

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

ANDRE BAUGH and)	
GREATER NEW ORLEANS FAIR)	
HOUSING ACTION CENTER,)	
)	
Plaintiffs,)	Civil Action No. 17-9127
)	
v.)	COMPLAINT
)	
COVINGTON SPECIALTY INSURANCE)	Jury Trial Demanded
COMPANY,)	
MESA UNDERWRITERS SPECIALTY)	
INSURANCE COMPANY, and)	
HULL & COMPANY, INC.,)	
)	
Defendants.)	
)	

NATURE OF ACTION

1. New Orleans faces a severe and chronic shortage of affordable housing for low-income individuals and households. This shortage has been particularly acute since Hurricane Katrina in 2005, after which the remaining public housing complexes in the City of New Orleans, Louisiana and Orleans Parish, Louisiana (together, “New Orleans”)¹ were demolished and never rebuilt. As a result, low-income households in New Orleans, who are disproportionately African-American, female-headed, and families with children, have increasingly relied on governmental rental subsidies for housing in the private rental market over the last twelve years. The largest such program, the federal government’s Housing Choice Voucher (“HCV”) program (formerly known as the Section 8 Existing Housing Program),

¹ The City of New Orleans and Orleans Parish are coterminous and will be referred to in this complaint interchangeably as “New Orleans.”

provides rental assistance to more than 18,000 low-income households in New Orleans and has been a critical lifeline for these households in obtaining safe, affordable housing.

2. Unfortunately, some insurance companies, including Defendants Covington Specialty Insurance Company (“Covington”) and Mesa Underwriters Specialty Insurance Company (“Mesa”), and their authorized agents and representatives in Louisiana, including Defendant Hull & Company, Inc. (“Hull”), maintain discriminatory underwriting and insurance eligibility policies and practices that deny or increase the cost of insurance to landlords who rent to tenants participating in the HCV program, based on stereotypical and unsubstantiated assumptions about voucher participants and the neighborhoods in which they live. These discriminatory policies and practices make it more difficult for HCV participants’ landlords to obtain adequate insurance, and compel other housing providers to refuse to rent to HCV participants out of fear of losing their insurance or being required to obtain more expensive coverage simply because they rent to HCV participants.

3. Plaintiffs—Dr. Andre Baugh, a New Orleans resident and owner of eight rental units in New Orleans, and the Greater New Orleans Fair Housing Action Center (“GNOFHAC”), a statewide fair housing organization dedicated to promoting fair housing and combating housing discrimination in Louisiana—bring this action against Defendants Covington, Mesa, and Hull (collectively, “Defendants”) for declaratory, injunctive, and monetary relief based on Defendants’ unlawful use of discriminatory underwriting criteria in violation of the federal Fair Housing Act, 42 U.S.C. § 3601, *et seq.* (the “FHA”).

4. Defendants utilize insurance underwriting and eligibility criteria that deny or impose different terms and conditions for commercial liability insurance for housing providers, including Dr. Baugh, who rent their residential units to tenants who participate in the HCV

program and rely on HCV housing subsidies to pay their rent and utilities. Defendant Covington denies insurance coverage outright to landlords who rent to HCV participants and other individuals receiving other governmental housing subsidies. Defendant Mesa charges higher premiums to landlords renting to HCV participants than to similarly situated landlords who do not. Defendant Hull, as an authorized agent and representative of both Covington and Mesa in Louisiana, produces, issues, and administers insurance policies underwritten by those insurers, and thereby effectuates and enforces these discriminatory underwriting practices.

5. In New Orleans, Defendants' use of discriminatory underwriting and eligibility criteria disproportionately and adversely affects groups who make up the large majority of HCV-participating households—African Americans, female-headed households, and families with children—and therefore violate the FHA's prohibitions on housing discrimination on the basis of race, sex, and familial status. Moreover, the disproportionate adverse effect of Defendants' policies is borne most heavily by predominantly African-American neighborhoods in New Orleans, where the concentration of HCV-participating households is markedly higher than in the city's predominantly white neighborhoods, which further violates the FHA's prohibitions on race discrimination.

6. This lawsuit seeks, *inter alia*, to enjoin Defendants from continuing to employ these discriminatory, harmful, and unnecessary insurance underwriting and eligibility criteria, to make insurance available to landlords and housing providers in New Orleans on equal terms regardless of whether their tenants include HCV participants, and to compensate Plaintiffs for their economic and other injuries resulting from Defendants' discriminatory practices.

JURISDICTION AND VENUE

7. This Court has jurisdiction over this matter under 42 U.S.C. § 3613(a), 28 U.S.C. § 1331, and 28 U.S.C. § 1343.

8. Venue is proper in the Eastern District of Louisiana under 28 U.S.C. § 1391(b) because Plaintiff Baugh resides in the District, Plaintiff GNOFHAC is headquartered and operates in the District, Defendants do business in the District, and the events giving rise to the claims alleged in this complaint occurred and continue to occur in the District.

PARTIES

9. Plaintiff Andre Baugh, M.D., is a resident of New Orleans, Louisiana. Dr. Baugh owns and manages eight dwelling units within five residential rental properties located in New Orleans. Dr. Baugh, who is African-American, a retired physician, and a person with a disability, is committed to assisting families in need, including by providing high-quality, affordable rental housing for low-income families in New Orleans.

10. Plaintiff GNOFHAC is a nonprofit civil rights organization established in 1995 to eradicate housing discrimination. GNOFHAC's work throughout Louisiana includes education, investigation, and enforcement activities. GNOFHAC is dedicated to fighting housing discrimination and other practices that perpetuate housing segregation, ignorance, fear, and hatred.

11. Defendant Covington is a specialty insurance underwriter incorporated in New Hampshire and headquartered at 945 East Paces Ferry Road NE, Suite 1800, Atlanta, Georgia 33026. Covington is an operating subsidiary of RSUI Group, Inc., a wholly-owned subsidiary of the Alleghany Corporation. Covington is licensed as a surplus lines insurer by the Louisiana Department of Insurance and does business in the State of Louisiana.

