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CLERK OF DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

7 Attorney for Plaintiffs
8 FAIR HOUSING COUNCIL OF SAN FERNANDO VALLEY
9 FAIR HOUSING COUNCIL OF SAN DIEGO

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 FAIR HOUSING COUNCIL OF SAN)
13 FERNANDO VALLEY; FAIR)
14 HOUSING COUNCIL OF SAN)
15 DIEGO; each individually and on)
16 behalf of the GENERAL PUBLIC,)

17 Plaintiffs,

18 vs.

19 ROOMMATE.COM, LLC

20 Defendants.

CASE NO. 03-9386 PA (RZx)

PLAINTIFFS' FIRST
AMENDED COMPLAINT FOR
MONETARY, DECLARATORY
& INJUNCTIVE RELIEF;
DEMAND FOR JURY TRIAL

Filing Date: December 22, 2003
Trial Date: None set

21 I. NATURE OF THE CASE

22 1. This action seeks monetary, declaratory, and injunctive relief against the
23 defendant for making and publishing statements discriminatory on the basis of race,
24 religion, familial status, disability, sexual orientation, gender, age, and source of
25 income in the rental of housing. This action is brought pursuant to the federal Fair
26 Housing Act, 42 U.S.C. § 3601, *et seq.*, as well as related California laws.

27 II. JURISDICTION AND VENUE

28 2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 in that the claims
alleged herein arise under the laws of the United States, specifically the Fair Housing
Amendments Act, 42 U.S.C. § § 3601-3619. This Court has supplemental

1 jurisdiction pursuant to 28 U.S.C. § 1367 to hear and determine plaintiffs' state law
2 claims because those claims are related to plaintiffs' federal law claims and arise out
3 of a common nucleus of related facts.

4 3. Venue is proper in the Central District of California under 28 U.S.C. §
5 1391 (b) (2) because the events or omissions giving rise to these claims occurred in
6 this district and the defendants conduct business in this district.

7 4. This Court has authority to grant declaratory and injunctive relief as
8 well as compensatory and punitive damages pursuant to 42 U.S.C. §§ 3612 (o) (3),
9 3613 (c) (1) and 28 U.S.C. §§ 2201-02. The Court also has the authority to award
10 reasonable attorneys' fees and costs to a prevailing party pursuant to 42 U.S.C. § 3613
11 (c) (2).

12 **III. PARTIES**

13 5. Plaintiff Fair Housing Council of San Fernando Valley ("FHC-SFV")
14 is a non-profit corporation organized under the laws of the state of California with its
15 principal place of business at 8134 Van Nuys Blvd., Ste. 206, Panorama City,
16 California 91402. FHC-SFV's purpose is to actively support and promote equal
17 opportunity and freedom of residence to all persons without regard to race, color,
18 religion, gender, national origin, familial status, marital status, disability, sexual
19 orientation and source of income. FHC-SFV engages in activities to identify barriers
20 to fair housing in Los Angeles County, especially in the San Fernando Valley area, and
21 to help counteract and eliminate discriminatory housing practices. To this end, the
22 activities in which the FHC-SFV engages include, but are not limited to: (1) providing
23 outreach and education to the community regarding fair housing; (2) investigating
24 allegations of discrimination; (3) conducting tests of housing facilities to determine
25 whether freedom of residence and equal opportunity are provided; (4) taking such
26 steps as it deems necessary to assure such equal opportunity and to counteract and
27 eliminate discriminatory housing practices.

28 The plaintiff represents itself and the general public pursuant to California

1 Business & Professions Code § 17200 et seq.

2 6. Plaintiff Fair Housing Council of San Diego (“FHC-SD”) is a non-profit
3 corporation organized under the laws of the state of California with its principal place
4 of business at San Diego, California. FHC-SD’s purpose is to actively support and
5 promote equal opportunity and freedom of residence to all persons without regard to
6 race, color, religion, gender, national origin, familial status, marital status, disability,
7 sexual orientation and source of income. FHC-SD’s engages in activities to identify
8 barriers to fair housing in San Diego County, and to help counteract and eliminate
9 discriminatory housing practices. To this end, the activities in which the FHC-SD
10 engages include, but are not limited to: (1) providing outreach and education to the
11 community regarding fair housing; (2) investigating allegations of discrimination; (3)
12 conducting tests of housing facilities to determine whether freedom of residence and
13 equal opportunity are provided; (4) taking such steps as it deems necessary to assure
14 such equal opportunity and to counteract and eliminate discriminatory housing
15 practices.

