

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION



IN THE MATTER OF:

TODD WATHEN)
Complainant)
v.)
TIMBERCREEK)
BED & BREAKFAST)
Respondent.)

Charge No. 2011-SP-2489

Dept. of Human Rights
SWITCHBOARD

NOV 01 2011

By: *[Signature]* 3:15

COMPLAINT OF CIVIL RIGHTS VIOLATION

Pursuant to the Illinois Human Rights Act ("Act"), 775 ILCS 5/1-10 to 5/10-104, the Complainant, Todd Wathen, by his attorneys, Tsamis Law Firm, P.C. and John Knight of the Roger Baldwin Foundation of ACLU, Inc., complains of a civil rights violation against Respondent, TimberCreek Bed & Breakfast, as follows:

JURISDICTION

1. Complainant Todd Wathen ("Todd") is a gay man who filed charge number 2011-SP-2489 with the Department against Respondent on March 1, 2011.
2. On August 4, 2011, the Director issued a Notice of Substantial Evidence to the Complainant regarding the above-referenced charge.
3. This Complaint has been filed within ninety (90) days after receipt of the Notice of Substantial Evidence.

THE PARTIES

4. Complainant resides in Mattoon, Illinois with his civil union partner, Mark Wathen.

5. Respondent is a bed and breakfast located at 1559 East State Route 9, Paxton, Illinois 60957.

6. Respondent is business co-owned solely by Jim Walder and Beth Walder.

7. Respondent is a “place of public accommodation,” since it is “an inn, hotel, motel, or other place of lodging” and is not “an establishment located within a building that contains not more than 5 units for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor”, since it is a “place of public gathering”, and since it is an “establishment serving food or drink.” 775 ILCS 5/5-101(A)(1), (2) & (4).

FACTS

8. Todd and Mark Wathen (“the Wathens”) have been a loving, committed couple for almost ten years, since January 2003.

9. The Wathens had been hoping for several years to be able to enter into a legally recognized union to both celebrate and protect their relationship with one another. As a result, they were excited to learn about the possibility that a civil union bill might become law in Illinois.

10. On January 31, 2011, Governor Pat Quinn signed legislation to make Illinois the sixth state to allow same-sex couples to enter into civil unions. The law had an effective date of June 1, 2011.

11. Following passage of the new law, the Wathens began looking for a location that would be convenient for their family members from Kentucky and Missouri to travel to, that had facilities for their civil union ceremony, and that had rooms where their family members could spend the night while in Illinois.

12. Todd performed a Google search for possible locations for their civil union ceremony in Central or Southern Illinois and identified Respondent as a business offering wedding services and rooms where the Wathens' family members could stay.

13. The Wathens agreed that Todd would contact Respondent to check on availability and, if possible, make reservations for rooms and arrangements for holding their ceremony at Respondent's facility.

Todd Wathen's E-Mail Exchange with Mr. Walder

14. On February 15, 2011 at 8:38 a.m., Todd sent an e-mail to Respondent requesting service. Specifically, he wrote:

“Do you plan on doing same sex civil unions starting on June 1st????”

A true and accurate copy of Todd's e-mail exchange with Mr. Walder is attached hereto as **Exhibit A**.

15. Mr. Walder responded to Todd on February 15, 2011 at 9:05 a.m., via e-mail:

“No. We only do Weddings.”

Exhibit A.

16. Todd responded to Mr. Walder on February 15, 2011 at 9:15 a.m., via e-mail:

“starting june 1st, a civil union is a wedding, you have to get a licenses [sic] at the county clerks [sic] office, it is just not a marriage ...but a legal wedding....so aren't you discriminating against me and my partner, because of our sexual orientation?????”

Exhibit A.

17. On February 15, 2011 at 9:27 a.m., Mr. Walder replied to Todd via e-mail:

“Civil unions and legal marriage are not the same thing, nor do they have the same legal status. We will never host same-sex civil unions. We will never host same-sex weddings even if they become legal in Illinois. We believe homosexuality is wrong and unnatural based on what the Bible says about it. If that is discrimination, I guess we unfortunately discriminate.”