12. Defendant Mesa is a specialty insurance underwriter domiciled and headquartered at 40 Wantage Avenue, Branchville, New Jersey 07890. Mesa is licensed as a surplus lines insurer by the Louisiana Department of Insurance and does business in the State of Louisiana.

13. Defendant Hull is a wholesale managing general insurance agent and broker headquartered at 1815 Griffin Road, Suite 300, Dania Beach, Florida 33004. Hull is licensed as a producer agency and surplus lines broker by the Louisiana Department of Insurance. Hull does business in the State of Louisiana and has a branch office at 3850 North Causeway Boulevard, Suite 850, Metairie, Louisiana 70002. Hull is an authorized representative of both Covington and Mesa in Louisiana and, in that capacity, produced, issued, and administered both of Plaintiff Baugh's insurance policies that are at issue in this complaint.

FACTUAL ALLEGATIONS

Housing Choice Voucher Program Overview

14. Congress established the HCV program as part of the Housing and Community Development Act of 1974, Pub. L. No. 93-383, Title II, § 201(a), 88 Stat. 633, 662-66, now codified at 42 U.S.C. § 1437f, and the Housing Community Development Act of 1987, Pub. L. No. 100-242, § 143, 101 Stat. 1814, 1850 (1988), codified as amended at 42 U.S.C. § 1437f(o); *see also* 24 C.F.R. §§ 982.1 *et seq.* HCV subsidies are commonly known as "Section 8" vouchers.

15. The HCV program is the federal government's major program for assisting very low-income families, the elderly, and individuals with disabilities in affording decent, safe, and sanitary housing in the private rental market, through the use of HCV rental subsidy vouchers. Participating individuals and households may choose any privately owned rental housing that meets the HCV program's eligibility requirements.

16. The U.S. Department of Housing and Urban Development (“HUD”) provides HCV program funding to local public housing authorities, which administer the HCV program locally.

17. HCV vouchers are intended to provide improved housing choices, foster economic mobility, reduce racial isolation, and expand opportunities for low-income families, which in New Orleans are disproportionately African-American, female-headed households, and households with children. Studies indicate that the HCV program supports more families with children than all other HUD-funded rental assistance programs combined.

18. HCV-participating households pay 30 percent of their monthly adjusted gross income toward rent and utilities (the “household share”). The HCV subsidy covers the lesser of: (a) the payment standard set by the local public housing authority minus the household share, or (b) the gross rent for the unit minus the household share. For rental homes with rents exceeding the payment standard set by the local public housing authority, participating households pay both the household share and the difference between the actual rent charged by the landlord and the payment standard. Thus, although HCV participants may rent homes that rent for an amount exceeding the payment standard, they must pay a higher proportion of their income to rent unit marketed for rent above the payment standard.

Housing Choice Vouchers in New Orleans

19. The Housing Authority of New Orleans (“HANO”) is the local public housing authority that administers the HCV program for qualified New Orleans residents. In that capacity, HANO’s functions include setting minimum health and safety standards for eligible rental units, determining a payment standard that is the amount generally needed to rent a moderately-priced dwelling unit in the local housing market and that is used to calculate the

amount of housing assistance a family will receive, making direct rental subsidy payments to landlords on behalf of participating households, and providing various services to HCV participants and landlords with tenants participating in the HCV program.

20. To be eligible to participate in the HCV program, households must meet income guidelines and other requirements. According to HANO's website, the current maximum annual incomes for New Orleans households range from \$21,400 for an individual to \$40,350 for a family of eight.

21. Due to a sharp increase in demand for affordable housing in New Orleans following Hurricane Katrina, the number of HCV-participating households has increased sharply since 2005. As explained in a 2015 report by the Data Center, a New Orleans-based policy research organization ("2015 Data Center report"), more than 50 percent of existing rental units were destroyed in Katrina and HCV vouchers "were a primary means of assisting households displaced by Katrina, especially following demolitions of public housing units that housed over 5,000 low-income households before the storm."² Affordable rentals in the private housing market became critical in accommodating former public housing residents and other low-income families in need of housing. Consequently, the number of HCV-participating households in New Orleans tripled from 2000 to 2010, from 4,763 in 2000 to 17,347 in 2010. In 2016, 18,454 households participated in the program, representing a 120 percent increase since 2005, when roughly 8,400 households participated in the program. HCV-participating households now represent approximately one quarter of all rental households in New Orleans.

² S. Seicshnaydre & R. Albright, The Data Center, *Expanding Choice and Opportunity in the Housing Choice Voucher Program*, at 1 (July 2015), available at <https://tinyurl.com/oxk4d4x>.

22. Due to this extraordinary demand, HANO maintains a waitlist of approximately 20,000 additional families seeking affordable housing who cannot be accommodated by the program at this time.

Housing Choice Voucher Program Participating Households in New Orleans are Disproportionately African-American, Female-Headed, and Families with Children

23. According to the U.S. Census Bureau's American Community Survey 2011-2015 Population Estimates, the estimated population of New Orleans is 376,738 people, with 153,140 households. The overall population is approximately 59.5 percent African-American/Black (including Hispanic Latino) (hereinafter, "African-American") and 30.8 percent white (not Hispanic/Latino) (hereinafter, "White"). The racial breakdown of householders is 55.6 percent African-American and 35.7 percent White. The majority of New Orleans households—55.4 percent—are female-headed households (*i.e.*, those headed by single, divorced, separated, or widowed women).

24. In 2015, 17,930 households in New Orleans participated in the HCV program. In 2016, 18,454 New Orleans households participated in the program.

