

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

**NEW YORK STATE DIVISION OF HUMAN
RIGHTS, on the complaint of Roman Erikhman,**

Plaintiff,

v.

**JAMES HOPKINS, AS PRESIDENT OF THE
COVE CLUB CONDOMINIUM; MILFORD
MANAGEMENT CORP.,**

Defendants.

SUMMONS

Index No.

Date of Filing:

TO THE ABOVE-NAMED DEFENDANTS:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your Answer on the Plaintiff's attorney within twenty (20) days after the service of this Summons and Complaint, exclusive of the day of service (or within thirty (30) days after the service of this Summons and Complaint is complete if not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint. Plaintiff designates New York County as the place of trial. The bases of venue are that Defendant, JAMES HOPKINS, AS PRESIDENT OF THE COVE CLUB CONDOMINIUM, resides in New York County; Defendant, MILFORD MANAGEMENT CORP. has its principal place of business in New York County; Complainant, ROMAN ERIKHMAN, resides in New York County; and the facts and circumstances giving rise to the cause of action alleged in the Complaint occurred in New York County.

Dated: Bronx, New York
January 7, 2014



NEW YORK STATE DIVISION OF HUMAN RIGHTS
By: Arlyne R. Zwyer, Senior Attorney
Attorney for Plaintiff
One Fordham Plaza, Fourth Floor
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(718) 741-8413

TO:

JAMES HOPKINS, AS PRESIDENT OF
THE COVE CLUB CONDOMINIUM
2 South End Avenue, Apartment 40
New York, New York 10280

MILFORD MANAGEMENT CORP.
c/o Corporation Service Company
80 State Street
Albany, New York 12207-2543

MILFORD MANAGEMENT CORP.
Attn: Kevin M. Buckley
335 Madison Avenue, 15th Floor
New York, New York 10017-4631

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Defendants.

VERIFIED COMPLAINT

Index No.

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PRELIMINARY STATEMENT

Plaintiff, NEW YORK STATE DIVISION OF HUMAN RIGHTS, by its undersigned attorney, brings this action on behalf of the STATE OF NEW YORK, complaining that Defendants, JAMES HOPKINS, AS PRESIDENT OF THE COVE CLUB CONDOMINIUM; and MILFORD MANAGEMENT CORP., discriminated against Complainant, ROMAN ERIKHMAN, a hearing impaired person, on the bases of disability in Complainant's use of a hearing service dog, and the furnishing of facilities or services in connection with a housing accommodation, in violation of New York State Executive Law, Article 15 ("N.Y. Exec. Law"). The actions and practices of the Defendants contribute to unlawful discrimination in housing in the State of New York and jeopardize the welfare, health and peace of the citizens of the State of New York. Accordingly, Plaintiff alleges as follows:

JURISDICTION AND VENUE

1. Plaintiff brings this action to remedy discrimination in housing on the basis of disability in violation of N.Y. Exec. Law §§ 296.5 and 296.14.

2. The Court has jurisdiction over this action pursuant to N.Y. Exec. Law § 297.9, which permits a party to a housing discrimination complaint under the Human Rights Law to elect to have an action commenced in a civil court.

3. Venue in this Court is proper because Defendant, JAMES HOPKINS, AS PRESIDENT OF THE COVE CLUB CONDOMINIUM, resides in New York County; Defendant, MILFORD MANAGEMENT CORP., has its principal place of business in New York County; Complainant, ROMAN ERIKHMAN, resides in New York County; and the facts and circumstances giving rise to the cause of action alleged in the Complaint occurred in New York County.

PARTIES

4. Plaintiff, NEW YORK STATE DIVISION OF HUMAN RIGHTS (“Plaintiff” or the “Division”) is an enforcement agency of the Executive Department of the State of New York, established pursuant to N.Y. Exec. Law § 290.3 to, *inter alia*, eliminate and prevent discrimination in housing accommodations. Pursuant to N.Y. Exec. Law § 297.9, an attorney representing the Division shall present a housing discrimination complaint in court in a case in which a party has elected to have said action commenced in a civil court.

5. On information and belief, Defendant, JAMES HOPKINS, AS PRESIDENT OF THE COVE CLUB CONDOMINIUM, located at 2 South End Avenue, Apartment 40, New York, New York 10280, is the President of the Cove Club Condominium, a

qualified leasehold condominium duly organized and existing as an unincorporated association pursuant to Article 9-B of the Real Property Law of the State of New York.

6. On information and belief, Defendant, MILFORD MANAGEMENT CORP., a corporation duly organized and existing pursuant to the laws of the State of New York, located at 335 Madison Avenue, 15th Floor, New York, New York 10017-4631, is the managing agent of the Premises.

