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8	UNITED STATES DISTRICT COURT
9	DISTRICT OF NEVADA
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12	UNITED STATES OF AMERICA,) Case No.
13	Plaintiff,
14	v.)
15)) COMBLAINT
16	DOUGLAS WEILBURG,) <u>COMPLAINT</u>
17	Defendant.
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19	COMES NOW Plaintiff, the United States of America, by and through DANIEL G.
20	BOGDEN, United States Attorney, and HOLLY A. VANCE, Assistant United States Attorney,
21	and for its complaint against Defendant Douglas Weilburg ("Defendant") alleges as follows:
22	<u>INTRODUCTION</u>
23	1. This is an action by the United States of America to enforce the provisions of Title
24	VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988,
25	42 U.S.C. §§ 3601 through 3619.
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2. The United States brings this action on behalf of Complainant Natalie Meredith ("Complainant") pursuant to 42 U.S.C. § 3612(o).

JURISDICTION AND VENUE

- 3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3612(o).
- 4. Venue is proper in this district pursuant to 28 U.S.C. § 1391 and 42 U.S.C. § 3612(o), as Defendant is located in this judicial district and the events or omissions giving rise to the claim occurred in this judicial district.

<u>PARTIES</u>

- 5. Plaintiff is the United States of America.
- 6. At all times relevant to the Complaint, Defendant Douglas Weilburg was the owner and landlord of the subject property. The subject property is a single-family house located at 521 G Street, Sparks, Nevada 89431.
- 7. Natalie Meredith ("Complainant") has medical conditions that cause her to have hypersensitivity to mold, fungus and allergens, which substantially limits her major life activities. She is a person with a disability within the meaning of 42 U.S.C. § 3602(h)(1), (2) and (3).

ALLEGATIONS

- 8. On or about February 18, 2011, Complainant contacted Defendant regarding Defendant's advertisement to rent a single-family house located at 521 G Street in Sparks, Nevada.
 - 9. The house is a dwelling as defined by the Fair Housing Act. 42 U.S.C. § 3602(b).
- 10. Complainant and Defendant had a conversation on or about February 18, 2011, in which Defendant told Complainant he wanted a tenant for the property at 521 G Street immediately. Complainant stated that she still had several months before she needed to move. Defendant informed Complainant that the house at 521 G Street was going to become available within the next month and that if Complainant did not find another rental unit within the next few weeks, she should contact him regarding the house's availability.

- 11. In an e-mail dated March 10, 2011, Complainant stated that she would like to rent the house at 521 G Street when it became available.
- 12. In an e-mail dated March 16, 2011, Defendant told Complainant that the house was undergoing renovation that would be completed around mid-April 2011.
- 13. In an e-mail dated March 30, 2011, Defendant told Complainant that the house should be ready around the 15th of April for move in. Defendant advised Complainant to contact him if she wished to see the house.
- 14. On March 31, 2011, Complainant met Defendant at the house and Defendant gave Complainant a key to the house. During this meeting, Complainant informed Defendant about her hypersensitivity to mold, fungus and allergens.
- 15. Defendant did not require Complainant to submit a formal rental application. Nor did he check Complainant's credit before a disability discrimination complaint was filed on Complainant's behalf with the United States Department of Housing and Urban Development ("HUD").
- 16. In an e-mail dated April 9, 2011, Defendant informed Complainant that renovations to the house were taking longer than planned and that the completion date was now expected to be May 15, 2011.
- 17. In an e-mail dated April 11, 2011, Defendant stated to Complainant: "The property at 521 G Street is promised to you."
- 18. In an e-mail dated May 9, 2011, Defendant stated: "When are you planning your move. If you have had a change of mind it is okay. Just let me know before the 15th of May."
- 19. In an e-mail dated May 10, 2011, Complainant asked Defendant if she could pay for a company called Truckee Meadows Indoor Air Quality ("Truckee Meadows") to have the house's heating vents professionally cleaned. She stated that she had respiratory problems and was very sensitive to mold, dust and all allergens, so she needed to ensure that the vents were extremely clean.

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In an e-mail dated May 10, 2011, Defendant agreed to Complainant's request.

