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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. LAURA GOSSMAN,)

Complainant,)

v.)

ASCHR No. J-09-101

FRED MEYER STORES, INC.,)

Respondent.)

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Laura Gossman, hereby alleges the following against Respondent Fred Meyer Stores, Inc.:

1. Respondent Fred Meyer Stores, Inc. ("Fred Meyer") is a corporation doing business in Alaska that owns a retail store located at 43843 Sterling Highway in Soldotna (hereinafter "Soldotna store").

2. In July 2004, Fred Meyer hired Laura Gossman to work as a cashier at its Soldotna store.

3. In March 2007, Ms. Gossman was diagnosed with cancer and took a medical leave of absence to obtain the necessary treatment. Ms. Gossman remained on a leave of absence until September 27, 2007.

4. On September 27, 2007, Fred Meyer administratively discharged Ms.

1 Gossman because she had exhausted all of her medical leave but was still unable to return to
2 work.

3
4 5. Fred Meyer rehired Ms. Gossman in April 2008 at its Soldotna store, again as
5 a cashier.

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7 6. In June 2008, Ms. Gossman underwent a final surgical procedure related to
8 her cancer diagnosis.

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10 7. In early 2009, Ms. Gossman began experiencing some loss of arm function as
11 a result of her cancer.

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13 8. On February 13, 2009, Ms. Gossman's physician provided the Soldotna store
14 with a note that said that Ms. Gossman was "partially incapacitated" and could not "be on a
15 check stand longer than [two] hours without a break."

16
17 9. In response, Fred Meyer took Ms. Gossman off the work schedule and told
18 her that she could not return to work without a full release.

19
20 10. One week later, Ms. Gossman asked her doctor to provide a full release so that
21 she would not lose her job. Fred Meyer returned her to work on February 21, 2009.

22
23 11. During the next weeks, Ms. Gossman worked long hours at the check stand
24 without receiving a break every two hours. As a result, on March 9, 2009, Ms. Gossman's
25 pain became so great that she could no longer function in her job. After finally receiving a
26 break after three hours of work, she clocked out and went directly home.

27
28 12. Ms. Gossman did not return to work. On March 15, 2009, Ms. Gossman
resigned from her position at Fred Meyer.

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**FIRST CAUSE OF ACTION:
DISCRIMINATION BECAUSE OF DISABILITY BY
FAILING TO PROVIDE A REASONABLE ACCOMODATION,
A VIOLATION OF AS 18.80.220(a)(1)**

13. Paragraphs 1-12 above are realleged and incorporated herein.

14. Because Ms. Gossman suffers from cancer, she is a person with a disability as that term is defined in AS 18.80.300(14)(A).

15. In March 2007 and on February 13, 2009, Ms. Gossman provided actual notice of her disability to Fred Meyer.

16. In February and March 2009, Ms. Gossman could perform the essential functions of her position at Fred Meyer with an accommodation.

17. On February 13, 2009, Ms. Gossman requested an accommodation when her doctor informed the Soldotna store that Ms. Gossman required a break every two hours.

18. Fred Meyer failed to accommodate Ms. Gossman and instead took her off the work schedule and told her that she could not return until she provided a full release.

19. Approximately one week later, Ms. Gossman requested a full release from her physician so that she would not lose her job. Fred Meyer returned her to work on February 21, 2009.

20. During the next weeks, Ms. Gossman worked long hours at the check stand without a break every two hours. On March 9, 2009, Ms. Gossman's pain became so great that she could no longer function in her job. After finally receiving a break after three hours of work, she clocked out and went directly home, then resigned on March 15, 2009.

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21. Fred Meyer’s failure to provide a reasonable accommodation to Ms. Gossman constitutes a violation of AS 18.80.220(a)(1).

22. As a result of Fred Meyer’s failure to accommodate her disability, Ms. Gossman has suffered harm in the form of lost wages and other benefits.

PRAYER FOR RELIEF

Wherefore the Executive Director asks for the following relief:

1. That the Commission issue an order declaring that Respondent Fred Meyer Stores, Inc., violated AS 18.80.220 by discriminating against Ms. Gossman because of her disability.

2. That the Commission order Fred Meyer to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law within thirty days that includes a policy prohibiting discrimination against employees on the basis of a disability, and which the Executive Director has approved.

3. That the Commission order Fred Meyer to obtain training for its managers and supervisors within thirty days, and using a trainer and training materials approved by the Executive Director, on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, with an emphasis on the prohibition against discrimination based on disability and the duty to provide reasonable accommodations to persons with disabilities.

4. That the Commission order Fred Meyer to eliminate from Ms. Gossman’s personnel records all documents and entries relating to the facts and circumstances that

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led to her filing of the above-captioned charge of discrimination and the related events occurring thereafter, and that Fred Meyer shall refrain from notifying any other employer or potential employer of Ms. Gossman of the facts or circumstances involved in this case.

5. That the Commission order Fred Meyer to pay back wages to Ms. Gossman, plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

Dated this 20th day of December 2011 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

_____/s/_____
Lauri J Owen
Human Rights Attorney
Alaska Bar No. 0705032