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 11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**

13 ANDREA MCADAMS, individually and
 14 on behalf of all others similarly situated,

15 Plaintiff,

16 vs.

17 ESSEX MANAGEMENT
 18 CORPORATION,

19 Defendant.

No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

20
 21 Plaintiff Andrea McAdams (“Plaintiff”), individually and on behalf of the Class defined below
 22 of similarly situated persons, alleges the following against Defendant Essex Management Corporation
 23 (“Essex” or “Defendant”), based upon personal knowledge with respect to herself and on information
 24 and belief derived from, among other things, investigation of counsel and review of public documents
 25 as to all other matters:
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 27
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INTRODUCTION

1
2 1. This case is about how Essex Management Corporation forces thousands of California
3 tenants to pay inflated and unfair fees that make it even harder for families to afford housing in the
4 State.

5
6 2. Essex’s business strategy has become increasingly more common, and it is a simple one
7 – grow corporate profits by placing hidden and misleading charges, or “junk” fees, into rental
8 agreements. Junk fees drive up prices and distort fair competition, which is especially damaging in the
9 housing market. Consumers in California and across the country are seeing their daily living expenses
10 increase due to hidden and inflated fees that are often not revealed until the final stages of a transaction.
11 These fees also make it increasingly difficult for renters to evaluate their options for living because
12 they cannot accurately compare the cost of renting when so many additional fees are included on top
13 of the basic rent. Further, these fees are frequently disclosed so late (if at all) in the transaction that
14 consumers have little choice but to accept them if they want to make sure they have a place to live.
15 This practice leaves consumers with no realistic alternatives, forcing them to endure these deceptive
16 and unfair fees.

17
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19 3. This practice is particularly problematic in the context of apartment rental leases, where
20 tenants may not learn of the fees until shortly before they move-in, or even after they move-in, and
21 often after they have already given notice to a prior landlord or invested significant moving expenses.
22 With over 40% of renting households in the country — roughly 19 million households — paying over
23 30% of their income on housing costs, renters are facing increasing costs, and they rely on landlords
24 and property management companies, like Essex, to be straightforward with them about the costs
25 associated with the most basic necessity: housing.
26
27
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1 4. Here, Plaintiff asserts claims against Essex for charging her and other Essex tenants
2 deceptive and unfair “junk” fees, including monthly “Insurance,” “Service,” and “Trash” fees (the
3 “Disputed Fees”). These Disputed Fees total nearly \$55 each month and provide no measurable value
4 to Ms. McAdams or the tenants at properties managed by Essex.

5 5. Rental junk fees are like a hidden tax on tenants who have no viable option of disputing
6 or fighting these arbitrary fees and are forced to either continue paying them or move to a new space
7 and risk facing the same problem elsewhere. The junk fees imposed by Essex do not offer additional
8 benefits or services to tenants beyond the basic necessities for habitable living. Essex, as the entity
9 responsible for ensuring tenants live in basic and habitable conditions, is already legally responsible
10 for providing the “services” associated with these fees. In other words, these junk fees are not used to
11 cover costs; they exist solely to boost Essex’s profits and inflate its bottom line.

12 6. Essex’s junk fees have devastating consequences. They can unexpectedly increase
13 renters’ monthly expenditures beyond advertised rent costs, making rental housing even more
14 unaffordable and undermining the financial stability of families across California. While a renter may
15 be able to budget and plan for high rents if they know about them in advance, the addition of an array
16 of mandatory fees for these ancillary services can unexpectedly push renters well beyond their means.

17 7. The hidden nature of these fees also undermines fair competition. Prospective tenants
18 cannot meaningfully compare prices for apartment rentals when significant portions of the monthly
19 rent are disguised as add-on fees and are not disclosed up-front. This leads to tenants paying more than
20 they otherwise would have for monthly rent, even when they cannot afford the difference in price.

21 8. The Disputed Fees are hidden from tenants and never meaningfully disclosed as part of
22 the advertised rent. Despite this, these fees are indeed part of the mandatory, monthly cost to stay in an
23 Essex rental. Tenants are forced to accept these fees, imposed by Essex, if they are to rent from Essex.

1 9. The fees are also inflated beyond the true cost of any services provided by Essex. The
2 purpose of Essex's junk fees is to boost Essex's bottom line. While the fees may seem small to some,
3 the collection of these fees month after month, year after year, from thousands of tenants, yields
4 substantial profits for Essex.

5 10. Finally, the Disputed Fees shift costs that Essex is already responsible for to the tenants,
6 thereby violating public policy. Essex is obligated to provide a habitable space for its tenants and by
7 charging these Disputed Fees, Essex forces tenants to pay extra, beyond the advertised rental payments,
8 for services that Essex must provide as a matter of law.

9 11. Plaintiff McAdams rents and continues to rent an apartment at a property managed by
10 Essex located in Garden Grove, California. Every month, Ms. McAdams is charged, in addition to her
11 sewer, water, and gas, an "Insurance" fee of \$14.39, a "Service" fee of \$6.00 and a "Trash" fee of
12 \$36.60 in connection with her dwelling.

