SB

169

# SENATE COMMITTEE REPORT

DATE: 4/27/06

FURTHER:

DATE TURNED
IN TO OFFICE:_____

Judiciary Committee considered SENATE BILL NO. 169

SB 169 WORKERS' COMPENSATION RECORDS

"An Act relating to release of information in individual workers' compensation records for commercial purposes."

and recommends:

[ ] be **replaced** with _____ **CS** _____ (_____)

[ ] adopt **previous** _____ **CS** _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to _____ Committee

**CS Senate Bill:**
[ ] Same Title
[ ] New Title

**SCS House Bill:**
[ ] Same Title
[ ] Technical Title Change
[ ] New Title w/ SCR #_____

**NEW FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
|---|---|---|---|---|---|
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**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
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[ ] **APPROPRIATION - no fiscal note**

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---|---|---|---|---|
| Stephen G. Green | ✓ | | | |
| [illegible] | ✓ | | | |
| Gene Thimsault | ✓ | | | |
| [illegible] | | | X | |
| | | | | |
| | | | | |
| CHAIR: Ralph Neelan | ✓ | | | |

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

**MEMORANDUM** April 28, 2006

**SUBJECT:** Concerns with CSSB 169(JUD) (Work Order No. 24-LS0890\L)

**TO:** Senator Ralph Seekins
Chair of the Senate Judiciary Committee
Attn: Brian

**FROM:** Dennis C. Bailey DCB
Legislative Counsel

As you may be aware, a similar approach to prohibiting disclosure of the names and addresses of injured persons who filed a workers compensation report of injury in current AS 23.30.107(c) was rejected by the superior court under a statutory construction analysis. The court noted a potential constitutional challenge to the current statute because the right to access public records is a fundamental right that would receive heightened scrutiny on constitutional grounds. While the new draft takes a new approach to protecting names, addresses, and telephone numbers of persons filing a report of injury, you should be aware that it is not clear that the new approach resolves the court's concerns with the former language. The new language may be subject to similar challenges.

If I may be of further assistance, please advise.

DCB:ljw
06-222.ljw

Enclosure

24G-2
4/28/06
(12:26 P.M.)

**AMENDMENT** #1

OFFERED IN THE SENATE JUDICIARY COMMITTEE
TO: CSSB 169(L&C)

BY Therriault

1 Page 1, line 2:
2 Delete "**for commercial purposes**"
3
4 Page 1, lines 4 - 6:
5 Delete all material and insert the following:
6 "* **Section 1.** AS 23.30.107(b) is amended to read:
7 (b) Medical or rehabilitation records, **and the employee's name, address, social**
8 **security number, and telephone number contained on any record,** in an employee's
9 file maintained by the division or held by the board are not public records subject to
10 public inspection and copying under AS 40.25. This subsection does not prohibit
11 (1) the reemployment benefits administrator, the division, the board, or
12 the department from releasing medical or rehabilitation records in an employee's file,
13 without the employee's consent, to a physician providing medical services under
14 AS 23.30.095(k) or 23.30.110(g), a party to a claim filed by the employee, or a
15 governmental agency; or
16 (2) the quoting or discussing of medical or rehabilitation records
17 contained in an employee's file during a hearing on a claim for compensation or in a
18 decision and order of the board.
19 * **Sec. 2.** AS 23.30.107 is amended by adding a new subsection to read:
20 (d) An employee may elect to authorize the disclosure of the employee's name,
21 address, and telephone number contained in a record described in (b) of this section by

1 signing a declaration on a form provided by the division."

