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**STATE OF WASHINGTON
CLARK COUNTY SUPERIOR COURT**

WASHINGTON STATE HUMAN
RIGHTS COMMISSION,

Petitioner,

v.

RUDY LIES and BRIAN LIES,

Respondents.

NO. 19 2 03303 06

PETITION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION
PURSUANT TO RCW 49.60.350(1)

Petitioner, the Washington State Human Rights Commission (Human Rights Commission or Commission), by and through its attorneys Yesica Hernandez and Patricio A. Marquez, Assistant Attorneys General, hereby submits the following Petition for Temporary Restraining Order and Preliminary Injunction Pursuant to RCW 49.60.350(1) to enjoin landlords Rudy Lies and Brian Lies (Respondents) from evicting tenant Kaleena Fancher pending completion of the Human Rights Commission's investigation of Ms. Fancher's housing discrimination complaint against Respondents.¹ Ms. Fancher has alleged discriminatory termination of her tenancy by Respondents based on sex and familial status, and retaliation by Respondents for the filing of her complaint with the Human Rights Commission. The Commission and Ms. Fancher will be substantially and irreparably harmed if she is evicted

¹ The Human Rights Commission reserves the right to seek further preliminary injunctive relief upon completion of its investigation, to the extent necessary to protect its ability to seek final injunctive relief barring Ms. Fancher's unlawful eviction in any resulting civil rights enforcement action.

1 before the Commission completes its investigation, and said investigation finds reasonable cause
2 to believe that Respondents terminated Ms. Fancher's tenancy and/or retaliated against her in
3 violation of the Washington Law Against Discrimination, RCW 49.60. Justice requires that the
4 status quo be maintained, and Ms. Fancher not be evicted, so the Commission may seek any and
5 all appropriate equitable remedies against Respondents in such event, including final injunctive
6 relief prohibiting Respondents from evicting Ms. Fancher.

7 Accordingly, the Human Rights Commission respectfully requests that the Court enter a
8 temporary restraining order and/or a preliminary injunction enjoining Respondents from evicting
9 tenant Kaleena Fancher pending completion of the Human Rights Commission's investigation
10 of Ms. Fancher's housing discrimination complaint against Respondents. Specifically, the
11 Commission requests that the Court order Respondents to refrain from further prosecuting their
12 pending unlawful detainer action—*Rudy Lies and Brian Lies v. Kaleena Fancher, et al.*, Clark
13 County Superior Court Cause No. 19-2-02473-06—which is scheduled for a show cause hearing
14 on Friday, November 1, 2019, at 9:00 a.m., and desist from further efforts to seek the issuance
15 of, or to enforce, any writ of restitution for Ms. Fancher's eviction from the subject premises,
16 15510 NW 2nd Avenue, Vancouver, Washington 98685.

17 I. PARTIES

18 1.1 Petitioner is the Washington State Human Rights Commission.

19 1.2 On information and belief, Respondent Rudy Lies is an individual residing in
20 Clark County, Washington.

21 1.3 On information and belief, Respondent Brian Lies is an individual residing in
22 Clark County, Washington.

23 II. JURISDICTION

24 2.1 Pursuant to RCW 49.60.350, this Court has jurisdiction to grant temporary or
25 preliminary relief to enjoin any unfair practice in violation of RCW 49.60.222 through
26

1 49.60.225, from which prompt judicial action is necessary to carry out the purposes of the
2 Washington State Law Against Discrimination (WLAD), RCW 49.60.010–.515.

3 2.2 RCW 7.40.010 also vests this Court with jurisdiction to grant injunctive relief.

4 III. FACTUAL BACKGROUND

5 A. Ms. Fancher Files a Housing Discrimination Complaint With the Human Rights 6 Commission

7 3.1 On July 24, 2019, after several months of deliberation for fear of possible
8 retaliation, Kaleena Fancher filed a housing discrimination complaint with the Human Rights
9 Commission (the “HRC Complaint”) against Rudy Lies, Brian Lies, Lauri Jo Lies, Mary Lies,
10 and Lies Brothers Construction, Inc. (collectively, her “Landlords”). *See* Declaration of Kaleena
11 Fancher (Fancher Decl.) ¶ 14; Declaration of Heidi Termer (Termer Decl.) ¶¶ 5–6.

