

Roberts v. R.L. Powell Co. Case File

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Complaint

The Complaint alleges housing discrimination based upon race in violation of the Fair Housing Act of 1988, 42 U.S.C. Sec. 3601 *et seq.* Actual damages of \$20,000 are alleged. Punitive damages of \$20,000 are also sought for malicious, wanton, and willful conduct on the part of the defendants.

Answer

The defendant's answer generally denies all allegations of discrimination. The defendant affirmatively states that Ms. Roberts was unqualified to rent an apartment and that this is the reason she was turned down, not race.

Interview Notes

Ms. Pam Roberts came into the office on November 24, 20XX-1, for assistance in obtaining an apartment at the Edgemont Apartments located at 225 West Bend Avenue. She believes that she has been discriminated against based on her race.

Ms. Roberts is a 25 year old African-American. She has been separated from her husband for two years. They have a divorce action pending, but no interlocutory or final decree has been entered. She has one child by her marriage, Charlie, age 5. Her husband, Dave, is 26 years old and they have been married 6 years.

She saw an ad in the *Euphoria Times* November 13, 20XX-1. She visited the office of the R.L. Powell Company that the ad stated was the rental agent for the Edgemont Apartments. She spoke to a woman named Mrs. Jones who was identified as the person who took applications. She filled out the application and returned it to Mrs. Jones. Mrs. Jones told her that the apartment would be \$365.00 per month. Mrs. Jones showed her the apartment, and told her it would take at least five days before her application could be accepted or denied.

Client called Mrs. Jones on Friday, November 18, to check on her application. Mrs. Jones said she had been unusually busy that week, and the process has not been completed yet, but that she would call to notify Ms. Roberts at the beginning of next week. Ms. Roberts called Mrs. Jones on the 21st to check on the application; a secretary said that Mrs. Jones was away from her desk. Ms. Roberts left a message. On November 23, Mrs. Jones called to say Ms. Roberts had been turned down. Ms. Roberts says she was quite upset and asked Mrs. Jones to tell her why. They argued briefly and Mrs. Jones told her she was "unqualified".

I told Ms. Roberts that I would like her to see a psychologist so that if her claim seemed strong, there would be some additional evidence of her emotional state. I also told her I would call Edgemont to see what they had to say about her application.

Memorandum of Phone Conversations

On November 24, 20XX-1, I called the R. L. Powell Company to see what I could find out about Ms. Roberts' application. I initially spoke to a young woman named Ms. Washington, who referred me to a Mrs. Jayne Jones. Mrs. Jayne Jones said that Ms. Roberts had applied for an apartment, and that she had been turned down. Mrs. Jones confirmed that Ms. Roberts was very upset at being turned down. I asked why Roberts had been turned down, and Mrs. Jones replied that she would have to consult her superiors. She promised to call me back the next morning.

On November 25, Mrs. Jones returned my call to say that the matter had been referred to attorneys for the Powell Company, and it would be a day or two before the attorneys would be able to comment. She told me that a Mr. Burns would call me, and gave me his address and number.

On November 29, 20XX-1, Mr. Burns called me. I asked why Ms. Roberts had not been accepted as a tenant. He said that she was unqualified, but would not elaborate further. I asked whether there was a possibility that we could talk in one of our offices about the matter to determine whether it could be settled. Mr. Burns said that his client had high standards for tenants. Additionally, Ms. Roberts had been so rude to Mrs. Jones on the phone that there was probably no possibility of a settlement.

Deposition of R.L. Powell, Jr.

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
NORTHERN DISTRICT OF EUPHORIA

PAM R. ROBERTS,)
Plaintiff,)
)
vs.)
)
)
R. L. POWELL COMPANY, INC.,)
Defendants.)
)

-000-

Bloomington, Euphoria

March 1, 20XX

-000-

DEPOSITION OF R.L. POWELL

PURSUANT TO NOTICE, the deposition of R. L. POWELL, Jr. was taken by plaintiff on Wednesday, March 1, 20XX commencing at approximately 3:05 p.m. at the offices of Euphoria Legal Services before S. Willows, CSR, notary public in and for the County of Bloom, State of Euphoria.

IT WAS STIPULATED AND AGREED by and between counsel that all questions were deemed followed by objections, and all answers, or portions thereof, were deemed followed by motions to strike, such objections and motions to strike to be ruled upon by the trial judge; and that the reading and signing of the deposition by the witness was specifically waived.

Also present at the deposition was Mrs. R. L. Powell, wife of the deponent. Thereupon, the following proceedings were had and taken:

R.L. POWELL, JR. called as a witness herein, having been duly sworn testified as follows:

APPEARANCES OF COUNSEL:

For Plaintiff: Meridith Wong, EUPHORIA LEGAL SERVICES

For Defendant: T.R. Tomaka, TOMAKA & BURNS

DIRECT EXAMINATION

BY MS. WONG:

Q. Will you state your full name, please?

A. Richard Leon Powell, Jr.

Q. And what is your home address?

A. 16 Westwood Road.

Q. And your business address?

A. 232 High Avenue.

Q. What is the name of that business?

A. R.L. Powell and Company, Inc.

Q. What is your title there?

A. Vice President.

Q. Can you very briefly tell me what your duties are as vice-president?

A. I'm in charge of the construction and rental divisions of the R.L. Powell Company. That's it, primarily.

Q. What other division does R.L. Powell and Company have?

A. We also have a real estate division.

Q. For what type of properties do you act as rental agents?

- A. R.L. Powell and Company is the rental agent for Edgemont Apartments, and several shopping plazas around the city.
- Q. R.L. Powell Company is also a realtor, you said. Can you elaborate on that briefly?
- A. R.L. Powell and Company is a realtor--no, it's not a realtor; the company is not. One of its employees has a realtor's license, and that certain employee is a member of the Board of Realtors.
- Q. And what employee is that?
- A. Mr. Powell, Senior.
- Q. You said that R.L. Powell is the rental agent or manager for the Edgemont Apartments. Is that correct?
- A. Yes, Ma'am.
- Q. Who are the principals in Edgemont Apartments?
- A. The controlling interest of the stock is held by Mr. and Mrs. Powell, Sr.
- Q. Who else holds stock?
- A. Well, there are other minority stockholders including my sister and myself.
- Q. What is your sister's name?
- A. Sharon Powell.
- Q. So, Edgemont Apartment is a family corporation, so to speak?
- A. Yes, with the exception of the preferred stock which is held by the FHA.
- Q. When was Edgemont built?
- A. I would say approximately 20XX-30 or 20XX-31.
- Q. What are your duties in connection with the management of Edgemont Apartments?
- A. I basically oversee the operation. My office manager, Mrs. Jones, handles most of the day-to-day business.

Q. Do you play any role in the formulation of policy with respect to qualifications for entry in Edgemont Apartments?

A. Yes, I have.

Q. When did you play such a role?

A. I would say from approximately 20XX-10 to the present time.

Q. Did you have a chance to review the interrogatories that you answered before this deposition?

A. Yes, I did.

Q. Let me call your attention to Interrogatory Number 10, on page 4 of our interrogatories. That question reads as follows: Specify each standard, condition, or restriction used by defendant in selecting tenants. If any such standard, condition, or restriction is reduced to writing, attach a copy of such writing. The answer to that question reads as follows: It is customary that each applicant apply in writing on a standard form. The information contained thereon is verified. An applicant's ability to pay rent is customarily considered a qualification, along with whether or not the applicant has a pet, the number of persons in the family, the availability of the apartment for which the applicant has applied, the date or dates possession is contemplated, applicant's marital status, how long at previous address, how long at present employment, and net income.

