

Alaska State Commission for Human Rights

1994 Annual Report

February 10, 1995

STATE OF ALASKA
HUMAN RIGHTS COMMISSION

The Honorable Tony Knowles, Governor of Alaska
The Honorable Drue Pearce, President, Alaska Senate
The Honorable Gail Phillips, Speaker, Alaska House of Representatives

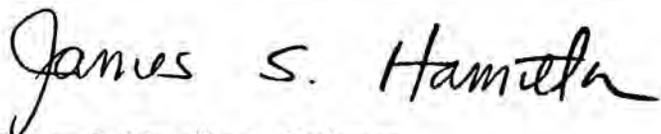
I am honored to submit the 1994 Annual Report of the Alaska State Commission for Human Rights, the agency charged with enforcing Alaska's Human Rights Law. With the exception of 1976, the height of the work on the Alaska pipeline, this year was the Commission's busiest in its thirty-one year history.

In 1994 Commission staff answered 4,850 inquiries and ten percent more Alaskans filed complaints of discrimination with the agency than in the previous year. The increase of new complaints is reflective not only of the status of civil rights enforcement in Alaska, but of a rise in claims of discrimination throughout the country.

It is increasingly difficult to meet the challenge of the legislative mandate to process complaints promptly. In the past decade the Commission lost forty-two percent of its staff while complaints filed with the agency more than doubled. Over these years staff has become more efficient and increased its rate of closing cases. Despite improvements in case processing, Alaskans must now wait upwards of six months before the Commission can even assign their complaints to an investigator.

The Commission would like to more actively pursue education, outreach and prevention programs; however, staff must focus their attention on the many charges of discrimination requiring investigation. Nevertheless, last year the Commission still provided presentations on Alaska's Human Rights Law to small businesses, public agencies, the media, and university students and professors. The Commissioners continued to reach out to all Alaskans by holding their three meetings in various locations throughout the state. This year the Commission met in Haines, Kodiak and Juneau and provided educational presentations in conjunction with each meeting.

The Commission will continue to provide a forum for Alaskans who believe that they have experienced unlawful discrimination. Without additional staff support redress will continue to be delayed and possibly denied. We trust that you will reaffirm your commitment to civil rights enforcement in the State of Alaska and support our efforts.



James S. Hamilton, Chairman
ALASKA STATE COMMISSION FOR HUMAN RIGHTS

PUBLIC HEARING CASES



In **JoAnn Shayne v. Interface Network Inc.**, complainant alleged that her employer paid her less than a male coworker and fired her in retaliation for complaining about sex discrimination. Commission staff found substantial evidence of retaliation. The Commission held a public hearing in Anchorage on December 6, 1993. In December 1994 the Commission issued a final order in favor of Interface Network Inc.

In **Joy Bays v. Anchorage School District**, complainant alleged that the District treated her differently than others because of her race and constructively discharged her when it refused to accommodate her disability. Staff found substantial evidence of discrimination and the Commission scheduled a public hearing for September 1994. Complainant decided to pursue her claim in court and withdrew her administrative complaint.

In **Cindy Bullock v. Anchor Appliance Repair**, complainant alleged that her employer fired her because of her pregnancy. The staff found substantial evidence supported her allegation. The Commission scheduled a public hearing for January 1995. In December 1994 the parties agreed to settle the case.

In **Gerardo Sanchez v. Ketchikan Pulp Company**, complainant alleged that a supervisor harassed him because of his national origin. The staff found substantial evidence supported the allegation. Complainant withdrew his administrative complaint and pursued his claim in court.

In **Toya E. Winton v. State of Alaska, Department of Natural Resources**, complainant alleged that her supervisor retaliated against her for complaining of race discrimination by evaluating her unfairly and terminating her. Staff found substantial evidence supported her allegations. The Commission scheduled a public hearing for November 1994. Before the hearing the parties agreed to settle the case for \$38,000.

In **Earl P. Fullingim v. Municipality of Anchorage, Anchorage Senior Center**, complainant alleged that the Municipality and Senior Center discriminated against him because of his physical disability by failing to have assisted listening devices available. The staff found substantial evidence supported his allegation. The Commission scheduled a public hearing for December 5, 1994. In November 1994, the Commission approved a settlement requiring the Senior Center to have the devices available and provide them on a first come first served basis.

In **Jose and Myriam Rangel v. Westward Seafoods**, the complainants alleged that a supervisor sexually harassed Myriam Rangel; that the employer maintained a sexually and

A REAL LEMON

A car salesperson complained that her manager sexually harassed and terminated her in retaliation for her refusal to submit to his advances. She alleged that the manager kissed her and pulled up her shirt, saying that he was not getting what he needed from his wife. The dealership denied the claims and informed the Commission that they terminated the manager for acting in a manner inconsistent with the company's interests. While the complaint was still under investigation, the salesperson accepted an offer to settle for \$50,000.

