

**IN THE CIRCUIT COURT OF THE NINETEENTH JUDICIAL CIRCUIT
IN AND FOR MARTIN COUNTY, FLORIDA**

SFR SERVICES, L.L.C., RICKY MCGRAW,
ELITE CLAIMS CONSULTANTS, LLC,
MATTHEW MCGRAW, JESSICA MCGRAW,
MCGRAW PROPERTY SOLUTIONS, LLC, and
MCGRAW ASSET MANAGEMENT, LLC,

CASE NO.:

Plaintiffs,

v.

ZINOBER, DIANA & MONTEVERDE, P.A., and
MICHAEL A. MONTEVERDE,

Defendants.

COMPLAINT

Plaintiffs, SFR Services, L.L.C. (“SFR”), Ricky McGraw, Elite Claims Consultants, LLC (“Elite Claims Consultants”), Matthew McGraw, Jessica McGraw, McGraw Property Solutions, LLC (“McGraw Property Solutions”), and McGraw Asset Management, LLC (“McGraw Asset Management” and collectively, “Plaintiffs” or the “McGraw Parties”), by their undersigned counsel, sue Defendants, Zinober, Diana & Monteverde, P.A. (“Zinober Diana & Monteverde”) and Michael A. Monteverde (“Monteverde” and collectively, “Defendants”), and allege:

INTRODUCTION

1. This is a case involving a coordinated and calculated effort by Defendants – a law firm and one of its equity partners – to file a meritless lawsuit against SFR, Ricky McGraw, Matthew McGraw, Jessica McGraw, Elite Claims Consultants, McGraw Property Solutions, and McGraw Asset Management to inflict economic and emotional harm on Plaintiffs and destroy their businesses. This case also involves a plan by Defendants to challenge property damage claims by any means necessary. The underlying lawsuit discussed below was styled *American Capital*

Assurance Corp. v. SFR Services, L.L.C. et al., Case No. 20-000537-CA, which was pending in the Nineteenth Judicial Circuit in and for Martin County, Florida (the “State Court Action”).

2. Part of Defendants’ law practice is to defend insurance companies in property damage litigation. Instead of being satisfied with their insurance defense practice representing carriers when homeowners and their assignees commence litigation due to delay, underpayment, or nonpayment of claims, Defendants went further by falsely accusing Plaintiffs of participating in an insurance fraud scheme.

3. Defendants used American Capital Assurance Corp. (“AmCap”) as the Plaintiff (an insurer now in receivership) to wrongfully accuse Plaintiffs of criminal acts and other misconduct. The goal was not only to prevent Plaintiffs from resolving claims, but to destroy Plaintiffs, their businesses, and extract more favorable claim resolutions on behalf of AmCap and other insurers Defendants represent.

4. The gist of the underlying State Court Action involved a purported scheme whereby SFR and a property owner signed an Assignment of Benefits (AOB) contract under the auspices that SFR would repair or replace a damaged roof(s) approve by the insurer at a market rate price. Yet, Defendants alleged SFR had no intention of acting reasonably in these circumstances.

5. Defendants alleged SFR and the other McGraw Parties fraudulently inflated repair and replacement estimates, which were then submitted to AmCap for payment under the threat of litigation and prevailing party fees. Property damage insurance defense is a lucrative part of Defendants’ business. Defending AmCap and other carriers against claims submitted by SFR is apparently a cottage practice for Zinober, Diana, & Monteverde, as well as for Michael A. Monteverde, which included filing the meritless State Court Action. Challenging claims and reaping attorneys’ fees for their efforts only increased Defendants’ bottom line.

6. At some point prior to 2020, after resolving a multitude of AOB claims for roof repairs and replacements, Defendants concocted the notion that SFR and the other McGraw Parties engaged in a pattern of insurance fraud and other illicit activities. These efforts would foreshadow a chain of events that significantly and negatively impacted the revenue and profits for all of the Plaintiffs here. Defendants filed the State Court Action on June 27, 2020, which remained pending through September 16, 2021.

7. Indeed, Defendants did not advance the State Court Action in any material respect, and voluntarily dismissed it over a year after it was initially filed. During this time, Defendants used the State Court Action for illicit purposes, aimed to harm Plaintiffs' businesses, and their ability to be paid for work performed. Plaintiffs' profits declined significantly, which was the desired chilling effect Defendants intended to achieve.

8. The filing and prosecution of Defendants' lawsuit constituted a malicious prosecution, an abuse of process, and inflicted emotional distress on Ricky McGraw, Matthew McGraw, and Jessica McGraw. The purpose of the State Court Action was to harm Plaintiffs' businesses and their livelihoods. Defendants achieved this intended result, and due to Defendants' wrongful conduct, Plaintiffs incurred substantial damages.

JURISDICTION, PARTIES, AND VENUE

9. This is an action in excess of \$30,000, exclusive of interest, costs, and attorneys' fees.¹

10. Plaintiff SFR is a Florida limited liability company with its principal place of business in Martin County, Florida.

¹ The estimated value of Plaintiffs' claims are in excess of the minimum jurisdictional threshold required by this Court. The actual value of his claims will be determined by a fair and just jury in accordance with Article 1, Section 21, Fla. Const.

11. Plaintiff Ricky McGraw is an individual who resides in Puerto Rico and is otherwise sui juris.

12. Plaintiff Elite Claims Consultants is a Florida limited liability company with its principal place of business in Lee County, Florida.

13. Plaintiff Matthew McGraw is an individual who resides in Lee County, Florida and is otherwise sui juris.

14. Plaintiff Jessica McGraw is an individual who resides in Puerto Rico and is otherwise sui juris.

15. Plaintiff McGraw Property Solutions is a Florida limited liability company with its principal place of business in Martin County, Florida.

16. Plaintiff McGraw Asset Management is a Florida limited liability company with its principal place of business in Martin County, Florida.

17. Defendant Zinober, Diana, & Monteverde is a Florida corporation with its principal place of business in Pinellas County, Florida.

18. Upon information and belief, Defendant Monteverde is an individual residing in Broward County, Florida and is otherwise sui juris.

19. Pursuant to Sections 47.011, 47.021, 47.041, and 47.051 of the Florida Statutes, venue is proper in Martin County, Florida. The events giving rise to this action arose and occurred in Martin County, Florida, the causes of action alleged herein all accrued in Martin County, Florida, all of the Defendants conduct substantial business in Martin County Florida, and the State Court Action giving rise to this case was filed and prosecuted in Martin County, Florida.

20. All applicable conditions precedent to the filing of this lawsuit have been performed, waived, excused, or satisfied.

21. Plaintiffs retained the undersigned counsel to represent their interests in connection with the above-captioned case, and are obligated to pay undersigned counsel reasonable attorneys' fees and costs for services rendered.

GENERAL ALLEGATIONS

A. DESPITE DEFENDANTS' ASSERTIONS, PROPERTY LOSS IS A FREQUENT OCCURRENCE IN FLORIDA.

22. It is not a secret that property damage insurance claims are prevalent in Florida due to the occurrence of hurricanes, floods, and other storm-related events. Property owners rely on their insurance companies and the policies purchased as life preservers after problems occur, and certainly after disasters strike.

23. In recent years, Florida has experienced an increase in extreme weather events that damage residential² and commercial properties. Studies suggest the types of storms Florida has experienced will become "more frequent and intense."³

24. Homeowners usually purchase and pay premiums for insurance that is designed to "provide[] financial protection against loss due to disasters, theft and accidents" and that "pays to repair or rebuild your home if it is damaged or destroyed by fire, hurricane, hail, lightning or other disasters listed in your policy."⁴ Homeowners are advised by both insurers and by the State to "[p]urchase enough coverage to rebuild your home."⁵

² The Climate Reality Project, "Climate Change and Florida: What You Need to Know" (Oct. 16, 2018), available at <https://www.climaterealityproject.org/blog/how-climate-change-affecting-florida>.

³ Environmental Protection Agency, "Climate Change Indicators: Weather and Climate," available at <https://www.epa.gov/climate-indicators/weather-climate>.

⁴ Insurance Information Institute, "What is covered by standard homeowners insurance?," available at <https://www.iii.org/article/what-covered-standard-homeowners-policy>.

⁵ *Id.* See also Florida Dep't of Financial Services, "Homeowners' Insurance: A Toolkit for Consumers," at 3 (available at <https://www.myfloridacfo.com/division/consumers/understandingcoverage/guides/documents/homeownerstoolkit.pdf>).

25. Home repair after a storm is a high priority. A home may be a resident's largest lifetime investment. Damage to a home can grow worse with neglect, which affects the building's structural integrity, and permits the development and growth of dangerous, health-threatening mold, carcinogens, or spores. Such damage also increases the vulnerability of the structure to milder weather events.

26. Storms can remove shingles from roofs, damage walls or siding, and break windows. After a home is damaged, homeowners are often advised to document the damage as soon as possible, which is especially important if a homeowner's insurance policy only covers certain types of damage.

27. To do so, the Florida Department of Financial Services advises consumers to first "obtain[] a repair estimate from a licensed contractor" to determine if "the damage exceeds your deductible by an amount that you believe to be sufficient to justify filing a claim with your insurance company, [and] then do so as soon as possible."⁶

B. HOMEOWNERS' RIGHTS AND THE USE OF ASSIGNMENT OF BENEFITS CONTRACTS ARE STATUTORILY PROTECTED RIGHTS IN FLORIDA.

28. While Defendants certainly do not like the prevalence of AOBs, the Florida Legislature believes homeowners' rights are so critical that it codified a Homeowner Claims Bill of Rights (the "Homeowner Bill of Rights) into law, which is set forth in Section 627.7142 of the Florida Statutes.

29. While the Homeowner Bill of Rights is not intended to list every right recognized under Florida law, it does state homeowners generally have the statutory right to choose the contractors that repairs damage to a home with respect to an insurance claim.

⁶ *Id.* at 29.

30. In this connection, AOBs are frequently used in the property damage industry to make the claims process more efficient for the homeowner and the contractor. Fundamentally, an AOB is a written agreement that permits an insured to voluntarily assign his or her rights and insurance benefits to a third-party contractor.

31. Once signed, the contractor “steps into the shoes” of the policyholder and allows the contractor (i) to discuss the insurance claim with the carrier; (ii) to bill the insurer directly for work performed and materials furnished for the benefit of the insured; (iii) to be paid directly by the carrier; and (iv) if necessary, commence an action against the insurance company to collect amounts due and owing to the contractor.

32. AOBs are not new and have been used for a long time, especially during emergency weather situations. In Florida, AOBs are prevalent in the residential property context when homeowners suffer damage to their home and need to hire contractors to repair the issues.

33. When damage does occur, immediate remediation is often required to protect against further storms, water leakage, or other types of damage and allows a homeowner to continue to reside on the property while preventing further serious damage to the home.

34. Here, AOBs are regulated in Florida pursuant to Section 627.7152 and 627.7153 of the Florida Statutes. These laws became effective in 2019.

35. During the pendency of the State Court Action, Section 627.7152 worked in tandem with Section 627.428 and 627.70152 of the Florida Statutes because the right to recover attorneys’ fees in actions against insurers had been adopted as the legislative preference in Florida for more than sixty (60) years.

36. Homeowners typically exercise their AOB rights under their insurance contracts so the contractors making the repairs can handle the claim without the need for a homeowner's constant involvement with the insurance company, an approach that many homeowners find preferable.

37. Many homeowners lack extensive familiarity or experience with the claims process, which can be daunting and stressful. AOBs also allow repairs to be made without the homeowner fronting the cost of the remediation and then seeking reimbursement from insurers.

C. AMCAP RETAINED DEFENDANTS TO FILE THE STATE COURT ACTION.

38. While SFR does execute AOBs with property owners to perform its work, any assertion that it and the other McGraw Parties are or were connected and intricately intertwined with an insurance fraud scheme is categorically false.

39. Once AmCap and Defendants learned SFR and the other McGraw Parties were highly profitable and successful businesses, they devised an illicit plan to harm Plaintiffs and their livelihoods.

40. On June 27, 2020, AmCap and Defendants filed the State Court Action. A copy of the Complaint is attached hereto as **Exhibit A**.

41. The intended purpose of the State Court Action was to complete the illicit plan – accuse SFR and the McGraw Parties of fraud to negatively impact their businesses and the livelihood of the owners.

