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By J. L. Nelson  
Deputy

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11 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
12 **IN AND FOR THE COUNTY OF MARICOPA**

13 THE STATE OF ARIZONA *ex rel.* TOM  
14 HORNE, the Attorney General, and THE  
15 CIVIL RIGHTS DIVISION OF ARIZONA  
16 DEPARTMENT OF LAW,

17 Plaintiff,

18 vs.

19 NATURAL HEALTH CARE  
20 ALTERNATIVES, P.C., FRANK BLY  
21 HATCH, OWNER,

22 Defendants.

No. CV2010-029881

**CONSENT DECREE**

(Hon. Arthur T. Anderson)

23 The State of Arizona *ex rel.* Tom Horne, the Attorney General; and the Civil  
24 Rights Division of the Arizona Department of Law (“ACRD”), Sydney Rothamer nka  
25 Hunsaker (“Ms. Rothamer”), and Natural Health Care Alternatives, P.C. (“NHCA”) and  
26 Frank Bly Hatch (“Hatch”) desire to resolve the issues raised by the ACRD’s Complaint  
27 in the above-captioned matter without the time, expense, and uncertainty of further  
28 contested litigation. To that end, the ACRD and Defendants agreed to enter into the  
terms of this Consent Decree.

1 Sydney Rothamer nka Hunsaker filed a civil lawsuit in Maricopa County alleging  
2 violations of claims arising out of her employment. The ACRD filed its civil suit on  
3 October 29, 2010, in Maricopa County against NHCA alleging violations of the Arizona  
4 Civil Rights Act ("ACRA"). This Court ordered the ACRD's case (Maricopa County  
5 CV2010-029881) consolidated with Plaintiff's case (Maricopa County CV2010-005100)  
6 on June 8, 2011.

7 The ACRD's Complaint against NHCA and Frank Hatch allege that the  
8 Defendants discriminated against Ms. Rothamer by subjecting her to a sexually hostile  
9 work environment and sexual harassment in violation of A.R.S. §§ 41-1463 *et seq.* Ms.  
10 Hunsaker's lawsuit did not include any claims under ACRA.

11 The Defendants and the ACRD expressly acknowledge that this Decree is the  
12 compromise of disputed claims and that there was no adjudication of any claim.  
13 Defendants agree to be bound by this Decree and not to contest that it was validly entered  
14 into in any subsequent proceeding to implement or enforce its terms. The ACRD and  
15 Defendants therefore, have consented to the entry of this Decree, waiving trial, findings  
16 of fact, and conclusions of law. This Consent Decree does not resolve Plaintiff Sydney  
17 Hunsaker's separate, non-ACRA claims raised in her individual lawsuit, Maricopa  
18 County CV2010-005100 (consolidated under No. CV2010-02988).

19 It appearing to the Court that entry of this Decree will further the objectives of the  
20 ACRA, and that the Decree fully protects the parties and the public with respect to the  
21 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 Maricopa County is proper. The allegations in the ACRD's  
26 Complaint, if proved, are sufficient to state a claim upon which relief could be granted  
27 against Defendants under the ACRA.

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**RESOLUTION OF THE COMPLAINTS**

2. This Decree resolves all issues and claims set forth in the ACRD's Complaint. This Decree also resolves all issues relating to acts and practices of discrimination to which this Decree is directed. This Decree does not resolve the claims alleged in Ms. Rothamer's civil suit, originally filed as CV2010-005100, now consolidated with the ACRD's case under CV2010-02988.

**RELEASE**

3. Except for the obligations of Defendants that are expressly set forth in this Decree, Defendants, their agents, employees, successors, assigns and all persons in active concert or participation with Defendants, are released from any and all civil liability to the ACRD for the counts alleged in the ACRD's Complaint.

**INJUNCTION AND COMPLIANCE WITH ACRA AND TITLE VII**

4. Defendants NHCA, Dr. Hatch and any other owners, managing members and successors are permanently enjoined for the duration of this Consent Decree from:

(a) engaging in conduct that creates a sexually hostile work environment, in violation of the ACRA such as inappropriate sexual touching, sexual comments, and requests that female employees take off their clothing, or perform chiropractic services on Dr. Hatch, or secure chiropractic services from Dr. Hatch while they are employees as well as any other similar harassment.

(b) retaliating against Sydney Hunsaker or any employee or individual who opposes any practice made unlawful by the Arizona Civil Rights Act ("ACRA") makes a charge of discrimination, testifies, assists, participates in any manner an investigation, proceeding, or hearing under ACRA, and/or makes an internal complaint of discrimination.

**DEFENDANTS' CORRECTIVE POLICIES AND PRACTICES**

5. Injunctive Relief. Defendants shall institute and carry out policies and practices that encourage work environments free from unlawful harassment and that

1 allow employees, whether they are full-time, part-time, temporary or leased employees,  
2 to raise concerns or complaints without retaliation about matters unlawful under ACRA  
3 and Title VII, whether alleged, perceived or actual. Defendants shall refrain from  
4 engaging in verbal or physical sexual harassment.

5 6. Policy. Within 30 days of the effective date of this Consent Decree,  
6 Defendants will create or revise its written sexual harassment and the new or revised  
7 policy shall include, at a minimum:

8 (a) A strong and clear commitment to a workplace free of sexual harassment;

9 (b) A clear and strong encouragement of persons who believe they have been  
10 discriminated against or witnessed such discrimination to use the reporting procedures to  
11 complain about sexual harassment;

12 (c) An assurance of non retaliation for persons who believe they have been  
13 subjected to unlawful sexual harassment as well as witnesses;

14 (d) An assurance that sexual harassment by owner(s), physicians, supervisors,  
15 and third parties, including patients, is prohibited and will not be tolerated;

16 (e) The identification of a hotline or third party vendor to report sexual  
17 harassment, including telephone numbers;

18 (f) An assurance that allegations of sexual harassment will be investigated  
19 promptly, fairly, reasonably and effectively by using appropriate investigators and that  
20 appropriate corrective action will be taken; and

21 (g) Provision of information regarding the employee's right to file a charge of  
22 discrimination with the Arizona Civil Rights Division and the Equal Employment  
23 Opportunity Commission and the address and telephone numbers of those agencies.