Exhibit A.

18. Todd responded to Mr. Walder on February 15, 2011 at 9:44 a.m., via e-mail.:

“On June 1st... There will be people getting Married that is having a wedding, and people having Civil Unions that will be having a Wedding... You still have to get a licenses [sic] for both, and you advertise for weddings, not marriage.... Well maybe I need to contact the IL Attorney General Dept. of civil rights and the State of IL Department of Human Rights, because you are a business and IL passed a law back in Jan. of 2006 for any business or employer, ect. [sic] not to discriminate against someone over there [sic] sexual orientation... and I do believe you are a business...and when you run a business...a person needs to keep their opinions to there [sic] self...”

Exhibit A.

19. Responding to Todd’s e-mail at 10:26 a.m. on February 15, 2011, Mr. Walder e-mailed:

“The Bible does *not* state opinions, but facts. It contains the highest laws pertinent to man. It trumps Illinois law, United States law, and Global law should there ever be any. Please read John 3:16.”

Exhibit A.

20. Between February 15, 2011 at 10:26 a.m. and February 18, 2011 at 9:14 a.m., the Wathens had no contact with Mr. Walder.

21. On February 18, 2011 at 9:14 a.m., Walder e-mailed Todd the following:

“I know you may not want to hear this, but I thought I would send along a couple of verses in Romans 1 detailing how the Creator of the Universe looks at the gay lifestyle. It’s not to [sic] late to change your behavior. He is loving and kind and is ready to forgive all men their trespasses, including me.

For this cause God gave them up unto vile affectations: for even their women did change the natural use into that which is against nature:

And likewise also the men, leaving the natural use of the women, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompence [sic] of their error which was meet.”

Exhibit A.

22. After receiving this e-mail from Mr. Walder, the Wathens had no further communication

with Mr. Walder.

Respondent's Website

23. Respondent maintains a public website – www.timbercreekbb.com – for the purpose of soliciting business.

24. Upon information and belief, Respondent's website has been maintained at the same domain during all relevant dates herein.

25. When Todd Wathen reviewed Respondent's website and prior to his email exchange with Walder,, Respondent's website represented that Respondent specialized "in creating wonderful outdoor country weddings, memorable for you and your guests." A true and accurate copy of Respondent's website on February 20, 2011 is attached hereto as **Exhibit B**.

26. On or about February 23, 2011, a condition followed this representation: "We do not host civil unions." A true and accurate copy of Respondent's website on February 23, 2011 is attached hereto as **Exhibit C**.

27. When Todd Wathen reviewed Respondent's website and prior to his email exchange with Walder Respondent's website represented that Respondent offered a "Civil Ceremony by Honorable Circuit Court Judge Steve Pacey on-site at TimberCreek: Free." A true and accurate copy of Respondent's website on February 20, 2011 is attached hereto as **Exhibit D**.

28. At a later time, a condition followed this offer: "Civil Unions: not available at TimberCreek." A true and accurate copy of Respondent's website on February 23, 2011 is attached hereto as **Exhibit E**.

29. When Todd Wathen reviewed Respondent's website and prior to his email exchange with

Walder, Respondent's website represented Respondent as an "upscale, sophisticated country Bed & Breakfast." A true and accurate copy of Respondent's website on February 20, 2011 is attached hereto as **Exhibit F**.

30. At a later date, this representation changed to represent Respondent as an "upscale Christian country Bed & Breakfast." A true and accurate copy of Respondent's website on April 27, 2011 is attached hereto as **Exhibit G**.

CIVIL RIGHTS VIOLATION OF THE ILLINOIS HUMAN RIGHTS ACT

31. Complainant hereby incorporates by reference and re-alleges the above, paragraphs 1 through 30, as though fully set forth herein this claim.

32. The Illinois Human Rights Act ("Act") is intended to prevent and eliminate discriminatory practices in places of public accommodation because of an individual's sexual orientation. 775 ILCS 5/1-102(A).

