



# Advocate

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Volume X, Number 3

835 W. Jefferson St., Room 100, Louisville, KY 40202

September 2002

## Mississippi landlords pay \$330,000 and give up management of properties to settle race case

The Justice Department has settled a federal lawsuit in which three Mississippi landlords will give up management of their rental properties and pay \$330,000 to resolve allegations that they used racially coded vacancy lists and telephone logs to segregate and exclude African Americans from apartment complexes, mobile home parks, and other properties. The court-approved settlement resolves complaints that the defendants racially discriminated in virtually every aspect of their residential rental property business.

### Employees steered African Americans and whites, reserving better homes for white renters

The lawsuit accused Alden "Bubber" Wallace, III; his wife Priscilla Wallace; and his mother Nell Wallace of violating the federal Fair Housing Act by dividing their Meridian, Mississippi rental properties into better quality "White" or "No. 1" homes and inferior quality "Black" or "No. 2" homes. White renters were steered to "No. 1" homes and African American renters were steered to substandard "No. 2" properties.

The Wallaces, operating through four Mississippi companies, allegedly required employees to code telephone inquiries according to a race-based system and prohibit African American and mixed-race families from renting "No. 1" properties. The lawsuit also accused the defendants of ignoring maintenance problems at the "Black" or "No. 2" properties and evicting African American and mixed-race families who were mistakenly placed in "No. 1" properties.

The consent decree, approved by Chief Judge Tom Lee of the U.S. District Court in Jackson, Mississippi, requires the Wallaces to pay \$310,000 into a victims fund and a \$20,000 civil penalty to the U.S. Treasury. The fund will compensate identified victims of discrimination. In addition, the defendants must turn over management of their more than 200 residential properties to an outside company to be approved by the Justice Department. The settlement permanently bars Mr. Wallace, his wife, and his mother from any involvement in tenant affairs, including tenant selection, maintenance, and evictions. Mr.

Wallace is prohibited from entering properties unless they are vacant and only if he is escorted by management company staff. The settlement requires fair housing training, implementation of new policies, and five years of monitoring.

### DOJ: discriminators will "pay a heavy price"

"It is shocking and sad that some landlords still go to such lengths to engage in racial discrimination," said Ralph F. Boyd, Jr., Assistant Attorney General for the Justice Department's Civil Rights Division. "This settlement sends the message that landlords who discriminate on the basis of race will pay a heavy price."

Dunn Lampton, United States Attorney for the Southern District of Mississippi said, "This case is offensive because people were placed on racially coded lists for housing based not only on the color of their skin, but also because of the sound of their voice. This is the first settlement in a race discrimination case which permanently bars the individual defendants from the management of their properties and it should serve as a wake-up call to any landlords engaged in similar conduct."

Properties included in the settlement are homes throughout the city of Meridian, the Valley Mobile Home Park, Louie Lee Apartments, and homes on Jeffrey Acres Road, Causeyville Road, and Long's Lane.

The Justice Department is asking persons who think they may have been harmed by the Wallace's alleged racial discrimination to contact the United States Attorney's Office at 601-965-4480.

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# CA Supreme Court upholds \$10,000 damage award in race case; affirms state agency's ability to award

The California Supreme Court issued a decision in August that upholds the ability of the California Fair Employment and Housing Commission (FEHC) to award damages in fair housing cases. The 6-1 decision overturns a state court decision and a California Court of Appeals decision. It also overturns a previous California Supreme Court decision which held that the FEHC lacked constitutional authority to award damages.

The decision reinstated a \$10,000 award for loss of housing opportunity and emotional distress in a racial discrimination case filed by an African American police officer from southern California.

In 1991, the California Supreme Court ruled that the FEHC could not award damages in the case of *Walnut Creek Manor v. FEHC*. In this latest decision, the Court noted recent changes in California's fair housing laws had eliminated the Constitutional hurdles detailed in the *Walnut Creek* case. Specifically, the law now allows either party to remove cases before the FEHC to court. In this specific case, neither party chose to do so. Therefore, the Court ruled, the respondent agreed to the FEHC's jurisdiction.

