathlight's online portal and 800-number.

121. In addition, within the State of Minnesota as well as nationwide Defendants have been subject to numerous suits in housing or small claims court actions.

122. In these actions, tenants have sought rent abatement or other compensation or relief due to Defendants' failure to abide by applicable laws. These

---

[22] https://www.bbb.org/us/il/chicago/profile/property-management/home-partners-of-america-llc-0654-88710948/complaints (last checked Aug. 10, 2022).

[23] https://pathlight-property-management.pissedconsumer.com/review.html (last checked Aug. 10, 2022).

[24] https://www.facebook.com/groups/HomePartnersofAmericaScandalExpose (last checked Aug. 10, 2022).

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

actions sometimes contain communications evidencing Defendants' repeat failure to respond to tenants' concerns or to deny maintenance or repair requests altogether based on the "as is" representations in the lease, even where the damage was not caused by the tenant. For example, in a rent escrow action brought in Hennepin County in 2019, the tenants provided by affidavit multiple communications demonstrating that their maintenance and repair requests were denied by Pathlight, on the basis that the tenants had taken the property "as is." *See* Affidavit for Rent Escrow, *Bussier v. HP Minnesota 1 LLC*, No. 27CVHC20-757 (Fourth Dist., Feb. 13, 2020). The tenants, for example, noted that following a hail storm, "Pathlight did send a crew to look at microwave/range hood **which dangerously sparks if turned on** (4 repair crew visits)." *Id.* (emphasis added). Pathlight denied the request to repair the range/oven, stating tenants' request "has been declined for repair, as this is not considered a landlord obligation per the terms of your lease." *Id.*

Aug 5, 2019 – major hailstorm – extensive damage to house. Roof, windows, siding, deck, gutters, weatherstripping, microwave range hood.

To date, Pathlight has not sent anyone to the house to do an inspection.

Pathlight did send someone to manually put new screens on existing and damaged frames. **(5 repair crew visits)**
Pathlight sent a crew to look at damaged gutters – repairs were considered not necessary

Pathlight did send a crew to look at microwave/range hood fan **which dangerously sparks if turned on (4 repair crew visits)**

Oct 15, 2019 – maintenance denied email on damaged oven/range hood

From: <midwest@pathlightmgt.com>
Date: Tue, Oct 15, 2019 at 2:05 PM
Subject: 7322 Jewel Ln N, Osseo, MN, 55311 – WO-0000060754 – Work Order Request Declined
To: <jenniferbussier@gmail.com>
CC: <midwest@pathlightmgt.com>

Dear Jennifer Bussier,

Thank you for being a valued Pathlight resident. We regret to inform you that your work order WO-0000060754 for Appliances – Range/Oven has been declined for repair, as this is not considered a landlord obligation per the terms of your lease.

If you have any questions, please feel free to reach out to {Assigned MSS Name} at 877-505-1986 (office), or midwest@pathlightmgt.com. You can also reach Pathlight Support at 1-800-527-5030 or reply to this email.

Best,
Bradford Betts
midwest@pathlightmgt.com
Pathlight Property Management
6500 International Pkwy, #1100
Plano, Texas 75093
877-505-1986 office
866-221-8563 fax

www.pathlightmgt.com

123. As demonstrated, these failures to repair or to agree to repair directly contradict Defendants' advertising that they will quickly make repairs and be available 24/7. These representations misrepresent the service Defendants actually provide. In reality, Defendants sometimes never make requested repairs or make insufficient repairs.

CLASS ACTION ALLEGATIONS

124. Plaintiffs bring this action pursuant to Rule 23 of the Minnesota Rules of Civil Procedure and seeks to represent a class of:

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

> All persons who entered into a rental agreement with Defendants in Minnesota since January 2012 to the present.

125. The requirements for class certification under Rule 23.01 of the Minnesota Rules of Civil Procedure are met as follows:

a. Plaintiffs are informed and believe, and on that basis allege, that between January 2012 and the present (the "Class Period,") there are thousands of persons who have entered into rental agreements with Home Partners. As such, the members of the Class are so numerous that joinder of all members in one proceeding would be impracticable.

