

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

State of Alaska, Department of Military and
Veterans Affairs

Plaintiff(s),

vs.

Joe Gerace

Defendant(s).

CASE NO. 3AN-22-09479

**SUMMONS AND
NOTICE TO BOTH PARTIES
OF JUDICIAL ASSIGNMENT**

To Defendant: Joe Gerace

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) Andy C. Miller, Assistant Attorney General, whose address is: Office of the Attorney General, PO Box 110300, Juneau, AK 99811-0300.

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at <https://public.courts.alaska.gov/web/forms/docs/tf-955.pdf> to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

NOTICE OF JUDICIAL ASSIGNMENT

TO: Plaintiff and Defendant

You are hereby given notice that:

This case has been assigned to Superior Court Judge Quisti and to a magistrate judge.

This case has been assigned to District Court Judge _____.

CLERK OF COURT

12/09/2022
Date

By: Susan Adams
Deputy Clerk

I certify that on 12/9/22 a copy of this Summons was mailed given to plaintiff plaintiff's counsel along with a copy of the Domestic Relations Procedural Order Civil Pre-Trial Order to serve on the defendant with the summons.
Deputy Clerk SA

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

jnu.law.ecf@alaska.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA, DEPARTMENT)
OF MILITARY AND VETERANS)
AFFAIRS,)

Plaintiff,)

v.)

JOE GERACE,)

Defendant.)

Case No. 3AN-22- 09479 CI

COMPLAINT

Plaintiff State of Alaska, Department of Military and Veterans Affairs

("DMVA"), by and through the Office of the Attorney General, alleges as follows:

NATURE OF THE CASE

1. The Alaska State Defense Force ("ASDF") is an agency of DMVA, and it is considered part of Alaska's Organized Militia.
2. ASDF is a volunteer organization, but its members are paid by DMVA when they are activated by the Governor to respond to emergencies.
3. Compensation for activated ASDF members is based on the member's rank, which initially is either the highest rank the member previously held as a federally commissioned officer, or, if the member had no prior military experience, is based on professional accreditation, education, and other experience.
4. Defendant Joseph Gerace fraudulently misrepresented to ASDF that he had achieved the rank of Lieutenant Colonel with over 24 years of service in the

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U.S. Army. As a result, he was awarded the ASDF rank of Lieutenant Colonel, which was a much higher rank than he deserved with a much higher rate of compensation than deserved. This suit seeks to recoup the funds DMVA lost from overpayments as a result of Defendant's fraudulent misrepresentations.

JURISDICTION AND VENUE

5. Jurisdiction is proper pursuant to AS 22.10.020.

6. Venue is proper pursuant to Alaska Civil Rule 3(c), because this is the district in which the claim arose and the district in which the defendant was served.

PARTIES

7. Plaintiff DMVA is an office of the Governor of the State of Alaska. One of DMVA's duties is to oversee and provide compensation for ASDF members pursuant to AS 26.05.010-342.

8. Defendant Gerace is an individual residing in the 3rd Judicial District, either in Anchorage, Alaska, or in Whittier, Alaska.

FACTS GIVING RISE TO CLAIM

9. Defendant applied for membership in ASDF in March 2020. In his application, Defendant indicated that he had over 24 years of prior military experience, and that he had reached the rank of Lieutenant Colonel.

10. Defendant was formally enlisted in ASDF at the rank of Lieutenant Colonel due to his false claim in the application.

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11. ASDF's duties involve supporting state operations, primarily in response to emergency and disaster. When members of ASDF are called up for service in support of these operations, it is referred to as State Active Duty.

12. Members called up for State Active Duty are compensated by the State of Alaska pursuant to AS 26.05.260.

13. From March 2020-March 2021, Defendant participated in August 2020 election support, the March 2020-May 2020 COVID response, and the October 2020-March 2021 COVID response. This resulted in a total of 203 days of State Active Duty service.

14. Defendant was paid at an O-5 level for this State Active Duty, due to Defendant's fraudulent claim that he was previously a Lieutenant Colonel.

15. Defendant's total compensation received was \$94,783.69 for these 203 days. Defendant did not correct his fraudulent misrepresentation and instead continued the misrepresentation.

16. Had Defendant been truthful about his prior military service and prior rank at the time of appointment to the ASDF, he would have been compensated at the E-4 level for the 203 days.

17. This would have resulted in total compensation of \$33,207.60, a difference of \$61,576.09 from what he was actually paid.

18. On September 7, 2022, DMVA sent a letter to Defendant requesting the difference be repaid to DMVA, but to date Defendant has not made any payments to DMVA.

COUNT I
(Fraudulent Misrepresentation)

19. The foregoing paragraphs of this Complaint are incorporated herein as though fully set forth.

20. Fraudulent misrepresentation occurs when one party deliberately deceives another party.

21. Defendant represented that he had previously achieved the rank of Lieutenant Colonel.

22. The representation has been proven to be false.

23. Defendant was aware the presentation was false at the time he made it.

24. The fraudulent presentation was made with an intention that Plaintiff believe the claim.

25. Plaintiff did believe the fraudulent presentation and acted in accordance.

26. Plaintiff suffered financial harm from the false presentation because Plaintiff compensated Defendant at a significantly higher rate of pay than he was entitled because of the false presentation.

PRAYER FOR RELIEF

Based on the foregoing, Plaintiff requests the following relief:

1. An award of restitution damages in the amount \$61,576.09;
2. An award of costs and reasonable attorney's fees;
3. Leave to amend this Complaint as needed; and
4. For such other relief deemed just and equitable.

DATED: December 8, 2022, at Juneau, Alaska.

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/Andy Miller
Andy C. Miller
Assistant Attorney General
Alaska Bar No. 1011106

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SOA, DMVA v. Joseph Gerace
Complaint for Damages

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