

CERTIFIED COPY

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12-10-07 10:27 a.m.
MICHAEL K. JEANES, Clerk
By E. Green
Deputy

TERRY GODDARD
The Attorney General
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Civil Rights Division
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Attorneys for Plaintiff

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

THE STATE OF ARIZONA *ex rel.* TERRY
GODDARD, the Attorney General; and THE
CIVIL RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,

Plaintiff,

vs.

BIG DAN'S DRIVE THRU, L.L.C., an Arizona
limited liability company; DANIEL PORTER
STEED and JANE DOE STEED, husband and
wife,

Defendants.

No. CV2007-010712

CONSENT JUDGMENT

(Assigned to Hon. A. Craig Blakey, II)

Plaintiff, the State of Arizona, through Attorney General Terry Goddard and the Civil Rights Division (collectively "the State"), filed this action against Defendants Big Dan's Drive Thru, LLC, Daniel Porter Steed and Jane Doe Steed whose true name is Daisy Barlow Steed (collectively "Defendants"), alleging that they engaged in religious discrimination against Isaac

1 Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin at Big Dan's
2 Drive Thru, a place of public accommodation located in Colorado City, Arizona, in violation of
3 Article 3 of the Arizona Civil Rights Act ("ACRA"), A.R.S. §§ 41-1441 to 41-1443, on
4 multiple occasions by, among other things, asking them to leave the restaurant without eating
5 food they had purchased, refusing to take their orders, denying them food and/or requesting
6 that the Colorado City Marshal's Office escort them out of Big Dan's Drive Thru.
7

8 Defendant Big Dan's Drive Thru, LLC, an Arizona limited liability company, warrants
9 and represents that it owns the business known as Big Dan's Drive Thru located at 80 N.
10 Central in Colorado City, Arizona, and all of the assets of that business, with the sole exception
11 of the real property upon which it is located, which real property belongs to the United Effort
12 Plan Trust.
13

14 Defendant Daniel Porter Steed warrants and represents that he is the sole member of Big
15 Dan's Drive Thru, LLC, and that at all relevant times he was and is legally married to
16 Defendant Jane Doe Steed whose true name is Daisy Barlow Steed.
17

18 Defendants warrant and represent that they are the sole owners, and have not transferred
19 any ownership interest or assets of Big Dan's Drive Thru, LLC or of Big Dan's Drive Thru
20 restaurant.
21

22 The State and Defendants (collectively "the Parties") desire to resolve the issues raised
23 by the Complaint, without the time, expense and uncertainty of further contested litigation.
24 The Parties expressly acknowledge that this Consent Judgment is the compromise of disputed
25 claims and that there was no adjudication of any claim. The Parties further acknowledge that
26 Defendants have not admitted nor do they now admit the truth of any claim or liability for any

1 claims made in the Complaint filed in this matter, or otherwise alleged by the State in this
2 lawsuit. Notwithstanding their non-admission of liability, Defendants agree to be bound by
3 this Consent Judgment and not to contest that it was validly entered into in any subsequent
4 proceeding to implement or enforce its terms. The Parties, therefore, have consented to the
5 entry of this Consent Judgment, waiving trial, findings of fact, and conclusions of law.
6

7 It appearing to the Court that entry of this Consent Judgment will further the objectives
8 of the Arizona Civil Rights Act, and that this Consent Judgment fully protects the Parties and
9 the public with respect to the matters within the scope of this Consent Judgment,
10

11 NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED as
12 follows:
13

14 **JURISDICTION**

15 1. This Court has jurisdiction over the subject matter of this action and over the
16 Parties hereto, and venue in Maricopa County is proper.
17

18 **RELEASE**

19 2. This Consent Judgment and the consideration provided therein resolves all
20 issues and claims raised in the State's Complaint filed in this case, and issues and claims
21 whether known or unknown that were required to be raised, or that could have been raised
22 under the Arizona Civil Rights Act with respect to the administrative public accommodation
23 discrimination complaint filed against Defendants by Isaac Wyler. By his signature
24 approving the form and content of this Consent Judgment, Isaac Wyler, has released any
25 claims, whether known or unknown, that he may have against the Defendants relating to the
26 alleged discrimination at Big Dan's, his administrative public accommodation complaint

1 against Defendants, or this lawsuit, except for Defendants' performance of obligations under
2 this Consent Judgment.

