

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

08 1698

JAMIE KATZ and LISA NOCERA, on behalf of
themselves and others similarly situated,

Civ. _____ (ECF)

Plaintiffs,

CLASS ACTION COMPLAINT

v.

**JURY TRIAL
DEMANDED**

BROWN HARRIS STEVENS BROOKLYN
LLC, BRIAN LEHNER, MIYA SIGNOR,
AILEEN TRUESDALE, AND JANE/JOHN
DOE 1-10,

FEUERSTEIN, J.

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.
[Handwritten signature]

Defendants.

REYES, M.J.
BROOKLYN OFFICE
APR 24 2008 *

Plaintiffs, Jamie Katz ("Mr. Katz") and Lisa Nocera ("Ms. Nocera"), on behalf of
themselves and others similarly situated, for their Complaint, allege as follows:

INTRODUCTION

1. For twenty years, the federal Fair Housing Act has plainly prohibited real estate agents and landlords from denying people housing simply because they have children. New York State and City laws have long reinforced that prohibition through complementary provisions. Despite these prohibitions, Brown Harris Stevens – by its own description, the “leader in New York City’s residential real estate market” – repeatedly denied Jamie Katz and Lisa Nocera housing and discouraged them from viewing or renting apartments because they have a child or, at one point, were expecting one.

2. Brown Harris Stevens’ agents blatantly implemented and enforced landlords’ efforts to discriminate by repeatedly telling Ms. Nocera and Mr. Katz that the owners of certain apartments were not willing to rent to families with children, and that accordingly, Brown Harris Stevens would not be willing even to show them those apartments, much less

accept or convey an application for one. Ms. Nocera and Mr. Katz's experiences – corroborated uniformly by voice recordings of Brown Harris Stevens representatives taken by them and by testers from the Fair Housing Justice Center – reveal that Brown Harris Stevens has an established policy of steering applicants with children away from certain properties and even more than that, deciding for parents what is suitable or appropriate housing for their families. One broker at BHS expressed it best when she told them: "I'll show you everything that's available *that I think is suitable for kids.*" A tester from the Fair Housing Justice Center was also discouraged by a broker at BHS from viewing or renting an apartment because it was "not great for a young child" in addition to the fact that the owner had concerns about renting to a family with a child.

3. Defendants' shameful discriminatory behavior has caused harm to Ms. Nocera and Mr. Katz, and defendants have unquestionably violated their federal and state statutory rights as well as those granted under the city administrative code. This action seeks redress for those violations and the harm all defendants have caused plaintiffs.

4. After twenty years of the Fair Housing Act's prohibition on family status discrimination, the "leader in New York City's residential real estate market" should be directed to stop its unlawful policies and implement its fair housing obligations. Mr. Katz and Ms. Nocera accordingly also seek an injunction requiring training and monitoring of Brown Harris Stevens. They do so on behalf of themselves and a class of hundreds, if not thousands, of other similarly situated persons who have been or will be denied housing, or discouraged from inspecting or renting housing, simply because they have children.

JURISDICTION AND VENUE

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1343, 28 U.S.C. § 2201 and 42 U.S.C. § 3613. This Court has supplemental jurisdiction over the New York State and city law claims pursuant to 28 U.S.C. § 1367.

6. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because the properties that are the subject of the action are situated in this district, defendant BHS is located in Brooklyn, and a substantial part of the events giving rise to this complaint occurred in this district.

JURY DEMAND

7. Plaintiffs demand trial by jury in this action.

THE PARTIES

8. Plaintiffs Jamie Katz and Lisa Nocera are a married couple currently residing with their minor son in New York, New York.

9. Brown Harris Stevens Brooklyn LLC (“Brown Harris Stevens” or “BHS”) is a New York Corporation with offices in Brooklyn Heights at 129 Montague Street, Brooklyn, New York and in Park Slope at 100 Seventh Avenue, Brooklyn, New York. BHS employs licensed real estate brokers and real estate salespersons as well as other staff to list, show, and advertise properties for rent on behalf of landlords throughout Brooklyn. BHS is in the business of renting dwellings within the meaning of the Fair Housing Act (“FHA”), 42 U.S.C. § 3603(c) and its employees serve as real estate brokers or real estate salespersons within the meaning of New York Executive Law § 296(5)(c) and New York City Administrative Code § 8-107(5)(c).