As the answer reads we aren't clearly informed as to what is the criteria with respect to each item listed, so I'd like to ask you about each of these items listed and see if you can tell me what the policy was in 20XX-10, and whether or not that policy has changed at some time since that date.

First: Applicant's ability to pay rent. Can you tell me what the standards were in 20XX-10 with respect to that item?

- A. Well, if the applicant had a history of being slow on the payment of debts and rent to previous landlords or creditors, then the R.L. Powell Company would take any data it learned with reference to slow payment into consideration in renting the apartment to the person.
- Q. We've also heard testimony from other witnesses about a formula for determining financial eligibility to reside at Edgemont Apartments. Can you tell me what the policy was with respect to that formula?
- A. The formula is basically the same formula that is used by FHA in qualifying a person to purchase a home, and it consists primarily of assuming that the person didn't have any extraordinary debt, that the person should net clear four times more than his or her house payment or apartment rental payment.
- Q. And is the net figured by subtracting taxes?
- A. Yes, the net is figured by subtracting 25% of income for taxes.
- Q. You also mentioned extraordinary debt. What do you mean by that?
- A. I would say alimony payments, a judgment, maintaining additional homes, or any extraordinary accumulation of debt. If the person owed two or three or four different people small amounts of money, then the total would be considered extraordinary debt.
- Q. So, generally speaking, a persons's installment obligations per month were not considered unless they seemed to be unusual.
- A. If they seemed to be - if the total accumulation of them appeared to be unusually high, compared against a person's income.
- Q. So, if a person's income alone did not meet the standard, would this be enough to disqualify him or her?
- A. Yes, it would.

- Q. The second criteria listed is whether or not the applicant has a pet. Did you have a policy with respect to pets?
- A. Yes, Ma'am.
- Q. And what was that policy?
- A. No pets.
- Q. The third qualification is the number of persons in the family. What was your standard on that?
- A. Well, we basically tried to limit the number of bedrooms in the complex to two people to the master bedroom, man and wife, and two children in the other bedroom, assuming it's a two bedroom apartment, if they were of the same sex. If they were young, extremely young, we would take that into consideration, but we wouldn't rent, for example, an apartment to a person who had two teen-aged children who were living at home of the opposite sex, a two bedroom apartment. We would rent them a three bedroom apartment, but not a two bedroom apartment.
- Q. Was there any limit on family size? Do I understand you to say that there was a limit on family size?
- A. There was a limit with reference to each apartment type.
- Q. Could you clarify what you mean by "each apartment type?"
- A. Well, no more than two in a one bedroom; and maximum of four in a two bedroom; and I would say a maximum of five in a three bedroom.
- Q. How did the applicant's marital status fit into the picture of rejection or acceptance?
- A. Well, we generally wouldn't rent to two or three single people living together, no matter how large the apartment was. That's a general rule. There were exceptions to that rule, though.
- Q. Why wouldn't you rent to two or three single people?

- A. Well, because we try to maintain a family-type atmosphere, and single people have a traditionally different life style than married people do.
- Q. And what sort of exceptions did you make to that general rule?
- A. What was the question?
- Q. What sort of exceptions did you make to that general rule of not renting to two or more single people? You previously stated that--
- A. I can't think of any specifics right now, although I do know that we have had two single people of the same sex live together. And another thing, too; we generally don't allow two people of the opposite sex living together that aren't married.
- Q. But you also make exceptions for that rule, don't you?
- A. No, there's no exception to that rule that I know of. But now a single girl could've rented an apartment and had her boyfriend move in with her and we wouldn't know about it.
- Q. I also notice that in answer to Interrogatory 10 there was no reference made to the race of applicants, so I'll ask you whether or not there was a policy of not renting to African-Americans at Edgemont Apartments in 20XX-10.
- A. To my knowledge there was no applicant that was rejected in 20XX-10 or 20XX-9, because of the fact that they were black.
- Q. Well, that's not responsive to my question.
- A. What was your question?
- Q. Was there a policy of not renting to African-Americans in 20XX-10, at Edgemont Apartments? Was there such a custom or a policy?
- A. Well, there was no policy. There was a -- what is your definition of a custom?
- Q. Well, it could be defined in many ways. Simply put-- would a black have been rejected automatically?

- A. I would say that each application that I saw stood on its own merits, and to my knowledge there were no applicants turned down because of race in 20XX-10.
- Q. Are you saying that in 20XX-10, there was no policy of restricting occupancy to the white race, in Edgemont Apartments? Are you saying that policy did not exist in 20XX-10?
- A. I would say that there was never a policy which restricted the limitations to the white race, in 20XX-10.
- Q. What about prior to 20XX-10?
- A. Well, I wasn't there prior to 20XX-10.
- Q. You know Ms. Washington, one of your employees, testified that there was such a policy.
- A. I am aware that she has testified, had given a deposition to that effect.
- Q. And you're saying that there wasn't such a policy?
- A. I am saying that there was not a policy in Edgemont Apartments that established an operating function of renting only to white people.
- Q. You mean there was no written policy?
- A. There was no written policy, to my knowledge.
- Q. Was there an understanding to that effect among the principals of Edgemont Apartments, and among management, that African-Americans would not be rented to? Irrespective whether it was written or oral, or handsigned, sir. However implemented.
- A. This is the first time you've introduced the word "African-Americans" you were using "non-Whites" prior to this. There are other races other than African-American and white.
- Q. There are. I'm talking about African-Americans now.
- A. Now are you talking about African-Americans?
- Q. Yes, I'm talking about African-Americans.
- A. Okay, what was your question again?

Q. In 20XX-10 was there a policy of not renting to African-Americans in Edgemont Apartments.

A. To my knowledge there was never an application taken at Edgemont Apartments by a black person that said application were rejected because that person was black.

Q. Was there such a policy that African-Americans would not be rented to in Edgemont apartments?

A. Well, I'm not sure that I understand. If there was a policy, and the policy never originated itself, then there was no, it was never enacted, if there was a policy. If we had a policy of murdering everyone that walked in the front door, there was no crime committed until we murdered the first person that walked in.

Q. In 20XX-10, was there a custom, policy, or understanding at Edgemont Apartments that African-Americans would not be rented apartments?

A. Not that I initiated.

Q. Was there one that you were aware of? A policy, custom, understanding, that African-Americans would not be rented apartments?

A. Well, I'm not sure how to answer that question. I'm not aware of any African-Americans turned down.

Q. I'm not asking you whether African-Americans were turned down. I'm asking you whether there was a custom, policy, understanding, agreement, or whatever, among persons employed by or the owners of Edgemont that African-Americans would not be rented to in 20XX-10?

MR. TOMAKA: Go ahead and answer the question, one way or the other.

A. Well, outside of the original policy set forth by the Federal Housing Administration, I know of no additional policy in 20XX-10.

- Q. We'll go back then. What was the policy initiated by the Federal Housing Administration?
- A. That the project was classified as a white project.
- Q. And when was the policy made known to the owners of Edgemont Apartments?
- A. It was made known in the operating agreement, which was an agreement between the corporation and the Federal Housing Administration.
- Q. And that was sometime in 20XX-30 or 20XX-29, when the project was constructed, right?
- A. Right. That was when the project was originated.
- Q. So when Edgemont Apartments were built, Edgemont Inc. and its principals acquiesced to the policy of the Federal Housing Administration that no African-Americans would be admitted to the project. Correct?
- A. (No Answer)
- Q. It was in the agreement, wasn't it?
- A. It was in the agreement that the project would be white. Now that precludes all races other than white.
- Q. And you're saying that you were not aware in 20XX-10, if there was a policy to exclude all races, including African-Americans?
- A. In 20XX-10, I knew of no new policy or separate policy other than the policy which was originally established in the operating agreement with the Federal Housing Administration.
- Q. So as far as you know, Edgemont Apartments was adhering to the same policy that was promulgated in 20XX-30, as a part of the original agreement providing for the construction of the apartments.
- A. Yes, ma'am. And to my knowledge there has been no information received from the Federal Housing Administration to this date which countermands or changes any of the conditions of that operating agreement.
- Q. So up until today Edgemont still has a policy of excluding all races other than whites?

