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U.S. DISTRICT COURT
SAVANNAH DIV.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

SAVANNAH-CHATHAM COUNTY)
FAIR HOUSING COUNCIL, INC.;)
JERALD WILLIAMS; AMANDA)
WILLIAMS; and TERESA ODUMS,)

Case No. CV407-125

Plaintiffs,)

vs.)

DARWIN K. MORGAN, individually)
and dba MORGAN MOBILE PARK;)
and D.K. MORGAN)
CONSOLIDATED, LLC, individually)
and dba MORGAN MOBILE PARK,)

Defendants.)

**FIRST AMENDED COMPLAINT FOR MONETARY, DECLARATORY AND
INJUNCTIVE RELIEF; DEMAND FOR TRIAL BY JURY**

I. INTRODUCTION

1. In this action, plaintiffs allege that defendants, owners and operators of a local mobile home park, discriminate on the basis of race, color, and sex in violation of the federal Fair Housing Act. This first amended complaint adds a new plaintiff, Teresa Odums, and claims alleging discrimination on the basis of sex.

II. JURISDICTION AND VENUE

2. Jurisdiction is conferred on this Court by 42 U.S.C. § 3613 and by 28 U.S.C. § 1331 in that the claims alleged herein arise under the laws of the United States.

3. Venue is proper under 28 U.S.C. § 1391 in that the claims alleged herein include claims which arose within the County of Chatham, Georgia, and concern or otherwise relate to real properties located there.

III. PARTIES

4. Plaintiff Savannah-Chatham County Fair Housing Council, Inc., ("SCFHC") is a nonprofit Georgia corporation organized under the laws of Georgia with its principal place of business located in Savannah, Georgia. One of SCFHC's specific purposes and goals is the promotion of equal opportunity in the sale of housing and the elimination of all forms of illegal housing discrimination. To this end, the activities in which SCFHC engages include, but are not limited to: (1) investigating allegations of discrimination; (2) conducting investigations of housing facilities to determine whether equal opportunity in housing is provided; (3) taking such steps as it deems necessary to assure such equal opportunity and to counteract and eliminate discriminatory housing practices; (4) providing outreach and education to the community, including housing providers and consumers, regarding fair housing; and, (5) monitoring and training housing providers that have previously engaged in discriminatory practices.

5. Plaintiffs Jerald Williams and Amanda Williams, husband and wife, are United States citizens and residents of Georgia. Mr. Williams is black; Ms. Williams is white.

6. Plaintiff Teresa Odums is a United States citizen and resident of Georgia. She presently resides in space number 2 at the Morgan Mobile Park, located at 45 Morgan Road, in Bloomingdale, Georgia. Ms. Odums is white.

7. Defendant Darwin K. Morgan, is the operator of Morgan Mobile Park and

owner of the defendant D. K. Morgan Consolidated, LLC. The Morgan Mobile Park ("the Park") is a dwelling within the meaning of the Fair Housing Act.

8. On April 24, 2007, defendant Darwin K. Morgan quit-claimed his ownership interest in the Morgan Mobile Park to defendant D. K. Morgan Consolidated, LLC.

9. Each defendant was acting as the agent of each other defendant. Accordingly, each defendant is jointly and individually liable for the discriminatory housing practices alleged herein.

IV. FACTS

A. Introduction

10. Defendants, acting individually or in concert, have engaged in a pattern or practice of discrimination on the basis of race, color and sex in connection with the ownership or operation of dwellings at Morgan Mobile Park. Defendants have pursued this pattern or practice of discrimination with the purpose or effect of excluding African-Americans and other persons of color from residing or visiting at those dwellings or enjoying those dwellings fully and on an equal basis with white persons. Defendants have pursued this pattern or practice of discrimination with the purpose or effect of harassing female residents because of their sex. Defendants continue to engage in such a pattern or practice of discrimination so as to constitute a continuing violation. Defendants' illegal acts include, but are not limited to:

- a. Discriminating in the rental of, or otherwise making

- unavailable or denying, a dwelling to any renter because of race, color or sex;
- b. Imposing different terms, conditions, or privileges relating to the rental of dwellings because of because of race, color or sex;
 - c. Making statements indicating a limitation, preference or discrimination, or the intent to discriminate, based on race, color or sex;
 - d. Misrepresenting the availability of dwellings for rent because of race, color or sex;
 - e. Threatening, intimidating, or interfering with tenants in their enjoyment of dwellings because of race, color or sex;
 - f. Retaliating against tenants who exercised their fair housing rights;
 - g. Creating, perpetuating, and subjecting tenants to a hostile environment because of race, color or sex;
 - h. Making oral inquiry concerning race or color to tenants and prospective tenants and making inquiry concerning the race or color of guests, family, other tenants and other prospective tenants;
 - i. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature such that submission to the conduct, either

explicitly or implicitly, was made a term or condition relating to the rental of a dwelling or the provision of benefits or services in connection therewith; and,

- j. Engaging in unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature such that the conduct had the effect of creating an environment which a reasonable person in the same position would consider intimidating, hostile, offensive or otherwise significantly less desirable in connection with the rental of a dwelling or the provision of benefits or services in connection therewith.

