

**ORIGINAL**

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta

*du*

NOV 14 2003

US District Court, Clerk

By: *[Signature]*  
Deputy Clerk

YVETTE BOYKIN,

Plaintiff,

v.

CIVIL ACTION FILE NO.

BANK OF AMERICA CORPORATION,  
d/b/a BANK OF AMERICA and its  
wholly-owned subsidiary, EQUICREDIT  
CORPORATION, STATE OF NEW YORK  
EXECUTIVE DEPARTMENT, DIVISION OF  
HUMAN RIGHTS, and U.S. DEPARTMENT  
OF HOUSING AND URBAN DEVELOPMENT

~~1:03-CV-3467~~

*[Stamp]*

Defendants.

**COMPLAINT**

COMES NOW PLAINTIFF Yvette Boykin and files this Complaint against the above-named Defendants on the following grounds:

**JURISDICTION AND VENUE**

1.

This is an action for race and sex discrimination in violation of the 1968 Fair Housing Act (the Act), as amended, 42 U.S.C. §§ 3601, et seq., and noncompliance with the Act's regulations at 24 CFR Parts 14, 100, 103, 104, 105, 106, 109, 110, 115, and 121; race discrimination under the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982; noncompliance with Title VI of the Civil Rights Act of 1964 (Title VI), 42 U.S.C. § 2000d, et seq. and HUD regulations at 24 CFR Part 1; discrimination on the bases of race, sex, and age in violation of the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691, et seq.; and constitutional violations

FORMS RECEIVED  
Consent to US Mag.  
Prelim Instructions  
Title VII MC  
*[Signatures]*

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of due process of law under the Fifth Amendment, and due process and equal protection of the laws under the Fourteenth Amendment.

The jurisdiction of this Court is conferred pursuant to 15 U.S.C. §§ 1691e(f) and 42 U.S.C. §§ 3601, et seq. As the claim arose in this District and involves a federal question, venue is properly laid in this Honorable Court.

### **PARTIES**

2.

Plaintiff (hereinafter "Plaintiff-Applicant") is an African American female resident of the State of Georgia, who was age 53 at the time of the acts complained of, and having exhausted all administrative efforts, is entitled to bring actions of this kind and nature.

3.

Defendant Bank of America Corporation (hereafter "Defendant Bank") is a corporation registered and doing business in the State of Georgia as Bank of America, and whose business through its wholly-owned subsidiary, EquiCredit Corporation, consists in whole or in part in the making of real estate loans to qualified persons. Defendant Bank is a member of the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation. Defendant Bank is a recipient of federal financial assistance as defined in Title VI. Defendant Bank may be served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure by service on its registered agent for service of process, CT Corporation System, 1201 Peachtree Street, Atlanta, GA 30303.

4.

Defendant State of New York, Executive Department, Division of Human Rights (hereinafter "DHR") is a State agency with its principal office at One Fordham Plaza, 4<sup>th</sup> Floor, Bronx, New York

10458, and a local office at Walter J. Mahoney State Office Building-Suite 506, 65 Court Street, Buffalo, New York 14202. Defendant DHR administers a human rights law that the U.S. Department of Housing and Urban Development has determined to be substantially equivalent to the Federal Fair Housing Act, and thereby processes complaints of housing discrimination under this Act. Defendant DHR is a recipient of federal financial assistance as defined in Title VI. Defendant DHR may be served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure by service at its principal office on Michelle Donaldson, Commissioner of the New York State Division of Human Rights.

5.

Defendant, U.S. Department of Housing and Urban Development (hereinafter "HUD") is a Federal agency that administers, among other laws and regulations, the Federal Fair Housing Act (the Act), Title VI, and their implementing regulations. HUD's Assistant Secretary of Fair Housing and Equal Opportunity (hereinafter "FHEO") is the responsible Department official in all matters relating to these statutes and regulations. Pursuant to 810(f) of the Act, HUD refers complaints of housing discrimination to a State or local agency with a fair housing law that it has determined provides rights and remedies substantially equivalent to those provided in the Act. The Headquarters Office of the Secretary of HUD and Assistant Secretary for FHEO is located at 451 Seventh St. SW, Washington, DC 20410. Defendant HUD may be served with process pursuant to Rule 4 of the Federal Rules of Civil Procedure by service at its Headquarters Office on HUD's Secretary, Mel Martinez.

**FACTUAL ALLEGATIONS**

6.