42. Accusing SFR and the other McGraw Parties as the players in a massive insurance fraud scheme helped AmCap and other carriers to challenge the properly submitted insurance claims that were payable to SFR by virtue of its AOBs with the insureds. The State Court Action

also benefited Defendants because, upon information and belief, they were paid significant attorneys' fees for their efforts.

D. THE STATE COURT ACTION WAS MERITLESS AND INFLAMMATORY.

43. Defendants alleged SFR and the McGraw Parties participated in an insurance fraud scheme that *(i) violated the Florida Deceptive and Unfair Trade Practice Act (FDUPTA); (ii) constituted a violation of the Racketeer Influenced and Corrupt Organization (RICO) Act; (iii) established a RICO conspiracy; (iv) was criminal insurance fraud; (v) and formed the basis for common law fraud, negligent misrepresentation, and unjust enrichment.* The State Court Action was highly inflammatory, has no basis in law or fact, and was not based on any credible evidence.

44. The purpose of the State Court Action was to serve as an unlawful tool to systematically harm SFR and the McGraw Parties, as well as an improper mechanism used to force Plaintiffs to resolve claims for a fraction of the money rightfully owed.

45. The Complaint in the State Court Action was fifty-eight (58) pages long and was quite repetitive. Yet, a summary of the baseless allegations are below, which are not intended to be exhaustive.

(i) The allegations against SFR were false.

46. SFR is a licensed general contractor with significant experience restoring and repairing commercial and multi-family properties in Florida damaged by hurricanes, windstorms, floods, and fires. SFR is a restoration company and handles projects involving repairing or replacing concrete and clay tile, shingled and flat roofs, replacing gutters, replacing windows and doors, sheetrock repairs, and repairs to other structural issues.

47. Defendants falsely alleged, in no uncertain terms, that SFR was not a licensed contractor. Compl. ¶¶16, 19. Additionally, Defendants wrongfully asserted SFR was a criminal

business enterprise, aimed to procure, through AOBs, the insurance rights of property owners to price gouge and defraud the insurance industry. *Id.* at ¶¶5-6.

48. Defendants Complaint was replete with baseless allegations suggesting it executed AOB contracts with insureds only to lie to the property owners afterwards about the amounts SFR would seek from carriers vs. the cost of the roof replacement. *Id.* The alleged misconduct also included SFR omitting its intention to universally seek more than 2x the market value of its work. *Id.* Again, such allegations were false when made, and not based on any credible evidence.

49. Doubling down on Defendants' baseless accusations, Defendants also alleged SFR systematically inflated its estimates using some proprietary software – Xactimate – *which is routinely used by the insurance industry when it adjust claims.* *Id.* at ¶¶40, 42. These estimates were purportedly the proof of the scheme, coupled with SFR's threats of litigation and prevailing party attorneys' fees under Chapter 627 of the Florida Statutes. *Id.*

50. Defendants falsely alleged SFR's services were fraudulent in nature, not supported by any comparable market values, and performed to purposefully bilk AmCap and other insurers out of millions of dollars. *Id.*

51. Critically, Defendants wrongfully alleged SFR is an insurance claims accumulator that places its immediate monetary interests above all other parties involved by way of deception and concealment. *Id.* at ¶49. In doing so, Defendants accused SFR of obtaining insurer funds by criminal activity, including fraud, false pretenses, and theft. *Id.*

(ii) *The allegations against Elite Claims Consultants were false.*

52. Elite Claims Consultants is a licensed insurance claims public adjusting firm that helps those affected by commercial or residential property damage handle insurance claims for property owners or contractors in terms of repair and/or replacement estimates.

53. Elite Claims Consultants supports property owners with respect to damage resulting from fires, floods, hurricanes, windstorms, hail, storms, and business interruption. The company assesses property damage, prepares and files the insurance claim, represents the property owner and advocates for the insured in negotiations with the insurer, and seeks to facilitate a fair settlement with the insurer to resolve the claim.

54. As part of the State Court Action, Defendants also falsely accused Elite Claims Consultants of acting solely at the behest of SFR to fraudulently provide claims estimates that facilitated the insurance fraud scheme to price gouge insurers under the supposed threat of litigation. *Id.* at ¶¶7-8. Matthew McGraw is the owner of Elite Claims Consulting. Defendants alleged, without any credible evidence, that Elite Claims Consultants was formed to facilitate and perpetrate insurance fraud. *Id.*

55. Critically, Defendants wrongfully alleged brothers Ricky McGraw and Matthew McGraw, and Jessica McGraw allegedly used Elite Claims Consultants for an illegal purpose. *Id.* at ¶¶76-80. Defendants falsely claimed Elite Claims Consultants' public adjusting services were performed to further the illicit scheme perpetrated by SFR by negotiating claims on behalf of SFR that it knew were purposely inflated and fraudulent for the benefit of itself, SFR, and the other McGraw Parties. *Id.*

(iii) *The allegations against Jessica McGraw, McGraw Property Solutions, and McGraw Asset Management were false.*

56. Defendants' allegations against these McGraw Parties were especially specious. To be clear, Defendants' version of an insurance fraud scheme did not exist. Jessica McGraw did not have any role in this story either. She also did not purposefully "finalize" fraudulent estimates to dupe insurers like AmCap into paying SFR substantial sums of money. *Id.* at ¶¶10; 83-86.

57. More importantly, Jessica McGraw did not illegally use shell entities like McGraw Property Solutions and McGraw Asset Management to hide ill-gotten insurance proceeds from AmCap and other insurers. *Id.* Despite Defendants unfounded assertions, she did not process alleged paperwork so SFR could receive substantial profits from an illegal insurance scheme. *Id.* And, Jessica McGraw did not and does not hold any ownership interest in McGraw Property Solutions.

58. Apparently, Defendants' theory was that Jessica McGraw was guilty by association. Perhaps more outrageous was Defendants' allegation that McGraw Asset Management – a company that simply owned real estate wholly unconnected to any of the facts or issues in the State Court Action – somehow also intentionally committed insurance fraud. *Id.*

E. DEFENDANTS DID NOT PROSECUTE THE STATE COURT ACTION IN ANY MATERIAL RESPECT.

59. In total, the State Court Action was pending for over one (1) year before AmCap and Defendants voluntarily dismissed the lawsuit. Defendants also falsely claimed that all parties agreed to bear their own fees and costs. At no point in time did AmCap or the Defendants serve any discovery in the case, conduct depositions, or otherwise endeavor to prove the action had any degree of merit.

60. Rather, SFR and the other McGraw Parties attempted to conducted discovery to prove the allegations were baseless and not based on any credible evidence. Yet, the damage was done. The State Court Action was enough to derail Plaintiffs' businesses and their livelihoods because the allegations (although false when made) were a matter of public record for all interested parties to review and examine. Critically, after the filing of the State Court Action, Defendants used the lawsuit in other unrelated proceedings to further harm Plaintiffs businesses.

CAUSES OF ACTION

COUNT I – MALICIOUS PROSECUTION (Against All Defendants)

61. Plaintiffs reallege the allegations contained in Paragraphs 1 through 60 above as if set forth fully herein.

62. This is an action against Defendants for malicious prosecution.

63. Defendants filed the State Court Action. They regularly represented AmCap and regularly represent other insurers defending property damage insurance claims filed by property owners and their assignees.

64. Defendants commenced the State Court Action against SFR and the other McGraw Parties, and continued the prosecution of the lawsuit for a significant period of time. As a result, Defendants were the legal cause of the action against SFR and the McGraw Parties, who were the Defendants in the underlying case.

65. Defendants voluntarily dismissed the State Court Action. AmCap is currently in a receivership and its failure to engage in any litigation against Plaintiffs regarding the underlying case demonstrates the dismissal constituted a bone-fide termination of the State Court Action in favor of SFR and the McGraw Parties.

66. Defendants lacked probable cause in filing and continuing to prosecute the State Court Action. Critically, the lawsuit had no reasonable prospect of success.

67. In fact, at all stages of the proceedings, probable cause did not exist to maintain the State Court Action because the causes of action, and the facts purportedly alleged, were false and not based on any credible evidence.

68. Further investigation was necessary before Defendants filed the State Court Action. The Defendants initiated the lawsuit based on facts that could equally be explained innocently.

69. Defendants commenced and continued the prosecution of the State Court Action even though a reasonable lawyer would not regard the lawsuit as tenable and/or the Defendants unreasonably neglected to investigate the facts and the law before filing and attempting to litigate the State Court Action. Thus, Defendants did not file the lawsuit and continue the prosecution of the case in good faith and for a legally justifiable reason.

70. As set forth in great detail above, Defendants filed the State Court Action for improper purposes and without substantial justification.

71. Defendants commenced and continued the State Court Action with actual and legal malice.

72. SFR and the McGraw Parties have been damaged as a direct and proximate result of Defendants' malicious filing and prosecution of the State Court Action. SFR and the McGraw Parties lost significant revenue and profits for over one (1) year the lawsuit remained pending. SFR and the McGraw Parties had to pay substantial attorneys' fees to defend the meritless State Court Action. And, Ricky McGraw, Jessica McGraw, and Matthew McGraw also suffered mental anguish from the lawsuit, which wrongfully asserted they engaged in insurance fraud.

WHEREFORE, Plaintiffs, SFR, Ricky McGraw, Elite Claims Consultants, Matthew McGraw, Jessica McGraw, McGraw Property Solutions, and McGraw Asset Management, respectfully request that this Court enter a judgment against Defendants, Zinober Diana & Monteverde, and Monteverde, jointly and severally, for the above compensatory and consequential damages, prejudgment interest, costs, and such other and further relief that this Honorable Court may deem just and proper.

COUNT II – ABUSE OF PROCESS
(Against all Defendants)

73. Plaintiffs reallege Paragraphs 1 through 60 above as if set forth fully herein.

74. This is an action against Defendants for abuse of process.

75. Defendants filed and prosecuted the State Court Action in order to coerce and/or induce SFR and the other McGraw Parties into discontinuing their lawful and legitimate businesses, and to resolve claims in unrelated proceedings for a fraction of the outstanding amounts owed. Additionally, the purpose of the State Court Lawsuit was to deter SFR and the other McGraw Parties from submitting claims to AmCap and other insurers as assignees for work performed related to property damage claims.

76. As a result, Defendants sought to obtain an improper and unlawful collateral advantage over SFR and the McGraw Parties. The State Court Action served as a bargaining chip for the Defendants – either capitulate and discontinue the business of submitting claims under AOBs or the State Court Action would remain pending for years, which would have a drastic and negative impact on Plaintiffs’ businesses and their livelihoods. The lawsuit also benefitted Defendants because, upon information and belief, they received significant attorneys’ fees for their efforts and helped AmCap and other insurers achieve what the insurance companies could not accomplish without the assistance of a law firm and its lawyers.

77. Defendants made an illegal, improper, or perverted use of process.

78. Defendants had ulterior motives or purposes in exercising such illegal, improper, or perverted use of process.

79. SFR and the other McGraw Parties have been damaged as a direct and proximate result of Defendants’ malicious filing and prosecution of the State Court Action. SFR and the other McGraw Parties lost significant revenue and profits for over one (1) year the lawsuit

remained pending. SFR and the McGraw Parties had to pay substantial attorneys' fees to defend the meritless State Court Action. And, Ricky McGraw, Jessica McGraw, and Matthew McGraw also suffered mental anguish from the lawsuit, which wrongfully asserted they engaged in insurance fraud.

WHEREFORE, Plaintiffs, SFR, Ricky McGraw, Elite Claims Consultants, Matthew McGraw, Jessica McGraw, McGraw Property Solutions, and McGraw Asset Management, respectfully request that this Court enter a judgment against Defendants, Zinober Diana & Monteverde, and Monteverde, jointly and severally, for the above compensatory and consequential damages, prejudgment interest, costs, and such other and further relief that this Honorable Court may deem just and proper.

COUNT III – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(Against All Defendants)

80. Plaintiffs Ricky McGraw, Matthew McGraw, and Jessica McGraw reallege Paragraphs 1 through 60 above as if set forth fully herein.

81. This is an action for intentional infliction of emotional distress against Defendants.

82. Defendants filed the State Court Action to deliberately or recklessly inflict mental suffering on Ricky McGraw, Matthew McGraw, and Jessica McGraw.

83. Since the allegations contained in the State Court Action were false when made, the filing and continued prosecution of the State Court Action constituted outrageous conduct. This conduct was so outrageous in character, and so extreme in degree, that it was intolerable and went beyond all possible bounds of decency in a civilized community.

