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1 IN THE HOUSE

2 HOUSE BILL NO. 481

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to civil actions; amending Alaska
7 Rules of Civil Procedure 11, 49, 52, and 58; and
8 providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 09 is amended by adding a new chapter to read:

11 CHAPTER 17. LIMITATIONS ON CIVIL LIABILITY.

12 Sec. 09.17.010. PUNITIVE DAMAGES. In an action, whether in
13 tort, contract, or otherwise, in which a party seeks to recover dam-
14 ages, any punitive or exemplary damages that may be adjudged against
15 the party defending the claim shall be awarded to the benefit of the
16 state and when paid deposited in the general fund.

17 Sec. 09.17.020. ITEMIZED VERDICTS. (a) In every case where
18 damages for personal injury are awarded by the court or jury, the
19 verdict shall be itemized between economic loss and noneconomic loss,
20 if any, and economic loss shall be further itemized by category.
21 Itemization of economic loss by category includes

22 (1) amounts intended to compensate for reasonable expenses
23 that have been incurred, or that will be incurred, for necessary
24 medical, surgical, x-ray, dental, or other health or rehabilitative
25 services, drugs, and therapy;

26 (2) amounts intended to compensate for lost wages or loss
27 of earning capacity; and

28 (3) all other economic losses claimed by the plaintiff or
29 granted by the jury.

1 (b) A verdict shall include a determination of the amounts
2 intended to compensate for injury or losses incurred before the ver-
3 dict and amounts intended to compensate for losses that will be in-
4 curred in the future.

5 Sec. 09.17.030. PERIODIC PAYMENTS. (a) In an action to recover
6 damages for personal injury, the court shall, at the request of a
7 party, enter judgment ordering that amounts awarded a judgment credi-
8 tor for future damages be paid to the maximum extent feasible by
9 periodic payments rather than by a lump-sum payment if the award
10 equals or exceeds \$50,000 in future damages. In entering judgment
11 ordering the payment of future damages by periodic payments, the court
12 shall make a specific finding as to the dollar amount of periodic
13 payments that will compensate the judgment creditor for future dam-
14 ages. The court may require a judgment debtor to post security ade-
15 quate to assure full payment of future damages awarded by judgment.

16 (b) A judgment ordering payment of future damages by periodic
17 payments shall specify the recipient, the dollar amount of the pay-
18 ments, the interval between payments, and the number of payments or
19 the period of time over which payments shall be made. Payments shall
20 be terminated on the death of the judgment creditor, except that
21 payments may not be reduced or terminated if at the time of death
22 there exists persons to whom the judgment creditor owed a duty of
23 support, as provided by law. Any remaining payments shall be made to
24 those persons to whom the judgment creditor owed the duty of support.
25 The court that rendered the original judgment, may, upon petition of a
26 party in interest, modify the judgment to award and apportion the
27 unpaid future damages in accordance with this section.

28 (c) If the court finds that the judgment debtor has exhibited a
29 continuing pattern of failing to make payments, under (b) of this

1 section, the court shall find the judgment debtor in contempt of court
2 and, in addition to the required periodic payments, shall order the
3 judgment debtor to pay the judgment creditor any damages caused by the
4 failure to make periodic payments, including costs and attorney fees.

5 (d) Following expiration of all obligations specified in the
6 periodic payment judgment, the obligation of the judgment debtor to
7 make further payments shall cease and security given under (a) of this
8 section shall revert to the judgment debtor.

9 (e) A certified copy of a judgment or order of the court issued
10 under this section may be recorded under AS 09.30.010, but may not
11 become a lien upon real property before the date that payment becomes
12 due.

13 Sec. 09.17.040. VERIFICATION OF CLAIMS. Every complaint, cross-
14 claim, and counterclaim shall be signed and verified by the claiming
15 party or the attorney of the claiming party and shall bear a statement
16 that the person signing the claim believes the statements made in the
17 claim are true. If the court finds that a statement made in the
18 complaint, cross-claim, or counterclaim is untrue, and upon motion of
19 a party defending against the claim, the person signing the claim
20 shall be compelled to show cause why the person signing the claim
21 should not be held in contempt of court.

22 Sec. 09.17.050. EFFECT OF CONTRIBUTORY FAULT. In an action
23 based on fault seeking to recover damages for injury or death to
24 person or harm to property, contributory fault chargeable to the
25 claimant diminishes proportionately the amount awarded as compensatory
26 damages for an injury attributable to the claimant's contributory
27 fault, but does not bar recovery.

