Alaska State Commission for Human Rights

2010 Annual Report

STATE OF ALASKA
HUMAN RIGHTS COMMISSION

March 1, 2011

The Honorable Sean Parnell, Governor of Alaska
The Honorable Gary Stevens, President, Alaska Senate
The Honorable Mike Chenault, Speaker, Alaska House of Representatives

On behalf of the Commission, I respectfully submit the 2010 Annual Report of the Alaska State Commission for Human Rights. The Commission is entering its 48th year as Alaska's civil rights enforcement agency.

In 2010, over two thousand Alaskans contacted the Commission staff with concerns and questions. Twenty percent more Alaskans filed complaints of discrimination than in the prior year. This dramatic increase in complaints made for the highest number of filings in eight years. The types of complaints filed and issues raised were largely similar to those in the prior year. Of note, cases based on physical disability rose five percent and a higher percentage of Alaskans filing complaints were under the age of twenty.

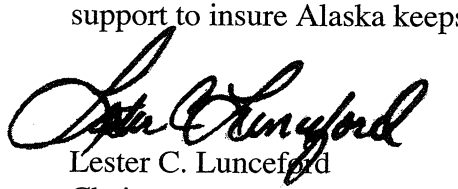
Despite the twenty percent increase in complaints brought to the agency, Commission staff resolved the same number of complaints as in 2009. The overall inventory of cases increased by seven percent and staff carry high caseloads. The dedication of staff to the mission of the Commission is most appreciated. Nonetheless, with limited resources the Commission is still concerned that Alaskans who believe that they have experienced discrimination and the businesses against whom claims are brought will be frustrated with the time required for complaints to be resolved.

The Commission's longtime mediator retired this year and the position was changed and filled with another investigator. The voluntary mediation program continues as a contracted service. Businesses against whom complaints of discrimination were filed and the Alaskans bringing the claims continue to laud the success of the program and appreciate the opportunity to informally resolve their concerns. Seventy-two percent of cases that went through the mediation program in 2010 settled.

In 2010 staff issued forty-three determinations finding that the complaints of discrimination were supported by substantial evidence. At year's end many of those cases were still in conciliation and others had been forwarded to the hearing unit.

While the Commission would like to meet the needs of the business community for more education, outreach, and prevention programs, due to limited resources staff's primary focus is investigating complaints, and outreach in 2010 was minimal. As the Commission recognizes its limited resources to provide education to Alaskans it focused on improving the agency website. The website, *www.humanrights.alaska.gov*, now includes case summaries, more detailed information on public hearing cases, and Annual Reports for four years.

The Commission maintains its commitment to fair enforcement of Alaska's Human Rights Law. The Commissioners ask for your support to insure Alaska keeps its promise to prevent and eliminate discrimination.



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Chairperson

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PUBLIC HEARING CASES

In the following cases, unless otherwise noted, the Commission staff found that substantial evidence existed to support the complainants' allegations. Informal conciliation efforts were unsuccessful, and the staff forwarded the cases to the Commission for public hearing.

In ***Vilma Anderson v. Anchorage School District,*** complainant alleged that respondent discriminated against her on the basis of her physical disability, retinitis pigmentosa, which causes her tunnel vision and blindness. Complainant alleged that respondent terminated her employment as a substitute teacher because it wrongly believed she could not safely and effectively do her job. Complainant also alleged that respondent refused to accommodate her by not allowing her to bring her service dog to work. A public hearing was held on December 2-5, 2009, before the Office of Administrative Hearings (OAH). On April 27, 2010, the administrative law judge issued a recommended decision finding that the school district violated the Human Rights Law and ordering it to pay the complainant back pay of $43,000, plus interest, and to obtain training for its managers and supervisors. On July 30, 2010, the Commission adopted the recommended decision with one modification, expanding the required training from 3 hours in length to 8 hours.

In ***Jessie Brinkley v. Alaska Communications Systems Holdings, Inc.,*** complainant, a thirty-year employee of respondent, alleged that respondent terminated her employment because of her race, Black. Complainant asserted that after being transferred to the position of recruiting manager she was fired for failing to meet the expectations of the position, but other non-Black employees who failed to meet expectations were assigned to other positions within the company without being terminated. A public hearing scheduled before the OAH was continued based on the parties' efforts to settle the case. As of December 31, 2010, a settlement was pending.

In ***Robin Burkhart v. The Inn at Whittier, Inc.,*** complainant alleged that a coworker subjected her to unwelcome sexual advances, and that when she complained about the harassment respondent retaliated against her by terminating her employment. The parties reached a settlement in which respondent agreed to adopt a nondiscrimination policy and provide training to its owners, managers, and supervisors. After the conditions of the settlement agreement were met, the Commission dismissed the case on September 9, 2010.

COFFEE, TEA, NOT ME

A barista alleged that her employer discriminated against her because of her sex by subjecting her to unwelcome sexual comments and conduct, and that her working conditions became so intolerable she was forced to resign. The barista alleged that throughout her employment respondent's owner touched her inappropriately, including putting his hand down her pants, and regularly made sexual comments to her. She also alleged that he made frequent sexual comments about her to her coworkers. Commission staff found the barista's allegations were supported by substantial evidence. The employer agreed to pay the barista $2,361 in back pay, obtain training on the laws prohibiting discrimination, with an emphasis on preventing and remedying sexual harassment, and adopt a non-discrimination policy.

HEARTLESS

A sixty-two-year-old food service worker filed a complaint alleging that his employer discriminated against him on the basis of his age and because it perceived him as disabled. He asserted that his supervisor knew of his heart surgery and other medical conditions and that the supervisor made disparaging comments about his age and medical condition. He also stated that his supervisor told a coworker that complainant was senile and did not remember things. After he reported his supervisor to his union, the food service worker was terminated. The parties mediated the case and reached a settlement in which the employer paid him $2,250.

