

HOUSE BILL NO. 384

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Introduced: 2/6/02
Referred: Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to submission of civil litigation information; and amending Rules 41(a)**
2 **and 58, Alaska Rules of Civil Procedure, Rule 511(c) and (e), Alaska Rules of Appellate**
3 **Procedure, and Rule 503(d), Alaska Rules of Evidence."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 09.68.130(a) is repealed and reenacted to read:

6 (a) Except as provided in (c) and (e) of this section, the Alaska Judicial
7 Council shall collect and evaluate information relating to all resolved civil cases. The
8 information shall be collected on a form developed by the council for that purpose and
9 must include

- 10 (1) the case name, file number, and date filed;
- 11 (2) the names of all parties to the case, each party's role in the case,
12 and the names of each party's attorney or attorneys, if the party is represented;
- 13 (3) a description of the party or parties who prevailed in the case;
- 14 (4) a description of the types of claims brought, the types of relief

1 sought, and the nature of awarded amounts, including whether awards were made at
2 trial for punitive or noneconomic damages or declaratory or injunctive relief;

3 (5) the date the case was disposed of and the method of disposition;

4 (6) the gross amount of settlement or judgment;

5 (7) the amount of the settlement or judgment and any costs and
6 attorney fees covered by liability insurance;

7 (8) for the party making disclosure, the percentage of the settlement or
8 judgment owed by the party to another as a subrogated amount;

9 (9) whether a method of alternative dispute resolution was used to
10 resolve the case, the method used, and, for the party making the disclosure, the amount
11 spent by the party on alternative dispute resolution separately from other costs;

12 (10) for the party making the disclosure, if the party is represented by
13 an attorney, the type of fee agreement made between the party and the attorney, the
14 total amount of attorney fees incurred, and

15 (A) if a contingent fee was applied, the percentage of the
16 judgment or settlement the fee represents;

17 (B) if an hourly fee was applied, the hourly rate and the number
18 of hours worked;

19 (C) if an attorney acted as in-house or corporate counsel or as
20 state or local government counsel, the hours the attorney worked on the case
21 and a rate the attorney would use to calculate fees under Rule 82, Alaska Rules
22 of Civil Procedure;

23 (D) if a flat fee was applied, the amount of the fee;

24 (E) if a fee was entirely waived or the attorney provided pro
25 bono services, that there was no fee;

26 (11) the total amount of costs incurred by a party, excluding costs for
27 alternative dispute resolution reported as required by (9) of this subsection;

28 (12) for the party making the disclosure, the total amount recovered by
29 the party after the case was finally resolved, after subtracting amounts owed for
30 attorney fees, costs, subrogation, or any other amount owed that reduces the party's net
31 recovery; and

1 (13) for the party making the disclosure, the party's or the party's
2 attorney's signature, printed name, date submitted, and telephone number.

3 * **Sec. 2.** AS 09.68.130(c) is amended to read:

4 (c) The requirements of (a) of this section do not apply to the following types
5 of cases:

6 (1) divorce and dissolution;

7 (2) adoption, custody, support, visitation, and emancipation of
8 children;

9 (3) children-in-need-of-aid cases under AS 47.10 or delinquent minors
10 cases under AS 47.12;

11 (4) domestic violence protective orders under AS 18.66.100 -
12 18.66.180;

13 (5) estate, guardianship, and trust cases filed under AS 13;

14 (6) small claims under AS 22.15.040;

15 (7) forcible entry and detainer cases;

16 (8) administrative appeals;

17 (9) motor vehicle impound or forfeiture actions under municipal
18 ordinance;

19 **(10) delinquent tax and tax foreclosure cases;**

20 **(11) quiet title cases.**

21 * **Sec. 3.** AS 09.68.130(d) is amended to read:

22 (d) A party to a civil case, except a civil case described in (c) of this section,
23 or, if the party is represented by an attorney, the party's attorney shall submit the
24 information described in (a) of this section to the Alaska Judicial Council. The
25 information must be submitted within 30 days after the case is finally resolved as to
26 that party and on a form specified by the Alaska Judicial Council. **A party to a civil
27 case may not form an agreement with another party that has the intent or effect
28 of withholding civil case information from the Alaska Judicial Council. An
29 agreement in violation of this subsection is void. A party or the party's attorney
30 may not assert the attorney-client privilege against the Alaska Judicial Council as
31 a reason to withhold information required to be provided under this section.**

1 * **Sec. 4.** AS 09.68.130 is amended by adding a new subsection to read:

2 (e) If a party appeals a judgment, the requirement to submit information under
3 (a) of this section to the Alaska Judicial Council does not apply to a party to the appeal
4 until

5 (1) the case is dismissed or settled under the Alaska Rules of Appellate
6 Procedure; or

7 (2) judgment is entered after or upon resolution of the appeal under the
8 Alaska Rules of Appellate Procedure and after the case is finally resolved as to that
9 party.

