

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)
)
Shalin Shah and Reena Patel-Shah,)
)
)
Plaintiffs,)
)
vs.)
)
EXP Realty, LLC; Tim Mallard and Jane)
Doe,)
)
)
Defendants.)
_____)

IN THE COURT OF COMMON PLEAS
FOR THE 9th JUDICIAL CIRCUIT

CASE NO.: 2021-CP-10-

SUMMONS

TO THE DEFENDANTS ABOVE-NAMED:

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the South Carolina Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorneys at the address shown below. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

URICCHIO, HOWE, KRELL, JACOBSON,
TOPOREK & KEITH, P.A.

s/ Jeff Buncher, Jr.
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July 13, 2021
Charleston, South Carolina

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE 9 th JUDICIAL CIRCUIT
COUNTY OF CHARLESTON)	
)	CASE NO.: 2021-CP-10-
Shalin Shah and Reena Patel-Shah,)	
)	
Plaintiffs,)	
)	COMPLAINT
vs.)	Jury Trial Requested
)	
EXP Realty, LLC; Tim Mallard and Jane)	
Doe,)	
)	
Defendants.)	
_____)	

Plaintiffs, complaining of Defendants, alleges and says:

PARTIES

1. Plaintiffs were at all times mentioned herein owners of real property located at 1418 Pearl Channel Loop, Charleston, SC 29412 in Charleston County, South Carolina.

2. Defendant EXP Realty, LLC, is a corporation organized in a state other than South Carolina that does business in Charleston County, South Carolina. Defendant EXP Realty holds itself out as “one the world’s faster-growing real estate brokerages” that has “over 50,000 real estate professionals.”

3. Defendant Tim Mallard is and was at all times mentioned herein a citizen and resident of the State of South Carolina that worked as an agent, employee and/or servant for Defendant EXP Realty and was acting in the course and scope of his employment.

4. Defendant Jane Doe is and was at all times mentioned herein, upon information and belief, a citizen and resident of the State of South Carolina.

JURISDICTION

5. The Court has subject-matter jurisdiction over the claims in this lawsuit under article V, § 11, of the South Carolina Constitution and South Carolina Code § 14-5-350.

6. The Court has personal jurisdiction over Defendants.

VENUE

7. Venue is proper in this circuit under South Carolina Code § 15-7-30.

FACTS

8. On or about April 15, 2021, Defendant Mallard, as the buyer’s agent, while working for Defendant EXP, booked a showing of Plaintiffs’ property that was listed for sale.

9. At the time of the showing, Defendant EXP listed Defendant Mallard as an “Agent/Broker at EXP Realty LLC in Charleston, SC” on their website.

10. Defendant EXP’s agent Defendant Mallard and Defendant Jane Doe entered Plaintiffs’ property on April 15, 2021, for the purposes of showing the property in furtherance of Defendant EXP’s business.

11. Defendant EXP’s agent Defendant Mallard and Defendant Jane Doe, while in Plaintiffs’ master bedroom, started having sexual relations.

12. At the time, Plaintiffs had a home surveillance camera inside their residence outside of the Plaintiffs’ master bedroom.

13. Plaintiffs were out of town on vacation and logged into their home surveillance camera when, suddenly and without warning, they viewed Defendants Mallard and Doe engaging in sexual intercourse in their bedroom. Plaintiffs immediately felt shocked, violated, helpless, betrayed and upset.

14. As a direct and proximate result of Defendants acts and/or omissions, Plaintiffs sustained fright, horror, grief, anger and worry knowing that they had been violated and betrayed.

15. Because of the acts and/or omissions of Defendants, Plaintiffs' vacation was ruined, they accepted the first offer on their home because of the trauma and betrayal they endured and have otherwise been injured and damaged in an amount of actual and punitive damages to be determined at the trial of this action.

FOR A FIRST CAUSE OF ACTION
(Negligence, Gross Negligence)

16. Plaintiffs incorporate all allegations of paragraphs above into this cause of action as if set forth verbatim.

17. That the injuries and damages complained of herein were directly and proximately caused by the following negligent, careless, reckless, willful, and grossly negligent acts of Defendants all in violation of the statutes and common laws of the State of South Carolina, combining and concurring:

As to Defendant EXP Realty

- (a) In failing to properly hire, train and/or supervise Defendant Mallard;
- (b) In negligently retaining Defendant Mallard;
- (c) In being vicariously liable for the acts and/or omissions of Defendant Mallard;
- (d) In failing to use the degree of care and caution that a reasonable and prudent corporation would have used under the circumstances then and there prevailing;
- (e) In otherwise being negligent, reckless, and careless; and
- (f) For such other acts and omissions that may become more apparent through the discovery and/or trial of this matter.

As to Defendant Mallard

- (a) In failing to follow Defendant EXP Realty's policies, procedures and/or rules;

- (b) In violating S.C. Code Sections 16-15-90 and 40-57-790;
- (c) In failing to act as a reasonable and prudent realtor would under the circumstances then and there prevailing;
- (d) In failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing;
- (e) In otherwise being negligent, reckless, and careless; and
- (f) For such other acts and omissions that may become more apparent through the discovery and/or trial of this matter.

As to Defendant Doe

- (a) In violating S.C. Code Section 16-15-90;
- (b) In failing to use the degree of care and caution that a reasonable and prudent person would have used under the circumstances then and there prevailing;
- (c) In otherwise being negligent, reckless, and careless; and
- (d) For such other acts and omissions that may become more apparent through the discovery and/or trial of this matter.

18. That as a result of the aforesaid negligent, grossly negligent, careless, willful, and reckless acts, Plaintiffs have been injured and damaged. Plaintiffs have, are and will in the future continue to suffer from the following, including but not limited to: pain and suffering; trauma; loss of enjoyment of life; property damage; emotional distress and other damages - all to their injury and damage in an amount of actual and punitive damages to be determined at the trial of this action so that other potential wrongdoers will avoid the same type of similar wrongful behavior.

WHEREFORE, Plaintiffs request that judgment be entered against Defendants on all causes of action and that Plaintiffs be awarded: actual damages; punitive damages; a trial by jury as to all causes of action properly triable; the costs of this action; and such other and further relief as the Court may deem just and proper.

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