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WHATCOM COUNTY
WASHINGTON

**STATE OF WASHINGTON
WHATCOM COUNTY SUPERIOR COURT**

WASHINGTON STATE HUMAN
RIGHTS COMMISSION, presenting the
case in support of the complaint filed by
SARA ATTACK,

Plaintiff,

v.

PHYLLIS MCKEE and JONASSON-
MCKEE, LLC,

Defendants.

NO. 22 2 01264 37

COMPLAINT FOR INJUNCTIVE
RELIEF AND DAMAGES UNDER
THE WASHINGTON LAW AGAINST
DISCRIMINATION

I. INTRODUCTION

1.1 Plaintiff Washington State Human Rights Commission (the Commission), by and through its attorney, Andrea Brenneke, Assistant Attorney General, files this action against Defendants Phyllis McKee and Jonasson-McKee, LLC, who own and manage a residential apartment in Bellingham, Washington, to remedy unlawful discrimination on the basis of disability, failure to provide a reasonable accommodation to a tenant needing an emotional support animal, and retaliation in a residential housing transaction, facility, or service.

1.2 This is an action under the Washington Law Against Discrimination (WLAD) to correct unlawful, discriminatory, and retaliatory housing practices, and to provide appropriate

ORIGINAL

1 relief to tenant Sara Attack, who was adversely affected by such practices and filed a WLAD
2 complaint with The Commission. The Commission alleges Defendants unlawfully discriminated
3 against Sara Attack because of disability in the terms, conditions, and privileges or their rental
4 housing, failed to provide reasonable accommodation of their disability upon their request for
5 an emotional support animal, and retaliated against them for requesting the disability
6 accommodation and for making a complaint with the Commission, in violation of
7 RCW 49.60.030(1)(c), RCW 49.60.222(1)(b) and (2)(b), and RCW 49.60.2235, all of which
8 caused Sara Attack harm and led them to vacate their housing when their lease obligations
9 expired.

10 **II. JURISDICTION AND VENUE**

11 **2.1** The Commission has jurisdiction to prosecute this case. RCW 49.60.030(2),
12 RCW 49.60.340(1)-(2). RCW 49.60.240(1)(c) requires the Commission to investigate
13 complaints of housing discrimination, and if it makes a finding of reasonable cause to believe
14 discrimination has occurred, to seek relief for such discrimination. If, after a finding of
15 reasonable cause, an agreement to eliminate the unfair practice is not reached, the complainant
16 or respondent may elect to have the claims on which reasonable cause was found decided in a
17 civil action in superior court under RCW 49.60.030(2). RCW 49.60.340(1)-(2). Here, the
18 complainant, Sara Attack, timely filed a complaint with The Commission. The Commission
19 investigated, made a finding of reasonable cause of disability discrimination, failure to
20 accommodate a disability/failure to approve a request for an emotional support animal, and
21 retaliation. Conciliation was attempted and failed. The respondent, Phyllis McKee, timely
22 notified the Commission and complainant Attack of her election that the Commission pursue a
23 civil action in superior court.

24 **2.2** This Court has jurisdiction over this matter pursuant to RCW 49.60.340(2), as the
25 Commission has commenced this action within thirty days of respondent Phyllis McKee's
26 service of notice of election to have the claims decided in a civil action under RCW 49.60.030(2).

1 **2.3** The violations alleged in this Complaint were committed in whole or in part in
2 Whatcom County, and Defendants transact business in Whatcom County. Venue is proper in
3 Whatcom County pursuant to RCW 4.12.020 and RCW 4.12.025.

4 **III. PARTIES**

5 **3.1** Plaintiff is the Washington State Human Rights Commission.

6 **3.2** Defendant Jonasson-McKee, LLC, a Washington LLC., and Defendant Phyllis
7 McKee, individually, and as an owner, manager, and agent of Jonasson-McKee, LLC,
8 collectively own, manage, and operate Apartment 200 in a four-plex condominium property
9 located at 825 Blueberry Lane, Bellingham, WA 98229-2866.

