

CAUSE NO. \_\_\_\_\_

JOHN TOMASZEWSKI AND  
HEATHER BRYAN  
*Plaintiffs,*

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IN THE DISTRICT COURT OF

v.

HARRIS COUNTY, TEXAS

K. HOVNANIAN OF HOUSTON II,  
L. L.C., D/B/A BRIGHTON HOMES and  
HOUSTON ROOFING  
& CONSTRUCTION, L.L.C.,  
*Defendants.*

TH JUDICIAL DISTRICT

**PLAINTIFFS' ORIGINAL PETITION,  
JURY DEMAND AND REQUESTS FOR DISCLOSURES**

John Tomaszewski and Heather Bryan (together the "Plaintiffs") come before this Court and hereby file this their Plaintiffs' Original Petition (their "Petition") against K. Hovnanian of Houston II, L.L.C., d/b/a Brighton Homes ("Brighton"), and Houston Roofing & Construction, L.L.C. ("Houston Roofing") (collectively the "Defendants"), asserting causes of action for money damages under Texas Deceptive Trade Practices Act due to false, misleading, or deceptive acts or practices, breaches of express and implied warranties, as well as for breaches of common law implied warranties of habitability for damages resulting from improper and unworkmanlike installation of roofing, insulation, and ventilation leading to moisture buildup and dangerous mold ingress, and in support thereof would show unto the Court as follows:

**I. Discovery Level**

1. Plaintiffs intend to conduct discovery under Discovery Level 2 of the Texas Rules of Civil Procedure, and affirmatively plead that the expedited actions process of Texas Rule of Civil Procedure 169 do not govern this suit due to the amounts in controversy.

## **II. Jurisdiction and Venue**

2. The Court has jurisdiction over the subject matter of these proceedings because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

3. The Court has personal jurisdiction over the Defendants because Defendants conduct business and have committed torts in the State of Texas.

4. Venue is proper in Harris County because all or a substantial part of the events or omissions giving rise to the present suit occurred in this county and the claims affect real property located within the same.

## **III. Parties**

5. Plaintiff John Tomaszewski is a resident of Harris County, Texas who currently resides at his residence located at 22627 Barnwood Court, Tomball, Texas 77375-6748, and may be contacted through his attorney of record, Thane Tyler Sponsel III, Sponsel Miller Greenberg PLLC, 50 Briar Hollow Lane, Suite 370 West, Houston, Texas 77027.

6. Plaintiff Heather Bryan is a resident of Harris County, Texas who currently resides at her residence located at 22627 Barnwood Court, Tomball, Texas 77375-6748, and may be contacted through her attorney of record, Thane Tyler Sponsel III, Sponsel Miller Greenberg PLLC, 50 Briar Hollow Lane, Suite 370 West, Houston, Texas 77027.

7. Defendant K. Hovnanian of Houston II, L.L.C. d/b/a Brighton Homes is a domestic limited liability corporation located within the State of Texas with a principal place of business 13111 Northwest Freeway, Suite #200, Houston, Texas 77040. Defendant Brighton may be served with process through its registered agent, CSC-Lawyers Incorporating Service Company, 211 East 7th Street, Suite 620, Austin, Texas 78701-4234.

8. Defendant Houston Roofing & Construction, L.L.C. is a domestic limited liability corporation with its principal place of business located at 11330 West Road, Houston, Texas 77065. Defendant Houston Roofing may be served with process through its registered agent, Nathan Braly, located at 6622 Redberry Glen Lane, Houston, Texas 77041.

#### **IV. Factual Background**

##### **A. Construction and Purchase of the Residence**

9. Brighton constructed the residence located at 22627 Barnwood Court, Tomball, Texas 77375-6748 (the "Residence") in the year of 2013, and the Residence was initially purchased by Ronnie Ray Krakosky and Patricia Baker Krakosky on or about January 30, 2014. Plaintiffs purchased the Residence from these prior owners on or about May 10, 2016. Brighton issued a Home Builder's Limited Warranty (the "Warranty") to these original purchasers which automatically transferred to subsequent purchasers as per the language of the document. A copy of the Warranty is attached hereto as Exhibit A.

