

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
and	)	
	)	Civil No. 1:10-cv-00297-LM
BRENDA and ROBERT SANTANA,	)	
	)	
Plaintiff/	)	
Intervenors	)	
	)	
v.	)	
	)	
LOTHAR RIBA,	)	
	)	
Defendant	)	

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**COMPLAINT IN INTERVENTION**  
**AND DEMAND FOR A JURY TRIAL**

Plaintiff/Intervenors Brenda and Robert Santana (“Plaintiff/Intervenors”) allege as follows:

**Nature of the Action**

1. This complaint in intervention is brought by Plaintiff/Intervenors Brenda and Robert Santana to redress Fair Housing Act violations under Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (“Fair Housing Act”), 42 U.S.C. §§ 3601-3631. This action is brought as a matter of right under the Fair Housing Act. The United States Department of Justice filed a lawsuit in this Court on July 19, 2010 alleging similar violations of law on behalf of Brenda Santana.

**Jurisdiction and Venue**

2. Jurisdiction in this action is predicated on 28 U.S.C. §§ 1331, 1343(a)(4). Declaratory relief is authorized by 28 U.S.C. §§2201 and 2202.

3. Venue is proper in this District, pursuant to 28 U.S.C. §1391(b), since Mr. Riba resides in this District, and a substantial part of the events giving rise to the claim arose in this District.

**Parties and the Subject Property**

4. Plaintiff Brenda Santana (“Mrs. Santana”) is an individual residing within the District of New Hampshire. Mrs. Santana resided at 53 Main Street, Monroe, New Hampshire (“the subject property”) with her husband and children from approximately October 15, 2008, to July 31, 2009. Mrs. Santana is white; her husband, Robert Santana, is Latino; and her two minor children are biracial (African-American and white).

5. Plaintiff Robert Santana (“Mr. Santana”) is an individual residing within the District of New Hampshire. Mr. Santana resided at 53 Main Street, Monroe, New Hampshire (“the subject property”) with his wife and children from approximately October 15, 2008, to July 31, 2009. Mr. Santana is Latino; his wife, Brenda Santana, is white; and her two minor children are biracial (African-American and white).

6. Mr. Lothar Riba (“Mr. Riba”) is an individual residing within the District of New Hampshire. Mr. Riba is the owner and manager of a four-unit apartment building at the subject property. Mr. Riba has owned and managed the subject property since at least 2008.

7. The “subject property” is a “dwelling” within the meaning of 42 U.S.C. § 3602(b).

**Factual Allegations**

8. On or about October 11, 2008, Mr. and Mrs. Santana signed a lease for apartment No. 21 at the subject property.

9. On or about October 11, 2008, Mrs. Santana asked Mr. Riba for permission to have her husband's sister stay at the property for 3-4 weeks. Mr. Riba refused, telling Mrs. Santana that, "if one comes, they all start coming like a bunch of cockroaches."

10. During the first few months that the Santanas were living at the subject property, Mr. Santana approached Mr. Riba and asked him, in English, about having satellite television installed at the apartment in order to watch Spanish-language program Mr. Riba responded, "we speak English here in America, buddy." Mr. Riba did not permit Mr. and Mrs. Santana to obtain satellite television service at the subject property.

11. In or about fall 2008, Mr. Riba began watching the Santanas for extended periods of time through the windows of the subject property.

12. In or about fall 2008, Mr. Riba began entering the Santanas' apartment without permission or notice.

13. In or about spring 2009, Mr. Riba began watching the Santanas from behind bushes on or around the subject property.

14. On or about May 27, 2009, Mrs. Santana sent Mr. Riba a letter informing him that the Santanas wished to move out by July 1<sup>st</sup>, but that they would continue to pay rent until Mr. Riba found a replacement tenant. The letter asked Mr. Riba to provide 24 hours notice if he wished to enter the apartment in order to show it to a prospective tenant.

15. On or about June 30, 2009, Mrs. Santana sent Mr. Riba a letter informing him that she would pay the July rent on approximately July 16, 2009. Mr. Riba agreed to the extension.

16. On or about July 2, 2009, Mr. Riba sent the Santanas a letter informing them that he had found new tenants for the unit starting August 1, 2009, and he wished to have the walls repainted and the carpets professionally cleaned.

17. On or about July 4, 2009, the Santanas were moving some of their belongings out of the apartment when they witnessed Mr. Riba standing behind a utility pole taking photographs of them.

18. On or about July 21, 2009, Mr. Riba entered the Santanas' apartment without their permission and removed the handles from their windows, rendering the windows inoperable. Later that same day, he reentered the apartment, again without the Santanas' permission, and opened their drawers, refrigerator, and closets.

19. On or about July 25, 2009, Mrs. Santana went to Mr. Riba's apartment to recover the window handles. Mr. Riba told Mrs. Santana to "take you and your monkey family off my property." He also began jumping around in imitation of a monkey, and he made monkey noises.

20. During this interaction Mr. Riba grabbed Mrs. Santana's finger. Mrs. Santana sustained a sprained finger when Mr. Riba grabbed it. The sprain required medical treatment and physical therapy, and resulted in lost time at work.

