

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

FILED
U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
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LAWRA A. BROWN
CLERK

FAIR HOUSING CENTER OF CENTRAL)
INDIANA; ANA ROMAN; AND)
MIGUEL CEBALLOS ALVAREZ,)

Plaintiffs,)

v.)

MH LEASING, LLC; SHILOH ESTATES;)
FR COMMUNITY, LLC; FR CHINOOK, LLC;)
and PAMELA ZIEMER,)

Defendants.)

Case No.

15-15-cv-0817TWP-MJD

COMPLAINT AND DEMAND
FOR JURY TRIAL

I. INTRODUCTION

1) This action seeks monetary, declaratory, and injunctive relief against Defendants, the owners, managers, and operators of the Shiloh Estates Mobile Home Park – a mobile home community located at 7441 Chinook Circle, Indianapolis, Indiana - for discriminating against Plaintiffs and other Latinos on the basis of national origin, and due to race, color, familial status, and disability in violation of the Federal Fair Housing Act, 42 U.S.C. § 3601 *et seq.*

II. JURISDICTION AND VENUE

2) Jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §1331 in that the claims alleged herein arise under the laws of the United States.

3) Venue is proper pursuant to 28 U.S.C. §1391 in that the claims alleged herein arose in Indianapolis in Marion County, Indiana, and Plaintiffs are citizens of the State of Indiana.

III. PARTIES

Plaintiffs

4) Plaintiff Ana Roman and Miguel Ceballos Alvarez are a married couple. They were tenants of Shiloh Estates and identify themselves as Hispanic/Latino and are of Mexican descent.

5) Fair Housing Center of Central Indiana (“FHCCI”) is a non-profit organization with the mission of fostering diversity and equal opportunity in housing through education and enforcement of state and federal fair housing laws. It has offices at 615 North Alabama Street, Suite 426, Indianapolis, IN 46204. One of its specific purposes and goals is the illumination of all forms of illegal housing discrimination. To this end, FHCCI’s activities include, but are not limited to: (1) Investigating allegations of discrimination; (2) Counseling complainants about their fair housing rights and responsibilities; (3) Taking such steps as it deems necessary to assure such equal opportunity and to counteract and eliminate discriminatory housing practices; and (4) providing outreach and education to the community regarding fair housing.

Defendants

6) Upon information and belief, FR Chinook, LLC is the owner of the Shiloh Estates Mobile Home Community. FR Chinook is a Colorado Limited Liability Company with its offices located at 1420 West Canal Court, Suite 250, Littleton, Colorado, 80120.

7) Upon information and belief, FR Homes, LLC formerly known as MH Leasing, LLC was the leasing company who managed Shiloh Estates during the times relevant to Plaintiffs’ Complaint. MH Leasing, LLC is a Colorado Limited Liability Company with its offices located at 1420 West Canal Court, Suite 250, Littleton, Colorado, 80120.

8) Pamela Ziemer was the property manager at Shiloh Estates during the times relevant to Plaintiffs' Complaint. Pamela Ziemer as Manager of the Shiloh Estates property was involved in the day-to-day management of the facility and was acting within the scope of her employment making leasing decisions and management decisions on behalf of her employer in the operation and maintenance of the Shiloh Estates.

IV. LEGAL FRAMEWORK

A. FEDERAL LAW

9) The Fair Housing Act, 42 U.S.C. §3604 (b), provides that it is unlawful to discriminate against any person "in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, disability, or national origin." This provision of the Fair Housing Act makes it unlawful to create or maintain a hostile living environment based on these protected classes.

10) Plaintiffs allege that Defendants have violated 42 U.S.C. §3604 (b) by discriminating against tenants in the provision of services or facilities in connection with the rental of dwellings because of tenants' national origin, race, color, familial status, and disability including but not limited to creating and maintaining a hostile environment.

11) The Fair Housing Act, 42 U.S.C. §3604 (c), prohibits the landlord from making, or causing to be made, any statement "with respect to the sale, or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, sex, disability, familial status, or national origin, or an intention to make any such preference, limitation, or discrimination."