13 12. Ms. Williams brings this lawsuit, individually and on behalf of similarly situated tenants
14 in California and across the country, seeking to recover these unlawfully charged junk fees and for
15 equitable relief to prevent Essex from continuing to profit from these unlawful fees. Specifically,
16 Plaintiff challenges the following Disputed Fees: "Insurance" fee, the "Service" fee and the "Trash"
17 fee. The Disputed Fees are not disclosed to tenants when Essex advertises the rental prices for its units
18 in California or around the country. Further, these fees are deceptive because they are significantly
19 greater than any actual costs to Essex associated with providing insurance, servicing tenants' accounts,
20 or trash removal.

21 13. The Disputed Fees are deceptive, unfair, and unconscionable in violation of the
22 California Consumer Legal Remedies Act. Additionally, by imposing such fees, Essex violates the
23 covenant of good faith and fair dealing and has been unjustly enriched through its misconduct.
24

1 Plaintiff, on behalf of herself and the Class (defined below), seeks damages, restitution, and injunctive
2 relief, as set forth below.

3
4 **PARTIES**

5 14. Plaintiff Andrea McAdams is, and at all times mentioned herein was, an individual
6 citizen of the State of California and has been, throughout the applicable statute of limitations period,
7 been living in an apartment managed by Essex. Since 2018, Ms. McAdams entered into a form lease
8 agreement with Essex before she first moved into her apartment and continues to live at 12901 Dale
9 Street, Apt. 25, Garden Grove, California (the “Premises”). Ms. McAdams has been charged and has
10 paid the Disputed Fees throughout her tenancy at the Premises.
11

12 15. Defendant Essex Management Corporation is a California corporation with its principal
13 place of business located at 1100 Park Place, Suite 200, San Mateo, California. Essex manages
14 numerous housing complex across California and Washington. As of December 2023, Essex owned
15 and/or managed more than 60,000 apartment units. Essex is the 11th largest owner of apartments in the
16 United States. Upon information and belief, Essex uses the same form Lease at the properties it
17 manages nationwide.
18

19
20 **JURISDICTION AND VENUE**

21 16. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §
22 1332(d), the Class Action Fairness Act of 2005 (“CAFA”), because (i) there are 100 or more class
23 members, (ii) there is an aggregate amount in controversy exceeding \$5,000,000, exclusive of interest
24 and costs, and (iii) there is minimal diversity because at least one member of the class and defendant
25 are citizens of different States. This Court has supplemental jurisdiction over state law claims pursuant
26 to 28 U.S.C. §1367.
27
28

1 17. This Court has personal jurisdiction over Defendant pursuant to 18 U.S.C. §1965 (b) &
2 (d) because Defendant is a citizen of this State, maintains minimum contacts within this State and
3 intentionally avails itself of the laws of this State by conducting a substantial amount of business in
4 Illinois. Defendant transacts business in this State, directs its activities at residents of this State, and the
5 litigation results from injuries that arise out of or relate to those activities. Defendant operates, manages,
6 and oversees numerous residential and commercial properties throughout California, including within
7 this Court’s jurisdiction.

9 18. Venue is proper in this District under 28 U.S.C. §1391(a), (b), and (c) because the events
10 that gave rise to the claims occurred in substantial part in this District and Defendant’s principal place
11 of business is located in this District. The affidavit required by Cal. Civ. Code § 1780(d) is attached as
12 an exhibit to this Complaint.

14 **FACTUAL ALLEGATIONS**

15 19. Today, renters are faced with a confluence of housing hardships. Affordable housing is
16 scarce, and rents have drastically increased over the past few years. A Credit Karma Study from 2022
17 showed that from “2017 to 2022, the average year-over-year increase in rent was 5.77% nationwide,
18 with the biggest increase occurring from 2021 to 2022 at 14.07%.”¹

20 20. A National Consume Law Center (“NCLC”) study relying on data from the National
21 Equity Atlas found that 68% of landlords imposed processing or administrative fees and nearly 60%
22 imposed insurance fees. A participant in the study stated that administrative fees — the purposes of
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27 _____
28 ¹ Jennifer Brozic & Andrew Depietro, *Average Rent Increase in the U.S. in 2022* (Oct. 20, 2022) available at:
<https://www.creditkarma.com/insights/i/average-rent-increase#average-rent-increase-over-the-years> (last accessed
September 24, 2024).

1 which are not always clear — can range from \$12 to \$25 with some one-time administrative fees
2 reaching a reported \$250 high in Minnesota.²

3 21. One respondent to the Federal Trade Commission (“FTC” or “Commission”) stated:
4 “Junk fees have become fundamentally ridiculous, especially as these companies cannot even describe
5 what the fee is for. In my monthly rent, I have a \$34 service fee (that the . . . rental management
6 company . . . has not been able to identify the reason for)”³ Ultimately, the NCLC recommended that
7 “the FTC investigate deceptive or unconscionable practices by corporate and large landlords that
8 impose unavoidable and exploitative fees.”⁴

9
10 22. The FTC found these fees are not just ubiquitous in the rental field but also deceptive.⁵
11 The Commission found that landlords and property management companies can deceive prospective
12 tenants by misleading them about the true costs associated with renting the property, harming both
13 consumers and businesses. Often, administrative fees are arbitrary and provide no value. Landlords are
14 unable to explain the nature and purpose of fees.

15
16 23. The Commission found the following:

17
18 Charges that misrepresent their nature and purpose are deceptive because they
19 mislead reasonable consumers. False claims and those that lack a reasonable
20 basis are inherently likely to mislead consumers. Further, the nature and purpose
21 of charges are core characteristics that affect the value to consumers of the goods
22 or services being offered. . .

