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IN THE CIRCUIT COURT FOR THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

PAUL MENG and EMILY MENG, husband and)
wife, SAGE MENG, by and through EMILY)
MENG, his Guardian Ad Litem, and CEDAR)
MENG, by and through EMILY MENG, his)
Guardian Ad Litem,)

Plaintiffs,)

v.)

THE UNIVERSITY OF OREGON,)

Defendant.)

Case No. 18CV31091

FIRST AMENDED COMPLAINT
(Violation of Residential Landlord and
Tenant Act, ORS 90.320, Negligence)

Not Subject to Mandatory Arbitration

Filing fee \$ **560.00**
ORS 21.160(1)(c)

Amount of Claim \$ 750,000

Plaintiffs state and allege as follows:

1.

At all times material hereto, Plaintiffs were residential tenants of the University of Oregon,
and resided at the address commonly known as 1709 Moss St., Eugene, Oregon (“the property”).

Plaintiffs have met or substantially complied with all conditions necessary to maintain this action
and served a timely tort claims notice on Defendant pursuant to ORS 30.275.

2

Defendant is a State University and public entity under ORS 30.275 and is the owner of the
property and Plaintiffs’ landlord. Defendant conducts regular, sustained business activity or has an
office for the transaction of business in Multnomah County, Oregon and is subject to suit in this

1 venue pursuant to ORS 14.080.

2 3.

3 This court has jurisdiction over the subject matter and the parties to this case. Venue is proper
4 in Multnomah County.

5 As a **FIRST CLAIM FOR RELIEF** Plaintiffs allege:

6 Violation of the Residential Landlord Tenant Act, ORS 90.320, et seq.

7 4.

8 Plaintiffs incorporate all above allegations into all counts of this Cause of Action. The
9 following allegations in paragraphs 5-6 are common to all counts of this Cause of Action.
10

11 5.

12 Plaintiffs leased the property as a residential dwelling. Plaintiffs paid rent in a timely and
13 regular manner and fulfilled all obligations of the rental agreement. In the fall of 2017, the property
14 became uninhabitable and Plaintiffs had to vacate the property. This complaint is timely, having been
15 brought within one year of the onset of symptoms and discovery that there was mold inside the rental
16 house.
17

18 6.

19 Pursuant to Oregon's Residential Landlord and Tenant Act, ORS 90.320 et. seq. (hereafter
20 "RLTA"), Defendant owed Plaintiffs the duty to maintain the leased premises and grounds in a safe
21 and habitable condition. In the summer of 2017 the ceiling of the rental house sagged due to water
22 infiltration in the attic from roof leaks that had gone unaddressed by Defendant's deliberate lack of
23 maintenance. Defendant's failure to maintain habitable premises was a breach of the duty in that it
24 deferred necessary maintenance and allowed the building to become unsafe and uninhabitable, in
25 violation of ORS 90.320.
26

1 **COUNT ONE: PAUL MENG**

2 7.

3 On or about September 2017, Plaintiff, Paul Meng, began having symptoms consistent with
4 mold exposure. Paul Meng experienced severe headaches, extreme fatigue, chest discomfort and
5 neuro-cognitive problems, in addition to sinus infection and respiratory problems, difficulty sleeping,
6 intestinal problems, diarrhea, anxiety, swelling in his extremities, and bleeding skin rashes.
7

8 8.

9 After these symptoms developed Plaintiffs had the property tested for mold. The diagnostic
10 testing discovered mold contamination in the attic of the rental unit. As a direct result of Defendants
11 violation of the RLTA, Paul Meng suffered noneconomic damages in the amount of \$100,000. In
12 addition, Paul Meng suffered economic damages including loss and contamination of personal
13 property, moving expenses, the cost of diagnostic tests and sampling necessary to discover mold
14 contamination, and past and future medical expenses. Paul Mengs' economic damages will be
15 proven with specificity at trial but are believed to be at least \$ 100,000.
16

17 9.

18 Paul Meng is entitled to recover reasonable costs and attorney fees in this case, pursuant to,
19 ORS 90.255.
20

21 **COUNT TWO: EMILY MENG**

22 10.

23 On or about September 2017, Plaintiff, Emily Meng, began having symptoms consistent with
24 mold exposure. She experienced severe headaches, dizziness, recurring sinus infections, vertigo,
25 throat irritation, hearing difficulties, extreme fatigue, chest discomfort and neuro-cognitive problems,
26

1 in addition to sinus infection and respiratory problems, swelling in his extremities and bleeding skin
2 rashes.

3
4 11.

5 After these symptoms developed Plaintiffs had the property tested for mold. The diagnostic
6 testing discovered mold contamination in the attic of the rental unit. As a direct result of Defendants
7 violation of the RLTA, Emily Meng suffered noneconomic damages in the amount of \$100,000. In
8 addition, Emily Meng suffered economic damages including loss and contamination of personal
9 property, moving expenses, the cost of diagnostic tests and sampling necessary to discover mold
10 contamination, and past and future medical expenses. Emily Mengs' economic damages will be
11 proven with specificity at trial but are believed to be at least \$ 100,000.
12

13 12.

14 Emily Meng is entitled to recover reasonable costs and attorney fees in this case, pursuant to,
15 ORS 90.255.

16 **COUNT THREE: SAGE MENG**

17 13.