DOCTOR'S ORDERS

A nurse alleged that a medical clinic fired her on the basis of her employer's perception that she had a physical disability. The nurse claimed that, while seeking medical attention at the clinic, a doctor became concerned that the nurse might have a serious illness. The nurse said that the doctor insisted she write a note to her supervisor containing details of her medical appointment, and as a result the clinic terminated her. The clinic denied the nurse's allegations, asserting it fired her for failing to disclose information about her illness on her employment application. Before completion of the investigation, in a Predetermination Settlement, the clinic agreed to: pay the nurse \$26,000; provide her with a letter of recommendation; and post both an anti-discrimination policy and summary of the protections afforded under the Americans With Disabilities Act.

ethnically hostile working environment; that the employer failed to take reasonable steps to eliminate the hostile environment; and, that the employer terminated Myriam and Jose Rangel in retaliation for complaining about discrimination and because of their marital status. The staff found substantial evidence supported their allegations. The Commission scheduled a public hearing in Anchorage and Dutch Harbor for March 1995.

In **Dawn M. Willman v. The Office Place**, the complainant alleged that her employer terminated her because she was pregnant and physically disabled. The staff found that the allegations were supported by substantial evidence. The Commission scheduled a public hearing for April 1995.

In **Earl S. Morrison v. Kuskokwim Inn**, complainant alleged that the employer did not hire him because of his age and race. The staff found substantial evidence supported his allegation of race discrimination. The Commission scheduled a public hearing for April 1995.

In **David Berrey v. State of Alaska**, complainant alleged the State refused to hire him in retaliation for complaining about race discrimination. The staff found substantial evidence supported the allegation. The Commission scheduled a public hearing for June 1995.

In **Robert S. Butt v. Westward Seafoods**, complainant alleged the employer discriminated against him because of his marital status. The staff found that substantial evidence supported the allegation. The Commission has not yet scheduled a public hearing.

LITIGATION

Kathryn Kindt et al. v. State of Alaska and ASCHR. Three nurse practitioners who were members of a class of public health nurses employed by the Department of Health and Social Services appealed the Commission's decision that the class did not perform work substantially equal to work performed by physician's assistants employed by the Department of Corrections. The three appellants, who are nurse practitioners, argued that the Commission should have found that they performed substantially equal work even if the other nurses in the original class of complainants did not. The court heard oral arguments in March 1994. On March 8, 1994, the superior court dismissed the appeal.

Constance Trollan v. State of Alaska and ASCHR. On April 4, 1994 Constance Trollan, one of the appellants in **Kathryn Kindt et al. v. State of Alaska and ASCHR**, filed a Notice of Appeal asking the Supreme Court to review the superior court's dismissal of her administrative appeal. After requesting numerous extensions of time to file her opening brief,

ADDING INSULT TO INJURY

A 64 year-old laundry worker alleged that his employer terminated him on the basis of his age. The worker claimed that after fighting with a significantly younger coworker the employer placed the coworker on probation, and fired him. The employer denied the allegations, arguing that the older worker started the fight. Investigation revealed that no one witnessed the fight and the employer could not provide a legitimate non-discriminatory reason for its preferential treatment of the younger worker. The Commission staff determined that substantial evidence supported the claim of age discrimination. At conciliation, the employer agreed to eliminate from the worker's personnel file all references to his discrimination complaint and to pay him \$3,200 in back pay.

NO SECURITY

A man previously employed by a security agency submitted an application for re-employment, but was told that under a new rule he was automatically disqualified because of his insulin dependent diabetes. The man complained, alleging disability discrimination. The agency denied the allegations, but shortly after investigation began, agreed to a Predetermination Settlement Agreement which provided the man with \$32,000 and the next available position, contingent upon his successful completion of the agency's application process.



Ms. Trollan's attorney withdrew from the case. The Supreme Court granted Ms. Trollan until December 30, 1994 to file her opening brief. As of that date the brief had not been filed.

Andrea Meyer v. State of Alaska and ASCHR. Andrea Meyer has appealed from a Commission determination that substantial evidence did not support her allegations that on three occasions the Department of Fish and Game failed to extend her permanent seasonal employment as a Fish Biologist I, because of her sex. On October 26, 1993 the superior court ruled in favor of Meyer and remanded the case to the Commission for further proceedings. The Commission was prepared to proceed to public hearing in accordance with the court's decision. However, the State filed a petition with the Alaska Supreme Court requesting review of the superior court's remand. On December 2, 1993 the Alaska Supreme Court granted the State's petition and ordered the issues fully briefed. The parties submitted their briefs in the spring of 1994. The Supreme Court scheduled oral argument for January 18, 1995.

