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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

JACOB KELLER, individually and on behalf of all other persons similarly situated,

Plaintiff,

v.

UDR, INC.,

Defendant.

Case No. '26CV3865 AJB MMP

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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Plaintiff Jacob Keller ("Plaintiff"), by and through his attorneys, makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to allegations specifically pertaining to himself and his counsel, which are based on personal knowledge, against UDR, Inc. ("UDR" or "Defendant").

NATURE OF THE ACTION

1. San Diego Mun. Code § 98.1103 makes it "unlawful for a person to sell, license, or otherwise provide an algorithmic device to a landlord[,]" and makes it "unlawful for a landlord to use an algorithmic device to set rental rates or occupancy levels for residential rental property."

2. In other words, it is illegal for a landlord to use software that performs calculations using nonpublic competitor data to advise the landlord on rental prices or how many units to rent.

3. Despite this clear mandate, Defendant is a landlord who uses an algorithmic device to set rental rates or occupancy levels for residential rental property in San Diego.

4. Under San Diego Mun. Code § 98.1104(a), "[a] tenant may seek injunctive relief, damages, or civil penalties of up to $1,000 per violation of this Division, in a civil action against a landlord."

5. Thus, pursuant to Federal Rule of Civil Procedure 23, Plaintiff brings this action, on behalf of himself and all others similarly situated, to redress Defendant's violations of San Diego Mun. Code § 98.1103.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because this is a class action where there are more than 100 members and the aggregate amount in controversy exceeds $5,000,000.00, exclusive of interest, fees, and costs, and at least one member of the putative Class is a citizen of a state

different from Defendant.

7. The Court has personal jurisdiction over Defendant because Defendant has purposefully directed its activities at forum residents, has purposefully derived benefit from these forum activities, and has purposefully availed themselves of the privilege of conducting activities within the forum. Defendant conducts substantial business in this District by operating and/or managing multiple rental residential properties in this District, including the multifamily rental property that Plaintiff resides in. Defendant has, at all times relevant hereto, systematically and continually conducted, and continues to conduct, business in California, including within this District. Defendant has intentionally availed itself of the benefits and privileges of the California and San Diego rental market specifically, and has profited therefrom. Thus, Defendant has "certain minimum contacts" with California such that exercising personal jurisdiction over Defendant would not "offend traditional notions of fair play and substantial justice." *Calder v. Jones*, 465 U.S. 783, 788 (1984).

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because a substantial portion of the events giving rise to this action occurred in this District.

THE PARTIES

9. Plaintiff Jacob Keller is an adult citizen of the state of California and is domiciled in San Diego, California.

10. Plaintiff Keller is a tenant at a UDR-managed residential rental property in San Diego, California. Plaintiff entered this lease in or around May 2025 and began in or around June 2025.

11. Defendant UDR, Inc. ("UDR") is a Maryland corporation with its principal place of business in Highlands Ranch, Colorado. At all times material to this Complaint, UDR and/or an affiliated entity manage(s), own(s), and operate(s) residential rental units in residential buildings in this District and throughout the United States.

12. UDR manages the residential rental property in which Plaintiff lives.

FACTUAL ALLEGATIONS

I. The San Diego Municipal Code Makes It Unlawful To Use Algorithmic Devices to Set Rental Rates or Occupancy Levels

13. On May 22, 2025, San Diego passed an ordinance amending the Municipal Code, to make it unlawful for landlords to use an algorithmic device to set rental rates or occupancy levels for residential rental property.

14. San Diego Mun. Code § 98.1103(b) provides:

> It is unlawful for a *landlord* to use an *algorithmic device* to set rental rates or occupancy levels for *residential rental property*.

(Emphasis in original).

15. “Algorithmic device” means:

> [A] software or product that uses or incorporates one or more algorithms to perform calculations of *nonpublic competitor data* of two or more *landlords* to advise a *landlord* on, or recommend to a *landlord*, rental rates or occupancy levels that may be achieved for a *residential rental property* in the City of San Diego.

San Diego Mun. Code § 98.1102 (emphasis in original).

16. “Nonpublic competitor data” means:

> [I]nformation that is not available to the general public, whether the information is attributable to a specific competitor or anonymized or whether the information is derived from or otherwise provided by another *person*. *Nonpublic competitor data* includes information about actual rental rates, rental rate changes, *residential rental property* supply levels, occupancy levels, or *lease* start and end dates.

