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

25 THE STATE OF ARIZONA ex rel. TERRY  
26 GODDARD, the Attorney General, and THE  
27 CIVIL RIGHTS DIVISION OF THE ARIZONA  
28 DEPARTMENT OF LAW,

Plaintiff,

vs.

THE PHOENIX COUNTRY CLUB,  
Defendant.

No. CV2008-022528

COMPLAINT  
(Non-classified Civil)

1 Plaintiff, the State of Arizona ex rel. Terry Goddard, the Attorney General, and the  
2 Civil Rights Division of the Arizona Department of Law (collectively the "State"), for its  
3 Complaint, alleges as follows:

#### 4 INTRODUCTION

5 This is an action brought under the Arizona Civil Rights Act ("ACRA") on behalf of  
6 the aggrieved persons, Logan and Barbara Van Sittert, and to vindicate the public interest.  
7 Specifically, the State brings this matter to redress the injury sustained because Defendant The  
8 Phoenix Country Club (hereinafter "PCC") denies women entrance to PCC's Men's Grill and  
9 denies men entrance to PCC's Women's Grill because of sex, in violation of the ACRA,  
10 A.R.S. § 41-1442.

#### 11 JURISDICTION AND VENUE

12 1. The Civil Rights Division of the Arizona Department of Law ("ACRD") is an  
13 administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the  
14 Arizona Civil Rights Act, A.R.S. § 41-1401 *et seq.*

15 2. This Court has jurisdiction over this matter pursuant to A.R.S. §§ 41-1471(D)  
16 and 41-1472.

17 3. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

#### 18 PARTIES

19 4. At all relevant times, Defendant PCC, was an Arizona non-profit corporation  
20 authorized to do, and doing, business in Maricopa County, Arizona and is a place of public  
21 accommodation.

22 5. The State brings this action on its own behalf and on behalf of Logan and Barbara  
23 Van Sittert, who are aggrieved persons within the meaning of A.R.S. § 41-1471(A). At all  
24 relevant times, Logan Van Sittert has been an active member of PCC. As the spouse of an  
25 active member, Barbara Van Sittert is entitled to exercise many of the same privileges and  
26 benefits of PCC membership that are enjoyed by her husband.

27 ///

28 ///

## BACKGROUND

6. PCC offers a range of amenities and facilities for golf, swimming, tennis and dining, including a golf course, tennis courts, restaurants, a clubhouse, locker rooms, and a fitness center. Access to these amenities is determined by the type of membership a member holds, and in the case of two PCC dining areas, the Men's Grill and Women's Grill, the members' sex.

7. Throughout its existence, PCC has been a central meeting place for community and business leaders and otherwise influential community members.

8. Presently, PCC is renovating portions of its facilities, including the dining amenities.

9. Prior to its ongoing renovations, PCC offered one dining facility open to both men and women. The only other dining facilities PCC offered were the Men's Grill and the Women's Grill. Except for special events, access is reserved categorically for men in the Men's Grill and for women in the Women's Grill.

10. Upon information and belief, while PCC intends to expand the number of dining facilities where men and women can dine together as part of its renovations, PCC intends to retain the Men's Grill and Women's Grill and continue to enforce its sex-based segregation policy in these areas when the renovations are completed.

11. The Men's Grill has offered, and after PCC's renovations are completed will continue to offer, amenities that are superior to other dining and gathering areas at PCC. Upon information and belief, the Men's Grill is well known in the business community as an ideal place to network, build business relationships and broker deals.

12. PCC also offers various facilities that are available for meetings, conferences and other events. Upon information and belief, many of these meetings, conferences and events are broadly advertised to the general public and are attended by members of the general public. PCC provides catering services for many of these functions that are paid for by members of the general public and through which PCC derives substantial income.

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1           13. PCC offers various levels of membership, including active, Junior A, Junior B,  
2 social, and clubhouse, which confer varying degrees of privileges. Membership in each of  
3 these categories has different initiation fees and monthly dues, and offers access to different  
4 PCC amenities.

