

# **Alaska State Commission for Human Rights**

## **2018 Annual Report**



**HUMAN RIGHTS COMMISSION**

907-274-4692 | 800-478-4692 | [humanrights.alaska.gov](http://humanrights.alaska.gov)



# HUMAN RIGHTS COMMISSION

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## Complaint Hotline

907-274-4692 Anchorage Area

800-478-4692 Toll Free

907-276-3177 TTY/TDD Anchorage Area

800-478-3177 TTY/TDD Toll Free

711 TTY / Alaska Relay

## Table of Contents

Complaint Resolution Process ..... 4

Public Hearing Cases ..... 5

Litigation ..... 11

Strategic Planning..... 14

Community Outreach ..... 15

Cover Photo by Marti Buscaglia.

## COMMISSIONERS

- Brandon H. Nakasato**, Chairperson
- Christa J. Bruce**, Vice-Chair
- David A. Barton**
- Michele C. Christiansen**
- Kathryn E. Dodge**
- Megan C. Mackiernan**
- Freddie R. Olin IV**

## COMMISSION STAFF

### Administration/Legal

- Marti Buscaglia**  
Executive Director
- Sarah Monkton**  
Chief of Enforcement
- Danika Swanson**  
Human Rights Advocate/Lead Attorney
- Marie Kyle**  
Human Rights Attorney
- Mitzi Bolaños**  
Attorney/Mediator
- Toyia Del Valle**  
Administrative Officer
- Carolyn Thomas**  
Law Office Assistant
- Or'Lanthia Lloyd**  
Law Office Assistant
- Shari Ketchum**  
Commission Secretary
- Investigations**
- Nanette Gay**  
Investigations Director
- Mathew Jendrusina**  
Investigations Director
- Antoinette Hamilton**  
Investigator
- Breanne Lee**  
Investigator
- Mark Loper**  
Investigator
- Donna Nass**  
Investigator
- Donte Powell**  
Investigator
- Jocelyn Thammavongsa**  
Investigator



The Honorable Michael J. Dunleavy, Governor of Alaska  
 The Honorable Cathy Giessel, President, Alaska Senate  
 The Honorable Speaker, House of Representatives

On behalf of the Commission, I respectfully submit the 2018 Annual Report of the Alaska State Commission for Human Rights. The Commission is entering its 56th year as Alaska's civil rights enforcement and education agency.

This year we processed 1,733 inquiries, which resulted in 297 complaints. Racial discrimination continues to be the single most prevalent basis for complaints; but the combination of complaints based on physical or mental disability have, once again, superseded race as the top category, many of them involving service and emotional support animals. We increased our efforts to educate the public about these issues in 2018 and will continue to do so in 2019.

Our public education and outreach efforts continue to expand as we move into remedial training for respondents in cases of substantial evidence of discrimination. We are offering a lower cost alternative to companies for both preventive and remedial training. The program has been well received to date with many requests for future trainings.

We completed most of the tactics to reach our goals as established in the 2017-2022 strategic plan and have modified our goals to continue to enlarge our scope in fighting discrimination in Alaska. Among our major accomplishments this year was the implementation of a new database system which has significantly streamlined our operations and increased efficiency. We were able to reduce staff through attrition as a result and continue to look for cost saving opportunities.

We introduced new regulations this year to further strengthen the Alaska Human Rights law and expand our jurisdiction from 180 days to 300 days to be consistent with federal law and enable complainants to seek remedies within a longer time span. We also added a proposed service animal regulation that mirrors federal law and adds protections for those who rely on alert animals for life-threatening disabilities.

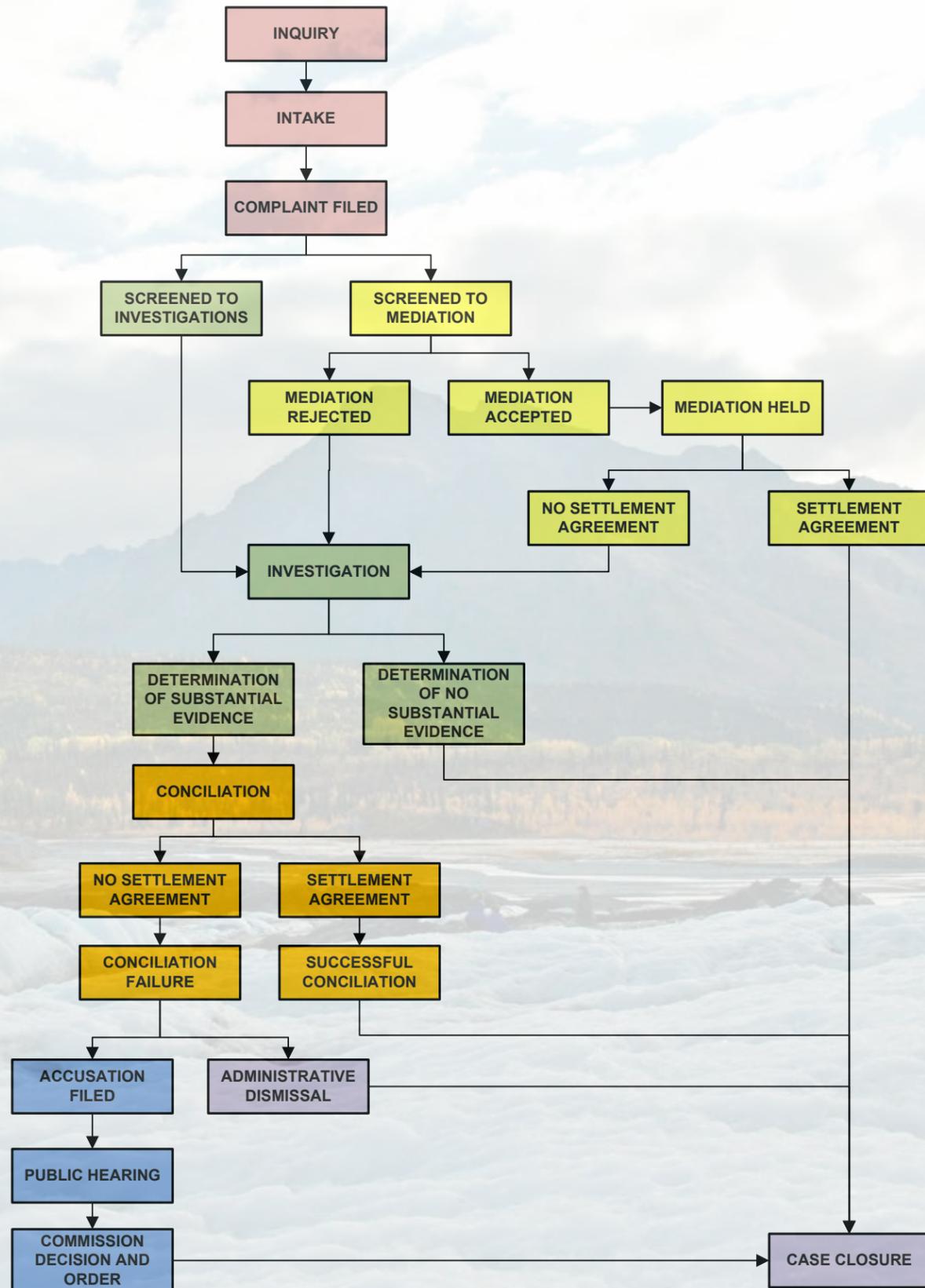
The Commissioners and staff continue their commitment to eliminating and preventing discrimination for all Alaskans through public education, conducting impartial investigations and enforcing the Alaska Human Rights law.