The case that made its way to the state Supreme Court began when, in 1997, Sheryl Annette McCoy, who is African American, inquired about renting a unit at a duplex

from Nancy Ann Konig, who is white. As McCoy read a rental notice, Konig came outside and stated, "Shame on you. Get off my porch. You're trying to break into my house." Konig then slammed the door.



**Associate Justice Ming W. Chin wrote the opinion in *Konig v. FEHC*.**

McCoy asked a colleague, Terrence Smith, who is also African-American, to inquire about Konig's rental unit. When Smith approached Konig, she ran into her house, slammed the door, and did not respond to Smith's knocks. Smith left his name, address, and telephone number on a piece of paper, which he slipped into the mail slot as directed by the notice on the door. Konig never contacted Smith.

When the unit was later advertised, the Fair Housing Council of Long Beach sent testers to inquire about the unit. Konig discouraged the African American tester from renting the premises. When the African American tester asked for an application, Konig refused to give her one. In contrast,

Konig treated the Caucasian tester with deference, did not ask whether she had given notice at her present residence, and told her to telephone her if she wished to rent the unit.

In a hearing, the FEHC awarded McCoy \$10,000 in civil penalties, \$1 for loss of housing opportunity, and \$9,999 for emotional distress. In her appeals, Konig challenged the damages, but not the civil penalty, based on *Walnut Creek*.

## NAHRW annual meeting scheduled for October; Judge Nathaniel Jones to speak on October 30

**Human Rights: The Cornerstone of Democracy-** the 55th Annual Meeting and Training Conference of the National Association of Human Rights Workers will be held October 26-31, 2002 at the Marriott Town Center in Charleston, WV. Registration fees are \$285 for Skill-Building sessions and \$485 for Leaders Institutes. The registration deadline is October 7, 2002.

Key topics of the conference include Diversity, Prejudice Reduction, Fair Housing Discrimination Investigation, Human Rights Leadership, Community & Police: Race Relations, Fair Housing Issues: Sexual Harassment and Conciliation, Our Growing Hispanic Culture, Multiculturalism: 9-11, Building Cultural Competency, Public Speaking Skills, Ethics for the Human Rights Worker and more.

Judge Nathaniel R. Jones of the U.S. Sixth Circuit Court of Appeals will speak at lunch on Wednesday, October 30. Jones joined NAHRW and participated in his first annual

conference in 1956 when he began his civil rights work as Executive Director of the Fair Employment Practices Commission in Youngstown, Ohio.

Jones was soon named Assistant U.S. Attorney for the Northern District of Ohio. In 1967, he served as Assistant General Counsel to President Johnson's Advisory Commission on Civil Disorders, also known as the Kerner Commission. In 1969, Judge Jones was named General Counsel of the NAACP, a position that he held until 1979. In 1979, President Carter appointed him a member of the U.S. Court of Appeals for the Sixth Circuit. Judge Jones recently retired from the Sixth Circuit.

To make hotel reservations, contact the Marriott at 1-800-228-9290. To receive registration information, contact Debbie Smith, Host Committee, Charleston Human Rights Commission at (304) 348-6880. Joe Cooper is Conference Planning Chair.

# Illinois city will pay \$500,000 for selectively enforcing building codes against Latinos

The City of Elgin, Illinois has agreed to pay \$500,000 to settle longstanding complaints that its enforcement of housing codes discriminated against Latino residents. The settlement with the U.S. Department of Housing and Urban Development (HUD), Department of Justice and the HOPE Fair Housing Center of Wheaton, Illinois includes a fund to compensate the victims of code enforcement discrimination. The settlement will also change the way various codes are enforced in Elgin. Inspectors will take Spanish lessons. The city will translate its housing documents into Spanish, and HOPE will open a new fair housing office in Elgin.



**Bernie Kleina is the executive director of the HOPE Fair Housing Center in Wheaton, Illinois. HOPE filed 22 complaints against the city of Elgin and its officials.**

## City code enforcement inspectors arrived at dawn to inspect Latino residents' homes

According to the *Chicago Tribune*, discrimination allegations arose in 1998 and early 1999, when several Latino families complained to HUD that inspectors came unexpectedly at dawn to gauge whether their homes were overcrowded. The residents asserted that white residents were not subject to the same types of inspections.