10. The Warranty contained a "TEN YEAR WARRANTY OF HABITABILITY," wherein Brighton covenanted to provide a home that was "safe, sanitary and fit for humans to inhabit." This warranty of habitability covered all items that "would otherwise have been covered by the one-year workmanship and materials warranty or the two-year delivery system warranty" and covered such defect even if it was only identified "after the termination of those WARRANTY PERIODS" and could not have been discoverable by a reasonable or prudent inspection of the home.

11. Houston Roofing conducted a roof repair and replacement on the Residence on or about March 4, 2016, issuing with said repair a Workmanship Warranty (the "Workmanship Warranty") to the prior owners containing the language that it "covered the property listed above...

regardless of the ownership and occupancy of said property.” A copy of the Workmanship Warranty is attached hereto as Exhibit B.

**B. Discovery of Mold Ingress**

12. In the late summer of 2019, Plaintiffs discovered mold growing on the interior upper ceilings of two adjacent closets and in the media room in the second story of the Residence. The mold appeared in different, seemingly unconnected spots, and appeared to be spreading rapidly from one room to the next.

13. On August 24, 2019, Plaintiffs had the Residence inspected by True Grit Home Inspection. A copy of the True Grit Home Inspection report is attached hereto as Exhibit C. The August 24, 2019 inspection discovered the Residence had “visual mold growth in the upstairs bath closet, 2 hallway linen closets, 1-bedroom closet.” Further inspection found that there was mold growth in the attic space on the ceiling joist under the insulation. There were also moisture levels in the drywall surrounding these areas caused by a drain pan leak. The August 24, 2019 inspection report indicated that the source of the moisture causing the mold growth was humidity “due to confined space of each location without proper ventilation.” These findings were reaffirmed in an October 10, 2019 inspection report which not only supported the earlier August 24, 2019 findings but also found further moisture intrusion into the bathroom and media room walls. A copy of the October 10, 2019 inspection report is attached hereto as Exhibit D. The level of mold intrusion was of such a significant level that it had seeped into the framing, drywall, carpet, and other integral parts of the Residence. See Exhibits C and D. The October 10, 2019 inspection report also uncovered several construction and structural defects within the Residence resulting from Brighton’s poor workmanship in constructing the Residence unrelated to the mold ingress.

14. The mold intrusion into the Residence was not a result of Plaintiffs' operation, upkeep, or maintenance of the home, or the failure to perform normal or routine maintenance on the same. Additionally, the mold intrusion is of such a nature that it could not have been discovered with the exercise of reasonable and ordinary diligence on Plaintiffs' behalf.

### C. The Mold Analysis

15. Plaintiff Heather Bryan has had sensitivities and difficulties with allergies and asthma for several years. Concerned that the mold might pose a risk to her health, Plaintiffs had a professional mold analysis performed on October 8, 2019 (the "Mold Analysis"). A copy of the Mold Analysis is attached hereto as Exhibit E. What Plaintiffs found unfortunately confirmed their concerns; the test revealed that there was a concentration of 25,060 spores/m<sup>3</sup> concentration of Penicillium/Aspergillus mold in the upstairs media room. These spores came from a mold source by which the spores "are able to become airborne and an exposure concern to the occupants."<sup>1</sup> Penicillium/Aspergillus is an opportunistic pathogen that is particularly dangerous to those individuals with a history of allergies and asthma. Peer-reviewed articles published in, *inter alia*, Current Medical Mycology indicate that the presence of Aspergillus mold in indoor environments "can promote health risks, and even small amounts of fungal contamination may lead to fatal outcomes in predisposed individuals."<sup>2</sup> All of this in a home that was not even a decade old.

16. The August 24 and October 8, 2019 inspection reports, combined with the disconcerting reports of the Mold Analysis, indicated that the intrusion of a potentially deadly pathogen rendered the home unsafe for human habitation. Plaintiffs were required to take

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<sup>1</sup> See Exhibit E.

<sup>2</sup> Mousavi B, Hedayati MT, Hedayati N, Ilkit M, Syedmousavi S. Aspergillus species in indoor environments and their possible occupational and public health hazards. Curr Med Mycol. 2016; 2(1): 36-42. DOI: 10.18869/acadpub.cmm.2.1.36.

immediate remedial action in order to remove the dangerous mold intrusion and bring the home back into a habitable condition.