PROCEDURAL BACKGROUND

7. On or about December 13, 2012, Complainant, Roman Erikhman ("Erikhman") filed a complaint with the United States Department of Housing and Urban Development ("HUD"), pursuant to §810 of the Fair Housing Act, as amended, 42 U.S.C. §§3601, 3610, as case number 02-13-0140-8, alleging that Defendants had discriminated against him on the basis of handicap (i.e., disability).

8. On or about December 13, 2012, Erikhman filed a complaint ("Division Complaint") with the Division as case number 10158988, alleging that Defendants had discriminated against him on the basis of disability.

9. Pursuant to a work-share agreement between HUD and the Division, the HUD complaint was forwarded to the Division for investigation and enforcement.

10. On or about July 31, 2013, Erikhman filed a second complaint with the Division alleging that Defendants had discriminated against him on the basis of disability. Due to the fact that the allegations contained in the second Division complaint constitute a continuing violation of the allegations contained in the HUD complaint and the first Division complaint, the second complaint was deemed part of the first Division complaint numbered case number 10158988.

11. Pursuant to N.Y. Exec. Law §297, the Division conducted an investigation of the HUD complaint and the Division complaint. On or about July 31, 2013, the Division issued a Determination After Investigation, finding that the Division had jurisdiction in this matter and that probable cause existed to support Erikhman's allegations.

12. On or about August 15, 2013, Erikhman sent notice to the Division electing to have the Division complaint adjudicated in a civil court, pursuant to N. Y. Exec. Law §297.9. Accordingly, the Division now files the within action.

FACTUAL ALLEGATIONS

13. Erikhman is an individual residing in Apartment 8B ("Apartment") in the condominium residential apartment building located at 2 South End Avenue, New York, New York 10280 ("Premises").

14. The Premises and Apartment are "housing accommodations" as defined by N. Y. Exec. Law §292.10.

15. On information and belief, at all times relevant herein, Erikhman suffered and continues to suffer from the following disabilities: acoustic neuroma, hearing impairment, diabetes, osteoarthritis, and hypertension.

16. Erikhman is a person with disabilities, as defined by N. Y. Exec. Law §292.21, and is a member of a protected class, pursuant to N.Y. Exec. Law §§ 296.5 and 296.14.

17. Due to his hearing impairment, Erikhman is in need of a hearing dog to alert him to various sounds necessary to safeguard his safety and well being, including, but not limited to, the doorbell ringing, water running, and a timer beeping indicating it is time to turn off the stove.

18. Erikhman's daughter and son-in-law, Stella Erikhman-Jacobson and Dr. Lawrence Jacobson ("the Jacobsons"), also reside in the Premises, in Apartment TH-3 ("Jacobson Apartment") therein.

19. Upon information and belief, Erikhman and the Jacobsons bought their Apartments in the Premises with the intention of "living as a family," intending to spend substantial time in each other's apartments.

20. On or about July 29, 2012, Erikhman and the Jacobsons jointly purchased a hearing dog named "Big Honey John" for Erikhman, which was maintained in the Jacobson's Apartment. The reasons that said hearing dog was maintained in the Jacobson's Apartment are as follows: (1) Erikhman's wife is afraid of dogs; (2) Erikhman spends a great deal of time at the Jacobson Apartment; and (3) a dog may need to be walked during the night, which would be burdensome for 75 year old Erikhman.

21. Big Honey John was bred, raised and trained for family service work for the hearing impaired by a professional trainer, i.e. an American Kennel Club Breeder of Merit.

22. Big Honey John was specifically trained to, *inter alia*, recognize and respond to various sounds required to protect and assure the safety and well-being of his human companion.

23. In fact, on information and belief, there were two incidents in which Big Honey John was particularly necessary and helpful to Erikhman. On the first occasion, in or about October 2012, Big Honey John alerted Erikhman of a running faucet that Erikhman had forgotten to turn off, thereby preventing a potential flood. In the second incident, on or about January 24, 2012, Big Honey John alerted Erikhman of gas leaking from another apartment, thereby preventing another potential crisis.

24. In or about August 2012 and continuing thereafter, Defendants failed and refused to grant permission for the Jacobsons to maintain a hearing dog for Erikhman.

25. In or about August 2012, Defendants notified Erikhman that he must immediately remove Big Honey John from the premises.

26. On about November 12, 2012, the Board of Managers of the Cove Club Condominium, of which, upon information and belief, Defendant, JAMES HOPKINS, AS PRESIDENT OF THE COVE CLUB CONDOMINIUM, is President, instituted an action in the Supreme Court of the State of New York, County of New York against the Jacobsons, Erikhman, and Erikhman's wife, Maya Erikhman, seeking declaratory and injunctive relief for the Jacobsons' possession of Big Honey John (Index No. 104309/2012). Upon information and belief, said action is currently pending.