In ***Nazary J. Buterin Jr. v. Anchorage Plumbing & Heating,*** complainant alleged that respondent discriminated against him because of his race, Alaska Native, when it subjected him to different terms and conditions of employment. Complainant also alleged that a coworker made disparaging comments about Alaska Natives, and that after he complained about the comments respondent retaliated against him by terminating his employment. The parties reached a settlement in which respondent agreed to pay complainant $3,850 in damages and to adopt and disseminate a nondiscrimination policy.

In ***Juana Contreras-Mendoza v. Red Dog Inn,*** complainant, who worked for respondent as a waitress and cook, alleged that her coworkers and one of respondent's customers subjected her to sexually offensive comments. Complainant further alleged that respondent's other cook made unwelcome sexual advances towards her, and that after she complained to her supervisor about the harassing behavior, respondent terminated her employment. The parties reached a settlement in which respondent agreed to pay complainant $5,763, to obtain training for its managers and supervisors on the provisions of the Human Rights Law, and to adopt a nondiscrimination policy.

In ***Lynn Dowler v. Paul Kopf d/b/a Goldstream Store,*** complainant alleged that respondent's owner subjected her to a hostile work environment by making derogatory comments about her religion and proselytizing about his own religious beliefs. Complainant further alleged that respondent made her working conditions so intolerable that she was forced to resign. The OAH held a public hearing on September 15-17, 2010. On November 5, 2010, the administrative law judge (ALJ) issued a recommended decision finding that respondent created a hostile work environment and constructively discharged complainant. The ALJ recommended a damages award of $76,881 and that respondent's owner and managers undergo training in the laws prohibiting discrimination. As of December 31, 2010, a final decision from the Commission was pending.

In ***Jason Dunn v. Bradd W. Patterson,*** complainant, who worked as a deck hand on respondent's fishing vessel, alleged that he was terminated because of his disability. The parties entered into a settlement agreement which required respondent to adopt a policy reflecting respondent's nondiscriminatory posture, post a copy of the policy in a conspicuous place on the fishing vessel, and reimburse complainant for the cost of his airfare to respondent's vessel's port of origin. After respondent satisfied the terms of the settlement agreement, the Commission dismissed the case on September 20, 2010.

STICKS AND STONES AND COSTLY WORDS
An administrative clerk alleged that her employer discriminated against her because of her sex and retaliated against her when it fired her after she complained about discrimination. The clerk alleged that her supervisor made unwelcome sexually explicit comments and gestures, including using chicken breasts and hand gestures to make innuendoes about women's breasts and sexual acts, and that he called her "lady" and "princess" instead of her name. She alleged that she twice complained about the discrimination to her employer, but it took no action to correct the supervisor's behavior and instead fired her. Commission staff found substantial evidence of discrimination and the parties conciliated the case. The employer paid the clerk $20,586 in back pay, provided training to its staff on the laws prohibiting discrimination in employment, and adopted a nondiscrimination policy.

REPAIRING RIDICULE
An Alaska Native seafood processor alleged that his supervisors and coworkers made racially derogatory comments, including calling him a "drunk native," made fun of the way he and other Alaska Natives talked, and that a supervisor threatened to cut his long hair. He asserted that he complained to his employer about the racial harassment but the conduct continued and his working conditions became so intolerable that he was forced to quit. The parties mediated the case. The employer agreed to rehire him and created a procedure to address any future workplace issues.

In ***Yaly Guerrero v. Gems International of Alaska,*** complainant alleged that respondent's owner subjected her to a hostile work environment because of her race, Hispanic. Complainant also alleged that the owner's behavior made her work environment so intolerable that she was forced to resign from her position as a sales representative. The parties entered into a settlement agreement in which respondent agreed to pay complainant $1,000 in back pay and adopt and disseminate a nondiscrimination policy.

In ***Paula M. Haley v. Harbor Crown Seafoods,*** Commission staff investigated a complaint alleging that respondent retaliated against an employee for complaining that his Filipino coworkers had been discriminated against. Staff did not find substantial evidence to support the retaliation allegation, but did find that respondent discriminated against Filipino employees by subjecting them to a hostile work environment. After an Accusation was filed, Commission staff filed a motion for a default judgment against respondent because respondent failed to participate in the hearing process. On September 24, 2010, the administrative law judge granted the motion and issued a recommended decision requiring respondent to refrain from discriminating against Filipino employees and to obtain training for its managers and employees. As of December 31, 2010, a final decision of the Commission was pending.

In ***Michael Hansen v. The New Printer's Workshop,*** complainant alleged that respondent terminated his employment in retaliation for his filing a discrimination complaint with the Commission. A public hearing was held on November 4-5, 2009. On June 9, 2010, the administrative law judge (ALJ) issued a recommended decision finding that respondent retaliated against complainant by firing him. The ALJ also recommended that respondent pay complainant $1,440 in back pay and obtain training for its managers and employees in the laws prohibiting discrimination. As of December 31, 2010, a final decision of the Commission was pending.

In ***Sue-Lynn Hight v. State of Alaska, Department of Labor and Workforce Development, Division of Labor Standards and Safety,*** complainant alleged that respondent subjected her to different terms and conditions of employment because of her sex. Complainant also alleged that after she complained about discrimination respondent retaliated against her by suspending her and terminating her employment. Commission staff found substantial evidence that complainant's suspension was retaliatory. The parties reached a settlement wherein respondent agreed to pay Ms. Hight $2,349 in back pay and to obtain training for its managers, supervisors, and employees on the provisions of the Human Rights Law. On March 3, 2010, the Commission dismissed the case.

MEDIATED CHANGE OF MIND

A restaurant hostess alleged that her employer terminated her employment due to her pregnancy. She stated that on her second day of work, she told her manager that she was pregnant and did not feel well. She asserted that the manager told her it was okay and to come to work the next day. However, she said that he changed his mind, calling her two hours later and firing her. The parties mediated the case and the employer agreed to pay the hostess $720 and provide her a reference.