3 INJUNCTION

4 3. Defendants are enjoined from violating the public accommodation provisions of
5 the Arizona Civil Rights Act, and shall not engage in public accommodation discrimination
6 based upon religion, race, color, sex, national origin, familial status, or disability.
7

8 4. In particular, Defendants shall not, directly or indirectly, refuse to, withhold
9 from, or deny to any person any accommodations, advantages, facilities or privileges of Big
10 Dan's because of religion, race, color, sex, national origin, ancestry or disability. Defendants
11 further shall not make any distinction with respect to any person based on religion, race, color,
12 sex, national origin, familial status, or disability with respect to the price or quality of any item
13 or the goods or services offered by or at Big Dan's Drive Thru or any other place of public
14 accommodation which Defendants may own, lease, operate, manage or serve as proprietor,
15 superintendent, agent or employee. Defendants are expressly enjoined from discriminating
16 against any person at Big Dan's Drive Thru because that person does not observe the
17 Fundamentalist Church of Jesus Christ of Latter Day Saints ("FLDS") religion, is not a
18 currently accepted FLDS member in good standing, or is considered to be an apostate by FLDS
19 members.
20
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24 5. Defendants shall not, directly or indirectly, engage in retaliation of any kind
25 against Isaac Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin
26 or against any other person because of the matters raised in the State's Complaint or because he
or she has opposed any practice reasonably believed by him or her to be unlawful under A.R.S.

1 §§ 41-1441 through 41-1442, or because he or she has given testimony or assistance, been
2 listed as a potential witness in this lawsuit, or participated in any manner in any investigation
3 or proceeding under the Arizona Civil Rights Act.

4 **COSTS**

5
6 6. The Parties shall bear their respective attorneys' fees and costs incurred in this
7 action up to the date of entry of this Consent Judgment. In any action brought to assess or
8 enforce Defendants' compliance with the terms of this Consent Judgment, the Court in its
9 discretion may award reasonable costs and attorneys' fees to the prevailing party.
10

11 **NON-DISCRIMINATION POLICY AND PROCEDURES**

12 7. Within thirty (30) days from the effective date of this Consent Judgment,
13 Defendants shall adopt a written Non-Discrimination Policy ("the Policy"), approved by the
14 State. Within fifteen (15) days following the State's approval of the Policy, Defendants shall
15 distribute the Policy to all of their employees who shall sign and date an acknowledgement of
16 receipt of the Policy. Within thirty (30) days following the State's approval of the Policy,
17 Defendants shall provide the State with copies of the written acknowledgements of all
18 employees to whom Defendants distributed the Policy. Thereafter, Defendants shall distribute
19 the Policy to all new employees in their new hire paperwork, and shall retain copies of the
20 acknowledgements of receipt of the Policy signed by the new employees.
21
22

23
24 8. The Policy shall include the following provisions: (a) a statement that, in
25 accordance with Arizona law and the provisions of this Consent Judgment, Big Dan's Drive
26 Thru will not engage in or tolerate discrimination against any person at its restaurant based on
religion, race, color, sex, national origin, ancestry or disability; (b) instructions that employees

1 of Big Dan's Drive Thru shall not refuse to serve, refuse to admit, or otherwise discriminate
2 against any person based on religion, race, color, sex, national origin, ancestry or disability,
3 including, but not limited to, any person who does not observe the FLDS religion, is not a
4 currently accepted FLDS member in good standing, or is considered to be an apostate by FLDS
5 members; (c) a provision informing all employees that failure to comply with the Policy will
6 result in discipline up to and including termination of employment.
7