12 3.2 Ms. Fancher alleges, among other things, that her Landlords discriminated
13 against her on the basis of sex and familial status when they chose to terminate her tenancy at
14 15510 NW 2nd Avenue, Vancouver, Washington 98685, the home she had been renting from
15 them (the “Lies Rental Property”) since August 2017. Fancher Decl. ¶¶ 2, 10, 14; Termer Decl.
16 ¶ 7.

17 3.3 Ms. Fancher moved into the Lies Rental Property with her three children and her
18 ex-partner. Fancher Decl. ¶ 2.

19 3.4 According to Ms. Fancher, at the time she entered into the rental agreement for
20 the Lies Rental Property, she was told that she would be able to continue living at the Lies Rental
21 Property on a month-to-month basis when her lease term ended. *Id.* ¶ 3. Ms. Fancher was told
22 that most of the Lies’ tenants did this and that this was why their tenants stayed with them for so
23 long. *Id.*

24 3.5 After she moved into the Lies Rental Property, Ms. Fancher alleges that Rudy
25 Lies told her (and her ex-partner) that he had not wanted to rent the Lies Rental Property to them
26 because they had children. *Id.* ¶ 4.

1 3.6 According to Ms. Fancher, during her tenancy at the Lies Rental Property, her
2 ex-partner was abusive and subjected her to domestic violence. *Id.* ¶ 5. As a result of the domestic
3 violence, Ms. Fancher had to call the police for help on several occasions. *Id.*

4 3.7 On at least one occasion, Ms. Fancher alleges that Rudy Lies issued her a 10-day
5 notice to comply or vacate after she called the police to report the domestic violence in her home.
6 *Id.* ¶ 6.

7 3.8 In December 2018, Ms. Fancher alleges that she obtained a protective order
8 against her abusive ex-partner, ended their relationship, and had him removed from their home
9 (i.e. the Lies Rental Property). *Id.* ¶ 7. Ms. Fancher was three-months pregnant at the time with
10 her fourth child and became a single mother when she decided to separate from her abuser. *Id.*

11 3.9 According to Ms. Fancher, in or around February or March 2019, her one-year-
12 old daughter flushed baby wipes down the toilet, causing it to become clogged. *Id.* ¶ 8. Ms.
13 Fancher alleges that she tried to unclog the toilet but was unable to, and called the landlords for
14 help. Rudy Lies, Brian Lies, and their nephew came to her house to unclog the toilet. *Id.*
15 According to Ms. Fancher, a few days later, she received a 10-day notice to comply or vacate
16 regarding the toilet. *Id.*

17 3.10 According to Ms. Fancher, in or around April 2019, Rudy Lies and Brian Lies
18 spoke with her about her tenancy at the Lies Rental Property ending at the end of June 2019. *Id.*
19 ¶ 9. She was seven months pregnant at the time and due to give birth toward the end of June
20 2019. *Id.*

21 3.11 When Ms. Fancher asked Respondents Rudy and Brian Lies why her tenancy
22 would not be renewed, Rudy stated that her tenancy was ceasing, in part, because of the domestic
23 violence she had experienced while living at the Lies Rental Property. *Id.* ¶ 10. Respondent Brian
24 Lies also told her that she should not get pregnant if she wanted to avoid this in the future. *Id.*

25 3.12 As a result of her Landlords' decision to terminate her tenancy, Ms. Fancher's
26 lease of the Lies Rental Property was set to end on June 30, 2019—just days before she was due

1 to give birth to her fourth child. *Id.* ¶¶ 9, 12. However, in May 2019, Ms. Fancher's Landlords
2 allowed her and her three minor children to remain in the Lies Rental Property until July 31,
3 2019. *Id.* ¶ 11.

4 3.13 On July 10, 2019, Ms. Fancher alleges that she implored Respondent Rudy Lies
5 to allow her to remain at the Lies Rental Property for a longer period of time so she could have
6 additional time to recover from giving birth to her fourth child (Ms. Fancher's fourth child was
7 born on June 20, 2019). *Id.* ¶ 13. In response, Respondent Rudy Lies declined to provide
8 Ms. Fancher additional time in the Lies Rental Property and told her to look into local shelters.
9 *Id.*

10 3.14 On July 24, 2019, the Human Rights Commission notified Ms. Fancher's
11 Landlords of her HRC Complaint. Termer Decl. ¶ 8. That same day, the Human Rights
12 Commission spoke with Respondent Rudy Lies to request that he refrain from terminating
13 Ms. Fancher's tenancy at the Lies Rental Property pending completion of the Human Rights
14 Commission's investigation of the HRC Complaint. *Id.* ¶ 9.

