

1 BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

2 ALASKA STATE COMMISSION FOR)
3 HUMAN RIGHTS, PAULA M. HALEY,)
4 EXECUTIVE DIRECTOR, *ex rel.*)
5 CLAUDE BLAKE,)

6 Complainant,)

7 v.)

ASCHR No. J-12-423

8 SUMITOMO METAL MINING POGO, LLC,)

9 Respondent.)
10

11 ACCUSATION

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13 Paula M. Haley, Executive Director of the Alaska State Commission for Human
14 Rights, *ex rel.* Claude Blake, hereby alleges the following against Sumitomo Metal Mining
15 Pogo, LLC:

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17 1. Sumitomo Metal Mining Pogo, LLC (“Sumitomo”) is an Alaska limited
18 liability corporation, whose registered business address is 701 Fifth Avenue Suite 2150,
19 Seattle, Washington, 98104, doing business in Alaska as a mining company.

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21 2. Claude Blake (“Mr. Blake”) is an African-American male and was fifty-one
22 (51) years of age at the time of the events relating to this accusation.

23
24 3. Mr. Blake applied for a full-time position with Sumitomo as a surface
25 equipment operator when two permanent full-time surface equipment operator positions
26 became available.
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800 A Street, Suite 204
Anchorage, Alaska 99501-3669
(907) 276-7474 FAX (907) 278-8588

1 12. Two other candidates, Christopher Hochstetler (“Mr. Hochstetler”) and Justo
2 Leomar (“Mr. Leomar”), males not of Mr. Blake’s race and who had significantly less
3 experience than Mr. Blake, were selected and hired in the permanent full-time surface
4 equipment operator positions.
5

6 13. Mr. Leomar had not worked as a surface equipment operator prior to being
7 selected for the permanent full-time surface equipment operator position, and Mr.
8 Hochstetler had only been in the position as a term contract employee for seven (7) months
9 prior to being hired in the permanent full-time surface equipment operator position.
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11 14. Sumitomo refused to hire Mr. Blake for the permanent full-time surface
12 equipment operator position, in whole or in part, because of his race.
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14 15. Sumitomo’s refusal to hire Mr. Blake for the permanent full-time surface
15 equipment operator position because of his race violates AS 18.80.220(a)(1).
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17 16. As a result of Sumitomo’s violation of AS 18.80.220(a)(1), Mr. Blake has
18 suffered damages in the form of lost wages, benefits, and other remuneration.
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20 **SECOND CAUSE OF ACTION**
21 **DISCRIMINATION BECAUSE OF AGE**
22 **IN VIOLATION OF AS 18.80.220(a)**

23 17. Paragraphs 1-16 above are re-alleged and incorporated herein.
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25 18. On or about October 2012, Mr. Blake, a 51 year-old African-American male,
26 applied for a permanent full-time position as a surface equipment operator.
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1 19. Mr. Blake was qualified for the position and had been working in that position
2 as a contract employee for sixteen (16) months prior to applying for the permanent full-
3 time position.
4

5 20. Two other candidates, Christopher Hochstetler ("Mr. Hochstetler") and Justo
6 Leomar ("Mr. Leomar"), males with significantly less experience and significantly
7 younger than Mr. Blake, were selected and hired in the permanent full-time surface
8 equipment operator positions.
9

10 21. Mr. Leomar, a 31 year-old male, had not worked as a surface equipment
11 operator prior to being selected for the position as surface equipment operator, and Mr.
12 Hochstetler, a 27 year-old male, had only been in the position as a term contract employee
13 for seven (7) months prior to being hired in the permanent full-time surface equipment
14 operator position.
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16 22. Sumitomo refused to hire Mr. Blake for the permanent full-time surface
17 equipment operator, in whole or in part, because of his age.
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19 23. Sumitomo's refusal to hire Mr. Blake for the permanent full-time surface
20 equipment operator because of his age violates AS 18.80.220(a)(1).
21

22 24. As a result of Sumitomo's violation of AS 18.80.220(a)(1), Mr. Blake has
23 suffered damages in the form of lost wages, benefits, and other remuneration.
24

25 **THIRD CAUSE OF ACTION**
26 **HOSTILE WORK ENVIRONMENT ON THE BASIS OF RACE**
27 **IN VIOLATION OF AS 18.80.220(a)(1)**

28 25. Paragraphs 1-24 above are re-alleged and incorporated herein.

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1 26. Mr. Blake worked as a contract employee for Sumitomo as a surface
2 equipment operator.

3
4 27. While working in that position, co-workers would make disparaging racial
5 remarks such as inferring that he is ignorant because of his race.

6
7 28. Such conduct was severe and pervasive enough to create a hostile work
8 environment for Mr. Blake.

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10 29. Mr. Blake was objectively offended and the conduct seriously affected Mr.
11 Blake's psychological well-being.

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13 30. Sumitomo's supervisors and/or managers knew or should have known of the
14 disparaging comments being made to Mr. Blake and failed to take corrective action.

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16 31. As a result of failing to take corrective action and allowing this hostile work
17 environment to continue, Sumitomo violated AS 18.80.220(a)(1).

18 **PRAYER FOR RELIEF**

19 Wherefore the Executive Director asks for the following relief:

20 1. That the Commission issue an order declaring that Sumitomo violated
21 AS 18.80.220(a)(1) by discriminating against Claude Blake because of his race.

22 2. That the Commission issue an order declaring that Sumitomo violated AS
23 18.80.220(a)(1) by discriminating against Claude Blake because of his age.

24
25 3. That the Commission issue an order declaring that Sumitomo violated AS
26 18.80.220(a)(1) by failing to take corrective action when Mr. Blake was subjected to a
27 hostile work environment during employment with Sumitomo.
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1 4. That the Commission order Sumitomo to adopt and disseminate to all
2 employees a policy of nondiscrimination under the Alaska Human Rights Law that
3 includes a policy prohibiting discrimination against employees on the basis of age and
4 race, and a policy prohibiting a hostile work environment, and a policy describing a
5 procedure for employees to report discrimination and advising employees of their rights
6 to contact the Alaska State Commission for Human Rights.
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9 5. That the Commission order Sumitomo to obtain in-person training, by a
10 neutral third party trainer, of at least six (6) hours in length for its owners and managers
11 and at least three (3) hours in length for employees on the provisions of the Alaska Human
12 Rights Law that prohibit discrimination in employment, with an emphasis on preventing
13 age and race discrimination and hostile work environment and that such order specify that
14 the trainer and training curriculum be approved by the Executive Director prior to the
15 training being conducted.
16

17
18 6. That the Commission order that Sumitomo eliminate from Mr. Blake's
19 personnel records any and all documents and entries relating to the facts and circumstances
20 that led Mr. Blake to file the above-captioned charge of discrimination and any of the
21 related events occurring thereafter.
22

23 7. That the Commission order Sumitomo to refrain from penalizing Mr. Blake in
24 any way in future considerations for employment or after rehire, should he be rehired,
25 because Mr. Blake filed a complaint with the Commission.
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