INNOCENT OF DISCRIMINATION, GUILTY OF RETALIATION

A barber filed a complaint alleging that her employer discriminated against her because of her age, thirty-eight, and race, Caucasian and Native American. The barber alleged that soon after she complained about discrimination by her supervisor, her employer issued her several disciplinary written warnings and then fired her. She had not previously received any written warnings. Commission staff's investigation did not find that the barber was discriminated against during her employment, but did find substantial evidence supporting her allegation of retaliation. During conciliation, the employer agreed to pay $7,500 in back pay, provide training to its employees on the laws prohibiting discrimination and retaliation, adopt a nondiscrimination policy, and post a notice that employees have the right to be free from discrimination.

In ***Caroline Kocean v. Families First Dental Care,*** complainant alleged that respondent discriminated against her because of her sex when one of respondent's dentists and an office manager subjected her to unwelcome sexually offensive comments. Complainant also alleged that the dentist repeatedly showed or attempted to show her and another employee sexually explicit computer images and photographs. The parties reached a settlement wherein respondent agreed to obtain training for its managers, supervisors, and employees on the laws prohibiting discrimination in employment with an emphasis on sexual harassment. The Commission dismissed the case on September 27, 2010.

In ***Tomorrow Kosal v. Paul Kopf d/b/a Goldstream Store,*** complainant alleged that respondent retaliated against her by barring her from entering the Goldstream Store to avail herself of its goods and services because she testified against respondent in recent Commission proceedings on a discrimination complaint brought by an employee with whom complainant worked while they both were employed by respondent. (See *Lynn Dowler v. Paul Kopf d/b/a Goldstream Store,* above). Efforts to conciliate the case failed in December 2010. As of December 31, 2010, an accusation had not yet been filed.

In ***Zachary Liszka v. Hook Line & Sinker d/b/a SubZero and Humpy's Great Alaskan Alehouse,*** complainant alleged that respondent discriminated against him when it terminated his employment because it perceived him to have a disability. Complainant further alleged that respondent retaliated against him for filing a complaint with the Commission when respondent subsequently refused him service at its restaurant and forced him to leave the premises. The parties reached a settlement in which respondent agreed to pay complainant $5,000, provide training to managers and supervisors, create a new corporate nondiscrimination policy, and refrain from making disability related inquiries of employees and potential employees.

In ***Sarah Love v. Shane Crowson f/d/b/a Alaska Heavy Haul Transport,*** complainant alleged that respondent's owner subjected her to unwelcome sexual advances, requests for sexual favors, and verbal conduct of a sexual nature throughout her employment. Complainant alleged that this behavior made her working conditions so intolerable she was forced to resign from her position as a pilot car driver. A public hearing before the OAH was held on October 28, 2009, during which respondent agreed to stipulate to a judgment finding that he violated the Human Rights Law and ordering him to pay complainant $1,500 in back pay. On March 10, 2010, the Commission adopted the administrative law judge's recommended judgment in a final order.

FROZEN OUT

An African-American seasonal machine operator alleged that he was subjected to offensive racial remarks by coworkers not of his race. He asserted that coworkers would use racial epithets when asked for something and that Hispanic coworkers talked about his race in Spanish by using the word negro in front of him. He also said that one time a coworker refused to let him in his truck when it was considerably below zero outside. He alleged that after he complained to his employer about the racial harassment, his employer placed him on a no-rehire list. The mediation program facilitated a settlement in which the employer agreed to pay complainant $7,424 and provide him a letter of recommendation.

TOO FAR AWAY

A teacher alleged that his employer discriminated against him because of his disability, a knee impairment, when the employer renovated its parking lot and required him to park farther away. The teacher alleged that he previously was permitted to park in a handicapped parking spot that was close to his office. During the renovation the parking lot where he had previously parked became a visitor's lot and his employer refused his request to continue parking there. Commission staff found substantial evidence of discrimination. During conciliation, the employer agreed to provide ADA-compliant parking spaces for disabled persons in a third, nearby parking lot, to adopt a nondiscrimination policy, and to provide training to its staff on the laws prohibiting discrimination.

In ***Christopher Miller v. Tommy King d/b/a The Welding Shop,*** complainant alleged that respondent discriminated against him because of his disability, traumatic brain injury, when respondent's shop foreman subjected him to derogatory name-calling and comments. Complainant further alleged that respondent retaliated against him by terminating his employment when he complained about the harassment. The parties entered into a settlement in which respondent agreed to adopt and disseminate to all employees a nondiscrimination policy, provide training to owners, managers, and employees in the laws prohibiting discrimination, and pay complainant $7,500. After the conditions of the settlement agreement were met, the Commission dismissed the case on September 17, 2010.

In ***Kenya Miller v. D. of Alaska, Inc. d/b/a Denny's,*** complainant alleged that respondent discriminated against him because of his race, Black, and disability, a hearing impairment. Complainant alleged that he was held to a higher standard of performance than his coworker, that a server refused to share tips with him, and that respondent terminated his employment when he complained about discrimination. Commission staff did not find substantial evidence to support complainant's allegations, except his allegation that respondent failed to investigate his complaint about the refusal to share tips. Investigation also revealed substantial evidence that respondent violated the Human Rights Law by requiring employees to complete a health questionnaire that revealed confidential medical and disability related information. A public hearing before the OAH was scheduled for April 19-20, 2011.

In ***Damon Oates v. Norcon, Inc.,*** complainant alleged that respondent discriminated against him because of his race, Black. Complainant, who worked on the North Slope, alleged that he was terminated for using profanity on the job when many non-Black employees who used similar language were not disciplined. A public hearing before the OAH was scheduled for February 22-25, 2011.