16 The plaintiff represents itself and the general public pursuant to California
17 Business & Professions Code § 17200 et seq.

18 7. Upon information and belief, defendant Roommate.com is an Arizona
19 corporation created in connection with the advertising of housing and rental
20 opportunities. While it is incorporated as Roommate.com, LLC, the defendant at all
21 other times is referred to as Roommates.com, including on its website and newsletter.

22 8. Defendant Roommate.com conducts significant business in Southern
23 California, contracting with landlords in Los Angeles and San Diego to post rental
24 listings and contracting with tenants in Los Angeles and San Diego to allow tenants
25 to review the rental listings for properties located in Los Angeles and San Diego.
26 Defendant also advertises its services in Los Angeles in the *LA Weekly*.

27 9. Upon information and belief, defendant does not have the capability to allow
28 users to access the internet through their services.

1 **IV. FACTS**

2 **A. Introduction**

3 10. The defendant owns and operates a website located on the internet at
4 "www.roommates.com." From this website, defendant each month enters into
5 contracts with hundreds of thousands of landlords and sub-lesers to post rental
6 advertisements for a fee on defendants' website.

7 11. Through the use of required information fields, Defendant requires or
8 encourages all users of their website to provide "details regarding your lifestyle" such
9 as age, gender, sexual orientation, source of income and familial status.

10 12. Defendant also requires or encourages housing providers to state their
11 preferences with respect to their potential renter's age, gender, sexual orientation,
12 source of income and familial status.

13 13. As a direct result of defendant's templates and requirements, most of the
14 rental advertisements posted on defendants' website contain discriminatory statements
15 which violate either federal or California fair housing laws. Also, as a result of
16 defendants' requirements and its utter failure to provide any fair housing links or
17 guidance on its website, preferences based on race and religion often appear, such as
18 "Asian preferred," "prefer . . white males," "Looking for a Christian" and "no children
19 please," and numerous others, many of which are set forth in Paragraphs 15-32.

20 14. These statements and many others clearly state bias against each and all
21 protected classes including race, religion, and familial status. The Fair Housing
22 Councils contacted defendants on November 21, 2003 by sending a substantive
23 demand and education letter about the fair housing violations, but defendant claimed
24 on December 12, 2003 that they were exempt from the fair housing laws, and
25 "unwilling" to stop the posting of discriminatory statements on their website. The
26 only change made to the defendant's website in response to the plaintiffs' letter was
27 to remove the Key Word Search feature that allowed plaintiffs to find and review the
28 discriminatory listings.

1 15. Indeed, on December 20, 2003, plaintiffs found that defendants had not
2 removed the website fields requiring information and preferences for familial status,
3 source of income, sexual orientation, and age. Plaintiffs also found an all new group
4 of discriminatory statements made or published by defendant regarding housing in Los
5 Angeles and San Diego, including "Pref white Male roommates," "PLEASE NO
6 WHITE TRASH," "I'm looking for a straight Christian male, who is serious about his
7 Christian walk with God to fill an empty house," "I am NOT looking for black
8 muslims," "AFDC NOT ACCEPTABLE." "I prefer an . . .out gay male," "SEEKS A
9 NICE SINGLE EMPLOYED FEMALE," "I prefer a Christian male, no women
10 allowed in home, living for Christ is the main thing," "no drugs, kids, or animals," "no
11 smokers, kids, or druggies," and "no psychos or anyone on mental medication." These
12 are all statements made, published or developed by defendant on December 20, 2003.

13
14 **B. Statements Made By Defendant in November of 2003**

15 16. During the month of November, 2003, defendant's website included a rental
16 advertisement containing the statement "I am seeking a single Asian Male or Female
17 student or working professionals" (Los Angeles area townhouse).

18 17. During the month of November, 2003, defendant's website included a rental
19 advertisement containing the statement "Asian preferred" (Los Angeles area 4-
20 bedroom house).

