

1 TERRY GODDARD  
Attorney General  
2 Firm State Bar No. 14000

3 Rose Daly-Rooney, AZ Bar #015690  
Assistant Attorney General  
4 Civil Rights Division  
400 W. Congress, Suite S-215  
5 Tucson, AZ 85701-1367  
(520) 628-6756, (520) 628-6765(fax)  
6 Attorney for Plaintiff State of Arizona

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
8 **IN AND FOR THE COUNTY OF PIMA**

9 LIZZIE BROWN, a single woman;  
10 MARILYN ALVAREZ, a single woman;  
11 Plaintiffs,

12 vs.

13 DREXEL DIESEL SERVICE, L.L.C., an  
Arizona Limited Liability Company;  
14 CARRILLO CUSTOM CASA, L.L.C., an  
Arizona Limited Liability Company; JIMMY  
15 CARRILLO and VERA CARRILLO,  
16 husband and wife,

17 Defendants/Counterclaimants.

18  
19 THE STATE OF ARIZONA *ex rel.* TERRY  
GODDARD, the Attorney General; and THE  
20 CIVIL RIGHTS DIVISION OF THE  
21 ARIZONA DEPARTMENT OF LAW,

22 Plaintiff,

23 vs.

24 DREXEL DIESEL SERVICE, L.L.C., an  
Arizona Limited Liability Company,  
25 DREXEL SERVICE CENTER, L.L.C.,  
26 An Arizona Limited Liability Company,

27 Defendants.  
28

No. CV2006-5579

CONSENT DECREE

The Hon. Paul Tang

1       The State of Arizona *ex rel.* Terry Goddard, the Attorney General; and the Civil  
2 Rights Division of the Arizona Department of Law ("State"), Lizzie Brown and Marilyn  
3 Alvarez ("Plaintiffs" or "Brown and Alvarez"), and Defendants Drexel Diesel Service,  
4 L.L.C. ("Drexel Diesel") and Drexel Service Center, L.L.C. ("Service Center") desire to  
5 resolve the issues raised by the State's First Amended Complaint, Plaintiffs' First  
6 Amended Complaint, and Defendants' counterclaims against Plaintiffs in the above-  
7 captioned matter without the time, expense and uncertainty of further contested  
8 litigation. To that end, the State and Defendants agreed to enter into the terms of this  
9 Consent Decree; and the Plaintiffs and Defendants entered into a Settlement Agreement  
10 to resolve the Plaintiffs' lawsuit and Defendants' counterclaims.

11       Plaintiffs Brown and Alvarez filed a civil lawsuit in Pima County alleging  
12 violations of ACRA and Title VII as well as other employment-related claims. The State  
13 filed its civil suit on November 22, 2006, in Maricopa County against Drexel Diesel  
14 Services. Venue was ordered transferred to Pima County on February 5, 2007. This  
15 Court ordered the State's case (Pima County C2007-0981) consolidated with Plaintiffs'  
16 case (Pima County C2006-5579) on March 9, 2007. In its March 23, 2007 Answer to the  
17 State's Complaint, Drexel Diesel denied for the first time that Ms. Brown was its  
18 employee. On June 29, 2007, after reviewing discovery documents, the State filed a  
19 Motion for Leave to Amend the State's Complaint to add Service Center as a defendant  
20 in the lawsuit. In an Order dated August 3, 2007, this Court granted the State's Motion  
21 for Leave to Amend its Complaint. On August 13, 2007, the State filed its First  
22 Amended Complaint adding Service Center as a defendant in the consolidated lawsuit.  
23 On October 22, 2007, Plaintiffs filed a Motion to Amend the Complaint to add Service  
24 Center as a party.

25 ///

26 ///

27 ///

1       The State and Plaintiffs' complaints against Defendants Drexel Diesel and  
2 Service Center allege that the Defendants discriminated against Ms. Alvarez and Ms.  
3 Brown by subjecting them to a sexually hostile work environment and retaliating against  
4 them when Ms. Brown complained of the sexual harassment in violation of A.R.S. §§  
5 41-1463(B)(1) & 41-1464(A). The retaliation included termination of Ms. Brown's  
6 employment, failure to pay their wages, and causing a police report to be filed against  
7 them for allegations of fraud and embezzlement.

8       On July 26, 2007, Ms. Brown and Ms. Alvarez each filed new charges of  
9 discrimination alleging retaliation by Drexel Diesel and Service Center for the filing of  
10 counterclaims alleging fraud, embezzlement and other financial improprieties against  
11 them. Those charges are CRD T07-00307 (Brown) and CRD T07-00304 (Alvarez). The  
12 State's investigation of the new charges was on-going.