15 3.15 On July 30, 2019, Respondents' attorney notified the Human Rights Commission
16 that Respondents would not agree to refrain from terminating Ms. Fancher's tenancy at the Lies
17 Rental Property. *Id.* ¶ 10.

18 **B. Ms. Fancher Files an Amended Housing Discrimination Complaint With the**
19 **Human Rights Commission**

20 3.16 On August 5, 2019, less than two weeks after filing her HRC Complaint,
21 Ms. Fancher, who had been attempting to secure alternate housing, learned that her Landlords
22 and/or their staff, refused to provide a rental reference for her with a prospective landlord. *Id.* ¶
23 16.

24 3.17 According to Ms. Fancher, Vanessa Lies (whom Ms. Fancher also believed to be
25 her landlord and who had acted as her initial point of contact when she rented the Lies Rental
26

1 Property), had indicated, in June 2019, that she would provide Ms. Fancher with a positive rental
2 reference. *Id.* ¶¶ 3, 16.

3 3.18 On at least one occasion, Ms. Fancher's Landlords' refusal to provide her with a
4 rental reference has prevented her from obtaining alternative housing. *Id.* 16.

5 3.19 On August 7, 2019, Ms. Fancher amended her HRC Complaint to include
6 allegations of her Landlords' and their staff's refusal to provide her with a rental reference after
7 they learned of her HRC Complaint (the "Amended HRC Complaint"). *Id.* ¶ 17; Termer Decl.
8 ¶ 11. Landlords' counsel was mail served a copy of the Amended HRC Complaint of retaliation
9 the next day. *Id.* ¶ 12.

10 3.20 On August 12, 2019, the Human Rights Commission interviewed a housing
11 provider that denied Ms. Fancher's rental application and confirmed that Ms. Fancher's rental
12 application was denied as a result of the Landlords' and their staff's refusal to provide
13 Ms. Fancher with a rental reference. Termer Decl. ¶ 14. A week later, the Human Rights
14 Commission received a letter from the Landlords' counsel admitting that, on at least one occasion
15 after the Landlords learned of Ms. Fancher's HRC Complaint and/or Amended HRC Complaint,
16 they did not provide Ms. Fancher with a rental reference. *Id.* ¶ 15.

17 3.21 According to Ms. Fancher, on August 16, 2019, Respondent Brian Lies, when
18 asked why the Landlords and their staff would not provide Ms. Fancher with a rental reference,
19 stated that the Landlords would have provided a positive rental reference had she not filed a
20 housing discrimination complaint with the Human Rights Commission. Fancher Decl. ¶ 19.

21 **C. Respondents File an Unlawful Detainer Action Against Ms. Fancher**

22 3.22 On August 8, 2019—the day after Ms. Fancher filed her Amended HRC
23 Complaint—Respondents Rudy Lies and Brian Lies commenced eviction proceedings against
24 Ms. Fancher and her four minor children, styled *Rudy Lies and Brian Lies v. Kaleena Fancher,*
25 *et al.*, Clark County Superior Court Cause No. 19-2-02473-06. *Id.* ¶ 18; Termer Decl. ¶ 13.

1 3.23 An initial show cause hearing in Respondents' unlawful detainer action was set
2 for August 23, 2019, but was subsequently stricken by Respondents on August 19, 2019. *See*
3 Yesica Hernandez Declaration (Hernandez Decl.) ¶ 3, Ex. 1.

4 3.24 On August 22, 2019, Respondents allowed Ms. Fancher to continue her tenancy
5 at the Lies Rental Property until September 30, 2019. Fancher Decl. ¶ 21.

6 3.25 Despite extending Ms. Fancher's tenancy until September 30, 2019, Respondents
7 Rudy Lies and Brian Lies did not dismiss their unlawful detainer action against her. Hernandez
8 Decl. ¶ 4, Ex. 2.

9 3.26 On September 3, 2019, Ms. Fancher learned that a rental application she
10 submitted to Key Property Services, Inc. (KPS) had been denied because Respondents' unlawful
11 detainer action against her had not been dismissed. Fancher Decl. ¶ 23. On at least two other
12 occasions, Ms. Fancher learned that her rental applications were denied because of Respondents'
13 unlawful detainer action against her. *Id.* ¶¶ 20, 22.

