

MONTGOMERY BAR ASSOCIATION
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NORRISTOWN, PA 19401
(610) 279-9660, EXTENSION 201
IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY,
PENNSYLVANIA

SCOTT TESTA

v.

POLICE CHIEF KENNETH LAWSON
960 Wentz Road
Blue Bell, Pennsylvania 19422

:

NO. 2024-27992-0

and

:

DETECTIVE SERGEANT THOMAS WITTIG
960 Wentz Road
Blue Bell, Pennsylvania 19422

:

:

:

JOINDER COMPLAINT

Pursuant to Pa. R.C.P. 2252(a)(2), joinder plaintiff, Scott Testa, by and through his undersigned counsel, hereby complains against Police Chief Kenneth Lawson and Detective Sergeant Thomas Wittig as follows:

1. Joinder plaintiff Scott Testa ("Joinder Plaintiff") is an individual and resident of the Commonwealth of Pennsylvania.
2. Upon information and belief, at all relevant times, Defendant Police Chief Kenneth Lawson ("Defendant Lawson") and Defendant Detective Sergeant Thomas Wittig

(“Defendant Wittig”) have been residents of the Commonwealth of Pennsylvania and have acted as a police officers with the Whitpain Township Police Department who participated in the violations of Plaintiff’s rights alleged herein.

Joinder3Plaintiff is the record owner of 951 Netherwood Drive, Blue Bell, Pennsylvania 19422 and 634 School Road, Blue Bell, Pennsylvania 19422 (the “Subject Properties”) along with Sharon Testa.

4. Sharon Testa died in 2013.

5. Since the passing of Sharon Testa, Defendant has entered into a personal relationship with Hulda Dick.

6. Defendant is white.

7. Hulda Dick is black.

8. Defendant offers the Subject Properties for rent for periods shorter than one month as well as for longer than a month.

9. Other property owners owning properties in Whitpain Township offer their properties for rent for periods shorter than a month via Airbnb and via other services.

10. Upon information and belief, none of the other properties available for rent for periods of less than a month in Whitpain Township are owned by persons involved in mixed-race relationships.

11. Upon information and belief, none of the owners of properties for rent for periods of less than a month in Whitpain Township have been sued in the Court of Common Pleas by Plaintiff seeking injunctive relief to prevent rentals of less than one month.

12. The Code of the Township of Whitpain does not forbid rentals of residential properties for less than one month.

13. The phrase “short term rental” is found nowhere in the Code of the Township of Whitpain.

14. On September 19, 2024, masked persons carried out a daytime burglary of 951 Netherwood Drive, Blue Bell, Pennsylvania 19422 (“951 Netherwood”).

15. The daytime burglary was captured in part by a Ring camera placed at the entry of 951 Netherwood.

16. At the time of the daytime burglary, 951 Netherwood Drive was being rented to George Cassera whose father is Jeffrey Cassera.

At 10:19 AM on September 17, 2024, two days before the daytime burglary, Jeffrey Cassera called Hulda Dick and asked “are you the dumb bitch that has been causing my son a lot of stress since he moved into your apartment?” He continued to state “I am coming down there to sue the shit out of you and sue your ass.”

Hulda Dick hung up on Jeffrey Cassera who followed up by calling again and made additional provoking and attacking statements and specifically used racial slurs, calling Hulda Dick “n*gger.”

19. After additional harassing calls, Jeffrey Cassera sent a threatening message to Joinder Plaintiff and Hulda Dick stating “I told your dumb ass not to fuck with me.”

Two hours after threatening Joinder Plaintiff and Hulda Dick via text, Jeffrey Cassera stated that it was “just a matter of time” which Joinder Plaintiff and Hulda Dick took to mean an escalation of threats.

21. Later that day, Hulda Dick was contacted by phone by Brent Bowers, George Cassera’s girlfriend’s father, but Hulda Dick did not answer the phone.

22. Joinder Plaintiff and Hulda Dick did not hear from either Jeffrey Cassera or Brent Bowers until the time of the daytime burglary, two days later.

23. During the course of the daytime burglary, approximately \$30,000.00 of Joinder Plaintiff's and Hulda Dick's possessions were stolen and/or damaged.

24. In the aftermath of the daytime burglary, neither Jeffrey Cassera nor Brent Bower contacted Joinder Plaintiff or Hulda Dick regarding their threats.

25. Joinder Plaintiff immediately reported the daytime burglary, a felony of the first degree, to the Whitpain Township Police Department.

26. More specifically, on the night of the burglary, Joinder Plaintiff and Hulda Dick gave Patrol Officer Kyle Rocks and his commanding officer a detailed interview statement along with evidence of the daytime burglary.

27. Days later, Defendant Wittig returned to 951 Netherwood but asked no questions about the daytime burglary or regarding identification of the suspects but instead focused on retrieval of items claimed missing by George Cassera.

28. The Ring camera captured footage of the perpetrators of the burglary whose physical characteristics match those of Jeffrey Cassera and Brent Bower.

29. During the course of the daytime burglary, either Jeffrey Cassera or Brent Bower was cut and blood was left at the scene.

30. Defendant Wittig advised Joinder Plaintiff that the perpetrators of the daytime burglary would be charged based on the evidence provided but eventually stopped responding to any requests regarding the progress of the investigation.

31. Eventually Brent Bower was charged with disorderly conduct and harassment but never for felony burglary.

32. Jeffrey Cassera was never charged at all in relation to the daytime burglary at 951 Netherwood.

Eventually, the district attorney advised Joinder Plaintiff and Hulda Dick that he was unaware that a daytime burglary had taken place, ostensibly explaining why Brent Bower had only been charged with disorderly conduct and harassment. This was despite Defendant Wittig's representations that he had been working closely with the district attorney to ensure that the proper charges were being filed against the proper individuals.