10 **3.3** Defendants entered into two separate rental agreements with Sara Attack, first by
11 approving a sublease, and then by entering into an annual lease with them, for Apartment 200 at
12 825 Blueberry Lane, Bellingham, WA 9829-2866.

13 **IV. FACTUAL ALLEGATIONS**

14 **4.1** Sara Attack is a person with diagnosed mental disabilities. As part of Sara Attack's
15 medical treatment, and during their tenancy with Defendants, Sara Attack was prescribed an
16 emotional support animal (ESA) and adopted an emotional support cat.

17 **4.2** At all times material hereto, Defendants Jonasson-McKee, LLC, and Phyllis
18 McKee, owned and were responsible for the property management and operations of
19 825 Blueberry Lane, Apartment 200, Bellingham, WA 98229-2866 (Apartment 200), a unit they
20 rented to residential tenants. Phyllis McKee was the resident property manager, as well as the
21 owner and agent of Defendant Jonasson-McKee, LLC., and handled all aspects of the rental,
22 including requests for disability accommodations.

23 **4.3** On or about March 1, 2020, Sara Attack moved into Apartment 200 as a sub-lessor
24 of one of the original lessees. Phyllis McKee approved Sara Attack's tenancy and sublet of
25 Apartment 200, and Sara Attack assumed the lease, which expired at the end of August of 2020
26

1 (Original Lease). During the period March 2020 to August 2020, Sara Attack had three
2 roommates. The security deposit paid by the tenants at the beginning of the Original Lease term,
3 on September 1, 2019, was in the amount of \$1,500.00.

4 **4.4** In March and April 2020, Sara Attack, their two new roommates, and Phyllis
5 McKee, negotiated the terms and entered into a one-year residential lease agreement (Second
6 Lease) with the Defendants for the rental of Apartment 200. The Second Lease was to commence
7 on September 1, 2020, at the monthly rental rate of \$1,600.00, with a monthly cable charge of
8 \$56.00, and a security deposit of \$2,000.00. Sara Attack and the other tenants on the Second
9 Lease paid the first and last month's rent, and the security deposit, in April and May of 2020,
10 even though the terms of the tenancy under the Second Lease did not commence until September
11 1, 2020.

12 **4.5** Sara Attack engaged in protected activity under the WLAD by making multiple
13 requests for accommodation of their disability directly to the Defendants. Defendants
14 discriminated against Sara Attack because of their disability, refused to provide reasonable
15 accommodation of their disability, and also retaliated against Sara Attack for this protected
16 activity by intimidating, threatening, and/or interfering with their exercise or enjoyment of rights
17 regarding real estate transactions.

18 **4.6** On July 15, 2020, Sara Attack emailed Phyllis McKee and inquired about
19 Defendants' policy and procedure to request a disability accommodation and to have an
20 emotional support animal on the premises.

21 **4.7** The same day, Phyllis McKee responded that there are no accommodations in
22 Apartment 200 for handicap and that it is a "no animal unit." She said if those were significant
23 issues, they should have been brought up in their initial conversations, and demanded to know if
24 either was an issue.

25 **4.8** Sara Attack wrote again to Phyllis McKee on July 17, 2020. By email, they
26 notified her that they have a mental disability, and provided a letter from their medical provider

1 stating their recommendation for an emotional support animal. Sara Attack specifically requested
2 an emotional support cat to live with her in Apartment 200 as a reasonable accommodation of
3 their disability.

4 **4.9** On July 17, 2020, Phyllis McKee responded to Sara Attack via email, and
5 included as cc recipients, Sara Attack's current, former and future roommates in Apartment 200.
6 Among other items, in the email, Phyllis McKee disclosed to all recipients that Sara Attack had
7 the need for an emotional support animal and expressed disappointment that this was not
8 disclosed while they applied to rent the unit. Phyllis McKee stated that an added deposit and
9 other requirements could apply as a result. She asked for a prescription from Sara Attack's
10 physician or licensed therapist stating that they require such an animal, and said that if this
11 document is not readily available and provided by July 22, 2020, Sara Attack would need to
12 vacate the unit and their roommates would need to find another roommate.

