

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 42(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 3/22/00

Referred: Rules

Sponsor(s): REPRESENTATIVES MULDER, Rokeberg, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for certain false or improper allegations in a
2 civil pleading or for certain improper acts relating to a civil action; amending
3 Rules 79 and 82(b), Alaska Rules of Civil Procedure."

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 practice. (a)**

7 A person may not

8 (1) sign a civil complaint, answer, or other civil pleading that contains
9 false allegations that are material to the claims asserted in the civil action with the
10 intention of asserting allegations, claims, or defenses that are false;

11 (2) initiate or sign a civil pleading before making reasonable inquiry
12 and forming a reasonable belief

13 (A) in the existence of the facts upon which the claim or
14 defense is based; and

1 (B) that, under the facts described in (A) of this paragraph, the
2 claim or defense is valid under the applicable law; or

3 (3) participate as a party or as a representative of a party in the
4 continuation of a claim or defense after the person discovers that the claim or defense
5 is not

6 (A) supported by a reasonable basis in fact; or

7 (B) valid under applicable law.

8 (b) If the trier of fact determines that a party to a civil action intentionally
9 made a false statement of a material fact in connection with the prosecution or defense
10 of a civil action, the court shall dismiss the claim or defense to which the false
11 statement relates. If the civil action involves multiple claims or defenses and the false
12 statement does not apply to all claims or defenses, the dismissal required under this
13 subsection shall apply only to those claims or defenses to which the false statement
14 directly relates.

15 (c) The dismissal required by (b) of this section does not apply to a civil
16 action in which the court determines that dismissal would be unfair to the interests of
17 another person or party not involved in the wrongdoing. If the court determines that
18 dismissal as to a claim or defense would be unfair to another person or party not
19 involved in the wrongdoing, the court shall enter an order awarding monetary damages
20 against the party making the false statement in an amount sufficient to fairly
21 compensate the injured party for damages incurred and to deter others from similar
22 conduct.

23 (d) A party who is injured by a violation of

24 (1) paragraph (a)(1) of this section may bring an action for
25 compensatory and punitive damages against the person who signed the civil pleading;

26 (2) paragraph (a)(2) of this section may bring an action for recovery
27 of compensatory damages against the person who wrongfully initiated or signed the
28 pleading;

29 (3) paragraph (a)(3) of this section may bring an action for
30 compensatory damages against the person who wrongfully participates in the
31 continuation of a claim or defense.

1 (e) If a party brings an action under (d) of this section, the court shall award
2 actual reasonable attorney fees and actual reasonable costs to the prevailing party.

3 (f) A person may not bring a civil action to recover damages under (d) of this
4 section unless

5 (1) a notice of the specific conduct alleged to violate (a) of this section,
6 with any supporting evidence, was served on the opposing party as required under the
7 Alaska Rules of Civil Procedure, but not filed with the court;

8 (2) the challenged conduct was not appropriately corrected within 21
9 days after the notice described in (1) of this subsection was served;

10 (3) the person prevailed on the claim or defense that was the basis for
11 the notice described under (1) of this subsection; and

12 (4) final judgment has been entered in the civil action described in (a)
13 of this section.

14 (g) Nothing contained in this section shall be construed to prohibit a good faith
15 argument for the extension, modification, or reversal of existing law.

16 (h) This section does not apply to an action

17 (1) brought by a person incarcerated by the state;

18 (2) involving divorce or dissolution;

19 (3) involving adoption, custody, support, or visitation of a child;

20 (4) filed as a small claims action; or

21 (5) involving children in need of aid under AS 47.10.

22 (i) In this section, "civil pleading" includes motions and affidavits by a party
23 to the civil action.

24 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section
25 to read:

26 **INDIRECT COURT RULE AMENDMENT.** AS 09.65.190(e), enacted in sec. 1 of this
27 Act, has the effect of amending Rule 79, Alaska Rules of Civil Procedure, by allowing the
28 award of actual reasonable costs in certain civil actions.

29 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section
30 to read:

31 **INDIRECT COURT RULE AMENDMENT.** AS 09.65.190(e), enacted in sec. 1 of this

1 Act, has the effect of amending Rule 82(b), Alaska Rules of Civil Procedure, by allowing the
2 award of actual reasonable attorney fees in certain civil actions.

3 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 **APPLICABILITY.** This Act applies to an act or omission described under
6 AS 09.65.190, added by sec. 1 of this Act, that occurs on or after the effective date of this
7 Act.

8 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section
9 to read:

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