2

3 Renumber the remaining bill section accordingly.

# FISCAL NOTE

**STATE OF ALASKA**
**2006 LEGISLATIVE SESSION**

Fiscal Note Number:
Bill Version: **SB169CS-DOLWD-WC-04-27-06**
() Publish Date:

Revision Date/Time (Note if correction):
Title: **Workers' Compensation Records**
Sponsor: **Senator Thomas**
Requester: **Senate JUD**

Department: **Labor and Workforce Development**
RDU: **Workers' Compensation**
Component: **Workers' Compensation**
Component Number: **344**

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

| OPERATING EXPENDITURES | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 | FY 2012 |
|---|---|---|---|---|---|---|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CAPITAL EXPENDITURES | | | | | | |
| CHANGE IN REVENUES ( ) | | | | | | |

**FUND SOURCE** (Thousands of Dollars)

| | | | | | | |
|---|---|---|---|---|---|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type--Do not abbreviate) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

**Estimate of any current year (FY2006) cost:** None
**Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:**

**POSITIONS**

| | | | | | | |
|---|---|---|---|---|---|---|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

**ANALYSIS:** *(Attach a separate page if necessary)*

This bill would prevent the division from compiling or providing information about individual workers' compensation files for commercial use. There is no anticipated fiscal impact to the department as a result of this legislation.

Prepared by: **Paul F. Lisankie, Director** Phone: **465-6059**
Division: **Workers' Compensation** Date/Time: **4/27/06 3:29 PM**
Approved by: **Greg O'Claray, Commissioner** Date: **4/27/2006**
Agency: **Department of Labor and Workforce Development**

(Revised 9/7/2005 OMB)

RECEIVED
APR 1 0 2006
Department of Law

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT JUNEAU

O'BRYAN BAUN COHEN KUEBLER,
Plaintiff,

vs.

PAUL F. LISANKIE, DIRECTOR OF DIVISION OF WORKERS' COMPENSATION, DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT, STATE OF ALASKA, JOHN DOES 1-10, EMPLOYEES OF THE STATE OF ALASKA,
Defendants.

Case No. 1JU-05-557 CI

ORDER ON MOTIONS FOR SUMMARY JUDGMENT

Factual and Procedural History

This lawsuit is brought by the O'Bryan law firm to obtain information from the State of Alaska Department of Labor about Workers' Compensation claims. The dispute arose when the State refused to provide information it had previously been providing.

Between June and November 2004 the State responded to requests by O'Bryan for Report of Injury by providing lists of claimants and their addresses and phone numbers.

However, in March 2005 when O'Bryan made a request for similar information the State refused to supply it.

When O'Bryan first asked the State in June 2004 to provide all Reports of Injury (ROI) listing Icicle Seafoods as the employer. The State notified O'Bryan that providing copies of 400 ROIs would be "a real burden" and attached a summary list of claimants, addresses and phone numbers with the hope that the summary would suffice. O'Bryan accepted the summary list in lieu of the 400 ROIs.

In August, September and November 2004, O'Bryan made three more requests for similar information. Although each request identified a different employer and employment period, the format of each request was essentially the same:

> Please provide at our expense a list of all workers compensation claimants . . . including names, addresses, and phone numbers.

Each time, O'Bryan requested a list of all workers compensation claimants against an employer, including "names, addresses, and phone numbers." And, each time the State satisfied the request by providing the summary lists.

O'Bryan made another request in March 2005. Like the previous requests, the firm asked for a summary of the information in the same format:

> Please provide at our expense a list of all workers compensation claimants for Icicle Seafoods and Trident Seafoods from the date of your last email attached. I would like their names, addresses, and phone numbers.

The State, however, advised O'Bryan that it would no longer supply any further claims information. The basis for this decision is unclear. O'Bryan says that the State explained that it would no longer do so because Richard Nielsen, an attorney representing seafood processors, had filed a complaint with the governor's office against the State.[1] The State denies that the sole basis of the denial was the Nielsen complaint letter.[2] The State says that "[t]he Director of the Division determined it was not appropriate to continue to create and provide summaries of information, and the request was denied."[3]

O'Bryan filed a letter of appeal on March 16, 2005. To date, the State has not responded to the appeal.[4]

O'Bryan filed a suit in superior court on June 6, 2005 seeking declaratory and injunctive relief. The State answered on July 25, 2005.