14 3.27 On September 26, 2019, and October 4, 2019, the Human Rights Commission
15 spoke with KPS staff members and confirmed that KPS denied Ms. Fancher's rental application
16 because of the open eviction proceedings. Termer Decl. ¶ 20.

17 3.28 On October 7, 2019, Respondents struck their second show cause hearing, set for
18 October 11, 2019, from the Court's calendar.

19 3.29 On October 9, 2019, undersigned counsel spoke with Respondents' attorney,
20 Quinn Posner, to request that Respondents defer their unlawful detainer action until the Human
21 Rights Commission can finish its investigation of the Amended HRC Complaint. Hernandez
22 Decl. ¶ 5. Respondents did not agree to defer their unlawful detainer action against Ms. Fancher,
23 and, on October 21, 2019, Respondents' attorney confirmed that another show cause hearing
24 date had been set in that action. *Id.* ¶ 6.

25 3.30 A show cause hearing in Respondents' unlawful detainer action against
26 Ms. Fancher and her four minor children is currently set for November 1, 2019. *Id.* ¶ 7.

1 **IV. AUTHORITY SUPPORTING PRAYER FOR RELIEF**

2 4.1 The WLAD recognizes, and declares as a civil right, the right of Washingtonians
3 to be “free from discrimination because of . . . sex,” among other protected characteristics. RCW
4 49.60.030(1). This right includes the right of Washingtonians to “engage in real estate
5 transactions without discrimination, including discrimination against families with children.” *Id.*
6 49.60.030(1)(c).

7 4.2 Because such discrimination against Washingtonians is “a matter of state
8 concern” and “threatens not only the rights and proper privileges of its inhabitants but menaces
9 the institution and foundation of a free democratic state,” the Human Rights Commission was
10 created with powers to ameliorate unlawful discrimination. RCW 49.60.010.

11 4.3 It is the primary objective of the Human Rights Commission to prevent and
12 eliminate discrimination. WAC 162-08-061(2). To that end, the Human Rights Commission is
13 empowered to receive, investigate, and pass upon complaints alleging discriminatory acts which
14 may constitute unfair practices as defined by the WLAD. *See* RCW 49.60.120(4).

15 4.4 Unfair practices in real estate transactions include those practices addressed at
16 RCW 49.60.222–.225. A “real estate transaction” under the WLAD includes the rental or lease
17 of real property. RCW 49.60.040(21).

18 4.5 Pursuant to RCW 49.60.240(1)(c), if a complaint alleging an unfair practice in a
19 real estate transaction is filed with the Human Rights Commission, an investigation and
20 ascertainment of the facts alleged in the complaint is conducted.

21 4.6 Through its investigation, the Human Rights Commission “seeks to ascertain the
22 facts in order to make an impartial finding of ‘reasonable cause’ or ‘no reasonable cause[,]’ [for
23 believing an unfair practice has been or is being committed].” WAC 162.08.61(1). If a
24 “reasonable cause” determination is made, “the objective of the commission is to obtain the
25 remedy that will best eliminate the unfair practices and prevent their recurrence.” *Id.*
26

4.7 Pursuant to RCW 49.60.350, the Human Rights Commission may seek appropriate temporary or preliminary relief to enjoin any unfair practice that violates RCW 49.60.222–49.60.225, from which prompt judicial action is necessary to carry out the purposes of the WLAD.

4.8 Courts may grant temporary or preliminary injunctive relief where the one seeking such relief demonstrates: “(1) that he has a clear legal or equitable right, (2) that he has a well-grounded fear of immediate invasion of that right, and (3) that the acts complained of are either resulting in or will result in actual and substantial injury to him.” *Wash. Fed’n of State Employees, Council 28, AFL-CIO v. State*, 99 Wn.2d 878, 888, 665 P.2d 1337 (1983) (internal quotation marks and citations omitted). “Also, since injunctions are within the equitable powers of the court, these criteria must be examined in light of equity, including the balancing of the relative interests of the parties and the interests of the public, if appropriate.” *Rabon v. City of Seattle*, 135 Wn.2d 278, 284, 957 P.2d 621 (1998).

