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8
9 IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

10 RYAN DALEY, and individual, and)
ISAAC CURRY, an individual, each on) Case No.: 2:18-CV-00381-SMJ
11 behalf of himself and all others)
similarly situated,) SECOND AMENDED COMPLAINT
)
12 Plaintiff,) (JURY DEMANDED)
)

13 vs.)

14 GREYSTAR REAL ESTATE)
15 PARTNERS, LLC, a Delaware limited)
liability company; GREYSTAR)
16 MANAGEMENT SERVICES, L.P., a)
Delaware corporation; GREYSTAR RS)
17 WEST, LLC, a Delaware limited)
liability company,)
)
18 Defendants.)

1 Plaintiffs Ryan Daley and Isaak Curry, each on behalf of himself and all
2 others similarly situated, by and through their attorneys, Kirk D. Miller of *Kirk D.*
3 *Miller, P.S.*, and Brian G. Cameron of *Cameron Sutherland, PLLC*, allege the
4 following:

5 **I. COMPLAINT**

6 1.1 This is an action for damages and remedies against Greystar Real
7 Estate Partners, LLC, Greystar Management Services, L.P., and
8 Greystar RS West, LLC, pursuant to the Washington Residential
9 Landlord-Tenant Act (RCW 59.18, *et seq.*)

10 **II. JURISDICTION & VENUE**

11 2.1 Jurisdiction of this Court arises under 28 U.S.C. § 1332.

12 2.2 Defendant is a citizen of Delaware State.

13 2.3 Plaintiffs are each citizens of Washington State.

14 2.4 The matter in controversy is a putative class action which exceeds the
15 sum or value of seventy-five thousand dollars (\$75,000.00), exclusive
16 of interest and costs.

17 2.5 Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

18 2.6 Venue is proper in this District under 28 U.S.C. § 1391(b) because the
19 Defendant conducts affairs and transacts business in this District, and
20 the unlawful acts giving rise to this Complaint occurred in this District.

III. PARTIES

1
2 3.1 At all relevant times, Plaintiff Daley was a resident of the state of
3 Washington, residing within the territorial jurisdiction area of the
4 United States District Court for the Eastern District of Washington.

5 3.1 At all relevant times, Plaintiff Curry was a resident of the state of
6 Washington, residing within the territorial jurisdiction area of the
7 United States District Court for the Eastern District of Washington.

8 3.2 Defendant Greystar Real Estate Partners, LLC is a Delaware limited
9 liability company primarily engaged in the business of managing
10 rental properties in Washington State and elsewhere.

11 3.3 The name “Greystar” is a trademarked name owned by Defendant
12 Greystar Real Estate Partners, LLC.

13 3.4 Defendant Greystar Real Estate Partners, LLC and its related, parent,
14 and subsidiary corporations are providers of services to residents,
15 property owners, and investors in the multifamily real estate industry.

16 3.5 Defendant Greystar Real Estate Partners, LLC and its agents and
17 employees are in the business of renting or leasing residential real
18 estate in Washington State.

1 3.6 Defendant Greystar Real Estate Partners, LLC owned or operated the
2 website www.greystar.com until sometime in or around February 2019
3 when it was switched to Greystar Worldwide, LLC.

4 3.7 Defendant Greystar Real Estate Partners, LLC uses its website for
5 online leasing of residential properties in Washington State and
6 elsewhere.

7 3.8 Despite the local property managers operating their own websites, all
8 applicants are directed to the same Greystar Real Estate Partners, LLC
9 main payment processing and online application sites.

10 3.9 Defendant Greystar Real Estate Partners, LLC is an owner, lessor,
11 sublessor, or the designated representative of the owner, lessor, or
12 sublessor, or an agent, resident manager, or a designated property
13 manager for multiple dwelling units, or the property of which the
14 dwelling unit is a part, throughout Washington State and elsewhere.

