

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

Emmanuel Donaldson, Joyce and
Lester Pue,
PLAINTIFFS,

Civil Action No. 8:15-cv-02141-MGL

V.

Nikki Haley, in her official capacity as Governor
of the State of South Carolina,
Valarie M. Williams, Executive Director
Laura Nicholson, in her individual capacity
Ed Knight, in his individual capacity
Brad Phillips, in his individual capacity
John Does 1-5,
DEFENDANTS.

AMENDED COMPLAINT

**PLAINTIFFS' AMENDED COMPLAINT FOR INJUNCTIVE,
DECLARATORY AND COMPENSATORY RELIEF**

INTRODUCTION

1. This civil rights class action seeks injunctive relief compelling the Honorable Nikki Haley, Governor of the State of South Carolina (“Governor Haley”), and Valarie M. Williams, Executive Director of the South Carolina State Housing Finance and Development Authority (“Executive Director Williams”), in their official capacities, Laura Nicholson, Ed Knight, and Brad Phillips in their individual capacities (collectively, the “Defendants”), to remedy specific racially motivated bias and discrimination at the South Carolina State Housing Finance and

Development Authority ("SC Housing") in order to safeguard against discriminatory practices at SC Housing.

2. Governor Haley and Executive Director Williams directly and indirectly control the actions, inactions, policies, patterns, customs and practices of SC Housing alleged in this Complaint.

3. This civil rights action is brought pursuant to 42 U.S.C. § 1983 on behalf of that class of people subjected to the discriminatory practices that have infested SC Housing.

4. Plaintiffs seek injunctive and monetary relief from the arbitrary and capricious evaluations of jobs, development of an objective value for jobs offered, and an equal opportunity to get the opportunities offered by SC Housing. Plaintiffs seek systemic declarative and injunctive relief to stop SC Housing from continuing to violate the federal constitutional and statutory rights of Plaintiffs.

5. Plaintiffs are individuals, and their respective corporate entities, who are paid less than they would be due to the discrepancy in job valuations and the willful and wanton, baseless failures issued by those reviewing their work. Said failures cause delays which are highly disruptive to the businesses being run by Plaintiffs. The South Carolina Housing Trust Fund provides financial assistance, rehabilitation, and acquisition of affordable housing for low-income and very-low-income households. The discriminatory practices divert those individuals who have devoted their talents and skills to fostering and facilitating the rehabilitation of the households of the State's lowest economic classes to other employment opportunities. South Carolina should prevent the workforce responsible for the rehabilitation from seeking other avenues in which to

earn a living, thereby cutting the economically underprivileged from the ranks of safe and affordable housing. Furthermore, for the purpose of this action is based on the intentional prevention of a protected class of people from having an equal chance at engaging in a livelihood replete with an equal opportunity to succeed. The low and lowest-economic classes who need the assistance of the Housing Trust Fund to rehabilitate their living quarters in an effort to maintain the health and safety of their respective families are left with subpar and deficient modes of rehabilitation. Those individuals rely on the State, and in particular Defendants, who are wholly responsible for the task of maintaining the low income housing for those who have nothing else.

6. As a direct result of the ongoing, systemic discriminatory practice of literally and figuratively paying different amounts for the same or similar work based on the race, creed, gender, socio-economic class, etc., SC Housing is suffering from defection and a refusal of capable, competent rehabilitative entities who would ultimately work on behalf of SC Housing. More importantly, the State is fostering and facilitating discriminatory practices seemingly left in an era that existed well before our own. The racially divided society that once existed is rearing its head once again within the State's bureaucracy.

7. SC Housing has long operated, and continues to operate, a system in which Plaintiffs are treated differently in the way that they are paid, and in the way that their work is reviewed for the satisfactory completion of the job, and the subsequent payment for said job, than their white counterparts.

COMPLAINT FOR DAMAGES

Emmanuel Donaldson, Joyce Pugh, and Sylvester Pugh (Plaintiffs) through their undersigned attorney, hereby file this Complaint seeking damages against Defendants for violation of their constitutional rights under the equal protection clause of the Fourteenth Amendment, and avers as follows:

SUBJECT MATTER JURISDICTION

8. This Court possesses subject matter jurisdiction over the Complaint under 28 U.S.C. 1331 because Plaintiffs' claims arise under a federal statute, 42 U.S.C. 1981 and 1983, and the United States Constitution.

