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MARCI SHEPARD, MICHAEL and)	SUPERIOR COURT OF NEW JERSEY
CATHERINE RUSSO, PHILIP GIORDANO,)	LAW DIVISION – ESSEX COUNTY
as Guardian ad litem for CARA MARIE)	DOCKET NO.
GIORDANO; ANNMARIE GIORDANO,)	
PHYLLIS KROPP as Guardian ad litem for)	
NICOLE KROPP)	
)	
Plaintiffs,)	
)	
vs.)	CIVIL ACTION
)	
LE TERRACE CLUB d/b/a LE TERRACE)	COMPLAINT
SWIM CLUB, PATRICK NARDONE,)	AND
RAY NARDONE, LE TERRACE CATERERS,)	JURY DEMAND
LLC and PATRICIA NARDONE,)	
)	
Defendants.)	
_____)	

Plaintiffs, Marci Shepard, Michael and Catherine Russo, Philip Giordano, as Guardian ad litem for Cara Marie Giordano; Annmarie Giordano, and Phyllis Kropp as Guardian ad litem for Nicole Kropp by way of Complaint against the defendants herein state as follows:

1. Plaintiff, MARCI SHEPARD, resides in the County of Essex.
2. Plaintiffs, MICHAEL and CATHERINE RUSSO, reside in the County of Essex.
3. Plaintiffs, PHILIP, ANNMARIE and CARA MARIE GIORDANO, reside in the County of Essex. Plaintiff, PHILIP GIORDANO, is the natural parent of Cara Marie

Giordano and brings this action in behalf of CARA MARIE GIORDANO as her guardian ad litem.

4. Plaintiff, PHYLLIS KROPP, is the adoptive parent of Plaintiff, NICOLE KROPP, and brings this action in behalf of NICOLE KROPP as her Guardian ad litem. NICOLE KROPP is a minor and 17 years of age.

5. On information and belief, Defendant, LE TERRACE CLUB, has as its principle residence at 15 Malcolm Ct., Clifton, New Jersey. Defendant LE TERRACE CLUB is incorporated under the laws of the State of New Jersey and was at all times relevant hereto licensed to do business in the state of New Jersey as a swim club, located at 39 Evergreen Avenue, Nutley, New Jersey 07110.

6. Since 1956, Defendant, LE TERRACE CLUB has at all times relevant hereto operated its business under the name LE TERRACE SWIM CLUB at 39 Evergreen Avenue, in Nutley, New Jersey serving the needs of the Nutley community for recreation and swimming.

7. Upon information and belief, Defendants, PATRICK AND RAY NARDONE, are the principle shareholders of defendant, LE TERRACE CLUB, and the sole officers and directors of said corporation.

8. Defendants, PATRICK AND RAY NARDONE, have at all times relevant hereto served as the directors, managers, and supervisors of defendant, LE TERRACE SWIM CLUB. Defendants NARDONE have at all times relevant hereto established all policies, rules and regulations governing the swim club and have exclusive authority to modify, change, alter, or initiate all policies, rules, and regulations governing the operation of said swim club.

9. Membership in defendant LE TERRACE SWIM CLUB is predicated solely upon ability to pay and color/ethnicity; said policy of racial and ethnic discrimination has been in effect for the past 45 years.

10. Defendants, LE TERRACE SWIM CLUB and LE TERRACE CATERING, LLC which is located on the grounds of the swim club have historically hosted private parties at the swim club on a consistent and regular basis renting said facilities to members of the public and serving food and beverages on a fee for service basis.

11. No information is provided to prospective members concerning the discriminatory policies and practices of Le Terrace Swim Club.

12. Defendant swim club is neither owned nor operated by its individual members and is operated solely for the profit and benefit of defendants NARDONE. Members of the defendant swim club join simply to obtain swimming and recreational services and do not associate for any purposes other than swimming and recreational activities

13. Defendant, LE TERRACE CATERERS, LLC, was at all times relevant hereto a limited liability corporation established under the laws of the State of New Jersey having its principle place of business at defendant, LE TERRACE SWIM CLUB in Nutley, New Jersey.

