

IN THE SUPREME COURT OF IOWA

NO. 14-0738

BETTY ANN ODGAARD AND RICHARD ODGAARD,

Appellants,

v.

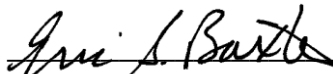
IOWA CIVIL RIGHTS COMMISSION, ANGELA WILLIAMS, PATRICIA LIPSKI,
MARY ANN SPICER, TOM CONLEY, DOUGLAS OELSCHLAEGER,
LILY LIJUN HOU, AND LAWRENCE CUNNINGHAM,

Appellees.

RULE 6.110(2) CERTIFICATE

APPELLANTS' SUPPLEMENTAL APPENDIX

The undersigned certifies pursuant to Iowa Rule of Appellate Procedure 6.110(2) that the Supplemental Joint Appendix contains material declared confidential or protected information under Iowa law.



Eric S. Baxter (*pro hac vice pending*)

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IN THE SUPREME COURT OF IOWA

NO. 14-0738

BETTY ANN ODGAARD AND RICHARD ODGAARD,

Appellants,

v.

IOWA CIVIL RIGHTS COMMISSION, ANGELA WILLIAMS, PATRICIA LIPSKI,
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LILY LIJUN HOU, AND LAWRENCE CUNNINGHAM,

Appellees.

On Appeal from the District Court for Polk County
The Honorable Richard G. Blane II

APPELLANTS' SUPPLEMENTAL APPENDIX

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Attorneys for Appellants Betty Ann and Richard Odgaard

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IOWA CIVIL RIGHTS COMMISSION
GRIMES STATE OFFICE BUILDING
400 E 14TH STREET
DES MOINES, IOWA 50319

CONFIDENTIAL!

GORTZ HAUS GALLERY INC
ATTN: OWNER
~~408 E 1ST STREET~~
DES MOINES, IA 50319

Return

*408, E 1ST ST
Grimes 50319*

Not at the City



IOWA CIVIL RIGHTS COMMISSION
GRIMES STATE OFFICE BUILDING
400 E 14TH STREET
DES MOINES, IOWA 50319

CONFIDENTIAL!

GORTZ HAUS GALLERY INC
ATTN: OWNER
408 E 1ST STREET
GRIMES, IA 50111





STATE OF IOWA

TERRY BRANSTAD, GOVERNOR
KIM REYNOLDS, LT. GOVERNOR

IOWA CIVIL RIGHTS COMMISSION
BETH TOWNSEND
EXECUTIVE DIRECTOR

8/9/2013

Remailed
8/23/13

GORTZ HAUS GALLERY INC
408 E 1ST STREET

RE: DONALD/JARED STAFFORD/ELLARS
CP# 08-13-64618

~~DES MOINES IOWA 50315~~
Grimes 50311

GORTZ HAUS GALLERY INC:

The complaint cited above has been filed with the Iowa Civil Rights Commission (ICRC) pursuant to Iowa Code Chapter 216. A copy of the complaint is enclosed. The purpose of this letter is to provide legal service upon you as a Respondent in this case.

If there is an EEOC# printed above, then this case has been cross-filed with the United States Equal Employment Opportunity Commission (EEOC). The ICRC has been designated as an agent of EEOC, and as such, has authority to serve notice of this charge for EEOC. Consider this that notice.

Under the 'Iowa Civil Rights Act', the ICRC has a legal responsibility to conduct an impartial investigation of the enclosed complaint. Enclosed is a set of questions referenced as 'Questionnaire'. All Respondents who receives a Questionnaire must provide responses. Please submit the 'Questionnaire' within thirty (30) days of the date on this letter with complete and thorough information. You may also give a written statement using the questionnaire as a guide. Enclosed is an outline of the ICRC complaint process.

Should Respondent decide to provide a position paper as opposed to providing responses to the enclosed questionnaires, please provide the identity of the employee/agent/owner of Respondent who is responsible for providing the information contained within the position paper. Please identify the individuals name and title/position with the Respondent.

Documentation of your responses is REQUIRED. This includes all documents that support your position, including affidavits. All responses should be on 8 1/2" by 11" paper and not include staples.

PLEASE NOTE: 161 Iowa Administrative Code 3.7(2) provides: "Any books, papers, documents, or records of any form which are relevant to the scope of any investigation as defined in the complaint shall be preserved during the pendency of any proceedings by all parties to the proceedings unless the Commission specifically orders otherwise."

PLEASE REMEMBER: It is a violation of both state and federal discrimination laws for any person to retaliate against Complainant for having filed this complaint.

Whenever contacting our office, please provide the CP# cited above.