PERSONAL JURISDICTION

9. This Court has personal jurisdiction over Defendants in their individual capacities because Defendants reside in South Carolina; and, their acts or omissions giving rise to Plaintiffs' claims occurred in South Carolina.

VENUE

10. Venue is proper under 28 U.S.C. 1391(b) because Plaintiffs reside in this District; and, the acts or omissions giving rise to Plaintiffs' claims occurred in this District.

PARTIES

11. Plaintiff, Emmanuel Donaldson, was discriminated against as a result of his race by Defendant on numerous occasions over the past two years. Plaintiff is an African-American. Plaintiff can be contacted at PO Box 14291, Anderson SC 29624.

12. Plaintiff, Joyce Pue, was discriminated against as a result of her race by Defendants on numerous occasions over the past several years. Plaintiff is a partner in Chapel Rehab Management located at 9400 Two Notch Rd. Columbia SC 29223.

13. Plaintiff, Sylvester Pue, was discriminated against as a result of his race by Defendants on numerous occasions over the past several years. Plaintiff is a partner in Chapel Rehab Management located at 9400 Two Notch Rd. Columbia SC 29223.

14. Sued in her official capacity, Defendant Nikki Haley is the Governor of the State of South Carolina. Defendant violated Plaintiffs' equal protection rights. Defendant was acting in the scope of her duties and obligations as said Governor.

15. Sued in her official capacity, Defendant Valarie M. Williams is the Executive Director of the South Carolina State Housing Finance and Development Authority. Defendant violated Plaintiffs' equal protection rights. Defendant was acting in the scope of her duties and obligations as said Executive Director.

16. Sued in her individual capacity, Defendant Laura Nicholson is the Housing Development Director of South Carolina State Housing Finance and Development Authority, a state agency. Defendant violated Plaintiffs' equal protection rights. Defendant was acting under color of law. Defendant can be contacted at 300-C Outlet Pointe Blvd, Columbia SC 29210.

17. Sued in his individual capacity, Defendant Ed Knight is the Deputy Director of Programs of South Carolina State Housing Finance and Development Authority, a state agency. Defendant violated Plaintiffs' equal protection rights. Defendant was acting under color of law. Defendant can be contacted at 300-C Outlet Pointe Blvd, Columbia SC 29210.

18. Sued in his individual capacity, Defendant Brad Phillips is an inspector for the South Carolina State Housing Finance and Development Authority, a state agency. Defendant violated Plaintiff's equal protection rights. Defendant was acting under color of law. Defendant can be contacted at 300-C Outlet Pointe Blvd, Columbia SC 29210.

STATEMENT OF FACTS

19. Plaintiff Donaldson is a sponsor contractor that rehabilitates low income housing.
20. On or about March 27, 2015, Plaintiff Donaldson was finishing repairs on a home at which, during a storm, a pine branch had fallen and damaged the hot water heater.
21. Defendant Phillips came to the site to inspect the work but refused to do the required inspection.
22. Defendant Phillips questioned Plaintiff Donaldson about the cause of the water heater damage.
23. Plaintiff Donaldson explained to Defendant Phillips that a tree branch fell on it.
24. Defendant Phillips said, "I don't believe that." In essence, he called him a liar.
25. The Oconee County Inspector said it was perfectly believable.
26. Defendant Phillips went on to question Plaintiff Donaldson about the base of the HVAC unit being level.
27. Plaintiff Donaldson placed a level on the HVAC unit to prove it was level.
28. Defendant refused to accept the reading from Plaintiff Donaldson's level and demanded he use Defendant's level.
29. Defendant's level showed the HVAC unit was level. Defendant still insisted the HVAC unit was not level.
30. The Oconee County Inspector found that the work was done to code and up to specs.
31. Defendant became indignant and began badgering Plaintiff Donaldson and his staff about work done on the home.
32. Plaintiff Donaldson had had numerous confrontations with Defendant over the past two years which made him realize he should just ask the defendant to leave the property to avoid any further quarreling.

