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2005

Second Amended Complaint, Gilbert v. Thorndale Beach North Condominium Assoc., Docket No. 1:03-cv-07844 (Northern District of Illinois Nov 04, 2003)

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

SUSAN GILBERT, and)
IOLA GILBERT,)
Plaintiffs,)
)
)
)
v.)
)
THORNDALE BEACH NORTH)
CONDOMINIUM ASSOCIATION)
An Illinois Not-For-Profit Corporation,)
And SIGRID INGOLD,)
Defendants.)

FILED
MAR 21 2005 *W*
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

No. 03 C 7844
The Honorable Judge Wayne R. Andersen

NOTICE OF FILING

TO:

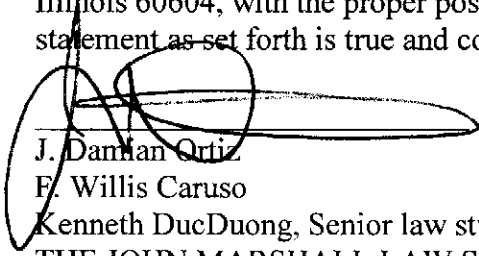
John J. Walsh III
Pretzel & Stouffer, Chartered,
Suite 2500
One South Wacker Drive
Chicago, Illinois 60606-4673

Mr. Ellis B. Levin
Attorney At Law
542 South Dearborn, Suite 1260
Chicago, IL 60605

YOU ARE HEREBY notified that on March 21, 2005, we filed in the United States District Court, Eastern Division, located at 219 S. Dearborn St., Chicago, Il, PLAINTIFF'S SECOND AMENDED COMPLAINT, a copy which is served upon you.

CERTIFICATE OF SERVICE

I, Kenneth DucDuong, Senior law student, on behalf of the plaintiffs, hereby certify that I caused a copy of this Amended Complaint to the above-listed attorney at the address indicated by depositing a copy of the same in the U.S. Mail depository located at 28 E. Jackson, Chicago, Illinois 60604, with the proper postage pre-paid before 5:00 p.m. on March 21, 2005, this statement as set forth is true and correct.



J. Damian Ortiz
F. Willis Caruso
Kenneth DucDuong, Senior law student
THE JOHN MARSHALL LAW SCHOOL
FAIR HOUSING LEGAL CLINIC
28 East Jackson, Suite 500
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IN UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION



FILED
MAR 21 2005
MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

SUSAN GILBERT, individually and)
as SUCCESSOR in INTEREST of IOLA)
GILBERT)

Plaintiffs,)

v.)

THORNDALE BEACH NORTH)
CONDOMINIUM ASSOCIATION, an)
Illinois not-for-profit Corp., and SIGRID)
INGOLD, individually and as Agent for)
THORNDALE BEACH NORTH)
CONDOMINIUM ASSOCIATION)

Defendants.)

No. 03 C 7844

The Honorable Judge Wayne R. Andersen

The Honorable Magistrate Arlander Keys

Trial by Jury Requested

SECOND AMENDED COMPLAINT

Plaintiff, SUSAN GILBERT, individually, and as successor in interest of IOLA GILBERT, (hereinafter the "Gilberts") by their attorneys, F. Willis Caruso, J. Damian Ortiz and senior law students of THE JOHN MARSAHLL LAW SCHOOL FAIR HOUSING LEGAL CLINIC, complain of the Defendants, Thorndale Beach North Condominium Association, an Illinois not-for-profit Corporation (hereinafter "Association"), and Sigrid Ingold, individually and as agent for Thorndale Beach Condominium, (hereinafter "Ingold") as follows:

I. JURISDICTION

1. This action is brought pursuant to the Fair Housing Act of 1968, as amended, 42 U.S.C. §§3601 *et. seq.*, §3604 (f)(1), (f)(2), (f)(3)(B), and §3617.
2. Jurisdiction is conferred on this Court by 28 U.S.C. §1331, §1343(a)(4), 28 U.S.C. §2201, and 42 U.S.C. §3613.

3. Venue is proper in the Northern District of Illinois, Eastern Division since Plaintiff and Defendants reside within the boundaries thereof.