Sincerely,

Iowa Civil Rights Commission

Enclosure: Respondent Questionnaire

CC: File

ICRC/S36 (04R)

BRIEF OUTLINE OF THE COMPLAINT PROCESS

Iowa Civil Rights Commission 400 East 14th Street Des Moines, IA 50319-1004
515-281-4121 / 1-800-457-4416 / (FAX): 515-242-5840
Web: <http://www.state.ia.us/government/crc>

1. When a signed/verified complaint is received, it is reviewed to determine whether it meets statutory requirements of the "Iowa Civil Rights Act," Iowa Code Chapter 216. A complaint must be filed with the Commission within *300 days of the last alleged discriminatory incident [*Effective July 1, 2008]
 - a. If the complaint meets the statutory requirements, it is given a case number (CP#) and a copy of the complaint is mailed to the Complainant. Another copy is mailed to the Respondent, the person or organization charged in the complaint with a violation of Iowa Code Chapter 216.

All inquiries about the complaint should be by complaint number (CP#).

2. The Complainant and Respondent are required to answer a questionnaire or submit a position statement, along with relevant documents, within thirty (30) days. Complainant or Respondent may request an extension by calling the Iowa Civil Rights Commission at 1-800-457-4416 or 515-281-4121, ext. 0.
3. When the Commission receives all parties' responses to the questionnaires, the collected information is reviewed by an investigator to determine whether further agency inquiry is warranted. (The complaint will be screened in when the collected information indicates a reasonable possibility of a probable cause determination.)

It is very important to answer the questionnaire thoroughly.

- a. If further investigation is not warranted, the complaint is administratively closed. The complainant has appeal rights which will be explained in the closure letter.
 - b. If further investigation is warranted, the parties will be given an opportunity to participate in "mediation." Mediation allows the parties to negotiate a "no-fault settlement" of the complaint. Mediation is available at any time after a complaint is filed, if both parties agree to participate.
4. Once the complaint has been on file for 60 days, the Complainant has the option of removing their complaint from the Civil Rights Commission and its investigatory process, to commence a lawsuit in state district court. Before filing a lawsuit, the Complainant must request a "right-to-sue" letter from the Commission. When the Commission issues the "right-to-sue" letter, the Commission administratively closes the complaint and will take no further action on the complaint. It is advisable to consult with an attorney before asking for a right-to-sue. The law requires that the lawsuit be filed within 90 days of the date the Commission issues the right-to-sue.

5. During the investigation, a Commission investigator will usually interview both parties and witnesses, and will collect additional records. The investigator will analyze all of the collected information and recommend to the Administrative Law Judge whether probable cause or no probable exists to believe that discrimination occurred.

From the time the Commission receives the complaint to the time the investigation is completed and a finding by the administrative law judge has been made, the Commission is a neutral fact-finder and represents neither party.

- a. If the Administrative Law Judge finds No Probable Cause, the complaint is closed. If the Administrative Law Judge finds No Probable Cause, the Complainant loses their right to get a "right-to-sue" and loses the right to file a lawsuit in state district court. (In complaints alleging housing discrimination, the Complainant has the right to file a lawsuit within two years of the alleged discriminatory incident, not counting the time the case was on file with the Commission.)
 - b. If the Administrative Law Judge finds Probable Cause, the complaint goes to a Commission Conciliator. The Conciliator assists the parties in trying to reach a settlement.
6. If conciliation fails, the complaint will be reviewed to determine whether it should proceed to public hearing. If the complaint is selected for public hearing, an Administrative Law Judge will hear the case in accordance with the "Iowa Administrative Procedure Act." If not selected for public hearing, the complaint will be administratively closed and the Complainant may request a "right-to-sue" letter within two years of the administrative closure.

Approximate Complaint Processing Timeline

From the date the Commission receives a signed complaint, all parties will be served with a copy of the complaint and a questionnaire within 20 days.

All parties should respond to the questionnaires within 30 days from the date on the notification letter, unless an extension has been granted. The Commission screens the complaint (reviews the contents of the file), usually within 120 days from the date the complaint is filed.

If the complaint is screened out, the case is administratively closed. If the complaint is screened in, it goes on to mediation. Mediation typically takes 30 to 90 days. If mediation is unsuccessful, the complaint will be assigned to an investigator.

Depending on the complexity of the fact and legal issues presented in the complaint and the cooperation of the parties and witnesses, the investigation may take several months or more to complete. In most cases the Commission will complete the investigation within 18 months from the date the complaint is filed.

IOWA CIVIL RIGHTS COMMISSION COMPLAINT FORM

Complaint of Discrimination under Iowa Code Chapter 216, "Iowa Civil Rights Act of 1965"
NOTE: A copy of this complaint will be sent to the Organization or person you are filing against.

