

APPENDIX COVER

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-13883-DD

**SANDRA J. STATEN, individually and in her capacity
as the personal representative of the Estate of Walter Lee Staten, Sr.,**

Plaintiff - Appellant,

versus

D.R. HORTON INC.,

Defendant,

D.R. HORTON INC.-BIRMINGHAM,

Defendant - Appellee.

**On Appeal from the United States
District Court for the Northern District of Alabama**

BEFORE: WILLIAM PRYOR, NEWSOM, and GRANT, Circuit Judges.

BY THE COURT:

Appellee's motion to dismiss the appeal as frivolous is GRANTED.

Appellee's motions for summary affirmance and to stay the briefing schedule are DENIED

AS MOOT.

The Clerk is directed to close the file on this appeal.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-13883-DD

WALTER L. STATEN,
SANDRA J. STATEN,

Plaintiffs - Appellants,

versus

D.R. HORTON INC.,

Defendant,

D.R. HORTON INC.-BIRMINGHAM,

Defendant - Appellee.

On Appeal from the United States
District Court for the Northern District of Alabama

ORDER:

On February 25, 2019, Appellant Sandra J. Staten submitted to this Court "Letters of Administration," in which the Probate Court of Jefferson County, Alabama named Ms. Staten as the personal representative for the Estate of Walter Lee Staten, Sr. and authorized her to administer the estate.

Within 14 days after the date of this order, Appellee is ORDERED TO SHOW CAUSE why Sandra J. Staten, as the personal representative of the Estate of Walter Lee Staten, Sr., should not be substituted as a party in this appeal for Walter L. Staten. *See Fed. R. App. P. 43(a).*

In addition, also within 14 days after the date of this order, Appellants are ORDERED TO SHOW CAUSE why, if substituted, the Estate of Walter Lee Staten, Sr. should not be

required to retain counsel to proceed on appeal. *See Palazzo v. Gulf Oil Corp.*, 764 F.2d 1381, 1385 (11th Cir. 1985); *Godwin v. State ex rel. McKnight*, 784 So. 2d 1014, 1015 (Ala. 2000) (“Although the law allows [the plaintiff] to file complaints *pro se*, it does not allow him to file a complaint on behalf of anyone else, even an estate of which he is the executor.”).

/s/ Britt C. Grant
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

WALTER L. STATEN &)
SANDRA J. STATEN)
)
Plaintiffs,) CASE NO. 2:17-cv-00376-SGC
)
v.) JURY TRIAL DEMANDED
)
D.R. HORTON, INC. -)
BIRMINGHAM,)
)
Defendant.

AMENDED COMPLAINT

Comes now the Plaintiffs, Walter L. Staten and Sandra J. Staten (hereinafter "Plaintiffs"), by and through their attorney, and avers as follows:

STATEMENT OF JURISDICTION

1. This is a suit authorized and instituted pursuant 42 U.S.C. § 3604, et. seq., known as the Fair Housing Act, and 15 U.S. Code § 1691, known as the Equal Credit Opportunity Act.
2. This Court has original jurisdiction, pursuant to 28 U.S.C. § 1331, as this civil action arises under the laws of the United States cited above. This Court also has original jurisdiction, pursuant to 28 U.S.C. §1343(a); as this civil action seeks to secure the protection of, and redress the deprivation of, rights secured by the Fair Housing Act, providing for injunctive and other relief against discrimination.

3. This Court has supplemental jurisdiction over the actions arising under state law pursuant to 28 U.S.C. § 1337, as this Court has original jurisdiction over the claims arising under the laws of the United States that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy.

4. Venue is proper in this district, pursuant to 28 U.S.C. §1331, as a substantial part of the events or omissions giving rise to the claim occurred in Jefferson County, Alabama located in this judicial district.

STATEMENT OF THE PARTIES

5. Plaintiff Walter L. Staten is an African-American male citizen of the United States.

6. Plaintiff Sandra J. Staten, an African-American female citizen of the United States.

7. Plaintiffs are, and at all times herein, current residents of Jefferson County, Alabama.

8. As African-American citizens during the events described herein, the Plaintiffs were protected under the Fair Housing Act and Equal Credit Opportunity Act.

9. Defendant, D.R. Horton, Inc. - Birmingham, (hereinafter "Defendant"), is a corporation existing under the laws of the State of Alabama.

STATEMENT OF FACTS

10. Plaintiffs are a married couple and residents of Jefferson County, Alabama. The facts and events that are the basis of this lawsuit occurred within Jefferson County, Alabama.

11. On or about August 14, 2015 Plaintiffs entered into a real estate purchase agreement with Defendant to purchase real property located at 9318 Doss Ferry Lane, Kimberly, Alabama 35091, for \$217,000.00, closing scheduled for October 30, 2015.

12. On or about August 14, 2015 Plaintiffs applied for a mortgage loan for the full amount of the purchase price, which was to be financed through the Department of Veterans Affairs.

13. On August 14, 2015 Plaintiffs received from Defendant an application for hazard insurance, which was completed by the Plaintiffs and returned to the Defendant on August 22, 2015.

14. On or about August 22, 2015 Plaintiffs delivered earnest money to the Defendant in the amount of \$2,099.00 via personal check, which cleared Plaintiff's account on September 17, 2015.

15. Plaintiffs then received a letter from Defendant dated October 1, 2015 stating, without any further explanation, that Defendant would not deliver the home to Plaintiffs

16. Enclosed with the October 1, 2015 letter was a "Termination and Release Agreement" that Defendant asked the Plaintiff to sign as a mutual agreement to terminate the contract.

