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12 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

13 IN AND FOR THE COUNTY OF MARICOPA

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

18 Plaintiff,

19 vs.

20 PIMA COUNTY, a political subdivision of the  
21 State of Arizona; and the PIMA COUNTY  
22 SHERIFF'S DEPARTMENT,

23 Defendants.

No.

CV2008-022586

**COMPLAINT**

(Non-Classified Civil)

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

### 27 INTRODUCTION

28 This is an action brought under the Arizona Civil Rights Act, A.R.S. § 41-1401 *et seq.*  
("ACRA"), to correct unlawful employment practices, to provide appropriate relief to an  
aggrieved person, and to vindicate the public interest. Specifically, the State brings this matter

1 to redress the injury sustained due to Defendants' failure to make a reasonable accommodation  
2 for the physical limitations of their disabled employee, Celine A. Baker, in violation of the  
3 ACRA.

#### 4 **JURISDICTION AND VENUE**

- 5 1. This Court has jurisdiction of this matter pursuant to A.R.S. § 41-1481(D).
- 6 2. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(17).

#### 7 **PARTIES**

8 3. The Civil Rights Division of the Arizona Department of Law ("the Division") is  
9 an administrative agency established by A.R.S. § 41-1401 to administer and enforce the  
10 provisions of the ACRA.

11 4. The State brings this action on its own behalf and on behalf of Celine A. Baker  
12 ("Baker"), who is an aggrieved person and a charging party within the meaning of A.R.S. §  
13 41-1481.

14 5. Defendant Pima County ("the County") is a political subdivision of the State of  
15 Arizona and is an employer within the meaning of A.R.S. § 41-1464(4).

16 6. Defendant Pima County Sheriff's Department ("PCSD") is a public safety and  
17 law enforcement agency of the County and is an employer within the meaning of A.R.S. § 41-  
18 1464(4).

#### 19 **GENERAL ALLEGATIONS**

20 7. On or about November 28, 2004, Defendants hired Baker as a full time Sheriff's  
21 Dispatcher Trainee for its Communications Center located at 1750 E. Benson Highway,  
22 Tucson, Arizona. Commencing on or about February 25, 2007, Baker became employed as a  
23 9-1-1 Call Taker ("Call Taker") for PCSD at the same location.

24 8. Baker has, and at all relevant times had, a physical impairment of her left knee  
25 which substantially limits her ability to stand and walk, and causes her to lose feeling in her  
26 knee and fall to the ground. Baker has a reconstructed patellar tendon, postoperative tendonitis,  
27 hypo-nerve sensitivity, and weakness and irritation of her left knee following four surgical  
28 procedures on that knee more than ten years ago.

1           9. Baker's orthopedic surgeon instructed her to use a service animal at work to assist  
2 her in standing, walking, and bracing against falls because a service animal would avoid further  
3 muscle weakness and atrophy to Baker's left knee resulting from long-term use of crutches.

4           10. Prior to being hired by Defendants, Baker started the process of having a dog  
5 named Merlin trained to be her service animal.

6           11. Upon information and belief, Baker notified representatives of Defendants prior  
7 to employment, during post-employment training, and after assignment to the Communications  
8 Center that, due to her disability, she needed to have her service animal assist her at work.  
9 PCSD's "911/Dispatch Manager" for the Communications Unit, Patsy E. Joy ("Joy") advised  
10 Baker to speak with the County's ADA Coordinator.

11           12. On or about December 22, 2004, Baker met with Christine Molina ("Molina"),  
12 the County's ADA Coordinator; and Debbie Haro of the County's HR Department. During the  
13 meeting, Baker requested to have her service animal with her at work as a reasonable  
14 accommodation for her disability. At that time, Molina advised Baker that she could not have a  
15 service animal at work until after it was certified, which Baker anticipated would take another  
16 1-3 years. Upon information and belief, Molina told Baker that she would need to provide two  
17 doctor's notes from her orthopedic surgeon: the first to confirm that Baker had a disability  
18 requiring a service animal at work, and the second to establish that Baker still had a disability  
19 requiring a service animal at work after her dog was pre-certified as a service animal.

20           13. Upon information and belief, on or about March 2005, Baker faxed a note from  
21 her orthopedic surgeon to Molina documenting Baker's disability and related need for a service  
22 animal at work.

23           14. Upon information and belief, on or about October 2006, Baker's dog Merlin  
24 became pre-certified as a service animal, and Baker arranged another appointment with her  
25 orthopedic surgeon to acquire the second doctor's note.