We appreciate your continued support in this endeavor as we strive for a discrimination-free Alaska.

Brandon Nakasato  
 Chairperson

ALASKA STATE COMMISSION FOR HUMAN RIGHTS

Complaint Resolution Process



PUBLIC HEARING CASES

In **Russell Baker v. Guardian Flight**, complainant alleged that respondent discriminated against him based on his age when it terminated his employment while retaining younger, less experienced pilots. Complainant also alleged that respondent retaliated against him for filing discrimination complaints with the Commission. The parties executed a settlement agreement in which respondent agreed to pay complainant \$150,000 in back pay and front pay and in consideration for his agreement not to sue respondent. Respondent also agreed to obtain training for its Alaska management employees and to revise its policy regarding discrimination and retaliation. A dismissal order was issued by the Commission on April 4, 2018 as part of the settlement agreement. The final report was received from respondent on June 27, 2018 confirming compliance with all terms of the agreement.

In **Danny Joe Burnham v. Beacon/Price Gregory** complainant filed a discrimination grievance based on a fit for duty exam administered by Beacon that did not accurately test the skills required for a crane operator position with Price Gregory International, nor did it accommodate his disability. No job description existed, making the tailoring of the fitness exams to the requirements of the job impossible. Currently the Commission is in negotiations with opposing counsel to create a detailed job description for the crane operator position and an appropriate corresponding fit for duty exam. Due to continued negotiations, the case planning conference has been continued to January 23, 2019.

In **Michael Chiesa v. City of Kodiak, Kodiak Police Department**, complainant alleged that respondent discriminated against him based on his physical disability by failing to accommodate his disability and terminating his employment. Complainant also alleged that respondent retaliated against him for requesting a reasonable accommodation when it disciplined him following his termination for conduct that occurred prior

to his injury. Settlement negotiations have reopened following the entry of appearance by respondent's new attorney in August 2018. Pending possible settlement the hearing was rescheduled for June 18-21, 2019.

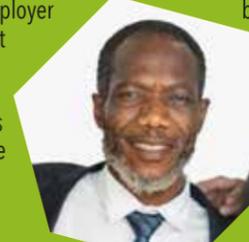
In **Steven Govatos v. ASRC Energy Services Alaska, Inc.**, complainant alleged that respondent discriminated against him by refusing to accommodate his mental disability and terminating his employment when complainant refused to change the medication he had been taking for many years to treat his disability. The parties entered into a settlement agreement in which respondent agreed to pay complainant \$95,000 in back pay and in consideration for his promise not to sue respondent. The final report was received from respondent on September 14, 2018 confirming that all terms of the agreement had been satisfied. An unopposed motion to dismiss was filed on October 1, 2018, and the file was closed after receiving an order granting dismissal on October 5, 2018.

In **Paula Haley, Connor Carle, and Sydney Peterson v. Sullivan's of Alaska, Inc. d/b/a Sullivan's Steakhouse**, the Executive Director and two individual complainants filed three separate complaints against respondent, alleging that respondent terminated the employment of five employees because they were under the age of eighteen. A hearing was held on May 4-7, 2015. The Commission ultimately ordered respondent to train its employees on the laws prohibiting discrimination in employment. All four complainants received settlement checks on June 26, 2018 ranging from \$2065.54 to \$4008.56 for a total of \$11,498.66. Training sessions were completed by December 20, 2018. Upon receipt of the signed attendance sheets all files will be closed.

In **Pauline Hoelscher v. 907 Norefund Incorporated d/b/a Cheap Smokes**, complainant filed a complaint on December 21, 2017 alleging she was discriminated against by respondent based on her sex, and then was subjected

Religious Right

A security officer alleged that his employer discriminated and retaliated against him on the basis of his religion when the employer refused a religious accommodation request that would have provided for an exception to the employer's grooming policy. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to provide the employee with a twenty-five cent hourly pay raise effective as of the day the employee made his original accommodation request. The employer also agreed to accommodate the employee's religious beliefs, effective immediately, by allowing the employee to exhibit facial hair at work.