8 9. Defendants shall retain records regarding any alleged violation of the Policy, and
9 discipline imposed by Defendants for violations. Defendants shall send copies of such records
10 to the State commencing six (6) months after the effective date of this Consent Judgment and
11 every six (6) months thereafter until five (5) years after the effective date of this Consent
12 Judgment.
13

14 10. Defendants shall maintain written records of any and all incidents in which they
15 refuse service to any person or refuse to admit any person to Big Dan's Drive Thru for any
16 reason including, but not limited to the following reasons: believed to be under the influence of
17 alcohol or narcotics, guilty of boisterous behavior, of lewd or immoral character, physically
18 violent, or violated any regulation of Big Dan's Drive Thru which applies to all persons
19 regardless of religion, race, color, sex, national origin, ancestry or disability. The incident
20 reports shall include: (a) the date and time of the incident; (b) the name of all persons denied
21 service; (c) the identity of all employee and non-employee witnesses, including names,
22 addresses and telephone numbers; (d) the reason for denial of service; and (e) a description of
23 the incident including all facts supporting the denial of service. Defendants shall send copies
24 of the written incident reports to the State commencing six (6) months after the effective date
25
26

1 of this Consent Judgment and every six (6) months thereafter until five (5) years after the
2 effective date of this Consent Judgment.

3 **NON-DISCRIMINATION NOTICES**

4 11. Within fifteen (15) days of the effective date of this Consent Judgment,
5 Defendants shall post a notice on the front door of Big Dan's Drive Thru which shall state the
6 following in no less than 14 pt. bold font: "Big Dan's Drive Thru does not discriminate against
7 anyone based on religion, race, color, sex, national origin, ancestry or disability. To report
8 discrimination at any restaurant or other place of public accommodation in Arizona, contact the
9 Civil Rights Division of the Arizona Attorney General's Office at 877-491-5742 or by email at
10 civilrightsinfo@azag.gov." Defendants shall keep the notice posted on the front door of Big
11 Dan's Drive Thru for ninety (90) days. Thereafter, Defendants shall keep the notice posted,
12 but may move it to a conspicuous, well lit area, readily visible to customers and employees
13 near the front door of Big Dan's Drive Thru.
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17 12. Within fifteen days of the effective date of this Consent Judgment, Defendants
18 shall post notices identical to the notice referred to in Paragraph 11, on the bulletin boards at
19 the Colorado City Post Office and General Coop Store, and shall keep those notices posted for
20 90 days.
21

22 **TRAINING**

23 13. Within ninety (90) days of the effective date of this Consent Judgment,
24 Defendants and their employees shall attend a minimum of two hours of training provided by
25 the State in Colorado City, Arizona, regarding the anti-discrimination provisions of the Arizona
26

1 Civil Rights Act and the Policy. The training session may also be made available to owners,
2 operators and employees of other place of public accommodation in Colorado City.

3 **MONITORING**

4 14. The State shall monitor Defendants' performance for compliance with
5 Paragraphs 3, 4, 5, 7, 8, 9, 10, 11, 12 and 13 of this Consent Judgment.
6

7 **NOTICES**

8 15. When this Consent Judgment requires the submission of reports, notices or
9 materials for review to the State, they shall be mailed to: Sandra R. Kane, Assistant Attorney
10 General, Office of the Attorney General, Civil Rights Division, 1275 W. Washington, Phoenix,
11 Arizona 85007, or her successor(s).
12

