

No. \_\_\_\_\_

**19-7613**

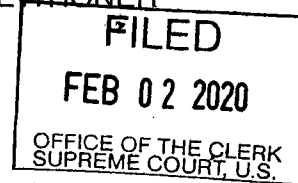
IN THE

SUPREME COURT OF THE UNITED STATES

**ORIGINAL**

WANDA E. Smith-Jeter — PETITIONER  
(Your Name)

ARTSPACE EVERETT LOFTS vs.  
CONDOMINIUM ASSOCIATION, et al. — RESPONDENT(S)



ON PETITION FOR A WRIT OF CERTIORARI TO

UNITED STATES COURT of APPEALS for the Ninth Circuit  
(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

WANDA E. Smith-Jeter  
(Your Name)

P.O. BOX 102  
(Address)

Everett, WA 98206  
(City, State, Zip Code)

(206) 573-1058  
(Phone Number)

## TABLE OF AUTHORITIES CITED

### — CASES —

### PAGE NUMBER

1. Walker v. City of Lakewood, 272 F.3d 1114, 1128 (9<sup>th</sup> Cir. 2001)

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2. Smith-Jeter v. Artspace Everett Lofts, "etal" [D.C. No. 2:14-cv-01584-JPD] and [9<sup>th</sup> Cir. No. 16-35196].... pg. 6; 11-14; 16; 19-29  
[D.C. No. 17-cv-1857-JPD] and

3. Texas Department of Housing and Community Affairs v. Inclusive Communities Project [U.S. Supreme Court, No. 13-1371].... pg. 7; 17

4. The Committee Concerning Community Improvement v. City of Modesto, 583 F.3d 690 (9<sup>th</sup> Cir. 2009).... pg. 18

5. U.S. v. Fountainbleau Apartments L.P., 566 F. Supp. 2d 726 (E.D. Tenn. 2008).... pg. 15

### — STATUTES AND RULES —

1. Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988.... pg. 7; 16

2. Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 § 804(b), 42 U.S.C.A. § 3604(b).... pg. 18

3. Civil Rights Act of 1968, § 802(K), 42 U.S.C.A. § 3602(K); Fair Housing Act, § 804(a, d).... pg. 15

4. 42 U.S.C.A. § 3604(a, d).... pg. 15

### — OTHER —

Article: "Supreme Court Upholds Key Tool for Fighting Housing Bias" ([/articles/2015/1/21/texas-housing-discrimination-supremecourt.html](http://articles/2015/1/21/texas-housing-discrimination-supremecourt.html))

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**QUESTION(S) PRESENTED**

1. Does petitioner, pro se, WANDA E. Smith-Jeter present a prima facie case for retaliation, under the Fair Housing Act against the Respondents, ARTSPACE EVERETT LOFTS CONDOMINIUM ASSOCIATION, et al.?
2. Should this Motion for Summary Judgment have been issued, against the Petitioner?

## LIST OF PARTIES

[ ] All parties appear in the caption of the case on the cover page.

☒ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

WANDA E. Smith-Jeter

Artspace Everett Lofts Condominium Association

QUANTUM Management Services, INC.

## RELATED CASES

1. Smith-Jeter v. Artspace, D.C. No. 2:17-cv-01857-JPD, U.S. District Court for the Western District of Washington at Seattle. Decision by Court entered November 19, 2018.
2. Smith-Jeter v. Artspace, No. 18-35987, U.S. Court of Appeals for the Ninth Circuit. Judgment entered July 24, 2019.
3. Petition for panel rehearing and petition for rehearing en banc are denied November 13, 2019.
4. Smith-Jeter v. Artspace, D.C. No. 2:14-cv-01584-JPD, U.S. District Court for the Western District of Washington at Seattle. Judgment entered 03/09/2016.
5. U.S. Court of Appeals for the Ninth Circuit. Smith-Jeter v. Artspace, No. 16-35196, Judgment entered April 24, 2017.
6. Petition for Panel rehearing and Petition for rehearing en banc are denied December 7, 2017.
7. Smith-Jeter v. Artspace, No. 17-7794, Supreme Court of the United States. Petition was denied March 26, 2018.

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IN THE  
SUPREME COURT OF THE UNITED STATES  
  
PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

**OPINIONS BELOW**

☒ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix "A" to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

The opinion of the United States district court appears at Appendix "B" to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☒ is unpublished.