25. New Orleans households participating in the HCV program are disproportionately African-American. In 2015, the racial breakdown of participating households in New Orleans (based on the race of the householder) was 95 percent African-American, whereas 55.9 percent of all households in New Orleans are African-American. By comparison, 2 percent of HCV-participating households are White, whereas 35.7 percent of all households in New Orleans are white. In addition, African-American households are more likely to participate in the program than non-African-American households. Based on 2015 statistics, an African-American household in New Orleans is approximately two times more likely to participate in the HCV program than a non-African-American household.

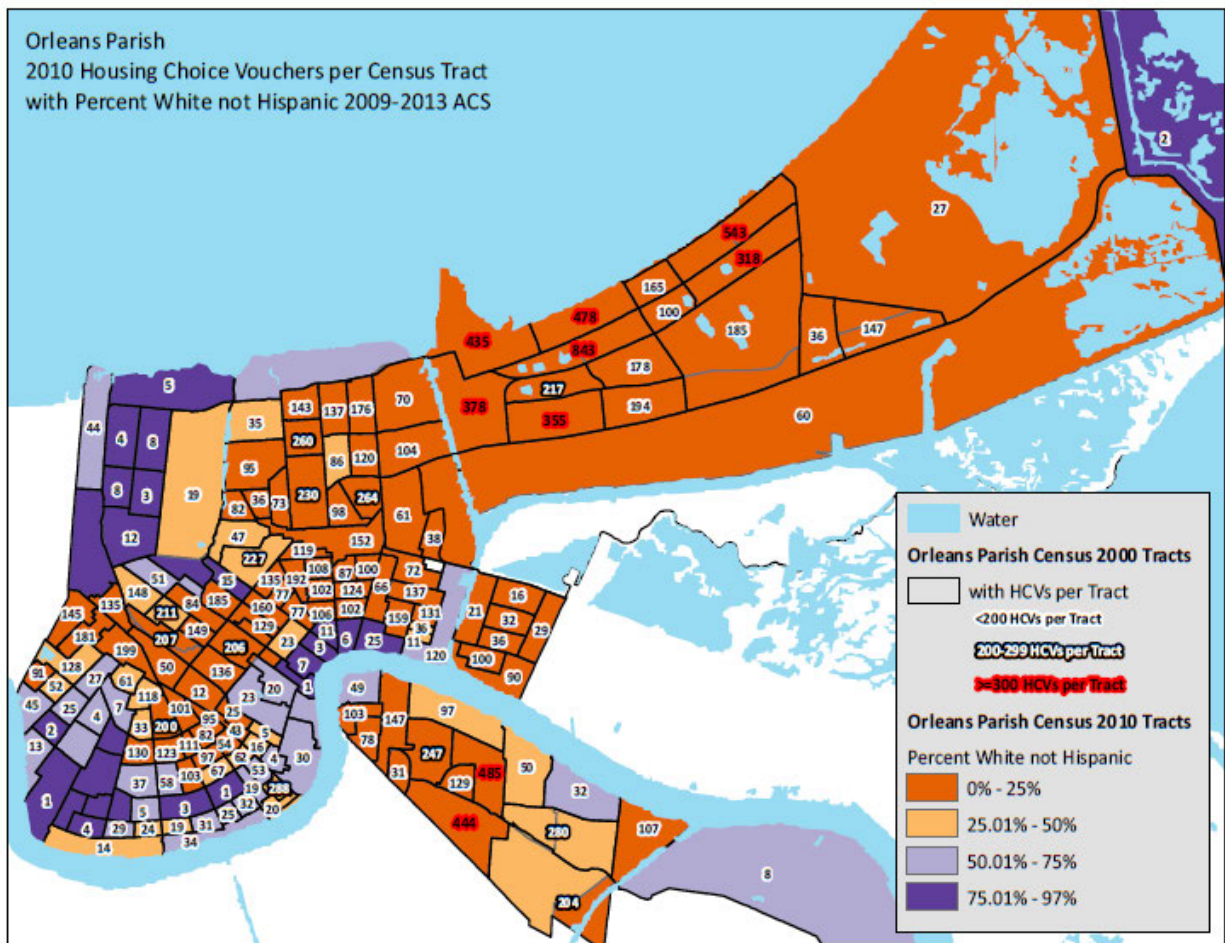
26. New Orleans households participating in the HCV program are disproportionately female-headed relative to the general population. In 2015, 82 percent of HCV-participating households in New Orleans were headed by women, compared to just 55.4 percent of all New Orleans households. By comparison, while 44.6 percent of all New Orleans households were headed by men, only 18 percent of HCV-participating households are male-headed. As a result of these disparities, a female-headed household in New Orleans is approximately 1.6 times more likely to participate in the HCV program than a male-headed household.

27. Approximately half of all HCV-participating households in New Orleans are families with children (one or more individuals under 18 in the household), compared to just 24.4 percent of all households in New Orleans. Nearly all of these families—48 percent of all HCV-participating households in New Orleans—are female-headed households with children. A family with children in New Orleans is 2.4 times more likely to participate in the HCV program than a family without children. An estimated 19,000 children are served by the HCV program.

28. New Orleans residents who participate in the HCV program are largely concentrated in predominantly low-income, African-American neighborhoods. In 2010, 25 percent of participating households in New Orleans were located in just nine Census tracts, representing just five percent of the Census tracts in the city. Seven of those tracts, with 3,350 HCV-participating families, were in New Orleans East. The remaining two tracts, with 929 voucher families, are in Algiers. The population of all nine Census tracts is overwhelmingly African-American, ranging from 83 percent to 98 percent African-American, compared to 59.5 percent of the citywide population. In many of these neighborhoods, participating households make up more than 30 percent of all occupied units. According to the 2015 Data Center report, between 300 and 843 HCV vouchers were used in each these nine Census tracts. This is roughly

three to eight times higher than if HCV vouchers were evenly distributed across all Census tracts in New Orleans, further highlighting the concentration of participating households in racially segregated areas of the city. The map in Figure 1 below from the 2015 Data Center report illustrates this overrepresentation of HCV-participating households in predominantly African-American neighborhoods.

