

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Amended: 3/28/00

Offered: 3/22/00

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."

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 practice. (a)**

6 A person may not

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

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

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

14 (B) that, under the facts described in (A) of this paragraph, the

1 claim or defense is valid under the applicable law; or

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

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

6 (B) valid under applicable law.

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

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

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

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

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

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

31 (e) If a party brings an action under (d) of this section, the court shall award

1 actual reasonable attorney fees and actual reasonable costs to the prevailing party.

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

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

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

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

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

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

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

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

17 (2) involving divorce or dissolution;

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

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

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

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

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

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

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

30 **SEVERABILITY.** Under AS 01.10.030, if any provision of this Act or the application
31 of a provision of this Act to any person or circumstance is held invalid, the remainder of this

1 Act and the application to other persons shall not be affected.