12) Plaintiffs allege that Defendants violated 42 U.S.C. §3604(c) by making statements with respect to the rental of dwellings that indicated preference, limitation or discrimination based on tenants' national origin, race, color, familial status, and disability or an intention to make such a preference, limitation, or discrimination.

13) The Fair Housing Act, 42 U.S.C. §3617, prohibits the landlord from coercing, intimidating, threatening, or interfering "with any person in the exercise or enjoyment of, or on account of his having exercised or enjoyed, or on account of his having aided or encouraged any other person in exercise or enjoyment of, any right granted or protected by §3603, 3604, 3605, or 3606 of this title."

14) Plaintiffs allege that Defendants have violated 42 U.S.C. §3617 by coercing, intimidating, threatening, or interfering with tenants, "in the exercise or enjoyment of, or on account of [their] having exercised or enjoyed, ...any right granted or protected by §3603, 3604, 3605, or 3606 of this title."

15) Plaintiffs allege that Defendants discriminated against tenants under 42 U.S.C. §3604(f)(3) (B) by refusing "to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford [a person with a disability] equal opportunity to use and enjoy a dwelling."

16) Plaintiffs allege that Defendants discriminated against tenants under 42 U.S.C. §3604(f)(3)(A) by refusing "to permit, at the expense of the [person with a disability], reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises."

17) The trailers and lots offered for rent at the Shiloh Estates community constitute dwellings within the meaning of the federal Fair Housing Act, 42 U.S.C §3602(b).

**B. UNITED STATES DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT REGULATIONS**

18) The United States Department of Housing Urban Development (“HUD”) is charged with implementing rules and regulations governing the enforcement of the Fair Housing Act. Those rules and regulations are published in Title 24 of Code of Federal Regulations.

19) 24 C.F.R. § 100.65(b)(2) prohibits “[f]ailing or delaying maintenance or repairs of sale or rental dwellings because of race, color, religion, sex, disability, familial status, or national origin.”

20) Plaintiffs allege that Defendants violated 24 C.F.R. §100.65 (b)(2) by failing or delaying maintenance or repairs of rental dwellings because of tenant’s National origin.

21) 24 C.F.R. §100.75(c)(2) prohibits “[e]xpressing to agents, brokers, employees, prospective sellers or renters or any other persons a preference for or limitation or any purchaser or renter because of race, color, religion, sex, handicap, familial status, or natural origin of such persons.”

22) Plaintiffs allege that Defendants violated 24 C.F.R. §100.75(c)(2).

23) 24 C.F.R. § 100.400(c) prohibits “[i]ntimidating or threatening a person because that person is engaging in activities designed to make other persons aware of, or encouraging such other persons to exercise, rights granted or protected by this part.

24) Plaintiffs allege that Defendants violated 24 C.F.R. § 100.400(c).

C. INVOLVEMENT OF FHCCI

25) The Fair Housing Center of Central Indiana (“FHCCI”) is a non-profit organization providing fair housing services in Central Indiana.

26) In July 2013, Ana Roman contacted the FHCCI to receive information on fair housing rights. Ms. Roman, a Mexican national, expressed concerns that her family was being discriminated against by Shiloh Estates Management due to their national origin.

27) The FHCCI began a fair housing investigation and as part of that investigation, FHCCI interviewed prospective, current and past residents of Shiloh Estates.

28) The FHCCI found that persons of color felt unwelcome when meeting with the Shiloh Estates management about residency and were discouraged from renting dwellings in the mobile home park.

29) During the course of FHCCI’s investigation, those interviewed stated they heard Pamela Ziemer, the Shiloh Estates Manager, refer to African Americans and Hispanics using gross and racist terms.

30) Those interviewed also stated that they observed different terms, conditions, rules and policies being enforced more harshly against the Hispanics and African American residents versus white residents at the mobile home park.

31) Those interviewed also indicated observing those with disabilities being denied rental at the park and/or denied reasonable accommodation requests for the disability such as not being allowed accessible ramps or being denied the termination of their lease due to health changes and other issues.

32) Families with minor children interviewed identified rules and policies being applied to them more strictly than those without children including policies related to maintenance of yards, rules related to children playing, and other policies.

