

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR
HUMAN RIGHTS, PAULA M. HALEY,
EXECUTIVE DIRECTOR, *ex rel.*, JOSE
MANUEL CALLEROS, FRANCISCO J.
QUINTANA-LOZOYA, CESAR
BURGUEÑO, RAMIRO SOLIS, and
ABEL BURGUEÑO,

Complainants,

v.

BALTAZAR ENTERPRISES, INC.,

Respondent.

RECEIVED
HUMAN RIGHTS COMMISSION
NOV 21 2013
COMMISSION SECRETARY

ASCHR Nos. J-11-184,
J-11-203, J-11-305,
J-11-312, and J-12-033

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for Human Rights, *ex rel.* Jose Manuel Calleros, Francisco J. Quintana-Lozoya, Cesar Burgueño, Ramiro Solis, and Abel Burgueño (collectively referred to as "Complainants"), hereby alleges the following against Respondent Baltazar Enterprises, Inc.:

1. Respondent Baltazar Enterprises, Inc., is an Alaska corporation that provides automotive repair and tire services at 1435 Muldoon Road in Anchorage.

2. Complainant Jose Manuel Calleros is Hispanic and of Mexican descent and was employed by Respondent as a seasonal tire technician in 2011 until he was forced to resign in May 2011.

3. Complainant Francisco J. Quintana-Lozoya is Hispanic and of Mexican descent and was employed by Respondent as a seasonal tire technician in 2011 until he

1 was forced to resign in May 2011.

2 4. Complainant Cesar Burgueño is Hispanic and of Mexican descent and
3 was employed by Respondent as a seasonal tire technician from 2009 until he was
4 forced to resign in October 2011.
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6 5. Complainant Ramiro Solis is Hispanic and of Mexican descent and was
7 employed by Respondent as a seasonal tire technician from 2009 until he was forced to
8 resign in October 2011.
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10 6. Complainant Abel Burgueño is Hispanic and of Mexican descent and was
11 employed by Respondent as a seasonal tire technician in 2011 until he was forced to
12 resign in October 2011.
13

14 7. Respondent recruited each Complainant to work in its Anchorage facility
15 by placing job notices in a Callexico, California, employment office advertising the tire
16 technician positions and noting that the position paid an hourly salary and included free
17 room and board.
18

19 8. In 2011, Jose Calleros, Francisco Quintana-Lozoya, and Abel Burgueño
20 responded to one of Respondent's job announcements, were hired by Respondent, and
21 flew to Anchorage to work for Respondent. Cesar Burgueño and Ramiro Solis were
22 initially hired in 2009 pursuant to a similar job posting, and returned to work for
23 Respondent in 2011 under similar terms of employment.
24

25 9. Upon arrival, Complainants learned that Respondent did not provide room
26 and board. Complainants slept in sleeping bags that they provided for themselves on
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1 the floor of a loft area above the tire shop and next to shop equipment and chemicals.
2 One of the Complainants, Jose Calleros, was concerned about the safety conditions in
3 the loft and he and another Hispanic/Mexican employee received permission to sleep
4 below the loft in Respondent's office. Complainants were not provided with regular
5 meals and did not have access to a kitchen to prepare their own food.
6

7
8 10. While Complainants worked, Respondent's owner cursed and yelled at
9 them and used derogatory language when referring to Complainants. For example,
10 Respondent's owner repeatedly used phrases such as "no me chingues" ("don't fuck
11 with me") and "pendejos" ("assholes") when referring to Complainants. Respondent's
12 owner did not curse and yell and use derogatory language toward the non-Hispanic, non-
13 Mexican employees.
14

15
16 11. Respondent's owner did not permit Complainants to take regular rest,
17 bathroom, and lunch breaks and yelled at them if they took a break. Respondent's
18 owner told Complainants they had to eat their lunch while working because they cost
19 him a lot of money and Complainants needed to work. In contrast, Respondent's owner
20 allowed his non-Hispanic, non-Mexican employees to take regular breaks.
21

22 12. Respondent did not comply with Alaska wage and hour laws and pay
23 Complainants overtime wages when they worked overtime.
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25 13. Because Complainants could no longer tolerate working in an abusive,
26 hostile work environment, were not getting paid fully for the overtime hours they
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1 worked, and were living in substandard and potentially dangerous living conditions,
2 Complainants had no choice but to resign their employment.

3
4 **FIRST CAUSE OF ACTION**
5 **DISCRIMINATION IN EMPLOYMENT BECAUSE OF**
6 **RACE AND NATIONAL ORIGIN**
7 **A VIOLATION OF AS 18.80.220(a)**

8 14. Paragraphs 1-13 above are realleged and incorporated herein.