10. At all times relevant hereto, Brian Lehner, Miya Signor and Aileen Truesdale (collectively “BHS named agents”) were in the employ of defendant BHS, and acted on behalf of BHS by listing and showing rental apartments, and accepting and facilitating

applications for rental apartments. Mr. Lehner is a senior vice president at BHS and a licensed Real Estate Associate Broker for BHS. Ms. Signor and Ms. Truesdale are licensed Real Estate Salespersons for BHS. Mr. Lehner participates or should participate in supervising Ms. Signor and Ms. Truesdale and is responsible for ensuring that they and other BHS salespersons are complying with fair housing rules. At all times relevant hereto, the BHS named agents were in the business of renting dwellings within the meaning of the FHA, 42 U.S.C. § 3603(c) and are real estate brokers or real estate salespersons within the meaning of New York Executive Law § 296(5)(c) and New York City Administrative Code § 8-107(5)(c).

11. At all times relevant hereto, defendants “Jane/John Doe 1-10” were licensed Real Estate Brokers employed by and acting on behalf of Brown Harris Stevens, with supervisory responsibility over Real Estate Salespersons and/or other staff employed by Brown Harris Stevens, and the obligation and responsibility of ensuring that all staff of Brown Harris Stevens comply with fair housing obligations. At all times relevant hereto, Jane/John Does 1-10 were in the business of renting dwellings within the meaning of the FHA, 42 U.S.C. § 3603(c) and are real estate brokers or real estate salespersons within the meaning of New York Executive Law § 296(5)(c) and New York City Administrative Code § 8-107(5)(c).

CLASS ACTION ALLEGATIONS

12. Plaintiffs seek to maintain this class action under Fed. R. Civ. P. 23(a) and 23(b)(2) for violations of their federal, state and local rights.

13. The Class that the individual plaintiffs seek to represent consist of: “All persons who have or will seek rental properties through BHS to inhabit with a child or children under the age of 18.”

14. Brown Harris Stevens, the BHS named agents and defendants Jane/John Doe 1-10 have acted, or failed to act, on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.

15. The members of the Class are so numerous that joinder is impracticable. Upon information and belief, each year BHS discriminates against hundreds, if not thousands, of persons in the rental of property because of their family status.

16. There are questions of law and fact common to all members of the Class who are harmed by BHS, BHS named agents and defendants Jane/John Does 1-10's discriminatory actions. Among others, the questions of law and fact common to the Class are: whether the defendants refuse to rent to, refuse to negotiate with, otherwise make unavailable the rental of, or make, print, or publish any statement indicating a preference, limitation or discrimination because of family status.

17. The claims of the named plaintiffs are typical of the claims of each class member they seek to represent. The violations of law alleged by the named plaintiffs stem from the same course of conduct by defendants – discrimination in the rental of property based on familial status – that violated and continue to violate the rights of members of the class; the legal theory under which the named plaintiffs seek relief is the same or similar to that on which the class will rely.

18. Jamie Katz and Lisa Nocera have no conflict of interest with any Class members, and will fairly and adequately protect and represent the interests of each class member.

19. Mr. Katz and Ms. Nocera currently live in a rental apartment with their son, and have a lease due to expire in autumn, 2008. Mr. Katz and Ms. Nocera reasonably expect that they will search again for a rental apartment in Brooklyn to live with their child, and

that they will seek to view or apply for apartments listed by BHS as they have each of the last two times they were searching for an apartment in 2006 and 2007.

20. The named plaintiffs are represented by Emery Celli Brinckerhoff & Abady LLP (“ECBA”). ECBA has litigated many class action lawsuits and civil rights cases, including fair housing cases, and has individual attorneys who are experienced in representing persons or classes of persons in disputes of this nature. ECBA has the resources, expertise and experience to prosecute this action. Counsel for plaintiffs know of no conflicts among members of the class or between ECBA and members of the class.

21. Defendants have acted on grounds generally applicable to class members; namely, they have routinely and repeatedly discriminated against members of the class in the denial of opportunities to rent property due to family status.

22. Accordingly, final injunctive and declaratory relief is appropriate with respect to the class as a whole.

FACTS

Experience of the Named Plaintiffs Lisa Nocera and Jamie Katz

Spring 2006: The Hunts Lane Apartment

23. In May 2006, when Lisa Nocera was visibly pregnant, she and her husband, Jamie Katz, began searching for an apartment to rent in Brooklyn. At that time, plaintiffs were living in a small apartment in Manhattan, which their landlord had asserted they had to vacate. At the same time, Ms. Nocera and Mr. Katz wanted to find a larger apartment to accommodate their growing family, and wanted to move to Brooklyn, closer to where many of their friends live.

