

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ONONDAGA

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THE PEOPLE OF THE STATE OF NEW YORK,  
by LETITIA JAMES, Attorney General of the State  
of New York, ONONDAGA COUNTY, NEW YORK,  
and the CITY OF SYRACUSE, NEW YORK

Plaintiffs,

– against –

JOHN KIGGINS and ENDZONE PROPERTIES,  
INC., dba CITY RENTALS,

Defendants.

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Index No.

**SUMMONS (with  
attached complaint)**

TO THE ABOVE NAMED DEFENDANTS:

**YOU ARE HEREBY SUMMONED** to answer the attached complaint in this action and to serve a copy of your answer on the plaintiffs’ attorneys within twenty (20) days after the service of this summons, exclusive of the day of service (or within thirty (30) days after service is complete if this summons is not personally delivered to you within the State of New York). In case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

Pursuant to New York CPLR § 503(a), the venue for this action is Onondaga County because Onondaga County is the county in which a substantial part of the events or omissions giving rise to the claim occurred.

Dated: New York, New York  
September 29, 2021

FOR THE PEOPLE OF THE STATE  
OF NEW YORK

LETITIA JAMES  
Attorney General

By: *Abigail Katowitz*  
ABIGAIL KATOWITZ  
*Assistant Attorney General*  
28 Liberty – 19th Floor  
New York, New York 10005  
Tel: (212) 416-8922  
abigail.katowitz@ag.ny.gov

By: */s/ Patrick Omilian*  
PATRICK OMILIAN  
*Assistant Attorney General*  
350 Main Street, Suite 300A  
Buffalo, New York 14202  
Tel: (716) 853-8579  
patrick.omilian@ag.ny.gov

FOR THE CITY OF SYRACUSE

KRISTEN SMITH  
Corporation Counsel

By: */s/ Lee Terry*  
LEE TERRY  
*Senior Assistant Corporation Counsel*  
City of Syracuse  
233 E. Washington Street, Room 300  
Syracuse, New York 13202  
Tel: (315) 448-8400

FOR THE COUNTY OF ONONDAGA

ROBERT A. DURR  
County Attorney

By: /s/ Robert A. Durr

Robert A. Durr

*County Attorney*

Onondaga County Law Department  
421 Montgomery Street – 10th Floor  
Syracuse, New York 13202  
Tel: (315) 435-2170

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Plaintiffs, The People of the State of New York, by its attorney, Letitia James, Attorney General of the State of New York, together with Onondaga County, New York and the City of Syracuse, New York respectfully allege upon information and belief:

**PRELIMINARY STATEMENT**

1. For over a decade, John Kiggins (“Kiggins”), through his company Endzone Properties, Inc. (“Endzone”), have owned or managed at least 89 rental properties in Syracuse, New York (the “Endzone Properties”). Kiggins and Endzone repeatedly violated City, County, and State laws by failing to maintain the Endzone Properties in a lead-safe condition, putting children who live in those rental homes at risk of lead poisoning, which has permanent injurious effects. During the past six-and-a-half years, at least 18 children living in Endzone Properties have been

poisoned with lead, potentially causing injuries that those children and their families will suffer for the rest of their lives.

2. Poisoning of children from lead paint in aging rental housing is an ongoing public health crisis. Although lead has been banned from paint for over forty years, lead remains among the most common environmental toxins for young children. Lead poisoning in Syracuse is highest among children of color and children living in low-income neighborhoods. Endzone Properties are predominantly located in lower-income neighborhoods and neighborhoods populated by people of color.

3. Lead is a toxic heavy metal that impairs neurological development in children, which in turn has detrimental effects on their lives. There is no level of lead exposure that is safe for children.

4. Before 1960, paint with lead was commonly used to paint the interiors and exteriors of buildings, including in residential buildings in Syracuse. Beginning in 1970, New York State imposed limits on lead levels in household paint, followed by the federal government in 1978. However, paint with lead levels higher than those limits remains on the walls and other surfaces of many apartments and other residential homes built before those limits were imposed.

5. Even when painted over, lead-based paint can become accessible to small children when the paint deteriorates and produces dust, or when old paint chips and peels. This occurs on surfaces like window sills that small children chew and put their hands on, or is generated from surfaces like doors and windows where friction and impacts expose the lead paint and produce lead-contaminated dust. As

a result, lead-based paint remains a pervasive and serious health risk, particularly for children under six years old who display intensive hand-to-mouth activity.

6. The Onondaga County Sanitary Code, the Property Conservation Code of the City of Syracuse, the New York State Public Health Law and its attendant regulations, and the New York State Property Maintenance Code all require property owners to prevent paint deterioration and to maintain their properties in a condition that is not conducive to lead poisoning. Additionally, federal law and regulations require that: (1) owners or agents disclose lead-based paint hazards before selling or renting out residential properties built before 1978; and (2) in properties receiving federal rental financial assistance for low-income tenants, owners alleviate any lead paint hazards identified during initial or periodic inspections or during investigations concerning children with elevated blood lead levels, and that owners conduct ongoing maintenance.

7. From January 1, 2015 to July 31, 2021, by allowing conditions conducive to lead poisoning to persist, in violation of law, at least 18 children have been poisoned with lead while residing at 17 of the Endzone Properties. In at least two of the Endzone Properties, there have been multiple children poisoned by lead.

8. During that same period, at least 32 Endzone Properties have been cited by inspectors from the Onondaga County Health Department (“County Health Department”) or the City of Syracuse Division of Code Enforcement for chipping, peeling, or deteriorating paint and other conditions conducive to lead poisoning (“lead paint violations”). In most cases, after each child’s elevated blood lead level

measurement, the respective Endzone Property at which the child resided was inspected and found to have lead paint violations. County Health Department inspections can also be triggered by tenant requests, foster home inspections, partner agency requests, or other forms of outreach.

9. In addition to allowing dangerous housing conditions and the lead poisoning of children to persist, Kiggins and Endzone have also, as a matter of general business practice, repeatedly violated federal and New York law by either failing to provide required lead paint hazard disclosures or providing materially false and deceptive disclosures to tenants and purchasers of Endzone Properties.

10. New York Executive Law § 63(12) authorizes the Attorney General to enjoin and seek other relief for “repeated fraudulent or illegal acts” in the transaction of business. “Illegal” acts under Executive Law § 63(12) include violations of laws like the Onondaga County Sanitary Code, the Property Conservation Code of the City of Syracuse, the New York State Public Health Law and the New York State Property Maintenance Code.

11. New York General Business Law (“GBL”) § 349 declares deceptive acts and practices in the conduct of business to be unlawful and authorizes the Attorney General to bring an action on behalf of the people of the State of New York to enjoin such unlawful acts or practices and to obtain civil penalties for violations of the law.

12. For at least the last six-and-a-half years, Kiggins and Endzone have engaged in repeated illegal acts under Executive Law § 63(12) by repeatedly and persistently violating County, City, State, and federal laws by failing to maintain

the Endzone Properties in a lead-safe condition and allowing lead-based paint to deteriorate. Kiggins and Endzone have also repeatedly violated GBL § 349 by failing to disclose or by lying about their knowledge of lead-based paint and lead-based paint hazards at these properties to tenants and buyers.

13. By this action, Plaintiffs seek to enjoin Kiggins' and Endzone's dangerous and illegal housing practices and compel them to provide lead-safe housing and complete and truthful lead disclosures to tenants of the properties they own and/or manage and any purchasers of Endzone Properties. Plaintiffs also seek to recover civil penalties for Kiggins' and Endzone's violations of law and restitution for the injuries their conduct has caused.

### **PARTIES**

14. Plaintiff the People of the State of New York (the "State"), brings this action through its attorney Letitia James, Attorney General of the State of New York.

15. Plaintiff County of Onondaga, New York (the "County"), is a municipality in New York.

16. Plaintiff the City of Syracuse, New York (the "City"), is a municipality in Onondaga County, New York.

17. Defendant Endzone Properties, Inc. is a New York corporation, with its principal place of business in Syracuse, New York and does business as "City Rentals" (collectively, "Endzone").

18. Defendant John Kiggins is a resident of Syracuse, New York and has been, at all relevant times, the president, the chief executive officer, and the sole



shareholder of Endzone. From 2007 to the present, Kiggins has owned, controlled, and/or managed the Endzone Properties. At all relevant times, Kiggins has been responsible for all decisions concerning the management of lead-based paint hazards at the Endzone Properties.

19. Endzone leases or has leased rental properties to residents of Syracuse and collects or has collected rental payments from a variety of sources including tenants and low-income rental assistance providers such as the Syracuse Housing Authority and the County Department of Social Services.

### **JURISDICTION AND VENUE**

20. This Court has jurisdiction over this proceeding pursuant to Executive Law § 63(12), which authorizes the Attorney General to commence an action for relief against any person or business entity that has engaged in or is engaging in repeated or persistent fraudulent or illegal acts in the conduct of business within New York.