33. Under the Act, a "place of public accommodation" is "an inn, hotel, motel, or other place of lodging, except for an establishment located within a building that contains not more than 5 units for rent or hire and that is actually occupied by the proprietor of such establishment as the residence of such proprietor." 775 ILCS 5/5-101(A)(1).

34. It is a civil rights violation under the Act "for any person on the basis of unlawful discrimination to . . . [d]eny or refuse to another the full and equal enjoyment of the facilities, goods, and services of any public place of accommodation." 775 ILCS 5/5-102(A).

35. On February 15, 2011, Respondent refused, withheld from, and denied Complainant the full and equal enjoyment of its facilities and services based on Complainant's sexual orientation. Respondent's denial to the Wathens of its facilities to hold their civil union ceremony and host


their guests and of its services was discriminatory based on their sexual orientation and had a disparate impact on them because of their sexual orientation.

36. As a result of Respondent's violation of the Act, Complainant has suffered substantial mental and emotional distress as well as the stigmatizing injury and deprivation of personal dignity that accompanies denials of equal access to places of public accommodation.

WHEREFORE Complainant respectfully requests the following relief:

- A. An order directing Respondent to cease and desist from any violation of the Act.
- B. Actual damages for the injury and loss suffered by Complainant;
- C. Interest on the Complainant's actual damages;
- D. An order mandating that Defendant pay Complainant's reasonable attorneys fees and costs pursuant to 775 ILCS 5/8A-104(G); and
- E. Any additional relief that the Commission deems just and appropriate.

Respectfully submitted by



One of Complainant's attorneys

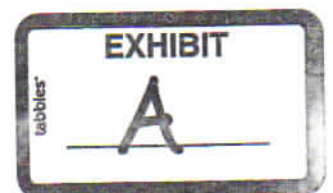
ATTORNEYS FOR COMPLAINANT

Betty Tsamis
Tsamis Law Firm, P.C.
1509 W. Berwyn, Suite 201E
Chicago, IL 60640
(866) 703-5509, Office
ARDC No.: 6288664

John Knight
ARDC No.: 6201433
Harvey Grossman
ARDC No.: 1071629
Roger Baldwin Foundation
of ACLU, Inc.
180 North Michigan Avenue
Suite 2300
Chicago, Illinois 60601
(312) 201-9740

Subject: Question

Do you plan on doing same sex civil unions starting on June 1st???? Thanks, Todd



of Human Rights, because you are a business and IL passed a law back in Jan. of 2006 for any business or employer, ect. not to discriminate against someone over there sexual orientation...and I do believe you are a business....and when you run a business...a person needs to keep their opinions to there self...

From: jbwalder@illicom.net
To: wathenspoms@hotmail.com
Subject: Re: Questio
Date Tue, 15 Feb 2011 09:27:54 -0600

Todd,

Civil unions and legal marriage are not the same thing, nor do they have the same legal status. We will never host same-sex civil unions. We will never host same-sex weddings even if they become legal in Illinois. We believe homosexuality is wrong and unnatural based on what the Bible says about it. If that is discrimination, I guess we unfortunately discriminate.

Jim A. Walder
TimberCreek Developers
TimberCreek Bed & Breakfast

217.637.1396 (cell)
217.379.2589 (office)
217.379.3991 (fax)

www.timbercreekbb.com

----- Original Message -----

From: Wathens.poms
To: jbwalder@illicom.net
Sent: Tuesday, February 15, 2011 9:15 AM
Subject: RE: Question

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From: jbwalder@illicom.net
To: wathenspoms@hotmail.com
Subject: Re: Question
Date: Tue, 15 Feb 2011 09:05:40 -0600

No. We only do Weddings.

