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13  
14 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**  
15 **IN AND FOR THE COUNTY OF PIMA**

16 THE STATE OF ARIZONA *ex rel.* TERRY  
17 GODDARD, the Attorney General, and THE  
18 CIVIL RIGHTS DIVISION OF THE  
ARIZONA DEPARTMENT OF LAW,

19 Plaintiff,

20 vs.

21 FGPI APARTMENTS; NATIONAL CITY  
22 NEIGHBORHOOD, LLC, an Arizona  
Limited Liability Company; FRANK J.  
23 KONARSKI and GABRIELA KONARSKI,  
24 husband and wife; FRANK EDWARD  
KONARSKI; JOHN FRANK KONARSKI;  
25 PATRICIA KONARSKI; ABC Corporations  
I-X,

26  
27 Defendants.  
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NO. C20073030

**FIRST AMENDED COMPLAINT FOR  
DAMAGES AND INJUNCTIVE RELIEF**

(Non-Classified Civil)

(Assigned to Honorable Javier Chon-Lopez)

1 Plaintiff, the State of Arizona *ex rel.* Terry Goddard, the Attorney General, and the Civil  
2 Rights Division of the Arizona Department of Law brings this Arizona Fair Housing action  
3 under A.R.S. §41-1491 *et seq.* to correct disability discrimination arising from Defendants'  
4 failure to provide reasonable accommodation to a disabled person. For its cause of action,  
5 Plaintiff alleges the following:

6 JURISDICTION AND VENUE

7 1. This Court has jurisdiction pursuant to A.R.S. §41-1491.34.

8 2. Venue is proper in Pima County because Defendants operate the FGPI  
9 Apartments in Tucson, Arizona.

10 PARTIES

11 3. Plaintiff, the Civil Rights Division of the Arizona Department of Law, is an  
12 administrative agency of the State of Arizona established by A.R.S. §41-1401 to enforce the  
13 provisions of the Arizona Civil Rights Act, including the Arizona Fair Housing Act.

14 4. The State brings this action, based upon information and belief, pursuant to  
15 A.R.S. §41-1491.34 and §41-1491.35, on its own behalf and on behalf of Sabrina Ezell, James  
16 Larcom, Tabetha Larcom, Rebecca Larcom, Crystal Ezell and Jessica Ezell aggrieved persons  
17 under A.R.S. §41-1491.

18 5. NATIONAL CITY NEIGHBORHOOD, LLC is an agent, officer, director,  
19 manager, or member of and/or has or had a direct or indirect ownership interest in FGPI  
20 Apartments located at 450 West Dakota St., Tucson, AZ, 85706 during all relevant time periods.

21 6. FRANK J. KONARSKI and GABRIELA KONARSKI, husband and wife, are  
22 agents, officers, directors, managers, or members of and/or have or had a direct or indirect  
23 ownership interest in FGPI Apartments located at 450 West Dakota St., Tucson, AZ, 85706  
24 during all relevant time periods.

25 7. FRANK EDWARD KONARSKI is an is an agent, officer, director, manager, or  
26 member of and/or has or had a direct or indirect ownership interest in FGPI Apartments located  
27 at 450 West Dakota St., Tucson, AZ, 85706 during all relevant time periods.

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1           18. Defendants or their agent, Frank J. Konarski, denied the request by first insisting  
2 the sockets could not be changed until an inspection was first performed and then by canceling  
3 all inspection appointments and refusing to allow the aggrieved parties to change the sockets  
4 themselves.

5           19. Ms. Ezell sought relief by filing a fair housing complaint with City of Tucson  
6 officials.

7           20. On January 2, 2007, Defendants served Ms. Ezell and Mr. Larcom with a ten-day  
8 Notice of Intent to Terminate the Lease in the form of a letter, in which Frank J. Konarski  
9 references her fair housing complaints to city officials.

10           21. On January 10, 2007, Ms. Ezell attempted to give Frank J. Konarski a written  
11 diagnosis of Mr. Larcom's disabilities and requested an accommodation in the form of a  
12 medical release from her lease agreement, so they could move to a home more suitable to Mr.  
13 Larcom's disabilities.

14           22. Defendants or their agent, Frank J. Konarski, refused to accept the  
15 documentation and denied the accommodation request.

16           23. On January 23, 2007, Ms. Ezell filed a Complaint with the Arizona Civil Rights  
17 Division.

