

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSEPH SCIAMMETTA

Plaintiff,

-against-

FRANCA AGUAYO GALLO, aka FRANCESCA
AGUAYO GALLO, aka FRANCA GALLO, aka
FRANCES GALLO; CATHERINE QUERCIA, aka
CATERINA QUERCIA; VITO AGUAYO; and JOHN
DOE.

Defendants.

CV Civ. **05-4912**

COMPLAINT

**JURY TRIAL
DEMANDED**

BLOCK/J

MATSUMOTO, M.J.

Plaintiff Joseph Sciammetta (“Mr. Sciammetta”), by his attorneys, for his complaint against defendants Franca Aguayo Gallo, aka Francesca Aguayo Gallo, aka Franca Gallo, aka Frances Gallo (“Franca Aguayo Gallo”), Catherine Quercia, aka Caterina Quercia (“Catherine Quercia”), Vito Aguayo, and John Doe (collectively “Defendants”), alleges upon personal knowledge as to his own acts, and upon information and belief as to all other matters, as follows:

NATURE OF THE ACTION

1. This is a civil action for (i) defendants’ racially-motivated coercion, intimidation, threats and interference with plaintiff and plaintiff’s family’s exercise or enjoyment of their rental apartment, in violation of the Federal Fair Housing Act (“FHA”) 42 U.S.C. § 3617 and 42 U.S.C. § 3604; (ii) defendants’ racially-motivated attempts to evict plaintiff and plaintiff’s family, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1982; (iii) defendants’ racially-motivated attempts to evict plaintiff and plaintiff’s family in violation of Article 15, § 296 of the New York State Executive Law; and (iv) defendants’ attempt to retaliate

against and evict plaintiff and plaintiff's family, in violation of New York Real Property Law, Section 223-b.

SUMMARY OF THE ACTION

2. Mr. Sciammetta brings this action to stop Defendant's calculated campaign of racially-motivated harassment, intimidation and physical threats, and unlawful eviction proceedings. Mr. Sciammetta lived unthreatened with his daughter in his apartment, which he rents on a month-to-month basis, until he started to invite African-American and dark-skinned Puerto Rican guests to his apartment in August, 2005. Immediately after Mr. Sciammetta began to have non-white guests to his apartment, Defendants, particularly his landlord, Aguayo Gallo, began confronting, intimidating, and threatening Mr. Sciammetta because of the racial composition of his guests. Recently, Defendants' harassment has escalated to the point of physical intimidation. Catherine Quercia threatened Mr. Sciammetta while holding what looked like a stickball bat, stating that if Mr. Sciammetta brought any more African-American guests to his apartment, he would "be sorry" because her family would "get him." Subsequently, while Mr. Sciammetta was walking to work at 5:30 A.M., an unidentified white middle-aged man with graying hair and an Italian accent, referred to in these proceedings as John Doe, jumped out of a black Cadillac and threatened Mr. Sciammetta by stating that he had better "watch his back," and had "better listen to what Franca [Aguayo Gallo] said about black people being in the area, *or else*." Furthermore, Aguayo Gallo has refused to accept Mr. Sciammetta's October rent payment by asserting that she didn't "want no rent" from him, making it clear to Mr. Sciammetta that she wants him out by the end of October. Furthermore, Ms Aguayo Gallo told Mr. Sciammetta, "Take care now; you're looking for [a new] apartment because I don't need you over there [in your current apartment]. I need better people."

Defendants' actions are a violation of the Federal Fair Housing Act, the Civil Rights Act of 1866, and New York Executive Law. Furthermore, Aguayo Gallo's pretext for evicting Mr. Sciammetta, that he complained to the City of New York about code violations in his apartment, is a textbook violation of the New York Real Property Law. Under Federal and State law, Mr. Sciammetta is entitled to enjoy and to continue to enjoy his apartment without being intimidated and threatened.

PARTIES

3. Plaintiff Mr. Sciammetta, a white male, has rented an apartment in a multi-family apartment building, located at 1664 85th Street, 2nd Floor Left, in the Bensonhurst section of Brooklyn since October 2004. Mr. Sciammetta lives in the apartment with his Puerto Rican- Italian daughter, Eva Marie Sciammetta, and is occasionally visited by his Puerto Rican – Italian son, a National Guardsman on active duty. Mr. Sciammetta does not have a written lease; instead, he rents the apartment on a month-to-month basis for \$950 per month. Mr. Sciammetta usually pays the monthly rent with a money order, and has always paid the rent in full, on time, each month.

