

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 42

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES MULDER, Rokeberg

Introduced: 2/16/00

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

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 that are false; or

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.

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

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

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

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

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

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

18 (2) paragraph (a)(2) of this section may bring an action for recovery
19 of compensatory damages against the person who signed the pleading; compensatory
20 damages awarded under this paragraph may not exceed the actual reasonable costs and
21 attorney fees that were incurred by the party who was injured, but were not awarded
22 to that party in the action in which the violation of (a)(2) of this section occurred; and

23 (3) subsection (c) of this section may bring an action for compensatory
24 and punitive damages against the person who took part in the initiation, continuation,
25 defense, or procurement of the civil action.

26 (e) If a party brings an action under (d) of this section, the court shall award
27 actual reasonable attorney fees to the prevailing party regardless of whether the
28 prevailing party is the plaintiff or defendant.

29 (f) A person may not bring a civil action to recover damages under

30 (1) subsections (c) or (d) of this section unless final judgment has been
31 entered in the civil action described in (a) or (c) of this section; and

- 1 (2) subsection (c) of this section unless
- 2 (A) in the civil action described in (a) or (c) of this section, a
- 3 notice of the specific conduct alleged to violate (a) or (c) of this section is
- 4 served on the opposing party as required under the Alaska Rules of Civil
- 5 Procedure, but not filed with the court; and
- 6 (B) the challenged conduct is not appropriately corrected within
- 7 21 days after notice is served.
- 8 (g) This section does not apply to an action
- 9 (1) brought by a person incarcerated by the state;
- 10 (2) involving divorce or dissolution; or
- 11 (3) involving adoption, custody, support, or visitation of a child.
- 12 (h) In this section, "civil pleading" includes motions and affidavits.

13 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section

14 to read:

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

16 Act, has the effect of amending Rule 82(b), Alaska Rules of Civil Procedure, by allowing the

17 award of actual reasonable attorney fees in certain civil actions.

18 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section

19 to read:

20 **APPLICABILITY.** This Act applies to an action that accrues on or after the effective

21 date of this Act.

22 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section

23 to read:

24 **SEVERABILITY.** Under AS 01.10.030, if any provision of this Act or the application

25 of a provision of this Act to any person or circumstance is held invalid, the remainder of this

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

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