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

   i. Whether Defendants' contracts of adhesion illegally disclaim the covenant of habitability and violate Minnesota landlord-tenant laws;

   ii. Whether Defendants' lease provisions mislead;

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

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

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

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

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

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

126. The requirements of Rule 23.02(b) are met as described below in Plaintiffs' request for injunctive relief.

127. The requirements of Rule 23.02(c) are met in that:

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

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

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

COUNT I
VIOLATION OF PREVENTION OF CONSUMER FRAUD ACT, MINN. STAT. § 325F.69

128. Plaintiffs re-allege all prior paragraphs of this Complaint.

129. Minnesota Statutes section 325F. 69, subdivision 1, states:

130. The act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise,

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

whether or not any person has in fact been misled, deceived, or damaged thereby, is enjoinable as provided in section 325F.70.

131. The term "merchandise" within the meaning of Minnesota Statutes section 325F.69 includes services and real estate. Minn. Stat. § 325F.68, subd. 2 (2018).

132. Defendants have repeatedly violated Minnesota Statutes section 325F.69, subdivision 1, by engaging in fraud, false pretenses, false promises, misrepresentation, misleading statements, and deceptive practices, as described in this Complaint, with the intent that others rely thereon in connection with the rental or sale of their residential properties. Those practices include Defendants' unlawful lease provisions that deceive and mislead consumers into believing they (a) cannot negotiate their monthly rental rates or cannot negotiate the purchase prices of the home, while forcing them to sign agreements stating they in fact did, (b) must make all repairs to their rental homes, and (c) must pay for renters' insurance or use Defendants' hand-picked "liability coverage" every month to cover the maintenance of and physical damage to Defendants' rental homes.

133. Defendants' conduct, practices, and actions described in this Complaint constitute multiple separate violations of Minnesota Statutes section 325F.69.

COUNT II
VIOLATION OF DECEPTIVE TRADE PRACTICES ACT,
MINN. STAT. § 325D.44

134. Plaintiffs re-allege all prior paragraphs of this Complaint.

135. Minnesota Statutes section 325D.44, subdivision 1, states:

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

> A person engages in a deceptive trade practice when, in the course of business, vocation, or occupation, the person:
>
> ***
>
> (2) causes likelihood of confusion or of misunderstanding as to the source, sponsorship, approval, or certification of goods or services;
>
> ***
>
> (5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;
>
> ***
>
> (7) represents that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
>
> ***
>
> (13) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

136. Defendants have repeatedly violated Minnesota Statutes section 325D.44, subdivision 1, by engaging in the deceptive and fraudulent conduct described in this Complaint with respect to the rental of residential properties. Those deceptive acts and practices include, but are not limited to:

a. Representing to consumers that they do not negotiate rental rates or purchase prices while requiring consumers to sign leases stating that such amounts have been negotiated;

b. Representing to consumers that they take the property "AS IS" and must make and pay for maintenance and repairs to Defendants' rental homes, when in reality, the law requires that

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

Defendants, not tenants, keep the homes in reasonable repair and in compliance with applicable health and safety laws;

c. Representing to consumers that they must pay for Renters Insurance every month to cover the maintenance of rental homes when Minnesota law requires that they, not tenants, keep the homes in reasonable repair and in compliance with applicable health and safety laws; and

d. Representing that consumers must pay fees related to lease management and administration, such as a UBSF, "legal services recovery" for file review, as well as cumulative late fees, in violation of Minnesota law.

137. Defendants' conduct, practices, and actions described in this Complaint constitute multiple separate violations of Minnesota Statutes section 325D.44, subdivision 1.