84. As a direct and proximate result of Defendants filing and continuing the prosecution of the State Court Action, Ricky McGraw, Matthew McGraw, and Jessica McGraw suffered emotional distress. The distress inflicted on Ricky McGraw, Matthew McGraw, and Jessica McGraw was severe.

85. The extreme and outrageous character of Defendants' conduct arose from their knowledge that Ricky McGraw, Matthew McGraw, and Jessica McGraw were particularly susceptible to emotional distress, especially since Defendants developed a cottage legal practice of continuing to assert false allegations against them in other legal proceedings and publicize their allege conduct to third-parties.

86. The filing and continued prosecution of the State Court Action was heartless, flagrant, and outrageous when Defendants proceeded in the face of such knowledge.

87. Furthermore, Defendants' role as counsel to AmCap and other insurers put Defendants in a position of power to affect the interests of Ricky McGraw, Matthew McGraw, and Jessica McGraw.

WHEREFORE, Plaintiffs Ricky McGraw, Matthew McGraw, and Jessica McGraw respectfully request that this Court enter a judgment against Defendants, Zinober Diana & Monteverde, and Monteverde, jointly and severally, for the above compensatory damages, prejudgment interest, costs, and such other and further relief that this Honorable Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs demand a trial by jury on all counts so triable.

Dated: June 13, 2022

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IN THE CIRCUIT COURT OF THE 19TH
JUDICIAL CIRCUIT IN AND FOR
MARTIN COUNTY, FLORIDA

CIVIL DIVISION

CASE NO: _____

AMERICAN CAPITAL ASSURANCE
CORP.

Plaintiffs,

v.

SFR SERVICES, L.L.C., RICKY MCGRAW,
ELITE CLAIMS CONSULTANTS, LLC,
MATTHEW MCGRAW, MCGRAW
PROPERTY SOLUTIONS, LLC, JESSICA
MCGRAW, and MCGRAW ASSET
MANAGEMENT, LLC

Defendants.

_____/

COMPLAINT FOR DAMAGES

Plaintiff AMERICAN CAPITAL ASSURANCE CORP. (“AmCap”), by its undersigned counsel, hereby files this Complaint for Damages against SFR SERVICES, L.L.C., RICKY MCGRAW, ELITE CLAIMS CONSULTANTS, LLC, MATTHEW MCGRAW, MCGRAW PROPERTY SOLUTIONS, LLC, MCGRAW ASSET MANAGEMENT, LLC, and JESSICA MCGRAW(collectively, the “Defendants”), and in support thereof, states as follows:

JURISDICTION AND VENUE

1. The instant lawsuit is one for monetary damages arising out of violations of the following Florida statutes: Florida’s Fraudulent, Deceptive and Unfair Trade Practices Act (“FDUTPA”), codified at Fla. Stat. § 501.201, *et. seq.*; Florida’s Civil RICO statute and Florida’s “Civil Remedies for Criminal Practices Act”, codified at Fla. Stat. § 772.101, *et seq.*

EXHIBIT "A"

2. This action also seeks damages arising out of acts and instances of common law fraudulent conduct and for unjust enrichment and negligent misrepresentation.

3. AmCap is a Florida corporation that is authorized to conduct insurance business in Florida, and which maintains its principal place of business in Pinellas County, Florida.

4. Defendant SFR SERVICES, L.L.C. (“SFR Services”) is a Florida Limited Liability Company with its principal place of business in Martin County, Florida.

5. SFR Services purports to offer roofing services in Florida. In reality, it is a business enterprise that aims to procure the insurance rights of homeowners, condominium associations, and other property owners in Florida for the sole purpose of attempting to use said rights to price-gouge and defraud insurance companies, including AmCap.

6. Defendant RICKY MCGRAW (“McGraw”) is an individual who resides in Martin County, Florida, and is a managing and authorized member of SFR Services, McGraw Property Solutions, LLC, and McGraw Asset Management, LLC. RICKY MCGRAW at all times relevant hereto had control over all business decisions and business practices of SFR Services.

7. Defendant ELITE CLAIMS CONSULTANTS, LLC (“Elite Claims”), is a Florida Limited Liability Company with its principal place of business in Estero, Florida, but conducting business throughout the State of Florida, including but not limited to Martin County, Florida. Elite Claims purports to be a Florida-licensed public adjusting firm but was incorporated in whole or in part for the purpose of illegitimately driving up claim settlement amounts, and to allow SFR Services to avoid the unlicensed adjusting of insurance claims.

8. Defendant, MATTHEW MCGRAW (“M. McGraw”), is an individual who resides in Lee County, Florida, and is a managing and authorized member of Elite Claims. At

times relevant to this litigation M. McGraw was also an employee, representative, agent, principal, member, and/or owner of SFR Services.

9. Defendant MCGRAW PROPERTY SOLUTIONS, LLC (“McGraw Property”) is a Florida Limited Liability Company with its principal place of business in Stuart, Florida. Upon information and belief, McGraw Property is the entity utilized by the other named defendants to finalize the fraudulent estimates prepared by SFR Services and/or Elite Claims, process subcontractor invoices, and in many instances, is the entity issuing payment to SFR Services’ employees/independent contractors. McGraw Property also, upon information and belief, receives the benefit of the overpayments made by AmCap to SFR Services.

10. Defendant, JESSICA MCGRAW (“J. McGraw”), is an individual who resides in Martin County, Florida, and works for SFR Services, McGraw Property, and McGraw Asset Management, LLC. In fact, upon information and belief, JESSICA MCGRAW has an ownership interest in all of the defendant entities referenced herein and derives financial benefit from all of them.

11. Defendant, MCGRAW ASSET MANAGEMENT, LLC (“McGraw Assets”) is a Florida limited liability company with its principal place of business located in Martin County, Florida.

12. Venue is proper in Martin County, Florida as five of the seven named defendants live in or have their principal place of business located in Martin County. Venue is proper for the two named defendants who live in or have their principal place of business located in Lee County, Florida under Fla. Stat. § 47.021.

13. Jurisdiction is proper with this Court as the amount in controversy is in excess of \$30,000, exclusive of any claim for attorneys’ fees, costs, and interest.

14. All conditions precedent to the filing this action have either been satisfied or waived by Defendants.

GENERAL ALLEGATIONS

15. SFR Services has been a going concern in Florida since at least 2004.

16. At all times material to this action, SFR Services has purported to be a general contracting firm in Florida. As of March 16, 2020, SFR Services also held itself out as a licensed roofing contractor. It should be noted that SFR Services held itself out as a roofer even prior to obtaining a roofing contractor's license through the state of Florida.

17. SFR Services' qualifier for its general contracting business has at times relevant to this lawsuit been an individual named Nicky Lee Brown, II ("Brown"). Brown maintains a Florida Certified General Contractor's license in Florida (license number CGC050863). SFR Services recently changed its qualifier to William Kirk Jynella (license number CGC1528824).

18. Brown does not have a roofing contractor's license.

19. SFR Services was not qualified at times relevant to this lawsuit to perform roofing work. Only since March 16, 2020 has it been a licensed roofing contracting firm.

20. SFR Services virtually always subcontracts out all of its roofing work to other roofing contractors and handymen. It never discloses the amounts that it pays to these subcontractors to AmCap.

21. Until approximately early 2018 SFR Services was owned and/or managed primarily by Brown.

22. Between September 9, 2017 and September 11, 2017, Hurricane Irma made landfall and impacted the state of Florida, causing damage to property throughout the state.

23. Soon after Hurricane Irma, Brown contacted Ricky McGraw and another individual, Koh Scott Knox (“Knox”), who were performing, *inter alia*, roofing work in the state of Indiana. Upon information and belief, Knox was a licensed roofing contractor in Indiana.

24. Brown contacted Ricky McGraw and Knox to ask them to assist SFR Services with performing roof work on homes impacted and/or damaged by Hurricane Irma.

25. In early 2018, McGraw and Knox took over ownership of SFR Services from Brown. Knox and McGraw became 50/50 owners of SFR Services in 2018.

26. Additionally, SFR Services registered the fictitious name “Knox Services” with the Florida Division of Corporations in 2018.

27. Starting in late 2017, after Hurricane Irma, SFR Services began entering into what are colloquially referred to as “Assignment of Benefit Contracts” with homeowners, commercial property owners, and condominium/homeowner associations in Florida.

28. Pursuant to these Assignment of Benefits Contracts (“AOB contracts”), SFR Services sought to obtain the contractual rights of many of AmCap’s insureds.

29. SFR Services did so, and continues to do so, by way of promising these insureds a right and entitlement to brand-new roofs, which SFR Services promotes as a risk free, cost free, and time and expenditure-free proposition for the insureds, including AmCap’s insureds.

30. SFR Services further promises that it will handle all dealings with the insurance carrier, will submit all necessary documentation, and will then, ultimately, replace their roof with insurance company proceeds in a timely manner.

31. In doing so, SFR Services withholds material information from the insureds, which prevents them from fully considering the nature of the arrangement they are entering into with SFR Services. This includes information regarding the amount that SFR Services intends to seek from insurance carriers, such as AmCap, as SFR Services does not provide the insureds

with copies of its estimate or proposal at the time they sign the AOB contract. In fact, in many instances, SFR Services never provides a copy of its estimate to the insureds.

32. SFR Services does not advise the insureds that it plans on defrauding their insurance carriers by way of submitting inflated estimates, and that its goal is to give the insureds a roof or roofs worth significantly less than the amount it is paid under the insured's policy.

THE AOB CONTRACT

33. Each and every one of SFR Services' AOB contracts contains deceptive and/or incomplete language that is meant to mislead the underlying consumer/insured/carrier.

34. For example, a standard provision of the SFR Services' AOB contract presented to insureds for execution implies to the respective insured that SFR Services will endeavor to reach an agreement with the insurance carrier, and that SFR Services will make repairs to the insured property for a price agreed to by the carrier.

35. The provision provides as follows:

ASSIGNMENT OF BENEFITS: Customer assigns all insurance rights, benefits, proceeds, claims, causes of action, and supplementary claims under all applicable insurance policies (collectively, "Benefits") to Company for the Services rendered or to be rendered by Company. **Company will provide all labor and materials for the scope of work approved by or paid for by Carrier** (collectively, "Services"). Company shall commence provision of the Services within 36 months of the Effective Date ("Commencement Date").

36. By including this language or similar language in the AOB contract, SFR Services is expressly agreeing with the insured to perform the work *approved by* the insurer. The insured is led to believe that it will get a new roof or roof repairs in short order, despite the inclusion of extended time limits, such as a 36-month deadline, by which such "Services" must be performed. It is implied that SFR Services will endeavor in good faith to obtain such carrier approval.

37. Instead, SFR Services uses the AOB contracts to submit knowingly inflated estimates to insurance carriers, such as AmCap, often seeking more than double the going rate for a roof replacement in Florida.

38. Upon information and belief, SFR Services does not provide a copy of its estimate to the insured, leaving the insured completely unaware of the price gouging that is taking place by the company to which it purportedly assigned the claim.

39. Upon information and belief, SFR Services also does not advise its subcontractors of the inflated sums that it is charging for the subcontractors' services.

40. Through this scheme, SFR Services places itself directly in the middle of the contractual relationship that exists between AmCap and its insureds in an attempt to force AmCap to adjust the claim with SFR Services on its terms, using a fraudulently derived inequitable bargaining position. SFR Services, placing itself in the position of a first party insured by assignment, inflates its invoices and threatens insurers with filing vexatious litigation seeking attorneys' fees under the fee-shifting provisions of § 627.428 unless the insurer pays the inflated invoices. SFR Services has thus purposefully upset and interfered with normal market forces that would protect all consumers involved in this tripartite relationship that it deliberately manufactures.

41. Under normal market conditions, the party who is being asked to pay for a service has the right to choose or reject the vendor or contractor providing that service based on assessments of quality, efficiency, and price. Under such conditions, the party making payment can reject an estimate or proposal from a proposed vendor without fear of litigation or exposure.

42. However, what SFR Services has done is place itself in a position whereby it can purposefully demand inflated and fraudulent prices from AmCap for roofing work, prices that are not supported by any normal market conditions, knowing that it can always use the AOB

Contract to prevent AmCap from rejecting SFR Services' proposal in favor of a more reasonable, market based proposal.