Figure 1: Housing Choice Voucher Participants by Census Tract³



Sources: HUD Picture of Subsidized Households, 2010 Housing Choice Voucher Data by Census 2000 Tracts; American Community Survey 2009-2013 5-year Estimates by Census 2010 Tracts, Table B03002.

³ Source: 2015 Data Center report, at 6.

Defendants Deny Insurance or Charge Higher Premiums for Insurance to Landlords and Housing Providers Who Rent to Housing Choice Voucher Recipients

29. Defendants are surplus line insurance carriers that are registered and licensed to do business in Louisiana. Surplus line insurance (also known as excess and surplus lines insurance) is a non-standard type of property and casualty insurance. These types of policies are typically written for insured individuals and entities who are unable to obtain insurance from a standard carrier, often because of perceived higher risk or higher policy limits than might be available in the standard market. As explained by the Louisiana Department of Insurance on its website, “[s]urplus lines insurance is an alternative type of property and casualty insurance coverage for consumers who cannot get coverage in the standard market.”⁴

30. Defendants Covington and Mesa underwrite commercial liability and other insurance policies to owners of commercial rental properties in Louisiana and elsewhere. Defendant Hull, as an authorized representative and agent in Louisiana to both Covington and Mesa, produces, issues, and administers insurance policies underwritten by Covington and Mesa to commercial rental property owners.

31. Rental property owners who are unable to obtain coverage from either a standard or surplus lines carrier may be prevented from obtaining suitable property and casualty insurance for their properties, exposing both themselves and their tenants to the risks of owning and residing in uninsured buildings.

32. Plaintiff Baugh owns and manages eight residential rental units located at five separate properties in New Orleans. The properties are located at 1310 Spain Street; 2232

⁴ La. Dep’t of Ins., Surplus Lines, <https://www.lidi.la.gov/docs/default-source/documents/publicaffairs/consumerpublications/surplus-lines.pdf>.

Second Street; 1801-1803 Saint Roch Avenue; 1813-1815 Saint Roch Avenue; and 1505-1507 Saint Ann Street. All five properties are located in majority-African-American Census tracts. At all times relevant to this complaint, Dr. Baugh has rented some of his units to tenants participating in the HCV program, with the remaining units rented at market rates. All eight rental units, when available, are eligible to be rented by HCV participants. At all times relevant to this complaint, Dr. Baugh's HCV-participating tenants have all been African-American women, some of them with children under the age of 18.

33. In 2015, Dr. Baugh sought to obtain a commercial liability insurance policy to cover his five rental properties identified in paragraph 32 above. In July 2015, Dr. Baugh applied for an insurance policy from Defendant Covington through a local insurance agency, Eustis Insurance and Benefits ("Eustis"), which is located in Metairie, Louisiana. Covington approved Dr. Baugh's application and, through its representative and agent, Defendant Hull, issued a commercial general liability policy to Dr. Baugh for his five properties covering the period from August 1, 2015 to August 1, 2016. The policy had a total annual premium of \$1207.50, including taxes and fees.

34. After the policy was issued, Dr. Baugh's insurance agent at Eustis informed him that Defendants required him to complete a supplemental application form, called a "Dwelling Supplemental Application." The supplemental application contained the logo for RSUI, Covington's parent company, at the top of the form. The supplemental application contained 13

questions about Dr. Baugh's rental units, including asking, "How many are subsidized housing? (i.e. low income, section 8/Hope VI, rent subsidies, tax credits, etc.)." Dr. Baugh signed the supplemental application on August 5, 2015, which had been completed by his agent based on his verbal responses to the same questions. At the time, five of Dr. Baugh's eight rental units were rented to tenants participating in the HCV program. Thus, on the supplemental application, Dr. Baugh indicated, in response to the question quoted above, that five of his eight rental units were "subsidized housing."

35. In a notice dated September 18, 2015 issued by Defendant Hull, Hull and Covington informed Dr. Baugh that his policy would be cancelled, in full, effective October 19, 2015. This notice simply provided "underwriting reasons" as the reason for the cancellation. No further explanation was provided. Dr. Baugh asked his agent at Eustis about the reason for the cancellation. The agent informed him that the policy was cancelled because he rented to HCV participants, as he had disclosed in his supplemental application.

36. Upon receiving the cancellation notice, Dr. Baugh immediately began looking for an alternative insurance policy to cover his properties with the assistance of his Eustis agent. Dr. Baugh obtained a commercial general liability policy from Defendant Mesa on less favorable terms than the cancelled Covington policy. Dr. Baugh's insurance agent advised him that Mesa was the most affordable carrier willing to insure properties with tenants receiving HCV subsidies. Specifically, the annual premium on the Mesa policy, including taxes and fees, was

\$1905.12 for the first year (\$697.62, or 57.7 percent, higher than the cancelled Covington policy it replaced), \$1977.47 in 2016, and \$2055.06 in 2017. The Mesa policy also included a deductible of \$500 for claims, while the previous Covington policy had no deductible at all. The Mesa policy was also issued to Dr. Baugh by Defendant Hull.

37. While Dr. Baugh was in the process of renewing his insurance the following year, in September 2016, he had a telephone conversation with his Eustis agent about his current Mesa policy and his previous Covington policy. During that conversation, the Eustis agent explained to Dr. Baugh that both Covington and Mesa consider HCV-participating tenants “as a double-risk,” because, “with Section 8, they don’t want to include assault and battery in a lot of instances, because *the Section 8 areas* would have a higher crime rate, so that assault and battery can come into play a little bit more, so that’s why underwriters . . . won’t do Section 8” (emphasis added). The agent added that “a Section 8 tenant provides you a higher risk of filing a claim—historically, not you personally, *but the class in general*, the class of business in general—so that across the board, across the nation, the Section 8 tenant is viewed as a higher risk tenant” (emphasis added). The agent later reiterated this point in an email to Dr. Baugh.