13 **4.10** This threat to evict Sara Attack from Apartment 200 came during the statewide
14 COVID-19 pandemic and while an eviction moratorium was in effect.

15 **4.11** On July 17, 2020, Sara Attack responded to Phyllis McKee, confirming that they
16 would provide the documentation she requested from the physician as soon as possible. They
17 explained that the emotional support animal was not prescribed at the time of the application to
18 rent, but that their medical situation had changed and they required the prescription now. They
19 also shared that they had informed all of the roommates, current and future, and they all approved
20 of them bringing a cat into the home. Sara Attack finally requested that the rest of the discussion
21 about an emotional support animal be kept private, as the roommates had the necessary
22 information, and Sara Attack did not wish to make the roommates aware of their disability.

23 **4.12** On July 18, 2020, Sara Attack emailed Phyllis McKee a letter from their medical
24 provider and again requested a reasonable accommodation to bring an emotional support animal
25 into their home, Apartment 200.

1 **4.13** On July 18, 2020, Phyllis McKee responded and requested that Sara Attack send
2 a copy of the letter from the therapist that included the therapist's license number and street
3 address or mailing address. Phyllis McKee sought clarification that they were only discussing
4 one animal and said she needed to inform the roommates of how the cat could affect their deposit
5 fee if there is animal damage. Phyllis McKee said she would be scheduling occasional walk-
6 throughs of the unit to check on things and requested information about the age, breed, alteration
7 status, location, and training of the cat.

8 **4.14** Contrary to Sara Attack's request not to share private medical information, on July
9 18, 2020, Phyllis McKee emailed Sara Attack, and their two roommates, with the subject line:
10 "Sara Attack's Emotional Support Animal." Phyllis McKee asked the roommates to acknowledge
11 that they support Sara Attack's request to have an emotional support animal and that they
12 understand that any cleaning, including relative to the animal, comes out of the full \$2,000
13 deposit and applies to all tenants.

14 **4.15** On July 18, 2020, Sara Attack sent Phyllis McKee an email and an updated letter
15 from their therapist, with the information she had requested. They also confirmed having reached
16 an agreement with their future roommates on how damage will be handled, acknowledged that
17 walk-throughs could be scheduled periodically with reasonable notice per the lease agreement,
18 and informed Phyllis McKee that they would be adopting a cat from the Whatcom Humane
19 Society, who would be sending her information about the cat for her records. Sara Attack let
20 Phyllis McKee know that the Humane Society would contact her for verification of approval to
21 bring the emotional support animal into the home. Sara Attack also described her plan to care for
22 the animal in the unit.

23 **4.16** On July 24, 2020, Sara Attack emailed Phyllis McKee and made another request
24 for accommodation of their disability and approval to bring an emotional support animal into
25 Apartment 200. They requested a response in writing within 10 days. Phyllis McKee did not
26

1 respond to the request for accommodation of Sara Attack's disability, or approve of the specific
2 request for an emotional support cat. Instead, she again asked for information about the cat.

3 **4.17** On or about August 4, 2021, Sara Attack called Phyllis McKee to discuss the
4 adoption process of the Whatcom Humane Society. During the call, Phyllis McKee told Sara
5 Attack that they needed to stop with the emotional support animal, that they were out of reach for
6 requesting the accommodation, and that they did not need the emotional support animal as an
7 accommodation because they are not disabled. Phyllis McKee accused Sara Attack of using the
8 ESA as a workaround to get a pet, and said that ESAs do not actually do anything for a disability;
9 they are just pets.

10 **4.18** On August 4, 2020, Sara Attack's physician wrote another letter notifying Phyllis
11 McKee that Sara Attack is a person with a disability who needs reasonable accommodations in
12 the form of an emotional support animal and requested that she be permitted to adopt one and
13 bring it to Apartment 200. This letter was received by Phyllis McKee, but she never responded
14 or agreed to provide the reasonable accommodation requested.

