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7 **BEFORE THE ADMINISTRATIVE LAW JUDGE**
8 **FOR A HUMAN RIGHTS COMMISSION HEARING**

9 WASHINGTON STATE HUMAN
10 RIGHTS COMMISSION,
11 presenting the case in support of the
12 complaint filed by Colleen Morrison

13 Complainant,

14 v.

15 HANEY TRUCK LINE, LLC,

16 Respondent.

NO.

COMPLAINT

17 Complainant Washington State Human Rights Commission (“the Commission”) submits
18 this amended complaint and states as follows:

19 **I. UNFAIR PRACTICES ALLEGED**

- 20 1. Respondent Haney Truck Line, LLC (“Haney”) discriminated against its former
21 employee, Colleen Morrison (“Morrison”) in violation of the Washington Law
22 Against Discrimination, RCW 40.60. Despite Ms. Morrison having repeatedly
23 informed Haney that she has hypoglycemia and relies on a trained dog to alert her to
24 low blood sugar levels, Haney prohibited Ms. Morrison from bringing her trained dog
to work. In so doing, Haney discriminated against Ms. Morrison because of her use
of a service animal in violation of RCW 49.60.030 and RCW 49.60.180.

II. JURISDICTION

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2. The Commission has jurisdiction to prosecute this case. *See* RCW 49.60.240 and RCW 49.60.250. RCW 49.60.240 authorizes the Commission to investigate complaints of discrimination and, once it makes a finding of reasonable cause to believe discrimination has occurred, to seek relief for such discrimination. If an agreement to eliminate the unfair practice is not reached, RCW 49.60.250 allows the Commission to request appointment of an administrative law judge to hear its complaint.

III. FACTUAL BASIS FOR ALLEGATIONS

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3. Haney provides truckload transportation to customers shipping in and between Washington, Oregon, Idaho, California, Montana, Wyoming, Utah, Nevada, and Canada. Its headquarters are located in Yakima, Washington.
4. Ms. Morrison started working for Haney on May 13, 1997, in its Payroll and Billing Department in Yakima. Her job title was accounts payable manager. Her duties included reviewing invoices and check receipts, processing check requests, reconciling payments, and other clerical duties related to payroll and billing.
5. Ms. Morrison has hypoglycemia. Ms. Morrison's hypoglycemia is a physical impairment that is medically cognizable or diagnosable, and/or exists as a part of Ms. Morrison's record or history. Ms. Morrison's hypoglycemia is a disability pursuant to RCW 49.60.040(7)(a).
6. In approximately October of 2010, Ms. Morrison obtained, Lucky, an Australian Shepherd. After being diagnosed with hypoglycemia, Ms. Morrison trained Lucky to become a diabetic alert dog. In addition to enrolling Lucky in several behavior training classes, Ms. Morrison trained Lucky to do hypoglycemic alerts pursuant to standards established by the Seattle Service Dog Academy. Lucky has passed a Canine Good Citizen test and Public Access Test. Ms. Morrison uses Lucky for the

1 purpose of assisting or accommodating her hypoglycemia pursuant to RCW
2 49.60.040(24).

3 7. On April 2, 2012, Ms. Morrison provided written notice to Haney's Human Resource
4 Manager, Angie Stickney, that she is hypoglycemic and requested that she be allowed
5 to bring her service animal to work. Specifically, Ms. Morrison informed Ms.
6 Stickney that Lucky was in training to alert her when her blood sugar starts to drop.

7 8. Ms. Morrison's request was supported by a doctor's note, dated March 18, 2012,
8 from her medical provider, Richard Wilkinson, M.D. Dr. Wilkinson stated the
9 following:

10 "Colleen Morrison is my patient. I am treating her for several medical
11 conditions. Colleen uses a Service Dog to assist her in managing these
12 conditions, and I support her in doing so. It is my opinion that Colleen's
13 service dog is medically necessary to her. Please accommodate her and her
14 Service Dog as requested."

15 9. On April 4, 2012, Ms. Morrison notified Ms. Stickney that Lucky was no longer in
16 training, but was now a service animal, trained to alert her to a drop in her sugar
17 levels, which gives her time to test her blood sugar levels and to resume her work.

18 10. On or about April 6, 2012, Ms. Stickney notified Ms. Morrison that her "request for
19 accommodation has been declined." No reason for Haney's denial was provided.

20 11. On April 20, 2012, Ms. Morrison requested a written response clarifying Haney's
21 denial of her request and reconsideration of its denial. Ms. Morrison noted that her
22 blood sugar had recently dropped to a dangerously low number while at work and
23 that Lucky would have alerted her to the hypoglycemic event before she entered the
24 danger zone. Ms. Morrison further noted that she had supplied a letter from her
doctor and offered to bring in an air cleaner to use in her office if there were concerns
about allergens.