13       The Defendants and the State expressly acknowledge that this Decree is the  
14 compromise of disputed claims and that there was no adjudication of any claim.  
15 Defendants agree to be bound by this Decree and not to contest that it was validly  
16 entered into in any subsequent proceeding to implement or enforce its terms. The parties  
17 therefore have consented to the entry of this Decree, waiving trial, findings of fact, and  
18 conclusions of law.

19       It appearing to the Court that entry of this Decree will further the objectives of the  
20 Arizona Civil Rights Act ("ACRA"), and that the Decree fully protects the parties and  
21 the public with respect to the matters within the scope of this Decree,

22       **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

23                   **JURISDICTION**

24       1.       This Court has jurisdiction over the subject matter of this action and over  
25 the parties and venue in Pima County is proper. The allegations in the State's First  
26 Amended, if proved, are sufficient to state a claim upon which relief could be granted  
27 against Defendants under the ACRA.  
28

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4  
5  
6  
7  
8  
9  
10  
11

## 12

13  
14  
15  
16  
17

## 18

19  
20  
21

- 22  
23  
24

25

26

1 (c) retaliating against Lizzie Brown, Marilyn Alvarez or any employee or  
2 individual who opposes any practice made unlawful by the Arizona Civil Rights Act  
3 ("ACRA") and/or by Title VII of the Civil Rights Act ("Title VII), makes a charge of  
4 discrimination, testifies, assists, participates in any manner an investigation, proceeding,  
5 or hearing under ACRA and/or Title VII, or makes an internal complaint of  
6 discrimination.

7 **DEFENDANTS' CORRECTIVE POLICIES AND PRACTICES**

8 5. Defendants shall institute and carry out policies and practices that  
9 encourage work environments free from unlawful harassment and that allow employees,  
10 whether they are full-time, part-time, temporary or leased employees, to raise concerns or  
11 complaints without retaliation about matters unlawful under ACRA and Title VII,  
12 whether alleged, perceived or actual.

13 6. Within 45 days of the effective date of this Consent Decree, Defendants  
14 will adopt an anti-discrimination policy that has been reviewed and approved by the  
15 State. The policy shall prohibit all forms of discrimination covered by the Arizona Civil  
16 Rights Act and Title VII. This policy will be made available to employees in both  
17 English and Spanish. At a minimum, the policy shall include:

18 a. A strong and clear commitment to a workplace free of discrimination,  
19 including sexual harassment, and retaliation;

20 b. A clear and strong encouragement of persons who believe they have been  
21 discriminated against to use the steps in the employer's policy to complain about all  
22 forms of discrimination, including sexual harassment;

23 c. A description of the consequences, up to and including termination, which  
24 will be imposed upon violators of the policy;

25 d. A statement of the Defendants' intent to handle complaints of  
26 discrimination, including harassment, and retaliation as confidentially as appropriate  
27 under the circumstances, including a convenient, confidential and reliable procedure to  
28

1 report incidents of workplace discrimination, including harassment, and retaliation  
2 alleged to have been undertaken by an owner or managing member that does not require  
3 the individual to report it to an owner or managing member;

4 e. An assurance of non-retaliation for persons who believe they have been  
5 subjected to unlawful discrimination or harassment as well as witnesses;

6 f. That all forms of harassment, including sexual harassment, whether  
7 engaged in by management, supervisors, third parties and customers, are prohibited and  
8 will not be tolerated;

9 g. The identification of specific individuals to whom employees can report  
10 allegations of discrimination, including harassment, and who have the authority to  
11 investigate those allegations in a neutral and confidential manner;

12 h. Assurances that Defendants will investigate allegations of discrimination,  
13 including harassment, promptly, fairly, reasonably and effectively and that appropriate  
14 corrective action will be taken by Defendants to make victims whole and to eradicate the  
15 discrimination; and

16 i. Provision of information regarding the employee's right to file a charge of  
17 discrimination with the Arizona Civil Rights Division and the Equal Employment  
18 Opportunity Commission and the address and telephone numbers of those agencies.

19 7. Defendants shall provide a draft of the anti-discrimination policy  
20 referenced in paragraph 6 to the State for approval within 30 days of the effective date of  
21 this Consent Decree. The purpose of the State's review is to determine if each of the  
22 minimum requirements for the policy set forth in the Consent Decree have been included  
23 in the policy. The State will return its comments in writing to Defendants' counsel  
24 within ten days of receipt of the draft.

25 8. Within 60 days of the effective date of this Consent Decree, Defendants  
26 agree to provide a copy of the policy to all current employees. During the duration of  
27 this Consent Decree, Defendants agree to provide a copy of the policy to all new  
28

1 employees they hire and have new employees sign an Acknowledgement of Receipt of  
2 the new policy. Defendants agree to keep a copy of the Acknowledgement of Receipt  
3 forms for all employees who have received the policy for the duration of the Consent  
4 Decree.