B. Jerald and Amanda Williams Seek Housing from Defendants.

11. On Tuesday, March 27, 2007, Amanda Williams saw a for rent sign advertising a mobile home for rent at the Morgan Mobile Park, telephoned the number listed on the sign, and spoke with Mr. Morgan. Ms. Williams asked about dwellings for rent. Mr. Morgan told Ms. Williams that there were two dwellings available for rent and described their size and rental rates. Mr. Morgan and Ms. Williams agreed that Ms. Williams and her husband would meet Mr. Morgan at the Park the next day to inspect the dwellings for rent and complete the rental application process.

12. On Wednesday, March 28, 2007, Ms. Williams telephoned Mr. Morgan and confirmed the time and location of their meeting that day to inspect the dwellings for rent.

13. Shortly thereafter, on that same date, Mr. and Ms. Williams drove to the Park for the meeting with Mr. Morgan. As they drove into the Park, they saw the man

whom they later learned was Darwin Morgan. Mr. Morgan was looking at them and shaking his head. Mr. and Ms. Williams parked their car, got out and approached Mr. Morgan. After Ms. Williams introduced herself and her husband, Mr. Morgan stated, "Y'all need to go somewhere else." Mr. Morgan turned away, got into a utility cart, and drove away, leaving Mr. and Ms. Williams standing alone in the Park.

C. Mr. and Ms. Williams Complain to SCFHC about Defendants.

14. On Thursday, March 29, 2007, Ms. Williams contacted the City of Savannah to complain about Mr. Morgan's conduct. The City referred her to SCFHC.

15. On Friday, March 30, 2007, Mr. and Ms. Williams filed a housing discrimination complaint with SCFHC concerning Mr. Morgan's conduct.

D. SCFHC Investigates Defendants.

16. Based on the complaint of Mr. and Ms. Williams, SCFHC conducted an investigation using fair housing testers.

17. On Tuesday, May 8, 2007, at approximately 12:30 p.m., Kelly, a white woman, and Ronald, a black man, posing as an interracial couple looking for housing, contacted Mr. Morgan at the Park asking about vacancies for rent. Mr. Morgan told Kelly and Ronald that there were no vacancies available for rent, even though there was a "for rent" sign posted at the entrance of the Park. Mr. Morgan did not show any dwellings to Kelly and Ronald. Neither Kelly nor Ronald received any follow up contact from Mr. Morgan.

18. On Tuesday, May 8, 2007, at approximately 2:00 p.m., Christian, a white man, posing as a husband looking for housing for himself and his wife, contacted Mr.

Morgan at the Park asking about vacancies for rent. Mr. Morgan told Christian that there were was a dwelling for rent, and showed a dwelling to Christian. Mr. Morgan told Christian that a couple had just visited the Park seeking housing. Mr. Morgan described the couple as follows: "She seemed like a nice girl. Too bad she was married to a nigger."

19. On Friday, May 11, 2007, Mr. Morgan telephoned Christian stating that there was now a three-bedroom dwelling available for rent, and he encouraged Christian to convince his wife to move into the Park.

E. SCFHC's Efforts to Counteract the Effects of the Discrimination.

20. Upon confirming that Mr. Morgan engaged in discriminatory housing practices, SCFHC conducted education and outreach efforts to residents of the Park. On July 31, 2007, the SCFHC mailed fair housing material to each dwelling a the Park. These materials informed residents of the requirements of the federal Fair Housing Act generally and provided information about SCFHC.

21. Since that education and outreach effort, SCFHC has received calls from and advised persons at the Park about their fair housing rights.

F. Darwin Morgan Harasses Teresa Odums

22. Teresa Odums contacted Mr. Morgan in late July 2007 to inquire about the availability of housing. Mr. Morgan told Ms. Odums that he would have a unit available in early August, but warned Ms. Odums that he "would have no niggers" on the property.

23. On or about August 3, 2007, after agreeing to rent to Ms. Odums, Mr.

Morgan requested that Ms. Odums meet Mr. Morgan to pick up a key. During that meeting, Mr. Morgan grabbed Ms. Odums in a sexual manner. Ms. Odums protested, but having nowhere else to move to, took the key and moved into her dwelling.

