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COMMITTEE REPORT
SENATE

FURTHER: None

3/13/81

Date: MARCH 27, 1981

Mr. President:

The Committee on JUDICIARY has had SB 283
offere of judgment

under consideration and (a majority of the committee) (the committee)
reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
- and recommends _____ new title
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[Handwritten signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Handwritten signature] no rec

[Handwritten signature]
CHAIRMAN

Spec 3 107 SLA

Sec 6 CURS. 107
(FCCSNB 546)

~~W/Move Tomorrow~~

~~Small 3740~~

NO
BPT

Introduced: 3/13/81
Referred: Judiciary

1 IN THE SENATE BY THE JUDICIARY COMMITTEE

2 SENATE BILL NO. 283

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to offers of judgment."

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

8 * Section 1. AS 09.30.055 is amended to read:

9 Sec. 09.30.055. OFFERS OF JUDGMENT. On or before the 60th day
10 following the filing of an answer in a civil action, and on the fifth
11 day following the day discovery closes as ordered by the court, either
12 the party making a claim or the party defending against a claim may
13 serve upon the adverse party an offer to allow judgment to be entered
14 in complete satisfaction of the claim for the money or property or to
15 the effect specified in his offer, with cost then accrued. If within
16 10 days after the service of the offer the adverse party serves written
17 notice that the offer is accepted, either party may then file the offer
18 and notice of acceptance together with proof of service, and the clerk
19 shall enter judgment. An offer not accepted within 10 days is con-
20 sidered withdrawn and evidence of that offer is not admissible except
21 in a proceeding to determine the form of judgment after verdict. If
22 the judgment finally entered on the claim as to which an offer has been
23 made under this section is ~~any~~ more favorable to the offeree than the
24 offer, the interest awarded under AS 45.45.010(a) and accrued up to the
25 date judgment is entered shall be adjusted as follows:

26 (1) if the offeree is the party making the claim, the
27 interest rate shall be ~~AMOUNT~~ [INCREASED] by two percent a year;

28 (2) if the offeree is the party defending against the claim,
29 the interest rate shall be ~~AMOUNT~~ [REDUCED] by two percent a year.

Current

MORE FAVORABLE

INSURANCE (OFFER)

CLAIMANT (OFFER)

OFFER → 10,000

JUDGMENT

12,000 PLUS 2%

INSURANCE (OFFER)

INDIVIDUAL CLAIMANT

10,000 ← OFFER

JUDGMENT

9,000 ~~12,000~~ LESS 2%

~~SUB~~ CIVIL ACTION

WITHIN 60 DAYS AFTER FINING
WITHIN 5 DAYS AFTER DISCOVERY

OFFER (EITHER PARTY)

WITHIN 10 DAY (NOT ACCEPTED CONSIDERED WITHDRAWN)

CLAIMANT PARTY
10,000 →

JUDGMENT 9000 NO INTEREST

CLAIMANT PARTY
8000 OFFER →

JUDGMENT 9000 less 2%

CLAIMANT PARTY
JUDGMENT ~~9000~~ + 2% ~~5000~~
~~4000~~ - 5000 = 4000

10 1/2

PATRICK RODEY
ANCHORAGE

601 W. 5TH AVE. SUITE 820
ANCHORAGE, ALASKA 99501

DURING SESSION

POUCH V
JUNEAU, ALASKA 99811

Alaska State Senate

JUNEAU, ALASKA 99811

February 9, 1981

Kenneth M. Rosenstein
Abbott, Lynch and Farney
601 West 5th Avenue
Anchorage, AK 99501

Dear Mr. Rosenstein:

Thank you for your letter concerning Offers of Judgement
(AS.09.30.055).

I agree that the law currently is a disincentive to settle-
ment of cases in this area, and have submitted your suggested
amendments to the legal department for preparation of a
draft bill.

Your time spent to express your interest in, and comments on
this legislation, is greatly appreciated.

Sincerely,

Patrick M. Rodey
Senator

PMR/ds

LAW OFFICES

ABBOTT, LYNCH AND FARNEY

1200 AIRPORT HEIGHTS DRIVE, SUITE 520
ANCHORAGE, ALASKA 99504
(907) 279-4437

A PROFESSIONAL CORPORATION
8TH FLOOR
ALASKA MUTUAL BANK BLDG.
601 WEST FIFTH AVENUE
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(907) 276-3222

751 OLD RICHARDSON HWY, SUITE 325
FAIRBANKS, ALASKA 99701
(907) 452-4497

PLEASE REPLY TO:
FIFTH AVENUE OFFICE

*Kevin
see Pat
about.*

*ans
2/9/81*

RECEIVED

FEB 02 1981

January 30, 1981

The Honorable Patrick M. Rodey
Alaska Senate
Pouch V
Juneau, Alaska 99811

Dear Senator ^{*Patrick*} Rodey:

Brian Farney has asked that I write to you regarding the introduction of a bill which would clarify the offer of judgment interest adjustments contained in AS 09.30.055. The section was enacted during the last legislative session and was intended to act as an incentive for the settlement of civil cases without trial. As presently drafted, however, that section actually provides a disincentive to the settlement of cases since it does not operate unless the judgment is "more favorable to the offeree than the offer." In order to effectively operate as an incentive the statute should come into play when the judgment is not more favorable to the offeree than the offer. Enclosed is a copy of AS 09.30.055 with my suggested changes to make it effective for its intended purpose.