24. After seeing promising listings on the Brown Harris Stevens website, including an apartment on Hunts Lane in Brooklyn Heights, Brooklyn, Mr. Katz e-mailed the

BHS contact person on the listings, defendant Mr. Lehner. Both Ms. Nocera and Mr. Katz were quite excited about the Hunts Lane apartment in particular, because it appeared to be in a converted carriage house, on a street they knew and liked, and because it had an outdoor space. Aileen Truesdale, another BHS representative, ultimately offered to assist Mr. Katz and made an appointment for him to come view the apartments.

25. On or about May 12, 2006, Mr. Katz met with Ms. Truesdale at BHS's Montague Street office in Brooklyn Heights. During their initial in-person conversation, Ms. Truesdale learned that Ms. Nocera was nine months pregnant. She informed Mr. Katz that she would not show him the Hunts Lane apartment because the owners would not rent to people with children because there was an outdoor space. Ms. Truesdale therefore refused to show the Hunts Lane apartment, although she did show him two other apartments, both of which seemed less attractive than the Hunts Lane listing. The fact that an apartment has an outdoor space is not a legitimate reason to refuse to rent the apartment to a family with children. Moreover, on information and belief, the stated reason is a pretext used to discriminate against a family with children.

26. Mr. Katz decided that he wanted Ms. Nocera to see one of the two apartments he had seen on May 12. On or about May 13, both Ms. Nocera and Mr. Katz met with Ms. Truesdale to view that apartment, but ultimately plaintiffs determined that they did not like it. On their walk back from that apartment, Ms. Nocera, Mr. Katz and Ms. Truesdale walked by Hunts Lane. Upon seeing Hunts Lane – a short and very beautiful block – Ms. Nocera and Mr. Katz both reiterated their interest in the carriage house apartment. Ms. Truesdale told plaintiffs again that the owners definitely would not rent to them because they were expecting a baby. Plaintiffs stated that they would be willing to incur the costs of making

sure it was safe. Ms. Truesdale said she would see what she could do, but plaintiffs never heard back from her again about the Hunts Lane apartment.

27. As a result of being illegally denied housing based on their family status, plaintiffs suffered emotional harm and were forced to expend additional resources searching for an apartment. Despite spending a significant amount of time searching for a suitable apartment, plaintiffs were unable to find one that met their needs and budget. Ultimately, plaintiffs had to arrange for an attorney to negotiate with their landlord to allow them to stay in their existing apartment for one more year. Plaintiffs, however, would have preferred to move to a larger apartment in Brooklyn with outdoor space, such as the one on Hunts Lane.

Summer 2007: Lincoln Place Apartment

28. The following summer, plaintiffs again began looking for a larger apartment in Brooklyn near their friends. Every time they called about a new listing, it was either taken or other people had already showed interest.

29. On or about June 26, 2007, plaintiffs saw a newly posted listing on BHS's web site for a one-bedroom-plus-den apartment that was located at Lincoln Place with a rent of \$2300 per month. After completing an electronic inquiry form, one of BHS's agents, Miya Signor, called plaintiffs and arranged to meet them at the apartment at midday the next day. Concerned that they might lose the apartment if they did not act quickly, Mr. Katz called Ms. Signor back and arranged to meet her earlier the next day, in the morning. That evening, plaintiffs researched the property on line and spoke to a friend who had lived on Lincoln Place who raved about the street's vicinity to Prospect Park and about the neighborhood in general. As a result, plaintiffs were very excited about the apartment.

30. The next day, Ms. Signor showed plaintiffs and their one-year-old son the apartment at Lincoln Place. Mr. Katz and Ms. Nocera immediately loved the apartment, which

was on the third floor of a brownstone. According to Ms. Signor, the owners, a couple in their fifties who were a lawyer and a teacher, lived in the building, and Ms. Signor had previously rented the top floor of the building to a single male. Ms. Signor told plaintiffs that the apartment would be available on August 30, 2007, which was perfect for plaintiffs because their lease ended on August 31. Plaintiffs expressed their enthusiasm to Ms. Signor and immediately sought to put in an application.

31. Ms. Nocera and Mr. Katz accompanied Ms. Signor to Brown Harris Stevens' Seventh Avenue office in Park Slope and completed an application. They gave Ms. Signor \$50.00 for credit checks, which revealed that they had excellent credit. After reviewing their application and their credit rating, Ms. Signor told them she saw no reason they would not get the apartment, and told them that no other applications had been submitted.

32. Mr. Katz and Ms. Nocera went with their son to celebrate by picnicking in Prospect Park with Ms. Nocera's brother, who lived in the neighborhood. They were so excited about their new apartment that they called many of their friends to tell them.

