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2004

Complaint, Seymour v. Hug, 413 F.Supp.2d 910,
Docket No. 1:04-cv-02041 (Northern District of
Illinois 2005)

F. Willis Caruso

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John Marshall Law School Fair Housing Legal Clinic

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FILED FOR DOCKETING
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CLERK
U.S. DISTRICT COURT

DONNA L. SEYMOUR,)
)
Plaintiff,)
)
)
vs.)
)
)
)
CAROL HUG AND ROGER HUG,)
D/B/A REMAX TEAM 2000,)
PATRICIA BROWN-WYRICK,)
CENDANT MOBILITY CORP)
A Corporation, and)
Curtis Castle and Carol Castle,)
)
Defendants.)

NO. **04C 2041**

Judge: **JUDGE MAROVICH**

Magistrate: **MAGISTRATE JUDGE LEVIN**

Plaintiff Demands
By Jury

MAR 18 2004

COMPLAINT

The Plaintiff, Donna Seymour, ("Seymour") by her attorneys, Leslie V. Matlaw, F. Willis Caruso, Lewis W. Powell III and Senior Law Students of The John Marshall Law School Fair Housing Legal Clinic, complains of Defendants Carol Hug and Roger Hug (sometimes referred to as the "Hugs"), individually and doing business as REMAX TEAM 2000, Patricia Brown- Wyrick ("Wyrick") Cendant Mobility Corp., a corporation ("Cendant"), Curtis Castle and Carol Castle (sometimes referred to as the "Castles"), as follows:

H

JURISDICTION AND VENUE

1. This action arises under 42 U.S.C. §§ 3601 et seq. , 42 U. S. C. §§ 3604 (a) (b) , 3605, and 3617 and 42 U. S. C. §§ 1981 and 1982.
2. Jurisdiction is conferred on this Court by 42 U.S.C. §3613 (a), 28 U.S.C. §1331, 28 U.S.C. § 2201, and 28 U.S.C. § 1343 (a)(4).
3. Venue is proper in this district under 28 U. S. C. § 1291(b) and (c) because at the times relevant hereto, acts alleged herein took place and/or the parties were located in and worked and/or did business in the Northern District of Illinois, Eastern Division.

THE PARTIES

4. Plaintiff Seymour is a female African American citizen of the United States who at all times relevant hereto resided in the southwest Suburbs of Chicago, Illinois at 645 Aspen Street, Frankfort, Illinois.
5. Roger Hug is a white person who resided and/or did business in the south and southwest suburbs of Chicago, Illinois at times relevant hereto..
6. Carol Hug is a white person who resided and/or did business in the south and southwest suburbs of Chicago, Illinois at times relevant hereto.
7. On information and belief Carol Hug and Roger Hug were husband and wife at times relevant hereto.
8. Carol Hug and Roger Hug were doing business as REMAX TEAM 2000.
9. Patricia L. Brown-Wyrick was a Realtor for and acted as an agent for the Hugs d/b/a REMAX Team 2000 and worked out of the office located at 15607

South Harlem Avenue, Orland Park Illinois in the southwest suburbs of Chicago, Illinois, in the Northern District, Eastern Division.

10. Cendant Mobility Corporation is a corporation doing business in Frankfort, Illinois in the southwest suburbs of Chicago, Illinois in the Northern District of Illinois, Eastern Division.
11. Curtis Castle is a white person who resided in the southwest suburbs of Chicago, Illinois at times relevant hereto in Frankfort, Illinois.
12. Carol Castle is a white person who resided in the southwest suburbs of Chicago, Illinois at times relevant hereto in Frankfort, Illinois.
13. On information and believe Curtis Castle and Carol Castle were husband and wife.

FACTS

14. In or about the spring of 2001 Seymour sought to purchase a larger home in Frankfort, Illinois.
15. Seymour was familiar with the area and real estate practices in the area.
16. Seymour had been a Realtor since 1992 practicing exclusively in the south and southwest suburbs and had lived in Frankfort since 1998.
17. Frankfort, Illinois in 2001 was an almost exclusively white community.
18. Prior to looking at this time in the spring of 2001, Seymour had first obtained a mortgage commitment from the LaSalle National Bank.
19. At the time in the spring of 2001 Seymour sought to purchase a new larger home in the same school district she was working as a Broker Associate.