24 7. Defendants shall provide a draft of the anti-discrimination policy  
25 referenced in paragraph 6 to the ACRD for approval within 45 days of the effective date  
26 of this Consent Decree. The purpose of the ACRD's review is to determine if each of  
27 the minimum requirements for the policy set forth in the Consent Decree have been  
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1 included in the policy. The ACRD will return its comments in writing to Defendants'  
2 counsel within ten days of receipt of the draft.

3 8. Dissemination of the Policy. Within 60 days of the effective date of this  
4 Consent Decree, Defendants agree to provide a copy of the policy to all current  
5 employees. During the duration of this Consent Decree, Defendants agree to provide a  
6 copy of the policy to all new employees they hire and have new employees sign an  
7 Acknowledgement of Receipt of the new policy. Defendants agree to keep a copy of the  
8 Acknowledgement of Receipt forms for all employees who have received the policy for  
9 the duration of the Consent Decree.

10 9. Training. Within 30 days of the effective date of this Consent Decree,  
11 provide training for all existing employees and new hires about sexual harassment at  
12 Defendants' expense. Training may be live, in person or online, interactive training  
13 from a qualified training organization.

14 10. Third Party Sexual Harassment Complaint System. Within 60 days,  
15 contract with a third party vendor that takes employee confidential reports of harassment  
16 and designate a representative that will be responsible for accepting the reports and  
17 investigating the complaints in the report. The sexual harassment policy must include  
18 the number to the third party vendor's hotline. The ACRD and Defendant must mutually  
19 agree on the designee. Neither Dr. Hatch nor a family member may be the designee. For  
20 the duration of the Consent Decree, Defendants will notify the Division of any reports of  
21 sexual harassment, including complaints made to the hotline, and how those complaints  
22 were resolved:

23 (a) Within 10 days of receipt, Defendants or its designee must provide the  
24 Division with a copy of sexual harassment complaints.

25 11. Remedial Counseling and Coaching. Within 60 days, Dr. Hatch will  
26 complete up to 20 hours of one-on-one training, consulting and coaching by an  
27 occupational psychologist qualified to provide for remedial sexual harassment  
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1 counseling. Defendants shall sign any necessary authorization and releases to permit the  
2 occupational psychologist to provide a written report confirming that Dr. Hatch  
3 completed the 20 hour one-on-one coaching and counseling for remedial sexual  
4 harassment and the date of completion.

5 **REPORTING BY DEFENDANTS**

6 12. Defendants or successor corporations shall report in writing and in  
7 affidavit form to the Attorney General's Office beginning six months from the date of  
8 the entry of this Consent Decree and thereafter for every six months for the duration of  
9 the Consent Decree. In the first report, Defendants or their successor corporations shall  
10 state whether and how they have complied with the terms in paragraphs 1-10 and  
11 provide copies of supporting documentation, such as the new or revised policy, receipts  
12 of the policy signed by existing and new employees, and documentation of participation  
13 in training and/or counseling undertaken. Subsequent bi-annual reports shall include the  
14 following information:

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

18 (b) The name, address, position, and telephone number of any employee who  
19 made a complaint of harassment or retaliation by the owners or managing members of  
20 Defendant NHCA, the actions taken by Defendants or successors to investigate such  
21 internal complaint, and the corrective action, if any, taken.

22 (c) A statement about Defendants' or successors' continued efforts to comply  
23 with dissemination of their sexual harassment and discrimination policies, availability of  
24 the internal complaint procedures, and any training or counseling undertaken to comply  
25 with the Consent Decree.





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**EFFECTUATING CONSENT DECREE**

21. The parties agree to the entry of this Decree upon final approval by the Court. The effective date of this Decree shall be the date that it is entered by this Court.

ENTERED AND ORDERED this 18<sup>th</sup> day of July, 2013.

**JUDGE ARTHUR T. ANDERSON**  
Honorable Arthur T. Anderson  
Maricopa County Superior Court



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**EXHIBIT A**

**Waiver And Release Of Claims**

I, Sydney Rothamer Hunsaker, hereby agree that in consideration of the terms set forth in the Consent Decree between the State of Arizona *ex rel.* Tom Horne, the Attorney General, and the Civil Rights Division of the Arizona Department of Law and Defendants Natural Health Care Alternatives, P.C. ("NHCA") and Frank B. Hatch ("Hatch") in CV2010-029881, I release NHCA and Frank B. Hatch and all of their respective agents, employees, and contractors, as well as any affiliated entities, successors, and assigns, without limitation from any and all employment discrimination claims under the Arizona Civil Rights Act and Title VII of the Civil Rights Act related to the facts and circumstances described in the Consent Decree. This includes, but is not limited to, all claims for monetary or equitable relief that I may have under ACRA or Title VII. If I receive any award at trial in excess of \$37,500.00 listed in paragraph 13 of the Consent Decree, then I agree that the trial award will be reduced by the amount listed in paragraph 13 of the Consent Decree. I have been advised that, before signing this release, I have the right to consult a private attorney regarding its contents. I have read this release and understand its contents, and choose to sign it of my own free will and not under duress. By signing this release, I do not release my claims under CV2010-005100.

AGREED TO AND SIGNED this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Sydney Rothamer Hunsaker