On or about June 29, Plaintiff-Applicant applied for a real estate refinancing loan from Defendant Bank to improve, repair, and maintain rental property she owns in Buffalo, New York. Plaintiff-Applicant was an existing customer with Defendant Bank and her loan application was processed by Defendant Bank's office in Jacksonville, Florida. Plaintiff-Applicant was told by telephone that she had been initially approved for the loan based on her credit report and that all paperwork would be sent to her home in Conley, Georgia. Defendant Bank advised Plaintiff-Applicant of additional information needed to finalize the processing of her loan application, including an appraisal of subject property.

7.

On July 20, 2001, Plaintiff-Applicant mailed Defendant Bank all documents required to complete the processing of her loan application.

8.

Plaintiff-Applicant met all financial and credit requirements of Defendant Bank and was in all respects qualified to receive a real estate refinancing loan.

9.

On July 25, 2001, Defendant Bank informed Plaintiff-Applicant by telephone that her loan application had been denied because her loan was considered a high cost loan according to New York State Banking Regulations.

10.

On August 31, 2001, Plaintiff-Applicant received a form denial of her application, dated August 27, 2001, which stated as the reason for the denial "exceeds high cost for NY."

11.

Plaintiff-Applicant was treated differently from similarly situated loan applicants not in the protected classes, despite her qualifications for the loan because of her race, sex and the location of the property in a predominantly African American neighborhood. Upon information and belief, persons who were not members of the protected classes received loans and were more favorably treated in the loan application process than Plaintiff-Applicant with regard to the same or similar types of properties owned by Plaintiff-Applicant.

12.

Defendant Bank's articulated "business and policy decision" for the loan denial was pretextual for illegal discrimination, in violation of the Equal Credit Opportunity Act and the Fair Housing Act because:

- (a) Upon information and belief, Defendant Bank's "business and policy decision" reason for the denial was not the actual reason for Plaintiff-Applicant's loan denial, but was based on other improper factors; and
- (b) After her loan was denied, Defendant Bank failed to provide information regarding the availability of procedures or standards for the review and approval of loans, and timely written notice of her loan denial; under such circumstances, members of the non-protected class were provided counseling, guidance and other favorable treatment, which was not extended or offered to Plaintiff-Applicant because of her race, sex and racial characteristics of the neighborhood where the property is located.

13.

Plaintiff-Applicant was disparately impacted by Defendant Bank's "business and policy decision" of denying her loan application because it was considered a "high cost loan". Upon

information and belief Defendant Bank utilizes a formula, criterion, rationale, standard of acceptance or business policy of reviewing loan applications, which when applied in Plaintiff-Applicant's case and possibly others, disproportionately denies loan applications for protected individuals and for the types of protected residential areas in which her property is located. The application of the "business and policy decision" is too broad and conflicts with requirements set out in the ECOA and Fair Housing Act.

14.

In response to her loan denial, Plaintiff-Applicant filed a housing discrimination complaint with HUD, which was referred to Defendant DHR for administrative processing. After investigating the allegations of Plaintiff-Applicant's HUD complaint, Defendant DHR, issued a No Probable Cause determination and closed the case. Accordingly, Defendant HUD closed its complaint based on this information

15.

In response to her loan denial, Plaintiff-Applicant also filed a discrimination complaint with the Office of the Comptroller of the Currency (OCC), alleging violations under the ECOA. OCC referred the complaint to HUD for processing pursuant to an agreement between OCC and HUD, wherein HUD's resolution of any factual issues relating to the alleged violation under the Fair Housing Act would permit OCC to resolve the ECOA allegation as well.

16.

Defendant DHR did not pursue conciliation activity; conduct a fair, accurate, complete, and impartial investigation of Plaintiff-Applicant's complaint, and issue a determination that was supported by sufficient evidence and facts. Defendant DHR did not obtain facts, including statements containing information about events, transactions, policies and practices,

circumstances, and where applicable, credibility that relate to the alleged discriminatory practice consistent with proving or disproving the elements of a prima facie case of discrimination and Defendant Bank's defenses.

17.

Defendant DHR failed to comply with HUD's certifications as a substantially equivalent fair housing agency and the non-discrimination requirements under Title VI, by utilizing criteria or methods of administration in processing Plaintiff-Applicant's complaint which had the effect of defeating or substantially impairing accomplishment of the objective of its program and subjecting Plaintiff-Applicant to discrimination because of her race. Upon information and belief, Defendant DHR administers its program and processes fair housing complaints based on sex and other protected classes more favorably than those based on race.