33) Several of those interviewed stated that they complained to the Shiloh Estates management company with no response or change.

34) Based upon the investigation, the FHCCI alleges the respondents are discriminating against tenants and the public due to race, color, national origin, presence of disability, and the presence of minor children through denial of reasonable accommodations or modifications, refusal to rent, verbal statements and unequal application of rules and policies.

35) The goals of the FHCCI are to prevent and eliminate housing discrimination. The FHCCI represents the residents of central Indiana and is aggrieved by the actions of the Defendants.

36) As a result of the Defendants' alleged discriminatory practices, the FHCCI has suffered frustration of its mission and diversion of its resources in investigating the matter and by counteracting the discrimination through targeted outreach and education.

37) The FHCCI alleges its resources were diverted to activities including, but not limited to, investigation and preparing investigative documents. The Defendants' actions frustrate the FHCCI's efforts to achieve equal housing. Through their alleged actions, the FHCCI and its constituents are thereby deprived of living in a diverse, non-segregated community.

V. STATEMENT OF FACTS

38) Complainants are Mexican nationals and lawful U.S. Visa holders.

39) They were tenants of Shortridge Village, later known as Shiloh Estates, from 2005 until 2013.

40) Shiloh Estates is a mobile home park with more than 100 lots.

41) In 2010, FR Community began managing the community and changed its name to Shiloh Estates.

42) Pamela Ziemer, who is white, was the designated community manager for the mobile home park. When Ms. Ziemer began as manager, the complainants immediately began experiencing unfair treatment and harassment by Ms. Ziemer and the park's maintenance staff.

43) Ms. Ziemer made fun of and mocked Ms. Roman and Mr. Ceballos for not being able to speak English. Ms. Ziemer referred to the complainants as "ignorant."

44) A Shiloh Estates maintenance worker stated, "Mexicans don't know how to do anything."

45) The Plaintiffs felt harassed and singled out in how the community rules were applied. Latino guests of Mr. Ceballos and Ms. Roman indicated that Shiloh Estates employees made them feel unwelcome and unwanted.

46) Due to stress of the unfair treatment and harassment by Shiloh Estates, Ms. Roman's health began to suffer.

47) In January 2013, Mr. Ceballos placed his trailer up for sale in an attempt to move out of the community, away from the discrimination. On several occasions, interested Latino buyers contacted Mr. Ceballos regarding purchasing his trailer. However, after meeting Ms. Ziemer to receive information and to apply to reside at Shiloh Estates, each prospective Hispanic buyer decided against purchasing the home because they felt unwelcome as Latinos in the community.

48) The complainants contacted FR Community to complain about Ms. Zierner's treatment. They received no response. Due to the discrimination and the impact of it upon Ms. Roman's health, the family felt no choice but to vacate the mobile home and to move away. They vacated the home on or about May 24, 2013 and continue their efforts to sell it.

49) On or about June 11, 2013, Shiloh Estates filed a Notice of Claim for possession of real estate against Mr. Ceballos and Ms. Roman for unpaid rent and alleged damage. The family disputed the charges and has attended several court hearings since that time.

50) After complaining to the Fair Housing Center of Central Indiana and its investigation of their allegations, Shiloh Estates dropped the charges in an attempt to negotiate with the family.

51) Complainants believe they have been discriminated against by the Defendants due to their national origin and race. The family would likely still be living at Shiloh Estates had it not been for the discriminatory treatment they endured.

52) Had Plaintiffs been able to sell their home to any of the interested Latino buyers, Mr. Ceballos and Ms. Roman would have vacated the property in early 2013. Because Ms. Zierner discouraged the sale of the property to prospective Latino tenants, they were unable to do so. The family believes that the rules and policies were applied differently to them, that they were harassed, and that discriminatory comments were made to them due to their national origin.

VI. CLAIMS

A. FIRST CLAIM FOR RELIEF

[Fair Housing Act]

53) Plaintiffs reallege and incorporate by reference each and every allegation contained in all previous paragraphs as those set forth in full herein.