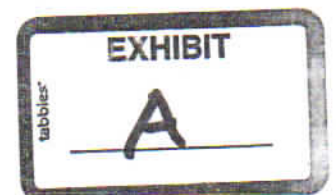
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217.379.2589 (office)
217.379.3991 (fax)

www.timbercreekbb.com

----- Original Message -----

From: The.Wathens
To: info@timbercreekbb.com
Sent: Tuesday, February 15, 2011 8:38 AM



TimberCreek

Betty Tsamis

Subject: FW: Discrimination

[Redacted]

[Redacted]

From: jbwalder@illicom.net
To: wathenspoms@hotmail.com
Subject: Fw: Question
Date: Tue, 15 Feb 2011 10:26:52 -0600

Correction

Todd,

The Bible does *not* state opinions, but facts. It contains the highest laws pertinent to man. It trumps Illinois law, United States law, and Global law should there ever be any. Please read John 3:16.

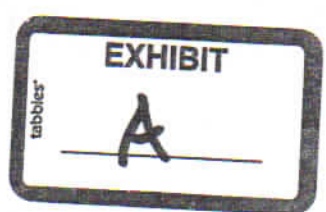
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TimberCreek

Betty Tsamis

From: Wathens poms <wathenspoms@hotmail.com>
Sent: Friday, February 18, 2011 9:40 AM
To: btsamis@tsamislaw.com
Subject: FW:

Betty, I just got this email, from Timber Creek, so what do i do about this???? I don't know if some media has contacted him or what?? Thanks, Todd

From: jbwalder@illicom.net
To: wathenspoms@hotmail.com
Subject:
Date: Fri, 18 Feb 2011 09:14:18 -0600

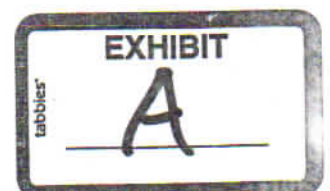
Hi Todd,
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And likewise also the men, leaving the natural use of the woman, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompence of their error which was meet.

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BEFORE



TimberCreek is serious about hosting your wedding and reception! We specialize in creating wonderful outdoor country weddings, memorable for you and your guests. TimberCreek is private and very secluded. We have beautiful landscaping ideal for photography and romance. We have a number of settings for ceremonies and receptions. We offer complete autonomy in selecting vendors such as caterers, florists, and officiates. We extend a wide range of flexibility to our clients. Electricity, waste removal, and free parking are always included.

Eight wedding packages are listed below. Each package may be adjusted to fit your needs and budget.



Small Economy Package **\$295.00**

"For those starting out on a Small Budget"

- Ceremony for 2 outside at beautiful TimberCreek B & B**
- One Night Stay in our Honeymoon Rose Garden Suite
 - Bountiful Breakfast in the Morning
 - Delectable Dessert in the Evening
 - Up to 20 Guests are welcome to view the Ceremony

Reception not included

Additional suites available for guests



Indoor Fireplace Package **\$495.00**

"Perfect for Romantic Winter Weddings"

- Ceremony for 2 inside at beautiful TimberCreek B & B**
- Two Night Stay in our Honeymoon Rose Garden Suite
 - 1000 Rose Petals sprinkled throughout the Suite
 - Bountiful Breakfast in the Morning
 - Delectable Dessert in the Evening
 - Up to 10 Guests are welcome to view the Ceremony

Reception not included

Additional suites available for guests



AFTER



TimberCreek is serious about hosting your wedding and reception! We specialize in creating wonderful outdoor country weddings, memorable for you and your guests. (We do not host civil unions) TimberCreek is private and very secluded. We have beautiful landscaping ideal for photography and romance. We have a number of settings for ceremonies and receptions. We offer complete autonomy in selecting vendors such as caterers, florists, and officiates. We extend a wide range of flexibility to our clients. Electricity, waste removal, and free parking are always included.