II. PARTIES

A. Plaintiffs:

4. Plaintiff, Iola Gilbert, was a female person who suffered from a disability as defined by 42 U.S.C. 3602(h).

5. Plaintiff, Iola Gilbert, suffered from multiple sclerosis and its related symptoms.

6. Plaintiff, Iola Gilbert, now deceased, was the owner of, and resided at 5901 N. Sheridan Road, Unit# 5K Chicago, Cook County, Illinois 60660 ("Unit") for approximately thirty seven (37) years. Plaintiff died on January 25, 2005.

7. Plaintiff, Susan Gilbert, is a female person, and is the stepdaughter of Plaintiff Iola Gilbert.

8. Plaintiff, Susan Gilbert, is the current owner and resides in the Unit, and was the primary caregiver of Iola Gilbert.

B. Defendants:

9. Defendant, Thorndale Beach Condominium, is a condominium association registered as an Illinois not-for-profit corporation, and is located at 5901 North Sheridan Road, Chicago, Cook County, Illinois, 60660.

10. Defendant is a corporation registered in Illinois under the name Thorndale Beach Condominium located at 5901 N. Sheridan Road, Chicago, Illinois, 60660.

11. Defendant, Sigrid Ingold, individually, and as agent for Thorndale Beach Condominiums, was and continues to be the President of Thorndale Beach Condominium located at 5901 N. Sheridan Road, Chicago, Illinois 60660.

III. STATEMENT OF FACTS

12. Commencing on or about January of 2001 and continuing to the date hereof, the Association and Ingold, individually and as agent for Thorndale Beach Condominium, and members of the Association, threatened, intimidated, and interfered with the Gilberts' housing rights through persistent efforts to take the Gilberts' Unit by soliciting, encouraging, facilitating, and publishing false discriminatory statements, and by filing baseless complaints against Plaintiff based on Iola Gilbert's disability.

13. These acts included, without limitation, purported formal action by Thorndale Beach Condominium and a large number of false statements alleging that there were urine odors coming from the Gilberts' Unit because Iola Gilbert is a person suffering from multiple sclerosis and its related symptoms, when in fact no such odors existed.

14. The above acts were done based on the fact that Iola Gilbert was a person suffering from a disability and attempted to exercise her rights granted by the Fair Housing Act, and Susan Gilbert, Iola's caregiver and stepdaughter, was and is assisting Iola in exercising said Fair Housing rights.

15. Beginning in or about January of 2001 and on a continuing basis, the Association and Ingold, individually and as agent for Thorndale Beach Condominium, encouraged, solicited, reported, and supported false claims against the Gilberts in an effort to intimidate, threaten, and interfere with the housing rights of the Gilberts.

16. On or about July 20, 2001, Thorndale Beach Condominium sent the Gilberts a "Notice of Violation of Condominium Rules," ("Notice"), which threatened to assess a two hundred dollar (\$200.00) fine for an alleged odor. The Notice specifically stated that the smell was "... caused

by....the incontinent condition..." [the disability] of Iola Gilbert; said Notice is still pending on the date hereof.

17. The above mentioned Notice was accompanied by an additional threatening notice labeled "Thirty Day Notice to Correct Violation Prior to Sale of Unit." This 30-day notice stated that the Gilberts needed to "permanent[ly]" correct the alleged odor or they would lose the right to live in their Unit.

18. On August 20, 2001, the Association and Ingold, individually and as agent, and held a meeting at which they intimidated, threatened, and harassed, the Gilberts.

19. Further, at said August 20, 2001, meeting, Ingold specifically asked Thorndale Beach Condominium Members to order the Gilberts to get rid of their rugs, curtains, furniture, and mattresses to remedy the alleged smell.

20. The Gilberts made a request for a reasonable accommodation pursuant to the Fair Housing Act 42 U.S.C. §3604 (f)(3)(B), 24 CFR Part 14, subsection(s) 100.202-204 as amended, on or about August 29, 2001.

21. When no response was made by the Association to their request for a reasonable accommodation, on or about September 4, 2001, Plaintiffs, through senior law students and the supervising attorney F. Willis Caruso of The John Marshall Law School Fair Housing Legal Clinic, made an additional request for a reasonable accommodation on behalf of the Gilberts.

22. To date, Thorndale Beach Condominium has not provided a reasonable accommodation or given any response as to why the request for a reasonable accommodation, based on Iola's disability, could not be fulfilled.