21. Venue is proper in Onondaga County pursuant to CPLR § 503(a) because Onondaga County is the county in which a substantial part of the events or omissions giving rise to the claim occurred.

### **STATUTORY BACKGROUND**

#### **I. LEAD PAINT HAZARD LAWS AND REGULATIONS**

22. The Onondaga County Sanitary Code, the Property Conservation Code of the City of Syracuse, the New York State Public Health Law and its attendant regulations, and the New York State Property Maintenance Code impose obligations on property owners to ensure that rental properties are properly

maintained, to prevent conditions conducive to lead poisoning, and to remedy existing lead-based paint hazards.

23. In addition, federal laws require that: (1) owners or agents disclose lead-based paint hazards before selling or renting out residential properties built before 1978; and (2) in properties receiving federal financial assistance for low-income tenants, owners reduce any lead-based paint hazards identified during inspections, and that owners conduct ongoing maintenance.

**A. Onondaga County Laws and Regulations**

24. The Onondaga County Sanitary Code (“County Code”) seeks “to protect, preserve, and promote the physical and mental health and social well-being of the people” by ensuring that “the quality of housing is adequate for protection of public health, safety and general welfare.” County Code, Article X § 21.2.

25. The County Code establishes minimum housing standards to prevent conditions “likely to affect adversely the public health,” and to “achieve and maintain such levels of residential environmental quality.” *Id.*, art. X § 21.1.

26. Among these standards, the County Code mandates that “[n]o owner or other person shall occupy or let to another person any vacant dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with the requirements of ... all applicable laws.” *Id.*, art. X § 21.8.

27. Article VII of the County Code generally prohibits a property owner to allow a condition to persist on any premises that creates a nuisance or a condition which may be dangerous to life or health. Art. VII, §§ G and I.

**B. City of Syracuse Laws and Regulations**

***i. Control of Lead-Based Paint Hazards***

28. The Property Conservation Code of the City of Syracuse, Chapter 27 of the Revised General Ordinances of the City of Syracuse (“City Ordinances”), establishes uniform standards governing the “condition, occupancy and maintenance of all premises” in order to “enhance the residential neighborhoods and to protect the safety, health and welfare of the persons who live, work and recreate in the city.” City Ordinances § 27-2. The Property Conservation Code has explicit requirements for the maintenance of paint and the control of lead-based paint hazards.

29. The Property Conservation Code provides, in relation to “Protective coating for wood surfaces,”

All exterior wood surfaces of a structure or building that are not of a species inherently resistant to decay shall be treated when necessary with a protective coating or other preservative to prevent deterioration. However, any exterior surface which has had a protective coating or preservative applied to it, must be maintained to prevent deterioration.

City Ordinances § 27-32(d)(1).

30. Interior surfaces of floors, walls, and ceilings must also be maintained “free of deterioration in a clean and sanitary condition.” *Id.*, § 27-33(e)(1).

31. The Property Conservation Code mandates that “[n]o person shall use a paint containing more than six one-hundredths of one percent (.06%) of metallic lead, based on the total nonvolatile content of the paint, on the interior of any

apartment or room in any dwelling . . . or in any location accessible to children on the interior or exterior of any said dwelling.” *Id.*, § 27-77.

32. Owners must remove any paint revealed by inspection containing more than one percent of lead from its surface and cover the surface with paint containing less than .06% of lead or owners may cover the lead-based paint without first removing it “if the material and the method used to cover the surface are approved” by the City’s Division of Code Enforcement.<sup>1</sup> *Id.*

33. In 2020, the City of Syracuse’s Legislature enacted the Lead Abatement and Control Ordinance, Chapter 54 of the Revised General Ordinances of the City of Syracuse, which will allow City inspectors to inspect homes for lead and cite appropriate violations concerning the presence of lead in homes. The stated intent of the new Lead Abatement and Control Ordinance is to help prevent the poisoning of residents by requiring that the presence of deteriorated lead-based paint on the interior and exterior of pre-1978 residential structures, and on the exterior of pre-1978 nonresidential structures, be identified and be correctly addressed by reducing and controlling lead-based paint hazards which may be present, in order to prevent human exposure to such hazards. City Ordinances § 54-1.

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<sup>1</sup> The Division of Code Enforcement is a subunit of the City’s Department of Neighborhood and Business Development.

34. Among other things, the Lead Abatement and Control Ordinance requires residential buildings to “be maintained free of lead-based paint hazards.”

*Id.*, § 54-5.

**C. New York State Laws and Regulations**

***i. New York State Public Health Law***

35. In 1970, finding that childhood lead poisoning was a “major public health concern”, the New York State Legislature enacted Title X of Article 13 of the Public Health Law. N.Y. Public Health Law §§ 1370 – 1376-a (the “Public Health Law”). The Public Health Law banned the use and sale of lead-based paint in New York State. *Id.* §§ 1371 – 1372. The Law authorized the State Commissioner of Health, local county health departments, and local housing code agencies to designate areas of residential dwellings with paint “condition[s] conducive to lead poisoning” and order the removal of these conditions. *Id.*, §§ 1370(2), 1373(1). Conditions conducive to lead poisoning include lead-based paint that is chipping, peeling, or otherwise accessible for ingestion or inhalation by children. *Id.*, § 1370(3).

36. In 1992, the Public Health Law was amended to authorize, *inter alia*, mandatory blood lead level screenings for children and the creation of a Lead Poisoning Prevention Program within the State Department of Health. *Id.*, §§ 1370-(a)(2); 1370-a. Physicians and other medical providers who provide care to children must screen children at 12 and 24 months of age, and at each well-child visit or annually up to age six (6). 10 NYCRR § 67-1.2. The results of all blood lead tests must be reported to the state and local health department. *Id.*, § 67-3.1(b).

37. When a blood lead level test is administered pursuant to state public health law, the testing site must report all blood lead level test results to the state and local health departments. Public Health Law § 1370-(e)(1). In 2019, Public Health Law § 1370 and its implementing regulations were amended to lower the definition of an elevated blood lead level in a child from ten micrograms per deciliter (“µg/dL”) to five µg/dL. *See* 10 NYCRR § 67-1.1(e) (last updated Oct. 1, 2019). In practice, the results are registered with the state health department, which then enters the elevated blood lead level test results into the state’s Lead Tracking and Environmental Reduction (“Leadweb”) Registry. The local health department is responsible for proactively checking the Leadweb Registry for county cases involving categorical elevated blood lead level results, and bears responsibility for follow up on those cases.

38. Once a child with elevated blood lead levels has been identified to the local health department, the department shall perform a lead exposure assessment evaluating conditions “conducive to lead poisoning” for any dwelling, child facility, or other area in which the child spends a significant period of time. *Id.* § 67-2.3. Such investigation may involve the sampling and testing of peeling or chipping paint in an approved laboratory or the use of X-ray fluorescence testing. *Id.* § 67-2.4.

39. If the lead exposure assessment identifies a condition conducive to lead poisoning, the local health department shall provide a written notice and demand for discontinuance. *Id.* § 67-2.7. Actions required to abate a lead paint hazard condition may include “encapsulation, replacement, enclosure, or removal” and may

involve the removal of chipping paint, the replacement of building components with lead-free materials, and the scraping and/or sanding of surfaces to remove paint *Id.* §§ 67-2.2(a); 67-2.7.

40. If the owner of a dwelling fails to comply with the notice and demand, the county health department may conduct a formal hearing and, on proof of violation, may order the abatement of the paint condition and assess a penalty of up to \$2,500. Public Health Law § 1373(3).

***ii. Property Maintenance Code***

41. The New York State Property Maintenance Code (“State Code”) is part of the New York State Fire Prevention and Building Code. *See* New York State Fire Prevention and Building Code § 101.1.

42. The State Code requires that all exterior building surfaces, including but not limited to doors, door frames, window frames, and porches, be maintained in “good condition.” State Code § 304.2. It further provides that “[p]eeling, flaking, and chipped paint shall be eliminated and surfaces repainted.” *Id.*

43. The State Code also requires that all interior building surfaces, including doors and windows be maintained in “good, clean and sanitary condition” and provides that “[p]eeling, chipping, flaking or abraded paint shall be repaired, removed or covered.” *Id.* § 305.3.

44. Any person who violates an order to remedy a condition pursuant to the State Code or who knowingly violates the State Code is subject to a fine of up to \$1,000 per day. *See* Executive Law § 382.

*iii. Real Property Law § 235-b*

45. In 1975, the New York State Legislature codified the common law warranty of habitability by enacting Real Property Law § 235-b. The statute requires that all leased residential premises be “fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises shall not be subjected to any conditions which would be dangerous, hazardous or detrimental to their life, health or safety.” Real Property Law § 235-b.

46. The statutory warranty of habitability is incorporated by operation of law into the Property Conservation Code by City Code § 27-11(a)(3), which states

The owner shall at all times: ... (3) Make all repairs and arrangements necessary to put and keep the building, structure or part thereof and the appurtenances thereto in as good condition as they were or as required by agreement to have been, at the commencement of tenancy; in all cases standards established by law must be met.

