

Change Record Detail with Description (1440)
Department of Administration

Scenario: FY2016 Supplemental Amends Mar17 (13394)

Component: Labor Relations (58)

RDU: Centralized Administrative Services (13)

Title: Extend Labor Contract and Negotiation Support Through FY2017 Sec10(c) Ch38 SLA2015 P32 L9 (FY15-FY17)

Language	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		
										PFT	PPT	NP
Y	MultiYr	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0	0	0

Due to ongoing labor contract negotiations funding from the prior multi-year appropriation is needed through FY2017.

Section 10(c), ch. 38, SLA 2015, is amended to read:

(c) The sum of \$792,000 is appropriated from the general fund to the Department of Administration, labor relations, for costs related to labor contract negotiations and arbitration support for the fiscal years ending June 30, 2015, [AND] June 30, 2016, and June 30, 2017.

FY2016 Supplemental Budget Amendment (HB 293/ SB 167)

Amend ***Sec. 6. DEPARTMENT OF ADMINISTRATION.** by adding a new subsection as follows:

(new) Section 10(c), ch. 38, SLA 2015, is amended to read:

(c) The sum of \$792,000 is appropriated from the general fund to the Department of Administration, labor relations, for costs related to labor contract negotiations and arbitration support for the fiscal years ending June 30, 2015,[AND] June 30, 2016, **and June 30, 2017.**

Explanation: Due to ongoing labor contract negotiations funding from the prior multi-year appropriation is needed through FY2017.

Effective Date: June 30, 2016

Change Record Detail with Description (1440)
Special Appropriations

Scenario: FY2016 Supplemental Amends Mar17 (13394)
Component: Judgments, Claims and Settlements (3008)
RDU: Judgments, Claims and Settlements (615)
Title: Judgments and Settlements

Language	Trans Type	Totals	Personal Services	Travel	Services	Commodities	Capital Outlay	Grants, Benefits	Miscellaneous	Positions		
										PFT	PPT	NP
Y	Suppl	3.8	0.0	0.0	3.8	0.0	0.0	0.0	0.0	0	0	0
	1004 Gen Fund	3.8										
<p>Amend judgements and settlements appropriation to add cases settled in the amount of \$3.8 after the February 1, 2016, supplemental was submitted.</p> <p>Amend *Sec. 8. DEPARTMENT OF LAW., as follows:</p> <p>*Sec. 8. DEPARTMENT OF LAW. (a) The sum of \$2,424,588 [\$2,420,785] is appropriated from the general fund to the Department of Law, civil section, deputy attorney general's office, for the purpose of paying judgments and settlements against the state for the fiscal year ending June 30, 2016.</p> <p>\$7,950.00 – William W. Bacon III v. SOA, DHSS, Div. Senior and Disabilities Services \$1,898,695.80 – Toyukak v. Mallott (formerly Toyukak v. Treadwell) \$350,000.00 – Nunamta Aulukestai, et. al. v. SOA, DNR and Pebble Limited Partnership \$164,139.20 – Hamby, et. al. v. Walker, et. al. (formerly Hamby v. Parnell) \$2,171.40 – Chilkat River Adventures, Inc. v. SOA, DNR \$1,631.18 – Clymer & Kling v. State of Alaska</p>												
Totals		3.8	0.0	0.0	3.8	0.0	0.0	0.0	0.0	0	0	0

Department of Law
Judgments/Claims/Settlements for Payment
As of March 17, 2016

	Payee	Case Name	Date Interest Commences	Anticipated Pymt Date	Judgment	Int Rate	Days	Interest Total	To Be Paid
1	Alaska Legal Services Corp.	William W. Bacon III v. SOA, DHSS, Div. Senior and Disabilities Services	06/01/16	06/01/16	7,950.00	0.00%	-	-	7,950.00
2	Native American Rights Fund	Toyukak v. Mallott (formerly Toyukak v. Treadwell)	06/01/16	06/01/16	1,898,695.80	0.00%	-	-	1,898,695.80
3	Trustees for Alaska	Nunamta Aulukestai, et. al. v. SOA, DNR and Pebble Limited Partnership	07/01/16	06/01/16	350,000.00	3.75%	-	-	350,000.00
4	(Multiple payees)	Hamby, et. al. v. Walker, et. al. (formerly Hamby v. Parnell)	04/15/15	06/01/16	127,720.90	25.20%	413	36,418.30	164,139.20
5	Brian Stubit	Chilkat River Adventures, Inc. v. SOA, DNR	06/01/16	06/01/16	2,171.40	0.00%	-	-	2,171.40
6	Robin Kling	Clymer & Kling v. State of Alaska	06/01/16	06/01/16	1,631.18	0.00%	-	-	1,631.18
TOTAL ALL JUDGMENTS					\$ 2,388,169.28			\$ 36,418.30	\$ 2,424,587.58