In September 1999, the original complaints against the city settled for \$10,000 to the Latino families and a promise that code enforcement officials would change their practices. However, HUD says it found more problems while monitoring the city's inspections, and HOPE filed 22 more complaints against the city starting in August 2000.

The new complaints accused the city inspectors of entering the homes of Spanish-speakers without interpreters, doing inspections without warrants, and applying occupancy rules differently to Latino residents. The city argued it was responding to housing code violations that endangered residents' health and safety.

In November 2000, after months of negotiations between Elgin city officials and HUD, then HUD Secretary Andrew Cuomo referred the case to the United States Department of Justice for enforcement. At that time,

Secretary Cuomo said, "It's clear to me that the City of Elgin is either unwilling or unable to reach a negotiated resolution of this dispute."

After two years of renewed settlement negotiations with HUD, the Justice Department, and HOPE, the newly signed agreement will require the city to:

- \* Create a \$200,000 victims fund to compensate Latino residents who believe they have been discriminated against in housing code enforcement;
- \* Enter into a four-year, \$300,000 contract with HOPE to provide fair housing education, testing, counseling and other services;
- \* Revise inspection and warrant procedures, including requirements to have city attorneys review inspection warrants and restrict inspections that are based solely on anonymous complaints;
- \* Require inspectors to do the inspections during regular business hours;
- \* Require Spanish training for code enforcement officers and translation of some documents into Spanish; and
- \* Establish a formal grievance system for complaints about code enforcement.

Elgin's Latino population increased 52 percent in the 1990s, from 14,000 to 22,000. Although Latinos only make up eight percent of Elgin's total population, Latino families received 64 percent of the total number of citations issued by code enforcement officials from 1995 to 1998. Eighty percent of all code citations were issued in predominantly Latino neighborhoods.

Latino families told HUD investigators about problems with Elgin's code enforcement officials. Officials would show up for surprise inspections as early as 5:00 a.m. and would enter homes without permission. Families received warnings to reduce the number of occupants in their homes or have them condemned, even if the extra occupants were merely visiting relatives from out of town.

Bernard Kleina, executive director of HOPE, said, "I think it's going to have a lot of impact, not only in the City of Elgin, but on other cities in Illinois as well."

Elgin Mayor Ed Schock said he was pleased with the settlement. "It needed to be resolved. It needed to be put behind us," he told the *Chicago Tribune*. "We want to be effective, but we also want to be fair."

Attorneys Jeffrey Taren and Joanne Kinoy of Kinoy Taren and Garaghty in Chicago represented HOPE and several families in the case.

# Mississippi mobile home park owner ordered to pay \$92,709 for racially motivated eviction of couple

U.S. Department of Housing and Urban Development (HUD) Administrative Law Judge Constance O'Bryant has ordered a Mississippi mobile home park owner to pay a \$92,709.92 default judgment to resolve complaints of racial discrimination against him. The judgment awards \$80,000 in emotional distress damages to two complainants, \$1,709.92 in out-of-pocket expenses, and \$11,000 in civil penalties. Silas Tucker, the owner and operator of Trailer Village 80 East in Pearl, Mississippi did not respond to the complaint and presented no evidence in his defense, despite being contacted repeatedly by HUD and Judge O'Bryant.

Angela McMahon is a white woman who lived in a mobile home on Lot 5 in Trailer Village 80 East. McMahon moved into the park in August 1996, and from the time she moved in until May 1997, McMahon lived with a white, female roommate and had no problems. When her African American boyfriend moved in, however, the owner of the park forced her to move her mobile home out.

## Owner began harassing white tenant after her African American boyfriend moved in with her

McMahon testified that after her African American boyfriend, Dennis Sessions, moved in with her, Tucker became very rude to her. He avoided eye contact with her and ripped down a fence that she had built around her mobile home. Soon after that, Tucker began harassing McMahon and Sessions. Tucker began sending notes concerning violations of park rules, even though Tucker did not sign leases with his tenants and there were no published rules. Tucker would also turn his back on McMahon if they were walking toward each other. Tucker refused to personally accept rent checks from McMahon after Sessions moved in. Tucker instead instructed the park's secretary to take rent checks from McMahon.

