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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.	**COMPLAINT** (Non-classified Civil)

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

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INTRODUCTION

This is an action brought under the Arizona Civil Rights Act ("ACRA") to correct an unlawful practice in a place of public accommodation, to provide appropriate relief to aggrieved persons, and to vindicate the public interest. Specifically, Defendants own and operate a restaurant in Colorado City, Arizona where the majority of the population belongs to the Fundamentalist Church of Jesus Christ of Latter Day Saints ("FLDS"). The State brings this matter to redress the injury sustained by Defendants' discriminatory refusal based on religion to serve Isaac Wyler and other non-FLDS members with him at Defendants' restaurant, in violation of A.R.S. § 41-1442.

JURISDICTION AND VENUE

1. The Civil Rights Division of the Arizona Department of Law is an administrative agency established by A.R.S. § 41-1401 to enforce the provisions of the ACRA, A.R.S. § 41-1401 *et seq.*

2. The State brings this action on its own behalf and on behalf of aggrieved persons Isaac Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin.

3. This Court has jurisdiction of this matter pursuant to A.R.S. §§ 41-1471 and 41-1472.

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

PARTIES

5. Defendant Big Dan's Drive Thru LLC is an Arizona limited liability company which owns and operates the Big Dan's Drive Thru restaurant ("Big Dan's) located at 80 N. Central St. #10, Colorado City, in Mohave County, Arizona.

6. Upon information and belief, Defendant Daniel Porter Steed ("Steed") is the sole member of Defendant Big Dan's Drive Thru LLC, and owns and operates Big Dan's. Upon information and belief, Steed has owned and operated Big Dan's at all relevant times for and on behalf of his marital community with his wife, Defendant Jane Doe Steed. When the true name of Defendant Jane Doe Steed is known, the State will amend this Complaint

STATEMENT OF CLAIM

7. At all relevant times, Defendants were authorized to and doing restaurant business at Big Dan's.

8. At all relevant times, Defendants operated Big Dan's as a public place where, among other things, food or beverages were sold for consumption on the premises.

9. At all relevant times, Defendants also offered drive thru, takeout services, food, and dining facilities at Big Dan's to members of the general public.

10. Upon information and belief, Defendants solicited patronage for Big Dan's at all relevant times from members of the general public.

11. At all relevant times, Big Dan's was a place of public accommodation within the meaning of A.R.S. § 41-1441(2).

12. Steed is and at all relevant times has been a member of the FLDS. Upon information and belief, Defendant Jane Doe Steed is and at all relevant times has been a member of the FLDS.

13. Upon information and belief, on or about January 2004, Isaac Wyler ("Wyler") and twenty other men were ex-communicated by FLDS's leader, Warren Jeffs ("Jeffs") and told to go "repent at a distance," which means leave the community. Jeffs also ordered the men's family members not to speak to the ex-communicated men and ordered the men's wives to turn themselves into the Bishop.

14. Upon information and belief, FLDS members label as "Apostates" those that have been ex-communicated from or who have voluntarily left the FLDS; particularly those that oppose Jeffs by staying in the community and asserting their rights for equal treatment. Upon information and belief, FLDS members are taught not to associate or do business with Apostates.

15. At all relevant times, Wyler, Andrew Chatwin, and Michael Chatwin were ex-FLDS members. Upon information and belief, at all relevant times, FLDS members considered these men to be Apostates.

16. On or about late March or early April 2006, Wyler and his cousins, Andrew Chatwin and Daniel Chatwin, went to Big Dan's where they ordered meals and sat down to eat. Steed approached them and told them to hurry up and finish eating and leave.

17. Thereafter, on or about April or May 2006, Wyler returned to Big Dan's with Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin. At that time, Steed brought out their food in "to go" boxes and told them to leave. Big Dan's continued to serve other customers and, upon information and belief, Steed did not tell those other customers to leave without eating.