COUNT III
COVENANTS OF LANDLORD
MINN. STAT. § 504B.161

138. Plaintiffs re-allege all prior paragraphs of this Complaint.

139. Minnesota Statutes section 504B.161, subdivision 1(a), states:

> In every lease or license of residential premises, the landlord or licensor covenants:
>
> (1) that the premises and all common areas are fit for the use intended by the parties;
>
> (2) to keep the premises in reasonable repair during the term of the lease or license, except when the disrepair has been caused by the willful, malicious, or irresponsible

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

> conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee; [and]
>
> ***
>
> (4) to maintain the premises in compliance with the applicable health and safety laws of the state, and of the local units of government where the premises are located during the term of the lease or license, except when violation of the health and safety laws has been caused by the willful, malicious, or irresponsible conduct of the tenant or licensee or a person under the direction or control of the tenant or licensee.

140. Minnesota Statutes section 504B.161, subdivision 1(b), states that "[t]he parties to a lease or license of residential premises may not waive or modify the covenants [of habitability] imposed by this section."

141. Defendants' conduct, practices, and actions described in this Complaint constitute multiple, separate violations of Minnesota Statutes section 504B.161, subdivision 1(b). Among other things, Defendants' leases, including the burden-shifting repair provisions, constitute violations of subdivision 1(b) because they are attempts to waive and modify the Covenants of Habitability required by subdivision 1(a).

COUNT IV
INTEREST ON AND RETURN OF SECURITY DEPOSITS
MINN. STAT. § 504B.178

142. Plaintiffs re-allege all prior paragraphs of this Complaint.

143. Minnesota Statutes § 504B.178 subds. 1-2, state that any "deposit of money" received by a landlord for purposes of securing "the performance of a

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

residential rental agreement or any part of such an agreement" shall "bear simple noncompounded interest at the rate of … one percent per annum…"

144. A landlord may not withhold any portion of a security deposit without providing "the tenant a written statement showing the specific reason for the withholding of the deposit or any portion thereof." Minn. Stat. § 504B.178 subd. 3(a)(2).

145. Defendants' failure to credit interest on security deposits and failure to provide within the mandatory timeframe written statements "showing the specific reason" for withholding violate Minn. Stat. § 504B.178 and evidence bad faith.

COUNT V
LATE FEES
MINN. STAT. § 504B.177

146. Plaintiffs re-alleges all prior paragraphs of this Complaint.

147. Minnesota Statutes section 504B.177, subdivision a, states:

> A landlord of a residential building may not charge a late fee if the rent is paid after the due date, unless the tenant and landlord have agreed in writing that a late fee may be imposed. The agreement must specify when the late fee will be imposed. In no case may the late fee exceed eight percent of the overdue rent payment.

148. Defendants' conduct described above constitutes multiple separate violations of Minnesota Statutes § 504B.177, by charging tenants more than eight percent of their alleged overdue rent payments. Each time Defendants imposed a late-payment fee in the manner prescribed by the form lease, as described above, Defendants charge substantially more than eight percent as a penalty for late rent payments in violation of Minnesota Statutes section 504B.177. The Minnesota Office

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

of Attorney General (OAG) recently issued an opinion letter stating that "[p]enalizing a late rent payment at the statutory maximum [of eight percent] violates the statute because…imposing the maximum late fee multiple times on the same late payment results in the late fee exceeding the eight percent statutory cap." OAG June 30, 2021 Opinion Letter.

149. Defendants' method of applying late fees to amounts charged as base and additional rent results in cumulative late fees on the same late payment, in violation of Minnesota law.

COUNT VI
BREACH OF DUTY OF GOOD FAITH AND FAIR DEALING

150. Plaintiffs re-allege all prior paragraphs of this Complaint.

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

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

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

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

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

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

COUNT VII
RESCISSION

157. Plaintiffs re-allege all prior paragraphs of this Complaint.

158. Defendants control virtually every aspect of Plaintiffs' lease agreements as set forth in the general allegations hereof at paragraphs 18 through 80.