San Diego Mun. Code § 98.1102 (emphasis in original).

17. The Ordinance became effective June 21, 2025.[1]

[1] Ord. No. O-21955, App. 05/22/2025, Eff. 06/21/2025, available at https://docs.sandiego.gov/council_reso_ordinance/rao2025/O-21955.pdf.

18. The legislature enacted this ordinance to protect San Diego tenants' rights, and the local rental housing market in San Diego, from large corporate landlords like Defendant whose "use of algorithmic devices" has "resulted in inflated rental rates and unfair rent increases and contributed to the City's unaffordability for families":

> The high cost of living and housing shortage in the City of San Diego (City) have contributed to the City's unaffordability. According to a March 2024 Zillow report, a family must earn $275,000 a year to afford a home mortgage. According to an August 4, 2024, Times of San Diego article, the average rental rate for a two-bedroom residential dwelling unit in the City is $2,489, almost 65% higher than the national median.
>
> Landlords' use of algorithmic devices, which perform calculations of nonpublic competitor data concerning rental rates, occupancy levels, and other information, to set rental rates and occupancy levels has resulted in inflated rental rates and unfair rent increases and contributed to the City's unaffordability for families.
>
> …
>
> [S]oftware companies, such as RealPage, Inc., continue providing algorithmic devices to landlords in the City.[2]

19. The legislature noted that "[i]n response to the use of algorithmic devices to set rental rates and occupancy levels, in August 2024, the United States Department of Justice (DOJ) filed a lawsuit"[3] against RealPage and amended its lawsuit to name large corporate landlords.

20. "Eight Attorneys General, including California Attorney General Rob Bonta, joined the DOJ's lawsuit."[4] Indeed, Defendant UDR, Inc. was a large corporate

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[2] Ord. No. O-21955, App. 05/22/2025, Eff. 06/21/2025, at 1-2, available at https://docs.sandiego.gov/council_reso_ordinance/rao2025/O-21955.pdf.

[3] *Id.*

[4] *Id.*

landlord named in an antitrust lawsuit.[5] Nevertheless, the legislature passed the ordinance to provide "immediate relief" for San Diego tenants:

> While the litigation is pending, software companies, such as RealPage, Inc., continue providing algorithmic devices to landlords in the City. City families cannot wait for the DOJ lawsuit to run its course and, if successful, provide relief from inflated rental rates and unfair rent increases. The Council wishes to provide immediate relief to City families by prohibiting the sale, licensing, and use of algorithmic devices that use or incorporate nonpublic competitor data of two or more landlords to advise a landlord on, or recommend to a landlord, rental rates or occupancy levels that may be achieved for residential rental property in the City.[6]

II. RealPage's Algorithmic Devices and/or Software

21. RealPage, Inc. ("RealPage") is an enterprise resource planning software company that offers more than traditional property management services. As relevant here, RealPage "licenses [various] revenue management products to property management companies and property owners (collectively, 'landlords')[.]"[7]

22. These RealPage algorithmic software products include but are not limited to "AI Revenue Management ('AIRM'), YieldStar, and Lease Rent Options ('LRO'). RealPage's revenue management products are used by landlords to determine how to price floor plans and units in conventional multifamily rental housing, *i.e.*, multiunit apartments that they manage and lease."[8] RealPage algorithmic software products also

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[5] *See* First Amended Compl., *District of Columbia vs. RealPage, Inc. et al.*, No. 2023-CAB-006762, (D.C. Super. Ct. Jan. 10, 2025).

[6] *Supra* note 1.

[7] DOJ Antitrust Division, NOTICE PURSUANT TO THE ANTITRUST PROCEDURES AND PENALTIES ACT, *United States et al. v. RealPage, Inc. et al. Response to Public Comments*, available at https://www.federalregister.gov/documents/2026/05/08/2026-09147/united-states-et-al-v-realpage-inc-et-al-response-to-public-comments.

[8] *Id.*

include "Market Analytics."

23. Since these tools amount to automated algorithms that suggest rents and occupancy in real-time, this complaint refers to them as "algorithmic devices."