23
24 it is unfair for businesses to misrepresent the nature and purpose of charges.
25 ***Charging consumers under false pretenses causes substantial injury,
26 including where the injury is a “small harm to a large number of people” . . .***
27 Where businesses obscure information about the nature and purpose of fees or
28 provide false information to consumers, injury from the misrepresentations is
not reasonably avoidable. Such practices have no countervailing benefits to

26
27 ² Nat’l Equity Atlas, Rent Debt in America: Stabilizing Renters is Key to Equitable Recovery, available at:
<https://nationalequityatlas.org/rent-debt> (last accessed September 24, 2024).

28 ³ 88 FR 77420, 77427 n. 91.

⁴ 88 FR 77420, 77428 n. 97.

⁵ 88 FR 77420, 77420.

1 consumers and competition—they simply make it more difficult for consumers
2 to comparison shop and for truthful businesses to compete on price.⁶

3 24. “All too often, Americans are plagued with unexpected and unnecessary fees they can’t
4 escape. These junk fees now cost Americans tens of billions of dollars per year—money that
5 corporations are extracting from working families just because they can . . . The FTC’s proposed rule
6 to ban junk fees will save people money and time, and make our markets more fair and competitive,”
7 said FTC Chair Lina M. Khan.⁷ HUD Secretary Marcia L. Fudge recognizes the impact of these hidden
8 fees on consumers when trying to maintain their house, stating “I believe that every renter should know
9 the true cost of finding and staying in their home and not be hit with hidden costs and junk fees.”⁸

10 25. Unpaid “junk fees” assessed by large property management companies can be reported
11 to credit bureaus as rental debt, even after a tenant leaves the unit, which can lead to collection actions
12 that can harm a tenant’s credit score.
13
14

15 ***Essex Charges Tenants Unlawful Junk Fees***

16 26. Essex engages in deceptive practices by obscuring the total cost of rent through a tactic
17 known as “drip pricing.” The advertised rent fails to include hidden mandatory fees. These essential
18 costs are only revealed later in the application process, after potential tenants have already invested
19 time and money in application fees and, potentially, even moving expenses. These sunk costs create a
20 situation where tenants are more likely to overlook or accept these unexpected charges. Further
21 compounding the deception, Essex buries the fee details in separate documents from the advertised
22 monthly rent. This intentional separation makes it difficult for tenants to get an accurate picture of their
23 true financial obligation.
24
25
26

27 ⁶ *Id.* at 77434–45.

28 ⁷ Federal Trade Commission (Oct. 11, 2023), *FTC Proposes Rule to Ban Junk Fees*. Available at: <https://www.ftc.gov/news-events/news/press-releases/2023/10/ftc-proposes-rule-ban-junk-fees> (last accessed September 24, 2024).

⁸ *Id.*

1 27. Essex is a prominent multi-family property manager in California and across the
2 country, managing thousands of apartment complexes. Upon information and belief, Essex uses a
3 standardized, one-size-fits-all adhesion lease that eliminates any room for negotiation and creates
4 uncertainty for tenants as they can face unexpected increases in fees and changes in terms.⁹

5
6 28. Irrespective of the particular Essex property in California, the Form Lease has
7 substantively identical language and provisions in the body of the contract as well as in the incorporated
8 form addenda, even with respect to key terms like the Disputed Fees.

9
10 29. The Form Lease also has substantively identical provisions regarding rent, security
11 deposits, landlord obligations and duties, tenant obligations, force majeure, and a host of other terms.

12
13 30. As a result of this standardized language, Essex tenants are subject to essentially
14 identical lease terms no matter the Essex property where they happen to reside.

15
16 31. Similarly, Essex assesses and seeks to collect Insurance, Trash, and Service Fees in the
17 same unlawful manner with respect to all of its California tenants.

18
19 32. In that vein, Essex charges every tenant an Insurance Fee, in the amount of
20 approximately \$14.39 per month.

21
22 33. Essex charges every tenant a Trash Fee, in the amount of approximately \$36.80 per
23 month.

24
25 34. Essex charges every tenant a Utility Monthly Service Charge of approximately \$6 in
26 addition to charging the resident for the actual utilities.

27
28 35. In the Form Lease, Essex states that reserves the right to “amend and update the terms”
at any time “upon written notice.”

⁹ See McAdams Apartment Lease Contract, attached hereto as Exhibit A (the “Form Lease”).

1 36. The Disputed Fees are not disclosed until after the tenants have already spent hundreds
2 of dollars on non-refundable fees to apply for and secure the unit. Ms. McAdams had to pay a \$45
3 application fee when she first applied for tenancy at an Essex property and was unaware of the
4 additional Disputed Fees at the time of application. Indeed, tenants are not informed of the Disputed
5 Fees until they are presented with the Form Lease, which is well after they have expended considerable
6 amounts to initiate the rental process, including non-refundable application fees.
7

8 37. Even after initial disclosure, Essex continues to disclose the Disputed Fees separately
9 from the monthly rent charge, despite their treatment of these fees as included in the total monthly rent
10 due.
11

12 38. Essex charges its tenants at the Premises, including Plaintiff, a monthly Insurance Fee
13 of \$14.39, a monthly “Service” fee of \$6, and a “Trash” fee of \$36.80. Tenants are charged these
14 monthly add-on fees regardless of whether they need or use any services or whether any services are
15 performed in a tenant’s unit that month. With no avenue for avoiding these fees, tenants are forced to
16 pay them.
17

