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BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M. HALEY,)
EXECUTIVE DIRECTOR, *ex rel.*)
DAREN CUMMINGS,)
Complainant,)
v.)
ALASKA LOGISTICS, LLC,)
Respondent.)

ASCHR No. J-12-195

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Daren Cummings, hereby alleges the following against Respondent Alaska Logistics, LLC:

1. Respondent Alaska Logistics, LLC (“Alaska Logistics”), is a Washington limited liability company engaged in trucking and in marine transportation between Seattle and various Alaska ports and locations. Allyn Long is an owner and managing member of Alaska Logistics.

2. Daren Cummings was a truck driver and stevedore, or driver-operator, employed by Alaska Logistics from approximately April 2011 until May 2012, including at Alaska Logistics’s main hub in Seward, Alaska.

3. As part of his compensation, Mr. Cummings, who lives in Anchor Point, was provided a room for a reduced rate at Twin Peaks Lodge and RV, nearby lodging owned and managed by Mr. Long. Alaska Logistics also provided housing for other

1 out-of-town crewmembers and employees at the same location. Mr. Cummings
2 sometimes shared his room with one other coworker.
3

4 4. At about 4:30 a.m. on May 26, 2012, Mr. Cummings awoke in his room to
5 unwanted sexual touching by an intoxicated coworker, known as J.M., who was sharing
6 Mr. Cummings's room at the time. The coworker had left the lodge on the previous
7 night with at least one other employee, using a company vehicle, to drink alcohol in
8 Seward, while Mr. Cummings stayed at the lodge and tried to sleep.
9

10 5. The contact was extremely offensive to Mr. Cummings. At the beginning
11 of the work shift later that morning, Mr. Cummings reported J.M.'s actions to Mr. Long.
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13 6. Sometime later on May 26, Mr. Long reprimanded J.M. for drinking the
14 night before and then appearing late for work. Mr. Long did not question or reprimand
15 J.M. regarding the offensive sexual touching reported by Mr. Cummings.
16

17 7. Instead, Mr. Long questioned other employees, who were not in Mr.
18 Cummings's room, about whether they had heard noise the previous night or morning
19 from the room shared by Mr. Cummings and J.M. Mr. Long concluded that since there
20 were no reports of noise Mr. Cummings's allegations were not supported.
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22 8. Mr. Long therefore concluded that he could not determine whether Mr.
23 Cummings or J.M. was telling the truth and took no further action.
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25 9. When Mr. Cummings returned to the lodging on the evening of May 26,
26 he found that J.M. was still assigned to his room. Mr. Cummings was surprised and
27 objected to Mr. Long because he was unwilling to continue to share a room with J.M.
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10. Mr. Long refused to remove J.M. from Mr. Cummings's room, and instead suggested to Mr. Cummings that he could make arrangements to stay in a hotel room at his own expense.

11. Given Mr. Long's refusal to take any action in response to his complaint, and given the prospect of having to continue to share a room with J.M., Mr. Cummings believed he had no reasonable alternative other than to quit his job. Mr. Cummings moved out of the lodging on the evening of May 26, 2012.

12. Alaska Logistics and its principal, Mr. Long, constructively discharged Mr. Cummings when Mr. Long failed to conduct an adequate investigation into Mr. Cummings's complaint of sexual harassment and failed to remedy the harassment.

13. Because he was forced to quit his job, Mr. Cummings suffered harm in the form of lost wages and benefits that he would have earned if he were able to remain employed with Alaska Logistics.