1 12. That same day, Ms. Stickney replied and requested Ms. Morrison meet with her that
2 afternoon to discuss several questions about her medical condition, reasonable
3 accommodation request and the status of Lucky's training as a Service Animal.

4 13. On April 24, 2012, Ms. Stickney sent Ms. Morrison a letter that confirmed Haney had
5 verbally declined Ms. Morrison's request to bring her service animal into work. Ms.
6 Stickney did not raise any concerns about Lucky presenting a risk to Haney's
7 property or other persons. Ms. Stickney instead offered several alternatives to
8 allowing Ms. Morrison to bring her service animal into work: (1) allow Ms. Morrison
9 necessary time to check blood sugar levels at intervals determined by her doctor, (2)
10 allow Ms. Morrison time to take medications and eat to maintain appropriate blood
11 sugar levels, (3) allow Ms. Morrison to bring an alarm clock or timer to work to
12 remind herself to check her blood sugar levels, and (4) allow Ms. Morrison to leave
her service animal in her personal vehicle in a reserved parking place in the shade.

13 14. On June 6, 2012, Ms. Morrison provided a second note from another medical
14 provider, Dr. William W. Robinson. In the note, Dr. Robinson explained that Ms.
15 Morrison had been diagnosed with hypoglycemia, Major Depression, Anxiety, and
16 Panic Attacks and that Ms. Morrison's hypoglycemia symptoms include: shakiness,
17 dizziness, confusion, difficulty paying attention, sweating, headache, sudden behavior
18 changes, clumsy or jerky movements, seizure, and coma. Dr. Robinson stated:

19 "Colleen does not feel or recognize the symptoms of hypoglycemia and cannot
20 tell when blood glucose levels are dropping below a safe level and so does not
21 know to take action to bring glucose levels back up. In addition to unawareness, a
person's body may not respond properly. Someone with hypoglycemia
unawareness may not respond immediately to treatment and the hypoglycemia
may last longer.

22 Since this is a dangerous condition Colleen uses a trained Service Dog to alert her
23 to sudden drops in her blood glucose level, it is my opinion that Colleen's Service
24 Dog is medically necessary for her to manage her condition at work. The
essential functions of her job (paying invoices, editing, printing invoices,
researching discrepancies, setting up electronic funds transfers, data entry,

1 corresponding with vendors, etc.) cannot be performed during a hypoglycemic
2 episode or during recovery from an episode. Her Service Dog is a tool she can
3 use to prevent a drop from the start.

4 Colleen's Service Dog also is trained to prevent anxiety attacks, and help manage
5 major depression by tasks that he performs. He also alerts her to chemical
6 sensitivities. A task list is attached.

7 Please accommodate Colleen and her Service Dog during her working hours.

8 15. On June 11, 2012, Ms. Morrison sent Ms. Stickney an email to inquire about Haney's
9 response to the updated information Ms. Morrison provided. Ms. Morrison also
10 asked if she needed to re-submit her request and, "[i]f so, [she] [was] doing so now."
11 Ms. Morrison stated, "I am still having trouble because if my blood sugar drops too
12 low while I am working I am not able to function very well until it is normal again. I
13 really would like to be able to prevent it in the first place by using my service dog.
14 Please let me know if there is anything more I can do to convince Haney that I am
15 serious about this."

16 16. On June 14, 2012, Ms. Stickney sent a reply e-mail message to Ms. Morrison's June
17 11, 2012 email, stating the following:

18 "Colleen, we do take your request for accommodation seriously. We have
19 gone above and beyond what is required and have considered and considered
20 your request on two separate. [sic]

21 During our last conversation, you were specifically asked "what part of your
22 job can you not perform due to your condition"; you indicated that your
23 condition does not affect your job (unless you were to faint or something).
24 Because the condition does not limit your ability to perform the essential
functions of your job, no accommodation is needed.

Out of courtesy to you and your tenure with Haney, we have proceeded with
the interactive process with you. It was explained during that process that we
would allow you to take additional breaks to check your blood sugar and to
eat if necessary. We have also allowed Lucky to be on premises and have
provided you with a reserved parking spot in the shade so that he could be in
your vehicle so you could spend time with him during work hours and breaks.

We appreciate your continued professionalism and the hard work you do for
Haney."