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

12 DIRECT COURT RULE AMENDMENT. Rule 41(a), Alaska Rules of Civil
13 Procedure, is amended to read:

14 (a) **Voluntary Dismissal - Effect Thereof.**

15 (1) By Plaintiff - By Stipulation. Subject to the provisions of Rule
16 23(c), of Rule 66 and of any statute of the state, an action may be dismissed by the
17 plaintiff without an order of the court: [a] by filing a notice of dismissal at any time
18 before service by the adverse party of an answer or of a motion for summary
19 judgment, whichever first occurs; or [b] by filing a stipulation of dismissal signed by
20 all parties who have appeared in the action. A notice of dismissal must include a
21 certification signed by or on behalf of the plaintiff that the plaintiff **will timely submit**
22 **[HAS SUBMITTED]** the information required under AS 09.68.130 and (a)(3) of this
23 rule to the Alaska Judicial Council or that the case is exempt from this requirement. A
24 stipulation of dismissal must include a certification signed by or on behalf of all
25 parties who have appeared in the action **that the parties will timely submit the**
26 **information required under AS 09.68.130 and (a)(3) of this rule to the Alaska**
27 **Judicial Council or that the case is exempt from AS 09.68.130 and (a)(3) of this**
28 **rule. Each party shall provide a copy of the party's certification to the Alaska**
29 **Judicial Council.** Unless otherwise stated in the notice of dismissal or stipulation, the
30 dismissal is without prejudice, except that a notice of dismissal operates as an
31 adjudication upon the merits when filed by a plaintiff who has once dismissed in any

1 court of this state, or of any other state, or in any court of the United States, an action
2 based on or including the same claim.

3 (2) By Order of Court. Except as provided in paragraph (1) of this
4 subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save
5 upon order of the court and upon such terms and conditions as the court deems proper.
6 If a counterclaim has been pleaded by a defendant prior to the service upon the
7 defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against
8 the defendant's objection unless the counterclaim can remain pending for independent
9 adjudication by the court. Unless otherwise specified in the order, a dismissal under
10 this paragraph is without prejudice.

11 (3) Information about the Resolution of Civil Cases. If an action is
12 voluntarily dismissed under **this subdivision** [PARAGRAPH (a)] of this rule, each
13 party or, if a party is represented by an attorney, the party's attorney must submit the
14 information described in AS 09.68.130(a) to the Alaska Judicial Council. The
15 information must be submitted within 30 days after the case is finally resolved as to
16 that party and on a form specified by the Alaska Judicial Council. The following
17 types of cases are exempt from this requirement:

- 18 (A) divorce and dissolution;
- 19 (B) adoption, custody, support, visitation, and emancipation of
20 children;
- 21 (C) children-in-need-of-aid cases under AS 47.10 or delinquent
22 minor cases under **AS** 47.12;
- 23 (D) domestic violence protective orders under AS 18.66.100 -
24 18.66.180;
- 25 (E) estate, guardianship, and trust cases filed under AS 13;
- 26 (F) small claims under AS 22.15.040;
- 27 (G) forcible entry and detainer cases;
- 28 (H) administrative appeals; [AND]
- 29 (I) motor vehicle impound or forfeiture actions under municipal
30 ordinance;
- 31 **(J) delinquent tax and tax foreclosure cases; and**

(K) quiet title cases.

1
2 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
3 read:

4 DIRECT COURT RULE AMENDMENT. Rule 58, Alaska Rules of Civil Procedure,
5 is amended to read:

6 Rule 58. **Entry of Judgment. (a)** Subject to the provisions of Rule 54(b)
7 **and subdivisions (b) and (c) of this rule:** (1) upon a general verdict of a jury, or
8 upon a decision by the court that a party shall recover only a sum certain or costs or
9 that all relief shall be denied, the court or the clerk, upon direction of the court, shall
10 forthwith enter the judgment; (2) upon a decision by the court granting other relief, or
11 upon a special verdict or a general verdict accompanied by answers to interrogatories,
12 the court shall promptly enter judgment. Every judgment must be set forth on a
13 separate document distinct from any findings of fact, conclusions of law, opinion, or
14 memorandum. Entry of the judgment shall not be delayed, nor the time for appeal
15 extended, for the taxing of costs or the award of fees. Judgments for the payment of
16 money must be in the form required by Civil Rule 58.2.

17 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 DIRECT COURT RULE AMENDMENT. Rule 58, Alaska Rules of Civil Procedure,
20 is amended by adding new subdivisions to read:

21 (b) **Certification and submission of information about Judgments in Civil**
22 **Cases.**

23 (1) Before the court enters judgment, each party, or the party's attorney
24 if a party is represented, must certify that the party will timely submit the information
25 required under AS 09.68.130(a) and (3) of this subdivision to the Alaska Judicial
26 Council or that the case is exempt from this requirement under subdivision (c) of this
27 rule.

28 (2) Each party shall provide a copy of the party's certification to the
29 Alaska Judicial Council.

30 (3) After the court enters judgment, each party or, if a party is
31 represented by an attorney, the party's attorney, must submit the information described

1 in AS 09.68.130(a) to the Alaska Judicial Council. The information must be
 2 submitted within 30 days after the case is finally resolved as to that party, including
 3 costs and attorney fees awards, and on a form specified by the Alaska Judicial
 4 Council.