15 3.10 Defendant Greystar Real Estate Partners, LLC substantially controls
16 its subsidiary's activities by engaging in property management and
17 corresponding services for all its subsidiary's properties nationwide,
18 including instituting uniform procedures for property management and
19 tenant relations.

1 3.11 Defendant Greystar Real Estate Partners, LLC is a “Landlord” as
2 defined by RCW 59.18.030(14).

3 3.12 Defendant Greystar Real Estate Partners, LLC is the parent
4 corporation, which wholly owns the other two defendants.

5 3.13 Defendant Greystar RS West, LLC is an owner, lessor, sublessor, or
6 the designated representative of the owner, lessor, or sublessor, or an
7 agent, resident manager, or a designated property manager for multiple
8 dwelling units, or the property of which the dwelling unit is a part,
9 throughout Washington State and elsewhere.

10 3.14 Defendant Greystar RS West, LLC is a wholly owned subsidiary of
11 Greystar Real Estate Partners, LLC.

12 3.15 All acts performed by Greystar RS West, LLC are done on behalf of
13 and at the direction of Greystar Real Estate Partners, LLC.

14 3.16 Defendant Greystar RS West, LLC is an agent of Greystar Real Estate
15 Partners, LLC.

16 3.17 Defendant Greystar RS West, LLC is a “Landlord” as defined by RCW
17 59.18.030(14).

18 3.18 Defendant Greystar Management Services L.P. is an owner, lessor,
19 sublessor, or the designated representative of the owner, lessor, or
20 sublessor, or an agent, resident manager, or a designated property

1 manager for multiple dwelling units, or the property of which the
2 dwelling unit is a part, throughout Washington State and elsewhere.

3 3.19 Defendant Greystar Management Services L.P. is a wholly owned
4 subsidiary of Greystar Real Estate Partners, LLC.

5 3.20 All acts performed by Greystar Management Services L.P. are done
6 on behalf of and at the direction of Greystar Real Estate Partners, LLC.

7 3.21 Defendant Greystar Management Services L.P. is an agent of Greystar
8 Real Estate Partners, LLC.

9 3.22 Defendant Greystar Management Services L.P. is a “Landlord” as
10 defined by RCW 59.18.030(14).

11 3.23 Defendant Greystar Management Services, L.P. was sued in this Court
12 in 2015 in the case of *Fleming v. Greystar Management Services, L.P.*
13 Case No. 2:15-cv-00174-SMJ.

14 3.24 The *Fleming* case asserted violations of federal law arising out of the
15 defendant’s property management practices – specifically its tactics
16 used to collect post move-out charges from former tenants.

17 3.25 In *Fleming*, the answer filed at ECF No. 3 unequivocally stated that
18 the wrong Greystar entity had been named and that the correct entity
19 is ‘Greystar Real Estate Partners, LP’.

1 3.26 After the parties agreed to amend the *Fleming* action to name ‘Greystar
2 Real Estate Partners, LP’, Greystar decided ‘Graystar Management
3 Services, L.P.’ was the correct party after all and proceeded to file
4 additional pleadings and a dispositive motion.

5 3.27 *Fleming* was eventually certified as a class action and the class settled
6 with Greystar Management Services, LP.

7 3.28 None of the named defendants herein have materially altered the scope
8 of their functions and responsibilities within the Greystar Real Estate
9 Partners LLC organization since 2015.

10 3.29 Greystar Real Estate Partners, LLC does not distinguish between itself
11 and its subsidiaries in its online or print materials.

12 3.30 Using the Greystar trademark name, Greystar Real Estate Partners,
13 LLC states on its website that

14 [w]ith over 491,000 multifamily units and student beds
15 under management globally, Greystar provides a wealth of
16 experience in managing all product types and servicing a
 diverse investor group.

17 3.31 Greystar Real Estate Partners, LLC represents to the general public
18 that it is a manager of residential properties in Washington and
19 elsewhere.

1 3.32 Greystar Real Estate Partners, LLC controls the disclosures provided
2 to prospective tenants on the www.greystar.com website.

