**09.06** **EMPLOYER’S LIABILITY FOR** **SEXUAL HARASSMENT: QUID PRO QUO**

The plaintiff claims that [he][she] was subjected to a form of sexual harassment known as quid pro quo sexual harassment. To prevail on this claim, the plaintiff must prove that it is more likely true than not true that:

(1) [he][she] was subjected to sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature;

(2) the conduct was unwelcome;

(3) either

(a) [his][her] submission to the conduct was made a term or condition of [his][her] employment, either explicitly or implicitly; or

(b) [his][her] submission or rejection of the conduct was used as the basis for a decision affecting [his][her] employment; and

(4) the sexual harassment was the legal cause of damages to the plaintiff.

Quid pro quo harassment can only be committed by a supervisor or a member of the employer’s management with the power to give or to deny a tangible job benefit.

**Use Note**

If the jury must decide whether a particular individual was the plaintiff’s supervisor, the definition that appears in the last paragraph of Instruction 50.5 should be inserted at the end of this instruction.

**Comment**

This instruction is adapted from the one given in Norcon, Inc. v. Kotowski, 971 P.2d 158, 171 (Alaska 1999). The elements of the claim are also discussed in VECO, Inc. v. Rosebrock, 970 P.2d 906, 910 (Alaska 1999).