Prescription for Failure

Complainant, an oil company field worker, alleged that he had been discriminated against on the basis of his disability when his employer required that he stop taking a medication his doctor had prescribed and confirmed to be safe in order to continue working. Complainant had been employed successfully in his position for years while taking the medication, but the company rejected the physician's recommendation and terminated complainant's employment. Investigation found the respondent discriminated against the complainant when it failed to accommodate him by allowing him to continue taking the recommended medication. After an accusation was filed, the parties reached a settlement agreement under which respondent corrected its discriminatory policy, provided corrective training to its employees, and paid complainant the sum of \$95,000.

to retaliatory treatment for having filed the complaint. Investigation by Commission staff found substantial evidence of both claims. An accusation was filed on December 13, 2018. As with another case against Cheap Smokes, multiple attempts to contact respondent have been unsuccessful. If the respondent does not answer the complaint within the allotted statutory period, the Executive Director will decide whether or not to file a Motion for Default Judgment.

In **Charlie Kanayurak v. North Slope Borough Fire Department**, complainant alleged that respondent discriminated against him based on his parenthood and his association with a person with a physical disability when it required him to take leave without pay and disciplined him because he was unable to attend a training event due to his daughter's medical appointment. The parties reached a settlement in which respondent agreed to pay for complainant's leave and obtain training for its employees in the laws prohibiting discrimination in employment. Respondent's final report was received on July 10, 2018. The file was closed upon receipt of the Commission's order granting the motion to dismiss on July 12, 2018.

In **Mark Lahrman v. Valentine Ventures, LLC d/b/a Sgt. Preston's Lodge**, complainant alleged that his service animal was not allowed on the premises of respondent's lodge. Commission staff found that complainant was discriminated against based on his disability. An accusation was filed on July 16, 2018. The parties agreed to settle the case and a settlement agreement was approved by the Executive Director on November 7, 2018. The ALJ vacated the public hearing pending completion of the terms of settlement. On December 12, 2018, respondent notified the Executive Director that the lodge had been sold with an effective date of March 31, 2019. The Executive Director will continue to monitor this matter and the parties are to provide periodic updates to the Office of Administrative Hearings on their progress in finalizing the resolution of this case.

In **Thailando Linnear v. Quantum Investments, LLC d/b/a Barratt Inn Anchorage Airport**, complainant alleged that respondent discriminated against him based on his disability when it refused to allow complainant to stay at its hotel with his service animal. The parties entered into a settlement agreement on October 11, 2017 in which respondent agreed to complete training on the laws requiring the use of service animals in public accommodations. Respondent failed to complete the training and the Executive Director asked the ALJ to set a hearing date. A hearing was convened on May 21, 2018. At the hearing, respondent agreed to admit to the allegations in the accusation and consented to the relief sought by the Executive Director. The Commission issued its final order on September 11, 2018 adopting the ALJ's recommended consent order. On November 2, 2018, it was discovered that the Barratt Inn Anchorage Airport is in the process of closing. Respondent notified the Executive Director on December 15, 2018 that the court had awarded the property to the bank and will be sold at auction on February 7, 2019. Once it is determined if the hotel will continue to

### Setting a High Bar

A bartender with thirty years experience alleged that she was fired due to her age and treated as if she were disabled when the bar's management terminated her employment after she was injured on the job. Evidence indicated that the injury was used as an opportunity to terminate complainant's employment in order to establish a "younger vibe" that might attract more customers. Respondent replaced complainant with someone younger and less experienced. The parties reached a conciliation agreement in which complainant received \$70,000 for her economic losses and respondent's employees received training to prevent future discrimination in its workplace.

### Rights Withheld

A voter with a visual impairment filed a complaint against a borough for not providing voting equipment that would allow him to vote privately and independently in a local election. The Commission's investigation found substantial evidence that the borough discriminated against the voter when it denied his request for accommodation. As a result of the conciliation between the two parties, the borough agreed to study the options for providing accessible voting equipment, implement its chosen option if feasible, and to share information discovered with fellow boroughs and cities.

### A Patient Dog

A patient alleged that he was discriminated against because of his disability when his request to have his service dog accompany him during his treatment at a local hospital was denied. The patient was asked to provide proof of the animal's certification, which is not required under the law. Following an investigation by ASCHR, substantial evidence was found that the patient was discriminated against when he was not allowed to have his service animal present during his treatment. The parties conciliated the case, and respondent agreed to pay the patient \$7,500 and make a \$2,500 donation to a service animal charity.

### Baby Blues

A pregnant employee of a recreational hall alleged she was discriminated against when her employer told her a replacement has been hired for her position and she would not be needed for any shifts until after her baby was born. Commission staff investigated and found substantial evidence of discrimination based on pregnancy. The parties reached a conciliation agreement in which respondent agreed to compensate complainant close to \$2,500 in backpay, to undergo training, and to adopt an anti-discrimination policy.

### Race Relations

An office worker alleged that her employer discriminated against her on the basis of her race by subjecting her to a racially insensitive work environment, including an email sent by her own supervisor that contained a racially offensive term. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to provide mandatory diversity and sensitivity training for all employees in this office within 6 months.

Filings by Basis		
	Single	Multiple
Age	16	16
Color	0	2
Marital Status	1	0
Mental Disability	12	12
National Origin	1	4
Parenthood	0	1
Physical Disability	42	17
Pregnancy	5	1
Race	19	68
Religion	5	3
Retaliation	8	0
Retaliation for Filing	11	0
Sex	30	23
	150	147
<b>Total Filings</b>	<b>297</b>	

Filings by Issue		
	Single	Multiple
Denied Service	5	1
Failure to Hire	22	7
Failure to Promote	3	3
Failure to Reasonably Accommodate	15	5
Fired/Constructive Discharge	42	104
Harassment	4	0
Other	0	2
Sexual Harassment	8	1
Terms, Conditions, and privileges	41	34
Demotion	0	0
Denied Religious Items	0	0
Failure to Dispatch	0	0
Negative Reference	0	0
Eviction	0	0
	140	157
<b>Total Filings</b>	<b>297</b>	

