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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 AUSTIN DEL CASTILLO, an unmarried man;
20 JANE DOES 1-10; JOHN DOES 1-10; ABC
21 TRUSTS 1-10; XYZ BUSINESS ENTITIES,

22 Defendants.

No. CV2008-004734

COMPLAINT
(Non-Classified Civil)

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

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INTRODUCTION

10 This is an action brought under the Arizona Fair Housing Act (“AFHA”), A.R.S. §§
11 41-1491 to 41-1491.37, to correct a discriminatory housing practice, provide appropriate
12 relief to an aggrieved person, and vindicate the public interest. Specifically, the State brings
13 this matter to redress the injury sustained when Defendant Austin Del Castillo sexually
14 harassed his subtenant, Sara Hesselbarth, thereby subjecting her to discriminatory terms,
15 conditions and privileges of housing, and intimidation and interference with her civil right not
16 to be discriminated against in housing based on sex.

JURISDICTION AND VENUE

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

PARTIES

19 3. The Civil Rights Division of the Arizona Department of Law is an administrative
20 agency established by A.R.S. § 41-1401 to enforce the provisions of the Arizona Civil Rights
21 Act (“ACRA”), A.R.S. §§ 41-1401 to 41-1493.02, including the AFHA.

22 4. The State brings this action on its own behalf and on behalf of Sara Hesselbarth
23 (“Hesselbarth”) who is a complainant and an aggrieved person within the meaning of A.R.S. §§
24 41-1491(1) and (2).

25 5. Defendant Austin Del Castillo (“Del Castillo”) is a resident of Maricopa County,
26 Arizona, and the tenant, sublessor and resident of that certain residential real property located at
1702 E. El Parque Drive, Tempe, Arizona 85220 (“the Rental House”). The Rental House is a
single family home with four bedrooms.

6. Defendants JANE DOES 1-10, JOHN DOES 1-10, ABC TRUSTS 1-10, and
XYZ BUSINESS ENTITIES are fictitious names of individuals, trusts or entities who may
have liability for the matters alleged in this complaint. Plaintiff intends to amend the complaint
when the true names of these fictitious defendants are known.

GENERAL ALLEGATIONS

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2 7. On or about January 30, 2006, Del Castillo entered into a Residential Rental
3 Agreement ("the Lease") to lease the Rental House from the owner, Haskel Soffer ("Soffer"), a
4 resident of California, with a monthly rental amount of \$1,395. Upon information and belief,
5 Del Castillo continued to occupy the Rental House on a month-to-month basis after expiration
6 of the original term of the Lease, and Del Castillo currently occupies the Rental House.

7 8. At all times relevant to this Complaint, Hesselbarth was a student at Arizona State
8 University ("ASU") in Tempe.

9 9. On or about June 2007, Hesselbarth posted a personal advertisement ("the Ad")
10 on a campus on-line bulletin board indicating that she was seeking to rent a room at a house
11 close to the ASU campus.

12 10 Del Castillo responded to the Ad and indicated that he was a 23 year old college
13 student who had a room for rent.

14 11. Shortly thereafter, Hesselbarth went to see the Rental House with her father and
15 learned that other female students had already subleased rooms at the Rental House.

16 12. On or about June 11, 2007, Hesselbarth and Del Castillo entered into a written
17 agreement entitled Agreement and Rules under which Hesselbarth, as tenant, subleased a room
18 at the rental house from Del Castillo, as leaseholder, commencing July 1, 2007 for the sum of
19 \$435 per month. Hesselbarth also paid a \$100 deposit to Del Castillo.

20 13. The Agreement and Rules state that Hesselbarth and Del Castillo are aware that
21 the rules require them, among other things, to respect the other's privacy and be responsible at
22 all times.

23 14. On or about the evening of June 30, 2007, Hesselbarth met Del Castillo at the
24 Rental House to pick up the key. Upon information and belief, Del Castillo attempted to kiss
25 Hesselbarth at that time. Hesselbarth told Del Castillo that his behavior was inappropriate, and
26 Del Castillo apologized.