33. Defendant left but a few minutes later returned and confronted Plaintiff Donaldson again.

34. Defendant became indignant and told the Plaintiff Donaldson that he was a “stupid nigger.”

35. Again, Plaintiff remained calm and asked Defendant to leave the property.

36. Over the course of Defendant’s time as inspector for the city, he has called and questioned any work Plaintiff Donaldson performs for the organization.

37. Plaintiff Donaldson has had subcontractors not want to work for him due to the harassment.

38. Plaintiff Donaldson has filed numerous complaints with Defendant’s superiors yet nothing changes.

39. Defendant’s actions have caused delays in Plaintiff Donaldson finishing his work on time as well as added expense in continually redoing work that county inspectors find meeting code.

40. Defendant’s constant ridicule and fabricated violations have caused Plaintiff Donaldson to receive a “suspended” status with the organization, causing even further economic snags.

41. Plaintiff Donaldson feels threatened by Defendant’s actions.

42. Defendant either knew or should have been known, to a reasonable person in like circumstances, that continually harassing Plaintiff Donaldson due to his race and calling him racial slurs violated Plaintiff Donaldson’s clearly established constitutional right to equal protection.

43. As a proximate cause of Defendant’s unconstitutional actions, Plaintiff Donaldson

has lost income; he has suffered immense mental and emotional pain, and; he has suffered great humiliation.

44. Plaintiffs' Sylvester and Joyce Pue (hereinafter Plaintiffs' Pue) are independent contractors that rehabilitate low income housing.

45. They do business as Chapel Rehab Management out of Columbia, South Carolina.

46. In the course of their work, the Pues have had the opportunity to work with SC Housing.

47. During their work with SC Housing, the Pues have interacted with Defendant Phillips.

48. Defendant Phillips makes the Pues take pictures of everything that they work on to an extreme which costs them time and money.

49. Defendant Phillips makes the Pues do unnecessary work in an effort to limit their profit margin.

50. Defendant Phillips made the Pues take a one-year old hot water heater that was located under a home at which they were working, and put it in a hut outside the perimeter of the house.

51. Defendant Phillips engaged Mr. Pue in an argument regarding whether Mr. Pugh was allowed to be around Mr. Phillips as he did an inspection of the Pues' work that was so volatile that the homeowner was concerned.

52. The homeowner was so shaken that he told Mrs. Pugh that he was "wondering if her should get his gun."

53. Plaintiff Pues entered into a contract with SC Housing when Defendant Phillips was on vacation.

54. The award amount was for \$6450.00. The Pues received the funding agreement from Laura Nicholson, the Housing Development Director. The funding agreement had to be executed and returned within seven days, or the project would be cancelled. The water well aspect of the project was to be done for \$5200.00. The executed document was signed off on by Richard A. Clark of SC Housing on April 8, 2015.

55. Upon the return of Defendant Phillips, he quashed the contract that had been entered into by SC Housing and Joyce Pue, who was acting on behalf of Larry Smith, who is also African-American.

56. Defendant Phillips reneged on a fully executed contract wherein SC Housing lowered the payment for the well to \$3500.00 or 1/3 of the originally contracted price.

57. Ms. Pue was in shock by the blatant disregard for the valid contract.

58. Ms. Pue attempted to utilize the chain of command in her efforts to have SC Housing honor the contract that they had consummated.

59. Laura Nicholson, the Housing Development Director, and Ed Knight, Deputy Director of Programs, made the unilateral decision to require that all of the costs of well-work expended by the contractors had to be prepared for the inspection by SC Housing on a detailed invoice, copies of DHEC reports and the associated clearances had to be provided, all of the contacts and their respective telephone numbers had to be provided, etc. This was yet another example of SC Housing interfering with the African-American contractors' pursuit of just economic enrichment.

60. Mr. Pue contacted Valarie M. Williams, the Executive Director of SC Housing, in an effort to address this unjustified dishonor of a valid contract.

61. Defendant Williams got back in touch with Mr. Pue and essentially provided the justification for breaching the contract.

62. Defendant Williams then patronized the Pues, and the rest of the contractors, by saying that she would address things that were being requested from the contractor that were in contradiction to the Housing Trust Fund manual.

63. Defendant Williams said she would address issues related to Defendant Phillips, once they were committed to writing, despite the fact that the conduct of Defendant Phillips was recognized as coarse and racially charged.