5 9. Within 75 days of the effective date of this Consent Decree, James  
6 Carrillo, Sr. and all of the current employees of Drexel Diesel and Service Center will  
7 attend no less than eight hours of individualized training and/or counseling on issues  
8 related to maintaining a workplace free of unwanted physical and verbal conduct which  
9 contributes to a sexually hostile work environment and the legal obligations under  
10 ACRA and Title VII.

11 10. Within 15 days of the effective date of this Consent Decree, Defendants  
12 shall post in a prominent place frequented by employee the Notice attached to this  
13 Consent Decree as Exhibit A. During the term of this Consent Decree, Defendants shall  
14 continuously maintain the posting of the Notice. This Notice shall be the same type,  
15 style, and size as in Exhibit A.

#### 16 REPORTING BY DEFENDANTS

17 11. Defendants or successor corporations shall report in writing and in  
18 affidavit form to the Attorney General's Office beginning three months from the date of  
19 the entry of this Consent Decree and thereafter for every three months for the duration of  
20 the Consent Decree. In the first report, Defendants or their successor corporations shall  
21 state whether and how they have complied with the terms in paragraphs 1-10 and provide  
22 copies of supporting documentation, such as the new or revised policy, receipts of the  
23 policy signed by existing and new employees, documentation of participation in training  
24 and/or counseling undertaken. Subsequent quarterly reports shall include the following  
25 information:

26 ///

27 ///

1 (a) Any changes, modifications, revocations, or revisions to their policies and  
2 procedures which concern or affect the subjects of discrimination, harassment, or  
3 retaliation;

4 (b) The name, address, position, and telephone number of any employee who  
5 made a complaint of harassment or retaliation by the owners or managing members of  
6 either Defendant company; the actions taken by Defendants or successors to investigate  
7 such internal complaint, and the corrective action, if any, taken.

8 (c) A statement about Defendants' or successors' continued efforts to comply  
9 with dissemination of their discrimination policies, maintaining the posting of the  
10 required notices, availability of the internal complaint procedures, and any training or  
11 counseling undertaken to comply with the Consent Decree.

12 **RELIEF FOR CHARGING PARTIES/PLAINTIFFS**

13 12. Pursuant to ARCP 80(d), Defendants acknowledge that they agreed to pay  
14 a monetary settlement to Plaintiffs Brown and Alvarez, in full settlement of their claims  
15 of sex discrimination, including sexual harassment, and retaliation under ACRA.  
16 Although the amount of the monetary settlement is confidential to the public,  
17 Defendants' obligation to pay the amount agreed upon in the separate settlement  
18 agreement is incorporated by reference as an obligation to satisfy the Consent Decree.  
19 The amount of the monetary settlement is not confidential in any proceeding to enforce  
20 the obligation to pay the monetary settlement.

21 13. Defendants agree that they will not pursue or seek restitution for  
22 Defendants' alleged civil and criminal claims of embezzlement, fraud, theft and any like  
23 or related claim in any forum against Plaintiffs Brown and Alvarez, including but not  
24 limited to the claims alleged in Defendants Answers to the State and Plaintiffs' civil  
25 complaints in this matter and reported to the Tucson Police Department and/or any other  
26 law enforcement authority.

27 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12

## 13

14  
15  
16

17  
18  
19  
20  
21

22  
23

24  
25  
26  
27

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

2  
3  
4  
5

## 6

7  
8

9

10

11  
12

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CONSENT TO DECREE

1. On behalf of Defendant Drexel Diesel Service, L.L.C. an Arizona limited liability corporation, I acknowledge as an owner and managing member that I have read the foregoing Consent Decree, am aware of the corporation's right to a trial in this matter and have waived that right. I further acknowledge that Defendant Drexel Diesel Service, L.L.C. agrees to the jurisdiction of the Court, and consents to entry of this Consent Decree.

2. I acknowledge that no promise of any kind or nature whatsoever (other than the terms of this Consent Decree) was made to induce Drexel Diesel Service, L.L.C. to enter into this Consent Decree, that it has entered into this Consent Decree voluntarily.

3. I acknowledge that this Consent Decree (including the terms of the separate settlement agreement between Defendants and Plaintiffs Brown and Alvarez incorporated by reference into the Consent Decree) constitutes the entire agreement between Defendants and the State.

4. I am the Managing Member and majority owner of Drexel Diesel Service, L.L.C. and, as such, have been authorized to enter into this Consent Decree for and on behalf of Drexel Diesel Service, L.L.C.

DATED this 28 day of December, 2007.

Drexel Diesel Service, L.L.C.  
an Arizona corporation

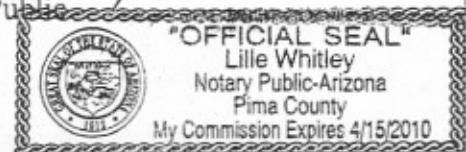
By [Signature]  
James Carrillo, Sr.  
Managing member/Majority owner

State of Arizona )  
County of Pima ) ss.

