

The Honorable Mary Alice Theiler

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

NIKITA D. SMITH,

Plaintiff,

v.

WASATCH PROPERTY MANAGEMENT,
INC.; and WASATCH POOL HOLDINGS,
LLC,

Defendants.

NO. 2:17-cv-00501 MAT

DEFENDANTS WASATCH PROPERTY
MANAGEMENT, INC.'S AND
WASATCH POOL HOLDING, LLC'S
ANSWER TO PLAINTIFF'S
COMPLAINT FOR UNLAWFUL
DISCRIMINATION AND JURY
DEMAND

COME NOW Defendants Wasatch Property Management, Inc. and Wasatch Pool Holdings, LLC, (hereafter "Wasatch") by and through its counsel of record, pursuant to FRCP 7(a), and answer Plaintiff Nikita D. Smith's complaint as follows:

INTRODUCTION

1. Wasatch states that paragraph 1 contains no allegations as to these Defendants; and therefore, no response is required. To the extent that paragraph 1 contains any allegations as to these Defendants, Wasatch denies the same.

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AND JURY DEMAND - 1
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1 2. Wasatch states that paragraph 2 contains no allegations as to these Defendants;
2 and therefore, no response is required. To the extent that paragraph 2 contains any allegations
3 as to these Defendants, Wasatch denies the same.

4 3. Wasatch states that paragraph 3 contains no allegations as to these Defendants;
5 and therefore, no response is required. To the extent that paragraph 3 contains any allegations
6 as to these Defendants, Wasatch denies the same.

7 4. Wasatch states that paragraph 4 contains no allegations as to these Defendants;
8 and therefore, no response is required. To the extent that paragraph 4 contains any allegations
9 as to these Defendants, Wasatch denies the same.

10 5. Wasatch states that paragraph 5 contains no allegations as to these Defendants;
11 and therefore, no response is required. To the extent that paragraph 5 contains any allegations
12 as to these Defendants, Wasatch denies the same.

13 6. Wasatch states that paragraph 6 contains no allegations as to these Defendants;
14 and therefore, no response is required. To the extent that paragraph 6 contains any allegations
15 as to these Defendants, Wasatch denies the same.

16 7. Wasatch states that paragraph 7 contains no allegations as to these Defendants;
17 and therefore, no response is required. To the extent that paragraph 7 contains any allegations
18 as to these Defendants, Wasatch denies the same.

19 8. Wasatch denies the allegations contained in paragraph 8.

20 9. Wasatch denies the allegations contained in paragraph 9.

21 **PARTIES, JURISDICTION AND VENUE**

22 10. Wasatch is without knowledge or information sufficient so as to form a belief as
23 to the truth of the allegations contained in paragraph 10; and hence, denies the same.

24 11. Wasatch denies the allegation contained in paragraph 11 regarding
25

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1 discriminatory actions described in this complaint. Wasatch admits that Wasatch Pool
2 Holdings, LLC is a limited liability corporation registered in the State of Washington.

3 12. Wasatch denies the allegation contained in paragraph 12 regarding
4 discriminatory actions described in this complaint. Wasatch admits that Wasatch Property
5 Management, Inc. is a corporation registered in the State of Washington.

6 13. Wasatch admits that Wasatch Property Management, Inc. is the parent company
7 of Wasatch Pool Holdings, LLC. The remainder of the allegations contained in paragraph 13
8 calls for legal conclusions; and therefore, no response is required. To the extent that paragraph
9 13 contains any further allegations as to these Defendants, Wasatch denies the same.

10 14. Wasatch denies the allegations contained in paragraph 14.

11 15. Wasatch is without knowledge or information sufficient so as to form a belief as
12 to the truth of the allegations contained in paragraph 15; and hence, denies the same.

13 16. Wasatch is without knowledge or information sufficient so as to form a belief as
14 to the truth of the allegations contained in paragraph 16; and hence, denies the same.

15 **FACTS**

16 17. Wasatch admits the allegations contained in paragraph 17.

17 18. Wasatch admits the allegations contained in paragraph 18.

18 19. Wasatch states that paragraph 19 contains no allegations as to these Defendants;
19 and therefore, no response is required. To the extent that paragraph 19 contains any allegations
20 as to these Defendants, Wasatch denies the same.