On August 1, 1998, Tucker sent a note to McMahon, informing her that she would have to move out of her mobile home, because the city was going to run new sewer lines to the park. McMahon requested that her mobile home be moved to a vacant lot within the park. Tucker refused and said that several other residents were also going to have to move. After asking several neighbors if they had been asked to move, McMahon and Sessions found out that no

other residents were asked to move and that no new sewage lines were being run to the park.

McMahon testified that she was embarrassed and humiliated once she learned that Tucker had lied to her. She said that she was sure that her neighbors would think she

***"The stark and ugly truth we see in this case is that although Respondent freely allowed Ms. McMahon to have her dog live in his trailer park, he reacted violently when she allowed a Black person to live there."***

***-- Constance T. O'Bryant  
HUD Administrative Law Judge***

was being evicted for being a bad tenant. According to hearing documents, both McMahon and Sessions sought treatment to help them deal with the emotional trauma of Tucker's discriminatory acts. McMahon and Sessions moved their mobile home out of Tucker's park and filed a complaint with HUD.

After a probable cause finding, HUD attorneys requested information from Tucker on December 14, 2001. Tucker did not respond, and HUD attorneys asked Judge O'Bryant to compel him to answer on January 2, 2002. Again, Tucker did not respond, and on February 13, Judge O'Bryant ordered him to produce the requested evidence "forthwith." After months of warnings from the judge and no responses from Tucker, HUD attorneys requested that a default judgment be entered. Judge O'Bryant did enter a default judgment on April 26. On June 10, 2002, Tucker wrote a letter to Judge O'Bryant, asking that the case be reopened so that he might offer a defense. Judge O'Bryant denied his request.

## Judge O'Bryant: housing discrimination "must be condemned in the strongest way possible"

When deciding to assess the maximum civil penalty against Tucker, Judge O'Bryant chastised the respondent. She wrote, "Those who would act upon their bigoted thoughts and violate the [Fair Housing] Act must be put on notice that they will pay dearly for their discriminatory conduct. The stark and ugly truth we see in this case is that although Respondent freely allowed Ms. McMahon to have her dog live in his trailer park, he reacted violently when she allowed a Black person to live there. His conduct is a relic of a hurtful and hateful past and must be condemned in the strongest way possible."

HUD v. Tucker d/b/a Trailer Village 80 East  
HUD ALJ 04-98-0332-8  
Complaint filed: August 1998  
HUD Charge Issued: October 18, 2001  
Decision and Order: August 14, 2002

# North Carolina family wins \$75,000 settlement from condo association that forced them out

A federal jury has determined that an Etowah, North Carolina condominium association and certain residents violated the federal Fair Housing Act when they forced a family of four to move out of the development and took illegal steps to discourage other families from moving in. The jury of five men and three women awarded \$65,000 in compensatory damages to Lisa and Ronnie Edwards and their minor sons, Alex and Davey, after a trial in August.

In addition to the compensatory damage award, the Jury notified United States Magistrate Judge Max O. Cogburn, Jr. that punitive damages were appropriate based on the defendants' malicious or reckless disregard of the plaintiffs' rights. While the jury deliberated on the punitive damage award, however, the parties settled the case for \$75,000.

The jury found that the defendants first attempted to keep Lisa Edwards and her two sons, Alex and Davey, aged 12 and 6 respectively, from moving into the development by invoking the Association's illegal bylaw restricting residents to persons aged sixteen and older. When the attempt to discourage Mrs. Edwards from moving in failed, the defendants collectively harassed the family until the family put their home up for sale three months later.

## Association wrote letter to real estate agent instructing her not to sell to families with children

The defendants then sent a letter to B.J. Greer, an Etowah real estate agent with Century 21 Real Estate, instructing the agent not to show condominium units to families with children. After Greer refused to follow the association's illegal instructions, the defendants erected a sign at the entrance to their development which falsely advertised that the development was a "Retirement Community." The jury found all of these actions constituted an illegal attempt to steer families with children away from the development.