23. On or about September 17, 2001, the Gilberts filed a timely complaint with the

Department of Housing and Urban Development ("HUD"), case No. 05-01-1246-8. The filing of the HUD complaint stays the time for the filing of a federal complaint pursuant to 42 U.S.C. §3613.

24. On or about September 28, 2001, Plaintiffs again through senior law students and their supervising attorney, made a third request for a reasonable accommodation as an attempt to provide some medium to resolve this matter.

25. In spite of the numerous requests, the Association and Ingold, individually and as agent for Thorndale Beach Condominium failed to provide any kind of reasonable accommodation, or any response to the repeated requests for a reasonable accommodation.

26. Prior to October 1, 2001, and continuing to the date hereof, the Association and Ingold individually and as agent for Thorndale Beach Condominium have engaged in instituting and entertaining the following actions based on false claims and complaints about the disability of Iola Gilbert:

- a. On or about October 1, 2001, the Association and Ingold, individually and as agent, sent the Gilberts a letter assessing the following fines: (a) A \$200.00 fine relating to Iola Gilbert's disability; (b) A \$25.00 late fee for nonpayment of a fine related to Iola Gilbert's disability; and (c) \$1,605.00 in attorney's fees.
- b. The notice to the Gilberts referred to above, was labeled "*REMINDER*" and charged a late fee even though the Gilberts never received any prior demand notice for any of these amounts.
- c. On October 1, 2001, at a Thorndale Beach meeting, Ingold and the Directors, on behalf of Thorndale Beach Condominium, singled out Susan Gilbert, who was present at the meeting, to embarrass, intimidate, and harass the Gilberts in order to

retaliate against the Gilberts for attempting to exercise their rights under the Fair Housing Act.

- d. On or about October 8, 2001, the Gilberts received a Notice and Demand for Possession on the letterhead of Thorndale Beach Condominium's attorney, Ellis B. Levin, claiming a default and seeking possession pursuant to the Forcible Entry and Detainer Act 735 ILCS 5/9-101 *et. seq.*
- e. Such actions deprived the Gilberts of the use and enjoyment of their home in which Iola Gilbert has lived for thirty seven (37) years. The eviction threat caused both Plaintiffs emotional distress, mental anguish, and caused Iola Gilbert's medical condition to further deteriorate.

27. As a direct consequence of Defendants' discriminatory, retaliatory, and harassing actions, Plaintiff Iola Gilbert suffered, and Susan Gilbert continues to suffer emotional distress, mental anguish and financial hardship. Their ownership of the Unit is under constant threat, which places the Gilberts in constant jeopardy of losing their home of over 37 years.

28. All of the actions of Defendants and condominium association members complained of herein were done willfully, maliciously, and/or with negligent disregard for the rights of the Plaintiffs.

IV. CLAIMS FOR RELIEF

AGAINST THORNDALE BEACH CONDOMINIUM ASSOCIATION

COUNT 1

HANDICAPPED DISCRIMINATION UNDER 42 U.S.C. § 3604

29. The Gilberts restate and re-allege paragraphs 1 through 28 of this Complaint as though the same were fully set forth and pleaded herein.

30. The actions of Defendants in threatening, intimidating and interfering with the Gilberts'

housing rights because of the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(1) as amended.

31. The actions of Defendants in discriminating against the Gilberts by refusing to make reasonable accommodations in rules, policies, practices, or services to afford the Gilberts equal opportunity to use and enjoy their dwelling based on the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. § 3604 (f)(3)(B) as amended.

32. The Gilberts have sustained direct injuries including, but not limited to, being barred from the full use and enjoyment of Thorndale Beach Condominium premises and their home, as guaranteed by the Fair Housing Act, and by being threatened removal from their home of thirty seven (37) years, and has continued to sustain said injuries through the present day and continuing.

WHEREFORE, Plaintiffs request that this Court enter judgment for Plaintiffs and against Defendants as follows:

- a. Compensatory Damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 2
VIOLATION OF 42 U.S.C. § 3617

33. The Gilberts restate and re-allege paragraph 1 through 32 of this Complaint as though the same were fully set forth and pleaded herein.

34. The actions of Defendants in threatening, intimidating, interfering and harassing with the

Gilberts' housing rights based on the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. §3617 as amended.

35. The Gilberts have sustained and continue to sustain direct injuries including, but not limited to, being barred from the full use and enjoyment of the premises, as guaranteed by the Fair Housing Act, and threatened removal from their home of thirty seven (37) years.

