

United States District Court
Southern District of New York

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United States of America,

Intervenor Complaint

and, as Intervenors
Carol Engle, Virginia Moncada,
Stacie Edwards-Melchor, Kimberly Smith
and Amy Martlett

Plaintiffs,

1:10-cv-03335-RWS

Jury Trial Demanded

-against-

WILLIAM BARNASON, Superintendent, and
STANLEY KATZ, Owner and Manager, of
144 West 73rd Street, 140 West 75th Street,
142 West 75th Street, New York, New York,
and Steven Katz, manager of of
144 West 73rd Street, 140 West 75th Street,
142 West 75th Street, New York, New York,

Defendants.

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Plaintiffs Carol Engle, Virginia Moncada, Kimberly Smith, Stacie Edwards-
Melchor and Amy Martlett, hereby complain through their counsel Law Offices of
Joshua Friedman, as follows:

Parties and Jurisdiction

1. This is a housing discrimination claim brought pursuant to the Fair Housing Act, Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601, et seq., specifically §§ 3604(b), 3613(c) and 3614(e), and Title 8, Chapter 1, of the Administrative Code of the City of New York, N.Y.C. Admin. Code § 8-101 *et seq.*, as amended, specifically Code §§ 8-107(5)(a) and 8-502. (hereafter the “City Law”).

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1343.

3. This Court has supplemental jurisdiction over Plaintiffs' City Law claim pursuant to 28 U.S.C. § 1367

4. Venue is proper in this district based on the general venue statute, 28 U.S.C. § 1391

5. Plaintiffs filed this Interpleader Complaint as of right, pursuant to 42 U.S.C. § 3614(e)

Facts

6. This is a sexual harassment case. For several decades, Stanley Katz has rented single rooms at the above-referenced buildings principally to women without jobs. The rooms generally lack bathrooms and kitchens.

7. Many of his female tenants have received checks in mail as a result of government benefits. Many of his female tenants have been particularly vulnerable people.

8. During this period Katz has employed building superintendents who had felony criminal convictions histories. On information and belief, their names are Angel Vargas and defendant William Barnason.

9. Katz's pattern has been to charge above-market rates for the rentals. Lacking a job many of his tenants have quickly fallen into arrears. The superintendents pressured the tenants to have sex in return for forgiveness of arrears.

10. On information and belief, Stanley Katz has coerced sex from his female tenants who were unable to pay rent.

11. Stanley Katz, and now his son defendant Steven Katz, receive the mail from the letter carrier, and then distribute it to their tenants, thus they have access to the

tenants' benefits checks. The Katzes steal the checks. In the past, Stanley Katz has cashed the checks. They continue to steal the checks, but no longer cash them. Their purpose is to put the tenants into arrears so that they can be pressured into giving sexual favors in return for rent forgiveness.

12. Plaintiff Moncada became a tenant of the Katzes and Barnason in or about April 2008. Plaintiff Engle became a tenant of the Katzes and Barnason in or about May 2007. Plaintiffs Martlett and Edwards-Melchor became a tenant of the Katzes and Barnason in or about May 2009. Plaintiff Smith became a tenant of the Katzes and Barnason in or about November 2007.

13. Defendant Barnason has a conviction history of raping and sodomizing three young children and an adult. Barnason was under the supervision of the Parole Department when he began living in Katz's buildings and working for Katz, in or about 2001. Pursuant to the terms of his Parole supervision his employment and his living arrangements had to be inspected and approved. On information and belief, a Parole Officer visited Katz.

14. Katz was aware of Barnason's conviction history and the fact that he is registered as a Level III Sex Offender when he made him superintendent of his buildings and gave him the keys to his female tenants' apartments. In or about 2002 a newspaper story appeared about Barnason and Katz was forced to relocate him due to complaints from tenants.

15. Katz was further aware of the details of Barnason's crimes, namely that Barnason repeatedly engaged in sexual intercourse and sodomy with his neighbor's

children, ages 5, 6 and 7 and that he raped a grown woman. He conceded to plaintiff Moncada his awareness of Barnason's status, and these facts are publicly available.

