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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

**CRUISE LINES INTERNATIONAL
ASSOCIATION ALASKA, and CRUISE
LINES INTERNATIONAL
ASSOCIATION,**

Plaintiffs,

v.

**THE CITY AND BOROUGH OF
JUNEAU, ALASKA, a municipal
corporation, RORIE WATT, in his
official capacity as City Manager,**

Defendants.

Case No.: 1:16-cv-00008-HRH

**ANSWER ON BEHALF OF THE CITY AND BOROUGH OF JUNEAU AND
RORIE WATT TO FIRST AMENDED COMPLAINT**

The City and Borough of Juneau and Rorie Watt, (hereafter collectively CBJ unless otherwise specified), answer the First Amended Complaint for Declaratory and Injunctive Relief as follows:

Summary of Action

1. Paragraph 1 is a statement by the Plaintiffs to which no response is required.
2. Denied.
3. Paragraph 3 is a statement by the Plaintiffs to which no response is required.

Parties

4. CBJ has insufficient information to admit or deny Paragraph 4 and therefore it is denied.
5. CBJ has insufficient information to admit or deny Paragraph 5 and therefore it is denied.
6. Admit that CBJ is a municipality under the laws of the State of Alaska. The rest of Paragraph 6 is a legal conclusion by the Plaintiffs to which no response is required.
7. The first sentence of Paragraph 7 is a statement to which no response is required. The second sentence is a legal conclusion to which no response is required.
8. Paragraph 8 is a statement to which no response is required.

Jurisdiction and Venue

9. Admit that Paragraph 9 accurately quotes a portion of certain federal statutes. Deny that the Court has jurisdiction of the action as jurisdiction is barred by the Tax Injunction Act. Although the Court has denied the Motion to Dismiss by CBJ, CBJ reserves its position and right of appeal on the

jurisdiction of the Court. Denied that there are substantial constitutional questions for resolution by this Court.

10. Admit that Paragraph 10 accurately quotes a portion of certain federal statutes.
11. Admit that Paragraph 11 accurately quotes a portion of certain federal statutes.
12. Admit that Paragraph 12 accurately quotes a portion of certain federal statutes. To the extent there are other assertions in Paragraph 12, those assertions are legal conclusions to which no response is required.
13. The first sentence of Paragraph 13 is denied. Admit that the Defendants are located in “this district.” The remaining allegations of Paragraph 13 are denied as stated.

General Allegations

14. Admit that CBJ has collected fees related to cruise vessels and passengers since 1990.
15. Admit that Ordinance 89-52 was enacted. Ordinance 89-52 speaks for itself.
16. Admit that Proposition 1 was enacted. Admit the CBJ code speaks for itself. All other remaining factual allegations are denied.
17. Admit that Resolution 2150 was adopted and speaks for itself. Admit Resolutions Nos. 2163, 2294b, 2423b-am, and 2552 were adopted and each speaks for itself. All other factual allegations are denied.

18. To the extent Paragraph 18 purports to make factual allegations, those allegations are denied. Otherwise, Paragraph 18 is a statement to which no response is required.
19. Admit that CBJ has acted properly in accordance with AS 43.52.230.
20. Admit that cruise lines operating cruise ships generally enter Alaska waters and are generally engaged in interstate and international commerce. Admit that cruise lines that operate cruise ships in Alaska waters are operating those ships in navigable waters. CBJ has insufficient information to admit or deny the remaining allegations in Paragraph 20.
21. Admit that a cruise ship with passengers docking in CBJ is subject to all applicable federal, state and local laws. The unspecified ordinances in Paragraph 21 speak for themselves.
22. Admit that each cruise ship that docks in CBJ is subject to the payment of fees imposed by the state and/or CBJ, unless exempted by state law or CBJ code or resolutions. CBJ has insufficient information to admit or deny the remaining allegations in Paragraph 22.
23. Denied.
24. The first sentence is denied. CBJ's code and resolutions, and Alaska Statutes, speak for themselves.
25. Denied.
26. Denied.