Temujin Lagao v. State of Alaska and ASCHR. Temujin Lagao appealed from the Commission's decision to close his case for failure to accept a full relief conciliation agreement. Mr. Lagao had alleged that the Department of Health and Social Services discharged him from one job and refused to consider him for others because it was unwilling to accommodate his religious beliefs barring work on the Sabbath. The Commission found substantial evidence of discrimination in the Department's failure to make a serious effort to accommodate Mr. Lagao's religious beliefs. Staff determined that the appropriate relief should not include reinstatement or back pay because, unknown to the Department at the time of Mr. Lagao's application, he had previously been fired from a job as an Eligibility Technician for an unauthorized home visit and inappropriate conduct. The State agreed to eliminate the discrimination by revising its procedures. Mr. Lagao refused the terms of the Conciliation Agreement and appealed to the superior court. On July 20, 1994 the superior court approved a stipulation dismissing Mr. Lagao's appeal.

VECO, Inc. v. ASCHR, Paula M. Haley, Executive Director, ex rel. Sharon M. Webb. After a public hearing, the Commission held that VECO had discriminated against Sharon Webb on the basis of her sex by failing to consider employing her as an electrician on the Steelhead (Cook Inlet) oil and gas production platform reconstruction project. The Commission ordered VECO to pay her damages and interest in the amount of \$43,668 plus interest at 10.5 percent from June 8, 1993. VECO appealed the Commission decision and order to the superior court arguing the Commission erred in finding that it discriminated against Sharon Webb. The court held oral argument on December 2, 1994. The superior court affirmed the Commission's findings of discrimination but remanded the case to the Commission for redetermination of the amount of damages mitigated by Webb under a

SOMETHING FISHY

A fish processor on a boat filed a complaint alleging that his employer humiliated and fired him because of his race, Black. He said while he was eating in the galley, the captain ordered him out, saying no one wanted to see his face. Then he said his foreman fired him for alleged slowness but did not fire Caucasian workers who came to work drunk or left the processing line without permission. Before staff began the investigation, the employer offered to settle the case. In a Predetermination Settlement, the employer agreed to pay the processor \$1000 and expunge all references to the discrimination complaint from his personnel records.

TOO MUCH OR TOO LITTLE

An administrative clerk filed a complaint alleging that her employer discriminated against her on the basis of her physical disability: insulin dependent diabetes. The clerk claimed that when she requested 80 hours of leave as an accommodation for a diabetes-related medical problem the agency denied her request and terminated her. The employer denied the allegation asserting that it could not continue to accommodate an employee who, it stated, was continually absent. During a Resolution Conference, the parties entered into a Predetermination Settlement which provided the clerk with \$10,000 and an agreement by the employer to respond to all future requests for accommodations in compliance with state law.

preponderance of the evidence standard. The court found that the Commission was the prevailing party and awarded the agency \$2,390.20 in attorney's fees.

Robert Lewis v. ASCHR. Robert Lewis filed a complaint with the Commission alleging that the Anchorage Police Department rejected his application for a permanent full-time patrol officer position because of his age, 40, and alternatively because he was physically disabled due to ear drum replacements, a broken collar bone and a torn ankle tendon. The Commission staff concluded that Lewis failed to establish a prima facie case of discrimination on the basis of physical disability and age, and issued a determination dismissing the complaint. Mr. Lewis filed an appeal in the superior court in Anchorage alleging that the Commission erred in dismissing his case. On October 3, 1994 superior court Judge Michalski issued a memorandum and order affirming the Commission's decision to close his case. The Commission was awarded \$950 in attorney's fees.

ASCHR ex rel. Margaret Chambers v. Engine and Gear Works, Inc. The Commission filed a civil action seeking enforcement of the Commission's order that Engine and Gear Works pay Ms. Chambers over \$3,000 in back wages and interest. The superior court entered a default judgement against Engine and Gear Works. Subsequently, the Commission levied on assets sufficient to satisfy the judgement.