33. As they were leaving the park, Ms. Signor called Mr. Katz's cell phone and said that she had just talked to one of the owners and that the owners would not rent to anyone with a child. According to Ms. Signor, the owner had rented to a family with a child before and had problems with them regarding lead paint. Mr. Katz asked Ms. Signor whether refusing to rent to families with children was discrimination, and she said it was not when lead paint was involved.

34. Ms. Signor is wrong. Lead paint is not a legitimate basis for refusing to rent to families with children, particularly in New York City where landlords have an affirmative duty to abate lead problems for all apartments, regardless of who lives in them. In Brooklyn, where much of the housing stock is older, allowing the use of such an excuse would provide

landlords and agents *carte blanche* to discriminate and flout fair housing laws. Moreover, on information and belief, the owners stated concerns regarding lead paint are a pretext for discriminating against families with children.

35. Mr. Katz asked Ms. Signor to have the owner call him so that he could discuss the issue with the owner directly. He explained that Ms. Nocera is an emergency medicine physician and knows about the issues surrounding lead paint. At plaintiffs' insistence, Ms. Signor agreed to call the owners and ask them to reconsider.

36. Shortly thereafter, Ms. Signor left a voicemail for plaintiffs. She stated that she had spoken to the owner again and that the owner would not reconsider. Ms. Signor stated: "There was a child there before and . . . it was just a big, big, big problem and they're just, they just absolutely are not gonna go through that again . . . they just don't want to have to deal with it."

37. The following day, Mr. Katz emailed Ms. Signor expressing his disappointment and requested a refund for the \$50 credit check.

38. Mr. Katz also wrote a letter to the owner of Lincoln Place and hand-delivered it by slipping it under the door of the Lincoln Place brownstone on or about June 29, 2007. In the letter, Mr. Katz explained that his wife is an emergency medicine physician at Bellevue/NYU and that they had consulted with her colleagues at the NYC Poison Control Center who are experts on lead paint. He explained that according to those at the NYC Poison Control Center, nearly all the brownstones in Park Slope have lead paint and that a "very good way of dealing with [lead paint] is to do a thorough paint job over it." Mr. Katz then explicitly offered to pay to hire an expert to do the necessary work. Even though he provided his cell phone number and email, the owners never responded to his request to reconsider.

39. On July 2, 2007, Mr. Katz emailed Ms. Signor again to ask if she could convince the owner to reconsider. He reiterated his offer to hire someone to address any lead paint issue.

40. That same day, Ms. Signor emailed Mr. Katz back and explained that she “never would have shown you the apartment if I knew the situation. . . . I did not know [the owner] had a problem in the past or I would not have shown you the apartment.” She agreed to refund them their \$50 out of her own money since Brown Harris Stevens wouldn’t.

41. Plaintiffs were very upset and disappointed at being denied the apartment because they have a child.

Summer 2007: State Street Apartment

42. On or about July 2, 2007, Ms. Nocera saw another newly posted listing on BHS’s web site for a two-bedroom apartment on State Street with a private garden, a fireplace and huge windows for \$3,000 per month. She called Ms. Truesdale, the BHS agent she had worked with the prior year, and expressed an interest in the apartment. Ms. Truesdale remembered Ms. Nocera and Mr. Katz and said she would look into the apartment and call plaintiffs back.

43. When Ms. Truesdale called back, she asked Ms. Nocera if she had had her baby. Ms. Nocera told her that she had an excellent one-year-old baby boy. Stating that the owners had a problem with lead paint and children, Ms. Truesdale refused to show them the apartment.

44. Plaintiffs were extremely upset and disappointed as a result of being denied yet another apartment solely due to the fact that they had a child.

45. Due to defendants’ illegal actions, plaintiffs had to spend significantly more time and effort looking for an apartment. The apartment they ultimately rented costs \$3500

per month, significantly more each month than both the Lincoln Place and State Street apartments. It is also located in Manhattan, even though plaintiffs would have preferred to live in Brooklyn near more of their friends. Moreover, while they cannot compare their current apartment to the State Street apartment since they never saw it, the Lincoln Place apartment is significantly nicer than the apartment they ultimately rented.

46. The Lincoln Place and State Street apartments, and upon information and belief, the Hunts Street apartment, are all “dwelling[s]” within the meaning of New York Real Property Law § 237-a and “housing accommodation[s]” within the meaning of New York Executive Law § 292(1) and New York City Administrative Code § 8-102(10), and are covered under all provisions of state and local housing discrimination law.