**D. Federal Lead Disclosure Laws and Regulations**

*i. Lead Disclosure Rule*

47. The U.S. Environmental Protection Agency (“EPA”) and U.S. Department of Housing and Urban Development (“HUD”) have promulgated regulations requiring the disclosure of lead-based paint hazards before the lease or sale of residential housing built before 1978 (“target housing”). The EPA’s implementing regulations, 40 C.F.R. Part 745, Subpart F, and HUD’s implementing regulations, 24 C.F.R. Part 35, Subpart A, are collectively known as the “Lead Disclosure Rule.”



48. The Lead Disclosure Rule requires owners, agents, brokers, and property managers, as lessors or sellers of target housing, to include an EPA-approved pamphlet about the dangers associated with lead paint hazards and a disclosure form signed and dated by both parties, either in a lease or contract or as an attachment, which includes: (1) a statement warning of the risks associated with lead paint; (2) a statement disclosing knowledge or no knowledge of lead-based paint or lead-based paint hazards; (3) a list of any records or reports pertaining to lead-based paint and/or lead-based paint hazards in the housing being leased or sold; and (4) a statement by the lessee or purchaser affirming receipt of the disclosures and the EPA-approved pamphlet. *See* 24 C.F.R. § 35.92(a)-(b); 40 C.F.R. § 745.113(a)-(b).

49. Violations of the Lead Disclosure Rule are subject to civil penalties of up to \$18,364 for each violation, as well as criminal sanctions. 24 C.F.R. §§ 30.65(b); 35.96(f).

***ii. Lead Abatement Regulations for Properties Receiving Federal Rental Assistance for Low-Income Tenants***

50. Federal law requires HUD to establish procedures to “eliminate as far as practicable the hazards of lead based paint poisoning” in residential properties built before 1978 that receive federal financial assistance. 42 U.S.C. § 4822(a).

51. Accordingly, HUD has promulgated regulations to eliminate lead-based paint hazards in housing occupied by families receiving tenant-based rental assistance through various programs, including the federal Housing Act of 1937,

codified as amended at 42 U.S.C. § 1437f (“Section 8”) certificate program and voucher program. 24 C.F.R. § 35.1200(a).<sup>2</sup>

52. Specifically, HUD requires owners of such housing to, *inter alia*: (1) reduce any hazards identified during initial and periodic inspections, 24 C.F.R. § 35.1215; (2) conduct ongoing lead-based paint maintenance, 24 C.F.R. § 35.1220; and (3) reduce any hazards identified during an investigation of the dwelling unit of a child with an elevated blood lead level, 24 C.F.R. § 35.1225.

## II. NEW YORK STATE GENERAL BUSINESS LAW § 349

53. Deceptive acts or practices in the conduct of any business or in the furnishing of any service in the State are unlawful. *See* GBL § 349(a).

54. The Attorney General is authorized pursuant to GBL § 349(b) to bring an action to enjoin a person or entity from engaging in deceptive acts or practices in the conduct of business and to seek restitution of any moneys or property obtained directly or indirectly by any such unlawful acts or practices. *See* GBL § 350-d. Additionally, violations of the GBL § 349 are subject to a civil penalty of up to \$5,000 per violation. GBL § 350-d.

## III. NEW YORK EXECUTIVE LAW § 63(12)

55. The Attorney General is authorized pursuant to Executive Law § 63(12) to bring an action to enjoin “repeated fraudulent or illegal acts” and

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<sup>2</sup> In Syracuse, the Section 8 assistance program is administered by the Syracuse Housing Authority (SHA). To secure Section 8 funding, tenants must find housing that meets minimum standards set by HUD. In addition, landlords must provide SHA with certain documentation to show that the housing, as well as the leasing terms, meet those minimum federal standards.

“persistent fraud or illegality” in the “carrying on, conducting or transaction of business.”

56. “Illegal” conduct includes the violation of any state, federal, or local law or regulation. Executive Law § 63(12). “Repeated” fraud or illegality includes the “repetition of any separate and distinct fraudulent or illegal act, or conduct which affects more than one person,” and “persistent” fraud or illegality includes “continuance or carrying on of any fraudulent or illegal act or conduct.” *Id.*

57. In addition to an order enjoining such activity, the Attorney General may seek restitution, damages, and other relief. *Id.*

## FACTS

### **I. EXPOSURE TO LEAD-BASED PAINT HARMS CHILDREN**

58. Lead exposure is a serious public health concern and is toxic to every organ system in the body.<sup>3</sup>

59. For decades, doctors and scientists have recognized that lead-based paint in older homes is the leading source of lead exposure for children.<sup>4</sup> The U.S. Department of Health and Human Services has well documented that most lead

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<sup>3</sup> U.S. Department of Health and Human Services. (ATSDR, 2020) Toxicological Profile for Lead, at 4. Available at: <https://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>

<sup>4</sup> Lanphear, B.P, *et al*, *The Contribution of Lead Contaminated House Dust and Residential Soil to Children’s Blood Lead Levels. A Pooled Analysis of 12 Epidemiologic Studies*, Environmental Research, Section A 79, 51-68 (1998); Lanphear B.P. and Roghmann, K.L., *Pathways of Lead Exposure in Urban Children*, Environmental Research 74, 67-73 (1997); U.S. Department of Health and Human Services. (ATSDR, 2020) Toxicological Profile for Lead, at 2. Available at: <https://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>

poisoning in children is the result of dust and chips from deteriorating lead-based paint on interior surfaces in older homes.<sup>5</sup>

60. In children, lead generally enters the body after it has been inhaled or ingested. The degree to which exposure to lead has resulted in entry to the body is measured by testing an individual's blood lead level. Both the Department of Health and Human Services and the Center for Disease Control ("CDC") have stated that "no safe blood lead level in children has been identified" – i.e., any level greater than 0 µg/dL may be associated with a detrimental health effect.<sup>6</sup> The CDC recommends that children with elevated blood lead levels higher than five µg/dL undergo case management to prevent continued lead exposure from causing blood lead levels that require medical intervention.<sup>7</sup> Unless otherwise noted, elevated blood lead levels in this complaint reflect the CDC action level of five µg/dL or higher.

61. Once a child is exposed to lead, the bloodstream delivers it to the rest of the body. The child's bones store much of this lead, acting as a reservoir that can

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<sup>5</sup> U.S. Department of Health and Human Services. (ATSDR, 2020) Toxicological Profile for Lead, at 421. Available at: <https://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>

<sup>6</sup> See Childhood Lead Poisoning Prevention: Lead Poisoning Prevention, CDC, <https://www.cdc.gov/nceh/lead/prevention/default.htm> (last accessed July 9, 2021), Department of Health and Human Services. (ATSDR, 2020) Toxicological Profile for Lead, at 4. Available at: <https://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>

<sup>7</sup> See Childhood Lead Poisoning Prevention: Blood Lead Reference Value, CDC, <https://www.cdc.gov/nceh/lead/data/blood-lead-reference-value.htm> (last accessed July 13, 2021).

gradually release lead into the bloodstream after the initial exposure, perpetuating longer-term toxic effects on the growing child.<sup>8</sup>

62. Children are more susceptible than adults to negative effects of lead exposure for several reasons. First, children naturally engage in behavior that increases ingestion of lead paint, such as hand-to-mouth activity and consuming non-food items. Second, their bodies are capable of absorbing more lead than adults' bodies. Finally, because children are smaller, their breathing zone is in closer proximity to surfaces on which lead surface dust may rest.<sup>9</sup>

63. While lead can adversely affect all systems in the body, lead is particularly detrimental to the brain and central nervous system. Children are particularly vulnerable to the adverse effects of lead because they are in a period of rapid growth and development. The brain and nervous system are at particular risk in this critical phase of development.<sup>10</sup>

64. Lead poisoning results in an array of adverse neurological effects including decreased cognitive function as reflected in declines in intelligence quotient ("IQ") scores, changes in hearing and speech processing, increased impulsivity and irritability, and altered motor skills.<sup>11</sup>

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<sup>8</sup> Department of Health and Human Services. (ATSDR, 2020) Toxicological Profile for Lead, at Section 3.1. Available at: <https://www.atsdr.cdc.gov/toxprofiles/tp13.pdf>

<sup>9</sup> *Id.*, 2.

<sup>10</sup> *Id.*, Section 2.16.

<sup>11</sup> *Id.*, 133-137.

65. The negative neurological effects of lead exposure can have detrimental impacts on a child's future. Increased blood lead levels are correlated with increased risks of neurobehavioral challenges, such as attention-deficit/hyperactivity disorder, anxiety, and depression.<sup>12</sup> In addition, decreased academic achievement has been repeatedly associated with childhood exposure to lead.<sup>13</sup>

66. While the effects of childhood lead exposure are permanent, the CDC states that "childhood lead poisoning is 100% preventable." It insists that lead hazards throughout a child's surroundings must be "identified and controlled or removed safely," maintaining that the solution to childhood lead poisoning is preventing children from being exposed to lead in the first place.<sup>14</sup>

## II. LEAD-BASED PAINT IS PERVASIVE IN SYRACUSE

67. Lead-based paint in residential housing is a pervasive problem and is the most common source of childhood lead poisoning.<sup>15</sup> For much of the 1900s, residential paint was marketed based on its lead content – the more lead, the purportedly higher quality the paint. Lead was added to make paint more durable,

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<sup>12</sup> *Id.*, 171-173.