AIRM/YieldStar

24. AIRM is the subsequent product to YieldStar, and YieldStar and AIRM leverage data in similar ways.

25. AIRM uses landlords' data to train its machine learning model, make daily floor-plan price recommendations, and suggest unit-level prices. YieldStar uses the data to perform the latter two functions.[9]

26. YieldStar made headlines "[i]n 2022, [when] ProPublica published an article diving into [this] 'secret' algorithm responsible for raising rents, tracing it back to a high-tech revenue management company called RealPage."[10]

27. According to a March 2023 letter from four United States senators to then-Assistant Attorney General for the Antitrust Division of the DOJ, RealPage "indicated that 'YieldStar uses a *proprietary algorithm* to make recommendations to apartment providers about setting a price for rental units at their property[.]'"[11]

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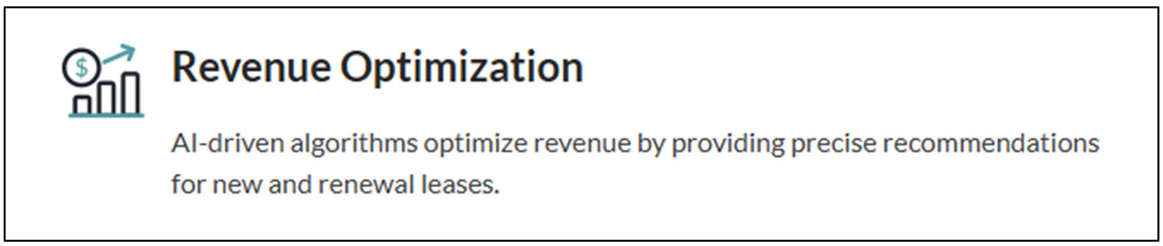
[9] *See* DOJ Antitrust Division, NOTICE PURSUANT TO THE ANTITRUST PROCEDURES AND PENALTIES ACT, *supra* note 7 ("RealPage uses nonpublic, competitively sensitive data to train its algorithmic models ('models') that AIRM leverages and to provide floor plan price recommendations and unit-level pricing to landlords when they are running AIRM or YieldStar.").

[10] M. Sethi et al., *Reprogramming Competition: Remedying Algorithmic Price-Fixing in U.S. v. RealPage*, Yale Univ. Thurman Arnold Project 2025 Student Papers, Paper 07 (May 2025), at 3, available at https://som.yale.edu/sites/default/files/2025-05/7.%20RealPage-%20TAP.pdf (citing Heather Vogell, *Rent Going Up? One Company's Algorithm Could Be Why*, PROPUBLICA (Oct. 15, 2022), available at https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent)).

[11] Letter from Elizabeth Warren, Tina Smith, Bernard Sanders, and Edward J. Markey, United States Senators (Mar. 2, 2023), available at https://www.warren.senate.gov/imo/media/doc/2023.03.02%20Letter%20to%20DOJ%20re%20YieldStar%20(RealPage).pdf (emphasis added).

28. AIRM is RealPage's "flagship product[.]"[12] The AIRM "software tool ingests competitively sensitive, real-time transactional data—including occupancy rates, lease terms, and rent rolls—collected from competing landlords through over 50,000 monthly calls surveilling over 11 million total properties; and through an algorithmic process delivers pricing recommendations to those same landlords."[13]

29. To-date, the RealPage AI Revenue Management website[14] advertises its use of "AI-driven algorithms":


Revenue Optimization

AI-driven algorithms optimize revenue by providing precise recommendations for new and renewal leases.

30. This is done for setting both rent and occupancy: "Optimize with Confidence: Transparent and straightforward recommendations that leverage AI modeling to strategically balance ***rent and occupancy***."[15]

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[12] M. Sethi et al., *Reprogramming Competition: Remedying Algorithmic Price-Fixing in U.S. v. RealPage*, at 6; *see also* David Bitton, *RealPage vs Yardi: Which Property Management Platform is Right for You?*, DoorLoop (June 2, 2026), https://www.doorloop.com/blog/realpage-vs-yardi (last accessed June 29, 2026) ("RealPage has built its reputation on AI-driven revenue management and operational automation. Its flagship pricing tool, YieldStar (now part of the AI Revenue Management suite), uses algorithms to analyze market conditions and adjust rental prices dynamically often, daily to align with demand and occupancy goals.").

[13] M. Sethi et al., *Reprogramming Competition: Remedying Algorithmic Price-Fixing in U.S. v. RealPage*, at 6 (internal citation omitted).

[14] https://www.realpage.com/insights-analytics/revenue-management/ (last accessed June 19, 2026).

[15] RealPage, RealPage AI Revenue Management, https://www.realpage.com/insights-analytics/revenue-management/ (last accessed May 14, 2026) (emphasis added).

