

PUBLIC HEARING CASES



Note: In all of the following public hearing cases, unless otherwise noted, the Commission staff found that substantial evidence existed to support the complainants' allegations.

In *Baldwin v. Alaska Breakfast Club/Lily's*, complainant alleged that respondent discriminated against her because of her age, fifty-eight, when it failed to hire her as a waitress. On May 18, 2006, the parties reached a settlement in which respondent agreed to train its managers and supervisors on the provisions of the Human Rights Law, adopt a policy reflecting its nondiscriminatory posture, and provide complainant with make-whole relief in the amount of \$4,000. The Commission approved the agreement and closed the case on May 19, 2006.

In *Coria v. Women's Nautilus Club*, complainant alleged that respondent's owner subjected her to sexual harassment and terminated her employment as respondent's manager after she complained about the owner's conduct. The complaint was consolidated with four other complaints against respondent and a public hearing was scheduled to begin March 5, 2007.

In *Faria v. Federal Express Corporation*, complainant alleged that respondent subjected him to different terms and conditions and terminated his employment because of his race, Pacific Islander, and national origin, Hawaiian. The Office of Administrative Hearings (OAH) held a public hearing September 12–15, 2005. On August 11, 2006, the OAH issued a recommended decision for dismissal. On December 19, 2006, the Commission adopted the OAH's recommended decision and dismissed the complaint.

UNWELCOME ATTENTION

An office manager alleged that the owner of the business where she worked sexually harassed her by trying to kiss her, telling her he loved her, sending her cards and flowers, and attempting to touch her in a sexual manner. She asserted she objected but the owner's conduct continued and she was forced to quit. The parties mediated the complaint and reached a settlement. The employer paid her \$15,157 and provided her a mutually agreeable letter of recommendation.

THAT'S SICK!

A woman who was an experienced seafood processor alleged that a prospective employer refused to hire her because she had been diagnosed with and treated for cancer. Commission staff investigated the complaint and found that the complainant had been screened out for consideration of a job because the employer's recruiters felt that, although the complainant was qualified for the position, seafood processing work was not appropriate for someone who had been treated for a "sickness." The Commission issued a finding that substantial evidence supported the complainant's allegation and attempted to conciliate the case. The parties signed a conciliation agreement in which the employer agreed to pay the complainant \$2,780 in lost wages, rehire the complainant for the next processing season, and train its managers and supervisors, including its recruiters, in the laws prohibiting discrimination.

In *Gibson v. Women's Nautilus Club*, complainant alleged that respondent's owner subjected her to sexual harassment and terminated her employment as respondent's general manager after she complained about the harassing conduct. The complaint was consolidated with four other complaints against respondent and a public hearing was scheduled to begin March 5, 2007.

In *Hartman v. Saybolt LP*, complainant alleged that respondent discriminated against her on the basis of her sex when it failed to offer her a severance package after eliminating her position as an area manager. Complainant alleged that male managers in positions similar to hers were given severance pay. On May 23, 2006, the parties reached a settlement in which respondent agreed to provide complainant with make-whole relief in the amount of \$22,500. The Commission approved the settlement and closed the case on June 8, 2006.

In *Huff v. University of Alaska, Anchorage*, complainant alleged that respondent discriminated against him on the basis of his age, sixty-five, when it failed to interview him for an entry-level teaching position because he had too much prior teaching experience. On July 21, 2006, the parties reached a settlement in which respondent agreed to provide complainant with make-whole relief in the amount of \$5,000 and to adopt and disseminate a policy prohibiting the use of prior teaching experience as an automatic disqualifying criterion for entry-level applicants. The Commission closed the case on July 28, 2006.

In *King v. Claire's Boutiques, Inc.*, complainant alleged that respondent failed to provide her with a reasonable accommodation when her physical disability prevented her from using respondent's ear piercing instrument. On November 14, 2006, the parties reached a settlement in which respondent agreed to train its managers and supervisors on the provisions of the Human Rights Law and provide complainant with back pay in the amount of \$9,350. The Commission approved the settlement and closed the case on November 17, 2006.

CLEARING THE AIR

A night shift custodian filed a complaint alleging that his employer refused to provide him with a reasonable accommodation because of his acute asthma. The custodian alleged that harsh chemicals used on his shift exacerbated his condition and he requested a transfer to a day shift position where harsh chemicals were seldom used. He claimed that six months had passed since he had requested the accommodation and that several day shift vacancies had been filled during that time. The Commission facilitated a settlement between the parties in which the employer agreed to assign the custodian to a day shift position.