1 15. Upon information and belief, on or about July 3, 2008, Del Castillo stared at
2 Hesselbarth while she mopped the floor.

3 16. Upon information and belief, a few days after staring at Hesselbarth, Del Castillo
4 walked through the house without clothing and exposed himself to Hesselbarth. At that time,
5 Del Castillo told Hesselbarth that he had forgotten his clothes and was going to get them from
6 the dryer.

7 17. After Del Castillo got dressed, Hesselbarth told Del Castillo that his behavior in
8 going around the house without clothes was inappropriate in a house with three women. Del
9 Castillo responded that he had forgotten his towel.

10 18. Upon information and belief, on or about July 9, 2007, Hesselbarth opened her
11 bedroom door and again saw Del Castillo standing in the nude in the hallway of the Rental
12 House. When Hesselbarth asked Del Castillo why he was walking around the common areas of
13 the house with no clothes on, Del Castillo laughed and said that he had forgotten them.

14 19. Upon information and belief, after the second incident of seeing Del Castillo in
15 the nude in a little over a week, Hesselbarth spoke with the other women living at the Rental
16 House and learned that Del Castillo had engaged in inappropriate conduct of a sexual nature
17 towards the other women, including but not limited to walking around in the nude at the Rental
18 House. Hesselbarth also saw pornographic material displayed on Del Castillo's computer and
19 learned that Del Castillo was nearly 30 years old and was not a student.

20 20. Fearing for her safety due to Del Castillo's inappropriate conduct, Hesselbarth
21 asked her then boyfriend, Trevor Lagger ("Lagger"), to stay with her overnight at the Rental
22 House on a few occasions.

23 21. Upon information and belief, Del Castillo told Hesselbarth that he was jealous of
24 Lagger.

1 22. Upon information and belief, on or about July 19, 2007, Del Castillo told Lager
2 that he could no longer visit Hesselbarth at the Rental House, and that Lager could not park
3 his car across the street from the Rental House.

4 23. On or about July 24, 2007, Del Castillo told Hesselbarth that no guests of tenants
5 would be allowed at the Rental House in the future due to an incident two years earlier in which
6 a female tenant had been raped and assaulted at the Rental House.

7 24. On or about July 29, 2007, Hesselbarth gave Del Castillo thirty days advance
8 written notice that she would be moving out of the Rental House by September 2, 2007.

9 25. Although Hesselbarth paid the full rent for the month of August on or about
10 August 1, 2007, she moved out of the Rental House on or about August 6, 2007 as a result of
11 Del Castillo's behavior. Upon information and belief, Hesselbarth's female roommates also
12 moved out of the Rental House as a result of Del Castillo's behavior.

13 26. On or about August 21, 2007, Hesselbarth filed a complaint of housing
14 discrimination with the U.S. Department of Housing and Urban Development ("HUD") against
15 Defendant Del Castillo. HUD forwarded Hesselbarth's housing discrimination complaint to the
16 State's Civil Rights Division ("the Division") for dual-filing under the AFHA and
17 investigation.

18 27. On or about August 24, 2007, Hesselbarth filed a timely complaint of housing
19 discrimination with the Division pursuant to A.R.S. § 41-1491.22(C), in which Hesselbarth
20 alleged that she had been the victim of sex discrimination in housing by Defendant Del Castillo.

21 28. The State's Civil Rights Division investigated Hesselbarth's complaint pursuant
22 to A.R.S. § 41-1491.24(B). At the conclusion of the State's investigation, the State issued a
23 finding ("the Cause Finding") that reasonable cause exists to believe that Defendant Del
24 Castillo discriminated against Hesselbarth based on sex, in violation of the AFHA.

25 29. The State issued the Cause Finding on January 30, 2008. Since that time,
26 Hesselbarth and Defendant Del Castillo 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. §§ 41-1491.29(D) and 41-1491.34(A).

