

## GETTING THE BEST DAMAGES FOR INJURIES IN FAIR HOUSING CASES

by  
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### Introduction

My personal story of housing discrimination is touched upon in an article I co-wrote with Professor Michel P. Seng and Dr. Jay Einhorn in *The John Marshall Law Review*, Volume 26, Number 1, Fall 1992, entitled “Counseling a Victim of Racial Discrimination in a Fair Housing Case.” I changed the name of the victim and her occupation in order to help me write the story at the time but it is my personal account. I intentionally left out the “nasty” discriminatory treatment of the housing provider and his staff because I believed then as I believe now that the focus must first be to the physical and emotional impact the discrimination had on the victim. When a person is injured, the starting place and concern should be getting treatment to the injury and not a barrage of questions, innuendos, and confrontations. Whether the harmed suffered is actual or believed, the victim or alleged victim is struggling with an inundation of emotions and the professionals encountered throughout this traumatic and nightmarish process called “investigation” and must be handled in a professional and empathetic manner throughout the procedure, despite workloads, dislikes, findings of untruths, and years of experience in conducting these types of investigations. The fact of the matter is each case is unique and each victim in each case deserves to be treated in a professional and empathetic manner from initial interview to finding.

When I became a victim of housing discrimination in the late eighties, one of clinical professionals asked during my first and last session with her whether the discriminatory conduct of the landowner and staff was really that horrific. She reminded me that I had dealt with this type of conduct all my life and had no doubt developed a “coping” mechanism in the face of discrimination. She insisted that I was simply overreacting and that I should reevaluate what had occurred in a more gentle light. She pointed out that no derogatory idioms had been used; that the receptionist may have had a “very bad” day; and, the fact that all Whites before and after me were shown apartments while I was left in the lobby was simply my negative interpretation of the events.

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<sup>1</sup> Thank you for allowing partial use of your article “Maximizing Damages in Fair Housing Cases.”

**I have never forgotten that incident of racial discrimination. Even years later, in my attempts to locate suitable housing I have found the following: I always take another person with me; my heart, each time, races as the process begins; I am continuously uncomfortable while there; and, I never look the housing provider in the eyes fearful of what I “might” see. Needless to say I dread locating new housing even to this day. Furthermore, I have never forgotten the words and reaction of that clinical professional when I tried to explain what had happen and how I felt as a result of my treatment. I guess some may conclude that I am weak in my psyche while others may say, “it was not that bad of an incident.” The truth of the matter is these two life-changing matters have forever changed my innocence. The treating of a person different because of the color of their skin is inherently wrong; the assumption that that a person should be “used” to this type of treatment is hidden racism; and, the attempt to make Blacks think that discrimination is all in their imagination is understated racism.**

**I may be just a single individual in this belief but I renew my efforts year after year to eliminate housing discrimination in my nation. In my professional experience, I stand by the tried and tested methods for obtaining damages but I seek better results. I sincerely believe that where damages are too low in a housing discrimination case, the victim is furthered injured. Small or low damages provide a continual insult to one’s dignity. Small or low damages in a fair housing case sends the distinct message to the victim that the injury suffered is not worth very much in damages and easily translate to the victim that he or is of little value in this American society.**

**Those championing the rights of “justice for all” in the housing industry have varied years of service and must ever be assiduous to remember that to each victim this incident of housing discrimination may be this individual’s “first” time and the very system designed to obtained the truth is itself daunting, impassable, hurting, humiliating, confusing and overwhelming to the victim or alleged victim. We who are on the front lines of these cases must change our attitudes and if necessary our methods because each case is unique and each victim in each case deserves to be treated in a professional and empathetic manner from initial interview to the finding.**

**On one hand, this paper is designed to simply serve as a reminder and on the other hand may this paper encourage new means to service complainants of housing discrimination.**