4.9 The Human Rights Commission is entitled to the injunctive relief it seeks based on each of these factors.

V. ARGUMENT

5.1 Injunctive relief is proper here because the Human Rights Commission's investigation will likely result in a "reasonable cause" determination that Respondents have engaged in conduct that violates the WLAD, the Human Rights Commission has a well-grounded fear that Respondents' unlawful detainer action will impede its ability to eliminate the effects of at least one unfair practice, Ms. Fancher and her four minor children will suffer actual and substantial injury if they are evicted from their home, and the balance of equities weigh in favor of enjoining Respondents from evicting Ms. Fancher and her family pending the Human Rights Commission's completion of its investigation and resulting civil rights enforcement efforts.

1 **A. The Human Rights Commission's Investigation of Ms. Fancher's Amended**
2 **Housing Discrimination Complaint Will Likely Result in a Determination that**
3 **Respondents Violated the WLAD.**

4 5.2 The Human Rights Commission possesses clear rights that warrant granting its
5 request for injunctive relief. To establish a clear legal or equitable right, a party seeking
6 injunctive relief must demonstrate the likelihood of prevailing on the merits. *Wash. Fed'n of*
7 *State Employees*, 99 Wn.2d at 888. Where a government agency responsible for investigating
8 housing discrimination complaints has not yet completed its investigation, injunctive relief
9 enjoining eviction proceedings is appropriate where the government agency's investigation to
10 date demonstrates a likelihood that the party whose action it seeks to enjoin has engaged in
11 discriminatory conduct. *See, e.g., United States v. Commonwealth of Puerto Rico, et al.*, 764 F.
12 Supp. 220, 224 (D.P.R. 1990) (granting preliminary injunction under analogous provision of Fair
13 Housing Act, 42 U.S.C. § 3610(e), where there was "solid evidence of illegal discrimination,"
14 to date, and imminent threat of eviction before HUD could complete its investigation)². Here,
15 the Human Rights Commission's investigation of Ms. Fancher's housing discrimination
16 complaint will likely result in a determination that there is reasonable cause to believe that
Respondents engaged in conduct that violates the WLAD.

17 **1. Solid Evidence Establishes the Likelihood that Ms. Fancher's Landlords**
18 **Retaliated Against Her, In Violation of the WLAD, for Filing a Housing**
19 **Discrimination Complaint**

20 5.3 It is likely that Ms. Fancher's Landlords retaliated against her, in violation of
21 RCW 49.60.2235, when they and/or their staff refused to provide prospective landlords with a
22 rental reference for her after they learned of her HRC Complaint, impeding her ability to secure
23 alternate housing. RCW 49.60.2235 makes it an unlawful practice to "coerce, intimidate,

24 ² "When interpreting Washington law, [courts] may look to the federal case law when a federal anti-
25 discrimination law contains the same protections and mandates the same broad construction," as is the case here.
26 *Tafuya v. State Human Rights Comm'n*, 177 Wn. App. 216, 224, 311 P.3d 70 (2013). *But see Marquis v. City of*
Spokane, 130 Wn.2d 97, 110-11, 922 P.2d 43 (1996) (explaining that federal cases interpreting merely *similar*
federal statutes that do not contain the *equivalent* "broad language" and "liberal construction" provisions of the
WLAD are "not helpful in determining the scope" of the WLAD).

1 threaten, or interfere with any person in the exercise or enjoyment of, or on account of his or her
2 having exercised or enjoyed . . . rights regarding real estate transactions secured by RCW
3 49.60.030, 49.60.040, and 49.60.222 through 49.60.224.” RCW 49.60.2235. This provision
4 prohibits retaliatory conduct “regardless of the merits of the underlying claim, contentions or
5 allegations at issue.” WAC 162.36.006. Although Washington courts have not established a
6 standard governing retaliation claims under RCW 49.60.2235, federal authority addressing the
7 requirements under an equivalent provision of the Fair Housing Act (“FHA”)—42 U.S.C.
8 § 3617—is instructive.

9 5.4 To prevail on a retaliation claim under § 3617 of the FHA, a party must establish
10 that (1) they engaged in an activity protected by the FHA; (2) the defendant subjected them to
11 adverse action as a result of their protected activity; and (3) a causal link between the protected
12 activity and the adverse action exists. *Walker v. City of Lakewood*, 272 F.3d 1114, 1128 (9th Cir.
13 2001). Based on its investigation to date, the Human Rights Commission is likely to prevail in
14 demonstrating each of these requirements. *See* Termer Decl. ¶ 21.

15 5.5 First, Ms. Fancher has demonstrated that she engaged in an activity protected by
16 the WLAD when she filed her HRC Complaint with the Human Rights Commission on July 24,
17 2019.

