

1 Mr. Allison Barton Rice
 2 13809 Research Blvd, Suite 500 PMB 90978
 3 Austin, TX 78750
 4 PH: (415) 579-8208
 5 allisonbartonrice@mac.com

6 Plaintiff, in propria persona

7 UNITED STATES DISTRICT COURT
 8
 9 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

10 ALLISON BARTON RICE, an individual,

11 Plaintiff,

12 v.

13 THE CITY AND COUNTY OF SAN
 14 FRANCISCO; LONDON BREED, MAYOR
 15 OF THE CITY OF SAN FRANCISCO;
 16 KATE HARTLEY, DIRECTOR OF THE
 17 SAN FRANCISCO MAYOR'S OFFICE OF
 18 HOUSING AND COMMUNITY
 19 DEVELOPMENT; MARIA BENJAMIN,
 20 DIRECTOR OF HOMEOWNERSHIP &
 21 BELOW MARKET RATE PROGRAMS
 22 SAN FRANCISCO MAYOR'S OFFICE OF
 23 HOUSING AND COMMUNITY
 24 DEVELOPMENT; CISSY YIN,
 25 HOMEOWNERSHIP & BELOW MARKET
 26 RATE PROGRAMS COMPLIANCE
 27 MANAGER SAN FRANCISCO MAYOR'S
 28 OFFICE OF HOUSING AND
 29 COMMUNITY DEVELOPMENT; DENNIS
 30 HERRERA, SAN FRANCISCO CITY
 31 ATTORNEY; KEITH NAGAYAMA, SAN
 32 FRANCISCO CITY DEPUTY ATTORNEY
 33 and DOES 1 through 50,

34 Defendants.

CASE NO. 19-cv-04250 LB

**PLAINTIFF'S NOTICE OF
 MOTION AND MOTION FOR
 RELIEF FROM JUDGMENT
 PURSUANT TO FED. R. CIV. P.
 60(b)(6) OR, IN THE
 ALTERNATIVE, FED. R. CIV. P.
 60(d)(3) FOR FRAUD ON THE
 COURT; [PROPOSED] ORDER.**

Hearing Date: September 3, 2026
 Time: 9:30 AM
 Place: 450 Golden Gate Ave.
 Courtroom B, 15th Fl
 San Francisco, CA
 94102

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1 **NOTICE OF MOTION**

2 **TO CITY AND COUNTY OF SAN FRANCISCO, ET AL.**

3 **TO DEFENDANT CITY AND COUNTY OF SAN FRANCISCO, ET AL., AND**

4 **THEIR COUNSEL OF RECORD:**

5 **PLEASE TAKE NOTICE** that Plaintiff Allison Barton Rice, appearing pro se, moves
6 this Court for relief from the final judgment entered on June 26, 2023, under Federal Rule of
7 Civil Procedure 60(b)(6), or alternatively under Federal Rule of Civil Procedure 60(d)(3).

8 This motion is based on a narrow, record-based defect, the origin, sequence, and
9 significance of which Rice did not fully discover until after judgment and after extensive
10 appellate proceedings: Rice's Fair Housing Act claims, including his separate 42 U.S.C. § 3617
11 interference claim and his 42 U.S.C. § 3604(f)(3)(B) failure-to-accommodate claim, were
12 materially reframed before trial into a narrower 'affordable-housing-agreement' compliance
13 frame that the City used to anchor its defense. Rice seeks relief because his own counsel joined
14 opposing counsel in submitting that reframing without Rice's approval and contrary to his
15 express written instructions, was not corrected after Rice insisted that his counsel correct it, and
16 was then repeated in the final jury instructions and used by the City at trial.

17 Rice seeks an order vacating the final judgment, reopening the case for further
18 proceedings under the correct FHA framework, restoring his § 3617 interference claim as a
19 separate FHA claim and his § 3604(f)(3)(B) failure-to-accommodate claim, or alternatively
20 restoring his § 3617 interference claim alone as a separate FHA claim, and setting a status
21 conference to determine appropriate next steps.

22 This motion is based on this Notice of Motion and Motion, the accompanying
23 Memorandum of Points and Authorities, the supporting exhibits, the pleadings and records on
24 file in this action, and any further argument or materials the Court may permit.

25 Dated: July 21, 2026

Respectfully Submitted,

26 By: /s/ Allison Barton Rice

27 Allison Barton Rice, Plaintiff, pro se

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Allison Barton Rice, appearing pro se, respectfully moves for relief from the final judgment entered on June 26, 2023, under Federal Rule of Civil Procedure 60(b)(6), or alternatively under Rule 60(d)(3).

This motion rests primarily on a narrow, record-based defect, the origin, sequence, and significance of which Rice did not fully discover until after judgment and after extensive appellate proceedings. This motion also identifies two additional issues that support Rice's contention that his counsel's conduct was grossly negligent.

First, Rice's Fair Housing Act claims were not merely decided against him. They were materially altered before trial. The broad FHA framing Rice actually brought to this Court, including a separate § 3617 interference claim and a § 3604(f)(3)(B) failure-to-accommodate claim, was replaced by a narrower 'affordable-housing-agreement'¹ compliance frame that linked directly to the City's affordable-housing program policy argument. That reframing was then repeated in the joint filings and final jury instructions.

Put simply, Rice's preserved FHA claims were not fairly considered because the jury was restricted to a narrowed 'affordable-housing-agreement' compliance instruction, and that narrowed instruction occurred despite Rice's express instructions that his counsel not file jury instructions without his approval and despite Rice's insistence that his counsel restore his preserved FHA § 3617 claim before the trial.

The most significant newly understood defect concerns Rice's own counsel. Rice accepted and relied on his broader § 3617 framing found in the "Joint Proposed Pretrial Order," filed on May 5, 2023. ECF No. 182 at 2:13-15; Ex. B1. Yet, in and after the May 25, 2023 pretrial conference, Rice's counsel joined opposing counsel in materially altering Rice's framing without his approval. ECF Nos. 188 (unsigned) & 189 (jointly signed). Rice identified the problem and insisted his counsel restore his framing, but his counsel did not respond, did not restore it, and remained silent on the matter thereafter.

¹ i.e. The Limited Equity Home Ownership Program Agreement ("LEHP")
ALLISON BARTON RICE v. THE CITY AND COUNTY OF SAN FRANCISCO, et al.
Case No. 19-cv-04250 LB - Plaintiff's Motion for Relief from Judgment.

1 Second, from Rice’s own research, which he shared with his counsel, he found the May
 2 10, 2013 CCSF Inclusionary Affordable Housing Program Monitoring and Procedures Manual
 3 (“Manual”), in effect during the relevant period; and the October 11, 2018 Manual (utilized by
 4 CCSF during relevant period but not in effect). These manuals contain the City’s affordable-
 5 housing-program rent policy, and the City never provided either manual to Rice.

6 The City submitted the May 10, 2013 Manual but it was not admitted. The October 11,
 7 2018 Manual was not submitted. Rice communicated to his counsel that they should submit and
 8 have admitted the October 11, 2018 Manual. Rice believed the October 11, 2018 Manual was
 9 important because it made clear that the City’s rent policy included a third reason on page 32
 10 which the City concealed from Rice, this Court, and the jury. That third reason is: “For other
 11 reasons deemed acceptable by MOHCD in its sole discretion.” Ex. L. This was a materially
 12 significant fact in this case.

13 Third, from Rice’s own research, which he shared with his counsel, he found *Oregon*
 14 *Bureau of Labor & Industries ex rel. Fair Housing Council of Oregon v. Chandler Apartments,*
 15 *LLC*, No. 15-35604 (9th Cir. July 26, 2017) (unpublished memorandum).

16 In *Chandler*, the Ninth Circuit treated a housing provider’s failure to inquire into
 17 whether a requested accommodation was reasonable and disability-related as significant where
 18 the provider denied the accommodation without making that inquiry. In footnote 2, *Chandler*
 19 states “The **third and fourth elements** of an FHA claim — that the disability accommodation
 20 is necessary to afford the handicapped person an equal opportunity to use and enjoy the
 21 dwelling and that the accommodation is reasonable — **need not be reached** because, as
 22 discussed below, Chandler Apartments **never even inquired** into whether the requested
 23 accommodations were necessary or reasonable before denying them.” (emphasis added)

24 This was a materially important opinion for Rice’s case, especially given that this Court
 25 accepted another district court’s opinion, at the time, for formulation of the jury instruction on
 26 Rice’s § 3604(f)(3)(B) failure-to-accommodate claim. That other district court case was *The*
 27 *Ohio House LLC, v. City Of Costa Mesa* (CD Cal. 2022).

1 For reasons Rice still does not understand, his counsel convinced him that they should
2 not provide the information noted above to this Court.

3 Rice does not bring this motion based on ordinary disappointment with trial strategy or
4 adverse rulings. Nor does Rice ask the Court to use Rule 60 to relitigate ordinary appellate
5 issues or sufficiency-of-the-evidence arguments. This motion rests on the first issue Rice raises
6 here, an extraordinary defect in the integrity of the adjudicatory process: the broad FHA framing
7 Rice actually brought to this Court was altered by his counsel when they joined opposing
8 counsel in materially altering Rice's framing without his approval and despite his insistence that
9 it be restored. The second and third issues support Rice's allegation of gross negligence by his
10 counsel.

11 Rule 60(b)(6) relief is warranted because the record supports extraordinary
12 circumstances: Rice's counsel materially altered the FHA framing of his claims without his
13 approval, Rice insisted his counsel restore his framing, but they did not respond, did not restore
14 it, and remained silent on the matter thereafter. After judgment, that conduct left Rice, a severely
15 mentally disabled pro se litigant, bound by a trial that did not fairly consider his preserved FHA
16 claims brought to this Court. Alternatively, if the Court finds that the record establishes
17 intentional officer-of-the-court misconduct involving the joint filings and counsel's participation
18 in the claim-framing defect, relief is warranted under Rule 60(d)(3) for fraud on the court.

19 **II. RELEVANT RECORD AND TIMELINE**

20 **Rice's accepted pretrial FHA framing preserved in ECF No. 182**

21 During Rice's January 11, 2022 deposition, Rice made clear he had two separate claims:
22 "There are two claims. 3604 and 3617." ... "There's the failure to accommodate and then there
23 is the interference, et cetera, of me exercising my rights or -- rights." Ex. A.

24 On May 5, 2023, Rice's counsel and Defendants' counsel filed the jointly signed "Joint
25 Proposed Pretrial Order." In the section titled "Brief Description of Claims and Defenses to Be
26 Decided," the filing stated that Rice asserted "a claim against the City for unlawfully interfering
27 with Mr. Rice in the exercise or enjoyment of the rights granted or protected by § 3604 in
28 violation of 42 U.S.C. § 3617." ECF No. 182 at 2:13-15; Ex. B1.

1 Via email, Rice approved that filing and expected to rely on that broad framing. Ex. B2.
 2 It accurately captured that § 3617 was not merely a derivative retaliation theory or an
 3 affordable-housing agreement compliance issue. It was a separate broad FHA interference claim
 4 based on the City's alleged interference with Rice's exercise or enjoyment of his home with
 5 respect to his mental illness disability and related rights granted or protected by §§ 3603, 3604,
 6 3605, or 3606 of the FHA.

7 **Rice expressly instructed counsel not to file jury instructions without his approval**

8 Rice placed faith and trust in his counsel's legal judgment. In a September 27, 2021
 9 "Commentary for My Attorneys" pdf sent via email, Rice stated that in legal proceedings his
 10 attorneys were "the ultimate decision makers as to what to do and how to do it." Ex. C1. But
 11 that general expression of faith and trust did not authorize counsel to submit materially altered
 12 final jury instructions without his approval, especially after Rice gave them explicit written
 13 instructions requiring his approval. On April 30, 2023, Rice instructed counsel: "Also, please do
 14 not file the final draft of the jury instructions without my approval." and on May 3, 2023, Rice
 15 reiterated: "Do not submit jury instructions without my expressed approval." Ex. C2 at 1 & 2.

16 **ECF Nos. 188 and 189 introduced language altering Rice's FHA framing**

17 On May 25, 2023, the Court held a pretrial hearing. During that hearing, the Court
 18 encouraged counsel to agree on a joint statement of the case: "[THE COURT:] Is it really true
 19 that you guys can't agree on a joint statement of the case?" Tr. 1:25-2:1; Ex. D. "MR. FISHER:
 20 Your Honor, I think we can agree. I think if you give us maybe 15 minutes after this, we can --
 21 we could probably come to agreement -- THE COURT: Okay." Tr. 2:6-9; Ex. D. But the Court
 22 cautioned that attorney voir dire or related case-framing procedures would be allowed "**only if**
 23 **you agree** on it, because we can't tell if there's really a for-cause if you disagree." Tr. 13:22-23;
 24 Ex. D. (emphasis added)

25 The next day, May 26, 2023, ECF Nos. 188 & 189 were filed. ECF No. 188 was a two-
 26 page unsigned "Amended Draft Joint Statement." Ex. E. ECF No. 189 was a jointly signed
 27 "Joint Proposed Jury Instructions" filing signed by Defendants' counsel Renée E. Rosenblit and

1 Rice's counsel Ramsey W. Fisher. Ex. F. Both ECF Nos. 188 & 189 contained the unapproved
2 narrowed claim description, specifically:

3 "Second, Plaintiff Allison Rice claims that the City unlawfully interfered with his rights
4 under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying
5 roommate and by holding up his efforts to refinance *until he complied with the terms of his*
6 *affordable housing agreement.*" ECF No. 188 at 2:12-16; Ex. E; ECF No. 189 at 5:11-14; Ex. F.
7 (emphasis added)

8 ECF No. 189 included a filer's attestation stating "I, Ramsey W. Fisher, attest that
9 concurrence in the filing of this document has been obtained." ECF No. 189 at 39:2-3; Ex. F.
10 Rice never gave concurrence to the unapproved narrowed claim description.

