

STATE OF INDIANA ) IN THE MARION COUNTY SUPERIOR COURT 7  
 )  
 ) SS:  
COUNTY OF MARION ) CAUSE NO.: 49D07-1803-PL-008919  
  
OCEANPOINTE INVESTMENTS, )  
RED BIRCH PROPERTIES, LLC, )  
Plaintiffs/Counter-Defendants, )  
 )  
vs. )  
 )  
WENCY GENTILLION, )  
RANIESIA GENTILLION, and )  
RANIESIA GENTILLION as Next )  
Best Friend of ROBERT STEPHENS )  
and JAHHNEISE STEPHENS as )  
Next Best Friend of JA'BRIA )  
STEPHENS. )  
Defendants and Counterclaim )  
and Crossclaim Plaintiffs. ) Jury Trial Demanded.

**ANSWER, AFFIRMATIVE  
DEFENSES, AND COUNTERCLAIMS**

COMES NOW Defendants/Counterclaim and Crossclaim Plaintiffs, Wency and Raniesia Gentillion, Raniesia Gentillion as next best friend of Robert Stephens, and Jahhneise Stephens as Next Best Friend of Ja'Bria Stephens, by counsel, Andrew A. Ault, and for their Answer, Affirmative Defenses, Counterclaims, and Crossclaims, state the following:

**ANSWER**

Wency and Raniesia Gentillion generally deny all allegations contained in the Complaint filed by Plaintiff, OceanPointe Investments Limited, Inc., (hereinafter "Plaintiff"), and joined Plaintiff Red Birch Properties, LLC, owner of the property.

### AFFIRMATIVE DEFENSES

1. The Complaint, in whole or in part, fails to state a claim upon which relief can be granted.
2. First Material Breach of contract was committed by Plaintiff.
3. Plaintiff's claims are barred, in whole or in part, by one or more of the equitable doctrines of detrimental reliance, unclean hands, laches, waiver, acquiescence, unconscionability, unjust enrichment, set-off, and estoppel.
4. Plaintiffs failed to mitigate their damages.
5. Plaintiff's claim may be barred by other affirmative defenses or optional counterclaims that cannot be plead at this time. Defendants reserve the right to assert additional affirmative defenses and counterclaims at such time as more information arises.

### COUNTERCLAIM and CROSSCLAIMS

COME NOW Defendants/Counterclaim, and Crossclaim Plaintiffs for their Counterclaims and Crossclaims and state the following:

### FACTUAL BACKGROUND

1. Defendants Wency and Raniesia Gentillion entered into a Rental Lease Agreement (hereinafter "Lease") with Plaintiff on or about June 1, 2017 for the subject Property located at 1313 Eugene Street, Indianapolis, Indiana 46208.
2. When the Gentillions applied for the lease, they listed their two children on Plaintiff's form application as children living with them. The two children living with them were Crossclaim Plaintiffs Jahneise Stephens and Robert Stephens.

3. As soon as the Gentillions moved in they realized that the house was not habitable. The electricity was not working or available for the first two weeks of their possession of the property.
4. In the coming weeks it became clear that the property was in need of serious repair before the property could comply with basic habitability standards.
5. In July of 2017, Defendants presented a list of basic repair needs to Plaintiffs. Plaintiffs ignored the request.
6. In September of 2017, Defendants again presented a list of basic repair requests which were also denied.
7. In October of 2017, Defendants reported to the Marion County Health Department their issues with the property. A Department representative inspected the property, cited Plaintiffs for various code violations, and demanded that Plaintiffs make adequate and necessary repairs. Plaintiff did not comply with the Department's demands for code compliance.
8. Because of the uninhabitable conditions of the property, Defendants had to seek out and pay for (when they could afford it) hotels and other shelter on multiple occasions during the period beginning in October 2017 and throughout the late fall and winter of 2017-2018.
9. Defendants incurred major economic expenses due to the necessity of purchasing space heaters, blankets, and short-term rent agreements to live with friends. Defendants' money was depleted from the expenses, and they were left without any financial ability to seek other housing, forcing them to stay in the home during the coldest months of winter.

10. The unhealthy and unstable living conditions caused damage to the family's mental and physical health.
11. Due to the poor repair and upkeep of the home, in December of 2017 a piece of the ceiling fell on Robert Stephens, Raniesia's Gentillion's teenage son.
12. Robert Stephens was covered in dust, debris, and rotted materials from the ceiling. Robert has asthma which compounded the severity of this occurrence. Raniesia immediately sought treatment for Robert at Eskenazi hospital. Robert received ongoing treatment for the back pain caused by the ceiling falling on him.
13. Defendants notified Plaintiffs of this event, but Plaintiffs made no effort to address the fact that the ceiling fell on Robert Stephens.
14. It was so cold in the home that water would freeze if left out. Consequently, the pipes froze, and sewage backed up into Defendant's kitchen. It was only when Defendant's called Rafael Sanchez, of ABC's RTV6, did Plaintiffs begin to acknowledge some of the contemptible conditions of the home. Even after some repairs were initiated, the conditions of the house remained in disrepair.
15. Jahhneise Stephens became pregnant in October of 2017. The uninhabitable conditions of Jahhneise's home, including extreme indoor cold and sewage problems, and the resulting housing instability and brief periods of homelessness, caused stress and physical hardship during the entirety of her pregnancy.
16. Plaintiff's failure to provide a habitable home for Defendants and their children caused extreme physical and emotional distress. The stress proximately caused and contributed to the premature birth and subsequent death of Ja'Bria Stephens in February of 2018.

