UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

Allison Barton Rice, pro se
Plaintiff - Appellant,

vs.

City and County of San Francisco, et al.
Defendants - Appellees.

9th Cir. Case No. 24-2217

District Court Case No.——
——————19-cv-04250-LB

APPELLANT'S INFORMAL REPLY BRIEF

Table of Contents

INTRODUCTION 3
PREFACE — CCSF EMPLOYEES' MISCONDUCT 4-12

RICE'S RESPONSE TO CCSF'S "OPPOSITION" (Dkt No. 12.1) 12-39
I. THE DISTRICT COURT [did not] APPL[Y] THE CORRECT LEGAL STANDARD IN AWARDING COSTS 12-15
A. Federal Rule Of Civil Procedure 54(d)(1) [not necessarily] Sets The Legal Standard And Establishes A Strong Presumption In Favor Of Awarding Costs 15
B. *Green v. Mercy Housing, Inc.* [should] Set The Legal Standard For Recovery Of Costs [in *Rice v. CCSF* or an en banc court should decide] 15-16
II. RICE'S OTHER ARGUMENTS [have] MERIT 16-17
A. Rice's Accusations Of Misconduct Are [true], And He [identifies that all] Cost Incurred [are] A Result Of [CCSF employees' misconduct] 18-20
B. Rice [clearly] Met His Burden Of Establishing He Is Indigent, Such That The District Court Should Have Departed From The General Rule Of Awarding Costs To The Prevailing Party 21
C. Awarding Costs Will [] Deter Future Civil Rights Claims 22-24
D. The Closeness Or Difficulty In This Case Did [] Support A Departure From The General Rule Of Awarding Costs To The Prevailing Party .. 25
E. This Case Does [] Present A Landmark Issue Of Importance . 25-39

SUMMATION 40-41
CONCLUSION 41
RICE'S PRAYER and SUPPLICATION 41

Cases

Ass'n of Mexican-Am. Educators v. California, (9th Cir. 2000)………… 12 and 15
Ayala v. Pac. Mar. Ass'n, (N.D. Cal. 2011) ……………………………………….. 13
Botosan v. Paul McNally Realty, (9th Cir. 2000) ……………………………….. 31
Brown v. City of Tucson, (9th Cir. 2003) ..……………………………………….. 31
Chambers v. Nasco, Inc., (U.S. 1991) …………………………………………….. 19
Cherry v. Champion Int'l Corp., (4th Cir. 1999) ……………………………….. 21
Gilead Community Services, Inc. v. Town of Cromwell, (2nd Cir. 2024) ……….. 39
Havens Realty Corp. v. Coleman, (U.S. 1982) ………………………………….. 11
Oregon Bureau of Labor and Industries Ex Rel. Fair Housing Council of Oregon v. Chandler Apartment, LLC, (9th Cir. 2017) ……………………………………… 40
Stanley v. Univ. of S. Cal., 178 F.3d 1069, 1080 (9th Cir. 1999) ………………... 22
United States v. Cal. Mobile Home Park Mgmt. Co., (9th Cir. 1994) ……………. 3
United States v. United States Gypsum Co., (U.S. 1948) …………..…………… 14
United States v. Daas, (9th Circuit 1999) ……………………………………….. 30

Federal Statutes

42 U.S.C. 3601—3619 ………………………………………………….. 37 and 38
42 U.S.C. § 3601 ……………………………………………………………….. 32
42 U.S.C. § 3602 ……………………………………………………………….. 32
42 U.S.C. § 3603 ……………………………………………………………….. 33
42 U.S.C. § 3604 ……………………………………………………………….. 34
42 U.S.C. § 3604(f)(3)(B) ……………………………………… 3, 25, and 40
42 U.S.C. § 3607 ……………………………………………………………….. 34
42 U.S.C. § 3613 ……………………………………………………………….. 37
42 U.S.C. § 3617 ………………………………………………….. 3, 9, 25, and 40

Other

Ex. A, 6/15/2023 pretrial conference transcript submitted with Mr. Rice's Informal Opening Brief, Dkt No. 7.2 ..…………………………………………………… 20

CCSF Inclusionary Affordable Housing Program Monitoring and Procedures Manual ("Manual") or Manual, Exhibits A1 and A2 in Mr. Rice's primary appeal, 9th Circuit Case No. 16013, Dkt Nos. 17.3 and 17.4, respectively …… 4, 7, 11, 24, and 28
LEHP or LEP or Limited Equity Home Ownership Program ..….. 4, 23, 24, and 27
LEHP Agreement or Agreement, district court Dkt No. 1.1, p. 4-19 … 7, 11, and 23

INTRODUCTION

Rice v. CCSF is a Fair Housing Act ("FHA") case. Specifically, it is an intentional disability discrimination case involving violations of 42 U.S.C. § 3604(f)(3)(B) and § 3617. More specifically, CCSF had an affirmative duty to accommodate Mr. Rice with his requested accommodation, but did not; and, they did not have any legitimate reason to not make his requested accommodation.

The only reason *Rice v. CCSF* exists is because of knowing, willful, and intentional lies and fraud by City and County of San Francisco's ("CCSF") Mayor's Office of Housing and Community Development ("MOHCD") Officials; and [indirectly] the former and current City Attorney, and [directly] certain Deputy City Attorneys (collectively "CCSF employees").

Quite simply, before and during the relevant time (October 26, 2017 to May 4, 2018), had CCSF employees communicated and responded truthfully and fully to Mr. Rice about [his] disability rights under the FHA (and/or California FEHA) and CCSF Planning Department Code 305.1 (CCSF's policy for people with disabilities), *Rice v. CCSF* and CCSF's Bill of Costs would never have existed.

Rice v. CCSF is NOT what CCSF employees imply it to be — it is NOT about CCSF's affordable housing policy[1] exemptions nor is it about "alternative options" which they have made extraordinary effort to effectuate.

---

[1] *See US v. California Mobile Home Park Management Co.,* (9th Circuit 1994) quoting *U.S. v. Village of Marshall*, (W.D. Wis 1991) "("strict adherence to a rule which has the effect of precluding handicapped individuals from residing in the residence was precisely the type of conduct which the Fair Housing Amendment Act sought to overcome with the enactment of § 3604(f)(3)(B)")"

PREFACE — CCSF EMPLOYEES' MISCONDUCT
(fraud and fraudulent machinations)

CCSF employees never informed Mr. Rice of anything whatsoever about [his] disability and housing rights despite being fair housing experts and their full knowledge of his disabled status, his request for accommodation, his PCP's recommendation for accommodation, and Mr. Rice's very numerous requests for the exact information he needed and how to proceed.

Instead, CCSF employees communicated a number of lies and knowing misrepresentations of the truth to Mr. Rice, and concealed a number of material facts from him. In short, CCSF employees committed a very clever and well executed fraud (i.e. ruse or fraudulent scheme) upon Mr. Rice during the relevant time by concealing from him everything about [his] disability and housing rights and very important relevant parts of CCSF's affordable housing programs' Manual.

And, they intentionally treated him as some sort of affordable housing cheat (he was not) and administratively prosecuted him with their "policy" ruse to impose their illicit will upon him and onto the Limited Equity Home Ownership Program ("LEHP").