**A. Residential Construction Liability Act and Deceptive Trade Practices Act Correspondence.**

17. On October 22, 2019, Plaintiffs sent formal correspondence to Defendants Brighton and Houston Roofing under § 27.004 of the Texas Property Code (commonly known as the Texas Residential Construction Liability Act, or “RCLA”) and under § 17.505 of the Texas Business and Commerce Code (commonly known as the Texas Deceptive Trade Practices Act, or “DTPA”) identifying with exhaustive specificity the causes, extent, and dangers presented by the mold ingress and containing substantial documentary evidence supporting Plaintiffs’ allegations. In these letters, Plaintiffs offered both Defendants an opportunity to inspect the premises, though as previously discussed Plaintiffs were forced to perform remedial measures themselves to render the Residence again habitable given the ingress of toxic mold. These letters also contained demands for compensation of out-of-pocket expenses and attorneys’ fees in the total amount of \$49,165.55, representing the total cost to clean, replace and repair the moisture intrusion in the home, as well as damages for mental anguish. Copies of the October 22, 2019 letters to Defendants Brighton and Houston Roofing are attached hereto as Exhibits F and G, respectively, along with their associated proofs of service.

*i. Response from Houston Roofing*

18. Defendant Houston Roofing did not make a reasonable offer of settlement to Plaintiffs, responding outside of the forty-five (45) day window provided for under the RCLA with an assertion that the Workmanship Warranty expired on March 4, 2018 and further that the Workmanship warranty was void because of a “named storm.” A copy of Houston Roofing’s Response Letter is attached hereto as Exhibit H. Note that the Workmanship Warranty contains no

language regarding a “named storm,” and further that Plaintiffs’ demand against Houston Roofing was for breach of the implied warranty for good and workmanlike performance of repair or modification services, not under the Workmanship Warranty. *See Exhibit G.*

*ii. Response from Brighton*

19. Defendant Brighton responded to Plaintiffs’ October 22, 2019 demand letter on October 25, 2019 requesting an inspection of the Residence, which Plaintiff allowed. As previously indicated, the work to remedy the toxic mold intrusion had already been performed prior to Brighton’s inspection, but Brighton was provided with ample documentary and photographic evidence showing the extent of the mold growth, hazards related to the mold intrusion, necessity for immediate remediation, and costs associated with the same. Additionally, Brighton inspected and acknowledged several other construction defects unrelated to the mold growth which were present on the Residence.

20. Brighton formally responded to Plaintiffs’ RCLA and DTPA demand letter on December 9, 2019 (the “December 9, 2019 Response”). A copy of the December 9, 2019 Response is attached hereto as Exhibit I. In the December 9, 2019 Response, Brighton acknowledged the construction defects present in the Residence, offering to repair defects that were unrelated to the mold issue, but Brighton chose to make no offer to Plaintiffs regarding the mold remediation, citing “four important facts.”<sup>3</sup> Brighton made light of the presence of *Penicillium/Aspergillus* as “extremely common in indoor air,” indicated they were not given an opportunity to inspect the Residence prior to remediation, alleged Plaintiffs were responsible for the mold growth, and attributed the expenses to an “ongoing renovation project.”<sup>4</sup>

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<sup>3</sup> *See Exhibit I.*

<sup>4</sup> *Id.*

21. Plaintiffs replied to Brighton's December 9, 2019 Response on January 2, 2020. Plaintiffs' Reply corrected the misconceptions contained in Brighton's December 9, 2019 Response by providing peer-reviewed studies showing the deadly potential of Penicillium/Aspergillus mold, the detrimental impact of said mold on the habitability of the home requiring immediate remediation, and correcting Brighton's misapprehensions as to the source of the requested reimbursement. A copy of Plaintiff's January 2, 2020 Reply is attached hereto as Exhibit J. In the January 2, 2020 Reply, Plaintiffs asked only for a reasonable offer of reimbursement in a less-than-decade-old home with documented moisture intrusion leading to toxic mold. Brighton, however, formally refused to make any offer for reimbursement of these expenses.

**V. Cause of Action One:**  
**Violations of the Texas Deceptive Trade Practices Act against Defendant Brighton**

22. Plaintiffs incorporate the factual allegations contained in the forgoing paragraphs as if quoted verbatim herein.

23. Plaintiffs raises against Defendant Brighton several violations of implied, express, and common law warranties as permitted under the DTPA. Because Brighton's offenses were committed knowingly, Plaintiffs seek economic and additional damages totaling \$139,996.65.

