

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2:21-cv-3681
	)	
MOHAMED BACCHUS and	)	
ALAN ZANDER,	)	
	)	
Defendants.	)	
_____	)	

**COMPLAINT AND JURY DEMAND**

The United States of America (“United States”) alleges as follows:

**NATURE OF THE ACTION**

1. The United States brings this action to enforce Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. §§ 3601 *et seq.* (the “Fair Housing Act”). This action is brought under 42 U.S.C. § 3612(o) on behalf of Christopher Mizerny and his minor daughter, J.M., against Mohamed Bacchus and Alan Zander because they engaged in unlawful discrimination on the basis of disability and familial status.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345, and 42 U.S.C. § 3612(o).

3. Venue is proper under 28 U.S.C. § 1391(b)(2) because the events or omissions giving rise to the United States’ claims occurred in this District.

**THE PARTIES AND THE SUBJECT PROPERTY**

4. Complainant Christopher Mizerny (“Mizerny”) lives in Cooperstown, Pennsylvania, with his 12-year-old daughter J.M., his girlfriend, their two-year-old son M.M., and his girlfriend’s minor daughter.

5. Mizerny suffers from alcohol use disorder (“addiction”), which required him to participate in a 30-day inpatient residential treatment program in May 2018. There he was diagnosed with alcohol use disorder. Mizerny takes medication to treat his addiction.

6. Mizerny’s addiction substantially limits his life. For example, despite his continued sobriety after completing the residential treatment program, Mizerny thinks about alcohol every day. Mizerny’s addiction has impacted his ability to sleep, work, and make responsible decisions. Mizerny’s addiction requires him to avoid certain social situations where alcohol is present, including events with family.

7. Mizerny’s addiction and its diagnosis is a physical or mental impairment that substantially limits one or more of his major life activities, and a record of having such an impairment, as defined by the Fair Housing Act, 42 U.S.C. § 3602(h)(1)-(2).

8. At all times relevant to this matter, Defendant Mohamed Bacchus (“Bacchus”) owned and rented to others four properties with a total of ten residential dwellings units in Pennsylvania, including a house with two rental units located at 908 Juniper Street in Quakertown (“the Subject Property”). The Subject Property is located in Bucks County.

9. At all times relevant to this matter, Bacchus paid Defendant Alan Zander (“Zander”) (together, “Defendants”) to manage Bacchus’s Pennsylvania properties. In this role, Zander managed repairs, found tenants, approved leases, evicted tenants, and did “whatever [Bacchus] wanted to do” at the properties, including at the Subject Property.

10. Bacchus's properties in Pennsylvania, including the Subject Property, are "dwellings" within the meaning of the Fair Housing Act, 42 U.S.C. § 3602(b).

### **FACTUAL ALLEGATIONS**

11. In August 2018, a month after completing the residential treatment program for his addiction, Mizerny signed a lease to rent the Subject Property's first floor with his daughter, J.M., from September 1, 2018, through August 31, 2019, for \$700 per month. The lease stated that "the premises are to be used only as a private residence for Tenant(s) listed in Clause 1 of this Agreement, and their minor children. ([J.M.], 9 years old)." The lease was signed "Alan Zander for Mohamed Bacchus."

12. Bacchus signed a second version of the lease on September 19, 2018, which was similar to the first lease in all relevant respects. The second version of the lease referred to Bacchus's signature as "Landlord" and Zander's signature as "Landlord or Landlord's Agent."

13. Mizerny learned about the Subject Property from Zander.

14. Quakertown Borough, in which the Subject Property is located, allows up to five unrelated individuals to live in each unit at the Subject Property. Quakertown Borough does not restrict the number of related individuals that may live in each unit at the Subject Property.

15. Defendants permitted five tenants, including four adults, to live in the Subject Property's second floor.

#### *Mizerny Sought to Move His Girlfriend, Who Was Pregnant with His Son, Into the Subject Property*

16. On April 3, 2019, Mizerny texted Zander to request that his girlfriend, who was approximately 6-months pregnant with Mizerny's son, and her minor daughter move into the Subject Property with him and J.M. Mizerny told Zander that he "would like everyone to get

comfortable with eachother [sic] before the baby comes. It is very important to me we are together.”

17. Zander responded that Mizerny’s lease only allowed two people and that five people did not fit in the Subject Property and would constitute a health code violation. He threatened to evict Mizerny if his girlfriend and her daughter moved in. Mizerny asked “How about 4 for the time being?” Zander repeated that it would be a lease and code violation and that Bacchus would have to “evict [Mizerny] to cover his own ass.” That same evening Zander texted that he would be inspecting the property that Sunday as the “landlird’s [sic] representative.”