31. The algorithm "captur[es] detailed lease terms and individual transactions" which "gives RealPage's algorithm deep insight into real-time market dynamics and competitor pricing."[16]

Lease Rent Options

32. Lease Rent Options ("LRO") is an algorithmic tool that provides price optimization for apartments. LRO uses a different approach than YieldStar/AIRM. LRO generates pricing recommendations primarily from information about competitor prices users manually input into the system.[17]

33. RealPage acquired LRO in 2017 from The Rainmaker Group, "after months of scrutiny by the Antitrust Division of the Justice Department."[18] Similar to RealPage, The Rainmaker Group is a "provider of automated Revenue Management and profit optimization solutions in several industries[.]"[19]

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[16] M. Sethi et al., *Reprogramming Competition: Remedying Algorithmic Price-Fixing in U.S. v. RealPage*, at 8; *see also* Eric Weld, MassLandlords, Inc., MASSLANDLORDS.NET (Sep. 24, 2024), https://masslandlords.net/realpage-automated-price-optimization-software-in-doj-crosshairs-for-possible-antitrust-violations/ ("One sticky issue for RealPage is that some of the statistics incorporated by the AIRM algorithm are not public information. For example, the algorithm uses rent prices received on actual executed leases, as well as real lease terms – data not available to the public.").

[17] *See* DOJ Antitrust Division, NOTICE PURSUANT TO THE ANTITRUST PROCEDURES AND PENALTIES ACT, *supra* note 7 ("Owner Inputted Data refers to data that is directly inputted by landlords into a revenue management product and includes both public and nonpublic data. … [L]andlords directly exchanged competitively sensitive information to update rents within another RealPage revenue management product known as Lease Rent Options or LRO.").

[18] Heather Vogell, *Rent Going Up? One Company's Algorithm Could Be Why*, PROPUBLICA (Oct. 15, 2022), available at https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent.

[19] *See* RealPage® to Acquire Lease Rent Options, LRO®, available at https://www.sec.gov/Archives/edgar/data/1286225/000128622517000008/0001286225-17-000008-index.html;

34. An exhibit to RealPage, Inc.'s Form 8-K filed with the SEC discussing the LRO acquisition confirms that LRO is a "revenue management solution" similar to YieldStar/AIRM:

> LRO is a revenue management solution that empowers optimized pricing for over 1.5 million apartments. LRO, coupled with the recent acquisition of Axiometrics, expands RealPage's suite of solutions for precision data analytics and asset optimization for the rental housing industry.[20]

Market Analytics

35. "Market Analytics is the multifamily industry's leading intelligence platform for market-rate, student housing, and Build-to-Rent communities … it delivers clear visibility into market, submarket, and asset performance with daily updates on rents, concessions, floor plans, and occupancy—helping teams turn data into actionable insights."[21]

36. RealPage designed Market Analytics software for, *inter alia*, "Property Managers" like Defendant in the "multifamily industry, providing robust and granular market intelligence for a wide range of property types, including conventional apartments"[22] like Plaintiff's multifamily residential apartment unit.

37. To-date, RealPage concedes on its publicly available website that "RealPage Market Analytics integrates RealPage's proprietary historical apartment

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https://www.sec.gov/Archives/edgar/data/1286225/000128622517000008/a20170227_prxriptide-01.htm.

[20] https://www.sec.gov/Archives/edgar/data/1286225/000128622517000008/a20170227_prxriptide-01.htm

[21] REALPAGE, MARKET ANALYTICS, https://www.realpage.com/insights-analytics/market-analytics/ (last accessed May 14, 2026).

[22] *Id.*, Frequently Asked Questions (last accessed June 29, 2026).

data,"[23] among other data:

> Frequently Asked Questions
>
> **What is RealPage Market Analytics?** +
>
> **What are the benefits of using the Market Analytics solution from RealPage?** +
>
> **What data sources does RealPage Market Analytics utilize?** –
>
> RealPage Market Analytics integrates RealPage's proprietary historical apartment data, publicly available unit-level data (updated daily), MSCI Real Capital Analytics' sales transaction data, and precise econometric modeling to provide comprehensive market intelligence.