Subsequently, CCSF employees committed that same very clever and well executed fraud upon the district court and the jury. And, they shifted and expanded their fraud as needed to meet the exigences of the moment or issue. For example: November 25, 2019:

"The FHA does not apply here because Defendants did not provide housing to Plaintiff during the applicable time period." (district court Dkt No. 50, p. 7, 5-6),

"Further, Plaintiff did not qualify for a financial hardship exemption."(district court Dkt No. 50, p. 8, 23),

January 17, 2020:

[by the district court] "The plaintiff Allison Barton Rice sued the City and County of San Francisco and various public officials (collectively, the "CCSF") for their alleged discrimination against him (based on his disability) when they denied him permission to have a rent-paying roommate in his below-market-rate condominium. The court dismissed the plaintiff's earlier complaint for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) because the plaintiff did not plausibly plead that the defendants denied him a rent-paying roommate because of his disability (and instead, the allegations established that the denial was predicated on his failure to qualify for a financial-hardship exemption). The court gave leave to amend to cure the complaint's deficiencies. The plaintiff amended his complaint, and the defendants moved to dismiss it, again on the ground that the plaintiff failed to state a claim **because they denied him a rent-paying roommate after he failed to qualify for a financial-hardship exemption, not because of his disability**." (district court Dkt No. 58, p. 1, 18 - p. 2, 8) (emphasis applied),

October 13, 2022:

"Mr. Rice's requested accommodation was not necessary as a matter of law." (district court Dkt No. 132, p. 6, 10),

"Defendants granted the accommodation Mr. Rice requested." (district court Dkt No. 132, p. 17, 7),

June 16, 2023:

[by the district court to the jury] "The City asserts that it reasonably accommodated plaintiff's request by allowing him a non-rent-paying roommate. The City also asserts that the plaintiff did not have a medical need to charge rent and his request to charge rent was not reasonable.

The City also contend that plaintiff's request to charge rent in his below-market-rate condominium would fundamentally change the nature of the City's Affordable Housing Program and create undue administrative and financial burdens for the City." (Trial Transcript, p. 12, 2-11),

And,

August 28, 2024:

> "The City had legitimate reasons for denying Rice's requested accommodation for a rent-paying roommate in his affordable housing condominium; it was unreasonable and would have fundamentally altered the nature of the City's housing program." (Dkt No. 12.1, p. 17)

To be clear and certain, Mr. Rice's requested accommodation was for a "rent-paying roommate", Mr. Rice never requested to simply "collect rent".

Importantly, CCSF employees denied Mr. Rice's requested accommodation because "he failed to qualify for a financial-hardship exemption" — NOT because, as CCSF employees assert, "it was unreasonable and would have fundamentally altered the nature of the City's housing program" (which is false, please see Mr. Rice's Informal Opening Brief in his primary appeal in this case — 9th Circuit Case No. 23-16013, Dkt No. 17.1, "II. "Rent-Paying Roommate" Accommodation was Necessary" at page 13, and "III. "Rent-Paying Roommate" Accommodation was Reasonable" at page 14).

Additionally, please consider the following truthful and accurate facts:

• Because a "rent-paying roommate" was reasonable to make for a policy exemption; it was reasonable to make for a disability related FHA accommodation.

• CCSF employees claimed that if Mr. Rice qualified for a "policy" exemption allowing him to have a "rent-paying roommate" then it was in the nature of the Program and reasonable for them to make. However, they claimed if it was for an "FHA" disability accommodation then it was against the nature of the Program and not reasonable for them to make.

• Mr. Rice's "rent-paying roommate" was, in fact, allowable under the controlling [LEHP] Agreement and CCSF's affordable housing programs' Manual as an exemption. Thus, his disability related accommodation under the FHA for his "rent-paying roommate" was within the nature of the Program and did not impose any undue financial or administrative burden on CCSF.

Furthermore, Rice had already obtained permission from the original Agency to have rent-paying roommates. His request to CCSF employees was for the "written" consent so as to be in compliance with the Limited Equity Home Ownership Program Agreement:

"Plaintiff Rice, having formerly obtained permission from the SFRA and/or pursuant to his disabled status, disability, and/or disability related needs, reasonably believed the MOHCD would honor his request for "written" consent to lease a portion thereof of the Property to a roommate and entered into a new rental agreement on October 15th 2017 with []." (district court Dkt No. 1, ¶ 54)

Importantly, that "written" consent was not required for Mr. Rice's already obtained requested disability related FHA accommodation.

Naturally, CCSF employees deny that they were dishonest, fraudulent, and deceitful to Mr. Rice, the district court, and the jury.[2]

"And Rice's accusations of "deceit" and "fraud," most of which center around the City's defense in this case that Rice's requested accommodation was not necessary nor reasonable under the Fair Housing Act, do not come close to bad-faith conduct recognized by courts when determining whether to assess costs under Rule 54(d)(1)." (Dkt No. 12.1, p. 12)

---

[2] For extensive elucidation of CCSF's employees fraud, please see Mr. Rice's Informal Opening and Reply Briefs in his primary appeal in this case — 9th Circuit Case No. 23-16013, Dkt No. 17.1, "V. CCSF's Ruse (Fraudulent Scheme / Deceitful Narrative)" at page 17, and Dkt No. 31.1, "PREFACE — PART I. FRAUD (upon the district court)" at page 3, respectively.

However, their denials, themselves, are dishonest, fraudulent, and deceitful. The evidence of CCSF employees' lies and fraud is not only clear and convincing, it is irrefutable. For example:

"Defendants granted the accommodation Mr. Rice requested." (district court Dkt No. 132, p. 17, 7)

That was (and is) a lie. We know it's a lie because "the accommodation Mr. Rice requested" (and obtained from the original Agency) was to lease a portion of his former home to rent-paying roommates and the "Defendants" never granted Mr. Rice that request. Furthermore, CCSF employees repeatedly asserted that "Defendants" accommodated Mr. Rice with a non-rent-paying roommate (i.e. a guest). That, too, was (and is) a lie because a non-rent-paying roommate was <u>never</u> an accommodation in this case.

And,

"[T]he City endeavored to reasonably accommodate plaintiff's disability. Plaintiff's request. Ms. Yin and Ms. Benjamin will tell you that they tried their best to work with plaintiff, to reach alternative options, but he refused." (Trial Transcript, p. 138, 13-16)

Please note "tried their best … to reach alternative options, but he refused." That was (and is) a fraudulent statement [to the jury]. We know it's a fraudulent statement because Ms. Yin and Ms. Benjamin never had any communications whatsoever with Mr. Rice about [his] disability rights under the FHA (and/or California FEHA) and CCSF Planning Department Code 305.1 (CCSF's policy for people with disabilities), and they <u>never</u> acknowledged his disability or his disabled status. Furthermore, Mr. Rice had no obligation to accept any alternative

option, especially if it did not work or was illegal. As noted earlier, Mr. Rice requested a disability related FHA accommodation and CCSF had an affirmative duty to make it but refused to make it based on their "policy" ruse without providing him the due process required by the FHA. That is, CCSF employees[3] forced contract law principals upon Mr. Rice in violation of 42 U.S.C. § 3617.

To be clear and certain, *Rice* is about CCSF's affirmative duty to make Mr. Rice's requested accommodation, it is NOT about CCSF's affordable housing policy exemptions nor is it about "alternative options" (i.e. CCSF employees' fraud and fraudulent machinations).

There is at least one additional aspect of CCSF employees' misconduct (i.e. fraud and fraudulent machinations) that needs to be said here — CCSF employees always put the blame on Mr. Rice (i.e. blame the victim). For example:

• "It has been brought to MOHCD's attention that you have been leasing out the Property and collecting rents without MOHCD's prior written consent. Although you may have received verbal approval by the Agency to have a roommate, there is no record that the Agency approved you leasing out your Property."[4] Disability accommodations under the FHA are not required to be in writing; and the original Agency failed to provide the written consent, if necessary.

---

[3] Here, specifically, Ms. Yin, Ms. Benjamin of the MOHCD and Deputy City Attorney Mr. Nagayama.

[4] CCSF's 'Action Required' letter, district court Dkt No. 1.1, p. 33. Additionally, **it was Mr. Rice who informed the MOHCD**.

• "Plaintiff never applied for a financial hardship or indicated an interest in doing so." (district court Dkt No. 173, p. 2, footnote 1) Mr. Rice never needed a financial-hardship exemption, he needed a disability related accommodation. And,

• (CCSF) "**Q** And you never tried to have a roommate who you didn't charge rent, but paid for utilities or groceries, right? (Plaintiff Rice) **A** That's correct." (Trial Transcript, p. 415, 22-24) A clear and painfully obvious suggestion to commit fraud, tax evasion, and a crime asserted by CCSF employees as an "alternative option" Mr. Rice could have utilized instead of having "rent-paying" roommates.