4. Defendant Franca Aguayo Gallo ("Aguayo Gallo") is the owner and landlord of the property. On information and belief, Aguayo Gallo does not live at the property, but lives in Staten Island.

5. On information and belief, defendant Catherine Quercia is the daughter of Aguayo Gallo, and is married to Pete Quercia.

6. On information and belief, defendant Vito Aguayo is the son of Aguayo Gallo.

7. On information and belief, defendant “John Doe” is a white, middle-aged man with graying hair and an Italian accent. The true name and capacities of defendant sued herein as John Doe are unknown to Mr. Sciammetta, who therefore sues said defendant by such fictitious name. Mr. Sciammetta will ask leave of this Court to amend this Complaint to allege the true name and capacities of the fictitiously named defendant when the same are made known to Mr. Sciammetta. On information and belief, on Monday, September 19, 2005, as Mr. Sciammetta left his apartment to go to work around 5:30 a.m., John Doe jumped out of a black Cadillac at the corner of 17th Avenue and 85th Street and approached him. John Doe told Mr. Sciammetta that he had “better listen to what Franca [Aguayo Gallo] said about black people being in the area, *or else*.” Furthermore, John Doe stated that Franca [Aguayo Gallo] did “not want certain types of people in her building,” and that Mr. Sciammetta “better watch [his] back.” John Doe then immediately got back into the car and drove away.

8. Mr. Sciammetta is informed and believes and thereon alleges that at all times mentioned herein, Defendants, and each of them, were the agents and/or servants of Franca Aguayo Gallo, and in doing the things herein described, were acting within the course and scope of such agency, and with the knowledge, permission and consent of Franca Aguayo Gallo.

JURISDICTION AND VENUE

9. This Court has original jurisdiction over the subject matter of Mr. Sciammetta’s claims for violations of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, pursuant to 46 U.S.C. § 3613(a) and 28 U.S.C. 1331.

10. This Court also has supplemental jurisdiction over Mr. Sciammetta's state-law claims pursuant to 42 U.S.C. § 1367(a) in that all of Mr. Sciammetta's claims arise out of a common nucleus of operative facts.

11. Venue is proper in this district pursuant to 28 U.S.C. § 1391, in that Defendants are subject to personal jurisdiction as they reside in this judicial district, and a substantial part of the events giving rise to Mr. Sciammetta's claims occurred in this judicial district.

GENERAL ALLEGATIONS

12. Beginning in July 2005, Mr. Sciammetta and his son and daughter began to have African-American and dark-skinned Puerto Rican guests to their apartment. In direct response to the presence of these guests, Aguayo Gallo and her family and/or associates started a campaign of physical and verbal intimidation and harassment directed towards Mr. Sciammetta and his daughter about the race, color, and national origin of guests who have visited the apartment.

13. In July of 2005, Mr. Sciammetta hung several articles of clothing to dry over the outside railing of the second-floor porch of his apartment for a few hours. While Mr. Sciammetta and his daughter Eva were sitting on the porch, Aguayo Gallo appeared and yelled that this was "not a Puerto Rican neighborhood" and that Mr. Sciammetta could not hang things on the porch. Aguayo Gallo said that residents of the neighborhood "did not do that. This is not that sort of neighborhood."

14. On Tuesday, August 19, 2005, Eva Marie Sciammetta invited three of her friends over to her apartment building: Alice and Kiara, who are African-American, and

Mercedes, who is a darker-skinned Puerto Rican girl. When they arrived at the front door of the Sciammetta's apartment building, Mercedes called Eva Marie Sciammetta on her cell phone and told her they were outside. Eva Maria Sciammetta told Mercedes to come upstairs to the apartment. Mercedes told Eva Marie Sciammetta that she could not come up because a lady had told her that she couldn't go upstairs. Eva Maria Sciammetta asked Mercedes what she was talking about. Mercedes said that a woman had threatened to call the police if they came upstairs. Eva Marie Sciammetta told Mercedes she would come downstairs to see what was going on.