16. From these facts Katz was aware that Barnason was subject to sexual urges which he was unable to control.

17. Before Engle moved in Barnason collected a deposit of \$2000. He then demanded she have an ongoing sexual relationship with him in order to move in to the apartment. Barnason threatened to keep the \$2000.00 if she refused to comply. Engle refused and attempted to file charges against Barnason. Barnason later called her and said that his "partner" wanted to meet her and that she would be able to move in after all. He asked that Engle "forget our earlier conversation."

18. After Engle signed the lease, she informed Stanley Katz of the incident and requested that Barnason never be allowed in her apartment, unless Katz was with him, or have access to keys to her apartment. She also asked that Katz keep Barnason from approaching her. Katz agreed to these requests. Katz also stated that he personally would collect the rent from her. Katz claimed that her complaint regarding Barnason was the first such complaint he had ever had.

19. Throughout her tenancy, Stanley Katz made remarks to Engle such as "you could easily get a man to set you up in an apartment on Park Avenue who would take care of you with your looks, even at your age." Katz also disparaged her boyfriend, stating that "he isn't much of a man if he doesn't take care of you financially."

20. Barnason eventually demanded that Engle pay rent to him, which she refused. She confronted Stanley Katz about their agreement that she would not have to deal with Barnason and Katz shrugged.

21. She informed Katz that she had gone to the DCHR office personally and had learned that he was overcharging rent. Katz's response was "it isn't up to me; you should have been nicer to Billy."

22. In the summer of 2009, Stanley Katz told Engle that she was "just another whore getting a free-ride" and stated "you should have slept with Billy, why do you think your rent was so high."

23. Since plaintiffs have lived in the buildings defendant Barnason has regularly pressured them to have sex in return for rent forgiveness. Other than Engle their rent is on a weekly basis. Barnason's offer has been, if you have sex with me once a week, I will pay your rent. His offer usually was couched in terms of "I will pay your rent if we can be friends." He would come to plaintiffs' apartments and try to get them to open their doors so he could make his creepy propositions. All plaintiffs understood he was asking for sex in return for providing free housing for a week, and found this extremely offensive. Plaintiffs heard this from Barnason regularly and frequently.

24. Once the tenants are in arrears, Steven Katz engages in verbal harassment of the tenants based on their female sex. Steven, his father Stanley and Barnason sit on the stoops of the buildings and when a tenant in arrears appears, harass them, or to go directly to their apartments, sometimes more than once during a day, and make offensive remarks. All of the plaintiff have heard Steven Katz calling tenants in arrears "free riding whores, bitches," and "cunts, who just don't want to pay rent." He has accused female tenants in arrears of being "hookers." Plaintiffs have heard these offensive remarks from Steven Katz frequently, on a weekly, and at times daily basis.

25. One of the reasons that these tenants are in arrears is that Steven Katz steals their checks. By way of example, and not limitation, Katz repeatedly stole plaintiff Virginia Moncada's unemployment checks. On information and belief the United States Postal Inspection Service is conducting an investigation regarding obstruction of mail at 142 W 75th Street, New York NY 10023.

26. Prior to Steven Katz beginning his management of the buildings in 2009, Stanley Katz received the mail, and stole checks. His purpose was to facilitate sexual coercion by his superintendents.

27. Barnason has engaged in sexual assaults and attempted sexual assaults on plaintiffs. By way of example, and not limitation, in summer 2008, under the guise of showing plaintiff Moncada an apartment, Barnason took her to his apartment, where he has a hot tub in his back yard. He told Moncada to take off her clothes and get in the hot tub. When she refused, he came over to her, sat in her lap, and started kissing her, against her will.

28. Also by way of example, and not limitation, on or about August 30, 2009, Barnason met plaintiff Moncada in a bar. On information and belief, he put something in her drink to knock her out. He attempted to drag her into an unoccupied basement apartment. Another tenant interrupted the assault, as she explains in her affidavit dated March 3, 2010 that:

On the evening of August 30, 2009 I was sitting on the front stoop of my apartment building, 142 West 75th Street (owned by STANLEY KATZ). I had been a tenant there since May. At approximately 10 p.m. I caught a glimpse of my neighbor VIRGINIA MONCADA as she passed the stairs leading up to the building where we both lived.