In ***Dennis Phillips v. Tew's Excavation, Inc.,*** complainant alleged that respondent discriminated against him because of his sex when respondent's owner subjected him to unwelcome, degrading comments and offensive conduct of a sexual nature. Complainant alleged that the owner's behavior made his working conditions so intolerable that he was forced to resign from his position as a shop mechanic. The OAH held a public hearing on December 9-11, 2009. As of December 31, 2010, the administrative law judge had not issued a recommended decision.

SERVING UP JUSTICE

A server in a restaurant alleged that her employer terminated her in retaliation for filing a complaint of sexual harassment. The server asserted that male coworkers regularly made sexually explicit comments, threw food at female coworkers' breasts, and that one male coworker grabbed her and other female servers' thighs and buttocks. The server stated that she and her female coworkers complained to the general manager, but no corrective action was taken and the harassment continued. Commission staff found the server's allegations were supported by substantial evidence and the parties agreed to conciliate the case. The employer agreed to pay the server $8,317 in back pay, adopt a nondiscrimination policy, and provide training to its managers and employees on the laws prohibiting discrimination in employment, with an emphasis on preventing and remedying sexual harassment.

WON'T STAND FOR IT

A cashier alleged that her employer discriminated against her on the basis of her physical disability by requiring her to stand all day at her job. She asserted that the symptoms of her disability were aggravated by standing all day and that her doctor directed her to sit down for 10 minutes every 2 hours. She alleged that her employer refused her request for this accommodation and immediately laid her off. The mediation program facilitated a settlement in which the employer agreed to pay her $750 and not retaliate against her.

In ***Terry Reed v. Aurora Novel Ventures, LLC,*** complainant alleged that respondent discriminated against her because of her disabilities when it terminated her lease. Before a scheduled public hearing, the parties reached a settlement in which respondent agreed to obtain training for its owners and any managers in the laws prohibiting discrimination in housing, pay complainant $545, and adopt and disseminate to all current tenants a corporate nondiscrimination policy. After respondent complied with all of the terms of the settlement agreement, the Commission dismissed the case on November 9, 2010.

In ***Harry Ross v. Alaska Railroad Corporation,*** complainant alleged that respondent failed to promote him from his position as conductor to a trainmaster position because of his race, Black. Commission staff found complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. The superior court reversed the Commission's decision and found substantial evidence of discrimination. The court remanded the case to the Commission for further proceedings. On January 20, 2009, a hearing was held before the OAH. On July 15, 2009, the administrative law judge (ALJ) found that respondent did not discriminate against complainant and recommended that the case be dismissed. The Commission adopted the ALJ's recommended decision and dismissed the case on March 3, 2010.

In ***Merlyn K. Schaugaard v. Valley Dairy, Inc. d/b/a Matanuska Creamery,*** complainant alleged that respondent discriminated against her because of her religion, Mormon, and retaliated against her. Complainant alleged that one of respondent's owners made disparaging remarks about Mormons in the presence of complainant and other Mormon employees. Complainant alleged that she complained to another owner about the conduct, but no corrective action was taken. Complainant alleged that she also complained to the owner who had made the remarks, and that one day later respondent terminated complainant's employment. Efforts to conciliate the case failed in December 2010. As of December 31, 2010, an accusation had not yet been filed.

In ***Laura D. Thiesen v. KMK Rentals,*** complainant alleged that respondent discriminated against her because of her mental disability when it denied her request to have a companion animal in her apartment. The parties agreed to a settlement in which respondent obtained training on the disability provisions of the laws prohibiting discrimination in housing and disseminated a nondiscrimination policy to all of its tenants. On September 27, 2010, the Commission dismissed the case.

MOLD AND MEDIATION

A tenant with a mental disability alleged that her landlord treated her differently regarding repairs. She stated that when another tenant without a disability complained about flooding, the landlord relocated the tenant and made repairs. She asserted that when she complained about flooding and mold, the landlord told her the apartment would be renovated in two months when her lease was up. The parties mediated the case and reached a settlement in which the landlord returned her $600 security deposit and extended her lease until she found another apartment.

LOCKED OUT

A woman alleged that a restaurant discriminated against her because of her age, sixty-seven, and her sex, by refusing to allow her to apply for two open positions. She alleged that when she tried to apply, the restaurant's employee told her there were no applications available and no open positions. She alleged that immediately afterward the employee gave an application to a younger male and the restaurant offered him one of two open positions, and another younger male applied a short time later. The respondent asserted that no job applications were available at the time complainant attempted to apply because they were locked in the owner's office and the owner was temporarily away. Commission staff found the woman's allegations were supported by substantial evidence and the respondent conciliated the case, adopting a nondiscrimination policy and paying the complainant $770.

LITIGATION

In ***Alaska Sales and Service, Inc. v. Alaska State Commission for Human Rights***, respondent appealed to superior court a Commission hearing decision finding that respondent discriminated against an employee, Larry Flakes, when it refused to promote him from his position as a sales representative to one of several available team leader positions because of his race, Black. Evidence at a five-day public hearing showed that Mr. Flakes and another Black employee were told by one of respondent's managers that they were not promoted because of the color of their skin. The Commission found respondent liable for discriminating against Mr. Flakes and awarded him $118,375 in damages, plus interest, and ordered respondent to obtain training for its staff in the laws prohibiting discrimination. After respondent appealed the decision, it agreed to a settlement in which respondent paid the judgment plus interest, $121,349, provided training to its managers, supervisors, and hiring personnel, and stipulated to dismiss the appeal. On November 18, 2010, the court dismissed the appeal.

In ***Anchorage School District v. Alaska State Commission for Human Rights***, respondent appealed to superior court a hearing decision by the Commission that found respondent discriminated against an employee on the basis of her physical disability, retinitis pigmentosa, which causes her tunnel vision and blindness. Complainant alleged that respondent refused to accommodate her by not allowing her to bring her service dog to work and terminated her employment as a substitute teacher because it wrongly believed she could not safely and effectively do her job. After a public hearing, the Commission found that respondent violated the Human Rights Law and ordered it to pay complainant back pay of $43,000, plus interest, and to obtain training for its managers and supervisors. At the end of 2010, briefing in the appeal had not been completed.