17. Plaintiff's failure to provide a habitable home for Defendants has caused financial distress and harm to Defendants. Defendants have paid and continue to pay for repairs that are Plaintiff's responsibility, and this eviction proceeding has impeded Defendant's ability to seek appropriate housing elsewhere.

**CAUSES OF ACTION**

Counterclaim and Crossclaim Plaintiffs are entitled to recover damages from Plaintiff based on the theories of liability listed below in Counts I-VII and under such other theories of liability as may be appropriate as more information arises.

**COUNT I – Breach of Contract**

1. Plaintiffs breached one or more duties to perform the contract with Defendants, proximately causing damages, consequential damages, and exemplary damages.

WHEREFORE Defendants pray for relief and judgment on count I, seeking rescission of the contract, actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT II – Breach of Statutory Landlord Duties IC 32-31-8-5 et. seq.**

1. Plaintiffs failed to deliver the property in a safe, clean, and habitable condition.
2. The property was not and is not maintained in a safe, clean, and habitable condition.
3. Plaintiff failed to maintain the property up to local housing health and housing codes.

WHEREFORE Defendants pray for relief and judgment on count II, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT III Breach of Express or Implied Warranty of Habitability**

Plaintiffs have failed to maintain the property in breach of express and implied warranties of habitability, proximately causing damages to Defendants and Crossclaim Plaintiffs.

WHEREFORE Defendants pray for relief and judgment on count III, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT IV – Crossclaim Plaintiff Robert Stephens - Negligence**

1. Plaintiffs had a duty to maintain the premises in a safe, clean, and habitable environment.
2. Plaintiffs breached that duty by delivering the premises to Defendants and Crossclaim Plaintiffs in a dangerous and uninhabitable condition, refusing to repair said condition.
3. Plaintiff's negligence proximately caused physical harm and emotional distress to Crossclaim Plaintiff Robert Stephens.

WHEREFORE Defendants pray for relief and judgment on count IV, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT V – Crossclaim Plaintiff Robert Stephens – Negligence Per Se**

1. Plaintiffs violated IC 32-31-8-5 et. seq., and the health ordinances enforced by the Marion County Health and Hospital Corporation.

2. Plaintiff's violation of an Indiana Statute and local health ordinances are per se negligence as to Crossclaim Plaintiff Robert Stephens.
3. Mr. Stephens suffered physical and emotional damages proximately and contributorily caused by Plaintiff's failure to obey its statutory landlord obligations and local health ordinances.

WHEREFORE Defendants pray for relief and judgment on count V, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT VI – Crossclaim Plaintiff Robert Stephens – Res Ipsa Loquitur**

1. Robert Stephens was struck in the head and back with the ceiling of the property that fell on top of him.
2. Under any set of normal, safe, and lawfully compliant circumstances, the ceiling of a residence would not of its own accord fall and cause injury.
3. The matter speaks for itself, Plaintiff negligently caused the injury of Robert Stephens.

WHEREFORE Defendants pray for relief and judgment on count VI, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT VII – Crossclaim Plaintiff Ja’Bria Stephens – Wrongful Death**

1. Plaintiffs failed to provide a habitable residence to its tenants in the middle of winter, causing extreme physical and emotional stress, cold, unsanitary conditions, homelessness, and an unstable and unhealthy living environment.
2. Plaintiffs failure to provide habitable living conditions to Jahneise Stephens caused the premature birth and death of Ja’Bria Stephens.

WHEREFORE Defendants pray for relief and judgment on count VI, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**COUNT VII – Intentional and Negligent Infliction of Emotional Distress**

1. In leaving the property uninhabitable for its tenants, Plaintiffs both intentionally and negligently caused emotional distress upon Defendants and Crossclaim Plaintiffs.
2. The emotional distress was severe, causing mental and emotional anguish and suffering upon all tenants, but in particular Raniesia Gentillion, who experience emotional distress and undertook to treat it through therapy and counseling.

WHEREFORE Defendants pray for relief and judgment on count VII, seeking actual and consequential damages, exemplary damages, attorney fees, and all other relief just and appropriate in the premises.

**Jury Demand**

Defendants and Crossclaim Plaintiffs hereby demand a trial by jury on all claims to triable.



Respectfully Submitted,

/s/Andrew A. Ault  
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**CERTIFICATE OF SERVICE**

A copy of the foregoing was served upon all counsels of record through the court's efile system.

/s/Andrew A. Ault  
Andrew Ault