## **I. Revisiting What We Know**

### **1. Federal Statutory Provisions**

- a. 1866 Civil Rights Act – 42 U.S.C. §1981 and §1982. Courts may award compensatory and punitive damages.**
- b. 1968 Fair Housing Act as amended, 42 U.S.C. §3612(g)(3). Provides ALJ may award actual damages and a civil penalty.**
- c. 1968 Fair Housing Act as amended, 42 U.S.C. §3613(c). Provides that in a private civil action, a court may award actual and punitive damages.**

- A. There has been an increase in the size of damage awards.
  - 1. Schwemm, *Compensatory Damages in Fair Housing Cases*, 16 Harv. C.R. - C.L.L. Rev. 83 (1981) (range of awards in 1981 was \$1 to \$20,000).
  - 2. Today damages have been awarded in excess of \$1,000,000. For instance, in *Broome v Biandi*, FH/FL ¶16,240 (S.D.N.Y. 1997), a court awarded \$1.5 million against a co-op board that rejected a sublet on an apartment because of race.
- B. Reasons for Increase
  - 1. Inflation
  - 2. 1988 Amendments to Title VIII
  - 3. Greater public awareness that discrimination is illegal
  - 4. Less tolerance for overt discrimination
- C. Nonetheless, there is a heavy burden on the plaintiff to create a good record and to educate the fact-finder on damages.

## II. Federal Statutory Provisions

- A. Fair Housing Act
  - 1. 42 U.S.C. §3612 (g) (3). (ALJ may award actual damages and a civil penalty.)
  - 2. 42 U.S.C. §3713 (c). (In a private civil action, court can award actual and punitive damages.)
  - 3. 42 U.S.C. §3614 (d). (In a suit instituted by the AG, persons aggrieved can recover monetary damages and a civil penalty can be imposed.) "Monetary damages" has been interpreted to mean compensatory and punitive damages. *U.S. v Rent American, Corp.*, 734 F. Supp. 474 (S.D. Fla. 1990).
- B. 1866 Civil Rights Act - 42 U.S.C. §1981 and §1982. Courts may award compensatory and punitive damages. *Sullivan v Little Hunting Park, Inc.*, 396 U.S. 229, 238-40 (1969); *Phiffer v Proud Parrot Motor Hotel, Inc.*, 648 F.2d 548, 553 (9th Cir. 1980).

## III. State or Federal Standard for Damages

- A. *Sullivan v Little Hunting Park, Inc.*, 396 U.S. 229, 406 (1969) - In awarding damages under the 1866 Civil Rights Act, the Court held that §1988 allows both federal and state rules to be utilized, whichever better serves the policies expressed in the federal statutes.
- B. However, more recent decisions decided under §1983 apply the federal common law in ascertaining damages. *Carey v Piphus*, 435 U.S. 247 (1978); *Smith v Wade*, 461 U.S. 30 (1983); *Memphis Comm. School Dist. v Stachura*, 477 U.S. 299 (1986). *And see Pumphrey v Stephen Homes* (4th Cir. 1997) FH/FL ¶16,177 (Federal law covers the issue of punitive damages under the Fair Housing Act); *United States v Oak Manor Apts.*, 11 F. Supp. 2d 1047 (W.D.Ark. 1998) (same); *United States v Big D Enterprises* (8<sup>th</sup> Cir. 1999) FH/FL ¶16,369 (same).

