

COPY

OCT 27 2006



MICHAEL K. JAMES, CLERK
M. SIMPSON
DEPUTY CLERK

1 TERRY GODDARD
The Attorney General
2 Firm No. 14000
3 Sandra R. Kane, No. 007423
Assistant Attorney General
4 Civil Rights Division
1275 West Washington Street
5 Phoenix, AZ 85007
Telephone: (602) 542-8862
6 CivilRights@azag.gov
Attorneys for Plaintiff
7

8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
9 IN AND FOR THE COUNTY OF MARICOPA

10 THE STATE OF ARIZONA *ex rel.* TERRY
GODDARD, the Attorney General; and THE
11 CIVIL RIGHTS DIVISION OF THE ARIZONA
DEPARTMENT OF LAW,
12

No. CV2006-016349

COMPLAINT
(Non-classified Civil)

13 Plaintiff,

14 vs.

15 TADAS EDELIS and JANE DOE EDELIS,
husband and wife, dba COPY SHOP,
16

17 Defendants.

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

21 **INTRODUCTION**

22 This is an action brought under the Arizonans with Disabilities Act, A.R.S. § 41-1492,
23 *et seq.*, ("AzDA"), to correct a discriminatory public accommodation practice, to provide
24 appropriate relief to an aggrieved person, and to vindicate the public interest. Specifically, the
25 State brings this matter to redress the injury sustained when Defendants refused to modify their
26 policies, practices and procedures to allow Shelby Smith, an individual with a disability,

1 to receive services at their place of public accommodation, in violation of AzDA, A.R.S. § 41-
2 1492.02(F).

3 **JURISDICTION AND VENUE**

- 4 1. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1492.09
5 2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

6 **PARTIES**

7 3. The Civil Rights Division of the Arizona Department of Law is an administrative
8 agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona Civil Rights
9 Act, A.R.S. § 41-1401, *et seq.*, including AzDA.

10 4. The State brings this action on its own behalf and on behalf of Shelby Smith
11 (“Smith”), an aggrieved person, pursuant to A.R.S. §§ 41-1492.09(A), (B) and (C).

12 5. Defendant Tadas Edelis (“Edelis”) is the owner and/or operator of the Copy Shop
13 (“Copy Shop”), which is a sales, service and/or retail establishment located and doing business
14 at 2017 Stockton Hill Rd., Suite A, Kingman, Arizona in Mohave County. Copy Shop is a
15 place of “public accommodation” as that term is defined in A.R.S. § 41-1492(9).

16 6. Upon information and belief, Edelis owns and/or operates Copy Shop jointly with
17 his wife, Defendant Jane Doe Edelis and/or Edelis’ ownership and operation of Copy Shop was
18 for and on behalf of his marital community with Defendant Jane Doe Edelis. Plaintiff will
19 amend the complaint when the true name of Jane Doe Edelis is known.

20 7. At all relevant times, Wade Stender (“Stender”) was an agent and employee of
21 Edelis.

22 **BACKGROUND**

23 8. Smith is, and at all relevant times has been, an individual with a disability within
24 the meaning of A.R.S. § 41-1492(5).

25 ///

26 ///

1 9. At all relevant times, Smith had handicap license plates on her vehicle and
2 because of her disability, required assistance from her service animal, a Queensland Heeler dog.

3 10. Smith's service animal was specially trained to ameliorate certain of the effects
4 and symptoms of Smith's disability and was receiving additional training to assist Smith.

5 11. On or about July 29, 2005, Smith drove to Copy Shop to get photocopies. At that
6 time, there were no accessible handicap-designated parking spaces in the parking lot outside of
7 Copy Shop.

8 12. Smith parked her vehicle on a nearby level "no parking zone" where she had
9 previously seen a Copy Shop vehicle parked, and proceeded into Copy Shop accompanied by
10 her service animal.

11 13. At that time, Stender told Smith that she could not bring her dog into Copy Shop.

12 14. Smith informed Stender that the dog was her service animal and that she had the
13 legal right to bring it with her into the store.

14 15. Stender pointed to a sign on the wall and told Smith that Copy Shop had the right
15 to refuse service to anyone, and that she and the dog needed to leave. Stender also told Smith
16 that she could not park in a "no parking zone."

17 16. Smith had to leave Copy Shop without getting the photocopies that she needed.

18 17. On September 27, 2005, Smith filed a timely complaint of public accommodation
19 discrimination with the State's Civil Rights Division pursuant to A.R.S. § 41-1492.09(A), in
20 which she alleged that she had been the victim of disability discrimination by Defendant.

21 18. The State's Civil Right Division investigated Smith's complaint pursuant to
22 A.R.S. § 41-1492.09. At the conclusion of the State's investigation, the State issued a finding
23 ("the Cause Finding") that reasonable cause exists to believe that Defendant discriminated
24 against Smith, a person with a disability, in violation of AzDA.

25 19. The State issued the Cause Finding on September 29, 2006. Since that time, the
26 State, Smith and Defendants have not entered into a conciliation agreement. Having

1 exhausted administrative requirements, the State is authorized to file this Complaint pursuant to
2 A.R.S. § 41-1492.09.