During the 2005 special session of the legislature, a new Workers Compensation scheme was considered and eventually enacted. That new scheme had a provision at AS 23.30.107(c) that said:

> "The division may not assemble, or provide information respecting, individual records for commercial purposes that are outside the scope of this chapter."

That provision was effective on November 7, 2005.[5]

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[1] Plaintiff's Ex. 7, p.2 and Ex. 8, p.1.
[2] Answer at 2.
[3] Defendants' Reply to Opposition to Defendants' Cross Motion for Summary Judgment at 7.
[4] Memorandum in Support of Motion for Summary Judgment at 4.

On November 23, 2005, O'Bryan's counsel sent the State's counsel a letter regarding the "Request for ROIs."[6] The letter declared that it was O'Bryan who accommodated the State – rather than vice-versa – in accepting the summary information rather than the ROI forms. The letter also outlined plaintiff's arguments that another statute, AS 23.30.260[7], is inapplicable to claims under federal law. The letter also contained the following statement:

> My client is perfectly willing to accept actual copies of the ROI pursuant to AS 40.25 et seq. seq. in order to resolve this dispute. It was the State's desire to produce the compilation in lieu of copying the ROI's but if the State is unwilling to turn over the compilation, Plaintiff hereby requests that the State produce the ROI's for Icicle Seafoods and Trident Seafoods for the period from June of 2004 to the present. Please advise when we can expect to receive these documents.[8]

O'Bryan moved for summary judgment on December 7, 2005. The State opposed and cross moved for summary judgment. Both motions are now ripe for decision. The parties agree that there is no genuine issue of fact and this is a question of law to be decided by the court.

## Summary Judgment

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[5] Ch. 10, SLA 2005.
[6] Memorandum in Support of Motion for Summary Judgment, Exhibit 11 at 1 ("Letter").
[7] AS 23.30.260. Penalty For Receiving Unapproved Fees and Soliciting.
A person is guilty of a misdemeanor, and upon conviction is punishable for each offense by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both, if the person
(1) receives a fee, other consideration, or a gratuity on account of services rendered in respect to a claim, unless the consideration or gratuity is approved by the board or the court; or
(2) makes it a business to solicit employment for a lawyer or for oneself in respect to a claim or award for compensation.
[8] Letter, supra n. 9.

The court will grant summary judgment only if the record presents no genuine issues of material fact and "the moving party was entitled to judgment on the law applicable to the established facts."[9] Once the movant has established a prima facie case, the non-movant, in order to prevent entry of summary judgment, is required to set forth specific facts showing that it could produce admissible evidence reasonably tending to dispute or contradict the movant's evidence, and thus demonstrate that a material issue of fact exists.[10] The court construes facts offered in support of and in opposition to a motion for summary judgment in a light most favorable to the nonmoving party.[11]

Public Records

Alaska has two primary public records statutes, AS 40.25.110 and AS 40.25.120, which govern the release of records to the general public. AS 40.25.110 provides that public records are open to inspection and copying. It states in relevant part:

> "Unless specifically provided otherwise, the public records of all public agencies are open to inspection by the public under reasonable rules during regular office hours."[12]

The Alaska Supreme Court has noted that "[t]here is a strong public interest in disclosure of the affairs of government," and "[sections] .110 and .120 articulate a broad

[9] Newton v. Magill, 872 P.2d 1213, 1215 (Alaska 1994).
[10] McGlothlin v. Municipality of Anchorage, 991 P.2d 1273, 1277 (Alaska 1999).
[11] Beilgard v. State, 896 P.2d 230, 233 (Alaska 1995).
[12] AS 40.25.110 (a).

policy of open records."[13] Courts have characterized the right of citizen access to public records as a "fundamental right."[14]

Section 40.25.120 restates the general rule of availability, but also sets out the exceptions to the public's right to inspect a public record. It states these exceptions, including records made secret by law:

> Every person has a right to inspect a public record in the state, including public records in recorders' offices except:
>
> . . .
>
> (4) records required to be kept confidential by a federal law or regulation or by state law.[15]