In ***Ruby Becker v. Alaska State Commission for Human Rights***, complainant alleged she was subjected to offensive comments and conduct of a sexual nature by a supervisor and that her employer, Best Western Barratt Inn, failed to take any corrective action and retaliated against her by terminating her employment. Commission staff did not find substantial evidence to support complainant's allegation of retaliatory termination, but did find substantial evidence that she was sexually harassed and that her employer took no corrective action. The Commission dismissed both cases after determining that the respondent was no longer in

BANNED NO MORE

A woman complained that her former employer, a grocery store, retaliated against her because she complained about discrimination. She alleged that after she filed a discrimination complaint, her former employer banned her from its store and parking lot and told her that she could be arrested for trespassing if she returned. Commission staff found substantial evidence supporting the complaint of retaliation. In a conciliation agreement, the respondent agreed to rescind the ban, provide training to its staff on the laws prohibiting discrimination in employment, and adopt a nondiscrimination policy.

MELLOWED WITH AGE?

A fifty-year-old applicant for a cashier position alleged that a business discriminated against him because of his age when it did not hire him. He stated that he was qualified for the position and that when he asked why he was not selected, the company told him that he would not be "a good fit" because he was "mellow" and the rest of the staff is "high strung." The applicant construed the comment as age-related since the only employees he saw at the worksite were in their twenties. The parties reached a settlement in which the business agreed to provide training to all its Alaska employees on the laws prohibiting discrimination in employment, including age discrimination.

business and that there was no entity against which to proceed. Complainant appealed the Commission's decisions to superior court. At the end of 2010 briefing in the appeal had not been completed.

In ***James L. Breland v. Alaska State Commission for Human Rights,*** complainant alleged that Sears Roebuck terminated his employment because of his race, Black, and sex. He alleged that he was terminated when he failed to immediately report a violation of the company's loss prevention policy by another associate, but that a Caucasian female coworker was not terminated for similar conduct. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. At the end of 2010 briefing in the appeal had not been completed.

In ***Gregg Conitz v. Alaska State Commission for Human Rights,*** complainant alleged that Teck Cominco Alaska, Inc., discriminated against him because of his race, Caucasian, when it selected Alaska Natives he alleged were less qualified for the supervisory positions for which he applied. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. At the end of 2010 briefing in the appeal had not been completed.

In ***Antonette Cuanzon v. Alaska State Commission for Human Rights,*** complainant alleged that the State of Alaska, Department of Administration, Division of Finance, discriminated against her because of her race, Filipino, national origin, and age, sixty-two, when it reclassified her position and demoted her to an accounting clerk, and when it failed to hire her for an accounting technician position. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. At the end of 2010 briefing in the appeal had not been completed.

In ***Joe Cunningham v. Alaska State Commission for Human Rights,*** complainant alleged that PenAir discriminated against him because of his age, forty-six, when it did not hire him for a mechanic position. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. On January 19, 2010, the court dismissed the appeal for appellant's failure to prosecute.

CUT OR BE CUT

A construction worker filed a complaint alleging that his former employer discriminated against him on the basis of his religion, Rastafarian. He alleged that his employer knew that his religious beliefs prohibited him from cutting his hair, but that his supervisor still told him he must cut his hair. He alleged that when he refused to do so, his employer terminated him. Commission staff found substantial evidence of discrimination. The employer agreed to pay the complainant $1,500 in back pay, undergo training on the laws prohibiting discrimination in employment, and adopt an anti-discrimination policy.

DISPARAGEMENT AND DISCRIMINATION

A fifty-three-year-old mover alleged that his employer discriminated against him because of his age and his sex. He asserted that younger coworkers subjected him to sexually harassing conduct and offensive remarks of a sexual nature. The mover also asserted that he was referred to as "old man" and "pops." He alleged that he complained to his supervisor about the conduct but the supervisor laughed, took no action, and the conduct continued. The parties reached a settlement in which the employer agreed to counsel four employees to stop making derogatory sexual or age comments. The parties agreed to a procedure to address any future workplace issues. The mover also agreed that he would treat his coworkers in a professional manner in return.

In ***Callie Dixon v. Excellence in Health,*** complainant alleged that her employer discriminated against her because of her physical disability when it terminated her from her position as a chiropractic assistant. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. On October 28, 2010, the court dismissed the appeal for appellant's failure to prosecute.

In ***James Fayette v. Alaska State Commission for Human Rights,*** complainant alleged that the State of Alaska, Department of Law, retaliated against him for engaging in protected activity by transferring him from his supervisory position to a non-supervisory position and not considering him for another supervisory position. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. As of December 31, 2010, the appellant had not posted a cost bond and the court had not set a briefing schedule.

In ***Sue Grundberg v. Alaska State Commission for Human Rights,*** complainant alleged that the State of Alaska, Department of Transportation and Public Facilities, discriminated against her because of her sex, age, fifty-eight, and race, Asian, when it promoted a younger, less qualified male to an Engineer II position for which she applied. Commission staff found that complainant's allegations were not supported by substantial evidence and complainant appealed the decision to superior court. On April 19, 2010, the court affirmed the Commission's decision and complainant then appealed to the Alaska Supreme Court. At the end of 2010 briefing in the appeal had not been completed.

In ***Stephanie Maguire v. Alaska State Commission for Human Rights,*** complainant appealed to superior court three decisions of the Commission staff finding that complainant's allegations of discrimination by her employer, City Electric, her union, International Brotherhood of Electrical Workers, and the Alaska Joint Electrical Apprenticeship and Training Trust (AJEAT) were not supported by substantial evidence. Complainant, an apprentice lineman, alleged that her employer discriminated against her because of her sex by assigning her to less favorable work than male coworkers and retaliated against her for complaining about discrimination, including a complaint of sexual harassment. Complainant also alleged that her union and the AJEAT discriminated against her because of her sex by dispatching males with less experience, and by failing to protect her from sexual harassment and discrimination after she voiced complaints. On October 26, 2010, the court dismissed the appeal for appellant's failure to prosecute.