Experience of Testers

47. Because Mr. Katz and Ms. Nocera believed that defendants had discriminated against them, and felt upset and disturbed by defendants’ conduct, they contacted the Fair Housing Justice Center (“FHJC”). As part of its activities, the FHJC challenges discrimination that restricts access to housing, including by arranging for fair housing “testers” — individuals who pose as renters for the purpose of obtaining information about the conduct of landlords, agents, and others to determine whether discrimination is taking place. In response to plaintiffs’ complaint, the FHJC conducted a testing investigation of the BHS’s housing practices.

Tester #1 With Child

48. On July 13, 2007, a male tester claiming to have a wife and five-year-old daughter (“Tester #1”) called BHS and asked to see the State Street apartment that plaintiffs had not been permitted to see. Defendant Mr. Lehner actively discouraged this tester from viewing the apartment, stating that it was “not great for a young child” because “the building has

definitely had like lead paint issues.” When the tester nevertheless insisted on seeing the apartment, Mr. Lehner arranged for him to come to BHS’s Montague Street office later that day.

49. When the tester met with Mr. Lehner later that day, Lehner gave the tester a brochure about the dangers of lead paint to further discourage him and steer him away from the apartment. Mr. Lehner reiterated that the apartment had lead issues and stated that he was only showing the apartment because the tester was “insistent on looking at it.” Mr. Lehner explained that the owner had a “huge concern” regarding renting to persons with children. The tester asked Mr. Lehner to ask the owner to reconsider and allow children. Mr. Lehner told the tester to look at the apartment first. When the tester viewed the apartment, workmen were busy painting the entire apartment. When asked, the workmen stated that there was no lead issue with the apartment: “If there’s lead in the paint, it’s like under like at least 10 layers of paint. . . . [You aren’t going to] get anywhere near it.”

50. After viewing the apartment, the tester told the BHS employee who showed him the apartment to contact the owner to find out if the owner would reconsider renting to a person with a five-year-old. No one from BHS ever called him back.

Tester #2 With No Child

51. On July 19, 2007, a male tester presenting as someone with a wife and no children (“Tester #2”) called Mr. Lehner and asked to view the State Street apartment. Mr. Lehner said that before showing the apartment he wanted to discuss it to decide if it was “suitable.” After inquiring and learning that the tester had no children or pets, Mr. Lehner quickly agreed to show him the apartment. At no time did Mr. Lehner discourage this tester from viewing the apartment, mention lead paint, or provide this tester with a brochure about the dangers of lead paint.

Tester #3 With Child

52. Between July 19, 2007 and August 2, 2007, a female tester claiming to have a three-year-old child (“Tester #3”) inquired regarding the State Street apartment. When she was ultimately told by Ms. Truesdale that the owner would accept children, the FHJC instructed plaintiffs to call back regarding the State Street Apartment.

53. On August 3, 2007, Ms. Nocera called Ms. Truesdale and asked again about the State Street apartment. Ms. Truesdale explained that it was now available because the owners had decided to do a lead abatement after all. Ms. Truesdale encouraged Ms. Nocera to come in and told her: “I’ll show you everything that’s available *that I think is suitable for kids.*”

Facts Applicable to the Class

54. Plaintiffs’ and the testers’ experiences demonstrate that defendant BHS has a policy, practice, and custom of discriminating against renters on the basis of familial status in violation of federal, state, and local law.

55. Ms. Truesdale’s statement that she will only show plaintiffs apartments which she thinks are “suitable for kids,” as well as Ms. Signor’s statement that she would not even have shown them the Lincoln Place apartment if she had known the owners do not accept children, illustrate that BHS’s agents not only have a policy, practice, and custom of enforcing and advancing owners’ discriminatory efforts, but also take it upon themselves to determine what is “suitable for kids.” A decision regarding what is suitable for their children should be left in the hands of parents.

56. The fact that Mr. Lehner, a senior vice president at BHS, also discriminates on the basis of familial status is evidence that BHS’s policy of denying housing, discouraging certain types of housing and/or steering applicants with children away from certain

housing unilaterally deemed “unsuitable” for children is either a formal policy, or one openly condoned and encouraged at all levels of management.

57. Moreover, as a licensed broker, Mr. Lehner and/or defendants Jane/John Doe 1-10 have or should have the supervisory role of ensuring that BHS salespersons and staff are properly trained in their fair housing obligations and that they do not violate fair housing laws.

58. At the very least, BHS’s practice of discriminating against families with children is a result of a failure to train BHS’s employees on the requirements of fair housing laws, as well as a failure to monitor their behavior to ensure compliance with the law.