15 **4.19** On August 5, 2020, the Whatcom Humane Society emailed Phyllis McKee
16 requesting that Phyllis McKee confirm she received an emotional support animal letter from her
17 tenant, Sara Attack, as a standard procedure during the adoption process where the animal would
18 be residing at a rental property. At first, Phyllis McKee did not confirm receipt of the multiple
19 letters from Sara Attack and her medical providers requesting reasonable accommodation and
20 an emotional support animal. Instead, Phyllis McKee requested that the Whatcom Humane
21 Society provide *her* with a copy of the emotional support animal letter.

22 **4.20** The Whatcom Humane Society responded, explained that they do not require
23 tenants to turn in their emotional support animal letter to the Whatcom Humane Society, as it is
24 a legal matter between the tenant and their landlord, and the only person in possession of the
25 letter should be Sara Attack and Phyllis McKee. They also indicated that they would move
26 forward with the adoption, as Sara Attack had forwarded the email correspondence between

1 Sara Attack and Phyllis McKee where they provided the first request for
2 accommodation/emotional support animal letter, as well as email forwarding the updated letters.

3 **4.21** In response, and contrary to Whatcom Humane Society's direction, on August 5,
4 2020, Phyllis McKee again disclosed Sara Attack's private medical information by emailing the
5 letter requesting accommodation of disability and an emotional support animal to the Whatcom
6 Humane Society. In the email, Phyllis McKee acknowledged having received the documentation
7 regarding an emotional support animal for Sara Attack at the 'No Pet' rental she owns,
8 complained about the disability laws favoring tenants, and objected to having "to go through the
9 pretense of having some choice" in the emotional support animal/disability accommodations
10 process. She included Sara Attack on this email.

11 **4.22** Despite the repeated requests for reasonable accommodation of disability from
12 Sara Attack, as supported by their medical providers, Phyllis McKee and Jonasson-McKee never
13 approved Sara Attack's request for reasonable accommodation or approved the specific request
14 to bring an emotional support cat to Apartment 200.

15 **4.23** On August 18, 2020, Sara Attack adopted an emotional support cat and brought it
16 home to Apartment 200 for the first time.

17 **4.24** Days later, on August 22, 2020, Phyllis McKee emailed Sara Attack and requested
18 that Sara Attack take measures so that neither the cat, nor cat paraphernalia like its climbing
19 structure, could be seen from any window in the unit, and told her to move the cat to another
20 room and/or keep the blinds of the apartment closed at all times.

21 **4.25** At various times thereafter, Phyllis McKee conducted inspections of
22 Apartment 200, including the condition of the unit and the care of the cat. Apartment 200 passed
23 all such inspections, and Sara Attack maintained the emotional support cat without damage to the
24 property.

25 **4.26** On several occasions, Phyllis McKee yelled at Sara Attack over the telephone.
26

1 **4.27** Tenants without disabilities, or who had not requested reasonable
2 accommodations or emotional support animals, were not subjected to unwanted disclosures of
3 their private medical information, threats of additional damage deposits or eviction, or yelling.
4 Defendants did not subject tenants without disabilities, and who had not requested disability
5 accommodations or emotional support animals, to inspections of the inside of their apartments
6 or require them to organize the inside of their apartments in any particular way, direct them to
7 close their window blinds, or control how they used their living spaces.

8 **4.28** Sara Attack engaged in protected activity under the WLAD by making a complaint
9 of discrimination to The Commission. Defendants retaliated against Sara Attack for this protected
10 activity by intimidating, threatening, and/or interfering with their exercise or enjoyment of rights
11 regarding real estate transactions in violation of RCW 49.60.2235.

12 **4.29** For example, Phyllis McKee called them, on or about January 19, 2021, after
13 receiving The Commission's notification of the complaint of discrimination. Phyllis McKee
14 yelled at Sara Attack, said they do not actually have a problem or a disability, and that Sara
15 Attack should call The Commission and tell them to stop the investigation because she is a busy
16 woman and does not have time for this.