(AGENCY USE ONLY)	
ICRC CP# <u>08-13-64618</u>	Iowa Civil Rights Commission
Local Commission# _____	400 East 14 th Street
EEOC# _____	Des Moines, IA 50319-0201
515-281-4121 / 800-457-4416 / Fax: 515-242-5840 / icrc.iowa.gov	

(TYPE OR PRINT)

1. What is your legal name? Donald L. Stafford / Brad R. Elbers

2. What is your mailing address? _____

City: _____

State: _____

Zip Code: _____

3. Telephone #: _____

4. Your date of birth? _____

Your sex/gender? Male

5. Please check the AREA in which the discrimination occurred.

☐ Employment

☒ Public Accommodation

☐ Housing

☐ Education

☐ Credit

6. Please check the ACTION that the Organization took against you. (Check all that apply)

☐ Demotion

☐ Failure to Train

☐ Denied Accommodation/Modification

☐ Forced to Quit/Retire

☐ Denied Benefits

☐ Harassment

☐ Denied Financial Services/Credit

☐ Laid-Off/ Failure to Recall

☒ Denied Service

☐ Reduced Hours

☐ Disciplined/Suspended

☐ Reduced Pay

☐ Eviction

☐ Sexual Harassment

☐ Failure to Hire

☐ Terminated

☐ Failure to Promote

☐ Undesirable Assignment/Transfer

☐ Failure to Rent

☐ Unequal Pay

☐ Other: _____

7. Do you believe you were discriminated against because of your Race/Color? No

If yes, what is your Race/Color? _____

8. Do you believe you were discriminated against because of your National Origin? No

If yes, what is your National Origin? _____

9. Do you believe you were discriminated against because of your sex? No

10. Do you believe you were discriminated against because of your sexual orientation?
Yes If yes, what is your sexual orientation? Gay

11. Do you believe you were discriminated against because of your gender identity? No

12. Do you believe you were discriminated against because of a disability, real or perceived?
No If yes, what is your disability? _____

13. Do you believe you were discriminated against because of your religion or creed? No

What is your religion or creed? _____

14. Do you believe you were discriminated against because of your pregnancy or pregnancy related issues? No

15. If your complaint involves employment or credit, do you believe you were discriminated against because of your age? No

16. If your complaint involves housing or credit, do you believe you were discriminated against based on your familial status? No If yes, how many children live with you? _____

17. If your complaint involves credit, do you believe you were discriminated against based on your marital status? No If yes, what is your status? _____

18. If you have previously complained to anyone within the organization or the ICRC or reported discrimination or participated as a witness, do you believe you have suffered an adverse action or been treated differently since you complained about discrimination? No

If yes, how were you retaliated against and by whom? _____

19. What is the Full Legal Name of the Organization that discriminated against you? [This Organization will be charged with discrimination and given a copy of your complaint.]

Görtz Haus Gallery, Inc.

City: Grimes County: Polk State: IA

Zip Code: 50111 Telephone: (515) 986 - 3340

20. If the Organization listed in #18 has a Parent Organization or Corporate Office list it here.

[This Organization will also be charged with discrimination and given a copy of your complaint.]

City: _____ State: _____

Zip Code: _____ Telephone #: (_____) _____

21. Provide the address of the location where the discrimination occurred.

Address: 408 E. 1st Street, Grimes, IA 50311

22. If Employment is the Area, give approximate number of ALL employees (full-time & part-time) at ALL employer locations nationwide (REQUIRED):

☐ 4-14 ☐ 15-19 ☐ 20-100 ☐ 101-200 ☐ 201-500 ☐ 500+

23. Have you filed this complaint with any other Federal, State, or Local anti-discrimination agency? ☐ Yes ☒ No

If yes, what agency? _____ When? _____

24. If you are claiming an individual discriminated against or harassed you, identify the individual(s). [The individual[s] will be charged with discrimination and will be given a copy of your complaint.]

Name: _____ Title: _____

Work or Home Address: _____

Name: _____ Title: _____

Work or Home Address: _____

If more than two, list those individuals on a separate document and provide.