15. Upon arriving downstairs, Eva Maria Sciammetta saw her landlord, Aguayo Gallo. Aguayo Gallo told Eva Marie Sciammetta that she could not have "these kinds of people" in her apartment. Eva Marie Sciammetta asked Ms. Gallo Aguayo what she meant by "these kinds of people." Aguayo Gallo insisted that Eva Maria Sciammetta knew what she meant, and Mrs. Aguayo Gallo pointed at Mercedes, Alice and Kiara. Eva Maria Sciammetta told Aguayo Gallo that she could have anyone she wanted in her apartment. Aguayo Gallo kept repeating that Eva Marie Sciammetta could not have "these kinds of people" in the apartment. Aguayo Gallo then started speaking in Italian and Eva Maria Sciammetta could tell that she was cursing. Aguayo Gallo called Eva Maria Sciammetta's friends "fungul moolignons" ("fucking eggplants," a derogatory term in Italian for African-Americans). Eva Marie Sciammetta told her friends to come upstairs, and they followed her upstairs. That evening, Eva Marie Sciammetta informed her father about the conversation she had had with Aguayo Gallo.

16. Later that night, Mr. Sciammetta went downstairs and saw Aguayo Gallo outside by the garage door. Mr. Sciammetta asked Aguayo Gallo if he could have a word with her. Aguayo Gallo asked Mr. Sciammetta what he wanted to talk about, and Mr. Sciammetta

replied that he wanted to talk about the guests that visit his apartment. Aguayo Gallo stated that she had already told Mr. Sciammetta that he could not have “those kinds of people” in his house. Aguayo Gallo continued by stating that she “didn’t want blacks or Puerto Ricans in the building.” Mr. Sciammetta explained that his children are half Puerto Rican. Aguayo Gallo appeared startled, and said they did not look Puerto-Rican. Mr. Sciammetta explained that they were. Then Aguayo Gallo began yelling obscenities at Mr. Sciammetta in Italian, including that Mr. Sciammetta was crazy for liking “moolignons” (African-Americans). Although Mr. Sciammetta is not fluent in Italian, he can understand a few words and phrases. Mr. Sciammetta walked away and went back upstairs to his apartment.

17. Subsequently, defendants unlawfully decided to evict Mr. Sciammetta and his family from his apartment, because he has non-white guests at his apartment and his children are of Puerto Rican heritage.

18. On Wednesday, August 31, 2005, Mr. Sciammetta saw Aguayo Gallo at the apartment building when he came home from work. Aguayo Gallo told Mr. Sciammetta that she wanted him out of the house. Mr. Sciammetta asked Aguayo Gallo why, but Mrs. Aguayo Gallo refused to provide a reason. Aguayo Gallo repeated that she wanted Mr. Sciammetta out of the house.

19. On Friday, September 2, 2005, Mr. Sciammetta called Aguayo Gallo to tell her that he wanted to pay the September rent immediately because he was going to be out of town later in the month. Aguayo Gallo indicated that she was not concerned about the rent payment. When Mr. Sciammetta asked her what she meant, Aguayo Gallo did not answer and hung up on him.

20. Later that day, Mr. Sciammetta called Ms. Gallo's daughter, Catherine Quercia, to inquire about making the September rental payment. Catherine's husband, Pete Quercia answered the phone and told Mr. Sciammetta that he should speak directly with Catherine. When Mr. Sciammetta spoke with Catherine, she told him that he should call her brother Anthony. Mr. Sciammetta then called Anthony, who told him to call his brother Vito Aguayo, which Mr. Sciammetta did.

21. On September 3, 2005, Vito Aguayo knocked on Mr. Sciammetta's apartment door and asked Mr. Sciammetta for the September rent. Vito Aguayo stated he did not want the usual money order, but instead wanted cash. Mr. Sciammetta paid the September rent to Vito Aguayo in cash, and asked Vito Aguayo to sign a receipt acknowledging the payment, which Vito Aguayo did. Mr. Sciammetta then asked Vito Aguayo why Ms. Gallo Aguayo did not want Mr. Sciammetta as a tenant anymore. Mr. Sciammetta asked whether Aguayo Gallo was behaving this way simply because Mr. Sciammetta had black guests in his apartment. Vito Aguayo replied that his mother "did not like moolignons" and "did not want blacks in the apartment." Furthermore, Vito Aguayo said "you know how my mother is, she is an old-timer." Mr. Sciammetta told Vito Aguayo that because he pays the rent, he can have whomever he wants over to visit. Vito Aguayo said that he would speak to Aguayo Gallo, and told Mr. Sciammetta he would "take care of it." Vito Aguayo stated that he would "straighten it out" and "see what he could do."

22. On September 11, 2005, the hallway lights on both the first and second floors and connecting stairwells in the apartment building ceased working. Mr. Sciammetta thought this was suspicious, so the following day, he put a handwritten note on the downstairs

mailboxes requesting that the lights be fixed because somebody might get hurt. The lights are necessary to safely use the stairs.