18.

Defendant HUD failed to properly supervise Defendant DHR's final processing of Plaintiff-Applicant's complaint according to HUD certifications, regulations, and other contractual terms to ensure that sufficient evidence and facts supported the determination of No Probable Cause prior to closing its file on the complaint and authorizing payment to Defendant DHR.

19.

Defendant HUD did not process Plaintiff-Applicant's complaint pursuant to its agreement with OCC and investigation of any possible violations under the ECOA.

**COUNT ONE:**

**RACE AND SEX DISCRIMINATION IN VIOLATION OF  
THE FAIR HOUSING ACT, 42 U.S.C. §§ 3601, ET SEQ.**

20.

The preceding paragraphs of this Complaint are incorporated herein by this reference.

Defendants denied Plaintiff-Applicant's real estate loan application because of her race and sex, and the racial concentration of the area where the property is located, in violation of the Fair Housing Act, 42 U.S.C. §§ 3601, et seq., thereby entitling her to all appropriate relief under that statute.

21.

As a result of Defendant's conduct Plaintiff-Applicant has suffered compensable damages in the form of economic loss, humiliation, embarrassment, mental anguish, inconvenience, and the deprivation of civil rights.

22.

Defendant's discriminatory conduct was willful, intentional, and malicious, warranting the imposition of punitive damages.

**COUNT TWO:**

**RACE DISCRIMINATION IN VIOLATION OF  
THE CIVIL RIGHTS ACT OF 1866  
42 U.S.C. §§ 1981 AND 1982**

23.

The preceding paragraphs of this Complaint are incorporated herein by this reference.

24.

Defendants denied Plaintiff-Applicant's real estate loan application because of her race and the racial concentration of the area where the property is located, in violation of the Civil Rights Act of 1866, 42 U.S.C. §§ 1981 and 1982, thereby entitling her to all appropriate relief under that statute.

25.

As a result of Defendant's conduct Plaintiff-Applicant has suffered compensable damages in the form of economic loss, humiliation, embarrassment, mental anguish, inconvenience, and the deprivation of civil rights.

**COUNT THREE**

**RACE DISCRIMINATION IN VIOLATION OF  
TITLE VI OF THE CIVIL RIGHTS ACT OF 1964,  
42 U.S.C. § 2000D, ET SEQ.,  
NON-COMPLIANCE WITH TITLE VI REGULATIONS AT  
24 CFR PART 1**

26.

The preceding paragraphs of this Complaint are incorporated herein by this reference.

27.

Defendant Bank denied Plaintiff-Applicant's real estate loan application because of her race, thereby excluding her from participating in and receiving the benefits of programs or activities receiving federal financial assistance, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq., thereby entitling her to all appropriate relief under that statute.

28.

Defendant DHR discriminated against Plaintiff-Applicant because of her race and is in non-compliance with HUD requirements by utilizing criteria or methods of administration which

had the effect of defeating or substantially impairing accomplishment of the objective of its fair housing enforcement program, and by conducting a faulty investigation and issuing a deficient Determination of No Probable Cause on her complaint that gave rise to this action, in violation of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, et seq., and 24 CFR Part 1, thereby entitling her to all appropriate relief under that statute.

29.

As a result of Defendants' conduct Plaintiff-Applicant has suffered compensable damages in the form of economic loss, humiliation, embarrassment, mental anguish, inconvenience, and the deprivation of civil rights.

30.

Defendant's discriminatory conduct was willful, intentional, and malicious, warranting the imposition of punitive damages.

#### **COUNT FOUR**

#### **RACE, SEX, AND AGE DISCRIMINATION UNDER THE EQUAL CREDIT OPPORTUNITY ACT 15 U.S.C. § 1691**

The preceding paragraphs of this Complaint are incorporated herein by this reference.

31.

Plaintiff-Applicant complied with and met all of Defendant Bank's financial and credit requirements for refinancing her existing loan. Defendant Bank's denial of Plaintiff-Applicant's loan application thus constituted discrimination on the bases race, sex, and age, in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691 – 1691f, thereby entitling Plaintiff-Applicant to all appropriate relief under this statute.

32.

As a result of Defendant Bank's conduct Plaintiff-Applicant has suffered compensable damages in the form of economic loss, humiliation, embarrassment, mental anguish, inconvenience, and the deprivation of civil rights.

