

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAULA SCOTT, ZAKARA SCOTT and
ZAMYA SCOTT,

Plaintiffs,

v.

MHC SWAN CREEK, L.L.C., a Delaware
limited liability company, and HOMETOWN
AMERICA MANAGEMENT, L.L.C., a
Delaware limited liability company,

Defendants.

Case No.

Hon.

Magistrate-Judge

LAW OFFICE OF STEVE TOMKOWIAK
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COMPLAINT

Plaintiffs Paula Scott, Zakara Scott and Zamyia Scott, through their counsel, and for their complaint against Defendants MHC Swan Creek, L.L.C. and Hometown America Management, L.L.C., state as follows:

The Parties

1. Plaintiffs Paula Scott, and her daughters, Plaintiffs Zakara Scott and Zamyia Scott (hereinafter collectively referred to as “Plaintiffs” or “the Scotts”), reside at Unit 92, 6988 McKean Road, Ypsilanti Township, MI 48197.

2. Defendant MHC Swan Creek, L.L.C., on information and belief, is a Delaware limited liability corporation with its principal place of business, or the principal place of business of its member or manager, MHC Operating Limited Partnership, at Two North Riverside Plaza, Suite 800, Chicago, IL 60606.

3. Defendant MHC Swan Creek, L.L.C.'s resident agent in Michigan, on information and belief, is The Corporation Company, 30600 Telegraph Road, Suite 2345, Bingham Farms, MI 48025.

4. Defendant MHC Swan Creek, L.L.C., on information and belief, operates under the assumed name "Swan Creek MHC".

5. Defendant Hometown America Management, L.L.C., on information and belief, is a Delaware limited liability corporation, with The Corporation Trust Company, 1209 Orange St., Wilmington, DE 19801, serving as its registered agent.

6. Defendant Hometown America Management, L.L.C.'s resident agent in Michigan, on information and belief, is The Corporation Company, 30600 Telegraph Road, Suite 2345, Bingham Farms, MI 48025.

7. Defendants Hometown America Management, L.L.C. and MHC Swan Creek, L.L.C. (collectively referred to as "Defendant"), on information and belief, at all relevant times owned, operated and/or managed the approximately 294 site manufactured home park located at 6988 McKean Rd., Ypsilanti Township, MI 48197 (parcel nos. K-11-25-300-006 and K-11-36-200-035).

Jurisdiction

8. This cause of action arises under the Civil Rights Acts of 1866 & 1870, 42 U.S.C. §§ 1981 & 1982 (“Sections 1981 & 1982”), which, among other things, prohibit racial discrimination in rental and eviction proceedings on grounds of race or color.

9. This cause of action also arises under the Fair Housing Amendments Act of 1988, 42 U.S.C. § 3601 *et seq.* (“FHAA”), which, like Sections 1981 & 1982, prohibits racial discrimination in rental and eviction proceedings on grounds of race or color.

10. This Court has jurisdiction of this action pursuant to 42 U.S.C. §§ 1988 & 3613 and 28 U.S.C. §§ 1331, 1337, 1343 & 1345.

11. This cause of action also arises under the fair housing provisions of the Michigan Elliot-Larsen Civil Rights Act, Mich. Comp. Laws § 37.2501 *et seq.* (“ELCRA”), which, like Sections 1981 & 1982 and the FHAA, prohibits racial discrimination in rental and eviction proceedings on grounds of race or color.

12. The Court has supplemental jurisdiction of Plaintiffs’ ELCRA claims.

13. There are no administrative prerequisites as to the filing of Plaintiffs’ claims under Sections 1981 & 1982, the FHAA and/or the ELCRA.

Venue

14. Venue is appropriate since the events giving rise to this action occurred in this District; Defendant conducts business in this District; and the residential property that is the subject of this action is located in this District.

The Scotts' Tenancy

15. On or about May 16, 2007, Defendant, as landlord, and Plaintiff Paula Scott, as tenant, entered into a Lease Agreement for homesite Unit 92, at 6988 McKean Road, Ypsilanti Township, Michigan (the "Scotts' Lease"), which permitted Ms. Scott placement of her manufactured home on the site and use of the common area facilities within the community.

16. Defendant, on information and belief, has a copy of the Scotts' Lease.

17. Plaintiff Paula Scott's daughters, Plaintiffs Zakara Scott and Zamyia Scott, are listed as occupants on the Scotts' Lease and at all relevant times lived with Plaintiff Paula Scott in this home.