WHEREFORE, Plaintiffs request that this Court enter judgment for Plaintiffs and against Defendants as follows:

- a. Compensatory Damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 3
NEGLIGENCE

36. The Gilberts restate and re-allege paragraph 1 through 35 of this Complaint as though the same were fully set forth and pleaded herein.

37. Defendant had a duty to:

- a. Make a reasonable investigation of any complaints against the Gilberts before instituting adverse actions;
- b. Exercise reasonable care with respect to investigating complaints against the Gilberts;
- c. Refrain from misrepresenting the true condition of the Gilberts' unit and surrounding common areas;
- d. Perform their duties as a board and board members in a reasonable manner, including but not limited to acting with due care so as not to harm the welfare of

the Thorndale Beach Condominium members (including the Gilberts) and their property;

- e. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act (“Condominium Property Act”) and the Declarations and Bylaws;
 - f. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act (“Fair Housing Act”) and its Regulations;
 - g. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
 - h. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Fair Housing Act (“Fair Housing Act”) and its Regulations.
38. Specifically, Defendants owed the Gilberts the duty to provide a reasonable accommodation pursuant to 765 ILCS 605/18.4, and Condominium Declaration V7(q).
39. Defendant breached one or more of these duties by:
- a. Failing to undertake reasonable investigations of any complaints against the Gilberts;
 - b. Failing to conduct any investigations of complaints against the Gilberts in a reasonable manner;
 - c. Misrepresenting the true condition of the Gilberts’ unit and surrounding common areas;

- d. Failing to investigate, and in some cases perpetuating false complaints against the Gilberts;
- e. Performing their duties as a board and board members in an unreasonable manner, and without due care for the welfare of Thorndale Beach Condominium's members (including the Gilberts) and their property.
- f. Failing to perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws.
- g. Failing to perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations;
- h. Repeatedly performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Illinois Condominium Act Property Act and the Declarations and Bylaws;
- i. Repeatedly performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations.

40. As a direct result and proximate cause of Defendants' breaches, the Gilberts were injured and sustained emotional, pecuniary, and physical damages.

WHEREFORE, Plaintiffs request that this Court enter judgment for Plaintiffs and against Defendants as follows:

- a. Compensatory Damages;
- b. Punitive damages;

- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 4
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

41. The Gilberts restate and re-allege paragraphs 1 through 40 of this Complaint as though the same were fully set forth and pleaded herein.

42. Defendants above listed acts amount to extreme and outrageous conduct.

43. Defendants' conduct was intentional and outrageous.

44. Defendant's intentional conduct caused Plaintiff Iola Gilbert to suffered severe emotional distress, mental anguish, financial hardship and Iola Gilbert's medical condition rapidly deteriorated to where she required help to attend to her daily personal duties and such help increased up and until her death.

45. Susan Gilbert was present at all times relevant herein, witness the emotional suffering, and as a consequence she suffered and continues to suffer emotional distress, mental anguish and financial hardship.

WHEREFORE Plaintiffs request the court to enter a judgment for Plaintiff against Defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief as the court deems just and proper.

COUNT 5
BREACH OF FIDUCIARY DUTY UNDER 765 ILCS 605/18.4

46. The Gilberts restate and re-allege paragraphs 1 through 45 of this Complaint as though the same were fully set forth and pleaded herein.
47. That at all times relevant, Defendant, Thorndale Beach Condominium, and its members were in a fiduciary relationship with the Gilberts.
48. That Thorndale Beach Condominium is responsible, as principal, for the acts of its servant members.
49. That under Condominium Property Act, Defendant had a duty to:
- a. Undertake reasonable investigations of any complaints against the Gilberts;
 - b. Conduct any investigations of complaints against the Gilberts in a reasonable manner;
 - c. Represent the true condition of the Gilberts' unit and surrounding common areas;
 - d. Investigated, and in some cases perpetuated false complaints against the Gilberts;
 - e. Perform their duties as a board and board members in a reasonable manner, and with due care for the welfare of Thorndale Beach Condominium's
 - f. members(including the Gilberts) and their property;
 - g. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
 - h. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act and its Regulations.
50. That Defendant, Thorndale Beach Condominium, has breached its fiduciary duty to the

Gilberts by failing in the duties owed to the Gilberts and failing to grant the Gilberts' reasonable accommodation requests in accordance with the care normally required of a fiduciary, and, further, by acting in a willful and wanton manner and engaging in bad faith and unfair dealing.

