

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA**

**FAIR HOUSING CENTER OF  
CENTRAL INDIANA, INC., and  
MEREDITH FORTNER,**

**Plaintiffs,**

**vs.**

**PINNACLE PROPERTIES  
DEVELOPMENT GROUP, LLC,**

**Defendant.**

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**Case No. 4:16-cv-195**

**COMPLAINT; DEMAND FOR JURY TRIAL**

1. Plaintiffs – a prospective tenant and Indiana’s only fair housing center – sue Pinnacle Properties Development Group, owner and operator of the Alyson Circle Apartments, for violation of the federal Fair Housing and related state laws.

**I. JURISDICTION AND VENUE**

2. This Court has subject-matter jurisdiction over plaintiffs’ federal claims, which arise under the Fair Housing Act, 42 U.S.C. § 3613(a) (FHA), and over their state-law claim under 28 U.S.C. § 1367 because that claim arises from the same facts as their FHA claim.

3. Venue is proper in this judicial district under 28 U.S.C. § 1391 because the events alleged in this complaint occurred in the Southern District of

Indiana.

## **II. PARTIES**

4. Plaintiff Fair Housing Center of Central Indiana is a private, nonprofit corporation dedicated to eradicating housing discrimination through fair housing education, outreach, counseling and enforcement.

5. Plaintiff Meredith Fortner, 24, lives in Jeffersonville, Indiana, with her mother and her three young children.

6. Defendant Pinnacle Properties Development Group, LLC owns and operates more than 400 rental dwellings in Clark County, Indiana, including the Alyson Circle Apartments, located at 1545 East 10th Street in Jeffersonville.

## **III. FACTS**

### **A. Fortner Tries to Rent an Apartment for her Family.**

7. In June 2016, Meredith Fortner contacted Pinnacle Properties seeking to rent an apartment for herself and her three children – a nine-month-old baby boy and two girls, each under age 3.

8. Pursuant to an appointment, Fortner visited the manager's office at the Alyson Circle Apartments, contacting a woman who identified herself as a rental agent. The rental agent told Fortner that there was at least one two-bedroom apartment available for rent. Fortner asked to apply. The manger asked who

would reside in the apartment. Fortner replied herself and her three children. The manager then asked how Fortner intended to arrange the children's bedrooms. Fortner answered that the two girls would occupy one bedroom and that she and her baby boy would occupy the other.

9. The manager replied, "No, my supervisor won't allow that." The manager explained that Fortner was not allowed to occupy a bedroom with her baby boy. Unable to apply for an apartment, Fortner left.

10. Fortner told her mother, Carla Fortner, about the manager's refusal to rent to her and her family. Carla Fortner called Pinnacle's office. A woman (rental agent) answered the telephone identifying the business as Pinnacle Properties. Carla Fortner described her daughter's experience, asking, "Is it true my daughter can't have her baby boy in her bedroom?" or words to that effect. The rental agent answered, "Yes. That's the law."

#### **B. The Fair Housing Center Investigates Pinnacle Properties**

11. On June 29, 2016, Fortner and her mother complained to the Fair Housing Center about Pinnacle's discriminatory practices. The Center conducted an intake, counseled Fortner about her fair housing rights, and conducted an investigation of Fortner's complaint using fair housing testers.

12. On July 1, 2016, Tester A called (812) 284-3893, posing as a

prospective renter. A woman (rental agent) answered the telephone, saying “Pinnacle Properties.” Tester A inquired about the availability of a two-bedroom apartment. The rental agent replied, “We have 13 properties, which one are you talking about?” Tester A answered, “Alyson Circle.” The rental agent told Tester A that there was a two-bedroom available for rent and asked, “Who will be living there?” Tester A answered, “It will be myself and my three children.” The rental agent reacted, “Oh no. You can’t do it. You will need to get a three-bedroom.” Tester A confirmed what she had been told: “So, I cannot rent a two-bedroom – I’d have to get a three-bedroom?” The rental agent responded, “Yes.”

13. On July 25, 2016, Tester B called (812) 284-3893, posing as a prospective renter. A woman (rental agent) answered the telephone, saying “Pinnacle Properties.” Tester B inquired about the availability of a two-bedroom apartment. The rental agent asked Tester B which property she was interested in. Tester B said Alyson Circle, the rental agent confirmed that there was a two-bedroom available for rent. The rental agent then explained Pinnacle’s qualification standards and asked Tester B about her income. Tester B deflected the question, saying, “I’m just gathering information about 2 bedroom apartments for me and my 3 kids.” The rental agent responded that Tester B could not rent a two-bedroom apartment; instead, “by law in Indiana, you’d have to have at least

three-bedrooms,” adding that there were no three-bedroom apartments available for rent at that time.

14. On September 6, 2016, Tester C called (812) 284-3893, posing as a prospective renter. A woman (rental agent) answered the telephone, saying “Pinnacle.” Tester C inquired about the availability of a two-bedroom apartment at Amanda Place, another apartment complex operated by Pinnacle Properties. The rental agent asked, “Is the apartment just for you?” Tester C replied, “No, I’m looking for a place for myself and my three kids.” The rental agent stated, “Can’t do three kids in a two-bedroom.” Tester C responded, “My son is only six months old, and I wanted him to sleep in my room, and that would make two people per bedroom.” The rental agent countered, “Adults can’t share bedrooms with children because of fair housing law.”

