

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

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3 ALASKA STATE COMMISSION FOR )  
4 HUMAN RIGHTS, MARTI )  
5 BUSCAGLIA, EXECUTIVE )  
6 DIRECTOR, *ex rel.* )  
7 ADRIAN WAGNER, )  
8 )  
9 Complainant, )  
10 )  
11 v. )  
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13 FIRST NATIONAL BANK ALASKA, )  
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15 Respondent. )  
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ASCHR No. J-17-164

ACCUSATION

Marti Buscaglia, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Adrian Wagner, hereby alleges the following against Respondent First National Bank Alaska:

1. First National Bank Alaska is a full service bank whose corporate headquarters are located at 101 West 36th Avenue in Anchorage, Alaska.
2. First National Bank Alaska has approximately 28 branches throughout Alaska, including its Kuskokwim Branch located in Bethel, Alaska.
3. On or about July 5, 2017, Adrian Wagner applied for a customer service representative position in Respondent's Bethel branch.
4. Despite the fact that driving is not an essential function of the position, the job description stated that a valid State of Alaska driver's license was required for the customer service representative position.

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5. Respondent has a practice of routinely requiring that applicants for employment possess a valid State of Alaska driver's license and provide a current copy of an Alaska Department of Motor Vehicles Report evidencing a good driving record.

Respondent's practice includes routinely stating on its job descriptions and job postings that a driver's license is a qualification requirement for the position, even where driving is not an essential function.

6. Mr. Wagner was diagnosed with macular degeneration, also known as Stargardt's disease, at the age of 12.

7. As a result of his macular degeneration, Mr. Wagner is substantially limited in one or more of his major life activities, including his ability to see. Mr. Wagner is therefore a person with a disability as defined by the Alaska Human Rights Law.

8. Although his disability prevents him from obtaining a driver's license, Mr. Wagner was qualified to perform the duties of Respondent's customer service representative position with or without an accommodation.

9. Respondent interviewed Mr. Wagner for the customer service representative position on or about July 13, 2017.

10. During his interview, Mr. Wagner informed Respondent that he would need an accommodation as a result of his visual impairment. Mr. Wagner specifically requested assistive technology to magnify his computer screen, and Respondent's branch manager told Mr. Wagner that this would not be an issue.

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11. On July 19, 2017, Respondent sent Mr. Wagner a letter offering him the customer service representative position. The letter stated that Mr. Wagner's anticipated start date would be the following Monday, July 24, 2017.

12. Mr. Wagner accepted Respondent's offer of employment.

13. As part of the hiring process, Mr. Wagner was required to undergo a background check and submit various forms and other documents.

14. On or about July 21, 2017, while filling out his pre-employment paperwork, Mr. Wagner informed Respondent that he could not submit a motor vehicle report because he did not have a driver's license due to his disability.

15. Mr. Wagner told Respondent that he is unable to obtain a driver's license due to his physical disability and requested a reasonable accommodation that would allow him not to drive while performing his job duties.

16. Despite Mr. Wagner's request, Respondent refused to provide such an accommodation and instead rescinded its offer of employment.

17. On or about July 25, 2017, Respondent informed Mr. Wagner that the sole reason Respondent rescinded its employment offer was that Mr. Wagner did not have a driver's license.

18. Because Respondent denied Mr. Wagner's request for an accommodation and refused to hire Mr. Wagner, Mr. Wagner has suffered harm in the form of lost wages and benefits.

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**FIRST CAUSE OF ACTION  
FAILURE TO HIRE BECAUSE OF DISABILITY  
A VIOLATION OF AS 18.80.220(a)**

19. Paragraphs 1-18 above are realleged and incorporated herein.

20. Adrian Wagner has an impairment that substantially limits one or more of his major life activities and is a person with a disability as that term is defined by the Alaska Human Rights Law.

21. Mr. Wagner applied for and was offered employment with First National Bank Alaska as a customer service representative at Respondent's Bethel branch.

22. Mr. Wagner was qualified to perform all of the essential functions of the customer service representative position, with or without an accommodation.

23. Despite the fact that Mr. Wagner was qualified to perform all of the functions of the customer service representative job, Respondent withdrew its offer of employment because Mr. Wagner did not possess a valid driver's license.

24. Mr. Wagner's physical disability is the sole reason that he did not have a valid driver's license.

25. Respondent's refusal to hire Mr. Wagner constitutes a violation of AS 18.80.220(a).

26. Because Respondent rescinded its offer of employment and refused to hire Mr. Wagner, Mr. Wagner has suffered harm in the form of lost wages and benefits.

**SECOND CAUSE OF ACTION  
FAILURE TO PROVIDE REASONABLE ACCOMMODATION  
A VIOLATION OF AS 18.80.220(a)**

27. Paragraphs 1-18 above are realleged and incorporated herein.

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28. Adrian Wagner has an impairment that substantially limits one or more of his major life activities and is a person with a disability as that term is defined by the Alaska Human Rights Law.

29. Mr. Wagner applied for and was offered employment with First National Bank Alaska as a customer service representative at Respondent's Bethel branch.

30. Mr. Wagner was qualified to perform all of the essential functions of the customer service representative position, with or without an accommodation.