21 18. During the month of November, 2003, defendant's website included a rental
22 advertisement containing the statement "prefer 18-25 (year-old) white males" (San
23 Diego apartment).

24 19. During the month of November, 2003, defendant's website included a rental
25 advertisement containing the statement "I am looking for Asian/Spanish persons to
26 share the apartment" (Los Angeles area apartment).

27 20. During the month of November, 2003, defendant's website included a rental
28 advertisement containing the statement "I am a 29 year-old Asian-American

1 professional looking for the same to share a fully furnished 2-bedroom, 2-bathroom
2 apartment in a beautiful gated hilltop community." (Los Angeles).

3 21. During the month of November, 2003, defendant's website included a rental
4 advertisement containing the statement "The person applying for the room MUST be
5 a BLACK GAY MALE!" (Los Angeles).

6 22. During the month of November, 2003, defendant's website included a rental
7 advertisement containing the statement "I love Asians females" (male landlord offering
8 room for \$1 "for the right woman").

9 23. During the month of November, 2003, defendant's website included a rental
10 advertisement containing the statement "looking for gay white or latin guy who is
11 responsible." (San Diego).

12 24. During the month of November, 2003, defendant's website included a rental
13 advertisement containing the statement "looking for ASIAN FEMALE OR EURO
14 GIRL."

15 25. During the month of November, 2003, defendant's website included a
16 rental advertisement containing the statement "Looking for a Christian guy to take a
17 room immediately" (Los Angeles area townhouse).

18 26. During the month of November, 2003, defendant's website included a
19 rental advertisement containing the statement "Please only Christian or strong moraled
20 need inquire" (Los Angeles area house).

21 27. During the month of November, 2003, defendant's website included a
22 rental advertisement containing the statement "This is a Christian home and we are
23 looking for a Christian female to rent a downstairs room" (Los Angeles Area house).

24 29. During the month of November, 2003, defendant's website included a
25 rental advertisement containing the statement "I am NOT looking for black muslims"
26 (Los Angeles area 2-bedroom apartments).

27 30. During the month of November, 2003, defendant's website included a
28

1 rental advertisement containing the statement "prefer a Catholic or Christian" (San
2 Diego area 5-bedroom house).

3 31. During the month of November, 2003, defendant's website included a
4 rental advertisement containing statements to the effect that female applicants having
5 sex with landlord would get "special consideration" (Los Angeles area male landlord,
6 age 47, offering room to straight females only, ages 18-40).

7 32. During the month of November, 2003, defendant's website included a
8 rental advertisement containing the statement "I am looking for a neat freak, christian,
9 non smoking, straight, friendly female to share 2 bedroom apartment with. I am all of
10 the above" (Los Angeles area apartment).

11 33. Defendant published all the above-described statements (¶ ¶ 15-32) on
12 their website at www.roommates.com.

13
14 34. Defendant made all the above-described statements (¶ ¶ 15-32).

15 35. Defendant developed or otherwise encouraged all the above-described
16 statements (¶ ¶ 15-32).

17 36. Defendant has developed and published hundreds of rental housing
18 advertisements that state "No children please." The phrase "No children please" is
19 written and developed by Defendant.

20
21 37. Defendant has developed and published hundreds of rental housing
22 advertisements that state preferences or even absolute requirements for straight, gay
23 or lesbian renters. These statements of preference are written or developed by
24 Defendant.

25 38. Defendant has developed and published hundreds of rental housing
26 advertisements that state preferences or even absolute requirements based on source
27 of income. These statements of preference are written or developed by Defendant.

28 39. Defendant has developed and published hundreds of rental housing

1 advertisements that state preferences or even absolute requirements based on age.
2 These statements of preference are written or developed by Defendant.

3 40. Upon information and belief defendant has e-mailed all the above-
4 described statements in rental advertisements to customers.

5 41. Upon information and belief defendant have provided customers with
6 hard copies of the above-described rental advertisements.

7 42. Upon information and belief defendant has provided customers with
8 have re-published these statements in their self-described "newsletter."
9

10 43. Upon information and belief, defendant has published and are
11 continuing to publish thousands of rental advertisements for housing in California
12 containing statements that violate the state and federal fair housing laws, and tens of
13 thousands rental advertisements for housing throughout the United States containing
14 statements that violate state and federal fair housing laws
15

16 44. Upon information and belief, none of the landlords or housing providers
17 who contracted with defendant to publish the advertisements described above have
18 exemptions from the fair housing laws prohibiting discriminatory statements.