38. The agent further explained that Covington, Mesa, and other specialty insurance underwriters purchase reinsurance from one of several reinsurance companies, with various limitations contained in the reinsurance treaty agreed upon by the reinsurer and the underwriter. Although some reinsurance treaties restrict underwriters from insuring properties with HCV

participants and other housing subsidies, the Eustis agent told Dr. Baugh that each underwriter has the discretion to seek out and choose specific lines of business.

39. The Eustis agent again told Dr. Baugh that Covington had cancelled his policy the previous year because Covington is “not in the business of doing Section 8.” In other words, Covington only buys reinsurance that contains discriminatory restrictions on HCV-participating tenants. By basing its cancellation only on Dr. Baugh’s disclosure that five of his eight rental units were rented by HCV participants, Covington failed to undertake any particularized risk analysis of Dr. Baugh’s tenants. Instead, in denying coverage to Dr. Baugh, Covington relied solely on a stereotype that *all* HCV participants carry higher risk than other tenants.

40. Mesa, like Covington, asks insurance applicants to disclose whether they rent to tenants participating in the HCV program or receiving other housing subsidies. Dr. Baugh’s Eustis agent advised him that his annual premium with Mesa, \$1977.47, was approximately \$500 higher because he rented to HCV voucher holders than if he did not, based on the “higher risk” that Mesa associates with “Section 8.” In other words, Mesa effectively adds a 33 percent surcharge to Dr. Baugh’s policy simply because he rents to HCV participants. Like Covington, Mesa did not seek any other information about Dr. Baugh’s tenants to ascertain actual risk, relying instead on broad stereotypes about individuals and families receiving housing subsidies.

*GNOFHAC, Upon Learning of Defendants' Discriminatory Policies and Practices,
Diverted Significant Time and Resources from Other Projects
to Addressing and Counteracting These Policies*

41. To fulfill its mission of promoting fair housing throughout Louisiana, Plaintiff GNOFHAC accepts complaints of potential housing discrimination from tenants, housing providers, and others. Upon receiving complaints, GNOFHAC conducts its own investigations into potential fair housing violations.

42. In October of 2015, after Covington terminated Dr. Baugh's policy, Dr. Baugh's attorney notified GNOFHAC that his client was denied insurance because he rented to HCV-participating tenants and inquired about filing a discrimination complaint with GNOFHAC. Subsequently, both Dr. Baugh and his attorney spoke with GNOFHAC employees about the discriminatory conduct that Dr. Baugh had experienced.

43. GNOFHAC concluded, after reviewing information provided by Dr. Baugh between 2015 and 2016, that Covington's termination of his insurance policy for renting to HCV-participating tenants was the result of discriminatory underwriting criteria based on impermissible stereotypes about HCV participants. GNOFHAC further concluded that these discriminatory insurance practices disproportionately harm members of protected classes covered by the Fair Housing Act, including African Americans, women, and families with children, as well as housing providers like Dr. Baugh who rent to these groups.

44. As the number of HCV-participating households in New Orleans has increased dramatically in recent years, GNOFHAC has, as part of its overall mission to promote fair housing and combat housing discrimination in New Orleans, sought to address and prevent various and widespread forms of discrimination against HCV participants in the housing market.

45. Prior to receiving Dr. Baugh's complaint, GNOFHAC was aware that some insurance companies operating in other parts of the country had similar underwriting policies containing exclusions or limitations on coverage for rental housing occupied by HCV-participating tenants. However, GNOFHAC was not previously aware of any specific problems encountered by housing providers in the New Orleans area resulting from such policies.

46. As a direct result of receiving Dr. Baugh's complaint, through which it learned, for the first time, that an insurance company was engaging in discriminatory underwriting practices against landlords who rent to HCV-participating tenants in New Orleans, GNOFHAC was forced to divert its limited resources from other critical work to investigate whether this type of insurance discrimination in the New Orleans area is widespread and to counteract Defendants' discriminatory practices through outreach and public education activities around these issues.

47. Accordingly, beginning in October 2015, GNOFHAC was forced to divert significant time and resources from its planned work and to increase and broaden its efforts in the community to counteract Defendants' illegal conduct. GNOFHAC staff members were also forced to take on additional workloads to perform this work.

48. Specifically, GNOFHAC diverted significant time and resources to undertake the following additional work after receiving Dr. Baugh's complaint:

- a. In November 2015, by email and phone, GNOFHAC conducted direct outreach to New Orleans affordable housing developers, and to other community-based organizations, legal services organizations, and governmental agencies that work with housing providers and tenants participating in the HCV program, to inform them of Defendants' practices and educate them about their rights and obligations under the

Fair Housing Act should they or their clients encounter such discrimination.

- b. Beginning in November 2015, GNOFHAC modified the content of a 60-minute fair housing training it regularly provides to first-time homebuyers, many of whom are interested in purchasing duplexes and become landlords of rental units, to discuss insurance discrimination against landlords who rent to HCV participants and landlords' legal rights and obligations under the Fair Housing Act should they encounter such discrimination. Since November 2015, a portion of each training session has been devoted to this issue. GNOFHAC conducts these trainings regularly, typically at least once per month. GNOFHAC conducted approximately 113 first-time homebuyer trainings between November 2015 and July 2017. In each of these 113 trainings, time was devoted to the insurance discrimination issue. GNOFHAC targeted this information to first-time homebuyers—who in New Orleans are generally moderate-income, rely on rental income to make homeownership affordable, and finance their purchases—because any increase in insurance premiums could put homeownership out of reach for them. The issue was not previously included in the organization's first-time homebuyer trainings, and the addition of this content has resulted in less time being devoted in the trainings to information about other critical fair housing issues, including how to recognize other instances of insurance discrimination

and how to recognize possible lending discrimination and predatory lending.