A second later I saw WILLIAM "Billy" BARNASON leading VIRGINIA MONCADA past the stoop of 140 West 75th Street (also owned by STANLEY KATZ), and attempting to take her down the stairs on the side

of the building that lead to the basement apartments. I immediately became concerned because VIRGINIA MONCADA had warned me of WILLIAM BARNASON's history as a level 3 sex offender a few weeks after I had moved into the apartment building. I was also concerned because the apartment he appeared to be leading her to had become vacant earlier that morning after the previous tenant had moved out.

I yelled VIRGINIA MONCADA's name a few times to try and get her attention but she seemed not to hear me even though she was only 20 feet (approximately) away from me. I then yelled WILLIAM BARNASON's name and he too ignored me. At that point I climbed over the low wall that divides the two stoops between 140 and 142 and ran down the stairs of 140 to where WILLIAM BARNASON and VIRGINIA MONCADA were headed and pulled VIRGINIA MONCADA's free arm. WILLIAM BARNASON still had a hold of her other arm. It was clear that VIRGINIA MONCADA was under the influence of what I assumed to be alcohol. Her eyes were unable to focus and she could not speak. Her belt appeared to be undone. I screamed at WILLIAM BARNASON, "what the 'F' do you think you are doing," and he replied that he didn't know where else to take her and that she was really drunk. I asked him why he would take her to a vacant basement apartment and not to her actual apartment in the building next door when he has the keys to the building, or why he just wouldn't buzz one of the neighbors to let her in. At that point he let go of her arm, through his hands in the air and said, "I don't want any trouble." I then told him to get the "F***" out of here. I took VIRGINIA MONCADA to her apartment and had to physically push her the whole way. She was still non-verbal. I got her to her room, made her take Advil and drink water. I then stood outside her closed door and repeatedly told her to lock her door.

[The following day] I ran into the Landlord's son STEVE KATZ. He asked me about the incident. I told him what I witnessed and told him how upset I was that a level three sex offender had access to people's apartments and that it would be in everyone's best interest to let him go. I was told that he just inherited the problem.

29. Barnason attempted to break into the apartment of plaintiffs Amy Martlett and Stacie Edwards-Melchor in or about May 2009. Consistent with his habit of offering to pay overdue rent in return for sex, he was screaming "Stan can't help you, I'm the only one who can help you now," and suggested they should be "friends," which Stacie understood to be a continuation of offers he had previously made, to pay their rent in return for sex. Plaintiff Kimberly Smith intervened, however, he continued his attempt to

gain access to their apartment by banging on the door and screaming. He appeared intoxicated. He did not break off his violent attempt to gain access until he believed the Police were about to arrive, which they did.

30. Edwards-Melchor called Stanly Katz after the attempted assault, and asked him whether he was aware that Barnason was a sex offender. Katz laughed, and said “are you going to hang him with something he did in the past,” or words to that effect. Edwards-Melchor pointed out that Barnason had the keys to apartments, however, Katz was unmoved.

31. As a result of the assault and Katz’s callous response, Edwards-Melchor concluded that she would not be safe from Barnason, and was forced to move out.

32. On information and belief, there are dozens of women, perhaps more, who over the decades have suffered similar misconduct and violations of their civil rights, as tenants in the Katzes’ buildings.

Count I

Violation of the Fair Housing Act

33. Plaintiffs repeat the above paragraphs.

34. Baranson’s sexual assaults, his offensive sexual offers, coercion to have sex in return for rent, and defendants’ offensive statements about plaintiffs, using gender stereotypes, such as “whores,” constitute violations of the Fair Housing Act based on plaintiffs sex, female.

Count II

Violation of the City Law

35. Plaintiffs repeat the above paragraphs.

36. Baranson's sexual assaults, his offensive sexual offers, coercion to have sex in return for rent, and defendants' offensive statements about plaintiffs, using gender stereotypes, such as "whores," constitute violations of the Fair Housing Act based on plaintiffs sex, female.

WHEREFORE, plaintiffs request a judgment granting them compensatory and punitive damages, costs, attorney's fees and such other relief as the Court deems appropriate.

Plaintiffs demand trial by jury.

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