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Complaint, Davis v. Mueller, Docket No. 114-cv-07949 (Northern District of Illinois 2014)

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

ANTHONY DAVIS and)	
TRACY NEWELL DAVIS,)	
)	
Plaintiffs,)	
)	
v.)	Case No. _____
)	
)	Judge
MICHEAL MUELLER,)	
)	JURY DEMAND
Defendant.)	

COMPLAINT

Plaintiff , ANTHONY DAVIS and TRACY NEWELL-DAVIS, by and their attorneys, J. Damian Ortiz, Kevin Cruz and the Senior Law Students of The John Marshall Law School Fair Housing Legal Clinic, complain as follows against Defendant, MICHAEL MUELLER. In support of their complaint, Plaintiffs state as follows:

I. JURISDICTION AND VENUE

1. Plaintiffs, Anthony Davis and Tracy Newell Davis (hereinafter “Plaintiffs”), jointly and individually bring these claims for unlawful discrimination under 42 U.S.C. §3601, *et seq.*, (the “Fair Housing Act”); 42 U.S.C. §1982 and under the Illinois Human Rights Act.

2. Federal jurisdiction is conferred on this court pursuant to 28 U.S.C. §1331, §1367, and 42 U.S.C. §3613.

3. Venue is proper in the Northern District of Illinois, Eastern Division, pursuant to 28 U.S.C. §1391, because the events on which the claim is based occurred in the Northern District of Illinois and the Defendants reside in and conduct business in the Northern District of Illinois.

II. PARTIES

4. Plaintiffs, Anthony Davis and Tracy Newell-Davis are African American, a married couple, citizens of the United States and reside in the County of Cook state of Illinois.

5. Defendant, Michael Mueller (hereinafter “Defendant”) is an Asian male who on information and belief, at all relevant times herein, is the owner, manager and landlord of the property located at 5105 Deblin Lane, Apt.# 3D, Oak Lawn, IL 60453 (the “Property”).

III. FACTUAL ALLEGATIONS

6. At the time of the incident alleged herein, the Plaintiffs were ready, willing, and able to rent the Property.

7. At the time of the incident alleged herein, Defendant advertised on Craigslist, on or about August 10, 2014, a vacant two bedroom apartment for the purpose of obtaining a rental tenant.

8. The Defendant provided his telephone number in the advertisement.

9. On or about August 11, 2014, Plaintiffs saw the internet advertisement for a two bedroom apartment on Craigslist and contacted the Defendant by phone to arrange a showing.

10. On or about August 15, 2014, the Plaintiffs met with Defendant, who identified himself as the owner of the condominium, and showed the Plaintiffs the apartment.

11. After viewing the apartment, the Plaintiffs verified the rental amount and expressed interest in making a deposit and asked for an application for the apartment.

12. Defendant said that he did not have any applications with him, but took the Plaintiffs’ email address and said that he would send the application to them on Monday, August 18, 2014.

13. Plaintiffs did not receive an application on August 18, 2014.

14. On August 19, 2014 and August 20, 2014, Plaintiffs called the Defendant to request the application.

15. On or about August 20, 2014, the Defendant told the Plaintiffs that he was having problems with his condominium association and he stated that someone in the association told him that the condominium by-laws prevented him from renting to anyone that is not one of Defendants family members

16. The Plaintiffs reiterated that they were still interested in the apartment and wanted to move in if he could work something out with his association regarding “only being able to rent to his family members.”

17. On or about August 21, 2014, Mr. Davis contacted the Defendant using a different cell phone number and different email address previously used to contact the Defendant.

18. The Defendant, unaware that he was communicating with Mr. Davis, the Defendant told Mr. Davis that the apartment was still available, that he would be happy to show him the apartment and offered to show it to him the next day.

19. Mr. Davis, instead, scheduled an appointment to view the apartment the following week on August 28, 2014.

20. The Plaintiffs, believing that the Defendant did not want to rent the apartment to them because they were African American, called The John Marshall Law Scholl Fair Housing Legal Clinic (“FHLC”) to ask for assistance.

21. Defendant’s excuse that he could not rent to other than his family members was pre-textual and such excuse was only to deny the unit to Plaintiffs because of their race in violation of the Fair Housing Act.

IV. CLAIMS FOR RELIEF

COUNT I

Violation of 42 U.S.C. § 3604

20. The Plaintiffs state and re-allege paragraphs 1–19 of this Complaint as if those allegations were set forth herein.

21. Defendant willfully and knowingly discriminated against the Plaintiffs by not allowing them the opportunity to rent the available two bedroom apartment, this was a discriminatory housing practice as defined by 42 U.S.C. §3602(f).