And, CCSF employees always claimed they never did anything wrong and always did the right thing. For example:

> "[T]he City endeavored to reasonably accommodate his request by offering alternative options to charging rent, but he refused." (Trial Transcript, p. 128, 8-10)

Most notable is the fact that CCSF employees could have provided all the disability information and guidance Mr. Rice needed, but they did not.

In this case, CCSF employees' misconduct from before the relevant time, during the relevant time, and after the relevant time; in the litigation process, the trial, and to this day here with the 9th Circuit, was and continues to be dishonest, fraudulent, and deceitful. The written record of communications [between CCSF employees and Mr. Rice] and other evidence is clear, convincing, and irrefutable, CCSF's employees did proceed and continue to proceed with overwhelming misconduct and bad-faith practices (i.e. fraud and fraudulent machinations).

CCSF's City Attorney and Deputy City Attorneys took an oath to support the U.S. Constitution; thus, with and in the district court [of law] and [here] with the Court of Appeals for the Ninth Circuit, they do not have the right to make any false claims or allegations, to commit fraud upon the court, to propel their already existing fraud upon Rice, or to proselytize fraudulent narratives — especially to and about an FHA litigant in a trial.[5] Yet, that is exactly what they did, and continue to do here with the 9th Circuit. The FHA and all precedent setting FHA caselaw is clear and irrefutable — Mr. Rice was entitled to his [already approved by the original Agency] requested accommodation to lease a portion of his former home to rent-paying roommates in order to ameliorate the painful symptoms of his mental illness so he could use and enjoy his former home as those who do not suffer a mental illness [as Mr. Rice does] are able to. And, Mr. Rice's requested accommodation was, in fact, allowed by the controlling [LEHP] Agreement and CCSF's affordable housing policy as found its Manual.

To be clear and certain, this case is not a political debate in which anything may be said. This case is a federal lawsuit in the federal court system which demands the truth, the whole truth, and nothing but the truth from all parties, especially from officers of the court.

---

[5] *See Havens Realty Corp. v. Coleman,* (U.S. 1982) "Congress has thus conferred on all "persons" a legal right to truthful information about available housing. [] [14] Congress' decision to confer a broad right of truthful information concerning housing availability was undoubtedly influenced by congressional awareness that the **intentional provision of misinformation** offered a means of maintaining segregated housing." (emphasis added)

CCSF employees' "Opposition Brief" (i.e. Answering Brief) can only be described as repugnant, revolting, and reprehensible because it is nothing more than the continuation of their blatant and astonishing dishonesty, fraud, and deceit for the sole purpose to impair and obstruct Mr. Rice's truthful elucidation of their misconduct (i.e. fraud and fraudulent machinations) found in every corner of this nearly 7 year long ordeal so as to avoid the penalty for violating the FHA.

The 9th Circuit should not be fooled nor allow itself to be "sucked into the [fraudulent] affordable housing" policy argument proffered by CCSF employees which is dishonest and deceitful and is, in fact, the core of their very clever and well executed fraud to avoid the penalty for violating the FHA.

RICE'S RESPONSE TO CCSF'S "OPPOSITION" (Dkt No. 12.1)

I. THE DISTRICT COURT [did not] APPL[Y] THE CORRECT LEGAL STANDARD IN AWARDING COSTS

The "legal standard in awarding costs" that the district court chose to utilize was *Ass'n of Mexican-Am. Educators v. California,* (9th Cir. 2000),[6] from which it provided some examples of reasons that support denying cost in an earlier Order.[7]

Stating:

"Examples of reasons that support denying costs include some impropriety on the part of the prevailing party (including misconduct or bad-faith practices), a nominal recovery, a losing party's indigence or limited financial resources, whether the issues in the case were close or difficult, a chilling effect on civil rights

---

[6] District court Dkt No. 275, p. 2.

[7] Order Extending Time to Oppose Clear's Taxation of Costs and Denying Motion to Stay Without Prejudice, district court Dkt No. 249.

plaintiffs of modest means, and whether the case presented a landmark issue of national importance. *See id*. at 592" (district court Dkt No. 249, p. 2, 18-22)[8]

Indisputably, and if for no other reason, the district court should have denied CCSF's Bill of Costs because of its employees' blatant "misconduct or bad-faith practices" but did not.

Additionally, the district court cited *Ayala v. Pac. Mar. Ass'n*, No. C08-0119 TEH, 2011 WL 6217298, at *2 (N.D. Cal. Dec. 14, 2011) — a district court decision — and stated (i.e. quoting *Ayala*):

> "In determining whether the financial resources of a plaintiff are so limited as to justify denying costs, there are no hard and fast rules" but "courts should use their common sense." *Ayala v. Pac. Mar. Ass'n*, No. C08-0119 TEH, 2011 WL 6217298, at *2 (N.D. Cal. Dec. 14, 2011) (cleaned up). "It is not necessary to find that the plaintiffs in question are currently indigent; rather, **the proper inquiry is whether an award of costs might make them so**." *Id*. (cleaned up). "Costs have been denied on the basis of financial inability in cases where plaintiffs are unemployed, sporadically employed and low-income, earning under $25,000 per year" (as of 2010), and where plaintiffs are "students [or] recent graduates with significant student debt and little income." *Id*. (cleaned up)." (D.C. Dkt No. 275, p. 4, 14-22) (emphasis added)

Financial information was offered but the district court did not make any "inquiry" as to whether or not an award of costs might make Mr. Rice "indigent". Thus, the district court did not apply another "legal standard" that it identified.

Furthermore, on July 10, 2023, when CCSF submitted its Bill of Costs, *Green v. Mercy Housing, Inc.,* (9th Cir. 2021) — a 9th Circuit decision and

---

[8] Please note, in Rice's Informal Opening Brief (Dkt No. 7.1) on page 5 at footnote 21, Rice cited "D.C. Dkt No. 251, p. 4, 1 to p. 5, 13." for this same information. That was incorrect and it should have been "district court Dkt No. 249, p. 2, 18-22" as noted above.

precedent — was the current and correct legal standard in awarding costs in an FHA case, which states:

> “We therefore hold that a plaintiff bringing suit under the Fair Housing Act should not be assessed fees or costs unless the court determines that his claim is "frivolous, unreasonable, or groundless." *Christiansburg*, 434 U.S. at 422.”

And, Mr. Rice’s “claim” has never been, “frivolous, unreasonable, or groundless.”

Furthermore, and very importantly, the district court did not utilize *Garcia* in any way, shape or form — the district court’s order is completely void of *Garcia.*

Here, with the 9th Circuit, CCSF employees seek to retroactively apply or inject *Garcia v. Gateway Hotel L.P.,* 82 F.4th 750, 752 (9th Cir. 2023), which was not decided until September 15, 2023.

Additionally, in *Garcia* the 9th Circuit decided:

> “We agree with the district court and conclude that our decision in *Brown* cannot be reconciled with the Court's decision in *Marx,* and therefore it has been effectively overruled. Accordingly, we hold that Rule 54(d)(1) governs the award of costs **to a prevailing ADA defendant**, and such costs may be awarded in the district court's discretion.” (emphasis added)

Rice is an FHA case and CCSF is, thus far, a prevailing FHA defendant.

The ADA and the FHA are, of course, very similar — but, they differ and their differences are exceptionally important. For example, the differences in punitive damages. Cases differ much more so. In this case, if not in the specifics, it is abundantly clear in the totality[9] that Mr. Rice should not be burdened with

[9] *See United States v. United States Gypsum Co.,* (U.S. 1948): “A finding is "clearly erroneous" when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.”

CCSF's Bill of Costs. Clearly and rightfully, the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

A. Federal Rule Of Civil Procedure 54(d)(1) [not necessarily] Sets The Legal Standard And Establishes A Strong Presumption In Favor Of Awarding Costs

Here, CCSF employees say nothing of Mr. Rice's private civil rights litigant of modest means status nor of his financial indigence this legal ordeal has left him.

