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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. MICHELE JACKETTA,)
)
Complainant,)
)
v.)
HOME DEPOT USA, INC.,)
)
Respondent.)
_____)

ASCHR No. J-08-022

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Michele Jacketta, hereby alleges the following against Respondent Home Depot USA, Inc.:

1. Respondent Home Depot USA, Inc. (“Home Depot”) is a corporation doing business in Alaska and which owns a retail store located at 10480 Spur Highway in Kenai.
2. On November 21, 2003, Home Depot hired Michele Jacketta to work as a cashier at its store located at 10480 Spur Highway in Kenai.
3. On August 10, 2007, Ms. Jacketta complained to Home Depot’s Human Resources Manager that, for the previous several months, some of her male coworkers had been subjecting her to sexual harassment, including that they made sexual innuendoes to her, that they used abusive language, that one coworker showed her pictures of his wife in bed with another man, and that another coworker put his hand

1 into her apron.

2 4. Home Depot investigated Ms. Jacketta's allegations and, upon conclusion,
3 determined that she had been subjected to sexual harassment. As a result, Home Depot
4 terminated the employment of two of Ms. Jacketta's coworkers and disciplined a third.
5

6 5. Due to the stress caused by the harassment, during the middle of her work
7 shift on August 16 or 17, 2007, Ms. Jacketta broke down and began crying in the store's
8 break room for over thirty minutes. Four of Ms. Jacketta's coworkers witnessed the
9 breakdown and, after Ms. Jacketta returned to her workstation, her supervisor sent her
10 home.
11

12 6. On August 18, 2007, Ms. Jacketta experienced an acute post-traumatic
13 stress disorder episode and was hospitalized for eight days. During her hospitalization,
14 a doctor diagnosed Ms. Jacketta with post-traumatic stress disorder and found that the
15 sexual harassment she had experienced at work may have triggered her condition.
16

17 7. Ms. Jacketta's post-traumatic stress disorder is an impairment that
18 substantially limits one or more of her major life activities, including the major life
19 activity of interacting with others.
20

21 8. In late August 2007, while she was in the hospital, Ms. Jacketta notified
22 Home Depot of her hospitalization.
23

24 9. On August 31, 2007, Ms. Jacketta's doctor released her to return to work
25 part-time, effective September 4, 2007. On August 31 or September 1, 2007, Ms.
26 Jacketta provided Home Depot with a Family Medical Leave certification form, which
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1 contained a statement from her physician that included the following: “[Ms. Jacketta]
2 has suffered an acute exacerbation of PTSD and has been hospitalized in Providence
3 Hosp[ital,] Anchorage, AK for 7 days.”

4
5 10. On September 4, 2007, Ms. Jacketta returned to work at Home Depot.

6
7 11. On three occasions in September 2007, Ms. Jacketta called Home Depot
8 to report that she was not able to work her scheduled shift. On the day following each
9 absence, Ms. Jacketta provided Home Depot with a doctor’s note, and told Home
10 Depot’s Human Resources Manager when she delivered each note that working at
11 Home Depot still was difficult for her.

12
13 12. Despite Home Depot’s knowledge that Ms. Jacketta had a disability, and
14 despite Ms. Jacketta’s obvious need for a reasonable accommodation for her disability,
15 on October 3, 2007, Home Depot fired Ms. Jacketta for violating its “policy on
16 Attendance/Punctuality.”

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18 **FIRST CAUSE OF ACTION:**
19 **DISCRIMINATION BECAUSE OF DISABILITY BY**
20 **UNLAWFUL TERMINATION OF EMPLOYMENT,**
21 **A VIOLATION OF AS 18.80.220(a)(1)**

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

23 14. Because Ms. Jacketta suffers from post-traumatic stress disorder, she is a
24 person with a disability as that term is defined in AS 18.80.300(14)(A).

25 15. On August 31 or September 1, 2007, Ms. Jacketta provided actual notice
26 of her disability to Home Depot.

27
28 16. Ms. Jacketta could perform the essential functions of her position at Home

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1 Depot with an accommodation.

