

IN THE CIRCUIT COURT OF THE 17<sup>TH</sup> JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA

LISA BARNET,

Plaintiff,

v.

BROWARD COUNTY SHERIFF'S  
OFFICE, LAUDERHILL MALL  
INVESTMENT, LLC, FLORIDA  
HOLDING 4800, LLC, and CURRENT  
CAPITAL REALTY, INC.,

Defendants.

CASE NO.: CACE 21-014571  
Division: 18

**PLAINTIFF'S FIRST AMENDED COMPLAINT FOR DAMAGES**

Plaintiff, Lisa Barnett ("Plaintiff"), by and through her undersigned counsel, sues Defendants, Broward County Sheriff's Office ("BSO"), Lauderhill Mall Investment, LLC ("Mall"), Florida Holding 4800, LLC ("Holding") and Current Capital Realty, Inc. ("Capital") (collectively, BSO, Lauderhill, Holding, and Capital will be referred to as the "Defendants") and alleges the following:

**PARTIES, VENUE AND JURISDICTION**

1. This is an action for damages concerning personal injuries sustained by Plaintiff as a result of her exposure to toxic mold, which occurred while she was employed with BSO beginning on December 6, 2010 and on a second occasion in 2016. In fact, on two occasions BSO denied Plaintiff's worker's compensation claim under Florida Stat § 440.11(1)(a). (collectively, the two denials will be referred to as the "Worker's Comp Denial.") Accordingly, BSO is not entitled to worker's compensation immunity for this lawsuit.

2. This action exceeds \$30,000.00, exclusive of costs, interest and attorneys' fees.
3. Plaintiff is a resident of Broward County, Florida, and is *sui juris*.

**EXHIBIT**

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4. BSO is a government agency doing business in Broward County.
5. Mall is a Florida Limited Liability Company doing business in Broward County.
6. Holding is a Florida Limited Liability Company doing business in Broward County.
7. Capital is a Florida corporation doing business in Broward County
8. Venue is proper in Broward County, Florida, as Defendants conduct business in Broward County, Florida, the acts at issue occurred in Broward County, Florida, and Plaintiff resides in Broward County, Florida.
9. All conditions precedent to the filing of this action have occurred, been performed, or have been waived, including Plaintiff's full compliance with the statutory requirements under Fla. Stat. §768.28(6).

#### **GENERAL ALLEGATIONS**

10. Plaintiff had a history of immune suppression when she began working for BSO beginning December 6, 2010. When she commenced employment with BSO, Plaintiff initially worked at the business premises located at 4200 NW 16<sup>th</sup> Street Lauderhill, FL, 33311 (the "Lauderhill Building") during which time she was unknowingly exposed to toxic mold which resulted from water infiltration due to leakage from pipes on the first floor and from a hurricane prior to her employment. (the "First Exposure.") During the First Exposure, the Lauderhill Building was owned by Mall and Holding who, in turn, leased it to BSO. At that time, Capital was the property manager of the Lauderhill Building. Plaintiff did not learn that she was damaged due to toxic mold exposure from the First Exposure until October 21, 2019, when she received the results of a mycotoxin panel test from Great Plains Laboratory Testing.

11. In 2016, Plaintiff was transferred to the Stockade Building, owned by BSO, and located at 5400 Powerline Road, Fort Lauderdale, 33309 (the "Stockade Building") (collectively, the



Lauderhill Building and the Stockade Building will be referred to as the ["BSO Offices"], which remained empty for an extended period of time and at which there were water leaks, including leaks in the air conditioning in the clothing closet, which resulted in her second unknowing exposure to toxic mold while working at a BSO building. (the "Second Exposure.") Plaintiff did not learn that she was damaged due to toxic mold exposure from the Second Exposure until October 21, 2019, when she received the results of a mycotoxin panel test from Great Plains Laboratory Testing.

12. During the First Exposure and the Second Exposure, none of Plaintiff's physicians could explain why she experienced a severe and drastic decline in her health. In November 12, 2018, her treating immunologist diagnosed Plaintiff with Myalgic Encephalomyelitis or "Chronic Fatigue Syndrome." ("CFS").

