

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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| KATHERINE CONWAY-RUSSELL, | : | |
| Plaintiff | : | Civil Action No. 09- |
| | : | |
| v. | : | |
| | : | |
| JAMES E. O'KEEFE, III, | : | |
| HANNAH GILES, | : | |
| Defendants | : | |

COMPLAINT

INTRODUCTION

1. This is a civil action that arises from the unlawful conduct of the defendants in taping and then disclosing private conversations between plaintiff Conway-Russell, the office director for ACORN Housing Corporation in Philadelphia, Pennsylvania, and the defendants during a private interview at ACORN Housing offices in Philadelphia. The defendants O'Keefe and Giles purportedly sought information regarding housing and mortgage opportunities in Philadelphia, but were in reality imposters who deliberately and surreptitiously created video and audio recordings in an attempt to discredit plaintiff Conway-Russell and ACORN Housing Corporation. Thereafter, defendants disseminated the illegally obtained recordings in a manner calculated to harm and injure plaintiff.

JURISDICTION

2. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §1332, there being diversity of citizenship among the parties to this lawsuit and the amount in controversy exceeding \$75,000.

PARTIES

3. Plaintiff Katherine Conway-Russell is a resident of Philadelphia, Pennsylvania and at all relevant times was an employee of ACORN Housing Corporation, working in the Philadelphia Office.
4. Defendant James O'Keefe ("O'Keefe") is a resident, upon information and belief, of the State of New Jersey.
5. Defendant Hannah Giles ("Giles") is a resident, upon information and belief, of the State of Florida.
6. The defendants at all relevant times acted in concert and conspiracy with each other.

FACTUAL ALLEGATIONS

7. Plaintiff has worked for ACORN Housing Corporation since March, 2008, as an office director. In that capacity Ms. Conway-Russell advises potential home owners as to home ownership and related mortgage and other housing issues to enable low and middle income persons to purchase homes in the Philadelphia area. As part of her work assignments at ACORN Housing Corporation, Ms. Conway-Russell provides this information in a confidential setting in the Philadelphia Office of ACORN Housing Corporation.
8. On July 24, 2009, defendant O'Keefe called the Philadelphia office of ACORN (which is situated separate from ACORN Housing) for an appointment to discuss election matters, but was informed that ACORN did not provide advice on running campaigns. O'Keefe then said he needed assistance on a mortgage issue, but given the context of this request, the ACORN representative declined to set up an appointment.
9. A few minutes later defendant O'Keefe and defendant Giles arrived at the ACORN Housing

office and, on the pretext that they were there for housing and mortgage advice, were seen by plaintiff Conway-Russell in her office.

10. Unknown to plaintiff Conway-Russell, defendants O'Keefe and Giles had no interest in mortgage or housing issues; rather, they were there to attempt to entrap ACORN Housing employees into engaging in inappropriate counseling. In furtherance of this goal, defendants O'Keefe and Giles secretly recorded by hidden camera and microphone the entire conversation they had with plaintiff.

11. Plaintiff Conway-Russell, in accord with her responsibilities as an ACORN Housing counselor, properly advised the defendants that she could only provide information regarding mortgage possibilities and could not assist them in any other matters.

12. Defendants O'Keefe and Giles never informed plaintiff that their conversation was being recorded and never sought or obtained permission or consent for these recordings.

13. By the end of the meeting, plaintiff Conway-Russell was concerned about the statements made during the interview by the defendants and, on her request, a colleague contacted the Philadelphia Police Department to make a complaint about the defendants' conduct.

14. Plaintiff Conway-Russell had a reasonable expectation of privacy with respect to the conversations with the defendants, as this private meeting involved information and advice on confidential matters and confidentiality was required by Acorn Housing Corporation.

15. Thereafter, the defendants disseminated the secretly recorded video and audio of plaintiff Conway-Russell's in a manner designed to injure and harm plaintiff by suggesting improper conduct on her part.

16. The defendants' interception and dissemination of the oral communications of plaintiff were

in direct violation of the laws of Pennsylvania.

COUNT I

17. The allegations of paragraphs 1-16 are incorporated by reference.

18. The actions and conduct of the defendants, acting in concert and conspiracy with each other, are in direct violation of Pennsylvania law, 18 Pa.C. S. Section 5701, et seq., the “Wiretapping and Electronic Surveillance Control Act,” and specifically Section 5703 (prohibiting the intentional interception, disclosure or use of oral communications) and Section 5725 (providing for a civil cause of action for a person whose oral communications were intercepted, disclosed or used in violation of this statute).

19. By intercepting oral communications of plaintiff Conway-Russell, and by disclosing and posting videotapes, audiotapes, and descriptions of those intercepted conversations on the Internet, and by otherwise disseminating these tapes to others without plaintiff’s consent, defendants O’Keefe and Giles violated Pennsylvania law and caused emotional distress, harm and injury to plaintiff.

20. Defendants’ actions were done intentionally, wilfully, and in reckless disregard of the law.

WHEREFORE, plaintiff requests this Court to provide the following relief:

Enter judgment in favor of plaintiff and against both defendants, jointly and severally, for compensatory, liquidated, and punitive damages; reasonable attorneys’ fees and litigation costs; and award such other and further relief as the interests of justice may require.

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