2 17. On three occasions in September 2007, Ms. Jacketta called Home Depot
3 to report that she was not able to work her scheduled shift. On the day following each
4 absence, Ms. Jacketta provided Home Depot with a doctor's note, and told Home
5 Depot's Human Resources Manager when she delivered each note that working at
6 Home Depot still was difficult for her.

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9 18. On October 3, 2007, Home Depot terminated Ms. Jacketta's employment.

10 19. Home Depot terminated Ms. Jacketta's employment because she has a
11 disability.

12 20. Home Depot violated AS 18.80.220(a)(1) when it terminated Ms.
13 Jacketta's employment.

14 21. As a result of Home Depot's unlawful termination of her employment
15 because of her disability, Ms. Jacketta lost her livelihood and has suffered harm in the
16 form of lost wages and other benefits.

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20 **SECOND CAUSE OF ACTION:**
21 **DISCRIMINATION BECAUSE OF DISABILITY BY**
22 **FAILING TO PROVIDE A REASONABLE ACCOMODATION,**
23 **A VIOLATION OF AS 18.80.220(a)(1)**

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

25 23. Because Ms. Jacketta suffers from post-traumatic stress disorder, she is a
26 person with a disability as that term is defined in AS 18.80.300(14)(A).

27 24. On August 31 or September 1, 2007, Ms. Jacketta provided actual notice
28 of her disability to Home Depot.

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1 25. Ms. Jacketta could perform the essential functions of her position at Home
2 Depot with an accommodation.
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4 26. On three occasions during September 2007, Ms. Jacketta called Home
5 Depot to report that she was not able to work her scheduled shift. On the day following
6 each absence, Ms. Jacketta provided Home Depot with a doctor's note, and told Home
7 Depot's Human Resources Manager when she delivered each note that working at
8 Depot still was difficult for her.
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10 27. Home Depot was aware that Ms. Jacketta's absences were connected to
11 her August 2007 hospitalization and her disability.
12

13 28. Despite this knowledge, on October 3, 2007, Home Depot terminated Ms.
14 Jacketta's employment.
15

16 29. Home Depot failed to engage in the interactive process with Ms.
17 Jacketta in violation of AS 18.80.220(a)(1).
18

19 30. Home Depot failed to provide a reasonable accommodation for Ms.
20 Jacketta's limitations in violation of AS 18.80.220(a)(1).
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22 31. As a result of Home Depot's failure to engage in the interactive process
23 and its failure to accommodate her disability, Ms. Jacketta lost her livelihood and has
24 suffered harm in the form of lost wages and other benefits.
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26 **PRAYER FOR RELIEF**

27 Wherefore the Executive Director asks for the following relief:
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1 1. That the Commission issue an order declaring that Respondent Home
2 Depot USA, Inc. violated AS 18.80.220 by discriminating against Michele Jacketta
3 because of her disability.
4

5 2. That the Commission order Respondent to adopt, disseminate, and post
6 in a conspicuous place a policy of nondiscrimination under the Alaska Human Rights
7 Law that includes a policy prohibiting discrimination against employees on the basis
8 of disability.
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10 3. That the Commission order Respondent to obtain training for its
11 managers, supervisors, and employees on the provisions of the Alaska Human Rights
12 Law that prohibit discrimination in employment, with emphases on the prohibition
13 against discrimination based on disability and the duty to provide reasonable
14 accommodations to persons with disabilities.
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16 4. That the Commission order Respondent to eliminate from Ms. Jacketta's
17 personnel records all documents and entries relating to the facts and circumstances that
18 led to her filing of the above-captioned charge of discrimination and the related events
19 occurring thereafter, and that Respondent shall refrain from notifying any other
20 employer or potential employer of Ms. Jacketta of the facts or circumstances involved in
21 this case.
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23 5. That the Commission order Respondent to pay back wages to, and other
24 out of pocket expenses incurred by, Ms. Jacketta because of Respondent's
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discrimination, plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

Dated this 24th day of February 2011 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

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