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JAN 15 2010



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

13 THE STATE OF ARIZONA ex rel. TERRY
14 GODDARD, the Attorney General, and THE
15 CIVIL RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,

16 Plaintiff,

17 vs.

18 SEARS, ROEBUCK & CO.,

19 Defendant.
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21

No. CV2010-002205

**COMPLAINT FOR DAMAGES
AND INJUNCTIVE RELIEF**

(Nonclassified Civil)

22 Plaintiff, the State of Arizona ex rel. Terry Goddard, the Attorney General, and the
23 Civil Rights Division of the Arizona Department of Law (collectively the "State"), for its
24 Complaint, alleges as follows:
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1 16. Upon information and belief, Defendant's TGI Market Installation Manager
2 Richard Kravik ("Kravik") assisted Baldenegro in obtaining the position with PBH.

3 17. Upon information and belief, Allen, who was Defendant's TGI's Store Manager
4 and Baldenegro's former supervisor, learned that Baldenegro had gone to work with PBH.
5 Allen discussed Baldenegro's employment with Allen's manager and was given permission to
6 continue working with Baldenegro in her capacity as a PBH employee.

7 18. Upon information and belief, on or about December 18, 2008, Plumley received a
8 telephone call from Kravik advising him of a potential conflict of interest between TGI and
9 PBH, due to the fact that Baldenegro had a "lawsuit" against TGI and directed that she could
10 not work on any of Defendant's business with PBH.

11 19. Upon information and belief, Defendant provided the vast majority of PBH's
12 business. When Plumley relayed this information to Baldenegro, she felt compelled to resign
13 in order to preserve PBH's business relationship with TGI/Sears and was constructively
14 discharged.

15 20. Upon information and belief, at TGI's store meeting on December 18, 2008,
16 Kravik told Human Resources Manager Mike Menner ("Menner") that he had called Plumley
17 about there being a conflict of interest with Baldenegro working for a TGI contractor while
18 pursuing a "lawsuit" against TGI.

19 21. Upon information and belief, Defendant's Code of Conduct states, in part:
20 Former Associates. Unless you have received written approval from your area's
21 Senior Vice President and the Office of Compliance and Ethics, you should not
22 engage in any SHC-related business with a former SHC, Kmart, or Sears associate
23 for at least twelve months following the date the former associate ceases
24 employment with SHC.

25 22. Upon information and belief, later on December 18, when Menner told Kravik he
26 was concerned that TGI had violated its Code of Conduct by assisting Baldenegro in securing
employment with a contractor, Kravik told Menner he was unaware of the Conflict of Interest
provision in the Code of Conduct.

1 discrimination by contacting Baldenegro's employer and advising that she could not work on
2 Defendant's business with PBH.

3 30. As a result of Defendant's retaliatory conduct and Baldenegro's constructive
4 discharge, Baldenegro suffered monetary damages for which she should be compensated in an
5 amount to be determined at trial pursuant to A.R.S. § 41-1481(G).

6 31. The State is also entitled to injunctive relief against the Defendant's actions
7 pursuant to A.R.S. § 41-1481(G).

8 **PRAYER FOR RELIEF**

9 WHEREFORE, the State requests that this Court:

10 A. Enter judgment on behalf of the State, finding that Defendant engaged in an
11 unlawful employment practice against Baldenegro in violation of the Arizona Civil Rights Act.

12 B. Enjoin Defendant, its successors, assigns and all persons in active concert or
13 participation with Defendant, from engaging in any employment practice which discriminates
14 or retaliates in violation of the Arizona Civil Rights Act.

15 C. Order Defendant to make Baldenegro whole and award Baldenegro back wages
16 calculated from the date of her constructive termination on or about December 18, 2008 in
17 amounts to be determined at trial.

18 D. Order Defendant, its successors, assigns and all persons in active concert or
19 participation with Defendant, to create and enforce policies, practices and programs that
20 provide equal employment opportunities for all its employees, and that eradicate the effects of
21 its present unlawful employment practices, including but not limited to, policy changes and
22 training.

23 E. Order Defendant, its successors, assigns and all persons in active concert or
24 participation with Defendant, to adopt and enforce an equal opportunity in employment policy
25 that prohibits retaliation against any employees who oppose an unlawful employment practice
26 or participate in any investigation of an unlawful employment practice.

1 G. Issue an Order authorizing the State to monitor Defendant's compliance with the
2 Arizona Civil Rights Act and order Defendant its successors, assigns and all persons in active
3 concert or participation with Defendant, to pay the State a reasonable amount for such
4 monitoring.

5 H Award the State its taxable costs incurred in bringing this action.

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

8 Dated this 15th day of January, 2010.

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10 TERRY GODDARD
Attorney General

11
12 By 

13 Michael M. Walker
14 Assistant Attorney General
15 Civil Rights Division
Attorneys for Plaintiff

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