23. Defendants then escalated their campaign of physical and verbal intimidation and harassment of Mr. Sciammetta and his family. On September 12, 2005, Mr. Sciammetta came home in the afternoon while Aguayo Gallo was downstairs working on the garden. Aguayo Gallo asked Mr. Sciammetta when he was going to pay the September rent. Mr. Sciammetta told Aguayo Gallo that he had paid the September rent, but Aguayo Gallo stated that he had not. When Mr. Sciammetta insisted that he had paid the September rent to Vito Aguayo, Aguayo Gallo asked if he had proof, and Mr. Sciammetta replied that he did. Aguayo Gallo told Mr. Sciammetta that he had better watch his back and stated that “this thing with the blacks had better stop; you didn’t pay the rent.”

24. On September 13, 2005, Catherine Quercia banged loudly on Mr. Sciammetta’s apartment door. Mr. Sciammetta opened the door, saw that Catherine Quercia was carrying what looked like a stick ball bat, and immediately closed the door. Through the door, Mr. Sciammetta asked what she wanted. Catherine Quercia asked Mr. Sciammetta to remove his Christmas decorations and other items that he had in the hallway, and Mr. Sciammetta agreed to do so. Catherine Quercia told Mr. Sciammetta that he had better listen to what her mother told him about “bringing black people to the apartment” or else Mr. Sciammetta would “be sorry.” Mr. Sciammetta asked Catherine Quercia what she meant, and she replied that Mr. Sciammetta “knew what she meant.” Catherine Quercia then stated that Mr. Sciammetta “had better watch [his] back” or her brothers, her husband would “get [him],” and if they didn’t get Mr. Sciammetta, that her “mother’s friend” would. Mr. Sciammetta asked her if she was threatening him, but she left without replying. Mr. Sciammetta immediately called the police

and filed a report. Mr. Sciammetta's neighbor from the same apartment building, Jennifer Perez, also filed a police report. The police officer who took the report was Officer Gadin of the 62nd precinct, badge number 120661. The report (number 6798) was filed on September 14, 2005.

25. On Monday, September 19, 2005 at 5:30 a.m., as Mr. Sciammetta left his apartment to go to work, a white middle-aged man with graying hair and an Italian accent ("John Doe") jumped out of a black Cadillac at the corner of 17th Avenue and 85th Street and approached him. John Doe told Mr. Sciammetta that he had "better listen to what Franca [Aguayo Gallo] said about black people being in the area, *or else*." John Doe then stated that Franca [Aguayo Gallo] did "not want certain types of people in her building," and that Mr. Sciammetta "better watch [his] back." John Doe then got back into the car and drove away.

26. On Thursday, September 29, 2005, at 2:17 PM, Mr. Sciammetta called Vito Aguayo, and asked who was coming to pick up the October rent payment. Vito Aguayo asked Mr. Sciammetta about the September rent. Mr. Sciammetta replied that he had already paid Vito Aguayo the September rent. Vito Aguayo had personally collected it and signed a receipt. Vito Aguayo asked Mr. Sciammetta, "you did?" and then stated he did not know what his mother was doing with the house. He said she might be selling it. Mr. Sciammetta asked Vito Aguayo what he meant by that, and Vito Aguayo replied that he thought Mr. Sciammetta was moving. Mr. Sciammetta told Vito Aguayo that he had never said he was moving. Mr. Sciammetta asked Vito Aguayo to tell him who was coming to pick up the October rent. Vito Aguayo said that he had to talk with his mother. Mr. Sciammetta asked Vito Aguayo if he could call Mr. Sciammetta back before the day was over. Vito Aguayo agreed that he would get back to Mr. Sciammetta and then hung up the telephone.

27. On Friday, September 30, 2005, Mr. Sciammetta called Aguayo Gallo to ask her who was coming by to collect the October rent payment. Aguayo Gallo insisted that Mr. Sciammetta had not paid the September rent, denied that Mr. Sciammetta had given her son Vito Aguayo cash for the September rent and asserted that Mr. Sciammetta had no proof that he had paid the September rent. Aguayo Gallo then told Mr. Sciammetta that she would not accept the October rent payment from him, that he had “gone too far,” and would have to “pay the consequences.” Aguayo Gallo then told Mr. Sciammetta to look for another apartment because she needed “better people” in the apartment. Furthermore, as a pretext for refusing to accept the October rent payment, Aguayo Gallo referred to code violation complaints that Mr. Sciammetta had made to her son Vito Aguayo and to the City of New York Division of Code Enforcement, via the “311” hotline.