- A. I would say that today, in 20XX, that we are in violation of our operating agreement with the Federal Housing Administration.
- Q. And why are you in violation of that agreement?
- A. Because in said agreement it was stated that it would be a white project, and the project is not solely white. There are, or have been, many different races of people that live in the project, other than the white race.
- Q. So when did the Edgemont policy with respect to renting to African-Americans change? When did you rent to African-Americans?
- A. Well, you'd have to be more specific. If you had a black that came in and we didn't rent to him, then I could answer the question. But to my knowledge, each application that came in stood on its own merits.
- Q. Do you know when the first African-Americans was rented an apartment in Edgemont Apartments?
- A. I think we answered that in the interrogatories, didn't we?
- Q. The interrogatories may have answered it, but I'm interested in what you know.
- A. It was a Miss Jackie Jackson.
- Q. Do you know when she was rented to?
- A. I can't recall the exact date.
- Q. Well, could you tell--
- A. We also rented to a man with a funny name who was very black.
- Q. Do you recall his name and when he was rented to?
- A. Well, it sounded like Indira Ghandi and it was a couple of years back, I'm sure. He was a college professor in the United States for a summer, if I recall correctly. He spoke good English though.

- Q. With respect to Edgemont Apartments, was there any memorandum circulated indicating a change in the policy with respect to race of occupants in Edgemont?
- A. No, ma'am.
- Q. Have you been involved in any meetings in the last two years where the policy with respect to race of occupants was discussed?
- A. No, Ma'am.
- Q. Are you aware of any discussions on the subject that have occurred during the same time period?
- A. No.
- Q. Were you involved in the decision to offer Miss Jackie Jackson an apartment in Edgemont Apartments?
- A. No.
- Q. Has any written instruction been given to employees of R.L. Powell on the Fair Housing Act?
- A. R.L. Powell has not, to my knowledge, received any information on the Fair Housing Act.
- Q. Has R.L. Powell ever distributed any information on that Act to any of its employees?
- A. R.L. Powell and Company probably did not have knowledge of the Fair Housing Act.
- Q. Were you aware of its existence?
- A. When?
- Q. In 20XX-10.
- A. No.
- Q. When did you become aware of the existence of the Act?
- A. Of the 20XX-10 --
- Q. Civil Rights Act; the Fair Housing Act.
- A. In 20XX-2.

MR. TOMAKA: When?

THE WITNESS: XX-1; XX-1. Excuse me. Whenever.

MR. TOMAKA: When you were sued?

THE WITNESS: Yes.

MS. WONG: Mr. Tomaka, that's all I have at this time. You'll have some questions, won't you?

MR. TOMAKA: I doubt it.

MS. WONG: Well, then, let me just take a moment to make sure I have got all of mine.

(Off the record)

CROSS-EXAMINATION

Q. Are you now accepting applications from African-Americans at Edgemont?

A. We are accepting applications from all people that make application, including African-Americans.

Q. Have you had any African-Americans apply recently which you accepted?

A. To my knowledge we have.

Q. How many?

A. I would say that we have probably had four applications, and we've accepted two of them.

Q. In what period of time?

A. In the last three months.

Q. State what your policy presently is and has been since 20XX-1, in regard to treating the applications of African-Americans any differently or the same as you treat the applications of Whites.

A. Well, all applications, whether they be black or white or other, are treated the same.

Q. Do you apply the same income requirements to all races?

A. Yes.

Q. Have you turned anyone down solely because of race?

A. No. We've never turned anyone down solely because of race, to my knowledge.

MR. TOMAKA: I believe that's all.


MS. WONG: I have nothing further.

The deposition concluded at approximately 4:15 p.m.

DECLARATION

I hereby declare under penalty of perjury that I have read the foregoing and it is true and correct to the best of my knowledge, including any corrections that I have made.

Dated 30 March 2022 at Bloomington Euphoria



R.L.POWELL, JR.

Deposition of Jayne Jones - Summary

I have been employed by the R.L. Powell Company for 10 years as the manager of the Edgemont Apartments. Mr. Powell is my boss. I take applications for apartments and show apartments. I also manage the staff and perform various administrative functions. I usually decide whether an apartment will be rented to an applicant. I do show apartments sometimes without another person being present in the office, but I do so at my discretion.

A credit check usually takes two days. Reference checks take from a few minutes to several days depending on the availability of the person listed as a reference. We tell applicants that it will take at least 5 working days for their application to be evaluated.

I decided that Ms. Roberts would not be accepted as a tenant. I did not evaluate her application initially because I was very busy at the time she applied. In my opinion, she did not qualify as a tenant because she did not earn enough money for the apartment she desired. I telephoned her on November 23, 20XX-1, to let her know. She was very angry and we had a heated conversation. She hung up in my face but before she did she told me she was going to "do something about it."

We rented to an East Indian several years ago. We also rented an apartment to a young black lady named Jackie Jackson just a couple of weeks after Ms. Roberts applied. She's a legal secretary and very intelligent, too. I discussed her application with Mr. Powell. We did talk about her race because the legal services lawyer had called saying she believed we had discriminated against Ms. Roberts.

I thought Mr. Powell should know about Jackson's application. I told Mr. Powell I thought we should rent to Ms. Jackson because she was well qualified. He said if her references were O.K.. to offer her an apartment. I called Ms. Jackson on November 31, 20XX-1 to offer her the apartment. She said she would move in on January 1, 20XX.

I refer certain applications to Mr. Powell from time to time. I don't do it often; I've probably done it for one out of every 20 applications. I can't remember a specific application that I referred to him other than the Jackson application. But I know I've done it before. For example, when one of his relatives comes in to apply for an apartment I will refer the application to him. There have been some African-Americans to apply in the past. I can't remember how many but I know they weren't qualified according to our formula. We don't keep the applications of people who are turned down.

Since I have been employed with R.L. Powell, we have not discussed any policies of racial discrimination. I have never discriminated against anyone; I've never refused to show anyone an apartment. I don't know about any fair housing laws, but I'm a Christian and I treat everyone fair.

Declaration of Marian Washington

I, Marian Washington, do declare:

1. I have been employed with R.L. Powell Company since the beginning of 20XX-1. I am sure that no one has ever discussed a policy of not renting to African-Americans at Edgemont, but I am equally sure such a policy did exist. The policy was communicated, I thought, in subtle ways. I saw that African-Americans who applied would not be shown apartments immediately.

2. Oh, Mrs. Jones was always busy, but she showed apartments to white people even when she was busy. Also, Mrs. Jones would not look at their applications immediately. When the people would call back, she would tell them she did not have the application in front of her, but she would call them back the next day. I thought she wanted to stall them. She always showed them apartments, when they asked to see them. She's never treated anyone mean.

3. I do remember one time, though, when an African-American woman came in the office to apply for a two bedroom apartment. It was about three months after I started working there. She filled out an application and then Mrs. Jones came up to talk to her. Ms. Jones said there weren't any two bedrooms available and she didn't know when there would be. The woman left and I don't think she came back again. I thought it was strange that Mrs. Jones didn't mention Apartment #4. It was a two bedroom. The people had moved out some time before. I don't know if it needed repairs, or if something else was wrong with it. I wouldn't have thought much about it, but the next day when a white couple came in who wanted a two bedroom. Ms. Jones showed them #4. They later moved in.