17. The "Termination and Release Agreement" had several fields stating different reasons why the contract was to be terminated, none of which were checked or otherwise marked.

18. Plaintiffs refused to sign the "Termination and Release Agreement", explaining to Defendant via email that there was not a mutual agreement to terminate the contract.

19. At no time did the Plaintiffs agree or consent to the termination of the real estate purchase contract.

20. Defendant refused to offer Plaintiff any statement or reason for why the contract was terminated despite multiple requests by the Plaintiffs.

21. The property remained available thereafter to other purchasers and was subsequently sold to a Caucasian for \$201,500.00 on November 24th, 2015, an amount \$15,500.00 less than what the Plaintiffs were willing and able to pay.

COUNT ONE

RACIAL DISCRIMINATION IN VIOLATION OF 42 U.S.C. § 3604 THE FAIR HOUSING ACT

22. The Fair Housing Act, 42 U.S.C. § 3604(a), makes it unlawful to refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, sex, familial status, or national origin.

23. Defendants refused to sell the property after the Plaintiffs made a bona fide offer, the parties entered into a valid real estate purchase agreement, and payment of earnest money to Defendants.

24. Defendants subsequently sold the property to a Caucasian buyer for an amount considerably less than was offered to the Plaintiffs.

25. Defendants did not provide Plaintiff with any statement or valid reason for why they were refused the sale of the property.

26. Defendants discriminated against Plaintiffs based on their race as African-Americans in the sale of property located at 9318 Doss Ferry Lane, Kimberly, Alabama 35091.

COUNT TWO

RACIAL DISCRIMINATION IN VIOLATION OF 15 U.S.C. § 1691
THE EQUAL CREDIT OPPORTUNITY ACT

27. The Equal Credit Opportunity Act, 15 U.S.C. § 1691, makes it unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex or marital status, or age.

28. Defendant is a creditor within the scope of the Act as a corporation who regularly extends, renews, or continues credit; any person who regularly arranges for the extension, renewal, or continuation of credit; or any assignee of an original creditor who participates in the decision to extend, renew, or continue credit.

29. Plaintiffs applied for a mortgage with Defendant for the purchase of property located at 9318 Doss Ferry Lane, Kimberly, Alabama 35091, but were denied.

30. Plaintiffs qualified for financing through the Department of Veterans Affairs based on Walter Staten's service in the military.

31. Defendant offered no valid reason for the adverse action taken against the Plaintiffs and would not provide Plaintiffs with any records concerning their application for financing.

32. Defendant discriminated against the Plaintiffs based on their race as African-Americans.

COUNT THREE

**RACIAL DISCRIMINATION IN VIOLATION OF ALABAMA CODE §
24-8-6 THE ALABAMA FAIR HOUSING LAW**

33. The Alabama Fair Housing Law, Alabama Code § 24-8-6, makes it unlawful for any person or other entity whose business includes engaging in residential real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of the transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

34. Defendant is an entity whose business includes engaging in residential real estate related transactions within the scope of the Act.

35. Defendants refused to sell the property after the Plaintiffs made a bona fide offer, the parties entered into a valid real estate purchase agreement, and payment of earnest money to Defendants.

36. Defendants subsequently sold the property to a Caucasian buyer for an amount considerably less than was offered to the Plaintiffs.

37. Defendants did not provide Plaintiff with any statement or valid reason for why they were refused the sale of the property.

38. Defendants discriminated against Plaintiffs based on their race as African-Americans in the sale of property located at 9318 Doss Ferry Lane, Kimberly, Alabama 35091.

COUNT FOUR

BREACH OF CONTRACT

39. Plaintiffs entered into a valid and enforceable real estate sales contract with Defendant for the sale of property located at 9318 Doss Ferry

Lane, Kimberly, Alabama 35091 with closing scheduled for October 30, 2015.

40. Plaintiffs delivered earnest money to Defendant and otherwise fully performed their duties under the terms of the contract.

41. Defendant breached its duties under the contract by refusing to sell the property to the Plaintiffs.

42. Defendants subsequently sold the property for an amount considerably less than was offered to the Plaintiffs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully prays that this Court will assume jurisdiction of this action, and after trial, provide relief as follows:

A. Enter an Order requiring Defendant to make Plaintiffs whole by awarding Plaintiffs compensation nominal, compensatory, and punitive damages.

B. Plaintiffs further pray for such other and further relief and benefits as the cause of justice may require, including, but not limited to, an award of costs, attorneys fees, and expenses incurred by this litigation.

Plaintiffs demand trial by struck jury on all issues triable by jury.

Respectfully submitted,

/s/ Scott Morro

Scott Morro (ASB-4954-C30M)
Attorney for Plaintiffs

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SANDRA J. STATEN, individually and in her capacity
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D.R. HORTON INC.,

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D.R. HORTON INC.-BIRMINGHAM,

Defendant - Appellee.

On Appeal from the United States
District Court for the Northern District of Alabama

BEFORE: WILLIAM PRYOR, NEWSOM, and GRANT, Circuit Judges.

BY THE COURT:

Appellant's motion to vacate this Court's June 14, 2019 order, which is construed as a motion for reconsideration of this Court's June 14, 2019 order, is DENIED.

**UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT**

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

David J. Smith
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

August 02, 2019

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 18-13883-DD

Case Style: Walter Staten, et al v. D.R. Horton Inc.-Birmingham

District Court Docket No: 2:17-cv-00376-SGC

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

The enclosed order has been ENTERED.

Sincerely,

DAVID J. SMITH, Clerk of Court

Reply to: Bradly Wallace Holland, DD/bmc

Phone #: 404-335-6181

MOT-2 Notice of Court Action