

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

N. CLARK LLC and KATHLEEN CRESSON

Plaintiffs

vs.

**SECRETARY, U.S. DEPARTMENT OF
HOUSING and URBAN DEVELOPMENT (HUD)
Also known as Texas HUD/ FHEO, And
DEPARTMENT OF JUSTICE (DOJ),
Civil Rights Division,
Under the Freedom of Information Act**

Defendants

*** Civil Action No.:**

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*** SECTION:**

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*** JUDGE:**

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*** MAGISTRATE JUDGE:**

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**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES
AND ORDER TO DISMISS THE HUD CHARGE AND PUBLICATION OF THE
ILLEGAL CHARGE, WITH A NEW PRESS RELEASE TO VINDICATE PLAINTIFFS**

Plaintiffs, N. Clark LLC and Kathleen Cresson, by and through undersigned counsel, bring this action for declaratory and injunctive relief and damages against Secretary, U.S.

Department of Housing and Urban Development (HUD) aka the Texas HUD/FHEO; and the Department Of Justice (DOJ), Civil Rights Division, under the Freedom of Information Act, for violations of state and federal civil rights laws and due process of Plaintiffs. In support of their claims, Plaintiffs respectfully represent the following:

I. Nature of the Action

1. When the Louisiana Fair Housing Action Center (LAFHAC), formerly known as the Greater New Orleans Fair Housing Action Center (GNOFHAC), dismissed their Complaint for Discrimination against said Defendants (now made Plaintiffs herein), on October 31, 2023, the HUD Charge should have also fallen. Said HUD Charge was meritless and is unactionable

without the Complaint that initiated the Charge against said Plaintiffs. The LaFHAC (GNOFHAC) Complaint was filed May 13, 2019. It was dismissed October 31, 2023.

2. When HUD in Texas filed the Charge of Discrimination against N. Clark LLC and Kathleen Cresson, on 9/27/2023, It read:

“Secretary, United States Department of Housing and Urban Development, on Behalf of Complainant Louisiana Fair Housing Action Center f/k/a Greater New Orleans Fair Housing Action Center, Charging Party”. Thus if the Complaint was dismissed on 10/31/2023, the HUD Charge should have also been dismissed. But it was not. HUD in Texas just said they were now closing their investigative file. But the bogus Charge and the Press Release thereon are still on the record and on social media. Now this Court should do it.

3. Plaintiffs were recently notified that the relevant Complaint against Plaintiffs was dismissed, by letter on or about 6/13/2024, .from Christina Lewis with Texas HUD. This was after many demand letters were sent to HUD in Texas, and also to the DOJ under the Freedom of Information Act (FOIA). There seems to be very little transparency here. There has never been a response by the DOJ under the FOIA.

II. Parties

4. Plaintiff N. Clark LLC is a limited liability company domiciled in New Orleans Louisiana at 221 N. Clark Street, New Orleans. The majority owner now and at the time of the Complaint and Charge is Plaintiff Kathleen Cresson. Kathleen Cresson is also an attorney that practices out of 221 N. Clark Street, the upstairs unit. She also used said unit as a second home, as it is designed as a residence with a full bath, and a dishwasher and refrigerator, hot plate and portable oven. This is due to the fact that Kathleen Cresson has still not rehabbed her original home at 851 Allen Toussaint Blvd. (formerly called Robert E. Lee Blvd.) in New Orleans since Hurricane Katrina in 2005. Her downstairs is still a basement with studs and she has no full kitchen. She sleeps upstairs at her single family house and at the N. Clark property, and did prior to, at the time of the Complaint/Charge and presently. The downstairs unit at 219 N. Clark

Street has been rented over the years as both commercial and residential and is also used by Kathleen Cresson as a second home, when not rented. Said building at 221 N. Clark is a double composed of two units, 221 and 219 N. Clark and is and was owner occupied. The City of New Orleans designates said building as commercial, as well as the general area. Hence the building was clearly exempt from the Fair Housing Act (FHA), and HUD knew this, with all the many documents and law and case law that Kathleen Cresson as Attorney sent them over the 3 years that HUD in Texas investigated her and her N. Clark LLC. This was after the LADOJ had already investigated it since about May, 2019 until November 2020.