But, they state "the district court retains discretion to refuse to award costs" citing "*Ass'n of Mexican-Am. Educators*, 231 F.3d at 591." And, they imply *Rice v. CCSF* is an ordinary case. Yet, on page 17, they state "The City's denial of Rice's highly individualized request does not affect anyone beyond Rice. As such, this case, which raised case-specific issues, …"

Clearly, *Rice* is not an "ordinary" case. And, just as clearly, the district court had multiple "specific reasons" to deny CCSF's Bill of Costs but, in error, did not, which Mr. Rice explained in his Informal Opening Brief (Dkt No. 7.1). Clearly and rightfully, the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

B. *Green v. Mercy Housing, Inc.* [should] Set The Legal Standard For Recovery Of Costs [in *Rice v. CCSF* or an en banc court should decide]

Again, in *Garcia* the 9th Circuit decided "… Rule 54(d)(1) governs the award of costs to a prevailing <u>ADA</u> defendant …" CCSF is, thus far, a prevailing FHA defendant.

Additionally, as in so many places, CCSF employees simply ignore anything and everything in this case that does not fit into their fraudulent scheme of things.

Here, they completely ignore part of Mr. Rice's argument that *Green* is the applicable precedent as indicated in *Garcia* by: "HURWITZ, Circuit Judge, dissenting: … *Green* is exactly on point; whether correctly decided or not, it squarely stands for the proposition that Rule 54(d)(1) does not apply." and "The proper course … is to require an en banc court to inter our previous decisions unless an intervening Supreme Court abrogates them."

Again, in this case, if not in the specifics, it is abundantly clear in the totality that Mr. Rice should not be burdened with CCSF's Bill of Costs. Clearly and rightfully, the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

II. RICE'S OTHER ARGUMENTS [have] MERIT

CCSF employees state "None of Rice's arguments support reversal." CCSF employees are incorrect and act like they can say whatever they want and everyone should just believe them because they are attorneys and fair housing experts and government officials — however, Mr. Rice is the only party in this case that is telling the truth, the whole truth, and nothing but the truth.

CCSF employees involved in this case will never admit their misconduct and bad-faith practices (i.e. fraud and fraudulent machinations) — that is, they will never come clean. Coming clean is the right and best thing for them to do. But, they will not do so because for them to come clean (especially at this point) would be committing vocational suicide - which, again, they will not do, even though it is the best thing they could do for themselves in the long run.

Instead, they deny and reject any and all notions that they acted dishonestly, fraudulently, and deceitfully in violation of the law; and, their implied indignation about Mr. Rice's truthful account being "ad-hominem attacks" is preposterous and feigned, and slanderous to Mr. Rice.

The written record of communications [between CCSF employees and Mr. Rice] and other evidence is clear, convincing, and irrefutable; and makes clear that, rather than doing the right thing from the beginning (if not before the beginning), they willfully and intentionally chose to abuse their authoritarian discretion and abuse the administrative and judicial processes against Mr. Rice in order to maintain and/or solidify their power and, most of all, to avoid the penalty for violating the FHA — again, from the beginning (if not before the beginning) of this nearly 7 year long (and counting) legal ordeal.

Factually, it is CCSF employees' entire proffered defense that is meritless. To wit: [That] CCSF may rely on its own affordable housing policy or CCSF employees' interpretation and application of that policy to completely ignore the FHA, never provide any disability or fair housing information or guidance or due process to Mr. Rice, and to refuse to make Mr. Rice's disability related requested FHA accommodation and — at the same time — completely ignore CCSF's policy for people with disabilities as found in CCSF Planning Department Code 305.1.

A. Rice's Accusations Of Misconduct Are [true], And He [identifies that all] Cost Incurred [are] A Result Of [CCSF employees' misconduct]

As stated previously — before and during the relevant time (October 26, 2017 to May 4, 2018), had CCSF employees communicated and responded truthfully and fully to Mr. Rice about [his] disability rights under the FHA (and/or California FEHA) and CCSF Planning Department Code 305.1 (CCSF's policy for people with disabilities), *Rice v. CCSF* and CCSF's Bill of Costs would never have existed. But, CCSF employees did not communicate or respond truthfully and fully to Mr. Rice — instead, they were dishonest, fraudulent, and deceitful to him.

Therefore, because of CCSF employees' misconduct (i.e. fraud and fraudulent machinations), all of CCSF's costs, all of Mr. Rice's costs, and all of the district court's and the Court of Appeals for the Ninth Circuit's time, costs, and resources, etc. are, in fact, a result of CCSF employees' misconduct.

Straight up, no matter how *Rice v. CCSF* is manipulated, it boils down to CCSF employees' fraud and fraudulent machinations to deny Mr. Rice's requested accommodation in violation of 42 U.S.C. § 3406(f)(3)(B) and § 3417 and to avoid the penalty for violating the FHA. Straight up, CCSF employees committed a fraud upon Mr. Rice, the district court, and the jury; and, only because of their very clever and well executed fraud, have managed to prevail, thus far.

Mr. Rice respectfully request the 9th Circuit to closely examine CCSF employees' October 26, 2017 'Action Required' letter (district court Dkt No. 1.1, 33-34), which they imposed on Mr. Rice, and make its own independent

determination of whether or not it is fraudulent and, if so, note that it is the origin of CCSF employees' fraud and fraudulent machinations. Please consider how precisely it navigates around the criteria of fair housing law [to avoid the penalty for violating the FHA] and what it does not say (i.e. void of any disability or fair housing accommodation information or reference, void of acknowledging Mr. Rice's disability, void of acknowledging his PCP's recommendation for accommodation, which, at the time, they had full knowledge of). And, of course, in that same letter they blame Mr. Rice for being in "direct violation" and threaten him with "enforcement action". In fact, it is so precise in avoiding fair housing law that it is clear that a fair housing legal expert wrote it — which is exactly what happened (i.e. Deputy City Attorney Mr. Nagayama).

Perhaps the 9th Circuit should and would do its own investigation.[10]

Also, please note that the district court already has clearly determined it had been the victim of fraud by CCSF employees:

"I was completely wrong on my round one motion to dismiss, not just because the Ninth Circuit told me so but in sort of rethinking it, Mr. Rice was right

---

[10] *See Chambers v. Nasco, Inc.,* (U.S. 1991): "Of particular relevance here, the inherent power also allows a federal court to vacate its own judgment upon proof that a fraud has been perpetrated upon the court. See *Hazel-Atlas Glass Co. v. Hartford-Empire Co.,* 322 U. S. 238 (1944); *Universal Oil Products Co. v. Root Refining Co.,* 328 U. S. 575, 580 (1946). This "historic power of equity to set aside fraudulently begotten judgments," *Hazel-Atlas,* 322 U. S., at 245, is necessary to the integrity of the courts, for "tampering with the administration of justice in [this] manner. . . involves far more than an injury to a single litigant. It is a wrong against the institutions set up to protect and safeguard the public." *Id.,* at 246. Moreover, **a court has the power to conduct an independent investigation in order to determine whether it has been the victim of fraud**. *Universal Oil, supra,* at 580." (emphasis added)

in his round one motion, and I'm convinced of that now, and, again, not just because the Ninth Circuit told me, but I too got -- you know, **I got sucked into the affordable housing in San Francisco**, and that wasn't something I should have done in a motion to dismiss phase, and -- but **I got sucked in by it** because I thought, well, San Francisco is trying to do what it can for affordable housing. But Mr. Rice was right and said -- so said the Ninth Circuit. And I'm convinced now that that's -- that's right. Like, I was wrong. So, you know, I'm always glad to know when I'm wrong."[11] (emphasis added)

The written record of communications [between CCSF employees and Mr. Rice] and other evidence is clear, convincing, and irrefutable — CCSF employees did, in fact, commit a fraud upon Mr. Rice, the district court, and the jury; and they are trying to commit that same fraud here, upon the 9th Circuit. Clearly, rightfully, and indisputably, the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

CCSF employees also state:

"[F]ollowing the Ninth Circuit's remand in 2020, the district court appointed competent pro bono counsel to represent him, including through fact and expert discovery and trial. Any case-related issues Rice now raises were presumably thoroughly litigated (or otherwise could have been raised) and ultimately tried before a jury, which found against Rice." (Dkt No. 12.1, p. 12)

Please note "presumably" — factually, the relevant facts and the relevant law was not thoroughly litigated in any proper manner. Factually, what took place was fraud upon the district court and the jury. Additionally, Mr. Rice's pro bono counsel was deficient.