3 **STATEMENT OF CLAIM**

4 **(Disability Discrimination in Violation of AzDA)**

5 20. The State realleges and incorporates by reference the allegations contained in paragraphs
6 1 through 19 of this Complaint.

7 21. Defendants now and at all relevant times have owned and/or operated a place of
8 public accommodation within the meaning of A.R.S. § 41-1492(9).

9 22. AzDA prohibits discrimination against an individual on the basis of disability in
10 the full and equal enjoyment of the goods, services, facilities, privileges, advantages or
11 accommodations of any place of public accommodation by any person who owns or operates a
12 place of public accommodation.

13 23. Discrimination includes subjecting an individual with a disability, based on
14 disability, to: a denial of the opportunity to participate in or benefit from the goods, services,
15 facilities, advantages, privileges or accommodations of an entity; or to a loss of the opportunity
16 to participate in or benefit from goods, services, facilities, privileges, advantages or
17 accommodations that are not equal to that afforded other individuals.

18 24. Under the Arizonans with Disabilities Act, it is also discriminatory to exclude or
19 otherwise deny equal goods, services, facilities, privileges, advantages, accommodations or
20 other opportunities to an individual with whom the entity is known to have a relationship or
21 association. Such discrimination includes: (1) the failure of an entity to make reasonable
22 modifications in policies, practices or procedures if necessary to afford goods, services,
23 facilities, privileges, advantages or accommodations to individuals who require such
24 modifications because of their disability, unless the entity can demonstrate that making these
25 modifications would fundamentally alter the nature of these goods, services, facilities,
26 privileges, advantages or accommodations; or (2) the failure to remove architectural barriers

1 that are structural in nature in existing facilities, if the removal is readily achievable.

2 25. Defendants, through their employee or agent, discriminated against Smith, based
3 on disability, by denying her full and equal access and enjoyment of goods, services, facilities,
4 privileges, advantages, accommodations at their sales, service and/or retail establishment, in
5 violation of A.R.S. §§ 41-1492.02(A), (B)(1),(2) and A.R.S. § 11-1024.

6 26. Defendants, through their employee or agent, discriminated against their
7 customer, Smith, based on disability, by excluding her from their place of public
8 accommodations and by otherwise denying her equal goods, services, facilities, privileges,
9 advantages, accommodations or other opportunities, in violation of A.R.S. § 41-1492.02(F).

10 27. Defendants, through their employee or agent, discriminated against Smith, based
11 on disability, by their failure to make a reasonable modification in their policies, practices or
12 procedures to allow Smith to be accompanied by a service animal and/or a service animal in
13 training at its place of public accommodations, in violation of A.R.S. §§ 41-1492.02(F)(2) and
14 A.R.S. § 11-1024.

15 28. Defendants, through their employee or agent, discriminated against Smith, based
16 on disability, by their failure to make a reasonable modification in their policies, practices or
17 procedures to allow Smith to park in a level "no parking zone" next to Copy Shop, in violation
18 of A.R.S. § 41-1492.02(F)(2).

19 29. Defendants, through their employee or agent, discriminated against Smith, based
20 on disability, in violation of A.R.S. § 41-1492.02(F)(4), by their failure to remove architectural
21 barriers in their existing parking lot which removal was necessary to provide level, handicap
22 accessible parking.

23 30. As a result of Defendant's discrimination, upon information and belief, Smith
24 suffered embarrassment, humiliation, denial of civil rights, inconvenience, emotional distress,
25 and monetary damages.

26 ///

1 PRAYER FOR RELIEF

2 WHEREFORE, the State requests that this Court:

3 A. Enter judgment on behalf of the State, finding that Defendants unlawfully
4 discriminated against Smith because of her disability, in violation of AzDA, A.R.S. §41-1492
5 et. seq. and A.R.S. § 11-1024.

6 B. Enjoin Defendants, their successors, assigns and all persons in active concert or
7 participation with Defendants, from engaging in any public accommodation practice that
8 discriminates on the basis of disability in violation of AzDA, as allowed by A.R.S. § 41-
9 1492.09(B).

10 C. Assess a statutory civil penalty against Defendants to vindicate the public
11 interest in an amount that does not exceed five thousand dollars (\$5,000) for the first violation,
12 pursuant to A.R.S. § 41-1492.09(C).

13 D. Order Defendant's to make Smith whole for any damage she suffered and award
14 her damages in an amount to be determined at trial.

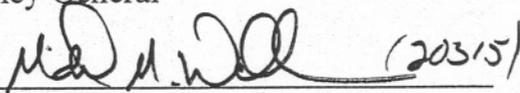
15 E. Order the State to monitor Defendants' compliance with AzDA.

16 F. Award the State its costs incurred in bringing this action, and its costs in
17 monitoring Defendants' future compliance with AzDA as allowed by A.R.S. § 41-1492.09(F).

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

20 DATED this 27th day of October, 2006.

21 TERRY GODDARD
22 Attorney General

23 By  (20315)

24  Sandra R. Kane
25 Assistant Attorney General
26 Civil Rights Division
1275 W. Washington
Phoenix, Arizona 85007