SQUEEZED OUT OF A JOB

A manager of a rental business filed a complaint alleging that the owner subjected her to sexual harassment. The manager alleged that her boss asked her to sit on his lap, share a bath, and go to bed with him. She also alleged that he subjected her to inappropriate touching by hugging her and squeezing her buttocks. She alleged that as his conduct continued, her productivity declined, and she was forced to quit. The mediation program facilitated a settlement in which the employer agreed to pay the manager \$20,000.

In *Krieger v. Bayview Commercial Building, LLC*, complainant alleged that respondent discriminated against her based on her sex and retaliated against her for complaining about sexual harassment when it terminated her employment as a janitor. The parties agreed to a settlement in which respondent agreed to train its managers, supervisors, and employees on the provisions of the Human Rights Law, adopt and disseminate a policy prohibiting discrimination, and provide complainant with \$10,000 in back pay. The Commission approved the settlement and closed the case on April 28, 2006.

In *Lamb v. Women's Nautilus Club*, complainant alleged that her position as a desk clerk was terminated because of her race, Black. The complaint was consolidated with four other complaints against respondent and a public hearing was scheduled to begin March 5, 2007.

In *Le-Sueur v. Alaska Regional Hospital*, complainant alleged that she was sexually harassed by her supervisor when he subjected her to unwelcome comments of a sexual nature. Complainant also alleged she was retaliated against for complaining about harassment when she was given additional work assignments and denied the opportunity to work light duty. Staff found that complainant's allegations were not supported by substantial evidence, and complainant appealed to superior court. The court found that there was substantial evidence to support the claims and remanded the case to the Commission on April 3, 2006. At the end of 2006 a public hearing was scheduled for January 22-26, 2007.

In *Meraz v. Bering Air*, complainant alleged that respondent discriminated against him on the basis of his race, Hispanic, and retaliated against him when it terminated his employment after he lodged a complaint with his supervisors regarding a hostile work environment. On November 14, 2006, the parties reached a settlement in which respondent agreed to train its owners, managers, and supervisors on the provisions of the Human Rights Law and provide complainant with \$5,000 in back pay. The Commission approved the settlement and closed the case on November 16, 2006.

BACK OF THE HOUSE

An Asian restaurant server alleged that she was treated differently than her non-Asian coworkers in the terms and conditions of her employment when she was scheduled to cook while her coworkers were allowed to wait tables, reducing her income from customer tips. The server also alleged that her employer retaliated against her by reducing her hours after she complained about a coworker's offensive sexual comments, and that she was forced to resign her position because of her working conditions. The parties mediated the complaint and reached a settlement in which the employer paid the server \$5,300 and provided her with a positive reference letter.

CAN'T GET THERE FROM HERE

An apartment building tenant who alleged that her disability substantially limited her ability to walk filed a complaint against her landlord, stating that her landlord refused to provide her with a reasonable accommodation for her disability. The tenant alleged that she asked the landlord for a parking space close to the building but the landlord ignored her request for over six months. The mediation program facilitated a settlement between the parties in which the landlord agreed to provide a parking space for the tenant close to her building.

In *Owens v. The Estelle Group*, complainant alleged that respondent discriminated against him on the basis of his disability, paraplegia, because a retail store owned by respondent is not accessible to persons who use wheelchairs for mobility. Respondent has complied with the terms of a proposed settlement agreement and installed a ramp for access to its facility. A settlement is pending in this case.

In *Perkins v. Doyon Universal Services, Inc.*, complainant alleged that respondent failed to hire him as a kennel technician because of his race, Black. Complainant alleged that, despite his prior experience, respondent hired someone who was less qualified for the position. Complainant filed a lawsuit in superior court that contained the same claims set forth in his Commission complaint. The Commission ordered the case held in abeyance pending the outcome of the court action. The superior court subsequently issued summary judgment against complainant, and the Commission dismissed the complaint on March 21, 2006.

In *Raad v. Fairbanks North Star Borough School District*, complainant alleged that respondent discriminated against her because of her national origin, Lebanese, and religion, Muslim, when it failed to hire her for thirty-one different teaching positions. Complainant further alleged that respondent refused to hire her in retaliation for filing a prior discrimination complaint. After a public hearing, the Commission issued an order dismissing the case. Complainant appealed the Commission order, and the Alaska Supreme Court remanded the case to the Commission for further findings on whether respondent's reasons for not hiring complainant for some of the positions were pretextual. On December 9, 2005, the case was transferred to the Office of Administrative Hearings (OAH). The parties completed briefing on July 14, 2006. As of December 31, 2006, the OAH had not yet issued a preliminary decision.

