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MICHAEL K. JEANES, Jk  
By L. Ferrullo  
Deputy

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MAR 09 2010



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6 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA  
7 IN AND FOR THE COUNTY OF MARICOPA

9 THE STATE OF ARIZONA ex rel.  
10 ANDREW P. THOMAS,

11 Plaintiff,

12 v.

13 DANNY'S SUBWAY, INC., an  
14 Arizona corporation,

15 Defendant.

No. CV2010-005886

CONSENT DECREE

Assigned to:

16 THE LITIGATION

17 1. Plaintiff, the State of Arizona, through Maricopa County Attorney Andrew  
18 P. Thomas and the Maricopa County Attorney's Office (collectively hereafter "the  
19 State"), filed this action against Defendant Danny's Subway, Inc. (hereafter the  
20 "Company"), an Arizona corporation, alleging that the Company knowingly hired an  
21 unauthorized worker, Fidel Vargas-Salgado, in violation of the Legal Arizona Workers  
22 Act, A.R.S. § 23-212 *et seq.* ("LAWA").

23 2. According to the State in this litigation, Immigration and Customs  
24 Enforcement ("ICE") determined and informed the Company that Mr. Vargas-Salgado  
25 was unauthorized to work in the United States. The State further alleges that, at the time  
26 ICE informed the Company of its determination, Mr. Vargas-Salgado was an employee  
27 employed by the Company at its store located at 1950 West Indian School Road #3,  
28 Phoenix, Arizona 85015 (hereafter "Company's Indian School Location"). The Company

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1 then acted upon the information received from ICE by terminating Mr. Vargas-Salgado's  
2 employment on or about July 15, 2008.

3 3. According to the State, Daniel Rose, an officer, director, and/or shareholder  
4 of the Company, and Martin Gomez, a manager and supervisor at the Company's Indian  
5 School Location, re-hired Mr. Vargas-Salgado to work at the Company's Indian School  
6 Location on or about September 9, 2008. The State alleges that the hiring occurred after  
7 Mr. Rose instructed Mr. Salgado to obtain new employment documents. According to the  
8 State's allegations in this litigation, Mr. Rose and Mr. Gomez then allowed Mr. Vargas-  
9 Salgado, using the false name and identity of "Marco Anthony Gomez", to complete a  
10 Form I-9 Employment Eligibility Verification, an Employee's Arizona Withholding  
11 Percentage Election, Employee's Withholding Allowance Certificate, and an Automatic  
12 Deposit Authorization Agreement.

13 4. The State alleged that the Company's actions described above constituted a  
14 knowing or intentional violation of the LAWA pursuant to A.R.S. §§ 23-212 or 23-  
15 212.01, respectively and therefore sought to suspend the following licenses issued to the  
16 Company: (1) Articles of Incorporation, issued by the Arizona Corporation Commission,  
17 1300 West Washington Street, Phoenix, AZ 85007; (2) Transaction Privilege Sales Tax  
18 License, issued by the City of Phoenix Privilege License Tax Section, 251 West  
19 Washington Street, 9th Floor, Phoenix, AZ 85003; and (3) Transaction Privilege Sales  
20 Tax License and a Notice of Employer Withholding Identification Number, issued by the  
21 Arizona Department of Revenue License and Registration Section, 1600 West Monroe,  
22 Phoenix, Arizona 85007 (collectively "Business Licenses").

23 5. The State did not allege that any location other than the Company's Indian  
24 School Location violated the LAWA; that the Company hired or employed any other  
25 alleged unauthorized workers, irrespective of location; or that the Company had, or has, a  
26 pattern or practice of hiring or employing unauthorized workers. At all times relevant, the  
27 Company completed Form I-9 Employment Eligibility Verification for all its employees  
28 and used E-Verify in accordance with the Memorandum of Understanding.



1 the LAWA with respect to the State's complaint alleging the Company knowingly or  
2 intentionally violated the LAWA by re-employing Mr. Vargas-Salgado, an individual  
3 allegedly unauthorized to work in the United States.

