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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN BERNARDINO
SAN BERNARDINO DISTRICT

SEP 19 2022

By ANGELINE GARCIA
ANGELINE GARCIA, Deputy

7 Attorneys for United Dominion Realty, L.P. and
8 UDR, Inc.

9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN BERNARDINO

11 ANNE MOULTON, individually and on behalf
of all other persons similarly situated,
12 Plaintiff,
13
14 v.
15 UNITED DOMINION REALTY, L.P.;
UDR, INC.; and DOES 1-100, inclusive,
16 Defendants.

Case No. CIVSB2123480
**UNITED DOMINION REALTY, L.P.'S
AND UDR, INC.'S ANSWER TO ANNE
MOULTON'S FIRST-AMENDED
CLASS-ACTION COMPLAINT**
Honorable David Cohn, Dept. S26
Complaint Filed: August 12, 2021
Trial Date: Not Set

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600 ANTON BLVD., SUITE 1400
COSTA MESA, CALIFORNIA 92626-7689

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18 United Dominion Realty, L.P. and UDR, Inc. (collectively, "UDR Defendants"), by and
19 through their undersigned counsel, hereby answer the unverified First-Amended Class-Action
20 Complaint (the "Complaint") filed by Anne Moulton, individually and on behalf of all other
21 persons similarly situated ("Moulton"), as follows:

22 **GENERAL DENIAL**

23 Pursuant to California Code of Civil Procedure section 431.30(d), UDR Defendants
24 generally and specifically deny each and every allegation, and each and every cause of action,
25 contained in Moulton's Complaint. UDR Defendants further deny that they are liable to Moulton
26 in the amounts alleged in the Complaint, or in any amount at all, or that Moulton is entitled to any
27 relief whatsoever as against UDR Defendants, as alleged in the Complaint or otherwise.

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AFFIRMATIVE DEFENSES

Further answering the Complaint and by way of affirmative defenses, UDR Defendants allege as follows as to each and every cause of action asserted against them:

FIRST AFFIRMATIVE DEFENSE

1. The Complaint, and each separate cause of action alleged in it, fails to state facts sufficient to constitute a cause of action, or claim for relief, against UDR Defendants.

SECOND AFFIRMATIVE DEFENSE

2. Moulton's causes of action are barred by any and all applicable statutes of limitations and statutes of repose, including, but not limited to, California Code of Civil Procedure sections 337, 338, 339, 340, and 343, California Business and Professions Code section 17208, and California Civil Code section 1783.

THIRD AFFIRMATIVE DEFENSE

3. Moulton's causes of action fail to present this Court with a justiciable controversy, and thus, they are not ripe for adjudication.

FOURTH AFFIRMATIVE DEFENSE

4. For each of Moulton's causes of action alleged in the Complaint, Moulton lacks standing to bring suit.

FIFTH AFFIRMATIVE DEFENSE

5. Moulton has failed to mitigate her losses, if any, and the damages, if any, allegedly suffered by Moulton are therefore barred.

SIXTH AFFIRMATIVE DEFENSE

6. Moulton consented to, approved, and/or ratified all the acts and omissions about which she now complains. Accordingly, Moulton is barred from pursuing her Complaint against UDR Defendants.

SEVENTH AFFIRMATIVE DEFENSE

7. Moulton is estopped and barred from asserting her claims against UDR Defendants by her own voluntary acts, omissions, and representations.

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EIGHTH AFFIRMATIVE DEFENSE

8. Moulton’s Complaint is barred by the equitable doctrine of unclean hands.

NINTH AFFIRMATIVE DEFENSE

9. Moulton has unreasonably delayed in bringing this action against UDR Defendants. Such delay has resulted in prejudice to UDR Defendants, and therefore, Moulton’s causes of action against UDR Defendants are barred by the equitable doctrine of laches.

TENTH AFFIRMATIVE DEFENSE

10. By her own actions and inactions, Moulton has waived her rights to, and is thus barred from, recovery against UDR Defendants as alleged in the Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

11. Moulton would be unjustly enriched if allowed to recover on her Complaint.

TWELFTH AFFIRMATIVE DEFENSE

12. Moulton is barred from recovering any damages, or other relief, by reason of her failure to perform.

THIRTEENTH AFFIRMATIVE DEFENSE

13. UDR Defendants have acted reasonably, in good faith, without malice, and justifiably at all material times, based on all relevant facts and circumstances known by them at the time they so acted, without any intent to cause, or unreasonable disregard of, potentially deleterious consequences; accordingly, Moulton is barred from any recovery and/or relief as against UDR Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

14. No act or omission on UDR Defendants’ part caused the damages alleged in Moulton’s Complaint. To the extent Moulton has any damages (which UDR Defendants expressly deny), then other persons or entities, for whom UDR Defendants bear no responsibility—including Moulton—has acted, or omitted to act, with respect to matters which are the subject of Moulton’s Complaint, and by reason of this intervening conduct, UDR Defendants are not responsible for the damages alleged, if any.

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FIFTEENTH AFFIRMATIVE DEFENSE

15. Other persons or entities, whether or not parties to this action, carelessly, negligently, or intentionally, proximately caused or contributed to the happening of the injury, loss, or damages complained of, if any, and any damages awarded must be apportioned among such persons or entities, whether or not they are parties, in proportion to any amount attributable to such other persons or entities.

SIXTEENTH AFFIRMATIVE DEFENSE

16. Without conceding that UDR Defendants are liable for any damages, UDR Defendants are entitled to apportionment, offset, and/or recoupment against any judgment that may be entered for Moulton for, among other things, damages suffered by UDR Defendants due to Moulton's wrongful acts.