*The Reaction from Defendants Leading Up to the Notice to Vacate*

18. In the days and months that followed, Defendants made multiple statements to Mizerny about his continued tenancy referencing his addiction and his desire to reside with his expanding family. A few days later, on Sunday, April 7, 2019, Zander called the Subject Property’s second-floor tenant and told him “to keep an eye on [Mizerny] and that [Mizerny] is not permitted to allow his pregnant girl friend [sic] and child to move in.” The second-floor tenant agreed to Zander’s request.

19. On that same day, Zander inspected the Subject Property. At the inspection and in front of J.M., Zander told Mizerny that he had four months to move before the birth of his son and threatened that if his girlfriend moved in, Mizerny would be evicted.

20. The next day, on April 8, Mizerny received the following email from Bacchus’s email account:

It has come to my our [sic] attention that you are thinking of moving in your pregnant girlfriend and one child in your apartment. Please be advised that you are not permitted to move additional occupants nor sublet to additional occupant, whatsoever.

Should you breach the terms of the Lease during the one year lease term or any extension of said lease, I will be forced to ... evict you due to your disregard for the terms of the Lease.

\*\*\*

You have four months to find a new place and move before the baby is born in August: otherwise you may remain until the end of your Lease which we have the option not to renew, but , [sic] rather end it with a thirty day Notice.

“Please be forewarned, we will know if your girlfriend and/or child moves in.”

21. That same day Zander texted the following message to Mizerny:

You are hereby again forewarned: [the Subject Property’s second-floor tenant] will let us know if you move her in. [Bacchus] will evict you if you do. Four months is more than plenty of time to find another place. You have alcoholic thinking. Its [sic] not enough to stop drinking. You have to alter your mind which has been altered by the narcotic alcohol (See Websters). I will never rent an apartment to a drunk again with less than 1 yr in recovery... Your number is blocked[.]

22. In the course of his work for Bacchus, Zander blocked only one other tenant’s number. That tenant did not have children but Zander believes he may have been a person with an alcohol addiction.

23. On May 7, 2019, Mizerny received an email from Bacchus’s account with a notice to vacate on or before August 31, 2019, the last day of the lease.

*Mizerny’s Plea for Reconsideration Under the Fair Housing Act and Defendants’ Reaction*

24. On June 3, 2019, Mizerny emailed Bacchus to complain about a leak at the unit and about the lawn, which was overgrown and “dangerous.”

25. Mizerny reached out to Bacchus directly because Zander had blocked his number.

26. In the same email Mizerny asked:

[D]id you know that under the Fair Housing Act it may be illegal to kick me out because I have a baby on the way and want to live with my family? Could you please reconsider your decision to not renew my lease and evict me if I try to move my children in? I am not trying to nag you. I just really want to live with my family so I wanted to give it another shot.

27. On June 9, 2019, Zander emailed Mizerny stating:

Mr[.] Bacchus is quite annoyed with your illogical approach to trying to get what you want without regard for the terms of your lease, which expires AUGUST 31, 2019.

You have been given a 5 month notice to vacate as your leasehold, under contract law, will terminate on the EXPIRATION DATE OF AUGUST 31, 2019; and notice of said termination has been given to you in writing.

All that being said, your illogical and ludicrous passive aggressive approach has alienated Mr[.] Bacchus from dealing with you at all....

As for denying you any rights under Fair Housing, you represented yourself as a single parent of one 10 year old child.... You represented yourself as recently discharged from a 30 day stay in a rehab for your having "a problem with alcohol", and that you were participating in Alcoholics Anonymous to further your recovery; which would take 1-2 years just to dry out your brain according to the AA Big Book - the AA Bible for this 90 year old highly successful program for recovery from the insanity of alcoholism.

Apparently, you are not working a program for your recovery [sic] and now have yourself in a situation of having a pregnant girlfriend of what seems to be maybe 6 months +/-, who is mother of another child, who got pregnant by you around December 2019; and with whom you wish to co-habitate.

Your lease is ending as according to the contract.

The best thing you can do, Mr[.] Mizerny, is apologize to Mr. Bacchus, firstly, for your poor behavior. Then you might offer the fair market rent of \$950 which is the going rate for two bedroom apartments.... Mr[.] Bacchus wanted to move you out, effect repairs to the front porch, the rear deck and then re-rent the unit at the higher fair market value....

You [sic] lease is up AUGUST 31, 2019....

Should Mr[.] Bacchus and you come to terms at \$950 per month, he will have his contractor ... look at the upper rear flat roof in an effort to solve the water leak....

28. On June 12, 2019, Mizerny emailed Quakertown Borough's Code Inspector to "verify the maximum number of people who can reside at 908 Juniper st [sic] on the first floor" taking

“into consideration any difference, if any, between children and adults.” The Code Inspector responded: “The International Residential Building Code states that you are allowed to have up to 5 unrelated people.”

