# Department of Law – Civil Division
# Judgments/Claims Settlements for Payment

*This form will be used for the purpose of standardizing the submission of claims to the legislature. Complete and accurate information will expedite payment to the claimants, thereby reducing the amount of interest required to be paid by the state. This form and any attachments will be submitted to the Office of Management and Budget. After obtaining the required signatures, please submit this form to the department's Budget Manager, Administrative Services Division, P.O. Box 110300, Juneau, AK 99811, or call (907) 465-3674 with questions.*

## PART ONE

| | | | |
|---|---|---|---|
| **CASE NAME:** | *Eric Forrer v. State of Alaska* | | |
| **CASE NUMBER:** | 1JU-18-00699CI | | |
| **JUDGE(S)/JUSTICES:** | Superior Court Judge Pate | | |
| **JUDGMENT ENTERED:** | Sept. 15, 2021 | | |
| **THE CAUSE OF ACTION:** | ☐ Occurred *before* August 7, 1997<br>☑ Occurred *on or after* August 7, 1997 | | |
| **PROLAW NUMBER:** | 2018200477 | | |
| **AMOUNT TO BE PAID:** | $ 152,161.32 plus interest | | |
| **INTEREST RATE:** | 3.25% | **EFFECTIVE DATE:** | 6/2/2021 |
| **REQUESTED HOURLY RATE AND TOTAL COMPENSATION OF ATTORNEYS TO BE PAID:** | $ $182,291<br>They requested $350 X 378.2 hours for attorney Geldhof , $300 x 139.82 hours for attorney Kawasaki for a total attorney fee, and $225 x 31 for attorney McGee and $1000 in honorarium for additional counsel. | | |
| **COURT APPROVED / ORDERED HOURLY RATE AND TOTAL COMPENSATION OF ATTORNEYS TO BE PAID:** | $ 152, 161.32<br>The court awarded $350 X 348.56 hours for attorney Geldhof, $200 X 113.61 for attorney Kawasaki, and $225 X 31 for attorney McGee. And Costs of $468.32. | | |
| **SEND CHECK TO:** | ☐ SEND CHECK TO THIS ADDRESS:<br>Joe Geldhof<br>☐ SEND CHECK TO DEPT CONTACT: | | |

## PART TWO

*This information needs to be provided on all judgment awards and/or settlements made against the State of Alaska.*

**1. Describe the circumstances or events resulting in this case and ultimately this judgment/settlement against the State.**

The plaintiff, Eric Forrer, sued to challenge the constitutionality of the Tax Credit Bond Act, arguing that it would create state debt in violation of constitutional restrictions. Mr. Forrer lost in the superior court but then appealed, and the Alaska Supreme Court ruled in his favor, agreeing with him that the Tax Credit Bond Act is unconstitutional. Because the plaintiff prevailed in asserting a constitutional claim, he received an award of full attorney's fees and costs.

**2. Describe issues of state policy or law involved in this case, if they are relevant to and resulted in substantial effort and expense for the department to bring or defend this case.**

The case involved the constitutionality of the Tax Credit Bond Act, which was passed by the Legislature as a means of dealing with the State's liability on outstanding oil and gas tax credits. The case involved important and unsettled questions of interpretation of the Alaska Constitution's budgeting and debt provisions. The Department of Law unsuccessfully defended the law that was passed by the Legislature and the constitutional interpretation under which the law would have been permissible.

**3. Did the State prevail on any issues? If yes, describe.**

No.

**4. Did we challenge plaintiff's request for costs and fees or in other ways seek to reduce the costs to the State? If so, describe to what extent we were successful.**

Yes, the State challenged the request for fees on the grounds that the rates and hours requested were excessive. The Court reduced the award in response to the State's opposition.

**5. What was the source of the State's liability in this case?**

The State was liable for full attorney's fees and costs because the plaintiff succeeded in bringing a constitutional claim. The passage of the Tax Credit Bond Act, which the Court concluded was unconstitutional, was the source of the State's liability.

**6. What, if any, preventative action has been taken by the involved agency to prevent or reduce the potential for such liability in the future?**

The Tax Credit Bond Act has now been invalidated by the Alaska Supreme Court and will not be implemented, so the State will not face any liability for it anymore.

**7. If the information is available to you, has the agency involved taken any corrective action as a result of this case? If the information is not protected from publication by statute, privilege, or right to privacy, indicate what the corrective action was.**

The Tax Credit Bond Act has now been invalidated by the Alaska Supreme Court and will not be implemented by the relevant agencies.

**8. Any recommendations concerning cases of this type in the future?**

No.

**9. Any recommendations for changes in statutes, regulations, or policy? Cite any applicable statutes or regulations.**

No.

## APPROVALS

Mary Hunter Gramling — Digitally signed by Mary Hunter Gramling Date: 2022.02.08 15:37:20 -09'00'

**Lead Attorney** **Date**

**Name** Mary Hunter Gramling
**Title** Chief Assistant Attorney General
**Phone** 907-465-3600

Mary Hunter Gramling — Digitally signed by Mary Hunter Gramling Date: 2022.02.08 15:37:41 -09'00'

**Section Chief** **Date**

Cori Mills — Digitally signed by Cori Mills Date: 2022.02.11 13:43:33 -09'00'

**Deputy AG or Delegate** **Date**

**Required attachments may include**

- Judgment or Order Awarding Fees/Costs
- Copy of the settlement outlining payment terms
- EIN/SSN information for payment
- W9 for Division of Finance, if requested

EMAIL

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