To further the legislative policy of broad public access, courts narrowly construe any exceptions.[16] The term "state law" in AS 40.25.120 (4) refers to any statute protecting the confidentiality of records. It also covers any constitutional provision, including, most notably, the right to privacy,[17] as well as the executive privilege doctrine, and other privileges.[18] The Alaska Supreme Court also has indicated that the reference to state law includes common law. The common law on public inspection of government records, as developed in other jurisdictions and acknowledged in Alaska, provides that an

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[13] Gwich'in Steering Committee v. State, Office of the Governor, 10 P.3d 572, 578 (Alaska 2000).
[14] Id.
[15] AS 40.25.120 (4).
[16] See, e.g. Doe v. Alaska Superior Court, 721 P.2d 617, 622 (Alaska 1986).
[17] ALASKA CONST. art I, § 22.
[18] See, e.g. KNUTH, MARGO, INSPECTION AND DISCOVERY OF STATE RECORDS IN ALASKA, 4 ALASKA L. REV. 277, 280 (1987).

inspection should be denied when a demonstrable need for confidentiality outweighs the public interest in disclosure.[19]

Before November 7, 2005

The State has stated no credible reason for refusing to disclose the information requested prior to November 2005.

Without some legitimate reason under the law, the State cannot deny a request to provide information that it has granted in the past. The Division Director's decision, after the complaint to the Governor's office, has not been shown to have a legitimate basis. Indeed it hasn't been shown to have any basis.

O'Bryan had been using the names and addresses of persons injured on the job to send letters to the injured persons telling them that they may have claims for other than Workers Compensation and that they could receive additional information if they wanted by contacting O'Bryan.

The State's suggests that providing the information to O'Bryan would be unlawful because of prohibitions against lawyers engaging in solicitation. The U.S. Supreme Court disagrees.[20] Court Rules in Alaska and Michigan governing the practice of law do not prohibit this information being used in the manner that O'Bryan has used it. Rule 7 of the Alaska Rules of Professional Conduct for lawyers does not prohibit letters sent to persons

[19] Mun. of Anchorage v. Daily News, 794 P.2d 584, 590 (Alaska 1990).
[20] Shapero v Kentucky Bar Ass'n, 486 US 466 (1988).

giving them information of possible legal remedies as provided by O'Bryan in this case. Rule 7.3(a) of the Michigan Rules of Professional Conduct expressly provides that the term "solicit" does not include the sending of "truthful and non-deceptive letters to potential clients known to face particular legal problems as elucidated in Shapero v Kentucky Bar Ass'n, 486 US 466."[21]

The State argues that the November 23, 2005 letter from O'Bryan's counsel to the State's counsel constituted a new request, prohibited under the new law AS 23.30.107(c). The court finds that the letter is not a new request but rather it is an offer to compromise the lawsuit. In the letter, O'Bryan articulated the consideration that it would be willing to back to the original request and accept the ROI's "in order to resolve the dispute."[22] O'Bryan offered to accept the ROI if the State was unwilling to provide the summary lists of names, addresses and phone numbers.

Evidence of offers to compromise a claim "which was disputed as to either validity or amount is not admissible to prove liability for or invalidity of the claim or its amount."[23] The letter from O'Bryan's counsel does not convert the March 2005 request into a new request that would fall under the prohibitions of AS 23.30.107(c), passed 8 months later.

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[21] MICHIGAN RULE OF PROFESSIONAL CONDUCT, Rule 7.3(a) (2002).
[22] See Letter, supra n. 9.
[23] Alaska R. Evid. 408.