51. In addition, Defendant, Thorndale Beach Condominium, breached its fiduciary duty to the Gilberts when its members used their superior position to threaten, intimidate, and interfere with the Gilberts' housing rights.

52. As a direct and proximate cause of Defendant's, breach, the Gilberts were injured and sustained pecuniary, emotional, and physical damages.

WHEREFORE, Plaintiffs request that this Court enter judgment for Plaintiffs and against Defendant, Condominium Association, as follows:

- a. Compensatory Damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

**AGAINST SIGRID INGOLD AS AGENT FOR THORNDALE BEACH
CONDOMINIUM ASSOCIATION**

COUNT 6

HANDDICAPPED DISCRIMINATION UNDER 42 U.S.C. § 3604

53. The Gilberts restate and re-allege paragraphs 1 through 52 of this Complaint as though the same were fully set forth and pleaded herein.

54. The actions of Defendant in threatening, intimidating and interfering with the Gilberts'

housing rights because of the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(1) and 24 CFR Part 14, subsection(s) 100.202-204 as amended.

55. The Gilberts have sustained direct injuries including, but not limited to, being barred from the full use and enjoyment of Thorndale Beach Condominium premises and their home, as guaranteed by the Fair Housing Act, and by being threatened removal from their home of thirty seven (37) years, and has continued to sustain said injuries through the present day and continuing.

56. The actions of Defendant in discriminating against the Gilberts by refusing to make reasonable accommodations in rules, policies, practices, or services to afford the Gilberts equal opportunity to use and enjoy their dwelling based on the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. § 3604 (f)(3)(B) and 24 CFR Part 14, subsection(s) 100.202-204 as amended.

57. The Gilberts have sustained direct injuries including, but not limited to, being barred from the full enjoyment of Thorndale Beach Condominium premises and their home, as guaranteed by the Fair Housing Act, and threatened removal from their home of over thirty seven (37) years, and has continued to sustain said injuries through the present day and continuing.

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

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 7
VIOLATION OF 42 U.S.C. § 3617

58. The Gilberts restate and re-allege paragraphs 1 through 57 of this Complaint as though the same were fully set forth and pleaded herein.

59. The actions of Defendants in threatening, intimidating, and interfering with the Gilberts' housing rights based on the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. §3617 as amended.

60. The Gilberts have sustained and continue to sustain direct injuries including, but not limited to, being barred from the full use and enjoyment of the premises, as guaranteed by the Fair Housing Act, and threatened removal from their home of thirty seven (37) years.

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

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 8
NEGLIGENCE

61. The Gilberts restate and re-allege paragraphs 1 through 60 of this Complaint as though the same were fully set forth and pleaded herein.

62. Defendant had a duty to:

- a. Make a reasonable investigation of any complaints against the Gilberts before instituting adverse actions;

- b. Exercise reasonable care with respect to investigating complaints against the Gilberts;
 - c. Refrain from misrepresenting the true condition of the Gilberts' unit and surrounding common areas;
 - d. Perform their duties as a board and board members in a reasonable manner, including but not limited to acting with due care so as not to harm the welfare of the Thorndale Beach Condominium members (including the Gilberts) and their property;
 - e. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act ("Condominium Property Act") and the Declarations and Bylaws;
 - f. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations;
 - g. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
 - h. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations.
63. Specifically, Defendant owed the Gilberts the duty to provide a reasonable accommodation pursuant to 765 ILCS 605/18.4, and Condominium Declaration V7(q).
64. Defendant breached one or more of these duties by:

- a. Failing to undertake reasonable investigations of any complaints against the Gilberts;
- b. Failing to conduct any investigations of complaints against the Gilberts in a reasonable manner;
- c. Misrepresenting the true condition of the Gilberts' unit and surrounding common areas;
- d. Failing to investigate, and in some cases perpetuating false complaints against the Gilberts;
- e. Performing their duties as a board and board members in an unreasonable manner, and without due care for the welfare of Thorndale Beach Condominium's members (including the Gilberts) and their property;
- f. Failing to perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
- g. Failing to perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations;
- h. Repeatedly performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Illinois Condominium Act Property Act and the Declarations and Bylaws;
- i. Repeatedly performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations.