3 **COUNT ONE**

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

5 30. Plaintiff realleges and incorporates by reference the allegations contained in
6 paragraphs 1 through 29 of this Complaint.

7 31. The Rental House is a dwelling within the meaning of A.R.S. § 41-1491(7)(a)
8 of the AFHA.

9 32. Defendant Del Castillo does not own the Rental House or have an ownership
10 interest in the Rental House.

11 33. Under A.R.S. § 41-1491.14(B) of AFHA, a person may not discriminate against
12 any person in the terms, conditions or privileges of rental of a dwelling because of sex.

13 34. Defendant Del Castillo subjected Hesselbarth to unwelcome, offensive conduct
14 of a sexual nature because of her sex in violation of A.R.S. § 41-1491.14(B) of AFHA.

15 35. As a result of discrimination by Defendant Del Castillo, Heselbarth suffered
16 emotional distress, humiliation, embarrassment, inconvenience, denial of civil rights, and
17 monetary damages.

18 36. Punitive damages are appropriate because Defendant Del Castillo intentionally
19 discriminated against Hesselbarth because of her sex and/or Defendant acted with callous
20 disregard of or reckless indifference to Hesselbarth's civil rights.

21 **COUNT TWO**

22 **[Discrimination in Violation of A.R.S. § 41-1491.18 of AFHA]**

23 37. Plaintiff realleges and incorporates by reference the allegations of paragraphs 1
24 through 36 of this Complaint.

1 38. Under A.R.S. § 41-1491.18 of AFHA, a person may not coerce, intimidate,
2 threaten or interfere with any person in the exercise or enjoyment of any right granted or
3 protected by A.R.S. § 41-1491.18 and A.R.S. § 41-1491.14.

4 39. Defendant Del Castillo intimidated Hesselbarth and interfered with her exercise
5 and enjoyment of her right to rent a room at the Rental House without discrimination on the
6 basis of sex, in violation of A.R.S. §§ 41-1491.14 and 41-1491.18.

7 40. As a result of discrimination by Defendant Del Castillo, Hesselbarth suffered
8 emotional distress, humiliation, embarrassment, inconvenience, denial of civil rights, and
9 monetary damages.

10 41. Punitive damages are appropriate because Defendant Del Castillo intentionally
11 discriminated against Hesselbarth because of sex and/or Defendant acted with callous disregard
12 of or reckless indifference to Hesselbarth's civil rights.

13 WHEREFORE, the State requests that this Court:

14 A. Enter judgment on behalf of the State, finding that Defendant unlawfully
15 discriminated against Hesselbarth because of sex, in violation of AFHA;

16 B. Enjoin Defendant from engaging in any housing practice that discriminates based
17 on sex or interferes with the exercise of rights granted by AFHA, as allowed by A.R.S. § 41-
18 1491.34(C);

19 C. Order Defendant to make Hesselbarth whole for any damage she suffered and
20 award her damages in an amount to be determined at trial;

21 D. Award punitive damages against Defendant for his intentional discrimination
22 based on sex and/or his callous disregard or reckless indifference to Hesselbarth's civil rights;

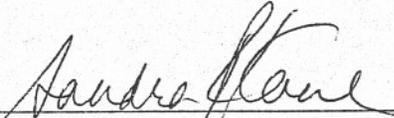
23 E. Order the State to monitor Defendant's compliance with AFHA;

24 F. Award the State its costs incurred in bringing this action, and its costs in
25 monitoring Defendant's future compliance with AFHA, as allowed by A.R.S. §§ 41-
26 1491.34(C); and

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

3 DATED this 28th day of February, 2008.

4 TERRY GODDARD
5 Attorney General

6
7
8 By 
9 Sandra R. Kane
10 Assistant Attorney General
11 Civil Rights Division
12 1275 W. Washington Street
13 Phoenix, Arizona 85007
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