### ANALYSIS OF 2018 CLOSURES

REASON FOR CLOSURE	
<b>NOT SUBSTANTIAL EVIDENCE</b>	<b>213</b>
<b>MEDIATION</b>	<b>23</b>
Mediation Successful	15
Predetermination Settlement	0
Complaint Withdrawn	5
Complaint Withdrawn / Successful Settlement	3
<b>ADMINISTRATIVE</b>	<b>31</b>
Complaint Withdrawn	25
Lack of Jurisdiction	6
<b>CONCILIATION AND SETTLEMENT</b>	<b>15</b>
Substantial Evidence - Conciliation Finalized	13
Successful Settlement	2
<b>HEARING</b>	<b>21</b>
Administrative Dismissal by Hearing Unit	7
Prehearing Settlement	10
Decision for Complainant	4
Decision for Respondent	0
<b>Total Closures</b>	<b>303</b>

### Filings by Type

Employment	266
Public Accommodation	20
Government Practices	7
Housing	4

### Percentage of Filings by Complainant's Race

Caucasian	48%
Unknown	15%
Black	14%
Alaska Native/American Indian	10%
Asian	4%
Hispanic	4%
Other	4%

### Percentage of Filings by Complainant's Age

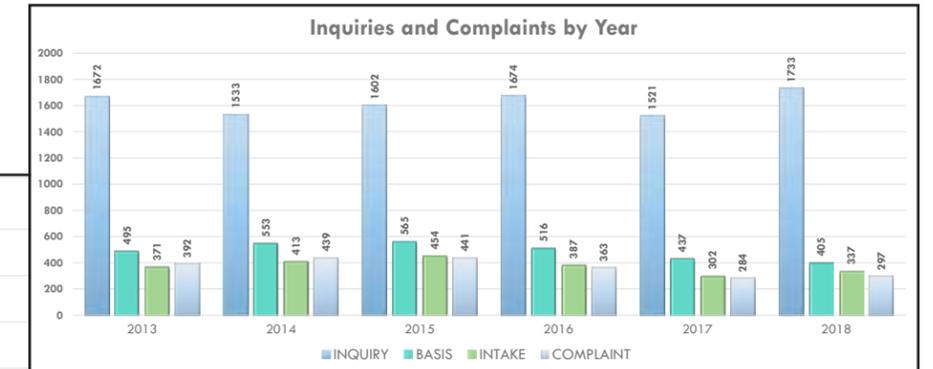
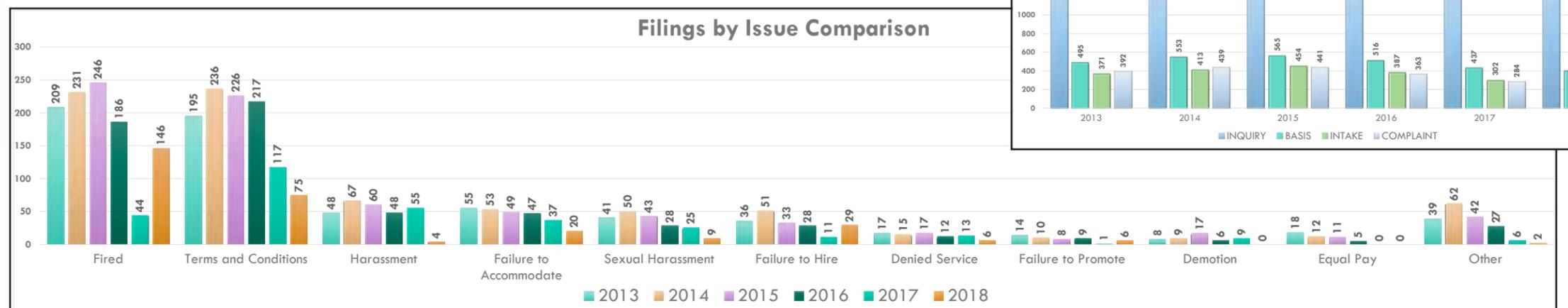
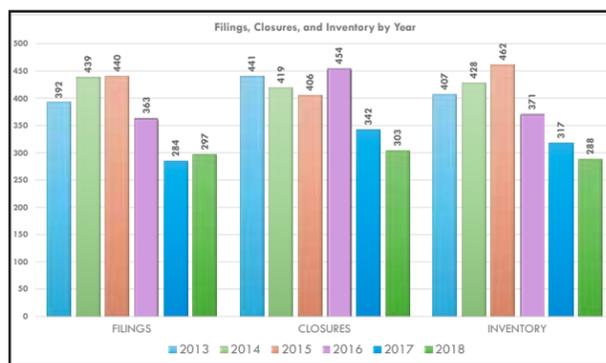
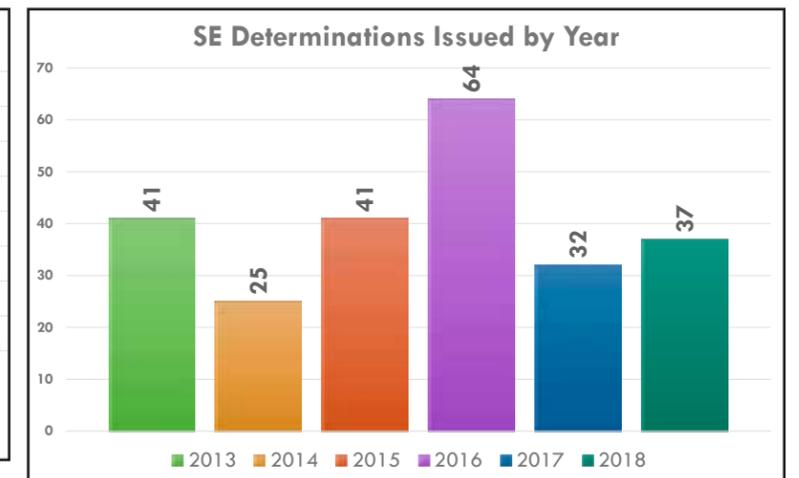
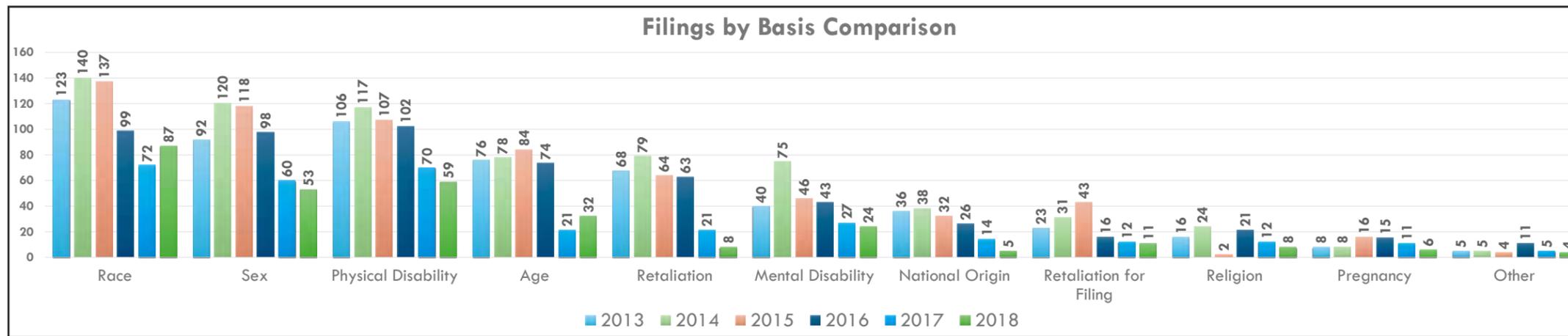
20 years and under	3%
21 - 40 years	39%
41 - 60 years	48%
61 years and older	11%