FY2016 Supplemental Submitted 2/1/16 \$ 2,420,785.00
FY2016 Supplemental Amendment 3/17/16 \$ 3,802.58

Department of Law

JUDGMENTS/CLAIMS/SETTLEMENTS FOR PAYMENT

(Please Type)

**This form will be used for the purpose of standardizing the submission of claims to the Legislature. Complete and accurate information will expedite payment to the claimants, thereby reducing the amount of interest required to be paid by the state. Please submit this form to the Director, Administrative Services Division, P.O. Box 110300, Juneau, AK 99811, or call (907)465-3673.

PART ONE

- 1. **Case Name:** *Chilkat River Adventures, Inc. v. State of Alaska, Department of Natural Resources*
- 2. **Case Number:** 3AN-14-08976 CI
- 3. **Judge/Justices:** Superior Court Judge Paul E Olson
- 4. **Date Judgment entered:** Order for attorneys' fees dated Feb. 3, 2016.
- 5. **Did the date of the cause of action accrue on or after August 7, 1997?** Yes
- 6. **Amount to be paid:** \$2,171.40
- 7. **Interest Rate:** none **Effective Date:** NA
- 8. **Requested hourly rate and total compensation of attorneys to be paid:** \$250 / hr.
Total \$ 2,171.40
Court approved/ordered hourly rate and total compensation of attorneys to be paid: Same
- 9. **Payable to:** Brian Stibitz,
ReevesAmodio LLC, 500 L Street, Suite 300, Anchorage AK 99501-1990


EIN: Submit separately

or SSN: Submit separately

12. Send check to: X above address


Departmental contact: _____

Departmental attorney contact:



 Thomas E. Lenhart
 Telephone Number: 907.465.5370

Departmental Approval:


 _____ 2-16-16
 Deputy Attorney General
 Date: February 12, 2016

Department of Law

JUDGMENT/SETTLEMENT FUNDING REQUEST
QUESTIONNAIRE

PART TWO

The following information needs to be provided on all judgment awards and/or settlements made against the State.

Case Name: *Chilkat River Adventures v. State of Alaska DNR*

Case No.: 3AN-14-08976 CI

- 1. Describe the circumstances or events resulting in this case and ultimately this judgment/settlement against the State.** This case was a Superior Court appeal of an administrative decision that denied Chilkat River Adventure's request for a refund of the prior five years of DNR commercial use tour fees.
- 2. Describe issues of State policy or law involved in this case, if they are relevant to and resulted in substantial effort and expense for the department to bring or defend this case.** The primary issue in this case is whether the State can charge fees on activities that occur on navigable waters without violating federal law or the US Constitution. In particular, does a calculation of commercial use fees that is in part based on the number of clients a tour operator services violate the Tonnage Clause of the United States Constitution?
- 3. Did the State prevail on any issues? If so, describe.** No, not in Superior Court and no appeal was taken to the Alaska Supreme Court.
- 4. Did we challenge plaintiffs' request for costs and fees or in other ways seek to reduce the costs to the State? If so, describe to what extent we were successful.** No, the request for attorneys' fees was reasonable and there was no apparent defense.
- 5. What was the source of the State's liability in this case?** The fee charged by DNR for providing commercial tours via watercraft in the Chilkat Bald Eagle Preserve was held to be in violation of the federal statute that implements the Tonnage Clause of the US. Constitution. Although a five year refund of the fees was requested by appellant Chilkat River Adventures, Judge Olson did not address the requested refund in his order, but did order the State to pay attorneys' fees.
- 6. What, if any, preventative action has been taken by the involved agency to prevent or reduce the potential for such liability in the future?** DNR is evaluating what if any other fees could be subject to similar claims and what changes in regulation may be appropriate.

7. **If the information is available to you, has the agency involved taken any corrective action as a result of this case? If the information is not protected from publication by statute, privilege, or right to privacy, indicate what the corrective action was. The agency is still evaluating whether any changes are appropriate.**

8. **Any recommendations concerning cases of this type in the future?** No.

9. **Any recommendations for changes in statutes, regulations or policy? Cite any applicable statutes or regulations.** Possible changes are under review.