21 20. Wasatch states that paragraph 20 contains no allegations as to these Defendants;
22 and therefore, no response is required. To the extent that paragraph 20 contains any allegations
23 as to these Defendants, Wasatch denies the same.

24 21. Wasatch states that paragraph 21 contains no allegations as to these Defendants;
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1 and therefore, no response is required. To the extent that paragraph 21 contains any allegations
2 as to these Defendants, Wasatch denies the same.

3 22. Wasatch states that paragraph 22 contains no allegations as to these Defendants;
4 and therefore, no response is required. To the extent that paragraph 22 contains any allegations
5 as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a
6 belief as to the truth of the allegations contained in paragraph 22; and hence, denies the same.

7 23. Wasatch states that paragraph 23 contains no allegations as to these Defendants;
8 and therefore, no response is required. To the extent that paragraph 23 contains any allegations
9 as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a
10 belief as to the truth of the allegations contained in paragraph 23; and hence, denies the same.

11 24. Wasatch states that paragraph 24 contains no allegations as to these Defendants;
12 and therefore, no response is required. To the extent that paragraph 24 contains any allegations
13 as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a
14 belief as to the truth of the allegations contained in paragraph 24; and hence, denies the same.

15 25. Wasatch states that paragraph 25 contains no allegations as to these Defendants;
16 and therefore, no response is required. To the extent that paragraph 25 contains any allegations
17 as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a
18 belief as to the truth of the allegations contained in paragraph 25; and hence, denies the same.

19 26. Wasatch states that paragraph 26 contains no allegations as to these Defendants;
20 and therefore, no response is required. To the extent that paragraph 26 contains any allegations
21 as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a
22 belief as to the truth of the allegations contained in paragraph 26; and hence, denies the same.

23 27. Wasatch denies the allegations contained in paragraph 27.

24 28. Wasatch denies the allegations contained in paragraph 28.

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29. Wasatch denies the allegations contained in paragraph 29.

CLAIMS FOR RELIEF

A. Race discrimination under the Fair Housing Act (42 U.S.C. § 3604)

30. Wasatch reavows its responses to Plaintiff's foregoing allegations and incorporates them herein by reference.

31. Wasatch states that paragraph 31 consists solely of legal conclusions and contains no allegations as to these Defendants; and therefore, no response is required. To the extent that paragraph 31 contains any allegations as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a belief as to the truth of the allegations contained in paragraph 31; and hence, denies the same.

32. Wasatch denies the allegations contained in paragraph 32.

33. Wasatch states that paragraph 33 consists solely of legal conclusions and contains no allegations as to these Defendants; and therefore, no response is required. To the extent that paragraph 33 contains any allegations as to these Defendants, Wasatch is without knowledge or information sufficient so as to form a belief as to the truth of the allegations contained in paragraph 33; and hence, denies the same.

34. Wasatch denies the allegations contained in paragraph 34.

35. Wasatch denies the allegations contained in paragraph 35.

36. Wasatch denies the allegations contained in paragraph 36.

37. Wasatch denies the allegations contained in paragraph 37.

B. Race and sex discrimination under the Fair Housing Act (42 U.S.C. § 3604)

38. Wasatch reavows its responses to Plaintiff's foregoing allegations and incorporates them herein by reference.

39. Wasatch denies the allegations contained in paragraph 39.

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1 40. Wasatch states that paragraph 40 contains no allegations as to these Defendants;
2 and therefore, no response is required. To the extent that paragraph 40 contains any allegations
3 as to these Defendants, Wasatch denies the same.

4 41. Wasatch states that paragraph 41 consists solely of legal conclusions and
5 contains no allegations as to these Defendants; and therefore, no response is required. To the
6 extent that paragraph 41 contains any allegations as to these Defendants, Wasatch is without
7 knowledge or information sufficient so as to form a belief as to the truth of the allegations
8 contained in paragraph 41; and hence, denies the same.

9 42. Wasatch denies the allegations contained in paragraph 42.

10 43. Wasatch denies the allegations contained in paragraph 43.

11 **PLAINTIFF'S RELIEF REQUESTED**

12 Wasatch denies Plaintiff's Relief Requested in its entirety, including but not limited to
13 paragraphs 44, 45, 46, 47, and 48, and denies all allegations not specifically admitted.