20. The Castles owned the property at 216 Tanglewood Drive, Frankfort, Illinois (sometimes the "Subject Property"). .
21. On information and belief the Castles were relocating to New Orleans, Louisiana.
22. On information and belief Cendant had been engaged to handle the transaction and the closing details relating to sale of the Subject Property for the Castles.
23. On information and belief Cendant was given responsibility for the closing details and delegated the responsibility for working on the contract negotiations for the Castles.
24. The Castles retained a final say as to accepting offers for the Subject Property.
25. The Hugs, REMAX Team 2000, acted as Exclusive Listing Broker for the Subject Property.
26. All negotiations between the Plaintiff and the Defendants were required to be conducted through the Defendant Wyrick.
27. It was Wyrick's responsibility to convey all offers and counter-offers between the parties.
28. In or about April of 2001 Seymour worked diligently with Wyrick to develop an offer that would be acceptable to Cendant and the Castles.
29. All negotiations between Seymour, Cendant and the Castles were required to go through Wyrick.
30. Wyrick was the designated agent for the Castles and Cendant.

31. Wyrick was responsible for bringing offers to the Castles and Cendant in accordance with the requirements of the Real Estate Board, regulations, established procedures and prevailing customary practices.
32. Wyrick in working with Cendant had Cendant's required riders to the contracts several weeks prior to the offer and acceptance between the Castles and Seymour.
33. Seymour had worked as a real estate broker associate for several years and was familiar prevailing customary practices.
34. Seymour viewed the house once on her own and then returned with her two children who are also African-American.
35. During Seymour's second walk through viewing the house Mr. Curtis Castle was in the house and greeted her and her children.
36. On or about April 25, of 2001, Seymour viewed and offered to purchase the Subject Property at 216 Tanglewood Drive, in Frankfort, Illinois.
37. Mr. Castle told Seymour that there was no pending offer for the Subject Property.
38. Seymour prepared the paperwork for an offer of \$210,000 to purchase the Subject Property and faxed the contract and her pre-approved \$180,000 Banc Group mortgage information to Wyrick. Seymour had and she advised Wyrick that she had available funds to pay the remainder of the purchase price.
39. Thereafter, working with Wyrick Seymour and Wyrick worked with the offer to determine an offer of Seymour would be accepted.

40. On or about Friday, April 27, 2001 Wyrick telephoned Seymour to tell her that the Castles had accepted her offer.
41. Wyrick did not fax or otherwise provide Seymour with the required Cendant's required riders.
42. Seymour faxed her written offer in the amount of \$220,000 which was accepted by the Castles that afternoon, on April 27, 2001. .
43. The offer was not subject to any contingent financing.
44. Seymour told Wyrick she would deliver the hard copy of the contract and the earnest money check to Wyrick's office in Orland Park the next day, April 28, 2001.
45. Although Wyrick had the required Cendant riders Wyrick did not fax them to Seymour.
46. In fact, Wyrick did not fax the required riders to Seymour until after the close of business on Friday the 27th of April 2001.
47. None of the negotiations between Wyrick and Seymour leading up to the signing of the contract were conducted face-to-face. Everything was done exclusively by fax and telephone.
48. The following day, Saturday, April 28, 2001 Seymour took the original of the signed contract and the earnest money to Wyrick's Orland Park office.
49. At that REMAX office an apparently clerical employee, who is Caucasian (white) was at the front desk. Such white apparently clerical employee answered the telephones for REMAX and had previously forwarded Seymour's calls to Wyrick.