1 17. On June 14, 2012, Ms. Morrison sent a reply email to Ms. Stickney. She thanked Ms.
2 Stickney for the parking spot in the shade. She also stated, "When you asked me if I
3 could do my job I said yes I can because I thought that if I said no it would be
4 grounds for being fired." Ms. Morrison then provided a list of the symptoms of
5 hypoglycemia, including: double or blurry vision; fast or pounding heartbeat; feeling
6 cranky or acting aggressive; feeling nervous; headache; hunger; shaking or trembling;
7 sleeping trouble; sweating; tingling or numbing of skin; tiredness or weakness; and
8 unclear thinking. Ms. Morrison explained that she may have a blood sugar drop
9 without symptoms, and the result may include fainting, seizures and coma. When
10 symptoms occur, Ms. Morrison cannot continue working, but must take time to check
11 her blood levels, eat, and wait until she feels better, and that the after-effects will last
12 the entire day. Ms. Morrison reminded Ms. Stickney that Lucky had completed his
13 training as a service animal to alert Ms. Morrison before symptoms occur; she had
14 submitted several notes from her doctor; offered to keep Lucky in a crate; would
15 purchase an air filter for the office; and asked that Ms. Stickney allow Lucky "to do
16 the job he is trained for."

17 18. On June 15, 2012, Ms. Stickney replied to Ms. Morrison's email, stating that Ms.
18 Morrison's job was not in jeopardy, but Haney was "trying to make a determination
19 as to what, if any, accommodation was needed, and we have worked with you [sic]
20 during this situation in a positive and supportive way (with the exception of
21 accommodating your specific request)...if symptoms of hypoglycemia appear, we
22 will allow you time away from your desk, time for eating and recovery, etc."

23 19. On December 17, 2012, Ms. Morrison's endocrinologist, Dr. Gary L. Treece,
24 provided her a third note to provide Haney, which stated:

"[Colleen Morrison] has reactive hypoglycemia which is only partially
controllable through dietary management. As a result, she has episodes of
hypoglycemia, often severe, that require a prolonged recovery. Prevention of

1 the serve episodes is the goal and progress is being made towards that end.
2 However, she is sometimes unable to detect an episode until it is too late.
3 However, she has acquired a Hypoglycemia Detecting Service Dog who is
4 able to detect the early stages of hypoglycemia and warn the patient who can
5 then treat herself and prevent a more severe episode.

6 Therefore it is deemed medical necessary for her to [sic] able to bring her
7 Service Dog to work with her and be at her side throughout the workday. This
8 medical necessity will be required for the indefinite future.”

9 20. On December 21, 2012, Ms. Stickney wrote Dr. Treece a letter in response, inquiring
10 about Ms. Morrison’s need for a service animal. In the letter, Ms. Stickney asked
11 several questions about Ms. Morrison’s need for a service animal. Dr. Treece mailed
12 his response directly to Ms. Stickney shortly thereafter.

13 21. In the letter, Ms. Stickney asked, “Is there a non-evasive [sic] monitoring system that
14 is available for glucose monitoring?” Dr. Treece responded, “Yes, a service dog (all
15 others are invasive).” Further, Ms. Stickney’s letter asked, “Ms. Morrison has
16 indicated that her service animal detects a drop in blood sugar right away. Is it
17 acceptable if she be permitted to take breaks each hour (or more frequently) to have
18 access the dog [sic], rather than having the dog at her desk?” Dr. Treece responded,
19 “The dog can only detect the patients low blood glucose when they are together.”

20 22. On January 22, 2013, Dr. Robinson provided a fourth letter letter, stating “She has a
21 dog assistant that alerts her when her blood sugars are low. . . . Please make this
22 consideration and accept the fact that both Dr. Treece and I are consistent in
23 understand [sic] the need for the dog to accomplish this for her.”

24 23. Despite Dr. Robinson and Dr. Treece’s letters, Haney still refused to allow Ms.
Morrison to bring her service animal to work.

25 24. On November 8, 2013, Ms. Morrison was forced to resign. Because Haney refused
Ms. Morrison’s service animal request, she had had to eat constantly at work in order
to keep her blood sugar levels up. She ate every half hour. Further, she had to keep

1 up with Lucky's training during her breaks, so she drove Lucky to and from work and
2 left him in the car while she was working. When the weather was too hot or too cold,
3 she had to drive Lucky home over her lunch break. She resigned because Haney's
4 refusal to allow Lucky to accompany her at work caused her to constantly eat and
5 resulted in weight gain, approximately 30 pounds, and anxiety, which significantly
6 impacted her health.