5. HUD out of Texas (that also seems to have within its authority its FHEO) investigated said Complaint made by the GNOFHAC, now known as LaFHAC. Under law, it was supposed to only have 100 days to investigate the complaint of discrimination. But took almost 3 years to do so and to make a bogus Charge. It is also alleged according to info from HUD that the Louisiana Attorney General's Office had investigated said complaint but found No Cause, but that HUD out of Texas unilaterally reactivated the Complaint. The Complaint by LaFHAC, formerly GNOFHAC, was made on May 13, 2019 to the Louisiana Department of Justice (LADOJ). The case was reactivated by HUD on November 19, 2020 from LADOJ. On June 14, 2019 the Complaint was amended to also add N. Clark LLC as a respondent. On December 22, 2020 the Complaint was again amended, by HUD in Texas, to say that Kathleen Cresson made verbal statements, even though 804 (c) refers only to the publishing and advertisement on social media, which is not even applicable. So it is interesting to note how the HUD investigator is also acting as a prosecutor and judge, a clear conflict of interest. It also clearly expanded the Complaint wording originally submitted by the LaFHAC/GNOFHAC.

6. The DOJ in Washington, D.C. elected not to file suit on 11/1/23 and notified Plaintiffs. But since March of 2024 and continuing until August 2024, Plaintiffs have been trying to obtain the entire file from the DOJ under the Freedom of Information Act. After several written requests to both DOJ and HUD, this request for records fell on deaf ears. The DOJ, Civil Rights

Division never responded at all to this request. The only response was by HUD by Christina Lewis, Director of HUD's FHEO Division. She finally informed Plaintiffs by mail in about June 2024 that the subject Complaint by LaFHAC was dismissed on October 31, 2023.

III. Jurisdiction and Venue

7. Jurisdiction is conferred on this Court by 28 U.S.C. Section 1331 (federal question) because this Action involves civil rights issues of Plaintiffs, and 28 U.S.C. Section 1367(a) (supplemental jurisdiction) because the state law cause of action alleged herein arises under the same transactions and controversies as the federal law claim.

Jurisdiction is also conferred by the Federal Torts Claims Act. Also as this is a procedural issue, HUD cannot have an outstanding Charge dated 9/27/23 and a bad press release on it of 10/4/23 that was propagated to thousands, but still keep them both alive. When LaFHAC dismissed their Complaint on 10/31/23, HUD should have dismissed their Charge shortly thereafter. Demand was made several times by Plaintiffs' undersigned attorney, for them to do so, but the demand went unanswered. The DOJ also has the duty to also provide the file under the FOIA. They have not responded at all, not even to say why.

8. Venue is proper in this District Court under 28 U.S.C. section 1391(b) (general venue) because the acts and omissions alleged herein occurred in the Parish of Orleans and Plaintiffs reside and are domiciled in New Orleans. HUD in Texas is also governed by the 5th Circuit Court of Appeals and the DOJ also has a New Orleans Office here.

IV. Factual Allegations

9. GNOFHAC, now called LaFHAC, filed a complaint on May 13, 2019, that was initially investigated by the Louisiana Department of Justice (LADOJ) via the La. Attorney General's Office. They allegedly found No Cause but it was reactivated by HUD on 11/20/20.

10. HUD in Texas took about 3 years to investigate this case despite that the law only provides 100 days. They were still trying to drag it out more until attorney Kathleen Cresson said

enough was enough and to please either dismiss the matter or a file a charge because the investigation was abusive. She further told them she did nothing wrong. The transcripts by HUD later bore this out. HUD in Texas still elected to charge said Plaintiffs N. Clark LLC and Kathleen Cresson only because they wanted a \$40,000 money grab and how dare anyone challenge them. It was a meritless charge from the beginning and there were also a host of issues with the Complaint by the GNOFHAC, now called LaFHAC.

11. When HUD in Texas filed the Charge of Discrimination against N. Clark LLC and Kathleen Cresson, on 9/27/2023, It read:

“Secretary, United States Department of Housing and Urban Development, on Behalf of Complainant Louisiana Fair Housing Action Center f/k/a Greater New Orleans Fair Housing Action Center, Charging Party”.

12. Originally HUD filed it as an administrative charge. But when respondents N. Clark LLC and Kathleen Cresson requested a federal trial in the U. S. District Court in the Eastern District of Louisiana, said Charge was then sent to the DOJ in Washington D.C. The Respondents of said Charge, N. Clark LLC and Kathleen Cresson, through their attorney Kathleen Cresson, refused to settle at all because they alleged they did nothing wrong and the subject properly was exempt anyway, as both a commercial building, and the majority owner of N. Clark LLC also used it as a second home. The DOJ then elected not to sue, probably because they realized they could not win. Also these Plaintiffs allege that had proven to HUD and the DOJ that the complaint was defective anyway as an “inside job” and was not signed by the current director Cashauna Hill, and the complaint signature was not even properly verified.