**FIRST CAUSE OF ACTION
DISCRIMINATION BECAUSE OF SEX
HOSTILE WORK ENVIRONMENTAL VIOLATION OF AS 18.80.220(a)(1)**

14. Paragraphs 1-13 above are realleged and incorporated herein.

15. Daren Cummings was employed by Alaska Logistics from April 2011 to May 26, 2012.

16. Mr. Cummings was subjected to offensive sexual conduct by a coworker while employed and lodged by Alaska Logistics.

17. The coworker's harassing conduct was severe and directed at Mr.

1 Cummings because of his sex.

2 18. The coworker's conduct was unwelcome and offensive to Mr. Cummings,
3 and significantly altered the terms and conditions of his employment and created a
4 hostile work environment.
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6 19. Mr. Cummings timely reported his coworker's conduct to the owner of
7 Alaska Logistics.
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9 20. Despite such knowledge, Alaska Logistics conducted no effective
10 investigation and took no action to remedy the harassment or to deter potential future
11 harassment.
12

13 21. The failure by Alaska Logistics to conduct an investigation and take
14 remedial action in response to complaints of sexual harassment, as described in the
15 preceding paragraphs, constitutes a violation of AS 18.80.220(a)(1).
16

17 **SECOND CAUSE OF ACTION**
18 **TERMINATION (CONSTRUCTIVE DISCHARGE) BECAUSE OF SEX**
19 **A VIOLATION OF AS 18.80.220(a)(1)**

20 22. Paragraphs 1-21 above are realleged and incorporated herein.

21 23. Daren Cummings was employed by Alaska Logistics from April 2011 to
22 May 26, 2012.
23

24 24. Mr. Cummings was subjected to unwelcome and offensive sexual
25 conduct by a coworker while employed by Alaska Logistics.
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27 25. The coworker's conduct was so severe that it altered the terms and
28 conditions of Mr. Cummings's employment and created a hostile work environment.

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26. Alaska Logistics failed or refused to take any action to remedy the hostile work environment to which Mr. Cummings had been subjected.

27. Because Alaska Logistics took no action to remedy the hostile work environment, Mr. Cummings had no reasonable option but to quit his job.

28. As a result, Mr. Cummings has suffered damages in the form of lost wages, benefits, and other remuneration.

29. These failures by Alaska Logistics, together with the constructive discharge of Mr. Cummings as described in the preceding paragraphs, constitute a violation of AS 18.80.220(a)(1).

PRAYER FOR RELIEF

Wherefore the Executive Director asks for the following relief:

1. That the Commission issue an order declaring that Respondent violated AS 18.80.220(a)(1) by creating a hostile work environment by failing to investigate and remedy a report of coworker harassment.

2. That the Commission issue an order declaring that Respondent violated AS 18.80.220(a)(1) by constructively discharging Mr. Cummings by failing to investigate and remedy a report of coworker harassment.

3. That the Commission order Respondent to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law that includes a policy prohibiting discrimination against employees on the basis of sex, and a policy prohibiting retaliation for complaining about discrimination.

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4. That the Commission order Respondent to obtain training of at least four hours in length for its owners, managers, supervisors, and employees on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, and that the Commission order that the training include emphases on managers preventing sexual harassment, and their duty to investigate complaints of harassment.

5. That the Commission order Respondent to eliminate from the personnel records of Mr. Cummings all documents and entries relating to the facts and circumstances that led Mr. Cummings to file the above-captioned charge of discrimination and any of the related events occurring thereafter.

6. That the Commission order Respondent to pay to Mr. Cummings back wages and any other lost remuneration caused by Respondent's violations of AS 18.80, plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

7. That the Commission order Respondent to refrain from advising or informing any other employer or potential employer of Mr. Cummings of the facts or circumstances involved in this case.

8. That the Commission order Respondent to refrain from penalizing Mr. Cummings in any way in future considerations for employment and, if rehired, for transfers, promotions, or upgrading because Mr. Cummings complained about discrimination or because he filed a complaint with the Commission.

9. That the Commission order Respondent to pay the statutory maximum

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amount of front pay, including insurance and benefits, to Mr. Cummings, the exact amount of which will be proven at hearing.

Dated this 20th day of April 2015 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

Signature Redacted

Elizabeth Smith
Human Rights Attorney
Alaska Bar No. 9402003