

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

PATRICK J. MALONE

Plaintiff(s),

vs.

Manpower Professional, Inc and
Honeywell International, Inc.

Defendant(s).

CASE NO. 3AN- 08- 7888 ci

SUMMONS AND
NOTICE TO BOTH PARTIES
OF JUDICIAL ASSIGNMENT

To Defendant: Manpower Professional, Inc

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) Hugh W. Pleischer, whose address is: 310 K Street, Suite 200, Anchorage, AK 99501

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at www.state.ak.us/courts/forms.htm, to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

NOTICE OF JUDICIAL ASSIGNMENT

TO: Plaintiff and Defendant

You are hereby given notice that:

- This case has been assigned to Superior Court Judge Stowers and Master _____
- This case has been assigned to District Court Judge _____

CLERK OF COURT

5-30-08
Date



By: J. Boehman
Deputy Clerk

I certify that on 5-30-08 a copy of this Summons was mailed given to plaintiff plaintiff's counsel along with a copy of the Domestic Relations Procedural Order Civil Pre-Trial Order to serve on the defendant with the summons.
Deputy Clerk JH

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

CIV-100 ANCH (10/05)(st.3)
SUMMONS

Civil Rules 4, 5, 12, 42(c), 55
Ex. A, Page 1 of 8
Case No. _____

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

PATRICK J. MALONE)
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)
Plaintiff,)
)
vs.)
)
)
MANPOWER PROFESSIONAL, INC.)
and HONEYWELL)
INTERNATIONAL INC.)

Defendants.)

CASE NO: 3AN-08-7888 CIV.

COMPLAINT

The plaintiff Patrick J. Malone, by and through his attorney of record, Hugh W. Fleischer, brings this action against defendants Manpower Professional, Inc. ("Manpower") and Honeywell International, Inc. ("Honeywell") as follows:

1. Plaintiff, Malone resides in the Third Judicial District of Alaska.

2. At all times mentioned in this complaint, defendants, Manpower was and is a corporation organized in Wisconsin and doing business in Anchorage, Alaska and Honeywell was and is a corporation organized in Wisconsin and

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2 doing business under the name of Honeywell Automation and
3 Control Systems in Anchorage, Alaska.

4
5 3. Plaintiff, Malone, was employed on or about
6 March 19, 2007, up to on or about November 16, 2007 by
7 defendant Manpower to perform work for defendant Honeywell.

8 4. This action is brought, in part, pursuant to
9 AS 09.10.053 with Jurisdiction of this court based on AS
10 22.10.020 (a) and (i).

11
12 FIRST CLAIM FOR RELIEF

13 5. Plaintiff incorporates herein by reference all
14 foregoing allegations as if fully rewritten herein.

15 6. Throughout Malone's employment as defendant
16 Manpower's employee, defendant Manpower's management
17 employees, including Malone's supervisor created a hostile
18 environment including repeatedly making degrading comments to
19 and about Malone in an offensive manner, and interfered with
20 plaintiff's personal life and all of which constituted an
21 unlawful breach of his employment contract.

22 7. Plaintiff Malone alleges that the conduct of
23 defendant Manpower, as described in this complaint, would
24 have been offensive to any person. Plaintiff did not consent
25 to such conduct, and found it unwelcome and offensive.

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2 Defendant Manpower's agents' conduct rendered plaintiff's
3 employment intolerable and no reasonable person could have
4 tolerated it.

5 8. Plaintiff Malone complained to defendant
6 Manpower's management about the mistreatment of plaintiff by
7 the other Manpower officials and asked management to take
8 such action necessary to cause the referenced conduct to
9 cease. However, the managerial representatives took
10 insufficient action to cease the harassment or address
11 plaintiff's complaints.

12 9. Defendant's conduct as described in this
13 complaint was malicious and was intended to oppress,
14 humiliate and denigrate plaintiff Malone and was totally
15 without justification. Plaintiff Malone further alleges that
16 the conduct of defendant's agents in insulting, embarrassing
17 and mistreating plaintiff was done in the course and scope of
18 carrying out official duties for Manpower and was only
19 possible due to defendant's Managers' respective status.