4. I am the receptionist at the office and I work on clerical tasks that Mrs. Jones assigns me. I answer the phone and greet everyone who comes in the door. If the person wants to rent an apartment, I have the person fill out an application and then I introduce him or her to Mrs. Jones. Mrs. Jones takes over from there, I don't have anything to do with deciding who gets an apartment, but I do work on the applications sometimes at Mrs. Jones' direction.

5. Yes, I was in the office on November 23, 20XX-1 when Mrs. Jones called Ms. Roberts to let her know that she would not be accepted as a tenant. I knew Mrs. Jones was speaking to Ms. Roberts because Mrs. Jones said her name during the conversation. I believe they were having an argument because Mrs. Jones began to talk louder just before she hung up the phone. Immediately after Mrs. Jones hung up she said, "You can't explain anything to those people," in a low angry tone, somewhat under her breath. Not many African-Americans have applied since I've been there. I may have seen 10 over the years.

6. I don't know anything about the law or anything like that. I've never heard of the fair housing law. I thought it was okay to rent to whomever you desire; I know that there can't be segregation in the schools, but I assumed it was okay to choose your own tenants because most of the neighborhoods in our city are either white or black.

7. Exhibit 1 attached to this declaration is a diagram that I drew of the office at R.L. Powell Co. today. It shows the office as it was arranged on November 23, 20XX-1.

8. I am 19 years old.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 1st day of March 20XX at Bloomington Euphoria.

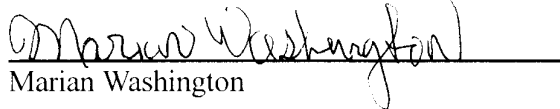
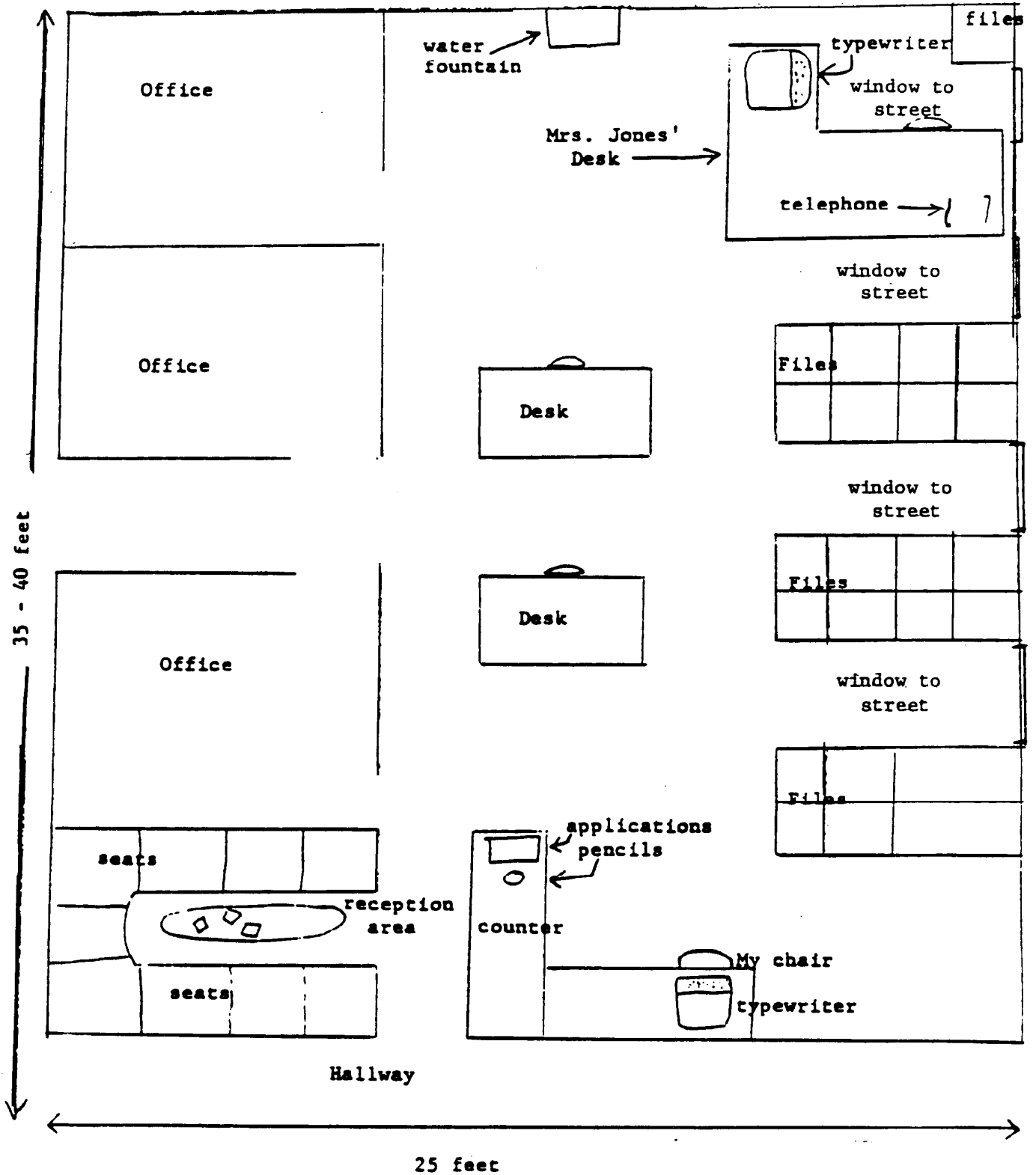

Marian Washington

Exhibit 1



Declaration of Sharon Duncan

I, Sharon Duncan, declare:

1. I reside at 250 W. 6th Street.
2. I am a Caucasian female.
3. I am a volunteer housing discrimination investigator for the Fair Housing Hotline.
4. I have been trained by the Fair Housing Hotline in the investigation of allegations of housing discrimination through a method called 'testing.' That training has included 15 hours of classes covering fair housing laws, types of discrimination, legitimate bases for denial of housing, and simulated investigative techniques such as mock inquiries and mock interviews.
5. On November 23, 20XX-1, at 2:30 p.m. I received a call from Ms. Anne Smith of the Fair Housing Hotline asking whether I would be available over the next few days to investigate an allegation of housing discrimination. I said that I was available, and visited Ms. Smith at the Fair Housing Hotline office on the same day at 4:00 p.m.
6. Ms. Smith told me that there was a possible case of discrimination by R.L. Powell & Co., and that she would like me to investigate by conducting a test. She said that the test should be conducted on Friday, the 25th of November, the day after Thanksgiving.
7. Ms. Smith instructed me to visit R. L. Powell Company at 232 High Avenue and make a written application to rent an apartment at Edgemont Apartments. I was told by Ms. Smith to state the following information on my application:

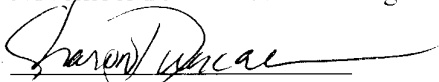
Age:	25 Years
Marital:	Divorced
Employer:	Jones Construction Co.
Phone No.:	999/582-5616
Occupation:	Clerk
Salary:	\$1697 per mo.
Length of employment:	1 year
Children:	one
Size of apartment desired:	two bedroom

I was instructed to fill out the remainder of the application truthfully. I was also instructed to be objective and to make no assumption with respect to the existence or nonexistence of discrimination. I was not told who had allegedly been denied housing. I was instructed to make a declaration as soon as I was informed whether the apartment would be made available to me.

8. I visited the R. L. Powell & Co. offices on November 25, 20XX -1, at 9:30 a.m. and asked the person who appeared to be the receptionist (and who identified herself as Ms. Washington) for an application to the Edgemont Apartments. She showed me the applications on the counter and told me to fill it out completely and return it to her. I completed the application (making a carbon copy which I retained), returned it to Ms. Washington, and asked when I would hear from them. She said I would have an answer in about three working days.