The State also argues that AS 40.25.110 does not require it to create documents in response to a request if those documents are not in existence at the time of the request. [24] The court agrees. However, the past practice the State adopted of providing the summary lists rather than the actual ROI forms cannot be used to refuse the information requested. If the State chooses to no longer provide a summary list for its own convenience rather than the actual ROI forms, it must satisfy the March, 2005 request by releasing the underlying ROI forms. The State must provide the ROI requested in the March 2005 request or a summary as provided in the past

After November 7, 2005

Much of the 2005 special session of the Alaska legislature was taken up with the consideration of a new Workers Compensation scheme. That scheme was originally submitted by the governor and introduced as Senate Bill 130. A conference substitute for SB 130 was eventually enacted as 10 SLA 2005. That law had a provision at AS 23.30.107(c) that said:

> "The division may not assemble, or provide information respecting, individual records for commercial purposes that are outside the scope of this chapter."[25]

Constitutional Challenge

[24] See Opposition to Plaintiff Motion for Summary Judgment and Cross Motion in Support of Summary Judgment at 4.
[25] Section 39 of the SLA

O'Bryan argues that the statute is unconstitutional if it is interpreted to prevent O'Bryan from having access for a commercial purpose. The State argues that the statute is not unconstitutional. It would be an interesting proposition if the State's interpretation would not allow a newspaper access to this information to support a story on safety in the workplace because it was a "commercial purpose". The State's interpretation would not allow an insurance company to obtain this information to find out how potential customers were dealing with their employees. Yet a citizen with a casual interest, just being nosy, could find out all things requested here by O'Bryan. Fortunately the court feels that it does not have to decide the constitutional question. The court is to decide cases on constitutional grounds only when the cases cannot be decided fairly on statutory or other grounds.[26] Whether the constitutional challenge is equal protection or free speech, the issues need not be decided here. The court believes that the correct analysis is statutory construction.

Statutory Interpretation

A statute is to be interpreted according to its plain meaning and if it is ambiguous the court is to look at the intent of the legislature.[27] The court is to interpret laws

[26] State Department of Health and Social Services v. Valley Hospital Association Inc., 116 P.3d 580 (Alaska 2005)
[27] North Slope Borough v. Sohio Petroleum Corp. 585 P.2d 534 (Alaska 1978)

restricting the public's access to state records strictly. "Doubtful cases should be resolved by permitting public inspection."[28]

The court finds the statute ambiguous in several ways. Nearly anything today can be characterized as a "commercial purpose" including government itself sometimes. There has been much discussion in a variety of forums through the years on whether the practice of law is a profession or a commercial venture.[29] The statute does not define "commercial purpose" as meant in the framework of this scheme. The decision to release information or not, depending on how the recipient is going to use the information would be a continuing conundrum for the State and recipients.

The prohibition in the statute on providing information is only applicable for "purposes that are outside the scope of this chapter."

Neither party provided the court with any legislative history of AS 23.30.107(c).

The court's review of the legislative history of the statute shows nothing in the legislative history to make the phrase "commercial purpose" more definite. This sub-section was Section 28 of the original bill that was introduced at the request of the governor. The transmittal letter from the governor included the stated purpose of the legislation to "enhance the efficiency of the current system by expanding workers access

[28] City of Kenai v. Kenai Peninsula Newspapers, Inc., 642 P.2d 1216 (Alaska 1982) at 540.
[29] See e.g. ABA v. FTC, 430 F.3d 457 (C.A.D.C. 2005); Bailey v. State, 424 S.E. 2d 503 (S. C. 1992 at 504 reh'g denied (1993); Samuel J. Levine, Professionalism with Parochialism, 71 Fordham L. Rev. 1339 (2002-2003)

to legal counsel". There was testimony before the legislature that there was a dearth of lawyers for those injured on the job.