50. Seymour introduced herself to the white clerical employee and told her she was dropping off the contract and earnest money.
51. The white employee responded in a surprised voice "you're Donna Seymour?"
52. On information and belief the fact that Seymour is African-American was then conveyed to Wyrick and others.
53. Wyrick did not take the Subject Property listing off the market so it would continue to show as "Open" (available for sale) despite the fact that there was an accepted contract for purchase and sale.
54. Wyrick did nothing to protect the first in time contract of Seymour.
55. Instead, Wyrick allowed a white purchaser to go directly to the Castles and negotiate with them for price, an opportunity that Seymour who is African American did not have at any time.
56. The Contract for the white buyer was faxed to Wyrick by another Realtor and Wyrick went to that Realtor's office on or about Sunday April 29, 2001 to pick up that contract of the white buyer.
57. At no time did Wyrick advise Seymour that Wyrick had continued to solicit offers in spite of telling Seymour that she had a contract when she accepted Castle's counter offer. Neither did Wyrick give Seymour a chance to negotiate.
58. Wyrick then faxed both the white offer for \$222,000 and the Seymour offer for \$220,000 to Cendant
59. Seymour being eager to close called and faxed Wyrick several times on

Saturday, Sunday and Monday. None of these contacts were answered.

60. Seymour celebrated with her children having successfully negotiated for their new home.
61. Seymour was eager to close and telephoned and faxed Wyrick several times that weekend and on Monday. Previously, Wyrick had been quite responsive to Seymour calls and contacts.
62. To Seymour's surprise and growing unease, each one of her attempts to contact Wyrick went unanswered after April 28th (the day she showed up Black at REMAX's Orland Park office.
63. Beginning on Monday, receipt of two contracts signed by the same seller was the subject of much discussion at Cendant.
64. The handling of the contracts which appears to have been memorialized in its apparently computerized notes files and e-mail file..
65. Cendant was also in communication with both Wyrick and Curtis Castle and discussed with both of them the Castles' obligation to adhere to Seymour's prior contract which was accepted.
66. Curtis Castle and Cendant specifically discussed the possibility that if Cendant and Castle were to accept the later offer, litigation could result.
67. Despite this, on information and belief based upon Cendant's own records, Curtis Castle told Cendant in at least two conversations to abandon Seymour's contract and to follow through on the later offer by the white buyer.
68. By Tuesday afternoon, Seymour was concerned about Wyrick's three-day refusal to speak with her. She telephoned REMAX, stating there was an

emergency and she needed to speak to Wyrick right away. REMAX's clerical staff put Wyrick on the telephone with Seymour and Seymour asked her what was going on with her contract. Wyrick then responded, "Oh, that house sold over the weekend."

69. Seymour was stunned by Wyrick's response and stated that Wyrick had sold the house out from under her.
70. Seymour immediately filed an administrative complaint at HUD BASED on discrimination against her because of her race, Black. Seymour also filed an Ethics Complaint with the Board of Realtors.
71. Subsequent to Wyrick's having told Seymour that the Subject Property was no longer available for purchase, Cendant continued to negotiate terms with the successful white buyer; the later offer was not fully finalized for several days
72. During the period of continued negotiations Wyrick, Castle and Cendant provided no opportunity for Seymour to offer a higher or better price or contract or otherwise negotiate for the purchase of the house.
73. The U.S. Department of Housing and Urban Development investigated Seymour's Complaint and attempted to settle the case. HUD's investigation continued over the course of two years but the Agency never issued a Determination.
74. Seymour withdrew her complaint from the administrative process and now pursues her fair housing rights in this federal court.

75. Seymour's Statute of Limitations was tolled during the HUD investigation and this Complaint is still timely.

FIRST CLAIM

Violation of the Fair Housing Act of 1968

76. Seymour repeats the allegations of paragraphs 1 through 75 as her paragraph 76.
77. Defendants, in violation of 42 U.S.C. § 3604, have intentionally and with callous and reckless disregard for her civil rights, discriminated against Seymour because of her race, Black. In violation of 42 U.S.C. §3604:

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, sex, familial status, 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, sex familial status, or national origin.*

Defendants' above-described discriminatory treatment and refusal to deal with Seymour in connection with the sale of a dwelling has caused her and her family economic injury, consequential damages and personal harm.