14. Defendant, LE TERRACE SWIM CLUB, has solicited membership from the general public on a regular and consistent basis by advertising and promoting itself to the public in the following ways:

- a. advertising in the Essex County Yellow Pages;
- b. advertising by community coupon/voucher booklets;
- c. advertising and promoting its swim team on the worldwide web;

- d. advertising through display signs which promote the club; and
- e. engaged in a variety of commercial mechanisms to attract, solicit, and maintain its membership.

15. Defendant, LE TERRACE SWIM CLUB, is a public accommodation as that term has been defined under the New Jersey Law Against Discrimination and is therefore required to be open to all members of the public irrespective of race, color, or ethnicity.

16. Defendant, LE TERRACE CATERERS, is owned and operated by defendant, PATRICIA NARDONE, and has had as its primary business purpose the catering of parties, business and social events in the community of Nutley, New Jersey and more specifically at the premises of defendant, LE TERRACE SWIM CLUB. Defendant, LE TERRACE CATERERS, has at all times relevant hereto, advertised in the Essex County Yellow Pages seeking to attract clients for its catering services, both business and social. Defendant, LE TERRACE CATERERS, services social and business events scheduled to be held at the defendant LE TERRACE SWIM CLUB as well as elsewhere in the community.

17. Defendant LE TERRACE CATERERS LLC is a public accommodation as that term has been defined under the New Jersey Law Against Discrimination and is therefore required to be open to all members of the public irrespective of race, color, or ethnicity.

18. Defendants herein have for the past 45 years exercised a policy and practice of discriminating against persons of color and retaliating against those with sufficient courage to challenge defendants' unlawful conduct. Defendants have

consistently and uniformly refused to permit children of color to attend as guests with members of the club. In addition to Counts I, II, and III, examples of defendants' overt racism abound:

- a. a Peruvian child was denied access to a Little League party held at the club;
- b. a 6 year old black child was turned away party invitation and present in hand;
- c. Philipino children and persons of Asian descent have been routinely stricken from party guest lists;
- d. a young hospital worker was told he could not host the hospital's summer picnic because there were people of color who might attend.

COUNT I

Plaintiffs Marci Shepard and Catherine and Michael Russo

18. Plaintiffs repeat and reallege paragraphs 1-17 as if set forth more fully herein.

19. Plaintiff, MARCI SHEPARD, is 18 years of age; she will be entering her sophomore year at Jersey City University in September 2002. Plaintiff SHEPARD is the first recipient of the John Walker Foundation Scholarship. She has been an outstanding student and active in her community as a lifelong resident of Nutley, New Jersey.

20. Plaintiff SHEPARD is African American. Her parents were also lifelong residents of Nutley, New Jersey. The parents of Plaintiff SHEPARD are now deceased. Upon the death of her father, the plaintiffs, MICHAEL and CATHERINE RUSSO accepted the plaintiff, MARCI SHEPARD, into their home and provided her with care,

food, and housing. Marci Shepard continues to reside with the Russo's as a member of their family.

21. Plaintiff SHEPARD derives from a long line of African Americans who have resided in and participated in the community life of Nutley, New Jersey. Plaintiff's father, Vernon Shepard, Jr., was a substitute schoolteacher and high school basketball coach in the Nutley school system. Plaintiff's grandfather, Vernon Shepard was involved in initiating the first Little League Baseball program in Nutley New Jersey and was an auxiliary police officer of Nutley, N.J. as well as an active participant in the Third Half Club Board, an organization dedicated to promoting athletic programming for Nutley youth. Vernon Shepard was a recipient of the "Dr. Matia" award considered the highest honor which can be bestowed upon a citizen of Nutley, N.J..

22. Plaintiffs, MICHAEL and CATHERINE RUSSO, are the parents of 4 young children. The Russo's decided to join a swim club in the Spring of 2001. The community of Nutley offers no public swimming facilities or program for teaching youngsters to swim. Plaintiffs joined the defendant, LE TERRACE SWIM CLUB, in or about May, 2001. Plaintiffs were provided no formal application; no membership criteria; no mission statement of the club; no bylaws or other corporate documents. Plaintiffs were provided only with a price sheet, a one-page sheet of "Rules and Regulations" and an information sheet on the Club's Swim Team. See Exhibits "A" , "B" and "C" attached hereto. Plaintiffs RUSSO paid the fees and were deemed automatic members of the club permitted to use its facilities and bring guests.