28. Because Aguayo Gallo refused to collect the October rent, Mr. Sciammetta has placed the October rent into an escrow account held by Latham & Watkins LLP.

29. On Saturday, October 1, 2005, Mr. Sciammetta received a notice in the mail terminating his monthly tenancy signed by “Franca Aguayo” (Aguayo Gallo).

30. On Wednesday, October 5, 2005, around 7 PM, Mr. Sciammetta heard screaming and yelling outside his apartment building. Mr. Sciammetta went onto his patio and saw Pete and Catherine Quercia, and another female standing on the street downstairs. They were yelling at Mr. Sciammetta’s neighbor, Eli Antonsanti, who was on his patio. Pete and Catherine Quercia shouted to Mr. Antonsanti that he “should go back into his zoo” and called him “a stupid Puerto Rican”, “a spic” and “a low-life.” Mr. Quercia then told Mr. Antonsanti that he should come downstairs to “fight” them.

31. Mr. Sciammetta told Mr. Antonsanti not to go downstairs, and said they should call the police. Whereupon, Pete Quercia shouted to Mr. Sciammetta that he should mind his own business and that he was “a fucking monkey lover.” Catherine Quercia also yelled that Mr. Sciammetta was a “monkey lover,” and started laughing. Pete and Catherine Quercia then left, after which Mr. Antonsanti called the police and both Mr. Antonsanti and Mr. Sciammetta filed a second police report. The police officer who took Mr. Sciammetta’s report was Officer Rosecalivo, badge number 17316, of the 62nd precinct. The report number is 7440 and was filed on October 5, 2005.

32. As a result of this ongoing physical and verbal intimidation and harassment by Aguayo Gallo and her family and associates, Mr. Sciammetta does not feel safe in the apartment; he fears for the physical safety of his children, his guests and for his own safety.

33. Defendants’ conduct is continuing and constitutes an ongoing threat to Mr. Sciammetta and his family and guests. Unless Defendants are restrained and enjoined from engaging in the unlawful conduct described herein, Mr. Sciammetta will suffer irreparable injury.

FIRST CLAIM FOR RELIEF
VIOLATION OF FAIR HOUSING ACT
(42 U.S.C. §§ 3617, 3604)

34. Mr. Sciammetta realleges and incorporates by reference the allegations in paragraphs 1 through 33 as set forth herein.

35. Defendant’s ongoing racially-motivated threats, intimidation and interference with Mr. Sciammetta’s right to rent and enjoy his apartment, and defendants’

racially-motivated attempts to evict Mr. Sciammetta, are violations of the Fair Housing Act 42 U.S.C §§ 3604, 3617.

36. Accordingly, Mr. Sciammetta is entitled to a temporary restraining order, as well as preliminary and permanent injunctive relief pursuant to 42 U.S.C. § 3613(c). In addition, under 42 U.S.C. §3613(c), Mr. Sciammetta is entitled to actual and/or punitive damages in a sum to be ascertained, according to proof at trial.

SECOND CLAIM FOR RELIEF
VIOLATION OF THE CIVIL RIGHTS ACT OF 1866
(42 U.S.C. § 1982)

37. Mr. Sciammetta realleges and incorporates by reference the allegations in paragraphs 1 through 36, as set forth herein.

38. Defendant's ongoing racially-motivated threats, intimidation and interference with Mr. Sciammetta's right to rent and enjoy his apartment is a violation of the Civil Rights Act of 1866, 42 U.S.C. § 1982.

39. Defendants' willful infringement of the Civil Rights Act of 1866, if not preliminarily and permanently enjoined, will cause Mr. Sciammetta to suffer irreparable harm. Under 42 U.S.C. § 1988(a), entitled "Proceedings in Vindication of Civil Rights," Mr. Sciammetta is also entitled to general, special, actual and/or statutory damages, as well as punitive and exemplary damages in a sum to be ascertained, according to proof at trial.

THIRD CLAIM FOR RELIEF
VIOLATION OF NEW YORK STATE EXECUTIVE LAW
(ARTICLE 15, § 296)

40. Mr. Sciammetta realleges and incorporates by reference the allegations in paragraphs 1 through 39, as set forth herein.

41. Defendant's attempt to evict Mr. Sciammetta because of the race, color, or national origin of Mr. Sciammetta's children and/or guests to his apartment is a violation of Article 15, § 296 of the New York State Executive Law.