SECOND CLAIM

Violation of the Fair Housing Act of 1968

78. Plaintiff repeats the allegations of paragraphs 1 through 75 as her paragraph 78.

79. In violation of 42 U.S.C. § 3605, Defendants have intentionally, and with callous and reckless disregard for her civil rights, discriminated against Seymour because of her race, Black.

a. In General.—It shall be unlawful for any person or other entity whose business includes engaging in residential real-estate-related transactions to discriminate against any person making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

b. Definition.—As used in this section, the term “residential real-estate-related transaction” means any of the following:

1. -----

2. The selling, brokering, or appraising of residential real property.

80. In violation of 42 U.S.C. §3605, Defendants' above-described discrimination and discriminatory refusal to deal with Seymour in connection with the sale of a dwelling has caused her and her family economic injury, consequential damages and personal harm.

THIRD CLAIM

Violation of 42 U.S.C. §1981

81. Plaintiff repeats the allegations of paragraphs 1 through 75 as her paragraph 81.

82. Defendants' above-described actions have intentionally and with callous and reckless disregard for her civil rights denied Seymour the same rights enjoyed by White citizens to contract for real property in violation of Title 42 U.S.C. §1981, which has caused her and her family economic loss, consequential damages and personal harm. Section 1981 which provides as follows:
"All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens....."

FOURTH CLAIM

Violation of 42 U.S.C. §1982

83. Plaintiff repeats the allegations of paragraphs 1 through 75 as her paragraph 83.

84. Defendants' above-described actions have intentionally and with callous and reckless disregard for her civil rights denied Seymour the same rights enjoyed by White citizens to contract for real property in violation of Title 42 U.S.C. §1982, which has caused her and her family economic loss, consequential damages and personal harm. Section 1982 which provides as follows:
"All Citizens of the United States shall have the same right, in every State and

Territory, as enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property."

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

- a. That the Court declare the actions of Defendants complained of herein to be in violation of the Fair Housing Act of 1968, as amended, and in violation of 42 U.S.C. §§ 1981 and 1982;
- b. That Defendants, their agents, employees, and successors be preliminarily and permanently enjoined from discriminating on the basis of race against any persons in violation of the Fair Housing Act of 1968 or the Civil Rights Act of 1866;
- c. That Defendants **ROGER/CAROL HUG D/B/A REMAX TEAM 2000** and **CENDANT MOBILITY CORPORATION** be ordered to:
 - (i) Utilize the phrase "Equal Housing Opportunity" in all of their advertisements, solicitation;
 - (ii) Promulgate and implement a non-discrimination policy to be utilized in all dealings with the public as well as with other brokers, lenders and other housing professionals;
 - (iii) Develop and implement programs to encourage African-Americans to seek employment with them as agents and in other positions of significant responsibility for the sale or leasing of real property;

- (iv) Develop a marketing and outreach program designed to encourage African-Americans to utilize their real property leasing and sale services which is supported by adequate staff and resources to enable it to show tangible success at a future monitoring date or date to be set by this Court or delegated to an appropriate governmental fair housing agency, private fair housing agency or court-appointed monitor with demonstrable capacity to assess and report Defendants' marketing and outreach progress;
- (v) Post in a prominent place readily viewed by all employees and prospective customers of in their places of business fair housing notices which inform viewers of their fair housing rights under the Fair Housing Act and how they may have the federal government investigate and seek redress for any suspected violation thereof;

d. That appropriate compensatory and punitive damages be awarded to Seymour for discrimination against her and her children, and against Defendants, jointly and severally, for the economic loss, humiliation, embarrassment, physical and emotional distress and mental anguish caused by their intentionally discriminatory acts;

e. That Seymour be awarded her costs and reasonable attorneys' fees in this action;

f. And that Seymour be awarded such other relief as the Court deems just and proper.

JURY DEMAND

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiff demands a trial by jury of all issues which may be tried in the matter.

Respectfully Submitted,



By: One of the Attorneys for Plaintiff

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

J

Civil Cover Sheet

This automated JS-44 conforms generally to the manual JS-44 approved by the Judicial Conference of the United States in September 1974. The data is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. The information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law. This form is authorized for use only in the Northern District of Illinois.