23. On June 19, 2001, plaintiff CATHERINE RUSSO took her four children and plaintiff MARCI SHEPARD to the defendant swim club to spend the day swimming.

Plaintiff RUSSO approached the desk to sign in her guests, one white and one black. Mrs. Russo was told by the defendant PATRICK NARDONE, that guests were not permitted to swim that day. Plaintiff RUSSO confronted defendant NARDONE with what she suspected was overt racism to which Nardone replied: "This is my club; I have the right to determine who will or will not be permitted to swim in my pool."

24. At the same time that plaintiff MARCI SHEPARD was denied access to the swim club, other guests of members were being signed in and permitted to swim. Those guests were not persons of color.

25. Defendant NARDONE then approached the Russo family and told plaintiff CATHERINE RUSSO that because of her objection to defendant NARDONE'S offensive and unlawful conduct the Russo family was no longer welcome at the club.

26. Every member of the Russo family, including each of the Russo children left the pool confused, upset, and offended by the treatment afforded to their friend and guest MARCI SHEPARD at the hands of defendant NARDONE.

28. Plaintiff, MARCI SHEPARD, could not enjoy the rights and privileges afforded to other guests because of her color. Said conduct as set forth more fully above constitutes unlawful discrimination against the Plaintiff MARCI SHEPARD in violation of N.J.S.A. 10:5-4; N.J.S.A. 10:5-12(e); N.J.S.A. 10:5-12(f); N.J.S.A. 10:5-12(n).

29. Said conduct as set forth more fully above constitutes unlawful discrimination against the plaintiffs, MICHAEL and ANNMARIE RUSSO in violation of N.J.S.A. 10:5-12 (d).

30. WHEREFORE Plaintiffs RUSSO and SHEPARD demand judgment against the defendants herein as follows:

(1) an Order granting preliminary and permanent injunctive relief enjoining said defendants and their agents, servants, and employees from violating the New Jersey Law Against Discrimination;

(2) an Order granting preliminary and permanent injunctive relief enjoining said defendants and their agents, servants, and employees from discriminating against people of color in the use of or provision of services by either Le Terrace Club d/b/a Le Terrace Swim Club and/or Le Terrace Catering LLC;

(3) an Order directing that no guests and/or members may be discriminated against in violation of the New Jersey Law Against Discrimination;

(4) an Order providing that defendants herein be required to provide to the Director of the Division on Civil Rights an annual listing of all club members, including guests, permitted to use said facilities, and that on said list the identity and ethnicity of each member be provided;

(5) compensatory and punitive damages for pain, suffering and humiliation;

(6) attorneys fees, interest, and costs of suit;

(7) any other relief which this Court deems just and reasonable.

COUNT II

Plaintiff Nicole Kropp

31. Plaintiff, NICOLE KROPP, repeats and re-alleges paragraphs 1 – 30 as if set forth more fully herein.

32. Plaintiff NICOLE KROPP is 17 yrs. of age; at all times relevant hereto plaintiff KROPP was a resident of Nutley, New Jersey. Plaintiff KROPP grew up Nutley having resided there for 16 years.

33. Plaintiff NICOLE KROPP is the adopted daughter of Phyllis Kropp; as such, details concerning her specific ethnic background are unknown. Plaintiff NICOLE KROPP has dark hair and dark skin.

34. When plaintiff Nicole KROPP was approximately 6 years of age she and her mother were invited to the defendant club by a club member. When the plaintiff went to the defendant club, she was told by management that there were no guests permitted that day. However, all other guests were being admitted that day and the member had received prior approval to bring two guests.

35. News of plaintiff KROPP'S rejection by the defendant LE TERRACE SWIM CLUB became known by her friends and other members of the club; as a result plaintiff was not invited to attend any further functions held at Le Terrace Swim Club knowing that she would be rejected because of her skin.