18 39. In fact, Essex specifically notes that its Master Insurance Policy does not even cover
19 personal liability nor is it actually renter’s insurance. Essex claims the monthly Insurance Fee
20 represents administrative costs; thus, residents are paying an Insurance Fee and not being provided
21 appropriate insurance coverage by Essex. Essex is essentially tacking on fees to residents’ rent in order
22 to pay for its own insurance with no benefit provided to the residents.
23

24 40. The Form Lease also fails to explain what service is provided in exchange for the
25 referenced Disputed Fee. Nowhere does Essex detail what service, if any, these fees cover, leaving
26 residents like Ms. McAdams wondering exactly what they are paying for and whether these fees are
27 justified.
28

1 41. Essex further charges its residents a monthly “Service” fee as additional rent that
2 purportedly covers Essex’s cost of providing utilities to the resident; however, Essex’s explanation of
3 what this charge actually covers is rife with ambiguity.¹⁰ The cost of this fee unexplainably increased
4 to \$6.00 each month. The fee has now almost doubled, without explanation, from the \$3.73 Service
5 Fee charged to Ms. McAdams in 2022.
6

7 42. Essex also charges Ms. McAdams a Trash Fee that is nowhere disclosed in the Lease
8 Agreement provided by Essex. This Trash Fee is \$36.80 per month, and there is no information or
9 explanation about what additional services this astronomical Trash Fee covers or why this charge is so
10 high.¹¹
11

12 43. Essex’s deceptive practices regarding the additional fees for basic services that a
13 manager is obligated to provide to tenants makes it impossible to know the true cost of renting an
14 apartment.
15

16 44. Defendant charges tenants, including Ms. McAdams, these Disputed Fees each month
17 through its billing system. Plaintiff has been and continues to pay her bills, including the unfair
18 Deceptive Fees.
19

20 ***California Law And Warranty Of Habitability***
21

22 45. In California, landlords and property managers have an obligation to provide a habitable
23 living space under the implied warranty of habitability, which applies to single and multi-family units.
24 See *Green v. Superior Court of San Francisco*, 517 P.2d 1168 (Cal. 1974). Under the implied warranty,
25 “a residential landlord covenants that premises he leases for living quarters will be maintained in a
26 habitable state for the duration of the lease.” *Id.* at 1182.
27

28 ¹⁰ See Exhibit A at p. 44.

¹¹ See Exhibit A.

1 46. Under the warranty of habitability, property managers like Essex must keep common
2 areas habitable. Essex presents fees as add-on “services” when they are, in fact, basic requirements that
3 landlords and property managers must meet anyway. Tenants should not be deceived and misled into
4 paying extra for what rent already covers.

5 47. These charges deceptively and unfairly mislead consumers into believing that these
6 costs are assessed for services they are provided in addition to the habitable dwelling places received
7 in exchange for payment of their monthly rent.
8

9 ***Essex Charges Plaintiff and Others Inflated and Ever-Increasing Junk Fees***

10 48. Since approximately 2018, Plaintiff has leased her apartment located at 12901 Dale
11 Street in Glendale Heights, California. Essex has been managing that property throughout the relevant
12 period.
13

14 49. Essex presented Ms. Williams with one of its Form Lease’s. *See* Ex. A. That lease
15 includes **80 pages** and was presented on a “take it or leave it” basis. Ms. McAdams’ lease indicates that
16 her rent is \$2,640; however, Essex charges her significantly more than that each month.
17

18 50. In addition to the rent payments and utilities, including her own gas for the hot water
19 heater, Ms. McAdams made and continues to make each month, she pays the following monthly fees:

- 20 - Insurance Fee - \$14.39
- 21 - Service Fee - \$6
- 22 - Trash - \$36.80

23 51. Ms. McAdams’ monthly charge for hot water energy is approximately \$27 a month, her
24 charge for sewer is approximately \$25 a month, and her charge for water is approximately \$56 a month.
25 These additional charges on top of the base rent compounded with the Disputed Fees charged each
26 month make the monthly cost of living at Defendant’s properties significantly higher than advertised.
27
28

1 52. Ms. McAdams was assessed and has paid these Disputed Fees each and every month
2 during her tenancy.

3 **CLASS DEFINITION AND ALLEGATIONS**

4 53. Plaintiff brings this action on behalf of herself and on behalf of all other persons
5 similarly situated pursuant to Rule 23(b)(2), (b)(3), and (c)(4) of the Federal Rules of Civil Procedure.
6

7 54. Plaintiff proposes the following Class and Subclass definitions, subject to amendment
8 as appropriate:

9 **Nationwide Class (the “Class”)**

10 All persons who, during the applicable statute of limitations lived in a
11 property managed by Essex and were charged the Disputed Fees.

12 **California State Subclass (the “California Subclass”)**

13 All individuals who, during the applicable statute of limitations, lived in
14 a property in California managed by Essex and were charged the
15 Disputed Fees.

16 55. Excluded from the Class and Subclass are Defendant, its parents, subsidiaries, affiliates,
17 officers and directors, and judicial officers and their immediate family members and associated court
18 staff assigned to this case.

19 56. Plaintiff reserves the right to modify or amend the definitions of the proposed Class and
20 Subclass before the Court determines whether certification is appropriate.