159. Defendants' lease agreements illegally and unfairly advantage Defendants through their misleading statements and deceptive practices, as described in this Complaint, with the intent that others rely thereon in connection with the rental or sale of their residential properties. Those practices include Defendants' unlawful lease provisions that deceive and mislead consumers into believing they (a) cannot negotiate their monthly rental rates or cannot negotiate the purchase prices of the home, while forcing them to sign agreements stating they in fact did, (b) must make all repairs to their rental homes because they are rented in an "AS-IS" condition, and (c) must pay for renters' insurance or use Defendants' hand-picked "liability coverage" every month to cover the maintenance of and physical damage to Defendants' rental homes.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

160. Defendants represent to consumers that they must pay for Renters Insurance every month to cover all maintenance of their rental homes when Minnesota law requires that they, not tenants, keep the homes in reasonable repair and in compliance with applicable health and safety laws, illegally shifting the burden of maintaining Defendants' own properties onto their renters.

161. Defendants' form lease agreements are unconscionable contracts of adhesion, which are unenforceable as contrary to the public interest, policy and law.

162. Defendants' lease agreements deny consumers the legally cognizable Covenants of Habitability.

163. Plaintiffs and the Proposed Class have incurred out-of-pocket expenses for maintenance costs associated with their leases that should never have been their responsibility to pay as a direct result of the terms of the lease agreement.

164. As a direct and proximate result of Defendants' conduct, Defendants have received substantial benefits to which they have no entitlement, at Plaintiffs' and the Proposed Class Members' expense, including maintenance costs, rent hikes, insurance premiums and other expenses.

165. Plaintiffs and the Proposed Class are entitled to compensation for all of the expenses they were illegally required by Defendants to bear, and that Defendants should have but did not pay.

COUNT VIII
UNJUST ENRICHMENT

166. Plaintiffs re-allege all prior paragraphs of this Complaint.

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

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

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

169. Defendants consciously accepted the benefits that Plaintiffs and the Proposed Class conferred and those benefits were not conferred gratuitously.

COUNT IX
DECLARATORY RELIEF

170. Plaintiffs re-allege all prior paragraphs of this Complaint.

171. An actual controversy has arisen between Plaintiffs and the Proposed Class on one hand, and Defendants on the other hand, relating to the following matters:

a. Whether Defendants have required Plaintiffs to undertake maintenance and repairs and to pay lease management and administration fees, without adequate consideration, in violation of Minnesota law.

b. What amounts Plaintiffs and the Proposed Class are entitled to receive in compensation.

c. Whether Defendants unlawfully require tenants to procure renters' insurance to cover damage not caused by tenants to

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

Defendants' building and structures, or to force place them in the "liability coverage" of Defendants' choosing.

d. Whether the provisions of Defendants' form leases breach the Covenants of Habitability and illegally thrust the burden of repair onto to tenants.

e. Whether tenants can be forced to sign agreements stating they either negotiated the rental or purchase price of the home when in fact, no negotiations took place.

f. Whether Defendants' policy and practice of assessing their attorneys' fees against tenants violates Minn. Stat. § 504B.172.

172. Plaintiffs and the Proposed Class further seek entry of declaratory judgment in their favor which declares Defendants' practices as unlawful, and which provides for recovery of sums determined by this Court to be owed by Defendants to the Plaintiffs and Proposed Class.

COUNT X
INJUNCTIVE RELIEF

173. Plaintiffs re-allege all prior paragraphs of this Complaint.

174. Defendants will continue their illegal practices and unlawfully deny their tenants the rights conveyed under Minnesota residential landlord-tenant law.

175. Plaintiffs and the Proposed Class have been injured and damaged, and are threatened with injury and damage, by Defendants' continued, unlawful refusal to maintain the homes Defendants themselves own, as well as through Defendants'

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

continued use of misleading, unconscionable lease agreements, and Plaintiffs and the Proposed Class have no adequate remedy at law.

