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EMPLOYMENT - ALASKA

Kennedy v. Municipality of Anchorage

Supreme Court of Alaska - August 16, 2013 - P.3d - 2013 WL 4399118

Former police officers brought action against municipality for racial discrimination, alleging a hostile work environment. The Superior Court granted motion to compel officers' compliance with discovery requests. Officers petitioned for review, which was granted. Officers appealed.

The Supreme Court of Alaska held that:

- On an issue of first impression, garden-variety mental anguish claims did not waive physician and psychotherapist privilege, and
- Officers' mental anguish claims were garden-variety.

"Garden-variety claims" of mental anguish refer to claims for compensation for nothing more than the distress that any healthy, well-adjusted person would likely feel as a result of being so victimized.

Police officers' garden-variety mental anguish claims in employment discrimination action against municipality did not waive physician and psychotherapist privilege. Garden-variety claims were sufficiently limited in scope to alleviate defendants' concerns regarding fairness to defendants, wide-ranging inquiry into an individual's medical and psychiatric history could have deterred legitimate discrimination claims, and litigants should not have been forced to choose between disclosing highly personal medical information and asserting claims for distress that any healthy individual would have likely suffered as a result of discrimination.

Former police officers' assertion of mental anguish claims in employment discrimination action against municipality were "garden-variety claims" that did not put their mental state at issue so as to waive physician and psychotherapist privilege for purposes of discovery of officers' medical records, where mental anguish claims did not allege a specific, diagnosed psychological condition, but rather merely that officers had suffered general mental distress, officers alleged that they did not receive mental health treatment for emotional distress, and officers asserted that their claims could be established by lay testimony.