David Berrey v. State of Alaska. David Berrey has appealed from a Commission determination to close his case for lack of substantial evidence. Berrey, a caucasian emergency fire fighter filed a complaint alleging that the State of Alaska, Department of Natural Resources, Division of Forestry discriminated against him because of his association with Alaska Natives. Berrey alleged that the Division of Forestry enforced a "closed camp" rule on his crew which was composed primarily of Alaska Natives to restrict the movement of Alaska Natives based upon a stereotype that they were more likely than non-Native crews to drink excessively during their free time. After investigation, the Commission, in part, found that caucasian fire crews were also subject to the same closed camp rule. The Commission concluded that Berrey failed to establish a prima facie case of discrimination. Mr. Berrey appealed to the superior court in Fairbanks alleging that the agency incorrectly applied the law and that the determination of the Commission was not supported by the administrative record. The superior court scheduled oral argument for January 23, 1995.

PROFILE IN DISCRIMINATION

A 54 year-old man filed a complaint alleging he was rejected for several associate technician positions at a communications company. He stated that a company representative suggested that he was "overqualified". The company insisted that the man did not fit its carefully designed profile for the entry level positions. It argued that these positions required little or no job experience in technical fields so that the company could more easily train the successful applicants. Investigation revealed that the successful candidates were all significantly younger than the man, and that the company's selection criteria had an adverse impact on older applicants. The company failed to present evidence that the decision not to consider experienced applicants was job-related and staff found substantial evidence of age discrimination. At conciliation, the company agreed to: not automatically screen out experienced candidates for entry level positions; pay the man \$2,000; develop an application to voluntarily gather age data; report statistical information on the age of applicants and successful candidates to the Commission; and allow the Commission on-site to review applicant and hiring data as needed.

LAYOFF OR LIE

A laborer who is American Indian alleged that her employer treated her differently than males and workers who were not American Indian. Her employer reprimanded her for wasting time but did nothing to others who came to work drunk or conducted personal business on the job. She claimed her employer told her it was laying her off to rotate workers but didn't lay off anyone else. The laborer filed a complaint claiming discrimination based on race and sex. When staff began the investigation, the employer entered a Predetermination Settlement and agreed to pay the laborer \$1,663.26 for lost wages.

1994 CASE PROCESSING STATISTICS

ANALYSIS OF FILINGS BY COMPLAINANT'S SEX

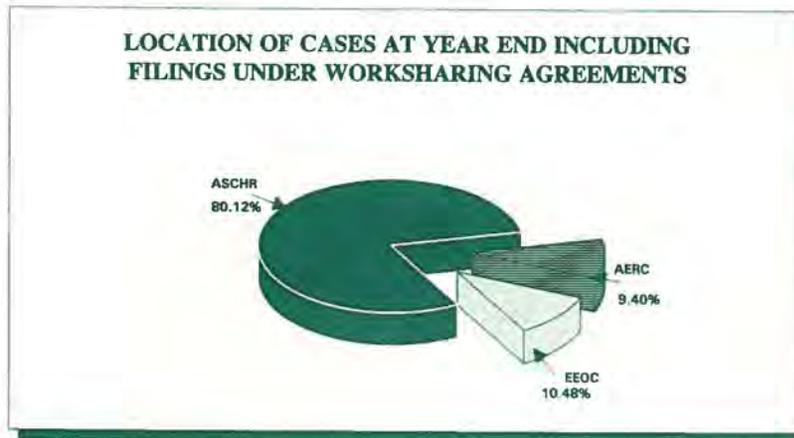
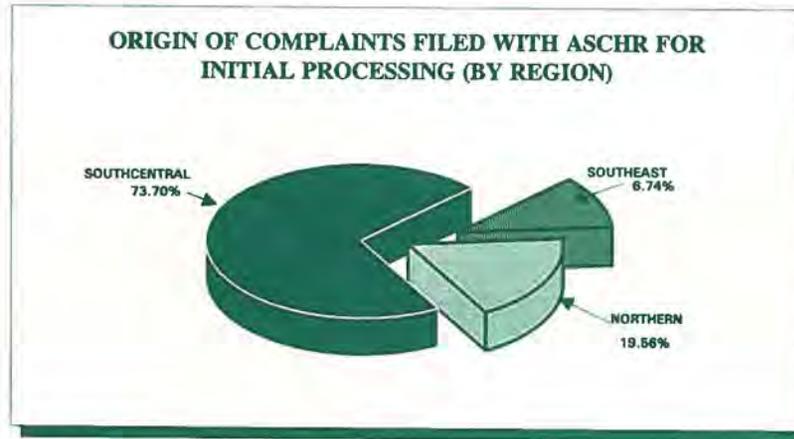
Female	298
Male	323
Total Filings	621

ANALYSIS OF FILINGS BY COMPLAINANT'S RACE

Caucasian	319
Black	123
Alaska Native	63
Hispanic	37
Unknown	27
Asian	26
American Indian	13
Other	13
Total Filings	621