4 11. Terminate Employment of Unauthorized Workers. The Company shall  
5 terminate the employment of all known unauthorized aliens, if any, working at the  
6 Company's Indian School Location.

7 12. Three-Year Probation. The Company shall be subject to a three-year  
8 probationary period only for the Company's Indian School Location. During this  
9 probationary period, the Company shall file with the State quarterly reports of each new  
10 employee hired by the Company's Indian School Location in the form provided in A.R.S.  
11 § 23-722.01. The Company shall file with the State the quarterly reports no later than  
12 twenty (20) calendar days following the close of the calendar quarter. The form quarterly  
13 report, attached as Exhibit 1, may be used by the Company in fulfilling its obligations  
14 under this paragraph.

15 13. Affidavit. The Company shall file a signed sworn affidavit with the State  
16 within three (3) business days after this Decree is executed by this Court. The affidavit  
17 shall state that the Company has terminated the employment of all known unauthorized  
18 aliens, if any, working at the Company's Indian School Location and that the Company  
19 will not intentionally or knowingly employ an unauthorized alien. The form affidavit,  
20 attached as Exhibit 2, may be used by the Company in fulfilling its obligations under this  
21 paragraph.

22 14. Failure to Provide Affidavit. The appropriate agencies shall suspend  
23 the Company's Business Licenses if the Company fails to file a signed sworn affidavit  
24 with the State within three (3) business days after the Court executes this Decree. If the  
25 Company's Business Licenses are suspended pursuant to this paragraph, those licenses  
26 shall remain suspended until the Company files a signed sworn affidavit, as set forth in  
27 Paragraph 13 above, with the State. Upon filing of the affidavit, the suspended Business  
28 Licenses shall be reinstated immediately by the appropriate agency. The State shall

1 maintain a copy of this Decree pursuant to A.R.S. §§ 23-212(F)(c) and 23-212(G).

2 15. Closure of Danny's Subway. The Company's Indian School Location  
3 shall be closed for one (2) business days—April 4, 2010, and November 25, 2010. During  
4 these two days, the Company shall not conduct any business out of the Company's Indian  
5 School Location. Nothing in this paragraph or Decree shall cause the suspension of any  
6 Business License held by the Company or the Company's Indian School Location. The  
7 conditions set forth in this paragraph shall be deemed completely satisfied three (3)  
8 business days after each respective closure, unless, within those three days, the State  
9 contests the Company's completion of its obligations under this paragraph in writing.

10 16. Second Violation. If an Arizona court of competent jurisdiction issues a  
11 final order or judgment finding that the Company's Indian School Location violated the  
12 LAWA a second time during the three-year probationary period, the Company's Indian  
13 School Location's Transaction Privilege Sales Tax License shall be permanently revoked.

#### 14 DISPUTE RESOLUTION

15 17. In the event any party to this Decree believes that the other party has failed  
16 to comply with any provision(s) of the Decree, the complaining party shall notify the  
17 other party of the alleged non-compliance and shall afford the alleged non-complying  
18 party fifteen (15) business days to remedy the non-compliance or to satisfy the  
19 complaining party that the alleged non-complying party has complied. If the alleged non-  
20 complying party has not remedied the alleged non-compliance or satisfied the  
21 complaining party that it has complied within fifteen (15) business days, the complaining  
22 party may apply to the Court for appropriate relief.

#### 23 DURATION OF THE DECREE AND RETENTION OF JURISDICTION

24 18. All provisions of this Decree shall be in effect (and the Court will retain  
25 jurisdiction of this matter to enforce this Decree) for a period of three (3) years  
26 immediately following the date this Decree is entered by the Court, provided, however,  
27 that if, at the end of the 3-year period, any disputes under Paragraph 16, above, remain  
28 unresolved, the term of the Decree shall be automatically extended (and the Court will

1 retain jurisdiction of this matter to enforce the Decree) with respect to only those issue(s)  
2 then in dispute until such time as all such disputes have been resolved. This Decree shall  
3 expire by its own terms at the three-year anniversary following entry of the Decree by the  
4 Court, without further action by the parties.