---

[11] Ex. A, 6/15/2023 pretrial conference transcript, p. 66, 12-25. Submitted with Mr. Rice's Informal Opening Brief.

B. Rice [clearly] Met His Burden Of Establishing He Is Indigent, Such That The District Court Should Have Departed From The General Rule Of Awarding Costs To The Prevailing Party

Here, again, CCSF employees simply ignore anything and everything in this case that does not fit into their fraudulent scheme of things. Here, again, they simply make fraudulent statements and flat-out lies that completely ignore the truthful and applicable facts (provided in Mr. Rice's Informal Opening Brief and in his primary appeal in this case, 9th Circuit Case No. 23-16013); and, again, they blame Mr. Rice for their failures, their violations of the FHA, and rely on district court failures (i.e. due to corruption of its integrity and impartial functions by CCSF employees' fraud and fraudulent machinations).

Here, CCSF employees actually provide one of the most significant reasons as to how the district court err'd:

"Litigants of modest means should not be exempt from costs unless a court determines that it would be "unjust or inequitable to enforce Rule 54(d)(1). . . ." *Cherry v. Champion Int'l Corp.,* 186 F.3d 442, 447 (4th Cir. 1999)." (Dkt No. 12.1, p. 14)

Indisputably, it would be unjust and clearly <u>inequitable</u> to enforce Rule 54(d)(1) upon Mr. Rice, a 70 year old mentally disabled veteran and private civil rights litigant of modest means that is now indigent because of this nearly 7 year long (and counting) legal ordeal that <u>only</u> exists because CCSF employees were not fully truthful and responsive to Mr. Rice from the beginning to this day.

Clearly, rightfully, and indisputably, the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

C. Awarding Costs Will [] Deter Future Civil Rights Claims (this refers to item "d." on p. 5 in Mr. Rice's Informal Opening Brief)

Rice v. CCSF is not an ordinary case and CCSF's Bill of Costs for $19,469.61 is "extraordinarily high" for Mr. Rice and would be for every other private civil rights plaintiff of modest means whose savings have been wiped out by an unjust litigation process, as is the case for Mr. Rice. CCSF employees' assertion that it is not, makes clear their vicious and vexatious meritless defense.

Here, again, CCSF employees simply ignore anything and everything in this case that does not fit into their fraudulent scheme of things. Here, they ignore Mr. Rice's current indigent (in forma pauperis) status that is only the case because of their misconduct (i.e. fraud and fraudulent machinations) which is literally everywhere in this nearly 7 year long (and counting) legal ordeal.

Remarkably, [on page 16] in their "Opposition Brief", CCSF employees provide a very compelling reason why the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them in this case:

"In *Stanley*, the plaintiff, former head coach of a woman's basketball team, sued her university employer, alleging violations of the Equal Pay Act, Fair Employment and Housing Act, Title IX, and the California Constitution. Plaintiff lost on summary judgment. *Stanley*, 178 F.3d at 1073. The Ninth Circuit reversed an award of costs against the plaintiff, who established that payment of costs would render her indigent, and held imposition of costs in the amount of $46,710.97 "on losing civil rights plaintiffs of modest means may chill civil rights litigation in this area." *Id.* at 1079."

In this case, the litigation process has already rendered Mr. Rice indigent and, clearly, the imposition of CCSF's Bill of Costs upon Mr. Rice would be an extraordinary inequity, and entirely inhumane.

Again, CCSF employees state "The City had legitimate reasons for denying Rice's requested accommodation for a rent-paying roommate in his affordable housing condominium; it was unreasonable and would have fundamentally altered the nature of the City's housing program." (Dkt No. 12.1, p. 17) — CCSF employees' statement is a blatant lie.

Again, [by the district court] "The plaintiff amended his complaint, and the defendants moved to dismiss it, again on the ground that the plaintiff failed to state a claim **because they denied him a rent-paying roommate after he failed to qualify for a financial-hardship exemption, <u>not because of his disability</u>**." (district court Dkt No. 58, p. 2, 5-8) (emphasis applied)

Again, CCSF employees denied Mr. Rice's requested accommodation because "he failed to qualify for a financial-hardship exemption" — NOT because, as CCSF employees assert, "it was unreasonable and would have fundamentally altered the nature of the City's housing program"

The truthful fact is that CCSF employees <u>shifted</u> their defense to fraudulently *imply* that they denied Mr. Rice's requested accommodation because it was unreasonable and against the nature of the Limited Equity Home <u>Ownership</u> Program. However, even those reasons, as explained previously, are false.

Again, the truthful and accurate facts are that Mr. Rice's requested accommodation was [may be necessary] and reasonable and not against the nature of the LEHP. Again, leasing a portion of the property to rent-paying roommates was, in fact, allowable — which is made clear in the controlling [LEHP] agreement

and CCSF's affordable housing programs' Manual. Thus, it is impossible for CCSF employees' assertion that "it was unreasonable and would have fundamentally altered the nature of the City's housing program." to be true.

Additionally, it is impossible that CCSF employees' denied Mr. Rice's requested accommodation because it was [not necessary] or unreasonable or against the nature of the LEHP because they never inquired or discussed that, or FHA or any fair housing law criteria with Mr. Rice (or anybody he knows) before denying his requested accommodation. In fact, they never even implied that they denied Mr. Rice's requested accommodation because it was [not necessary] or unreasonable or against the nature of the LEHP until *after* the 9th Circuit reversed the district court's dismissal of Mr. Rice's FHA claims on September 16th 2020.[12]

Again, CCSF employees' assertion is false and they are lying.

To be clear and certain, just because CCSF employees' fraud and fraudulent machinations managed to fool the district court, and to fool and lead the jury to reach an incorrect decision, it does not change the fact that CCSF employees' assertion is false and a fraud; and, obviously, it does not mean the jury's verdict should not be reversed nor that CCSF's Bill of Costs should not be denied.

Clearly, rightfully, and indisputably the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

---

[12] Mr. Rice's first appeal to the 9th Circuit in this case (Case No. 20-15087), see "Memorandum" at district court Dkt No. 63.

D. The Closeness Or Difficulty In This Case Did [] Support A Departure From The General Rule Of Awarding Costs To The Prevailing Party (this refers to item "c." on p. 5 in Mr. Rice's Informal Opening Brief)

Here, Mr. Rice stands by his argument(s) in his Informal Opening Brief at part VII on pages 19-20.

E. This Case Does [] Present A Landmark Issue Of Importance
(Dkt No. 12.1, p. 18)

The district court incorrectly concluded that this case did not present issues of landmark importance. Here, again, CCSF employees respond fraudulently as follows (not chronological):

• First, Mr. Rice's travel is NOT part of this case. Again, this case is about CCSF's affirmative duty to make Mr. Rice's requested accommodation of a rent-paying roommate for which it had no legitimate reason not to, but refused to do so in violation of 42 U.S.C. § 3604(f)(3)(B) and the fraudulent manner in which it did so was a violation of 42 U.S.C. § 3617.

No part of Mr. Rice's FHA claims involve his travel. As Mr. Rice noted in his Informal Opening Brief of his primary appeal in this case (9th Circuit Case No. 23-16013, Dkt No. 17.1, p. 62):

"A major part of CCSF's tsunami of *irrelevant* facts and issues, and fraudulent ersatz plausibilities and theories was Rice's travels.