13 **CONTINUING JURISDICTION OF THE COURT**

14 16. The Court shall retain jurisdiction over both the subject matter of this Consent
15 Judgment and the parties. If the State believes that the Defendants are violating any of the
16 provisions of Paragraphs 3, 4, 5, 7, 8, 9, 10, 11, 12 or 13 of this Consent Judgment, the Parties
17 will engage in good faith efforts to resolve the matter. For purposes of this Paragraph, good
18 faith efforts shall mean that the State shall notify Defendants in writing of the alleged failure to
19 comply with the Consent Judgment. The Defendants shall then have 15 days to respond in
20 writing and to reach an agreement with the State to cure the alleged failure to comply with the
21 Consent Judgment. If, however, the good faith efforts do not resolve the State's concerns, the
22 State may bring the matter to the attention of the Court and, if appropriate, request sanctions
23 for contempt, including but not limited to a liquidated penalty of \$10,000 for each violation,
24 plus an award of attorneys' fees and costs to the prevailing party.
25
26

1 **CHOICE OF LAW**

2 17. This Consent Judgment shall be governed in all respects whether as to validity,
3 construction, capacity, performance or otherwise by the laws of the State of Arizona.

4 **CONTINUING OBLIGATIONS**

5 18. Defendants' obligations under this Consent Judgment shall be binding upon
6 Defendants' heirs, assigns, successors, successors-in-interest, receivers, trustees in bankruptcy,
7 personal representatives, agents, employees, and all persons in active concert or participation
8 with Defendants.
9

10 **MODIFICATION**

11 19. There shall be no modification of this Consent Judgment without the written
12 consent of Defendants and the State and the further order of this Court. In the event of a
13 material change of circumstances, the Parties agree to make a good faith effort to resolve this
14 matter. If the Parties are unable to reach agreement, either party may ask the Court to make
15 such modifications as are appropriate.
16
17

18 **EFFECTUATING JUDGMENT**

19 20. The Parties agree to the entry of this Consent Judgment upon final approval by
20 the Court. The effective date of this Consent Judgment shall be the date that it is entered by
21 the Court.
22

23 ENTERED AND ORDERED this 5th day of December, 2007.
24

25 The foregoing instrument is a full, true and correct copy
26 of the original document.

/// Attest December 10 20 07
MICHAEL K. JEANES, Clerk of the Superior Court of the
State of Arizona, in and for the County of Maricopa.

By E. H. H. H. Deputy


Honorable A. Craig Blakey
Judge, Maricopa County Superior Court

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CONSENT TO JUDGMENT

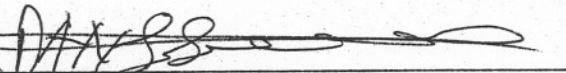
1. On behalf of Defendant Big Dan's Drive Thru, LLC, an Arizona limited liability company, I acknowledge that I have read the foregoing Consent Judgment, and that Defendant Big Dan's Drive Thru, LLC is aware of its right to a trial or default judgment hearing in this matter and has waived those rights.

2. Defendant Big Dan's Drive Thru, LLC agrees to the jurisdiction of the Court, and consents to entry of this Consent Judgment.

3. Defendant Big Dan's Drive Thru, LLC states that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce it to enter into this Consent Judgment, that it has entered into this Consent Judgment voluntarily, and that this Consent Judgment constitutes the entire agreement between Defendants and the State.

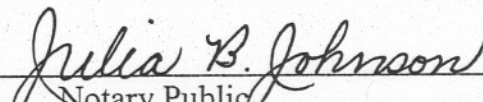
4 I am a member and manager of Big Dan's Drive Thru, LLC, and have been expressly authorized by Big Dan's Drive Thru, LLC to enter into this Consent Judgment for and on behalf of Big Dan's Drive Thru, LLC.

BIG DAN'S DRIVE THRU, LLC,
an Arizona limited liability company,

By 
Daniel Porter Steed
Member and Manager

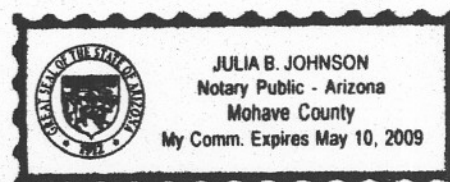
State of Arizona)
) SS.
County of Mohave)

SUBSCRIBED AND SWORN to before me this 9th day of November,
2007, by Daniel Porter Steed.


