

HOUSE BILL NO. 31

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MULDER, Cowdery

Introduced: 1/13/97

Referred: Labor and Commerce, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for certain false allegations or material
2 misstatements of fact in a civil pleading or proceeding, for certain improper acts
3 relating to signing a civil pleading, for certain improper acts relating to civil
4 pleadings or proceedings, for making an intentional false statement of a material
5 fact, for acting on a civil claim or defense without probable cause, or for acting
6 for a purpose other than proper adjudication of a civil claim; amending Rules
7 13(e) and 82(b), Alaska Rules of Civil Procedure; and providing for an effective
8 date."

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

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

11 **Sec. 09.65.190. Civil liability for false claims and improper practice.** (a)

12 A person may not

13 (1) knowingly or recklessly file, or cause to be filed, a civil complaint,

1 answer, or other civil pleading that contains false allegations or material misstatements
2 of fact;

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

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

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

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

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

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

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

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

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

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

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

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

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

15 * **Sec. 3.** AS 09.65.190(g), enacted in sec. 1 of this Act, has the effect of amending Rule
16 82(b), Alaska Rules of Civil Procedure, by allowing the award of actual reasonable attorney
17 fees in a civil action for false claims or improper civil practice.

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

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