43. In many of SFR Services' AOB contracts, rescission rights are often not afforded to the insured, although SFR Services is legally obligated to do so pursuant to Fla. Stat. § 627.7152(2)(a)(2). As a result, in such instances, SFR Services is proceeding as the purported assignee with an invalid and unenforceable agreement in hand.

44. SFR Services represents to the insureds that it will do work approved and agreed to by the carrier in exchange for the assignment. It then submits a grossly inflated estimate to the carrier and demands payment as a party that now purports to hold direct contractual rights under the policy as an assignee. In doing so, SFR Services obstructs and delays the coverage process, as it is intentionally seeking to obtain sums to which it is not legally entitled from AmCap and other insurance carriers through its submission of inflated estimates, rather than working in good faith with carriers towards a proper adjustment of the claim.

45. In the end, SFR Services co-opts the insurance claims of innocent insureds under the pretense of making repairs for an amount approved by the insurance carrier. In reality, SFR Services utilizes the AOB contract as a device to overcharge AmCap and other carriers, under the threat of litigation and an award of first party attorneys' fees, since SFR Services, by the assignment, obtains the benefit of fee-shifting statutes intended to protect insureds. This conduct inures only to SFR Services' benefit and to the detriment of both the insureds and the carriers.

46. More importantly, SFR Services interferes with the contractual relationship that exists between the insureds and the carriers, such as AmCap, and leverages a proportionately unequal bargaining position afforded by fee-shifting statutes—since it has no proverbial “skin in the game”—to try to exact exorbitant and inflated fees for roof replacements.

47. In fact, even in cases where AmCap has agreed to provide its insureds with new roofs, has agreed to replace the roofs itself with its own retained licensed and insured contractors, and takes on the additional risk of doing so, SFR objects and inhibits this process, and even files vexatious lawsuits to try to stop AmCap from providing its insureds with full roof replacements.

48. If AmCap does not agree to the gross overpayment that SFR Services demands, then SFR Services simply refuses to do the work it contracted to perform for the insured, which often forces the parties into unnecessary litigation. Upon information and belief, the insured many times has no idea this is occurring.

49. In reality, SFR Services is not a roofing contractor or a general contractor as those terms are traditionally known. Rather, SFR Services is an insurance claim accumulator that places its immediate monetary interests above all other parties involved by way of deception and concealment. In so doing, it obtains the funds of insurers by criminal activity including fraud, false pretenses, and theft as proscribed by Chapter 812 and Chapter 817, Florida Statutes.

THE SCHEME

50. SFR Services' scheme is one of pure voracious accumulation of insurance rights, with no regard for the contractual rights or well-being of the insureds or the carriers (*i.e.*, the consumers), and is carried out for the sole purpose of enriching itself at the expense of its "customers" and "clients".

51. Simply put, SFR Services convinces an insured that it will replace the insured's roof for a claim value approved and paid for by AmCap.

52. Once the insured signs the AOB contract, SFR Services then provides an egregiously inflated estimate to AmCap and demands payment of the estimate under the threat of litigation.

53. The estimate is in many instances two to three times higher than the general market rate for the same work, and is two to three times more than the value of the work that SFR Services represents to the building department in the permit application.

54. Upon information and belief, SFR Services does not provide a copy of the estimate to the insured prior to having them sign the AOB contract, nor does it provide a copy to the insured when it submits same to AmCap.

55. In fact, in some instances, SFR Services does not even contract directly with the insured, but instead with the insured's property manager. In those instances, upon information and belief, SFR Services does not communicate directly with the insured at any point in time regarding the assignment made to SFR Services or the claim being presented by SFR Services to AmCap.

56. SFR Services almost never does any work prior to receiving prepayment from AmCap. Meaning, SFR Services demands payment of the full value of the work it claims it will be performing before the work is performed. If AmCap does not agree to the value demanded by SFR Services, then the insured is left without a new roof or roof repairs.

57. When SFR Services does receive prepayment from AmCap, it employs laborers to perform the actual roof labor for a fraction of the amount it received from AmCap, thereby creating a hefty spread which it captures as profit. In reality, these are unjustly obtained gains that are extracted from AmCap by way of fraudulently inflated estimates and claim presentations.

58. Moreover, SFR Services also charges upwards of 21% of its total estimate as overhead and profit, under the guise that it is acting as a general contractor. To be clear, SFR Services does not actually perform services as a general contractor in this scenario. It is merely

the argument SFR Services uses to justify the inclusion of a 21% surcharge on an already inflated estimate.

59. In the most egregious cases, SFR Services runs the roof repair through a fictitious name that it owns to give the appearance of a contractor-subcontractor relationship, in furtherance of this fraudulent scheme, or it sometimes performs the work itself and still charges overhead and profit.

60. As a result of the foregoing, AmCap has been misled by SFR Services into paying more than the value of the actual work performed or to be performed, or is being forced to incur significant and substantial litigation costs and attorneys' fees as a result of the aforementioned conduct of SFR Services.

61. Moreover, SFR Services knowingly presents estimates to AmCap that seek insurance proceeds in excess of the value of the roof that SFR Services ultimately provides to the insured(s). Meaning, SFR Services uses the insured's claim as a mechanism to obtain ill-gotten gains for roof work at prices substantially higher than the going market rate.

RICKY MCGRAW

62. Ricky McGraw is, for lack of a more fitting title, the mastermind behind this ongoing scheme to defraud insurance carriers and frustrate the insurer-insured relationship.

63. His conduct, both individually and as a managing member of SFR Services, McGraw Property, and McGraw Assets has caused AmCap to incur substantial monetary sums in connection with litigation that resulted from such conduct.

64. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428.

65. In *SFR Services, LLC v. Tower Hill Prime Insurance Company*, Case No. 2019-000296-CA-AX—one of the hundreds of lawsuits filed by SFR Services—McGraw testified as the Rule 1.310(b)(6) representative of SFR Services.

66. McGraw provided false testimony regarding the fictitious names of SFR Services, the manner in which SFR Services charged for its services, the manner in which it prepared its estimates, and how SFR Services was paid and generated its income.

67. Such false testimony included McGraw's representation that Knox Services was not a fictitious name for SFR Services—a statement easily refuted by the public records available on the Florida Division of Corporation's website.

68. McGraw proffered this testimony in continuation of the fraud that has been perpetrated by SFR Services against insurance carriers, as it serves as the basis for SFR Services' inclusion of overhead and profit in its estimates.

69. Despite the fact that SFR Services and Knox Services were one and the same, McGraw maintained that SFR Services and Knox Services were separate entities, rather than a fictitious name under which SFR services did business, and that SFR Services was entitled to overhead and profit as a general contractor.

70. McGraw further testified that the only profit earned by SFR Services was the overhead and profit charged in the estimate, and that all other money charged went straight to the subcontractor roofer used on any given project.

71. Again, this was a blatant misrepresentation made by McGraw, as SFR Services pays its "subcontractors" a mere fraction of the amount received from carriers such as AmCap.

72. SFR Services knowingly submits inflated estimates to AmCap and other insurance carriers with the intent to capture profit both from the surcharge for overhead and

profit included in its estimate, and from the spread between the amount received from the carrier and amount paid to the “subcontractor.”

73. McGraw is personally and individually responsible for the estimating approach of SFR Services, which includes attempting to leverage its contractual position as a purported assignee of the insured to obtain multiples of the going rate for roof replacement and repairs in Florida.

74. McGraw’s intentional deceptive acts were meant to, and did, induce AmCap into paying well above market value for roof work done or to be done by SFR Services, all under the threat of litigation.

75. This was all done to the detriment of both AmCap and its insureds.

ELITE CLAIMS AND MATTHEW MCGRAW

76. In 2018, Ricky McGraw, Matthew McGraw, and/or Jessica McGraw realized another way to divert an even greater percentage of the claim settlement payments to their family’s accounts and companies, instead of to the insureds or those actually performing the roof work. Moreover, they were attempting to rectify the numerous instances of unlicensed contracting that had been committed by SFR Services.

77. M. McGraw obtained his public adjusting license and incorporated Elite Claims, a “public adjusting firm” that would charge another 10-20% for their “adjusting services.”

78. Elite Claims took over the “adjusting” side of the claims: communicating with AmCap on behalf of SFR Services, negotiating SFR Services’ intentionally inflated estimates, and on occasion, producing its own similarly inflated estimates using the same illegitimate methods as McGraw and SFR Services.

79. Despite now being a “public adjuster” and manager of SFR Services, M. McGraw performed the same functions as he had as an employee of SFR Services.

80. As a result of Elite Claims' and M. McGraw's conduct, numerous lawsuits have been filed between AmCap and SFR Services.

81. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428 from Elite Claims and M. McGraw.

82. Additionally, AmCap has been damaged by the presentation of the inflated estimates by Elite Claims, which are violations of Fla. Stat. § 817.234.

JESSICA MCGRAW, MCGRAW PROPERTY AND MCGRAW ASSETS

83. Upon information and belief, J. McGraw, McGraw's girlfriend/partner, was the individual who placed SFR Services' fraudulent estimates into final format before they were published to AmCap.

84. In addition to being involved with the fraudulent estimates, J. McGraw, in her capacity with McGraw Property and McGraw Assets, was also responsible for processing and paying the subcontractor invoices and accepting payment/proceeds for claims from AmCap.

85. In her capacity with McGraw Property and as McGraw's girlfriend/partner, J. McGraw was in the unique position of having access to both the estimates and invoices; by extension, she, perhaps more than anyone in this enterprise aside from McGraw himself, was keenly aware of, and played an active role in perpetuating, the insurance fraud.

86. J. McGraw has also personally reaped the benefits of McGraw's and SFR Services' fraud as she cohabitates with McGraw and shares in his lavish lifestyle funded by ill-gotten gains.

87. As a result of J. McGraw, McGraw Property's, and McGraw Asset's conduct, numerous lawsuits between AmCap and SFR Services have been filed and are, and have been, litigated. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and

costs incurred in these lawsuits, as well as the amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428 from McGraw Property, McGraw Assets, and J. McGraw.

**COUNT I – VIOLATION OF FLORIDA'S
DECEPTIVE AND UNFAIR TRADE PRACTICES ACT**
(Against SFR Services)

AmCap re-alleges and incorporates Paragraphs 1 through 87 as though fully set forth herein.

88. SFR Services has at all times relevant to this action engaged in unfair, deceptive, and unconscionable acts and/or engaged in acts of unfair competition.

89. These acts include what Florida courts have determined to be “bait and switch” tactics, “interference with business relations”, leveraging “proportionally unequal” bargaining positions, and practices that disadvantageously affect employees or consumers.

90. These acts are violations of Fla. Stat. § 501.201, *et seq.*, including Fla. Stat. § 501.211.

91. Additionally, SFR Services has committed *per se* violations of FDUTPA pursuant to Fla. Stat. § 501.203 and §501.211 by violating Fla. Stat. § 817.234, Fla. Stat. § 626.854, and Fla. Stat. 627.7152(2)(a)(2).

92. These acts and omissions committed by SFR Services have caused damage to the insured consumers, as well as AmCap as a consumer and a legitimate business interest.

i. Bait and Switch Tactics

93. With respect to “bait and switch” actions and omissions, SFR Services provides the insureds with an AOB contract that specifically provides that SFR Services will do the work, for which the claim is assigned, for an amount and scope agreed to by AmCap.

94. SFR Services provides this same contract to AmCap before demanding payment.

95. SFR Services then provides AmCap with egregiously and intentionally inflated estimates that reflect costs in excess of twice the market rate for similar work in Florida.

96. Based on its inflated estimate, SFR Services demands payment under the threat of litigation.

97. Upon information and belief, these estimates are never provided to the insureds by SFR Services, and in most instances the insureds are completely unaware of the amount SFR Services is seeking from AmCap. Even if they are, SFR never advises AmCap nor the insured of the fact that it is knowingly inflating its estimates based upon its actual labor and material costs.

98. In order to obtain an executed AOB contract, SFR Services represents to insureds that it will work in good faith to obtain carrier approval for roof replacements or roof repairs. It implies or outright represents that it will be seeking market rates for the work it is going to perform. However, once it obtains the insureds' rights through assignment, SFR Services' conduct could be considered neither good faith nor in the best interest of the insureds.

99. In carrying out its scheme, SFR Services holds the insureds' underlying assigned claims hostage while it relentlessly pursues payment of its patently inflated claim. This pursuit often, if not always, includes SFR Services' threat of litigation and its attendant costs.

