

COPY

STATE OF NORTH DAKOTA
COUNTY OF CASS

IN DISTRICT COURT
EAST CENTRAL JUDICIAL DISTRICT

State of North Dakota, by North
Dakota Department of Labor, for the
Benefit of [REDACTED]
and for the benefit of Fair Housing of
the Dakotas,

Case No. 09-07-C-1338

[PROPOSED] COMPLAINT IN
INTERVENTION

Plaintiff,

vs.

Lowell Siebels and Carolyn Siebels,
Defendants

[REDACTED] and Fair
Housing of the Dakotas,
Intervenors.

Intervenors, [REDACTED] and Fair Housing of the Dakotas, by and
through their undersigned counsel, allege as their complaint:

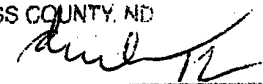
I. PARTIES

1. Intervenor Fair Housing of the Dakotas ("FHD") is a nonprofit corporation organized under the laws of the State of North Dakota with its principal place of business located in Bismarck, North Dakota. One of FHD's specific purposes and goals is the promotion of equal opportunity in the renting, purchasing, financing and advertising of housing and the elimination of all forms of illegal housing discrimination. To this end, the activities in which FHD engages include, but are not limited to: providing support, encouragement and assistance to all seeking equal access to housing in North and South Dakota. To accomplish those goals, FHD (1) provides community education on fair housing issues and encourages public involvement in

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promoting fair housing within the community; (2) provides information, support, and assistance when possible to anyone pursuing any rights and/or remedies allowed by law related to fair housing; (3) engages in any means allowed by law to uncover systematic and/or specific acts of illegal housing discrimination; and (4) becomes involved in other housing and/or civil rights activities that will benefit residents of the States of North Dakota and South Dakota. FHD is an aggrieved individual within the meaning of N.D.C.C. § 14-02.5-01(1).

2. Intervenor [REDACTED] is a resident of Cass County. Ms. [REDACTED] rented a dwelling located at 1412 3rd Avenue North, Fargo, from defendants.

3. Defendants Lowell Siebels and Carolyn Siebels, husband and wife, owned and operated several rental premises throughout Fargo, including the rental premises located at 1412 3rd Avenue North. Each of rental premises is a dwelling within the meaning of N.D.C.C. § 14-02.5-01(8).

4. Each defendant is, and at all times relevant was, the agent of each other defendant. Each defendant, in doing the acts or in omitting to act as alleged in this complaint, was acting within the course and scope of his or her actual or apparent authority pursuant to such agency; or the alleged acts or omissions of each defendant as agent were subsequently ratified and adopted by each defendant as principal.

II. JURISDICTION

5. On June 19, 2006, the Department of Labor (DOL) received a housing discrimination complaint from Fair Housing of the Dakotas ("FHD") alleging that Lowell Siebels and Carolyn Siebels ("defendants"), committed discriminatory housing practices based on the sex of tenants renting apartments owned by defendants. DOL investigated FHD's allegations and, based on that investigation, issued on March 22, 2007, a Determination of Reasonable Cause pursuant to N.D.C.C. § 14-02.5-25, and a

Charge of Discrimination pursuant to N.D.C.C. § 14-02.5-26. FHD made a timely election to have the claim asserted in the charge be decided in a civil action as provided by N.D.C.C. § 14-02.5-36. Pursuant to that same provision, FHD now seeks to intervene in this action. N.D.C.C. § 14-02.5-36 (providing that an "aggrieved individual may intervene in the action.")

6. On August 14, 2006, DOL received a housing discrimination complaint from Ms. [REDACTED] alleging that Lowell Siebels and Carolyn Siebels committed discriminatory housing practices based on Ms. [REDACTED]'s sex. DOL investigated Ms. [REDACTED]'s allegations and, based on that investigation, issued on March 22, 2007, a Determination of Reasonable Cause pursuant to N.D.C.C. § 14-02.5-25, and a Charge of Discrimination pursuant to N.D.C.C. § 14-02.5-26. Ms. [REDACTED] made a timely election to have the claim asserted in the charge be decided in a civil action as provided by N.D.C.C. § 14-02.5-36. Pursuant to that same provision, Ms. [REDACTED] now seeks to intervene in this action. N.D.C.C. § 14-02.5-36 (providing that an "aggrieved individual may intervene in the action.")

III. FACTS

7. Starting in May 2004, FHD received several complaints from female complainants reporting that they rented from defendants and that defendant Lowell Siebels discriminated against them because of gender by sexually harassing them. One of those complainants was Ms. [REDACTED]

8. Ms. [REDACTED] rented an apartment from defendants. While Ms. [REDACTED] was defendants' tenant, Lowell Siebels harassed Ms. [REDACTED] because of her sex. Specifically, Lowell Siebels injured Ms. [REDACTED] by committing the following unlawful practices:

- A. Engaged in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature such that

submission to the conduct, either explicitly or implicitly, was made a term or condition relating to the rental of a dwelling or the provision of benefits or services in connection therewith; and,

B. Engaged in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature such that the conduct had the effect of creating an environment which a reasonable person in the same position would consider intimidating, hostile, offensive or otherwise significantly less desirable in connection with the rental of a dwelling or the provision of benefits or services in connection therewith.

9. During her tenancy, defendant Lowell Siebels physically assaulted Ms.

[REDACTED]. During her tenancy, defendant Lowell Siebels wrongfully entered Ms. [REDACTED]'s dwelling for purposes of sexually harassing her.

10. In response to the complaints it had received, FHD conducted its own investigation into the operation of defendants' residential rental properties. That investigation revealed that defendant Lowell Siebels discriminated against woman on the basis of sex by engaging in sexual harassment of female tenants, including Ms.