18 5.6 Second, Ms. Fancher has alleged, and the Human Rights Commission
19 subsequently confirmed, that Respondents and/or their staff took adverse action against her
20 when, after learning of her HRC Complaint, they refused to provide her with a rental reference
21 when contacted by the provider of prospective housing opportunity, Zenith Properties NW, LLC.
22 Fancher Decl. ¶ 16; Termer Decl. ¶ 14.

23 5.7 Third, aside from confirming directly with Zenith’s staff that Respondents and/or
24 their staff would not provide a rental reference for Ms. Fancher, the Human Rights Commission
25 also received a letter from the Landlords’ attorney confirming that the Landlords, on at least one
26 occasion, refused to provide a rental reference for Ms. Fancher because of her HRC Complaint.

1 *Id.* ¶ 15. Further, according to Ms. Fancher, Respondent Brian Lies, when asked why he and/or
2 his staff would not provide her with a rental reference, told her that they would have provided
3 her with a positive rental reference had she not filed a housing discrimination complaint. Thus,
4 the Commission is likely to establish a causal link between Ms. Fancher's protected activity and
5 the adverse action taken by her Landlords and/or their staff. Fancher Decl. ¶ 19.

6 5.8 Accordingly, at minimum, the Human Rights Commission has demonstrated the
7 likelihood that Ms. Fancher's Landlords (including Respondents) retaliated against her in
8 violation of the WLAD.³ This, alone, is sufficient to warrant the requested injunctive relief.

9 **2. Additionally, Ms. Fancher's Landlords' Termination of Her Tenancy May**
10 **Have Been Because of Sex, in Violation of the WLAD**

11 5.9 The Human Rights Commission's investigation may also result in a
12 determination that Respondents discriminated against Ms. Fancher on the basis of sex when they
13 chose to terminate her tenancy of the Lies Rental Property. *See* Termer Decl. ¶ 22.

14 5.10 Under the WLAD, it is an unfair practice for any person to "discriminate in the
15 sale or rental, or to otherwise make unavailable or deny a dwelling, to any person; or to a person
16 residing in or intending to reside in that dwelling after it is sold, rented, or made available[.]" on
17 the basis of sex. *See* RCW 49.60.222(1)(f); *see also* RCW 49.60.30(1)(c). The WLAD also
18 prohibits expelling persons from occupancy of real property based on discriminatory grounds.
19 RCW 49.60.222(1)(i).

20 5.11 Under equivalent provisions of the FHA, domestic violence victims may succeed
21 in demonstrating discrimination on the basis of sex by showing: (1) that they are indeed victims
22 of domestic violence; (2) that they have been denied a housing opportunity made to others who
23 are similarly qualified; and (3) that a defendant acted with discriminatory intent. 74 *Causes of*

24 _____
25 ³ Respondents' decision to file an unlawful detainer action against her less than two weeks after she filed
26 the HRC Complaint, as well as their failure to dismiss their unlawful detainer action against Ms. Fancher in late
August 2019, even though on August 22, 2019, Respondents notified Ms. Fancher that she would be allowed to
continue renting the Lies Rental Property until September 30, 2019, also appears to evidence retaliation.

1 *Action Second Series* 107; *see, e.g., Creason v. Singh*, No. 13-cv-03731-JST, 2013 WL 6185596,
2 at *4 (N.D. Cal. Nov. 26, 2013) (“This Court agrees with the holding in *Bouley* that the eviction
3 of a tenant because she is a victim of domestic violence might constitute unlawful discrimination
4 under the Fair Housing Act.”); *Bouley v. Young-Sabourin*, 394 F. Supp. 2d 675, 678 (D. Vt.
5 2005) (if proven, plaintiff’s claim that her lease was terminated because of the domestic violence
6 in her home “could constitute unlawful discrimination under the Fair Housing Act.”).

7 5.12 Here, although the Human Rights Commission continues to investigate
8 Ms. Fancher’s discriminatory termination of tenancy complaint, it has received the following
9 information that may result in a reasonable cause determination that Respondents discriminated
10 against Ms. Fancher on the basis of sex: (1) Ms. Fancher alleges that, on at least one occasion,
11 Respondent Rudy Lies provided her with a 10-day notice to comply or vacate after she called
12 the police for help when she was being subjected to domestic violence, *see* Fancher Decl. ¶ 6;
13 (2) Ms. Fancher alleges that Respondent Rudy Lies, when asked why Ms. Fancher’s tenancy was
14 being terminated, responded that the decision to terminate her lease was due, in part, to the
15 domestic violence she had experienced while living in the Lies Rental Property, *see* Fancher
16 Decl. ¶ 10; and (3) Ms. Fancher alleges that Respondent Brian Lies told her that she should not
17 get pregnant if she wants to avoid “this” in the future, *see* Fancher Decl. ¶ 10.

