

CS FOR HOUSE BILL NO. 316(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/11/96

Referred: Rules

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability; amending Rules 13(e) and 82(b), Alaska Rules
2 of Civil Procedure; and providing for an effective date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 09.65 is amended by adding a new section to read:

5 Sec. 09.65.190. CIVIL LIABILITY FOR FALSE CLAIMS AND IMPROPER

6 PRACTICE. (a) A person may not

7 (1) knowingly or recklessly file, or cause to be filed, a civil complaint,
8 answer, or other civil pleading that contains false allegations or material misstatements
9 of fact;

10 (2) sign a civil pleading before making reasonable inquiry and
11 determining that, to the best of the signer's knowledge, information, and belief, each
12 claim, defense, and allegation contained in the pleading is well grounded in fact and
13 is warranted by existing law or a good faith argument for the extension, modification,
14 or reversal of existing law; or

1 (3) interpose, in a civil action, a claim, defense, or allegation for an
2 improper purpose, including to harass or to cause unnecessary delay or needless
3 increase in the cost of litigation.

4 (b) If the trier of fact determines that a party to a civil action has intentionally
5 made a false statement of a material fact in connection with the prosecution or defense
6 of a civil action, the court shall enter judgment against the party making the false
7 statement on the issue to which the false statement relates. If the civil action involves
8 multiple claims and the false statement does not apply to all claims, the judgment
9 required under this section shall apply only to those claims to which the false
10 statement relates.

11 (c) A person who is injured by a violation of (a) of this section may bring an
12 action for compensatory and punitive damages. However, if the injury is the result of
13 an act or omission of a

14 (1) party, then the action shall be asserted in the same action in which
15 the injury arose; and

16 (2) nonparty, then the action shall be asserted in a separate action
17 commenced after entry of final judgment in the action in which the injury arose.

18 (d) A person who, on the person's own behalf or as a representative of a party,
19 takes part in the initiation, defense, continuation, or procurement of a civil action
20 against another is subject to civil liability for compensatory and punitive damages if
21 the person acts

22 (1) without probable cause on a claim or defense; or

23 (2) primarily for a purpose other than that of securing the proper
24 adjudication of a claim or defense involved in the civil action.

25 (e) In an action to recover damages under (c) of this section, a person is not
26 required to be the prevailing party in the civil action in which the violation of (a) of
27 this section occurred.

28 (f) A person may not bring a civil action to recover damages under (d) of this
29 section unless final judgment has been entered in the civil action described in (d) of
30 this section. For purposes of this subsection, a person is not required to be the
31 prevailing party in the civil action in which the violation of (d) of this section

1 occurred.

2 (g) If a person brings an action under (c) or (d) of this section, the court shall
3 award actual reasonable attorney fees to the prevailing party, regardless of whether the
4 prevailing party is the plaintiff or defendant.

5 * **Sec. 2.** AS 09.65.190(c)(1), as enacted by sec. 1 of this Act, has the effect of amending
6 Rule 13(e), Alaska Rules of Civil Procedure, by requiring a claim under AS 09.65.190(a) that
7 is acquired after service of a pleading to be asserted in the same action.

8 * **Sec. 3.** AS 09.65.190(g), enacted in sec. 1 of this Act, has the effect of amending Rule
9 82(b), Alaska Rules of Civil Procedure, by allowing the award of actual reasonable attorney
10 fees in a civil action for false claims or improper civil practice.

11 * **Sec. 4.** SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
12 application of a provision of this Act to any person or circumstance is held invalid, the
13 remainder of this Act and the application to other persons shall not be affected.

14 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).