

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA**

VICTORIA SUTTON,

Plaintiff,

vs.

PATRICIA MCCOY AND ALLEN
MCCOY,

Defendants.

Case No.

**COMPLAINT AND DEMAND FOR
JURY TRIAL**

Plaintiff Victoria Sutton, by and through her undersigned attorneys, alleges as follows:

I. NATURE OF ACTION

1. In open defiance of federal and state fair housing and civil rights laws, Defendants Patricia and Allen McCoy evicted Plaintiff Victoria Sutton, a tenant in one of Defendants' rental properties, for one reason: Ms. Sutton had invited an African-American family to her home.

2. Using a series of threats and racial epithets, several of which were audio-recorded by Ms. Sutton, Defendants made their race-based decision to evict Ms. Sutton very clear. Additionally, Defendants threatened to call the police and Child Protective Services, and to harm Ms. Sutton physically, if she attempted to

contest the eviction. For the safety of her family, including her child with special needs, Ms. Sutton moved out of the home.

3. Plaintiff Victoria Sutton seeks declaratory relief and damages to redress Defendants' unlawful housing discrimination based on race in violation of the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982, the Fair Housing Act of 1968, as amended, 42 U.S.C. §§ 3601, *et seq.*, and the Georgia Fair Housing Act, GA. CODE ANN. § 8-3-200 *et seq.* Ms. Sutton also asserts causes of action for breach of contract.

II. JURISDICTION AND VENUE

4. This Court has subject matter jurisdiction over Plaintiff's federal Civil Rights Act and Fair Housing Act claims pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 3613. This Court has supplemental jurisdiction over Plaintiff's Georgia state law claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c) because Defendants are located in and conduct business in this District, the events or omissions giving rise to the claims herein occurred in this District, and the properties at issue are situated in this District.

III. PARTIES

Plaintiff

6. Plaintiff Victoria Sutton is a white female who resided at 226 Hensley Road, Adairsville, Bartow County, Georgia from around August 2017 until around December 2018. Ms. Sutton is now a resident of Calhoun, Gordon County, Georgia.

Defendants

7. Defendants Patricia McCoy and Allen McCoy reside in Gordon County, Georgia, and own multiple rental properties in the area, including the house located at 226 Hensley Road, Adairsville, Bartow County, Georgia, which they rented to Plaintiff Victoria Sutton from around August 2017 until around December 2018.

IV. FACTS

8. Around August 2017, Plaintiff Victoria Sutton, a white woman, moved into a house located at 226 Hensley Road, Adairsville, Georgia (“the home”), owned by Defendants Patricia and Allen McCoy. Ms. Sutton agreed with the McCoyes that Ms. Sutton would pay a security deposit of \$500 and rent the home on a month-to-month basis for \$475 per month.

9. Ms. Sutton paid the security deposit when she moved into the home and paid her monthly rent on time each month she rented the home.

10. Ms. Sutton lived in this home with her two-year-old daughter, her nine-year-old daughter, the father of her two-year-old daughter, and a nineteen-year-old niece.

11. In September 2018, Ms. Sutton started inviting an African-American co-worker, who lives in the area and has a five-year-old son, over to her home for play dates with Ms. Sutton's daughters.

12. On or around September 30, 2018, Ms. Sutton's co-worker was leaving Ms. Sutton's home and hugged Ms. Sutton goodbye after one of these play dates. Later the same day, Defendant Allen McCoy knocked on Ms. Sutton's door.

13. When Ms. Sutton opened the door, Mr. McCoy immediately accused Ms. Sutton of being a "nigger lover," told Ms. Sutton she should be ashamed of herself, and said that he would call Child Protective Services for having a "nigger on their property."

14. Mr. McCoy then told Ms. Sutton she had two weeks to move out. Mr. McCoy also relayed that he had previously rented the home to a different woman, and when that woman attempted to allow an African-American man to move in, he evicted her from the home.

15. Ms. Sutton pleaded with Mr. McCoy to allow her and her family to stay in the home, saying she had nowhere else to go. Mr. McCoy responded that she should have thought of that before she “brought that nigger around,” and that her only hope of staying on the property was to talk to his wife, Defendant Patricia McCoy. Mr. McCoy ended the conversation saying he would call the police and “have that nigger arrested if he comes on my property again.”