25. What was the date of the MOST RECENT discriminatory incident? (Month Day, Year)

8/3/13

26. If Employment is the Area, what is your hire date or application date? _____

Are you still employed by the Organization listed in #18? ☐ Yes ☐ No

If no, when did your employment end? _____ (Month Day, Year)

If no, how did your employment end? ☐ Terminated ☐ Forced to Quit ☐ Quit

BRIEF SUMMARY OF ALLEGATIONS. Please describe what happened to you. How were you discriminated/harassed/retaliated against. Please be sure to address each action you identified. Insure that your summary reflects the basis you previously identified. *Please read the instruction before writing your brief summary if you have questions.*

On August 3rd, 2013 we arrived at the Görtz Haus at approximately 2:30pm. We talked with a gentleman named Dick, who showed us the facility and answered our questions about the arrangements for our marriage ceremony and reception. At the completion of the tour, he started taking down notes regarding some questions that we had about the arrangements. At no time, was the date of the ceremony mentioned in our discussions with him nor did he check any calendar to verify that any date was available. After he wrote down the questions, he asked the following: "Is this for a gay wedding?" Donald responded "Yes, it is." The gentleman responded by saying "I can not take your money and I don't do anything for free." Donald asked for clarification by saying "You can't take our money". He responded by saying "I can not take your money." We promptly ended the conversation and left the facility. We believe, that since Donald and Jareal are gay, that we were denied use of the facility and ~~its~~ services offered by that facility based on our sexual orientation.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa and the laws of the United States of America that the preceding charge is true and correct.

X Donald Stefford / Jareal R. Ellars
Signature of Complainant

8/3/13
Date

Background – Public Accommodations

Respondent Questions - Case Number: 08-13-64618

MR. DONALD/JARED STAFFORD/ELLARS VS. GORTZ HAUS GALLERY INC

- 1) What is the full legal name of Respondent?
- 2) Who owns Respondent? Provide name, sexual orientation, and address.
- 3) Is Respondent incorporated? In what state is Respondent incorporated?
- 4) How many locations does Respondent have?
- 5) On 8/3/2013, how many persons worked for Respondent including all part-time and full-time regular employees?
- 6) On 8/3/2013, how many of each of the following persons worked for Respondent - Homosexual - Sexual Orientation?
- 7) On 8/3/2013, how many persons worked for Respondent at the location where Complainant's alleged discrimination occurred?
- 8) On 8/3/2013, at the location where the alleged discrimination occurred, how many Homosexual - Sexual Orientation persons of each type regularly worked there?
- 9) What is Respondent's business? Describe Respondent's service or product.
- 10) If there are two or more Respondents named in the complaint, how is each Respondent related to the other(s)?

- 11) What is Respondent's business?
- 12) Who are Respondent's decision makers on 8/3/2013? Identify by name and job title.
- 13) What happened in the incident involving Complainant? Give as much as detail as possible.
- 14) Has any other customer or patron desired/requested a similar service from Respondent?
- 15) Have any of those persons been in similar circumstances to Complainant?
- 16) How much contact has Respondent had with Complainant? Has there been contact since the incident? If so, describe.
- 17) If Respondent has provided the service to persons who had circumstances/qualifications similar to Complainant's circumstances/qualifications, explain the difference in treatment. Provide supportive documentation and include the sexual orientation of each individual named.

Identify the individuals who provided information that was used to answer the questionnaire including the person's name, job title and relationship to Respondent. Identify any documents which are the basis of your responses and provide copies of those documents.

General Treatment – Public Accommodations

Respondent Questions - Case Number: 08-13-64618

MR. DONALD/JARED STAFFORD/ELLARS VS. GORTZ HAUS GALLERY INC

- 1) Complainant alleges several incidents of different treatment by Respondent because of sexual orientation or that Complainant's sexual orientation was a factor in Respondent's decisions/actions affecting Complainant. Please answer the following: (1) did the alleged incidents occur and if so when; (2) describe what happened; (3) name, job titles and sexual orientation of Respondent's decision maker(s) or person(s) involved, and (4) whether any similarly situated employees were treated differently.

- 2) Did any of Respondent's representatives treat Complainant differently because of Complainant's sexual orientation? Was Complainant treated differently from other patrons or customers? If so, how and why? Provide the sexual orientation for all persons mentioned.

- 3) Did Complainant complain about different treatment because of sexual orientation? If so, when did Complainant complain? Provide name, sexual orientation, and job title to whom Complainant complained? What was the complaint? What was the response to the complaint? Be specific.

- 4) At the time of the incident, was Complainant upset or angry by the alleged different treatment?

PROOF OF SERVICE AND CERTIFICATE OF FILING

The undersigned certifies that a copy of this Appellants' Supplemental Appendix was filed on July 28, 2014, with the Clerk of the Supreme Court of Iowa, and served upon one of the attorneys of record for each party to the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his/her last known address as shown below, with postage fully paid, and by depositing said envelope in a United States Post Office depository.

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Counsel for Appellee


Eric Baxter (admitted *pro hac vice*)