18 5.13 If born out by the Human Rights Commission’s investigation, Respondents’
19 statements and actions may demonstrate a likelihood that they also engaged in discriminatory
20 conduct on the basis of sex when they chose to terminate Ms. Fancher’s lease and subsequently
21 commenced eviction proceedings against her.

22 **3. Ms. Fancher’s Landlords’ Also May Have Discriminated Against her on the**
23 **Basis of Familial Status.**

24 5.14 Discrimination based on families with children status is prohibited under the
25 WLAD. *See* RCW 49.60.222(1)(b), (f), (i). The term “families with children status,” means, in
26

1 relevant part “one or more individuals who have not attained the age of eighteen years being
2 domiciled with a parent.” RCW 49.60.040(13).

3 5.15 Discrimination on the basis of families with children status may occur where a
4 person is discriminated against “in the terms, conditions, or privileges of a real estate transaction
5 or in the furnishing of facilities or services in connection therewith,” on the basis of that status.
6 RCW 49.60.222(1)(b). Making unavailable or denying a dwelling to a family after that family is
7 renting the dwelling, because the family has children, also constitutes unlawful discrimination,
8 *see* RCW 49.60.222(1)(f), as does expelling such a family from “occupancy of real property, *see*
9 RCW 49.60.222(1)(i).

10 5.16 Here, although the Human Rights Commission continues to investigate
11 Ms. Fancher’s discriminatory termination of tenancy complaint, it has received the following
12 information that may result in a reasonable cause determination that Respondents discriminated
13 against Ms. Fancher on the basis of families with children status: (1) Ms. Fancher alleges that
14 Respondent Rudy Lies told her, after she and her family moved into the Lies Rental Property,
15 that he did not want to rent to her and her ex-partner because they had children, *see* Fancher
16 Decl. ¶ 4; (2) Ms. Fancher alleges that Respondent Brian Lies told her that she should not get
17 pregnant if she wants to avoid a tenancy termination in the future, *see* Fancher Decl. ¶ 10; and
18 (3) her Landlords issued Ms. Fancher a 10-day comply or evict notice after her one-year-old
19 daughter clogged a toilet by flushing baby wipes, *see* Fancher Decl. ¶ 8.

20 5.17 If corroborated by the Human Rights Commission’s investigation, Respondents’
21 statements and actions may demonstrate a likelihood that they additionally discriminated against
22 Ms. Fancher on the basis of familial status.

23 **B. If Respondents’ Unlawful Detainer Action Proceeds, the Human Rights**
24 **Commission’s Right and Mandate to Eliminate Unfair Practices Will be Impeded**

25 5.18 The Human Rights Commission has a well-grounded fear that Respondents’
26 unlawful detainer action will directly impede its ability to eliminate practices that violate the

1 WLAD.

2 5.19 Specifically, because the Commission's investigation of Ms. Fancher's housing
3 discrimination complaint will likely result in a determination that there is reasonable cause to
4 believe, at minimum, that her Landlords retaliated against her, including by commencing
5 eviction proceedings against her after she filed her HRC Complaint, allowing Respondents to
6 evict Ms. Fancher and her family before completion of the investigation will directly impede the
7 Human Rights Commission's ability to "eliminate the effects of an unfair practice." *See* WAC
8 162-08-298(2).

9 5.20 If Respondents not only evict Ms. Fancher from, but also rent the Lies Rental
10 Property to other tenants, before the Human Rights Commission is able to complete its
11 investigation, the Commission will be prevented from seeking injunctive relief allowing
12 Ms. Fancher and her four children to continue living in the Lies Rental Property, despite a
13 reasonable cause finding that the termination of her tenancy was discriminatory. *See id.* ("The
14 effects of an unfair practice are eliminated by restoring the victims of the unfair practice as nearly
15 as possible to the position they would have been in if the unfair practice had not occurred.").