[REDACTED]. Specifically, FHD determined that defendant Lowell Siebels engaged in a pattern or practice of discrimination on the basis of sex. That pattern or practice of discrimination included commission of the following discriminatory housing practices:

A. Discriminating in the terms, conditions or privileges of rental of a dwelling, or in the provision of services or facilities in connection with rental of a dwelling, because of sex;

B. Expressing to renters or any other person a preference for or limitation on any renter because of sex;

C. Coercing a person, either orally or in writing, or by other means, to deny or limit the benefits provided that person in connection with the rental of a dwelling because of sex; and,

D. Threatening, intimidating or interfering with persons in their enjoyment of a dwelling because of sex, and/or for having exercised their fair housing rights.

11. In response to defendants' discriminatory housing practices, FHD undertook efforts of education and outreach, including counseling the victims of discrimination and providing residents with information regarding their fair housing rights.

IV. INJURIES

12. By reason of defendants' unlawful acts and practices, FHD suffered injury to its ability to carry out its purpose and to serve the public in its effort to eliminate housing discrimination, to resolve fair housing disputes, to find and to make available decent rental housing for persons, which is free from discrimination and harassment. Defendants' unlawful acts and practices have also caused the FHD to suffer economic losses in staff pay, and in the inability to undertake other efforts to end unlawful housing practices. Accordingly, FHD is entitled to compensatory damages.

13. By reason of defendants' unlawful acts and practices, Ms. [REDACTED] suffered bodily injury, loss of an important housing opportunity, and violation of her civil rights. Moreover, Ms. [REDACTED] suffered deprivation of the full use and enjoyment of her tenancy, breach of the covenant of quiet enjoyment, invasion of the private right of occupancy, defamation and loss of the value of her leasehold. Accordingly, Ms. [REDACTED] is entitled to compensatory damages.

14. In doing the acts of which intervenors complain, defendants acted with

reckless disregard for the requirements of the federal Fair Housing Act and Chapter 14-02.5 of the North Dakota Century Code. Accordingly, intervenors are entitled to punitive damages.

15. There now exists an actual controversy between the parties regarding defendants' duties under federal and state fair housing laws. Accordingly, intervenors are entitled to declaratory relief.

16. Unless enjoined, defendants will continue to engage in the unlawful acts and the pattern or practice of discrimination described above. Intervenors have no adequate remedy at law. Intervenors are now suffering, and will continue to suffer, irreparable injury from defendants' acts and pattern or practice of discrimination unless relief is provided by this Court. Accordingly, intervenors are entitled to injunctive relief.

V. CLAIMS

A. First Claim

[N.D.C.C. chapter 14-02.5]

17. Intervenors reallege and incorporate by reference each paragraph previously alleged in this complaint.

18. Defendants have injured intervenors by committing discriminatory housing practices in violation of N.D.C.C. §§ 14-02.5-02, 14-02.5-03, 14-02.5-45, 14-02.5-36 and 14-02.5-39. Accordingly, intervenors are entitled to the relief, as alleged in paragraphs 12 through 16.

B. Second Claim

[Fair Housing Act]

19. Intervenors reallege and incorporate by reference each paragraph previously alleged in this complaint.

20. Defendants have injured intervenors by committing discriminatory housing practices in violation of 42 U.S.C. §§ 3604, 3613 and 3617. Accordingly,

intervenor are entitled to the relief, as alleged in paragraphs 12 through 16.

C. Third Claim

[Assault & Battery: Ms. [REDACTED] v. Lowell Siebels]

21. Intervenor realleges and incorporates by reference each paragraph previously alleged in this complaint.

22. Defendant Lowell Siebels injured Ms. [REDACTED] by assaulting and battering Ms. [REDACTED].

D. Fourth Claim

[Wrongful Entry: Ms. [REDACTED] v. Defendants]

23. Intervenor realleges and incorporates by reference each paragraph previously alleged in this complaint.

24. Defendants, acting individually or through their agent defendant Lowell Siebels, injured Ms. [REDACTED] by wrongful entry into Ms. [REDACTED]'s dwelling.

E. Fifth Claim

[Breach of Covenant of Quiet Enjoyment: Ms. [REDACTED] v. Defendants]

25. Intervenor realleges and incorporates by reference each paragraph previously alleged in this complaint.

26. Defendants, acting individually or through their agent defendant Lowell Siebels, injured Ms. [REDACTED] by breaching the covenant of quiet enjoyment.

F. Sixth Claim

[Negligence: Ms. [REDACTED] v. Defendants]

27. Intervenor realleges and incorporates by reference each paragraph previously alleged in this complaint.

28. Defendants, acting individually or through their agent defendant Lowell Siebels, injured Ms. [REDACTED] by breaching their legal duty to operate their

dwellings in a safe and lawful manner in that they negligently trained, supervised and retained defendant Lowell Siebels to operate their dwellings.

VI. RELIEF

Wherefore, intervenors pray for entry of judgment against defendants that:

1. Awards compensatory and punitive damages according to proof;
2. Declares that defendants have violated the provisions of the federal Fair Housing Act and N.D.C.C. chapter 14-02.5;
3. Enjoins all unlawful practices complained about herein and imposes affirmative injunctive relief requiring defendants, their partners, agents, employees, assignees, and all persons acting in concert or participating with them, to take affirmative action to provide equal housing opportunities to all tenants and prospective tenants;
4. Awards costs of this action, including reasonable attorneys' fees; and,
5. Awards all such other relief as the Court deems just.

Dated: May 4, 2007.



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