### Percentage of Filings by Complainant's Gender

Male	43%
Female	57%

Summary of Closures (2013-2018)

Category of Closure	2013		2014		2015		2016		2017		2018	
	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC	ASCHR	EEOC
Mediation	18	0	15	3	22	1	28	0	19	0	22	1
Administrative	52	1	25	0	27	5	35	3	27	0	30	1
Not Substantial Evidence	313	22	310	17	286	18	301	33	233	3	165	48
Conciliation and Settlement	19	5	33	3	30	3	28	4	39	1	14	1
Hearing	11	0	14	0	12	1	22	0	20	0	21	0
<b>Subtotal</b>	<b>413</b>	<b>28</b>	<b>397</b>	<b>23</b>	<b>377</b>	<b>28</b>	<b>414</b>	<b>40</b>	<b>338</b>	<b>4</b>	<b>252</b>	<b>51</b>
<b>TOTAL</b>	<b>441</b>		<b>420</b>		<b>405</b>		<b>452</b>		<b>342</b>		<b>303</b>	



operate under new ownership, the Executive Director will decide whether to seek to enforce the terms of the order against any successors or to close the case.

In **Martha Nelson v. Pavitt Health & Fitness**, complainant alleged that she was unlawfully terminated from her position as an accounts specialist at respondent's gym. Commission staff found that complainant was subjected to a hostile work environment as a result of a co-worker's racial and sexual comments, that respondent failed to take corrective action, that complainant was constructively discharged, and that respondent retaliated against her for complaining of discrimination by issuing a no trespass order against her. An accusation was filed on May 8, 2018. On August 9, 2018 complainant's attorney notified the Executive Director that Ms. Nelson intended to file a civil action in superior court. The ALJ stayed the case on August 24, 2018, requiring updates every 90 days. The next status report is due February 20, 2019.

In **David Ponte-Thomas v. K & G Enterprises, LLC d/b/a Evangelo's Restaurant**, complainant alleged that respondent treated him as a person with a disability after he suffered an on-the-job injury. Although complainant provided a release from his doctor, respondent hired a new employee for the same position. Commission staff found complainant was discriminated against based on his disability. An accusation was filed on January 26, 2018. A settlement was reached at the start of the public hearing on October 9-10, 2018. Complainant received a settlement of \$14,500. Training must be completed by February 28, 2019, and a final report is due by March 15, 2019.

In **Samantha Pushruk v. 907Norefund Inc dba Cheap Smokes** (two cases), a female employee filed a complaint with the Commission alleging constructive discharge after the owner of the business gave her a sexually explicit scratch card and then made multiple inquiries about her engaging in the acts listed on the card with him. She felt compelled to quit. Shortly thereafter, complainant took a position at another local business. The owner of Cheap

Smokes came into the store, saw complainant, and spoke very badly of her to her new supervisor. Complainant filed a second complaint based on retaliation. Due to the inability to serve respondent, the ALJ issued a notice on September 26, 2018 staying the matter and ordered that a status report be filed by on January 11, 2019. The Executive Director filed a Motion for Default Judgment on December 27, 2019.

In **America Sullivan v. Personnel Plus Employment Agency, LLC**, complainant alleged that respondent discriminated against her because of her pregnancy when it eliminated her position and terminated her employment after learning that she was pregnant. The parties reached a settlement in which respondent agreed to pay complainant \$34,000 and to obtain training on the laws prohibiting discrimination in employment. The final report was received from respondent on June 29, 2018 and the Commission closed the case upon issuing an order granting the motion to dismiss on July 3, 2018.

In **Jessica Walker v. Trident Seafoods Corporation**, complainant alleged that respondent discriminated against her based on her pregnancy when it terminated her employment as a deckhand on one of its fishing vessels after learning that she was pregnant, even though complainant provided a release from her doctor stating that she could safely continue performing her normal job duties. A settlement agreement was approved by the Executive Director on September 7, 2018. Complainant received a settlement of \$8,000. Training was completed on September 26, 2018. The Commission issued an Order Granting the Motion to Dismiss on December 13, 2018, and the case was closed.

In **Michael Wiedemann v. Wasilla Woodworks, LLC**, complainant alleged that that he was terminated from his position as a cabinet maker after he informed his employer that he was seeking disability status through the United States Department of Veterans Affairs and would need surgery in the near future. Commission staff found substantial evidence that respondent treated complainant

### Physician, Heal Thyself.

A female employee of a medical clinic alleged that her employer discriminated against her when he subjected her to unwanted and offensive comments and conduct of a sexual nature and retaliated against her when she complained of the treatment by placing her on disciplinary administrative leave. The employee's working conditions became so intolerable she felt she had no choice but to resign from her position. Commission staff investigated and found substantial evidence of discrimination. The investigation found evidence of a hostile work environment, retaliation, and constructive discharge. The parties conciliated, and respondent agreed to pay complainant backpay of more than \$6,500 and to undergo training and adopt an anti-discrimination policy.