21 57. **Numerosity**. This action is appropriately suited for a class action. The members of the
22 Class and Subclass are so numerous that the joinder of all members is impracticable. The precise
23 number of Class and Subclass members is unknown to Plaintiff; however, Plaintiff believes that based
24 on the number of units and tenants, that the proposed Class and Subclass contains thousands of
25 individuals who have been damaged by Defendant’s conduct as alleged herein, the identities of whom
26 are within the knowledge of Defendant and can be easily determined through Defendant’s records.
27
28

1 58. **Predominancy of Common Questions of Law and Fact:** This action involves
2 questions of law and fact common to the Class. The common legal and factual questions include, but
3 are not limited to, the following:

- 4 a. Whether Defendant’s assessment of the Disputed Fees within the
5 applicable statute of limitations was unfair, deceptive, or misleading;
- 6 b. Whether Defendant was unjustly enriched as a result of charging Plaintiff
7 and the Class and Subclass the Disputed Fees;
- 8 c. Whether the Disputed Fees should have been disclosed prior to the
9 presentation of the Form Lease;
- 10 d. Whether Defendant’s conduct, as alleged herein, constitutes a violation
11 of California’s Consumer Legal Remedies Act;
- 12 e. The proper method or methods by which to measure damages and/or
13 restitution and/or disgorgement; and
- 14 f. Whether Plaintiff and the Class and Subclass are entitled to declaratory
15 and injunctive relief and the nature of that relief.

16 59. **Adequacy of Representation.** Plaintiff will fairly and adequately protect the interests
17 of the members of the Class. Plaintiff and the Class each entered into a Form Lease with Defendant
18 and were harmed by Defendant’s misconduct in that they were assessed unfair Insurance, Service,
19 and/or Trash fees. Plaintiff will fairly and adequately represent and protect the interests of the Class
20 and Subclasses and has retained competent counsel experienced in complex litigation and class action
21 litigation. Plaintiff has no interests antagonistic to those of the Class or Subclass, and Defendant has
22 no defenses unique to Plaintiff.

23 60. **Typicality:** Plaintiff’s claims are typical of those of the absent Class Members in that
24 Plaintiff, and the Class Members, each leased a rental property from Defendant and sustained damages
25 arising from Defendant’s wrongful conduct, as alleged herein. Plaintiff shares the aforementioned facts
26 and legal claims or questions with putative members of the Classes. Plaintiff and all members of the
27 putative Classes have been similarly affected by Defendant’s common course of conduct alleged herein.
28

1 Plaintiff and all members of the putative Classes sustained monetary and economic injuries including,
2 but not limited to, ascertainable loss arising out of Defendant's deceptive and unlawful practices related
3 to the Disputed Fees

4 61. **Appropriateness.** A class action is superior to other methods for the fair and efficient
5 adjudication of this controversy. The damages or other financial detriment suffered by individual Class
6 and Subclass members is relatively small compared to the burden and expense that would be entailed
7 by individual litigation of their claims against Defendant. It would be virtually impossible for a member
8 of the Class or Subclass, on an individual basis, to obtain effective redress for the wrongs done to him
9 or her. Further, even if the Class or Subclass members could afford such individualized litigation, the
10 court system could not. Individualized litigation would create the danger of inconsistent or
11 contradictory judgments arising from the same set of facts. Individualized litigation would also increase
12 the delay and expense to all parties and the court system from the issues raised by this action. By
13 contrast, the class action device provides the benefits of adjudication of these issues in a single
14 proceeding, economies of scale, and comprehensive supervision by a single court, and presents no
15 management difficulties under the circumstances here.

16 62. Plaintiff seeks monetary damages, including compensatory damages on behalf of the
17 Class and Subclass, and other equitable relief on grounds generally applicable to the entire Class and
18 Subclass. Unless a Class and Subclass are certified, Defendant will be allowed to profit from its unfair
19 and unlawful practices, while Plaintiff and the members of the Class and Subclass will have suffered
20 damages. Unless a Class-wide injunction is issued, Defendant may continue to benefit from these
21 violations, and the members of the Class and Subclass and the general public will have to accept being
22 unfairly treated.

COUNT I
BREACH OF CONTRACT AND IMPLIED COVENANT OF
GOOD FAITH AND FAIR DEALING
(On behalf of Plaintiff and the Class and Subclass)

1
2
3
4 63. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1–62
5 as if fully set forth herein.

6 64. Plaintiff brings this claim individually and on behalf of the members of the Class against
7 Defendant.

8 65. Plaintiff and each member of the Class have entered into a Form Lease with Defendant
9
10 for rental of residential units.

11 66. Additionally, a covenant of good faith and fair dealing is implied in Plaintiff and the
12 Class members' Form Leases with Defendant. Whether by common law or statute, all contracts impose
13 upon each party a duty of good faith and fair dealing. Good faith and fair dealing, in connection with
14 executing contracts and discharging performance and other duties according to their terms, means
15 preserving the spirit — not merely the letter — of the bargain. Thus, the parties to a contract are
16 mutually obligated to comply with the substance of their contract in addition to its form. Evading the
17 spirit of the bargain and abusing the power to specify terms constitute examples of bad faith in the
18 performance of contracts.
19

20 67. The material terms of the Form Lease therefore included the implied covenant of good
21 faith and fair dealing, whereby Defendant covenanted that it would, in good faith and in the exercise
22 of fair dealing, deal with Plaintiff and each member of the Class fairly and honestly and do nothing to
23 impair, interfere with, hinder, or potentially injure Plaintiff and the Class members' rights and benefits
24 under the contract.
25

26 68. Plaintiff and the Class members have performed all conditions, covenants, and promises
27 required by each of them on their part to be performed in accordance with the terms and conditions of
28

1 the contract, except for those they were prevented from performing or which were waived or excused
2 by Defendant's misconduct.

