

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOHN WESLEY,
ERIC PENDER, and
SOUTHEASTERN COMMUNITY
AND
FAMILY SERVICES, INC.,

Defendants.

CIVIL ACTION NO. _____

COMPLAINT AND JURY DEMAND

The United States of America alleges as follows:

1. This action is brought by the United States to enforce the provisions of Title VIII of the Civil Rights Act of 1968, as amended, 42 U.S.C. §§ 3601, *et seq.* (the Fair Housing Act).

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. § 3614(a).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) because the actions and omissions giving rise to the United States' allegations occurred in the Middle

District of North Carolina, and Defendants reside and/or do business in the Middle District of North Carolina.

THE PARTIES

4. Defendant John Wesley is a resident of Scotland County, North Carolina.
5. Defendant Eric Pender is a resident of Hoke County, North Carolina.
6. Defendant Southeastern Community and Family Services, Inc. (“SCFS”) (formerly Four-County Community Services, Inc.) is a non-profit corporation organized and existing under the laws of the State of North Carolina and has its principal place of business located at 405 N. Elm Street, Lumberton, North Carolina 28358. Defendant John Wesley is an agent for SCFS. Defendant Eric Pender is an agent of SCFS.

FACTUAL ALLEGATIONS

7. Defendant SCFS administers the Section 8 Housing Choice Voucher program for Scotland County, North Carolina.
8. As administrator for the Section 8 Voucher program in Scotland County, Defendant SCFS maintains a waiting list for Section 8 Voucher applicants, inspects rental units where participants in the Section 8 Voucher program reside or intend to reside with their voucher benefits, and conducts annual participant reexaminations and rental unit re-inspections for participation in the Section 8 Voucher program.
9. At all times relevant to this action, Defendant SCFS has employed Defendants Wesley and Pender in the administration of the Section 8 Voucher program. Defendant Wesley is the Section 8 Housing Coordinator and is responsible for managing

the Section 8 waiting list, determining the distribution of Section 8 benefits for applicants and participants in the Section 8 program, and scheduling reexaminations and rental unit re-inspections. Defendant Pender is the Section 8 Housing Inspector and is responsible for performing rental unit inspections and re-inspections to determine eligibility for Section 8 benefits.

10. The rental units for which the Section 8 Vouchers are intended or used and for which inspections and re-inspections are required are dwellings within the meaning of 42 U.S.C. § 3602(b).

11. At all times relevant to this action, Defendant SCFS has provided Defendant Wesley, in his capacity as Section 8 Housing Coordinator, with the actual or apparent authority to, among other things, accept Section 8 Voucher applications, manage the order of applicants on the Section 8 Voucher waiting list, determine the amount of Section 8 Voucher benefits a participant receives, determine whether Section 8 Voucher benefits will continue on an annual basis, and schedule re-inspections of rental units for compliance with the Section 8 Voucher program.

12. At all times relevant to this action, Defendant SCFS has provided Defendant Pender, in his capacity as a Section 8 Housing Inspector, with the actual or apparent authority to, among other things, inspect rental units for compliance with Section 8 Voucher requirements, determine whether Section 8 Voucher benefits will continue on an annual basis, and re-inspect rental units for compliance with the Section 8 Voucher program.

13. Since at least 2000 through the present, Defendant Wesley has subjected, and continues to subject, female applicants and participants in the Section 8 Voucher program to discrimination on the basis of sex, including severe, pervasive, and unwelcome sexual harassment, on multiple occasions. Such conduct has included, but is not limited to:

- a. Making unwelcome sexual comments and unwelcome sexual advances to female applicants and participants in the Section 8 Voucher program, including subjecting them to unwanted sexual touching;
- b. Touching himself in a sexual manner and exposing his genitals in the presence of female applicants and participants in the Section 8 Voucher program;
- c. Conditioning or offering tangible housing benefits – such as advancing female applicants on the Section 8 waiting list and increasing female participants’ Section 8 benefits -- in exchange for sexual acts; and
- d. Taking adverse housing actions, or threatening to take such actions, against female applicants and participants in the Section 8 Voucher program who have not granted or would not continue to grant sexual favors.