3 3.33 Neither Greystar Management Services L.P., nor Greystar RS West,
4 LLC have authority or control over Greystar Real Estate Partners, LLC
5 with respect to the content of the information and disclosures on the
6 www.greystar.com website.

7 3.34 On January 22, 2019, counsel for Defendant Greystar Management
8 Services L.P. called Plaintiffs' counsel and, without explanation
9 regarding what had changed in the Greystar corporate structure since
10 2015, stated that neither Greystar Management Services, L.P., nor
11 Greystar Management Services, LLC could be liable for the acts and
12 omissions complained of herein.

13 3.35 Counsel for Greystar Management Services, L.P. stated that Greystar
14 RS West, LLC is the proper defendant in the case.

15 3.36 All Defendants are jointly and severally liable for the acts and
16 omissions complained of herein.

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IV. FACTS¹

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2 4.1 In May of 2018, Plaintiff Daley applied to rent a unit at the Bella Tess
3 apartment complex in Spokane, Washington.

4 4.2 The Bella Tess apartments are owned or managed by Defendant
5 Greystar.

6 4.3 In January 2018, Plaintiff Curry applied to rent a unit at The
7 Homestead apartment complex in Spokane, Washington.

8 4.4 The Homestead apartments are owned or managed by Defendant
9 Greystar.

10 4.5 Defendant obtains a tenant screening report on all prospective
11 Washington tenants, who are over the age of eighteen, including
12 Plaintiffs.

13 4.6 All prospective tenants in Washington State, who are over the age of
14 eighteen, are required to pay a tenant screening fee prior to renting a
15 unit at any property Defendant owns or manages.

16 4.7 Defendant utilizes web-based RealPage, Inc. to facilitate all online
17 applications and tenant screening reports.

18
19

¹ As used herein and for the remainder of the Complaint, the terms “Defendant” and
20 “Greystar” apply to each defendant individually and collectively. Each Defendant
21 must file a separate Answer in response to this Complaint.

1 4.8 Defendant uses consumer reports to screen prospective tenants.

2 4.9 Prior to a prospective tenant being charged for a tenant screening fee,
3 Defendant, either directly or through a RealPage, Inc. website,
4 provides standardized disclosures to all prospective tenants.

5 4.10 The tenant screening fee is non-refundable.

6 4.11 Prior to charging a tenant screening fee, Defendant discloses to all
7 prospective tenants, in relevant part:

8 This information may be provided in the form of a
9 consumer report obtained from one or more of the
10 consumer reporting agencies listed below ...

11 4.12 Under the Defendant's statement set forth above in ¶ 4.11, Defendant
12 then lists four consumer reporting agencies from which Defendant
13 might possibly obtain information regarding the prospective tenant.

14 4.13 Prior to the prospective tenant paying the tenant screening fee,
15 Defendant does not disclose in writing, or by posting, from which, if
16 any, of the four listed consumer reporting agencies Defendant will
17 obtain a report.

18 4.14 Defendant does not obtain consumer reports on prospective
19 Washington tenants from more than one of the listed consumer
20 reporting agencies.

1 4.15 Defendant obtains consumer reports from RealPage, Inc., which
2 compiles consumer information obtained from other sources.

3 4.16 Defendant only obtained a consumer report from RealPage, Inc. when
4 deciding whether to accept Plaintiff's application.

5 4.17 Prospective tenants are unable to find out through any medium which
6 of the four consumer reporting agencies provided information to
7 Defendant unless the rental application is denied or conditionally
8 approved by Defendant.

9 4.18 For any prospective tenant, information contained in the consumer
10 reports from the four different possible sources may be different.

11 4.19 Prior to a prospective tenant paying the tenant screening fee,
12 Defendant does not disclose to any prospective tenant in writing, or by
13 posting, whether it will accept a comprehensive reusable tenant
14 screening report.

15 4.20 Defendant provides uniform tenant screening disclosures to all
16 prospective Washington tenants.

