

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
TENNESSEE, NASHVILLE DIVISION

Chelsie Nitschke and Cynthia George v. 326 Welch Partners, Avenue
Construction, LLC, and Barnett Design Studio, LLC

Nitschke · No. 3:25-cv-00217 · Decided February 12, 2026

SUMMARY

The United States District Court for the Middle District of Tennessee grants judgment on the pleadings in favor of Chelsie Nitschke and Cynthia George concerning alleged Fair Housing Act and accessibility violations at a Nashville apartment complex. The court finds the defendants liable for failing to design and construct covered multifamily dwellings in compliance with applicable FHA requirements and for accessibility deficiencies in public and common-use areas. The court reserves determination of damages and injunctive relief.

CASE DETAILS

COURT	United States District Court for the Middle District of Tennessee, Nashville Division
WRITING FOR THE COURT	Waverly D. Crenshaw, Jr.
JURISDICTION	United States District Court for the Middle District of Tennessee, Nashville Division
DECIDED	February 12, 2026
DOCKET	3:25-cv-00217
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs moved for judgment on the pleadings under Federal Rule of Civil Procedure 12(c) on claims alleging violations of the Fair Housing Act and related accessibility requirements. Defendants 326 Welch Partners and Avenue Construction, LLC, acknowledged liability and agreed to remediation, attorneys' fees, and actual damages, while Barnett Design Studio, LLC did not participate in the motion.
STANDARD OF REVIEW	A Rule 12(c) motion is reviewed under the same standard as a Rule 12(b)(6) motion. Well-pleaded allegations of the opposing party are taken as true, but legal conclusions and unwarranted factual inferences need not be accepted. Judgment is proper only when the moving party is clearly entitled to judgment. Matters outside the pleadings ordinarily

may not be considered; if they are considered, the motion must be treated as one for summary judgment under Rule 56 unless the parties receive a reasonable opportunity to present pertinent material.

PRECEDENTIAL VALUE

Unpublished district court memorandum opinion; persuasive authority only and not binding precedent outside the case.

TOPICS

architectural barriers

public accommodations discrimination

motion for judgment on the pleadings

ada / disability

civil procedure

PRACTICE AREAS

Fair Housing Act

Americans with Disabilities Act

civil procedure

accessibility and architectural barriers

remedies

QUESTIONS PRESENTED

1. Whether the court should consider the Heybeck Report, which was submitted outside the pleadings, in resolving the Rule 12(c) motion.
2. Whether plaintiffs were entitled to judgment on the pleadings establishing defendants' liability for violations of the Fair Housing Act's design-and-construction requirements.
3. Whether defendants' denials of certain factual allegations precluded judgment on the pleadings.

HOLDINGS

1. The court exercised its discretion to exclude the Heybeck Report and declined to convert the Rule 12(c) motion into a motion for summary judgment.
2. Plaintiffs were entitled to judgment on the pleadings, and defendants 326 Welch Partners and Avenue Construction, LLC, were liable for violations of the Fair Housing Act's design-and-construction requirements.
3. Defendants' denials did not preclude judgment on the pleadings because the court was required to treat plaintiffs' well-pleaded factual allegations as true for purposes of the Rule 12(c) motion.

KEY QUOTATIONS

“The Court exercises its discretion and declines to consider the Heybeck Report.”

“The Court grants the motion for judgment on the pleadings and finds Defendants liable for violation of the FHA.”

“The Court reserves determination of the appropriate remedy in this case.”

FACTUAL BACKGROUND

Plaintiffs Cynthia George and Chelsie Nitschke, Tennessee residents with disabilities, were unable to access portions of an apartment complex because of disability-related barriers. The complex is a four-story building with approximately 129 units, designed and constructed for first occupancy after March 12, 1991. Defendants admitted that the property contains covered multifamily dwellings and that certain elements do not comply with the Fair Housing Act, accessibility guidelines, and other accessibility standards. The owner and construction company acknowledged liability and expressed willingness to remediate violations and pay reasonable attorneys' fees and actual damages.

PROCEDURAL HISTORY

Plaintiffs filed suit concerning accessibility barriers at an apartment complex in Nashville, Tennessee. Defendants 326 Welch Partners and Avenue Construction answered and moved for judgment on the pleadings. The court excluded an expert report submitted outside the pleadings, granted plaintiffs' motion as to liability, and reserved damages and injunctive relief for later determination.

DISPOSITION

other

CASES CITED

- Grindstaff v. Green, 133 F.3d 416, 421 (6th Cir. 1998)
- JPMorgan Chase Bank, N.A. v. Winget, 510 F.3d 577, 581 (6th Cir. 2007)
- Tucker v. Middleburg-Legacy Place, 539 F.3d 545, 549 (6th Cir. 2008)
- S. Ohio Bank v. Merrill Lynch, Pierce, Fenner & Smith, Inc., 479 F.2d 478, 480 (6th Cir. 1973)
- Barany-Snyder v. Weiner, 539 F.3d 327, 332 (6th Cir. 2008)
- Ross v. PennyMac Loan Services LLC, 761 F. App'x 491, 494 (6th Cir. 2019)
- Max Arnold & Sons, LLC v. W.L. Hailey & Co., 452 F.3d 494, 503 (6th Cir. 2006)
- Shelby County Health Care Corp. v. Southern Council of Industrial Workers Health & Welfare Trust Fund, 203 F.3d 926, 931 (6th Cir. 2000)
- Tang Capital Partners, LP v. BRC Inc., 661 F. Supp. 3d 48, 60 (S.D.N.Y. 2023)
- Pyatt v. Raymond, 462 F. App'x 22, 24 (2d Cir. 2012), as amended (Feb. 9, 2012)
- Jordache Enterprises, Inc. v. Affiliated FM Insurance Co., No. 21-CV-5433, 2022 WL 986109, at *6 n.8 (S.D.N.Y. Mar. 31, 2022)
- Marsilio v. Vigluicci, 924 F. Supp. 2d 837, 847 (N.D. Ohio 2013)
- McLaughlin v. Copeland, 435 F. Supp. 513, 519 (D. Md. 1977)
- Iowa Beef Processors, Inc. v. Amalgamated Meat Cutters, 627 F.2d 853, 855 (8th Cir. 1980)
- Poehl v. Countrywide Home Loans, Inc., 528 F.3d 1093, 1096 (8th Cir. 2008)
- Rimmer v. Colt Industries Operating Corp., 656 F.2d 323, 326 (8th Cir. 1981)
- Meyer Natural Foods, LLC v. Liberty Mutual Fire Insurance Co., 218 F. Supp. 3d 1034, 1037 (D. Neb. 2016)