27. Upon information and belief, on or about March 25, 2013, Big Honey John died.

28. Upon information and belief, in or about April 2013, Erikhman and the Jacobsons jointly purchased a replacement hearing dog named "Stetson AKA Sassona Poetic Justice" ("Stetson") for Erikhman.

29. On or about April 3, 2013, the Jacobsons and Erikhman sent a letter, via their attorney, to the Board of Managers Of The Cove Club Condominium, notifying the Board of Managers Of The Cove Club Condominium of their purchase of Stetson. Upon information and belief, the Board of Managers Of The Cove Club Condominium did not respond to said letter.

30. Upon information and belief, at the time of the purchase of Stetson, Stetson was in the process of being trained by a professional trainer to assist Erikhman by alerting him to sounds that require attention.

31. Upon information and belief, Stetson was not able to complete the training.

32. Upon information and belief, on or about October 27, 2012, Stetson ceased to reside with the Jacobsons.

33. Upon information and belief, in or about November 2013, Erikhman and the Jacobsons jointly purchased another replacement hearing dog named "Kalora's Red Moxie Royale" for Erikhman, whom Erikhman and the Jacobsons call "Scooby" ("Scooby").

34. Upon information and belief, Scooby is too young to start professional training; as soon as Scooby is deemed capable of being trained, he will initiate training.

35. In refusing to allow the Jacobsons to maintain a hearing dog for Erikhman, Defendants have discriminated against Erikhman, a hearing impaired, disabled person, on the bases of his use of a hearing service dog and of disability.

36. Although Erikhman and the Jacobsons continue to reside in their respective Apartments in the Premises, they live in fear of eviction therefrom.

37. Defendants' refusal to allow the Jacobsons to maintain a hearing dog to assist Erikhman constitutes discrimination against Erikhman on the basis of Erikhman's use of a hearing dog.

38. Defendants' refusal to allow the Jacobsons to maintain a hearing dog to assist Erikhman constitutes discrimination against Erikhman in the furnishing of facilities or services in connection with a housing accommodation.

39. Defendants' refusal to allow the Jacobsons to maintain a hearing dog to assist Erikhman was willful, wanton, and malicious.

FIRST CAUSE OF ACTION

40. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above as if fully set forth herein.

41. N.Y. Exec. Law § 296.14 of the Human Rights Law provides, in pertinent part, as follows:

It shall be an unlawful discriminatory practice for any person engaged in any activity covered by this section to discriminate against ... a person with a disability on the basis of his or her use of a guide dog, hearing dog or service dog.

42. In refusing to allow Erikhman to maintain a hearing dog in the Jacobsons' Apartment at the Premises, Defendants have discriminated against Erikhman, a person with a disability, on the basis of his use of a hearing dog, in violation of N.Y. Exec. Law § 296.14.

43. Defendants' discrimination against Erikhman on the basis of his use of a hearing dog has caused and continues to cause Erikhman to suffer emotional distress and other emotional injuries, physical injuries and pain, pecuniary losses, and other injuries, harm and/or damages.

44. As a result of their unlawful discrimination against Erikhman on the basis of his use of a hearing dog, Defendants are liable to Plaintiff, Division of Human Rights, and Erikhman for the damages and relief requested below.

SECOND CAUSE OF ACTION

45. Plaintiff repeats, reiterates and re-alleges each and every allegation set forth above as if fully set forth herein.

46. N.Y. Exec. Law §296.5 (a) (2) of the Human Rights Law states as follows:

It shall be an unlawful discriminatory practice for the owner, lessee, sub-lessee, assignee, or managing agent of,

or other person having the right to sell, rent or lease a housing accommodation, constructed or to be constructed, or any agent or employee thereof [t]o discriminate against any person because of ... disability ...in the terms, conditions or privileges of the sale, rental or lease of any such housing accommodation or in the furnishing of facilities or services in connection therewith.

47. In refusing to allow the maintenance of a hearing service dog for Erikhman in the Jacobsons' Apartment at the Premises, Defendants have discriminated against Erikhman in the furnishing of facilities or services in connection with his housing accommodation, in violation of N.Y. Exec. Law §296.5 (a) (2).

48. Defendants' actions and practices of discriminating against Erikhman in the furnishing of facilities or services in connection with his housing accommodation constitute an unlawful discriminatory practice and willful violation of N.Y. Exec. Law §296.5 (a) (2).

49. Defendants' ongoing discrimination against Erikhman in the furnishing of facilities or services in connection with his housing accommodation has caused and continues to cause Erikhman to suffer emotional distress and other emotional injuries, physical injuries and pain, pecuniary losses, and other injuries, harm and/or damages.