100. These bait and switch tactics cause damages to AmCap and its insureds as consumers and, with respect to AmCap, as a legitimate business interest.

101. These damages include, but are not limited to, litigation costs, excessive claim payments, overpayment of claims, and attorneys' fees and costs pursuant to Fla. Stat. § 501.2105.

ii. Interference with Business Relations

102. AmCap has a contractual business relationship with its insureds.

103. SFR Services, its agents, servants and employees, all had knowledge of the business relationship between AmCap and its insureds at all times material to this action.

104. SFR Services engages in conduct that puts it directly in between the contractual relationship of AmCap and its insureds, and intentionally and unjustifiably interferes in that relationship.

105. First, SFR Services presents claims that are grossly inflated and do not serve the insureds' desires to have roof work completed at the insured properties.

106. Then, SFR Services demands payment of its inflated estimate under the threat of litigation.

107. As a result, SFR Services prevents AmCap from negotiating directly with its own insureds, resulting in economic damages to AmCap.

108. To that end, even in instances where AmCap has sought to invoke its own "right to repair" the insured property by providing its insureds with brand new roofs at its own cost, SFR interferes with AmCap's ability to do so by attempting to assert rights under its AOB contracts. This is despite AmCap having done no actual work at the properties involved, other than preparing an estimate, albeit an inflated one.

iii. Practices that Disadvantageously Affect Employees or Consumers

109. SFR Services presents its AOB contracts to insureds in a manner that makes it seem to the insureds that there is no obligation on the part of the insureds beyond payment of the deductible.

110. In some instances, SFR Services contracts directly with the insured's property manager, rather than the insured itself. In those instances, upon information and belief, SFR Services does not communicate directly with the insureds prior to acquiring their rights to insurance benefits or anytime thereafter.

111. Upon information and belief, SFR Services many times pays kickbacks to the property managers in order to secure the AOB Contracts. Such conduct constitutes commercial bribery.

112. Moreover, the AOB contracts represent that SFR Services will perform services approved by the carrier, yet SFR Services fails to disclose that it will, in fact, be submitting estimates to the insurance carrier that are inflated, sometimes up to three times the going rate for roof work in Florida.

113. Essentially, SFR Services promises and represents that it will engage in a smooth and cooperative process with the AmCap to get the insureds a new roof, and instead immediately engages in an aggressive and deceptive claim process to the detriment of everyone but SFR Services.

iv. Unlicensed Public Adjusting

114. In addition to the foregoing, SFR Services engages in conduct that amounts to unlicensed adjusting of claims in violation of Fla. Stat. 626.854(15) and (19)(a), (b), and (d).

115. SFR Services also engages in conduct specifically prohibited by Fla. Stat. 626.854(7).

116. SFR Services solicits insurance claims from AmCap's insureds.

117. SFR Services assists and has assisted insureds with the presentation and filing of insurance claims to AmCap.

118. In doing so, some, if not all, of AmCap's insureds who have eventually assigned claims to SFR Services do so with the understanding that SFR Services will "handle" their claim with AmCap, or any other insurer that insures their property.

119. SFR Services encourages and has encouraged certain of AmCap's insureds to make claims for roof replacements knowing that their roofs did not suffer covered damage warranting or requiring a roof replacement.

120. SFR Services routinely advertises to insureds, including AmCap's insureds, by stating and representing to the insureds that submitting a claim as solicited by SFR Services is one of "no risk" to the insured.

121. In addition, upon information and belief, SFR Services promises kickbacks to condominium association property management companies and personnel, and routinely advises insureds that they will not be responsible for their policy deductible.

122. Both AmCap and its insureds have been injured by the conduct of SFR Services, and AmCap has been damaged in the form of litigation and investigation costs, overpayment of claims, attorneys' fees, and costs.

WHEREFORE, AmCap seeks judgment for all compensatory damages, consequential damages, treble damages, attorneys' fees, costs and interest, and for all other and further relief as the Court deems just and proper.

COUNT II – CIVIL RICO
**(Against SFR Services, McGraw, Elite Claims,
M. McGraw, J. McGraw, McGraw Property, and McGraw Asset)**

AmCap re-alleges and incorporates Paragraphs 1 through 122 as though fully set forth herein.

123. SFR Services, McGraw, Elite Claims, M. McGraw, McGraw Property, J. McGraw, and McGraw Assets are an enterprise, as defined by Fla. Stat. §§772.102(3) and 895.02(5), respectively (collectively, the "Enterprise").

124. The Enterprise has an identifiable structure, with each member fulfilling a specific role to carry out and facilitate its fraudulent purpose as follows:

- a. Upon information and belief, SFR Services, uses its appearance as a legitimate general contracting and roofing contracting firm, in furtherance of the Enterprise's goals, to enter into the AOB contracts with AmCap's insureds to then submit knowingly inflated estimates of roof damage to AmCap.
- b. Upon information and belief, McGraw controls all business decisions and business practices of SFR Services and McGraw Property, managing and participating in the scheme to submit knowingly inflated estimates of roof damage to AmCap in furtherance of the Enterprise's goals.
- c. Upon information and belief, Elite Claims is a public adjusting firm that uses its appearance as a legitimate business, in furtherance of the Enterprise's goals, to prepare, submit, and negotiate intentionally inflated repair estimates.
- d. Upon information and belief, M. McGraw, as a Florida licensed public adjuster and owner of Elite Claims, prepares, submits, and negotiates intentionally inflated repair estimates in furtherance of the Enterprise's goals.
- e. Upon information and belief, McGraw Property and McGraw Assets process the inflated estimates, process and pay subcontractor invoices, process and pay commissions to salesmen affiliated with SFR Services., and accept insurance proceeds from AmCap that are inflated based upon the representations of SFR. Additionally, McGraw Property and McGraw Assets, in furtherance of the Enterprise's goals, places inflated estimates into final format with the intent that AmCap rely on them and accept insurance proceeds paid by AmCap on inflated claims.

f. Upon information and belief, J. McGraw, in furtherance of the Enterprise's goals, places the inflated estimates into their final format with the intent that AmCap rely on them.

125. The Defendants have been employed by and/or associated with the Enterprise, have participated in the management and operation of the Enterprise, and deliberately caused a fraud to be perpetrated upon AmCap and other insurers.

126. The Enterprise is an on-going organization, formal or informal, acting with a common purpose of engaging in a pattern of criminal activity, namely, to defraud AmCap by submitting inflated estimates.

127. The Enterprise is functioning as a continuing unit with an ascertainable structure separate and distinct from that of the conduct of the pattern of criminal activity.

128. There may also be other members of the enterprise who are unknown at this time.

129. The purpose of the scheme is to illicitly and illegally enrich the Defendants at the expense of AmCap and its policyholders.

130. Defendants engaged in various acts which constitute "criminal activity" as defined under Fla. Stat. § 772.102(1).

131. SFR Services and Elite Claims have consistently and routinely submitted knowingly inflated estimates of roof damage to AmCap in an effort to persuade AmCap to rely on these estimates, and to overpay SFR Services for repair work it purports to do.

132. In doing so, SFR Services, McGraw Property, and Elite Claims presented written statements on each and every claim made to AmCap containing materially false, misleading, and incomplete statements regarding the value of the claims, the work to be performed, the cost of the work to be performed, and the charges for the work to be performed.

133. McGraw, M. McGraw, and J. McGraw participated in the preparation and publication of the false statements.

134. McGraw Property and McGraw Assets have received, processed, and maintained the payments obtained by the above-reference fraudulent and criminal activity and enterprise.

135. SFR Services has done this on every single claim that it has made and presented to AmCap since Hurricane Irma.

136. Each one of these instances is a separate and distinct violation of Fla. Stat. § 817.234(1)(a).

137. Defendants also violated 18 U.S.C. § 1961(1)(B), which defines “racketeering activity” as including mail fraud (18 U.S.C. § 1341) and wire fraud (18 U.S.C. § 1343). Violations of 18 U.S.C. § 1961(1)(A), (B), (C), or (D) also constitute “criminal activity” under Fla. Stat. § 772.102(1).

138. Defendants also violated § 895.01 et seq., which defines a “racketeering activity” as meaning to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit violations of Chapter 817, relating to fraudulent practices, false pretenses, and fraud generally; Section 836.05, relating to extortion; Chapter 837, relating to perjury, and Chapter 874, relating to criminal gangs.

139. Defendants also violated § 817.234, Fla. Stat., by submitting claims to AmCap that are inflated, false, and misleading.

140. Defendants also violated § 836.05, Fla. Stat., by threatening insurance carriers to institute costly, multiple and vexatious litigation unless the carriers paid invoices for claims that the defendants knew were inflated, false and misleading.

141. Defendants use the U.S. Mail and private or commercial interstate carriers to further the fraud scheme by forwarding AmCap the AOB contracts, the inflated estimates, and

correspondence pertaining to the criminal scheme. These estimates and correspondence represent that an insured property was damaged by Hurricane Irma and that the estimate provided seeks market rates for the work Defendants are going to perform or have performed. These letters also serve to prevent AmCap from directly contacting the policyholder and act to conceal the properties' actual conditions and circumstances.

142. The particulars in regard to other uses of the U.S. Mail and private or commercial interstate carriers to further the fraud scheme, such as the forwarding of documents between Defendants and the forwarding of documents between Defendants and AmCap's insureds, are within the knowledge of Defendants.

143. Defendants use interstate telephone line and fax communications to further the fraud scheme by having telephone communications with AmCap's agents and employees pertaining to the criminal scheme and by forwarding AmCap via fax communication the AOB contracts, inflated estimates, and correspondence pertaining to the criminal scheme.

144. The specifics in regard to other uses of interstate telephone lines and fax communications to further the fraud scheme, such as communications between Defendants and AmCap's insureds, when such communications were made, and the persons making and receiving the communications, are within the knowledge of Defendants.

145. Defendants could not have carried out their scheme, as alleged herein, unless they used the U.S. mail or private or commercial interstate carriers or interstate wires.

146. In furtherance of its continued and ongoing attempts to defraud AmCap with inflated claims, SFR Services and its agents and representatives have made false statements in official proceedings, including depositions, in violation of Fla. Stat. § 837.02. Violations of Fla. Stat. Ch. 837 constitute "criminal activity" under Fla. Stat. § 772.102(1) and "racketeering activity" under Fla. Stat. § 895.03(8)(a)(41).

147. These false statements are part of the continued and ongoing conduct and scheme of SFR Services described above.

148. These violations are not just committed by SFR Services, but specifically have been committed by McGraw and M. McGraw, two individuals affiliated with SFR Services.

149. These predicate acts are part of a scheme and are not isolated events. Furthermore, the Defendants' pattern of criminal activity is ongoing, and amounts to or poses a threat of continued criminal activity. The acts alleged have the same or similar intents, results, accomplices, victim (AmCap), and methods of commission and are otherwise interrelated by distinguishing characteristics and are not isolated incidents.

150. Defendants took actions or participated in an enterprise through two or more incidents of criminal conduct. The foregoing conduct makes up dozens of separate and independent instances of unlawful criminal conduct in violation of Chapter 772 and 895 of the Florida Statutes.

151. The conduct also makes up dozens of separate and independent acts of violations of Florida Statute § 817.234, which create direct civil liability to AmCap under Chapters 772, 874 and 895 of the Florida Statutes.

152. The actions taken by Defendants meet the criteria for a pattern of criminal and racketeering activity as the last incident of criminal activity occurred within five (5) years of a prior incident of criminal conduct.

153. As a direct and proximate result of the Defendants' conduct and violations, AmCap has been damaged in the form of litigation and investigation costs, overpayment of claims, attorneys' fees, and costs.

154. As set forth above, Defendants conducted or participated, directly or indirectly, in the conduct of the Enterprise's affairs through a "pattern of criminal activity" and a "pattern of

racketeering activity,” within the meaning of the Fla. Stat. §§ 772.102(4) and 895.05, in violation of the Fla. Stat. § 772.103.

WHEREFORE, AmCap seeks the following relief as a result of these violations pursuant to Florida Statute § 772.104:

- a. Compensatory damages;
- b. Treble damages;
- c. Attorneys’ fees;
- d. Taxable costs;
- e. Prejudgment interest; and
- f. All other and further relief as this Court deems just and proper under the circumstances.