59. On information and belief, this consistent pattern of discrimination against persons with children shows that BHS is a willing and culpable instrument of illegal discrimination.

60. BHS’s policy, practice, and custom have harmed hundreds, if not thousands, of persons with children a year. If Brown Harris Stevens and its officers and employees are not enjoined, they will all continue to effectuate this widespread unlawful discrimination.

COUNT I
Federal Fair Housing Act
(42 U.S.C. § 3601 et seq.)

61. Plaintiffs repeat and reallege paragraphs 1 through 60 of their complaint as though fully set forth herein.

62. Defendants’ conduct, including, without limitation (1) defendant BHS and Ms. Truesdale’s refusal to rent or allow plaintiffs to inspect the apartments on Hunts Lane and State Street; and (2) defendant BHS and Ms. Signor’s refusal to allow plaintiffs to rent the Lincoln Place apartment, and (3) defendants’ policy and practice of enforcing and implementing

landlords' express refusal to rent to families with children, all constitute a refusal to negotiate for rental, or otherwise making housing unavailable, or a denial of housing on account of their family status in violation of Section 804(a) of the Fair Housing Act, 42 U.S.C. § 3604(a).

63. Defendants' conduct, including, without limitation (1) defendant BHS and Ms. Truesdale's refusal to rent or allow plaintiffs to inspect the apartments on Hunts Lane and State Street; (2) defendants BHS and Ms. Signor's refusal to allow plaintiffs to rent the Lincoln Place apartment; (3) and defendants' policy and practice of enforcing and implementing landlords' express refusal to rent to families with children and their policy and practice of steering plaintiffs towards other apartments including those defendants believe are suitable for children, constitutes discrimination in the terms, conditions, or privileges of rental of a dwelling and/or in the provision of services or facilities in connection therewith, because of family status in violation of the Fair Housing Act, 42 U.S.C. § 3604(b).

64. Defendants' conduct, including, without limitation, Ms. Truesdale and Ms. Signor's dismissive, discouraging, and discriminating statements to plaintiffs, and their steering of plaintiffs toward apartments in other locations, constitutes making statements with respect to the rental of a dwelling that indicate a preference, limitation or discrimination based on family status, and an intention to make such preference, limitation or discrimination in violation of the Fair Housing Act, 42 U.S.C. § 3604(c).

65. Defendant Mr. Lehner and defendants Jane/John Doe 1-10, as the licensed brokers at Brown Harris Stevens, have or should have the responsibility of supervising Ms. Signor and Ms. Truesdale and/or ensuring that they do not violate the provisions of the FHA.

66. Defendants' policy and practice of refusing to rent to; of refusing to negotiate with; of "otherwise mak[ing] unavailable" the rental of; and making, printing, or publishing statements indicating a preference, limitation, or discrimination because of family

status violates the rights of the putative class under the Fair Housing Act, 42 U.S.C. § 3604(a), (b), & (c).

67. Plaintiffs and the Class which plaintiffs seek to represent are aggrieved persons as defined in 42 U.S.C. § 3602(i), and have been injured by defendants' discriminatory conduct, and have suffered damages as a result.

68. Defendants' conduct was intentional, willful, and made in disregard for the rights of others.

69. Accordingly, under 42 U.S.C. § 3613(c), plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

70. The class plaintiffs seek to represent is also entitled to declaratory and injunctive relief, as well as reasonable attorneys' fees and costs, under 42 U.S.C. § 3613(c).

COUNT II

New York State Human Rights Law (New York Executive Law § 290 *et seq.*)

71. Plaintiffs repeat and reallege paragraphs 1 through 70 of their complaint as though fully set forth herein.

72. Defendants' conduct as set forth above constitutes a refusal to rent, or a denial of housing accommodation, or the withholding of a housing accommodation, because of familial status in violation of Article 15 of the New York Executive Law § 296(5)(a)(1).

73. Defendants' conduct as set forth above constitutes discrimination because of familial status in the terms, conditions or privileges of the rental of housing accommodation or in the furnishing of facilities or services in connection therewith in violation of the New York Executive Law § 296(5)(a)(2).

74. Defendants' conduct as set forth above constitutes discrimination because of familial status in the terms, conditions or privileges of the rental of housing accommodation or

in the furnishing of facilities or services in connection therewith in violation of the New York Executive Law § 296(5)(a)(3).

75. Defendants' conduct as set forth above constitutes refusal to rent housing accommodation or to refuse to negotiate for the rental of housing accommodation because of a person's familial status in violation of the New York Executive Law § 296(5)(c)(1), (c)(2), and (c)(3).