#### IV. Compensatory Damages to Individuals

- A. Compensation for the denial of the right to fair housing.
  - 1. Under §1983, damages cannot be awarded based on the "abstract value" or "importance" of constitutional rights. *Memphis Comm. School Dist. v Stachura*, 477 U.S. 299 (1986).
  - 2. The Sixth Circuit has held that a separate award for "Loss of Civil Rights" based on the plaintiff's subjective perception of the importance of those rights is not normally available under the Fair Housing Act. *Baumgardner v HUD*, 960 F.2d 572 (6th Cir. 1992).
- B. Proof of a violation of the Fair Housing Act and proof of actual damages entitles a complainant to judgment in that amount. *Curtis v Loether*, 415 U.S. 189, 197 (1974); *Smith v Wade*, 461 U. S. 30,52 (1983); *United States v City of Hayward*, 36 F.3d 832, 839-40 (9th Cir. 1994), *cert. denied*, 116 S.Ct. 65 (1995); *New Jersey Coalition of Rooming and Boarding House Owners v City of Ashbury Park*, 1998 U. S. App. Lexis 17448 (3d Cir. 7/30/98). There is no requirement under the Fair Housing Act that a complainant show "legal causation" beyond the showing of "legal discrimination" to recover compensatory damages. *Alexander v Riga*, 208 F.3d 419 (3d Cir. 2000).  
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1. HUD ALJ's have awarded costs and lost wages for time taken for depositions and hearings in prosecuting a fair housing claim. E.g., *HUD v Mountain Side Mobile Home Estates* (HUD ALJ 12/17/93) FH/FL ¶25,065, *rev'd on other grounds*, 56 F.3d 1243 (10th Cir. 1995).
2. These costs are rarely substantial. *See Phillips v Hunter Trails Comm. Ass'n.*, 685 F.2d 184, 190 (7th Cir. 1982). (\$2,675 out-of-pocket expenses for being forced to stay in hotel and having to store furniture because house was made unavailable); *Morgan v Secretary*, 985 F.2d 1451, 1459 (10th Cir. 1993) (award of \$1,500 was not based on substantial evidence).
3. Also, try to establish economic damage because housing discrimination isolates persons and disadvantages their future endeavors and alters their social environment. *See Calmore, To Make Wrong Right: The Necessary and Proper Aspirations of Fair Housing*, THE STATE OF BLACK AMERICA 1989 (National Urban League Report), at 89-93. (This may require expert testimony.)
4. Out-of-pocket expenses may also include medical or psychological counseling expenses. *See Jones v Rivers*, 732 F. Supp. 176 (D.C. Cir. 1990).

5. Particularly in cases involving the disabled, added inconveniences due to modifications to the premises or problems of transportation or proximity of services may be included in the economic costs.
6. Out-of-pocket expenses may be reduced for failure to mitigate damages. *Young v Parkland Village, Inc.*, 460 F.Supp. 67, 71 (D.Md. 1978); *HUD v Morgan* (HUD ALJ 7/25/91) FH/FL ¶25,138, *modified on other grounds*, 985 F.2d 1451 (10th Cir. 1993). In *HUD v. Timmons* (HUD ALJ 11/16/00) FH/FL ¶25,149, damages were disallowed when a couple purchased a home that they could not afford after they were discriminated against when they attempted to rent an apartment.
7. Costs must be reasonable. *Hamilton v. Svatik*, 779 F.2d 383, 388-89 (7th Cir.1986); *HUD v. Pheasant Ridge* (HUD ALJ 10/25/96) FH/FL ¶25,123.

#### H. Loss of Housing Opportunity

In cases where the housing sought has special amenities, location, or other characteristics that cannot be duplicated and are lost to the complainant, damages might be awarded for loss of housing opportunity. See *HUD v Kelly*, (HUD ALJ 8/26/92) FH/FL ¶25,034; *HUD v Lashley*, (HUD ALJ 12/7/92) FH/FL ¶25,039. Heifetz & Heinz, *Compensatory Damages in Fair Housing Adjudications*, 26 John Marshall L. Rev. 26 (1992).

**NOTATION: If humiliation and emotional distress is part of the damage award, as an investigator you must stop and consider the best method to get a potential victim of discrimination to open up their humiliated and emotional hurts and talk to you, a stranger, about not only the discriminatory action that occurred but the effects of that discriminatory action on his/her heart, psyche as well as family, job, friends and day-to-day activity.**

#### I. Humiliation and Emotional Distress

1. *Curtis v Loether*, 415 U.S. 189, 197 n. 10 (1974) - Court likened an action to redress housing discrimination to an action for defamation or intentional infliction of mental distress.