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 - Up to 10 Guests are welcome to view the Ceremony

Reception not included



BEFORE



* Civil Weddings



Christian Weddings



Ethnic Weddings

Package Options

- Additional Chair: \$1
- Additional Table w/Linen: \$12
- Additional Table w/Linen and Skirting: \$18
- 16x16 Dance Floor: \$250
- 40x80 Ceiling Liner: \$960
- Two Bartenders/Wooden Bar: \$500
- Stage for Head Tables: \$250
- Model A Ride: \$125
- Horse-drawn Carriage Ride: \$395
- Queen Anne Archway: \$175
- Cathedral Window Sides: \$.60/foot
- 1st Anniversary Remembrance Package: \$295
 - Rose petals
 - Romantic Gift Basket w/Sparkling Grape Juice
 - 2 Lavish Thirty Minute Massages
 - Bubble Bath
- Rehearsal Dinner: \$55 (catering not included)
- Additional Night for 6 Suites: \$1011
- Parking: FREE



Tent/Outdoor Reception for up to 300

Additional Information

Paxton is the Ford County Seat where marriage licenses are issued.

- Ford County Marriage License: \$30
- Ford County Marriage Fund: \$10
- Civil Ceremony by Honorable Circuit Court Judge Steve Pacey on-site at TimberCreek: FREE

We offer complete autonomy in selecting advisors: florists, wedding cakes, officiators, planners, photographers, and DJs.

Recommended Caterer
www.countrythymetearoom.com Paxton, IL

Recommended One Day Event Insurance



AFTER



Ethnic Weddings

- Cathedral Window Sides: \$60/foot
- 1st Anniversary Remembrance Package: \$295
 - Rose petals
 - Romantic Gift Basket w/Sparkling Grape Juice
 - 2 Lavish Thirty Minute Massages
 - Bubble Bath
- Rehearsal Dinner: \$55 (catering not included)
- Additional Night for 6 Suites: \$1011
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Civil Ceremony by Honorable Circuit Court Judge Steve Pacey on-site at TimberCreek: FREE

Civil Unions: not available at TimberCreek *

We offer complete autonomy in selecting caterers, florists, wedding cakes, officiates, planners, photographers, and DJs.

Recommended Caterer

www.countrythymetearoom.com Paxton, IL

Recommended One Day Event Insurance
www.ftcanil.com/weddingenrollment

[CLICK HERE](#)
to make a reservation

Gift Certificates available in any \$ Amount.

[Rooms and Rates](#) || [Attractions](#) || [Specials](#) || [Meetings](#) || [Guest Comments](#)
[Golf](#) || [Map and Directions](#) || [Weddings](#) || [Contact Us](#) || [Home](#) || \$\$\$\$\$