14 **AFFIRMATIVE DEFENSES**

15 BY WAY OF FURTHER ANSWER AND FOR ITS AFFIRMATIVE DEFENSES,
16 Wasatch alleges as follows:

17 A. Plaintiff's Complaint fails to state a claim upon which relief can be granted
18 under FRCP 12(b)(6).

19 B. Plaintiff's claims are barred by the affirmative defense of contributory
20 negligence as provided by FRCP 8(c).

21 C. Plaintiff's claims are barred by the affirmative defense of estoppel as provided
22 by FRCP 8(c).
23
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1 D. Plaintiff's claims are barred by the affirmative defense of laches as provided by
2 FRCP 8(c).

3 E. Plaintiff's claims are barred by the affirmative defense of statute of limitations
4 as provided by FRCP 8(c).

5 F. Plaintiff's claims are barred by the affirmative defense of waiver as provided by
6 FRCP 8(c).

7 G. Plaintiff's claims are barred by the failure to join a required party as provided by
8 FRCP 19.

9 H. Plaintiff's alleged damages were proximately caused in whole or in part by the
10 negligent acts or omissions of third parties over whom Wasatch has no control or right of
11 control, and for whom Wasatch has no legal responsibility; and as a result, Wasatch has no
12 liability to Plaintiff or Wasatch's liability should be reduced by an amount to be demonstrated
13 at trial. These third parties will be identified during the course of discovery.

14 I. Pursuant to RCW 4.22.070 and other applicable law, Wasatch places at issue the
15 proportionate negligence, fault, and responsibility, if any, of all persons or entities
16 contributing in any degree to the damages alleged by Plaintiff, including but not limited to
17 Plaintiff herself. Judgment, if any, against Wasatch should be reduced to an amount
18 representing their proportionate share of Plaintiff's total damages, if any such damages and
19 liability therefore exist.

20 J. Plaintiff has failed to fully mitigate her alleged damages, and has failed to
21 protect herself from avoidable consequences.

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1 K. Allegations included in Plaintiff's Complaint are not well-grounded in fact and
2 are interposed for an improper purpose such as harassment in violation of FRCP 11.

3 L. Plaintiff has reason to believe that representations of fact included in the
4 Complaint are either false or materially insufficient. Plaintiff did not make a reasonable
5 inquiry into these representations of fact in violation of her responsibilities pursuant to FRCP
6 11. Such an inquiry, if undertaken, would have revealed gross inaccuracies and falsehoods in
7 Plaintiff's Complaint.
8

9 M. To the extent that any alleged damages which Plaintiff may have sustained have
10 been subject to compensation by collateral sources, any recovery to which Plaintiff might
11 otherwise be entitled must be accordingly barred or reduced thereby.
12

13 N. To the extent that Plaintiff has released, settled, or otherwise compromised her
14 claims, in whole or in part, her claims may be barred by operation of law, or alternatively,
15 subject to reduction by way of set-off.

16 O. Wasatch had legitimate, non-discriminatory reasons for decisions made
17 regarding Plaintiff, if any.

18 P. Wasatch hereby reserves the right to assert additional affirmative defenses that
19 may be identified through continuing investigation and discovery in this matter or abandon
20 any affirmative defense herein asserted as future discovery dictates.
21

22 DEMAND FOR JURY

23 Should this matter proceed to trial, Wasatch demands that all issues of fact be
24 determined by a jury.
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PRAYER

WHEREFORE, having fully answered Plaintiff's Housing Discrimination Complaint, Wasatch respectfully requests that the Court dismiss Plaintiff's Complaint with prejudice and without costs, award Wasatch their statutory costs and attorneys' fees incurred in defense of this action, and for such other and further relief as the Court deems just and proper.

DATED this 25th day of April, 2017.

s/ Sean E.M. Moore

s/ Reshvin Sidhu

Sean E.M. Moore, WSBA #30840

Reshvin Sidhu, WSBA #51553

Attorneys for Defendants Wasatch Property Management, Inc., and Wasatch Pool Holdings, LLC

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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury of the laws of the State of Washington that on the below date, I electronically filed the foregoing document with the Clerk of the court using the electronic filing system, which will send notification of such filing to all attorneys of record.

Signed at Seattle, Washington this 25th day of April, 2017.

By: s/ Sean E.M. Moore
Sean E.M. Moore, WSBA #30840
Attorneys for Plaintiff
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