<sup>13</sup> *Id.*, 170-171.

<sup>14</sup> Childhood Lead Poisoning Prevention: Prevent Children's Exposure to Lead, CDC, <https://www.cdc.gov/nceh/features/leadpoisoning/index.html> (last accessed July 13, 2021).

<sup>15</sup> *See* paragraph 59.

which made its use particularly attractive for high-moisture and high-traffic areas.<sup>16</sup>

68. Although New York banned the use of lead paint in 1970, with the federal government following suit in 1978, buildings constructed prior to 1978 often still have lead paint. According to the EPA, approximately 87% of houses in the United States built before 1940 still contain lead paint, compared with 69% of houses built between 1940-1959, and 24% of houses built between 1960-1977.<sup>17</sup>

69. New York State has the highest percentage of residential buildings built before 1950 in the United States. Over 90% of Syracuse's housing stock was constructed prior to 1978.<sup>18</sup> The vast majority of these dwellings were constructed before New York banned lead paint in 1970: of the 23,268 homes built in Syracuse before 1979, only 284 were built between 1970 and 1979.<sup>19</sup>

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<sup>16</sup> National Center for Healthy Housing, Lead, <https://nchh.org/information-and-evidence/learn-about-healthy-housing/health-hazards-prevention-and-solutions/lead/> (last accessed July 13, 2021).

<sup>17</sup> Environmental Protection Agency, Protect Your Family from Exposures to Lead, <https://www.epa.gov/lead/protect-your-family-exposures-lead> (last accessed July 9, 2021).

<sup>18</sup> Get the Lead Out: The Greater Syracuse Lead Poisoning Prevention Action Plan, Home Headquarters: Syracuse & Central NY, (2018), 1.

<sup>19</sup> Syracuse Housing Plan, Department of Neighborhood & Business Development and Bureau of Planning & Sustainability, (2010), 12.

### III. THE VAST MAJORITY OF LEAD POISONED CHILDREN IN ONONDAGA COUNTY RESIDE IN SYRACUSE

70. In 2020, 397 children in Onondaga County were found to have elevated blood lead levels of at least 5 µg/dL, and 90% of these children lived in Syracuse.<sup>20</sup> Since 2012, 87% of all lead poisoned children in Onondaga County were from the City of Syracuse.<sup>21</sup>

71. Lead poisoning in Onondaga County is highest among children of color.<sup>22</sup> The last available data shows that Black children are twice as likely as white children to have elevated blood lead levels - 22.7% of Black children in Syracuse had elevated blood lead levels of 10 µg/dL or greater, while 10.8% of white children had elevated blood lead levels of 10 µg/dL or greater.<sup>23</sup>

72. Low-income communities in Syracuse also face higher rates of lead poisoning. Children from households living at or below the federal poverty line are at a greater risk of exposure to lead than children from households above the federal poverty line.<sup>24</sup> As of 2015, almost half of the children in Syracuse lived

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<sup>20</sup> Onondaga County, Lead Poisoning Prevention Data. <http://www.ongov.net/health/lead/data.html> (last accessed August 5, 2021).

<sup>21</sup> *Id.*

<sup>22</sup> Sandra D. Lane, *et al*, *Environmental Injustice: Childhood Lead Poisoning, Teen Pregnancy, and Tobacco*, 42 J. of Adolescent Health 44-49 (2008).

<sup>23</sup> *Id.*

<sup>24</sup> Childhood Lead Poisoning Prevention: Populations at Higher Risk, CDC, <https://www.cdc.gov/nceh/lead/prevention/populations.htm> (last visited July 13, 2021).



below the poverty line.<sup>25</sup> Census tracts in Syracuse with rates of families living below the federal poverty line experience higher rates of lead poisoning.<sup>26</sup>

73. An overwhelming majority of Endzone Properties with lead paint violations are located in census tracts of Syracuse where residents suffered disproportionate rates of lead poisoning from 2015 through 2018 (28 out of 32 properties or 87.5%). Of these properties, almost half are located in the top 10% of census tracts for lead poisonings over the same period (15 out of 32 properties or 47%).<sup>27</sup> For example, six Endzone Properties are located in census tract 54, the census tract with the highest rate of lead poisoning, where 43% of residents live below the poverty line and 26.5% of children tested positive in 2018 for blood lead levels above 5 µg/dL (over double the rate for Syracuse in general of 10.4%).<sup>28</sup>

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<sup>25</sup> Get the Lead Out: The Greater Syracuse Lead Poisoning Prevention Action Plan, Home Headquarters: Syracuse & Central NY, (2018), 15.

<sup>26</sup> Lead in CNY, LeadSafe CNY, <https://www.lead safecny.org/lead-in-cny.html> (last visited July 16, 2021).

<sup>27</sup> The location of Endzone Properties with lead violations were compared against the cumulative lead poisoning rates from: Elevated Blood Lead Levels Among Tested Children by Census Tract, Syracuse, NY, 2013-2018. Onondaga County Health Department Lead Poisoning Prevention Health Program. Data published August 2019, <http://www.ongov.net/health/lead/documents/LeadTesting.xlsx> (last visited 8/21/21).

<sup>28</sup> Lead in CNY, LeadSafe CNY, <https://www.lead safecny.org/lead-in-cny.html> (last visited July 16, 2021).

**IV. LEAD-BASED PAINT HAZARDS ARE PERVASIVE ACROSS THE ENDZONE PROPERTIES, AND AT LEAST 18 CHILDREN HAVE BEEN LEAD POISONED WHILE LIVING IN THEM**

74. As alleged *supra* at ¶ 1, Kiggins and Endzone have owned and/or managed at least 89 Endzone Properties since 2007 (see Exhibit A for list of all Endzone Properties). At all relevant times, Kiggins was responsible for all decisions concerning maintenance and management of lead-based paint hazards at the Endzone Properties.

75. According to City and County records, at least 85% of Endzone's properties were built between 1840 and 1966. The vast majority are single- or two-family homes located in low-income neighborhoods<sup>29</sup> and/or neighborhoods of color.<sup>30</sup>

76. In the last six-and-a-half years alone, from January 1, 2015 to July 31, 2021, at least 32 of the Endzone Properties were cited by inspectors from the County Health Department or the City of Syracuse Division of Code Enforcement for chipping, peeling, or deteriorating paint and other conditions conducive to lead

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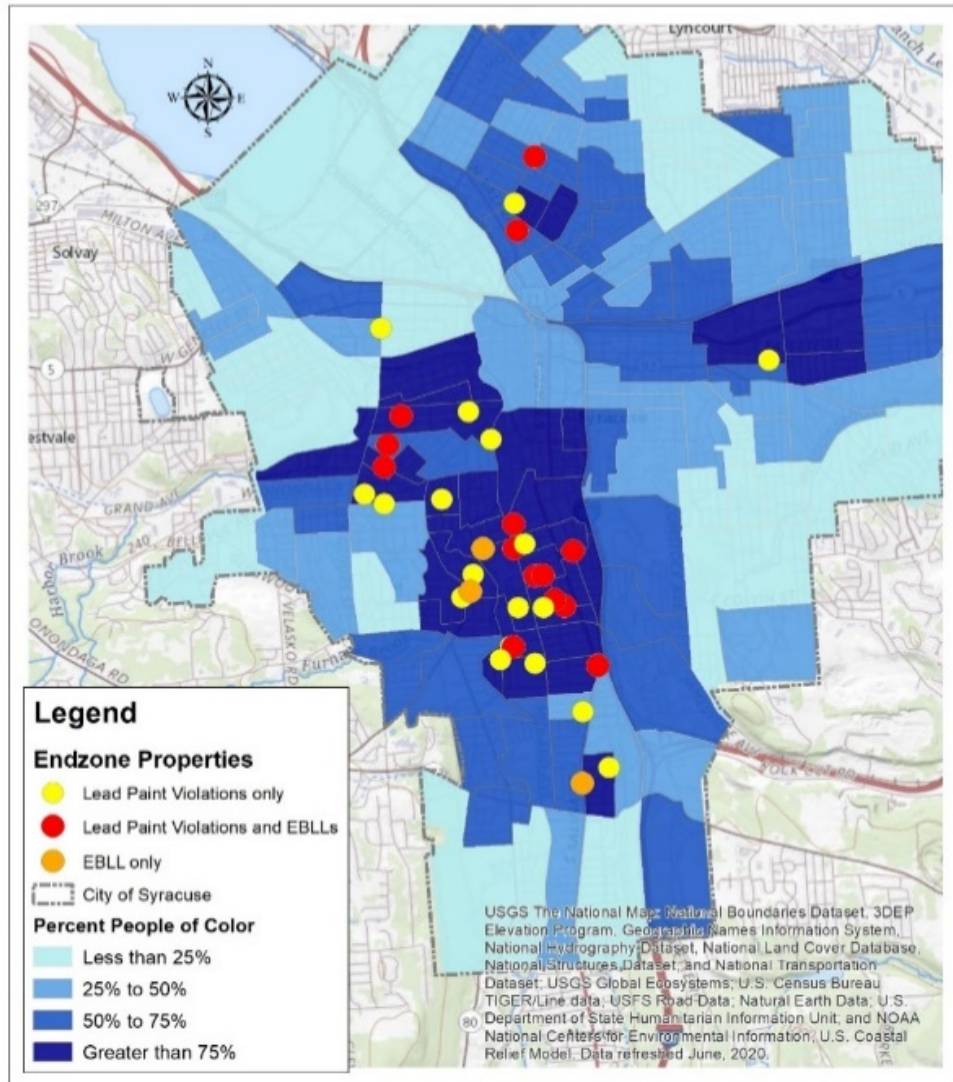
<sup>29</sup> The median percent low income population in the census block groups where Endzone Properties with lead paint violations and lead poisoned children were found was 73% as compared to 54% low income population in Syracuse overall. Low income is defined as living in a household making less than 200% the Federal Poverty level.