33.

Defendant's discriminatory conduct was willful, intentional, and malicious, warranting the imposition of punitive damages.

#### **COUNT FIVE**

#### **VIOLATIONS OF FAIR HOUSING ACT, 42 U.S.C. §§ 3600 – 3620 and REGULATIONS AT 24 CFR; DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT ACT, 42 U.S.C.3535 (d), and FIFTH AND FOURTEENTH U.S.CONSTITUTIONAL AMENDMENTS**

34.

The preceding paragraphs of this Complaint are incorporated herein by this reference.

35.

Defendant DHR had a legal duty to comply with certifications to administer and enforce its fair housing law in a manner which provided rights and remedies for processing Plaintiff-Applicant's complaint that were substantially equivalent to those under the Fair Housing Act. Defendant DHR failed to comply with its legal duty by not conducting a complete investigation of the complaint and obtaining facts to determine whether probable cause existed to believe that a discriminatory housing practice has occurred. Defendant DHR thereby deprived Plaintiff-Applicant of due process and equal protection of the laws under the Fourteenth Amendment.

36.

Defendant HUD failed in its legal duty and contractual obligation to ensure that Defendant DHR adequately complied with certifications and regulations required for

administering and enforcing its human rights law in a manner which provided rights and remedies for processing Plaintiff-Applicant's complaint that were substantially equivalent to those under the Fair Housing Act. Defendant HUD also failed to ensure that sufficient facts and evidence supported Defendant DHR's determination, and that the complaint was investigated pursuant to Defendant HUD's obligation with OCC prior to closing Plaintiff-Applicant's HUD complaint. Defendant HUD thereby deprived Plaintiff-Applicant of her Fifth Amendment rights of liberty and property without due process.

37.

As a result of Defendants DHR's and HUD's violation of their legal duties under the aforementioned statutes, regulations and constitutional amendments, Plaintiff-Applicant has suffered compensable damages in the form of economic loss, humiliation, embarrassment, mental anguish, emotional distress, inconvenience, and the deprivation of civil rights.

38.

Defendants DHR and HUD willfully, deliberately and maliciously violated Plaintiff-Applicant's constitutional rights to fair housing, thereby entitling Plaintiff-Applicant to all appropriate relief under federal laws.

**WHEREFORE**, Plaintiff-Applicant demands judgment as follows:

- (a) General damages for mental and emotional suffering caused by Defendants' misconduct.
- (b) Punitive damages based on Defendant's willful, malicious, intentional, and deliberate acts, including ratification, condonation and approval of said acts;
- (c) Special damages for economic loss proximately caused by Defendant's conduct;
- (d) Damages for the deprivation of Plaintiff-Applicant's statutory and common law rights;

- (e) Reasonable attorney's fees and expenses of litigation pursuant to U.S.C. § 1691e; and 42 U.S.C. §§ 1988, 2000d-7, and 3613.
- (f) Trial by jury as to all issues;
- (g) Prejudgment interest at the rate allowed by law;
- (h) Declaratory relief to the effect that Defendants have violated Plaintiff-Applicant's statutory and common law rights;
- (i) Injunctive relief requiring Defendant HUD to conduct a assessment/compliance review of the past and current practices of Defendant DHR's Buffalo, New York office under the appropriate authorities and prohibiting all Defendants from further unlawful conduct of the type described herein;
- (j) Grant such additional and further relief as this Court deems just and proper.

Respectfully submitted this 14th day of November 2003.

I do declare under penalty of perjury that the foregoing is true and correct.

  
Yvette Boykin  
Pro Se Litigant  
4045 Rockey Valley Drive  
Conley, Georgia  
(404) 244-1742

UNITED STATES DISTRICT COURT

*Northern*

District of *Georgia*

*Yvette Boykin*

ORIGINAL

SUMMONS IN A CIVIL CASE

v.