76. Upon information and belief, defendants' conduct as set forth above constitutes aiding, abetting, inciting, compelling or coercing the doing of any of the acts forbidden by New York Executive Law § 296(5), in violation of the New York Executive Law § 296(6).

77. Plaintiffs and the putative class they seek to represent have been or will be injured by defendants' discriminatory conduct and have suffered damages as a result.

78. Defendants' conduct was intentional, willful, and made in disregard for the rights of others.

79. Accordingly, under Article 15 of the New York Executive Law § 297, named plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

80. The class plaintiffs seek to represent is also entitled to declaratory and injunctive relief, as well as reasonable attorneys' fees and costs, under Article 15 of the New York Executive Law § 297.

COUNT III

New York State Landlord and Tenant Law
(New York Real Property Law § 236 *et seq.*)

81. Plaintiffs repeat and reallege paragraphs 1 through 80 of their complaint as though fully set forth herein.

82. Defendants' conduct as set forth above constitutes a refusal to rent, or discrimination in the terms, conditions, or privileges of any such rental, solely on the grounds that the person or family has or have a child in violation of Article 7 of the New York Real Property Law § 237-a.

83. Plaintiffs and the putative class they seek to represent have been injured or will be injured by defendants' discriminatory conduct and have suffered damages as a result.

84. Defendants' conduct was intentional, willful, and made in disregard for the rights of others.

85. Accordingly, under Article 7 of the New York Real Property Law § 237-a, plaintiffs are entitled to actual damages, punitive damages, injunctive relief, and reasonable attorneys' fees and costs.

86. The class plaintiffs seek to represent is also entitled to declaratory and injunctive relief, as well as reasonable attorneys' fees and costs, under Article 7 of the New York Real Property Law § 237-a.

COUNT IV

New York City Human Rights Law
(New York City Administrative Code § 8-107)

87. Plaintiffs repeat and reallege paragraphs 1 through 86 of their complaint as though fully set forth herein.

88. Defendants' conduct as set forth above constitutes a refusal to rent, lease, approve the rental or lease, or to otherwise deny to or withhold a housing accommodation or an interest therein because a child is or would be residing with plaintiffs and the putative class in violation of New York City Administrative Code § 8-107(5)(a)(1).

89. Defendants' conduct as set forth above constitutes discrimination against plaintiffs and the putative class because a child is or would be residing with them in violation of New York City Administrative Code § 8-107(5)(a)(3).

90. Defendants' conduct as set forth above constitutes declarations and inquiries which express, indirectly or directly, limitations, specifications, or discrimination against plaintiffs and the putative class because a child is or would be residing with them in violation of New York City Administrative Code § 8-107(5)(a)(2).

91. Defendants' conduct as set forth above constitutes discriminatory policy and practice by real estate brokers in refusing to rent or lease any housing accommodation or to negotiate for the rental or lease of any housing accommodation because a child could or would be residing with plaintiffs and the putative class in violation of New York City Administrative Code § 8-107(5)(c)(1).

92. Upon information and belief, defendants' conduct as set forth above constitutes aiding, abetting, inciting, compelling or coercing the doing of any of the acts forbidden under New York City Administrative Code § 8-107(5), or an attempt to do so, in violation of the New York City Administrative Code § 8-107(6).

93. Prior to commencing this action, plaintiffs have served a copy of the complaint upon the city commission on human rights and the corporation counsel.

94. Plaintiffs and the putative class were injured or will be injured by defendant BHS's discriminatory conduct and have suffered damages as a result.

95. Defendants' conduct was intentional, willful, and made in disregard for the rights of others.

96. Accordingly, under New York City Administrative Code §§8-502(a) and 8-502(f), plaintiffs are entitled to actual damages, punitive damages, injunctive relief and such other remedies as may be appropriate, and reasonable attorneys' fees and costs.

97. The class which plaintiffs seek to represent are also entitled to declaratory and injunctive relief, as well as reasonable attorneys' fees and costs, under New York City Administrative Code §§8-502(a) and 8-502(f).