SUBSCRIBED AND SWORN to before me this 28 day of December, 2007, by James Carrillo, Sr.

[Signature]  
Notary Public

My Commission Expires: 4/15/2010





1 The foregoing Consent Decree have been reviewed and APPROVED AS TO  
2 FORM AND SUBSTANCE:

3 TERRY GODDARD  
4 The Attorney General

5  
6  
7 By \_\_\_\_\_  
8 Rose A. Daly-Rooney  
9 Assistant Attorney General  
10 400 West Congress, Suite S-215  
11 Tucson, Arizona 85701

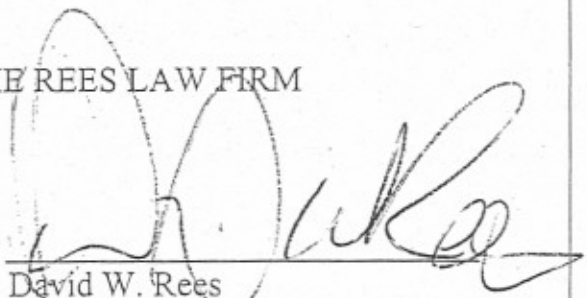
12 Attorney for Plaintiff State of Arizona

13 Date: \_\_\_\_\_

14 GOERING ROBERTS RUBIN BROGNA  
15 ENOS & TREADWELL-RUBIN, PC

16 THE REES LAW FIRM

17 By \_\_\_\_\_  
18 Howard Tom Roberts, Jr.  
19 3320 North Campbell, Suite 200  
20 Tucson, Arizona 85719-2371

21 By  \_\_\_\_\_  
22 David W. Rees  
23 4771 East Camp Lowell  
24 Tucson, Arizona 85712-1256

25 Attorney for Defendants Drexel Diesel  
26 Service

27 Attorney for Defendant Drexel Service  
28 Center, L.L.C.

29 Date: \_\_\_\_\_

30 Date: \_\_\_\_\_

1 The foregoing Consent Decree have been reviewed and APPROVED AS TO  
2 FORM AND SUBSTANCE:

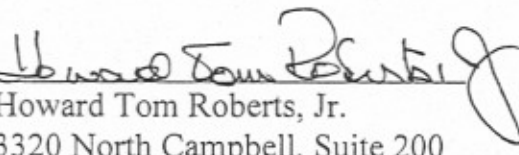
3 TERRY GODDARD  
4 The Attorney General

5  
6  
7 By \_\_\_\_\_  
8 Rose A. Daly-Rooney  
9 Assistant Attorney General  
10 400 West Congress, Suite S-215  
11 Tucson, Arizona 85701

12 Attorney for Plaintiff State of Arizona

13 Date: \_\_\_\_\_

14  
15 GOERING ROBERTS RUBIN BROGNA THE REES LAW FIRM  
16 ENOS & TREADWELL-RUBIN, PC

17 By   
18 Howard Tom Roberts, Jr.  
19 3320 North Campbell, Suite 200  
20 Tucson, Arizona 85719-2371

21 Attorney for Defendants Drexel Diesel  
22 Service

23 By \_\_\_\_\_  
24 David W. Rees  
25 4771 East Camp Lowell  
26 Tucson, Arizona 85712-1256

27 Attorney for Defendant Drexel Service  
28 Center, L.L.C.

29 Date: 12/28/07

30 Date: \_\_\_\_\_

31 8563 v.3

1 The foregoing Consent Decree have been reviewed and APPROVED AS TO  
2 FORM AND SUBSTANCE:

3 TERRY GODDARD  
4 The Attorney General

5  
6  
7 By Rose Daly-Rooney  
8 Rose A. Daly-Rooney  
9 Assistant Attorney General  
10 400 West Congress, Suite S-215  
11 Tucson, Arizona 85701

12 Attorney for Plaintiff State of Arizona

13 Date: 1/7/08

14  
15 GOERING ROBERTS RUBIN BROGNA THE REES LAW FIRM  
16 ENOS & TREADWELL-RUBIN, PC

17 By \_\_\_\_\_  
18 Howard Tom Roberts, Jr.  
19 3320 North Campbell, Suite 200  
20 Tucson, Arizona 85719-2371

21 Attorney for Defendants Drexel Diesel  
22 Service

By \_\_\_\_\_  
David W. Rees  
4771 East Camp Lowell  
Tucson, Arizona 85712-1256

Attorney for Defendant Drexel Service  
Center, L.L.C.

23 Date: \_\_\_\_\_

Date: \_\_\_\_\_

24 8563 v.3