

CHICAGO



# Homeowners sue @properties, top broker Leigh Marcus over alleged squatter

North Center owners claim they weren't aware of dual representation between broker and dud tenant of \$2.2M North Center home





*@properties' Leigh Marcus and Rick Sobin with 1922 West Grace Street (YouTube/Leigh Marcus, Facebook, Google Maps)*

**By Kelli Duncan**

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Not only did Bijal Shah and Uma Bansal not find a deal after briefly declining to offer a buyer's agent commission for their \$2.2 million North Center listing. They say their real estate broker then brought an alleged serial squatter into the home and failed to tell the homeowners he also represented the renter, according to a lawsuit filed last week.

Shah and Bansal's home wasn't selling, so they decided in May to list it for rent with the help of their broker, @properties' Leigh Marcus and his team, which ranked as Cook County's third-largest broker by sales volume last year.

They found a tenant soon after and, once the Leigh Marcus Team worked out the details with the renter's real estate agent, the parties signed a leasing agreement, according to Shah and Bansal's suit filed in Cook County court.

But it wasn't until after signing that the homeowners found out the renter did not have his own real estate agent, the complaint alleges. The renter, Morrell Neely, was also being represented by Marcus and his team in what is known as dual representation.

The homeowners also claim they weren't informed of Neely's checkered financial and criminal background, which included "at least five" bankruptcy filings, two eviction judgements, a pending federal criminal fraud case and a third eviction proceeding filed last November, the lawsuit said.

By the time they discovered the red flags, it was too late — the lease had already been signed. They have received "zero dollars" in rent from Neely, who has been renting the home for more than three months, the suit claims.

After paying a commission of one month's rent — \$11,500 — to the Leigh Marcus Team when he moved into the home in June, Neely stopped paying rent, according to a civil complaint the homeowners filed against Marcus, @properties and other personnel for the brokerage.

Also named in the lawsuit are @properties' Katie Gonzalez and Gabriel Rendon, as well as Rick Sobin, a managing broker and vice president of brokerage services with @properties.

The allegations include consumer fraud, deceptive business practices, a violation of the Real Estate Licensing Act, "intentional" and "negligent" misrepresentation and another count of fraud filed against Neely.

In the suit, Shah and Bansal claim Marcus and his team breached their fiduciary duty when they decided to represent Neely without informing them of this dual representation.

Marcus and his team "dropped the ball," Shah and Bansal's attorney, Blake Horwitz, said Friday. "They were not focusing on and truly appreciating their obligations as dual agents, and they hid the fact that they were representing the tenant from the sellers."

A spokesperson for @properties Christie's International Real Estate declined to comment, saying the company "does not comment on pending litigation." Marcus did not respond to requests for comment made by email and phone. Neely's attorney, representing him in another ongoing case, did not respond to a request for comment.

The owners of the home, at 1922 West Grace Street in Chicago's North Center neighborhood, turned heads earlier this year when they became among the rare sellers on the Chicago market to list their home with just a \$1 commission offered to the buyer's broker in May.

The decision to remove a commission offering on the home was notable as it came months before changes around commission sharing, ushered in by the landmark National Association of Realtors' settlement, took effect in August. The new rules are aimed at promoting transparency by helping buyers and sellers avoid misunderstanding the cost of brokerage services and the nature of their agent's representation.

"If you are going to participate in dual agency, you must use extreme care," Horwitz said. "I think it's literally just too complex. I just would not recommend it."

Shortly after removing the commission offering, Marcus said he spoke with the homeowners and they decided to reinstate the 2.5 percent commission offering traditionally extended to buyer's brokers.

It was only a few weeks later that the Grace Street home was moved from a for-sale listing to a rental, and ultimately was leased to Neely.

The lawsuit claims Neely moved in “with the purpose of not paying rent” and has done so before, staying in homes as “a hold-over tenant for a lengthy period of time, using traditional defenses” to fight off eviction or filing bankruptcy to delay eviction.

Neely has received an eviction judgment with an order to pay \$75,000 in back rent and had another eviction filed in November of last year, the lawsuit states, citing another Cook County suit.

Beyond Neely’s financial history, the lawsuit claims he had a federal criminal fraud action brought against him last year as well as a third eviction and judgment order for more than \$646,000.

Marcus and his team had a fiduciary duty to be aware of this as they were “actively engaged in procuring and analyzing the financial background” of Neely as a tenant, the lawsuit states.

The first court hearing has been set in the case for Jan. 8. The defendants have yet to file a response to the complaint.