Timber Creek Bed & Breakfast

Jim and Beth Walder, Innkeepers

1559 E. State Route 9

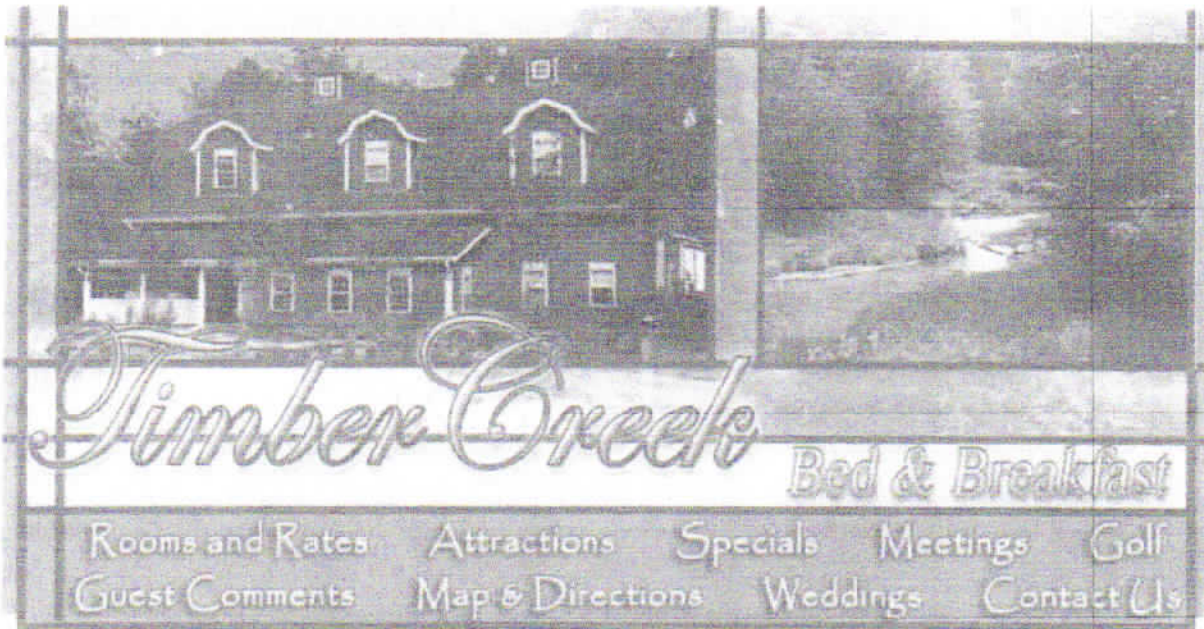
Paxton, IL 60957

<http://www.timbercreekbb.com>

Email: info@timbercreekbb.com

Phone: (217) 379-2589





[CLICK HERE](#)
to make a reservation

BEFORE



TimberCreek Bed and Breakfast
"Sophisticated Country
Accommodations"
Paxton, Illinois (IL)

[Click here for our Exclusive "Stay and Play" Specials](#)

TimberCreek Bed and Breakfast is an upscale, sophisticated country Bed & Breakfast. Instead of an old Victorian home on a city lot, TimberCreek was purposefully built in 2003 to look like a barn on a 25 acre gated property just outside Paxton, IL. The Inn is situated at the end of a long winding lane in a secluded meadow surrounded by trees and a stream. It is the ideal setting to escape fast-paced everyday living to relax, recharge, and reconnect with each other.

The interior of the Inn is decorated in an English Cottage décor. Upon arrival, guests will find hardwood, brick, and tile floors, knotty alder wood beams and cabinetry, white pickled wood ceilings, skylights, fireplaces, private sitting areas, upscale furnishings, artwork, over-sized beds, a Jacuzzi, and much more.

All accommodations have private bathrooms and one suite on the first floor is handicapped accessible. Laundry facilities, irons, and hair dryers are available upon request. The Kitchen is stocked with coffee and tea. The Gathering Room has a large stone fireplace, leather recliners, floral couches, board games, and many magazines to choose from. A bountiful breakfast is served each morning in the Breakfast Room. There is a small business center on the second floor and WiFi is coming soon.

The Breakfast and Gathering Rooms can be reserved daily for business meetings, church retreats, bridal showers, focus groups. TimberCreek is often bustling with weddings and receptions during the Spring, Summer, and Fall months. Guests can create a fantastic time for family and friends by





CLICK HERE
to make a reservation

AFTER



TimberCreek Bed and Breakfast
"Sophisticated Country
Accommodations"
Paxton, Illinois (IL)

*Special Rate: Monday - Thursday in April for only \$89.
 Online Bookings Only!*

TimberCreek Bed and Breakfast is an upscale Christian country Bed & Breakfast. Instead of an old Victorian home on a city lot, TimberCreek was purposely built in 2003 to look like a barn on a 25 acre gated property just outside Paxton, IL. The Inn is situated at the end of a long winding lane in a secluded meadow surrounded by trees and a stream. It is the ideal setting to escape fast-paced everyday living to relax, recharge, and reconnect with each other.

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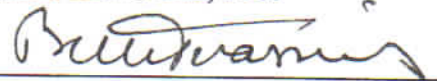


STATE OF ILLINOIS)
)
COUNTY OF COOK)

CHARGE NO. 2011-SP-2489

Betty Tsamis, being duly sworn on oath, herein states that she is an attorney for Tsamis Law Firm, P.C.; that she is one of Complainant's attorneys; that she is familiar with the facts relating to the above-referenced charge; that she has read the foregoing Complaint; and that on information and belief, she believes the facts alleged therein are true and correct.