9. On November 29, 20XX-1, Ms. Smith informed me by telephone at 3:20 p.m. that Mrs. Jones had called our special line (the one I listed as my business phone) to verify my income. Ms. Smith said that she verified that the income stated on the application was correct. Ms. Smith said Ms. Jones asked to speak to me, but Ms. Smith told her I was unavailable and would return her call. At 3:40 p.m. the same day, I called Mrs. Jones at the number she left with Ms. Smith. A voice came on the line and identified the business as R. L. Powell & Co. I asked to speak to Mrs. Jones, I was put on hold momentarily; then Ms. Jones identified herself. I said I was Sharon Duncan and was returning her call. Mrs. Jones then informed me that my application had been accepted and asked when I desired to move. I told her I would call her back the next day and let her know.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 29th day of November 20XX-1 at Bloomington Euphoria.


Sharon Duncan

Selected Answers to Interrogatories

Interrogatory #10, Second Interrogatories.

Q. With respect to each person who is currently a tenant at Edgemont Apartments, state the following:

- a. name;
- b. apartment #;
- c. unit size;
- d. rent per month;
- e. amount of income stated on application.

A.	<u>Name of Tenant</u>	<u>Apartment Unit No.</u>	<u>Unit Size</u>	<u>Rent per Month</u>	<u>Income Stated on Application</u>
	1	3	2 BR	365	1917
	2	23	Studio	335	1867
	3	21	1BR	350	1879
	4	4	2BR	365	1967
	5	6	Studio	335	1767
	6	5	1BR	350	1852
	7	18	1BR	350	1882
	8	8	Studio	335	1817
	9	7	1BR	350	1917
	10	16	3BR	380	1967
	11	17	Studio	335	1785
	12	15	3BR	380	1987
	13	10	1BR	350	1817
	14	9	3BR	380	2267
	15	14	1BR	350	1747
A.	Name				

<u>of Tenant</u>	<u>Apartment Unit No.</u>	<u>Unit Size</u>	<u>Rent per Month</u>	<u>Income Stated on Application</u>
16	24	Studio	335	1867
17	2	2BR	365	1977
18	25	1BR	350	1877
19	13	2BR	365	1972
20	11	1BR	350	1962
21	19	2BR	365	2017
22	12	1BR	350	1917
23	1	3BR	380	2017
24	22	1BR	350	1857
25	20	3BR	380	2367

Interrogatory #13

Q. State the name and address of the person or persons authorized to rent or deny applications for apartments at Edgemont Apartments from November 1, 20XX-1, to the date of these interrogatories.

A. Mrs. Jayne Jones
522 W. Storm Blvd.

Interrogatory #16

Q. With respect to each African-American person who had ever resided at the Edgemont Apartments, state the following:

- a. name;
- b. current address, or last known address;
- c. beginning date of occupancy;
- d. end date of occupancy.

A. 1. Mr. Shireen Gandhira Ms. Jacqueline Jackson
New Delhi, India 225 West Bend Ave., Apt. #2
May 20, 20XX-4-Sept. 15 January 1, 20XX - present

R.L. Powell & Co.
Rental Agents

APPLICATION OF PAM ROBERTS

PRINT PLAINLY

I hereby apply for an apartment in Edgemont Apts.
In the event I am rented an apartment I will keep a security deposit of
\$ 1 mos rent with you in addition to one month's rent in advance.

Name Roberts Pam Rita
Last First Middle

Telephone 821-3796(h) 292-6789(w)

Present Address 37 Devonshire Way Bloomington Euphoria 90975

Length of Time 2 yrs. Rent Amt. \$350 mo.

Employer Veteran's Hospital

Position Dietetic Aide Salary \$1717 mo How Long? 1.2 yrs.

in Family 2 Adults 1 Children 1 Ages 5 Pets

Have you ever rented from us? NO If yes, when?

References

Mr. John Reese (landlord) 39 Devonshire Way Bloomington Eup. 239-6182
Name Address Phone

Ms. Joanne Rogers V.A. Hospital (supervisor) 73 Pill Hill, Eup. 292-6788
Name Address Phone

I have no objections to inquiries for the purpose of verifying the facts herein. If I find a satisfactory place to live before an apartment is available or for other reasons I don't want the apartment, I will promptly notify you so this application may be canceled.

Apt. applied for Size 2 Bedroom Rent per month 365-

Date and complete reasons for desiring occupancy Desire better apartment for my family by Xmas. Want to move in by Dec 15.

I represent that all of the above information given on this Application is true, complete and accurate. I understand that the above statements will be the basis upon which an apartment may be rented to me. I also understand this is not a contract and does not bind either party.

Date Nov 14 19xx-1 Applicant Pam R. Roberts

R.L. Powell & Co.
Rental Agents

APPLICATION OF
JACQUELINE J. JACKSON

PRINT PLAINLY

I hereby apply for an apartment in Edgemont Apartments.
In the event I am rented an apartment I will keep a security deposit of
\$ 1 mo with you in addition to one month's rent in advance.

Name Jackson Jacqueline Jean
Last First Middle

Telephone 721-8711 (h) 728-6396 (w)

Present Address 17 Palmetto Avenue #30 Bloomington, Euphoria 90900

Length of Time 1 year Rent Amt. \$ 370.00 mo

Employer Beech, Smith, Jones & Frank

Position Legal Secy / Office Mgr Salary \$ 1977 per mo How Long? 3 yrs

in Family 1 Adults 1 Children x/4 Ages Pets N/A

Have you ever rented from us? no If yes, when?

References

Raymond T. Beech, Esq. 23 Embarcadero #189 Bloomington Hgts, Eup. 728-6394
Name Address Phone

Taurus P. Jones, Esq. " " " " 728-6395
Name Address Phone

I have no objections to inquiries for the purpose of verifying the facts herein. If I find a satisfactory place to live before an apartment is available or for other reasons I don't want the apartment, I will promptly notify you so this application may be canceled.

Apt. applied for Size 2 bedroom Rent per month 365

Date and complete reasons for desiring occupancy to be closer to work

I represent that all of the above information given on this Application is true, complete and accurate. I understand that the above statements will be the basis upon which an apartment may be rented to me. I also understand this is not a contract and does not bind either party.

Date Nov 26, 19xx-1 Applicant Jacqueline J. Jackson

Memorandum to File

1. Rent per month - Studio Apartment 335.00

Let x = required income

$$335 - \frac{x - .25x}{4}$$

$$4(335) = \frac{x - .25x}{4} \cdot \frac{4}{1}$$

$$(100) 1340 = (x - .25x) 100$$

$$134000 = 100x - 25x$$

$$\frac{134000}{75} = \frac{75x}{75}$$

$$1787 = x$$

2. Rent per month - One Bedroom 350.00

Let x = required income

$$350 = \frac{x - .25x}{4}$$

$$4(350) = \frac{x - .25x}{4} \cdot \frac{4}{1}$$

$$100(1400) = (x - .25x) 100$$

$$60000 = 100x - 25x$$

$$\frac{140000}{75} = \frac{75x}{75}$$

$$1867 = x$$

3. Rent per month - Two Bedroom 365.00

Let x = required income

$$365 = \frac{x - .25x}{4}$$

$$4(365) = \frac{x - .25x}{4} \cdot \frac{4}{1}$$

$$100(1460) = (x - .25x)100$$

$$146000 = 100x - 25x$$

$$\frac{146000}{75} = \frac{75x}{75}$$

$$1947 = x$$

4. Rent per month = Three Bedroom 380.00

Let x = required income

$$380 = \frac{x - .25x}{4}$$

$$4(380) = \frac{x - .25x}{4} \cdot \frac{4}{1}$$

$$100(1520) = (x - .25x)100$$

$$152000 = 100x - 25x$$

$$\frac{152000}{75} = \frac{75x}{75}$$

$$x = 2027$$

How much over or under on required income for each apartment?