24. In order to prevail in a claim for violation of the DTPA, the plaintiff must show: (1) that they qualify as a consumer under the DTPA; (2) that the defendant is an entity that can be sued under the DTPA; (3) that defendant committed either (a) a false misleading or deceptive act or practice specifically enumerated in the "laundry list" that was relied on to their detriment, (b) breached an express or implied warranty, or (4) violated a "tie-in" statute; and (5) that the defendant's actions were the producing cause of the plaintiff's damages. *Amstadt v. U.S. Brass Corp.*, 919 S.W.2d 644, 649 (Tex. 1996).

### **A. Consumer Status**

25. To qualify as a consumer under the DTPA, a plaintiff must show that they sought or acquired, by purchase or lease, goods or services. TEX. BUS. & COM. CODE §17.45(4); *Amstadt*, 919 S.W.2d at 649.

26. Here, Plaintiffs purchased the Residence from the previous owners, who in turn purchased it from Brighton. While it is true that DTPA actions generally require contractual privity with a home builder to be actionable under the DTPA, privity is not required to sustain a DTPA claim for breach of an express warranty as a matter of public policy, particularly when expressly assigned, as in the Warranty. *See, e.g. U.S. Tire-Tech, Inc. v. Boeran, B.V.*, 110 S.W.3d 194, 198 (Tex. App.—Houston [14th Dist.], 2003). Therefore, for the purposes of the present claim under the DTPA, Plaintiffs meet the consumer status requirement.

### **B. Proper Party to Sue**

27. A plaintiff may bring any action against “any person” who violates the provisions of the statute unless exempted. TEX. BUS. & COM. CODE §17.50(a)(1). “Persons” under the DTPA include individuals, partnerships, corporations, or other groups, however organized. TEX. BUS. & COM. CODE §17.45(3).

28. As a corporation engaged in the business of building residential property, Brighton meets the definition of “person” under the DTPA and is not included in the exceptions to “person” for those who primarily practice in work involving intellectual or mental rather than physical labor. *See Duncanville Diagnostic Ctr. Inc. v. Atlantic Lloyd’s Ins.*, 875 S.W.2d 788, 790 (Tex. App.—Eastland 1994, writ denied).

### C. Wrongful Act

29. To prove an action for violation of the DTPA, the plaintiff must establish that the defendant committed a wrongful act. For the purposes of the case at bar, this includes breach of warranty, express or implied. TEX. BUS. & COM. CODE § 17.50(a).

#### i. Breach of Express or Implied Warranty

30. The DTPA does not create a cause of action for warranties, but rather is a vehicle by which a Plaintiff can recover for breaches of express or implied warranties. To recover on a breach of an express or implied warranty under the DTPA, the plaintiff must show that: (1) they were a consumer; (2) that the warranty was express or implied; and (3) that the warranty was breached. *Four Bros. Boat Works, Inc v. Tesoro Pet. Cos.*, 217 S.W.3d 653, 666 (Tex. App.—Houston [14th Dist.] 2006, pet. denied).

31. Here, Brighton breached several of the express warranties contained in the Warranty, including but not limited to: (1) ductwork that does not separate or leak;<sup>5</sup> (2) an exterior moisture barrier of the roof that does not allow moisture penetration;<sup>6</sup> (3) refrigerant lines that do not leak;<sup>7</sup> (4) exterior moisture barriers of the walls that does not allow for accumulation of moisture;<sup>8</sup> and (5) a home that is safe, sanitary, and fit for humans to inhabit.<sup>9</sup> Plaintiffs' claims are timely under the DTPA because these defects were latent ones that were not discovered despite

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<sup>5</sup> Exhibit A, Page 40.

<sup>6</sup> *Id.* at Page 24.

<sup>7</sup> *Id.* at Page 39.

<sup>8</sup> *Id.* at Pages 18-19.

<sup>9</sup> *Id.* at Page 14. While it is true that many of these warranties are for items ostensibly only covered during the one- and two-year periods, the ten year warranty of habitability serves to extend said warranties when they relate, as here, to a latent construction defect affecting the habitability of the Residence.

the exercise of reasonable diligence by Plaintiffs at the time of the purchase of the home. In addition, many of these items are expressly covered by the one and two-year provisions of the Warranty which have expired, but are nonetheless timely because the defects complained of herein are latent ones that could not have been discovered with the exercise of all due diligence on behalf of Plaintiffs.