**Note: In order to get a potential victim to “open himself or herself up” the investigator must first prepare the person for questioning. It is not easy to answer questions regarding aspects of personal lives that as a complainant he/she is not yet clear about and is not quite sure what and why the discrimination occurred. Explain in language that is simple to the complainant the types of questions that will be asked and the need to ask such questions. Pay attention to the demeanor of the complainant. If they are struggling in their responses because it is painful do not become aggressive because “all you want is the facts.” Do not get agitated because the complainant is not able to**

**answer your question during that interview. The ordeal may be difficult to speak about at the time.**

2. In *Carey v Piphus*, 435 U.S. 247, 262 (1978), the Court acknowledged that at common law in actions for defamation *per se*, compensation could be awarded without evidence of actual loss because certain types of defamation are virtually certain to cause serious injury to reputations and because that injury is extremely difficult to prove. The Court rejected the analogy for a deprivation of procedural due process, *Memphis Comm. School Dist. v Stachura*, 477 U.S. 299 (1986), but the analogy may work in a fair housing case because of the analogy adopted in *Curtis v Loether, supra*.

**Note: Be very sure that you take the time to listen to what is really being said. “Hurt” is difficult to explain. Demeanor is very important so take notes on what you see when the complainant is talking to you. I recall as a victim, I developed a great deal of anger and I took my pain and hurt out on my attorneys. They were two “White” males and one was my mentor in law school and a friend. I hated them, and for a short period of time I hated all my White friends for what was done to me. I screamed at my attorneys and accused them of not trying to help me. I refused to answer their questions sometimes because I thought they wanted to break me down and see me cry. I would not cooperate during meetings because they wanted to talk over and over about what had occurred to me. Now that I look back, I was exceptionally difficult to deal with and if they did not take the time to “weather the storm” with me, I would have given in to my pain and hurt and quit. I would have justified my anger towards society and became a statistic instead of a productive member of society. I am grateful for Professors Michael P. Seng and F. Willis Caruso for their professionalism and empathetic manner during one of the most difficult periods in my life. They are part of the reason I am who I am today.**

3. Damages for emotional distress based on "humiliation, embarrassment, anger, inconvenience, and lost housing opportunity" as well as damage to the couple's personal relationship can be awarded even in the absence of physical symptoms and publicity. *Banai v. HUD*, 102 F.3d 1203 (11th Cir. 1997).

**Note: Record your observations because by the time you write up a case you will have forgotten that the complainant said, “it hurt me but I can’t really explain it.” Many times investigations do not record that the complainant then broke into tears for six minutes and had to wash his/her face. In an attempt to get the “big” picture, investigators fail to record that other potential renters were present and heard or saw the discrimination. Remember they may not be witnesses, because no names, but even nameless, they added to the humiliation suffered. It’s the little things that can make a difference in damage awards so if a**

**child was present when that parent was discriminated against they may have lost their greatest “hero” in their young life. Watch, listen and write down everything.**

4. In *Krueger v. Cuomo*, 115 F.3d 487, 492 (7th Cir. 1997), the court recognized that: "The more inherently degrading or humiliating the defendant's action is, the more reasonable it is to infer that a person would suffer humiliation or distress from that action; consequently, somewhat more conclusory evidence of emotional distress will be acceptable to support an award for emotional damages," quoting *U.S. v Balestrieri*, 981 F.2d 916, 932 (7th Cir. 1992).