11 That unapproved claim materially narrowed Rice's broader § 3617 interference claim
12 found in ECF No. 182. The phrase "until he complied with the terms of his affordable housing
13 agreement" was especially prejudicial because it framed the City's conduct as ordinary
14 enforcement of its affordable-housing program policy, as opposed to conduct subject to the
15 FHA's failure-to-accommodate framework. Under § 3604(f)(3)(B), the existence of a rule,
16 policy, practice, or agreement does not end the inquiry; it is the starting point for determining
17 whether a reasonable accommodation may be necessary.

18 The same phrase also narrowed Rice's § 3617 framing by tying his FHA interference
19 claim to compliance with the 'affordable-housing-agreement.' Rice *never* agreed to restrict his §
20 3617 claim to the LEHP agreement. It omitted the broader interference framing Rice had
21 asserted, including the City's threat of enforcement action, its interference with Rice's
22 disability-accommodation efforts, its concealment or misinformation concerning Rice's
23 disability rights and the City's accommodation process, and its displacement of the FHA
24 disability-related accommodation framework with its affordable-housing program policy frame.
25 Those broader allegations were supported by the written communications attached to Rice's
26 pleadings, including ECF Nos. 1.1 and 1.2.

Unapproved claim repeated and became operative in the “Claims and Defenses”

As best Rice can determine, that unapproved claim first appeared in the record on May 26, 2023 in ECF Nos. 188 and 189. The same or materially similar unapproved claim was then repeated in later filings and culminated in the “Claims and Defenses” instruction of the final jury instructions filed on June 22, 2023. ECF No. 221 at 8:6-7; Ex. G.

The narrowed frame affected trial

The final jury instructions used the altered ‘Second’ claim description. ECF No. 221 at 8:6-7; Ex. G. At trial, Defendants’ counsel relied on that claim description throughout, notably in closing argument with respect to Rice’s § 3617 claim. Trial Tr. 760:7-764:1. Ex. K.

The jury returned a verdict for Defendants. ECF No. 224. Judgment was entered on June 26, 2023. ECF No. 225. Rice respectfully submits that the resulting verdict did not fairly decide the § 3617 interference claim he actually brought to this Court, nor did it fairly decide the relationship between that independent interference theory and his § 3604(f)(3)(B) failure-to-accommodate claim.

Rice insisted that his counsel correct the problem before trial

At 11:56 AM on June 14, 2023, the day before the June 15, 2023 pretrial hearing, Rice identified the problem and insisted by email that counsel correct it. Rice wrote:

“I’m sorry, but I insist this be changed to those 3 items ASAP with Judge Beeler. If you like, I would be happy to write another letter to Judge Beeler. But, it seems to me that it would be better for you to rectify this oversight. I know you’re busy, but please advise as soon as possible.” Ex. H. Rice’s counsel did not respond, did not correct the altered framing before trial, and remained silent on the matter thereafter.

In a follow-up email that same day, Rice stated “As need be, my letter to Judge Beeler: ‘For Honorable Beeler re FHA § 3617 Jury Instruction.pdf’ Thank you. It’s my fault, and I take full responsibility about this oversight. [loosing track of this issue] Allison” Ex. I.

In that proposed letter, Rice explained that the preliminary jury instruction described his § 3617 claim as limited to lease termination and refinancing, but that his interference claim also included the City’s “meddling in or hampering” his efforts to maintain or obtain his requested

1 FHA accommodation. Ex. J. Rice also cited *Walker v. City of Lakewood*, 272 F.3d 1114 (9th Cir.
2 2001), for the broader scope of § 3617 interference. Ex. J.

3 As best Rice can determine, counsel did not submit that letter to the Court, did not seek
4 correction of the unapproved claim, did not otherwise preserve Rice's objection to the altered
5 framing before trial, and, to the best of Rice's knowledge, has remained silent on the matter ever
6 since. Rice respectfully submits that this is significant because he was appropriately and
7 dutifully relying on his counsel during a complex pretrial-instruction process, while also
8 managing his severe mental illness and disability-related limitations at the center of this case.

9 **Rice discovered the full significance of the defect only after cross-referencing the record**

10 On June 27, 2026, while cross-referencing the May 25, 2023 pretrial transcript with ECF
11 Nos. 182, 188, 189, and the final jury instructions for his appellate effort, Rice recognized the
12 sequence: the broader § 3617 interference claim Rice had accepted and relied on in ECF No.
13 182 was replaced by narrower language in ECF Nos. 188 and 189, repeated thereafter, and
14 ultimately submitted to the jury in ECF No. 221.

15 Rice diligently pursued his appeal pro se. During the appeal, he argued that his FHA
16 frame had been displaced by the City's affordable-housing program policy frame. But Rice did
17 not understand the role of the May 26, 2023 filings, or his own counsel's participation in
18 narrowing the § 3617 frame, until June 27, 2026.

19 Rice reached that understanding only after extensive review of the appellate record and
20 after cross-referencing the May 25, 2023 pretrial transcript with ECF Nos. 182, 188, 189, and
21 221. Rice respectfully submits that, in light of his severe mental illness, his pro se status after
22 judgment, the complexity of the jury-instruction process, and his reliance on his counsel during
23 trial, he could not reasonably have discovered the full significance of that sequence earlier.

24 His counsel's *silence* on dishonoring his instructions to not file jury instructions without
25 his approval, and then *silently* ignoring his insistence to restore his broader § 3617 claim, was a
26 deception needed to thwart Rice's limited abilities to detect a collusive effort to turn his position
27 into opposing counsel's "retaliation" frame that was strictly limited to "... until he complied
28 with the terms of his affordable housing agreement." and which Rice never approved.

1 His counsel's egregious misconduct was not possible for Rice to discover, even through
 2 due diligence, because of the very *silence* they used. In other words, Rice alleges their lack of
 3 candor to him was a deception that left him in the dark. Especially in light of the faith and trust
 4 he placed in them, the vulnerabilities his severe mental illness imposes on him, and his prior
 5 military life and service that trained him to believe, respect, and obey the words of authoritative
 6 persons and institutions assigned to protect him.

7 Rice saw before trial that the claim framing was wrong and asked his counsel to correct
 8 it. What he did not understand until June 27, 2026, was that the narrowed framing had entered
 9 the record through filings joined or submitted by his own counsel, despite his written
 10 instructions and his later objection.

11 Rice brings this motion shortly after discovering the full significance of that sequence
 12 and after the conclusion of direct appellate proceedings. The Ninth Circuit affirmed on June 2,
 13 2026, denied rehearing on July 6, 2026, and issued its mandate on July 16, 2026. The district
 14 court filed the Ninth Circuit's mandate on July 17, 2026.

15 III. LEGAL STANDARDS

16 Rule 60(b)(6)

17 Rule 60(b)(6) permits relief from a final judgment for "any other reason that justifies
 18 relief." It is an equitable remedy reserved for extraordinary circumstances. *Liljeberg v. Health*
 19 *Services Acquisition Corp.*, 486 U.S. 847, 863-64 (1988).

20 While the mistakes or strategic choices of an attorney are generally imputed to the
 21 client, the Ninth Circuit recognizes a clear exception where an attorney's conduct rises to the
 22 level of gross negligence or virtual abandonment. *Community Dental Services v. Tani*, 282 F.3d
 23 1164, 1168 (9th Cir. 2002). Under *Tani*, when an attorney engages in egregious misconduct and
 24 actively deceives their client, the attorney-client relationship is severed. As a matter of law, the
 25 attorney's actions can no longer be imputed to an innocent client, and such betrayal constitutes
 26 an "extraordinary circumstance" justifying relief under Rule 60(b)(6).

27 See *Lemoge v. United States*, 587 F.3d 1188, 1196-97 (9th Cir. 2009) "Federal Rule of
 28 Civil Procedure 60(c) requires that a Rule 60(b) motion be made "within a reasonable time" and

1 "no more than a year after the entry of the judgment or order or the date of the proceeding."

2 "What constitutes 'reasonable time' depends upon the facts of each case, taking into
3 consideration the interest in finality, the reason for delay, the **practical ability** of the litigant to
4 learn earlier of the grounds relied upon, and prejudice to the other parties." *Ashford v. Steuart*,
5 *1197 657 F.2d 1053, 1055 (9th Cir.1981) (per curiam)." (emphasis added)

6 **Rule 60(d)(3)**

7 Rule 60(d)(3) preserves a federal court's inherent power to set aside a judgment for
8 fraud on the court. Fraud on the court is narrow and is available only to prevent a grave
9 miscarriage of justice. It generally requires an intentional, material misrepresentation that harms
10 the integrity of the judicial process, not merely conduct that prejudices a party. *United States v.*
11 *Sierra Pacific Industries, Inc.*, 862 F.3d 1157, 1167-68 (9th Cir. 2017); *United States v. Estate of*
12 *Stonehill*, 660 F.3d 415, 443-45 (9th Cir. 2011). Relief is reserved for fraud that could not have
13 been discovered earlier through due diligence. *Sierra Pacific*, 862 F.3d at 1168-69.

14 Rice invokes Rule 60(d)(3) only in the alternative. If the Court finds that the record
15 shows intentional officer-of-the-court misconduct involving the joint filings and the claim-
16 framing defect, then the judgment should be set aside under Rule 60(d)(3). If the Court does not
17 reach that conclusion, the record still establishes extraordinary circumstances warranting relief
18 under Rule 60(b)(6).

19 **IV. ARGUMENT**

20 **Relief is warranted under Rule 60(b)(6) because the record establishes extraordinary** 21 **circumstances**

22 This case presents extraordinary circumstances because Rice's own counsel submitted or
23 joined materially narrowed jury-instruction language without Rice's approval,² despite his
24 express written instructions requiring approval before filing final jury instructions. When Rice
25 identified the problem and insisted his counsel correct it, they did not respond, did not correct
26 the problem before trial, and remained silent about the matter.

27
28

2 ² Rice has searched his communications with counsel and found no approval.
ALLISON BARTON RICE v. THE CITY AND COUNTY OF SAN FRANCISCO, et al.
Case No. 19-cv-04250 LB - Plaintiff's Motion for Relief from Judgment.

1 This conduct was not ordinary tactical judgment. The issue was not whether to
2 emphasize one piece of evidence over another. The issue was that Rice's separate § 3617
3 interference claim was materially altered before it was presented to the Court and jury. ECF No.
4 182 presented a broad interference claim: that the City unlawfully interfered with Rice's
5 exercise or enjoyment of his rights protected by § 3604. ECF No. 189 materially altered that
6 claim by tying it to Rice's compliance with the affordable-housing agreement. ECF No. 221
7 then gave that altered framing to the jury.

8 For Rice, the distinction was central to the adjudication of his claims. His § 3617 claim
9 was not merely that the City required termination of the roommate lease or delayed refinancing.
10 Rice's interference claim included broader stand-alone allegations that the City threatened
11 enforcement action, interfered with his disability-related accommodation efforts, failed to treat
12 his request under the FHA accommodation framework, and used its affordable-housing program
13 policy to displace the FHA framework that should have guided its response.

14 Because Rice's counsel materially altered his 'Second' claim to be submitted for
15 adjudication, and then did not correct the problem when Rice insisted they do so, it would be
16 inequitable to impute their egregious misconduct to Rice. This is especially true given Rice's
17 severe mental illness, his lack of trial experience, his appropriate and dutiful reliance on his
18 counsel, and the complexity of the pretrial jury-instruction process. Under *Tani*, a client should
19 not be bound by a judgment when counsel's grossly negligent or abandonment-like conduct
20 makes it unjust to impute counsel's acts to the client.

21 Here, Rice was represented in name, but the specific conduct at issue left his actual FHA
22 interference claim unprotected at the critical moment, when the case was framed for the jury.

23 **The claim-framing defect prejudiced the adjudication of Rice's FHA claims**

24 The prejudice was substantial. Section 3617 is a separate FHA claim that protects
25 against coercion, intimidation, threats, or interference with the exercise or enjoyment of rights
26 granted or protected by §§ 3603, 3604, 3605, or 3606. Rice also asserted a § 3604(f)(3)(B)
27 failure-to-accommodate claim, which required the factfinder to consider disability-related need,
28 reasonable accommodation in rules, policies, practices, or services, and whether the requested

1 accommodation may be necessary to afford equal opportunity to use and enjoy a dwelling.
2 Under Ninth Circuit law, the central FHA accommodation inquiry is whether there is a
3 disability-related nexus between the requested accommodation and equal opportunity to use and
4 enjoy the dwelling. *See Giebel v. M&B Assocs.*, 343 F.3d 1143, 1147 (9th Cir. 2003).

5 In violation of its own rules, the City never made the central FHA accommodation
6 inquiry and admitted exactly that at trial. Trial Tr. 460:13-461:15; Ex. K.

7 The narrowed framing mattered because it channeled the jury into the City's affordable-
8 housing program policy framing and obscured, if not eliminated, the FHA failure-to-
9 accommodate and interference framing Rice had actually brought to this Court.

10 At the May 25, 2023 pretrial hearing, the Court described the dispute as one in which
11 Rice "did everything right, and then the City denied it," while the City's position was that
12 "there's no entitlement to an accommodation process." Ex. D. Rice respectfully submits that this
13 confirms why Rice's altered FHA framing was prejudicial: the jury was diverted from deciding
14 the City's conduct under the FHA framework to deciding the case under the City's affordable-
15 housing program policy frame.

16 That altered frame allowed the City to argue the case through its affordable-housing
17 program policy narrative rather than the FHA accommodation and interference framework.

18 This motion does not ask the Court to reweigh the evidence. It asks the Court to
19 recognize that the legal and factual FHA frame submitted to the jury did not fairly reflect Rice's
20 actual FHA claims brought to this Court, as found in his FAC that survived dismissal.

