

STATE OF LOUISIANA
COURT OF APPEAL, THIRD CIRCUIT
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NOT DESIGNATED FOR PUBLICATION

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REHEARING ACTION: November 22, 2017

Docket Number: 17-468 CW consolidated with 17-528 CW & 17-549 CW

**WALTER GABRIEL, JR. AND CHRISTINE LEWIS
VERSUS
RITCHIE REAL ESTATE, LLC, ET AL.**

Writ Application from Rapides Parish Case No. 257141

BEFORE JUDGES:

**Hon. Phyllis M. Keaty
Hon. Van H. Kyzar
Hon. Candyce G. Perret**

As counsel of record in the captioned case, you are hereby notified that the ruling on the application for rehearing filed by **Walter Gabriel, Jr. and Christine Lewis** is:

MOTION FOR REHEARING DENIED. In support of their motion for rehearing, Plaintiffs assert that the original petition was fax-filed on October 18, 2016, thus making the original petition timely filed. However, we find that even if the original petition were timely filed, our original decision to dismiss Plaintiffs' claim under the Louisiana Unfair Trade Practice Act (LUTPA), La.R.S. 51:1401, et seq., remains unchanged. In that regard, we reiterate our finding that because the amended petition wherein Plaintiffs raise the LUPTA claim was filed after the peremptive period under La.R.S. 51:1409(E) had expired, the relation back concept set forth in La.Code Civ.P. art. 1153 cannot be applied to render the LUPTA claim timely. See *Robin v. Allstate Ins. Co.*, 02-689 (La.App. 3 Cir. 2/5/03), 844 So.2d 41, *writ denied*, 03-1818 (La. 10/17/03), 855 So.2d 763. For these reasons, we hereby deny Plaintiffs' motion for rehearing.

cc: Randall Brian Keiser, Counsel for the Applicant
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