3 69. Essex breached the covenant of good faith and fair dealing in the Form Lease through
4 its policies and practices as alleged herein. Specifically, Essex breached its duties under the Form Lease
5 by overcharging for Insurance, Service, and Trash Fees and improperly shirked its responsibilities
6 under the warranty of habitability by charging for basic necessities that are included in the rent.
7

8 70. Defendant's actions to maximize its revenue from these Disputed Fees impedes the right
9 of Plaintiff and other members of the Class to receive what that they reasonably expected to receive in
10 exchange for their rent.

11 71. On information and belief, Defendant's actions as alleged herein were performed in bad
12 faith, in that the purpose behind the practices and policies alleged herein was to maximize Defendant's
13 revenue from Disputed Fees at the expense of their tenants, in contravention of Plaintiff's and the Class
14 members' reasonable expectations.
15

16 72. Plaintiff and members of the Class have sustained damages as a result of Defendant's
17 conduct as alleged herein.
18

19 73. As a result of Defendant's breach of the Account Agreement, Plaintiff and the members
20 of the Class have been damaged in an amount to be proven at trial and seek relief as set forth in the
21 Prayer below.

22 **COUNT II**
23 **UNJUST ENRICHMENT**
24 **(On behalf of Plaintiff and the Class and Subclass)**
25 ***(Plead in the alternative to Count I)***

26 74. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-62
27 as if fully set forth herein.
28

1 75. Plaintiff brings this claim individually and on behalf of the members of the Class against
2 Defendant.

3 76. Plaintiff and the members of the Class conferred a benefit on Defendant, which
4 Defendant knew about, when they entered into the Form Lease agreements and were charged
5 unreasonable and bogus Disputed Fees.
6

7 77. Plaintiff and members of the Class were, and many continue to be, tenants at properties
8 managed by Essex. They reasonably believed that Essex would not charge them undisclosed and
9 unreasonable fees beyond their control. Plaintiff and members of the Class suffered financial losses
10 when they were charged unreasonable Disputed Fees that were assessed on their accounts.
11

12 78. By charging unreasonable Disputed Fees, Defendant unjustly enriched itself by taking
13 a benefit, as outlined herein, from each of its tenants' accounts without providing any additional service
14 or value to its tenants, including Plaintiff and members of the Class. Defendant has accepted and
15 retained these benefits even though it failed to provide any service or product to its tenants beyond the
16 basic necessities that Defendant was already required to provide as part of rent payments, many of
17 which were unavoidable, making Defendant's retention of them unjust.
18

19 79. By its wrongful acts and omission described herein, including charging fees for actions
20 beyond the tenants' control, and for which tenants had no way of avoiding, Defendant was unjustly
21 enriched at the expense of Plaintiff and the members of the Class.

22 80. Plaintiff and the Class's detriment, and Defendant's enrichment, were related to and
23 flowed from the wrongful conduct alleged in this Complaint.
24

25 81. Defendant has profited from its unlawful, unfair, misleading, and deceptive practices at
26 the expense of Plaintiff and the putative Class members. It would be inequitable for Defendant to retain
27 the profits, benefits, and other compensation obtained from its wrongful conduct described herein.
28

1 82. Plaintiff and the members of the Class have been damaged as a direct and proximate
2 result of Defendant’s unjust enrichment.

3 83. Plaintiff and the members of the Class are entitled to recover from Defendant all
4 amounts wrongfully collected and improperly retained by Defendant.
5

6 84. As a direct and proximate result of Defendant’s wrongful conduct and unjust
7 enrichment, Plaintiff and the members of the Class are entitled to restitution of, disgorgement of, and/or
8 imposition of a constructive trust upon all profits, benefits, and other compensation obtained by
9 Defendant for its inequitable and unlawful conduct.
10

11 **COUNT III**
12 **Violation of California Consumer Legal Remedies Act**
13 **Cal. Civ. Code §§ 1750 *et seq.***
14 **(On behalf of Plaintiff and the California Subclass)**

15 85. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1–62
16 as if fully set forth herein.

17 86. Plaintiff brings this claim individually and on behalf of the hundreds of members of the
18 California Subclass against Defendant.

19 87. The CLRA prohibits certain “unfair methods of competition and unfair or deceptive acts
20 or practices . . . undertaken by any person in a transaction intended to result or that results in the sale
21 or lease of goods or services to any consumer.” Cal. Civ. Code § 1770.

22 88. The CLRA specifically prohibits the “advertising, displaying, or offering a price for a
23 good or service that does not include all mandatory fees or charges other than either of the following:
24 (i) taxes or fees imposed by a government on the transaction and (ii) postage or carriage charges that
25 will be reasonably and actually incurred to ship the physical good to the consumer.” Cal. Civ. Code §
26 1770 (a)(29)(A).
27

28 89. Defendants are “persons” as defined in Cal. Civ. Code § 1761(c).

1 90. Plaintiff and members of the Class are “consumers” as defined in Cal. Civ. Code §
2 1761(d).