9 15. Complainants' race is Hispanic and their national origin is Mexican.

10 16. Complainants were employed by Respondent and at all times qualified to
11 do their jobs.

12 17. By subjecting Complainants to disparaging comments, epithets, and by
13 not allowing Complainants to take regular meal, rest, and bathroom breaks, Respondent
14 subjected Complainants to severe or pervasively hostile working conditions and
15 different terms and conditions of employment because of their race and national origin.

16 18. Respondent's owner's speech and conduct were unwelcome, offensive to
17 a reasonable person, and offensive to Complainants.

18 19. The severe or pervasive negative treatment of Complainants by
19 Respondent's owner altered the terms and conditions of Complainants' working
20 environment by creating an abusive working environment.

21
22 **SECOND CAUSE OF ACTION**
23 **TERMINATION OF EMPLOYMENT BECAUSE OF**
24 **RACE AND NATIONAL ORIGIN**
25 **A VIOLATION OF AS 18.80.220(a)**

26 20. Paragraphs 1- 19 above are realleged and incorporated herein.

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28 *ASCHR, Paula M. Haley, Executive Director, ex rel. Jose Calleros, Francisco J. Quintana-Lozoya, Cesar Burgueño, Ramiro Solis, & Abel Burgueño, ASCHR Nos. J-11-184, J-11-203, J-11-305, J-11-312, & J-12-033*

1 21. Complainants' race is Hispanic and their national origin is Mexican.

2 22. Complainants were employed by Respondent and at all times qualified to
3 do their jobs.
4

5 23. Although Complainants were promised free room and board as conditions
6 of their employment, their living conditions were unsafe and unsanitary and no regular
7 food was provided.
8

9 24. By subjecting Complainants to disparaging comments, epithets, and by
10 not allowing Complainants to take regular meal, rest, and bathroom breaks,
11 Respondent's owner subjected Complainants to a hostile working environment.
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13 25. Respondent failed to comply with Alaska law and pay overtime wages
14 when Complainants worked overtime hours.
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16 26. The conditions of employment, including living conditions, were so
17 intolerable that the Complainants were forced to resign and were constructively
18 discharged by Respondent.
19

20 27. As a result of Respondent's discriminatory discharge, Complainants have
21 suffered damages in the form of lost wages and other benefits.
22

23 **PRAYER FOR RELIEF**

24 Wherefore the Executive Director asks for the following relief:

25 1. That the Commission issue an order declaring that Respondent Baltazar
26 Enterprises, Inc., violated AS 18.80.220(a) by subjecting Complainants to a hostile work
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1 environment and different conditions of employment on the basis of race and national
2 origin.

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4 2. That the Commission issue an order declaring that Respondent Baltazar
5 Enterprises, Inc., violated AS 18.80.220(a) by terminating Complainants' employment on
6 the basis of race and national origin.

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

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11 4. That the Commission order Respondent to obtain training of at least four
12 hours in length for its managers and supervisors on the provisions of the Alaska Human
13 Rights Law that prohibit discrimination in employment, with an emphasis on the
14 prohibition against discrimination based on race and national origin.

15
16 5. That the Commission order Respondent to eliminate from Complainants'
17 personnel records all documents and entries relating to the facts and circumstances that led
18 to Complainants' filing of the above-captioned charge and any of the related events
19 occurring thereafter.

20
21 6. That the Commission order Respondent to refrain from penalizing
22 Complainants in any way in future considerations for employment and, if rehired, for
23 transfers, promotions, or upgrading because Complainants complained about
24 discrimination or because they filed a complaint with the Commission.

25
26 7. That the Commission order Respondent to refrain from advising or
27 informing any other employer or potential employer of Complainants of the facts or
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1 circumstances involved in this case.

2 8. That the Commission order Respondent to pay back wages, including any
3 lost benefits, to Complainants, plus interest at the applicable legal rate, the exact amount
4 of which will be proven at hearing.
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6 9. That the Commission order Respondent to pay the statutory maximum
7 amount of front pay, including benefits, to Complainants, the exact amount of which will
8 be proven at hearing.
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10 Dated this 21st day of November 2013 at Anchorage, Alaska.

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12 ALASKA STATE COMMISSION
13 FOR HUMAN RIGHTS

14 *signature redacted*

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16 _____
17 Laura Clauson Ferree
18 Human Rights Attorney
19 Alaska Bar No. 1305015
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