21. On or about July 25, 2009, Mrs. Santana called the police and obtained an emergency order of protection against Mr. Riba. On or about July 27, 2009, the state of New Hampshire issued a warrant for Mr. Riba's arrest. Mr. Riba later pled nolo contendere to the charge and paid a fine of \$400.

22. On or about July 27, 2009, the Santanas finished cleaning the apartment and removing their personal property. They were unable to remove some items that were stored in their

basement storage unit because Mr. Riba had locked this unit and denied them access to it thereafter. The Santanas were not able to regain possession of these items until after filing an action pursuant to N.H. RSA 540-A in the Littleton (NH) District Court. That Court awarded possession of the items and monetary damages to Mr. and Mrs. Santana.

23. On December 29, 2009, Mrs. Santana filed a timely complaint against Mr. Riba with the United States Department of Housing and Urban Development, pursuant to the Fair Housing Act.

24. Pursuant to 42 U.S.C. §§ 3610(a) and (b), the Secretary of the United States Department of Housing and Urban Development conducted and completed an investigation of the complaint, attempted conciliation without success, and prepared a final investigative report. Based upon the information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on June 11, 2010, the Secretary issued a Charge of Discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Mr. Riba with engaging in discriminatory practices, in violation of 42 U.S.C. §§ 3604(c) and 3617 of the Fair Housing Act.

25. On June 17, 2010, Mr. Riba elected to have the claims asserted in the United States Department of Housing and Urban Development's Charge of Discrimination resolved in a civil action pursuant to 42 U.S.C. § 3612(a).

26. On June 17, 2010, the Administrative Law Judge issued a Notice of Election of Judicial Determination and terminated the administrative proceeding on Mrs. Santana's complaint.

27. Following this Notice of Election, the Secretary of the United States Department of Housing and Urban Development authorized the Attorney General to commence a civil action, pursuant to 42 U.S.C. § 3612(o).

**Demand for a Jury Trial**

The Plaintiff/Intervenors request a jury trial in this matter on all issues so triable.

**COUNT I**  
**Fair Housing Act Violations**

28. Plaintiff/Intervenors re-allege and herein incorporate by reference the allegations set forth in the previous paragraphs.

29. Mr. Riba, through the above-referenced actions, has:

a. Made statements with respect to the rental of a dwelling that indicated a preference, limitation or discrimination based on race, color or national origin, in violation of 42 U.S.C. § 3604(c); and,

b. Coerced, intimidated, threatened, or interfered with a person in the exercise or enjoyment of, or on account of her having exercised or enjoyed, or on account of her having aided or encouraged any other person in the exercise or enjoyment of, a right granted or protected by the Fair Housing Act in violation of 42 U.S.C. §3617.

30. The discriminatory actions of the Mr. Riba were intentional, willful and in complete disregard of the Santanas' federally protected rights under the Fair Housing Act.

30. The Santanas are "aggrieved persons" within the meaning of 42 U.S.C. § 3602(i).

31. As a result of the Mr. Riba's discriminatory conduct, the Santanas have suffered pain, humiliation, medical expenses, lost income, loss of dignity and emotional distress. The Santanas seek compensatory and punitive damages.

**WHEREFORE**, Plaintiff/Intervenors Brenda and Robert Santana pray for the following relief:

A. A judgment pursuant to 28 U.S.C §§2201 and 2202, declaring that the discriminatory conduct of Mr. Riba as set forth above violates the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*;

- B. Compensatory damages pursuant to 42 U.S.C. §§ 3613(c) and 3614(e);
- C. Punitive damages pursuant to 42 U.S.C. §§ 3613(c)(1) and 3614(e);
- D. Attorneys' fees and costs for this action pursuant to 42 U.S.C. § 3612(p); and
- E. Such other relief as the Court may deem just and proper.

Respectfully submitted,  
BRENDA and ROBERT SANTANA  
By their attorneys,

Dated: September 17, 2010

/s/ Christine Lavallee  
Christine Lavallee, Bar #13057  
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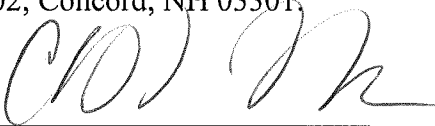
Dated: September 17, 2010

/s/ Daniel Feltes  
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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Motion to Intervene has been forwarded to all counsel of record pursuant to the Court's rules and procedures concerning electronic filing. Electronically served through ECF to Thomas E. Perez, Assistant Attorney General Civil Rights Division; Steven H. Rosenbaum, Chief, Housing and Civil Enforcement Section, Civil Rights Division; Dana Mulhauser, Attorney, Housing and Civil Enforcement Section, Civil Rights Division, U.S. Department of Justice, 950 Pennsylvania Avenue NW, Northwester Building, 7<sup>th</sup> Floor, Washington DC, 20530; John Farley, Assistant United States Attorney, 53 Pleasant Street, Concord, NH 03301; and in hand to Jason R.L. Major, Attorney for the Defendant, Douglas, Leonard & Garvey PC, 6 Loudon Road, Suite 502, Concord, NH 03301.

September 17, 2010

  
Christine Lavallee, Esq.