5           14. PCC has 600 active members. The active members are PCC shareholders, and  
6 they possess exclusive authority to vote for and elect PCC's Board of Directors.  
7 Approximately half of PCC's members are not active members. The non-active members  
8 possess no voting rights to elect the Board of Directors and do not possess an equity interest in,  
9 or otherwise exercise control over, PCC.

10           15. On or about December 5, 2006, Logan and Barbara Van Sittert submitted a letter  
11 to then PCC Board President Joel Hoxie, in which they asked that PCC reverse its policy of  
12 excluding women from the Men's Grill.

13           16. Upon information and belief, within days of submitting their December 5, 2006  
14 letter to Joel Hoxie, Mr. Van Sittert was confronted by a crowd of men at the Men's Grill who  
15 taunted him with words such as "traitor, get out, leave the club." Upon information and belief,  
16 at least some of the members of PCC's Board of Directors witnessed this confrontation and did  
17 nothing to stop it.

18           17. Upon information and belief, Mr. Van Sittert's PCC locker was vandalized on  
19 December 9, 2006.

20           18. Upon information and belief, on or about December 9-10, 2006, graffiti and  
21 messages left on the PCC golf course referred to Mrs. Van Sittert as a "bitch," a "whore," and  
22 "Logan's widow."

23           19. On December 12, 2006, the Van Sitterts' counsel wrote to PCC's counsel to  
24 demand that PCC stop any and all acts of harassment directed against the Van Sitterts as a  
25 result of their efforts to seek integration of the Men's Grill.

26           20. Upon information and belief, PCC took no disciplinary action against those  
27 persons responsible for the acts of harassment and the Van Sitterts have continued to be  
28 harassed because of their opposition to PCC's segregated Men's Grill.

21. Upon information and belief, PCC, through its Board of Directors, engaged in ongoing acts of intimidation toward the Van Sitterts and others by amending its Bylaws to change spousal election membership rights and by adopting provisions in its Etiquette Policy that threaten its members with suspension or expulsion if a member or a member's family makes "derogatory or otherwise injurious comments to the media" or files, or threatens to file, a lawsuit against PCC.

22. Upon information and belief, the Van Sitterts, as a result of filing a charge of discrimination with the ACRD, have been threatened with expulsion from the PCC.

23. PCC refused to alter its policy of prohibiting female members and guests from entering and/or being served at the Men's Grill. PCC also refused to alter its policy of prohibiting male members and guests from entering and/or being served at the Women's Grill.

24. On March 26, 2007, Logan and Barbara Van Sittert timely filed a complaint of discrimination with the ACRD, in which they allege that Barbara Van Sittert has been the victim of sex discrimination based upon the Men's Grill's sex-based segregation policy.

25. At the conclusion of the State's investigation, the State determined that there is reasonable cause to believe that PCC discriminated against Logan and Barbara Van Sittert because of sex by refusing to allow Mrs. Van Sittert to enter or be served in the Men's Grill and by refusing to allow men to enter or be served in the Women's Grill, in violation of the ACRA.

26. The State issued its Reasonable Cause Determination on June 9, 2008, and since that time, the State, the Van Sitterts, and Defendant PCC have not entered into a Conciliation Agreement, necessitating the filing of this Complaint pursuant to A.R.S. § 41-1471(D).

## STATEMENT OF CLAIM

## COUNT ONE

### Sex Discrimination in Violation of A.R.S. § 41-1442(A)

27. The State realleges and incorporates by reference the allegations contained in paragraphs 1 through 26 of this Complaint.

28. At all relevant times, Defendant PCC owned and operated a facility that is a place of public accommodation under A.R.S. § 41-1441(2).

29. PCC discriminated against Logan and Barbara Van Sittert in a place of public accommodation because of sex and retaliated against the Van Sitterts when they opposed PCC's sex-based discrimination, in violation of A.R.S. § 41-1442(A).