**Note: Complainant’s often dull the pain and hurt suffered in a housing discrimination incident. One of the best ways to dull the pain and hurt is to push the matter into the deep recesses of the mind. Therefore get the complainant involved early by recording how he/she felt and what happen as the incident occurred. Let the complainant know that as time passes he/she will forget minor details and other facts will become clouded. Ask the complainant to not only write down or record on a tape-recorder what happen but also what was going on in their mind as the incident was occurring. Ask what did he/she do immediately after the incident, one or two days later and etc. Get the full picture.**

5. Emotional distress may be established solely through the testimony and demeanor of the victim. For instance, in *Secretary v Blackwell*, 908 F.2d 864, 873 (11th Cir. 1990) (award of \$40,000 for emotional distress to the Herrons), the court noted:

In explaining the award of damages for "embarrassment, humiliation, and emotional distress", the ALJ relied upon the Herrons' testimony concerning their disappointment in being unable to move, and the humiliation caused by the knowledge that someone would deny them the right to buy a house because of their race. As Janella Herron testified, "I feel that everything that has been fought for over the last 30 years . . . was a waste of lives, a waste of time on the part of all those people who worked so hard for equal justice . . . Our lives have been put on hold because we are not allowed to live where we can afford and choose to live." Further, the Herrons testified about the invasion of privacy caused by the publicity, and their physical symptoms which included loss of sleep and headaches.

Similarly in *HUD v Gruzdaitis* (HUD ALJ 8/14/98) FH/FL ¶25,137, Judge Heinz declared:

Actual damages in housing discrimination cases may include damages for intangible injuries such as embarrassment, humiliation, and emotional distress caused by the discrimination. Damages for emotional distress may be based on inferences drawn from the circumstances of the case, as well as on testimonial proof. Because emotional injuries are by nature qualitative and difficult to quantify, courts have awarded damages for emotional harm without requiring proof of the actual dollar value of the injury. The amount awarded should make the victim whole.

Racial discrimination strikes at the heart of a person's identity. Race and skin color are immutable characteristics irrelevant to whether someone is qualified to buy or rent housing. As racial discrimination has been unlawful in this country for many years, it is reasonable to expect that a person of color would suffer deep frustration, anger, and humiliation upon experiencing discrimination during a search for housing. Complainant's response to Mr. Gruzdaitis' bigotry falls within the range of typical reactions to racial discrimination. Surprised and intimidated by her profane and threatening rejection of her as a potential tenant, she walked away crying, her head bowed in humiliation. For weeks thereafter she had difficulty sleeping, concentrating, and eating. During this period her children suffered from her trauma-induced bad temper, a fact that causes her deep regard. She was so upset by the experience on Respondents' porch that she discontinued her search for new housing for a month. Consequently, Mr. Gruzdaitis' racially discriminatory conduct extended by a month the time that Complainant had to live in unsatisfactory, overcrowded housing.

*See also Bradley v Carydale*, 730 F. Supp. 709 (E.D. Va. 1989) (award of \$9,000 for emotional distress based on aggrieved party's testimony. She had never sought counseling or taken time off work); *Littlefield v McGuffey*, 954 F.2d.1337 (7th Cir. 1992) (award of \$50,000 in compensatory damages based on plaintiffs testimony of her fears and anxieties); *United States v Balistrieri*, 981 F.2d 916, 930-933 (7th Cir. 1992) (award of \$2,000 for each tester based on the testers' testimonies, but the appeals court cautioned that the evidence was weak).

Expert testimony that the defendant's conduct caused the plaintiff's distress is not required. It can be inferred by the factfinder from the

circumstances. *Human Rights Commission v. LaBrie* (Vt. 10/6/95) FH/FL ¶18,173; *Krueger v. Cuomo*, 115 F.3d 487, 492 (7th Cir. 1997); *Johnson v Hale*, 940 F. 2d 1192 (9th Cir. 1991).

