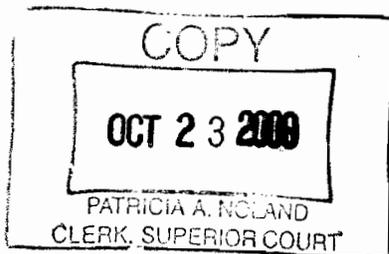


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12 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
13
14 IN AND FOR THE COUNTY OF PIMA

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

19 Plaintiff,

20 vs.

21 COMMUNITY PROVIDER OF ENRICHMENT
22 SERVICES, INC., an Arizona corporation,

23 Defendant.

No. **C20098389**

COMPLAINT
(Non-Classified Civil)

Virginia C. Kelly

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

BACKGROUND

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2 7. Lisa Parra is deaf and is substantially limited in at least one major life activity
3 including, but not limited to, hearing. Although unable to understand speech aurally, Ms. Parra
4 can hear environmental noise and sound.

5 8. For communication purposes, Lisa Parra uses her voice to speak to people who
6 can hear and uses American Sign Language to communicate with people who are deaf. Ms.
7 Parra uses speech reading and note writing to communicate with persons who do not use sign
8 language.

9 9. In January 2008 and throughout the Spring of 2008, Defendant had one or more
10 vacant Direct Support Provider (“DSP”) positions at its Tucson locations.

11 10. Ms. Parra has worked with developmentally disabled persons for approximately
12 fifteen years and competently performed positions similar to CPES’ DSP positions.

13 11. During her career, Ms. Parra has successfully worked with hearing and deaf
14 individuals in group home settings and in respite settings. In fact, Ms. Parra had worked
15 previously for CPES and left the Defendant’s employment in good standing.

16 12. In or around late January or early February 2008, Ms. Parra applied for a DSP
17 position with CPES. In her application, Ms. Parra advised Defendant of her hearing
18 impairment.

19 13. After applying for the DSP position, Ms. Parra met with Defendant’s Human
20 Resources Director Marcia Ruttenberg and the two discussed, without the use of a sign
21 language interpreter, Ms. Parra’s application for employment with CPES.

22 14. Ms. Ruttenberg advised Ms. Parra that Defendant did not hire deaf persons
23 because of safety concerns and had experienced problems with deaf persons in the past.

24 15. In the DSP job description, CPES has imposed a physical requirement of being
25 able to “hear” consumers in order to monitor consumer activities.

26 16. A physical requirement of being able to “hear” screens out otherwise qualified
applicants who are deaf or hard of hearing.

1 17. At no time, however, did Ruttenberg inquire into the level or degree of Ms.
2 Parra's deafness or discuss with Ms. Parra how she could perform the essential functions of the
3 position with or without reasonable accommodation.

4 18. Despite Ms. Parra's extensive relevant employment experience and being a
5 superior candidate for the DSP position, Defendant did not hire Ms. Parra for the DSP position
6 because of her deafness.

7 19. Ms. Parra was qualified for the DSP position and could perform the essential
8 functions of the position with reasonable accommodations.

9 20. Defendant never engaged Ms. Parra in an interactive process to determine
10 whether she could perform the essential functions of the DSP position with reasonable
11 accommodations.

12 21. Upon information and belief, Defendant hired less qualified, non-hearing
13 impaired candidates to fill its open DSP positions.

14 22. Upon information and belief, Defendant has a pattern and practice of not hiring
15 deaf candidates without exploring with the candidates whether they can perform the essential
16 functions of the position for which they are applying with or without reasonable
17 accommodations.

18 23. Lisa Parra filed a charge of discrimination against the Defendant with the Arizona
19 Civil Rights Division on July 11, 2008.

20 24. The State conducted an investigation into the allegations contained in Ms. Parra's
21 July 11, 2008 charge of discrimination and issued a Reasonable Cause Determination on June
22 16, 2009.

23 25. The State, Lisa Parra and CPES have tried unsuccessfully to conciliate this matter
24 and have not entered into a Conciliation Agreement.

25 26. As a result, the State files this Complaint pursuant to A.R.S. § 41-1481(D).

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STATEMENT OF CLAIM
**(Discrimination in Violation of A.R.S. § 41-1463(B), (F),
UNLAWFUL REFUSAL TO HIRE AND
FAILURE TO REASONABLY ACCOMMODATE)**

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

6 28. Pursuant to A.R.S. § 41-1463(B)(1), it is an unlawful employment practice for an
7 employer to refuse to hire or otherwise discriminate against any individual because of the
8 individual's disability.

9 29. Pursuant to A.R.S. § 41-1463(B)(2), it is an unlawful employment practice to
10 limit, segregate or classify applicants for employment in any way which would tend to deprive
11 any individual of employment opportunities because of an individual's disability.

12 30. Pursuant to A.R.S. § 41-1463(F)(2), it is an unlawful employment practice to use
13 standards, criteria or methods of administration that have the effect of discriminating on the
14 basis of disability or that perpetuate the discrimination of others who are subject to common
15 administrative control.

16 31. Pursuant to A.R.S. § 41-1463(F)(4), it is an unlawful employment practice to not
17 make reasonable accommodations to the known physical limitations of an otherwise qualified
18 individual who is an applicant for employment.

19 32. Pursuant to A.R.S. § 41-1463(F)(5), it is an unlawful employment practice to
20 deny opportunities to a job applicant who is an otherwise qualified individual with a disability
21 if the denial is based on the need of the employer to make reasonable accommodations to the
22 physical impairment of the applicant.

23 33. Pursuant to A.R.S. § 41-1463(F)(6), it is an unlawful employment practice to use
24 qualification standards or other selection criteria that screen out or tend to screen out an individual with
25 a disability or a class of individuals with disabilities.

26 34. Lisa Parra is an individual with a disability within the meaning of ACRA.

 35. Lisa Parra was qualified to and can perform the essential functions of the DSP
position with reasonable accommodation(s).

1 E. Order Defendant to make changes to its hiring and promotion policies and
2 procedures to eliminate its discriminatory qualification standard of "hearing" for the position
3 of Behavioral Health Technician to comply with ACRA.

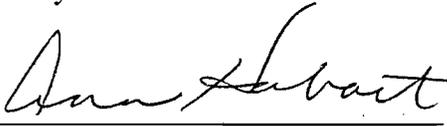
4 F. Order the State to monitor Defendant's compliance with the ACRA.

5 G. Award the State its costs incurred in bringing this action, and its costs in
6 monitoring Defendant's future compliance with the ACRA.

7 H. Grant such other and further relief as this Court may deem just and proper in the
8 public interest.

9
10 Dated this 10th day of October, 2009.

11 TERRY GODDARD
12 Attorney General

13
14 By 
15 Ann Hobart
16 Assistant Attorney General
17 Arizona Attorney General's Office
18 Civil Rights Division
19 Attorneys for Plaintiff

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