Notary Public

My Commission Expires:

May 10, 2009



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CONSENT TO JUDGMENT

1. I acknowledge that I have read the foregoing Consent Judgment, and that I am aware of my right to a trial in this matter and have waived that right.

2. I agree to the jurisdiction of the Court, and consent to entry of this Consent Judgment.

3. I hereby state that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce me to enter into this Consent Judgment, that I have entered into this Consent Judgment voluntarily, and that this Consent Judgment constitutes the entire agreement between Defendants and the State.

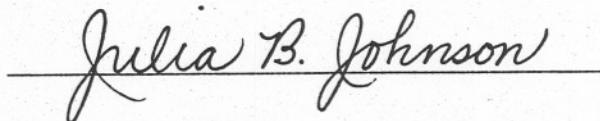
4. I hereby represent and warrant that I have not transferred any ownership interest, assets or control of Big Dan's Drive Thru, LLC or Big Dan's Drive Thru restaurant as of this date.



Daniel Porter Steed

State of Arizona)
) SS.
County of Mohave)

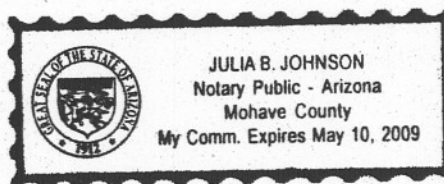
SUBSCRIBED AND SWORN to before me this 9th day of November,
2007, by Daniel Porter Steed.



Notary Public

My Commission Expires:

May 10, 2009



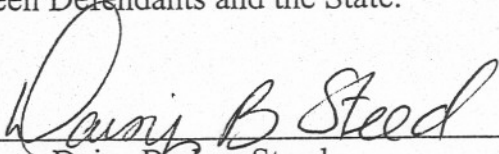
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CONSENT TO JUDGMENT

1. I acknowledge that I have read the foregoing Consent Judgment, and that I am aware of my right to a trial in this matter and have waived that right.

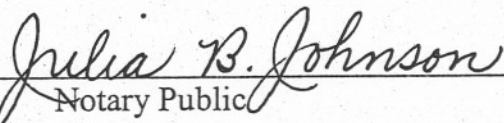
2. I agree to the jurisdiction of the Court, and consent to entry of this Consent Judgment.

3. I hereby state that no promise of any kind or nature whatsoever (other than the terms of this Consent Judgment) was made to induce me to enter into this Consent Judgment, that I have entered into this Consent Judgment voluntarily, and that this Consent Judgment constitutes the entire agreement between Defendants and the State.


Daisy Barlow Steed

State of Arizona)
) SS.
County of Mohave)

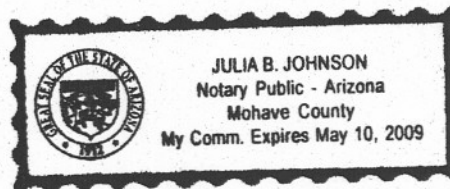
SUBSCRIBED AND SWORN to before me this 9th day of November,
2007, by Daisy B. Steed.


Notary Public

My Commission Expires:

May 10, 2009

///



1 APPROVED AS TO FORM AND SUBSTANCE:

2
3 TERRY GODDARD

4 Attorney General

5 12-3-07

6 Date

7 By Sandra R. Kane

Sandra R. Kane

Assistant Attorney General

Arizona Attorney General's Office

Civil Rights Division

1275 W. Washington Street

Phoenix, Arizona 85007

10 ASPEY, WATKINS & DIESEL, P.L.L.C.

11
12
13 By Frederick M. "Fritz" Aspey

Frederick M. "Fritz" Aspey

Bruce S. Griffen

123 North San Francisco, Suite 300

Flagstaff, Arizona 86001

Attorneys for Defendants

14
15 Date

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18 11/27/07

19 Date

20 By Isaac Wyler

Isaac Wyler

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22 86016