Apartment	rent			size
1	Under	by	\$30	2 bedroom
2	Over	by	\$80	Studio
3	Over	by	\$12	1 bedroom
4	Over	by	\$20	2 bedroom
5	Under	by	\$20	Studio
6	Under	by	\$15	1 bedroom
7	Over	by	\$15	1 bedroom
8	Over	by	\$30	Studio
9	Over	by	\$50	1 bedroom
10	Under	by	\$60	3 bedroom
11	Under	by	\$ 2	Studio
12	Over	by	\$40	3 bedroom
13	Under	by	\$50	1 bedroom
14	Over	by	\$240	3 bedroom
15	Under	by	120	1 bedroom
16	Over	by	\$80	Studio
17	Over	by	\$30	2 bedroom
18	Over	by	\$10	1 bedroom
19	Over	by	\$25	2 bedroom
20	Over	by	\$95	1 bedroom
21	Over	by	\$70	2 bedroom
22	Over	by	\$50	1 bedroom
23	Under	by	\$10	3 bedroom
24	Under	by	\$10	1 bedroom
25	Over	by	\$340	3 bedroom

Report of Dr. P. Crandall

1. I am a clinical psychologist who specializes in evaluating persons who have undergone recent emotional trauma.
2. I attended the University of Michigan and received a bachelor's degree in psychology with an emphasis in clinical psychology. I did graduate work at the University of California, Berkeley, and was awarded a Masters and Ph.D. degree in Clinical Psychology. I did post graduate work in clinical psychology at the New York University Post Graduate Clinical Psychology Center. This post graduate course is only open to persons who have completed a Ph.D. and have significant clinical experience.
3. Immediately after completing my Ph.D., I joined the Army and was assigned to Walter Reed Hospital where I evaluated and treated patients and initially gained experience in evaluating and treating victims of recent emotional trauma through contact with Vietnam returnees. I later worked for a time at several hospitals in the Washington D.C. area doing group therapy and individual therapy. It was after these experiences that I attended the post Graduate Center and began to develop a private practice.
4. After four years at the center, I moved to this city and opened a private clinical practice. I also began to see patients who had experienced emotional trauma and who were plaintiffs in lawsuits. My clinical experience also gave me increased insight into patients' experiences of recent emotional trauma.
5. I have also been involved in a special program, which I set up, at the Benjamin Hospital here in the city to assist families in adjusting to recent deaths in the family. At the same hospital I direct a therapy program for patients who have recently learned that they have terminal cancer.
6. This is the first time I have testified in a case involving possible racial discrimination; I have testified many times before however, in other kinds of cases.
7. My testimony in this case is a result of my volunteering to serve as an expert in a new program to develop psychological evidence in racial discrimination cases. The program is co-sponsored by the local clinical psychologists association, the Bar Association, and Euphoria Legal Services. I receive a nominal fee, about \$25.00. If the recovery exceeds a certain pre-agreed amount, a fee is negotiated between the client and myself. There is a ceiling on the amount of the fee; however, the ceiling is negotiated prior to trial.
8. My examination of Ms. Roberts had several parts. I first had her describe the events which brought her to my office. She had a difficult time doing this without hesitation and tears. She was,

or appeared to be, very tense. She was wringing her hands and chain smoking. She kept saying that she could not understand why those people thought she was unqualified. She cried for a few minutes, and I offered her some coffee.

9. About five minutes into the interview she was able to talk. The first concern she expressed to me was having a nice place for her son on Christmas. She had been living in an apartment in the black section of town for some time, and she had noticed that the apartments in the predominantly white section were generally better kept and had nicer schools and playgrounds.

10. She had been looking for a while for an apartment which would be affordable and finally found one which seemed perfect. That was the Edgemont Apartments.

11. I next explored her feelings about the perceived incident of discrimination. She told me about her application for the apartment and her several phone calls before Mrs. Jones told her she had been turned down. She was most upset when discussing the conversation where Mrs. Jones turned her down. She was especially hesitant to discuss her feelings about why she had been turned down.

12. In response to my questions about why she thought the apartment manager found her unqualified, she was uncertain. She thought it could be because she had not worked a long time on her job or maybe because she had been late from time to time on bills. But she thought that her good record as a tenant at her current apartment and her excellent record at work would override those kinds of things.

13. She was sure that the reasons must be race, and she expressed shock and anger that she would not be able to rent the apartment of her choice no matter how decent a person she was. She told me how she had worked hard since her separation from her husband to become self-supporting, and that she financially suffered by attending school rather than getting a job immediately after her separation. She felt that her biggest goal was to have a better life for her son's sake. She had promised him that they would be moving before Christmas, and she wouldn't be able to keep that promise.

14. I asked her about her work attendance since November 23. She said she had been able to work every day since that time and had worked the day of my examination. She said that she had been accused of several mistakes in the past week and heavily criticized by her supervisor. She accused her supervisor of being overly critical and relations between them for a few days were very strained, according to Ms. Roberts.

15. She also said that she has had headaches which have not been relieved by aspirin and seems more tired than usual.

16. I then asked Ms. Roberts questions designed to elicit information about her background in greater depth than had been revealed so far.

Previous Relationships with Whites

17. Ms. Roberts has had little direct contact with Whites over her lifetime. Except for minor jobs in high school, she is involved in her first full time work experience where Whites are her co-workers. She has always lived in segregated, African-American neighborhoods with limited white contacts (merchants, teachers, police officers), but has had little peer contact. She says she has no white friends and doesn't know any Whites personally. It is likely based upon these facts that she has a psychological vulnerability to Whites due to a lack of opportunity to interact and know Whites on a personal, peer basis. These limited contacts have probably induced a fear in her since her contacts have generally been limited to Whites in authority.

Previous Relationship with Parents

18. Ms. Roberts told me that she grew up with both of her parents, but they were not well off and there were times when both were out of work. Her mother worked as a clerical and her father worked as a construction laborer. She said her experiences with poverty led her to have high hopes for herself and her child. When her marriage did not work out she was very disappointed and felt that she had to make a greater effort to make her son's life better. This is why she returned to college so that she could get a job, rather than rely on child support from her husband.

Academic History

19. Her academic history is basically weak. She took general business classes and home economics in high school, but did not have a clear goal except to graduate from high school. Her grades were C's, mostly.

Relationships with Husband

20. Ms. Roberts knew her husband in high school, and married him at age 19. She had her first child at 20, and was separated at age 23. Her husband is a well skilled construction worker, and a good provider, but is prone to non-physical violent outbursts. He is seasonally employed due to the economic fluctuations in the construction industry, and he thinks due to racial discrimination in the industry.

21. Her relationship with her husband was good at the early part of her marriage but seemed to degenerate later when he was unemployed often. He had undertaken all financial responsibilities in connection with the household.

Relationship with Employee

22. On the job, she has performed well according to her evaluations. She feels that some of the criticism she has received has been undeserved. She is not sure why she feels that way. She

basically tries to do her best; she attends all seminars given in order to improve herself and would like to be a dietician someday. She does have friends at work, mostly black friends. Occasionally she will have a break with a white co-worker. All her supervisors are white and she does not go to lunch or break with them.

23. Ms. Roberts did not report any recent illness, and said she had not been hospitalized except for appendicitis when she was a child, and when her baby was born. She reports no mental hospitalizations.