50. As a result of their unlawful discrimination against Erikhman in the furnishing of facilities or services in connection with his housing accommodation, Defendants are liable to Plaintiff, New York State Division of Human Rights and to Erikhman for the damages and relief set forth below.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff, the New York State Division of Human Rights, requests that this Court enter a judgment and order:

1. Declaring that Defendants' discriminatory actions and practices, as set forth hereinabove, willfully violated N.Y. Exec. Law §§ 296.5 (a) (2) and 296.14;
2. Temporarily and permanently enjoining Defendants, their agents, employees, successors and all other persons in active concert or participation with any of them from violating the New York State Human Rights Law in any way, including, but not limited to, any aspect of advertising; representation; sale; rental; terms, conditions or privileges; furnishing of facilities or services; and use of a guide dog, hearing dog or service dog;
3. Declaring that Erikhman is entitled to maintain a hearing dog in the Jacobsons' Apartment at the Premises;
4. Directing Defendants to temporarily and permanently allow Erikhman to maintain a hearing dog in the Jacobsons' Apartment at the Premises;
5. Awarding compensatory damages in an amount to be determined at trial as shall fully compensate Plaintiff, New York State Division of Human Rights, and complainant, Erikhman, for pecuniary damages resulting from Defendants' refusal to permit Erikhman to maintain a hearing dog in the Jacobsons' Apartment at the Premises, pursuant to N.Y. Exec. Law 297.4 (c) (iii);
6. Awarding compensatory damages in an amount to be determined at trial as shall fully compensate Plaintiff, the New York State Division of Human Rights, and complainant, Erikhman, for injuries caused by Defendants' discriminatory actions and practices, pursuant to N.Y. Exec. Law 297.4 (c) (iii) ;
7. Awarding punitive damages against Defendants to deter future acts of housing discrimination, pursuant to N.Y. Exec. Law §§ 297.4 (c) (iv), 297.9 ;

8. Assessing civil fines and penalties in an amount up to \$50,000.00, based upon Defendants' actions and practices in frustrating the purposes of the State's Human Rights Law, to be paid to the State, pursuant to N.Y. Exec. Law §§ 297.4 (c) (vi), 297.9 or, in the alternative, should the Court find that Defendants acted willfully, wantonly or maliciously, assessing civil fines and penalties in an amount up to \$100,000.00, based upon Defendants' willful, wanton and/or malicious actions and practices in frustrating the purpose of New York State's Human Rights Law, to be paid to the State, pursuant to N.Y. Exec. Law §§ 297.4 (c) (vi), 297.9;

9. Directing Defendants to take affirmative measures to remedy the effects of Defendants' discrimination based upon disability, pursuant to N.Y. Exec. Law § 297.4(c)(ii), to wit:

- a. Requiring Defendants, their agents and employees to attend, within a reasonable time, a Division approved comprehensive training program regarding federal, state and local fair housing laws, at Defendants' expense;
- b. Requiring Defendants to promulgate a written fair housing policy of non-discrimination, which shall include the stipulation that compliance with federal, state and local fair housing laws will be a condition of employment and that intentional violations of fair housing laws will be grounds for dismissal, said written policy to be given to all Defendants' current and future staff; requiring that all of Defendants' current and future employees shall sign copies of the written fair housing policy, which signed copies shall be placed in each employee's personnel file; copies of the written fair housing policy signed by current employees shall be provided to the New York State Division of Human Rights within 60 days of signing;

- c. Requiring Defendants to include the words "Equal Housing Opportunity" and the HUD Fair Housing logo in all of Defendants' advertising, including the prominent display of a HUD Fair Housing poster in all of their business offices and in the lobbies of all of their individual residential buildings including, but not limited to, the Premises;
 - d. Requiring Defendants to provide all owners, tenants, and lessees of all of Defendants' housing units a written notice of their rights to use and enjoy housing accommodations free from discriminatory practices, as mandated by the New York State Human Rights Law.
10. Awarding Plaintiff the costs and disbursements of the within action; and
 11. Awarding such other and further relief as the interests of justice require.

Dated: Bronx, New York
January 7, 2014

Plaintiff, New York State Division of Human Rights,
on the Complaint of Roman Erikhman

By: 

Arlyne R. Zwyer, Senior Attorney
One Fordham Plaza, Fourth Floor
Bronx, New York 10458
718-741-8413

VERIFICATION

ARLYNE R. ZWYER affirms that she is the attorney for Plaintiff in this action and that the foregoing complaint is true to her own knowledge based upon the files maintained by her office, except as to matters therein stated on information and belief, and as to those matters she believes them to be true. The reason that the verification is not made by Plaintiff is that the Plaintiff is an agency of the State of New York.

Dated: Bronx, New York
January 7, 2014



Arlyne R. Zwyer, Senior Attorney
One Fordham Plaza, Fourth Floor
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