In *Ridges v. Fred Meyer, Inc.*, complainant alleged that respondent failed to promote him because of his race, Black, when it promoted a Caucasian coworker who had far less relevant experience for the job. At the end of 2006, the parties had negotiated the terms of a settlement but had not yet executed an agreement.

SINGING A DIFFERENT TUNE

Complainant alleged that her employer terminated her employment as a nightclub karaoke disc jockey after she rebuffed the owner's sexual advances. When Commission staff investigated the complaint, respondent claimed that the Commission lacked jurisdiction because complainant was an independent contractor and not protected by the Human Rights Law. Respondent asserted that complainant's position was converted from that of a contractor to one of an employee, but because complainant's boyfriend was also employed by respondent, its anti-nepotism policy prevented it from retaining complainant. Commission staff found that complainant was employed by respondent and was terminated immediately after returning from a business trip on which she declined the owner's request to have a sexual relationship. After staff issued a finding that complainant's allegations were supported by substantial evidence, the parties entered into a conciliation agreement in which respondent agreed to pay complainant \$800 in back pay and provide training to its managers and supervisors on the provisions of the Human Rights Law.

In *Scollan v. Women's Nautilus Club*, complainant alleged that respondent's owner subjected her to sexual harassment and made her working conditions so intolerable that she was forced to resign. The complaint was consolidated with four other complaints against respondent and a public hearing was scheduled to begin March 5, 2007.

In *Webb v. Women's Nautilus Club*, complainant alleged that respondent's owner subjected her to sexual harassment and terminated her employment as respondent's manager after she complained about the owner's conduct. The complaint was consolidated with four other complaints against respondent and a public hearing was scheduled to begin March 5, 2007.

In *Wedell v. Radio Shack*, complainant alleged that respondent discriminated against him based on his sex and retaliated against him for opposing discrimination by terminating his employment. On October 20, 2006, the parties reached a settlement in which respondent agreed to train its owners, managers, and supervisors on the provisions of the Human Rights Law and provide complainant with \$5,000 in back pay. The Commission approved the settlement and closed the case on November 14, 2006.

In *Wilds v. Sully's Sourdough Inn*, complainant alleged that respondent's owner subjected her to unwelcome sexual advances and retaliated against her for opposing sexual harassment by terminating her employment as a bartender. The case was consolidated with *Wright v. Sully's Sourdough Inn* for the purpose of hearing. A hearing began on October 4, 2006, but the parties settled the case before the close of complainant's case. Respondent admitted the allegations in the complaint, and agreed to provide six hours of anti-discrimination training to its owners and managers and pay complainant \$3,773 in back pay. The Commission approved the settlement and closed the case on November 14, 2006.

***IF YOU WORKED HERE YOU'D BE FIRED
BY NOW***

Complainant alleged that her employer discriminated against her on the basis of her age, sixty-two, when it terminated her employment as a district sales manager after respondent acquired the company for which complainant worked. Commission staff investigated the complaint. Respondent asserted that it never employed complainant because its predecessor company had terminated complainant at the time of the acquisition. Commission staff found that respondent had given complainant "new hire paperwork" to review several days prior to the effective date of the acquisition, and that when complainant reported to work with respondent she was terminated from her position by two of respondent's employees. Respondent also asked complainant to execute a severance agreement. Investigation showed that complainant was replaced by someone who was substantially younger than she was. Commission staff found substantial evidence supported complainant's allegations. In a conciliation agreement, the employer agreed to pay complainant \$85,000 and to develop and disseminate a corporate policy reflecting the employer's nondiscriminatory posture and opposition to retaliatory practices.

In *Wright v. Sully's Sourdough Inn*, complainant alleged that respondent terminated her employment as a server because she was pregnant. The case was consolidated with *Wilds v. Sully's Sourdough Inn* for the purpose of hearing. A hearing began on October 4, 2006, but the parties settled the case before the close of complainant's case. Respondent admitted the allegations in the complaint, and agreed to provide six hours of anti-discrimination training to its owners and managers and pay complainant \$5,029 in back pay. The Commission approved the settlement and closed the case on November 14, 2006.

LITIGATION



In *Billingham v. Alaska State Commission for Human Rights*, complainant filed a complaint with the Equal Employment Opportunity Commission (EEOC) alleging that her employer, the State of Alaska, treated her differently in the terms and conditions of her employment because of her age and sex and in retaliation for filing an earlier complaint. The complaint was co-filed with the Human Rights Commission. The EEOC dismissed complainant's case, and on November 2, 2004, Commission staff agreed with EEOC's finding that the allegations were not supported by substantial evidence. Complainant appealed the Commission's decision to superior court on December 2, 2004. On July 7, 2006, the court affirmed the Commission decision regarding Ms. Billingham's retaliation claim but remanded the case for additional findings on the age and sex claims.