<sup>30</sup> The median percent of people of color in the census block groups where Endzone Properties with lead paint violations and lead poisoned children were found was 84%, as compared to 52% people of color in Syracuse overall. People of color for census data is defined as Total Population minus all "white and non-Hispanic" population.

poisoning. In total, 201 interior and 341 exterior lead paint violations were cited at the 32 properties.

77. From January 1, 2015 to July 31, 2021, 18 children have been poisoned by lead while residing in an Endzone Property (these children recorded new or increased blood lead levels above 5  $\mu\text{g/dL}$ ). In total, there are 17 separate Endzone Properties where at least one of these lead poisoned children lived at the time of their elevated blood lead level measurement(s). If inspected, these properties were found to have lead paint violations.

78. Endzone Properties with lead paint violations and/or children with elevated blood lead levels are predominantly located within neighborhoods of color, as shown below:

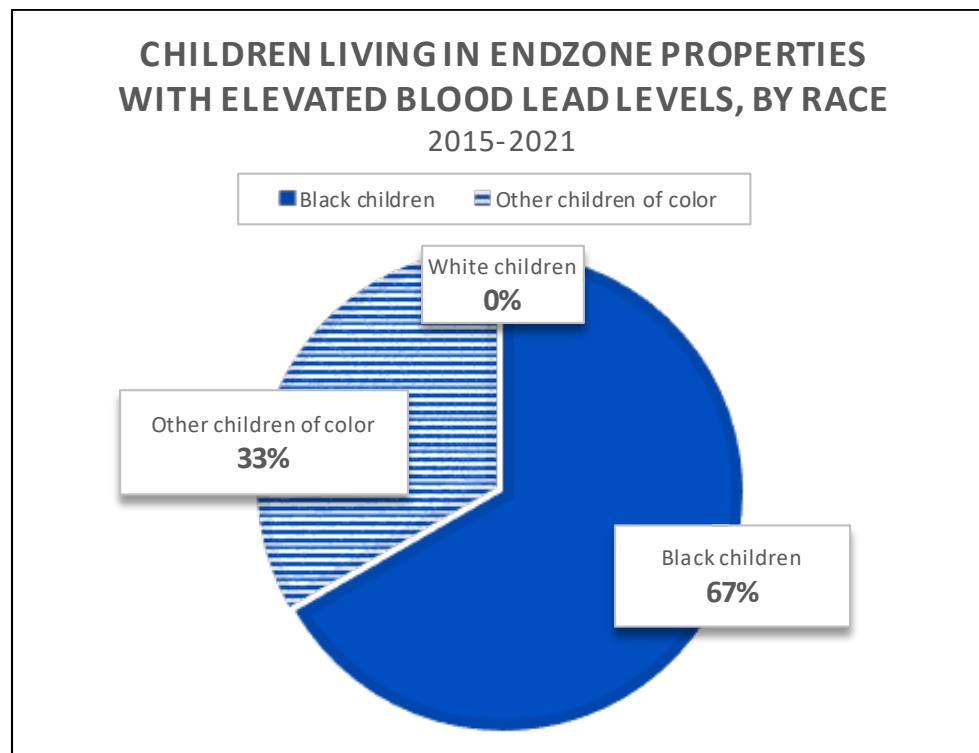


**Endzone Properties with Child Elevated Blood Lead Levels (EBLLs) and Lead Paint Violations in Syracuse**

Percent People of Color  
 0 0.3 0.6 1.2 Miles

Demographic data: EPA EJSCREEN 2020; City Boundary: NYS ITS.  
 Lead Paint Violations, EBLLs (1/1/2015-7/31/2021): OCHD and  
 City of Syracuse. Map: NYS OAG Environmental Protection Bureau.  
 September 15, 2021

79. Of the 18 children poisoned by lead while residing in an Endzone Property, 12 were Black (67%), six were other children of color (33%), and none were white (0%).



80. While the above maps and charts capture information about lead paint violations and elevated blood lead level referrals at the Endzone Properties from January 1, 2015 to July 31, 2021, Kiggins and Endzone have repeatedly been cited by the County Health Department for lead-based paint violations well before 2015. At least six additional Endzone Properties were cited before 2015 (125 Berger Avenue, 228 Wall Street, 329 Warner Avenue, 340 Primrose Avenue, 419 West Ostrander Avenue, and 643 Catherine Street) and some of these properties were repeatedly cited. In addition, the County Health Department identified multiple inspection referrals due to lead poisoning prior to 2015.

81. Primary physicians who conduct blood lead testing on children in Onondaga County report test results to the state health department, which then enters the elevated blood lead level test results into the state's Leadweb Registry. The local health department is responsible for proactively checking the Leadweb Registry for county cases involving categorical elevated blood lead level results, and bears responsibility for follow up on those cases. When such results indicate an elevated blood lead level, the County Health Department inspects the residence of the poisoned child for lead paint hazards. In at least two of the Endzone Properties, there have been multiple children with elevated blood lead levels.

82. Example 1: Three siblings were lead poisoned at 215 Warner Avenue within one year of each other: Child 1, born during the spring of 2014; Child 2, born during the summer of 2015; and Child 3, born during the fall of 2018. The family moved to 215 Warner Avenue in December 2018. Days after moving in, five-year-old Child 1 had an elevated blood lead level of 11  $\mu\text{g}/\text{dL}$  measured. In May 2019, three-year-old Child 2 had a blood test that revealed an elevated blood lead level of 19  $\mu\text{g}/\text{dL}$ . Finally, in October 2019, a blood test for one-year-old Child 3 indicated that they had an elevated blood lead level of 12  $\mu\text{g}/\text{dL}$ . A County Health Department inspection of 215 Warner Avenue in February 2019 found 42 lead paint violations.

83. Example 2: Child 4 and Child 5, twins born during the summer of 2015, were both lead poisoned while residing at 115 Richardson Avenue. In June 2016, just after the twins had turned one year old, Child 4 and Child 5 had elevated blood lead levels of 9  $\mu\text{g}/\text{dL}$  and 7  $\mu\text{g}/\text{dL}$  measured, respectively. The County Health

Department inspected 115 Richardson Avenue in August 2016 and found nine lead paint violations.

84. Example 3: Child 6 was born in spring of 2011 and moved to 1721 South State Street in July 2015. Just a month later, in August 2015, the four-year-old had an elevated blood lead level of 30  $\mu\text{g}/\text{dL}$ . A County Health Department inspection of 1721 South State Street in August 2015 found nine lead paint violations.

85. Example 4: Child 7, born during the summer of 2014, moved to 254 Furman Street in July 2016. Just one month later, in August 2016, the two-year-old was found to have an elevated blood lead level of 20  $\mu\text{g}/\text{dL}$ . The County Health Department inspected the property in September 2016, finding seven lead paint violations. These violations were cited less than a year after a previous inspection of the property found eight lead paint violations in December 2015.

**V. KIGGINS' AND ENDZONE'S WIDESPREAD LEASING OF HOUSING WITH CONDITIONS CONDUCIVE TO LEAD POISONING CREATES A PUBLIC NUISANCE THAT IMPACTS INDIVIDUALS, FAMILIES, AND THE COMMUNITY**

86. According to the Joint Center for Housing Studies of Harvard University, nearly everyone lives in rental housing at some point in their lives. Rental housing is particularly important for low-income households and households of color, about half of whom are renters.

87. As described *supra* at ¶ 1, Kiggins and Endzone have owned, controlled, or managed at least 89 residential rental properties in Syracuse. Kiggins and Endzone have allowed conditions conducive to lead poisoning to persist, and the

repeated lead poisoning of children to occur, on a scale that constitutes a public nuisance.