COUNT III – CIVIL RICO CONSPIRACY
(Against SFR Services, McGraw, Elite Claims,
M. McGraw, J. McGraw, McGraw Property, and McGraw Assets)

AmCap re-alleges and incorporates Paragraphs 1 through 154 as though fully set forth herein.

155. As set forth above, Defendants directly conducted and/or participated in the conduct of the Enterprise’s affairs through a “pattern of criminal activity,” within the meaning of Fla. Stat. § 772.102, in violation of Fla. Stat. § 772.103(4).

156. Each of the Defendants was associated with the Enterprise and agreed and conspired to violate Fla. Stat. § 772.103, that is, agreed to conduct and participate, directly or indirectly, in the conduct of the affairs of the Enterprise through a pattern of criminal activity, in violation of Fla. Stat § 772.103(4).

157. Defendants committed a series of overt acts in furtherance of the conspiracy and to affect the objects thereof, including, but not limited to, intentionally preparing inflated estimates with the intent to induce AmCap’s reliance and payment and the use of U.S. mail and

interstate wires to achieve these results; and knowingly received insurance proceeds paid by AmCap as a result of the inflated estimates.

158. As a result of Defendants' violations of Fla. Stat § 772.103, AmCap directly and proximately suffered damages.

159. AmCap is entitled to recover threefold its actual damages, and its costs and attorneys' fees, pursuant to Fla. Stat § 772.104(1).

WHEREFORE, AmCap seeks the following relief as a result of these violations:

- a. Compensatory damages;
- b. Treble damages;
- c. Attorneys' fees;
- d. Taxable costs;
- e. Prejudgment interest; and
- f. All other and further relief as this Court deems just and proper under the circumstances.

COUNT IV – UNJUST ENRICHMENT
(Against SFR Services, McGraw, M. McGraw, J. McGraw, McGraw Property, and McGraw Assets)

AmCap re-alleges and incorporates Paragraphs 1 through 87 as though fully set forth herein.

160. AmCap conferred upon SFR Services benefits in the form of monetary payments well in excess of \$1 million.

161. These monetary payments have been obtained, received by, and held by SFR Services, McGraw Property, and McGraw Assets. McGraw, M. McGraw, and J. McGraw have obtained and derived benefit from these monetary payments.

162. SFR Services, McGraw Property, and McGraw Assets accepted these benefits in the form of insurance claim payments, insurance claim resolutions, and insurance claim settlements.

163. SFR Services, McGraw Property, and McGraw Assets accepted these benefits, and sought these benefits, under false pretenses and knowing that they were not due and owing to SFR Services.

164. SFR Services overcharged AmCap for purported roof replacement costs, by claiming that the cost of the roof replacement work it was/is purportedly going to perform at the insured properties was/is much higher than the actual costs incurred, including profit.

165. In fact, SFR Services overcharged for labor and materials, passing on costs to AmCap that were not only much higher than market rate for such work, but also that were much higher than what SFR Services actually incurred. SFR Services then charged overhead and profit on top of those inflated values.

166. AmCap has learned, and it will be revealed in discovery, that such costs passed on to AmCap as the represented costs of labor and materials were a multiple of at least 2-3 of what SFR Services actually incurred as its costs.

167. SFR Services, in making such misrepresentations, has been unjustly enriched to the tune of hundreds of thousands, if not millions, of dollars.

168. There is now due and owing to AmCap all of the excess monetary payments paid to SFR Services above and beyond the costs actually incurred by SFR Services, including overheard and profit.

WHEREFORE, AmCap hereby demands judgment in the amount of all excess payments made by AmCap for labor and material costs not actually incurred or expended by SFR Services for any work performed for, or to be performed for, any AmCap insured under one of its claims, and for all such other and further relief as this Court deems just and proper.

COUNTY V – FRAUD
(Against SFR Services)

AmCap re-alleges and incorporates Paragraphs 1 through 153 as though fully set forth herein.

169. SFR Services has knowingly and intentionally made representations on dozens of insurance claims presented to AmCap regarding the cost of labor and materials to SFR Services for the replacement or repair of the roofs of certain of AmCap's insureds.

170. SFR Services has knowingly and intentionally made these representations to AmCap with the intent to have AmCap rely on the representations in determining the amount of payments to be made to SFR Services by way of claim payments or settlements of claims.

171. SFR Services has knowingly and intentionally made the representations regarding its costs for labor and materials for the purported roof work with the intent to deceive AmCap into thinking that this was the actual amount that was incurred and/or spent by SFR Services.

172. SFR Services knew the estimates presented to AmCap were materially false or inflated.

173. SFR Services also used the threat of attorneys' fees under Fla. Stat. § 627.428 and damages and attorneys under Fla. Stat. § 624.155 to try to coerce and compel AmCap into making payments based on SFR Services' representations.

174. AmCap did justifiably rely on these representations made by SFR Services in making payments to SFR Services on dozens of insurance claims.

175. AmCap believed that it was receiving truthful information as to the existence, pricing, and extent of damages claimed by SFR Services.

176. AmCap has learned that these representations were, in fact, outright false statements and representations.

177. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed.

178. AmCap has learned that SFR Services has paid its actual roofing subcontractors, laborers, vendors, and materials suppliers significantly less than what it passed on to AmCap as the alleged amount of such labor and materials.

179. AmCap has also learned that in many cases SFR Services was charging AmCap “overhead and profit” as a general contractor for work that it was “subcontracting” back to itself via a company holding a fictitious name of SFR Services, LLC, *to wit*, Knox Services, LLC.

180. Alternatively, SFR Services was charging overhead and profit on work for which it had already included profit in the line item labor and material costs charged to AmCap.

181. SFR Services also manipulated the pricing for roofing work in the “Xactimate” software in order to inflate its line items for the work it was seeking to recover for.

182. SFR Services is still attempting to do this through dozens of additional and ongoing/pending claims to AmCap, as well as numerous lawsuits between AmCap and SFR Services.

183. The conduct of SFR Services was wanton, malicious and willful.

184. As a result of its reliance on the false representations made by SFR Services, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against SFR Services for all amounts of money paid to SFR Services based on false or inflated representations regarding labor and material costs, and profits, and for using the statutory constructs of Fla. Stat. §§ 627.428 and 624.155 to try to compel and coerce AmCap to pay based upon these misrepresentations, and for all such other and further relief as this Court deems just and proper.

COUNT VI – FRAUD
(Against McGraw)

AmCap re-alleges and incorporates Paragraphs 1 through 159 as though fully set forth herein.

185. McGraw is the president and an owner of SFR Services.

186. McGraw has ultimate discretion over the actions and conduct of SFR Services.

187. McGraw is intimately involved in the marketing strategies of SFR Services and dictates the manner in which SFR Services prepares its “repair estimates”. In fact, McGraw labels his estimating approach as proprietary to him and SFR Services.

188. In fact, McGraw has testified under oath that he has a proprietary method for preparing such estimates that differs from all other roofing contractors and/or general contractors. This estimating process or procedure is devised by and implemented by McGraw.

189. This proprietary method consists primarily of greatly inflating the line items included in SFR Services’ estimates, unjustly including 21% as overhead and profit, and concealing the actual cost of roof repairs or replacements from AmCap, all in an effort to maximize its profits.

190. McGraw has also been the person at SFR Services who has dictated the manner in which claim materials, labor costs, and profits are submitted to AmCap.

191. McGraw has personally and individually made all of these representations and has created his estimating approach in an effort to intentionally and knowingly deceive AmCap and have AmCap rely on his submissions, methods, and representations.

192. AmCap did justifiably rely on these material representations, submissions, and methods to its detriment.

193. AmCap believed that it was receiving truthful information as to the existence, pricing, and extent of damages as presented by McGraw.

194. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as presented.

195. The conduct of McGraw was wanton, malicious and willful.

196. As a direct and proximate result, AmCap has been damaged in the amount of all of the excess monies it paid on claims made and brought by SFR Services via its AOB contracts with AmCap's insureds.

197. AmCap has been damaged well in excess of \$1 million as a result of these deceptive acts by McGraw.

198. Moreover, under Florida's Wrongful Acts Doctrine, AmCap is also entitled to all attorneys' fees and costs it has expended and incurred in lawsuits against SFR Services that are a result of material misrepresentations made by McGraw.

WHEREFORE, AmCap hereby demands judgment in its favor for all monetary damages suffered by AmCap as a result of McGraw's deceptive conduct and representations that were relied upon by AmCap, including all costs and attorneys' fees incurred in lawsuits against SFR Services under Florida's Wrongful Acts doctrine, and for all such other and further relief as this Court deems just and proper.

COUNT VII – FRAUD
(Against Elite Claims)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

199. Elite Claims is a public adjusting firm incorporated in 2018 and owned by M. McGraw.

200. Elite Claims represented SFR Services in connection with many claims that have been presented to AmCap by SFR Services.

201. In its capacity as SFR Services' "public adjuster," Elite Claims submitted, prepared, and negotiated intentionally inflated repair estimates.

202. The fraudulently inflated estimates were prepared using a program that gathers pricing data based on the location (zip code) of the property and updated monthly; its pricing data is designed to be a monthly average for the area.

203. All of Elite Claims' estimates were prepared using the same "proprietary" (i.e., illicit) methods employed by SFR Services.

204. The "proprietary" method was quite simple: Elite Claims manipulated pricing data from the estimating program to be up to four times the original line item amount.

205. Typically, this estimating program will indicate manual overrides of pricing data with an asterisk or highlight and is apparent in both native and exported (e.g., .pdf) formats.

206. However, Elite Claims intentionally manipulated the pricing data from within the program code itself so that these increases could not be detected.

207. The entire purpose and intent of the "proprietary" estimating method was to deceive AmCap and other insurance carriers, into believing the going rate for the roof work was double or triple the area average.

208. Each intentionally inflated estimate constitutes a separate material misrepresentation by Elite Claims.

209. Elite Claims intentionally and knowingly prepared, submitted, and negotiated the inflated estimates with the intent that AmCap would justifiably rely on them.

210. AmCap justifiably believed that it was receiving truthful information as to the pricing of the estimates as prepared by Elite Claims.

211. The misrepresentations in the estimates were material in that, had AmCap known the real facts, it would not have paid the losses as presented in the estimates.

212. AmCap has been directly and proximately damaged by Elite Claims' fraud, to the tune of millions of dollars in claim payouts on false pretenses.

213. In addition, because of Elite Claims' conduct, AmCap has been forced to litigate claims with SFR Services.

214. The conduct of Elite Claims was wanton, malicious and willful.

215. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from Elite Claims.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT VIII – FRAUD
(Against Matthew McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

216. M. McGraw is a Florida licensed public adjuster and owner of Elite Claims, a public adjusting firm incorporated in 2018.

217. In his capacity as the principal of SFR Services' "public adjuster," M. McGraw intentionally and knowingly submitted, prepared, and negotiated intentionally inflated repair estimates.

218. The fraudulently inflated estimates were prepared using a program that gathers pricing data based on the location (zip code) of the property and updated monthly; its pricing data is designed to be a monthly average for the area.

219. All of M. McGraw's estimates were prepared using the same "proprietary" (i.e., illicit) methods employed by SFR Services.

220. The "proprietary" method was quite simple: M. McGraw manipulated pricing data from the estimating program to be up to four times the original line item amount.

221. Typically, this estimating program will indicate manual overrides of pricing data with an asterisk or highlight and is apparent in both native and exported (e.g., .pdf) formats.

222. However, M. McGraw intentionally manipulated the pricing data from within the program code itself so that these increases could not be detected.

223. The entire purpose and intent of the "proprietary" estimating method was to dupe AmCap and other insurance carriers, into believing the going rate for the roof work was double or triple the area average.

224. Each intentionally inflated estimate constitutes a separate material misrepresentation by M. McGraw.

225. M. McGraw intentionally and knowingly prepared, submitted, and negotiated the inflated estimates with the intent that AmCap would justifiably rely on them.

226. AmCap justifiably believed that it was receiving truthful information as to the pricing of the estimates as prepared by M. McGraw.

227. The misrepresentations in the estimates were material in that, had AmCap known the real facts, it would not have paid the losses as presented in the estimates.

228. AmCap has been directly and proximately damaged by M. McGraw's fraud, to the tune of millions of dollars in claim payouts on false pretenses.