> "We need access to legal counsel. There are only eight attorneys assisting claimants and some are choosing not to represent injured workers in favorable profitable types of litigation. "[30]

A provision was put into the bill allowing the State to contract to pay lawyers to help injured workers. The Director of the Division of Workers Compensation in explaining a section that was meant to encourage lawyers to be involved said the statute was allowing attorneys to charge for an initial consultation with injured workers because ...there are a limited number of private attorney who are willing to provide the service. [to workers][31] The only references found in the legislative history relating directly to sub-section 107(c) were statements made by the Director of the Division. He said

> ... We would maintain, in section 27, the confidentiality of medical and rehabilitation records that are held by the division or the new appeals commission. And, in Section 28, it would ban the division from assembling or providing individual records for commercial purposes. We've got a number of folks that ask us to give them information. We are getting more and more information into our system that we request because we are trying to get electronically filed and now we getting this intercession where people recognize that there is more and more information about employers, employees, anybody you can think of. They asked us to stratify this data and give them some kind of report that they can use

[30] Testimony of Barbara Williams, of the Alaska Injured Workers Alliance, on March 8 before Labor & Commerce Committee.

[31] Paul Lisankie at 8:56:51 AM before Senate Judiciary on April 5, 2005.

> for a commercial purpose. We want to be able to give information to people that need it so they can get good health care, so that they can get paid for providing that health care, so that an insurance company or an employer or an employee can get information they need to settle, or resolve, or if necessary, have a hearing on a disputed claim. We're trying to restrict the scope of information that we give out for purely commercial purposes.[32]

On April 5, 2005 he testified:

> Section 28 is a new provision, which would ban the Division of Workers Compensation from assembling or providing individual records for commercial purposes. The Division of Workers Compensation is asking people to file online so as to speed up the process. However, they are getting requests from other people to provide information that may be used for other purposes. People have legitimate privacy concerns.[33]

The court has to recognize that providing those injured on the job with accurate information about their legal rights is an important public interest recognized by the legislature. It is also clear that attorneys are more willing to represent persons in Workers Compensation cases if there are related, more profitable tort claims that can be pursued for the client. Clearly other legal remedies may help workers "settle or resolve" Workers Compensation claims as the Director wanted. The court finds that making it possible for lawyers to tell injured workers of their rights is not "outside the purposes of this chapter".

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[32] Paul Lisankie at 2:16:54 PM on March 10, 2005 before the Senate Labor and Commerce Committee
[33] Senate Judciary Committee Minutes at 9:26:25 AM

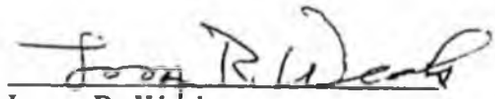
In weighing the privacy interests of access to names, addresses and phone numbers against the benefit of providing workers with legal information about their rights, the court believes the legislation provides for access to legal rights information. It is not clear whether the privacy concerns the Director referred to are the concerns of the employer or the employee nor is it clear what those concerns are. The new law specifically controls medical and rehabilitation information and release of that information is clearly prohibited. The privacy interest in that information is strong. Any privacy rights must be legitimate to be protected. The State has articulated no privacy interest of either the employee or employer about name, address and phone number that would justify keeping that information secret.

The stated goals of the legislation to provide counsel, and the ambiguity of the statute, and the requirement that laws limiting access to state records be strictly construed results in the court finding no need to address the constitutionality of the statute. The court believes that a reading of the statute that allows access to only names, addresses and phone numbers of claimants injured at particular employers is not "outside the scope of the chapter". The legislation is aimed at protecting workers injured on the job and O'Bryan's efforts to give workers information about their possible legal rights accomplishes that aim.

The court grants O'Bryan's motion for summary judgment.

The court denies the State's motion for summary judgment.

Dated this 7th day of April, 2006, at Juneau, Alaska.



Larry R. Weeks
Superior Court Judge

CERTIFICATION OF SERVICE
I certify that I served the following parties on the _____ day of _____, 2006:

Daniel Bruce
By Courtbox.

Judith Crowell
Assistant Attorney General
Department of Law
Office of the Attorney General
Anchorage Branch
1031 W. Fourth Avenue, Suite 200
Anchorage, AK 99501

_____
Tracy Ver Velde
Professional Assistant to Judge Weeks

April 15, 2005

Senator Con Bunde, Chair,
Senate Labor & Commerce Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Bunde and Committee Members,

My name is Hyo R. Kim and I have been an Alaska resident for over 27 years. Approximately 5 months ago, I received a letter from an out of state attorney that somehow learned of an injury I had at work. He indicated in his letter that if I contacted his firm, they could possibly get me more money for my injury.

