Kevin Cuddy (Alaska Bar #0810062) STOEL RIVES LLP 510 L Street, Suite 500 Anchorage, AK 99501 Telephone: (907) 277-1900 Facsimile: (907) 277-1920

RECI	IVED
JUN	3 2016
BY:	

Attorneys for Defendant LEGISLATIVE AFFAIRS AGENCY

### IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

### THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKA BUILDING, INC., an Alaskan corporation,

Plaintiff,

v.

716 WEST FOURTH AVENUE, LLC and LEGISLATIVE AFFAIRS AGENCY,

Defendants.

Case No. 3AN-15-05969 CI

### ERRATA TO LEGISLATIVE AFFAIRS AGENCY'S MEMORANDUM IN SUPPORT OF MOTION FOR RULES 11 AND 82 FEES

COMES NOW Defendant Legislative Affairs Agency (LAA), by and through its

counsel of record, and hereby corrects its filing entitled Memorandum in Support of

Legislative Affairs Agency's Motion for Rules 11 and 82 Fees filed with this court on

May 31, 2016 to correct the Exhibit identified as Exhibit B to Exhibit A and to include

Exhibit A which was inadvertently omitted from the May 31, 2016 filing.

ERRATA TO MEMORANDUM IN SUPPORT OF LEGISLATIVE AFFAIRS AGENCY'S MOTION FOR RULE 82 ATTORNEYS' FEES *ALASKA BUILDING, INC. v. 716 WEST FOURTH AVENUE, LLC, et al.*, Case No. 3AN-15-05969CI Page 1 of 5

**STOEL RIVES LLP** 510 L Street, Suite 500, Anchorage, AK 99501 *Main (907) 277-1900* Fax (907) 277-1920 Exhibit A is attached hereto.

DATED: June 2, 2016

STOEL RIVESALLP #0911060 By: KEVIN CUDDY

(Alaska Bar #0810062) Attorney for Defendant LEGISLATIVE AFFAIRS AGENCY

### **CERTIFICATE OF SERVICE**

This certifies that on June 2, 2016, a true and correct copy of the foregoing was served via First Class Mail on:

James B. Gottstein, Esq. Law Offices of James B. Gottstein 406 G Street, Suite 206 Anchorage, AK 99501 (*Attorney for Plaintiff*)

all

Debby Allen, Litigation Practice Assistant 86718366.1 0081622-00003

Jeffrey W. Robinson Eva R. Gardner Ashburn & Mason 1227 West Ninth Avenue, Suite 200 Anchorage, AK 99501 (*Attorneys for Defendant 716 West Fourth Avenue, LLC*)

ERRATA TO MEMORANDUM IN SUPPORT OF LEGISLATIVE AFFAIRS AGENCY'S MOTION FOR RULE 82 ATTORNEYS' FEES *ALASKA BUILDING, INC. v. 716 WEST FOURTH AVENUE, LLC, et al.,* Case No. 3AN-15-05969CI Page 2 of 5

**STOEL RIVES** LLP 510 L Street, Suite 500, Anchorage, AK 99501 *Main (907) 277-1900 Fax (907) 277-1920* 

### In the Matter Of:

ALASKA BUILDING vs. 716 WEST FOURTH AVENUE LLC

## JAMES GOTTSTEIN - VOLUME I

October 16, 2015

# PACIFIC RIM REPORTING

STENOGRAPHIC COURT REPORTERS 711 M STREET, SUITE 4 ANCHORAGE, ALASKA 99501 907-272-4383 www.courtreportersalaska.com

EXHIBIT A | Page 1 of 5

1\*

÷

	1	IN THE SUPERIOR COURT FOR THE STATE OF ALASKA			
	2	THIRD JUDICIAL DISTRICT AT ANCHORAGE			
	3				
	4	ALASKA BUILDING, INC., an Alaska corporation,			
	5 6	Plaintiff, CERTIFIED			
		vs. TRANSCRIPT			
	7 8	716 WEST FOURTH AVENUE LLC, and LEGISLATIVE AFFAIRS AGENCY,			
	9	Defendants.			
	10	/			
	11	Case No. 3AN-15-05969 CI			
	12				
	13	DEPOSITION OF JAMES B. GOTTSTEIN			
	14	VOLUME I			
	15				
	16	Pages 1 - 58, inclusive			
	17	Friday, October 16, 2015 2:00 P.M.			
	18				
	19				
	20	Taken by Counsel for Defendant 716 West Fourth Avenue LLC			
	21	at ASHBURN & MASON			
	22	1227 West 9th Avenue, Suite 200 Anchorage, Alaska			
	23				
	24				
	25				
]	PACIFIC RIM REPORTING				
-		907-272-4383 EVHIBIT A   Page 2 of 5			