54) Defendants have injured Plaintiffs by committing discriminatory housing practices in violation of the federal Fair Housing Act, 42 U.S.C. § 3601 et seq.

B. SECOND CLAIM FOR RELIEF

[Civil Rights Act of 1866, 42 U.S.C. §1981]

55) Plaintiffs reallege and incorporate by reference each and every allegation contained in all previous paragraphs as those set forth and full herein.

56) Defendants have injured Plaintiffs by depriving them of full and equal rights and benefits under the law based on their race, color, or ethnicity, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1981.

C. THIRD CLAIM FOR RELIEF

[Civil Rights Act of 1866, 42 U.S.C. §1985]

57) Plaintiffs reallege and incorporate by reference each and every allegation contained in all previous paragraphs as those set forth in full herein.

58) Defendants have injured Plaintiffs by conspiring to deprive them as Latinos of the equal protection of the laws, or of equal privileges under the laws, in violation of the Civil Rights Act of 1866, 42 U.S.C. §1985 (3).

D. FOURTH CLAIM FOR RELIEF – HARRASSMENT

**[Ana Roman, Miguel Ceballos Alvarez v. Shiloh Estates, FR Community, FR Chinook and
Pamela Ziemer]**

59) Plaintiff's reallege and incorporate by reference each and every allegation contained in all previous paragraphs as those set forth in full herein.

60) Defendant Pamela Ziemer engaged in acts directed at Plaintiffs which seriously alarmed, annoyed and harassed Plaintiffs in which there is no legitimate purpose.

61) Defendants' course of conduct would have caused any reasonable person to suffer substantial emotional distress.

62) Plaintiffs suffered and continue to suffer substantial emotional distress because of Defendants' actions as set forth above.

63) Defendants did the acts alleged herein maliciously, fraudulently, and oppressively, and with the wrongful intention of hurting Plaintiffs, and with an improper and evil motive amounting to malice. Plaintiffs are thus entitled to recover punitive damages in an amount according to proof.

E. FIFTH CLAIM FOR RELIEF

[Negligence]

64) Plaintiffs reallege and incorporate by reference each and every allegation contained in all previous paragraphs as those set forth in full herein.

65) Defendants owe Plaintiffs a duty to operate the Shiloh Estates mobile home community in a manner that was free from unlawful discrimination and in accordance with the standards of care for the industry.

66) Defendants negligently violated that duty. Defendants' breach of that duty was a result of negligence, including but not limited to: a) Defendants' negligent failure to train the employees and themselves regarding the requirements of federal fair housing laws; b) failure to hire persons who were familiar with the requirements of state and federal fair housing laws; c) supervise their employees regarding compliance with the requirements of state and federal fair housing laws; d) discipline or terminate employees that failed to comply with the requirements of state and federal fair housing laws; and e) operate the Shiloh Estates Community in accordance with the standard of care in the industry.

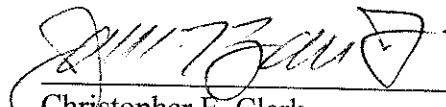
IV. PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs pray for judgment as follows:

- 1) For a permanent injunction prohibiting the Defendants from continuing all unlawful practices complained about herein and imposing affirmative injunctive relief requiring the Defendants, their partners, agents, employees, assignees, and all other persons acting in concert or participating with them, to take affirmative action to provide equal housing opportunities to all tenants and prospective tenants regardless of national origin, race, color, disability, or familial status.
- 2) For a judicial declaration that Defendants discriminated against Plaintiffs on the basis of national origin, race, color, disability, and familial status.
- 3) For an award of compensatory, statutory, and punitive damages according to proof.
- 4) For reasonable attorney's fees and costs.
- 5) For such other and further relief as this court deems proper.

Respectfully submitted,

GOODIN ABERNATHY, LLP



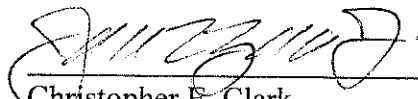
Christopher E. Clark
James R. Browne Jr.
Emma J. Mahern

JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiffs hereby demand trial by jury.

Respectfully submitted,

GOODIN ABERNATHY, LLP



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