65. As a direct and proximate cause of Defendant' breaches, the Gilberts were injured and sustained emotional, pecuniary, and physical damages.

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

- a. Compensatory Damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 9
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

66. The Gilberts restate and re-allege paragraphs 1 through 65 of this Complaint as though the same were fully set forth and pleaded herein.

67. Defendants above listed acts amount to extreme and outrageous conduct.

68. Defendants' conduct was intentional and outrageous.

69. Defendant's intentional conduct caused Plaintiff Iola Gilbert to suffered severe emotional distress, mental anguish, financial hardship and Iola Gilbert's medical condition rapidly deteriorated to where she required help to attend to her daily personal duties and such help increased up and until her death.

70. Susan Gilbert was present at all times relevant herein, witness the emotional suffering, and as a consequence she suffered and continues to suffer emotional distress, mental anguish and financial hardship.

WHEREFORE Plaintiffs request the court to enter a judgment for Plaintiff against Defendant Ingold as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief as the court deems just and proper.

COUNT 10

BREACH OF FIDUCIARY DUTY UNDER 765 ILCS 605/18.4

71. The Gilberts restate and re-allege paragraphs 1 through 70 of this Complaint as though the same were fully set forth and pleaded herein.

72. That at all times relevant, Defendant, Thorndale Beach Condominium, and its members were in a fiduciary relationship with the Gilberts.

73. That Thorndale Beach Condominium is responsible, as principal, for the acts of its servant members.

74. That Defendant Ingold has breached her fiduciary duty to the Gilberts by failing to discharge duties owed to the Gilberts and failing to grant the Gilberts' reasonable accommodation requests in accordance with the care normally required of a fiduciary, and, further, by acting in a willful and wanton manner and engaging in bad faith and unfair dealing.

75. In addition, Defendant Ingold breached her fiduciary duty to the Gilberts when its members used her superior position as president of Thorndale Beach Board to threaten, intimidate, and interfere with the Gilberts' housing rights.

76. As a direct and proximate cause of Defendant's breach, the Gilberts were injured and sustained pecuniary, emotional, and physical damages.

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

- a. Compensatory Damages;

- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

AGAINST SIGRID INGOLD AS AN INDIVIDUAL

COUNT 11
HANDICAPPED DISCRIMINATION UNDER 42 U.S.C. §3604

77. The Gilberts restate and re-allege paragraphs 1 through 77 of this Complaint as though the same were fully set forth and pleaded herein.

78. The actions of Defendant in threatening, intimidating and interfering with the Gilberts' housing rights because of the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of Section 804 of the Fair Housing Act, 42 U.S.C. § 3604 (f)(1) as amended.

79. The Gilberts have sustained direct injuries including, but not limited to, being barred from the full enjoyment of the premises, as guaranteed by the Fair Housing Act, and threatened removal from their home of thirty seven (37) years, and will continue to sustain said injuries until and unless the court enters an injunction on behalf of the Gilberts.

80. The actions of Defendant in threatening, intimidating and interfering with the Gilberts' housing rights based on the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of Section 804 of the Fair Housing Act, 42 U.S.C. § 3604 (f)(2) as amended.

81. The actions of Defendant in discriminating against the Gilberts by refusing to make reasonable accommodations in rules, policies, practices, or services to afford the Gilberts equal opportunity to use and enjoy their dwelling based on the disability of Iola Gilbert constitute

discrimination on the basis of handicap in violation of Section 804 of the Fair Housing Act, 42 U.S.C. § 3604 (f)(3)(B) as amended.

82. The Gilberts have sustained direct injuries including, but not limited to, being barred from the full enjoyment of the premises, as guaranteed by the Fair Housing Act, and threatened removal from their home of thirty seven (37) years, and will continue to sustain said injuries through the present day and continuing.

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

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 12
VIOLATION OF 42 U.S.C. §3617

83. The Gilberts restate and re-allege paragraphs 1 through 82 of this Complaint as though the same were fully set forth and pleaded herein.

84. The actions of Defendants in threatening, intimidating, and interfering with the Gilberts' housing rights based on the disability of Iola Gilbert constitute discrimination on the basis of handicap in violation of the Fair Housing Act, 42 U.S.C. §3617 as amended.