18. On or about early July 2006, Wyler returned to Big Dan's with Andrew Chatwin and Andrew Chatwin's wife, Michelle Chatwin (the "group"). At that time, Wyler and his group attempted to order meals but Steed refused to take their order. Instead, Steed called the Colorado City Marshall's Office. Shortly thereafter, Deputy Marshall Jonathan Roundy arrived and asked the group to leave Big Dan's. Big Dan's continued to serve other customers and did not refuse to take orders or call the City Marshall's Office regarding those other customers.

19. On July 11, 2006, Wyler filed a timely complaint of discrimination by a place of public accommodation with the State's Civil Rights Division, Compliance Section, alleging that he, his family members and friends were denied service at Big Dan's on the basis of their religious status, in violation of the ACRA. Wyler amended the complaint on November 14, 2006 to delete Chester Fried Chicken as a respondent, and to name Steed as a respondent.

20. The State's Civil Rights Division investigated Wyler's complaint. In the course of that investigation, Steed testified, among other things, that he is a member of the FLDS and that approximately one dozen of his regular customers had advised him that they would not eat at Big Dan's if Wyler and Andrew Chatwin ate there.

21. At the conclusion of its investigation, the State determined that there is reasonable cause to believe that Defendants discriminated against Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin based on religion ("the Cause Finding").

22. The State issued its Cause Finding on May 16, 2007, and since that time the State, Wyler, and Defendants have not entered into a Conciliation Agreement. The State, having exhausted its administrative remedies, brings this Complaint pursuant to the ACRA, A.R.S. §§ 41-1471 and 41-1472.

COUNT ONE

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

23. The State realleges and incorporates by reference the allegations contained in paragraphs 1 through 22 of this Complaint.

24. Defendants owned and operated Big Dan's, which is and at all relevant times was a place of public accommodation within the meaning of A.R.S. § 41-1441(2).

25. Defendants discriminated against Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin in a place of public accommodation because of religion, in violation of A.R.S. **§** 41-1442(A).

26. As a result of Defendants' discrimination, upon information and belief, Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin 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.

27. The State is entitled to preventive relief, including a permanent injunction or other order against Defendants and any other persons responsible for violation of A.R.S. § 41-1442.

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

COUNT TWO

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

29. The State realleges and incorporates by reference the allegations contained in paragraphs 1 through 28 of this Complaint.

30. Defendants, directly or indirectly, denied accommodations, advantages, facilities, and privileges of their place of public accommodation to Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin because of religion, in violation of A.R.S. § 41-1442(B).

31. Defendants aided in the denial of accommodations, advantages, facilities, and privileges, of their place of public accommodation to Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin because of religion, in violation of A.R.S. § 41-1442(B).

32. Defendants made distinctions with respect to Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin based on religion in connection with goods or services offered at their place of public accommodation, in violation of A.R.S. § 41-1442(B).

33. As a result of Defendants' discrimination, upon information and belief, Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin 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.

34. The State is entitled to preventive relief, including a permanent injunction or other order against Defendants and any other persons responsible for violation of A.R.S. § 41-1442.

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

PRAYER FOR RELIEF

WHEREFORE, the State requests that this Court:

A. Enter judgment on behalf of the State, finding that Defendants unlawfully discriminated against Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin because of religion, in violation of the ACRA;

B. Enjoin Defendants, their successors, assigns and all persons in active concert or participation with Defendants from engaging in any public accommodation practice that discriminates on the basis of religion in violation of the ACRA;

C. Assess a statutory civil penalty against Defendants to vindicate the public interest in an amount that does not exceed five thousand dollars for a first violation and ten thousand dollars for any subsequent violation pursuant to A.R.S. § 41-1472(B)(4);

D. Order Defendants to make Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin whole and award Wyler, Andrew Chatwin, Michelle Chatwin, Levi Chatwin, and Michael Chatwin damages in amounts to be determined at trial;

E. Order the State to monitor Defendants' compliance with the ACRA;

F. Award the State its costs incurred in bringing this action and its costs in monitoring Defendants' future compliance with the ACRA; and

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

DATED this _____ day of June, 2007.

TERRY GODDARD
Attorney General

By _____

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