3 91. Plaintiff is a tenant of a property managed by Essex and was charged and paid for
4 Insurance, Service, and Trash fees each and every month that she has resided there.

5 92. Defendant charged deceptive and unreasonable Insurance, Service, and Trash fees in the
6 regular course of its business and in the course of conducting trade and commerce and charged Plaintiff
7 these fees in the course of conducting trade and commerce. Defendant unilaterally imposed these fees
8 on Plaintiff and the members the California Subclass members and automatically charged their
9 accounts accordingly.
10

11 93. Further, Defendant offered a price for rent that did not include all mandatory fees or
12 charges, in violation of Cal. Civ. Code § 1770 (a)(29)(A).
13

14 94. There was nothing members of the California Subclass could do to avoid incurring these
15 deceptive and predatory fees. There is no justification for imposing these fees during the applicable
16 statute of limitations, which provided no service or product to its tenants, including Plaintiff and the
17 members the California Subclass, Defendant engaged in unfair business practice in violation of the
18 CLRA.
19

20 95. Essex’s practice of charging the unreasonable Disputed Fees is deceptive because it
21 preys on tenants’ reasonable expectations that basic necessities are to be included in their rent. These
22 services are essential for habitable living conditions. Charging tenants for these essential services is
23 deceptive and unfair.
24

25 96. In addition, these fees unfairly burden tenants because they are unavoidable. Tenants
26 have no control over the need for trash removal or insurance. These are essential services for
27 maintaining a habitable environment, and tenants cannot escape the responsibility of these fees.
28

1 Further, tenants cannot avoid paying at least some sort of fee when making payments on their account,
2 which forces tenants to pay for services they have no choice but to receive.

3 97. Plaintiff and all California Subclass members sustained ascertainable loss as a result of
4 Defendant's unfair practices, as outlined herein.

5 98. Plaintiff, on behalf of himself and the Class, seeks an order enjoining Defendant's unfair
6 acts or practices under Cal. Civ. Code § 1780(a)(2). Specifically, Plaintiff asks the Court to order
7 Defendant to (1) immediately cease charging the Disputed Fees to its customers and (2) adopt systems
8 and practices sufficient to disclose the true and total cost to consumers.

9 99. Plaintiff, on behalf of himself and the California Subclass, seeks an award of attorneys'
10 fees and costs under Cal. Civ. Code § 1780(e).

11 100. At this time, Plaintiff does not bring a claim for damages under the CLRA. Plaintiff
12 reserves the right to amend this Complaint to add damages under the CLRA thirty days or longer after
13 compliance with the notice requirements of Cal. Civ. Code § 1782(a), should Defendant fail to meet
14 Plaintiff's demands. Plaintiff sent by Certified Mail, Return Receipt Requested, a notice to comply with
15 said requirements on October 2, 2024.

16
17
18
19 **COUNT IV**
20 **Violation of California's False Advertising Law, Bus. & Prof. Code §§ 17500 *et seq.***
(On behalf of Plaintiff and the California Subclass)

21 101. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-62
22 as if fully set forth herein.

23 102. Plaintiff brings this claim individually and on behalf of the California Subclass.

24 103. Defendant violated Section 17500 of the California Business and Professions Code.

25 104. As alleged more fully above, Defendant has made and disseminated false and
26 misleading statements of facts and omissions in its advertisements, publications and statements to
27
28

1 Plaintiff and the class members by presenting costs of rent without including all other mandatory fees
2 that are required to be paid to Defendant.

3 105. Defendant's representations were likely to deceive, and did deceive, Plaintiff and
4 reasonable consumers. Defendant knew, or should have known, that these statements were inaccurate
5 and misleading.
6

7 106. Defendant's misrepresentations were intended to induce reliance, and Plaintiff
8 reasonably relied on the statements when entering into Lease Agreements with Defendant. Defendant's
9 misrepresentations were a substantial factor in Plaintiff's decision to rent from Defendant.

10 107. Class-wide reliance can be inferred because Defendant's misrepresentations were
11 material in that they concerned the true price of the rentals.
12

13 108. Defendant's misrepresentations were a substantial factor and proximate cause in
14 damages to Plaintiff and members of the California Subclass.

15 109. Plaintiff and members of the California Subclass were injured as a direct and proximate
16 result of Defendant's conduct because they would not have rented from the Defendant if they had
17 known the truth and/or they overpaid for the rentals because they believed all necessities to have been
18 included in the represented rental cost.
19

20 **COUNT V**

21 **Violation of California's Unfair Competition Law Bus. & Prof. Code §§ 17200 *et seq.***
22 **(On behalf of Plaintiff and the California Subclass)**

23 110. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1-62
24 as if fully set forth herein.