EXHIBIT A | Page 2 of 5

A-P-P-E-A-R-A-N-C-E-S 1 2 For Plaintiff: 3 James B. Gottstein LAW OFFICES OF JAMES B. GOTTSTEIN 4 406 G Street, Suite 206 Anchorage, Alaska 99501 5 907/274-7686 6 7 For Defendant 716 West Fourth Avenue LLC: Jeffrey W. Robinson 8 Eva Gardner ASHBURN & MASON 9 1227 West 9th Avenue, Suite 200 Anchorage, Alaska 99501 10 907/276-4331 11 12 For Defendant Legislative Affairs Agency: 13 Kevin M. Cuddy STOEL RIVES 14 510 L Street, Suite 500 Anchorage, Alaska 99501 907/277-1900 15 16 Court Reporter: 17 Gary Brooking, RPR 18 PACIFIC RIM REPORTING 711 M Street, Suite 4 19 Anchorage, Alaska 99501 20 21 22 23 24 25

### PACIFIC RIM REPORTING 907-272-4383

<ul> <li>Q. So thank you for the answer. I'm going to</li> <li>go back to my original question, which is: What is</li> <li>the basis for your claim to an entitlement of</li> <li>10 percent of the fees?</li> <li>A. I just said it.</li> <li>Q. I'm not sure that you have. You gave me a</li> <li>history lesson about the public interest exception</li> <li>for Rule 82. Is there a statute?</li> <li>A. No.</li> <li>Q. False Claims Act? This isn't a qui tam</li> <li>case, right?</li> <li>A. Correct.</li> <li>Q. Is there any common law that you can point</li> <li>to to say that a savings of this type had been given</li> <li>a private litigant?</li> <li>A. No. Well, not yet anyway. So, I mean,</li> <li>it's possible I'll come up with some, but I haven't</li> <li>found I haven't seen any yet.</li> <li>Important public issue, and the point is, is that if</li> <li>this right of public the public citizens to sue</li> <li>over illegal government action is to have any, you</li> <li>know, reality at all, there needs to be some</li> <li>countervailing element for the prospect of attorneys'</li> <li>fees being awarded against a plaintiff if they're</li> </ul>	FA	CIFIC RIM REPORTINGPage 43907-272-4383EXHIBIT A   Page 4 of 5
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> <li>16 A. No. Well, not yet anyway. So, I mean,</li> <li>17 it's possible I'll come up with some, but I haven't</li> <li>18 found I haven't seen any yet.</li> <li>19 I mean, I think that the this is a very</li> <li>20 important public issue, and the point is, is that if</li> <li>21 this right of public the public citizens to sue</li> <li>22 over illegal government action is to have any, you</li> <li>23 know, reality at all, there needs to be some</li> <li>24 countervailing element for the prospect of attorneys'</li> </ul>		
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> <li>16 A. No. Well, not yet anyway. So, I mean,</li> <li>17 it's possible I'll come up with some, but I haven't</li> <li>18 found I haven't seen any yet.</li> <li>19 I mean, I think that the this is a very</li> <li>20 important public issue, and the point is, is that if</li> <li>21 this right of public the public citizens to sue</li> <li>22 over illegal government action is to have any, you</li> <li>23 know, reality at all, there needs to be some</li> </ul>		
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> <li>16 A. No. Well, not yet anyway. So, I mean,</li> <li>17 it's possible I'll come up with some, but I haven't</li> <li>18 found I haven't seen any yet.</li> <li>19 I mean, I think that the this is a very</li> <li>20 important public issue, and the point is, is that if</li> <li>21 this right of public the public citizens to sue</li> <li>22 over illegal government action is to have any, you</li> </ul>		n 10 H (1 Polantinana) - Meria Administrati Administration (2000) Periodicitationes Biologi Education (2000)
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> <li>16 A. No. Well, not yet anyway. So, I mean,</li> <li>17 it's possible I'll come up with some, but I haven't</li> <li>18 found I haven't seen any yet.</li> <li>19 I mean, I think that the this is a very</li> <li>20 important public issue, and the point is, is that if</li> <li>21 this right of public the public citizens to sue</li> </ul>		over illegal government action is to have any, you
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> <li>16 A. No. Well, not yet anyway. So, I mean,</li> <li>17 it's possible I'll come up with some, but I haven't</li> <li>18 found I haven't seen any yet.</li> <li>19 I mean, I think that the this is a very</li> <li>20 important public issue, and the point is, is that if</li> </ul>		
<ul> <li>go back to my original question, which is: What is</li> <li>the basis for your claim to an entitlement of</li> <li>10 percent of the fees?</li> <li>A. I just said it.</li> <li>Q. I'm not sure that you have. You gave me a</li> <li>history lesson about the public interest exception</li> <li>for Rule 82. Is there a statute?</li> <li>A. No.</li> <li>Q. False Claims Act? This isn't a qui tam</li> <li>case, right?</li> <li>A. Correct.</li> <li>Q. Is there any common law that you can point</li> <li>to to say that a savings of this type had been given</li> <li>a private litigant?</li> <li>A. No. Well, not yet anyway. So, I mean,</li> <li>it's possible I'll come up with some, but I haven't</li> <li>found I haven't seen any yet.</li> <li>I mean, I think that the this is a very</li> </ul>	20	important public issue, and the point is, is that if
