

**SB**

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Foxd  
2/16/96

*Rep. Porter*

CS FOR HOUSE BILL NO. 316(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVE MULDER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for false claims and improper allegations or  
2 defenses in civil practice; amending Rules 13(e) and 37, Alaska Rules of Civil  
3 Procedure; and providing for an effective date."

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  
7 PRACTICE. (a) A person may not

8 (1) knowingly or recklessly file, or cause to be filed, a civil complaint,  
9 answer, or other civil pleading that contains false or misleading allegations or material  
10 misstatements of fact;

11 (2) sign a civil pleading before making reasonable inquiry and  
12 determining that, to the best of the signer's knowledge, information, and belief, each  
13 claim, defense, and allegation contained in the pleading is well grounded in fact and  
14 is warranted by existing law or a good faith argument for the extension, modification,

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1 or reversal of existing law; or

2 (3) interpose, in a civil action, a claim, defense, or allegation for an  
3 improper purpose, including to harass or to cause unnecessary delay or needless  
4 increase in the cost of litigation.

5 (b) If the court determines that a party to a civil action has intentionally made  
6 a false statement of a material fact in connection with the prosecution or defense of  
7 a civil action, the court shall enter judgment against the party making the false  
8 statement on the issue to which the false statement relates. If the civil action involves  
9 multiple claims and the false statement does not apply to all claims, the judgment  
10 required under this section shall apply only to those claims to which the false  
11 statement relates.

12 (c) A person who is injured by a violation of (a) of this section may bring an  
13 action for compensatory damages. However, if the injury is the result of an act or  
14 omission of a

15 (1) party, then the action shall be asserted in the same action in which  
16 the injury arose; and

17 (2) nonparty, then the action shall be asserted in a separate action  
18 commenced after entry of final judgment in the action in which the injury arose.

19 (d) A person who, on the person's own behalf or as a representative of a party,  
20 takes part in the initiation, defense, continuation, or procurement of a civil action  
21 against another is subject to civil liability for compensatory and punitive damages if  
22 the person acts

23 ~~without probable cause~~ (1) without probable cause on a claim or defense; or

24 (2) primarily for a purpose other than that of securing the proper  
25 adjudication of a claim or defense involved in the civil action.

26 (e) An action to recover damages under (c) of this section may be pled by a  
27 party to a civil action but may not be considered by the jury unless the person bringing  
28 the action or defense is the prevailing party on the claim in question.

29 (f) A person may not bring a civil action to recover damages under (d) of this  
30 section unless the person is the prevailing party and final judgment has been entered  
31 in the civil action described in (d) of this section.

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- 1     • Sec. 2. AS 09.65.190(a), as enacted by sec. 1 of this Act, has the effect of amending
- 2 Rule 13(e), Alaska Rules of Civil Procedure, by giving a person injured by a violation of
- 3 AS 09.65.190(a) the right to file a claim for compensatory damages after serving a pleading.
- 4     • Sec. 3. AS 09.65.190(b), added by sec. 1 of this Act, has the effect of amending Rule
- 5 37, Alaska Rules of Civil Procedure, by requiring the court to enter judgment against a party
- 6 making an intentional material false statement.
- 7     • Sec. 4. SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the
- 8 application of a provision of this Act to any person or circumstance is held invalid, the
- 9 remainder of this Act and the application to other persons shall not be affected.
- 10    • Sec. 5. This Act takes effect immediately under AS 01.10.070(c).



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**REPRESENTATIVE ELDON MULDER**  
DISTRICT 23 MULDOON-Ft. RICHARDSON

## SPONSOR STATEMENT

### CS for HB 316

House Bill 316 requires parties to law suits to be truthful and responsible in their pleadings. This bill discourages false statements in litigation and encourage responsibility by all parties and their attorneys. It requires more careful and focused preparation and presentation of pleadings.

This bill creates an obligation for litigants and attorneys to make reasonable efforts to insure that claims have a probability of succeeding. If the claim is knowingly or recklessly false, both the attorney and the party can be assessed damages.

HB 316 requires attorneys and their clients to research their claims to assure they are factually supported before filing a suit. This bill will help eliminate "boiler plate" pleadings in law suits and encourage responsible and focused pleadings. "Boiler plate" pleadings include everything anyone could ever imagine could have happened rather than focusing on those specific issues that actually happened. These extraneous pleadings are expensive to work through and are most often thrown out. They simply cause one party to expend significant dollars to pare the filing down to the real issues.

Many suits are often times cheaper to settle than litigate, regardless of their merit. This bill does not affect suits filed in good faith. It will, however, have a significant deterrent effect on those without merit. A system that allows deceit to be rewarded must be changed.

This bill assigns financial responsibility to those who file suits without probable cause, those who provide false information, those who want to use claims and cross claims to cloud the issues and those who want to go on unsuccessful fishing trips. This is not why we have and support a judicial system.

A jury will make the determination whether the information presented was intentional and material. If honest errors are made, there will be no problem. I believe that the jury can make these decisions and that the deterrent effect of this bill will apply to those cases that are inappropriate without inhibiting the filings of cases believed to have merit.