WHO KNOWS BEST

A clerk alleged that her employer discriminated against her because of her mental disability. She stated that after she received treatment in a health facility, her doctor released her to return to work. She alleged that her employer said the release was insufficient and did not allow her to return to work until her union intervened. Less than a month later her employer terminated her, citing work performance issues. During mediation the parties reached a settlement in which the employer paid the clerk $5,449, revised her personnel record to eliminate the negative evaluation and reference to termination, provided her a neutral reference, and provided training to its staff regarding the laws prohibiting disability discrimination.

HARSH TREATMENT HURTS

A hotel housekeeper alleged that her employer scrutinized her work more closely and terminated her employment because of her national origin, Samoan, and her age, fifty-three. She alleged that even though her work was as good as that of her younger, non-Samoan coworkers, her employer disciplined her more harshly for any mistake, and referred to her age as the reason for her mistakes. Commission staff found substantial evidence of discrimination. In a conciliation agreement, the hotel agreed to train its staff on the laws prohibiting discrimination in employment, adopt a nondiscrimination policy, and pay the complainant $1,000.

In ***Charles Parello d/b/a Pulse Publications v. Alaska State Commission for Human Rights,*** respondent appealed to superior court a hearing decision by the Commission that found respondent discriminated against an employee, an above-knee amputee, when respondent refused to reasonably accommodate her by allowing her to have a designated parking space next to respondent's business and when it terminated her employment after she complained about the lack of accommodation. At the end of 2010 briefing in the appeal had not been completed.

In ***Yvonne Perkins-Williams v. Alaska State Commission for Human Rights,*** complainant alleged that Alaska Communication Systems discriminated against her because of her age, forty-eight, race, African-American, and her disability, carpal tunnel syndrome, when respondent failed to accommodate her disability and terminated her employment. Commission staff did not find substantial evidence to support complainant's allegations and complainant appealed to superior court. On March 1, 2010, the court affirmed the Commission's decision and dismissed the case.

In ***Harry Ross v. Alaska State Commission for Human Rights,*** complainant appealed to superior court a hearing decision by the Commission that found the Alaska Railroad Corporation did not discriminate against complainant because of his race, Black, when it failed to promote him from his position as a conductor to a trainmaster position. At the end of 2010 briefing in the appeal had not been completed.

In ***William Toliver v. Alaska State Commission for Human Rights,*** complainant alleged that Brown Jug, Inc. discriminated against him because of his race, African-American, when it refused to sell him alcohol. Commission staff did not find substantial evidence to support complainant's allegations. Complainant appealed to superior court. At the end of 2010 the court's decision was pending.

MOCK ME NOT

A medical receptionist alleged that her employer discriminated against her on the basis of her sex. She asserted that the employer was verbally disrespectful, demeaning, and abusive to her and other female staff in front of patients. She alleged that he was also demeaning to female patients. She asserted that she was forced to quit when the employer brought her to tears after mocking her. The mediation program facilitated a settlement in which the employer agreed to pay her $624.

BAD MOVE

A teacher alleged that his employer discriminated against him because of his disability by failing to provide him with a reasonable accommodation. He alleged that despite his physical disability, which limited his ability to stand, walk, and climb stairs, his employer moved his office from the first floor to the fourth floor and did not develop an alternative emergency evacuation plan for him. The teacher asked that his office be moved back to the first floor, but the employer refused. Commission staff found his allegations were supported by substantial evidence. During conciliation, the employer agreed to provide training to its staff on the laws prohibiting discrimination in employment, to adopt a nondicrimination policy, to provide the employee with a first-floor, centrally located office, and to develop an emergency evacuation plan for him.

ALASKA HUMAN RIGHTS LAW

The Alaska Human Rights Law is codified as Alaska Statutes 18.80.010 – 18.80.300. The Human Rights Law makes it unlawful to

DISCRIMINATE IN

- EMPLOYMENT
- PLACES OF PUBLIC ACCOMMODATION
- SALE OR RENTAL OF REAL PROPERTY
- FINANCING AND CREDIT
- PRACTICES BY THE STATE OR ITS POLITICAL SUBDIVISIONS

BECAUSE OF

- RACE
- RELIGION
- COLOR
- NATIONAL ORIGIN
- SEX
- PHYSICAL/MENTAL DISABILITY

AND IN SOME INSTANCES BECAUSE OF

- AGE
- MARITAL STATUS
- CHANGES IN MARITAL STATUS
- PREGNANCY
- PARENTHOOD

WHAT IS THE HUMAN RIGHTS COMMISSION?

The Alaska State Commission for Human Rights is the State agency that enforces the Alaska Human Rights Law. The Commission consists of seven Commissioners appointed by the Governor and confirmed by the Legislature. The Commission employs a staff and maintains an office in Anchorage. The Commission has statewide jurisdiction. The Commission answers inquiries and accepts complaints from all regions of the state. The Commission also offers a free mediation program.

WHAT DOES THE HUMAN RIGHTS COMMISSION DO?

The Commissioners

Establish policy and adopt regulations necessary to implement the Human Rights Law;

Hold public hearings to consider cases where conciliation efforts have failed;

Issue decisions applying the Human Rights Law to complaints;

Order back pay, reinstatement, or other appropriate relief to complainants;

Order the elimination of discriminatory practices; and

Enforce Commission decisions and orders in the Alaska courts.

The Commission staff

Accepts complaints of discrimination from persons alleging violations of the Alaska Human Rights Law;

Investigates complaints in a fair and impartial manner;

Attempts early settlement of complaints whenever possible;

Dismisses complaints when no violation of the Alaska Human Rights Law has occurred;

Conciliates complaints when the Alaska Human Rights Law has been violated;

Presents cases at public hearing before the Commission where investigation has found substantial evidence that discrimination occurred; and

Provides technical assistance and advice on the Alaska Human Rights Law and public outreach.