13. In a further effort to determine the cause of her decline, Plaintiff's treating immunologist Dr. Irma Rey, Director of Medical Education at Nova Southeastern University, Diplomate American Board of Environmental Medicine and President Elect American Academy of Environmental Medicine, ordered specialized laboratory testing on Plaintiff for mycotoxins. The October 21, 2019, Great Plains Laboratory mycotoxin panel revealed the source of Plaintiff's deteriorated health; she was determined to be urine positive for various mycotoxins, which included Ochratoxin A, Sterigmatocystin, Mycophenolic Acid, Roridin E, Verrucaric Acid, Zearalenone, and Citrinin. These toxins are the byproduct of various species of mold, including *Aspergillus*, *Penicillium*, *Stachybotrys*, and other multiple mold species, the exposure of which occurred while she was working at the BSO Offices.

14. Dr. Rey concluded that, to a reasonable degree of medical probability, Plaintiff's toxicity and extreme decline in health from the First and Second Exposures was caused by her exposure to multiple species of toxic mold while she was working for BSO at the BSO Offices. As

a result of the mold exposure, Plaintiff's CFS worsened and she was forced to file a disability claim as she could no longer work the hours that she used to work due to extreme fatigue, cognitive problems, chronic pain, weight loss, which Dr. Rey opined was caused by her mold exposure at work for BSO in the BSO Offices.

15. By Notice, dated January 19, 2021, Plaintiff's undersigned counsel submitted a Notice of Claim against BSO under Fla. Stat. §768.28(6), in writing to BSO and the Florida Department of Financial Services, which BSO failed to respond to the claim as required by §768.28(6). (A copy of the January 19, 2021 Notice of Claim [the "Notice of Claim"] is annexed as Exhibit "A.")

16. BSO waived its sovereign immunity by failing to respond to the Notice of Claim.

#### **COUNT I - NEGLIGENCE AGAINST BSO**

17. Plaintiff re-alleges and re-adopt the allegations set forth in paragraphs 1 through 16 above as if fully set forth at length herein.

18. BSO, as Plaintiff's employer and lessee of the Lauderhill Building and owner of the Stockade Building, owed a duty to Plaintiff to exercise reasonable care and to repair or remedy any defect or dangerous, unsafe or uninhabitable conditions in the BSO Offices. As detailed above, Defendant denied Plaintiff's worker's compensation claim on two occasions and thus is not entitled to worker's compensation immunity for this lawsuit.

19. BSO breached its duty of care owed to Plaintiff by failing to properly maintain, inspect, control and repair the common areas impacting the BSO Offices, including prevention of water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the BSO Offices to prevent dangerous conditions, such as toxic mold, from forming and permeating the air quality and conditions in the BSO Offices and to engage in an appropriate preventative maintenance program to prevent toxic mold forming and



flourishing at the BSO Offices which lead to toxic mold forming and permeating the air quality and conditions in the BSO Offices.

20. BSO breached its duty of care owed to Plaintiff by failing to properly control, inspect maintain and repair the common areas impacting the BSO Offices, including, but not limited to, preventing water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the BSO Offices, through appropriate sealing of the exterior envelop, windows, walls, doors, which caused toxic levels of *mold* to exist in the air quality in or about the BSO Offices.

21. BSO also breached its duty to Plaintiff by failing to: (a) adequately warn her in a timely manner of the dangerous conditions impacting the BSO Offices, including the air quality and conditions in these offices, including the growth and presence of toxic mold and mold growth; and (b) undertake the appropriate remediation preventative measures regarding moisture and/or humidity control so as to prevent the growth and presence of toxic mold in the BSO Offices.

22. As a direct and proximate result of BSO's negligence, Plaintiff sustained severe and significant personal injuries, suffered bodily injury resulting in pain and suffering, disability, disfigurement, scarring, mental anguish, loss of the capacity for enjoyment of life, medical and nursing care and treatment, loss of ability to earn money and/or aggravation of previously existing conditions.