85. The Gilberts have sustained direct injuries including, but not limited to, being barred from the full enjoyment of the premises, as guaranteed by the Fair Housing Act, and threatened removal from their home of thirty seven (37) years, and will continue to sustain said injuries until and unless the court enters an injunction on behalf of the Gilberts.

WHEREFORE, Plaintiffs request that this Court enter judgment for Plaintiffs and against Defendants as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 13
NEGLIGENCE

86. The Gilberts restate and re-allege paragraphs 1 through 87 of this Complaint as though the same were fully set forth and pleaded herein.

87. Defendant had a duty to:

- a. Made a reasonable investigation of any complaints against the Gilberts before instituting adverse actions;
- b. Exercise reasonable care with respect to investigating complaints against the Gilberts;
- c. Refrain from misrepresenting the true condition of the Gilberts' unit and surrounding common areas;
- d. Perform their duties as a board and board members in a reasonable manner, including but not limited to acting with due care so as not to harm the welfare of the Thorndale Beach Condominium members (including the Gilberts) and their property;
- e. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act ("Condominium Property Act") and the Declarations and Bylaws;

- f. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
- g. Perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and it's Regulations;
- h. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
- i. Refrain from performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and it's Regulations;

88. Specifically, Defendants owed the Gilberts the duty to provide a reasonable accommodation pursuant to 765 ILCS 605/18.4, and Condominium Declaration V7(q).

89. Defendant breached one or more of these duties by:

- a. Failing to undertake reasonable investigations of any complaints against the Gilberts;
- b. Failing to conduct any investigations of complaints against the Gilberts in a reasonable manner;
- c. Misrepresenting the true condition of the Gilberts' unit and surrounding common areas;

- d. Failing to investigate, and in some cases perpetuating false complaints against the Gilberts;
- e. Performing their duties as a board and board members in an unreasonable manner, and without due care for the welfare of Thorndale Beach Condominium's members (including the Gilberts) and their property;
- f. Failing to perform their duties as a board and board members with due regard for the provisions and duties set forth in the Condominium Property Act and the Declarations and Bylaws;
- g. Failing to perform their duties as a board and board members with due regard for the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations;
- h. Repeatedly performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Illinois Condominium Act Property Act and the Declarations and Bylaws;
- i. Repeatedly performing their duties as a board and board members in direct contradiction to the provisions and duties set forth in the Fair Housing Act ("Fair Housing Act") and its Regulations;

90. As a direct result and proximate cause of Defendants' breaches, the Gilberts were injured and sustained emotional, pecuniary, and physical damages.

WHEREFORE, Plaintiffs request that this Court enter judgment for Plaintiffs and against Defendants as follows:

- a. Compensatory Damages;
- b. Punitive damages;

- c. Attorney's fees and costs; and
- d. Any such additional relief that the court deems just and proper.

COUNT 14

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

91. The Gilberts re-state and re-allege paragraphs 1 through 41 of this Complaint as though the same were fully set forth and pleaded herein state and re-allege paragraphs 1 through 41 of this Complaint as though the same were fully set forth and pleaded herein.

92. Defendants above listed acts amount to extreme and outrageous conduct.

93. Defendants' conduct was intentional and outrageous.

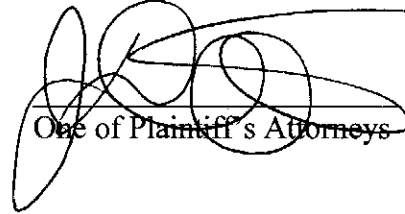
94. Defendant's intentional conduct caused Plaintiff Iola Gilbert to suffered severe emotional distress, mental anguish, financial hardship and Iola Gilbert's medical condition rapidly deteriorated to where she required help to attend to her daily personal duties and such help increased up and until her death.

95. Susan Gilbert was present at all times relevant herein, witness the emotional suffering, and as a consequence she suffered and continues to suffer emotional distress, mental anguish and financial hardship.

WHEREFORE Plaintiffs request the court to enter a judgment for Plaintiff against Defendant Ingold as follows:

- a. Compensatory damages;
- b. Punitive damages;
- c. Attorney's fees and costs; and
- d. Any such additional relief as the court deems just and proper.

Respectfully Submitted,



One of Plaintiff's Attorneys

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