21 **Rice acted diligently and this motion is timely**

22 Rice acted diligently. Before trial, he instructed counsel not to submit final jury
23 instructions without his approval. When he later saw a problem with the § 3617 framing, he
24 insisted that counsel correct it before trial, but counsel did not do so and, to the best of Rice's
25 knowledge, has remained silent on the matter ever since. After judgment, Rice pursued appeal
26 pro se and repeatedly argued that his case had been displaced from his FHA frame into the
27 City's affordable-housing program policy frame.

1 Rice did not discover the full significance of his counsel's material alteration of his §
 2 3617 frame until June 27, 2026, when he cross-referenced the May 25, 2023 pretrial transcript
 3 with ECF Nos. 182, 188, 189, and 221 as part of his appellate effort. The Court should evaluate
 4 diligence in light of Rice's status as a severely mentally disabled pro se litigant, the complexity
 5 of the jury-instruction process, and his appropriate and dutiful reliance on his own counsel
 6 during trial.

7 Rice brings this motion shortly after discovering the full significance of the record
 8 sequence and after direct appellate proceedings concluded. Under the circumstances, this
 9 motion is brought within a reasonable time under Rule 60(c)(1).

10 **Alternatively, if the Court finds intentional officer-of-the-court misconduct, relief is**
 11 **warranted under Rule 60(d)(3)**

12 Rice principally seeks relief under Rule 60(b)(6). In the alternative, if the Court finds
 13 that the record establishes intentional misconduct by officers of the court, relief is warranted
 14 under Rule 60(d)(3).

15 The relevant record is public and specific. A broad § 3617 claim appeared in ECF No.
 16 182. Rice instructed his counsel not to file final jury instructions without approval. ECF Nos.
 17 188 and 189 then introduced narrower language materially favorable to Defendants' affordable-
 18 housing program policy frame. ECF No. 189 was jointly signed and included a filer's attestation
 19 of concurrence. Rice did not concur in that material alteration. When Rice insisted that his
 20 counsel correct the problem on June 14, 2023, his counsel did not respond and did not correct it.
 21 The materially altered 'Second' claim then appeared in the final jury instructions as part of
 22 Rice's 'Claims.'

23 The material alteration also appears in the record sequence between the Court's (*signed*,
 24 signature required) "Final Pretrial Order Re: ECF No. 182" and its "Proposed Preliminary Jury
 25 Instructions," both filed on June 13, 2023.

26 In its "Final Pretrial Order Re: ECF No. 182" this Court states:

27 "3. Claims, Defenses, and Relief Sought

1 The plaintiff has two claims predicated on violations of the Fair Housing Act: (1)
 2 denying him the reasonable accommodation of a rent-paying roommate, in violation of 42
 3 U.S.C. § 3604, and (2) interfering with his exercise of his rights under § 3604, in violation of 42
 4 U.S.C. § 3617.

5 The parties' positions (claims, defenses, and relief sought) are reflected in their joint
 6 proposed pretrial order at ECF No. 182." ECF No. 201 at 2:14-18; Ex. M.

7 And, in its (no signature required) "Proposed Preliminary Jury Instructions" this Court
 8 states:

9 "1.5: CLAIMS AND DEFENSES ...

10 ... Second, Mr. Rice claims that the City unlawfully interfered with his rights under the
 11 Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate
 12 and by holding up his efforts to refinance until he complied with the terms of his affordable
 13 housing agreement." ECF No. 202 at 2:15-16; Ex. N.

14 If the Court determines that this sequence resulted from intentional coordination or
 15 material misrepresentation by officers of the court, then the misconduct affected not only Rice
 16 but the judicial process itself. It caused the Court and jury to adjudicate the case through a
 17 materially distorted frame and prevented the judicial machinery from performing its impartial
 18 task of deciding the FHA claims Rice actually brought to this Court.

19 Rice recognizes that fraud on the court is narrow and requires more than ordinary
 20 attorney error, adverse rulings, perjury, or litigation advocacy. Rice therefore presents Rule
 21 60(d)(3) as an alternative ground. At minimum, however, the same record establishes
 22 extraordinary circumstances under Rule 60(b)(6).

23 ///

24 ///

25 ///

26 27 28 **V. RELIEF REQUESTED**

1 For the foregoing reasons, Rice respectfully requests that the Court grant relief from
2 judgment under Rule 60(b)(6), or alternatively Rule 60(d)(3), and:

- 3 1. Vacate the final judgment entered on June 26, 2023;
- 4 2. Reopen the case for further proceedings under the correct FHA framework;
- 5 3. Restore Rice's § 3617 interference claim as a separate FHA claim, independent of any
6 narrow 'affordable-housing-agreement' compliance frame;
- 7 4. Restore Rice's § 3604(f)(3)(B) failure-to-accommodate claim for adjudication under
8 the correct FHA accommodation framework, or alternatively restore Rice's § 3617 interference
9 claim alone as a separate FHA claim; and
- 10 5. Schedule a status conference to determine appropriate next steps, including whether
11 limited discovery, appointment or recruitment of counsel, or other case-management measures
12 are warranted.

13 Dated: July 21, 2026

Respectfully Submitted,

14 By: /s/ Allison Barton Rice

15 Allison Barton Rice, Plaintiff, pro se
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27
28

Mr. Allison Barton Rice, Plaintiff
 13809 Research Blvd, Suite 500 PMB 90978
 Austin, TX 78750
 PH: (415) 579-8208
 allisonbartonrice@mac.com

Plaintiff, in propria persona

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

ALLISON BARTON RICE, an individual,

Plaintiff,

v.

THE CITY AND COUNTY OF SAN FRANCISCO; LONDON BREED, MAYOR OF THE CITY OF SAN FRANCISCO; KATE HARTLEY, DIRECTOR OF THE SAN FRANCISCO MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT; MARIA BENJAMIN, DIRECTOR OF HOMEOWNERSHIP & BELOW MARKET RATE PROGRAMS SAN FRANCISCO MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT; CISSY YIN, HOMEOWNERSHIP & BELOW MARKET RATE PROGRAMS COMPLIANCE MANAGER SAN FRANCISCO MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT; DENNIS HERRERA, SAN FRANCISCO CITY ATTORNEY; KEITH NAGAYAMA, SAN FRANCISCO CITY DEPUTY ATTORNEY and DOES 1 through 50,

Defendants.

CASE NO. 19-cv-04250 LB

**DECLARATION OF PLAINTIFF
 RICE IN SUPPORT OF
 PLAINTIFF'S MOTION FOR
 RELIEF FROM JUDGMENT
 PURSUANT TO FED. R. CIV. P.
 60(b)(6) OR, IN THE
 ALTERNATIVE, FED. R. CIV. P.
 60(d)(3) FOR FRAUD ON THE
 COURT**

Hearing Date:

Time:

Place:

450 Golden Gate Ave.
 Courtroom B, 15th Fl
 San Francisco, CA
 94102

1 I, Allison Barton Rice, declare as follows:

- 2 1. I am the Plaintiff in this action. I submit this declaration in support of my Motion for
3 Relief from Judgment Pursuant to Federal Rule of Civil Procedure 60(b)(6) or, in the
4 Alternative, Rule 60(d)(3).
- 5 2. I have personal knowledge of the facts stated in this declaration, except where stated on
6 information and belief. If called as a witness, I could and would testify competently to
7 these facts.
- 8 3. This declaration is intended to authenticate and explain the exhibits submitted with my
9 motion and to provide the factual basis for my diligence, the lack of approval of the
10 altered claim framing, and the circumstances under which I discovered the full
11 significance of the record sequence.
- 12 4. My Fair Housing Act case included two separate FHA theories: a failure-to-
13 accommodate claim under 42 U.S.C. § 3604(f)(3)(B) and an interference claim under 42
14 U.S.C. § 3617. During my January 11, 2022 deposition, I stated that there were “two
15 claims,” specifically “3604 and 3617,” and that there was “the failure to accommodate”
16 and “the interference” with my exercise of rights. A true and correct copy of the relevant
17 deposition excerpt is attached as Exhibit A.
- 18 5. On May 5, 2023, my counsel and Defendants’ counsel filed the Joint Proposed Pretrial
19 Order, ECF No. 182. That filing stated that I asserted “a claim against the City for
20 unlawfully interfering with Mr. Rice in the exercise or enjoyment of the rights granted or
21 protected by § 3604 in violation of 42 U.S.C. § 3617.” A true and correct copy of the
22 relevant portion of ECF No. 182 is attached as Exhibit B1.
- 23 6. I approved the May 5, 2023 Joint Proposed Pretrial Order and expected to rely on the
24 broader § 3617 framing contained in that filing. A true and correct copy of the email
25 reflecting my approval is attached as Exhibit B2.
- 26 7. I placed faith and trust in my counsel’s legal judgment. In a September 27, 2021
27 document titled “Commentary for My Attorneys,” I stated that in legal proceedings my

attorneys were “the ultimate decision makers as to what to do and how to do it.” A true and correct copy of that document or relevant excerpt is attached as Exhibit C1.

8. Although I trusted my counsel’s legal judgment generally, I later gave specific written instructions concerning jury instructions. On April 30, 2023, I instructed counsel: “Also, please do not file the final draft of the jury instructions without my approval.” On May 3, 2023, I reiterated: “Do not submit jury instructions without my expressed approval.” True and correct copies of those communications are attached as Exhibit C2.

9. On May 25, 2023, the Court held a pretrial hearing. During that hearing, the Court encouraged counsel to agree on a joint statement of the case and stated that certain related procedures would be allowed “only if you agree on it.” A true and correct copy of the relevant transcript excerpts from the May 25, 2023 pretrial hearing is attached as Exhibit D.

10. On May 26, 2023, ECF Nos. 188 and 189 were filed. ECF No. 188 was an unsigned “Amended Draft Joint Statement.” A true and correct copy of ECF No. 188, or the relevant portions, is attached as Exhibit E.

11. ECF No. 189 was a jointly signed “Joint Proposed Jury Instructions” filing submitted by Defendants’ counsel and my counsel. It included a filer’s attestation stating that concurrence in the filing had been obtained. A true and correct copy of ECF No. 189, or the relevant portions, is attached as Exhibit F.

12. ECF Nos. 188 and 189 contained a claim description stating: “Second, Plaintiff Allison Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement.”

13. I did not approve that altered § 3617 claim description. I did not give concurrence to the altered claim description contained in ECF Nos. 188 and 189.

14. As I understood my case, my § 3617 interference claim was not limited to termination of the roommate lease or delay in refinancing until compliance with the affordable housing

1 agreement. My interference theory included broader allegations involving the City's
2 treatment of my disability-accommodation request, its use of affordable housing
3 program policy, its failure to engage the FHA accommodation framework, and its
4 interference with my exercise or enjoyment of FHA rights.

5 15. The final jury instructions filed as ECF No. 221 repeated the altered claim description. A
6 true and correct copy of the relevant portion of ECF No. 221 is attached as Exhibit G.

7 16. On June 14, 2023, before trial, I identified the problem with the altered framing and
8 emailed my counsel insisting that it be corrected. In that email, I wrote: "I'm sorry, but I
9 insist this be changed to those 3 items ASAP with Judge Beeler. If you like, I would be
10 happy to write another letter to Judge Beeler. But, it seems to me that it would be better
11 for you to rectify this oversight. I know you're busy, but please advise as soon as
12 possible." A true and correct copy of that email is attached as Exhibit H.

13 17. Later on June 14, 2023, I sent a follow-up communication to counsel regarding the same
14 issue. A true and correct copy of that communication is attached as Exhibit I.

15 18. In connection with that follow-up, I prepared a proposed letter to the Court explaining
16 that my § 3617 claim was broader than the lease-termination and refinancing description
17 and also included the City's interference with my efforts to maintain or obtain my
18 requested FHA accommodation. A true and correct copy of that proposed letter is
19 attached as Exhibit J.

20 19. As best I can determine, my counsel did not submit that proposed letter to the Court, did
21 not seek correction of the altered claim description before trial, and did not otherwise
22 preserve my objection to that altered framing before trial.

23 20. At trial, the City admitted that it did not make the FHA accommodation inquiry before
24 rejecting the requested accommodation. A true and correct copy of the relevant trial
25 transcript excerpt, Trial Tr. 460:25-461:3, is included in Exhibit K.

26 21. Defendants' counsel also relied on the altered claim description during closing argument,
27 including with respect to my § 3617 claim. A true and correct copy of the relevant trial
28 transcript excerpt, Trial Tr. 760:7-764:1, is included in Exhibit K.

22. The jury returned a verdict for Defendants, and judgment was entered on June 26, 2023.
23. During my appeal, I argued that my FHA case had been displaced into the City's affordable housing program policy frame. At that time, however, I did not fully understand the role of ECF Nos. 188 and 189 or my own counsel's participation in the altered § 3617 framing.
24. On June 27, 2026, while reviewing and cross-referencing the May 25, 2023 pretrial transcript with ECF Nos. 182, 188, 189, and 221, I recognized the full significance of the sequence. I recognized that the broader § 3617 claim framing I had approved and relied on in ECF No. 182 had been replaced by altered language in ECF Nos. 188 and 189, repeated thereafter, and ultimately submitted to the jury in ECF No. 221.
25. I also recognized on June 27, 2026, that this altered framing had entered the record through filings submitted or joined by my own counsel despite my written instructions requiring approval before filing jury instructions and despite my June 14, 2023 insistence that counsel correct the problem.
26. I am a severely mentally disabled pro se litigant. During the trial proceedings, I relied on appointed pro bono counsel during a complex pretrial and jury-instruction process. After judgment, I pursued appeal pro se while reviewing a large and complex appellate record.
27. I acted diligently. Before trial, I instructed counsel not to submit jury instructions without my approval. When I saw the problem with the altered § 3617 framing, I asked counsel to correct it. After judgment, I pursued appeal pro se and continued to argue that my FHA claims had been displaced into an affordable housing program policy frame.
28. From my own research, which I shared with counsel, I located the City's affordable housing program manuals. The October 11, 2018 manual contained language stating that a rental exception could be permitted "[f]or other reasons deemed acceptable by MOHCD in its sole discretion." A true and correct copy of the relevant manual excerpt is attached as Exhibit L.
29. From my own research, which I shared with counsel, I located *Oregon Bureau of Labor & Industries ex rel. Fair Housing Council of Oregon v. Chandler Apartments, LLC*, No.

