

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

Civil No. 19-\_\_\_\_\_

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	COMPLAINT
	)	(Jury Trial Demanded)
TIM DALLY,	)	
LINDA DALLY,	)	
	)	
Defendants.	)	

The United States of America (“United States”), for its complaint against Defendants Tim and Linda Dally (“Defendants”), alleges as follows:

**NATURE OF ACTION**

1. This is an action brought by the United States to enforce the Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, *et seq.*

2. The United States brings this action pursuant to 42 U.S.C. § 3612(o) for injunctive relief and monetary damages on behalf of Candice Jallen (“Jallen”), her two minor children, and her child Lauren Oseien (“Oseien”), who is now an adult but was a minor at all relevant times described in this complaint.

3. The United States alleges that Defendants violated the Fair Housing Act, 42 U.S.C. § 3604(f)(1) and 3604(f)(3)(B), by: (1) denying Jallen's request to keep an assistance animal as a reasonable accommodation that was necessary to afford Oseien an equal opportunity to use and enjoy the dwelling; and (2) terminating Jallen's lease in response to her request for an assistance animal for Oseien.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o), because the alleged discrimination and retaliation occurred in this District and the dwelling at issue is located in this District.

### **PARTIES**

6. Plaintiff is the United States.

7. At all times relevant to this Complaint, Defendants Tim Dally and Linda Dally owned and managed several residential rental properties, including four residential units located at 420 Eagles Trails, Ottertail, Minnesota 56571 ("the Subject Property").

8. The aggrieved persons are Candice Jallen, her minor children, and Lauren Oseien. 42 U.S.C. § 3602(i).

9. Oseien has mental and emotional disabilities within the meaning of 42 U.S.C § 3602(h). Oseien's disabilities affect several major life functions and activities.

10. Oseien's four-year-old cat, Randall, ameliorates the effects of her disabilities by providing emotional support and assistance for her to engage in major life activities.

### **FACTS**

11. On or about May 19, 2017, Jallen completed a rental application for a three-bedroom, two-bathroom townhouse with a two-car garage at the Subject Property for herself and her three minor children.

12. Around May or June 2017, Defendants informed Jallen that her rental application was approved and instructed her to return the completed lease agreement.

13. On or about June 27, 2017, Jallen signed and returned the lease agreement to Defendants with a security deposit of \$1,100. The lease term was to begin on September 1, 2017.

14. Defendants received Jallen's security deposit and deposited the funds into their bank account on July 3, 2017. Defendants signed and finalized the lease agreement on or about July 12, 2017.

15. The terms of the lease agreement stated, “Residents are not allowed to have pets of any kind on the premises. There are no exceptions to this rule,” and elsewhere stated, “NO PETS ALLOWED.”

16. On July 26, 2017, Jallen wrote a letter to Defendants requesting a reasonable accommodation to their “no pet” policy to permit Oseien to reside with her assistance animal, Randall, at the Subject Property.

17. Jallen included with her request a letter from Beth Monke, MS, LP, a clinical psychologist who had been treating Oseien since November 2015. The letter stated, in relevant part:

“Lauren has suffered from Major Depressive Disorder for several years and is on medication for this disorder. She has also regularly attended therapy and a therapy skills training group. In the group, participants are encouraged to find coping strategies that are not self-destructive and one of Lauren’s coping strategies is petting and being with her cat. The cat is a companion animal that has assisted Lauren in dealing with her depression. I would be in favor of Lauren being allowed to have this animal in her new living environment if at all possible.”

18. On August 1, 2017, Defendants sent a letter denying Jallen’s reasonable accommodation request, terminating the lease agreement and refunding the \$1,100 security deposit.

19. Jallen attempted to contact Defendants multiple times, leaving several voicemail messages. Jallen also sent text messages to Defendants on August 7, 8, and 9, 2017, requesting that Defendants reconsider their denial of Jallen’s reasonable accommodation request.

20. On August 9, 2017, Jallen mailed Defendants a letter, again requesting reconsideration of their denial.

21. On August 11, 2017, Jallen signed a lease for a different property in Battle Lake, Minnesota. The monthly rent of this property was more, per month, than the Subject Property and it was less desirable in other ways to Jallen.

22. On August 14, 2017, Oseien's psychologist sent a follow-up letter to Defendants. The letter stated, in relevant part:

"To Whom It May Concern,

Lauren Oseien is my patient, and has been under my care since 10-28-15. I am intimately familiar with her history and with the functional limitations imposed by her emotional related illness. She meets the definition of disability under the Americans with Disabilities Act, the Fair Housing Act, and the Rehabilitation Act of 1973. Due to this emotional disability, Lauren has certain limitations related to managing anxiety and depression. In order to help alleviate these difficulties, and to enhance her ability to use positive coping strategies and to fully use and enjoy the dwelling in which she lives, I have encouraged Lauren's use of a cat as an emotional support animal. The presence of this animal is necessary for the emotional and mental health of Lauren because its presence will mitigate the symptoms she is currently experiencing."