- c. In May 2016, GNOFHAC staff spent a significant number of hours conducting research on insurance discrimination based on HCV participation to further educate GNOFHAC staff on the issue in connection with the organization's increased outreach and public education efforts.
- d. In June 2017, GNOFHAC staff designed a flyer targeted to housing providers about how to recognize warning signs about this type of insurance discrimination. GNOFHAC distributed this flyer to the Apartment Association of Greater New Orleans, a membership organization of rental housing owners, builders, developers, property management firms, and companies that supply products or services to rental properties, for distribution to its members.
- e. In June 2017, GNOFHAC prepared a letter from its Education and Outreach Director to housing providers providing information about this type of insurance discrimination, its impact on housing providers who rent to HCV participants and their tenants, and the impact of this discrimination on protected classes. On June 14, 2017, GNOFHAC sent this letter to 29 housing providers in New Orleans with rental units in Census tracts with a high proportion of tenants who participate in the HCV program.

- f. In June 2017, GNOFHAC contacted HANO to discuss insurance discrimination against landlords who rent to HCV participants and to organize training and outreach to housing providers who rent to HCV participants. As a result of this outreach and in coordination with HANO, GNOFHAC planned three one-hour trainings of New Orleans housing providers with tenants participating in the HCV program, focusing on the issue of insurance discrimination against HCV participants, which will be conducted for approximately 30 housing providers. GNOFHAC will also partner with HANO to distribute flyers regarding HCV-based insurance discrimination to landlords and to include information about the issue in HANO's electronic newsletter.
- g. In early July 2017, GNOFHAC staff created a blog post for GNOFHAC's website, targeted to housing providers, about this type of insurance discrimination. The post, entitled, "Attention Housing Providers: Have You Been a Victim of Insurance Discrimination?," was published on the organization's website on July 6, 2017, and continues to be available to the public today.
- h. In June 2017, GNOFHAC staff created an informational graphic, to be shared on social media platforms, regarding insurance discrimination based on HCV program participation. GNOFHAC posted this graphic on its Facebook page on July 7, 2017, with a link to its July 6, 2017 blog post, referenced above, containing more detailed information about this issue. GNOFHAC also purchased a supplemental service from Facebook, called

“boosting,” to promote viewership of the post to targeted audiences, including housing providers.

49. As a result of the education and outreach activities GNOFHAC was forced to pursue after learning about Defendants’ discriminatory practices, GNOFHAC was required to divert staff time and resources from other projects to previously unplanned activities to counteract these practices, which went above and beyond GNOFHAC’s normal, planned operations, resulting in the following harms to the organization:

- a. GNOFHAC was forced to delay or curtail planned outreach work by its education and outreach staff related to Fair Housing University, an educational initiative of GNOFHAC that provides comprehensive education about fair housing to hundreds of individuals in a variety of stakeholder groups—including landlords, real estate agents, management staff, mental health service providers, tenants, neighborhood associations, and others—in order to conduct the education and outreach efforts regarding insurance discrimination against HCV participants identified in paragraph 48(a) above. GNOFHAC did not meet its revenue goal for Fair Housing University trainings due, in part, to this diversion of staff time.
- b. GNOFHAC’s management staff was forced to delay the finalization of job descriptions and beginning the hiring process for new staff, resulting in critical positions at the organization remaining unfilled for longer than necessary and hindering GNOFHAC’s ability to undertake planned activities and fulfill its mission of advancing fair housing in New Orleans. GNOFHAC’s hiring of an Education Coordinator was delayed for two

months, causing a significant delay in its 2018 annual Fit for a King Fair Housing Summit, its annual fair housing conference for fair housing advocates, housing professionals, government officials, community leaders, students, and the general public. In addition, GNOFHAC has not yet hired a Development Director due to these hiring delays, resulting in lost funding opportunities.

- c. GNOFHAC staff were delayed in their planned efforts to solicit sponsors for the 2018 Fit for a King Fair Housing Summit. As a result of these delays, GNOFHAC has not yet secured enough sponsors to cover the estimated costs of the summit. Since many potential sponsors make sponsorship decisions well in advance of planned events, it may now be impossible to secure sufficient sponsorship to cover summit costs, and GNOFHAC will be forced to draw funds from other planned activities.
- d. Two of GNOFHAC's education and outreach interns were diverted from assignments in their internship work plans to the outreach efforts regarding insurance discrimination against HCV program participants. One intern was diverted from assisting with developing an implementation plan and outreach materials for the New Orleans Assessment of Fair Housing, a joint initiative by GNOFHAC and HANO to support New Orleans' obligations to affirmatively further fair housing under the Fair Housing Act. Instead, this intern spent significant time researching insurance discrimination, drafting and preparing the mailing to housing providers discussed in paragraph 48(e) above, and drafting other outreach

materials and the July 6, 2017 blog post referenced in paragraph 48(g) above.

- e. A second intern, whose work plan contemplated that she would distribute materials for an outreach campaign on fair housing issues for LGBT individuals that GNOFHAC conducted in partnership with the Louisiana Public Health Institute, instead spent significant time allocated for that project on researching outreach opportunities and conducting telephonic outreach to housing providers on the insurance discrimination issue.

50. GNOFHAC's efforts to respond to and counteract Defendants' discriminatory underwriting practices required significant expenditures of staff time and financial resources, including time incurred by GNOFHAC's executive director, education and outreach director, education and outreach staff, and interns to conduct and supervise the activities outlined in paragraphs 48 to 49 above.

51. In addition, GNOFHAC incurred costs in printing and mailing the letters to housing providers referenced in paragraph 48(e) above, and paying the "boosting" fee to Facebook to promote the Facebook post referenced in paragraph 48(h) above. These expenditures were not included in GNOFHAC's budget. GNOFHAC incurred these unplanned expenditures to address and counteract Defendants' discriminatory policies, and would have spent its funds on other critical activities if it had not learned of Defendants' practices from Dr. Baugh.