29. On June 18, 2019, after receiving a May 23, 2019 Quakertown Property Maintenance Code Violation Notice requiring that they make repairs, Defendants had the Subject Property’s front porch demolished and front door boarded up, a condition that remained for two weeks.

30. On June 22, Zander texted Mizerny:

Your best bet is to stop calling the boro and talking to everyone else. Look at rentals! Sky high \$\$ . Man up & call [Bacchus’s secretary] and offer \$950. [Bacchus] does not have to renew. Your alcoholic thinking is stinking. You went to rehab But [sic] you and your brain are not right nor fixed. OTHERWISE: AUGUST 31ST 2019 YOUR LEASE IS UP AND YOU WILL BE EVICTED

31. At all relevant times, Zander regarded Mizerny as having an impairment that substantially limited his major life activities, as defined by 42 U.S.C. § 3602(h)(3).

32. On June 29, 2019, Mizerny received an email from Bacchus’s account stating that “[o]n my request” Zander would be inspecting the Subject Property. The email continued: “If you are still interested in renting the apartment effective September 1, 2019 the rent will be increased to \$950.00 on a month to month basis. All other terms and conditions remain in full force and effect.”

33. Zander did not end up inspecting the Subject Property, which he scheduled “to determine the number of occupants.”

34. On June 30, 2019, Zander emailed Mizerny stating that his continued residency was based on paying an additional \$250 in monthly rent under the original lease terms. Zander’s email noted that the notice to vacate was in “full force and effect,” threatened eviction if Mizerny did not accept the conditions, and requested that Mizerny “[s]upply the names and ages of the

additional occupants in writing so that it is known by you as to exactly whom is residing in the apartment to be in compliance with federal and local laws.”

35. On July 26, 2019, Bacchus sent Mizerny a letter via certified mail with “written notice that the last day of your Lease is August 31, 2019.” The letter added: “If you wish to continue your tenancy, the new monthly rental payment of \$950.00 is required and the Lease will be renewed for one year and early termination is not permitted.” The letter did not indicate that additional tenants could move into the Subject Property. It stated: “Please be advised that all other terms of your original rental agreement remain in effect.”

36. Mizerny’s son, M.M., was born on August 1, 2019.

37. On August 15, 2019, Mizerny emailed Bacchus and Zander:

I have sought different housing because you made it very clear that I needed to be out because of the baby and my desire to live with my pregnant girlfriend. Also, I can no longer tolerate being berated and harassed by [Zander] over my alcohol recovery and the pregnancy. I will be out by Aug 31....

*Mizerny Moved Out and Defendants Rented the Subject Property*

38. Mizerny moved out of the Subject Property at the end of August and into a property with higher monthly payments.

39. In October 2019, Bacchus sent a letter to Mizerny returning his security deposit “as a courtesy for being a good tenant.”

40. The property remained empty until November 2019, when Bacchus rented it for \$795 per month to a couple without children.

*Defendants’ Conduct Had a Profound, Negative Impact on Mizerny and His Family*

41. Defendants’ conduct threatened Mizerny’s sobriety at a time when he was particularly vulnerable. It caused Mizerny to incur financial expenses including, for example, those associated with moving, relocation, and increased monthly payments. Defendants’ conduct



added emotional stress on Mizerny and his girlfriend, who had a high-risk pregnancy. It forced Mizerny to spend an estimated hundred hours on an expedited property search and to move into a property outside of J.M.'s previous school district within the first month of M.M.'s life. It caused Mizerny daily stomach aches, headaches, loss of sleep and appetite, and depression.

42. Defendants' conduct also negatively impacted J.M., including because she personally witnessed Zander's threats of eviction and had to change schools, a difficult experience.

43. Mizerny and J.M. are "aggrieved persons" within the meaning of 42 U.S.C. § 3602(i), and have suffered injuries as a result of Defendants' discriminatory conduct.

#### **THE HUD COMPLAINT, INVESTIGATION, AND CHARGE OF DISCRIMINATION**

44. On February 27, 2020, Mizerny timely filed with the U.S. Department of Housing and Urban Development ("HUD") a Fair Housing Act Complaint against Defendants based on familial status and disability. Mizerny amended the complaint on January 7, 2021, to clarify which protected classes applied to which claims. Mizerny listed J.M. as an aggrieved party.

45. Bacchus told HUD in the course of its investigation that he "appreciated Mr. Mizerny's tenancy" and that "Mr. Mizerny always paid rent on time, and treated his neighbors with respect."

46. Bacchus also told HUD that there was no written occupancy policy for the Subject Property, and that he was unaware of any limitation based on square footage.

47. Zander told HUD that he did not know how many people were allowed to live in the Subject Property's first floor. Zander also admitted to HUD that in representations to Mizerny he used "recommended" occupancy information from Montgomery County that was "not applicable" to the Subject Property.

