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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.* TERRY
14 GODDARD, the Attorney General, and THE
15 CIVIL RIGHTS DIVISION OF THE
16 ARIZONA DEPARTMENT OF LAW,

17 Plaintiff,

18 vs.

19 DANA PERNO, an unmarried man,

20 Defendant.

No. CV2008-001196

COMPLAINT
(Non-Classified Civil)

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

24 **INTRODUCTION**

25 This is an action brought under the Arizona Fair Housing Act ("AFHA"), A.R.S. §§
26 41-1491 to 41-1491.37, to correct a discriminatory housing practice, provide appropriate

1 relief to aggrieved persons, and vindicate the public interest. Specifically, the State brings
2 this matter to redress the injury sustained when Defendant refused to rent after receiving a
3 bona fide offer, refused to negotiate for rental, made discriminatory statements, or otherwise
4 made a rental house unavailable to Catherine Giebel and her family based on their familial
5 status.

6 JURISDICTION AND VENUE

- 7 1. This court has jurisdiction of this matter pursuant to A.R.S. § 41-1491.34(A).
8 2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

9 PARTIES

10 3. The Civil Rights Division of the Arizona Department of Law is an administrative
11 agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona Civil Rights
12 Act ("ACRA"), A.R.S. §§ 41-1401 to 41-1493.02, including the AFHA.

13 4. The State brings this action on its own behalf and on behalf of Catherine Giebel
14 ("Giebel") who is a complainant and an aggrieved person within the meaning of A.R.S. § 41-
15 1491(1).

16 5. Defendant Dana Perno ("Perno") is a resident of Maricopa County, Arizona, and
17 the owner of that certain residential real property located at 12631 N. 27th Way, Phoenix,
18 Arizona ("the rental house").

19 GENERAL ALLEGATIONS

20 6. On or about June 2007, Defendant posted an advertisement on the
21 RentClicks.com online advertising service indicating that the rental house was available for rent
22 ("the ad").

23 7. Giebel is the parent of two children who are younger than eighteen years of age.
24 At all relevant times, Giebel was domiciled with her husband and her two minor children.

25 8. Giebel saw the ad while looking for rental housing with three bedrooms for her
26 family.

1 9. On or about June 27, 2007, Giebel sent an email to Defendant to express interest
2 in the rental house. Defendant responded by sending Giebel a rental qualification application
3 and advising that he would be showing the rental house that evening.

4 10. On or about June 27, 2007, Giebel emailed her completed rental qualification
5 application to Defendant and went to see the rental house with her mother and sister.

6 11. While at the rental house that day, Defendant told Giebel that the rental house
7 was available because his girlfriend had been living there and had recently moved in with him.
8 Giebel told Defendant that she wanted to rent the rental house. Defendant stated that he had
9 other people looking at the rental house and would let Giebel know if she was accepted for
10 tenancy.

11 12. Thereafter, Defendant contacted Giebel's present landlord, Mary Jo Holmes
12 ("Holmes"), who provided a good tenant reference for Giebel. Upon information and belief,
13 Defendant asked Holmes several questions about the behavior of Giebel's children. After
14 speaking with Defendant, Holmes advised Giebel that she did not believe that Defendant
15 intended to rent to her because of the questions that he had asked about Giebel's family.

16 13. On or about July 2, 2007, Defendant sent Giebel an email advising that he had
17 decided to rent the rental house to a working couple with no children.

18 14. Thereafter, Giebel went on-line to look for alternate rental housing and saw that
19 the ad for the rental house was still posted on RentClicks.com.

20 15. On or about July 2, 2007, Giebel's sister, Marge Gray ("Gray") sent Defendant an
21 email expressing interest in the rental house. Upon information and belief, Defendant sent an
22 email to Gray confirming that the rental house was still available and providing a rental
23 application.

24 16. On or about August 17, 2007, Giebel filed a complaint of housing discrimination
25 with the U.S. Department of Housing and Urban Development ("HUD") against Defendant.
26

1 HUD forwarded Giebel's housing discrimination complaint to the State's Civil Rights Division
2 ("the Division") for dual-filing under the AFHA and investigation.

3 17. On or about August 22, 2007, Giebel filed a timely complaint of housing
4 discrimination with the Division pursuant to A.R.S. § 41-1491.22(C), in which Giebel alleged
5 that she and her two minor children, Christopher Van Giebel and Caelee Giebel, had been the
6 victims of familial status discrimination by Defendant.

7 18. The State's Civil Rights Division investigated Giebel's complaint pursuant to
8 A.R.S. § 41-1491.24(B). At the conclusion of the State's investigation, the State issued a
9 finding ("the Cause Finding") that reasonable cause exists to believe that Defendant
10 discriminated against Giebel and her children based on familial status, in violation of the
11 AFHA.

12 19. The State issued the Cause Finding on December 17, 2007. Since that time,
13 Giebel and Defendant have not entered into a conciliation agreement. Having exhausted
14 administrative requirements, the State is authorized to file this Complaint pursuant to A.R.S. §§
15 41-1491.29(D) and 41-1491.34(A).

16 **COUNT ONE**

17 **[Discrimination in Violation of A.R.S. § 41-1491.14(A) of AFHA]**

18 20. Plaintiff realleges and incorporates by reference the allegations contained in
19 paragraphs 1 through 19 of this Complaint.

20 21. The rental house is a dwelling within the meaning of A.R.S. § 41-1491(7)(a) of
21 the AFHA.

22 22. Giebel is, and at all relevant times was, the parent of two children younger than
23 eighteen years of age, with whom Giebel was domiciled.

24 23. On or about June 27, 2007, Giebel made a bona fide offer to rent the rental
25 house.

1 33. As a result of discrimination by Defendant, Giebel and her children suffered
2 emotional distress, humiliation, embarrassment, inconvenience, denial of civil rights, and
3 monetary damages.

4 34. Punitive damages are appropriate because Defendant intentionally discriminated
5 against Giebel because of familial status and/or Defendant acted with callous disregard of or
6 reckless indifference to Giebel's civil rights.

7 WHEREFORE, the State requests that this Court:

8 A. Enter judgment on behalf of the State, finding that Defendant unlawfully
9 discriminated against Giebel because of her familial status, in violation of AFHA;

10 B. Enjoin Defendant, his successors, assigns and all persons in active concert or
11 participation with Defendant from engaging in any housing practice that discriminates based on
12 familial status or interferes with the exercise of rights granted by AFHA, as allowed by A.R.S.
13 § 41-1491.34(C);

14 C. Order Defendant to make Giebel whole for any damage she and her children
15 suffered and award her damages in an amount to be determined at trial;

16 D. Award punitive damages against Defendant for his intentional discrimination
17 based on familial status and/or his callous disregard or reckless indifference to Giebel's civil
18 rights;

19 E. Order the State to monitor Defendant's compliance with AFHA;

20 F. Award the State its costs incurred in bringing this action, and its costs in
21 monitoring Defendant's future compliance with AFHA, as allowed by A.R.S. §§ 41-
22 1491.34(C); and

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

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26 ///

DATED this 15th day of January, 2008.

TERRY GODDARD
Attorney General

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