

SB

575

COMMITTEE REPORT

3/15/75

HOUSE

Mr. Speaker:

Date May 12, 1976

The Committee on JUDICIARY has had SB 575 am

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR _____ AND THAT

CS FOR _____ DO PASS

"and" recommends it BE REFERRED TO THE _____

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

Tony ... in Pass

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Tony ... Chairman

STUMP & STUMP
ATTORNEYS-AT-LAW
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BOX 2693
KETCHIKAN, ALASKA 99901
PHONE: 225-4131

January 7, 1976

Mr. Robert H. Ziegler, Sr.
Ziegler, Ziegler & Cloudy
P. O. Box 979
Ketchikan, Alaska 99901

Re: Request for Legislative Action

Dear Bob:

By the time you receive this you should be in Juneau attending to legislation for the State of Alaska.

I would appreciate it if you would give consideration to the following request: I note that in Alaska Statute Title 09.40.230 as it relates to injunctions, there appears within the context of these statutes, the following:

"When it appears that (1) the plaintiff is entitled to the relief demanded, and the relief or any part of it includes restraining the commission or continuance of some act, the commission or continuance of which during the litigation would produce injury to the plaintiff; or (2) the defendant is doing, or threatens or is about to do, or is procuring or suffering to be done some act in violation of the plaintiff's rights concerning the subject of the action and tending to render the judgment ineffectual; or (3) the defendant threatens or is about to remove or dispose of his property or a part of it with intent to delay or defraud his creditors, an injunction may be allowed to restrain such act, removal, or disposition."

I certainly believe that the reference to plaintiff and defendant therein should be deleted, as certainly, and I am sure you are quite aware of this, there are instances where the defendant at times moves for injunctive relief and should not be precluded from so doing merely because the statute states that the plaintiff has to be the moving party.

STUMP & STUMP

Mr. Robert H. Ziegler, Sr.
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I would therefore respectfully request that this statute be amended to delete reference to plaintiff and defendant, and interpose the word "party", or such other word as would not directly make reference to the persons as either plaintiff or defendant.

Thank you for your courtesy in this matter, Bob, and may you have a most successful legislative session.

Very truly yours

STUMP & STUMP

By W. Clark Stump
W. Clark Stump

WCS:ju

STUMP & STUMP

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PHONE 225-4131

February 4, 1976

Hon. Robert H. Ziegler, Sr.
Senator - Alaska State Legislature
Pouch V
Juneau, Alaska 99811

RE: AS 09.40.230

Dear Bob:

Thanks for your letter of February 4, 1976 relative to my suggestion on the amendment of AS 09.40.230.

In answer to your inquiry, as you no doubt know from your long and valued career as an attorney, any party to a lawsuit has the right to move for injunctive relief; i.e. plaintiff or defendant. The way AS 09.40.230 was worded only the "plaintiff" had the right to secure such relief. Your amendment would allow "both" parties to secure such relief; i.e. plaintiff or defendant.

I find the application of this statute most used in domestic relation type cases; i.e. husband files for divorce, and his wife the defendant, seeks injunctive relief to enjoin the plaintiff from disposing of the family assets pending the final outcome of the case. Of course this is only one example, however, it is illustrative.

Thank you for your consideration on my suggestion.

Very truly yours,

STUMP & STUMP

BY: W. Clark Stump
W. Clark Stump

WCS:s