**Note: All too often investigators ignore family, friends, teachers, and employers of the complainant because they did not witness the actual act of discrimination and this is a serious mistake. If a case is a reason cause case, develop questions for family, friends, teachers, and employers. Their responses should effect any conciliation or settlement amounts.**

6. However, courts of appeal have reduced awards that were based solely on the victim's testimony. *Douglas v Metro Rental Services, Inc.*, 827 F.2d 252 (7th Cir. 1987). Therefore, corroboration by family members, friends, co-workers, or medical or psychological consultants may be useful. In *Morgan v Secretary*, 985 F.2d 1451, 1459 (10th Cir. 1993), the court of appeals reversed an award of \$5,000 for emotional distress based on the victim's own testimony because it was not supported by substantial evidence.

**Note: What if there are no prolonged effects? How about non-sufficient explanations? What if the discrimination only occurred once? Just because a complainant cannot express feelings using skillful adjectives do not assume there is no harm suffered and therefore no damages. The law is clear.**

7. The fact-finder may infer humiliation from the circumstances. *Seaton v Sky Realty Co.*, 491 F.2d 634, 636 (7th Cir. 1974); *Secretary v Blackwell*, 908 F.2d 864, 874 (11th Cir. 1990); *Johnson v Hale*, 940 F.2d 1192 (9th Cir. 1991).

**Note: As an example, let us say the complainant is disabled, how does this complainant explain “fear of safety” if the professional investigator does not ask. Maybe his/her disability added to the fear or maybe the fear of safety was presumed. Unless sufficient questions are asked and time is taken to really listen to what is being said, the investigator may forget that the law states, “The victim is taken as he/she is found.”**

8. Housing providers must take their victims as they find them and damages are awarded based on the injuries to the victim and not an average or ordinary individual. *HUD v. Pheasant Ridge* (HUD ALJ 10/25/96) FH/FL ¶25,123. In *HUD v. Kocerka* (HUD ALJ 5/4/99) FH/FL ¶25,138, one of the complainants was compensated for the blame she felt for her brother's suicide because he refused to move to Chicago after he was told of the racial discrimination committed against her. Also, she was compensated for emotional damages because she lacked cynicism about race and had never previously experienced racial discrimination.

**Note: Listening is an art and a good artist must practice. What are possible symptoms of “emotional stress?” Pay attention when the complainant says things like: “I seem to be arguing more with my spouse;” I can't seem to sleep**

**all night;” “I started back smoking;” I want to be alone;” “I’ve been drinking before going home;” “I yell at the kids for everything.”**

9. Emotional stress can be inferred if the respondent’s conduct resulted in the complainant remaining homeless. In *Secretary v. Dimizzo* (HUD ALJ 1/22/01), Judge Andretta stated that:

No one who has never been homeless can fully appreciate the level of stress and discomfort caused by homelessness, but any reasonable person knows that it is a state to be avoided at all costs and testimony about its effects bolsters that view. Mr. Dimizzo had to sleep in shelters and spend his days on the streets.

Every subsidized housing provider that Dimizzo applied to had a long waiting list. The Alexander was the first where his name came on the list to be considered for residency. He was rejected and blocked from voicing a valid appeal that should easily have reversed the rejection. Any healthy person would begin to despair at such a situation, but Mr. Dimizzo already suffered from bouts of clinical depression, and so his situation of emotional distress was exacerbated. He went into a “deep, dark, depression,” and he was “struck with a sense of doom.”

10. In *HUD v. Timmons* (HUD ALJ 11/16/00) FH/FL ¶25,149, the white parents of an adopted African-American minor were awarded damages for emotional distress after the respondents’ refused to rent to them because of the race of their child. The mother lost sleep and questioned whether her son would have been better off having been adopted by an African American family. The father stayed up at night comforting the mother and questioned his adequacy as a father and provider.