17 **4.30** Defendants' different treatment of Sara Attack because of her disability, their
18 failure to provide reasonable accommodations or approve the emotional support animal, and
19 retaliation, including the repeated challenging of Sara Attack's disability and need for an
20 emotional support animal, unwanted disclosures of Sara Attack's disability to people without the
21 need to know, threats of eviction and increased fees, increased inspections and surveillance, and
22 intimidating behavior, including yelling, caused Sara Attack mental anguish and distress, anxiety,
23 and worry, and resulted in the delayed adoption of the emotional support cat and the treatment
24 needed for their disability. Defendants' behaviors and actions, as described above, caused Sara
25 Attack to become hyper-vigilant and careful to avoid Phyllis McKee, even though she lived on
26 the same property, in another unit. All of this caused Sara Attack harm, suffering and injuries,

1 and prevented them from benefiting from the housing or renewing their lease at the end of the
2 term, requiring Sara Attack to move to a more expensive and less desirable rental.

3 **4.31** Defendant Jonasson-McKee LLC is directly liable for the acts and omissions of
4 its owners, managers, employees, contractors and/or vendors, including Phyllis McKee, and
5 additionally is liable for the acts and omissions of its owners, managers, employees, contractors
6 and/or vendors, including Phyllis McKee, because they knew or should have known about Sara
7 Attack's disability and need for accommodation, failed to provide reasonable accommodation,
8 and failed to take prompt and effective corrective action to remedy the discrimination and
9 retaliation.

10 **4.32** As a proximate result of Defendants' actions and omissions, Sara Attack has
11 suffered and will continue to suffer damages, including lost opportunity to use and enjoy the full
12 benefits of their housing, emotional distress and injury, pain and suffering, housing insecurity
13 and stress, embarrassment, humiliation, economic and financial hardship and damages, and other
14 damages to be proven at trial.

15 **V. CAUSES OF ACTION**

16 **FIRST CAUSE OF ACTION**

17 **(Violation of the Washington Law Against Discrimination – 18 Failure to Provide Reasonable Accommodation in Housing)**

19 **5.1** The Commission re-alleges and incorporates by reference the allegations set forth
20 in each of the preceding paragraphs of this Complaint.

21 **5.2** Individuals have the right to be free from discrimination because of disability,
22 including, but not limited to, the right to engage in real estate transactions without discrimination.
23 RCW 49.60.030(1)(c).

24 **5.3** It is unlawful to refuse to make reasonable accommodation in rules, policies,
25 practices, or services when such accommodations may be necessary to afford a person with the
26 presence of any sensory, mental, or physical disability, or physically disabled person equal

1 opportunity to use and enjoy a dwelling. RCW 49.60.222(2)(b).

2 **5.4** Defendants unlawfully discriminated against Sara Attack, a person with mental
3 disabilities, by refusing to approve reasonable accommodations of their disability and requests
4 for an emotional support animal needed to treat her disability, in violation of
5 RCW 49.60.222(2)(b).

6 **SECOND CAUSE OF ACTION**

7 **(Violation of the Washington Law Against Discrimination –**
8 **Discrimination in the Terms and Conditions for the Rental Property Based on Disability)**

9 **5.5** The Commission re-alleges and incorporates by reference the allegations set forth
10 in each of the preceding paragraphs of this Complaint.

11 **5.6** Individuals have the right to be free from discrimination because of disability,
12 including, but not limited to, the right to engage in real estate transactions without discrimination.
13 RCW 49.60.030(1)(c).

14 **5.7** It is an unfair practice to discriminate against a person in the terms, conditions,
15 or privileges of a housing/real estate transaction or in the furnishing of facilities or services in
16 connection therewith because of disability. RCW 49.60.222(1)(b).

17 **5.8** Defendants unlawfully discriminated against Sara Attack, a person with mental
18 disabilities, in the terms and conditions of their housing, including by disclosing their private
19 medical information, yelling at them, subjecting them to threats of eviction and increased fees,
20 as well as heightened inspections and control of their housing unit, because of their disability.

21 **THIRD CAUSE OF ACTION**

22 **(Violation of the Washington Law Against Discrimination –**
23 **Retaliation)**

24 **5.9** The Commission re-alleges and incorporates by reference the allegations set forth
25 in each of the preceding paragraphs of this Complaint.