### To the Dogs!

A disabled bar patron alleged he was discriminated against because of his disability when he refused to move to a designated area with his service animal. Commission staff investigated and found substantial evidence of discrimination. The bar had a policy requiring members with service animals to sit only within designated areas of its facility, with no exceptions. The investigation failed to produce evidence the policy was due to a legitimate safety requirement, concerns about the service animal's behavior or control, or concerns that the animal posed a direct threat. The Commission reached a two-party agreement with respondent, in which respondent agreed to undergo training and adopt an anti-discrimination policy.

### Holy Smokes!

Complainant alleged he was discriminated against when his landlord refused to enforce the existing no-smoking policy at the apartment he rented from respondent. Investigation showed that although respondent was informed by complaint's doctor that cigarette smoke negatively affects complainant's disability, respondent refused to accommodate complainant and instead facilitated on-site smoking by other tenants by designating the main entryway as a smoking area, allowing cigarette smoke to enter the common hallways and complainant's apartment. Commission staff found that respondent had discriminated against complainant based on his disability, and in conciliation, respondent agreed to pay complainant \$20,000.00 to settle the matter.

### Construction Zone

A traffic control worker alleged that her former employer discriminated against her on the basis of her age and retaliated against her for previously complaining of discrimination when the employer refused to rehire her after she filed a previous complaint with ASCHR, and instead hired younger, less experienced workers. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to pay the former employee \$18,000.00, in addition to reserving a position for her for the following season.

### Wait a Second!

A waitress alleged that her former employer discriminated against her on the basis of her age when she was removed from the work schedule and subjected to a "no trespass" order without being provided a reason for those actions. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to pay the former employee \$10,000.

### Tech Savvy

A medical technician alleged that her former employer discriminated against her on the basis of her physical disability when the employer demoted her after adding new duties to her position that she could not fulfill because of her disability. The employee alleged that the individual who was later placed in this position did not have to perform those additional duties. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to pay the technician a total of \$45,000.

as if he were a person with a disability and retaliated against him for complaining about discrimination. An accusation was filed on June 8, 2018, and a public hearing is scheduled for May 20-22, 2019.

In **Steve Williamson v. North Slope Borough, Search & Rescue Department**, complainant alleged that respondent discriminated against him based on his physical disability when it terminated his employment as a search and rescue pilot. The parties executed a settlement in which respondent agreed to vest complainant in the State of Alaska PERS to make him eligible for retirement benefits, pay complainant \$57,000, and obtain training for its employees in the laws prohibiting discrimination in employment. Respondent's final report was received confirming compliance with all terms of the agreement on July 10, 2018. The Commission issued an order granting the motion to dismiss and the file was closed on July 12, 2018.

## LITIGATION

In **Demetrie Alexander v. Alaska State Commission for Human Rights**, complainant alleged that the Alaska Court System discriminated against him based on his race, Alaska Native, when it terminated his employment as a magistrate. Commission staff did not find substantial evidence of discrimination and closed the case. Complainant appealed to superior court on August 9, 2017. After complainant filed a separate civil action based on the same allegations as those before the Commission, the court stayed the administrative appeal. There has been no further action as of December 31, 2018.

In **Alek Anderson v. Alaska State Commission for Human Rights**, complainant alleged that Alaska Airlines discriminated against him based on his sex when it terminated his employment after he caused damage to an aircraft, even though a female employee was not terminated for similar reasons. Commission staff did not find substantial evidence supporting the allegations and closed the case. Complainant filed an appeal in superior court on November 22, 2017. Briefing has been completed and a decision by the court is pending. On October 31, 2018, the case was reassigned to Judge Thomas Matthews. A decision had not been issued as of December 31, 2018.

In **Alaska State Commission for Human Rights v. Dori Lynn Anderson**, the Commission filed an action in superior court to compel a witness to respond to questions during an investigative interview. At issue is the Commission's authority to require witness interviews to be conducted confidentially when the Commission investigates allegations of discrimination. The witness refused to answer questions unless she was accompanied by a third person of her choosing. The superior court dismissed the Commission's enforcement action and the Commission appealed the dismissal to the Alaska Supreme Court, which heard oral argument in the case on October 17, 2017. The Supreme Court of Alaska issued an Opinion on August 31, 2018, finding in favor of the Commission and returning jurisdiction to the lower court on September 14, 2018.

In **David Arbuckle v. Human Rights Commission**, complainant alleged that he was terminated from his position as a maintenance specialist with

the State of Alaska because of his disability. Commission staff found substantial evidence that the respondent failed to consider reassigning complainant after he was no longer qualified to perform his job. Efforts to conciliate the matter failed and the Commission closed the case on August 23, 2017. Complainant filed a notice of appeal on September 21, 2017. Briefing has been completed and a decision by the court is pending. However, complainant recently notified ASCHR that the only relief he is seeking is having EEOC notified of the case closure. The Commission filed a motion to dismiss on October 5th and complainant filed an opposition on October 22, 2018. On October 31, 2018 the case was reassigned to Judge Thomas Matthews. A ruling was not issued as of December 31, 2018.

In **Russell Baker v. Alaska State Commission for Human Rights**, complainant alleged that he was discriminated against in the terms and conditions of his employment as a pilot for Federal Express in Hong Kong based on his marital status, and that his employment was terminated in retaliation for filing a complaint with the Commission. The Commission determined that there was substantial evidence to support complainant's allegations regarding his marital status. However, it determined that his allegation of retaliation was not supported by substantial evidence. Complainant appealed the decisions to the superior court on August 18, 2017. FedEx filed a motion to intervene on January 30, 2018. Oral argument was heard on November 2, 2018 and a calendaring notice was issued on November 5, 2018.

In **Jack Hively v. Alaska State Commission for Human Rights**, complainant alleged he was discriminated against based on his age, and that his employer's comments created a hostile work environment. The investigation did not find evidence to substantiate his claims. Complainant filed an appeal on July 24, 2018. The Record on Appeal was filed by the Commission on September 25, 2018.