24. On or around August 10, 2007, Mr. Morgan contacted Ms. Odums while she was working in front of her trailer. Mr. Morgan asked Ms. Odums when she was going to move a mattress into the trailer so that he "could get me some."

25. On or around August 28, 2007, Mr. Morgan entered Ms. Odums' trailer without permission or notice and asked Ms. Odums for sex. Ms. Odums demanded that Mr. Morgan leave her home, and retreated to the rear bedroom. When Ms. Odum returned to the main room some time later, Mr. Morgan was still there, sitting in the front room waiting for her.

G. Ms. Odums Complains to SCFHC about Defendants.

26. On September 16, 2007, Ms. Odums contacted SCFHC complaining about discrimination and harassment by Mr. Morgan.

H. Injuries

27. By reason of defendants' unlawful acts or practices, the individual plaintiffs suffered emotional distress, and physical injury, including humiliation, embarrassment and attendant bodily injury, violation of their civil rights, loss of dignity and loss of an important housing opportunity. Accordingly, the individual plaintiffs are entitled to compensatory damages.

28. SCFHC has diverted resources as a result of defendants' discriminatory conduct: (1) to investigate and determine the existence, nature and extent of

defendants' discriminatory housing practices; (2) to educate and perform outreach to the residents of Morgan Mobile Park to inform them of their fair housing rights; and (3) to protect the fair housing rights of their members, associates and constituents from the continued discrimination of the defendants based on race, color, or sex.

29. As a result of defendants' unlawful acts and practices, SCFHC has suffered injury to its ability to carry out its purpose and to serve the public in its efforts to eliminate housing discrimination, to resolve fair housing disputes, to make available decent housing for persons regardless of race, color, or sex and to assure rights to the important social, professional, business, economic and political benefits of associations that arise from living in a community free from discrimination. Defendants' unlawful acts and practices also have caused SCFHC to suffer economic losses and out-of-pocket expenditures, incurring costs in efforts to counteract and eliminate discriminatory housing practices. As a result of defendants' unlawful acts and practices, the ability of SCFHC to perform its customary counseling, referral, outreach and education activities has been impaired, and it has suffered a decrease in its capacity to undertake other efforts to end unlawful housing practices. Accordingly, SCFHC is entitled to compensatory damages.

30. In doing the acts of which plaintiffs complain, defendants acted with conscious or reckless disregard of the federally protected rights of plaintiffs. Accordingly, plaintiffs are entitled to punitive damages.

31. There now exists an actual controversy between the parties regarding defendants' duties under the federal and state fair housing laws. Accordingly, plaintiffs are entitled to declaratory relief.

32. Unless enjoined, defendants will continue to engage in the unlawful acts and the pattern or practice of discrimination described above. Plaintiffs have no adequate remedy at law. Plaintiffs are now suffering and will continue to suffer irreparable injury from defendants' acts and their pattern or practice of discrimination unless relief is provided by this Court. Accordingly, plaintiffs are entitled to injunctive relief.

V. CLAIMS

A. FIRST CLAIM

[Fair Housing Act]

[All Plaintiffs vs. All Defendants]

33. Plaintiffs reallege and incorporate by reference each paragraph previously alleged in this complaint.

34. Defendants have injured plaintiffs by committing discriminatory housing practices in violation of the federal Fair Housing Act, 42 U.S.C. § 3601, et seq.

B. SECOND CLAIM

[Civil Rights Act of 1866]

[Amanda and Jerald Williams Only vs. All Defendants]

35. Plaintiffs reallege and incorporate by reference each paragraph previously alleged in this complaint.

36. Defendants have injured plaintiffs Amanda Williams and Jerald Williams by discriminating against them in the rental of housing because of race or color in violation of the Civil Rights Act of 1866, 42 U.S.C. § 1982.

VI. RELIEF

Wherefore, plaintiffs pray for entry of a judgment against the defendants that:

1. Awards compensatory and punitive damages according to proof;
2. Declares that defendants have engaged in discriminatory housing practices in violation of federal fair housing laws;
3. Enjoins all unlawful practices complained about herein and imposes affirmative injunctive relief requiring defendants, their partners, agents, employees, assignees, and all persons acting in concert or participating with them, to take affirmative action to provide equal opportunities to persons regardless of their race, color or sex;
4. Awards costs of this action, including reasonable attorneys' fees; and,
5. Awards all such other relief as the Court deems just.

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VII. JURY DEMAND

Pursuant to Rule 38 of the Federal Rules of Civil Procedure, plaintiffs hereby request a jury trial.

Dated: September 21, 2007.

Respectfully submitted,

BRANCART & BRANCART



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