18 On or about September 2017, Sage Meng, began having symptoms consistent with mold
19 exposure, including stomach aches, vomiting, diarrhea, fatigue, a throat clearing tic, changes in
20 behavior and personality, hyperactivity, irritability and neuro-cognitive problems.
21

22 14.

23 Sage Meng suffered noneconomic damages in the amount of \$300,000 as a direct result of
24 Defendants violation of the RLTA.
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COUNT FOUR: CEDAR MENG

15.

On or about September 2017, Cedar Meng, began having symptoms consistent with mold exposure, including stomach aches, cough and congestion, respiratory infection, eye irritation, ear ache, fever, fatigue and general health deterioration.

16.

Cedar Meng suffered noneconomic damages in the amount of \$150,000 as a direct result of Defendants violation of the RLTA,

As a **SECOND CLAIM FOR RELIEF** Plaintiffs allege:

(Negligence)

17.

Plaintiffs incorporate the allegations in paragraphs 1-6 above and the allegations in the following paragraphs 18 – 19 into all counts of the Second Cause of Action as if set forth herein.

18.

Defendants owed a duty of care to Plaintiffs, who were business invitees. Among those duties was the duty to inspect the property for defects and to maintain the leased premises in a safe and habitable condition. It was reasonably foreseeable that if Defendants neglected to maintain the building, that its occupants could become ill from mold exposure and their property could become contaminated.

19.

Defendants breached the duties to Plaintiffs and were negligent in that they failed to maintain the dwelling in a safe and habitable condition, and neglected to inspect, discover, prevent and/or

1 abate the mold contamination. As a result of Defendant's negligence, Plaintiffs were exposed to
2 mold.

3 **COUNT ONE: PAUL MENG**

4 20.

5 On or about September 2017, Plaintiff, Paul Meng, began having symptoms consistent with
6 mold exposure. Paul Meng experienced severe headaches, extreme fatigue, chest discomfort and
7 neuro-cognitive problems, difficulty sleeping, intestinal problems, diarrhea, anxiety, in addition to
8 sinus infection and respiratory problems, swelling in his extremities and bleeding skin rashes.
9

10 21.

11 After these symptoms developed Plaintiffs had the property tested for mold. The diagnostic
12 testing discovered mold contamination in the attic of the rental unit. As a direct result of Defendant's
13 negligence, Paul Meng suffered noneconomic damages in the amount of \$100,000. In addition, Paul
14 Meng suffered economic damages including loss and contamination of personal property, moving
15 expenses, the cost of diagnostic tests and sampling necessary to discover mold contamination, and
16 past and future medical expenses. Paul Mengs' economic damages will be proven with specificity at
17 trial but are believed to be at least \$ 100,000.
18

19 **COUNT TWO: EMILY MENG**

20 22.

21 On or about September 2017, Plaintiff, Emily Meng, began having symptoms consistent with
22 mold exposure. She experienced severe headaches, dizziness, recurring sinus infections, vertigo,
23 throat irritation, hearing difficulties, extreme fatigue, chest discomfort and neuro-cognitive problems,
24 in addition to sinus infection and respiratory problems
25
26

1 23.

2 After these symptoms developed Plaintiffs had the property tested for mold. The diagnostic
3 testing discovered mold contamination in the attic of the rental unit. As a direct result of Defendant's
4 negligence, Emily Meng suffered noneconomic damages in the amount of \$100,000. In addition,
5 Emily Meng suffered economic damages including loss and contamination of personal property,
6 moving expenses, the cost of diagnostic tests and sampling necessary to discover mold
7 contamination, and past and future medical expenses. Emily Mengs' economic damages will be
8 proven with specificity at trial but are believed to be at least \$ 100,000.
9

10 **COUNT THREE: SAGE MENG**

11 24.

12
13 On or about September 2017, Sage Meng, began having symptoms consistent with mold
14 exposure, including stomach aches, vomiting, diarrhea, fatigue, a throat clearing tic, changes in
15 behavior and personality, hyperactivity, irritability and neuro-cognitive problems.
16

17 25.

18 After these symptoms developed Plaintiffs had the property tested for mold. The diagnostic
19 testing discovered mold contamination in the attic of the rental unit. As a direct result of Defendant's
20 negligence, Sage Meng suffered noneconomic damages in the amount of \$300,000.
21

22 **COUNT FOUR: CEDAR MENG**

23 26.

24 On or about September 2017, Cedar Meng, began having symptoms consistent with mold
25 exposure, including stomach aches, cough and congestion, respiratory infection, eye irritation, ear
26 ache, fever, fatigue and general health deterioration.

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27.

After these symptoms developed Plaintiffs had the property tested for mold. The diagnostic testing discovered mold contamination in the attic of the rental unit. As a direct result of Defendant's negligence, Cedar Meng suffered noneconomic damages in the amount of \$150,000.

28.

Plaintiffs demand a jury trial of all issues so triable.

WHEREFORE, Plaintiffs seeks judgment against Defendants for:

- 1) economic damages in the amount of approximately \$ 100,000
- 2) non-economic damages in the amount of \$ 100,000 each for Paul and Emily Meng, \$ 300,000 for Sage Meng and \$ 150,000 for Cedar Meng;
- 3) Plaintiffs' reasonable attorney fees under ORS 90.255, and costs and disbursements incurred herein; and
- 4) any other relief the Court deems appropriate.

DATED this 29th day of August, 2018.

s/ Calvin P. "Kelly" Vance
CALVIN P. "KELLY" VANCE, OSB 961225

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