CCSF allowed Rice to travel as he so desired, they did impose a requirement that Rice provide documentation whenever it was more than two (2) months out of a calendar year — that was acceptable to Rice, thus *not* a part of *this* case. And, some paper work is not a violation of the FHA. Rice's traveling was ***never*** a question for the jury. Thus, Rice's traveling was irrelevant to the questions of fact and of law in this case. Therefore, the district court made a very significant error when it allowed CCSF to use Rice's legitimate and approved travels to inflame inherent prejudice and social stigma against a mentally ill man."

Furthermore, Mr. Rice made this clear in his OC at ¶64:

"Regarding the wavier to be away from the Property for more than two months per year, the MOHCD stated requirement within the third paragraph of the Action Required Letter "… to first notify MOHCD and submit the supporting travel documents for MOHCD's *written approval*." became acceptable to Plaintiff and, thus, not part of Plaintiff's complaint. (See **Exhibit "I"**)" (emphasis supplied)

Which the district court noted in its dismissal of his OC:

"Compl. – ECF No. 1 at 29–30 (¶ 143–149). Mr. Rice does not raise the travel issues in his claims and discusses only the roommate issue. *Id.* In any event, the CCSF did not deny him the ability to travel more than two months a year. As set forth in Ms. Yin's October 2017 letter, the CCSF required only that he notify the CCSF, provide travel documentation, and obtain approval before traveling more than two months a year. Letter, Ex. I to Compl. – ECF No. 1-1 at 33–34." (district court Dkt No. 46, p. 11, footnote 51)

So, what does all that mean? It proves CCSF employees' fraudulent machinations to flood the environment with their lies, knowing misrepresentations of the truth and concealments of material facts was an intentional effort to obscure the relevant truth and the relevant facts and the relevant law in this case to avoid the penalty for violating Mr. Rice's disability rights under the FHA.

• Second, an extraordinary example of CCSF employees' web of deceit:

"This case was straightforward; it concerned only whether Rice's requested accommodation for a rent-paying roommate was necessary to afford him the equal opportunity to enjoy his condominium, and whether it was reasonable. Contrary to Rice's assertion, the City's affordable housing policies determined whether Rice's request was reasonable because it would have imposed a fundamental alteration to the program, which was designed to provide housing to low-to-moderate income individuals who wished to live and reside in San Francisco."

Breaking down that CCSF employees' statement:

1. CCSF employees verify that they knew and know precisely what this case is about: "[C]oncerned only whether Rice's requested accommodation for a rent-paying roommate was [may be] necessary to afford him the equal opportunity to enjoy his condominium, and whether it was reasonable."

EXTREMELY IMPORTANT — CCSF employees' statement proves they knew precisely what this case was (and is) about, which in turn proves they made knowingly misrepresentations of the truth and concealments of material facts. That is, it proves CCSF employees knowingly, willfully, and intentionally committed a fraud upon Mr. Rice, the district court, and the jury.

Please compare and contrast these examples of CCSF employees lies and knowing misrepresentations of the truth to their statement noted above:

• "The FHA does not apply here because Defendants did not provide housing to Plaintiff during the applicable time period." (district court Dkt No. 50, p. 7, 5-6)

• "Further, Plaintiff did not qualify for a financial hardship exemption." (district court Dkt No. 50, p. 8, 23)

• "Make no mistake, this case has never been about whether plaintiff is disabled. … This case has also never been about whether plaintiff needed roommates for his mental health. … Instead, this case is about whether plaintiff can charge rent and profit from his affordable housing." (Trial transcript p. 127, 3-11)

• "MOHCD requires a showing of financial hardship to grant a temporary exception to have a rent-paying roommate." (Trial transcript p. 138, lines 22-24)

• "There are limited circumstances in which a LEP program participant can receive written approval from MOHCD for a temporary rental of their unit: (1) demonstrated financial hardship, or (2) demonstrated need to temporarily relocate for work. [] Both circumstances are intended to provide temporary relief during a period of financial hardship. [] There has *never* been an LEP program participant who was given written permission to rent out a portion of their unit ***without***

meeting *this* standard." (CCSF's Appellees' Answering Brief in Mr. Rice's primary appeal in this case, 9th Circuit Case No. 23-16013, Dkt No. 26.1, p. 17) (emphasis added)

Importantly, that CCSF employees' statement only references two exemptions from CCSF's October 11, 2018 Manual (utilized throughout by CCSF but not in effect during relevant time, and which is the only version that contains the financial hardship exemption). And, CCSF employees never revealed another exemption found in the May 10, 2013 and October 11, 2018 Manuals — "For other reasons deemed acceptable by MOHCD in its sole discretion." There was literally nothing legitimately preventing CCSF employees from making Mr. Rice's disability related requested accommodation.

So, what does all of this mean? CCSF employees knowingly, willfully, and intentionally committed a fraud upon Mr. Rice, the district court, and the jury about what this case was (and is) about with their affordable housing policy and "alternative options" claims (i.e. CCSF employees' ruse) even though CCSF employees knew *Rice* was about CCSF's affirmative duty to make Mr. Rice's requested accommodation for which it had no legitimate reason not to, yet refused. AND, their statement noted above proves they knew [and know] that. And, yet, they never applied FHA criteria in this case; instead, they only applied CCSF's policies as in contract law — that is, their fraud and fraudulent machinations.

2. CCSF employees fraudulently assert circular reasoning and place CCSF's "policies" above the FHA, FHA caselaw, and FHA criteria: "[T]he City's

affordable housing policies determined whether Rice's request was reasonable because it would have imposed a fundamental alteration to the program, …" And,

3. They perfectly describe Mr. Rice but fraudulently never acknowledge that description of him: "[L]ow-to-moderate income individuals who wished to live and reside in San Francisco." — and, falsely imply Mr. Rice is not such a person.

Furthermore, and again, CCSF employees <u>never</u> communicated nor responded truthfully and fully to Mr. Rice about [his] disability rights under the FHA (and/or California FEHA) and CCSF Planning Department Code 305.1 (CCSF's policy for people with disabilities); and they never provided any due process as required by the FHA.

CCSF employees <u>only</u> communicated and treated Mr. Rice as if this entire disability related FHA case was nothing more than a contract dispute and <u>forced</u> contract law principles upon Mr. Rice and, initially, with the district court (that it accepted); which was a fraud upon Mr. Rice and a fraud upon the district court. And, here, they are seeking to commit that same fraud upon the Court of Appeals for the Ninth Circuit.

• Third:

"Rice contended that this case presents two landmark issues: (1) whether the City can rely on its own policies and ignore the Fair Housing Act to determine whether he can lease a portion of his home to a rent-paying roommate to address his mental health disability, and (2) whether punitive damages may be awarded against a municipality for violation of the Fair Housing Act." (Dkt No. 12.1, p. 18)

Regarding CCSF's issue "(1)", Mr. Rice stands by his argument in his Informal Opening Brief which is his issue "(2)" at part VIII on pages 21-22.

Regarding CCSF's issue "2", which is Mr. Rice's issue "(1)" in his Informal Opening Brief at part VIII on page 21, Mr. Rice makes his additional pro se argument here — punitive damages can be applied against a State or local public agency under the Fair Housing Act ("FHA"):

I. Preface —

a. *See United States v. Daas*, 198 F. 3d 1167, (9th Circuit 1999); "2. Merits — The purpose of statutory construction is to discern the **intent of Congress in enacting a particular statute**. *See* *Adams v. Howerton,* 673 F.2d 1036, 1040 (9th Cir.1982). **The first step in ascertaining congressional intent is to look to the plain language of the statute**. *See* *United States v. Mohrbacher,* 182 F.3d 1041, 1048 (9th Cir.1999). To determine the plain meaning of a particular statutory provision, and thus congressional intent, the court looks to the entire statutory scheme. *See* *Yang v. California Dep't of Soc. Servs.,* 183 F.3d 953, 959 (9th Cir.1999) (examining other statutes within the same act to discern plain meaning); *United States v. Hockings,* 129 F.3d 1069, 1071 (9th Cir. 1997) (same). If the statute uses a term which it does not define, the court gives that term its ordinary meaning. *See Mohrbacher,* 182 F.3d at 1048.

