

United States Court of Appeals for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

December 1, 2023

Lyle W. Cayce
Clerk

No. 23-30416
Summary Calendar

LINDSEY LEE; WAYNE BALLARD, JR.; JENNIFER BALLARD;
RONALD ROBERTS, III; KATHRYN ROBERTS; ZACHARY
RUSSELL; LACEY RUSSELL; LUIS HINOSTROZA; TIM ADDISON,
II; STACY ADDISON; JONATHAN MCMORRIS; GILBERT
BANKSTON, III,

Plaintiffs—Appellants,

versus

D.R. HORTON, INCORPORATED; D.R. HORTON, INCORPORATED
- GULF COAST; ACADIAN TRACE HOA, INCORPORATED;
GEORGE KURZ; JAKE LAMBERT; DAVID STANTON;
PRODUCTIONS BUILDER SERVICES, INCORPORATED, *doing business*
as CARTER & CLARK,

Defendants—Appellees.

Appeal from the United States District Court
for the Middle District of Louisiana
USDC No. 3:21-CV-442

No. 23-30416

Before JONES, SOUTHWICK, and HO, *Circuit Judges*.

PER CURIAM:*

We AFFIRM the district court's order for the reasons stated in the order. However, we VACATE the dismissal with prejudice and instruct the district court on remand to dismiss the subject claims without prejudice. *See Johnson v. Pettiford*, 442 F.3d 917, 918–19 (5th Cir. 2006).

* Pursuant to 5th Circuit Rule 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5th Circuit Rule 47.5.4.