BY: **Tsamis Law Firm, P.C.**



Betty Tsamis
One of Complainant's Attorneys

SUBSCRIBED and SWORN to before me

THIS 01 DAY of November 2011.



NOTARY PUBLIC

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

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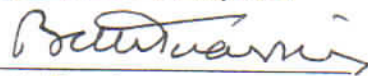
Charge No. 2011-SP-2489

APPEARANCE

Tsamis Law Firm, P.C. enters its appearance on behalf of the Complainant, TODD WATHEN.

Dated: 11/1/2011

Respectfully submitted,
Tsamis Law Firm, P.C.


Betty Tsamis
ATTORNEYS FOR COMPLAINANT

Betty Tsamis
Tsamis Law Firm, P.C.
1509 W. Berwyn, Suite 201E
Chicago, IL 60640
(866) 703-5509, Office
ARDC No.: 6288664

STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION

RECEIVED
NOV 01 2011
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HDUSPS FX MM ID

IN THE MATTER OF:

TODD WATHEN)	
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)	
v.)	
)	
TIMBERCREEK)	
BED & BREAKFAST)	
)	
Respondent.)	

SERVICE

I ask that Commission serve a copy of the Complaint in this case on the Respondent by sending it to:

Jim Walder
Co-Owner of TimberCreek Bed & Breakfast
1559 East State Route 9
Paxton, Illinois 60957

STATE OF ILLINOIS
ILLINOIS DEPARTMENT OF HUMAN RIGHTS

CHICAGO OFFICE
100 RANDOLPH STREET
SUITE 10-100 INTAKE UNIT
CHICAGO, ILLINOIS 60601
(312) 814-6200
(312) 814-1579 TDD

SPRINGFIELD OFFICE
DEPARTMENT OF HUMAN RIGHTS
222 SOUTH COLLEGE, ROOM 101
SPRINGFIELD, ILLINOIS 62704
(217) 785-5100
(217) 785-5125 TDD

CHARGE NO: 2011 SP 2489
Control number: 11M0222.14
CHARGE OF DISCRIMINATION

I, Todd Wathen, 1120 S. 14th St, Mattoon, IL 61938, 217-317-2106, believe I have been personally aggrieved by a civil rights violation committed on Feb 15, 2011, by:

RESPONDENT

Timber Creek Bed & Breakfast
1559 E. State Rt. #9
Paxton, IL 60957
217-379-2589

The particulars of the alleged civil rights violation are as follows:

- I. A. **ISSUE/BASIS**
 - 1. Denied equal enjoyment of facilities on Feb 15, 2011, because of sexual orientation, homosexual.
- B. **PRIMA FACIE ALLEGATIONS**
 - 1. I attempted to utilize the services offered at Respondent in Feb 2011.
 - 2. I was qualified to receive the benefits available at Respondent.
 - 3. My sexual orientation is homosexual.
 - 4. Respondent is a place of public accommodation.
 - 5. On Feb 15, 2011, I was denied the equal enjoyment of Respondents facility. An agent of Respondent stated that homosexuality is against the law of the Bible and my patronage was not wanted.
 - 6. Respondent has not prevented heterosexuals from the enjoyment of its facilities.

RECEIVED

MAR 01 2011

Dept. of Human Rights

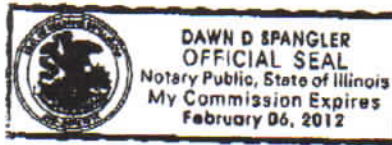
Complainant: Todd Wathen
Control No.: 11M0222.14
Page 2

I, Todd Wathen, on oath or affirmation state that I am the Complainant herein, that I have read the foregoing charge and know the contents thereof, and that the same is true and correct to the best of my knowledge.

Todd Wathen 2/28/11
Complainant's Signature/Date

Subscribed and sworn to
before me this 28th day
of February, 2011.

Dawn D Spangler
NOTARY PUBLIC SIGNATURE
IDHR #6 FORM



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