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request judgment against defendants as follows:

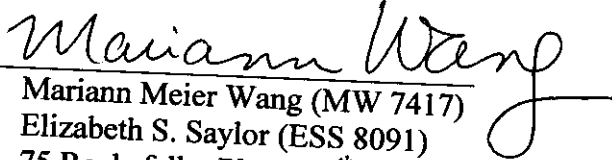
- (a) Declaring that defendants' discriminatory practices violate the Fair Housing Act, as amended, 42 U.S.C. § 3601 *et seq.*;
- (b) Declaring that defendants' discriminatory practices violate the New York State Human Rights Law, New York Executive Law § 290 *et seq.*; the New York Real Property Law § 237-a *et seq.*; and the New York City Human Rights Law, New York City Administrative Code § 8-107 *et seq.*;
- (b) Enjoining defendants and BHS's agents, employees, and successors, and all other persons in active concert or participation from:
 - (i) Denying housing or making housing unavailable on the basis family status;
 - (ii) Making, printing or publishing any statement with respect to the rental of a dwelling that indicates any preference, limitation, or discrimination on the basis of family status;

- (iii) Coercing, intimidating, threatening, or interfering with any person in the exercise or enjoyment of any right granted or protected by the Fair Housing Act, as amended; and
 - (iv) Failing or refusing to take affirmative steps necessary to restore, as nearly as practicable, the victims of defendants' unlawful practices to the position they would have been in but for the discriminatory conduct;
- (c) Enjoining defendants and BHS's agents, employees, and successors, and all other persons in active concert or participation to:
 - (i) Make all necessary modifications to its policies, practices, and procedures;
 - (ii) Train all management, agents, and employees on fair housing laws;
 - (iii) Display an Equal Opportunity logo (or statement to that effect) on all advertisements for rental property and display in all offices HUD, state, and local fair housing posters;
 - (iv) Allow monitoring of its application process and rental decisions;
 - (v) Retain records to allow for appropriate monitoring;
 - (vi) Develop written procedures on rental process and fair housing policy to be distributed to all staff and all rental applicants; and
 - (vii) Establish a system so that its agents can be tested for unlawful discriminatory practices;
- (d) Awarding such damages as will compensate plaintiffs fully for any loss of a housing opportunity and economic losses as well the humiliation, embarrassment, emotional distress and inconvenience suffered due to defendants' discriminatory conduct;

- (e) Awarding punitive damages to plaintiffs;
- (f) Awarding plaintiffs and the putative class reasonable attorneys' fees, costs, and expenses incurred in prosecuting this action; and
- (g) Granting plaintiffs and putative class such other further relief as may be just and proper.

Dated: April 24, 2008
New York, New York

EMERY CELLI BRINCKERHOFF
& ABADY LLP

By: 
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*Attorneys for Plaintiffs and Putative Class
Members*

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CIVIL COVER SHEET

FILED

JS 44 (Rev. 12/07)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
Jamie Katz and Lisa Nocera

DEFENDANTS
Brown Harris Stevens Brooklyn LLC, Brian Lehner, Miya Signor, Jane/John Doe 1-10
COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Kings

(b) County of Residence of First Listed Plaintiff New York
(EXCEPT IN U.S. PLAINTIFF CASES)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

FEUERSTEIN, J.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Emery Celli Brinckerhoff & Abady LLP
75 Rockefeller Plaza, 20th Floor, NY, NY 10019
(212) 763-5000

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with columns for Insurance, Personal Injury, Personal Property, Agriculture, Labor, and Other categories. Includes checkboxes for various legal claims like '310 Airplane', '362 Personal Injury - Med. Malpractice', etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. Section 3601 et seq.
Brief description of cause: Family Status Discrimination

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint:
JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE
DOCKET NUMBER

DATE: 4/24/08
SIGNATURE OF ATTORNEY OF RECORD: Marianne Wang

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

Signature: Mariam Wang

I consent to the use of electronic filing procedures adopted by the Court in Administrative Order No. 97-12, "In re Electronic Filing Procedures(ERP)", and consent to the electronic service of all papers.

E-MAIL Address: mwang@ecbala.com

ATTORNEY BAR CODE: MW 7417

Please provide your E-MAIL Address and bar code below. Your bar code consists of the initials of your first and last name and the last four digits of your social security number or any other four digit number registered by the attorney with the Clerk of Court. (This information must be provided pursuant to local rule 11.1(b) of the civil rules).

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court. X Yes No Are you currently the subject of any disciplinary action(s) in this or any other state or federal court? (If yes, please explain) No X Yes

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? NO a.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? NO b.) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? YES 2.) If you answered "no" above: 1.) Is the civil action being filed in the Eastern District of New York removed from a New York State court located in Nassau or Suffolk County: NO

Please refer to NY-E Division of Business Rule 50.1(d)(2)

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

I, _____, counsel for _____ do hereby certify pursuant to the Local Arbitration Rule 83.10 that to the best of my knowledge and belief the damages recoverable in the above captioned civil action exceed the sum of \$150,000 exclusive of interest and costs. Relief other than monetary damages is sought.

ARBITRATION CERTIFICATION