17 **V. VIOLATIONS OF WASHINGTON'S RESIDENTIAL**
18 **LANDLORD-TENANT ACT (RLTA), RCW 59.18, ET SEQ.**

19 5.1 In 2012, the Washington legislature found the following with respect to
20 landlords' use of tenant screening reports:

1 The legislature finds that residential landlords frequently
2 use tenant screening reports in evaluating and selecting
3 tenants for their rental properties. These tenant screening
4 reports purchased from tenant screening companies may
5 contain misleading, incomplete, or inaccurate information,
6 such as information relating to eviction or other court
7 records. It is challenging for tenants to dispute errors until
8 after they apply for housing and are turned down, at which
9 point lodging disputes are seldom worthwhile. The costs
10 of tenant screening reports are paid by applicants.
11 Therefore, applicants who apply for housing with multiple
12 housing providers pay repeated screening fees for
13 successive reports containing essentially the same
14 information.

15 5.2 Prior to the tenant being charged any fee for a tenant screening report,
16 Defendant was, at all times relevant to this action, required by RCW
17 59.18.257 to provide the name and address of the consumer reporting
18 agency from which it will obtain information about the prospective
19 tenant.

20 5.3 Prospective tenants may decide where they will apply to rent based on
21 which consumer report will be used for screening.

5.4 A prospective tenant who knows that derogatory information exists on
one consumer report may choose not to waste the screening fee if
another landlord utilizes the same report.

1 5.5 Alternatively, a prospective tenant may choose to apply with a
2 prospective landlord because the prospective tenant knows that a
3 particular consumer report contains no derogatory information.

4 5.6 Defendant's practice of providing the name and address of multiple
5 possible sources of consumer information, from which any one, or
6 none, may be used to screen the prospective tenant frustrates a
7 prospective tenant's ability to make informed decisions regarding
8 where to apply for rental housing.

9 5.7 Defendant's practice of providing multiple possible sources from which
10 it may obtain a consumer report without disclosing specifically which
11 consumer report will be accessed violates RCW 59.18.257(1)(a)(iii).

12 5.8 Effective June 9, 2016, prior to obtaining any information about a
13 prospective tenant, Washington landlords are required to notify all
14 prospective tenants in writing, or by posting, whether or not the
15 landlord will accept a comprehensive reusable tenant screening report
16 made available to the landlord by a consumer reporting agency. RCW
17 59.18.257(1)(a)(iv).

18 5.9 Defendant does not notify prospective tenants in writing, or by posting,
19 whether or not it will accept a comprehensive reusable tenant screening
20 report.

1 5.10 Defendant's failure to disclose whether it accepts a reusable tenant
2 screening report violates RCW 59.18.257(1)(a)(iv).

3 5.11 Effective June 9, 2016, any landlord who maintains a web site
4 advertising the rental of a dwelling unit or as a source of information
5 for current or prospective tenants must include a statement on the
6 property's home page stating whether or not the landlord will accept a
7 comprehensive reusable tenant screening report made available to the
8 landlord by a consumer reporting agency.

9 5.12 Defendant maintains web sites for all of its rental properties.

10 5.13 Defendant's websites advertise the properties and act as a source of
11 information for current or prospective tenants.

12 5.14 None of the Defendant's web sites state on the property's home page
13 whether or not the landlord will accept a comprehensive reusable tenant
14 screening report.

15 5.15 Defendant's failure to disclose on the property's home page whether or
16 not it will accept a comprehensive reusable tenant screening report
17 violates RCW 59.18.257(2).

18 5.16 Landlords who violate RCW 59.18.257(1) are prohibited from charging
19 prospective tenants for tenant screening fees.
20

1 5.17 By charging prohibited tenant screening fees, Defendant caused
2 damage to the Plaintiffs and others.

3 5.18 Defendant has required more than one thousand (>1,000) prospective
4 Washington tenants to pay a tenant screening fee as a condition of its
5 rental application process since June 9, 2016.