*Bank of America Corporation,  
a/b/a Bank of America and its  
wholly owned subsidiary, Equi Credit  
Corporation, State of New York Executive  
Department, Division of Human Rights,  
and U.S. Department of Housing  
and Urban Development*

CASE NUMBER: **1:03-CV-3467**

TO: (Name and address of Defendant)

*U.S. Department of Housing and Urban Development  
451 Seventh St. SW  
Washington, DC 20410*

YOU ARE HEREBY SUMMONED and required to serve on ~~PLAINTIFF'S ATTORNEY~~ (name and address)

*Yvette Boykin Pro Se  
4045 Rockey Valley Dr  
Conley, GA 30288*

an answer to the complaint which is served on you with this summons, within 60 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

JENNIFER D. THOMAS

CLERK

*Chleucher*

(By) DEPUTY CLERK

NOV 11 2003

DATE

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UNITED STATES DISTRICT COURT

Northern

District of

Georgia

Yvette Boykin

SUMMONS IN A CIVIL CASE

v.

Bank of America Corporation, db/a Bank of America and its wholly-owned subsidiary, Equicredit Corporation, State of New York Executive Department, Division of Human Rights and US Department of Housing and Urban Development

CASE NUMBER: 1:03-CV-3467

TO: (Name and address of Defendant)

State of New York, Executive Department Division of Human Rights One Fordham Plaza, 4th Floor Bronx, New York 10458

YOU ARE HEREBY SUMMONED and required to serve on ~~PLAINTIFF'S ATTORNEY~~ (name and address)

Yvette Boykin Pro Se 4045 Rocky Valley Dr Conley, GA 30288

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

LUTHER D. THOMAS

NOV 14 2003

CLERK

DATE

Chleucher

(By) DEPUTY CLERK

**ORIGINAL**

UNITED STATES DISTRICT COURT

Northern

District of

Georgia

Yvette Boykin

SUMMONS IN A CIVIL CASE

v.

CASE NUMBER:

**1:03-CV-3467**

Bank of America Corporation, d/b/a Bank of America and its wholly owned subsidiary, EquiCredit Corporation, State of New York Executive Department, Division of Human Rights, and U.S. Department of Housing and Urban Development

TO: (Name and address of Defendant)

Bank of America Corporation  
Registered Agent-CT Corporation System  
1201 Peachtree Street  
Atlanta, GA 30303

YOU ARE HEREBY SUMMONED and required to serve on ~~PLAINTIFF'S ATTORNEY~~ (name and address)

Yvette Boykin Pro Se  
4045 Rocky Valley Drive  
Conley, GA 30288

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

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(By) DEPUTY CLERK

UNITED STATES DISTRICT COURT

*Northern*

DUPLICATE

District of

*Georgia*

*Yvette Boykin*

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wholly owned subsidiary, Equi Credit  
Corporation, State of New York Executive  
Department, Division of Human Rights,  
and U.S. Department of Housing  
and Urban Development*

CASE NUMBER: **1:03-CV-3467**

TO: (Name and address of Defendant)

*U.S. Department of Housing and Urban Development  
451 Seventh St. SW  
Washington, DC 20410*

YOU ARE HEREBY SUMMONED and required to serve on ~~PLAINTIFF'S ATTORNEY~~ (name and address)

*Yvette Boykin Pro Se  
4045 Rocket Valley Dr  
Conley, GA 30288*

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LUTHER D. THOMAS

CLERK

*C. Weaver*

(By) DEPUTY CLERK

NOV 14 2003

DATE

**DUPLICATE**

UNITED STATES DISTRICT COURT

Northern

District of

Georgia

Yvette Boykin

**SUMMONS IN A CIVIL CASE**

v.

Bank of America Corporation, db/a  
Bank of America and its wholly owned  
Subsidiary, Equicredit Corporation, State  
of New York Executive Department, Division  
of Human Rights and US Department  
of Housing and Urban Development

CASE NUMBER: **1:03-CV-3467**

TO: (Name and address of Defendant)

State of New York, Executive Department  
Division of Human Rights  
One Fordham Plaza, 4th Floor  
Bronx, New York 10458

**YOU ARE HEREBY SUMMONED** and required to serve on ~~PLAINTIFF'S ATTORNEY~~ (name and address)

Yvette Boykin Pro Se  
4045 Rocky Valley Dr  
Conley, GA 30288

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

LUTHER D. THOMAS

NOV 14 2003

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(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Acti.

**DUPLICATE**

**UNITED STATES DISTRICT COURT**

Northern District of Georgia

*Yvette Boykin*

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v.

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CASE NUMBER:

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TO: (Name and address of Defendant)

*Bank of America Corporation  
Registered Agent: CT Corporation System  
1201 Peachtree Street  
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**LUTHER D. THOMAS**

**NOV 14 2003**

CLERK

DATE

*Chleucher*

(By) DEPUTY CLERK