31. Mr. Wagner requested a reasonable accommodation to perform the customer service representative position, and it was otherwise obvious to Respondent that Ms. Wagner needed an accommodation to perform the job as a result of his physical disability.

32. Respondent refused to provide Mr. Wagner with the reasonable accommodation Mr. Wagner requested or engage in an interactive process to determine whether a reasonable accommodation was possible.

33. Instead, Respondent rescinded its offer of employment to Mr. Wagner.

34. Respondent's failure to provide Mr. Wagner with a reasonable accommodation constitutes a violation of AS 18.80.220(a).

35. As a result of Respondent's violation of AS 18.80.220(a), Mr. Wagner has suffered harm in the form of lost wages and benefits.

**THIRD CAUSE OF ACTION  
DISCRIMINATION IN EMPLOYMENT BECAUSE OF DISABILITY  
A SYSTEMIC VIOLATION OF AS 18.80.220(a)**

36. Paragraphs 1-18 above are realleged and incorporated herein.

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37. Adrian Wagner has an impairment that substantially limits one or more of his major life activities and is a person with a disability as that term is defined by the Alaska Human Rights Law.

38. Mr. Wagner applied for and was offered employment with First National Bank Alaska as a customer service representative at Respondent's Bethel branch.

39. Mr. Wagner was qualified to perform all of the essential functions of the customer service representative position, with or without an accommodation.

40. The job description for the customer service representative position to which Mr. Wagner applied stated that possessing a valid State of Alaska driver's license and providing a current copy of an Alaska Department of Motor Vehicles Report evidencing a good driving record were qualification requirements for the position.

41. Respondent applied this qualification standard even though driving is not an essential function of the customer service representative position.

42. Because driving is not an essential function of the customer service representative position, the driver's license requirement is not job-related and consistent with business necessity. Because it is not job-related and consistent with business necessity, the driver's license requirement constitutes an unlawful qualification standard under the Alaska Human Rights Law.

43. Respondent has a practice of routinely requiring that applicants for employment possess a valid driver's license and submit an Alaska Department of Motor Vehicles Report evidencing a good driving record. Respondent's practice includes routinely

1 stating on its job descriptions and job postings that a driver's license is a qualification  
2 requirement for the position, even where driving is not an essential function.  
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4 44. Respondent's practice of requiring a driver's license for positions in which  
5 driving is not an essential function screens out or tends to screen out individuals with  
6 disabilities.  
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8 45. Because the driver's license requirement screens out qualified individuals with  
9 disabilities, Respondent's application of this qualification standard to positions for which  
10 driving is not an essential function constitutes a violation of AS 18.80.220(a).  
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12 **PRAYER FOR RELIEF**

13 Wherefore the Executive Director asks for the following relief:

14 1. That the Commission issue an order declaring that Respondent First National  
15 Bank Alaska violated AS 18.80.220(a) by refusing to hire Adrian Wagner on the basis of  
16 disability.  
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18 2. That the Commission issue an order declaring that Respondent violated  
19 AS 18.80.220(a) by failing to provide Mr. Wagner with a reasonable accommodation.  
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21 3. That the Commission issue an order declaring that Respondent violated  
22 AS 18.80.220(a) by requiring a driver's license for the customer service representative position  
23 to which Mr. Wagner applied, even though driving is not an essential function of the job.  
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25 4. That the Commission issue an order declaring that Respondent violated AS  
26 18.80.220(a) by engaging in a systemic practice of requiring that applicants possess a driver's  
27 license where driving is not an essential function of the position.  
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5. That the Commission order Respondent to immediately refrain from and

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abandon its practice of requiring driver's licenses for jobs in which driving is not an essential function of the position.

6. That the Commission order Respondent to eliminate the driver's license requirement from all of its job descriptions and job postings in which driving is not an essential function of the position.

7. That the Commission order Respondent to adopt and disseminate a policy of nondiscrimination under the Alaska Human Rights Law.

8. That the Commission order Respondent to obtain, within thirty (30) days of the Commission's order, training conducted by a neutral, third-party trainer, of at least three (3) hours in length for its managers, supervisors, and employees on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, with an emphasis on the prohibition against disability-based discrimination and the requirement to provide reasonable accommodations to persons with disabilities.

9. That the Commission's order require that the aforementioned policy, trainers, and training curricula be subject to approval by the Executive Director.

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

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11. That the Commission order Respondent to refrain from penalizing Mr. Wagner in any way in future considerations for employment and, if rehired, for transfers, promotions, or upgrading because Mr. Wagner filed a complaint with the Commission.

12. That the Commission order Respondent to refrain from advising or informing any other employer or potential employer of Mr. Wagner of the facts or circumstances involved in this case.

13. That the Commission order Respondent to pay back wages, including any lost benefits, to Mr. Wagner, plus interest at the applicable legal rate, the exact amount of which will be proven at hearing.

14. That the Commission order Respondent to pay front pay, including benefits, to Mr. Wagner, the exact amount of which will be proven at hearing.

Dated this 27th day of March 2019 at Anchorage, Alaska.

ALASKA STATE COMMISSION  
FOR HUMAN RIGHTS

Signature Redacted

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Marie Kyle  
Human Rights Attorney  
Alaska Bar No. 1705029