15. Based on the results of its investigation, the Fair Housing Center undertook an education and outreach campaign to counteract the discriminatory effects of Pinnacle Properties’ discriminatory housing practices, distributing fair housing literature to each household at the Alyson Circle and Amanda Place Apartments.

### **C. Pinnacle Properties’ Discriminatory Housing Practices**

16. Based on these facts, Pinnacle Properties, acting through its agents

and employees, has engaged in a pattern or practice of discrimination, committing the following discriminatory housing practices:

- (a) Failing to accept or consider a bona fide offer because of familial status;
- (b) Refusing to rent a dwelling to, or to negotiate for the rental of a dwelling with, any person because of familial status;
- (c) Imposing different rental charges for the rental of a dwelling upon any person because of familial status;
- (d) Using different qualification criteria or applications, or rental standards or procedures, such as income standards, application requirements, application fees, credit analysis or rental approval procedures or other requirements, because of familial status;
- (e) Failing to process an offer for the rental of a dwelling because of familial status;
- (f) Discouraging any person from inspecting or renting a dwelling because of familial status;
- (g) Discouraging the rental of a dwelling because of familial status by exaggerating drawbacks of a rental transaction;
- (h) Limiting information, by word or conduct, regarding

suitably priced dwellings available for inspection or rental, because of familial status;

(i) Providing false or inaccurate information regarding the availability of a dwelling for rental to any person, including testers, regardless of whether such person is actually seeking housing, because of familial status;

(j) Interfering with persons in their enjoyment of a dwelling because of the familial status of such persons;

(k) Making statements with respect to the rental of a dwelling that indicate a preference, limitation or discrimination based on familial status; and,

(l) Instituting practices that actually or predictably result in a disparate impact on a group of persons because of familial status.

17. Pinnacle injured Fortner and the Fair Housing Center by committing each of these discriminatory housing practices. Accordingly, each plaintiff is an aggrieved person under the Fair Housing Act, 42 U.S.C. § 3602.

#### **D. Injuries**

18. As a result of Pinnacle's discriminatory conduct, Fortner suffered emotional distress, including humiliation, embarrassment, disappointment,

frustration and attendant bodily injuries. Pinnacle's misconduct also deprived Fortner of an important housing opportunity. Accordingly, Fortner seeks compensatory damages under the Fair Housing Act, 42 U.S.C. § 3613(c).

19. Pinnacle's discriminatory conduct also injured the Fair Housing Center, causing it to divert its scarce resource and frustrating its mission. Accordingly, the Center seeks compensatory damages under the Fair Housing Act, 42 U.S.C. § 3613(c).

20. Pinnacle, acting through its agents and employees, committed each of the discriminatory housing practices alleged in this complaint with reckless disregard of the rights of each plaintiff. Accordingly, Fortner and the Fair Housing Center seek punitive damages pursuant to the Fair Housing Act, 42 U.S.C. § 3613(c), only.

21. There now exists an actual controversy between the parties regarding Pinnacle's duties under the Fair Housing Act. Accordingly, Fortner and the Fair Housing Center seek declaratory relief under the Fair Housing Act, 42 U.S.C. § 3613(c), and Rule 57 of the Federal Rules of Civil Procedure.

22. Unless enjoined, Pinnacle will continue to engage in the unlawful acts alleged in this complaint. Plaintiffs have no adequate remedy at law. They now suffer and will continue to suffer irreparable injury from Pinnacle's unlawful

conduct unless relief is provided by this Court. Accordingly, plaintiffs are entitled to injunctive relief. Accordingly, Fortner and the Fair Housing Center seek injunctive relief under the Fair Housing Act, 42 U.S.C. § 3613(c), and Rule 65 of the Federal Rules of Civil Procedure.

#### **IV. CLAIMS**

##### **A. First Count: Fair Housing Act**

23. Plaintiffs reallege each preceding paragraph.

24. Pinnacle Properties injured Fortner and the Fair Housing Center by committing discriminatory housing practices in violation of the Fair Housing Act, 42 U.S.C. §§ 3604(a), 3604(b), 3604(d), 3604(c) and 3617. Accordingly, each plaintiff is entitled to relief.

##### **B. Second Count: Negligence**

25. Plaintiffs reallege each preceding paragraph.

26. Pinnacle injured Fortner and the Fair Housing Center by want of ordinary care or skill in the management, supervision or training of its employees and agent. Accordingly, each is entitled to relief.

#### **V. PRAYER**

Therefore, Meredith Fortner and the Fair Housing Center of Central Indiana pray for entry of a judgment that:

1. Awards compensatory damages to each plaintiff;
2. Awards punitive damages to each plaintiff pursuant to the Fair Housing Act, 42 U.S.C. § 3613(c)(1), only;
3. Declares that Pinnacle Properties Development Group, LLC has committed discriminatory housing practices;
4. Enjoins Pinnacle Properties Development Group, LLC, including its agents, officers, and employees from engaging in discriminatory housing practices and orders Pinnacle Properties Development Group, LLC to undertake affirmative steps to counteract the effect of its discriminatory housing practices;
5. Awards reasonable attorneys' fees and costs under the Fair Housing Act, 42 U.S.C. § 3613(c)(2); and,
6. Awards any other relief deemed just by the Court.

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## **VI. JURY DEMAND**

Plaintiffs request trial by jury.

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Dated: November 2, 2016.

Respectfully submitted,

BRANCART & BRANCART

*/s/ Christopher Brancart*

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<sup>1</sup> Christopher Brancart is admitted to practice before the United States District Court for the Southern District of Indiana.