28 Sec. 09.17.060. APPORTIONMENT OF DAMAGES. (a) In all actions
29 involving fault of more than one party to the action, including third-

1 party defendants and persons who have been released under AS 09.17.-
2 070, the court, unless otherwise agreed by all parties, shall instruct
3 the jury to answer special interrogatories or, if there is no jury,
4 shall make findings, indicating

5 (1) the amount of damages each claimant would be entitled
6 to recover if contributory fault is disregarded; and

7 (2) the percentage of the total fault of all of the parties
8 to each claim that is allocated to each claimant, defendant, third-
9 party defendant, and person who has been released from liability under
10 AS 09.17.070; for this purpose the court may determine that two or
11 more persons are to be treated as a single party.

12 (b) In determining the percentages of fault, the trier of fact
13 shall consider both the nature of the conduct of each party at fault
14 and the extent of the causal relation between the conduct and the
15 damages claimed.

16 (c) The court shall determine the award of damages to each
17 claimant in accordance with the findings, subject to a reduction under
18 AS 09.17.070, and enter judgment against each party liable on the
19 basis of rules of several liability. The court also shall determine
20 and state in the judgment each party's equitable share of the obliga-
21 tion to each claimant in accordance with the respective percentages of
22 fault.

23 Sec. 09.17.070. EFFECT OF RELEASE. A release, covenant not to
24 sue, or similar agreement entered into by a claimant and a person
25 liable discharges that person from liability to the claimant, but it
26 does not discharge another person liable upon the same claim unless
27 the release, covenant not to sue, or similar agreement provides for
28 discharge. However, the claim of the releasing person against other
29 persons is reduced by the amount of the released person's equitable

1 share of the obligation, determined in accordance with the provisions
2 of AS 09.17.060.

3 Sec. 09.17.900. DEFINITIONS. In this chapter

4 (1) "fault" includes acts or omissions that are in any
5 measure negligent or reckless toward the person or property of the
6 actor or others, or that subject a person to strict tort liability;
7 the term also includes breach of warranty, unreasonable assumption of
8 risk not constituting an enforceable express consent, misuse of a
9 product for which the defendant otherwise would be liable, and unrea-
10 sonable failure to avoid an injury or to mitigate damages; legal
11 requirements of causal relation apply both to fault as the basis for
12 liability and to contributory fault;

13 (2) "future damages" includes damages for future medical
14 treatment, care or custody; loss of future earning capacity; or any
15 future noneconomic loss.

16 * Sec. 2. AS 09.16 is repealed.

17 * Sec. 3. The governor is directed to review the existing system of
18 civil litigation concerning personal injury and property damage and to make
19 recommendations concerning improving trial procedures, the award of
20 damages, and standards of negligence in professional malpractice. The
21 recommendations shall be presented by January 31, 1987, to the First
22 Session of the Fifteenth Legislature.

23 * Sec. 4. AS 09.17.020 and 09.17.060 enacted in sec. 1 of this Act have
24 the effect of amending Alaska Rule of Civil Procedure 49 by requiring the
25 jury to answer the special interrogatories listed in AS 09.17.060 regarding
26 the amount of damages and the percentages of fault to be allocated among
27 the parties and to itemize the verdict regarding economic and noneconomic
28 loss as specified in AS 09.17.020.

29 * Sec. 5. AS 09.17.060 enacted in sec. 1 of this Act has the effect of

1 amending Alaska Rule of Civil Procedure 52 by requiring the court to make
2 specific findings regarding the amount of damages and the percentages of
3 fault to be allocated among the parties.

4 * Sec. 6. AS 09.17.020, 09.17.030 and 09.17.060 enacted in sec. 1 of
5 this Act have the effect of amending Alaska Rule of Civil Procedure 58 by
6 requiring the court to include a specific item in its judgment.

7 * Sec. 7. AS 09.17.040 enacted in sec. 1 of this Act has the effect of
8 amending Alaska Rule of Civil Procedure 11 by requiring verification of
9 claims, counterclaims, and cross-claims.

10 * Sec. 8. APPLICABILITY. Sections 1 and 2 of this Act apply to all
11 causes of action accruing after the effective date of this Act.

12 * Sec. 9. This Act takes effect immediately in accordance with AS 01.-
13 10.070(c).