Conclusions

24. My opinion is that the reactions which Ms. Roberts had to her supervisor are related to her belief that she has been discriminated against. The reaction is similar to one called transference where during classical psychotherapy the patient casts onto the therapist the characteristics of important persons in her life. Here, the result of transference-like reaction is a feeling of unfair treatment at the hands of any white person where such an interpretation is possible. Her feelings about her treatment at the hands of one white person were generalized to other white persons unconnected with the incident.

25. These reactions are similar in kind, but not in magnitude to those which Vietnam American combatants experienced. After a time the ability to distinguish between combatants and civilians is lost due to emotional trauma resulting from casualties at the hands of North Vietnamese soldiers. A defensive reaction takes over which minimizes the importance of individual differences in behavior and instead of making distinctions the person reacts on a gross, undifferentiated level. All Vietnamese, even babies, became the enemy. Ms. Roberts reaction to her supervisor is similar to this. It is a common reaction to feelings of persecution, and to increased feelings of insecurity. These reactions would be expected to occur in response to a perceived incident of discrimination.

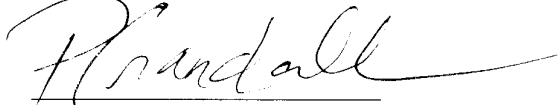
26. It is also my opinion that her headaches and tiredness are the result of what is known as a conversion reaction; that is, a hysterical reaction which acts to keep the person from thinking about the traumatizing incident. The physical symptoms act, in a

sense, to keep the person from becoming so severely depressed as to become totally incapacitated.

27. These reactions maybe somewhat exacerbated due to her lack of direct contact with Whites on a peer basis and the limitation of those contacts to authority contacts. She may, in the absence of concrete reality contacts necessary to develop skills of discrimination, automatically validate her expectation of unfair treatment without objectively evaluating the incident. This does not mean that she was not discriminated against, or that in a particular incident her perception is not accurate. It is just likely that she is unable to make the kind of discriminating judgments about the motivation of Whites in view of her limited contact with them.

28. In addition, she may have developed a psychological vulnerability in the context of her family and marital past, and in the context of restricted resources suffered a greater reaction to this incident than would a person for whom all was well.

29. I interviewed Ms. Roberts on December 12, 20XX-1 for 4.5 hours.

A handwritten signature in cursive script that reads "P. Crandall". The signature is written in black ink and is positioned above a horizontal line.

P. Crandall, Ph.D.

Summary of Pertinent Portions of Medical History

Ms. Roberts' medical history reveals a short hospitalization for a nervous disorder associated with her separation from her husband. She saw a psychiatrist periodically over six months, and was on medication for various symptoms, including headaches.

Declaration of John Reese

I, John Reese, do declare:

1. I have known Ms. Roberts for two years, the two years she has been a tenant of mine. She is a very nice woman with a very well-behaved son.
2. She has been on time with the rent for the most part. I'd say she's been a few days late maybe three or four times. She is a very quiet person herself, but she is separated from her husband who in my opinion is a "bastard." He lived with her when she initially moved in. His name was on the mailbox for almost a year. But they fought every day it seemed for several months.
3. She asked me to call the police several times during the first six months, once while he was living there full time, and a couple of times thereafter. I called them for her, but often her husband threatened me. I stayed out of their business. After that, she called the police herself; they came out a few more times. The last time I know of was about 8 months ago. He still comes quite a bit to see his son and to take him out. He's done that ever since he moved out about a year ago.
4. She told me that she wanted to divorce him but she wasn't sure that she wanted the divorce, or that he would harass her even more if she got it. I talked to him once. He said that he would never let her go and she was the best woman he ever knew. He said they've been together since high school and had had their ups and downs, but he was sure they could work something out since they're both more mature now. He said he pays her support payments and asked me not to evict her since he would always make sure she could pay the rent.
5. She told me once that she didn't think any landlord would be as tolerant as I had been about her "crazy" husband. She is a very good person and would make a good tenant. I just don't know about that husband, though. Her apartment is not in the same building as mine. Mine is in the front apartment building. Hers is in one of the side apartment buildings. It is not necessary to walk by my building to get to her apartment. Parking for tenants is in the back. Exhibit 1 attached to this declaration is a diagram of the apartment complex.

I declare under penalty of perjury that the foregoing is true and correct. Executed on 3rd day of March 20XX at Bloomington, Euphoria.



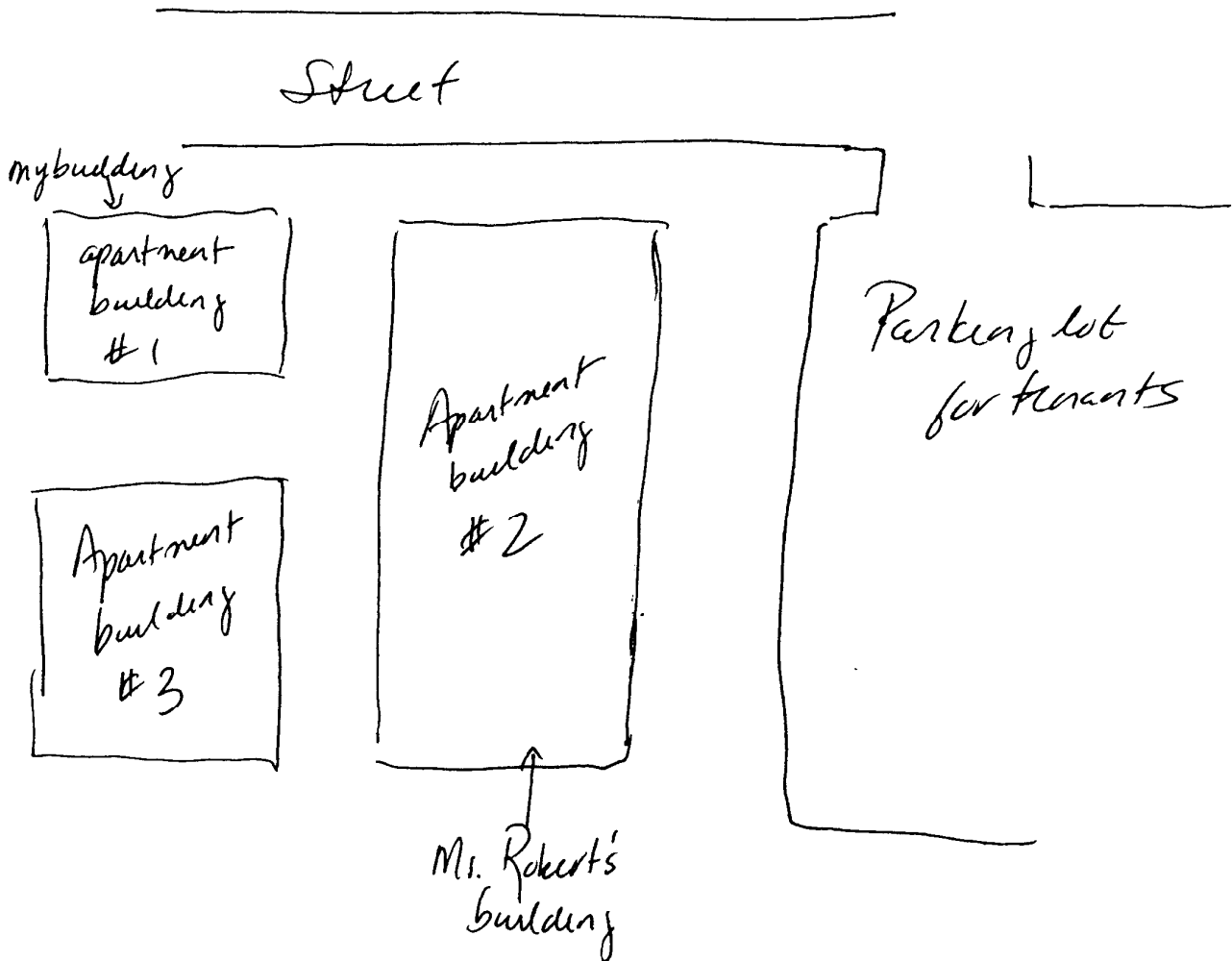
John Reese

Exhibit 1

Diagram of Robert's apartment building layout (by plaintiff's investigator, P. Diandra)

N

S



Jury Instructions

1. You are to consider only the evidence in the case. But in your consideration of the evidence you are not limited solely to the statements of the witnesses. In other words, you are not limited solely to what you see and hear. You are permitted to draw from the facts which you find have been proved, such reasonable inferences as seems justified in the light of your experience in the affairs of life.