25 111. Plaintiff brings this claim individually on behalf of herself and on behalf of the members
26 of the California Subclass.
27
28

1 112. California’s Unfair Competition Law (“UCL”) prohibits and provides civil remedies for
2 unfair competition. Its purpose is to protect both consumers and competitors by promoting fair
3 competition in commercial markets for goods and services. In service of that purpose, the Legislature
4 framed the UCL’s substantive provisions in broad, sweeping language. By defining unfair competition
5 to include any “any unlawful, unfair or fraudulent business act or practice,” the UCL permits violations
6 of other laws to serve as the basis of an independently actionable unfair competition claim and sweeps
7 within its scope acts and practices not specifically proscribed by any other law.
8

9 113. Defendant’s acts and omissions alleged herein, specifically Defendant’s violations of
10 the CLRA and FLA, constitute unfair competition and/or unlawful, unfair, or fraudulent business
11 practices in violation of the UCL.
12

13 114. Defendant’s actions and omissions have violated, and continue to violate the “unlawful”
14 prong of the UCL by promulgating misleading information about the true costs of rentals from
15 Defendant, and doing so with the intent that consumers rely on that misleading information.
16

17 115. As further alleged herein, Defendant’s conduct also violates the “deceptive” prong of
18 the UCL in that Defendant’s representations that its rental costs were as presented, when in fact
19 Defendant charged several undisclosed fees, were false and misleading.
20

21 116. Defendant’s material misrepresentations, omissions, and lack of disclosure are likely to
22 mislead reasonable and potential consumers, along with the general public. These practices are
23 inherently deceptive and mislead consumers.
24

25 117. Plaintiff and the California Subclass relied upon Defendant’s misrepresentations and
26 omissions as set forth above.
27

28 118. Defendant’s misrepresentations and omissions are significant because a reasonable
consumer would consider this information when making purchasing decisions. Plaintiff reasonably

1 relied upon this misleading information and would have acted differently if she had been presented
2 with accurate details. Similarly, class-wide reliance can be inferred because Defendant's
3 misrepresentations were material in that they concerned the price of the product.

4 119. Defendant's conduct, as alleged above, was immoral, unethical, oppressive,
5 unscrupulous, and substantially injurious to its consumers.
6

7 120. Defendant violated the "unfair" prong of the UCL by falsely representing that that the
8 represented cost of its rentals was the full price of the rentals, and did not disclose the additional junk
9 fees that would be imposed and required.

10 121. Defendant's misrepresentations and omissions resulted in it realizing more money from
11 Plaintiff and the members of the California Subclass than they rightfully deserved. This money is
12 subject to restitution. As a direct consequence of Defendant's unfair, unlawful, and deceptive practices,
13 Plaintiff and the members of the California Subclass suffered financial losses.
14

15 122. Plaintiff and the members of the California Subclass were injured as a direct and
16 proximate result of Defendant's conduct because they would not have rented from Defendant if they
17 had known the truth, and/or they overpaid for the rentals because the rentals because they believed all
18 necessities to have been included in the represented cost.
19

20 123. The harm to Plaintiff and the members of the California Subclass greatly outweighs the
21 public utility of Defendant's conduct. False statements in connection with the leasing of residential
22 real estate harms consumers and injures competition. There is no public utility to misrepresenting the
23 full cost of a rental apartment. This injury was not outweighed by any countervailing benefits to
24 consumers or competition.
25

26 124. Plaintiff and the California Subclass could not have reasonably avoided the injury
27 caused by Defendant.
28

1 125. Without an injunction, Defendant will continue to harm Plaintiff, the members of the
2 California Subclass, and prospective consumers. Defendant's misrepresentations and omissions are
3 ongoing, and even if they were to stop temporarily, there is a risk of it repeating these deceptive
4 practices.

5
6 126. Plaintiff, on behalf of herself and all members of the California Subclass, seeks public
7 injunctive relief under the UCL to safeguard the general public from Defendant's deceptive advertising
8 and misleading omissions.

9
10 127. Defendant's actions have caused substantial harm to Plaintiff, the California Subclass,
11 and the public. These practices are ongoing and are likely to continue unless stopped.

12 128. Therefore, Plaintiff seeks a permanent injunction to prevent Defendant from engaging
13 in such unlawful, unfair, and fraudulent business practices. Additionally, Plaintiff seeks restitution for
14 the California Subclass in an amount to be determined at trial, as well as attorney fees and costs under
15 Cal. Code Civ. Proc. § 1021.5. Further Plaintiff, on behalf of the members of the California Subclass,
16 requests that she be awarded all relief as may be available by law, pursuant to Cal. Bus. Prof. Code §
17 17203.
18

19 **PRAYER FOR RELIEF**

20 **WHEREFORE**, Plaintiff, individually and on behalf of the Class and Subclass, prays for an
21 Order as follows:

22 A. Finding this action satisfies the prerequisites for maintenance as a class action set forth,
23 and certifying the Class and Subclass as defined herein;

24 B. Designating and appointing Plaintiff McAdams as the representative of the Class and
25 California Subclass;

26 C. Declaring that Defendant's conduct violated the CLRA;

27 D. Finding in favor of Plaintiffs and the Class and Subclass on all counts asserted herein;

28 E. Awarding compensatory damages in amounts to be determined by the Court and/or jury;

- 1 F. Awarding prejudgment interest on all amounts awarded;
2 G. For injunctive relief as pleaded or as the Court may deem proper;
3 H. For restitution and all other forms of equitable relief;
4 I. Awarding Plaintiff and the Class and Subclass reasonable attorneys' fees and expenses
5 and costs of suit;
6 J. Awarding damages in an amount to be determined at trial; and
7 K. For such other and further relief as the Court may deem proper.

8 **DEMAND FOR JURY TRIAL**

9
10 Plaintiff hereby demands trial by jury as to all triable issues.

11 Dated: October 4, 2024

12 Respectfully submitted,

13 By: /s/

14 Kyle McLean (SBN 330580)
15 Lisa R. Considine (*pro hac vice forthcoming*)
16 David J. DiSabato (*pro hac vice forthcoming*)
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