- 21. Complainant subsequently arranged for a subcontractor with Truckee Meadows to visit the house on May 13, 2011.
- 22. On May 13, 2011, a subcontractor with Truckee Meadows visited the house at 521 G Street. However, Defendant dismissed the subcontractor before he could clean the vents.
- 23. After the subcontractor departed, Defendant called Complainant and stated: "You have allergies and I am not comfortable renting to you anymore."
- 24. Later that day, Complainant's mother called Defendant to obtain clarification regarding his decision not to rent the house to Complainant. Defendant responded that he was not going to rent to Complainant because "I do not feel comfortable with her having allergies."
- 25. During HUD's investigation of the case, Defendant stated that he refused to rent to Complainant because he believed she was prone to passing out due to dust or mold emitted from the house's heater. Defendant further stated that if Complainant passed out from breathing dust or dust mold while the electric range was on, the electric range could catch fire and set the house on fire, thereby resulting in severe harm to Complainant or another person in the house.

HUD ADMINISTRATIVE PROCESS

- 26. On or about August 11, 2011, Complainant filed a timely fair housing complaint with HUD, alleging that Defendant discriminated against her based on disability.
- 27. Pursuant to 42 U.S.C. § 3610(a) and (b), the Secretary of HUD conducted and completed an investigation of the complaint, attempted conciliation without success and prepared a final investigative report. Based on the information gathered in the investigation, the Secretary, pursuant to 42 U.S.C. § 3610(g)(1), determined that reasonable cause existed to believe that illegal discriminatory housing practices had occurred. Therefore, on or about September 5, 2012, the Secretary issued a charge of discrimination, pursuant to 42 U.S.C. § 3610(g)(2)(A), charging Defendant with engaging in discriminatory practices based on disability.

- 28. On or about September 26, 2012, Defendant elected to have the claims asserted in the HUD Charge resolved in a civil action pursuant to 42 U.S.C. § 3610(a). On September 26, 2012, the Administrative Law Judge issued a Notice of Election to Proceed in United States District Court and terminated the administrative proceeding.
- 29. Following this Notice of Election, the Secretary of HUD authorized the Attorney General to commence civil action, pursuant to 42 U.S.C. § 3612(o).

VIOLATION OF 42 U.S.C. § 3604(f)(1)(A)

- 30. It is unlawful to discriminate in the sale or rental of or to otherwise make unavailable or deny a dwelling to any buyer or renter because of a disability of that buyer or renter. 42 U.S.C. § 3604(f)(1)(A).
- 31. Defendant violated 42 U.S.C. § 3604(f)(1)(A) when he denied rental housing or made rental housing unavailable to Complainant because she is disabled and/or is regarded as being disabled with respiratory problems and hypersensitivity to mold, dust and allergens.

VIOLATION OF 42 U.S.C. § 3604(c)

- 32. It is unlawful 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, sex, disability, familial status or national origin or an intention to make any such preference, limitation or discrimination. 42 U.S.C. § 3604(c)
- 33. Defendant violated 42 U.S.C. § 3604(c) when he told Complainant that he was not comfortable renting to her because she had allergies.
- 34. Defendant's discriminatory actions were intentional, willful and taken in disregard of the rights of Complainant.
- 35. As a result of Defendant's conduct, Complainant has suffered damages and is an aggrieved person within the meaning of 42 U.S.C. § 3602(i).

REQUEST FOR RELIEF

WHEREFORE the United States respectfully requests that this Court enter an ORDER:

- Declaring that Defendant's discriminatory housing practices as alleged in this
 Complaint violate the Fair Housing Act;
- 2. Enjoining Defendant, his officers, employees, agents, successors and all other persons in active concert or participation with him, from:
 - a. Discriminating in the sale or rental, or otherwise making unavailable or denying, a dwelling to any buyer or renter because of disability, in violation of 42 U.S.C. § 3604(f)(1);
 - b. Making, printing or publishing, or causing 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 disability, or an intention to make any such preference, limitation or discrimination, in violation of 42 U.S.C. § 3604(c);
 - c. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, Complainant to the position she would have been in but for the discriminatory conduct; and
 - d. Failing or refusing to take such actions as may be necessary to prevent the recurrence of any such discriminatory conduct in the future and to eliminate, to the extent practicable, the effects of Defendant's unlawful conduct, and implementing policies and procedures to ensure that no rental applicants or tenants are discriminated against because of disability;
- 3. Awarding monetary damages to Complainant pursuant to 42 U.S.C. §§ 3612(o)(3) and 3613(c)(1); and

1	4. Awarding the United States such additional relief as is just and proper.
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3	Dated this 26 th day of October 2012.
4	Respectfully submitted,
5	DANIEL G. BOGDEN United States Attorney
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7	/s/ Holly A. Vance
8	/s/ Holly A. Vance HOLLY A. VANCE Assistant United States Attorney
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