38. Market Analytics is "[p]owered by Lumina AI" to provide "daily updates on **rents**, concessions, floor plans, and **occupancy**—helping teams turn data into actionable insights."[24]

> Home / Insights and Analytics / Market Analytics
>
> MARKET ANALYTICS
>
> RealPage® Market Analytics Provides Complete Performance Visibility
>
> **Market Analytics** is the multifamily industry's leading intelligence platform for market-rate, student housing, and Build-to-Rent communities. Powered by **Lumina AI**, it delivers clear visibility into market, submarket, and asset performance with daily updates on rents, concessions, floor plans, and occupancy—helping teams turn data into actionable insights.
>
> Request a Demo

> Multifamily Insights You Can Trust
>
> **Market Analytics is built on an unprecedented dataset, including:**
>
> - **Proprietary 30+ year historical data:** Market, property, and unit-level data updated daily.
> - **Lumina AI-powered econometric modeling:** Provides robust 5-year forecasts at market, submarket, and asset levels.
> - **MSCI Real Capital Analytics data:** Includes sales transactions and loan data.
>
> **Market Analytics provides an intelligence platform that enables stakeholders to make confident decisions more quickly in:**
>
> - Capital allocation
> - Development and acquisitions
> - Management and dispositions

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[23] *Id.*

[24] REALPAGE, MARKET ANALYTICS, https://www.realpage.com/insights-analytics/market-analytics/ (last accessed July 2, 2026) (emphasis added).

39. RealPage boasts that the "proprietary" data available to landlords through this algorithmic software "makes it easy to gain … niche level granularity, … and other key insights powering comprehensive multifamily trends."[25] This data is provided to landlords in real-time:

> Asset Intelligence delivers ***instant***, data-driven insights … and reduces analysis time from hours to seconds. It enhances organizational effectiveness by providing granular … ***rent comparisons***, … and highly configurable comp and assumption analysis.[26]

40. In addition to Market Analytics providing "AI [Artificial Intelligence] Forecasting," the Market Analytics software uses algorithms:

> Rely on our automated **True Comps** selection algorithms, driven by enhanced RealPage Data Science models, that intelligently select ideal rent comps and sales comps based on property attributes and performance to underwrite and evaluate more deals faster.[27]

41. To date, RealPage admits its platform allows access to: "**Proprietary**"—*i.e.* nonpublic—"apartment data covering millions of units across 425+ markets[.]"[28]

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[25] *Id.*

[26] *Id.* (emphasis added).

[27] RealPage PDF Flyer, Customized Market Visibility & AI Valuation for Smarter Answers Faster, available at https://www.realpage.com/insights-analytics/market-analytics/?showPdf=true.

[28] REALPAGE, MARKET ANALYTICS, https://www.realpage.com/insights-analytics/market-analytics/ (last accessed July 2, 2026) (emphasis added).

III. Defendant Admits It Used RealPage's Software

42. UDR has admitted in antitrust litigation that it uses RealPage software.

43. For example, in Defendant UDR, Inc.'s Answer to the District of Columbia's First Amended Complaint in and Affirmative Defenses in *District of Columbia vs. RealPage, Inc. et al.*, No. 2023-CAB-006762 (D.C. Super. Ct. Jan. 22, 2025):

> UDR further admits that it has used YieldStar as one tool among others to help with UDR's independent decision-making concerning the management of certain of its multifamily units during the past four years, … UDR further admits that it signed a One Master Agreement with RealPage dated April 15, 2017. (*Id.* ¶ 24).
>
> UDR admits that it has used YieldStar as one tool among others to help with UDR's independent decision-making concerning the management of certain of its multifamily units, …. (*Id.* ¶ 72).

44. As of 2024, "RealPage's algorithmic coverage," including at least LRO and AIRM/YieldStar,[29] extends to large swaths of metropolitan areas" including San Diego:

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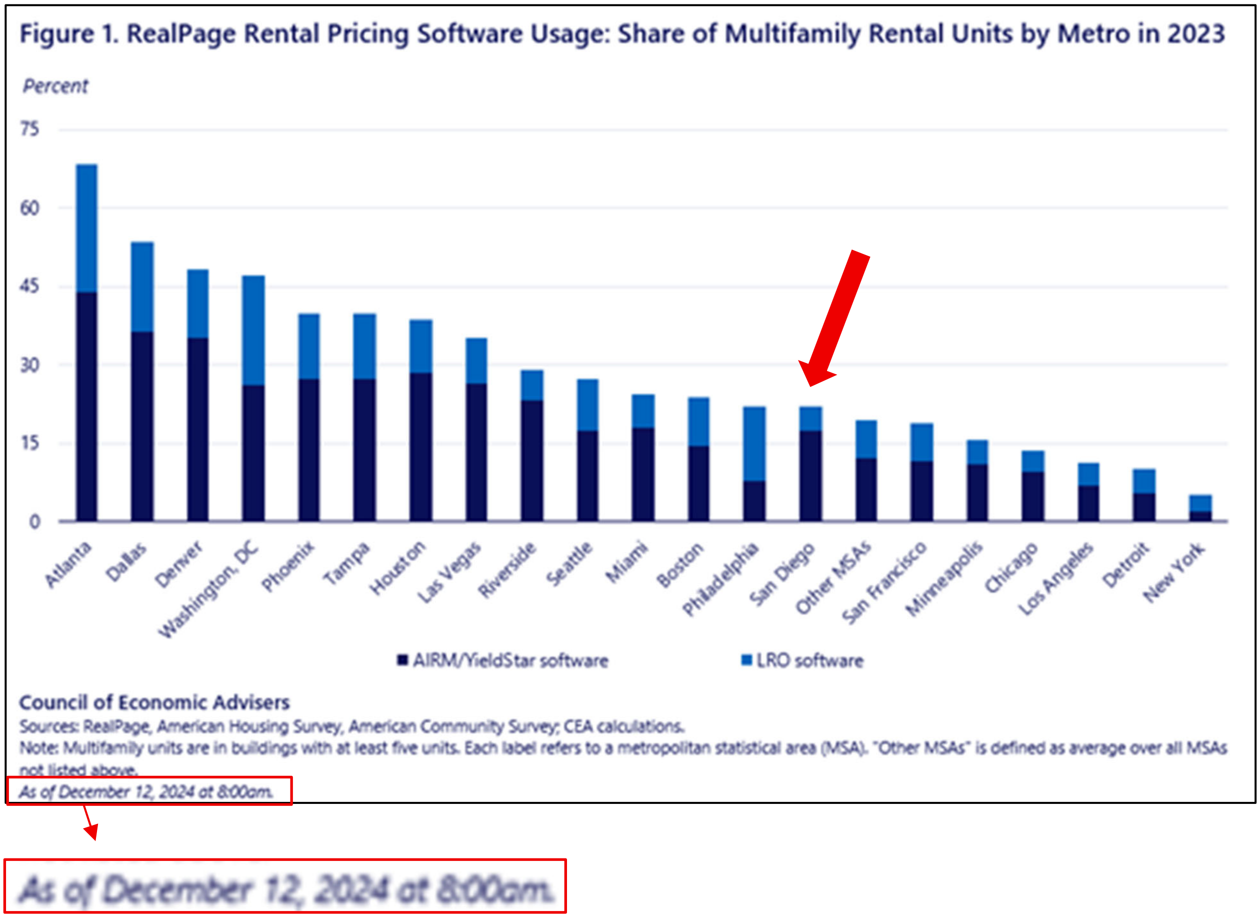
[29] This chart presumably does not take into account the Market Analysis algorithmic software.



IV. The Use of Algorithmic Devices to Set Rents or Occupancy Levels Harms San Diego Tenants

45. As the City and County of San Diego has recognized, the use of algorithmic rent devices to set rents or occupancy levels harms San Diego tenants.

46. Economists and regulators agree that the use of algorithmic devices causes economic and social harm.

47. Economists find that RealPage's algorithmic software inflates rental prices. The Council of Economic Advisers to the Biden administration quantified that algorithmic pricing in rental housing increased costs to San Diego renters by $99 per month on average.[30]

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[30] Council of Economic Advisers, *The Cost of Anticompetitive Pricing Algorithms in Rental Housing*, THE WHITE HOUSE (Dec. 17, 2024), available at

Figure 2. Average Monthly Cost of Price Coordination for Units using RealPage Software in 2023

2023 Dollars

Council of Economic Advisers
Sources: American Housing Survey, American Community Survey, RealPage, *Calder-Wang and Kim (2024)*, Zillow Observed Rent Index; CEA calculations.
Note: Each observation is a Metropolitan Statistical Area (MSA). Average is over units using AIRM/YieldStar software and LRO software. "Other MSAs" is defined as average over all MSAs not listed above.
As of December 12, 2024 at 8:00am.

