

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 3/20/00
Referred: Finance

Sponsor(s): REPRESENTATIVES MULDER, Rokeberg

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 enter judgment against the party making the false
11 statement on the issue to which the false statement relates. If the civil action involves
12 multiple claims and the false statement does not apply to all claims, the judgment
13 required under this subsection shall apply only to those claims to which the false
14 statement directly relates.

15 (c) 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 wrongfully initiated or signed the
20 pleading;

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

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

26 (e) A person may not bring a civil action to recover damages under (c) of this
27 section unless

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

31 (2) the challenged conduct was not appropriately corrected within 21

1 days after the notice described in (1) of this subsection was served;

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

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

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

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(d), enacted in sec. 1 of
16 this Act, has the effect of amending Rule 79, Alaska Rules of Civil Procedure, by allowing
17 the award of actual reasonable costs 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 **INDIRECT COURT RULE AMENDMENT.** AS 09.65.190(d), enacted in sec. 1 of
21 this Act, has the effect of amending Rule 82(b), Alaska Rules of Civil Procedure, by allowing
22 the award of actual reasonable attorney fees in certain civil actions.

23 * **Sec. 4.** 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. 5.** 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.