1 15-35604 (9th Cir. July 26, 2017) (unpublished memorandum). I understood *Chandler* to
2 be important because it addressed a housing provider's failure to inquire into whether a
3 requested accommodation was necessary or reasonable before denying it. *Chandler* is
4 cited as persuasive authority in my motion and is not submitted as an exhibit to this
5 declaration.

6 30. On June 13, 2023, the Court filed its Final Pretrial Order Re: ECF No. 182. That order
7 stated that my claims and Defendants' positions were reflected in the joint proposed
8 pretrial order at ECF No. 182. A true and correct copy of the relevant portion of ECF
9 No. 201 is attached as Exhibit M.

10 31. Also on June 13, 2023, the Court filed Proposed Preliminary Jury Instructions
11 containing the altered description of my § 3617 claim. A true and correct copy of the
12 relevant portion of ECF No. 202 is attached as Exhibit N.

13 32. The exhibits submitted with my motion are true and correct copies of the documents,
14 emails, transcript excerpts, court filings, or other materials described above, to the best
15 of my knowledge.

16 33. I submit this declaration in support of my request that the Court grant relief from
17 judgment under Rule 60(b)(6), or alternatively under Rule 60(d)(3), for the reasons
18 stated in my motion.

19 Executed on July 21, 2026, at Austin, Texas.

20 I declare under penalty of perjury under the laws of the United States of America that the
21 foregoing is true and correct.

22 Dated: July 21, 2026

Respectfully Submitted,

23 By: /s/ Allison Barton Rice

24 Allison Barton Rice, Plaintiff, pro se

Exhibits A-N

Exhibit A

NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 NOELLE J. OTTOBONI & ASSOCIATES
Certified Shorthand Reporters
2 106 Madison Avenue
San Bruno, California 94066
3 650/588-7404
Fax 650/866-4430

Certified Copy

Noelle J. Ottoboni, Certified Shorthand Reporters

4
5
6 UNITED STATES DISTRICT COURT
7 NORTHERN DISTRICT OF CALIFORNIA
8

ALLISON BARTON RICE, an)
9 individual,)
10 Plaintiff,)
11 vs.) Case No. 19-cv-04259 LB
12 THE CITY AND COUNTY OF SAN)
FRANCISCO; LONDON BREED, MAYOR)
13 OF THE CITY OF SAN FRANCISCO;)
KATE HARTLEY, DIRECTOR OF THE)
14 SAN FRANCISCO MAYOR'S OFFICE OF)
HOUSING AND COMMUNITY)
15 DEVELOPMENT; MARIA BENJAMIN,)
DIRECTOR OF HOMEOWNERSHIP &)
16 BELOW MARKET RATE PROGRAMS SAN)
FRANCISCO MAYOR'S OFFICE OF)
17 HOUSING AND COMMUNITY)
DEVELOPMENT; CISSY YIN,)
18 HOMEOWNERSHIP & BELOW MARKET)
RATE PROGRAMS COMPLIANCE)
19 MANAGER SAN FRANCISCO MAYOR'S)
OFFICE OF HOUSING AND COMMUNITY)
20 DEVELOPMENT; DENNIS HERRERA,)
SAN FRANCISCO CITY ATTORNEY;)
21 KEITH NAGAYAMA, SAN FRANCISCO)
CITY DEPUTY ATTORNEY and DOES 1)
22 through 50,)
23 Defendants.)

24
25 DEPOSITION OF ALLISON BARTON RICE, VOLUME I, JANUARY 11, 2022
//

Page 1

OTTOBONICSRS@GMAIL.COM

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

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VOLUME I

6

DEPOSITION OF ALLISON BARTON RICE

7

APPEARING REMOTELY FROM

8

AUSTIN, TEXAS

9

Tuesday, January 11, 2022

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23 Reported by:

24 KIM Y. ROTHERHAM, C.S.R. No. 7397

25 APPEARING REMOTELY FROM SONOMA COUNTY, CALIFORNIA

Page 2

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NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

I N D E X

Examination by:	Page
MS. ROSENBLIT	7
AFTERNOON SESSION	74

---o0o---

I N D E X O F E X H I B I T S

DEFENDANTS' EXHIBIT NO.	Page
1 Four-page Grant Deed; Bates stamp Nos. CCSF-RICE_000005 - CCSF-RICE_000008	79
2 Four-page Grant Deed; Bates stamp Nos. CCSF-RICE_000001 - CCSF-RICE_000004	88
3 Sixteen-page document entitled, "Limited Equity Home Ownership Program, Declaration of Resale Restrictions and Option to Purchase Agreement"; Bates stamp Nos. CCSF-RICE_001021 - CCSF-RICE_001036	81
4 Sixteen-page document entitled, "San Francisco Redevelopment Agency Limited Equity Homeownership Program Loan Disclosure Information;" Bates stamp Nos. CCSF-RICE_000033 - CCSF-RICE_000048	86

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CONFIDENTIAL EXCERPTS
PAGES 7 - 28

Page 3

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Exhibit A: January 11, 2022 Rice deposition transcript excerpt

REMOTE APPEARANCES

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For the Plaintiff:

DURIE TANGRI, LLP
RAMSEY FISHER, ESQUIRE
HANNAH JIAM, ESQUIRE
GALIA AMRAM, ESQUIRE
217 Leidesdorff Street
San Francisco, California 94111
Phone: (415) 362-6666
rfisher@durietangri.com

For the Defendants, CITY AND COUNTY OF SAN FRANCISCO,
MAYOR LONDON BREED, KATE HARTLEY, MARIA BENJAMIN, CISSY
YIN, DENNIS HERRERA, AND KEITH NAGAYAMA:

SAN FRANCISCO CITY ATTORNEY
RENEE E. ROSENBLIT, ESQUIRE
Fox Plaza
1390 Market Street, 7th Floor
San Francisco, California 94102-5408
Phone: (415) 554-3965
Fax: (415) 554-3985
renee.rosenblit@sfcityatty.org

NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3
4
5 ALLISON BARTON RICE, an)
individual,)
6)
Plaintiff,)
7)
vs.) Case No. 19-cv-04259 LB
8)
THE CITY AND COUNTY OF SAN)
9 FRANCISCO; LONDON BREED, MAYOR)
OF THE CITY OF SAN FRANCISCO;)
10 KATE HARTLEY, DIRECTOR OF THE)
SAN FRANCISCO MAYOR'S OFFICE OF)
11 HOUSING AND COMMUNITY)
DEVELOPMENT; MARIA BENJAMIN,)
12 DIRECTOR OF HOMEOWNERSHIP &)
BELOW MARKET RATE PROGRAMS SAN)
13 FRANCISCO MAYOR'S OFFICE OF)
HOUSING AND COMMUNITY)
14 DEVELOPMENT; CISSY YIN,)
HOMEOWNERSHIP & BELOW MARKET)
15 RATE PROGRAMS COMPLIANCE)
MANAGER SAN FRANCISCO MAYOR'S)
16 OFFICE OF HOUSING AND COMMUNITY)
DEVELOPMENT; DENNIS HERRERA,)
17 SAN FRANCISCO CITY ATTORNEY;)
KEITH NAGAYAMA, SAN FRANCISCO)
18 CITY DEPUTY ATTORNEY and DOES 1)
through 50,)
19)
Defendants.)
20 _____)
21
22 BE IT REMEMBERED THAT, pursuant to Notice, and
23 on Tuesday, January 11, 2022, commencing at the hour of
24 10:03 a.m., thereof, in Austin, Texas, before me, KIM Y.
25 ROTHERHAM, C.S.R. No. 7397, a Certified Shorthand

Page 5

OTTOBONICSRS@GMAIL.COM

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 Reporter in the State of California, there remotely
2 appeared,
3 ALLISON BARTON RICE,
4 called as a witness by the Defendants; who, having been
5 duly sworn by me, was thereupon examined and testified as
6 is hereinafter set forth.

7 ---o0o---

OTTOBONICSRS@GMAIL.COM

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 Let's go off the record.

2 (Lunch break taken from 12:33 p.m. to 1:22 p.m.)

3 Afternoon Session

4 MS. ROSENBLIT: Okay. Let's go back on the
5 record.

6 Before we start with the questions again, there
7 are a couple things counsel and I spoke about off the
8 record that I wanted to put on the record.

9 The first is that the only remaining claim in
10 the case is the Fair Housing Act claim which is based
11 exclusively on the City's independent failure to
12 accommodate plaintiff with his request for a rent-paying
13 roommate?

14 THE WITNESS: That's not correct. There are
15 two claims. 3604 and 3617.

16 MS. ROSENBLIT: So for the record, there are
17 two claims under the Fair Housing Act claim based
18 exclusively on the failure to accommodate a rent paying
19 roommate. Is that correct, Counsel?

20 MR. FISHER: I believe so.

21 THE WITNESS: I don't see it quite that way.
22 There's the failure to accommodate and then there is the
23 interference, et cetera, of me exercising my rights or --
24 rights.

25 MR. FISHER: Should we just go off the record,

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 Renee?

2 MS. ROSENBLIT: Yeah, let's do it. Thank you.

3 (Break taken from 1:23 p.m. to 1:27 p.m.)

4 MS. ROSENBLIT: Okay. So after a brief
5 conversation with counsel and plaintiff off the record,
6 let me reframe: There are two remaining claims in this
7 case that fall under the Fair Housing Act. One is a
8 failure to accommodate a rent paying roommate, and the
9 failure to accommodate claim is based exclusively under
10 the failure to accommodate a rent paying roommate. And
11 then the other claim is an interference with plaintiff's
12 exercising of his rights under the Fair Housing Act.

13 There is no claim in this case based on a
14 failure to accommodate plaintiff's request to travel. Is
15 that a fair characterization, Counsel?

16 Mr. Rice, I see your hand is up.

17 THE WITNESS: Yes. With regards to your
18 description of the failure to accommodate, more
19 technically, as I understand it, there was a failure to
20 make a reasonable and necessary handicap-related
21 accommodation, specifically the defendants refused to
22 provide written consent for me to lease a portion thereof
23 of what was my property.

24 BY MS. ROSENBLIT:

25 Q. And to be clear, just for the record, this

NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 STATE OF CALIFORNIA)

2)

3 COUNTY OF SONOMA)

4 I, KIM Y. ROTHERHAM, Certified Shorthand Reporter,

5 No. 7397, State of California, do hereby certify:

6 That prior to being examined, the witness

7 named in the foregoing deposition, to wit, ALLISON BARTON

8 RICE, was by me duly sworn to testify the truth, the

9 whole truth and nothing but the truth; That said

10 deposition was taken down by me remotely in shorthand at

11 the time and place therein named and thereafter reduced

12 to typewriting under my direction and supervision; That

13 the witness was given an opportunity to read and correct

14 said deposition and to subscribe the same. Should the

15 signature of the witness not be affixed to the

16 deposition, the witness should not have availed himself

17 of the opportunity to sign or the signature has been

18 waived. I further certify that I am not of counsel for

19 either or any of the parties to the said deposition, nor

20 in any way interested in the event of this action and

21 that I am not related to any of the parties thereto.

22 WITNESS MY HAND THIS 24th day of January, 2022.

23

KIM Y. ROTHERHAM
CSR NO. 7397Digitally signed by KIM Y. ROTHERHAM CSR
NO. 7397
DN: cn=KIM Y. ROTHERHAM CSR NO. 7397,
o, ou, email=OTTOBONICSR5@GMAIL.COM,
c=US
Date: 2022.01.21 07:50:31 -08'00'

24

KIM Y. ROTHERHAM, CSR #7397

25

Certified Shorthand Reporter

NOELLE OTTOBONI & ASSOCIATES

THIS TRANSCRIPT CONTAINS CONFIDENTIAL TESTIMONY

Exhibit A: January 11, 2022 Rice deposition transcript excerpt

1 NOELLE J. OTTOBONI & ASSOCIATES
Certified Shorthand Reporters
2 106 Madison Avenue
San Bruno, California 94066
3 650/588-7404
Fax 650/866-4430
4 OttoboniCSRs@gmail.com
5 January 24, 2022
6

7 MR. ALLISON BARTON RICE
C/O RAMSEY FISHER, ESQ.
8 DURIE TANGRI, LLP
217 Leidesdorff Street
9 San Francisco, California 94111
10

Re: ALLISON BARTON RICE vs. THE CITY AND COUNTY
11 OF SAN FRANCISCO, et al.
Deposition taken on: 1-11-22
12

The original transcript of your deposition taken in the
13 above-entitled action has been prepared and is available
at this office for your reading, signing and correcting,
14 if necessary. If you are represented by Counsel who has a
copy of your deposition, you may review that copy and
15 submit to this office the Deponent's Correction Sheet
located at the back of your deposition transcript,
16 indicating any changes you wish to make.
17 Unless otherwise directed, your original transcript will
be sealed 35 days from the date this notice is sent.
18

You may call to set up an appointment at this
19 office Monday through Friday between the business hours
of 9:00 a.m. and 5:00 p.m.
20

Sincerely,

21
Kim Y. Rotherham
22 CSR No. 7397

23 If you do not wish to read your deposition transcript,
please sign below and return within 35 days from the date
24 this letter was mailed.

25 _____
Signature Date

Exhibit B1

Case 3:19-cv-04250-LB Document 182 Filed 05/05/23 Page 1 of 8

**Exhibit B1: jointly signed JOINT PROPOSED PRETRIAL ORDER
excerpts ECF No. 182**

GALIA Z. AMRAM (SBN 250551)
gamram@mofo.com
RAMSEY W. FISHER (SBN 334228)
rfisher@mofo.com
HANNAH JIAM (SBN 312598)
hjam@mofo.com
ANNIE A. LEE (SBN 328802)
annielee@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415-268-7000
Facsimile: 415-268-7522

Attorneys for Plaintiff
ALLISON BARTON RICE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALLISON BARTON RICE,
Plaintiff,
v.
THE CITY AND COUNTY OF SAN
FRANCISCO, et al.,
Defendants.