88. Lead poisoning has a lifelong impact on children, as well as their offspring, parents, siblings and the greater community. Lead poisoning causes a downward shift in the population IQ, which increases the number of students who require remedial assistance. It is estimated that as a child's blood lead level increases from one  $\mu\text{g/dL}$  to 10  $\mu\text{g/dL}$ , the child may lose between 3.9 to 7.4 IQ points.<sup>31</sup> A downward shift of just five points in IQ at the population level would increase the number of children at the "very low" IQ level by 57%, requiring additional spending of \$38,000 for three years for students requiring special education. Nationwide, the annual price tag of lead exposure is estimated at \$50 billion due to lost economic productivity as a result of decreased cognitive potential.<sup>32</sup>

89. The County, City, and State are affected by lead poisoning in numerous ways and are spending substantial resources to prevent it.

90. In 2019, the County spent approximately \$2.6 million on its lead programs, including the Childhood Lead Primary Prevention Program and the Lead Poisoning Prevention Program. Funding for the County programs is provided, in part, by HUD as well as State and County funds. The County also incurs additional

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<sup>31</sup> Issue Brief: Childhood Lead Exposure and Educational Outcomes, National Center for Healthy Housing, at 2, [https://nchh.org/resource-library/Childhood\\_Lead\\_Exposure.pdf](https://nchh.org/resource-library/Childhood_Lead_Exposure.pdf) (last accessed Sept. 16, 2020).

<sup>32</sup> *Id.*



annual expenses addressing the broader impacts caused by lead poisoning in the form of law enforcement and social services.

91. The City also provides numerous services addressing and/or directly related to the impacts of lead paint poisoning described herein. Employees of the City's Department of Neighborhood and Business Development are tasked with performing property inspections, educating tenants and owners about the dangers of lead paint, and informing tenants and owners whom to contact to properly.

92. The City spends in excess of \$1,000,000 per year on its lead poisoning prevention efforts. Funding for the City's lead-related programs is provided, in part, by HUD as well as State and City funds. The City also incurs additional annual expenses addressing the broader impacts caused by lead poisoning in the form of law enforcement and social services.

93. New York State also provides services and incurs expenses directly and indirectly related to lead paint poisoning. The State Department of Health partners with local health departments to provide education and testing for lead poisoning. The State likewise incurs expenses for a variety of programs including educational services, and medical health services to individuals and communities impacted by lead poisoning. The financial consequences of lead poisoning in New York State include millions of dollars per year in public spending on medical intervention, special education, and other social services.<sup>33</sup> In addition, New York

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<sup>33</sup> Gould (2009) estimates medical treatment costs per child in 2006 USD based on blood lead level (BLL) ranges: BLL between 10-19 = \$74; BLL between 20-44 = \$1,207; BLL between 45-69 = \$1,335; BLL above 70 = \$3,444. In addition, 20% of

State loses millions in tax dollars each year because of lowered earnings from lead poisoning.<sup>34</sup>

**VI. KIGGINS AND ENDZONE PROVIDE NO OR FALSE LEAD DISCLOSURES TO TENANTS IN VIOLATION OF FEDERAL LAW**

94. Since 1996, the federal government has required lessors and sellers of housing constructed prior to 1978 to provide all lessees and purchasers with disclosures concerning the presence of any known lead-based paint and/or lead-based paint hazards (the “lead disclosure notices”) as well as EPA-approved lead hazard information pamphlets. 40 C.F.R. §§ 745.102, 745.107.

95. Kiggins and Endzone routinely provide no lead disclosure statement to tenants in conjunction with its renting of houses they own or manage. Kiggins’ and Endzone’s repeated failure to provide lead disclosure statements to tenants violated the federal Lead Disclosure Rule.

96. When Kiggins and Endzone do provide tenants with lead disclosures required by the Lead Disclosure Rule, these disclosures repeatedly contain false

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children with BLLs above 25 require special education, which has an average annual cost of \$14,317 per child in 2006 USD. Using the most recent complete annual datasets for NYS and NYC, respectively, statewide costs of lead poisoning are in the millions when adjusted for inflation. *See* CDC data for 2011 (NYS) and 2014 (NYC), [https://www.cdc.gov/nceh/lead/data/Website\\_StateConfirmedByYear\\_1997\\_2014\\_01112016.htm](https://www.cdc.gov/nceh/lead/data/Website_StateConfirmedByYear_1997_2014_01112016.htm). *See also* Gould, E., *Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control*, 117 *Environmental Health Perspectives* 1162-1167 (2009).

<sup>34</sup> Gould, E., *Childhood Lead Poisoning: Conservative Estimates of the Social and Economic Benefits of Lead Hazard Control*, 117 *Environmental Health Perspectives* 1162-1167 (2009).

and/or misleading statements, conceal Kiggins' and Endzone's knowledge of lead paint and lead paint hazards, and conceal existence of reports pertaining to lead paint and lead paint hazards on the premises.

97. For example, Kiggins and Endzone provided a lead disclosure statement to the prospective tenant of 1332 West Colvin Street on or about December 7, 2020 in which they indicated it had "no knowledge of lead-based paint and/or lead-based paint hazards in the housing," despite having been aware that the County Health Department had cited the house for 18 exterior "lead paint violations" in 2015.

98. As another example, in October 2019, Kiggins and Endzone provided a lead disclosure statement to the prospective tenant of 600 West Newell Street in which they failed to disclose its knowledge of "lead-based paint and/or lead-based paint hazards in the housing," despite having been cited by the County Health Department in 2017 for 9 interior and 10 exterior "lead paint violations" at the property.

99. Kiggins and Endzone also routinely failed to provide required EPA-approved lead hazard information pamphlets to their tenants, in further violation of federal law.

**VII. KIGGINS AND ENDZONE FAIL TO PROVIDE ACCURATE LEAD DISCLOSURES TO PURCHASERS OF THE ENDZONE PROPERTIES**

100. In addition to providing false lead disclosures to tenants, Kiggins and Endzone have repeatedly provided false and misleading lead disclosures to purchasers of Endzone Properties.

101. For example, as described below, Kiggins and Endzone have provided false lead disclosures to the purchasers of 1102 Midland Avenue, 252-254 Furman Street, 316 Cannon Street, and 643 Catherine Street.

102. The transaction history for these four properties is as follows. On May 5, 2021, Endzone (as seller) entered into a contract to sell 1102 Midland Avenue to Joseph Santiago. By a deed dated May 26, 2021, Endzone transferred to Joseph Santiago title to 1102 Midland Avenue. On October 15, 2020, Endzone (as seller) entered into a contract to sell 252-254 Furman Street to Jai Jo Saeliew. By a deed dated January 13, 2021, Endzone transferred 252-254 Furman Street to Jai Jo Saeliew. On May 5, 2021, Endzone (as seller) entered into a contract to sell 316 Cannon Street to Anthony Fabrizio. By a deed dated June 1, 2021, Endzone transferred to Anthony Fabrizio title to 316 Cannon Street along with other properties. On April 20, 2017, Endzone (as seller) entered into a contract to sell 643 Catherine Street to Nada Faraj and Ayad Alazzawi. By deed dated May 24, 2017, Endzone transferred to Nada Faraj and Ayad Alazzawi title to 643 Catherine Street.

103. The contracts for the sale of 1102 Midland Avenue, 252-254 Furman Street, 316 Cannon Street, and 643 Catherine Street each included a “Contingency Addendum and Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards for Target Housing Sales.” The disclosure for 1102 Midland Avenue was signed and dated May 8, 2021 by Endzone’s real estate agent. The disclosure for 252-254 Furman Street was signed by Kiggins on behalf of Endzone but not

dated. It was signed and dated by the buyer on October 15, 2020. The disclosure for 316 Cannon Street was signed and dated March 20, 2020 by Kiggins on behalf of Endzone. The disclosure of 643 Catherine Street was signed by Kiggins on behalf of Endzone but was not dated. The seller's disclosures on each of these addendums stated that "Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing" and "Seller has no reports pertaining to lead-based paint and/or lead-based paint hazards in the housing."

104. However, the lead disclosures by Kiggins and Endzone in the addenda accompanying the sales of 1102 Midland Avenue, 252-254 Furman Street, 316 Cannon Street, and 643 Catherine Street are false.

105. The County Health Department had previously cited a total of 12 interior and 36 exterior "lead paint violations" at 1102 Midland Avenue to Endzone on May 22, 2017 and November 20, 2019. Thus, it was false to declare that "Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing" and that "Seller has no reports pertaining to lead-based paint and/or lead-based paint hazards in the housing."

106. The County Health Department had previously cited a total of four interior and 40 exterior "lead paint violations" at 252-254 Furman Street on January 11, 2016, September 26, 2016, October 3, 2016, March 12, 2018, and August 21, 2018 to Endzone. Thus, it was false to declare that "Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing" and

that “Seller has no reports pertaining to lead-based paint and/or lead-based paint hazards in the housing.”

