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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.

VERMILLION CANDY SHOPPE; BYGNAL
DUTSON and JANE DOE DUTSON, husband
and wife,

Defendants.

No.

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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1 **INTRODUCTION**

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

10 **JURISDICTION AND VENUE**

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

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

16 3. This Court has jurisdiction of this matter pursuant to A.R.S. §§ 41-1471 and 41-
17 1472.

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

19 **PARTIES**

20 5. Upon information and belief, Defendant Vermillion Candy Shoppe
21 (“Vermillion”) is an unincorporated association or other organization which functions as a
22 place of public accommodation located at 70 N. Central St. in Colorado City, in Mohave
23 County, Arizona.

24 6. Upon information and belief, Defendant Bygnal Dutson (“Dutson”) is and at all
25 relevant times has been the owner and operator of Vermillion. Dutson has operated
26 Vermillion at all relevant times with his wife, Defendant Jane Doe Dutson, and for and on
27 behalf of his marital community with Defendant Jane Doe Dutson (collectively “Defendants
28 Dutson”). When the true name of Defendant Jane Doe Dutson is known, the State will amend

1 this Complaint.

2 **STATEMENT OF CLAIM**

3 7. At all relevant times, Defendants were authorized to and were engaging in the
4 restaurant business.

5 8. At all relevant times, Defendant Vermillion was a public place where, among
6 other things, food or beverages were sold for consumption on the premises and was owned and
7 operated by Defendants Dutson.

8 9. At all relevant times, Defendants also offered takeout services, food, and dining
9 facilities to members of the general public.

10 10. Upon information and belief, Defendants solicited patronage for Vermillion at all
11 relevant times from members of the general public.

12 11. At all relevant times, Vermillion was a place of public accommodation within the
13 meaning of A.R.S. § 41-1441(2).

14 12. Upon information and belief, Defendants Dutson are and at all relevant times
15 have been members of the FLDS.

16 13. Upon information and belief, FLDS members label as “Apostates” those that have
17 been ex-communicated or who have voluntarily left the FLDS; particularly those that oppose
18 FLDS leader, Warren Jeffs, by staying in the community and asserting their rights for equal
19 treatment. Upon information and belief, FLDS members are taught not to associate or do
20 business with Apostates.

21 14. At all relevant times, Andrew Chatwin, Isaac Wyler, and William Daniel Chatwin
22 were ex-FLDS members. Upon information and belief, at all relevant times, FLDS members
23 considered these men to be Apostates.

24 15. On or about April 2006, Andrew Chatwin, Isaac Wyler, William Daniel Chatwin
25 and a friend (collectively “Andrew Chatwin’s Group”) went to Vermillion, paid for their food,
26 and sat down to wait. A Vermillion agent or employee then told Andrew Chatwin’s Group that
27 there was no more food and told them to leave. When Andrew Chatwin’s Group replied that
28 they had already paid for their orders, the Vermillion agent or employee went into the kitchen

1 and came back with their food in “to go” boxes. The Vermillion agent or employee again asked
2 Andrew Chatwin’s Group to leave, and Andrew Chatwin’s Group left as requested. Upon
3 information and belief, the Vermillion agent or employee is also a FLDS member.

4 16. Thereafter, on or about April or May, 2006, Andrew Chatwin, Isaac Wyler,
5 Michelle Chatwin, Levi Chatwin and William Daniel Chatwin (collectively “Andrew
6 Chatwin’s Second Group”) went to Vermillion. At that time, a Vermillion agent or employee
7 denied service to Andrew Chatwin’s Second Group and called the Colorado City Deputy
8 Marshals. Isaac Wyler asked the Vermillion agent or employee if they were denied service
9 because of religion or because they did not have the same religious beliefs, and the Vermillion
10 agent or employee replied: “You know why.” Dutson arrived at Vermillion at about the same
11 time as the Deputy Marshals, who escorted Andrew Chatwin’s Second Group out of the
12 restaurant. Upon information and belief, Defendants and their employees continued to serve
13 other customers at Vermillion and did not contact the Colorado City Deputy Marshals to escort
14 other customers out of the restaurant.