48. Additionally, the White House said:

> We find that … algorithmic pricing cost[s] renters in algorithm-utilizing units $70 a month, or 4% of rent, on average nationally. In six major metros, the cost exceeds $100 a month. Monthly costs … for units using RealPage software by metro are shown in Figure 2. The total cost to renters in 2023 was approximately $3.8 billion.[31]

49. The use of algorithmic devices in setting rent and occupancy levels can further social harms that pervade the housing market, including but not limited to discrimination:

> Mounting evidence reveals that algorithmic decisions can produce biased, discriminatory, and unfair outcomes in a variety

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https://bidenwhitehouse.archives.gov/cea/written-materials/2024/12/17/the-cost-of-anticompetitive-pricing-algorithms-in-rental-housing/.

[31] *Id.*

> of high-stakes economic spheres including employment, credit, health care, and housing.[32]

50. For example, former FTC Commissioner Rebecca Kelly Slaughter notes that AI has led to proxy discrimination, or, "the use of facially neutral factors that generate discriminatory results[.]"[33] "Facebook's use of Lookalike Audiences that facilitated housing discrimination presents one of the clearest illustrations of proxy discrimination."[34]

51. "This problem may persist across … algorithms"[35] including the RealPage algorithmic software at issue here.

52. This is especially so where the RealPage algorithmic software captures niche, granular insights and lease details. "[A]lgorithms … bring the risk of perpetuating or even amplifying longstanding patterns of housing-related discrimination."[36]

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[32] Rebecca Kelly Slaughter (with J. Kopec and M. Batal), *Algorithms and Economic Justice: A Taxonomy of Harms and a Path Forward for the Federal Trade Commission*, YALE INFORMATION SOCIETY PROJECT | YALE JOURNAL OF LAW & TECHNOLOGY VOL. 23. (Aug. 2021), at 3, available at https://law.yale.edu/sites/default/files/area/center/isp/documents/algorithms_and_economic_justice_master_final.pdf (internal citation omitted).

[33] *Id.* at 23.

[34] *Id.* at 21.

[35] *Id.* at 22.

[36] Foggo, V., & Villasenor, J., Abstract for *Algorithms, Housing Discrimination, and the New Disparate Impact Rule*, 22 SCIENCE AND TECHNOLOGY LAW REVIEW (2021), available at https://journals.library.columbia.edu/index.php/stlr/article/view/7963.

CLASS ALLEGATIONS

53. Plaintiff seeks to represent a class defined as:

> All persons who rented apartments from Defendant in San Diego during the class period (the "Class").

54. Plaintiff reserves the right to modify the Class definition, including by using subclasses, as appropriate based on further investigation and discovery obtained in the case.

55. The "Class Period" is the time period beginning on the date established by the Court's determination of any applicable statute of limitations, after considering of any tolling, concealment, and accrual issues, and ending on the date of entry of judgement.

56. The following people are excluded from the Class: (1) any Judge presiding over this action and members of her or her family; (2) Defendant, Defendant's subsidiaries, parents, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest (including current and former employees, officers, or directors); (3) persons who properly execute and file a timely request for exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated on the merits or otherwise released; (5) Plaintiff's counsel and Defendant's counsel; and (6) the legal representatives, successors, and assigns of any such excluded persons.

57. **Numerosity/Ascertainability:** Members of the Class are so numerous that joinder of all members would be unfeasible and not practicable. The exact number of Class Members is unknown to Plaintiff at this time; however, it is estimated that there are hundreds of individuals in the Class. The identity of such membership is readily ascertainable from Defendant's records and non-party records, such as those of RealPage.

58. **Typicality:** The claims of the named Plaintiff are typical of the claims

of the Class because the named Plaintiff, like all other class members, had the rental rate or occupancy level of their residential rental property set using an algorithmic device.

59. **Adequate Representation:** Plaintiff is fully prepared to take all necessary steps to represent fairly and adequately the interests of the Class Members. Plaintiff's interests are coincident with, and not antagonistic to, those of the members of the Class. Plaintiff is represented by attorneys with experience in the prosecution of complex class action litigation generally, and in litigation concerning unfair and anti-competitive practices specifically. Plaintiff's attorneys are committed to vigorously prosecuting this action on behalf of the members of the Class.