ANALYSIS OF FILINGS BY TYPE

Employment	545
Public Accommodation	29
Housing	17
Government Practices	26
Finance	0
Multiple	4
Total Filings	621



ANALYSIS OF FILINGS BY BASIS

Basis	Single Basis Complaint	Multiple Basis Complaint
Race/Color	124	80
Sex	69	106
Physical Disability	72	35
Age	56	59
National Origin	29	25
Retaliation for Filing	11	20
Pregnancy	15	9
Retaliation	13	87
Marital Status	5	16
Mental Disability	15	11
Parenthood	4	9
Religion	14	7
Multiple Bases	194	0
Total Filings	621	464

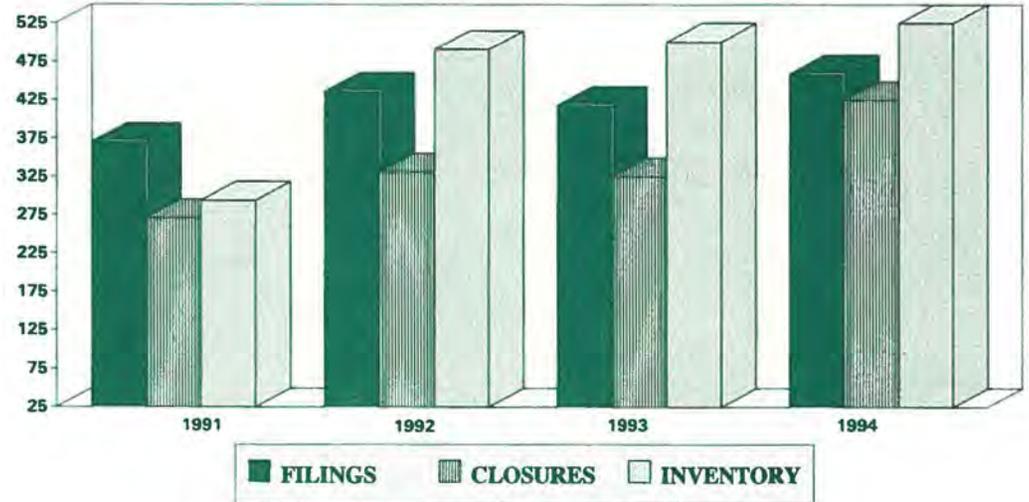
ANALYSIS OF FILINGS BY ISSUE

Issue	Single Issue Complaint	Multiple Issue Complaint
Discharge	139	167
Failure to Hire	97	24
Terms & Conditions	95	157
Other	12	20
Denied Service	21	4
Sexual Harassment	5	55
Failure to Rent	3	0
Failure to Promote	13	17
Pay Equity	4	15
Eviction	2	7
Demotion	1	18
Harassment	3	46
Multiple Issue	226	0
Total Filings	621	530

ANALYSIS OF 1994 CLOSURES

REASON FOR CLOSURE	NUMBER OF CLOSURES	PERCENTAGE OF TOTAL
ADMINISTRATIVE:	96	16.11%
Complaint Withdrawn	36	6.04%
Lack of Jurisdiction	8	1.34%
Complainant Not Available	11	1.85%
Failure of Complainant to Proceed	9	1.51%
Complainant to Court	14	2.35%
Administrative Dismissal	18	3.02%
NOT SUBSTANTIAL EVIDENCE	424	71.14%
CONCILIATION/SETTLEMENT:	70	11.74%
Complaint Withdrawn with Successful Settlement	8	1.34%
Predetermination Settlement (PDS)	51	8.56%
PDS-Full Relief	3	.50%
PDS-Cause/Full Relief	1	.17%
Substantial Evidence/ Conciliation Agreement	7	1.17%
HEARING:	6	1.01%
Decision for Respondent	1	.17%
Pre-Hearing Settlement	3	.50%
Hearing Unit-Other	2	.34%
TOTAL 1994 CLOSURES	596	100%

FILINGS, CLOSURES AND YEAR END INVENTORY OF CASES PROCESSED BY ASCHR



SUMMARY OF CLOSURES

CATEGORY OF CLOSURE	1992		1993		Detail of 1994 Closures					
	No.	%	No.	%	ASCHR		EEOC		AERC	
					No.	%	No.	%	No.	%
Administrative	97	19.6	102	22.0	68	11.4	16	2.7	12	2.0
Not Substantial Evidence	293	59.2	264	57.0	317	53.2	25	4.2	82	13.8
Conciliation/Settlement	98	19.8	93	20.1	33	5.5	1	0.2	36	6.0
Hearing	7	1.4	4	.9	6	1.0	0	0	0	0
					424		42		130	
TOTAL CLOSURES	495		463		596					

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