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

PRAYER FOR RELIEF

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

1. Declaring that Defendants' actions, as set forth above, constitute multiple, separate violations of Minnesota Statutes sections 325F.69, subdivision 1; Minnesota Statutes sections 325D.44, subdivision 1; Minnesota Statutes section 504B.161, subdivision 1(a)-(b); Minnesota Statutes section 504B.177-78; and that Defendants' form lease agreements are void and unenforceable;

2. Enjoining Defendants and their employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or participation with them, from engaging in deceptive practices and making false or misleading statements in violation of Minnesota Statutes sections 325F.69, subdivision 1, Minnesota Statutes sections 325D.44, subdivision 1;

3. Enjoining Defendants and their employees, officers, directors, agents, successors, assignees, affiliates, merged or acquired predecessors, parents or controlling entities, subsidiaries, and all other persons acting in concert or

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

participation with them, from waiving or modifying the Covenants of Habitability in violation of Minnesota Statutes section 504B.161, subdivision 1(b);; from failing to award interest on security deposits under Minnesota Statutes section 504B.177 at the conclusion of the tenancy; from calculating illegal late fees under 504B.177; or from assessing tenants Defendants' attorneys fees where no action has been filed against the tenant, in violation of section 504B.172;

4. Awarding judgment against Defendants for restitution and disgorgement under the general equitable powers of this Court, Minnesota Statutes section 8.31, and any other authority, for all persons injured by Defendants' acts as described in this Complaint;

5. Awarding Plaintiffs their costs and attorneys' fees, as authorized by Minnesota Statutes section 8.31, subdivision 3(a) or other applicable laws;

6. Awarding Prejudgment interest; and

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

Date: February 2, 2023

HELLMUTH & JOHNSON, PLLC

By: */s/ Anne T. Regan*

Anne T. Regan (MN #0333852)
Nathan D. Prosser (MN #0329745)
Lindsey L. Larson (MN #0401257)
8050 West 78th Street
Edina, MN 55439
(952) 941-4005
aregan@hjlawfirm.com
nprosser@hjlawfirm.com
llabellelarson@hjlawfirm.com

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

Scott Harris*
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC
900 W. Morgan St.
Raleigh, NC 27603
(919) 600-5000
sharris@milberg.com

Gary Klinger (IL #6303726)
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
(847) 208-4585
gklinger@milberg.com

Susan E. Ellingstad
Joseph C. Bourne
LOCKRIDGE GRINDAL NAUEN, PLLP
100 Washington Avenue S., Suite 2200
Minneapolis, MN 55401
(612) 339-6900
seelingstad@locklaw.com
jcbourne@locklaw.com

**Admitted pro hac vice*

ATTORNEYS FOR PLAINTIFFS

Filed in District Court
State of Minnesota
2/2/2023 3:20 PM

ACKNOWLEDGMENT

Pursuant to Minn. Stat. §549.211 (1) and (3), the party or parties represented by the undersigned attorneys acknowledge(s) that costs, disbursements, and reasonable attorney and witness fees may be awarded to the opposing party or parties for actions in bad faith; the assertion of a claim or a defense that is frivolous and that is costly to the other party; the assertion of an unfounded position solely to delay the ordinary course of the proceedings or to harass; or the commission of a fraud upon the Court.

Date: February 2, 2023

HELLMUTH & JOHNSON, PLLC

By: */s/ Anne T. Regan*

Anne T. Regan (MN #0333852)
Nathan D. Prosser (MN #0329745)
Lindsey L. Larson (MN #0401257)
8050 West 78th Street
Edina, MN 55439
(952) 941-4005
aregan@hjlawfirm.com
nprosser@hjlawfirm.com
llabellelarson@hjlawfirm.com

Scott Harris (NC #35328)*
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC
900 W. Morgan St.
Raleigh, NC 27603
(919) 600-5000
sharris@milberg.com

Gary Klinger (IL #6303726)
MILBERG COLEMAN BRYSON PHILLIPS GROSSMAN, PLLC
227 W. Monroe Street, Suite 2100
Chicago, IL 60606
(847) 208-4585
gklinger@milberg.com

Susan E. Ellingstad (MN 0243346)
Joseph C. Bourne (MN 0389922)
LOCKRIDGE GRINDAL NAUEN, PLLP
100 Washington Avenue S., Suite 2200
Minneapolis, MN 55401

(612) 339-6900
seelingstad@locklaw.com
jcbourne@locklaw.com

**Admitted pro hac vice*

ATTORNEYS FOR PLAINTIFFS