☐ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

The opinion of the \_\_\_\_\_ court appears at Appendix \_\_\_\_\_ to the petition and is

☐ reported at \_\_\_\_\_; or,

☐ has been designated for publication but is not yet reported; or,

☐ is unpublished.

## JURISDICTION

☒ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was July 24, 2019.

☐ No petition for rehearing was timely filed in my case.

☒ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: November 13, 2019, and a copy of the order denying rehearing appears at Appendix "D".

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☐ For cases from **state courts**:

The date on which the highest state court decided my case was \_\_\_\_\_.  
A copy of that decision appears at Appendix \_\_\_\_\_.

☐ A timely petition for rehearing was thereafter denied on the following date: \_\_\_\_\_, and a copy of the order denying rehearing appears at Appendix \_\_\_\_\_.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including \_\_\_\_\_ (date) on \_\_\_\_\_ (date) in Application No. \_\_\_\_ A \_\_\_\_.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

## CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1. Ninth Circuit Rule 36-3 (app. "A"; pg. 1)
2. 28 U.S.C. § 636(c) (app. "A"; pg. 1), (app. "C"; pg. 5)
3. Fed. R. App. P. 34(a)(2) (see app. "A"; pg. 1)
4. Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 or "FHA" (app. "A"; pg. 2)
5. 28 U.S.C. § 1291 (app. "A"; pg. 2)
6. 28 U.S.C. §§ 1331, 1367 (app. "C"; pg. 5)
7. 28 U.S.C. § 1391(b) (app. "C"; pg. 5)
8. Fed. R. Civ. P. 56(a); 477 U.S. 317, 323 (1986) (app. "C"; pg. 5)
9. 477 U.S. 242, 248 (1986) (app. "C"; pg. 5)
10. 457 F.3d 1009, 1013 (9th Cir. 2006) (app. "C"; pg. 5)
11. 210 F.3d 1099, 1102 (9th Cir. 2000) (app. "C", p. 6)
12. 477 U.S. at 250 (app. "C"; pg. 6)
13. 475 U.S. 574, 586 (1986) (app. "C"; pg. 6)
14. 477 U.S. at 252 (app. "C"; pg. 6)
15. 477 U.S. at 327 (app. "C"; pg. 6)
16. Section 3617 of the Fair Housing Act ("FHA"), 42 U.S.C. § 3617 (app. "C"; pg. 6, pg. 7)
17. 42 U.S.C. 3617 (app. "C"; pg. 7)
18. 272 F.3d 1114 (9th Cir. 2001) (app. "C"; pg. 7)
19. 3603, 3604, 3605 or 3606 of the "FHA" (app. "C"; pg. 7)
20. 272 F.3d at 1128-29 (app. "C"; pg. 7)
21. 24 C.F.R. § 100.400, § 100.400(2), (5). (app. "C"; pg. 7)
22. Fed. R. App. P. 35 (app. "D")
23. Fed. R. App. P. 41(a) (app. "E")
24. 9th Cir. Rule 27-7 (app. "E")



## STATEMENT OF THE CASE

1. I the petitioner, WANDA E. Smith-Jeter, believe that Federal Fair Housing Laws were intentionally violated against me and the acts were retaliatory in nature.
2. I, along with my husband, Jesse James Jeter have resided at Artspace Everett Lofts since June 11, 2012. It is an apartment complex which is located in Everett, Washington in Snohomish County and that adjoins the Schack Art Center; separated by only a set of "double-doors". Herein lies "a genuine issue of material fact, in dispute by both parties"; thereby preventing the granting of a summary judgment.
3. Artspace Everett Lofts receives tax credits under the Federal Low-Income Housing Tax Credit Program. As such, Artspace Everett Lofts is subject to the Fair Housing Act.
4. Respondents Artspace Everett Lofts Condominium Association made up of a board of representatives from the Artspace Everett Lofts and the adjoining property; the Schack Art Center.
5. Respondents Quantum Management Services, Inc. ("Quantum") is a Washington company based in Lynnwood, Washington. In February 2019, "Quantum" was acquired by Coast Management Company.
6. Cindy Huang, who is of Asian descent, was employed by Quantum at the time this lawsuit was filed. Heidi Heimarck and William "Liam" Cole who are caucasian, are still currently employees of Quantum as Apartment Resident Manager and Apartment Maintenance Manager, respectively. Judy Touhy, Executive Director of the Schack Art Center

### STATEMENT OF THE CASE

and current President of the Everett City Council and Julie Alexander of Artspace are also Caucasians.