30. As a result of PCC's discrimination, including PCC's retaliatory acts, upon information and belief, Logan and Barbara Van Sittert suffered actual and compensatory damages, including damages for emotional distress, and are entitled to and should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-1472.

31. The State, pursuant to A.R.S. § 41-1472(B)(3), is also entitled to preventive relief, including a permanent injunction or other order against PCC and any persons responsible for violating A.R.S. § 41-1442, and is entitled to its costs pursuant to A.R.S. § 41-1472(B)(2).

32. Pursuant to A.R.S. § 41-1472(B)(4), a civil penalty against PCC of not more than five thousand dollars for the first violation and ten thousand dollars for any subsequent violation is appropriate to vindicate the public interest.

**COUNT TWO**

### Sex Discrimination in Violation of A.R.S. § 41-1442(B)

33. The State realleges and incorporates by reference the allegations contained in paragraphs 1 through 32 of this Complaint.

34. PCC, directly or indirectly, denied accommodations, advantages, facilities and privileges of a place of public accommodation to Logan and Barbara Van Sittert because of sex and because of the Van Sitterts' opposition to PCC's sex-based discrimination, in violation of A.R.S. § 41-1442(B).

35. PCC aided and incited the denial of accommodations, advantages, facilities and privileges of a place of public accommodation to Logan and Barbara Van Sittert because of sex and because of the Van Sitterts' opposition to PCC's sex-based discrimination, in violation of A.R.S. § 41-1442(B).

36. PCC made distinctions with respect to Logan and Barbara Van Sittert based on sex in connection with goods or services offered at a place of public accommodation, in violation of A.R.S. § 41-1442(B).



1           37. As a result of PCC's discrimination, including PCC's retaliatory acts, upon  
2 information and belief, Logan and Barbara Van Sittert suffered actual and compensatory  
3 damages, including damages for emotional distress, and are entitled to and should be  
4 compensated in an amount to be determined at trial pursuant to A.R.S. § 41-1472.

5           38. The State, pursuant to A.R.S. § 41-1472(B)(3), is also entitled to preventive  
6 relief, including a permanent injunction or other order against PCC and any persons responsible  
7 for violation of A.R.S. § 41-1442, and is entitled to its costs pursuant to A.R.S. § 41-  
8 1472(B)(2).

9           39. Pursuant to A.R.S. § 41-1472(B)(4), a civil penalty against PCC of not more than  
10 five thousand dollars for the first violation and ten thousand dollars for any subsequent  
11 violation is appropriate to vindicate the public interest.

12                           **PRAYER FOR RELIEF**

13           WHEREFORE, the State requests that this Court:

14           A. Enter judgment on behalf of the State, finding that PCC unlawfully discriminated  
15 against Logan and Barbara Van Sittert because of sex, in violation of the ACRA.

16           B. Enjoin Defendant, its successors, assigns and all persons in active concert or  
17 participation with Defendant, from engaging in any public accommodation practice that  
18 discriminates on the basis of sex in violation of the ACRA.

19           C. Assess a statutory civil penalty against Defendant to vindicate the public interest  
20 in an amount that does not exceed five thousand dollars (\$5000.00) for the first violation,  
21 pursuant to A.R.S. § 41-1472(B) (4).

22           D. Order Defendant to make Logan and Barbara Van Sittert whole and award  
23 Logan and Barbara Van Sittert actual, compensatory, and emotional distress damages in  
24 amounts to be determined at trial.

25           E. Order the State to monitor Defendant's compliance with the ACRA.

26           F. Award the State its costs incurred in bringing this action and its costs in  
27 monitoring Defendant's future compliance with the ACRA.  
28

1 G. Grant such other and further relief as this Court may deem just and proper in the  
2 public interest.

3  
4 Dated this 16<sup>th</sup> day of September, 2008.

5 TERRY GODDARD  
6 Attorney General

7  
8 By 

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