229. In addition, because of M. McGraw's conduct, AmCap has been forced to litigate claims with SFR Services.

230. The conduct of M. McGraw was wanton, malicious and willful.

231. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from M. McGraw.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT IX – FRAUD
(Against Jessica McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

232. J. McGraw is Ricky McGraw's girlfriend and works at McGraw Property.

233. Upon information and belief, J. McGraw is the individual responsible for placing the fraudulently inflated estimates into final format.

234. In addition, J. McGraw is believed to be responsible for processing and paying subcontractor invoices and receiving claim payments.

235. Accordingly, she was aware that the estimates she was placing into final format were up to several times the amounts they were subcontracting the work out for.

236. Each intentionally inflated estimate constitutes a separate material misrepresentation by J. McGraw.

237. J. McGraw placed the inflated estimates into final format with the intent that AmCap would justifiably rely on them.

238. AmCap justifiably believed that it was receiving truthful information as to the pricing of the estimates as placed by J. McGraw.

239. The misrepresentations in the estimates were material in that, had AmCap known the real facts, it would not have paid the losses as presented in the estimates.

240. AmCap has been directly and proximately damaged by J. McGraw's fraud, to the tune of millions of dollars in claim payouts on false pretenses.

241. In addition, because of J. McGraw's conduct, AmCap has been forced to litigate claims with SFR Services.

242. The conduct of J. McGraw was wanton, malicious and willful.

243. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from J. McGraw.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT X – FRAUD
(Against McGraw Property)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

244. McGraw Property is a Florida Limited Liability Company owned at least in part by Ricky McGraw.

245. While the actual business of McGraw Property is not entirely clear, the entity appears to be utilized by J. McGraw and McGraw to (i) process estimates, (ii) process and pay subcontractor invoices, and (iii) process and pay commission to salesmen affiliated with SFR Services.

246. Accordingly, McGraw Property was aware that the estimates it was processing were up to several times the amounts SFR Services was subcontracting the work out for.

247. Each intentionally inflated estimate constitutes a separate material misrepresentation by McGraw Property.

248. McGraw Property placed the inflated estimates into final format with the intent that AmCap would justifiably rely on them.

249. AmCap justifiably believed that it was receiving truthful information as to the pricing of the estimates as placed by McGraw Property.

250. The misrepresentations in the estimates were material in that, had AmCap known the real facts, it would not have paid the losses as presented in the estimates.

251. AmCap has been directly proximately damaged by McGraw Property's fraud, to the tune of millions of dollars in claim payouts on false pretenses.

252. In addition, because of McGraw Property's conduct, AmCap has been forced to litigate claims with SFR Services.

253. The conduct of McGraw Property was wanton, malicious and willful.

254. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from McGraw Property.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XI – INSURANCE FRAUD
(Against SFR Services)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

255. SFR Services prepared and presented (or caused or intended to be presented) grossly inflated estimates to AmCap in support of the claims for payment.

256. The fraudulently inflated estimates were prepared using a program that gathers pricing data based on the location (zip code) of the property and updated monthly; its pricing data is designed to be a monthly average for the area.

257. All of the fraudulent estimates were prepared using SFR Services' "proprietary" (i.e., illicit) method: manipulating pricing data from an estimating program to be four times the original line item amount.

258. Typically, this estimating program will indicate manual overrides of pricing data with an asterisk or highlight and is apparent in both native and exported (e.g., .pdf) formats.

259. However, SFR Services manipulated the pricing data from within the program code itself so that these increases could not be detected.

260. The entire purpose and intent of the "proprietary" estimating method was to dupe insurance carriers, like AmCap, into believing the going rate for the roof work was double or triple the area average.

261. In addition, SFR Services perjured itself on several occasions by making false statements of material fact under oath.

262. The fraudulent estimates constitute "statements" for purposes of the crime of insurance fraud.

263. The estimates prepared, presented, or intended or caused to be presented by SFR Services contained false, incomplete, and misleading information regarding the scope of the damage and cost to repair same.

264. The scope of the damage and the cost to repair same are material to, and in fact go to the heart of, a property insurance claim.

265. SFR Services acted in concert with the other co-defendants and each had direct knowledge of the fraudulent nature of the estimates.

266. SFR Services' conduct constitutes a direct violation of Fla. Stat. § 817.234.

267. Chapter 772, Florida Statutes, provides civil remedies for those injured by criminal acts.

268. AmCap has suffered significant damage as a result of SFR Services' criminal actions.

WHEREFORE, AmCap seeks compensatory damages, treble damages, attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XII – INSURANCE FRAUD
(Against McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

269. McGraw prepared and presented (or caused to be presented) grossly inflated estimates to Tower Hill in support of the claims for payment.

270. The fraudulently inflated estimates were prepared using a program that gathers pricing data based on the location (zip code) of the property and updated monthly; its pricing data is designed to be a monthly average for the area.

271. All of the fraudulent estimates were prepared using McGraw's "proprietary" (i.e., illicit) method: manipulating pricing data from an estimating program to be four times the original line item amount.

272. Typically, this estimating program will indicate manual overrides of pricing data with an asterisk or highlight and is apparent in both native and exported (e.g., .pdf) formats.

273. However, McGraw manipulated the pricing data from within the program code itself so that these increases could not be detected.

274. The entire purpose and intent of the “proprietary” estimating method was to dupe insurance carriers, like AmCap, into believing the going rate for the roof work was double or triple the area average.

275. In addition, McGraw perjured himself on several occasions in his capacity as the Corporate Representative of SFR Services by making false statements of material fact.

276. The fraudulent estimates constitute “statements” for purposes of the crime of insurance fraud.

277. The estimates prepared, presented, or intended or caused to be presented by McGraw contained false, incomplete, and misleading information regarding the scope of the damage and cost to repair same.

278. The scope of the damage and the cost to repair same are material to, and in fact go to the heart of, a property insurance claim.

279. McGraw acted in concert with the co-defendants and each had direct knowledge of the fraudulent nature of the estimates.

280. McGraw’s conduct constitutes a direct violation of Fla. Stat. § 817.234.

281. Chapter 772, Florida Statutes, provides civil remedies for those injured by criminal acts.

282. AmCap has suffered significant damage as a result of McGraw’s criminal actions.

283. In addition, because of McGraw’s conduct, AmCap has been forced to litigate claims with SFR Services.

284. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from McGraw.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), treble damages, attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XIII – INSURANCE FRAUD
(Against Elite Claims)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

285. Elite Claims is a public adjusting firm incorporated in 2018 and owned by M. McGraw.

286. Elite Claims represented SFR Services in connection with several of the claims reported to AmCap.

287. In its capacity as SFR Services' "public adjuster," Elite Claims submitted, prepared, and negotiated intentionally inflated repair estimates.

288. The fraudulently inflated estimates were prepared using a program that gathers pricing data based on the location (zip code) of the property and updated monthly; its pricing data is designed to be a monthly average for the area.

289. All of Elite Claims' estimates were prepared using the same "proprietary" (i.e., illicit) methods employed by SFR Services.

290. The "proprietary" method was quite simple: Elite Claims manipulated pricing data from the estimating program to be up to four times the original line item amount.

291. Typically, this estimating program will indicate manual overrides of pricing data with an asterisk or highlight and is apparent in both native and exported (e.g., .pdf) formats.

292. However, Elite Claims manipulated the pricing data from within the program code itself so that these increases could not be detected.

293. The entire purpose and intent of the “proprietary” estimating method was to dupe insurance carriers, like AmCap, into believing the going rate for the roof work was double or triple the area average.

294. The fraudulent estimates constitute “statements” for purposes of the crime of insurance fraud.

295. The estimates prepared, presented, or intended or caused to be presented by Elite Claims contained false, incomplete, and misleading information regarding the scope of the damage and cost to repair same.

296. The scope of the damage and the cost to repair same are material to, and in fact go to the heart of, a property insurance claim.

297. Elite Claims acted in concert with the co-defendants and each had direct knowledge of the fraudulent nature of the estimates.

298. Elite Claims’ conduct constitutes a direct violation of Fla. Stat. § 817.234.

299. Chapter 772, Florida Statutes, provides civil remedies for those injured by criminal acts.

300. AmCap has suffered significant damage as a result of Elite Claims’ criminal actions.

301. In addition, because of Elite Claims’ conduct, AmCap has been forced to litigate claims with SFR Services.

302. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from Elite Claims.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), treble damages, attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XIV – INSURANCE FRAUD
(Against M. McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 153 above as if fully set forth herein.

303. M. McGraw is a Florida licensed public adjuster and owner of Elite Claims, a public adjusting firm incorporated in 2018.

304. In his capacity as SFR Services' "public adjuster," M. McGraw submitted, prepared, and negotiated intentionally inflated repair estimates.

305. The fraudulently inflated estimates were prepared using a program that gathers pricing data based on the location (zip code) of the property and updated monthly; its pricing data is designed to be a monthly average for the area.

306. All of M. McGraw's estimates were prepared using the same "proprietary" (i.e., illicit) methods employed by SFR Services.

307. The "proprietary" method was quite simple: M. McGraw manipulated pricing data from the estimating program to be up to four times the original line item amount.

308. Typically, this estimating program will indicate manual overrides of pricing data with an asterisk or highlight and is apparent in both native and exported (e.g., .pdf) formats.

309. However, M. McGraw manipulated the pricing data from within the program code itself so that these increases could not be detected.

310. The entire purpose and intent of the “proprietary” estimating method was to dupe insurance carriers, like AmCap, into believing the going rate for the roof work was double or triple the area average.

311. The fraudulent estimates constitute “statements” for purposes of the crime of insurance fraud.

312. The estimates prepared, presented, or intended or caused to be presented by M. McGraw contained false, incomplete, and misleading information regarding the scope of the damage and cost to repair same.

313. The scope of the damage and the cost to repair same are material to, and in fact go to the heart of, a property insurance claim.

314. M. McGraw acted in concert with the co-defendants and each had direct knowledge of the fraudulent nature of the estimates.

315. M. McGraw’s conduct constitutes a direct violation of Fla. Stat. § 817.234.

316. Chapter 772, Florida Statutes, provides civil remedies for those injured by criminal acts.

317. AmCap has suffered significant damage as a result of M. McGraw’s criminal actions.

318. In addition, because of M. McGraw’s conduct, AmCap has been forced to litigate claims with SFR Services.

319. Under Florida’s Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services’ various lawyers under Fla. Stat. § 627.428, from M. McGraw.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), treble damages, attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XV – INSURANCE FRAUD
(Against J. McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

320. J. McGraw is McGraw's girlfriend/partner and works at McGraw Property.

321. Upon information and belief, J. McGraw is the individual responsible for placing the fraudulently inflated estimates into final format.

322. In addition, J. McGraw is believed to be responsible for processing and paying subcontractor invoices.

323. Accordingly, she was aware that the estimates she was placing into final format were up to several times the amounts they were subcontracting the work out for.

324. The fraudulent estimates constitute "statements" for purposes of the crime of insurance fraud.

325. The estimates prepared, presented, or intended or caused to be presented by J. McGraw contained false, incomplete, and misleading information regarding the scope of the damage and cost to repair same.

326. The scope of the damage and the cost to repair same are material to, and in fact go to the heart of, a property insurance claim.

327. J. McGraw acted in concert with the co-defendants and each had direct knowledge of the fraudulent nature of the estimates.

328. J. McGraw's conduct constitutes a direct violation of Fla. Stat. § 817.234.

329. Chapter 772, Florida Statutes, provides civil remedies for those injured by criminal acts.

330. AmCap has suffered significant damage as a result of J. McGraw's criminal actions.

331. In addition, because of J. McGraw's conduct, AmCap has been forced to litigate claims with SFR Services.

332. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from J. McGraw.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), treble damages, attorneys' fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XVI – INSURANCE FRAUD
(Against McGraw Property)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

333. McGraw Property is a Florida Limited Liability Company owned at least in part by McGraw.

334. While the actual business of McGraw Property is not entirely clear, the entity appears to be utilized by J. McGraw and McGraw to (i) process estimates, (ii) process and pay subcontractor invoices, and (iii) process and pay commission to salesmen affiliated with SFR Services.

335. Accordingly, McGraw Property was aware that the estimates it as processing were up to several times the amounts SFR Services was subcontracting the work out for.

336. The fraudulent estimates constitute “statements” for purposes of the crime of insurance fraud.

337. The estimates prepared, presented, or intended or caused to be presented by McGraw Property contained false, incomplete, and misleading information regarding the scope of the damage and cost to repair same.