15 17. On July 11, 2006, Andrew Chatwin filed a timely complaint of discrimination by
16 a place of public accommodation with the State’s Civil Rights Division, Compliance Section,
17 alleging that he and his family members and friends were denied service at Vermillion on the
18 basis of their religious status in violation of the ACRA. The complaint was amended to name
19 Dutson as a respondent.

20 18. The State’s Civil Rights Division investigated Andrew Chatwin’s complaint and,
21 at the conclusion of its investigation, the State issued a determination (“the Cause Finding”)
22 that there is reasonable cause to believe that Defendants engaged in discrimination based on
23 religion in violation of A.R.S. §§ 41-1441(1), (2) and 41-1442(1), (2).

24 19. The State issued its Cause Finding on May 16, 2007, and since that time the State,
25 Andrew Chatwin, and Defendants have not entered into a Conciliation Agreement. The State,
26 having exhausted administrative remedies, brings this Complaint pursuant to the ACRA, A.R.S.
27 §§ 41-1471 and 41-1472.

28 / / /

1 **COUNT ONE**

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

3 20. The State realleges and incorporates by reference the allegations contained in
4 paragraphs 1 through 19 of this Complaint.

5 21. At all relevant times, Defendants Dutson owned and operated Defendant
6 Vermillion which is and at all relevant times was a place of public accommodation under
7 A.R.S. § 41-1441(2).

8 22. Defendants discriminated against Andrew Chatwin, Isaac Wyler, Michelle
9 Chatwin, Levi Chatwin and William Daniel Chatwin in a place of public accommodation
10 because of religion, in violation of A.R.S. § 41-1442(A).

11 23. As a result of Defendants' discrimination, upon information and belief, Andrew
12 Chatwin, Isaac Wyler, Michelle Chatwin, Levi Chatwin and William Daniel Chatwin suffered
13 actual and compensatory damages, including damages for emotional distress, and are entitled to
14 and should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-
15 1472.

16 24. The State is entitled to preventive relief, including a permanent injunction or
17 other order against Defendants and any other persons responsible for violation of A.R.S. § 41-
18 1442.

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

22 **COUNT TWO**

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

24 26. The State realleges and incorporates by reference the allegations contained in
25 paragraphs 1 through 25 of this Complaint.

26 27. Defendants, directly or indirectly, denied accommodations, advantages, facilities,
27 and privileges of their place of public accommodation to Andrew Chatwin, Isaac Wyler,
28

1 Michelle Chatwin, Levi Chatwin and William Daniel Chatwin because of religion, in violation
2 of A.R.S. § 41-1442(B).

3 28. Defendants aided in the denial of accommodations, advantages, facilities, and
4 privileges of their place of public accommodation to Andrew Chatwin, Isaac Wyler, Michelle
5 Chatwin, Levi Chatwin and William Daniel Chatwin because of religion, in violation of A.R.S.
6 § 41-1442(B).

7 29. Defendants made distinctions with respect to Andrew Chatwin, Isaac Wyler,
8 Michelle Chatwin, Levi Chatwin and William Daniel Chatwin based on religion in connection
9 with goods or services offered at their place of public accommodation, in violation of A.R.S. §
10 41-1442(B).

11 30. As a result of Defendants' discrimination, upon information and belief, Andrew
12 Chatwin, Isaac Wyler, Michelle Chatwin, Levi Chatwin and William Daniel Chatwin suffered
13 actual and compensatory damages, including damages for emotional distress, and are entitled to
14 and should be compensated in an amount to be determined at trial pursuant to A.R.S. § 41-
15 1472.

16 31. The State is entitled to preventive relief, including a permanent injunction or
17 other order against Defendants and any other persons responsible for violation of A.R.S. § 41-
18 1442.

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

22 **PRAYER FOR RELIEF**

23 WHEREFORE, the State requests that this Court:

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

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

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

7 D. Order Defendants to make Andrew Chatwin, Isaac Wyler, Michelle Chatwin,
8 Levi Chatwin and William Daniel Chatwin whole and award Andrew Chatwin, Isaac Wyler,
9 Michelle Chatwin, Levi Chatwin and William Daniel Chatwin damages in amounts to be
10 determined at trial.

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

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

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

16 DATED this _____ day of June, 2007.

17 TERRY GODDARD
18 Attorney General

19 By _____
20 Sandra R. Kane
21 Assistant Attorney General
22 Arizona Attorney General's Office
23 Civil Rights Division
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