42. Defendants' willful infringement of Article 15 of the New York State Executive Law, if not preliminarily and permanently enjoined, will cause Mr. Sciammetta irreparable harm.

43. Mr. Sciammetta is also entitled to general, special, actual and/or statutory damages, as well as punitive and exemplary damages in a sum to be ascertained, according to proof at trial.

FOURTH CLAIM FOR RELIEF
VIOLATION OF NEW YORK REAL PROPERTY LAW
(SECTION 223-B)

44. Mr. Sciammetta realleges and incorporates by reference the allegations in paragraphs 1 through 43, as set forth herein.

45. Aguayo Gallo's pretextual explanation for evicting Mr. Sciammetta from his apartment because of complaints he has made to both Defendants, and to the City of New York regarding code violations in his apartment, is a violation of the New York Real Property Law § 223-b. New York Real Property Law § 223-b prohibits retaliation by a landlord against a

tenant for complaints regarding the landlord's violation of any health or safety law, code, or regulation, and provides for the award of damages and injunctive and other equitable relief for violations of the law.

46. Accordingly, Mr. Sciammetta is entitled to damages and other appropriate relief, including injunctive and other equitable relief, pursuant to NY Real Property Law §§ 223-b(1) and 223-b(3).

WHEREFORE, Mr. Sciammetta prays for the following relief:

1. That the Court enter an order finding as follows:
 - a) Defendants have harassed, intimidated, and threatened, have discriminated against, in the terms and conditions of rental, and are attempting to evict from their apartment, for racially-motivated reasons stated in the Complaint, Mr. Sciammetta and Eva Sciammetta, in violation of the Fair Housing Act, 42 U.S.C. 3601 et seq.; and
 - b) Defendants have harassed, intimidated, and threatened, have discriminated against, in the terms and conditions of rental, and are attempting to evict from their apartment, for racially-motivated reasons stated in the Complaint, Mr. Sciammetta and Eva Sciammetta, in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1982; and
 - c) Defendants have harassed, intimidated, and threatened, have discriminated against, in the terms and conditions of rental, and are

attempting to evict from their apartment, for racially-motivated reasons stated in the Complaint, Mr. Sciammetta and Eva Sciammetta, in violation of Article 15, § 296 of the New York State Executive Law; and

- d) Aguayo Gallo's pretextual explanation for evicting Mr. Sciammetta from his apartment because of complaints Mr. Sciammetta made to Defendants, and to the City of New York regarding code violations in his apartment, is a violation of the New York Real Property Law § 223-b; and
- e) directing Aguayo Gallo to accept plaintiff's October rent payment of \$950, currently held in escrow by Latham & Watkins LLP for the purpose of paying Plaintiff's October rent; and
- f) directing Aguayo Gallo to designate a third party, unaffiliated with plaintiff or defendants, to act as the recipient of Mr. Sciammetta's future monthly rent payments.

2. That the Court issue a temporary, preliminary and, thereafter, permanent injunction against defendants, and all others in active concert or participation with Defendants, enjoining and restraining them from the following:

- a) harassing, intimidating, or threatening, in ways stated in the Complaint and in any other way, Mr. Sciammetta or Eva Sciammetta; and
- b) proceeding with any further attempt to evict Plaintiff, Mr. Sciammetta, from his apartment located at 1664 85th Street, 2nd

Floor Left, Brooklyn, New York 11214, provided that Mr. Sciammetta in good faith attempts to make his monthly rental payment.

3. That the Court order Defendants to pay to Mr. Sciammetta general, special, actual and/or statutory damages, according to proof at trial.

4. That the Court order Defendants to pay to Mr. Sciammetta punitive and exemplary damages in a sum to be ascertained at trial.

5. That the Court order such other and further relief as the Court may deem just and proper.

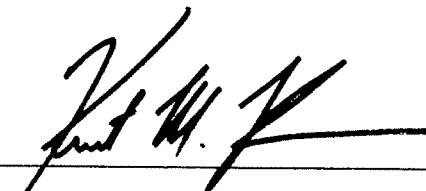
DEMAND FOR JURY TRIAL

Pursuant to Fed. R. Civ. P. 38, Plaintiffs hereby demand a jury trial on all claims herein.

Dated: October 21, 2005
New York, New York

LATHAM & WATKINS

By: _____

A handwritten signature in black ink, appearing to read "Kurt M. Rogers", is written over a horizontal line.

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