16. Later that day, Ms. Sutton called the McCoy's on the telephone. Ms. Sutton recorded this telephone conversation.

17. Mr. McCoy answered the telephone and handed the phone to Ms. McCoy. Ms. Sutton initiated the conversation by saying, “Your husband came over and there seems to be some kind of problem.” In response, Ms. McCoy stated, “There is ... I don't put up with niggers in my [house] and I don't want them in my property.”

18. Ms. Sutton responded that she had the right to bring guests onto the property because she was renting the home from Ms. McCoy. Ms. McCoy responded, “I don't care ... You just go ahead and get your ass out ... You ain't got no rights on the property.”

19. Ms. McCoy told Ms. Sutton that she would double the rent, then stated that she would give Ms. Sutton an eviction notice. Ms. Sutton responded

that she had always paid her rent on time and had not “done anything to deserve this.” Ms. McCoy responded, “Maybe you like black dogs, but I don’t. So just get your stuff and get out.”

20. When Ms. Sutton stated that she would not leave and repeated that she had rights on the property, Ms. McCoy threatened to “press charges” and called Ms. Sutton a “smart ass bitch.”

21. Ms. Sutton then stated that she “will appear in front of a judge and I will tell them exactly what’s going on,” to which Ms. McCoy responded, “No you won’t, you won’t be able to because I’ll stomp the shit out you before the day is out.”

22. Ms. McCoy then repeated, “I don’t allow niggers in my property and everybody knows that ... Get out as quick as you can.”

23. On or around the next day, October 1, 2018, at around 1:00pm, Ms. Sutton was served an eviction notice stating that Ms. Sutton had to appear in eviction court on October 4.

24. At the eviction hearing on October 4, attended by Ms. Sutton and Ms. McCoy, Ms. McCoy claimed there was destruction to the property. Ms. Sutton, however, provided pictures of the property, showing no damage. The eviction court judge then told Ms. McCoy that she could not evict Ms. Sutton until she

provided Ms. Sutton a written letter of intent, which would start the 60-day period for Ms. Sutton to evict the premises.

25. On or around October 16, 2018, Mr. or Ms. McCoy left a hand-written letter of intent on Ms. Sutton's doorstep, telling Ms. Sutton she had 60 days to evict the premises.

26. Ms. Sutton and her family moved out of the home in December 2018 and are currently residing in Calhoun, Georgia.

27. Before the end of the 60-day eviction period, while Ms. Sutton was still moving her belongings into her new home, the McCoy's went into the home at 226 Hensley Road while Ms. Sutton and her family were not present and, without notice, removed and discarded all the property still within the home. This property included valuable belongings, such as family memorabilia and Ms. Sutton's children's toys.

28. As a result of the McCoy's discriminatory conduct, Ms. Sutton experienced extreme emotional distress. Ms. Sutton was constantly concerned for her and her family's personal safety while they were in the process of vacating the home. Ms. Sutton had difficulty finding alternate suitable housing, and the prospect of having to move out of Adairsville, losing her job and breaking up her family in the process, added significantly to Ms. Sutton's distress.

29. Ms. Sutton's nine-year-old daughter has suffered severe, possibly irreparable harm. This child has learning disabilities and requires special educational services. She received those services in the school in which she was enrolled while living at the home at 226 Hensley Road. But after being evicted from the home and forced to move outside of the school district where the home was located, Ms. Sutton's daughter had to switch schools, and had difficulty receiving the specialized educational services she received at her prior school.

V. CAUSES OF ACTION

FIRST CAUSE OF ACTION Civil Rights Act, 42 U.S.C. § 1981

30. Plaintiff repeats and realleges the allegations in the paragraphs above as if fully set forth herein.

31. As described above, Defendants' discriminatory actions based on race violated Plaintiff's rights to make and enforce contracts on an equal basis regardless of race under 42 U.S.C. § 1981.

SECOND CAUSE OF ACTION Civil Rights Act, 42 U.S.C. § 1982

32. Plaintiff repeats and realleges the allegations in the paragraphs above as if fully set forth herein.

33. As described above, Defendants' discriminatory actions based on race violated Plaintiff's rights to lease and use real property on an equal basis regardless of race under 42 U.S.C. § 1982.