### Mistreated Machinist

A machinist alleged that his former employer discriminated against him by treating him as disabled when the employer terminated the machinist's employment after he experienced non-work-related injuries and returned to work with restrictions. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to pay the former employee the sum of \$20,000.00.

### Milk for the Baby

A medical worker alleged that her employer discriminated against her on the basis of her pregnancy when the employer failed to provide the appropriate time and a designated space for the employee to pump breast milk while at work. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to pay the employee \$1,500 and agreed to immediately provide the time, as well as a designated space, for the employee to pump breast milk while at work. The employer also agreed to update their policy on this matter.

On October 31, 2018 the case was reassigned to Judge Thomas Matthews. Complainant's brief was filed on December 13, 2018.

In **Connie Jacobs-Morin v. Alaska State Commission for Human Rights**, complainant filed three complaints alleging that 1) Mechanical Construction and Consulting, Inc., discriminated against her based on her sex when she was subjected to a hostile work environment and forced to resign, 2) she was discriminated against based on her sex and retaliated against for complaining about discrimination by SNC Lavalin Constructors, Inc., and 3) she was discriminated against by her union, United Association Local 367, when the union failed to take any action after she reported that she was discriminated against on the job site. Commission staff determined that complainant's allegations of discrimination based on sex against her employers were supported by substantial evidence, but that her allegations of constructive discharge and termination were not supported by substantial evidence. Commission staff did not find substantial evidence to support complainant's allegations against her union. Complainant appealed the portions of the Commission's decisions that were adverse to her on October 26, 2016. On April 6, 2017, the superior court dismissed the case against United Association Local 367. On May 4, 2018, the court affirmed the Commission's findings but remanded the case against SNC Lavalin Constructors for the Commission to close the case under a different statute. On August 1, 2018 the case was closed on remand.

In **Douglas Kaufman v. Alaska State Commission for Human Rights**, complainant alleged respondent discriminated against him based on his age, sex and disability, as well as retaliation for filing the complaint. Complainant alleged he was subjected to inappropriate sexual comments by his general manager. He later requested accommodations for his mental disability.

### Lessons Learned

Complainant filed a complaint on behalf of her minor daughter, alleging that the respondent school district subjected her daughter to less favorable treatment than male athletes. Complainant alleged that after a school board member complained that the girls' volleyball uniforms were inappropriate following an impromptu poll of parents and spectators, respondent reallocated money and ordered new girls' volleyball uniform shorts without consulting the team's head coach or players. Investigation found that respondent does not unilaterally alter the uniform guidelines of the male athletic teams based on impromptu opinion polls. The respondent and the Commission reached a settlement in which respondent agreed to adopt a non-discriminatory policy and provide anti-discrimination training to its school board members, superintendent, principal, vice principal and coaches.

Commission staff's investigation found no supporting evidence of discrimination and the file was closed on October 17, 2018. Complainant filed an appeal on November 19, 2018. The Agency's List of Parties and Attorneys was filed on December 20, 2018 and the Record on Appeal is due January 11, 2019.

In **Zenaida Mayner v. Alaska State Commission for Human Rights**, complainant filed a complaint alleging she was discriminated against based on her national origin and race, Filipino. Investigation by Commission staff found no evidence supporting her claims of being subjected to different terms and conditions of employment than other employees; the file was closed on October 9, 2018. Complainant filed an appeal on October 11, 2018. The Record on Appeal was filed November 20, 2018 with copies provided to complainant and respondent's attorney. The Commission's attorney requested oral argument on December 31, 2018.

In **Sherman Pitt v. Alaska State Commission for Human Rights**, complainant alleged that the State of Alaska, Department of Corrections, discriminated against him based on his religion, Buddhist, by refusing to provide him with the same accommodations and privileges as Christian inmates. Commission staff found substantial evidence of discrimination and entered into a conciliation agreement with respondent in March 2011. On February 14, 2017, the Commission closed the case after monitoring the terms of the agreement. Complainant appealed the closure to superior court on May 23, 2017. The case was reassigned to Judge Amy Mead on October 2, 2018. The Commission continues working with the parties in an attempt to resolve Mr. Pitt's complaints through a settlement agreement.

In **Harry Ross v. Alaska State Commission for Human Rights**, complainant alleged that the Alaska Railroad Corporation failed to promote him because of his race, African American. After a hearing, the Commission dismissed the case. Complainant appealed the decision to

superior court, and the court reversed the Commission's decision and remanded the case. On remand, the ALJ recommended that the case again be dismissed. On August 30, 2016, the Commission adopted the ALJ's recommendation for dismissal and closed the case. Complainant appealed to the superior court on September 27, 2016. On December 18, 2017, the superior court issued an order affirming the Commission's final order. Complainant appealed to the Alaska Supreme Court on January 17, 2018. Briefing has been completed and a decision by the court is still pending.

In **David Wallace v. Alaska State Commission for Human Rights**, complainant alleged that he was discriminated against based on his sex and race, Caucasian. Commission staff did not find substantial evidence of discrimination and closed the case. Complainant appealed to superior court on May 5, 2017. The Decision on Appeal was issued on October 29, 2018 affirming the Commission's decision. The Commission's file will be closed upon notice of the superior court's case closure.

In **Christopher Wideman v. Alaska State Commission for Human Rights**, complainant alleged he was discriminated against based on his disability when his employer failed to change his work schedule for medical purposes. Investigation did not find the allegations were supported by substantial evidence. Complainant filed an appeal on June 18, 2018. The case was reassigned to Judge Schally on December 5, 2018. Complainant's request for a copy of the investigative file was mailed on December 11, 2018. The List of Parties and Attorneys was filed on December 20, 2018. The Record on Appeal is due on January 23, 2019.