26           15. Upon information and belief, on or about late January or early February 2007,  
27 Baker advised Molina by telephone that Merlin was pre-certified as a service animal and that  
28 Baker had obtained an updated doctor's note from her orthopedic surgeon. Molina then

1 informed Baker that the County had adopted a new procedure for processing reasonable  
2 accommodation requests from employees with disabilities, and that Baker would have to  
3 submit a written request for accommodation of her disability in accordance with the new  
4 procedure.

5 16. Upon information and belief, Baker's dog Merlin achieved certification as a  
6 service animal on or about April 14, 2007.

7 17. On or about June 22, 2007, Baker submitted a written request for a reasonable  
8 accommodation of her disability to Molina, pursuant to the County's Administrative Procedure  
9 No. 23-29. Specifically, Baker requested to have her service dog at work to assist her with  
10 walking, standing, retrieving objects, and to brace her against collapsing to the ground when  
11 falling.

12 18. Thereafter, on or about August 22, 2007, the County's ADA Panel met to review  
13 Baker's reasonable accommodation request and supporting medical documentation. The  
14 County's ADA Panel determined that Baker was "ADA eligible" due to "permanent, limiting  
15 walking and standing (mobility)," and that an interactive process would be arranged to address  
16 Baker's reasonable accommodation request.

17 19. The job description for PCSD's Call Taker position states: "All positions require  
18 the ability to sit and/or stand for protracted periods of time."

19 20. During Baker's employment, PCSD Call Takers and Dispatchers frequently had  
20 to yell across the room to each other especially while working on a high priority or dynamic  
21 call, and commonly moved around the room at the Communications Center while performing  
22 their job duties.

23 21. On or about September 18, 2007, Baker met with Molina and representatives of  
24 PCSD for an interactive process meeting to discuss Baker's request for a reasonable  
25 accommodation. During the meeting, PCSD's Communication Section Manager, Lt. Michael  
26 Sacco ("Sacco") stated that Baker did not need a service animal to perform the essential  
27 functions of her Call Taker position, and expressed concern that Baker's service dog could  
28 potentially: (1) create a trip hazard in a dimly lit environment, (2) be a pronounced and long-

1 term distraction for other employees, (3) require more frequent deep cleaning due to  
2 exaggerated accumulation of dust and dirt despite Baker's efforts to have the dog regularly  
3 groomed, (4) cause odors and allergens that the existing adequate air circulation system could  
4 not handle, and (5) impede retention of capable current and future Communications Center  
5 employees by triggering allergies and animal phobias.

6 22. In lieu of the accommodation that Baker requested, Defendants offered to allow  
7 Baker to select the work station of her choice and have certain materials located at or near her  
8 work station to reduce the need for her to walk away from her work station, but required Baker  
9 to continue using her crutches at work. These alternate measures offered by Defendants did not  
10 eliminate the risk of additional muscle weakness and atrophy to Baker's left knee from  
11 continued long-term use of crutches, nor did they assist Baker in retrieving work-related objects  
12 or ambulating faster in emergencies. In addition, unlike her service animal, the crutches did not  
13 serve as a brace when Baker fell or assist her in standing after she fell. The alternate measures  
14 offered by Defendants did not reasonably accommodate Baker's disability.

15 23. On or about October 1, 2007, Sacco notified Baker by letter that her requested  
16 accommodation for her disability had been denied for the reasons discussed at the September  
17 18, 2007 meeting.

18 24. On or about October 10, 2007, Baker filed a dual charge of employment  
19 discrimination with the Division and the EEOC ("the Charge") against PCSD based upon  
20 Defendants' failure to make a reasonable accommodation for her disability.

21 25. The Division completed its investigation of the Charge and issued its Reasonable  
22 Cause Determination on August 18, 2008.

23 26. The State, Baker, and Defendants have not entered into a Conciliation  
24 Agreement, permitting the filing of this Complaint pursuant to A.R.S. § 41-1481(D).

25 **COUNT ONE**

26 **[Discrimination in Violation of A.R.S. § 41-1463(F)(4)]**

27 27. The State realleges and incorporates by reference the allegations contained in  
28 paragraphs 1 through 26 of this Complaint.



1 D. Order Defendants to make changes to their policies and practices related to the  
2 reasonable accommodation and interactive processes to preclude them from denying  
3 employment opportunities because of disability and to comply with ACRA.

4 E. Order the State to monitor Defendants' compliance with the ACRA.

5 F. Award the State its costs incurred in bringing this action, and its costs in  
6 monitoring Defendants' future compliance with the ACRA.

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

9 DATED this 16<sup>th</sup> day of September, 2008.

10 TERRY GODDARD  
11 Attorney General

12  
13 By Sandra R. Kane  
14 Sandra R. Kane  
15 Assistant Attorney General

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