22. The Fair Housing Act makes it unlawful “To refuse to . . . rent after the making of a bona fide offer, or to refuse to negotiate for the . . . rental of, or otherwise make unavailable or deny, a dwelling to any person because of race. . . 42 U.S.C. § 3604(a).

23. The Defendant intentionally and knowingly discriminated against the Plaintiffs because of their race when he did not provide them with an application to rent, but did provide an application to a Caucasian in violation of 42 U.S.C. § 3604(b), *see also* § 3614-1.

24. Further, as a direct and proximate result of Defendants’ wrongful actions as described in Paragraphs 1 through 19 of this Complaint, Plaintiff has sustained substantial economic and non-economic damages.

25. As a result of Defendants discriminatory practices, Plaintiff is entitled to compensatory damages, reasonable attorney fees and costs.

WHEREFORE, Plaintiffs request that this court enter judgment for Plaintiffs and against Defendant as follows:

- a. Find that Defendants refuse to rent to Plaintiffs because of their race and unlawfully discriminated against Plaintiff in violation of the Fair Housing Act, 42 U.S.C. §3604;

b. Order Defendant to immediately stop discriminating against Plaintiffs and or other applicants because of race;

c. Award Plaintiffs such damages that will fully compensate their injuries caused by Defendant's discriminatory housing practices in violation of the Fair Housing Act, 42 U.S.C. §3604; and

d. Award Plaintiff costs, expenses and reasonable attorney fees and such other relief deemed just and proper.

COUNT II
Violation of 42 U.S.C. § 1982

26. The Plaintiffs state and re-allege paragraphs 1 – 25 of this Complaint as if those allegations were set forth herein.

27. Defendant subjected the Plaintiffs to discrimination based on their race by arbitrarily and capriciously providing the Plaintiffs false information about only being able to rent his unit to family members because of the condominium association by-laws, and by refusing to provide them with an application to rent the available two bedroom apartment.

28. Defendant's discriminatory conduct was willful, malicious and unlawful discrimination against the Plaintiffs on the basis of their race. The Defendant deprived the Plaintiffs the equal right to rent an apartment advertised to the public, and of the full and equal benefit to secure housing in violation of 42 U.S.C § 1982 by falsely providing rental terms that were selective and discriminatory.

29. Plaintiffs have suffered emotional distress and mental anguish, embarrassment, and humiliation as a result of Defendant's discriminatory actions including the denial of the unit and, loss of housing opportunity.

WHEREFORE, Plaintiffs request that this court enter judgment for Plaintiffs and against Defendant as follows:

- a. Find that Defendants refuse to rent to Plaintiffs because of their race and unlawfully discriminated against Plaintiff in violation of 42 U.S.C. §1982;
- b. Order Defendant to immediately stop discriminating against Plaintiffs and or other applicants because of race;
- c. Award Plaintiffs such damages that will fully compensate their injuries caused by Defendant's and
- d. Award Plaintiff costs, expenses and reasonable attorney fees and such other relief this court deems just and proper.

COUNT III
Unlawful Discrimination in a Real Estate Transactions
775 ILCS 5/3-102

30. The Plaintiff state and re-allege paragraphs 1- 29 of this Complaint as thought the same were fully set forth and pleaded herein.

31. The Illinois Human Rights Act provides in pertinent part: It is a civil rights violation for an owner or any other person engaging in a real estate transaction, . . . , because of unlawful discrimination. . . to refuse to engage in a real estate transaction with a person or to discriminate in making available such a transaction.” 775 ILCS 5/3-102.

32. Plaintiffs have sustained direct injuries including, but not limited to, being barred from the use and enjoyment of the Property as guaranteed by the Illinois Human Rights Act, as well as emotional and mental anguish when they discovered the reason they were denied the opportunity to rent was because of their race.

33. Defendant discriminated against the Plaintiffs when Defendant deprived the Plaintiffs of their right to rent the available, advertised two-bedroom apartment.

WHEREFORE, Plaintiffs respectfully request the following:

- a. That This honorable Court declare that the Defendant violated the IHRA on the basis of race;
- b. That this court enters judgment against the Defendant for damages in an amount to be determined.
- c. Award Plaintiff costs, expenses and reasonable attorney fees and such other relief deemed just and proper.

Respectfully Submitted,

/s/

One of the Attorneys for the Plaintiffs

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