48. After Mizerny filed the HUD complaint, Zander emailed Bacchus explaining that his statements written to Mizerny were related to Mizerny's "need to remain in AA as he has suffered in an [sic] permanently altered state of mind and that he needed to clear it out which takes years." Zander said that he believed Mizerny needed to "live up to his lease agreement and even look for a larger place to accommodate 2 adults and three children or [sic] two different sexes." Zander stated that in his dealings with Mizerny, he did not "get into how a person" with just weeks of sobriety:

while reconstructing his life with his child could have unprotected sex resulting in a pregnancy in which he claimed but provided no evidence that the child was his and have this all happen in a matter of a few months after moving into the apartment in August. I was incredulous that in the months that followed, he had a such a life altering event.

49. Bacchus characterized Zander's conduct as "egregious," and asserted that "Zander systematically took advantage of his managerial position to unilaterally force the [AA] program's ideologies upon tenants in recovery.... [and that he] maintains reason to believe that Mr. Zander refused to notify Mr. Mizerny of anticipated repairs, and likely ignored all correspondences from Mr. Mizerny."

50. Bacchus knew or should have known about, but did not take prompt action to correct and end, all discriminatory housing practices at the Subject Property. 24 C.F.R. § 100.7(a)(1)(ii). Bacchus is vicariously liable for the discriminatory acts of his employees and agents, including Zander. 24 C.F.R. § 100.7(b).

51. Defendants carried out discriminatory housing practices at the Subject Property because of Mizerny's addiction and his girlfriend's pregnancy. Defendants are directly liable for their own conduct that resulted in discriminatory housing practices. 24 C.F.R. § 100.7(a)(1)(i).

52. Defendants' discriminatory conduct was intentional, willful, and/or taken in reckless disregard of the rights of others.

53. Under 42 U.S.C. § 3610(a)-(b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report.

54. Based upon the information gathered in the investigation, the Secretary, under 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that Defendants violated the Fair Housing Act.

55. Therefore, on April 29, 2021, the Secretary issued a Charge of Discrimination under 42 U.S.C. § 3610(g)(2)(A), against Defendants on behalf of Mizerny and J.M.

56. On May 19, 2021, Mizerny timely elected to have his and J.M.'s claims decided in federal court under 42 U.S.C. § 3612(a). On the same day, the Administrative Law Judge issued a Notice of Election to Proceed in United States Federal District Court and terminated the administrative proceeding on Mizerny's complaint. 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).

57. On July 13, 2021, the United States and Defendants executed an agreement tolling the statute of limitations for the claims raised, or which could be raised, in connection with the HUD complaint from June 2, 2021, through August 19, 2021.

### **FAIR HOUSING ACT VIOLATIONS**

58. The allegations set forth in paragraphs 1 – 57 are incorporated by reference.

59. By the actions described above, Defendants have:

- a. Made statements with respect to the rental of a dwelling that indicated a preference, limitation, or discrimination based on familial status and disability, in violation of 42 U.S.C. § 3604(c);
- b. Discriminated in the sale or rental, or otherwise made unavailable or denied, a dwelling because of familial status, in violation of 42 U.S.C. § 3604(a);
- c. Discriminated in the sale or rental, or otherwise made unavailable or denied, a dwelling because of disability, in violation of 42 U.S.C. § 3604(f)(1);
- d. Discriminated 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 familial status, in violation of 42 U.S.C. § 3604(b);
- e. Discriminated 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); and
- f. Coerced, intimidated, threatened, or interfered with a 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 the exercise or enjoyment of, the rights granted or protected by the Fair Housing Act, in violation of 42 U.S.C. § 3617.

**RELIEF REQUESTED**

WHEREFORE, the United States requests that this Court enter an order that:

1. Declares that Defendants' discriminatory conduct, as described above, violates the Fair Housing Act, 42 U.S.C. §§ 3601 *et seq.*;

2. Enjoins Defendants, their agents, employees, successors, and all other persons in active concert or participation with any of them, from:

- a. Making statements with respect to the rental of a dwelling that indicate a preference, limitation, or discrimination based on disability or familial status;
- b. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling because of disability or familial status;
- c. Discriminating in the terms, conditions, or privileges of rental of a dwelling, or in the provision of services or facilities in connection with such dwelling because of disability or familial status;
- d. Coercing, intimidating, threatening, or interfering with a 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 the exercise or enjoyment of, the rights granted or protected by the Fair Housing Act;
- e. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Mizerny and J.M. to the position they would have been in but for the discriminatory conduct; and
- f. Failing or refusing to take such affirmative steps 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 Defendants' unlawful practices; and

3. Awards monetary damages to Mizerny and J.M. under 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1).

The United States further requests such additional relief as the interests of justice may require.

Respectfully submitted,

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