60. **Commonality and Predominance:** There are well-defined common questions of fact and law that exist as to all members of the Class and that predominate over any questions affecting only individual members of the Class. These common legal and factual questions, which do not vary between members of the Class, and which may be determined without reference to the individual circumstances of any Class member, include, but are not limited to, the following: whether Defendant violated San Diego Mun. Code § 98.1103(b), whether Defendant uses nonpublic competitor data, and whether Plaintiff and the proposed Class members are entitled to damages, reasonable attorneys' fees, prejudgment interest and costs of this suit.

61. **Superiority:** Class action treatment is a superior method for the fair and efficient adjudication of the controversy. Such treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of evidence, effort, or expense that numerous individual actions would engender. The benefits of proceeding through the class mechanism, including providing injured persons or entities a method for obtaining redress on claims that could not practicably be pursued individually, substantially outweighs potential difficulties in management of this class

action. Plaintiff knows of no special difficulty to be encountered in litigating this action that would preclude its maintenance as a class action.

CAUSES OF ACTION

COUNT I

Violation of San Diego Mun. Code c. 9, § 98.1103(b)

62. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth herein and brings this count individually and on behalf of the members of the Class.

63. The San Diego Municipal Code makes it "unlawful for a landlord to use an algorithmic device to set rental rates or occupancy levels for residential rental property." San Diego Mun. Code § 98.1103(b).

64. In San Diego Mun. Code § 98.1102, a "landlord has the same meaning as in San Diego Municipal Code section 98.0702[.]" And per San Diego Mun. Code § 98.0702: "Landlord means an owner and any person, acting as principal or through an agent, who has the right to offer residential rental property for rent, and includes a predecessor in interest to the landlord."

65. Defendant UDR is a landlord because it has the right to offer UDR-managed property for rent.

66. San Diego Mun. Code § 98.1102 defines an "[a]lgorithmic device" as follows:

> [A] software or product that uses or incorporates one or more algorithms to perform calculations of nonpublic competitor data of two or more landlords to advise a landlord on, or recommend to a landlord, rental rates or occupancy levels that may be achieved for a residential rental property in the City of San Diego.

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67. The RealPage software, including Yieldstar/AIRM, LRO, and Market Analytics, use one or more algorithms to advise Defendant on setting rent and/or occupancy.

68. San Diego Mun. Code § 98.1102 defines "[n]onpublic competitor data" as follows:

> [I]nformation that is not available to the general public, whether the information is attributable to a specific competitor or anonymized or whether the information is derived from or otherwise provided by another person. Nonpublic competitor data includes information about actual rental rates, rental rate changes, residential rental property supply levels, occupancy levels, or lease start and end dates.

69. The RealPage software uses one or more algorithms to perform calculations of non-public, proprietary data.

70. Under the Municipal Code, "[a] tenant may seek injunctive relief, damages, or civil penalties of up to $1,000 per violation of this Division, in a civil action against a landlord." San Diego Mun. Code § 98.1104(a).

71. "For *each month* a violation of section 98.1103(b) exists or continues, and for each residential rental property a landlord uses an algorithmic device, it shall constitute a *separate and distinct violation*." *Id.* § 98.1103(b) (emphasis added).

72. In violation of the San Diego Municipal Code, Defendant used one or more RealPage algorithmic device(s) when setting rents or occupancy levels for Plaintiffs' and Class Members' residential dwelling units in San Diego.

73. Pursuant to San Diego Mun. Code § 98.1104, Plaintiff and Class Members seek (1) injunctive relief, (2) damages, (3) civil penalties of up to $1,000 per violation; and (4) costs and reasonable attorneys' fees.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief and judgment, as follows:

a. For a determination that this action is a proper class action;

b. For an order certifying the Class, naming Plaintiff as representative of the Class, and naming Plaintiff's attorneys as Class Counsel to represent the Class;

c. For an order declaring that Defendant's conduct violates the statute referenced herein;

d. For an order enjoining the illegal acts detailed herein;

e. For an order finding in favor of Plaintiff and the Class on all counts asserted herein;

f. For an award of compensatory damages, including statutory damages where available, to Plaintiff and Class Members against Defendant for all damages sustained as a result of Defendant's wrongdoing, in an amount to be proven at trial;

g. For prejudgment interest on all amounts awarded;

h. For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs of suit; and

i. For an order granting Plaintiff and Class Members such further relief as the Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all causes of action and issues so triable.

Dated: July 2, 2026

Respectfully submitted,

BURSOR & FISHER, P.A.

By: */s/ L. Timothy Fisher*

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