SEVENTEENTH AFFIRMATIVE DEFENSE

17. Moulton is barred from recovering any damages or other relief because Moulton failed to comply with the terms of the alleged contracts, making up causes of action in the Complaint by, among other things, breaching the implied covenant of good faith and fair dealing by acting unreasonably.

EIGHTEENTH AFFIRMATIVE DEFENSE

18. The claims in the Complaint as to UDR Defendants are barred by Moulton's failure to satisfy all conditions precedent in the alleged contracts.

NINETEENTH AFFIRMATIVE DEFENSE

19. The claims in the Complaint as to UDR Defendants are barred by the parties' unilateral or mutual mistake/error.

TWENTIETH AFFIRMATIVE DEFENSE

20. Moulton did not justifiably rely on the acts and omissions about which she now complains.

TWENTY-FIRST AFFIRMATIVE DEFENSE

21. The practices that Moulton complains of were, and are, not unlawful or unfair.

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TWENTY-SECOND AFFIRMATIVE DEFENSE

22. Moulton has failed to satisfy the prerequisites for class certification and/or a representative action.

TWENTY-THIRD AFFIRMATIVE DEFENSE

23. Moulton is not an adequate representative of the alleged class defined in the Complaint.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

24. Moulton's claims are not common or typical of the alleged class defined in the Complaint.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

25. The types of claims alleged by Moulton are matters to which individual questions predominate and, accordingly, are not appropriate for class treatment.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

26. The class of persons that the named-Moulton purports to represent is not ascertainable and sufficiently numerous to call for class treatment.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

27. There is not a community of interest among the purported class members.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

28. There is not a risk of substantial prejudice from separate actions.

TWENTY-NINTH AFFIRMATIVE DEFENSE

29. Class treatment is not superior to other methods available for adjudicating the alleged controversy.

THIRTIETH AFFIRMATIVE DEFENSE

30. As defined in the Complaint, Moulton's proposed class presents serious manageability issues that should preclude class treatment.

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THIRTY-FIRST AFFIRMATIVE DEFENSE

31. Discovery in this matter may reveal additional bases for an avoidance or affirmative defense. UDR Defendants reserve the right to amend this answer to plead such affirmative defenses should they be discovered.

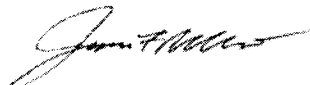
PRAYER FOR RELIEF

WHEREFORE, based on the foregoing, UDR Defendants pray as follows:

- 1. That Moulton take nothing by her Complaint and it be dismissed with prejudice;
- 2. That the Complaint and each and every cause of action alleged therein be dismissed against UDR Defendants with prejudice;
- 3. That UDR Defendants be awarded costs of suit incurred in defense of this action, including reasonable attorneys' fees, to the extent permitted by law; and
- ~~4. For such other relief as this Court deems just and proper.~~

Dated: September 19, 2022

SNELL & WILMER L.L.P.

By: 
 Jeffrey M. Singletary
 Jing (Jenny) Hua
 Justin F. Mello
 Attorneys for United Dominion Realty,
 L.P. and UDR, Inc.

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1 *Moulton v. United Dominion Realty, L.P.*
2 *San Bernardino Superior Court, Case No. CIVSB 2123480*

3 **PROOF OF SERVICE**

4 I am employed in the County of Orange, State of California. I am over the age of 18 and
5 not a party to the within action; my business address is 600 Anton Boulevard, Suite 1400, Costa
6 Mesa, CA 92626-7689.

7 On September 19, 2022, I served, in the manner indicated below, the foregoing document
8 described as **UNITED DOMINION REALTY, L.P.'S AND UDR, INC.'S ANSWER TO
9 ANNE MOULTON'S FIRST-AMENDED CLASS-ACTION COMPLAINT** on the interested
10 parties in this action by placing true copies thereof, enclosed in sealed envelopes, at Costa Mesa,
11 addressed as follows:

12 *See the attached Service List*

13 BY REGULAR MAIL: I caused such envelopes to be deposited in the United States
14 mail at Costa Mesa, California, with postage thereon fully prepaid. I am readily
15 familiar with the firm's practice of collection and processing correspondence for
16 mailing. On the same day that correspondence is placed for collection and mailing, it
17 is deposited with the United States Postal Service each day and that practice was
18 followed in the ordinary course of business for the service herein attested to (C.C.P. §
19 1013(a)).

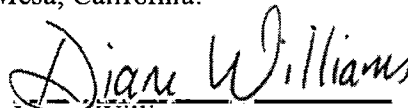
20 BY ELECTRONIC MAIL: My office caused such document(s) to be delivered
21 electronically to the following email address(es):
22 ltfisher@bursor.com; scott@bursor.com; adrian@gucovschi-law.com

23 BY OVERNIGHT DELIVERY: I caused such envelope to be delivered by air courier,
24 with next day service, to the offices of the addressee(s) on the attached service list.
25 (C.C.P. § 1013(c)(d)).

26 BY PERSONAL SERVICE: I caused such document to be delivered by hand to the
27 offices of the addressees. (C.C.P. § 1011(a)(b)).

28 I declare under penalty of perjury under the laws of the State of California that the above
is true and correct.

Executed on September 19, 2022, at Costa Mesa, California.


Diane Williams

1 **Moulton v. United Dominion Realty, L.P.**
2 **San Bernardino Superior Court, Case No. CIVSB 2123480**

3 **SERVICE LIST**

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