Case No. 3:19-cv-04250-LB

JOINT PROPOSED PRETRIAL ORDER

Pretrial Conference: May 25, 2020
Time: 9:30 a.m.
Ctrm: A - 15th Floor
Judge: Honorable Laurel Beeler

**Exhibit B1: jointly signed JOINT PROPOSED PRETRIAL ORDER
excerpts ECF No. 182**

Pursuant to Section C(2) of the Court's Case Management and Pretrial Order, ECF No. 108, Plaintiff Allison Rice and Defendant City and County of San Francisco ("the City") hereby submit this Joint Proposed Pretrial Order.

I. BRIEF DESCRIPTION OF CLAIMS AND DEFENSES TO BE DECIDED

In this action, Plaintiff Allison Rice alleges the Mayor's Office of Housing and Community Development ("MOHCD") denied his request for a reasonable accommodation and interfered with his rights under the Fair Housing Act. Mr. Rice purchased a condominium located at 200 Brannan St., Unit 316, San Francisco, California 94107 ("the Property") in 2004 subject to a restriction that he could not lease the Property, or any portion thereof, without the agency's prior written consent. Mr. Rice requested to have a rent-paying roommate as a reasonable accommodation but was denied written consent and forced to terminate the lease of his then-roommate on the Property. He has since sold his home, which he claims he did under protest. Mr. Rice pursues two claims against the City: (1) a claim against the City for denying his request for a reasonable accommodation in violation of 42 U.S.C. § 3604, and (2) a claim against the City for unlawfully interfering with Mr. Rice in the exercise or enjoyment of the rights granted or protected by § 3604 in violation of 42 U.S.C. § 3617.

The City denies liability for the claims alleged and denies causing Plaintiff any injury. MOHCD contends it offered Plaintiff to have a non rent-paying roommate to help him combat "isolation and loneliness." MOHCD contends Plaintiff did not have a disability-related need to charge rent, and the request was not reasonable. MOHCD contends it did not interfere with Plaintiff's rights under the Fair Housing Act.

II. STATEMENT OF THE RELIEF SOUGHT

Plaintiff's Position:

Mr. Rice suffered harm as a result of the City's actions and claims general and compensatory damages, punitive damages, pre- and post-judgment interest, and any further relief the Court deems appropriate.

As to compensatory damages: Mr. Rice intends to present testimony to show the harm he suffered as a result of MOHCD's denial of his request for a reasonable accommodation and interference with his rights under the FHA. This harm includes the value of a unit comparable to the one he owned at

**Exhibit B1: jointly signed JOINT PROPOSED PRETRIAL ORDER
excerpts ECF No. 182**

Respectfully submitted,

Dated: May 5, 2023

MORRISON & FOERSTER LLP

By: /s/ Hannah Jiam
HANNAH JIAM

Attorneys for Plaintiff
ALLISON BARTON RICE

Dated: May 5, 2023

OFFICE OF CITY ATTORNEY

By: /s/ Renee E. Rosenblit
RENÉE E. ROSENBLIT

Attorney for Defendant
CITY AND COUNTY OF SAN FRANCISCO

Exhibit B2

Exhibit B2: May 5, 2023 excerpt from Rice approved CLAIM language

From: Allison Rice <allisonbartonrice@mac.com> **email to counsel**
Subject: Re: Rice v. City and County SF - Call regarding jury instructions
Date: May 3, 2023 at 19:19
To: Morrison & Foerster LLP HJiam@mofo.com
Cc: Morrison & Foerster LLP AnnieLee@mofo.com, Morrison & Foerster LLP RamseyFisher@mofo.com, Morrison & Foerster LLP RICE@mofo.com

I understand that - I did not mean "include" what we mean - I mean that we (my attorneys and myself) understand these details.

So, what you wrote looks and sounds good to me - **you have my approval to submit No. 2 as you have written:**

"Plaintiff Allison Rice owned a Below Market Rate condominium in San Francisco, California. The Below Market Rate program is currently managed by the Defendant City and County of San Francisco through the Mayor's Office of Housing and Community Development (MOHCD).

Plaintiff Allison Rice brings this lawsuit against the Defendant City and County of San Francisco ("the City"). Plaintiff brings two claims against the City under the Fair Housing Act. First, Plaintiff alleges that the City discriminated against him on the basis of his handicap when it denied his reasonable accommodation request for a rent-paying roommate. **Second, Plaintiff claims that the City unlawfully interfered with his rights under the FHA after he requested a rent-paying roommate.** The City denies those claims. Plaintiff Allison Rice has the burden of proving these claims by a preponderance of the evidence."

Thank you.

On May 3, 2023, at 7:13 PM, Jiam, Hannah <HJiam@mofo.com> wrote:

Hi Allison,

That additional statement includes facts that we need to prove to a jury through your testimony. They are not appropriate to submit as a preliminary jury instruction. That being said, you are the client. But we think it unlikely that the Court will agree to include disputed evidence in a jury instruction, and the Court may ultimately adopt the City's instruction instead.

Sincerely,

Hannah

From: Allison Rice <allisonbartonrice@mac.com>
Sent: Wednesday, May 3, 2023 5:11 PM
To: Jiam, Hannah <HJiam@mofo.com>
Cc: Lee, Annie A. <AnnieLee@mofo.com>; Fisher, Ramsey W. <RamseyFisher@mofo.com>; RICE-DT <RICE@mofo.com>
Subject: Re: Rice v. City and County SF - Call regarding jury instructions

External Email

Looks and sounds good to me provided that when we sav "... after he requested a rent-

Exhibit C1

Exhibit C1: excerpt from Rice's Commentary for My Attorneys

Dear Hannah and Ramsey,

First, any and all communication from me (my commentaries, etc.) is just my desire and effort to be as supportive as I can be. Which is to say, in our legal proceedings, **you (my attorneys) are the ultimate decision makers as to what to do and how to do it** - with my utmost gratitude and blessings.

Redacted

Exhibit C2

Exhibit C2: Do not file / submit jury instructions without Rice's approval

From: Allison Rice allisonbartonrice@mac.com

Subject: Re: Jury Instructions

Date: April 30, 2023 at 14:55

To: Morrison & Foerster LLP AnnieLee@mofo.com

Cc: Morrison & Foerster LLP hjiam@mofo.com, Morrison & Foerster LLP RamseyFisher@mofo.com, Morrison & Foerster LLP RICE@mofo.com, Morrison & Foerster LLP ENovikov@mofo.com

Also, please do not file the final draft of the jury instructions without my approval. Thank you.

Redacted

Exhibit C2: Do not file / submit jury instructions without Rice's approval

From: Allison Rice allisonbartonrice@mac.com
Subject: Re: Rice v. City and County SF - Call regarding jury instructions
Date: May 3, 2023 at 18:48
To: Jiam, Hannah HJiam@mofo.com
Cc: annieleee@mofo.com, RamseyFisher@mofo.com, RICE@mofo.com

Do not submit jury instructions without my expressed approval.

Redacted

Exhibit D

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 Before The Honorable Laurel Beeler, Magistrate Judge
4
5 RICE,)
6 Plaintiff,)
7 vs.) No. C 19-04250-LB
8 CITY AND COUNTY OF SAN)
9 FRANCISCO, et al.,)
10 Defendants.)
11
12 San Francisco, California
13 Thursday, May 25, 2023
14 TRANSCRIPT OF PROCEEDINGS OF THE OFFICIAL ELECTRONIC SOUND
15 RECORDING 11:21 - 12:42 = 1 HOUR, 21 MINUTES
16 APPEARANCES:
17 For Plaintiff:
18 Morrison & Foerster, LLP
19 425 Market Street
20 Floor 33
21 San Francisco, California
22 94105
23 BY: HANNAH J. JIAM, ESQ.
24 RAMSEY W. FISHER, ESQ.
25 GALIA Z. AMRAM, ESQ.

(APPEARANCES CONTINUED ON THE NEXT PAGE.)

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

ii

1 APPEARANCES: (Cont'd.)

2 For Defendants:

3 San Francisco City Attorney's
4 Office
5 1390 Market Street
6 Floor 7
7 San Francisco, California
8 94102

9 BY: RENEE E. ROSENBLIT, ESQ.
10 RAYMOND M. ROLLAN, ESQ.

11 Transcribed by:

12 Echo Reporting, Inc.
13 Contracted Court Reporter/
14 Transcriber
15 echoreporting@yahoo.com
16
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Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

1

1 Thursday, May 25, 2023

11:21 a.m.

2 P-R-O-C-E-E-D-I-N-G-S

3 --oOo--

4 THE CLERK: Calling civil action 19-04250, Rice
5 versus City and County of San Francisco.

6 Counsel, if you could please state your appearances for
7 the record.

8 MS. JIAM: Yes. Hannah Jiam from Morrison and
9 Foerster, LLP, representing the plaintiff Allison Rice.

10 MS. LEE: And Annie Lee, also from Morrison and
11 Foerster for the plaintiff.

12 MR. FISHER: Ramsey Fisher, also for the
13 plaintiff.

14 MS. AMRAM: Good morning, your Honor. Galia Amram
15 for the plaintiff.

16 MS. ROSENBLIT: Good morning, your Honor. Renee
17 Rosenblit for the City.

18 MR. ROLLAN: Good Morning, your Honor. Raymond
19 Rollan for the City.

20 THE COURT: Okay. So let's talk trial logistics
21 first, and then we'll do the in limine motions. Normally, I
22 would have gotten out -- I've never had a case ever where
23 people haven't agreed on the joint statement for the case
24 ever, ever in my entire career, ever.

25 Is it really true that you guys can't agree on a joint

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

2

1 statement of the case? I will write it for you, and it
2 won't be what you want. If you agree on a joint statement
3 of the case, I'll let you do attorney voir dire and do a
4 mini opening during voir dire, giving all the newer lawyers
5 great experience.

6 MR. FISHER: Your Honor, I think we can agree. I
7 think if you give us maybe 15 minutes after this, we can --
8 we could probably come to agreement --

9 THE COURT: Okay.

10 MR. FISHER: -- and that will be fine.

11 THE COURT: Okay. I do let lawyers do voir dire.
12 So one of the things we're going to talk about -- I don't
13 know, why don't you just -- so we have a dialogue as opposed
14 to everybody -- I don't know who's handling the -- kind of
15 the CMCE things before we get into the in limines. So on
16 the plaintiff side -- I don't know who wants to be at that
17 podium. And if you want to sit at counsel's table, that's
18 okay. It's not ordinary, but you're welcome to.

19 I started on your pretrial order. You guys -- just for
20 some overall timing things, we'll make sure we go through
21 the scripts. You have a jury questionnaire, which is a
22 pretty easy one.

23 Elaine, will you remind me the processes that we have
24 to get it to Erin? We have to get it to Erin by e-mail. Do
25 the lawyers e-mail it to her directly or by -- in Word copy

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

13

1 think you want to do voir dire. So we'll sit eight,
2 ultimately, and I don't know what the -- the way -- I --
3 you'll get the questionnaires in order of call. I don't
4 believe in giving them to you all mixed up because it's just
5 unnecessarily stressful. I hated when that happened to me.
6 So you'll get them in order of call, so you know who'll be
7 coming in the doors first. And we'll do some general --
8 I'll do some just general questions on hardship. I usually
9 don't let people, you know, raise their hand and talk
10 unnecessarily. But sometimes we talk about it later. We
11 kind of do enough -- we -- well, yeah, this is the big thing
12 in the pandemic procedures, remember? I think I do need to
13 see you. Erin already e-mailed us when she wants the
14 for-cause challenges.

15 So what we do is we get together, we kind look at that
16 before Friday. She sent us that day, Elaine. She sent us
17 -- when we get the questionnaires -- because we'll be able
18 to get through the questionnaire now. And she sent us an
19 e-mail about when she wants the -- when she can get the
20 questionnaires to the lawyers and when she wants us to get
21 together. And what we do is, you file a joint statement
22 saying we agree. It's only if you agree on it, because we
23 can't tell if there's really for-cause if you disagree. But
24 if there -- anyone that you agree on from the people who are
25 in, it saves them coming in, it saves the jury work.

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

15

1 per side. I don't think you would probably need more than
2 that. I've never -- in this -- in my class action antitrust
3 case, we didn't even use an hour. Yeah. Okay. Try to stay
4 within the meat and bones. Okay.

5 So -- all right. It's a little big, you know. It's
6 trying to give you the full experience. So -- all right.
7 So 30 minutes. Oh, if there are witnesses who are joint --
8 and I haven't really looked -- I will look at your witness
9 list and see how much you -- but if you're calling the same
10 people, they go in in the plaintiff's case. But I give a
11 little -- I say to the juror because of efficiencies, "These
12 are both parties' witnesses," and I'll just explain that.
13 So that just -- I'll go through that process. I haven't
14 gone through it yet, but I'll go through that obviously
15 before the trial.

16 We've already talked about jury questions, talked about
17 joint statement of the case. Thanks for working it out. We
18 talked about the June 15th CMC. I think we'll probably do
19 it by -- at 1:00 o'clock, just so you don't have to sit
20 through the CMC calendar. But we may adjust that depending
21 upon what Elaine tells us. Actually, let's wait until --
22 did you find that e-mail about what she -- when she wants
23 the for-causes back? Did you forward it to me?