18. Willie Ryans, Paula Scott's brother, is a co-signer to the Scotts' Lease, but does not live with the Scotts.

19. Thereafter, Paula Scott paid rent and she and her family occupied the homesite. Paula Scott continues to pay rent and occupy the homesite.

The Scotts' Protected Class Status

20. Plaintiffs Paula Scott, Zakara Scott and Zamyia Scott (hereinafter "the Scotts") are each Black or of African-American descent.

The Cadreaus' Tenancy

21. On or about April 1, 2007, Swan Creek, as landlord, entered into a lease agreement with Brandon Cadreau and Amanda Cadreau for homesite Unit 161, at 6988 McKean Road, Ypsilanti Township, Michigan (the "Cadreaus' Lease").

22. Defendant, on information and belief, has a copy of the Cadreaus' Lease.

23. Mariah Streetman, Alexander Streetman and Brayden Cadreau are listed as occupants on the Cadreaus' Lease.

24. On information and belief, Mariah Streetman, Alexander Streetman and Brayden Cadreau are each children of Amanda Cadreau and, at all relevant times, resided with Amanda Cadreau at homesite Unit 161.

25. The Scotts' Lease and the Cadreaus' Lease are identical with respect to "8. Termination", "11. Rules and Regulations", "16. Statutory Provisions", and all other terms and provisions relating to the basis or grounds upon which Defendant could recover possession of rental property and to proceed with eviction.

26. Amanda Cadreau, Mariah Streetman and Alexander Streetman are each White or of non-African-American descent.

Amanda Cadreau's Assault and Battery of Zakara Scott

27. On March 5, 2014, Amanda Cadreau assaulted and battered Plaintiff Zakara Scott as Zakara exited a school bus at the Defendant's manufactured home park community at 6988 McKean Rd.

28. The police were called to the scene, and a police report was filed immediately thereafter, listing Zakara Scott as victim of Amanda Cadreau's assault and battery.

29. Ms. Cadreau subsequently was found guilty by a jury of assault and battery upon Plaintiff Zakara Scott.

30. Following the assault and battery, Defendant requested and obtained written statements regarding the incident from Amanda Cadreau, Mariah Streetman and Alexander Streetman, who, as noted above, are each White or of non-African-American descent.

31. Defendant never requested or obtained written statements regarding the incident from Plaintiffs Paula Scott, Zakara Scott or Zamyia Scott, who, as noted above, are each Black or of African-American descent.

Defendant's Eviction Proceedings Against the Scotts

32. On March 7, 2014, within two days of Amanda Cadreau's assault and battery upon Plaintiff Zakara Scott, Defendant served Plaintiff Paula Scott a 7-Day Notice to Quit to Recover Possession of Property ("7-Day Notice to Quit"), pursuant to MCL § 600.5714(e).

33. The 7-Day Notice to Quit demanded that Plaintiffs Paula Scott, Zakara Scott or Zamyia Scott move by March 15, 2014.

34. Defendant did not serve any notice to quit on Amanda Cadreau, or on any other resident or occupant of their home, even though Amanda Cadreau, the Caucasian tenant or occupant, had committed an assault and battery upon Plaintiff Zakara Scott for which Ms. Cadreau was later criminally convicted.

35. On March 24, 2014, Defendant filed summary proceedings in the 14-B District Court, in the matter of *MHC Swan Creek, L.L.C. v. Willie Ryans & Paula Scott*, Case No. 14C-1299 (the "Scotts' Eviction Case"), to evict Plaintiffs Paula Scott, Willie Ryans, and all other occupants, including Plaintiffs Zakara Scott and Zamyia Scott, from the homesite.

36. In response to the Scotts' Eviction Case, Plaintiffs, among other things, filed Counter-Claims alleging racial discrimination by Defendant in proceeding to evict the Scotts, rather than the Cadreaus.

37. Thereafter, Defendant refused to agree to the stay of the Scotts' Eviction Case, insisting that the Scotts' Eviction Case proceed without delay.

Criminal Charges Against Amanda Cadreau

38. On June 6, 2014, the state prosecutor's office issued assault and battery charges against Amanda Cadreau, under MCL § 750.81(1), listing Plaintiff Zakara Scott as the victim of the assault and battery.

Defendant's Delayed Eviction Proceedings Against the Cadreaus

39. After issuance of the criminal charges against Amanda Cadreau, Defendant belatedly issued Brandon Cadreau and Amanda Cadreau a 30-day Notice of Just Cause Demand for Possession Termination of Tenancy under MCL § 600.5775(2)(b)(i-ii), (d), (g) & (k).