6 5.19 Defendant has required more than ten thousand (>10,000) prospective
7 Washington tenants to pay a tenant screening fee as a condition of its
8 rental application process since June 9, 2016.

9 **VI. UNJUST ENRICHMENT**

10 6.1 Defendant was prohibited pursuant RCW 59.18.257 from charging any
11 prospective Washington tenant a fee for tenant screening.

12 6.2 Defendant benefitted from receiving consumer reports and other useful
13 information as a result of the prospective tenants paying the tenant
14 screening fee.

15 6.3 Defendant was unjustly enriched by receiving the reports paid for by
16 prospective tenants.

17 6.4 The value of the reports and information obtained by Defendant on each
18 prospective tenant is equal to the amount paid by each tenant.

19 6.5 Defendant should not be allowed to retain the value it received via the
20 illegal charges paid by prospective tenants.

VII. CLASS ALLEGATIONS

This action is brought on behalf of a class consisting of:

7.1 All persons;

7.2 Who applied to rent any property in the state of Washington;

7.3 Where the rental property, on the date of the application, was owned or managed by Defendant Greystar, or where Defendant Greystar was a “landlord” of the property, as defined by RCW 59.18.030(14);

7.4 Who paid any tenant screening fee to Defendant or its affiliates.

7.4.1 For violations related to Defendant’s failure to provide the consumer reporting agency information, the class period is three (3) years prior to filing of this action, through the date that the class is certified;

7.4.2 For violations related to Defendant’s failure to provide information regarding the comprehensive reusable tenant screening report, the class period is June 9, 2016, through the date that the class is certified.

7.5 Plaintiffs have the same claims as the members of the class. All of the claims are based on the same factual and legal theories.

7.6 Plaintiffs will fairly and adequately represent the interests of the class members. They are committed to vigorously litigating this matter.

1 7.7 Neither Plaintiffs nor their counsel have any interests which might
2 cause them not to vigorously pursue this claim.

3 7.8 A class action is a superior method for the fair and efficient adjudication
4 of this controversy.

5 7.9 Class wide damages are essential to induce Defendant to comply with
6 the law.

7 7.10 The interests of the class members in individually controlling the
8 presentation of separate claims against the Defendants is small, because
9 the amount of damages recoverable in an individual case under RCW
10 59.18.257 is relatively small.

11 7.11 Certification of a class pursuant to Fed. R. Civ. Pro 23(b)(3) is
12 appropriate. A class action is the only appropriate means of resolving
13 this controversy because the class members are not aware of their
14 rights, the class is comprised of a largely vulnerable population, and the
15 amount of available damages for many of the class members may be
16 relatively small. In the absence of a class action, a failure of justice will
17 result.

18 7.12 Certification of a class pursuant to Fed. R. Civ. Pro. 23(b)(2) is also
19 appropriate. Defendants acted on grounds generally applicable to the
20

1 class, making declaratory relief appropriate with respect to the class as
2 a whole.

3 **VIII. DEMAND**

4 WHEREFORE, Plaintiffs demand judgment as follows:

- 5 8.1 Actual damages in the amount paid for tenant screening by each
6 prospective tenant class member;
- 7 8.2 Statutory damages of \$100, per prospective tenant, pursuant to RCW
8 59.18.257(3);
- 9 8.3 Costs and reasonable attorney's fees pursuant to RCW 59.18.257(3);
- 10 8.4 Pre-judgment interest on all amounts paid by prospective tenants for
11 tenant screening fees;
- 12 8.5 Post-judgment interest;
- 13 8.6 Declaratory judgment that Defendant's practices violate Washington's
14 Residential Landlord-Tenant Act (RCW 59.18, et seq.); and
- 15 8.7 Such other and further relief as may be just and proper.

16 DATED this 3rd day of May, 2019.

17 *Kirk D. Miller, P.S.*

18
19 /s Kirk D. Miller
20 Kirk D. Miller, WSBA #40025
21 Attorney for Plaintiff

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