64. Defendant Williams admitted to Mrs. Pugh that the breach of the contract needed to be looked into, but when all was said and done, she dispensed with the opportunity to make things right by passing the anxiety ridden issue to Ed Knight, a Caucasian underling who affirmed SC Housing's business practice of entering into a contract, only to violate the terms and force the other party to accept the terms as presented by the strong armed tactics of SC Housing.

CAUSE OF ACTION

65. Plaintiffs re-alleges paragraphs 1-64.

66. In discriminating against Plaintiffs due to their race, Defendants have violated Plaintiffs' clearly established constitutional right to equal protection under the Fourteenth Amendment, and 42 U.S.C. 1981 and 1983 of which Defendants knew or should have known, if viewing the conduct from the perspective of a reasonable person in like circumstances.

67. Defendants acted with actual malice against Plaintiffs in violating their clearly established constitutional right to equal protection.

68. Defendants' violation of Plaintiffs' constitutional rights proximately caused Plaintiffs' damages in lost income, mental and emotional pain, suffering, and humiliation.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court award Plaintiffs compensatory and punitive damages according to proof against Defendant for violation of Plaintiffs' clearly established constitutional right to equal protection.

- 70. Award Plaintiff attorney's fees under 42 U.S.C. 1988 (b),
- 71. Grant such other relief as the Court deems just and proper.

JURY TRIAL

- 72. Plaintiffs demand a jury trial.

ENDORSEMENT AND CERTIFICATION

I hereby certify that the events or omissions giving rise to the claim occurred in Anderson, South Carolina and, therefore, the complaint should be assigned to this Division accordingly.

/s Donald L. Smith
Donald L. Smith

Respectfully submitted,

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Date: March 1, 2016

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FOR THE DISTRICT OF SOUTH CAROLINA
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Emmanuel Donaldson, Joyce and
Lester Pue,
PLAINTIFFS,

Civil Action No: 8:15-cv-02141-MGL

Vs.

**ANSWERS OF EMMANUEL
DONALDSON TO STANDARD
INTERROGATORIES PURSUANT
TO LOCAL RULE 26.01 DSC**

Nikki Haley, in her official capacity as Governor
Of the State of South Carolina,
Valarie M. Williams, Executive Director
Of the South Carolina State Housing Finance and
Development Authority,
Laura Nicholson, in her individual capacity,
Ed Knight, in his individual capacity,
Brad Phillips, in his individual capacity,
John Does 1-5,
DEFENDANTS.

PLAINTIFF'S ANSWERS TO LOCAL RULE 26.01 INTERROGATORIES

Interrogatory A:

State the full name, address, and telephone number of all persons or legal entities who may have a subrogation interest in each claim and state the basis and extent of said interest.

Answer:

No person or legal entity has a subrogation interest in any of Plaintiff's claims.

Interrogatory B:

As to each claim, state whether it should be tried jury or nonjury and why.

Answer:

The claim should be tried by a jury, because it seeks money damages.

Interrogatory C:

State whether the party submitting these responses is a publicly owned company and separately identify: (1) each publicly owned company of which it is a parent, subsidiary, partner, or affiliate; (2) each publicly owned company which owns ten percent or more of the outstanding shares or other indicia of ownership of the party; and (3) each publicly owned company in which the party owns ten percent or more of the outstanding shares.

Answer:

The party submitting these responses is not a publicly owned company.

Interrogatory D:

State the basis for asserting the claim in the division in which it was filed (or the basis of any challenge to the appropriateness of the division). See Local Civil Rule 3.01.

Answer:

Under 28 U.S.C. § 1391 (b), the Anderson Division is the proper venue to try Plaintiff's claims. Plaintiff resides within this Division's jurisdiction and all of the events that gave rise to the claims occurred within the Division.

Interrogatory E:

Is this action related in whole or in part to any other matter filed in this District, whether civil or criminal?

Answer:

NO.

ENDORSEMENT AND CERTIFICATION

I hereby certify that the events or omissions giving rise to the claim occurred in Anderson, South Carolina, and thus the complaint should be assigned to that Division accordingly.

s/Donald L. Smith
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Respectfully submitted,

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Date: January 20, 2016