14. Since at least 2010 through the present, Defendant Pender has subjected, and continues to subject, female applicants and participants in the Section 8 Voucher program to discrimination on the basis of sex, including severe, pervasive, and

unwelcome sexual harassment, on multiple occasions. Such conduct has included, but is not limited to:

- a. Making unwelcome sexual comments and unwelcome sexual advances to female applicants and participants in the Section 8 Voucher program, including subjecting them to unwanted sexual touching;
- b. Touching himself in a sexual manner and exposing his genitals in the presence of female applicants and participants in the Section 8 Voucher program;
- c. Conditioning or offering tangible housing benefits – such as passing female participants’ rental units for compliance with Section 8 Voucher requirements -- in exchange for sexual acts; and
- d. Taking adverse housing actions, or threatening to take such actions, against female applicants and participants in the Section 8 Voucher program who have not granted or would not continue to grant sexual favors.

15. The discriminatory incidents described herein occurred while Defendants Wesley and Pender were exercising their authority as employees of SCFS.

16. Defendant SCFS is liable for the actions of Defendants Wesley and Pender. SCFS hired Wesley and Pender, knew or should have known of Wesley’s and Pender’s discriminatory conduct, had the authority to take preventive and corrective action, and failed to take reasonable preventive or corrective measures.

CAUSE OF ACTION

17. By the actions and statements described above, Defendants have:
 - a. Discriminated in the terms, conditions, or privileges of the rental of dwellings, or in the provision of services or facilities in connection therewith, because of sex, in violation of 42 U.S.C. § 3604(b);
 - b. Made statements with respect to the rental of dwellings that indicate a preference, a limitation, or discrimination based on sex, in violation 42 U.S.C. § 3604(c); and
 - c. Coerced, intimidated, threatened, or interfered with persons in the exercise or enjoyment of, or on account of their having exercised or enjoyed, their rights granted or protected by Section 804 of the Fair Housing Act, in violation of 42 U.S.C. § 3617.

18. Defendants' conduct described above constitutes:
 - a. A pattern or practice of resistance to the full enjoyment of the rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*, or
 - b. A denial to a group of persons of rights granted by the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*, which denial raises an issue of general public importance.

19. Female applicants and participants in the Section 8 Voucher program and persons associated with them have been injured by Defendants' discriminatory conduct.

Such persons are aggrieved persons as defined in 42 U.S.C. § 3602(i), and have suffered damages as a result of Defendants' conduct.

20. Defendants' conduct was intentional, willful, and taken in reckless disregard of the rights of others.

PRAYER FOR RELIEF

WHEREFORE, the United States requests that the Court enter an Order that:

- a. Declares Defendants' discriminatory practices violate the Fair Housing Act, 42 U.S.C. §§ 3601, *et seq.*;
- b. Enjoins Defendants, their agents, employees, and successors, and all other persons in the active concert or participation with them from:
 - i. Discriminating on the basis of sex, including engaging in sexual harassment, in any aspect of the rental of a dwelling, including the Section 8 Voucher program;
 - ii. Interfering with or threatening to take any action against any person engaged in the exercise or enjoyment of rights granted or protected by the Fair Housing Act;
 - iii. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of Defendants' past unlawful practices to the position they would have been in but for the discriminatory conduct; and

- iv. Failing or refusing to take such affirmative steps as may be necessary to prevent the recurrence of any discriminatory conduct in the future and to eliminate, as nearly as practicable, the effects of Defendants' unlawful practices;
- c. Awards monetary damages to each person aggrieved by Defendants' discriminatory conduct, pursuant to 42 U.S.C. § 3614(d)(1)(B);
- d. Assesses civil penalties against Defendants to vindicate the public interest, pursuant to 42 U.S.C. § 3614(d)(1)(C); and
- e. Awards such additional relief as the interests of justice may require.

Dated: December 10, 2014

Respectfully submitted,

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