7. I, the petitioner, aged 65 and my husband aged 68 are both disabled; with Jesse having been diagnosed with cancer three years ago. We are both black and members of protected classes, under the Fair Housing Act. The creator of the "objectionable works" that were "allowed" to be hung in the lobby of the apartment building, Linda "Ammah" Wilson, is also black and still a tenant at Artspace Everett Lofts; and had repeatedly intentionally harassed Jesse and I in the past.

8. My husband and I have complained repeatedly to Artspace and Quantum -including via oral and written complaints to Ms. Heimarch and Mr. Cole, about our housing rights and the discrimination, harassment, stalking intimidation and retaliation that we have experienced; we believe, due to our race, during our tenancy at Artspace Everett Lofts; with the most recent incident occurring in January 2020.

9. Since moving into Artspace Everett Lofts, my husband and I have been subjected to blatant stalking, physical and emotional intimidation, harassment and hate speech on the basis of; we believe, at a minimum, our race.

10. Both Jesse and I believe that subsequently such incidents amounted to an attempt to harass us to such an extreme that we would vacate our unit, resulting in a "constructive eviction"; in retaliation for our having filed a discrimination lawsuit against "Artspace Everett Lofts Condominium Association". Washington State law allows landlords in most areas to evict tenants

### STATEMENT OF THE CASE

for "no reason" by giving the tenant "proper notice". Our concern over losing our home, was not unfounded.

11. In October 2017, a piece of artwork was placed in the lobby entrance to Artspace Everett Lofts. The artwork was placed a few feet from our mailbox. The title of the artwork was "DIE, NIGGER, DIE".

For several days, replicas of two (2) "bloodied, dark colored, severed heads" just hung on the wall near our mailbox - alone, without any title, author, nor any other indication that they were part of any "organized art show"; as all of the other three (3) walls were blank, for more than a week.

Jesse and I, the petitioner, were made to feel shock, alarm and hurt by that presentation. We felt intimidated and harassed by the Respondent's actions; of "allowing" the display of the piece.

During this same period of time, three of the tires on our vehicle were punctured and flattened, while the Ninth Circuit Court of Appeals was also reviewing and deciding my court case, "Wanda E. Smith-Jeter v. Artspace Everett Lofts Condominium Association [Docket No. 16-35196]". This review was a protected activity, under the FHA.

12. I do not believe that there was a legitimate, non-discriminatory basis for the Respondent's actions; going against even their own rules and policy by allowing the piece to be placed just a few feet from our mailbox, for more than a month; during the art show. After I e-mailed a written complaint to Artspace

### STATEMENT OF THE CASE

and Quantum, they both agreed that the display was in violation of the FHA and it was removed.

13. I believe that by among other things, "permitting" the display of the replicas, of two (2) dark colored, severed, bloody, "wooly" heads with what appeared to be two (2) bullet holes in them, titled; "DIE, NIGGER, DIE", near our mailbox to intimidate us, the respondents did act with discriminatory intent and motives; based on our race.

14. My husband and I suffered injury as a result of the actions of the respondents, including emotional distress, deterioration of physical health and the inability to peacefully enjoy our residence.

15. I, the petitioner, do believe that the respondents in this case did indeed subject us to "an adverse action"; thereby satisfying the "Walker" element of a prima facie retaliation claim under the Fair Housing Act.


16. I believe that, in this case, "recognition of 'disparate impact liability' under the FHA plays an important role in uncovering discriminatory intent: it permits the plaintiff to counteract unconscious prejudices and disguised animus that escape easy classification as disparate treatment."

17. On June 25, 2015, by a 5-4 decision in "Texas Department of Housing and Community Affairs v. Inclusive Communities Project", the Supreme Court held that disparate impact claims are cognizable under the Fair Housing Act.

