

HOUSE BILL NO. 42

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES MULDER, Rokeberg

Introduced: 1/19/99

Referred: Judiciary, Finance

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 **Rule 82(b), Alaska Rules of Civil 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 practice. (a)**

7 A person may not sign a civil pleading

8 (1) that contains a false allegation that is material to the claim asserted
9 in the civil action and with the intention of asserting an allegation that is false; or

10 (2) before making reasonable inquiry and determining that, to the best
11 of the signer's knowledge, information, and belief, each claim, defense, and allegation
12 contained in the pleading is

13 (A) well grounded in fact; and

14 (B) warranted by existing law or a good faith argument for the

1 extension, modification, or reversal of existing law.

2 (b) A person may not, on the person's own behalf or as a representative of a
3 party, take part in the initiation, defense, continuation, or procurement of a civil action
4 against another if the person acts

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

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

8 (c) A person who is injured by a violation of

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

11 (2) (a)(2) of this section may bring an action for recovery of
12 compensatory damages against the person who signed the civil pleading; and

13 (3) (b) of this section may bring an action for compensatory and
14 punitive damages against the person who took part in the initiation, defense,
15 continuation, or procurement of the civil action.

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

19 (e) A person may not bring a civil action to recover damages under

20 (1) (c) of this section unless final judgment has been entered in the
21 civil action described in (a) or (b) of this section; and

22 (2) (c)(1) or (2) of this section unless

23 (A) if the civil action is based on conduct described in (a)(1)
24 or (2)(A) of this section, a notice of the specific conduct alleged to violate that
25 provision is served on the opposing party as required under the Alaska Rules
26 of Civil Procedure, but not filed with the court; and

27 (B) the conduct is not appropriately corrected within 21 days
28 after notice is served.

29 (f) This section does not apply to an action

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

31 (2) involving divorce or dissolution; or

1 (3) involving adoption, custody, support, or visitation of a child.

2 (g) In this section, "civil pleading" includes motions and affidavits.

3 * **Sec. 2.** AS 09.65.190(d), enacted in sec. 1 of this Act, has the effect of amending Rule
4 82(b), Alaska Rules of Civil Procedure, by allowing the award of actual reasonable attorney
5 fees in certain civil actions.

6 * **Sec. 3.** APPLICABILITY. This Act applies to a civil action that accrues on or after the
7 effective date of this Act.

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

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