52. Despite the impact on GNOFHAC's ability to devote planned staff time and budgeted resources to other programs and services central to its mission of promoting fair housing, GNOFHAC nevertheless diverted resources to these counteractive measures out of

concern that if left unaddressed, Defendants' discriminatory policies would have a harmful effect on both landlords and tenants, reduce the availability of housing for those relying on HCV vouchers, and exacerbate the effects of racial segregation in New Orleans by denying insurance to housing providers in areas with high concentrations of HCV participants, which are disproportionately African-American neighborhoods.

INJURY TO PLAINTIFFS

Injury to Plaintiff Baugh

53. As a direct and proximate result of Defendant Covington's cancellation of Dr. Baugh's insurance policy, through its representative and agent in Louisiana, Defendant Hull, Dr. Baugh:

- a. suffered inconvenience and was forced to seek an alternative insurance policy for his five rental properties;
- b. was forced to pay a higher annual premium for another insurance policy with less desirable terms, including a per-incident deductible not required by his original Covington policy;
- c. has suffered ongoing economic injury resulting from being forced to pay higher premiums and deductibles than he would have if Covington had not cancelled his policy; and
- d. has been placed at a competitive disadvantage relative to other landlords and housing providers in the New Orleans rental market who choose not to rent to HCV participants, by requiring him to seek more expensive insurance coverage to rent to HCV-participating tenants in furtherance of

his business interests and his desire to provide affordable, high-quality housing options to his neighbors in need of such housing.

54. As a direct result of Defendant Mesa's discriminatory underwriting criteria, which result in a significantly higher annual premium for commercial general liability insurance with Mesa because he rents to HCV-participating tenants than if he did not, Dr. Baugh:

- a. has suffered, and continues to suffer, economic injury by being forced to pay a higher annual premium for insurance than similarly situated landlords and housing providers who do not rent to HCV participants;
- b. has been, and continues to be, placed at a competitive disadvantage relative to other landlords and housing providers in the New Orleans rental market who choose not to rent to HCV participants, by requiring him to seek more expensive insurance coverage to rent to HCV-participating tenants in furtherance of his business interests and his desire to provide affordable, high-quality housing options to his neighbors in need of such housing.

55. Because Defendant Hull acts as the authorized representative and agent of both Covington and Mesa, in which capacity it (a) issued the Covington insurance policy referenced in this complaint to Dr. Baugh and the subsequent notice of cancellation of that policy to Dr. Baugh, and (b) issued the Mesa insurance policy referenced in this complaint to Dr. Baugh, Defendant Hull's actions have contributed to the injuries to Dr. Baugh stated in paragraphs 53 to 54 above.

Injury to Plaintiff GNOFHAC

56. Defendants' discriminatory and unlawful practices have frustrated and continued to frustrate GNOFHAC's mission of ensuring that all people have equal access to housing opportunities in Louisiana regardless of their race, sex, familial status, or membership in any other protected class.

57. Since receiving the complaint from Dr. Baugh in October 2015, and prior to the filing of this complaint, GNOFHAC has diverted its scarce resources and staff from other planned work central to GNOFHAC's mission of promoting fair housing and combating housing discrimination to investigating and counteracting Defendants' unlawful underwriting criteria, as outlined in paragraphs 48 to 49 above. GNOFHAC was compelled to divert its limited resources, with the attendant harm on its other initiatives, because, *inter alia*, Defendants' refusal to insure properties based on those criteria has a disparate impact on African Americans, women, and families with children, as well as on the neighborhoods in which these groups are disproportionately likely to live in New Orleans, and thus constitutes unlawful discrimination on the basis of race, sex, and familial status.

58. Because GNOFHAC's core mission is to combat housing discrimination in Louisiana, that mission is frustrated when an insurance company imposes discriminatory impediments that make it more difficult and more expensive for landlords to rent to HCV program participants or to insure the rental units in which those tenants reside. Specifically, GNOFHAC's mission is frustrated by Defendants' use of the discriminatory underwriting criteria alleged in this complaint to deny insurance to landlords renting to HCV program participants, as this policy and practice violates the federal Fair Housing Act, undermines rather than advances equal housing opportunities, imposes disproportionate injuries on African-

American households, female-headed households, and families with children in New Orleans, and perpetuates the harms of residential segregation in New Orleans. Defendants' refusal to underwrite and issue habitational insurance for landlords with tenants participating in the HCV program is the equivalent of, and has the same insidious effect as, a refusal to underwrite and issue habitational insurance to landlords because they rent to a higher proportion of African-American households, female-headed households, and families with children.

59. GNOFHAC's mission is further frustrated when insurers make stereotypical assumptions about HCV program participants and the neighborhoods in which they live—including pernicious, race-based stereotypes about criminal activity in low-income, predominantly minority neighborhoods—and therefore deny or restrict insurance coverage based on those stereotypes.

60. Defendant Covington's underwriting criteria, which refuse to provide commercial liability insurance to housing providers with tenants participating in the HCV program, have the actual and predictable result of compelling or incentivizing landlords to evict or refuse to accept HCV participants as tenants; restricting landlords' ability to rent to such tenants, since increased expenses associated with higher insurance premiums from other carries, or from having no liability insurance at all, may compel landlords to charge higher rents that are out of reach to HCV participants; resulting in lower-quality or more poorly maintained rental housing in areas with high concentrations of HCV-participating households, which in New Orleans are predominantly African-American neighborhoods; exposing HCV-participating households and their guests to higher risk than other households because their rental units have either inferior liability insurance or no insurance at all; and, as a result of all of the foregoing, compounding the effects of residential segregation on African Americans and families with children, most of

which are headed by single women. For all of these reasons, Covington's practices frustrate GNOFHAC's overall mission of combating housing discrimination in Louisiana and its specific work in addressing and combating widespread discrimination against HCV voucher holders in New Orleans and Louisiana.