24 THE CLERK: I did. (Indiscernible).

25 THE COURT: So that's (indiscernible) today?

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

17

1 juror number. That's all you need to do. The parties --
2 there may be -- you know, the plaintiff thinks there may be
3 additional issues with these jurors. List them. Defendant
4 thinks there may be additional -- these are -- that just
5 flags it for the next day. It gets everybody on the same
6 page. If you can file that -- if you get them the 9th and
7 we're not -- then you get them the 12th -- then we're
8 meeting on the 15th. I suppose if you get them to me by the
9 14th at noon -- be filed by the 14th at noon -- and then the
10 way it would work is we do our job and that we at least -- I
11 would have looked at them. At the hearing, I will say,
12 "I've looked at them. I agree, and I find" -- and I'll make
13 the appropriate findings, and I'll issue an order. **Just**
14 **submit a proposed order when you do that joint statement,**
15 **and that will be something I can just sign with the**
16 **requisite standards for cause.** Okay.

17 MS. ROSENBLIT: And, your Honor, you had also
18 mentioned that the examination of the witnesses might be a
19 one and done situation. Does that mean that the cross is
20 not limited to the scope of the direct?

21 THE COURT: So -- well, if you're calling a
22 witness, it is their witness too, so you get extra time.
23 And so let's say -- so you're -- let's say you're calling an
24 adverse witness, and so you're using -- you're basically
25 cross examining, but you're putting the evidence in your

Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

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1 You know, you've got your jury thing. But Mr. Rice, the
2 clear import of all the papers is he tried very hard -- all
3 cases about, "Did you do your job?" And Mr. Rice tried very
4 hard to do a good job. That is abundantly clear. I wrote
5 it in the summary judgment order. I probably wrote it in
6 the order on the motion to dismiss. He tried to do it
7 right, from the build out, all of it. That's your case.
8 Here's the guy who wants nothing more than to do it right.
9 And he did everything right, and then the City denied it.
10 And the City says, "Sure, he did it right, but there's no
11 entitlement to an accommodation process. And we think his
12 motives were different." So that's what this case is about.
13 And so they get to ask about the motives.

14 MS. JIAM: Your Honor, we -- thank you for
15 recognizing everything that --

16 THE COURT: I know it. I said that.

17 MS. JIAM: -- about Mr. Rice --

18 THE COURT: I told Mr. Rice that in the hearing
19 through -- when you guys were arguing it. So I know he
20 tried to do a good job.

21 MS. JIAM: Thank you.

22 THE COURT: He did a good job. He did a really
23 good job.

24 MS. JIAM: Okay. Yeah -- I

25 THE COURT: Above and beyond. And he did a good

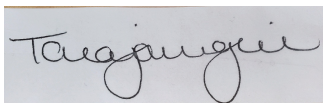
Exhibit D: May 25, 2023 pretrial hearing transcript excerpts

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CERTIFICATE OF TRANSCRIBER

I certify that the foregoing is a true and correct transcript, to the best of my ability, of the above pages of the official electronic sound recording provided to me by the U.S. District Court, Northern District of California, of the proceedings taken on the date and time previously stated in the above matter.

I further certify that I am neither counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken; and, further, that I am not financially nor otherwise interested in the outcome of the action.



Echo Reporting, Inc., Transcriber

Thursday, March 21, 2024

Exhibit E

Case 3:19-cv-04250-LB Document 188 Filed 05/26/23 Page 1 of 2

**Exhibit E: Excerpt from unsigned AMENDED DRAFT JOINT
STATEMENT ECF No. 188**

1 GALIA Z. AMRAM (SBN 250551)
gamram@mofo.com
2 RAMSEY W. FISHER (SBN 334228)
rfisher@mofo.com
3 HANNAH JIAM (SBN 312598)
hjam@mofo.com
4 ANNIE A. LEE (SBN 328802)
annielee@mofo.com
5 MORRISON & FOERSTER LLP
425 Market Street
6 San Francisco, California 94105-2482
Telephone: 415-268-7000
7 Facsimile: 415-268-7522

8 Attorneys for Plaintiff
ALLISON BARTON RICE

9
10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13 ALLISON BARTON RICE,
14 Plaintiff,

15 v.

16 THE CITY AND COUNTY OF SAN
FRANCISCO, et al.,

17 Defendants.

Case No. 3:19-cv-04250-LB

AMENDED DRAFT JOINT STATEMENT

Date: May 25, 2023
Time: 9:30 a.m.
Place: Via Zoom
Judge: Honorable Laurel Beeler

**Exhibit E: Excerpt from unsigned AMENDED DRAFT JOINT
STATEMENT ECF No. 188**

JOINT SHORT STATEMENT OF THE CASE

Plaintiff Allison Rice is a navy veteran diagnosed with a 100% disability rating for his service-connected depression and paranoid schizophrenia. He owned a Below Market Rate condominium in San Francisco, California. The Below Market Rate program is currently managed by the Defendant City and County of San Francisco through the Mayor's Office of Housing and Community Development (MOHCD).

Plaintiff Allison Rice brings this lawsuit against the Defendant City and County of San Francisco. Plaintiff brings two claims against the City under the Fair Housing Act. First, Plaintiff Allison Rice alleges that the City discriminated against him on the basis of his disability when it denied his request for a rent-paying roommate. **Second, Plaintiff Allison Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement.** Plaintiff Allison Rice has the burden of proving these claims by a preponderance of the evidence.

Defendant City and County of San Francisco denies those claims. The City asserts that it reasonably accommodated Plaintiff's request by allowing him a non-rent paying roommate. The City also asserts that Plaintiff did not have a medical need to charge rent and his request to charge rent was not reasonable. The City also contends 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. Finally, the City denies retaliating against Plaintiff, and asserts that it had legitimate, non-discriminatory reasons for its actions.

Exhibit F

Case 3:19-cv-04250-LB Document 189 Filed 05/26/23 Page 1 of 39

**Exhibit F: Excerpts from jointly signed JOINT PROPOSED JURY
INSTRUCTIONS ECF No. 189**

GALIA Z. AMRAM (SBN 250551)
gamram@mofo.com
RAMSEY W. FISHER (SBN 334228)
rfisher@mofo.com
HANNAH JIAM (SBN 312598)
hjam@mofo.com
ANNIE A. LEE (SBN 328802)
annielee@mofo.com
MORRISON & FOERSTER LLP
425 Market Street
San Francisco, California 94105-2482
Telephone: 415-268-7000
Facsimile: 415-268-7522

Attorneys for Plaintiff
ALLISON BARTON RICE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ALLISON BARTON RICE,
Plaintiff,

v.

THE CITY AND COUNTY OF SAN
FRANCISCO, et al.,

Defendants.

Case No. 3:19-cv-04250-LB

JOINT PROPOSED JURY INSTRUCTIONS

Date: June 20, 2023
Time: 9:30 a.m.
Place: Via Zoom
Judge: Honorable Laurel Beeler

Exhibit F: Excerpts from jointly signed JOINT PROPOSED JURY INSTRUCTIONS ECF No. 189**II. JOINT SHORT STATEMENT OF THE CASE**

Plaintiff Allison Rice is a navy veteran diagnosed with a 100% disability rating for his service-connected depression and paranoid schizophrenia. He owned a Below Market Rate condominium in San Francisco, California. The Below Market Rate program is currently managed by the Defendant City and County of San Francisco through the Mayor's Office of Housing and Community Development (MOHCD).

Plaintiff Allison Rice brings this lawsuit against the Defendant City and County of San Francisco. Plaintiff brings two claims against the City under the Fair Housing Act. First, Plaintiff Allison Rice alleges that the City discriminated against him on the basis of his disability when it denied his request for a rent-paying roommate. **Second, Plaintiff Allison Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement.** Plaintiff Allison Rice has the burden of proving these claims by a preponderance of the evidence.

Defendant City and County of San Francisco denies those claims. The City asserts that it reasonably accommodated Plaintiff's request by allowing him a non-rent paying roommate. The City also asserts that Plaintiff did not have a medical need to charge rent and his request to charge rent was not reasonable. The City also contends 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. Finally, the City denies retaliating against Plaintiff, and asserts that it had legitimate, non-discriminatory reasons for its actions.

Exhibit F: Excerpts from jointly signed JOINT PROPOSED JURY INSTRUCTIONS ECF No. 189**III. INSTRUCTION NO. 1 - 1.5 CLAIMS AND DEFENSES (STIPULATED)**

To help you follow the evidence, I will give you a brief summary of the positions of the parties.

Plaintiff Allison Rice brings this lawsuit against the Defendant City and County of San Francisco. Mr. Rice brings two claims against the City under the Fair Housing Act. First, he contends that he had a disability-related need for a rent-paying roommate and that the City discriminated against him on the basis of his disability by denying that request. He alleges his request was reasonable because it would not fundamentally change the nature of the City's affordable housing program or cause undue administrative and financial burdens. **Second, Plaintiff Allison Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement.**

Defendant City and County of San Francisco denies those claims. The City asserts that it reasonably accommodated Plaintiff's request by allowing him a non-rent-paying roommate. The City also asserts that Plaintiff did not have a medical need to charge rent and his request to charge rent was not reasonable. The City also contends 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. Finally, the City denies retaliating against Plaintiff, and asserts that it had legitimate, non-discriminatory reasons for its actions.

Authority: 9th Cir. Civ. Jury Instr. 1.5 (2017 ed., updated Dec. 2022)

**Exhibit F: Excerpts from jointly signed JOINT PROPOSED JURY
INSTRUCTIONS ECF No. 189**

XIX. INSTRUCTION NO. 12 – 5.3 MITIGATION OF DAMAGES (STIPULATED)

The plaintiff has a duty to use reasonable efforts to mitigate damages. To mitigate means to avoid or reduce damages.

The defendant has the burden of proving by a preponderance of the evidence:

1. that the plaintiff failed to use reasonable efforts to mitigate damages; and
2. the amount by which damages would have been mitigated.

Source: Ninth Circuit Model Instruction 5.3

[NOTE: The parties agree this instruction may be excluded if there is no evidence of damages that implicates a duty to mitigate.]

Dated: May 26, 2023

DAVID CHIU
City Attorney
MEREDITH B. OSBORN
Chief Trial Deputy
RENÉE E. ROSENBLIT
RAYMOND R. ROLLAN
Deputy City Attorneys

By: /s/ Renee E. Rosenblit
RENÉE E. ROSENBLIT

Attorneys for Defendants
CITY AND COUNTY OF SAN FRANCISCO

MORRISON & FOERSTER LLP

By: /s/ Ramsey W. Fisher
RAMSEY W. FISHER

Attorney for Plaintiff
ALLISON BARTON RICE

Case 3:19-cv-04250-LB Document 189 Filed 05/26/23 Page 39 of 39

**Exhibit F: Excerpts from jointly signed JOINT PROPOSED JURY
INSTRUCTIONS ECF No. 189**

FILER'S ATTESTATION

Pursuant to Local Rule 5-1(h)(3) of the Northern District of California, regarding signatures, I,
Ramsey W. Fisher, attest that concurrence in the filing of this document has been obtained.

Dated: May 26, 2023

/s/ Ramsey W. Fisher

RAMSEY W. FISHER

Exhibit G

**Exhibit G: June 22, 2023 Excerpt from JURY INSTRUCTIONS
ECF No. 189**

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

ALLISON BARTON RICE,
Plaintiff,

v.

THE CITY AND COUNTY OF SAN
FRANCISCO,
Defendant.

Case No. 19-cv-04250-LB
JURY INSTRUCTIONS

United States District Court
Northern District of California

**Exhibit G: June 22, 2023 Excerpt from JURY INSTRUCTIONS
ECF No. 189****1.5: CLAIMS AND DEFENSES**

To help you follow the evidence, I will give you a brief summary of the positions of the parties:

The plaintiff, Allison Rice, brings this lawsuit against the Defendant City and County of San Francisco. Mr. Rice brings two claims against the City under the Fair Housing Act. First, he contends that he had a disability-related need for a rent-paying roommate and that the City discriminated against him on the basis of his disability by denying that request. He alleges his request was reasonable because it would not fundamentally change the nature of the City's affordable housing program or cause undue administrative and financial burdens. **Second, Mr. Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement.**

The defendant, the City and County of San Francisco, denies those claims. The City asserts that it reasonably accommodated Mr. Rice's request by allowing him a non-rent-paying roommate. The City also asserts that Mr. Rice did not have a medical need to charge rent and his request to charge rent was not reasonable. The City also contends that Mr. Rice'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. Finally, the City denies retaliating against Mr. Rice, and asserts that it had legitimate, non-discriminatory reasons for its actions.

FAIR HOUSING ACT — INTRODUCTORY INSTRUCTION

The plaintiff, Allison Rice, brings his claims under the federal statutes 42 U.S.C. §§ 3604 and 3617, known as the Fair Housing Act. The Fair Housing Act prohibits housing discrimination against disabled persons based upon their disability. The plaintiff has two claims under the Fair Housing Act: (1) a claim that the City failed to accommodate the plaintiff under 42 U.S.C. § 3604, and (2) a claim that the City unlawfully interfered with his rights under 42 U.S.C. § 3617.

Exhibit H

Exhibit H: Except from 11:56 AM June 14, 2023 Rice email to counsel

From: Allison Rice allisonbartonrice@mac.com
Subject: Preliminary Jury Instruction problem !
Date: June 14, 2023 at 11:56
To: Morrison & Foerster LLP annielee@mofo.com, Jiam, Hannah hjiam@mofo.com, Morrison & Foerster LLP RamseyFisher@mofo.com
Cc: Novikov, Eugene ENovikov@mofo.com, Morrison & Foerster LLP RICE@mofo.com

Hi,

I just want to be as clear as I can be, I said this before but I guess it got lost in the communications. In Judge Beeler's Preliminary Jury Instructions, she has:

"Second, Mr. Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement." (ECF No. 202, page 2, lines 15-16)

To be clear, my 3617 claim of "interference" is (1) the "terminate the lease" I had with my roommate the time, (2) holding my refinance hostage, AND (3) hindering and hampering my efforts to maintain AND/OR obtain my requested accommodation under the FHA (they refused to discuss such information with me).

I'm sorry, but I insist this be changed to those 3 items ASAP with Judge Beeler. If you like, I would be happy to write another letter to Judge Beeler. But, it seems to me that it would be better for you to rectify this oversight.