19 45. Plaintiffs are preparing complaints to be filed with the United States
20 Department of Housing & Urban Development's (HUD) or the California Dept. of Fair
21 Housing & Employment (DFEH) against some of the housing providers and landlords
22 who asked defendant to publish the discriminatory statements.
23

24 46. Upon information and belief, defendant has always allowed,
25 encouraged, and required housing providers and landlords to publish discriminatory
26 advertisements such as those described above.

27 47. Although defendant is the direct intermediary for over 100,000 housing
28

1 opportunities on any given day, they do not provide nor post any information about
2 fair housing rights or law or responsibilities on their website or other publications or
3 emails.

4
5 **C. The Fair Housing Councils' Investigations and Responses**
6 **in Los Angeles and San Diego**

7
8 48. Both plaintiff Fair Housing Councils are committed to ensuring freedom
9 of residence and equal availability of housing to all persons without regard to familial
10 status, race, religion, gender, disability, sexual orientation and source of income.
11 Both Councils seek to eliminate prejudice and discriminatory housing practices, and
12 defend human and civil rights by law.

13 49. With respect to the facts set forth in this complaint, both Councils have
14 devoted significant efforts, expenses, and resources in responding to defendant's
15 discriminatory statements and investigating the discriminatory practices alleged herein.
16 Those efforts and expenses include the hours spent by staff members monitoring the
17 defendant's website, educating the landlords who place discriminatory ads, legal
18 research by staff attorneys and outside counsel, beginning unique and unprecedented
19 education campaigns targeting discriminatory advertising in roommate advertisements,
20 attempts to educate the defendant about the fair housing laws, attempts to conciliate
21 the matter, and retaining an attorney to conciliate the matter.

22
23 50. Defendant's discriminatory and negligent actions have caused, and are
24 continuing to cause, harm to both Councils by frustrating their missions of identifying
25 and eliminating discriminatory housing practices in their respective metropolitan areas,
26 Los Angeles and San Diego. Defendant's actions have interfered with all of the efforts
27 and programs of the Councils by: (1) forcing each Council to direct these scarce
28 resources to identifying and counteracting the defendant's unlawful practices, and (2)

1 frustrating their mission of identifying and eliminating discriminatory housing
2 practices in Los Angeles and San Diego. Defendant's unlawful acts and practices have
3 caused both Councils to suffer economic losses in staff pay, in funds expended in
4 support of volunteer services and postage and materials, and in the inability to prevent
5 other unlawful housing practices. Defendant's actions have also set back both
6 Councils' goals of achieving fair housing for Los Angeles and San Diego by impeding
7 and undermining their efforts to educate the public about discriminatory housing
8 practices, including discriminatory advertising practices, and to provide counseling
9 and referral services to the public about housing discrimination.

10
11 **V. CLAIMS FOR RELIEF**

12
13 **A. FIRST CLAIM**

14 **[FAIR HOUSING ACT]**

15 51. Plaintiffs incorporate by reference each and every allegation
16 contained in paragraphs 1 through 50 above.

17
18 52. Defendant, by and through a pattern of practice of discrimination on
19 the basis of race, religion, and familial status have violated the federal Fair Housing
20 Amendments Act, 42 U.S.C. §§ 3601-3619, in that defendant injured plaintiffs by
21 engaging in the following discriminatory housing practices. Defendant:

22
23 A. Made statements with respect to the rental of a dwelling
24 which indicated a preference, limitation, or discrimination
25 based on race in violation of 42 U.S.C. § 3604 (c);

26
27 B. Made statements with respect to the rental of a dwelling
28 which indicated a preference, limitation, or discrimination

1 based on religion in violation of 42 U.S.C. § 3604 (c);

2 C. Made statements with respect to the rental of a dwelling
3 which indicated a preference, limitation, or discrimination
4 based on familial status in violation of 42 U.S.C. § 3604 (c);