HOW CAN THE COMMISSION HELP YOU?

If you believe that you have experienced discrimination, you may contact the Commission. The Commission may assist you in filing a complaint.

If you need advice about your responsibilities under the Alaska Human Rights Law, the Commission staff can provide information.

2010 Case Processing Statistics

Analysis of Filings By Complainant's Sex

Female	219
Male	193
Total Filings	412

Analysis of Filings By Complainant's Race

Caucasian	199
Black	63
Alaska Native	46
Unknown	37
Hispanic	27
Asian	21
Other	18
American Indian	1
Total Filings	412

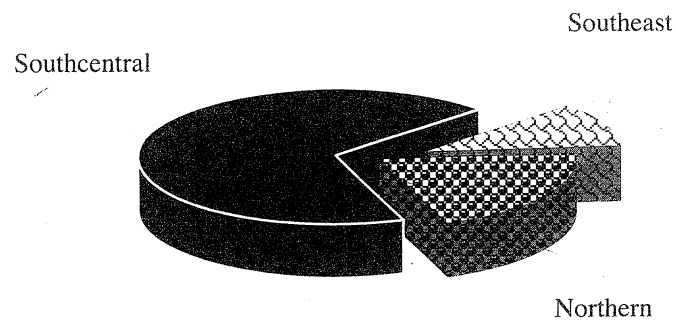
Analysis of Filings By Complainant's Age

20 years and under	14
21 – 40 years	134
41 – 60 years	224
61 years and over	34
Unknown	6
Total Filings	412

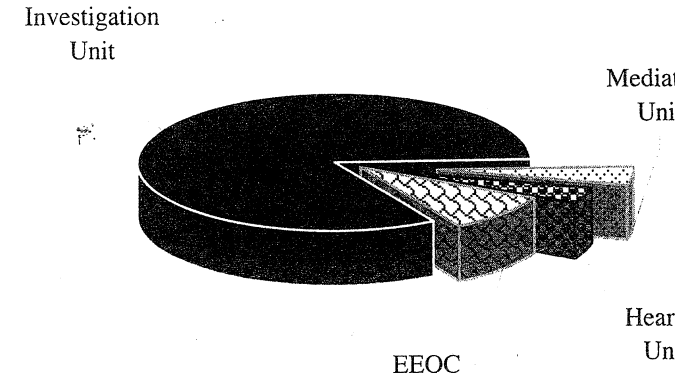
Analysis of Filings By Type

Employment	379
Government Practices	11
Housing	10
Public Accommodation	10
Coercion	1
Multiple	1
Total Filings	412

Origin of Complaints Filed with ASCHR by Region



Location of Cases Processed in 2010



Analysis of Filings by Basis

Basis	Single Basis Complaint	Multiple Basis Complaint
Race/Color	63	63
Physical Disability	56	42
Sex	39	64
Age	33	50
Retaliation	17	44
Retaliation for Filing	12	24
Pregnancy	12	2
Mental Disability	11	10
National Origin	7	33
Religion	5	5
Parenthood	3	4
Marital Status	1	2
Change in Marital Status	0	1
Multiple Basis*	153	---
Total Filings	412	

Analysis of Filings by Issue

Issue	Single Issue Complaint	Multiple Issue Complaint
Discharge	92	130
Terms & Conditions	69	118
Failure to Hire	36	6
Other	11	27
Sexual Harassment	7	21
Harassment	6	38
Failure to Promote	6	8
Pay Equity	4	8
Denied Service	4	5
Eviction	3	1
Demotion	1	10
Failure to Rent	1	1
Failure to Dispatch	1	1
Multiple Issue*	171	---
Total Filings	412	

*Some complaints alleged more than one basis and/or issue.