I know you're busy, but please advise as soon as possible.

Thank you.

Allison

Exhibit I

Exhibit I: 1:41 PM June 14, 2023 Rice email to counsel

From: Allison Rice allisonbartonrice@mac.com 
Subject: Re: Preliminary Jury Instruction problem !
Date: June 14, 2023 at 13:41
To: Morrison & Foerster LLP annielee@mofo.com, Morrison & Foerster LLP hjiam@mofo.com, Morrison & Foerster LLP RamseyFisher@mofo.com
Cc: Morrison & Foerster LLP ENovikov@mofo.com, Morrison & Foerster LLP RICE@mofo.com

As need be, my letter to Judge Beeler:

For Honorable Beeler re FHA §
3617 Jury Instruction.pdf

44 KB



Thank you.

It's my fault, and I take full responsibility about this oversight.

Allison

Exhibit J

Exhibit J: Rice's June 14, 2023 letter to the Judge Beeler.pdf

Dear Honorable Beeler,

I, again, apologize for interrupting your extraordinary and busy schedule. But, I am greatly concerned about another issue:

1. In the court's Preliminary Jury Instructions, it reads:

"Second, Mr. Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement." (ECF No. 202, page 2, lines 15-16)

2. My FHA § 3617 claim of "interference" is (1) the "terminate the lease" I had with my roommate at the time, (2) holding my refinance hostage, AND (3) "meddling in or hampering" my efforts to maintain AND/OR obtain my requested accommodation under the FHA.

Much of what I described in my FAC and Opposition to Dismiss, etc. (in so many words) is "meddling in or hampering". However, somewhere, somehow, my communications about "meddling in and hampering" [my efforts to maintain AND/OR obtain my requested accommodation under the FHA] got lost.

3. Please consider *Walker v. City of Lakewood*, 272 F. 3d 1114 - Court of Appeals, 9th Circuit 2001:

"As an initial matter, we observe that § 3617 does not require a showing of force or violence for coercion, interference, intimidation, or threats to give rise to liability. When Congress intended to require such a showing, such as in the FHA's criminal provision, it did so. *Compare* 42 U.S.C. § 3631 (imposing criminal liability when one "by force or threat of force willfully injures, intimidates or interferes with, or attempts to injure intimidate or interfere with" fair housing rights) *with* 42 U.S.C. § 3617 (making it "unlawful to coerce, intimidate, threaten, or interfere with any person" in retaliation for fair housing activity). *See also Babin*, 18 F.3d at 347 ("Section 3617 is not limited to those who used some sort of 'potent force or duress'...."). Turning to the plain meaning of these terms, we see

Exhibit J: Rice's June 14, 2023 letter to the Judge Beeler.pdf

that the City's alleged activities could be characterized as interference, coercion, or threats. **"Interference" is "the act of meddling in or hampering an activity or process."** *Webster's Third New Int'l Dict.* 1178 (14th ed.1961). To "coerce" is "to compel to an act or choice by force, threat, or other pressure." *Id.* at 439. And, more relevant for this case, "coercion" includes "the application of sanctions or force by a government [usually] accompanied by the suppression of constitutional liberties in order to compel dissenters to conform." *Id.* Finally, a "threat" is "an expression to inflict evil, injury, or other damage on another." *Id.* at 2382." (emphasis added)

4. I have brought this issue to the attention of my counsel. Perhaps this issue can be resolved at the Pretrial Conference scheduled for 1:00 PM on Thursday June 15, 2023,

As always, I sincerely and greatly appreciate your time and consideration of myself and everything in this case.

/s/ Allison Barton Rice

June 14, 2023

Mr. Allison Barton Rice, plaintiff

(*Rice v. CCSF; et al.* - Case No. 19-CV-04250-LB)

Exhibit K1

I N D E X**Exhibit K1: City never made the central FHA accommodation inquiry**

Friday, June 16, 2023 - Volume 1

Tuesday, June 20, 2023 - Volume 2

Wednesday, June 21, 2023 - Volume 3

Thursday, June 22, 2023 - Volume 4

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RICE, ALLISON BARTON (RECALLED)

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I N D E X**Exhibit K1: City never made the central FHA accommodation inquiry**PLAINTIFF'S WITNESSESPAGE VOL.YIN, CISSY

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YIN - DIRECT / FISHER

Exhibit K1: City never made the central FHA accommodation inquiry

1 Q And then, that sentence starting with "A," it says:

2 "A process in which the housing provider and
3 the requester discuss the requester's
4 disability-related need for the requested
5 accommodation and possible alternative
6 accommodations is helpful to all concerned
7 because it often results in an effective
8 accommodation for the requester that does not
9 pose an undue financial and administrative
10 burden for the provider."

11 Do you see that?

12 A Yes.

13 Q And in fact, Ms. Yin, isn't it standard procedure at MOHCD
14 to have the sort of conversation that's referred to in this
15 paragraph?

16 A Yes.

17 Q Okay. You didn't have that conversation with Mr. Rice
18 before determining that his request was not reasonable. Right?

19 A We, um, provided the information in the notice required
20 letter.

21 Q Right. But you didn't -- you didn't have a conversation
22 with him about his disability-related need before you
23 determined that his request was not reasonable. Right?

24 A Correct.

25 Q Okay. You never asked him why he needed a roommate who

YIN - DIRECT / FISHER

Exhibit K1: City never made the central FHA accommodation inquiry

1 paid rent before determining that his request was not
2 reasonable. Right?

3 A That's correct.

4 Q Based on the documentation he provided, you understood
5 that the reason he needed roommates was for isolation and
6 loneliness. Isn't that right?

7 A That's correct.

8 Q And why would he need to charge rent to avoid isolation
9 and loneliness? That's what you thought, right?

10 A That's correct.

11 Q You never asked him. Right?

12 A That's just clear from the letter provided by Mr. Rice
13 doctor.

14 Q But you never asked him, right?

15 A Correct.

16 Q Ms. Yin --

17 MR. FISHER: You can take that down.

18 (Document taken off display)

19 MR. FISHER: Thank you.

20 BY MR. FISHER

21 Q Fair to say you made some assumptions about Mr. Rice's
22 disability and what he needed?

23 MS. ROSENBLIT: Objection, argumentative.

24 THE COURT: He's allowed to. It's essentially
25 cross-examination, so overruled.

Exhibit K2

I N D E X**Exhibit K2 Defendants' closing argument re Rice's § 3617 claim**

Friday, June 16, 2023 - Volume 1

Tuesday, June 20, 2023 - Volume 2

Wednesday, June 21, 2023 - Volume 3

Thursday, June 22, 2023 - Volume 4

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CLOSING ARGUMENT / ROSENBLIT

Exhibit K2 Defendants' closing argument re Rice's § 3617 claim

reasonable, that it would violate the fundamental purpose of the program, there is no need for more information.

(Document displayed)

MS. ROSENBLIT: So on this first claim of whether the City discriminated against Mr. Rice, I submit to you that the answer is no.

All right. Mr. Rice also brings a retaliation claim. So the second question on the verdict form is: Did the City unlawfully interfere with his rights in violation of Section 3617 of the Fair Housing Act?

So once again you will get a separate jury instruction that relates to this claim.

(Document displayed)

MS. ROSENBLIT: And plaintiff must prove by a preponderance of the evidence each of these elements: That there was a protected activity, the City took up an adverse action; critically, that the adverse action was because he requested an accommodation for his disability rather than a legitimate non-discriminatory reason, like compliance with program rules. And he has to show you injury.

(Document displayed)

MS. ROSENBLIT: So he has a couple theories here, under the retaliation claim. The first is that the City demanded that he terminate the lease.

And yes, MOHCD did ask him to terminate the lease that he

CLOSING ARGUMENT / ROSENBLIT

Exhibit K2 Defendants' closing argument re Rice's § 3617 claim

1 had with his then current roommate because it didn't comply
2 with program rules. Because there was no record of any
3 permission to do that and his contract required written
4 permission. Because there was no record that he had been given
5 a financial hardship exception. Because there was no record
6 that this tenant had been income-qualified. That there was no
7 record that there was a lease on file with the City that the
8 City had approved.

9 You heard testimony from Ms. Gates-Anderson, Cissy Yin,
10 Maria Benjamin, about what was required. And none of that had
11 been done here.

12 So yes, he was asked to terminate that lease. But not
13 because he wanted an accommodation. Because it didn't comply
14 with the program rules. So this is not retaliation.

15 (Document displayed)

16 **MS. ROSENBLIT:** He has another theory, that the City
17 delayed his refinancing. And yes, his refinancing went to
18 compliance before it was approved. But it was approved. He
19 told you, he got the loan. He got the lower interest rate. It
20 was the same interest rate he asked for. And it was done
21 timely.

22 And you also heard from Ms. Gates-Anderson that every
23 request for refinance go through compliance. Because every
24 time there's a refinance request and the City's going to agree
25 to subordinate its loan, we have to ensure that the homeowner

CLOSING ARGUMENT / ROSENBLIT

Exhibit K2 Defendants' closing argument re Rice's § 3617 claim

1 is in compliance with the program rules. So that the City
2 doesn't lose its affordable housing assets. To protect the
3 integrity of the program, and to protect the units that we have
4 in San Francisco, that they can continue to be sold to other
5 affordable housing-qualified individuals.

6 (Document displayed)

7 **MS. ROSENBLIT:** And so here, you heard
8 Ms. Gates-Anderson testify that she reviewed Mr. Rice's request
9 to refinance, reviewed his tax returns, saw that he was renting
10 the property 365 days a year. Saw that he had rental income on
11 those tax returns. Looked in the file, didn't see anything to
12 suggest that he had permission to do that. And so she sent it
13 to compliance. She sent it to Cissy Yin, to take a look and
14 figure out what was going on.

15 They promptly sent the action letter, asked him to take
16 the necessary steps to terminate the lease, to submit that
17 declaration saying that he wouldn't lease in the future. And
18 as soon as he did that, he was in compliance again, and the
19 refinancing went through. And he got that same interest rate.

20 So not only here is there a legitimate nondiscriminatory
21 reason which was to ensure compliance with the program,
22 integrity of the program, there's also no injury. Because
23 again, he got the loan he was looking for.

24 (Document displayed)

25 **MS. ROSENBLIT:** All right. And the last theory is the

CLOSING ARGUMENT / ROSENBLIT

~~Exhibit K2 Defendants' closing argument re Rice's § 3617 claim~~

1 sale of the condo. There's no adverse action here. The City
2 did not require Mr. Rice to sell his condo. In fact, you saw
3 that there was this email that said he cured his default. He
4 testified, admitted on the stand that he knew that he didn't
5 have to sell his condo.

6 You heard from Maria and Cissy that he was not being
7 forced to sell, that no enforcement action was taken at all.
8 The City didn't try to recoup the money. The City didn't force
9 him to sell his unit.

10 (Document displayed)

11 **MS. ROSENBLIT:** In fact, they approved the
12 refinancing.

13 And there's a legitimate non-discriminatory reason here,
14 because it was not necessary or reasonable.

15 And there was no injury. When he chose to sell his place,
16 which was his choice, he sold it for the maximum sales price.

17 So remember, there's those caps on resale because it is
18 affordable housing and he asked for the maximum sales price.
19 The City gave him that number, and he was able to sell it at
20 that level. That's a stipulated fact in the case. There is no
21 dispute there.

22 (Document displayed)

23 **MS. ROSENBLIT:** So on the second claim of retaliation,
24 I submit to you that the answer is no. The City did not
25 retaliate against Mr. Rice because he asked for an

CLOSING ARGUMENT / ROSENBLIT

Exhibit K2 Defendants' closing argument re Rice's § 3617 claim

accommodation.

(Document displayed)

MS. ROSENBLIT: All right. So on the verdict form you then have Question No. 3. Question No. 3 asks (As read):

"Did you answer yes to either Question No. 1 or Question No. 2? Discrimination or retaliation?"

And I submit to you your answer should be no. I ask that you find a verdict for the City on both of those claims. I think the evidence supports that.

I think, after sitting through this trial for a few days, when you go back to deliberate, you will find that the City did not discriminate or retaliate against Mr. Rice.

But if you find otherwise, if you disagree with me, --

(Document displayed)

MS. ROSENBLIT: -- then you need to go to Question 4, Damages. So you only get to damages if you find he's proved his case beyond a preponderance of the evidence. And then you have to figure out if he has proven to you some amount of damages that he was harmed.

(Document displayed)

MS. ROSENBLIT: And I'll submit to you that he hasn't. In terms of selling his condo, again, that was his choice. He sold it for the maximum amount he could have sold it for. And he moved away. And in fact, he made a profit of more than

Exhibit L

Exhibit L: October 11, 2018 Manual
Inclusionary Affordable Housing Program
Monitoring and Procedures Manual

CITY AND COUNTY OF SAN FRANCISCO
MAYOR'S OFFICE OF HOUSING AND COMMUNITY DEVELOPMENT



One South Van Ness Avenue, 5th Floor
San Francisco, CA 94103
(415) 701-5500
www.sfmohcd.org

Effective Date: October 11, 2018

Exhibit L: October 11, 2018 Manual

rights and responsibilities, refinancing a BMR Unit, and property home maintenance. As part of the closing costs, BMR Owners pay a fee to ensure attendance at a “Post Purchase” workshop, which will be provided by a nonprofit agency. This fee shall not exceed \$200 and will be authorized by MOHCD in the City’s escrow instructions. The fee will be refunded in full to BMR Owners who complete all 6 hours of post purchase education within 24 months of purchase. After 24 months of the date of purchase, any unclaimed deposit will be retained by the designated nonprofit agency. MOHCD will provide information about the date, time, and location of post-purchase workshops on its website at www.sfmohcd.org, and will send regular announcements to new homeowners via mail and email.

MOHCD-Approved Lenders shall follow the Real Estate Settlement Procedures Act (12 U.S.C. 2601 et seq.) for proper disclosure of the Post-Purchase Education fee.