The plain meaning of the statute controls, and courts will look no further, unless its application leads to unreasonable or impracticable results. *See* *Seattle-First Nat. Bank v. Conaway,* 98 F.3d 1195, 1197 (9th Cir.1996); *Mester Manuf. Co. v. INS,* 879 F.2d 561, 567 (9th Cir.1989). If the statute is ambiguous — and only then — courts may look to its legislative history for evidence of

congressional intent. *See* *Perlman v. Catapult Entertainment, Inc. (In re Catapult Entertainment, Inc.),* 165 F.3d 747, 753-54 (9th Cir.1999).” (emphasis added)

b. *See Botosan v. Paul McNally Realty,* 216 F. 3d 827, (9th Circuit 2000); “Statutory interpretation begins with the plain meaning of the statute's language. *See* *United States v. Alvarez-Sanchez,* 511 U.S. 350, 356, 114 S.Ct. 1599, 128 L.Ed.2d 319 (1994). Where the statutory language is clear and consistent with the statutory scheme at issue, the plain language of the statute is conclusive and the judicial inquiry is at an end. *See* *California Franchise Tax Bd. v. Jackson (In re Jackson),* 184 F.3d 1046, 1051 (9th Cir.1999).” And,

c. *See Brown v. City of Tucson*, 336 F. 3d 1181, (9th Circuit 2003); “In *Walker* we adapted the burden-shifting approach to fit the FHA's interference provision, modifying somewhat the second element of the prima facie case to reflect **the plain language of the statute**. That is, having found that the claimant was engaged in some form of protected activity, we next inquired whether the claimant had "suffered an adverse action ... in the form of `coerc[ion], intimidat[ion], threat[s], or interfere[nce].'" *Id.* at 1128 (alterations in original). In making this inquiry in *Walker,* **we noted that we were guided by the plain language of the statute, the Supreme Court's instruction that we treat "[t]he language of the [FHA as] broad and inclusive,"** *Trafficante v. Metro. Life Ins. Co.,* 409 U.S. 205, 209, 93 S.Ct. 364, 34 L.Ed.2d 415 (1972), as well as our own recognition in *Hayward* of the broad scope of the term “interference.”" (emphasis added)

II. The plain language of the Fair Housing Act:

"42 U.S.C. 3601 DECLARATION OF POLICY.

It is the policy of the United States to provide, within constitutional limitations, for fair housing throughout the United States."

"42 U.S.C. 3602 DEFINITIONS.

As used in this subchapter—

…

(b) "Dwelling" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.

(c) "Family" includes a single individual.

(d) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in cases under Title 11, receivers, and fiduciaries.

…

(f) "Discriminatory housing practice" means an act that is unlawful under section 3604, 3605, 3606, or 3617 of this title.

(g) "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, or any of the territories and possessions of the United States.

(h) "Handicap" means, with respect to a person—

(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

(2) a record of having such an impairment, or

(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 802 of Title 21).

(i) "Aggrieved person" includes any person who—

(1) claims to have been injured by a discriminatory housing practice; or

(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

(j) "Complainant" means the person (including the Secretary) who files a complaint under section 3610 of this title."

Point — Mr. Rice, his former home (i.e. dwelling), the defunct San Francisco Redevelopment Agency ("SFRA") was a "State" of California Agency, the San Francisco Mayor's Office of Housing and Community Development ("MOHCD") is a "public entity" of a corporation (The City and County of San Francisco is incorporated, it is a "person". It became a consolidated city-county in 1856 and it operates as both a city and a county under a single unified government structure. The incorporation date of San Francisco as a city is April 15, 1850 **— all persons, entities, elements, etc. in *Rice v. CCSF* are covered by the Fair Housing Act (statute).**

"**42 U.S.C. 3603 EFFECTIVE DATES OF CERTAIN PROHIBITIONS.**

(a) APPLICATION TO CERTAIN DESCRIBED DWELLINGS.—Subject to the provisions of subsection (b) of this section and section 3607 of this title, the prohibitions against discrimination in the sale or rental of housing set forth in section 3604 of this title shall apply:

(1) Upon enactment of this subchapter, to—

…

(D) **dwellings provided by** the development or **the redevelopment of real property purchased**, rented, or otherwise obtained **from a State or local public agency receiving Federal financial assistance** for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962.

(2) After December 31, 1968, to all dwellings covered by paragraph (1) and to all other dwellings except as exempted by subsection (b) of this section.

(b) **EXEMPTIONS**.—Nothing in section 3604 of this title (other than subsection (c)) shall apply to—

(1) any single-family house sold or rented by an owner: Provided, That such private individual owner does not own more than three such single-family houses at any one time: Provided further, That in the case of the sale of any such single-family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any twenty-four month period: Provided further, That such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his behalf, under any express or voluntary agreement, title to or any

right to all or a portion of the proceeds from the sale or rental of, more than three such single-family houses at any one time: Provided further, That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter only if such house is sold or rented (A) without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent, or salesman, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesman, or person and (B) without the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, or (2) rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his residence." (emphasis added)

"**42 U.S.C. 3604 DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING AND OTHER PROHIBITED PRACTICES.**

As made applicable by section 3603 of this title and except as exempted by sections 3603(b) and 3607 of this title, it shall be unlawful—

…

(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

…

(3) For purposes of this subsection, **discrimination includes**—

…

(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or" (emphasis added)

"**42 U.S.C. 3607 RELIGIOUS ORGANIZATION OR PRIVATE CLUB EXEMPTION.**

(a) Nothing in this subchapter shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin. Nor shall anything in this subchapter prohibit a private club not in fact open to the public, which as an incident to its primary purpose or purposes provides lodgings which it

owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members.

(b)(1) Nothing in this subchapter limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this subchapter regarding familial status apply with respect to housing for older persons.

(2) As used in this section, "housing for older persons" means housing —

(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

(B) intended for, and solely occupied by, persons 62 years of age or older; or

(C) intended and operated for occupancy by persons 55 years of age or older, and—

(i) at least 80 percent of the occupied units are occupied by at least one person who is 55 years of age or older;

(ii) the housing facility or community publishes and adheres to policies and procedures that demonstrate the intent required under this subparagraph; and

(iii) the housing facility or community complies with rules issued by the Secretary for verification of occupancy, which shall--

(I) provide for verification by reliable surveys and affidavits; and

(II) include examples of the types of policies and procedures relevant to a determination of compliance with the requirement of clause (ii). Such surveys and affidavits shall be admissible in administrative and judicial proceedings for the purposes of such verification.

(3) Housing shall not fail to meet the requirements for housing for older persons by reason of:

(A) persons residing in such housing as of September 13, 1988, who do not meet the age requirements of subsections (2)(B) or (C): Provided, That new occupants of such housing meet the age requirements of subsections (2)(B) or (C); or

(B) unoccupied units: Provided, That such units are reserved for occupancy by persons who meet the age requirements of subsections (2)(B) or (C).

(4) Nothing in this subchapter prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 802 of Title 21.

(5)(A) A person shall not be held personally liable for monetary damages for a violation of this subchapter if such person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons.

(B) For the purposes of this paragraph, a person may only show good faith reliance on the application of the exemption by showing that--

(i) such person has no actual knowledge that the facility or community is not, or will not be, eligible for such exemption; and

(ii) the facility or community has stated formally, in writing, that the facility or community complies with the requirements for such exemption."

