

CS FOR HOUSE BILL NO. 316(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/21/96
Referred: Finance

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for false claims and improper allegations or
2 defenses in civil practice; amending Rules 13(e) and 37, Alaska Rules of Civil
3 Procedure; and providing for an effective date."

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

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

6 Sec. 09.65.190. CIVIL LIABILITY FOR FALSE CLAIMS AND IMPROPER
7 PRACTICE. (a) A person may not

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

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

1 or reversal of existing law; or

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

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

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

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

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

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

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

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

26 (e) An action to recover damages under (c) of this section may be pled by a
27 party to a civil action but may not be considered by the jury unless the person bringing
28 the action or defense is the prevailing party on the claim in question.

29 (f) A person may not bring a civil action to recover damages under (d) of this
30 section unless the person is the prevailing party and final judgment has been entered
31 in the civil action described in (d) of this section.

1 * **Sec. 2.** AS 09.65.190(a), as enacted by sec. 1 of this Act, has the effect of amending
2 Rule 13(e), Alaska Rules of Civil Procedure, by giving a person injured by a violation of
3 AS 09.65.190(a) the right to file a claim for compensatory damages after serving a pleading.

4 * **Sec. 3.** AS 09.65.190(b), added by sec. 1 of this Act, has the effect of amending Rule
5 37, Alaska Rules of Civil Procedure, by requiring the court to enter judgment against a party
6 making an intentional material false statement.

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

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