

**IN THE CIRCUIT COURT
OF THE TENTH JUDICIAL CIRCUIT
IN AND FOR POLK COUNTY, FLORIDA**

NORMAN GUNDEL,
WILLIAM MANN and
BRENDA N. TAYLOR,
individually and on behalf
of all similarly situated persons,
Plaintiffs,

v.

Case No.: 2017-CA-001446
Section: 11

AV HOMES, INC. AND
AVATAR PROPERTIES, INC.,
Defendants.

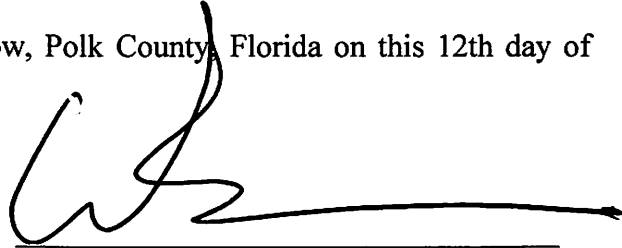
**ORDER GRANTING PLAINTIFFS' MOTION FOR RECONSIDERATION
AND/OR CLARIFICATION REGARDING RULING ON AFFIRMATIVE
DEFENSES 7, 8, AND 9 DATED JULY 15, 2021, AND STRIKING SAME**

THIS MATTER is before the Court upon Plaintiffs' Motion for Reconsideration and/or Clarification Regarding Ruling on Affirmative Defenses 7, 8, and 9 dated July 15, 2021 and Defendant's Response in Opposition to Plaintiffs' Motion for Reconsideration and/or Clarification Regarding Ruling on Affirmative Defenses 7, 8, and 9 dated July 15, 2021, filed on August 18, 2021. The Court, having reviewed the submissions, pleadings, court file, applicable case law, and having heard and considered the arguments of the parties at the hearing conducted by the Court on August 18, 2021 and otherwise being informed in the matter, finds as follows:

The Court realizes it denied the Plaintiffs' motion to strike the Defendant's Seventh, Eighth, and Ninth affirmative defenses which deal with waiver, release, and estoppel. However, that ruling was issued before the Court ruled on the pending summary judgment motions. By separate Orders the Court has now granted Plaintiff's Motions for Partial Summary Judgment re: Sections 720.308 and 720.302(3)(b), denied the Defendant's Renewed Motion for Summary Judgment, and concurrently concluded that the waiver, release and estoppel clauses are unenforceable. Thus, the Court now strikes the affirmative defenses based on same.

Therefore, it is **ORDERED AND ADJUDGED** that Plaintiffs' Motion for Reconsideration and/or Clarification Regarding Ruling on Affirmative Defenses 7, 8, and 9 dated July 15, 2021 is hereby **GRANTED**; it is further **ORDERED** Defendant's seventh, eighth, ninth affirmative defenses which deal with waiver, release, and estoppel are hereby **STRICKEN**.

DONE AND ORDERED in Bartow, Polk County, Florida on this 12th day of October, 2021.

A handwritten signature in black ink, appearing to read 'WD', with a long horizontal line extending to the right.

WAYNE DURDEN, Circuit Court Judge

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