The charges of disorderly conduct and harassment made no sense in the context of the theft of more than \$20,000 of property including Joinder Plaintiff's deceased wife's jewelry and nearly \$10,000 in property damage.

After multiple attempts to obtain information from the police, Defendant Lawson advised in an email dated November 25, 2024 that he was taking the investigation of the burglary "seriously" and would be conducting a thorough review of the matter with Defendant Wittig.

36. However, Defendant Lawson offered no explanation why Brent Bower had not been charged with burglary or why Jeffrey Cassera had not been charged at all.

Over the course of the next several weeks, the Township's view of the matter changed drastically, reaching its nadir in an email dated December 4, 2024 where Lieutenant Brian Sweisfurth advised "All aspects of the case were investigated and considered, including criminal accusations made by the tenant against you, the landlord."

Thus, it appeared that not only were Defendant Lawson and Defendant Wittig not pursuing burglary charges against Brent Bower or Jeffrey Cassera, they had turned their sights on Joinder Plaintiff and Hulda Dick.

Defendant Wittig's comments in the days after the daytime burglary in conjunction with his and Defendant Lawson's failure to aid the prosecution of Brent Bower or Jeffrey Cassera was based on their belief that Joinder Plaintiff and/or Hulda Dick were lying about the theft of Joinder Plaintiff's deceased wife's jewelry which had an appraised value of \$20,000.00.

Defendant Wittig and Defendant Lawson did not believe that Joinder Plaintiff and/or Hulda Dick were being truthful because they are an mixed-race couple and because Hulda Dick is black.

41. Defendant Wittig and Defendant Lawson did not charge Jeffrey Cassera or Brent Bower with burglary because they share the same sentiment that Hulda Dick is a "n*gger."

42. Defendant Wittig and Defendant Lawson did not charge Jeffrey Cassera or Brent Bower with burglary because they believe that mixed-race relationships are unnatural.

11 days after receiving Defendant Lawson's email advising that he was continuing to investigate along with Defendant Wittig and two days after Lieutenant Brian Sweisfurth advised that the Whitpain Township Police Department was focusing its investigation on Joinder Plaintiff and Hulda Dick, the Whitpain Township filed its equity complaint against Joinder Plaintiff seeking to bar rental of the Subject Properties.

44. In its equity complaint, Whitpain Township accuses Joinder Plaintiff of violating the Whitpain Township Code reaching back to 2019.

The equity complaint is meritless because there is nothing in the Whitpain Township Code forbidding rentals in the way alleged in the complaint and because none of the factors supporting injunctive relief are met or even pled.

COUNT ONE
FIRST AMENDMENT RETALIATION

46. Joinder Plaintiff incorporates each of the foregoing averments herein as if set forth at length.

At all times, Joinder Plaintiff was engaged in the protected activity of pursuing officials, namely Defendant Lawson and Defendant Wittig, to ensure they properly investigated the burglary at 951 Netherwood and charged Brent Bower and Jeffrey Cassera with burglary.

Instead of properly investigating the burglary at 951 Netherwood, Defendant Lawson and Defendant Wittig advised Whitpain Township to target Joinder Plaintiff and Hulda Dick for renting the Subject Properties even though the Whitpain Township Code does not forbid rental.

The proximity of the filing of the equity complaint to Joinder Plaintiff's insistence that Defendant Lawson and Defendant Wittig properly investigate the burglary at 951 Netherwood and charge Brent Bower and Jeffrey Cassera with burglary, coupled with the staleness of the events raised in the equity complaint, some reaching back to 2019, lead to the conclusion that Defendant Lawson and Defendant Wittig were retaliating against Joinder Plaintiff in connection with protected activity.

COUNT THREE
VIOLATION OF THE EQUAL PROTECTION CLAUSE OF THE FOURTEENTH
AMENDMENT

50. Joinder Plaintiff incorporates each of the foregoing averments herein as if set forth at length.

51. Joinder Plaintiff owns the Subject Properties.

52. Hulda Dick assists Joinder Plaintiff in operating the Subject Properties.

53. Joinder Plaintiff rents the Subject Properties via Airbnb.

Other persons who own properties within the jurisdiction of Whitpain Township have rented their properties via Airbnb during the same period during which Joinder Plaintiff has rented the Subject Properties.

55. Joinder Plaintiff, who is white, is involved in a relationship with Hulda Dick, who is black.

56. None of the other properties rented by property owners within the jurisdiction of Whitpain Township are owned by persons who are in a mixed-race relationship.

Neither Defendant Lawson nor Defendant Wittig nor Whitpain Township have brought equity cases or similar enforcement actions against property owners who own properties within the jurisdiction of Whitpain Township and rent their properties via Airbnb where those persons are in same-race relationships.

Prayer for Relief

WHEREFORE, Plaintiffs respectfully request that this honorable court for each count alleged:

- a. Award compensatory damages to Joinder Plaintiff against the Joinder Defendants, jointly and severally; Award punitive damages to Joinder
- b. Plaintiff against the Joinder Defendants to punish them and deter further wrongdoing jointly and severally; Award such other and further relief as this court may deem appropriate including pre and
- c. post-judgment interest and delay damages.

Demand for Jury Trial

The Plaintiff hereby demands a jury trial.

Respectfully submitted,
O'HANLON SCHWARTZ, P.C.



Stephen T. O'Hanlon, Esquire

DATED: January 30, 2025

O'HANLON SCHWARTZ, P.C.

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