61. Defendant Mesa's underwriting criteria, which charge higher premiums for commercial liability insurance to housing providers with tenants participating in the HCV program than to those who do not rent to HCV participants, have the actual and predictable result of compelling or incentivizing landlords to evict or refuse to accept HCV participants as tenants; restricting landlords' ability to rent to such tenants, since increased expenses associated with higher insurance premiums from other carries, or from having no liability insurance at all, may compel landlords to charge higher rents that are out of reach to HCV participants; resulting in lower-quality or more poorly maintained rental housing in areas with high concentrations of HCV-participating households, which in New Orleans are predominantly African-American neighborhoods; exposing HCV-participating households and their guests to higher risk than other households because their rental units have either inferior liability insurance or no insurance at all; and, as a result of all of the foregoing, compounding the effects of residential segregation on African Americans and families with children, most of which are headed by single women. For all of these reasons, Mesa's practices frustrate GNOFHAC's overall mission of combating housing discrimination in Louisiana and its specific work in addressing and combating widespread discrimination against HCV voucher holders in New Orleans and Louisiana.

62. Because Defendant Hull acts as the authorized representative and agent of both Covington and Mesa in Louisiana, in which capacity it produces, issues, and administers insurance policies underwritten by those companies, Hull's actions have contributed to the

injuries suffered by GNOFHAC set forth in paragraphs 57 to 61 above by effectuating and enforcing the discriminatory policies by Covington and Mesa.

CAUSE OF ACTION

Discrimination Based on Race, Sex, and Familial Status in Violation of the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*

63. Plaintiffs reallege and incorporate by reference paragraphs 1 to 62 of this Complaint.

64. The Fair Housing Act makes it unlawful, *inter alia*, “[t]o discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, sex, familial status, or national origin,” 42 U.S.C. § 3604(b), including by employing any policy or practice that has a disparate impact on one or more of these protected groups. In addition, the Act makes it “unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.” 42 U.S.C. § 3605(a).

65. As set forth above, Defendants’ policies and practices of using discriminatory underwriting and eligibility criteria for commercial liability insurance deny insurance coverage to housing providers who rent housing to individuals or households participating in the HCV program, forcing those housing providers to obtain more expensive insurance or to forego habitational insurance altogether on properties in which HCV program recipients reside.

66. As a result, Defendants’ policies and practices of using these discriminatory underwriting and eligibility criteria for commercial liability insurance actually and predictably results in a significantly disproportionate impact on the basis of (a) race, as individuals and

households participating in the HCV program in New Orleans are disproportionately African-American; (b) sex, as households participating in the HCV program in New Orleans are disproportionately female-headed households; and (c) familial status, as households participating in the HCV program in New Orleans are disproportionately families with children.

67. Because Defendants' policies and practices of using these discriminatory underwriting and eligibility criteria for commercial liability insurance are based, at least in part, on pernicious stereotypes about HCV program participants, the protected groups that disproportionately make up the population of HCV participants, and the neighborhoods in which HCV participants are disproportionately likely to live, Defendants' policies and practices are intended to and have the effect of denying, increasing the cost of, or otherwise making unavailable liability insurance covering properties in which HCV-participating households reside.

68. Defendants' policies and practices of using these discriminatory underwriting and eligibility criteria for commercial liability insurance, even if facially neutral, have had and continue to have a discriminatory effect on African-American individuals and households, female-headed households, and families with children in New Orleans, because the underwriting and eligibility criteria make rental housing unaffordable, unavailable, or uninsured and/or less insured than comparable rental housing where no HCV program participants reside, as these protected groups (African Americans, women, and households with children) are disproportionately more likely to participate in the HCV program as compared to the relevant non-protected groups.

69. Defendants' policies and practices of using these discriminatory underwriting and eligibility criteria for commercial liability insurance also predictably and disproportionately harm

neighborhoods in New Orleans where African-American households are statistically more likely to live.

70. Defendants' policies and practices of using these discriminatory underwriting criteria for commercial liability insurance do not have a substantial, legitimate, nondiscriminatory objective. Even if Defendants utilize these underwriting and eligibility criteria for some business purpose, other, less discriminatory alternatives are and have been available to Defendants to achieve any such objective.

71. Dr. Baugh and GNOFHAC have been injured by Defendants' discriminatory conduct and have suffered damages as a result.

72. Defendants' conduct was intentional, willful, and made in reckless disregard of the known rights of others.

REQUEST FOR RELIEF

WHEREFORE, Plaintiffs Andre Baugh and Greater New Orleans Fair Housing Action Center respectfully request that judgment be entered against Defendants Covington Specialty Insurance Company, Mesa Underwriters Specialty Insurance Company, and Hull & Company, Inc., as follows:

(a) Entering a declaratory judgment that Defendants' policies or practices complained of herein violate the Fair Housing Act, 42 U.S.C. § 3601, *et seq.*;

(b) Permanently enjoining Defendants and their agents, subsidiaries, affiliates, employees, successors, and all other persons in active concert or participation with them, from refusing to insure, canceling the insurance of, or charging higher insurance premiums to Dr. Baugh and other landlords and housing providers because they rent to tenants who participate in the Housing Choice Voucher program;

(c) Requiring Defendants and their agents, subsidiaries, affiliates, employees, and all other persons in active concert or participation with them, to develop and implement policies, practices, and procedures that do not discriminate against persons protected by the Fair Housing Act;

(d) Awarding all available damages to Plaintiffs, including, but not limited to, compensatory damages, as well as punitive damages in an amount that would punish Defendants for the willful, wanton, and reckless conduct alleged herein, and that would effectively deter similar conduct in the future;

(e) Awarding reasonable attorneys' fees and costs under 42 U.S.C. § 3613(c); and

(f) Awarding such other and further relief as this Court may deem just and proper.

Dated: September 15, 2017

Respectfully submitted,

/s/ Elizabeth Owen

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* Application for *pro hac vice* admission forthcoming