**WHEREFORE**, Plaintiff demands the entry of a Final Judgment against BSO for money damages in excess of the minimum jurisdictional limits of this Court, reasonable costs and such other and relief as this Court deems just and proper.

#### **COUNT II - ESTOPPEL AGAINST BSO**

23. Plaintiff re-alleges and re-adopt the allegations set forth in paragraphs 1 through

16 above as if fully set forth at length herein.

24. As detailed above, USIS, who is the worker's compensation insurance carrier for BSO, twice denied Plaintiff's claim for worker's compensation benefits pursuant to the Worker's Comp Denial.

25. As a result of the Worker's Comp Denial, BSO should be precluded from claiming immunity from this negligence claim by Plaintiff as it would be inequitable for BSO, as employer, to deny worker's compensation benefits for Plaintiff and then be entitled to worker's compensation immunity.

26. Accordingly, BSO is now estopped from claiming that Plaintiff's exclusive remedy is worker's compensation.

**WHEREFORE**, Plaintiff demands the entry of a Final Judgment against BSO for money damages in excess of the minimum jurisdictional limits of this Court, reasonable costs and such other and relief as this Court deems just and proper.

### **COUNT III - NEGLIGENCE AGAINST MALL**

27. Plaintiff re-alleges and re-adopt the allegations set forth in paragraphs 1 through 16 above as if fully set forth at length herein.

28. Mall as the landlord/owner of the Lauderhill Buidling owed a duty to Plaintiff to exercise reasonable care and to repair or remedy any defect or dangerous, unsafe or uninhabitable conditions in the Lauderhill Building.

29. Mall breached its duty of care owed to Plaintiff by failing to properly maintain, inspect, control and repair the common areas impacting the Lauderhill Building, including prevention of water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the Lauderhill Building to prevent dangerous

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conditions, such as toxic mold, from forming and permeating the air quality and conditions in the Lauderhill Building and to engage in an appropriate preventative maintenance program to prevent toxic mold forming and flourishing at the Lauderhill Building which lead to toxic mold forming and permeating the air quality and conditions in the Lauderhill Building.

30. Mall breached its duty of care owed to Plaintiff by failing to properly control, inspect, maintain, and repair the common areas impacting the Lauderhill Building, including, but not limited to, preventing water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the Lauderhill Building through appropriate sealing of the exterior envelop, windows, walls, doors, which caused toxic levels of mold to exist in the air quality in or about the Lauderhill Building.

31. Mall also breached its duty to Plaintiff by failing to: (a) adequately warn her in a timely manner of the dangerous conditions impacting the Lauderhill Building, including the air quality and conditions in these offices, including the growth and presence of toxic mold and mold growth; and (b) undertake the appropriate remediation preventative measures regarding moisture and/or humidity control so as to prevent the growth and presence of toxic mold in the Lauderhill Building.

32. As a direct and proximate result of Mall's negligence, Plaintiff sustained severe and significant personal injuries, suffered bodily injury resulting in pain and suffering, disability, disfigurement, scarring, mental anguish, loss of the capacity for enjoyment of life, medical and nursing care and treatment, loss of ability to earn money and/or aggravation of previously existing conditions.

**WHEREFORE**, Plaintiff demands the entry of a Final Judgment against Mall for money damages in excess of the minimum jurisdictional limits of this Court, reasonable costs and such

other and relief as this Court deems just and proper.

**COUNT IV - NEGLIGENCE AGAINST HOLDING**

33. Plaintiff re-alleges and re-adopt the allegations set forth in paragraphs 1 through 16 above as if fully set forth at length herein.

34. Holding as the landlord/owner of the Lauderhill Buidling owed a duty to Plaintiff to exercise reasonable care and to repair or remedy any defect or dangerous, unsafe or uninhabitable conditions in the Lauderhill Building.