Thank you for your assistance.

Very truly yours,

ABBOTT, LYNCH and FARNEY


Kenneth M. Rosenstein

KMR/mlc
Enclosure

Sec. 09.30.055. Offers of judgment. On or before the 60th day following the filing of an answer in a civil action, and on the fifth day following the day discovery closes as ordered by the court, either the party making a claim or the party defending against a claim may serve upon the adverse party an offer to allow judgment to be entered in complete satisfaction of the claim for the money or property or to the effect specified in his offer, with cost then accrued. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service, and the clerk shall enter judgment. An offer not accepted within 10 days is considered withdrawn and evidence of that offer is not admissible except in a proceeding to determine the form of judgment after verdict. If the judgment finally entered on the claim as to which an offer has been made under this section is more favorable to the offeree than the offer, the interest awarded under AS 45.45.010(a) and accrued up to the date judgment is entered shall be adjusted as follows:

not

reduced

- (1) if the offeree is the party making the claim, the interest rate shall be ~~increased~~ by two percent a year;
- (2) if the offeree is the party defending against the claim, the interest rate shall be ~~reduced~~ by two percent a year. (§ 3 ch 107 SLA 1980)

increased



Official Business

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

A G E N D A

Senate Judiciary Committee Hearing

Friday, March 27, 1981
Butrovich Committee Room - 1:30 p.m.

CALL TO ORDER

LEGISLATION BEFORE COMMITTEE:

- SB 7 "An Act relating to accretion, reliction, and erosion; and providing for an effective date."
- SB 283 "An Act relating to offers of judgment."
- SJR 25 Relating to the Klondike Gold Rush National Historical Park.

SCHEDULED TESTIMONY:

- SB 7: Thomas Koester
Assistant Attorney General
- Michael Holmes

ADJOURN

Alaska State Legislature

Senate

Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY OF SENATE JUDICIARY COMMITTEE HEARING
OF
MARCH 27, 1981

Butrovich Committee Room, State Capitol - Juneau, Alaska

Legislation Before Committee:

- SB 7 "An Act relating to accretion, reliction, and erosion; and providing for an effective date."
- SB 283 "An Act relating to offers of judgment."
- SJR 25 Relating to the Klondike Gold Rush National Historical Park.

The meeting of the Senate Judiciary Committee was called to order by Chairman Rodey at 1:35 p.m. Committee members present were: Senators Bennett, Hohman, Farr, Ray, and Rodey.

Testifying in favor of SB 7 was Mike Holmes, attorney representing Theodore J. Smith and Fred S. Honsinger in a case involving waterfront property in Juneau. Mr. Holmes gave an overview of those events leading up to the promulgation of the proposed resolution.

Thomas Koester, Assistant Attorney General, spoke before the Committee as to the opinion of the Attorney General's office. His written comments are being made a part of the committee's permanent file.

Chairman Rodey deferred action on SB 7 at this hearing, pending further research.

Chairman Rodey provided background information on SB 283, and legislation passed last session which was intended to provide that a party making an offer of settlement would, if the offer was rejected and he prevailed, receive an interest rate of 2%. Chairman Rodey stated that the intent was to encourage an offer of settlement, particularly if in good faith and a reasonable one was rejected, that the party acting unreasonably would bear a 2% loss, or the reasonable party would incur a 2% benefit.

FROM TERMINAL LQ22 ON PRINTER LQH6; DATE=81100, TIME=091215

SB 283 TITLE & SPONSOR SUMMARY

09:12 4/10/81 PAGE 1 OF 2

~~AMENDED TITLE:~~

AN ACT RELATING TO OFFERS OF JUDGEMENT

~~PRIME SPONSOR: SENATE JUDICIARY COMMITTEE.~~

CO-SPONSORS:

~~LEGISLATIVE STATUS: 4/07/81-POSTEND- 4/10/81(S)~~

FROM TERMINAL LQ22 ON PRINTER LQH6; DATE=81100, TIME=091317

SB 283 SENATE ACTION

09:13 4/10/81 PAGE 2 OF 2

DATE	SEG	PAGE	LEGISLATIVE ACTION
03/13/81	01	0449	FIRST READING -- COMMITTEE REPORTS
03/31/81	02	0588	JUD -- DF02, NR02
04/09/81	03	0698	RLS -- NR01, OTHER04 TAKEN UP IMMEDIATELY
04/09/81	04	0701	POSTPONED UNTIL 04/10/81 BY UNAN CONSENT
****	**	**	*** ** *