THIRD CAUSE OF ACTION
Fair Housing Act, 42 U.S.C. §§ 3604, 3617

34. Plaintiff repeats and realleges the allegations in the paragraphs above as if fully set forth herein.

35. As described above, Defendants violated 42 U.S.C. § 3604(a), which makes it unlawful to refuse to rent a dwelling or otherwise make a dwelling unavailable to any person because of race or color.

36. As described above, Defendants violated 42 U.S.C. § 3604(b), which makes it unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provisions of services and facilities in connection therewith, because of race or color.

37. As described above, Defendants violated 42 U.S.C. § 3604(c), which makes it, *inter alia*, unlawful to make or cause to be made any statement relating to the rental of a dwelling that indicates any preference or limitation based on race or color.

38. As described above, Defendants violated 42 U.S.C. § 3617, which makes it unlawful to coerce, intimidate, threaten, or interfere with any person in

the exercise or enjoyment of their Fair Housing Act rights, or on account of having exercised or enjoyed, or aided or encouraged others in exercising or enjoying any right secured by the Fair Housing Act.

FOURTH CAUSE OF ACTION
Georgia Fair Housing Act, Ga. Code Ann., §§ 8-3-202, 8-3-222

39. Plaintiff repeats and realleges the allegations in the paragraphs above as if fully set forth herein.

40. As described above, Defendants violated Ga. Code Ann. § 8-3-202(a)(1), which makes it unlawful to refuse to rent a dwelling or otherwise make a dwelling unavailable to any person because of race or color.

41. As described above, Defendants violated Ga. Code Ann. § 8-3-202(a)(2), which makes it unlawful to discriminate against any person in the terms, conditions, or privileges of the rental of a dwelling, or in the provisions of services and facilities in connection therewith, because of race or color.

42. As described above, Defendants violated Ga. Code Ann. § 8-3-202(a)(3), which makes it, *inter alia*, unlawful to make or cause to be made any statement relating to the rental of a dwelling that indicates any preference or limitation based on race or color.

43. As described above, Defendants violated Ga. Code Ann. § 8-3-222, which makes it unlawful to coerce, intimidate, threaten, or interfere with any

person in the exercise or enjoyment of their Georgia Fair Housing Act rights, or on account of having exercised or enjoyed, or aided or encouraged others in exercising or enjoying, any right secured by the Georgia Fair Housing Act.

FIFTH CAUSE OF ACTION
Breach of Contract and
Breach of the Duty of Good Faith and Fair Dealing Implied in Every Contract

44. Plaintiff repeats and realleges the allegations in the paragraphs above as if fully set forth herein.

45. Plaintiff entered into a contractual agreement with Defendants when Defendants offered to rent the home located at 226 Hensley Road, Adairsville, Georgia to Plaintiff on a month-to-month basis in exchange for a \$500 rental security deposit and a monthly rental payment of \$475 per month. Plaintiff accepted this offer by paying the security deposit and making the monthly rental payments every month from around August 2017 until around December 2018.

46. Defendants breached the contractual agreement and their duty of good faith and fair dealing by unlawfully evicting Plaintiff for racially discriminatory purposes.

47. Plaintiff has been harmed by Defendants' breach of the contractual rental agreement and breach of the duty of good faith and fair dealing and is entitled to damages caused by these breaches.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment against Defendants as follows:

48. Declaring Defendants' discriminatory practices violate the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982, the Fair Housing Act of 1968, as amended, 42 U.S.C. §§ 3601, *et seq.*, and the Georgia Fair Housing Act, Ga. Code Ann. § 8-3-200 *et seq.*;

49. Awarding such damages to Plaintiff as will fully compensate for the diversion of resources and frustration of mission caused by Defendants' unlawful practices;

50. Awarding compensatory damages, including damages for emotional distress, to Plaintiff;

51. Awarding punitive damages to Plaintiff;

52. Awarding Plaintiff reasonable attorneys' fees, costs, and expenses incurred in prosecuting this action; and

53. Granting Plaintiff such other further relief as may be just and proper.

VII. JURY DEMAND

54. Plaintiff hereby demands a trial on the merits by jury pursuant to Federal Rule of Civil Procedure 38.

Dated: July 10, 2019

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