Plaintiff(s): **Donna L. Seymour**

Defendant(s): **Carol Hug and Roger Hug, D/B/A ReMax Team 2000, Patricia Brown-Wyrick, Cendant Mobility Corp., Curtis Castle, and Carol Castle**

County of Residence:

County of Residence:

Plaintiff's Atty: **F. Willis Caruso
John Marshall Fair Housing
Legal Clinic, 28 East Jackson,
Suite 500
Chicago, IL 60604
312 786 2267**

Defendant's Atty:

04C 2041

JUDGE MAROVICH

II. Basis of Jurisdiction: **3. Federal Question (U.S. not a party)**

III. Citizenship of Principal Parties (Diversity Cases Only)

MAGISTRATE JUDGE LEVIN

Plaintiff: **- 2 Citizen of Another State**
Defendant: **- 1 Citizen of This State**

IV. Origin : **1. Original Proceeding**

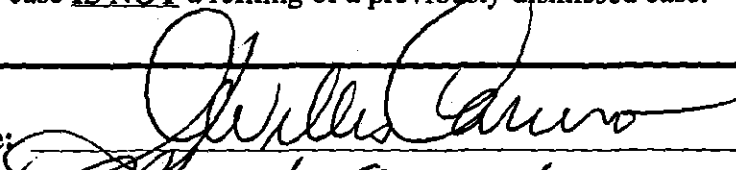
V. Nature of Suit: **443 Housing/Accommodations**

VI. Cause of Action: **This action arises under 42 U.S.C Sec. 3601 et seq., 42 U.S.C. Secs. 3604(a)(b), 3605, 3617 and 42 U.S.C. Secs. 1981 and 1982.**

VII. Requested in Complaint

Class Action: **No**
Dollar Demand: **Approximately \$200,000**
Jury Demand: **Yes**

VIII. This case **IS NOT** a refiling of a previously dismissed case.

Signature: 

Date: **March 18, 2004**

FILED FOR DOCKETING
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U.S. DISTRICT COURT
CLERK

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

In the Matter of

EASTERN DIVISION

Donna L. Seymour, Plaintiff,
v.
Carol Hug, Patricia Hug, Patricia Brown-Wyrick
Cendant Mobility Corp., Curtis Castle, and Carol Castle.

04C 2041
Case Number:

JUDGE MAROVICH

APPEARANCES ARE HEREBY FILED BY THE UNDERSIGNED AS ATTORNEY(S) FOR:

X **PLAINTIFF**

MAGISTRATE JUDGE LEVIN

(A)		(B)	
SIGNATURE <i>Willis Caruso</i>		SIGNATURE <i>Lewis W. Powell III</i>	
NAME F. Willis Caruso		NAME Lewis W. Powell III	
FIRM The John Marshall Fair Housing Legal Clinic		FIRM The John Marshall Fair Housing Legal Clinic	
STREET ADDRESS 28 E. Jackson, Suite 500		STREET ADDRESS 28 E. Jackson, Suite 500	
CITY/STATE/ZIP Chicago/ Illinois/60604		CITY/STATE/ZIP Chicago/Illinois/60604	
TELEPHONE NUMBER 312-786-2267	FAX NUMBER 312-786-1047	TELEPHONE NUMBER 312-786-2267	FAX NUMBER 312-786-1047
E-MAIL ADDRESS 6caruso@jmls.edu		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 33789		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE) 33789	
MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		MEMBER OF TRIAL BAR? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	
(C)		(D)	
SIGNATURE		SIGNATURE	
NAME		NAME	
FIRM		FIRM	
STREET ADDRESS		STREET ADDRESS	
CITY/STATE/ZIP		CITY/STATE/ZIP	
TELEPHONE NUMBER	FAX NUMBER	TELEPHONE NUMBER	FAX NUMBER
E-MAIL ADDRESS		E-MAIL ADDRESS	
IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)		IDENTIFICATION NUMBER (SEE ITEM 4 ON REVERSE)	
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TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>		TRIAL ATTORNEY? YES <input type="checkbox"/> NO <input type="checkbox"/>	
DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>		DESIGNATED AS LOCAL COUNSEL? YES <input type="checkbox"/> NO <input type="checkbox"/>	

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