13. The DOJ under law had 30 days to make a decision to file suit, which was November 1, 2023. When they elected not to do so Respondents thru their attorney Kathleen Cresson was notified by an attorney for the DOJ that they did not file suit and their file was now closed against said Respondents.

14. On or about March 2024 Respondents started trying to obtain the file on them thru the DOJ Civil Rights Division. An initial letter was sent out via email and several reminders were sent thereafter. The DOJ totally just ignored this request. More letters were sent in May and August, 2024.

15. On about 6/13/2024 Respondents thru their attorney Kathleen Cresson received a letter from the HUD in Fort Worth Texas dated 6/4/2024 that the complainant LaFHAC f/k/a GNOFHAC formally withdrew this subject complaint on October 31, 2023. In accordance with the complainant's request, HUD has terminated its investigation and has administratively closed the complaint. Attached was a letter by the LAFHAC to the DOJ asking that the U. S. Department of Justice's Housing and Civil Enforcement Section withdraw from LaFHAC v. N. Clark LLC RE: LaFHAC vs. N. Clark LLC and Kathleen Cresson, FHEO No. 06-19-5052-08.

16. On 8/23/2024, Kathleen Cresson as attorney for N. Clark LLC and Kathleen Cresson sent HUD via its Fort Worth Office and others a second and final email to dismiss the Charge as their Charge is invalid now that the Complaint was dismissed. She then told them she was going over their heads soon to the HUD Office of Inspector General as well as having to file a federal lawsuit, if necessary. No response by HUD in Texas was made.

17. This case is so much not a case on its merits. Rather it is a Request for this Court to Order the Charge be dismissed as improper now, in light of the Complaint on which it was based having been dismissed. The Court should also vindicate Plaintiffs' reputations by ordering a new press release sent out by HUD to HUD's thousands of email subscribers of the Press Release that was sent out about October 4, 2023. The new Press Release should state that LaFHAC/GNOFHAC's Complaint for Discrimination and the HUD Charge for Discrimination have both been dismissed. HUD now just closing their investigative file is not going to cut it. They have a duty to correct their slander. Otherwise it is malicious.

18. Also the Petitioners request this Court to also order the DOJ, Civil Rights Division, to produce all their records in this matter as to why the DOJ did not file suit and as per the requests made by Petitioners in March 2024 and continuing. This Request was made under the Freedom of Information Act and Plaintiffs should be given all these records and none should be exempt.

Injury to Plaintiffs

19. Plaintiffs have been injured by not only being abused in the investigative process that clearly went beyond the investigative period as required by law, and also for a property that was clearly exempt, but also for having to endure years of countless inquiries and sending of documents and research of court cases to HUD in Texas to investigator Cris Cortez.

20. Investigator Cris Cortez for Texas HUD did not seem to be fair at all, and very little attempt was made to talk with Plaintiffs' witnesses Also HUD reactivating the Complaint was clearly an abuse and conflict of interest as **HUD clearly provides policy and lots of funding to LaFHAC (GNOFHAC).**

21. When due to the abusive investigation by Cris Cortez, Plaintiffs' attorney asked for legal oversight. She was given the attorney for HUD in Texas, Kimberly A. Quirk. Instead of making sure the investigator was adhering to the law, when Plaintiff's attorney Cresson sent her emails showing the abuse and that property is exempt, attorney Kimberly Quirk's response was that she was not going to try this case by emails. She said this before even a Charge was issued.

22. Plaintiffs N. Clark LLC and Kathleen Cresson, and Kathleen Cresson as Attorney, has dedicated significant resources, to identifying that the subject property was exempt and providing lots of documents and court cases during HUD's nearly 3 years of investigation and repeated inquiries. Plaintiffs' attorney called this White Elder Abuse. And it continues to be White Elder Abuse as long as that bogus charge remains on the books and as long as that malicious and incorrect press release remains out there on social media. HUD has a duty to correct this. Just look up the name of Kathleen Cresson and see that the press release of the HUD Charge not only shows up, but various recipients of the emails reiterated it and even commented on how a person is apparently now required to racially profile by trying to identify the black