Attorney completing form:

Date: February 12, 2016



Thomas Lenhart
Senior Assistant Attorney General
907.465.537
Tom.lenhart@alaska.gov

Department of Law

JUDGMENTS/CLAIMS/SETTLEMENTS FOR PAYMENT

**This form will be used for the purpose of standardizing the submission of claims to the Legislature. Complete and accurate information will expedite payment to the claimants, thereby reducing the amount of interest required to be paid by the state. Please submit this form to the Director, Administrative Services Division, P.O. Box 110300, Juneau, AK 99811, or call (907) 465-3673.

PART ONE

- 1. Case Name: *Clymer & Kling v. State of Alaska*
- 2. Case Number: 3PA-12-2094CI
- 3. Judge/Justices: Hon. Vanessa White
- 4. Date Judgment entered: parties' settlement and stipulation dated 12/29/14; court order dated 1/15/15
- 5. Did the date of the cause of action accrue on or after August 7, 1997? Yes
- 6. Amount to be paid: \$1,631.18
- 7. Interest Rate: N/A Effective Date:
- 8. Requested hourly rate and total compensation of attorneys to be paid: N/A
- 9. Court approved/ordered hourly rate and total compensation of attorneys to be paid: N/A
- 10. Payable to: Robin Kling, P.O. Box 16, Willow, AK 99688
- 11. EIN: Submit separately or SSN: Submit separately
- 12. Send check to: XX above address Departmental contact: _____

Departmental attorney contact:
Ruth Botstein
Assistant Attorney General



Signature

(907) 269-5193
Telephone Number

Departmental Approval:



Deputy Attorney General

3/1/16
Date

Department of Law

JUDGMENT/SETTLEMENT FUNDING REQUEST
QUESTIONNAIRE

PART TWO

The following information needs to be provided on all judgment awards and/or settlements made against the State.

Case Name: *Clymer & Kling v. State of Alaska*

Case No.: 3PA-12-2094CI

1. Describe the circumstances or events resulting in this case and ultimately this judgment/settlement against the State.

This settlement is for property damage and/or loss to plaintiffs' property after it was seized by the Alaska State Troopers. It was undisputed that the Troopers damaged some property, although the amount of loss was disputed.

2. Describe issues of State policy or law involved in this case, if they are relevant to and resulted in substantial effort and expense for the department to bring or defend this case.

The settlement concerns only a modest financial settlement for property damage and raises no policy issues. Plaintiffs' complaint does raise significant policy issues, but we determined that it was appropriate to settle the modest damages claim. The State was granted summary judgment on all other claims.

3. Did the State prevail on any issues? If so, describe.

Yes. Plaintiffs sought a ruling that they were constitutionally entitled to expungement of their arrest records after the court dismissed criminal proceedings against them after a search warrant was invalidated. The State was granted summary judgment on all constitutional claims.

4. Did we challenge plaintiffs' request for costs and fees or in other ways seek to reduce the costs to the State? If so, describe to what extent we were successful.

Settling this claim for \$1,631.18 reduces costs to the State, because it would cost significantly more than that to proceed to trial. This settlement does not include any attorney's fees.

5. What was the source of the State's liability in this case?

The Alaska State Troopers damaged plaintiffs' property in the course of a search and seizure.

6. What, if any, preventative action has been taken by the involved agency to prevent or reduce the potential for such liability in the future?

Although some property loss or damage to seized items may be unavoidable, the Troopers have recently made some changes in their policy regarding handling of seized property to minimize losses.

7. If the information is available to you, has the agency involved taken any corrective action as a result of this case? If the information is not protected from publication by statute, privilege, or right to privacy, indicate what the corrective action was.

I do not know of any action that was taken specifically in response to this case.

8. Any recommendations concerning cases of this type in the future?

No.

9. Any recommendations for changes in statutes, regulations or policy? Cite any applicable statutes or regulations.

No.

Attorney completing form: Ruth Botstein
Assistant Attorney General
(907) 269-5193

Date: March 1, 2016

FY2016 Supplemental Budget Amendment (HB 293/ SB 167)

Amend * **Sec. 8.** DEPARTMENT OF LAW., as follows:

* **Sec. 8.** DEPARTMENT OF LAW. (a) The sum of \$2,424,588 [\$2,420,785] is appropriated from the general fund to the Department of Law, civil division, deputy attorney general's office, for the purpose of paying judgments and settlements against the state for the fiscal year ending June 30, 2016.

Effective Date: April 17, 2016