32. Brighton also breached the implied warranty of good and workmanlike construction of residential property. Texas law imposes upon all builders an implied warranty to construct a home in a good and workmanlike manner, that is, to construct the home in the same manner as would a generally proficient builder engaged in similar work and performing under similar circumstances. *Centex Homes v. Buecher*, 95 S.W.3d 266, 273 (Tex. 2002). Brighton failed to perform under this standard by, *inter alia*, failing to construct a substantial portion of the Residence to code and constructing a home that would later prove to be uninhabitable because of the ingress of dangerous toxic mold.

33. Brighton also breached the implied warranty of habitability. Under this implied warranty, a builder of residential property is required to construct a home that is free from latent defects that would render the property uninhabitable. *Buecher*, 95 S.W.3d at 275. In the present case, Brighton constructed the Residence containing latent defects related to improper ventilation and installation of HVAC units and ducting, among others, leading to the dangerous ingress of moisture and subsequent mold into the Residence. This mold, particularly *Penicillium/Aspergillus*, made the Residence unfit for habitation, requiring extensive remediation for which Brighton has not reimbursed Plaintiffs. Therefore, Brighton is also liable to Plaintiffs for breach of this implied warranty of habitability.

#### **D. Causing Damages**

34. Brighton was the producing cause of Plaintiffs' damages herein, as, but for Brighton's failure to construct a home that met with the requirements of the Warranty and which was habitable for human occupation, Plaintiffs would not have incurred the costs expended to remedy the mold intrusion directly resulting from said defective construction.

35. The cost to properly remove and dispose of the hazardous materials present in the Residence, exclusive of repairs and remediation, has been identified at \$6,542.94. The cost to bring the Residence back to code with proper ventilation and installation to prevent future moisture buildup is at least \$11,350.00, a cost that is likely to increase as the full extent of the damage becomes clear. This cost to repair and replace does not include the installation of new replacement flooring, walls and other materials. In total, Plaintiffs have incurred out-of-pocket damages in the amount of \$31,665.55, with additional costs certain to be incurred to remedy the toxic mold and moisture issue. Plaintiffs thus seek economic damages in the amount of \$36,665.55 under the claims for breaches of implied warranties and the DTPA.<sup>10</sup>

36. In addition to these direct costs, Plaintiffs' lives have been substantially disrupted. Plaintiffs were precluded from the use of the upper portion of their home during the mold buildup and remediation and were forced to live in the Residence with the Sword of Damocles portending potentially lethal pathogens. It is also clear that Brighton's breaches of the forgoing warranties were performed knowingly and/or intentionally, further evidenced by their refusal to provide any

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<sup>10</sup> Invoices and other documentation supporting the expenses claims herein are attached hereto as Exhibit K.

reasonable offer or coverage of the same once their breach was brought to their attention, even going so far as to belittle the presence of medically documented dangerous mold.

37. Therefore, in addition to their direct out-of-pocket economic loss, Plaintiffs seek an additional \$10,000.00 in mental anguish damages under the DTPA. Moreover, since Brighton's actions were performed knowingly and intentionally, Plaintiffs seek three times their economic and mental anguish damages as additional damages. Therefore, in total, Plaintiffs seek recovery of \$139,996.65 for Brighton's breaches of express and implied warranties under the DTPA.

38. Pursuant to Section 17.50(d) of the Texas Business and Commerce Code, Plaintiffs are entitled to recover their reasonable and necessary attorneys' fees and costs associated with prosecuting this action, such attorneys' fees currently in the amount of \$8,000.00 Plaintiffs' attorneys' fees and costs will only increase as litigation progresses.

#### **E. Notice Requirements**

39. On October 22, 2019, Plaintiffs sent a formal notice of intent to sue under the DTPA and the required RCLA notice to Brighton. Following an opportunity to inspect, Brighton responded on December 7, 2019, such response failing to contain any offer to reimbursement for Plaintiffs' mold remediation expenses.<sup>11</sup> Plaintiffs requested Brighton reconsider its response in light of the unreasonable offer of \$0.00 to remediate the moisture ingress. However, Brighton refused to make any offer of monetary compensation. Therefore, because Brighton has behaved unreasonably, the limitations contained in TEX. PROP. CODE. § 27.004(e) Texas Property Code Section 27.004(e) do not apply.