20 10. Plaintiff Malone alleges that by its failure
21 to prevent or correct the mistreatment of plaintiff by its
22 agents, as alleged above, defendant Manpower acted to condone
23 and ratify such conduct with the knowledge that such
24 ratification would thereby interfere with plaintiff's
25

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2 employment and ability to continue his career with defendant
3 Manpower.
4

5 11. As a result of defendant's unlawful conduct as
6 alleged in this complaint, plaintiff Malone was discharged
7 from employment by Manpower and Honeywell on or about
8 November 16, 2007, has lost substantial employment benefits,
9 including lost wages, pension benefits and other losses, in
10 an amount in excess of \$100,000, the precise amount of which
11 will be proven at the time of trial.

12 12. As a further direct and proximate result of
13 defendant's unlawful conduct, plaintiff Malone has suffered
14 extreme and severe anguish, humiliation, emotional distress,
15 tension, anxiety, and depression, the extent of which is not
16 fully known at this time and the amount of damages caused
17 thereby is not yet fully ascertained but is in an amount in
18 excess of \$100,000, the precise amount to be proven at the
19 time of trial.

20 SECOND CLAIM FOR RELIEF

21 13. Plaintiff incorporates herein by reference all
22 foregoing allegations as if fully rewritten herein.

23 14. The actions of Manpower and Honeywell, up to
24 and including the discharge, constituted the tort of
25 intentional infliction of emotional distress.

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2 15. (a) The conduct was extreme and outrageous (b)
3 the conduct was intentional and reckless (c) the conduct
4 caused plaintiff to be inflicted with emotional distress and
5 (d) such distress is severe.
6

7 THIRD CAUSE OF ACTION

8 16. Plaintiff incorporates herein by reference
9 all foregoing allegations as if fully rewritten herein.

10 17. Defendant Malone's wrongful discharge, by
11 Manpower and Honeywell, was a violation of AS 18.80.220 (a)
12 (4) in that Mr. Malone was subjected to a forbidden practice
13 of disability harassment and termination.

14 18. Plaintiff Malone's discharge was, in part,
15 based upon his disability condition.
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18 FOURTH CLAIM FOR RELIEF

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21 19. Plaintiff incorporates herein by reference all
22 foregoing allegations as if fully rewritten herein.

23 20. Throughout Malone's employment, he performed
24 his job responsibilities with proficiency and otherwise in an
25 exemplary manner, meeting standards well above the employment
26

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2 contract provisions.

3 21. Notwithstanding the facts set out in Paragraph
4 20 above, Manpower and Honeywell breached the contract by
5 causing intolerable conditions and a hostile environment,
6 without cause or proper justification, resulting in his
7 discharge.

8 22. The actions taken against Mr. Malone were in
9 violation of defendant Manpower's and Honeywell's covenant of
10 good faith and fair dealing as required under the Law of
11 Alaska. *Charles v. Interior Regional Housing Authority*, 55
12 P.3d 57 (Alaska, 2002); *Finch v. Greatland Foods, Inc.*, 21
13 P.3d 1282 (Alaska, 2001), and thereby renders the defendant
14 Manpower and Honeywell liable for back and front pay,
15 compensatory damages and reinstatement.
16

17
18 WHEREFORE, plaintiff Malone requests judgment
19 against defendants, Manpower and Honeywell for:

20 1. Immediate restoration to his former employment
21 with all benefits, monetary compensation and accommodations;

22 2. Compensatory damages, including lost wages,
23 pension benefits and other benefits, in excess of \$100,000;

24 3. Damages for intentional infliction of
25 emotional distress, in excess of \$100,000 and;

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4. Attorney fees and costs;

5. Prejudgment interest on all amounts claimed;

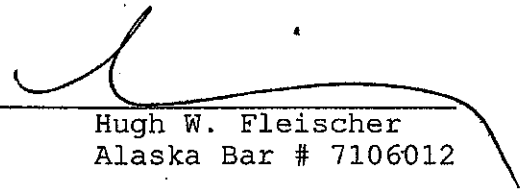
and

6. Such other and further relief as the court considers just and proper.

DATED at Anchorage, Alaska, this 30th day of May,
2008.

LAW OFFICES OF HUGH W. FLEISCHER
Attorneys for Plaintiff

By:



Hugh W. Fleischer
Alaska Bar # 7106012

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