16 **C. , Ms. Fancher and Her Four Minor Children Will Suffer Actual and Substantial**
17 **Injury If the Unlawful Detainer Action Is Allowed To Proceed**

18 5.21 If Respondents' unlawful detainer action is allowed to proceed, Ms. Fancher and
19 her four children will suffer actual and substantial injury.

20 5.22 In addition to being evicted likely on a discriminatory basis, Ms. Fancher and her
21 four children (including Ms. Fancher's three-month-old infant) face the very real possibility of
22 homelessness. Fancher Decl. ¶¶ 25–26.

23 5.23 Since receiving notice of her Landlords' decision to terminate her tenancy,
24 Ms. Fancher has submitted rental applications at several locations. *See id.* ¶¶ 15–16, 20–25.
25 However, none of her applications have been approved. *Id.* ¶ 24. Upon inquiring, Ms. Fancher
26 has been told that her rental application were not be approved because her Landlords either

1 refused to provide her with a rental reference, or they chose to maintain their unlawful detainer
2 action pending even after agreeing to allow her to continue living in the Lies Rental Property.

3 *Id.* ¶¶ 16, 20, 22–23.

4 **D. A Balancing of the Relative Interests Supports Enjoining Respondents’ Actions to**
5 **Evict Ms. Fancher and her Four Children While the Human Rights Commission’s**
6 **Investigation is Pending**

7 5.24 A balancing of the equities tips in favor of enjoining Respondents from
8 proceeding with eviction proceedings against Ms. Fancher before the Human Rights
9 Commission completes its investigation into her housing discrimination complaint.

10 5.25 If injunctive relief is not granted, Ms. Fancher and her four children face the
11 imminent threat of homelessness. *See* Fancher Decl. ¶ 24–26. This threat has only been
12 compounded by Respondents’ direct actions—including their refusal to provide Ms. Fancher
13 with rental references and their subsequent refusal to dismiss their unlawful detainer action even
14 after they had agreed to extend Ms. Fancher’s tenancy—which have impeded Ms. Fancher from
15 securing alternate housing for her family. *See id.* ¶¶ 15–16, 20–25.

16 5.26 Respondents, on the other hand, will not be injured in any appreciable manner,
17 as Ms. Fancher will continue paying monthly rent during the pendency of the requested
18 injunction. Fancher Decl. ¶ 27.

19 5.27 The public interest also weighs in favor of enjoining those acts which may imperil
20 the State’s ability to enforce the WLAD and eliminate discriminatory practices that affect
21 Washingtonians in their pursuit of fair housing. Allowing Respondents to proceed with their
22 eviction proceeding against Ms. Fancher would not only undermine the Human Rights
23 Commission’s ability to investigate and eliminate discriminatory practices, it would also
24 undermine the explicit spirit and purpose of the WLAD by potentially allowing persons accused
25 of engaging in discriminatory housing practices to commit irreparable harm before their
26 discriminatory practices may be properly investigated and eliminated before causing further
harm.

5.28 The Human Rights Commission respectfully requests that preliminary relief be issued to maintain the status quo pending completion of the Commission's investigation of Ms. Fancher's housing discrimination complaint.⁴

VI. PRAYER FOR RELIEF

Pursuant to RCW 49.60.350(1), the Human Rights Commission respectfully requests that:

6.1 The Court issue a temporary restraining order and preliminary injunction enjoining Respondents from further prosecuting their pending unlawful detainer action against Ms. Fancher—styled *Rudy Lies and Brian Lies v. Kaleena Fancher, et al.*, Clark County Superior Court Cause No. 19-2-02473-06—pending completion of the Human Rights Commission’s investigation of Ms. Fancher’s housing discrimination complaint.

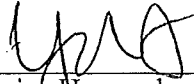
6.2 Specifically, the Commission requests that the Court order Respondents to refrain from seeking the issuance of, or enforcing, any writ of restitution in *Rudy Lies and Brian Lies v. Kaleena Fancher, et al.*, Clark County Superior Court Cause No. 19-2-02473-06, or taking any other actions to effectuate Ms. Fancher's eviction from the subject premises, 15510 NW 2nd Avenue, Vancouver, Washington 98685.

DATED this 31st day of October, 2019.

⁴ RCW 49.60.350 does not require the Human Rights Commission to post security in connection with its request for a temporary restraining order or a preliminary injunction. *See* RCW 49.60.350; CR 65(c) (“Pursuant to RCW 4.92.080 no security shall be required of the State of Washington” or “political subdivisions of the State of Washington.”).

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