18. I believe that any reasonable person would find my claim of

## STATEMENT OF THE CASE

18.(cont'd) retaliation reasonable because there definitely is a causal link between these and other adverse actions taken by the respondents in this case, against us and the Protected activities of ① "my seeking the peaceful enjoyment of my home", and ② "having the decision in a lawsuit against the respondents, reviewed in a Federal Court of Appeals; without intimidation. "



## REASONS FOR GRANTING THE PETITION

The National importance of having the Supreme Court decide the questions involved is because I believe that these are issues that need more visible assurance of their validity, by this Court; that will aide future plaintiffs (pro se) in seeking and finding justice

I believe that the District Court's granting of Summary Judgment in my action alleging retaliation in violation of the Fair Housing Act ("FHA"), was in error because the Respondents are vicariously liable for the acts of their agents, because the duty of a property owner not to discriminate in the leasing or sale of that property is "non-delegable", and thus, a property owner is liable under the "FHA" for the conduct of his employees despite instructions to them not to discriminate. [Civil Rights Act of 1968, 802(K), 42 U.S.C.A. § 3602(K); Fair Housing Act, § 804(a, d), 42 U.S.C.A. § 3604(a, d). U.S. v. Fountainbleau Apartments L.P., 566 F. Supp. 2d 726 (E.D. Tenn. 2008).]

I also believe that the Respondents did not meet their burden of proving that there are no genuine issues of material fact in dispute.

One material fact that is disputed by both parties is whether the Schack Art Center and Judy Touhy "had anything to do with Artspace Everett Lofts Condominium Association".

## REASONS FOR GRANTING THE PETITION

I. IN one of the two declarations submitted by Property Manager, Cindy Huang in support of the defendants' motion for summary judgment, submitted to the court in this case and dated November 09, 2018; Cindy Huang states, "one entity had nothing to do with the other".

II. IN another of the two declarations submitted by Property Manager, Cindy Huang in support of the defendant's motion for summary judgment, submitted to the court in this case as well as in a previous case against the defendants and dated 01/04/2016; Cindy Huang states, "The (2) entities, "met and discussed joint payments of common bills to be paid"; thus committing the crime of perjury.

Both of these contradictory statements can not be true; however, they were both used to grant the Respondents' Motion for Summary Judgment and the case was dismissed with prejudice.

Beyond the particular facts and the parties involved, I believe that an issue of importance in this case is to make sure that through the consideration of disparate impact, the minority plaintiff is still afforded the protections provided by the Fair Housing Act.

I believe that Title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Act of 1988 allows challenges to the race-neutral policies and actions taken by the Respondents, that have a negative impact on this minority group, even without proof of intentional

## REASONS FOR GRANTING THE PETITION

discrimination.

In "Texas Department of Housing and Community Affairs v. Inclusive Communities Project, U.S. Supreme Court, No. 13-1371", the U.S. Supreme Court Justices ruled "5-4", that Federal Housing Laws prohibit seemingly neutral practices that harm minorities, even without proof of intentional discrimination.

To establish a prima facie case of disparate impact, under the FHA, a Plaintiff must show at least the defendant's actions had a discriminatory effect by proving:

(1.) the occurrence of certain outwardly neutral practices;

"In this case, the outwardly neutral practice was "allowing" the display of objectionable artwork that was offensive and harmful to (2) black tenants; but placed near their mailbox by "the only other black tenant."

and (2.) a significantly adverse or disproportionate impact on persons of a particular type, produced by the defendant's facially neutral acts or practices.

"In this case, by "allowing" the objectionable work, titled "DIE, NIGGER, DIE" to be hung in the lobby, near the mailbox of (2) black tenants, while the other (3) walls had been left blank (this was even prior to the addition of an artshow lasting several weeks). This action had a very adverse impact on the Jeters, who believe that the action was retaliatory. This adverse action took place during the time-period that the Jeters' "protected activities" of, first, "having the



## REASONS FOR GRANTING THE PETITION

court decision in this Petitioner's discrimination lawsuit against the Respondents, under review in a U.S. Court of Appeals, without intimidation" and secondly, "their attempt to engage in the peaceful enjoyment of their home" is a right that was being denied them; in Violation of the Fair Housing Act. The Jeters did feel intimidated by the actions of the Respondents, which they believe, were retaliatory. This satisfies all elements of "Walker". (Civil Rights Act of 1968, § 804(b), 42 U.S.C.A. § 3604(b); The Committee Concerning Community Improvement v. City of Modesto, 583 F.3d 690 (9<sup>th</sup> Cir. 2009).

Substantial evidence exists that "a dispute of material fact exists and therefore summary judgment is not appropriate. If a material fact is disputed by both sides, then the court is prohibited from granting a summary judgment.

Therefore, I pray that this "Petition for a Writ of Certiorari", will be granted by this court.