36. WHEREFORE Plaintiff KROPP demands judgment against the defendants herein as follows:

(1) an Order granting preliminary and permanent injunctive relief enjoining said defendants, their agents, servants, and employees from violating the New Jersey Law Against Discrimination;

(2) an Order granting preliminary and permanent injunctive relief enjoining said defendants from discriminating against people of color in the use of or provision of services by either defendants, Nardone, Le Terrace Club d/b/a Le Terrace Swim Club and/or Le Terrace Catering LLC and their agents servants and employees;

(3) an Order directing that no guests and/or members may be discriminated against in violation of the New Jersey Law Against Discrimination;

(4) an Order providing that defendants herein be required to provide to the Director of the Division on Civil Rights an annual listing of all club members, including guests, permitted to use said facilities, and that on said list the identity and ethnicity of each member be provided;

(5) compensatory and punitive damages for pain, suffering and humiliation;

(6) attorneys fees, interest, and costs of suit;

(7) any other relief which this Court deems just and reasonable.

COUNT III

The Giordanos

37. Plaintiff, ANNMARIE GIORDANO and PHILIP GIORDANO as Guardian ad litem for his natural daughter, CARA MARIE GIORDANO repeat and reallege all of the allegations of paragraphs 1-36 as if set forth more fully herein.

38. In or about May, 2002, Plaintiffs ANNMARIE AND CARA MARIE GIORDANO joined the defendant LE TERRACE SWIM CLUB. Plaintiffs decided to join as individual members with Mr. Giordano attending periodically as their guest.

39. In late May, 2002, Mrs. Giordano requested to have a birthday party for Cara Marie, age 11, at the defendant swim club. The party was set for June 8th and Mr. Nardone insisted on reviewing the guest list with Mrs. Giordano which he did on June 6, 2002. Upon reviewing the guest list, defendant NARDONE began to question the ethnicity of Cara Marie's friends. Many of Cara Marie's friends are Philipino. Mr. Nardone further interrogated Mrs. Giordano concerning whether any of the guests who would be in attendance were "brown-skinned" or "black". Mrs. Giordano was shocked and offended. Mr. Nardone reluctantly agreed that she could have the party but stated that this was a "Europeans Only" club, and that people of color were not welcomed at the facility.

40. Cara Marie's party was scheduled for June 8th; Mrs. Giordano was legitimately concerned that many of Cara Marie's friends would be either turned away when they came to attend the party or mistreated in some way by defendants and their staff. As a result of these concerns, Mrs. Giordano cancelled the birthday party and held it at another facility open to all children regardless of their color, creed, national origin or ethnicity.

41. Outraged at defendants' discriminatory and offensive conduct, Mr. Giordano called defendant NARDONE who was either unwilling or unable to speak with him. Immediately after the cancellation of the Giordano birthday party, defendant NARDONE

unilaterally cancelled plaintiffs' membership at the defendant LE TERRACE SWIM CLUB and advised the Giordano family that they were no longer welcome at the club.

42. Said cancellation was executed by defendants herein in retaliation for the Giordano's challenge to the defendants' unlawful discriminatory conduct in violation of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-12(d).

43. WHEREFORE Plaintiffs, ANNMARIE AND CARA MARIE GIORDANO, demand judgment against the defendants herein as follows:

(1) an Order granting preliminary and permanent injunctive relief enjoining said defendants their agents, servants, employees from violating the New Jersey Law Against Discrimination;

(2) an Order granting preliminary and permanent injunctive relief enjoining said defendants from discriminating against people of color in the use of or provision of services by either Le Terrace Club d/b/a Le Terrace Swim Club and/or Le Terrace Catering LLC, their agents, servants, employees.

(3) an Order directing that no guests and/or members may be discriminated against in violation of the New Jersey Law Against Discrimination;

(4) an Order providing that defendants herein be required to provide to the Director of the Division on Civil Rights an annual listing of all club members, including guests, permitted to use said facilities, and that on said list the identity and ethnicity of each member be provided;

(5) compensatory and punitive damages for pain, suffering and humiliation;

(6) attorneys fees, interest, and costs of suit;

(7) any other relief which this Court deems just and reasonable.

JURY DEMAND

Plaintiffs demand a trial by jury as to all issues in this.

PELLETTIERI, RABSTEIN & ALTMAN

Attorney for Plaintiffs

ANNE P. McHUGH, ESQUIRE

DESIGNATION OF TRIAL COUNSEL

Pursuant to the provisions of Rule 4:25-4, the Court is advised that Anne P. McHugh is hereby designated as trial counsel.

PELLETTIERI, RABSTEIN & ALTMAN

Attorney for Plaintiffs

ANNE P. McHUGH, ESQUIRE