107. The County Health Department had previously cited 17 interior and 24 exterior “lead paint violations” at 316 Cannon Street on September 11, 2018 to Endzone. Thus, it was false to declare that “Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing” and that “Seller has no reports pertaining to lead-based paint and/or lead-based paint hazards in the housing.”

108. The County Health Department had previously cited a total of 8 interior and 13 exterior “lead paint violations” at 643 Catherine Street on March 21, 2013 and June 23, 2014 to Endzone. Thus, it was false to declare that “Seller has no knowledge of lead-based paint and/or lead-based paint hazards in the housing” and that “Seller has no reports pertaining to lead-based paint and/or lead-based paint hazards in the housing.” Shortly after Endzone sold the property in 2017, a refugee family rented 643 Catherine Street with four children in the family recovering from lead poisoning. At least three of these children experienced increases in blood lead levels after moving into 643 Catherine Street.<sup>35</sup>

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<sup>35</sup> Onondaga County is home to a large international refugee population, with the second highest per capita refugee population in the state. Syracuse’s refugee population primarily resides in older rental homes in the city, which are more likely to contain lead paint. Nearly 30% of Syracuse’s refugee children develop increased blood lead levels in the three- to six-month period following their resettlement.

*See* Lupone, *et al*, *Lead Exposure in Newly Resettled Pediatric Refugees in Syracuse*, NY, 22 J. of Immigrant and Minority Health 33-43 (2020); *see also* Childhood Lead Poisoning Prevention: Refugees and Other Newcome Persons Resettled to the United States, CDC, <https://www.cdc.gov/nceh/lead/prevention/refugees.htm> (last

109. Kiggins and Endzone also failed to provide required EPA-approved lead hazard information pamphlets to some or all purchasers of Endzone Properties, in violation of federal law.

**FIRST CAUSE OF ACTION**  
**REPEATED AND PERSISTENT ILLEGALITY UNDER EXECUTIVE § 63(12)**  
**Lead Paint Violations**  
**(Asserted Only by the People of the State of New York)**

110. Plaintiffs repeat and reallege each of the foregoing paragraphs.

111. Kiggins and Endzone have repeatedly and persistently violated the Codes and Real Property Law § 235-b(1) by renting out dwellings that are not clean, safe, or fit for human occupancy, including by allowing conditions conducive to lead poisoning, such as chipped, peeling, or deteriorating paint, to proliferate and poison children.

112. From January 1, 2015 to July 31, 2021, at least 32 of the Endzone Properties have been cited by inspectors from the County Health Department or the City of Syracuse Division of Code Enforcement for chipping, peeling, or deteriorating paint and other conditions conducive to lead poisoning. As a result of allowing such conditions to persist, 18 children, all of them children of color, have been lead poisoned while residing at Endzone Properties. From January 1, 2015 to July 31, 2021, children with elevated blood lead levels have been reported as

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accessed July 9, 2021); *see also* Lead Poisoning Prevention in Newly Arrived Refugee Children: Tool Kit, CDC, <https://www.cdc.gov/nceh/lead/publications/refugeetoolkit/refugee-tool-kit.htm> (last accessed July 13, 2021).

residing in at least 17 of the Endzone Properties; in at least two of the Endzone Properties, there have been multiple referrals for children with elevated blood lead levels.

113. By repeatedly and persistently violating the Codes and Real Property Law § 235-b(1), Kiggins and Endzone have committed repeated fraudulent or illegal acts or persistent fraud or illegality within the meaning of Executive Law § 63(12).

**SECOND CAUSE OF ACTION**  
**REPEATED ILLEGALITY UNDER EXECUTIVE LAW § 63(12)**  
**Lead Disclosure Violations – Tenants**  
**(Asserted Only by the People of the State of New York)**

114. Plaintiffs repeat and reallege each of the foregoing paragraphs.

115. Since 1996, the federal government has required lessors of residential housing built before 1978 to provide lessees with disclosures concerning the presence of any known lead-based paint and/or lead-based paint hazards, as well as EPA-approved lead hazard information pamphlets. 40 C.F.R. §§ 745.102, 745.107; 24 C.F.R. §§ 35.84, 35.88.

116. The overwhelming majority of the Endzone Properties were constructed prior to 1978 and thus are presumed to contain lead paint.

117. In many of the Endzone Properties, the presence of lead paint and lead paint hazards has been verified through inspections, testing, and reports. On each of these occasions, Kiggins and Endzone received notice of such results and copies of such reports.

118. From no later than January 1, 2015 to July 31, 2021, tenants in a majority of Endzone properties did not receive any lead disclosures. Those tenants



who Kiggins and Endzone did provide lead disclosures to were repeatedly given false and misleading disclosures that failed to disclose the presence of lead paint and/or lead-paint hazards that Kiggins and Endzone knew existed at those properties.

119. On several occasions, even when Kiggins and Endzone did provide lead disclosure forms mandated by federal law, they made false statements to tenants that they had no knowledge of lead-based paint and/or lead-based paint hazards in housing, and that they had no reports or records pertaining to such hazards. Properties for which Kiggins and Endzone provided tenants with false lead disclosures include those at 1332 West Colvin and 600 West Newell Street. *See supra* ¶¶ 97 – 98.

120. Kiggins' and Endzone's failure to provide lead disclosures to many tenants, as well as their providing false and misleading disclosures to others, had the effect of both concealing and affirmatively misrepresenting the presence of hazardous lead paint conditions from prospective tenants.

121. Kiggins and Endzone failed to provide EPA-approved lead hazard information pamphlets to some or all of Endzone's tenants. In so doing, they deprived tenants of vital information about the hazards of lead paint and how to protect their families and children from lead poisoning.

122. By repeatedly and persistently failing to notify tenants of the presence of lead-based paint and lead-based paint hazards, failing to provide reports or records of lead-based paint or lead-based paint hazards, and failing to provide EPA-

approved lead hazards information pamphlets, in violation of federal regulations, Kiggins and Endzone have committed repeated fraudulent and illegal acts or persistent fraud or illegality within the meaning of Executive Law § 63(12).

**THIRD CAUSE OF ACTION**  
**REPEATED AND PERSISTENT FRAUD AND ILLEGALITY UNDER**  
**EXECUTIVE LAW § 63(12)**  
**Lead Disclosure Violations – Purchasers**  
**(Asserted Only by the People of the State of New York)**

123. Plaintiffs repeat and reallege each of the foregoing paragraphs.

124. Since 1996, the federal government has required sellers of residential housing built before 1978 to provide purchasers with disclosures concerning the presence of any known lead-based paint and/or lead-based paint hazards and reports pertaining to lead-based paint and/or lead-based paint hazards, as well as EPA-approved lead hazard information pamphlets. 40 C.F.R. §§ 745.102, 745.107; 24 C.F.R. §§ 35.84, 35.88.

125. Kiggins and Endzone have sold numerous Endzone Properties, beginning in 2007. In or about 2020, Kiggins and Endzone began to sell the Endzone properties at a faster rate, often selling a number of properties to the same buyer on the same date.

126. In conjunction with these sales, Kiggins and Endzone provided false lead disclosures to purchasers, stating that they had no knowledge of lead-based paint and/or lead-based paint hazards in the subject residences, and that they had no reports or records pertaining to such hazards. *See supra* ¶¶ 100 - 108. At least

three children, siblings from a refugee family, were lead poisoned after the family rented a property Endzone sold with a false and deceptive lead disclosure.

127. In other instances, Kiggins and Endzone failed to provide any lead disclosures to purchasers.

128. Kiggins and Endzone also failed to provide EPA-approved lead hazard information to some or all of the purchasers of Endzone Properties.

129. By repeatedly and persistently failing to notify purchasers of the presence of lead-based paint and lead-based paint hazards, failing to provide reports or records of lead-based paint or lead-based paint hazards, and failing to provide EPA-approved lead hazard information pamphlets, in violation of federal regulations, Kiggins and Endzone have committed repeated fraudulent or illegal acts or persistent fraud or illegality within the meaning of Executive Law § 63(12).

**FOURTH CAUSE OF ACTION**  
**GENERAL BUSINESS LAW § 349(A)**  
**Lead Disclosure Violations**  
**(Asserted Only by the People of the State of New York)**

130. Plaintiffs repeat and reallege each of the foregoing paragraphs.

131. Deceptive acts or practices in the conduct of any business or in the furnishing of any service in the State are unlawful. *See* GBL § 349(a).

132. Kiggins and Endzone, either directly or indirectly, violated GBL § 349(a) by falsely stating to tenants and purchasers that they had no knowledge of lead-based paint and/or lead-based paint hazards in properties being rented or sold, and that they had no reports or records pertaining to such hazards.

133. Kiggins and Endzone also violated GBL § 349(a) by failing to provide some tenants with a lead disclosure at all when Endzone was aware of lead paint, lead hazards or reports of the same in rental housing.

134. Kiggins and Endzone are liable for civil penalties of up to \$5,000 pursuant to GBL § 350-d for each deceptive disclosure, or failure to provide a required disclosure, in violation of GBL § 349(a).