The award may be the largest award for a familial



**Stella Adams is the executive director of the North Carolina Fair Housing Center. She assisted the Edwards family with its fair housing complaint.**

status violation under the federal Fair Housing Act in North Carolina history. The defendants had argued to the jury that the defendants' actions, taken together, had amounted to no more than a technical violation of the Fair Housing Act worth perhaps five hundred to a thousand dollars.

"This jury has sent a very clear message not only to these defendants but to other condominium associations," said Asheville Attorney Philip J. Roth who, along with his law partner, Clifford C. Marshall, Jr., represented the Edwards family. "That message is that our civil rights are important and not something to be trivialized or trifled with."

"Mrs. Edwards and her family deserve this award. This was a clear violation of the Fair Housing Act," said Stella Adams, Executive Director of the North Carolina Fair Housing Center. The Center originally investigated this case and currently has several additional complaints pending against the Etowah Condominium Association with the US Department of Housing and Urban Development for similar violations.

**"I'm sorry.  
I must have  
misplaced your  
paperwork..."**



Lenders don't often lose W-2 forms or income verifications. Don't be fooled by excuses. What appears to be a delay could be discrimination. You can fight back.

If you suspect unfair lending practices, contact HUD or your local Fair Housing Center. Everyone deserves a fair chance.



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# FHC-Detroit publishes \$180,000,000 and Counting report detailing fair housing litigation trends

The Fair Housing Center of Metropolitan Detroit has released *\$180,000,000 and Counting*, a summary of the fair housing lawsuits filed and assisted by the private fair housing groups that make up the National Fair Housing Alliance (NFHA). The publication covers fair



**Mike Olshan is the Legal Services Coordinator for FHC-Detroit. He compiled the litigation data and helped compile the \$180,000,000 and Counting report.**

housing lawsuits filed between 1990 and 2001. The report, released on June 22, is an update of the Center's annual report on recoveries in lawsuits filed in state and federal courts. Overall, plaintiffs received more than \$10 million since the 2001 report's publication.

Lisa Rice, the executive director of the Fair Housing Center of Toledo and the immediate past president of NFHA, called *\$180,000,000 and Counting* a "celebration and promotion of the achievements of private fair housing groups." She said the report not only proves that housing discrimination still exists, but that private fair housing agencies are actively "doing something about it."

The Fair Housing Center sought and received information from all of NFHA's member agencies. Eighty-six groups reported to the Center that they had ongoing litigation or litigation that had been resolved during 2001. Michael Olshan, the Center's legal services coordinator, compiled the data and helped to assemble it in the report.

## Report notes higher recoveries in cases

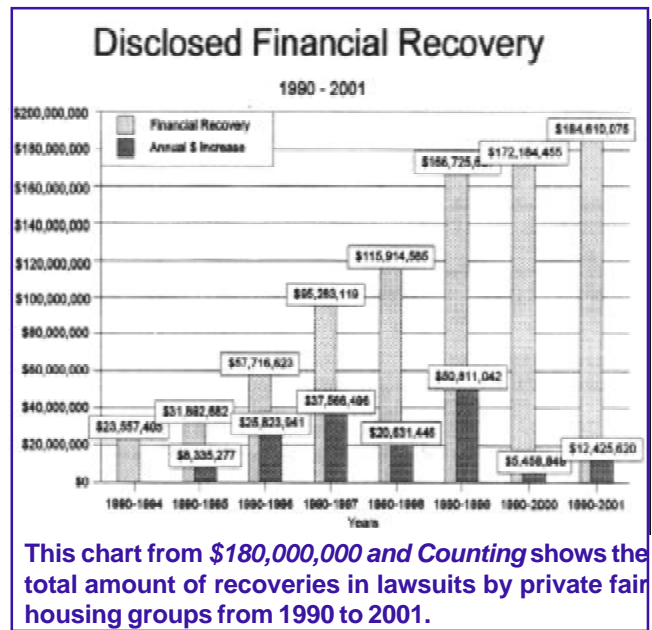
The 2002 update of the Center's *\$... and Counting* report noted several trends. First, the number of fair housing lawsuits filed in 2001 declined slightly. There were 165 new fair housing lawsuits filed by NFHA member organizations in 2001 compared with 168 in 2000. Both numbers are higher than the lowest total reported – 156 – in 1997.

