09.01 UNLAWFUL DISCRIMINATION IN HIRING OR PROMOTION: INTRODUCTION

It is unlawful for an employer to discriminate against a person in compensation or in a term, condition, or privilege of employment because of the person’s sex, unless the reasonable demands of the position require distinction on the basis of sex.

The plaintiff in this case claims that the employer failed to [hire][promote] [him][her] on the basis of [his][her] sex, and that this was unlawful discrimination. The instructions that follow tell you what you must find in order to conclude that the plaintiff has proven [his][her] claim.

# Use Note

This instruction should be used to introduce Instructions 09.02 or 09.03, the substantive instructions related to claims for unlawful discrimination in hiring or promotion.

# Comment

This instruction is adapted from AS 18.80.220, “Unlawful employment practices; exception.” The Alaska Supreme Court has recognized that the statute provides a private right of action. Ratcliff v. Security National Bank, 670 P.2d 1139, 1142 (Alaska 1983). Although this particular instruction addresses only discrimination on the basis of sex, AS 18.80.220 also addresses the refusal to employ a person and the barring of persons from employment on grounds of religion, color, national origin, age, physical or mental disability, marital status, changes in marital status, pregnancy, or parenthood. This instruction and the instructions that follow can be adapted as necessary to these other unlawful employment practices.