40. This 30-day notice, unlike the 7-day notice issued to the Scotts, allowed the Cadreaus to remain in their property through July 7, 2014.

41. The Cadreaus did not vacate their property by the July 7, 2014 deadline.

42. Defendant did not immediately file in court to evict the Cadreaus. Instead, Defendant waited until July 22, 2014 to file an eviction complaint against the Cadreaus. *MHC Swan Creek, L.L.C. v. Brandon Cadreau & Amanda Cadreau*, Case No. 14C-3138 (the "Cadreaus' Eviction Case").

43. Thereafter, Defendant, in contrast to its treatment of the Scotts, repeatedly agreed to adjourn the Cadreaus' Eviction Case.

44. On September 26, 2014, a state court jury found Amanda Cadreau guilty beyond a reasonable doubt of an assault and battery against Plaintiff Zakara Scott.

45. Notwithstanding the conviction, Defendant did not proceed to evict the Cadreaus and recover possession of the property. Instead, Defendant stipulated that the

Cadreaus' Eviction Case be adjourned until after Amanda Cadreau's sentencing for the assault and battery conviction.

46. As a result of these delays, the Cadreaus were not required to vacate their rental premises until December 2, 2014, almost nine months from the date of Amanda Cadreau's assault and battery on Plaintiff Zakara Scott.

47. Defendant, as noted above, refused any such delays in the Scotts' Eviction Case.

Summary of Defendant's Disparate Treatment of the Scotts and the Cadreaus

48. The following chart summarizes Defendant's disparate treatment of the Scotts in comparison to the Cadreaus:

Comparison of Defendants' Eviction Proceedings Against the Scotts and the Cadreaus

Date	African-American (Scotts)	White (Cadreaus)
March 5, 2014	Assault and Battery (Zakara Scott – Victim).	Assault and Battery (Amanda Cadreau – Perpetrator).
On or after March 7, 2014		Defendant requests and receives handwritten statements from Amanda Cadreau, her daughter, Mariah Streetman, and her son, Alexander Streetman.
March 7, 2014	7-Day Notice under MCL 600.5714(e), requiring the Scotts to vacate property by March 15, 2014.	
March 15, 2014	Scotts required to vacate property or face eviction proceedings.	
March 18, 2014	Eviction Complaint against the Scotts signed by counsel for Defendant.	
March 24, 2014	Eviction Complaint filed in state district court	

May 7, 2014	Pretrial conference before state district court.	
May 28, 2014	Settlement conference before state district court.	
June 5, 2014	Defendant continues with eviction case against the Scotts.	Defendant serves Cadreaus with Just Cause Demand for Possession Termination of Tenancy – 30 day. This notice required the Cadreaus to vacate property by July 7, 2014.
June 6, 2014	Although Plaintiff Zakara Scott is listed as victim of Amanda Cadreau’s assault and battery, Defendant continues with eviction case against the Scotts.	State prosecutor’s office issues assault and battery charges against Amanda Cadreau under MCL 750.81(1). Zakara Scott listed as victim of Ms. Cadreau’s assault and battery.
June 6, 2014	Parties appear before state district court. Trial set for July 24, 2014.	
July 8, 2014	Scotts file Verified Complaint in state circuit court, raising discrimination claims and seeking to enjoin eviction case.	
July 10, 2014	Defendant in circuit court denies request to stay district court eviction proceedings. Scotts forced to file state circuit court Motion for a Temporary Restraining Order and/or Preliminary Injunction.	
July 15, 2014	Defendant files Answer to Plaintiff’s Motion for a Temporary Restraining Order and/or Preliminary Injunction. Defendant “admits that it has not agreed to stay the eviction case”.	
July 17, 2014	Defendant continues with eviction case against the Scotts.	Amanda Cadreau arraigned on assault and battery charge.
July 22, 2014	Circuit court holds hearing on Plaintiffs’ Motion for a Temporary Restraining Order	