Second, the total amount of recoveries reported in 2001 – \$12,425,620 – was much higher than the \$5,458,848 reported in 2000. The Fair Housing Center pointed out that the 2001 recovery total included a \$4.5 million recovery in a fair housing lawsuit against Farmers Insurance Group.

Third, the rate of success in lawsuits remained high at 93.7 percent. The reports compiled from 1990 to 1999 showed a rate of 93 percent. The Center surmised that strong case preparation and investigation by private fair housing groups yielded such positive results.

Fourth, the percentage of racial discrimination cases filed made up 38.6 percent of all cases filed in 2000 and 2001. This is a decline from 49.3 percent during the 1990s. Disability lawsuits jumped to 21.1 percent of total cases in 2000 and 2001, compared to 13.1 percent between 1990 and 1999. Suits based on other protected classes remained static.

Fifth, recoveries in racial discrimination suits decreased as a percentage during 2000 and 2001. The amount of recoveries in racial discrimination suits fell to 49.1 percent of all recoveries from 55.9 percent between 1990 and 1999. Recoveries in disability cases rose to 30.1 percent in 2000 and 2001, as compared to 3.2 percent in the 1990s. Recoveries in family status lawsuits also increased from 6.6 percent in the 1990s to 14.3 percent in 2000 and 2001.



This chart from *\$180,000,000 and Counting* shows the total amount of recoveries in lawsuits by private fair housing groups from 1990 to 2001.

Finally, the report showed that fewer fair housing cases were in federal court. Between 1990 and 1999, 71.8 percent of lawsuits reported were filed in federal court. In the latest report, that number fell to 67.8 percent. Recoveries in federal lawsuits also fell as a percentage of total recoveries. In the 1990s, 75.5 percent of all recoveries in fair housing litigation came from federal lawsuits. The latest report shows that figure at 58.2 percent.

Overall, *\$180,000,000 and Counting* shows that, while fair housing advocates have made a great deal of progress, there is still much work to be done.





## **Managers and owners of California complex pay \$65,000 for anti-children rules and policies**

The owners and the management company of an El Monte, California apartment complex have paid \$65,000 under a Consent Decree and Court Order to settle a federal lawsuit alleging familial status discrimination. The Defendants also agreed to participate in a comprehensive fair housing training and advertising program to counteract any discrimination they may have been involved in.

The Housing Rights Center of Southern California, along with the families of Daniel and Angela DeLeon, and Bernadette Beserra, sued Tweedy Management Services (TMS) and the property's owners in federal court, alleging that the defendants discriminated against tenants on the basis of familial status in the operation of the apartment complex.

Specifically, the complaint alleged that defendants enforced an unwritten policy prohibiting children from playing outside. The families had multiple disputes with the TMS over the enforcement of the policy and were evicted.

Along with the payment of \$65,000, under the Consent Decree and Order signed by Judge Dickran Tevrizian on April 5, the defendants must participate in a comprehensive two-year program under the court's jurisdiction.

The settlement includes the following terms:

- \* Fair housing training for each defendant;
- \* Distribution to all tenants of new, children-neutral house rules written by the Housing Rights Center;
- \* Distribution of fair housing pamphlets to all tenants;
- \* Family-affirmative advertising; and
- \* Display of fair housing posters.

This particular consent decree was the first obtained by the newly merged organization, the Southern California Housing Rights Center (formerly the Fair Housing Council of San Gabriel Valley and the Westside Fair Housing Council), which opened on April 1, 2002 with offices in Los Angeles, Pasadena, and El Monte.

The plaintiffs were represented by Gary Rhoades and Danielle Jones with the Housing Rights Center and Christopher Brancart of Brancart & Brancart. Defendants were represented by John Selbak.

**Fair Housing Council, et. al v.  
Tweedy Management Services, et. al  
Case No. 01-03117 DT (C.D. Cal. 4-05-02)  
The Honorable Dickran Tevrizian, Judge**