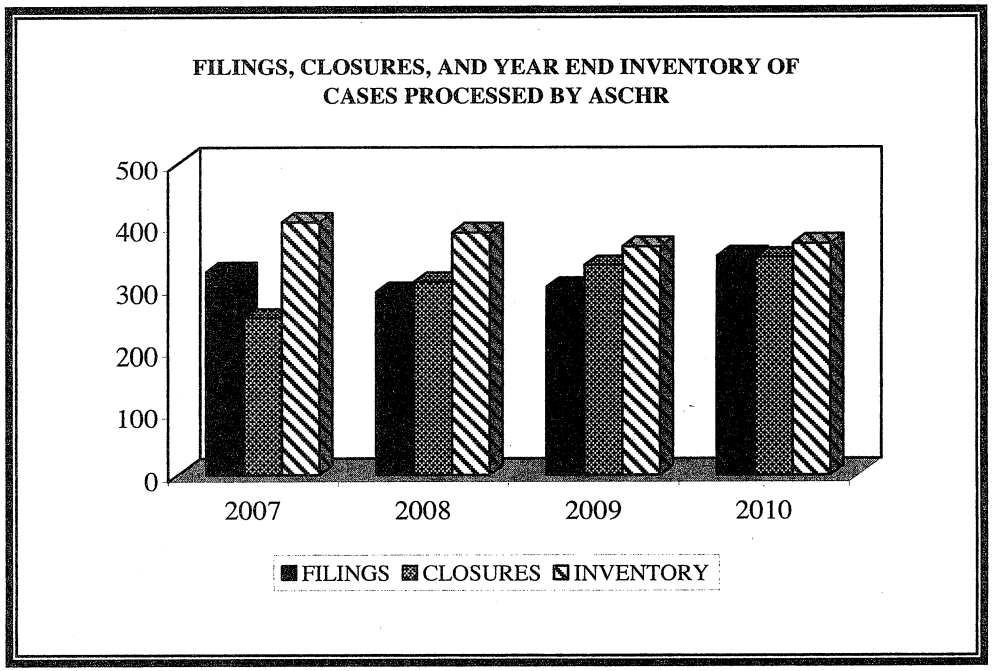
ANALYSIS OF 2010 CLOSURES

REASON FOR CLOSURE	NUMBER OF CLOSURES
MEDIATION:	**17[1]**
Mediation – Successfully Settled	16
Mediation – Complaint Withdrawn	1
ADMINISTRATIVE:	**42**
Complaint Withdrawn	10
Complaint Untimely or Lack of Jurisdiction	2
Complainant Not Available	17
Complainant to Court	2
Administrative Dismissal	8
Tribal Sovereign Immunity	3
NOT SUBSTANTIAL EVIDENCE	**283**
CONCILIATION AND SETTLEMENT:	**27**
Pre-Determination Settlement (PDS)	5
Substantial Evidence / Conciliation Agreement	22
HEARING:	**15**
Decision for Complainant	2
Decision for Respondent	1
Pre-Hearing Settlement	11
Other	1
TOTAL 2010 CLOSURES	**384**

[1]This number does not include 3 settlements negotiated in 2010 which closed in early 2011.

DETERMINATIONS FINDING SUBSTANTIAL EVIDENCE OF DISCRIMINATION

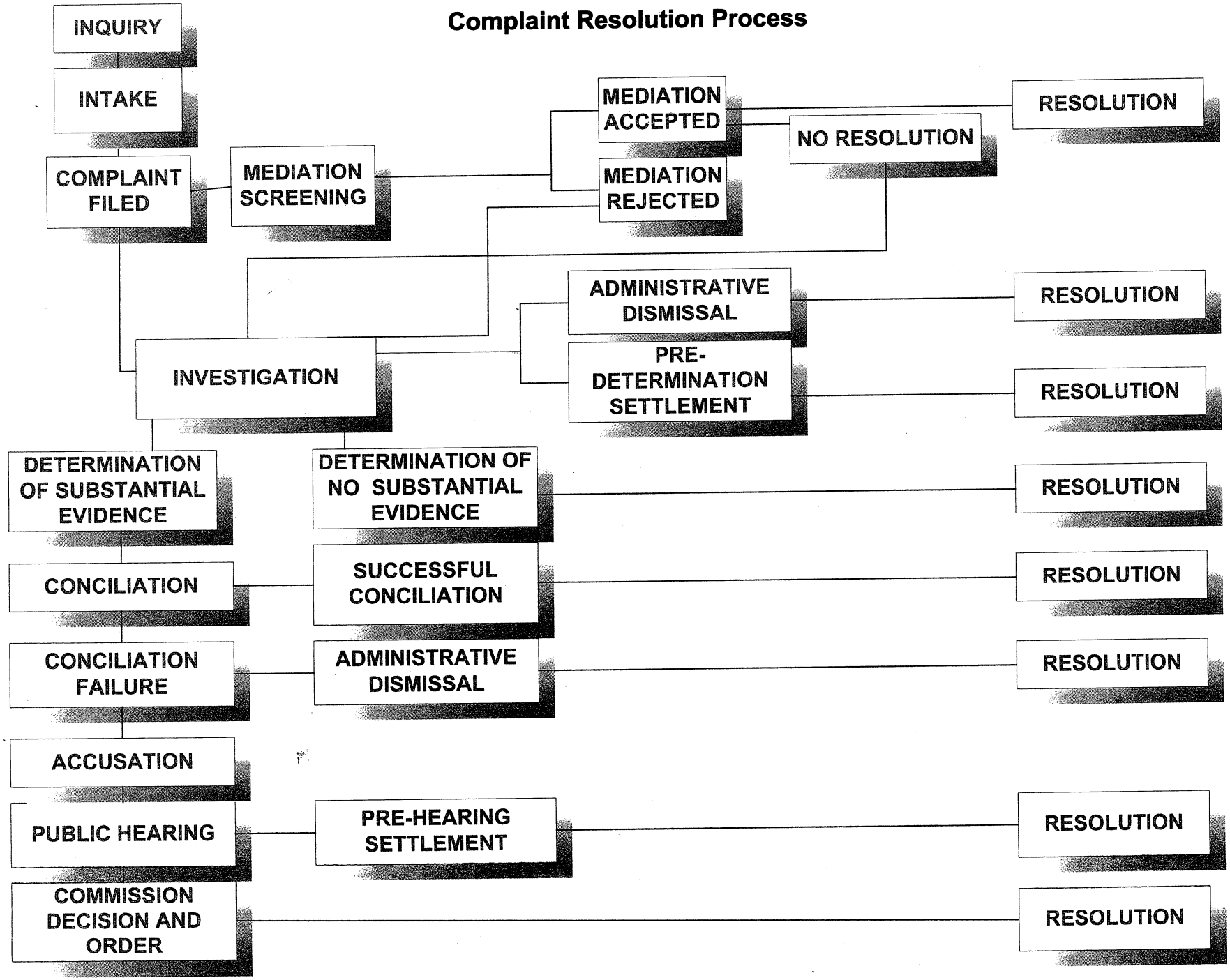
SUBSTANTIAL EVIDENCE FINDINGS:	**43**
Successfully Conciliated	9
Conciliation Failed	11
Pending	23



SUMMARY OF CLOSURES

CATEGORY OF CLOSURE	2008	2009	Detail of 2010 Closures	
			ASCHR	EEOC
Mediation	30	24	17	0
Administrative	45	32	35	7
Not Substantial Evidence	252	295	257	26
Conciliation and Settlement	23	24	25	2
Hearing	7	10	15	0
			349[1]	**35**
TOTAL CLOSURES	**357**	**385**	**384**	

[1]The number of closures does not include completed investigations of 34 cases which are still in conciliation or were transferred to the Hearing Unit in 2010.

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

Complaint Resolution Process