dialect and black names. That burden was never placed on landlords by law. HUD was constantly trying to extort \$40,000 from Plaintiffs, trying to make Cresson take Fair Housing Classes when she already had taken tons of Fair Housing Classes, and demanding that Plaintiffs sign an injunction never to do it again, to which Cresson responded: Never Do What Again? HUD even modified the Complaint by LaFHAC/GNOFHAC to allege more things that were not mentioned in the original Complaint. How can a HUD investigator who is supposed to be fair and impartial, do this? Plaintiffs were also accused of steering when they informed potential renters of also other rentals Cresson owned. All this was an attempt by HUD of Texas to intimidate Plaintiffs and to deny Plaintiffs and their attorney Kathleen Cresson their rights of free speech under the 1st Amendment and due process of rights and liberties of all U. S. citizens under the 14th Amendment, and also to completely misinterpret the law.

Cause of Action

23. Plaintiffs re-allege and incorporate the facts and allegations contained in Paragraphs 1 through 26 as if fully set forth herein.

24. By their conduct set forth above, that the Defendants HUD/FHEO in Texas are in violation for refusal to dismiss their Charge when the Complaint and Party on which their Charge was based has dismissed the Complaint on 10/31/23. Why did HUD wait so long to give us this info after repeated emails and letters by attorney for Plaintiffs?

25. By the conduct of the DOJ, Civil Rights Division, of its refusal to produce their file and all records thereon as requested under the Freedom of Information Act (FOIA) and gave no reason therefore. In fact the DOJ attempted initially to dismiss attorney's Cresson's request, until she called them on it ;

26. That the malicious actions of HUD/FHEO in Texas of this bogus Charge and the refusal to dismiss same and send out a new press release stating as much, has maliciously slandered Plaintiffs, including their obvious refusal to dismiss same, which has caused Plaintiffs economic harm and emotional distress and has unfairly disparaged Plaintiffs' reputation, particularly that

of attorney Kathleen Cresson;

Request for Relief

WHEREFORE Plaintiffs request that this Court grant the following relief:

(A) As a procedural matter that since the LaFHAC/ GNOFHAC dismissed their complaint on 10/31/2023, that this Court declare that the HUD Charge that was based on said complaint and on whose behalf the HUD in Texas filed said CHARGE, should also be dismissed.

Plaintiffs pray for a Declaratory Judgment as to this;

(B) and a Permanent Injunction issue ordering HUD to dismiss said Charge as without merit and no Standing to continue said CHARGE, and order HUD to send out a new press release to all the thousands of recipients of the initial press release that the CHARGE has also been dismissed, as the LaFHAC/GNOFHAC had dismissed their complaint;

(C) Award Plaintiffs compensatory damages in an amount that would fully compensate Plaintiffs for the damages they have suffered herein for a ridiculous prolonged investigation, when HUD of Texas/FHEO knew and should have known that said property was exempt from the FHA and for the malicious press release on the Charge, and the refusal of HUD to dismiss said Charge, now that the LaFHAC has dismissed their complaint. Plaintiffs are entitled to damages for slander and for the malicious refusal to dismiss their Charge and inaccurate Press Release;

(D) Award Plaintiffs punitive damages that would punish HUD/FHEO of Texas for the willful, malicious, wanton and reckless conduct alleged herein and that would effectively deter similar conduct in the future;

(E) Award Plaintiffs their reasonable attorney's fees and costs incurred in this action;

(F) That the DOJ be ordered to produce all documents in its file when it investigated this Charge and why it elected not to file suit, all as requested for said documents under the Freedom of Information Act and eventually be ordered to show cause why these documents should not be

produced in their entirety, and for attorney's fees for this.

(G) Award Plaintiffs all other equitable relief as may be just and proper, as this teaming up by fair housing groups with HUD against white landlords, particularly older landlords, has a chilling effect on our rights to free speech, due process and to rent our properties. Even the FHA has a disclaimer that the FHA only applies "within constitutional limits". The Fifth Circuit Court of Appeals in New Orleans has alluded to this in recent cases before it. Ordinary people who do not have the luxury of a law degree have to spend thousands to hire an attorney and for court costs. They are giving in to what they call "a set up" and allowing themselves to be extorted just because they want to stop the bleeding. And even attorneys are forced to expend all kinds of time and resources that can better be spent making a living and not being harassed, and defending truly meritless allegations that are an invasion of privacy, and reflect on the lack of transparency and abuse of the government.

Dated 9/27/24

Respectfully submitted:



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