7 25. Haney's refusal to allow Ms. Morrison to bring her service animal to work resulted in
8 Ms. Morrison being denied an equal opportunity to work in violation of the WLAD.
9 *See* RCW 49.60.180(3) ("[I]t is an unfair practice for any employer "to discriminate
10 against any person in . . . [the] terms or conditions of employment because of . . . the
11 use of a trained dog guide or service animal by a person with a disability.").

12 26. Medical documentation provided to Haney indicated that a service animal would
13 assist Ms. Morrison in avoiding the debilitating effects that exacerbate her
14 hypoglycemia. Yet, Haney's refusal to allow Ms. Morrison to bring her service
15 animal to work substantially limited her ability to perform the essential functions of
16 her job and enjoy equal access to the benefits and privileges of employment.

17 27. "[T]o request that a trained dog guide or service animal be removed from the
18 workplace," is an "unfair practice." WAC 162-22-100. Since Ms. Morrison's service
19 animal did not pose an unreasonable risk to property or other persons, *id.*, Haney
20 should be found liable for an unfair practice.

21 28. Haney would not have suffered an undue hardship by allowing Ms. Morrison to bring
22 her service animal to work. WAC 162-22-025. Haney is liable for failing or refusing
23 to make a reasonable accommodation for Ms. Morrison's use of a trained dog guide
24 or service animal. As indicated by Ms. Morrison's doctors, none of the alternative
accommodations Haney offered would suffice.

1 29. As a proximate cause of Haney's discrimination, Ms. Morrison has suffered damages
2 including lost wages and benefits from having to resign from her position at Haney,
3 expenses incurred due to Haney's failure to allow Ms. Morrison to bring her service
4 animal into work, inconvenience caused by participating in the investigation and
5 prosecution of her discrimination complaint, pain and suffering, financial hardship,
6 embarrassment, humiliation, depression, increased anxiety, emotional distress, and
7 other damages to be proved at hearing.

8 **IV. REQUEST FOR RELIEF**

9 30. Ms. Morrison should be awarded back pay, reinstatement or front pay, including all
10 fringe benefits; expenses incurred due to Haney's failure to allow Ms. Morrison to
11 bring her service animal into work; inconvenience caused by participating in the
12 investigation and prosecution of her discrimination complaint; pain and suffering;
13 financial hardship; embarrassment; humiliation; depression; increased anxiety;
14 emotional distress; and other damages to be proved at hearing.

15 31. Haney employees who participate in management activities should be ordered to
16 attend a complete session of equal employment opportunity training approved by the
17 Commission and/or the Attorney General's Civil Rights Unit.

18 32. Haney should be enjoined from discriminating against persons with a disability based
19 on their use of a trained dog guide or service animal, and should be required to
20 change its policies and procedures to comply with this injunction.

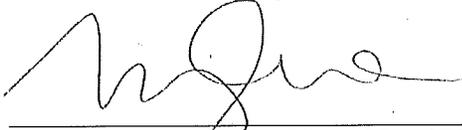
21 33. Haney should revise its employee manual to clarify that its policies and procedures
22 comply with this injunction and that Haney welcomes service animals at its
23 workplace.

24 34. Other equitable relief which this tribunal finds necessary to eliminate the effects of
past discrimination, to prevent future discrimination, and to position Ms. Morrison as
close as possible to the situation she would have been in but for Haney's

1 discrimination. This includes retaining jurisdiction if necessary to fully effectuate
2 this tribunal's order.

3 DATED this 17th day of February, 2016

4 ROBERT FERGUSON
5 Attorney General

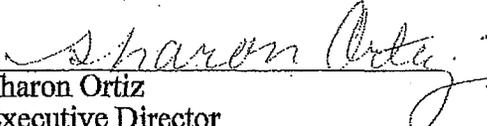
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7 MARSHA CHIEN, WSBA No. 47020
8 Assistant Attorney General
9 Attorney for the Washington State Human Rights
10 Commission

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I, Sharon Ortiz, Executive Director of the Commission,
verify that I have reviewed the above amended complaint and that the unfair practices
charged, the factual allegations set forth, and the relief requested are true, correct and
appropriate to the best of my knowledge and belief.

Signed this 17 day of February 2016


Sharon Ortiz
Executive Director
Washington State Human Rights Commission

1 **DECLARATION OF SERVICE**

2 I certify that I served a copy of this document on all parties or their counsel of
3 record on the date below as follows:

4 USPS Certified Mail
5 Gary E. Lofland
6 230 S. Second Street
7 Yakima, WA 98907

8 I certify under penalty of perjury under the laws of the state of Washington that
9 the foregoing is true and correct.

10 DATED this 23rd day of February, 2016 at Seattle, Washington.

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13 CHAMENE WOODS
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