I called the attorney to find out what this was about and how he had access to my personal information. During our conversation, the attorney asked me many questions about how I was injured, what the injury was, etc. After talking, the attorney indicated that he could not do anything for me since the injury was not substantial. I got the feeling he thought there was not enough money for him to get involved.

I asked him how he was able to get my personal information and he basically said he had his sources in the State of Alaska. This really bothered me since I really don't want people other than those that I approve of having access to my personal and private information This especially concerns me the most now that there are so many cases in the news of identity theft and fraud.

After discussing with my friends the conversation I had with this attorney, I learned that he most likely got my personal information from the Workers Compensation Board and the Alaska Dept. of Labor. If this is the case, it irritates me a lot as I do not want people to have access to my private information and I assumed that what I filled out on the Alaska Workers Compensation forms was confidential.

I am very surprised the State of Alaska would allow this information to be released about its residents. My injury is my private concern and should only involve me, my employer, my doctor, my family and not an out of state attorney. I ask you to please take the appropriate steps to make sure this does not happen again in the future.

Sincerely,

Hyo R. Kim

Hyo R. Kim
P.O. Box 705
Petersburg, Alaska 99833

ICICLE

April 18, 2005

Senator Con Bunde, Chair
Senate Labor and Commerce Committee
Alaska State Legislature
Juneau, Alaska 99801

Dear Senator Bunde and Members,

On behalf of Icicle Seafoods, Inc., I wish to express our support for SB 169, an act relating to the release of information in individual workers' compensation records for commercial purposes.

It came to our attention this past winter that personal information regarding employees who file workers' compensation claims has been released by the Alaska Dept. of Labor for commercial purposes. A private party outside of Alaska has been requesting the names and addresses of injured workers. They then use this private information for direct marketing purposes.

Knowing the Alaska Dept. of Labor has been releasing personal information from their database of injured workers is incredibly disturbing. With the onslaught of identity theft and increasing concern over our right to privacy, this information should not be disclosed without the consent of the person the information is about.

We find this practice objectionable, as do some of our employees who have contacted us after receiving solicitation letters from a Michigan law firm. The administration has since ceased this practice but a change in statute is clearly needed to ensure sustained protection.

I urge you to support SB 169. Thank you for your consideration.

Sincerely,

Kris Norosz

Kris Norosz
Government Affairs

**PETERSBURG FISHERIES**
A DIVISION OF ICICLE SEAFOODS, INC.
P.O. Box 1147 • Petersburg, AK 99833 • Tel: 907-772-4294 • Fax: 907-772-4472

# SENATE COMMITTEE REPORT
## First Committee of Referral

ATE: 4/11/05

FURTHER:

**)ate of 5-Day Notice:** _____
in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: _____

.abor and Commerce Committee considered SENATE BILL NO. 169

SB 169 WORKERS' COMPENSATION RECORDS

"An Act relating to release of information in individual workers' compensation records for commercial purposes."

and recommends:

[ ] be **replaced** with _____ **CS** _____ (_____)

[ ] adopt **previous** _____ **CS** _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to _____ Committee

**CS Senate Bill:**
[ ] Same Title
[ ] New Title

**SCS House Bill:**
[ ] Same Title
[ ] Technical Title Change
[ ] New Title w/ SCR #_____

**NEW FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
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**PREVIOUS FISCAL NOTE(S):**

| Department | Date | Fiscal | Indet. | Zero | FN# |
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[ ] **APPROPRIATION - no fiscal note**

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---|---|---|---|---|
| Bettye Davis | X | | | |
| [illegible] | ✓ | | | |
| [illegible] | ✓ | | | |
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| CHAIR: [illegible] | ✓ | | | |