### Taken to the Cleaners

A custodian alleged that her former employer discriminated against her on the basis of her sex and retaliated against her for complaining of discrimination when the employer allegedly subjected her to derogatory and offensive comments and conduct on the basis of her sex, and later subjected her to different terms and conditions than her male colleagues when she complained of discrimination. The parties mediated the complaint and a settlement was reached. Under the settlement, the employer agreed to pay the custodian a total of \$45,000.

### Stairway to Heaven

A Juneau resident with a disability signed a residential lease for an apartment in respondent's multi-unit property. Complainant later questioned the safety and accessibility of the exterior staircase, which provided the only access to the apartment, and requested that she be allowed to access the unit using an interior staircase. Respondent contended that the interior staircase was for the exclusive use of another tenant and rescinded the lease. Investigation found that the property owner did not engage in good faith interactive dialogue with complainant to determine whether she could be reasonably accommodated. The parties entered into a settlement agreement requiring that respondent undergo anti-discrimination training.





# Alaska State Commission for Human Rights

## MISSION

To eliminate and prevent discrimination for all Alaskans

## VISION

An Alaska free of discrimination

## GUIDING PRINCIPLES

- Integrity in all we do
- An organization built on mutual respect
- Data-driven and accountable
- Promoters of equality for all Alaskans
- Meaningful application of resources
- Continuous improvement
- Respectful representation of the constituents we serve
- Enforcement as a tool, not a goal
- Integrate education into all aspects of our work

## PURPOSE STATEMENT

"Discrimination not only threatens the rights and privileges of the inhabitants of the state, but also menaces the institutions of the state and threatens peace, order, health, safety, and general welfare of the state and its inhabitants. Therefore, it is the policy of the state and the purpose of this chapter to eliminate and prevent discrimination. It is also the policy of the state to encourage and enable physically and mentally disabled persons to participate fully in the social and economic life of the state and to engage in remunerative employment." AS 18.80

## 2019-2023 Strategic Plan

### GOAL 1

*Conduct timely investigations that strengthen the enforcement of Alaska anti-discrimination laws under AS 18.80*

- Implement case collaboration management system to measure progress toward the 180 day goal.
- Develop and implement an intranet or wiki for easy access to relevant information by all staff members.
- Identify impediments to closing cases at 180 days from assignment and implement solutions.
- Identify and apply best practices in both policy and procedures.
- Develop reporting structures that access relevant data in the case
- Continue to implement technology to increase productivity

### GOAL 2

*Continue and expand our role as public advocates for the elimination and prevention of discrimination*

- Develop and implement plan for statewide outreach with educational, training and public service components.
- Work with the State Legislature to add non-profits to ASCHR's jurisdiction in an effort to include protections for 44,000 currently unprotected workers
- Conduct systemic investigations and prepare white papers with findings to share with leadership and other organizations
- Create a training resource center
- Prepare communications plan to reach a variety of demographics throughout Alaska

### GOAL 3

*Recognizing that people are our greatest asset, create an environment where staff feels appreciated and valued.*

- Develop an employee succession plan.
- Improve inter-agency and intra-agency communication.
- Create opportunities for advancement.
- Enhance teambuilding opportunities.
- Provide training & professional development opportunities.
- Provide continued training to Commissioners on human rights law and relevant court cases.
- Increase Staff/Commission Interaction.

## OUTREACH

The Commission continues to focus on outreach and public education. In 2018, we committed more resources to training, both preventive and remedial. It is important for workers, tenants and the general public to know their rights under the law and to feel free to exercise those rights under protection of the law. An informed public is vital to ASCHR's success in preventing and eliminating discrimination.

- NEA – Alaska (National Education Association) - Preventive Training
- Refugee Assistance & Immigration Services – Planning Meeting
- Legislature and Legislative Staff - Preventive Training, Discrimination and Sexual Harassment
- Commercial Fisheries Entry Commission - Preventive Training
- Job Development Center, Cook Inlet Tribal Council – Anti-discrimination Literature & Posters
- CITC Advocacy Awareness Fair: Working with The Alaska Native Justice Center in teaming with other community organizations to raise awareness around victims of violence and resources available in the community.
- City-Wide Case Manager Meeting
- Alaska Human Trafficking Working Group
- RAIS staff presentation
- Bridge Builders of Anchorage, Meet the World
- NEA-Alaska video conference presentations – Preventive Training
- Regulatory commission of Alaska, Consumer Forum Presentation
- RAIS client presentation
- Public Interest Law Panel – Court of Appeals
- Rural Alaska Community Environmental Job Training Program
- Subway Statewide Owners Meeting - Preventive Training
- Interpreter Meeting – Alaska Institute for Justice
- YWCA Stand Against Racism
- Healing Hearts through Arts (co-sponsor)
- Youth Summit – Clark Middle School
- Alaska Native Justice Center Spring Advocacy Awareness Fair
- KTVA Daybreak segment
- Alaska Native Village Corporation Association (ANVCA) 10th Annual Conference Sexual Harassment and Sexism Panel
- Alaska Human Trafficking Working Group
- Community Leaders Planning Session at the Governor's Office
- Meeting with local immigration attorneys – Planning Meeting
- KNBA 90.3 Morning Show
- Panel on Racism and Sexual Harassment in the Workplace, Alaska Native Professional Association
- Welcoming Anchorage Community Celebration
- Welcoming Anchorage Civics Fair
- LA Cumbre Latinx Summit Panel on Employment Discrimination
- Problem Solving Fair – Ombudsman Day
- Human Rights Commission Listening Session at Mountain View Library
- Alaska Employment Bar presentation on proposed regulation changes
- Midnight Sun (Sol de Medianoche) Newspaper Article – National Origin Discrimination in Employment
- Sullivan's Steakhouse – Remedial training after finding substantial evidence of discrimination and court hearing.



The Commission staff at a listening session at Mt. View Library. Pictured L to R: Commissioner Freddie Olin IV; Sarah Monkton, COE; Marti Buscaglia, E.D.; Mitzi Bolaños, Attorney/Mediator; Matt Jendrusina, Investigations Director; Commission Chair Brandon Nakasato, Yasu Nakasato.



Commission staff supporting YWCA's Stand Against Racism.



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## HUMAN RIGHTS COMMISSION

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