40. Plaintiffs affirmatively plead that all other conditions precedent have been performed or occurred.

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<sup>11</sup> See Exhibit I.

**VI. Cause of Action Two:**  
**Breach of Implied Warranty of Habitability against Defendant Houston Roofing**

41. Plaintiffs incorporate the factual allegations contained in the forgoing paragraphs as if quoted verbatim herein.

42. Additionally, and/or in the alternative, Plaintiffs seek judgment against Defendant Houston Roofing for the unworkmanlike quality of their roof replacement leading to the buildup of moisture inside of the Residence and consequently the ingress of toxic mold.

43. The implied warranty of habitability requires both builders and those who perform repair and replacement work on residential buildings to perform their repair free of latent defects which tend to make the property uninhabitable. *Humber v. Morton*, 426 S.W.2d 554, 555 (Tex. 1968). The elements for this cause of action are: (1) the defendant performed repairs on residential property; (2) containing a latent defect making the property uninhabitable and; (3) causing the plaintiff to; (4) suffer injury. *Evans v. J. Stiles, Inc.*, 689 S.W.2d 399, 399-400 (Tex. 1985).

**A. Defendant Performed Repairs on Residential Property**

44. A cause of action for breach of the implied warranty of habitability can be brought either by the original buyer of the services or a subsequent buyer of the residential property. *See PPG Indus. V. JMB/Houston Ctrs. Partners*, 146 S.W.3d 79, 80 (Tex. 2004). This warranty is automatically assigned to any subsequent purchaser of the home, making privity of contract unnecessary.

**B. Containing a Latent Defect**

45. Here, Houston Roofing performed a full roof replacement of the Residence on March 6, 2016, such replacement substantially decreasing the number of vents installed on the roof of the Residence. This repair of the roof was inadequately performed, as Houston Roofing failed

to install sufficient ventilation to prevent the accumulation of moisture. As previously demonstrated, this defect in the construction of the proper ventilation of the roof is precisely the kind of latent defect that could not be discovered by a reasonably prudent purchaser at the time of sale.

**C. Making the Residence Uninhabitable**

46. The presence of the toxic Penicillium/Aspergillus mold, particularly to individuals such as Plaintiffs, who have a previously existing sensitivity to allergens and history of asthma, carries with it the high likelihood of sickness and, in rare circumstances, pose a lethal threat to the inhabitants of the Residence. This is clearly the kind of defect that would render a home uninhabitable.

**D. Injury by Plaintiff**

47. As previously demonstrated, Plaintiffs have suffered direct, out-of-pocket pecuniary loss of \$36,665.55 caused to remedy the defective work performed by Houston Roofing in repairing the roof on the Residence. Plaintiffs therefore seek the sum total of their direct economic costs from Houston Roofing as damages. In addition, Plaintiffs seek their costs of court for recover of this breach of a common law implied warranty.

**E. RCLA Notice Inapplicable**

48. As identified in Exhibit I above, Houston Roofing did not make a request to visit the Residence, nor did Houston Roofing make a reasonable offer of settlement regarding Plaintiffs' claims related to the improper repair performed on the Residence. Therefore, the limitations of Texas Property Code Section 27.004(e) do not apply.

## **VII. Jury Demand**

49. Plaintiffs demand a jury, and tender the required jury fee concurrently with the filing of this pleading.

## **VIII. Request for Disclosures**

50. Plaintiffs hereby require Defendants to provide the information listed in Texas Rule of Civil Procedure 194.2(a)-(k) no later than fifty (50) days following receipt of this Petition.

## **Prayer**

Therefore, for the forgoing reasons, Plaintiffs pray that this Court enter judgment against Defendants Brighton and Houston Roofing, jointly and severally, for: (i) economic damages in the amount of \$36,665.55; in addition, Plaintiffs pray that this Court enter judgment against Defendant Brighton for (ii) mental anguish damages in an amount not less than that which will make Plaintiffs whole, but not less than \$10,000.00; (iii) additional damages in the amount of not less than \$139,996.65 as well as all other amounts recoverable at common law; (iv) reasonable and necessary attorneys' fees; (v) costs of court; (vi) pre and post judgment interest; and (vii) any other relief to which Plaintiffs may be entitled to at law or in equity.

Respectfully submitted,

**SPONSEL MILLER GREENBERG PLLC**

**/s/ Thane Tyler Sponsel III**

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