23. On August 15, 2017, Defendant Linda Dally sent a text message to Jallen stating, "We have contacted our Attorneys, and they will be contacting you with more information by the end of next week."

24. Jallen heard nothing further from Defendants until September 7, 2017, when Joseph Krueger, Defendants' attorney, sent her a letter asking

Oseien's psychologist to provide additional information about Oseien's disability and need for the cat.

25. Relying on advice from the Minnesota Department of Human Rights, Jallen declined to provide further information.

26. On September 22, 2017, Defendants sent another letter to Jallen reaffirming the decision to deny her requested accommodation.

### **PROCEDURAL BACKGROUND**

27. Jallen filed a complaint with the U.S. Department of Housing and Urban Development ("HUD") on December 13, 2017, alleging that Defendants violated the Fair Housing Act by denying her reasonable accommodation request for an assistance animal and by revoking her lease.

28. As required by the Fair Housing Act, 42 U.S.C. § 3610(a) and (b), HUD conducted an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report.

29. Based on the information gathered in the investigation, the Secretary of HUD, pursuant to 42 U.S.C. § 3610(g), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred.

30. On June 14, 2019, the Secretary of HUD issued a Determination of Reasonable Cause and Charge of Discrimination pursuant to 42 U.S.C. §

3610(g) and charged Defendants with discrimination under the Fair Housing Act.

31. On July 3, 2019, Defendants elected to have the claims asserted in HUD's Charge of Discrimination resolved in a federal civil action pursuant to 42 U.S.C. § 3612(a).

32. On July 5, 2019, a HUD Administrative Law Judge issued a Notice of Election and terminated the administrative proceedings on the HUD complaint filed by Jallen. Following the Notice of Election, the Secretary of HUD authorized the Attorney General to commence a civil action pursuant to 42 U.S.C. § 3612(o).

33. The United States now timely files this Complaint pursuant to the Fair Housing Act, 42 U.S.C. § 3612(o).

### **FAIR HOUSING ACT VIOLATIONS**

34. The United States incorporates by reference the preceding paragraphs of this Complaint.

35. Defendants refused to make reasonable accommodations in rules, policies, practices or services when such accommodations were necessary to afford Jallen and her three children equal opportunity to use and enjoy a dwelling, in violation of the Fair Housing Act, 42 U.S.C. § 3604(f)(3)(B).

36. Defendants discriminated in the rental, or otherwise made unavailable or denied, a dwelling to a renter because of a disability of a person intending to reside in that dwelling, in violation of the Fair Housing Act,. 42 U.S.C. § 3604(f)(1).

37. Jallen, her minor children, and Oseien are aggrieved persons, as defined in 42 U.S.C. § 3602(i), and have suffered injuries resulting from Defendants' discriminatory actions, including economic losses, emotional distress, inconvenience, and loss of a unique housing opportunity.

38. Defendants' discriminatory actions were intentional, willful, and taken in disregard of the rights of Jallen and her children..

### **REQUEST FOR RELIEF**

WHEREFORE, the United States requests that this Court:

1. Declare that Defendants' discriminatory housing practices as set forth above violate the Fair Housing Act;

2. Enjoin and restrain Defendants, their officers, employees, agents, successors, and all other persons in active concert or participation with Defendants, from:

A. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of disability, in violation of 42 U.S.C. § 3604(f)(1);



- B. Discriminating 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 with such dwelling, because of disability, in violation of 42 U.S.C. § 3604(f)(2);
- C. 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, in violation of 42 U.S.C. § 3604(f)(3)(B); and
- D. Making statements with respect to a dwelling that indicate discrimination or an intent to discriminate on the basis of disability, in violation of 42 U.S.C. § 3604(c).

3. Order Defendants to take such affirmative steps as may be necessary to restore, as nearly as practicable, Jallen, her minor children, and Oseien to the position they would have been in but for the discriminatory conduct;

4. Order Defendants to take such actions as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of their unlawful conduct, including implementing policies and procedures to ensure that no applicants or residents are discriminated against because of disability;

5. Award monetary damages to Jallen, her minor children, and Oseien pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

6. Order such additional relief as the interests of justice require.

DATE: August 2, 2019

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United States Attorney

*s/ Ana H. Voss*

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