Point — Mr. Rice's former home (i.e. dwelling) is covered by the FHA. And, Congress did *expressly* consider "exemptions" to certain persons, dwellings, and situations — "That after December 31, 1969, the sale or rental of any such single-family house shall be excepted from the application of this subchapter **<u>only</u> if such house is sold or rented** (A) **without the use <u>in any manner</u>** of the sales or rental facilities or the sales or rental services **of any** real estate broker, agent, or salesman, **or of such facilities or services** of any person in the business of selling or renting dwellings, **or of any employee or agent of any such broker**, **agent**, salesman, or **person** and (B) **without** the publication, posting or mailing, after notice, of any advertisement or written notice in violation of section 3604(c) of this title; but nothing in this proviso shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and other such professional assistance as necessary to perfect or transfer the title, …" — **in *Rice v. CCSF*, the defunct SFRA and its successor the MOHCD and their employees clearly functioned as a sales / rental agency and as employees of sales / rental brokers, agents, or persons (and as landlords) in such manner that is far beyond the mere "assistance as**

necessary to perfect or transfer the title" — clearly and unequivocally, Congress *expressly* did not exempt "State or local public agenc[ices] receiving Federal financial assistance for slum clearance or urban renewal with respect to such real property under loan or grant contracts entered into after November 20, 1962." from the provisions in 42 U.S.C. 3601–3619 (including § 3613).

"**42 U.S.C. 3613 ENFORCEMENT BY PRIVATE PERSONS.**
(a) CIVIL ACTION.—
…
(c) RELIEF WHICH MAY BE GRANTED.—
(1) In a civil action under subsection (a) of this section, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual **and punitive damages**, and subject to subsection (d) of this section, may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging in such practice or ordering such affirmative action as may be appropriate)." (emphasis added)

III. Read for its plain meaning — the Fair Housing Act (42 U.S.C. 3601—3619) makes abundantly clear that the **intent of Congress in enacting the FHA** was to provide "fair housing" for disabled individuals (like Mr. Rice) in their **dwellings obtained from a State or local public agency**. AND, if a disabled individual (like Mr. Rice) is subject to a "**discriminatory housing practice**" (which specifically includes "a **refusal** to make reasonable accommodations in rules, policies, practices, or services, when such accommodations **may be** necessary to afford such person equal opportunity to use and **enjoy** [their] dwelling"), that disabled individual can take civil action against such public agency (like CCSF) that **refused** to make reasonable accommodations in its rules,

policies, practices, or services, when such accommodations **may be** necessary to afford that person equal opportunity to use and **enjoy** their dwelling. And, in such case (like in *Rice v. CCSF*), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual **and punitive damages**.

Put another way, read for its plain meaning, the Fair Housing Act (42 U.S.C. 3601—3619) makes abundantly clear that: (1) Congress *expressly* did provide exemptions for some people, entities, and properties, (2) Congress *expressly* did not provide any exemptions for [being] a "municipality", (3) the defunct San Francisco Redevelopment Agency, from which Rice purchased his former property, and its successor the San Francisco Mayor's Office of Housing and Community Development and CCSF are *absolutely* covered by the FHA, (4) neither the [defunct] SFRA or the MOHCD of CCSF are exempt from any of the provisions set forth in the FHA, and (5) the Court of Appeals for the Ninth Circuit may [order the district court to] award Plaintiff-Appellant Rice actual **and punitive damages**.

In this case, CCSF employees misconduct is centered on their fraud and fraudulent machinations. The direct evidence (i.e. the written record of communications between CCSF employees and Mr. Rice during the relevant time) in this case is crystal clear, CCSF employees chose, again, **they chose** to respond to Mr. Rice with intentional lies and knowingly making a dishonest, false, and fraudulent narrative — their "ruse" or "fraudulent scheme" — to intentionally discriminate against Mr. Rice, to intentionally violate his mental illness disability

rights under the FHA, to intentionally perpetrate a violation of the FHA, *and* to do so in such a way, fraudulently, to avoid the penalty for doing so. Again, that is **the choice CCSF employees made in this case**. And, they are still doing just that, here, with the Court of Appeals for the Ninth Circuit. THEY began this ordeal with LIES, and they have never stopped lying in this ordeal.

Furthermore, just as CCSF employees are completely dishonest about all the relevant facts and issues in this case, they are completely dishonest about the extremely destructive force their fraud and fraudulent machinations have had on Mr. Rice and his life — emotionally and mentally wiped out, very negatively affected physically from stress, socially wiped out (alone and lonely as much as ever), and financially wiped-out at this point after nearly 7 years (and counting) of this excruciating burden all because CCSF's employees chose, again, **they chose** to respond to Mr. Rice with intentional lies and knowingly making a dishonest, false, and fraudulent narrative — their "ruse" or "fraudulent scheme".

Furthermore, Mr. Rice advises the 9th Circuit that the 2nd Circuit made its decision in *Gilead Community Services, Inc. (Plaintiff-Appellee) v. Town of Cromwell (Defendant-Appellant)* on August 12, 2024 and stated: "Congress made its own policy judgment when it enacted and amended the FHA, and that judgment, which we will not disturb, was to impose punitive damages on municipalities that discriminate in the area of housing." (Case No. 22-1209, Dkt No. 211, p. 21)

An exact pdf copy of the 2nd Circuit's decision is located in Mr. Rice's primary appeal in this case (9th Circuit Case No. 23-16013) at Dkt No. 41.3.

SUMMATION — PLAINLY and SIMPLY

CCSF employees never discussed or provided any disability or housing law information, guidance, or referral to Mr. Rice before[13] refusing to make his disability related requested accommodation because he did not quality for CCSF's financial hardship exemption — nor did they ever.

Therefore, they violated 42 U.S.C. § 3604(f)(3)(B).

CCSF employees [fraudulently] only communicated and treated Mr. Rice as if this entire disability related FHA case was nothing more than a contract dispute and, thus, forced contract law principles upon Mr. Rice. Additionally, CCSF employees' misconduct (fraud and fraudulent machinations) interfered with all of Mr. Rice's efforts to maintain and re-obtain his [already approved by the original Agency] disability related requested FHA accommodation to lease a portion of his former home to rent-paying roommates.

Therefore, they violated 42 U.S.C. § 3617.

---

[13] *See Oregon Bureau of Labor and Industries Ex Rel. Fair Housing Council of Oregon v. Chandler Apartment, LLC,* (9th Cir. 2017) "[2] The **third and fourth elements** of an FHA claim — that the disability accommodation is necessary to afford the handicapped person an equal opportunity to use and enjoy the dwelling and that the accommodation is reasonable — **need not be reached** because, as discussed below, Chandler Apartments **never even inquired** into whether the requested accommodations were necessary or reasonable before denying them." (emphasis added)

Rice cannot overemphasize the fact that CCSF has only prevailed thus far by utilizing a very clever and extraordinarily well executed "ruse" in a very CCSF friendly district court that was duped by CCSF employees' fraud and fraudulent machinations, as was the jury.

CONCLUSION

It is painfully clear that Mr. Rice, a 70 year old mentally disabled veteran private civil rights litigant of modest means, should not be burdened with CCSF's Bill of Costs — especially considering how deeply traumatizing, damaging, and extraordinarily and overwhelmingly burdensome this ordeal has been for him and his life — and, <u>especially given</u> that CCSF employees' misconduct (i.e. fraud and fraudulent machinations, and especially their intentional refusal to provide Mr. Rice <u>truthful</u> relevant information) is the <u>only</u> reason this case ever came into existence. As if Mr. Rice doesn't have enough problems already! [God help him.]

For the reasons presented in Mr. Rice's Informal Opening Brief and, here, in his Informal Reply Brief — clearly, rightfully, and indisputably the 9th Circuit should reverse the district court's taxation of CCSF's Bill of Costs and deny them.

* * *

RICE'S PRAYER and SUPPLICATION

Therefore, Mr. Rice's prayer and supplication to the Court of Appeals for the Ninth Circuit is for the reversal of the district court's order for taxation of CCSF's Bill of Costs and to deny them.

Plaintiff-Appellant Rice is grateful for, and greatly appreciates, the Ninth Circuit's time and consideration of this appeal in the case of *Rice v. CCSF*.

Sincerely and Respectfully,

Allison Barton Rice
Name

/s/ Allison Barton Rice
Signature

13809 Research Blvd, Suite 500 PMB 90978
Austin, TX 78750
Address

September 5, 2024
Date