35. Holding breached its duty of care owed to Plaintiff by failing to properly maintain, inspect, control and repair the common areas impacting the Lauderhill Building, including prevention of water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the Lauderhill Building to prevent dangerous conditions, such as toxic mold, from forming and permeating the air quality and conditions in the Lauderhill Building and to engage in an appropriate preventative maintenance program to prevent toxic mold forming and flourishing at the Lauderhill Building which lead to toxic mold forming and permeating the air quality and conditions in the Lauderhill Building.

36. Holding breached its duty of care owed to Plaintiff by failing to properly control, inspect maintain and repair the common areas impacting the Lauderhill Building, including, but not limited to, preventing water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the Lauderhill Building through appropriate sealing of the exterior envelop, windows, walls, doors, which caused toxic levels of mold to exist in the air quality in or about the Lauderhill Building.

37. Holding also breached its duty to Plaintiff by failing to: (a) adequately warn her in a timely manner of the dangerous conditions impacting the Lauderhill Building, including the air



quality and conditions in these offices, including the growth and presence of toxic mold and mold growth; and (b) undertake the appropriate remediation preventative measures regarding moisture and/or humidity control so as to prevent the growth and presence of toxic mold in the Lauderhill Building.

38. As a direct and proximate result of Holding's negligence, Plaintiff sustained severe and significant personal injuries, suffered bodily injury resulting in pain and suffering, disability, disfigurement, scarring, mental anguish, loss of the capacity for enjoyment of life, medical and nursing care and treatment, loss of ability to earn money and/or aggravation of previously existing conditions.

**WHEREFORE**, Plaintiff demands the entry of a Final Judgment against Holding for money damages in excess of the minimum jurisdictional limits of this Court, reasonable costs and such other and relief as this Court deems just and proper.

#### **COUNT V - NEGLIGENCE AGAINST CAPITAL**

39. Plaintiff re-alleges and re-adopt the allegations set forth in paragraphs 1 through 16 above as if fully set forth at length herein.

40. Capital as the property manager of the Lauderhill Building owed a duty to Plaintiff to exercise reasonable care and to repair or remedy any defect or dangerous, unsafe or uninhabitable conditions in the Lauderhill Building.

41. Capital breached its duty of care owed to Plaintiff by failing to properly maintain, inspect, control and repair the common areas impacting the Lauderhill Building, including prevention of water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the Lauderhill Building to prevent dangerous conditions, such as toxic mold, from forming and permeating the air quality and

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conditions in the Lauderhill Building and to engage in an appropriate preventative maintenance program to prevent toxic mold forming and flourishing at the Lauderhill Building which lead to toxic mold forming and permeating the air quality and conditions in the Lauderhill Building.

42. Capital breached its duty of care owed to Plaintiff by failing to properly control, inspect maintain and repair the common areas impacting the Lauderhill Building, including, but not limited to, preventing water intrusion into the roof, AC ducts and vents, wall cavities and other common elements and fixtures in the common areas impacting the Lauderhill Building through appropriate sealing of the exterior envelop, windows, walls, doors, which caused toxic levels of mold to exist in the air quality in or about the Lauderhill Building.

43. Capital also breached its duty to Plaintiff by failing to: (a) adequately warn her in a timely manner of the dangerous conditions impacting the Lauderhill Building, including the air quality and conditions in these offices, including the growth and presence of toxic mold and mold growth; and (b) undertake the appropriate remediation preventative measures regarding moisture and/or humidity control so as to prevent the growth and presence of toxic mold in the Lauderhill Building.

44. As a direct and proximate result of Capital's negligence, Plaintiff sustained severe and significant personal injuries, suffered bodily injury resulting in pain and suffering, disability, disfigurement, scarring, mental anguish, loss of the capacity for enjoyment of life, medical and nursing care and treatment, loss of ability to earn money and/or aggravation of previously existing conditions.

**WHEREFORE**, Plaintiff demands the entry of a Final Judgment against Capital for money damages in excess of the minimum jurisdictional limits of this Court, reasonable costs and such other and relief as this Court deems just and proper.



**DEMAND FOR JURY TRIAL**

Plaintiff hereby demand trial by jury of all issues that are so triable as a matter or right.

Dated: March 30, 2022.

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