**Note: Do your homework. Never assume.**

11. Courts have looked to damage awards in comparable cases to decide what damages are appropriate. *Phillips v Hunter Trails Comm. Ass’n.*, 685 F.2d 184, 190 (7th Cir. 1982); *Douglas v Metro Rental Services, Inc.*, 827 F.2d 252, 266-57 (7th Cir. 1987); *Broome v Biondi* (S.D. N.Y. 1997) FH/FL ¶16,240. Therefore, counsel may want to advise the court of awards favorable to the client's position.
12. A husband has been allowed to recover damages because he lived and suffered with effects of discrimination on his wife, and the parents of interracial children have been allowed to recover for the grief they suffered

from seeing their children's emotional distress as a result of the incident. *HUD v. Kocerka* (HUD ALJ 5/4/99) FH/FL ¶25,138.

13. Counsel may also want to analogize to awards in other dignity tort cases which often result in higher sums. *See Matlock v Barnes*, 932 F.2d 658 (7th Cir. 1991) (award of \$20,000 for emotional distress due to discharge because of political affiliation is not excessive); *Hall v Ochs*, 817 F.2d 920 (1st Cir. 1987) (compensatory damages totaling \$160,000 and punitive damages totaling \$200,000 is not excessive for racially motivated false arrest); Chicago Tribune, April 28, 1992, §2, p. 3, c. 2 (hate crime victim awarded \$1.75 million).

**Note: Investigators should know when they are unable to investigate and conciliate a case. Sometimes it becomes necessary to let your supervisor know that you need someone else to handle the conciliation portion. In my own experience there have been times when I can no longer act as a mediator between the parties for a variety of reasons. If there is the smallest possibility to conciliate or if a particular case needs one last attempt at conciliation and I may be seen as a hindrance in the conciliation attempt, I will step aside and ask for help. If I fail to take an independent look at conciliation, my prideful indecision may harm the complainant in the long run.**

14. Mitigation is normally not required for intangible losses. *Tyus v. Urban Search Management*, 102 F.3d 256, 264 (7th Cir. 1996). However, the failure to conciliate may be regarded as a refusal to mitigate damages for emotional distress, *HUD v. Mountain Side Mobile Estates* (HUD ALJ 10/23/93) FH/FL ¶25,064.

**Note: Remember if we as professionals do not use language that helps us obtain the clearest picture as to what occurred, we are doing more harm than good. We should stop and ask the complainant, "is this exactly what occurred or did I miss something?"**

15. An award for emotional distress may take into account the plaintiff's reaction in light of the egregiousness of the defendant's conduct, i.e., was it intentional. *HUD v Mountain Side Mobile Estates* (HUD ALJ 12/17/93) FH/FL ¶25,065, *rev'd on other grounds*, 56 F.3d 1243 (10th Cir. 1995).

16. In *Broome v. Biondi* (S.D.N.Y 1997) FH/FL ¶16,240, the court upheld an award of \$114,000 to each of the victims of racial discrimination for emotional distress. The court stated: "In the case of persistent housing discrimination which continues unabated some 30 years after Congress passed the Fair Housing Act to stamp out decades of such discriminatory behavior, the genuine emotional pain associated with such discrimination should not be devalued by unreasonably low compensatory damage awards, especially when one considers the difficulty a plaintiff faces in establishing that he or she was a victim of housing discrimination. After reviewing the awards given for emotional distress in comparable cases and the evidence

adduced at trial, the court finds that the actual emotional and mental damages suffered by the Broomes were substantial and that the jury's compensatory award of \$114,000 each for emotional damages is not excessive."

**As professionals in the housing industry may we never forget that housing discrimination affects a person's dignity, self-esteem, self-worth or whatever noun will assist you as professional to never forget whether the discrimination is actual or believed real, the injury is authentic to that particular complainant. Every complainant, no matter how difficult the complainant, the respondent or the case itself, deserves our professionalism and our empathetic manner from initial interview to the finding. Each day may we find a reason to give each complainant our best efforts as we recall that fair housing is not an option but it is the law.**

(The comments in this paper were delivered as part of a training session during HUD's Fair Housing Summit where the primary attendees in the sessions were those charged with investigating and/or litigating fair housing cases.)