26 **5.10** It is an unfair practice to intimidate, threaten, and/or interfere with a person's
exercise or enjoyment of rights regarding real estate transactions or retaliate against any person

1 on account of their having exercised their right to be free from discrimination in housing,
2 including by making requests for accommodation of disability and to adopt an emotional support
3 animal, and for making complaints of discrimination. RCW 49.60.2235.

4 **5.11** Defendants unlawfully retaliated against Sara Attack after they engaged in
5 protected activity under the WLAD, and because of this protected activity, by increasing the
6 different and adverse treatment of them, threatening increased damage fees and eviction,
7 questioning the veracity of their disability and need for accommodation, divulging their private
8 medical information to persons without the need to know, subjecting them to hyper-scrutiny,
9 inspections, and control of the inside of their apartment, yelling at them, and telling them to
10 withdraw their complaint with the Commission, all in violation of RCW 49.60.2235.

11 **VI. PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff Washington State Human Rights Commission prays that the
13 Court:

14 **6.1** Adjudge and decree that Defendants have engaged in the conduct complained of
15 herein.

16 **6.2** Adjudge and decree that Defendants' conduct violates the Washington Law Against
17 Discrimination, including RCW 49.60.030(1)(c), RCW 49.60.222(1)(b), RCW 49.60.222(2)(b),
18 and RCW 49.60.2235.

19 **6.3** Enjoin Defendants from discriminating against persons based on disability,
20 refusing to provide reasonable accommodations to persons with disabilities or approving
21 emotional support animals needed as reasonable accommodation to persons with disabilities,
22 and retaliating against persons who request reasonable accommodations, an emotional support
23 animal, or make complaints of discrimination.

24 **6.4** Order other equitable relief that the Court finds necessary to eliminate the effects
25 of past discrimination and retaliation, to prevent future discrimination and retaliation, and to
26 position Sara Attack as close as possible to the situation they would have been in but for the

1 discrimination and retaliation. This includes retaining jurisdiction if necessary to fulfill the
2 Court's order.

3 **6.5** Award damages or other appropriate monetary relief to Sara Atack in an amount
4 to be proven at trial.

5 **6.6** Assess a civil penalty against Defendants in the amount of \$10,000 pursuant to
6 RCW 49.60.225(1)(a).

7 **6.7** Award such other relief as the Court may deem just and proper.

8 DATED this 5th day of October, 2022.

9 ROBERT W. FERGUSON
10 Attorney General

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20 Attorney for Plaintiff Washington State
21 Human Rights Commission
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8 **STATE OF WASHINGTON**
9 **WHATCOM COUNTY SUPERIOR COURT**

10 WASHINGTON STATE HUMAN
11 RIGHTS COMMISSION, presenting the
12 case in support of the complaint filed by
SARA ATTACK,

13 Plaintiff,

14 v.

15 PHYLLIS MCKEE, and JONASSON-
16 MCKEE, LLC,

17 Defendants.

CASE NO.

GENERAL RULE 17(a)(2)
DECLARATION

18 I, Kim Boyd, declare under penalty of perjury under the laws of the state of Washington
19 that the following is true and correct.


20 1. I am the Legal Administrative Manager for the Attorney General's Office. My
21 business address, telephone number, facsimile number, and email address are as follows: 2211
22 Rimland Drive, Suite 325, Bellingham, WA 98226-6014; office telephone: (360) 676-2193; fax
23 number: (360) 676-2049; email address: Kim.Boyd@atg.wa.gov. I make this Declaration based on
24 my own personal knowledge. I am over the age of eighteen and competent to testify to the facts
25 stated herein.

26 2. This Declaration is filed in accordance with GR 17(a)(2).

3. On October 5, 2022, I received the State of Washington's Complaint for Injunctive Relief and Damages Under the Washington Law Against Discrimination by electronic mail, from Legal Assistant Tiffany Jennings of the Civil Rights Division of the Attorney General's Office. I have examined this document, which consists of fifteen (15) pages including this Declaration.

4. The foregoing document is a complete and legible facsimile transmitted original signed by Assistant Attorney General Andrea Brenneke.

DATED this 11 day of October, 2022, in Bellingham, Washington.


Kim Boyd

Kim Boyd
Legal Administrative Manager