338. The scope of the damage and the cost to repair same are material to, and in fact go to the heart of, a property insurance claim.

339. McGraw Property acted in concert with the co-defendants and each had direct knowledge of the fraudulent nature of the estimates.

340. McGraw Property’s conduct constitutes a direct violation of Fla. Stat. § 817.234.

341. Chapter 772, Florida Statutes, provides civil remedies for those injured by criminal acts.

342. AmCap has suffered significant damage as a result of McGraw Property’s criminal actions.

343. In addition, because of McGraw Property’s conduct, AmCap has been forced to litigate claims with SFR Services.

344. Under Florida’s Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services’ various lawyers under Fla. Stat. § 627.428, from McGraw Property.

WHEREFORE, AmCap seeks compensatory damages (including damages available under the Wrongful Act Doctrine), treble damages, attorneys’ fees, taxable costs, and prejudgment interest, as well as any other relief the Court deems just and proper.

COUNT XVII – FRAUD
(Against McGraw Assets)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

345. McGraw Assets is a Florida Limited Liability Company owned at least in part by McGraw and J. McGraw.

346. While the actual business of McGraw Assets is not entirely clear, the entity appears to be utilized by J. McGraw and McGraw to (i) process estimates, (ii) process and pay subcontractor invoices, and (iii) process and pay commission to salesmen affiliated with SFR Services. It also receives, processes, and maintains proceeds derived from the aforementioned fraudulent and criminal conduct.

347. Accordingly, McGraw Assets was aware that it was receiving proceeds from estimates that were being submitted for claims seeking up to several times the amounts SFR Services was subcontracting the work out for.

348. Each intentionally inflated estimate for which McGraw Assets received monetary funds and payments constitutes a separate material misrepresentation by McGraw Assets.

349. AmCap justifiably believed that it was receiving truthful information as to the pricing of the estimates that were used by McGraw Assets to obtain payments and insurance proceeds.

350. The misrepresentations in the estimates were material in that, had AmCap known the real facts, it would not have paid the losses as presented in the estimates.

351. AmCap has been directly proximately damaged by McGraw Asset's fraud, to the tune of millions of dollars in claim payouts on false pretenses.

352. In addition, because of McGraw Asset's conduct, AmCap has been forced to litigate claims with SFR Services.

353. The conduct of McGraw Assets was wanton, malicious and willful.

354. Under Florida's Wrongful Act Doctrine, AmCap is entitled to recover the fees and costs incurred in these lawsuits, as well as any amounts paid to SFR Services' various lawyers under Fla. Stat. § 627.428, from McGraw Assets.

COUNT XVIII – NEGLIGENT MISREPRESENTATION
(Against SFR Services)

AmCap re-alleges and incorporates Paragraphs 1 through 159 as though fully set forth herein.

355. To the extent that SFR Services contends that it did not knowingly submit any false, fraudulent, misleading, or deceptive information to AmCap as it relates to its estimates and assigned claims, then SFR Services made negligent misrepresentations as to such matters to AmCap.

356. At all material times, SFR Services had a duty to provide AmCap truthful and accurate information regarding the nature and extent of the insurance claims presented on behalf of AmCap's policyholders.

357. On dozens of insurance claims presented to AmCap, SFR Services has made materially false representations and withheld material information regarding the true nature and extent of the cost of labor and materials to SFR Services for the replacement or repair of the roofs of AmCap's insureds.

358. SFR Services intended to induce AmCap to rely and act according to these representations, and reasonably should have known such misrepresentations were false, incomplete, or misleading.

359. AmCap did justifiably rely on these materially false representations made by SFR Services in making payments to SFR Services on dozens of insurance claims.

360. SFR should have known that these representations were materially false or misleading.

361. AmCap reasonable believed that it was receiving truthful information as to the existence, pricing, and extent of damages as claimed by SFR Services.

362. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed.

363. As a result of its reliance on the false representations made by SFR Services, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against SFR Services for all compensatory damages in an amount to be determined at trial, pre-judgment interest on the damages resulting from SFR Services' misrepresentations, and for all such other and further relief as this Court deems just and proper.

COUNT XIX – NEGLIGENT MISREPRESENTATION
(Against McGraw)

AmCap re-alleges and incorporates Paragraphs 1 through 159 as though fully set forth herein.

364. To the extent that McGraw contends that it did not knowingly submit any false, fraudulent, misleading, or deceptive information to AmCap as it relates to its estimates and assigned claims, then McGraw made negligent misrepresentations as to such matters to AmCap.

365. At all material times, McGraw had a duty to provide AmCap truthful and accurate information regarding the nature and extent of the insurance claims presented on behalf of AmCap's policyholders.

366. McGraw has made materially false representations and withheld material information regarding claim materials, estimates, labor costs, and profits submitted to AmCap; on dozens of insurance claims presented to AmCap.

367. McGraw intended to induce AmCap to rely and act according to these materially false representations.

368. McGraw should have known that these representations were materially false and misleading.

369. AmCap did justifiably rely on these materially false representations made by McGraw in making payments on dozens of the abovementioned insurance claims.

370. AmCap reasonable believed that it was receiving truthful information as to the existence, pricing, and extent of damages as represented by McGraw, at least insofar as it pertained to his subcontractor and material costs.

371. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed or presented.

372. As a result of its reliance on the false representations made by McGraw, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against McGraw for all compensatory damages in an amount to be determined at trial, pre-judgment interest on the damages resulting from Ricky McGraw's misrepresentations, and for all such other and further relief as this Court deems just and proper.

COUNT XX – NEGLIGENT MISREPRESENTATION
(Against Elite Claims)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

373. To the extent that Elite Claims contends that it did not knowingly submit any false, fraudulent, misleading, or deceptive information to AmCap as it relates to its estimates and assigned claims, then Elite Claims made negligent misrepresentations as to such matters to AmCap.

374. Elite Claims is a public adjusting firm incorporated in 2018 and owned by Matthew McGraw.

375. At all material times, Elite Claims had a duty to provide AmCap truthful and accurate information regarding the nature and extent of the insurance claims presented on behalf of AmCap's policyholders.

376. Elite Claims has made materially false representations and withheld material information by preparing, submitting, and negotiating inflated repair estimates on dozens of insurance claims presented to AmCap.

377. Elite Claims intended to induce AmCap to rely and act according to these materially false representations.

378. Elite claims should have reasonably known that such representations were false or misleading.

379. AmCap did justifiably rely on these materially false representations made by Elite Claims in making payments on dozens of the abovementioned insurance claims.

380. AmCap reasonable believed that it was receiving truthful information in the inflated repair estimates as claimed by Elite Claims.

381. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed.

382. As a result of its reliance on the false representations made by Elite Claims, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against Elite Claims for all compensatory damages in an amount to be determined at trial, pre-judgment interest on the damages resulting from Elite Claims' misrepresentations, and for all such other and further relief as this Court deems just and proper.

COUNT XXI – NEGLIGENT MISREPRESENTATION
(Against M. McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

383. To the extent that SFR Services contends that it did not knowingly submit any false, fraudulent, misleading, or deceptive information to AmCap as it relates to its estimates and assigned claims, then SFR Services made negligent misrepresentations as to such matters to AmCap.

384. M. McGraw is a Florida licensed public adjuster and owner of Elite Claims, a public adjusting firm incorporated in 2018.

385. At all material times, M. McGraw had a duty to provide AmCap truthful and accurate information regarding the nature and extent of the insurance claims presented on behalf of AmCap's policyholders.

386. M. McGraw has made materially false representations and withheld material information by preparing, submitting, and negotiating inflated repair estimates on dozens of insurance claims presented to AmCap.

387. M. McGraw intended to induce AmCap to rely and act according to these materially false representations.

388. M. McGraw should have reasonably known that such representations were false or misleading.

389. AmCap did justifiably rely on these materially false representations made by Matthew McGraw in making payments on dozens of the abovementioned insurance claims.

390. AmCap reasonable believed that it was receiving truthful information in the inflated repair estimates as claimed by M. McGraw.

391. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed.

392. As a result of its reliance on the false representations made by M. McGraw, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against M. McGraw for all compensatory damages in an amount to be determined at trial, pre-judgment interest on the damages resulting from M. McGraw's misrepresentations, and for all such other and further relief as this Court deems just and proper.

COUNT XXII – NEGLIGENT MISREPRESENTATION
(Against J. McGraw)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

393. To the extent that J. McGraw contends that it did not knowingly submit any false, fraudulent, misleading, or deceptive information to AmCap as it relates to its estimates and assigned claims, then J. McGraw made negligent misrepresentations as to such matters to AmCap.

394. J. McGraw is McGraw's girlfriend/partner and works at McGraw Property.

395. Upon information and belief, J. McGraw is the individual responsible for placing the inflated estimates into final format.

396. In addition, J. McGraw is believed to be responsible for processing and paying subcontractor invoices and receiving claim payments.

397. At all material times, J. McGraw had a duty to provide AmCap truthful and accurate information regarding the nature and extent of the insurance claims presented on behalf of AmCap's policyholders.

398. J. McGraw has made materially false representations and withheld material information on dozens of insurance claims presented to AmCap by placing inflated estimates into final format and receiving claim payments based on the inflated estimates.

399. J. McGraw intended to induce AmCap to rely and act according to these materially false representations.

400. AmCap did justifiably rely on these materially false representations made by J. McGraw in making payments to on dozens of the abovementioned insurance claims.

401. J. McGraw should have reasonably known that the representations were false and/or misleading.

402. AmCap reasonable believed that it was receiving truthful information as to the existence, pricing, and extent of damages claimed as appeared in the estimates and invoices prepared by J. McGraw.

403. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed.

404. As a result of its reliance on the false representations made by J. McGraw, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against J. McGraw for all compensatory damages in an amount to be determined at trial, pre-judgment interest on the

damages resulting from J. McGraw's misrepresentations, and for all such other and further relief as this Court deems just and proper.

COUNT XXIII – NEGLIGENT MISREPRESENTATION
(Against McGraw Property)

AmCap hereby re-alleges and incorporates Paragraphs 1 through 159 above as if fully set forth herein.

405. To the extent that McGraw Property contends that it did not knowingly submit any false, fraudulent, misleading, or deceptive information to AmCap as it relates to its estimates and assigned claims, then McGraw Property made negligent misrepresentations as to such matters to AmCap.

406. McGraw Property is a Florida Limited Liability Company owned at least in part by Ricky McGraw.

407. While the actual business of McGraw Property is not entirely clear, the entity appears to be utilized by J. McGraw and R. McGraw to (i) process estimates, (ii) process and pay subcontractor invoices, and (iii) process and pay commission to salesmen affiliated with SFR Services.

408. Accordingly, McGraw Property was aware that the estimates it was processing were up to several times the amounts SFR Services was subcontracting the work out for.

409. At all material times, McGraw Property had a duty to provide AmCap truthful and accurate information regarding the nature and extent of the insurance claims presented on behalf of AmCap's policyholders.

410. McGraw Property has made materially false representations and withheld material information on dozens of insurance claims presented to AmCap by processing inflated estimates,

processing and paying subcontractor invoices, and (iii) processing and paying commission to salesmen affiliated with SFR Services.

411. McGraw Property intended to induce AmCap to rely and act according to these materially false representations.

412. McGraw Property should have reasonably known that these representations were false and/or misleading.

413. AmCap did justifiably rely on these materially false representations made by McGraw Property in making payments to on dozens of the abovementioned insurance claims.

414. AmCap reasonable believed that it was receiving truthful information as to the existence, pricing, and extent of damages claimed as appeared in the estimates as processed by McGraw Property.

415. The misrepresentations were material in that, had AmCap known the real facts, it would not have paid the losses as claimed.

416. As a result of its reliance on the false representations made by McGraw Property, AmCap has been directly and proximately damaged in amounts well in excess of \$1 million.

WHEREFORE, AmCap hereby seeks a judgment against McGraw Property for all compensatory damages in an amount to be determined at trial, pre-judgment interest on the damages resulting from McGraw Property's misrepresentations, and for all such other and further relief as this Court deems just and proper.

Demand for Jury Trial

Defendant AMERICAN CAPITAL ASSURANCE CORP. hereby demands trial by jury of all issues so triable as a matter of right.

Dated this 27th day June of 2020.

ZINOBER, DIANA & MONTEVERDE, P.A.

/s/ Michael A. Monteverde

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