In *Elliot v. Alaska State Commission for Human Rights*, complainant alleged that Cook Inlet Tribal Council refused to assist her and her husband in obtaining housing because of her husband's race, Black. Commission staff found that the allegations were not supported by substantial evidence and closed the case on May 18, 2006. Complainant appealed the Commission's decision to superior court on June 20, 2006.

MARRIAGE PENALTY

A married restaurant server filed a complaint alleging that her employer treated her differently than her unmarried coworkers. The server claimed that the restaurant owner reduced her hours--but did not reduce the hours of unmarried servers--and told her she did not need the work because of her husband's income. The server also said that the owner expressed a preference for unmarried servers when he told her that married servers were less reliable. The server alleged she was forced to quit because the owner created intolerable working conditions. The mediation program facilitated a predetermination settlement between the parties, and the restaurant owner agreed to pay the server \$500 in back pay.

WHO'S IN THE DRIVER'S SEAT

A female truck driver filed a complaint alleging that her employer treated her differently because of her sex when it refused to train her in the operation of specialized equipment. The truck driver alleged that her employer trained males with less seniority and that she received less overtime than her male coworkers as a result. She also alleged that her supervisor ridiculed her with "dumb blonde" jokes and implied female truck drivers are not as competent as men. The truck driver subsequently resigned her position. The parties agreed to mediation and reached a settlement. The employer agreed to pay the truck driver \$3,000 and to provide discrimination training to all of its employees.

In **Tiernan v. Pyramid Printing**, complainant alleged that she was sexually harassed and forced to quit her job because respondent's manager subjected her to a hostile work environment. Commission staff found that complainant's claims were supported by substantial evidence. On October 1, 2003, after a public hearing, the Commission issued a decision in favor of complainant and ordered respondent to pay complainant the sum of \$50,972, plus interest, and to train its managers regarding the requirements of the Human Rights Law. On October 27, 2003, respondent appealed the Commission's final order to superior court. The superior court affirmed the Commission's order in all respects on August 1, 2005. Respondent then appealed the decision to the Alaska Supreme Court. The court heard oral arguments on June 5, 2006. At the end of 2006 the court had not yet issued a final decision.

In **Trice v. Williams Alaska Petroleum Co.**, complainant alleged that respondent failed to accommodate her physical disability when it refused to allow her to work a reduced schedule and terminated her employment. Commission staff found that the allegations were not supported by substantial evidence, and complainant appealed the decision to superior court on November 2, 2005. The Commission agreed to conduct additional investigation, and the court granted the Commission's request for a remand on March 7, 2006.

In **Villaflores v. Alaska State Commission for Human Rights**, complainant alleged that the Anchorage Water and Wastewater Utility refused to hire him as a personnel analyst because of his age, forty-five, and race, Asian. Commission staff found that the allegations were not supported by substantial evidence and closed the case on April 6, 2005. Complainant appealed the Commission's decision to superior court. On April 21, 2006, the court affirmed the Commission's decision, and complainant appealed to the Alaska Supreme Court. At the end of 2006 briefing was not yet complete.

In **Villaflores v. Alaska State Commission for Human Rights**, complainant alleged that ConocoPhillips refused to hire him as a human resources representative because of his age, forty-five, and race, Asian. Commission staff found that the allegations were not supported by substantial evidence and closed the case on September 21, 2005. Complainant appealed the Commission's decision to superior court. The superior court affirmed the Commission's decision on November 23, 2006, and dismissed the case.

THERE'S NO PLACE LIKE HOME

A teacher alleged that the school district that employed him discriminated against him because of his sex when it involuntarily transferred him from his teaching position in one village to replace a female teacher in another village. The teacher asked to be transferred back to the village where he had previously taught. The Commission staff investigated the complaint, and found that the school district's superintendent indicated that he wanted all male teachers at the school to which complainant had been transferred. The Commission staff found substantial evidence to support complainant's allegations. The Commission and school district conciliated the case and the school district agreed to adopt a non-discriminatory policy and refrain from making any further teaching assignments on the basis of sex.

OUT OF THE KITCHEN...

A man who worked as a kitchen helper filed a complaint asserting that he was treated differently than his coworkers because of his race, Asian. The kitchen helper alleged that he was disciplined for violating work rules while coworkers who had similar violations were not disciplined. He also alleged that he was terminated based on unfounded accusations of Caucasian coworkers about other workplace rule violations. In a mediated settlement, the employer agreed to rehire the employee as a security officer because of his prior experience in that field.