**FIFTH CAUSE OF ACTION**  
**PUBLIC NUISANCE**  
**(Asserted by all Plaintiffs)**

135. Plaintiffs repeat and reallege each of the foregoing paragraphs.

136. The existence of conditions conducive to lead poisoning is a public nuisance.

137. By allowing conditions conducive to lead poisoning to proliferate across a fleet of 89 rental properties, over at least the past six-and-a-half years, Kiggins and Endzone have created and contributed to a public nuisance on a community-wide scale.

138. The People of the State of New York, Onondaga County, and the City of Syracuse have a common right to be free from the detrimental effects of lead in, on, and around residential rental properties in Syracuse.

139. As a direct and proximate result of Kiggins' and Endzone's conduct, conditions conducive to lead poisoning are present in, on, and around the Endzone Properties. In addition, numerous children residing at the Endzone Properties have tested with elevated blood lead levels and numerous others have been exposed or

will be exposed to lead in, on, and around the Endzone Properties. The community suffers from the impacts of lead poisoning of its children, including but not limited to decreased performance in schools, increased behavioral disorders, and increased rates of crime.

140. As a direct and proximate result of Kiggins' and Endzone's conduct, the County, City, and State have incurred and will continue to incur substantial expenses arising from the presence of conditions conducive to lead poisoning in, on, and around the Endzone Properties, including but not limited to costs of: monitoring for and treating children suffering from lead poisoning; addressing the special educational needs of children with lead poisoning; and enforcing the law.

141. The Attorney General is authorized under Executive Law § 63(12) to bring an action to enjoin Kiggins' and Endzone's public nuisance.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs pray for a judgment against Kiggins and Endzone, jointly and severally, as follows:

1. Ordering Kiggins and Endzone to inspect, within 30 days of the judgment, through a qualified third-party inspector, each residence they now or in the future own/or manage in New York for conditions conducive to lead poisoning, and to remedy all such conditions in each and every such property by certified workers and in full compliance with the Onondaga County Sanitary Code, the Property Conservation Code of the City of Syracuse, and all other local, state and federal laws, within 30 days of such inspection;

2. Ordering Kiggins and Endzone to provide tenants with safe and conveniently located accommodations while remediation work is being performed and/or appropriate compensation to terminate their tenancy and leave the premises;
3. Ordering Kiggins and Endzone to inspect each residence they now or in the future own and/or manage in New York before a new tenant moves into the residence and at a minimum of once every six (6) months for conditions conducive to lead poisoning and to remedy all such conditions within 30 days of such inspection, in full compliance with all local, state and federal laws;
4. Ordering Kiggins and Endzone to provide, within 15 days of the judgment, every lessee in each residential property they now or in the future own and/or manage in New York with a full and accurate lead disclosure statement that conforms to the content required by the federal Lead Disclosure Rule;
5. Ordering Kiggins and Endzone to provide Plaintiffs, within 15 days of the judgment, a list of each residential rental property that they own or manage and further requiring that they provide to the Office of the Attorney General (“OAG”) an updated, accurate list containing all such information on the first day of every month thereafter for three (3) years from the date of judgment;
6. Ordering Kiggins and Endzone to file reports with the OAG and with a third-party monitor, to be appointed at defendants’ expense, who may seek additional information at the monitor’s discretion regarding:
  - a. compliance with a paragraph 4 above, within 30 days of the judgment;
  - b. compliance with paragraph 1 above within 60 days of the judgment;

- c. compliance with paragraph 3 above within 180 days of the judgment and subsequent reports every 180 days for three years following the date of judgment; and
7. Permanently enjoining Kiggins and Endzone from further illegal acts relating to lead disclosures and conditions conducive to lead poisoning in rental housing;
8. Ordering disgorgement of all profits Kiggins and Endzone have realized from their repeated and persistent violations of law and fraud in carrying out their residential property leasing and management business;
9. Ordering Kiggins and Endzone pay restitution for their repeated and persistent violations of law and fraud in carrying out their residential property leasing and management business;
10. Awarding damages for the injuries sustained by Plaintiffs;
11. Ordering Kiggins and Endzone pay all additional allowances authorized by CPLR § 8303;
12. Ordering Kiggins and Endzone to pay civil penalties in an amount to be determined by the Court;
13. Retaining jurisdiction over this matter until Kiggins and Endzone have fully complied with their obligations to inspect and remedy all existing conditions conducive to lead poisoning in properties they own or manage;
14. Awarding Plaintiffs costs and disbursements; and
15. Granting such other and further relief as the Court deems just and proper.

Dated: September 29, 2021  
New York, New York

FOR THE PEOPLE OF THE STATE  
OF NEW YORK

LETITIA JAMES  
Attorney General

By: Abigail Katowitz  
ABIGAIL KATOWITZ  
*Assistant Attorney General*  
28 Liberty – 19th Floor  
New York, New York 10005  
Tel: (212) 416-8922  
abigail.katowitz@ag.ny.gov

By: Patrick Omilian  
PATRICK OMILIAN  
*Assistant Attorney General*  
350 Main Street, Suite 300A  
Buffalo, New York 14202  
Tel: (716) 853-8579  
patrick.omilian@ag.ny.gov

FOR THE CITY OF SYRACUSE

KRISTEN SMITH  
Corporation Counsel

By: Lee Terry  
LEE TERRY  
*Senior Assistant Corporation Counsel*  
City of Syracuse  
233 E. Washington Street, Room 300  
Syracuse, New York 13202  
Tel: (315) 448-8400



FOR THE COUNTY OF ONONDAGA

ROBERT A. DURR  
County Attorney

By: /s/ Robert A. Durr

Robert A. Durr

*County Attorney*

Onondaga County Law Department  
421 Montgomery Street – 10th Floor  
Syracuse, New York 13202  
Tel: (315) 435-2170

**Exhibit A**

List of Syracuse, New York properties within ownership, management, or control of John Kiggins and/or Endzone Properties, Inc. at any time between 2007 and 2021.

**Property Address**

215-217 Allen St.\*  
 208 Barrett St.  
 216 Barrett St.  
 107 Belle Ave.  
 602 Bellevue Ave.  
 1023 Bellevue Ave.\*  
 125 Berger Ave.  
 112 Berwyn St.\*  
 235 Bruce St.  
 316 Cannon St.  
 717 Cannon St.  
 627-629 Cannon St.  
 643 Catherine St.  
 118 Clyde Ave.  
 246-248 Coolidge Ave.  
 316 Craig St.  
 109 Douglas St.  
 140 E. Bissell St.  
 158-160 E. Bissell St.  
 126-130 E. Colvin St.  
 407 E. Division St.\*  
 416 E. Division St.\*  
 207 E. Glen Ave.  
 323 E. Glen Ave.  
 111 E. Matson Ave.  
 127 E. Matson Ave.  
 229 Fitch St.  
 331 Fitch St.  
 413 Fitch St.  
 252-254 Furman St.

**Property Address**

315-319 Furman St.  
 211 Gere Ave.  
 107 Hatch St.  
 320 Hatch St.  
 322 Hatch St.  
 139-141 Hope Ave.  
 148-150 Hope Ave.  
 224 Kenmore Ave.  
 254 Kirk Ave.  
 152 Lilac St.  
 221 Lilac St.  
 229 Margeurite Ave.  
 107 Mark Ave.  
 111 McKinley Ave.  
 135 McLennan Ave.  
 1102 Midland Ave.  
 1807 Midland Ave.  
 1923-1925 Midland Ave.  
 2703 Midland Ave.  
 1117 Park St.  
 720-722 Pond St.  
 338-340 Primrose Ave.  
 112 Randall Ave.  
 216 Rich St.  
 227-229 Rich St.  
 110 Richardson Ave.  
 115 Richardson Ave.\*  
 121-123 Richardson Ave.  
 511 Richmond Ave.  
 513-517 Richmond Ave.

**Property Address**

255 Rockland Ave.\*  
 3319 S. Salina St.  
 4454 S. Salina St.  
 1721-1723 S. State St.  
 229 Seymour St.\*  
 521 Seymour St.  
 849 South Ave.  
 1322-1324 South Ave.  
 401-403 Temple St.  
 405-407 Temple St.  
 279 W. Borden Ave.  
 521-523 W. Colvin St.  
 1332 W. Colvin St.  
 1407 W. Colvin St.  
 377-379 W. Kennedy St.  
 250 W. LaFayette Ave.  
 206 W. Newell St.  
 374 W. Newell St.  
 600 W. Newell St.  
 1225-1227 W. Onondaga St.  
 419 W. Ostrander Ave.  
 316 W. Pleasant Ave.  
 203 Wall St.  
 228 Wall St.  
 213-215 Warner Ave.\*  
 329 Warner Ave.  
 352 Warner Ave.  
 504 Wilkinson St.  
 145 Wood Ave.

\*Property owned by Abraham and Phyllis Ashenberg and managed by John Kiggins