C. Requirements of Owning a BMR Unit

Owning and selling a BMR Unit differs in many ways from owning and selling a market rate home. As a result, it is important that BMR Owners understand the rules and procedures of the Program fully. Any violation of the Program rules and regulations, Use Restrictions, and applicable sections of the Planning Code may result in the City declaring the BMR Owner to be in default of the Program and may lead to the immediate sale of the BMR Unit as well as monetary and other enforcement actions.

The following restrictions apply to all BMR Owners for the Life of the Project:

1. Owner Occupancy

The BMR Unit must be the Owner’s Primary Residence. Everyone on title must live in the Unit at least 10 out of 12 months of each calendar year and must begin occupying the BMR Unit within 60 days of the purchase.

2. No Renting

Except as provided in this Section, BMR Owners are prohibited from renting or subleasing any part of a BMR Unit without the prior written approval from MOHCD. No part of a BMR Unit can be rented or subleased as a short-term rental or listed on short-term rental or vacation rental sites at any time. Renting of a parking space or any other space purchased with the Unit is also prohibited.

In its sole discretion, MOHCD may grant consent to a BMR Owner to rent all or part of their BMR Unit for up to 12 months. Circumstances considered include:

- The Household is required to temporarily relocate due to documented employment requirements;
- The BMR Owner is experiencing temporary financial hardship where the Households monthly housing expenses exceed 50% of the total Household income; or,
- **For other reasons deemed acceptable by MOHCD in its sole discretion.**

MOHCD will consider allowing the temporary rental only if all of the following conditions are satisfied:

Exhibit L: October 11, 2018 Manual

- BMR Owner is in compliance with all Program requirements and has not previously been out of compliance.
- Total period for which the BMR Unit is leased does not exceed 12 months and is not offered as a short-term rental.
- Tenant satisfies the income and other eligibility requirements placed on the BMR Unit.
- Tenant acknowledges, in writing, that the rental is temporary.
- Initial rent does not exceed the Maximum Annual Rent that MOHCD would allow for a BMR Rental Unit with the same Maximum Household Income restriction or the BMR Owner's total documented housing expenses (including Mortgage principal and interest, property taxes, HOA Dues, and insurance), whichever is lower.
- Owners experiencing temporary financial hardship are required to reside in the BMR Unit and provide MOHCD with written confirmation from a HUD-approved housing counseling agency that temporarily subletting of a portion of the BMR Unit will lead to long-term financial stability.

3. Maintenance

BMR Owners will maintain (i) the BMR Unit in compliance with all applicable laws, ordinances and regulations and in a good and clean condition and (ii) all appliances in good and working order. The Maximum Resale Price of a BMR Unit may be reduced as necessitated by abnormal or excessive wear and tear or because of neglect, abuse or insufficient maintenance by the BMR Owner.

4. Insurance

The BMR Unit must be covered by an insurance policy for a minimum of its replacement value. MOHCD must be named as an additional insured or loss payee on the insurance policy. If HOA master policies do not cover replacement of the interior of the BMR Unit, the BMR Owner must obtain and maintain separate HO-6 condominium or other homeowner insurance policy that lists the City as an additional insured or loss payee during the Owner's term of ownership.

5. Annual Monitoring

MOHCD requires occupancy certification on an annual basis. BMR Owners are required to provide information and documentation regarding occupancy status, insurance and any other information deemed necessary by MOHCD to determine compliance with the Program. At its discretion, MOHCD may require additional documentation after submittal of the initial documentation. MOHCD will not consider requests for subordination, capital improvements, title change or other requests if an Owner is non-compliant with any Program rule.

6. Title Changes

MOHCD will not permit changes in title except as provided below. BMR Owners must get written permission from MOHCD before making any changes to title. MOHCD requires documentation to approve any title change, and BMR Owners must be compliant and current with Annual Monitoring requirements in order to be considered for requested title changes. Mutually agreed to amendments to title documents will be recorded. MOHCD permits a change in title only for one of the following reasons:

Exhibit M

Exhibit M: ECF No. 201 Claims, Defenses, and Relief Sought

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

ALLISON BARTON RICE,

Plaintiff,

v.

THE CITY AND COUNTY OF SAN
FRANCISCO,

Defendant.

Case No. 19-cv-04250-LB

FINAL PRETRIAL ORDER

Re: ECF No. 182

The court held a pretrial conference on May 25, 2023. The court issues this pretrial order pursuant to Federal Rule of Civil Procedure 16(e).

1. Trial Date and Length of Trial

The jury trial will begin on Friday, June 16, 2023, in Courtroom D, 15th Floor, U.S. District Court, 450 Golden Gate Avenue, San Francisco, California.

The trial will last up to four days. Generally, the trial day will run from 8:30 a.m. to approximately 1:30 or 2:00 p.m. (or slightly longer to finish a witness) and will include two fifteen-minute breaks. But on June 20 and 21, the trial day will run from 8:30 a.m. to 5:00 p.m., with three fifteen-minute breaks and a thirty-minute break for lunch. Counsel must arrive at 8:15 a.m. to address any issues (such as objections) before the trial day begins. Once the jury begins deliberations, it usually stays past 2:00 p.m.

Exhibit M: ECF No. 201 Claims, Defenses, and Relief Sought

Each party will have up to eight hours per side for opening statements, closing arguments (including rebuttal closing for the plaintiff), direct examination of witnesses, and cross examination of the other side's witnesses, including all objections raised during the trial day.

2. Procedures During Trial; Exhibit and Witness Lists; Witnesses

The court's September 20, 2021, Case-Management and Pretrial Order has the court's trial procedures for the presentation of exhibits, depositions, and witness testimony, including specific procedures for deposition excerpts.¹

The parties have identified their witnesses on their separate witness lists. As discussed at the pretrial conference, if the parties identify the same witnesses, the defendant will examine the witness when the plaintiff calls them (as opposed to recalling them).

3. Claims, Defenses, and Relief Sought

The plaintiff has two claims predicated on violations of the Fair Housing Act: (1) denying him the reasonable accommodation of a rent-paying roommate, in violation of 42 U.S.C. § 3604, and (2) interfering with his exercise of his rights under § 3604, in violation of 42 U.S.C. § 3617.

The parties' positions (claims, defenses, and relief sought) are reflected in their joint proposed pretrial order at ECF No. 182.

4. Stipulations

The parties have stipulated to the authenticity and chain of custody for documents produced by the CCSF and the VA.² The parties stipulated to certain facts.³ The stipulation must be marked as an exhibit and read into evidence at trial.

¹ Case-Mgmt. and Pretrial Order – ECF No. 108 at 3–14. Citations refer to material in the Electronic Case File (ECF); pinpoint citations are to the ECF-generated page numbers at the top of documents.

² Joint Proposed Pretrial Order – ECF No. 182.

³ Signed Stipulation – ECF No. 182-1.

Exhibit M: ECF No. 201 Claims, Defenses, and Relief Sought**10. Trial**

The court's ordinary processes are as follows. By Thursday, June 15, 2023, at 3:00 p.m., counsel must give notice of the order of proof (meaning, the order of witnesses and the exhibits, including illustrative exhibits used in opening statements and otherwise) for the first day of trial. Thereafter, at the end of each trial day, counsel must give notice of the order of proof for the next trial day. The parties must notify the court of any issues by the end of the business day so that the court can resolve them. To the extent that the parties will call hostile witnesses, which means that the opposing party's "cross examination" will be its direct examination, counsel must provide a list of all exhibits to be used with the same witness on cross examination (other than for impeachment). The parties will call their joint witnesses only once (which means that those witnesses will be called during the plaintiff's case).

IT IS SO ORDERED.

Dated: June 13, 2023



LAUREL BEELER
United States Magistrate Judge

Exhibit N

Exhibit N: ECF No. 202 Claims and Defences

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
San Francisco Division

ALLISON BARTON RICE,
Plaintiff,

v.

THE CITY AND COUNTY OF SAN
FRANCISCO,
Defendant.

Case No. 19-cv-04250-LB

**PROPOSED PRELIMINARY JURY
INSTRUCTIONS**

Exhibit N: ECF No. 202 Claims and Defences**1.3: DUTY OF JURY**

Members of the jury: You are now the jury in this case. It is my duty to instruct you on the law.

It is your duty to find the facts from all the evidence in the case. To those facts you will apply the law as I give it to you. You must follow the law as I give it to you whether you agree with it or not. And you must not be influenced by any personal likes or dislikes, opinions, prejudices or sympathy. That means that you must decide the case solely on the evidence before you. You will recall that you took an oath to do so.

At the end of the trial, I will give you final instructions. It is the final instructions that will govern your duties.

Please do not read into these instructions, or anything I may say or do, that I have an opinion regarding the evidence or what your verdict should be.

1.5: CLAIMS AND DEFENSES

To help you follow the evidence, I will give you a brief summary of the positions of the parties:

The plaintiff, Allison Rice, brings this lawsuit against the Defendant City and County of San Francisco. Mr. Rice brings two claims against the City under the Fair Housing Act. First, he contends that he had a disability-related need for a rent-paying roommate and that the City discriminated against him on the basis of his disability by denying that request. He alleges his request was reasonable because it would not fundamentally change the nature of the City's affordable housing program or cause undue administrative and financial burdens. **Second, Mr. Rice claims that the City unlawfully interfered with his rights under the Fair Housing Act by requiring him to terminate his lease with his then rent-paying roommate and by holding up his efforts to refinance until he complied with the terms of his affordable housing agreement.**

The defendant, the City and County of San Francisco, denies those claims. The City asserts that it reasonably accommodated Mr. Rice's request by allowing him a non-rent-paying roommate. The City also asserts that Mr. Rice did not have a medical need to charge rent and his request to charge rent was not reasonable. The City also contends that Mr. Rice'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. Finally, the City denies retaliating against Mr. Rice, and asserts that it had legitimate, non-discriminatory reasons for its actions.

1.6: BURDEN OF PROOF — PREPONDERANCE OF THE EVIDENCE

When a party has the burden of proving any claim [or affirmative defense] by a preponderance of the evidence, it means you must be persuaded by the evidence that the claim [or affirmative defense] is more probably true than not true.

You should base your decision on all of the evidence, regardless of which party presented it.

1 Mr. Allison Barton Rice, Plaintiff
 2 13809 Research Blvd, Suite 500 PMB 90978
 3 Austin, TX 78750
 4 PH: (415) 579-8208
 5 allisonbartonrice@mac.com

6 Plaintiff, in propria persona

7 UNITED STATES DISTRICT COURT

8 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

9 ALLISON BARTON RICE, an individual,

10 Plaintiff,

11 v.

12 THE CITY AND COUNTY OF SAN
 13 FRANCISCO; LONDON BREED, MAYOR
 14 OF THE CITY OF SAN FRANCISCO;
 15 KATE HARTLEY, DIRECTOR OF THE
 16 SAN FRANCISCO MAYOR'S OFFICE OF
 17 HOUSING AND COMMUNITY
 18 DEVELOPMENT; MARIA BENJAMIN,
 19 DIRECTOR OF HOMEOWNERSHIP &
 20 BELOW MARKET RATE PROGRAMS
 21 SAN FRANCISCO MAYOR'S OFFICE OF
 22 HOUSING AND COMMUNITY
 23 DEVELOPMENT; CISSY YIN,
 24 HOMEOWNERSHIP & BELOW MARKET
 25 RATE PROGRAMS COMPLIANCE
 26 MANAGER SAN FRANCISCO MAYOR'S
 27 OFFICE OF HOUSING AND
 28 COMMUNITY DEVELOPMENT; DENNIS
 HERRERA, SAN FRANCISCO CITY
 ATTORNEY; KEITH NAGAYAMA, SAN
 FRANCISCO CITY DEPUTY ATTORNEY
 and DOES 1 through 50,

Defendants.

CASE NO. 19-cv-04250 LB

**[PROPOSED] ORDER GRANTING
 PLAINTIFF'S MOTION FOR
 RELIEF FROM JUDGMENT
 UNDER RULE 60(b)(6), OR
 ALTERNATIVELY RULE 60(d)(3)**

Place: 450 Golden Gate Ave.
 Courtroom B, 15th Fl
 San Francisco, CA
 94102

The Court has considered Plaintiff Allison Barton Rice's Motion for Relief from Judgment under Federal Rule of Civil Procedure 60(b)(6), or alternatively Rule 60(d)(3), the supporting memorandum, declaration, exhibits, the record in this action, and any opposition and reply.

For good cause shown, the Court finds that relief from judgment is warranted.

The Court finds that extraordinary circumstances justify relief under Federal Rule of Civil Procedure 60(b)(6).

Accordingly, **IT IS HEREBY ORDERED** that:

1. Plaintiff's Motion for Relief from Judgment is GRANTED.
2. The Final Judgment entered on June 26, 2023, ECF No. 225, is VACATED.
3. This action is REOPENED for further proceedings under the applicable Fair Housing Act framework.
4. Plaintiff's 42 U.S.C. § 3617 interference claim is restored as a separate Fair Housing Act claim, independent of any narrow affordable-housing-agreement compliance frame.
5. Plaintiff's 42 U.S.C. § 3604(f)(3)(B) failure-to-accommodate claim is restored for adjudication under the applicable Fair Housing Act accommodation framework.
6. Alternatively, if the Court does not restore both FHA claims, Plaintiff's 42 U.S.C. § 3617 interference claim is restored alone as a separate Fair Housing Act claim.
7. The Court will set a status conference to determine appropriate next steps, including whether limited discovery, appointment or recruitment of counsel, or other case-management measures are warranted.
8. [Alternatively, to the extent the Court reaches Plaintiff's Rule 60(d)(3) ground, the Court finds that relief is warranted under Federal Rule of Civil Procedure 60(d)(3).]

IT IS SO ORDERED.

Dated: _____, 2026

Honorable Laurel Beeler
United States Magistrate Judge