	<p>and/or Preliminary Injunction. Defendant, through counsel, continues to argue for the Scotts' eviction.</p> <p>Circuit court takes motion under advisement, and continues hearing to July 31, 2014 (a date <i>after</i> the July 24, 2014 trial date set by the district court in the eviction case against the Scotts).</p>	
July 22, 2014		Summons and Eviction Complaint against the Cadreaus filed in state district court.
July 22, 2014	<p>Defendant, faced with criminal charges against Amanda Cadreau, files eviction case against the Cadreaus.</p> <p>Defendant reluctantly agrees to dismiss without prejudice eviction case against the Scotts.</p>	
July 23, 2014	<p>Defendant, through counsel, stipulates to the dismissal without prejudice of circuit court action.</p>	
July 24, 2014		Cadreaus served with Summons and Complaint.
August 6, 2014		Date of eviction hearing against the Cadreaus. Pretrial Conference scheduled for August 20, 2014.
August 20, 2014		Defendant enters into Stipulated Adjournment of Pretrial Conference and Trial. Pretrial conference rescheduled to September 3, 2014.
September 3, 2014		Defendant enters into Stipulated Adjournment of Pre-Trial Conference to October 22, 2014.
September 26, 2014		Following jury trial, Amanda Cadreau found guilty of assault and battery against Zakara Scott.

October 22, 2014		Defendant enters into Stipulated Adjournment of Pre-Trial Conference to November 19, 2014.
November 6, 2014		Sentencing of Amanda Cadreu for assault and battery against Zakara Scott.
November 18, 2014		Defendant enters into Consent Judgment, permitting the Cadreaus to remain in possession until 12/1/14.
December 1, 2014		Cadreaus required to vacate property under terms of Consent Judgment.

Injuries to the Scotts

49. As a result of the Defendant's discriminatory actions against the Scotts, the Scotts have and will suffer economic and/or non-economic injuries and damages, including stress; embarrassment, humiliation, anxiety, loss of personhood and civil rights; and other personal injuries and damages.

50. Further, the acts, conduct and/or omissions of Defendant with respect to the Scotts were intentional, malicious, and in wanton or reckless disregard of the rights and feelings of the Scotts due to their race or color, entitling the Scotts to an additional award of punitive and/or exemplary damages.

COUNT I
VIOLATION OF SECTIONS 1981 & 1982

51. Paragraphs 1 through 50 are incorporated and restated as if set forth fully herein.

52. Swan Creek discriminated against the Scotts on grounds of race or color and denied the Scotts the rights to which they are entitled as American citizens under Sections

1981 & 1982 to contract for and continue to continue as tenants and occupants and otherwise engage in housing-related transactions irrespective being Black or of African-American descent and color, resulting in economic and non-economic injuries, damages and losses.

COUNT II
VIOLATION OF THE FHAA

53. Paragraphs 1 through 52 are incorporated and restated as if set forth fully herein.

54. Swan Creek discriminated against the Scotts on grounds of race or color in violation of the FHAA, resulting in economic and non-economic injuries, damages and losses.

COUNT III
VIOLATION OF THE ELCRA

55. Paragraphs 1 through 54 are incorporated and restated as if set forth fully herein.

56. Swan Creek discriminated against the Scotts on grounds of race or color in violation of the ELCRA, resulting in economic and non-economic injuries, damages and losses.

WHEREFORE, for all the above reasons, the Scotts respectfully request that the Court grant the following relief against Swan Creek:

- (A) Enter a declaratory judgment that the actions of Defendant were discriminatory and illegal on grounds of race or color under Sections 1981 & 1982, the FHAA and/or the ELCRA;

- (B) Preliminarily and permanently enjoin Defendant and its agents, employees, attorneys, affiliates, and successors, and all other persons in active concert or participation with Defendant, from further discrimination on the grounds of race or color in violation of Sections 1981 & 1982, the FHAA and/or the ELCRA as to the Scotts' tenancy and occupancy;
- (C) Grant discovery and affirmative relief as may be necessary to remedy Defendant's past discriminatory practices and decisions and to ensure that Defendant does not discriminate on grounds of race or color in the future, such as fair housing training, random testing and monitoring;
- (D) Award actual and compensatory damages to compensate the Scotts for their economic losses and damages, and non-economic injuries, such as emotional distress, loss of civil rights, and humiliation and embarrassment caused by the discrimination of Defendant, in an amount to be proven at trial;
- (E) Grant the Scotts an award of punitive and/or exemplary damages as a result of Defendant's deliberate, intentional, overt, willful and flagrant discrimination on grounds of race or color, in an amount that reflects the dual purposes of punishment and deterrence;
- (F) Grant the Scotts an award of attorney fees, costs, and pre-judgment and post-judgment interest incurred in bringing this action; and

(G) Grant such other and additional relief that the Court finds just and appropriate under the circumstances.

Respectfully submitted,

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