<ul> <li>go back to my original question, which is: What is</li> <li>the basis for your claim to an entitlement of</li> <li>10 percent of the fees?</li> <li>A. I just said it.</li> <li>Q. I'm not sure that you have. You gave me a</li> <li>history lesson about the public interest exception</li> <li>for Rule 82. Is there a statute?</li> <li>A. No.</li> <li>Q. False Claims Act? This isn't a qui tam</li> <li>case, right?</li> <li>A. Correct.</li> <li>Q. Is there any common law that you can point</li> <li>to to say that a savings of this type had been given</li> <li>a private litigant?</li> <li>A. No. Well, not yet anyway. So, I mean,</li> <li>it's possible I'll come up with some, but I haven't</li> <li>found I haven't seen any yet.</li> </ul>		
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> <li>16 A. No. Well, not yet anyway. So, I mean,</li> </ul>	18	
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> <li>15 a private litigant?</li> </ul>	17	it's possible I'll come up with some, but I haven't
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> <li>14 to to say that a savings of this type had been given</li> </ul>	16	A. No. Well, not yet anyway. So, I mean,
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> <li>13 Q. Is there any common law that you can point</li> </ul>	15	a private litigant?
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> <li>11 case, right?</li> <li>12 A. Correct.</li> </ul>	14	to to say that a savings of this type had been given
2 go back to my original question, which is: What is 3 the basis for your claim to an entitlement of 4 10 percent of the fees? 5 A. I just said it. 6 Q. I'm not sure that you have. You gave me a 7 history lesson about the public interest exception 8 for Rule 82. Is there a statute? 9 A. No. 10 Q. False Claims Act? This isn't a qui tam 11 case, right?	13	Q. Is there any common law that you can point
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> <li>7 history lesson about the public interest exception</li> <li>8 for Rule 82. Is there a statute?</li> <li>9 A. No.</li> <li>10 Q. False Claims Act? This isn't a qui tam</li> </ul>	12	A. Correct.
2 go back to my original question, which is: What is 3 the basis for your claim to an entitlement of 4 10 percent of the fees? 5 A. I just said it. 6 Q. I'm not sure that you have. You gave me a 7 history lesson about the public interest exception 8 for Rule 82. Is there a statute? 9 A. No.	11	case, right?
2 go back to my original question, which is: What is 3 the basis for your claim to an entitlement of 4 10 percent of the fees? 5 A. I just said it. 6 Q. I'm not sure that you have. You gave me a 7 history lesson about the public interest exception 8 for Rule 82. Is there a statute?	10	Q. False Claims Act? This isn't a qui tam
2 go back to my original question, which is: What is 3 the basis for your claim to an entitlement of 4 10 percent of the fees? 5 A. I just said it. 6 Q. I'm not sure that you have. You gave me a 7 history lesson about the public interest exception	9	A. No.
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> <li>6 Q. I'm not sure that you have. You gave me a</li> </ul>	8	for Rule 82. Is there a statute?
<ul> <li>2 go back to my original question, which is: What is</li> <li>3 the basis for your claim to an entitlement of</li> <li>4 10 percent of the fees?</li> <li>5 A. I just said it.</li> </ul>	7	history lesson about the public interest exception
2 go back to my original question, which is: What is 3 the basis for your claim to an entitlement of 4 10 percent of the fees?	6	Q. I'm not sure that you have. You gave me a
2 go back to my original question, which is: What is 3 the basis for your claim to an entitlement of	5	A. I just said it.
2 go back to my original question, which is: What is	4	10 percent of the fees?
	3	the basis for your claim to an entitlement of
1 Q. So thank you for the answer. I'm going to	2	go back to my original question, which is: What is
	1	Q. So thank you for the answer. I'm going to

وہ ل

1	CERTIFICATE
2	
3	I, GARY BROOKING, Registered Professional
4	Reporter and Notary Public in and for the State of
5	Alaska, do hereby certify that the witness in the
6	foregoing proceedings was duly sworn; that the
7	proceedings were then taken before me at the time
8	and place herein set forth; that the testimony
9	and proceedings were reported stenographically by
10	me and later transcribed by computer transcription;
11	that the foregoing is a true record of the
12	testimony and proceedings taken at that time;
13	and that I am not a party to nor have I any
14	interest in the outcome of the action herein
15	contained.
16	IN WITNESS WHEREOF, I have hereunto set
17	my hand and affixed my seal this 20th day
18	of October, 2015.
19	how 17 why
20	
21	
22	GARY BROOKING, RPR My Commission Expires 6/28/2016
23	
24	
25	GB4223

## PACIFIC RIM REPORTING 907-272-4383