18           24. On February 8, 2007, Frank J. Konarski served Ms. Ezell and Mr. Larcom with  
19 Notice of Immediate Termination of her Lease.

20           25. The Division moved for a Temporary Restraining Order with Notice asking the  
21 Court to Restrain Mr. Konarski from evicting the aggrieved parties until the Division could  
22 complete its investigation of the discrimination and retaliation charges against the Defendants or  
23 until the aggrieved parties could find other suitable housing, whichever came first.

24           26. Frank J. Konarski, nevertheless, attempted to go forward with his eviction action;  
25 the eviction was only prevented by the Division's delivery of a copy of the Temporary  
26 Restraining Order to the forcible detainer judge.

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1           40.     The Division found Reasonable Cause to believe that Defendants and its owners  
2 or agents retaliated against the aggrieved parties within the meaning of A.R.S. §41-1491.18 for  
3 requesting reasonable accommodations and filing complaints of discrimination.

4           41.     Defendants intentionally retaliated against or acted in reckless disregard of the  
5 protected rights of aggrieved persons in violation of the Arizona Fair Housing Act.

6           42.     The Defendants denied the aggrieved parties their rights in violation of the  
7 Arizona Fair Housing Act, which denial raises an issue of general public importance.  
8 Therefore, the State brings this Count pursuant to A.R.S. §41-1493.35 to vindicate the public  
9 interest.

10          43.     As a result of Defendants' retaliation, upon information and belief, the aggrieved  
11 parties have suffered actual and monetary damages, including damages for mental anguish, pain,  
12 suffering, emotional distress, humiliation, embarrassment, inconvenience, loss of the right to an  
13 equal opportunity to enjoy their dwelling, and loss of their rights under the Arizona Fair  
14 Housing Act.

15          44.     Therefore, Mr. Larcom and Ms. Ezell are entitled to and should be compensated  
16 pursuant to A.R.S. §41-1491.34.

17          45.     Because the Defendants denied the aggrieved parties their rights in violation of  
18 the Arizona Fair Housing Act, which denial raises an issue of general public importance,  
19 Defendants are subject to a statutory civil penalty to vindicate the public interest in an amount of  
20 not more than fifty-thousand dollars (\$50,000.00) for a first violation and one-hundred-thousand  
21 dollars (\$100,000.00) for any subsequent violation under A.R.S. §41-1491.35(B)(3).

22          46.     Plaintiff is also entitled to injunctive relief against Defendants' actions and  
23 entitled to Plaintiff's attorneys fees and costs pursuant to A.R.S. §§41-1491.35(B) and 41-  
24 1491.36.

25          47.     Plaintiff is also entitled to other appropriate relief including monetary damages  
26 pursuant to A.R.S. §§41-1491.33 and 1491.35(B).

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court do the following:

1. Enter judgment on behalf of Plaintiff, finding that Defendants discriminated and retaliated against a person with disabilities in violation of the Arizona Fair Housing Act.

2. Grant a permanent injunction prohibiting Defendants, their successors, assigns, and all persons in active concert with Defendants from engaging in any housing practice that discriminates on the basis of disability in violation of the Arizona Fair Housing Act.

3. Order Defendants to undergo training with respect to the reasonable accommodation provision of the Arizona Fair Housing Act within three (3) months of the date of the Court entering Judgment against one or more Defendants.

4. Order Defendants to institute and carry out policies and practices, within three (3) months of the date of the Court entering Judgment against one or more Defendants, under which Defendants will provide equal housing opportunities for disabled persons which will eradicate the effects of their unlawful housing practices.

5. Order Defendants to make Mr. Larcom and Ms. Ezell whole and award them actual and punitive damages in amounts to be determined at trial, including prejudgment interest.

6. Assess a statutory civil penalty against Defendants in an amount that does not exceed fifty-thousand dollars (\$50,000.00) for the first violation and one-hundred-thousand dollars (\$100,000.00) for the second or subsequent violation, pursuant to A.R.S. § 41-1491.35(B).

7. Order Defendants to pay punitive damages to the State to deter Defendants from engaging in future violations of the Arizona Fair Housing Act.

8. Issue an Order authorizing Plaintiff to monitor Defendants' compliance with the Arizona Fair Housing Act and this Court's Judgment.

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