#### 5 MISCELLANEOUS PROVISIONS

6 19. Governing Law. This Consent Judgment shall be governed in all  
7 respects whether as to validity, construction, capacity, performance or otherwise by the  
8 laws of the State of Arizona.

9 20. Binding Effect. Defendants' obligations under this Consent Judgment  
10 shall be binding upon Defendant's assigns, successors, successors-in-interest, receivers,  
11 trustees in bankruptcy, personal representatives, and agents.

12 21. Notice. When this Decree requires the submission of documents to the  
13 State under Paragraphs 12, 13, and 14, which include but are not limited to the affidavit,  
14 quarterly reports, or other materials, they shall be mailed to: Peter S. Spaw, Deputy  
15 County Attorney, Maricopa County Attorney's Office, 301 West Jefferson Suite 800,  
16 Phoenix, Arizona 85003, or his successor(s). Notices to the Company shall be mailed to:  
17 Manuel H. Cairo, Snell & Wilmer LLP, 400 East Van Buren Street, Phoenix, Arizona  
18 85004.

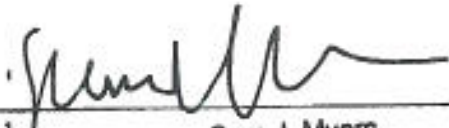
19 22. Modification. There shall be no modification of this Decree without  
20 the written consent of the Company and the State and the further order of this Court. In  
21 the event of a material change of circumstances, the parties agree to make a good faith  
22 effort to resolve this matter. If the parties are unable to reach agreement, either party may  
23 ask the Court to make such modifications as are appropriate.

24 23. Effectuating Decree. The parties agree to the entry of this Decree upon  
25 final approval by the Court. The effective date of this Decree shall be the date that it is  
26 entered by the Court.

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ENTERED AND ORDERED this 9 day of March, 2010.

  
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Judge **Sam J. Myers**  
Maricopa County Superior Court

**Snell & Wilmer**  
LLP  
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One Arizona Center, 400 E. Van Buren  
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CONSENT TO JUDGMENT

1. On behalf of Defendant Danny's Subway, Inc. (the "Company"), I acknowledge that I have read the foregoing Consent Decree, and that Danny's Subway, Inc. is aware of its right to a trial in this matter and has waived that right.

2. Danny's Subway, Inc. agrees to the jurisdiction of the Court, and consents to entry of this Consent Decree.

3. Danny's Subway, Inc. states that no promise of any kind or nature whatsoever (other than the terms of this Consent Decree) was made to induce it to enter into this Consent Decree, that it has entered into this Consent Decree voluntarily, and that this Consent Decree constitutes the entire agreement between the Company and the State.

4. I am the PRESIDENT of Danny's Subway, Inc., and, as such, have been authorized by Danny's Subway, Inc. to enter into this Consent Decree for and on behalf of Danny's Subway, Inc.

DATED this 1<sup>st</sup> day of MARCH, 2010.

DANNY'S SUBWAY, INC.  
an Arizona corporation

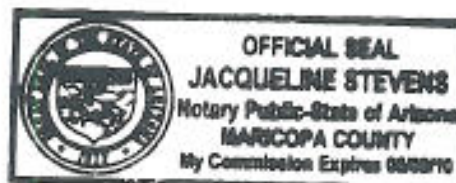
By [Signature]  
Its PRESIDENT

State of Arizona  
County of Maricopa } SS.

SUBSCRIBED AND SWORN to before me this 1 day of March  
2010, by Dan Rose

Jacqueline Stevens  
Notary Public

My Commission Expires:  
6/9/10





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APPROVED AS TO FORM AND SUBSTANCE


ANDREW P. THOMAS  
Maricopa County Attorney

March 9, 2010  
Date

By   
Peter S. Spaw  
Deputy Maricopa County Attorney  
301 West Jefferson Street, Suite 800  
Phoenix, AZ 85003  
Attorneys for Plaintiff

SNELL & WILMER LLP

3/3/10  
Date

By   
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