5 D. Made statements with respect to the rental of a dwelling
6 which indicated a preference, limitation, or discrimination
7 based on disability in violation of 42 U.S.C. § 3604 (c);

8 E. Made statements with respect to the rental of a dwelling
9 which indicated a preference, limitation, or discrimination
10 based on gender in violation of 42 U.S.C. § 3604 (c);

11 F. Failed to display a Department of Housing and Urban
12 Development (HUD) Fair Housing and Equal Opportunity
13 symbol, poster or the like, in violation of 24 C.F.R. § 110 et.
14 seq.
15

16 53. The aforementioned conduct of defendant was willful, malicious,
17 fraudulent or oppressive, subjecting defendant to liability for punitive damages in an
18 amount to be proven at trial.
19

20 B. SECOND CLAIM

21 [CALIFORNIA FAIR EMPLOYMENT AND HOUSING ACT]

22 54. Plaintiffs incorporate by reference each and every allegation contained
23 in paragraphs 1 through 53 above.

24 55. Defendant, by and through a pattern or practice of discrimination on the
25 basis of race, religion, national origin, familial status, sexual orientation, gender,
26 marital status, and disability violated the California Fair Employment and Housing
27 Act, California Government Code § 12955.
28

1 businesses, and therefore have engaged in acts of unlawful business practices or
2 unfair business practices as defined in § 17200 of the California Business and
3 Professions Code. Moreover, defendant have profited from the aforesaid conduct and
4 are consequently required to disgorge their ill-gotten profits by making restitution to
5 the victims of their conduct.

6 63. In bringing this action for injunctive relief, each plaintiff is acting in
7 the interest of itself and in the interest of the general public pursuant to the California
8 Business and Professions Code § 17204.

9
10 **E. FIFTH CLAIM**

11 **[NEGLIGENCE]**

12 64. Plaintiffs incorporate by reference each and every allegation contained
13 in paragraphs 1 through 63 above, as though fully set forth herein.

14 65. Defendant owed plaintiffs a duty to operate its rental housing website
15 in a manner that was free from unlawful discriminatory statements and other
16 discriminatory practices, and to hire, train, supervise and discipline their employees
17 and themselves to fulfill that duty. Defendant negligently violated that duty by
18 developing, making, publishing and re-publishing statements that are discriminatory
19 on the basis of race, national origin, familial status, religion, marital status, age,
20 disability, and source of income. Defendant's violation of that duty and plaintiff's
21 injuries were the result of negligence, including but not limited to:

- 22
- 23 A. Defendant's negligent failures to train their employees, members, and
24 themselves regarding the requirements of state and federal fair housing
25 laws;
 - 26 B. Defendant's negligent failures to hire persons who were familiar with
27 the requirements of state and federal fair housing laws;
- 28

1 **CERTIFICATE OF SERVICE**

2 I am over the age of 18 years and am not a party to the within action. My business address
3 is 834 1/2 S. Mansfield Ave., Los Angeles CA 90036

4 On April 9, 2004, I served a true and correct copy of the following document(s):

5 **PLAINTIFFS' FIRST AMENDED COMPLAINT**

6 upon the following person(s):

7 Timothy L. Alger, Esq.
8 **QUINN EMANUEL URQUHART**
865 South Figueroa Street, 10th Floor
9 Los Angeles, CA 90017-2543
10 Fax: 213/624-0643

11 in the following manner(s):

12		BY HAND DELIVERY: By causing such document(s) to be delivered by hand to the above person(s) at the address(es) set forth above.
13		
14	X	BY MAIL: By placing a copy thereof enclosed in a sealed envelope, with postage thereon fully prepaid, in the United States mail at Los Angeles, California, addressed as set forth above.
15		
16		BY THIRD-PARTY COMMERCIAL CARRIER (OVERNIGHT DELIVERY): By delivering a copy thereof to a third-party commercial carrier, addressed as set forth above, for delivery on the next business day.
17		
18		BY FACSIMILE: By transmitting the above document(s) to the facsimile number(s) of the addressee(s) designated above.
19		

20
21 I certify that I am employed as a member of the bar of this court. I declare under penalty
22 of perjury that the above is true and correct.

23 Executed on April 9, 2004, at Los Angeles, California.

24
25 
26 Gary Rhoades