Federal Jury Practice and Instructions No. 73.01

2. You, as jurors, are the sole judges of the credibility of the witnesses and the weight their testimony deserves. You may be guided by the appearance and conduct of the witness, or by the manner in which the witness testifies, or by the character of the testimony given, or by the evidence to the contrary of the testimony given.

You should carefully scrutinize all the testimony given, the circumstances under which each witness has testified, and every matter in evidence that tends to show whether a witness is worthy of belief. Consider each witness' intelligence, motive, and state of mind, demeanor, and manner while on the stand. Consider the witness' ability to observe the matters as to which he has testified and whether he impresses you as having an accurate recollection of these matters. Consider also any relation each witness may bear to either side of the case; the manner in which each witness might be affected by the verdict; and the extent to which, if at all, each witness is either supported or contradicted by other evidence in the case.

Inconsistencies or discrepancies in the testimony of a witness, or between the testimony of different witnesses, may or may not cause the jury to discredit such testimony. Two or more persons witnessing an incident or a transaction may see or hear it differently; and innocent mis-recollection,

like failure of recollection, is not uncommon experience. In weighing the effect of a discrepancy, always consider whether it pertains to a matter of importance or an unimportant detail, and whether the discrepancy results from innocent error or intentional falsehood.

After making your own judgment, you will give the testimony of each witness such weight, if any, as you may think it deserves.

Federal Jury Practice and Instructions No. 72.01

3. There are, generally speaking, two types of evidence from which a jury may properly find the truth as to the facts of a case. One is direct evidence such as testimony of any eyewitness. The other is indirect or circumstantial evidence, the proof of a chain of circumstances pointing to the existence or non-existence of certain facts.

As a general rule, the law makes no distinction between direct and circumstantial evidence, but simply requires that jury find the facts in accordance with the preponderance of all the evidence in the case, both direct and circumstantial.

Federal Jury Practice and Instructions No. 71.02

4. Section 3604 of Title 42, United States Code, reads as follows:

Section 3604. Discrimination in the sale or rental of housing

As made applicable by section 3603 of this title and except as exempted by sections 3603 (b) and 3607 of this title, it shall be unlawful--

(a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin.

(b) To discriminate 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 therewith, because of race, color, religion, or national origin.

(c) To make, print, or publish, or cause to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination.

(d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale or rental when such dwelling is in fact so available.

(e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. These laws prohibit racial discrimination by private individuals and firms in the sale or rental of property.

5. The plaintiff's claim has three essential elements, as follows:

First, that she attempted to lease an apartment as described in the evidence from the defendant and was ready, willing, and able to pay the defendant's rental price. Second, that the defendant refused to lease to plaintiff or to negotiate for the rental of or otherwise made unavailable or, discouraged or denied an apartment to the plaintiff. Third, one reason for defendant's action was the race of the plaintiff. The plaintiff has the burden of proving each of these essential elements by a preponderance of the evidence.

With the respect to the third element, if race forms *any* part whatsoever of the basis for the decision

not to rent to the plaintiff, then the plaintiff is entitled to recover. If you find that all three of these elements are so established by a preponderance of the evidence, then you will find for the plaintiff.

Federal Jury Practice, and Instructions No. 87.18 (Modified)

Smith v. Sol D. Adler Realty Co., 436 F.2d 344 (7th Cir. 1970)

6. Race may not be in any way a factor in an apartment rental decision, and it cannot be excused because it was not the sole reason for discrimination nor the total factor of discrimination. There is no acceptable place in the law for even partial racial discrimination.

Smith v. Sol D. Adler Realty Co., 436 F.2d 344 (7th Cir., 1970)

7. You have heard and seen evidence with respect to defendant's actions in renting to black and white persons other than the plaintiff. You may consider this evidence in deciding whether the plaintiff was discriminated against based upon her race.

8. If you find in favor of the plaintiff, then you must award her actual or compensatory damages in an amount that will reasonably compensate her for the unlawful discrimination she has been made to suffer by the defendant.

9. If you find in favor of the plaintiff then you will award her such actual or compensatory damages as you find from a preponderance of the evidence that were proximately caused by the acts of the defendant in refusing to rent to her.

If you should find that the plaintiff is entitled to a verdict, you will award her such sum as actual damages as you find will compensate her reasonably for loss of her civil rights and any mental anguish, humiliation, and emotional distress already suffered by her, or reasonably certain to be

suffered by her and proximately caused by the defendant. The possibility of such mental anguish, humiliation, and emotional distress in a case such as this one must be considered by you, and proof of such injuries may be inferred by you from the circumstances of the case as well as established by the testimony.

Seaton v. Sky Realty Co., Inc., 491 F. 2d 634 (7th Cir. 1974);

Jeanty v. McKey & Poague, Inc., 496 F.2d 119 (7th Cir. 1974).

10. In addition to actual damages, the law allows the jury in this case to award the injured person punitive and exemplary damages, in order to punish the wrongdoer for some extraordinary misconduct, and to serve as an example or warning to others not to engage in such conduct.

If you find for the plaintiff and find from a preponderance of the evidence that the acts or omissions of the defendant showed a wanton disregard for the rights of the plaintiff, or were willfully or maliciously or wantonly or oppressively done, or that the defendant knew that his conduct was unlawful, then you may award the plaintiff such an amount as the jury shall unanimously agree to be proper, as punitive and exemplary damages.

An act or a failure to act is "maliciously" done, if prompted or accompanied by ill will, or spite, or grudge, either toward the injured persons individually, or toward all persons in one or more groups or categories of which the injured person is a member.

An act or failure to act is "wantonly" done, if done in reckless or callous disregard of, or indifference to, the rights of one or more persons, including the injured person.

An act or failure to act is "oppressively" done, if done in a way or manner which injures, or damages, or otherwise violates the rights of another person with unnecessary harshness or severity, as by misuse or abuse of authority or power, or by taking advantage of some weakness, or disability, or misfortune of another person. Seaton v. Key Realty Co., 491 F2d 634 (7th cir. 1974)
Allen v. Gifford, 368 F. Supp. 317 (E.D. Va. 1973)

An act or a failure to act is "maliciously" done, if prompted or accompanied by ill will, or spite, or grudge, either toward the injured persons individually, or toward all persons in one or more groups or categories of which the injured person is a member.

An act or failure to act is "wantonly" done, if done in reckless or callous disregard of, or indifference to, the rights of one or more persons, including the injured person.

An act or failure to act is "oppressively" done, if done in a way or manner which injures, or damages, or otherwise violates the rights of another person with unnecessary harshness or severity, as by misuse or abuse of authority or power, or by taking advantage of some weakness, or disability, or misfortune of another person. Seaton v. Key Realty Co., 491 F2d 634 (7th cir. 1974)

Allen v. Gifford, 368 F. Supp. 317 (E.D. Va. 1973)