5 (4) If a party appeals a judgment, the requirement to submit
 6 information under AS 09.68.130 to the Alaska Judicial Council does not apply to a
 7 party to the appeal until the case is dismissed or settled (see Civil Rule 41), or
 8 judgment is entered after, or upon resolution of, the appeal and after the case is finally
 9 resolved as to that party, including costs and attorney fees awards.

10 (c) **Exemptions.** The following types of cases are exempt from the
 11 requirements set forth in subdivision (b) of this rule:

12 (1) divorce and dissolution;

13 (2) adoption, custody, support, visitation, and emancipation of
 14 children;

15 (3) children-in-need-of-aid cases under AS 47.10 or delinquent minors
 16 cases under AS 47.12;

17 (4) domestic violence protective orders under AS 18.66.100 -
 18 18.66.180;

19 (5) estate, guardianship, and trust cases filed under AS 13;

20 (6) small claims under AS 22.15.040;

21 (7) forcible entry and detainer cases;

22 (8) administrative appeals;

23 (9) motor vehicle impound or forfeiture actions under municipal
 24 ordinance;

25 (10) delinquent tax cases or tax foreclosure cases; and

26 (11) quiet title cases.

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

29 **DIRECT COURT RULE AMENDMENT.** Rule 511(c), Alaska Rules of Appellate
 30 Procedure, is amended to read:

31 (c) **Certification.** An agreement or motion for dismissal filed under (a) or (b)

1 of this rule must include a **copy of each party's** certification **signed as required by**
 2 **Civil Rule 58(b)** that the [SETTLEMENT] information required under AS 09.68.130
 3 and (e) of this rule **will be timely** [HAS BEEN] submitted to the Alaska Judicial
 4 Council or that the case is exempt from this requirement.

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

7 DIRECT COURT RULE AMENDMENT. Rule 511(e), Alaska Rules of Appellate
 8 Procedure, is amended to read:

9 (e) **Information about the Resolution of Civil Cases.** If a proceeding is
 10 dismissed under paragraph (a) or (b) of this rule, **or otherwise fully resolved by the**
 11 **appellate court without remand to the trial court,** each party or, if a party is
 12 represented by an attorney, the party's attorney must submit the information described
 13 in AS 09.68.130(a) to the Alaska Judicial Council. The information must be
 14 submitted within 30 days after the proceeding is finally resolved as to that party and
 15 on a form specified by the Alaska Judicial Council. The following types of cases are
 16 exempt from this requirement:

- 17 (1) divorce and dissolution;
 18 (2) adoption, custody, support, visitation, and emancipation of
 19 children;
 20 (3) children-in-need-of-aid cases under AS 47.10 or delinquent minors
 21 cases under AS 47.12;
 22 (4) domestic violence protective orders under AS 18.66.100 -
 23 18.66.180;
 24 (5) estate, guardianship, and trust cases filed under AS 13;
 25 (6) small claims under AS 22.15.040;
 26 (7) forcible entry and detainer cases;
 27 (8) administrative appeals; [AND]
 28 (9) motor vehicle impound or forfeiture actions under municipal
 29 ordinance;
 30 **(10) delinquent tax and tax foreclosure cases; and**
 31 **(11) quiet title cases.**

1 * **Sec. 10.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 DIRECT COURT RULE AMENDMENT. Rule 503(d), Alaska Rules of Evidence, is
4 amended to read:

5 (d) **Exceptions.** There is no privilege under this rule:

6 (1) Furtherance of Crime or Fraud. If the services of the lawyer were
7 sought, obtained or used to enable or aid anyone to commit or plan to commit what the
8 client knew or reasonably should have known to be a crime or fraud; or

9 (2) Claimants Through Same Deceased Client. As to a communication
10 relevant to an issue between parties who claim through the same deceased client,
11 regardless of whether the claims are by testate or intestate succession or by inter vivos
12 transaction; or

13 (3) Breach of Duty by Lawyer or Client. As to a communication
14 relevant to an issue of breach of duty by the lawyer to his client or by the client to his
15 lawyer; or

16 (4) Document Attested by Lawyer. As to a communication relevant to
17 an issue concerning an attested document to which the lawyer is an attesting witness;
18 or

19 (5) Joint Clients. As to a communication relevant to a matter of
20 common interest between two or more clients if the communication was made by any
21 of them to a lawyer retained or consulted in common, when offered in an action
22 between any of the clients; **or**

23 **(6) Information Required to be Submitted to the Alaska Judicial**
24 **Council. As to any communication relevant to information required to be**
25 **submitted to the Alaska Judicial Council under AS 09.68.130. This exception**
26 **applies only to attempts by a party to assert the attorney-client privilege against**
27 **the Alaska Judicial Council for the purpose of withholding required information**
28 **from the council and not to assertions of privilege against any other person or**
29 **entity regarding the required information.**

30 * **Sec. 11.** The uncodified law of the State of Alaska is amended by adding a new section to
31 read:

1 CONDITIONAL EFFECT. Sections 1 - 4 of this Act take effect only if secs. 5 - 10 of
2 this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
3 Constitution of the State of Alaska.