

1 BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

2 ALASKA STATE COMMISSION FOR)
3 HUMAN RIGHTS, MARTI BUSCAGLIA,)
4 EXECUTIVE DIRECTOR, *ex rel.*)
5 MICHAEL CHIESA,)

6 Complainant,)

7 v.)

ASCHR Nos. J-15-058
J-16-291

8)
9 CITY OF KODIAK, KODIAK POLICE DEPT.,)

10 Respondent.)
11 _____)

12 ACCUSATION

13 Marti Buscaglia, Executive Director of the Alaska State Commission for Human
14 Rights, *ex rel.* Michael Chiesa, hereby alleges the following against Respondent City of
15 Kodiak, Kodiak Police Department:
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17 1. Michael Chiesa was hired as a police officer by the City of Kodiak in
18 January 2011 and was promoted to the position of Sergeant in August 2013.
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20 2. Throughout his employment with the City of Kodiak, Mr. Chiesa was rated
21 as primarily outstanding or above average on his performance evaluations.
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23 3. On September 18, 2014, Mr. Chiesa injured both of his knees and a
24 shoulder while on duty when he fell through the flooring of a porch at a house where he
25 was sent to answer a call.
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1 4. Mr. Chiesa's required two surgeries to repair his knees and shoulder and
2 was unable to return to his position as a police officer until he had recovered from the
3 surgeries.
4

5 5. Mr. Chiesa and his physician promptly established a medical plan, setting
6 the date of the first surgery for October 14, 2014.
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8 6. Because Mr. Chiesa's injuries occurred while he was working, the City of
9 Kodiak's workers' compensation insurance covered the cost of Mr. Chiesa's medical
10 care for the injuries.
11

12 7. The City of Kodiak's workers' compensation insurance carrier denied
13 preauthorization of Mr. Chiesa's surgeries and required an Independent Medical
14 Examination (IME) to determine if they would be authorized.
15

16 8. The IME was not scheduled to occur until December 2014. Consequently,
17 Mr. Chiesa elected to pay for his first surgery with his personal medical insurance rather
18 than wait for the IME.
19

20 9. Mr. Chiesa notified the City of Kodiak of his intent to pay for the first
21 surgery with his own insurance so as not to cause unnecessary delay in his ability to
22 return to work.
23

24 10. Mr. Chiesa attended the IME appointment in December 2014, after which
25 the City of Kodiak's workers' compensation insurance carrier approved the medical plan
26 that Mr. Chiesa's physician initially recommended.
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1 11. After the workers' compensation insurance carrier approved the medical
2 plan that Mr. Chiesa's physician initially recommended, Mr. Chiesa scheduled his second
3 surgery for January 22, 2015.
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5 12. On January 16, 2015, the City of Kodiak notified Mr. Chiesa that his leave
6 entitlement under the Family Medical Leave Act would expire on January 21, 2015.
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8 13. Mr. Chiesa wrote to the City of Kodiak requesting an extension of his
9 leave, explaining his medical plan and reiterating his intent to return to full duty status.
10

11 14. Mr. Chiesa underwent his second surgery on January 22, 2015, and
12 notified the City of Kodiak that he had a post-operative check-up appointment scheduled
13 for February 28, 2015.
14

15 15. The City of Kodiak did not respond to Mr. Chiesa's January 16, 2015
16 written request until February 12, 2015, when it advised Mr. Chiesa that his leave was
17 extended to February 27, 2015, and that if he could not return to full duty status on
18 February 28, 2015 his employment would be terminated.
19

20 16. On February 17, 2015, Mr. Chiesa sent a formal letter to the City of
21 Kodiak's city manager and chief of police, explaining in great detail his medical situation
22 and requesting a light duty assignment or an extension of his leave to April 7, 2015,
23 when he was expected to be fully recovered and able to resume his duties as a police
24 officer.
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26 17. The City of Kodiak did not respond to Mr. Chiesa's February 17 letter.
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1 3. That the Commission order the City of Kodiak to adopt and disseminate a
2 policy of nondiscrimination under the Alaska Human Rights Law.

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4 4. That the Commission order the City of Kodiak to obtain training of at least
5 six hours in length for its managers and supervisors on the provisions of the Alaska Human
6 Rights Law that prohibit discrimination in employment, with an emphasis on the prohibition
7 against discrimination based on disability and the requirement to provide reasonable
8 accommodations to persons with disabilities.

9
10 5. That the Commission order Respondent to eliminate from any of Mr.
11 Chiesa's personnel records all documents and entries relating to the facts and circumstances
12 that led to Mr. Chiesa's filing of the above-captioned charge and any of the related events
13 occurring thereafter.

14
15 6. That the Commission order the City of Kodiak to refrain from penalizing Mr.
16 Chiesa in any way in future considerations for employment and, if rehired, for transfers,
17 promotions, or upgrading because Mr. Chiesa filed a complaint with the Commission.

18
19 7. That the Commission order the City of Kodiak to refrain from advising or
20 informing any other employer or potential employer of Mr. Chiesa of the facts or
21 circumstances involved in this case.

22
23 8. That the Commission order the City of Kodiak to pay back wages,
24 including any lost benefits, and out-of-pocket expenses to Mr. Chiesa plus interest at the
25 applicable legal rate, the exact amount of which will be proven at hearing.
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ALASKA HUMAN RIGHTS COMMISSION

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9. That the Commission order the City of Kodiak to immediately reinstate Mr. Chiesa to the position of police officer from which he was terminated on February 27, 2015, with full benefits and seniority consistent with his original date of hire.

10. That the Commission order the City of Kodiak to pay front pay to Mr. Chiesa until he is fully reinstated.

Dated this 27th day of October 2017 at Anchorage, Alaska.

ALASKA STATE COMMISSION
FOR HUMAN RIGHTS

Signature Redacted

Stephen Koteff
Human Rights Advocate
Alaska Bar No. 9407070