27. Denied.
28. CBJ has insufficient information to admit or deny the first sentence of Paragraph 28. CBJ has insufficient information to admit or deny the second sentence of Paragraph 28, but to the extent all passengers do benefit from CBJ services and projects while visiting Juneau, those allegations are denied.
29. Admit that CBJ has collected over \$35,000,000, in accordance with applicable state and local laws. Admit that CBJ has received over \$20,000,000 from the State of Alaska in accordance with applicable state laws. The remaining allegations in the first and second sentences of Paragraph 29 are denied. CBJ has insufficient information to admit or deny the factual allegations in the third sentence and therefore the third sentence is denied.
30. Denied.

Claims for Relief: First Cause of Action

31. CBJ incorporates by references its responses to Paragraphs 1-30 above.
32. The Tonnage Clause of the U.S. Constitution speaks for itself.
33. Paragraph 33 is a legal conclusion by the Plaintiffs to which no response is required.
34. Paragraph 34 is a legal conclusion by the Plaintiffs to which no response is required.

35. Paragraph 35 is a legal conclusion by the Plaintiffs to which no response is required.
36. Denied.
37. Denied.
38. Denied.
39. Denied.
40. Denied.

Second Cause of Action:

41. CBJ incorporates its responses to Paragraphs 1-40 above.
42. Paragraph 42 is a partial reference to the Rivers and Harbors Appropriation Act and is a legal conclusion by the Plaintiffs to which no response is required.
43. Admit that cruise ships operate on navigable waters. The remaining statements in Paragraph 43 are legal conclusions by the Plaintiffs to which no response is required.
44. Admit.
45. Denied.
46. Denied.
47. Denied.

Third Cause of Action:

48. CBJ incorporates by reference its responses to Paragraphs 1-47 above.
49. Paragraph 49 states a legal conclusion by the Plaintiffs to which no response is required.
50. Paragraph 50 states a legal conclusion by the Plaintiffs to which no response is required.
51. Denied.
52. Denied.
53. Denied.
54. Admit that the fees under CBJ code, resolution, and Alaska Statute stated in the Plaintiffs' First Amended Complaint do not apply to passengers arriving in Juneau by air or by a state ferry.
55. Denied.

Fourth Cause of Action:

56. CBJ incorporates by reference its responses to Paragraphs 1-55 above.
57. The Supremacy Clause of the U.S. Constitution speaks for itself.
58. Denied.
59. Denied.
60. Denied.
61. Denied.

Defenses:

CBJ asserts the following defenses:

1. The Plaintiffs' First Amended Complaint fails to state a cause of action upon which relief can be granted.
2. Improper jurisdiction and specifically the Tax Injunction Act bars jurisdiction in this Court.
3. The Plaintiffs have failed to join necessary and/or indispensable parties.
4. The Plaintiffs lack standing to assert some or all of the claims.
5. The Plaintiffs may have failed to mitigate some or all of their alleged damages.
6. Qualified or absolute immunity may apply to some or all of the Plaintiffs' claims.
7. The Plaintiffs' claims are barred in whole or in part by the doctrine of laches.
8. The Plaintiffs' claims are barred in whole or in part by the statute of limitations.
9. The Plaintiffs' claims are barred in whole or in part by the doctrine of waiver.
10. The Plaintiffs' claims are barred in whole or in part by the doctrine of equitable estoppel.
11. The Plaintiffs' claims are barred in whole or in part by the doctrine of unclean hands.

12. The Plaintiffs' claims are barred in whole or in part by the doctrine of collateral estoppel or its equivalent application.
13. 42 U.S.C. Sec. 1983 is inapplicable and as such the Plaintiffs are not entitled to attorneys' fees.
14. Any alleged "harm" to members of the Plaintiffs is so *de minimis* as to not entitle the Plaintiffs to an injunction or any other relief.
15. The Plaintiffs lack standing to assert the rights of cruise ship passengers who actually pay the fees alleged by the Plaintiffs to be improper.
16. Failure to exhaust administrative remedies in accordance with CBJ code 69.20.100.
17. CBJ reserves the right to add defenses revealed in discovery.
18. CBJ reserves the right to add counterclaims that may be revealed in discovery.

WHEREFORE, the City and Borough of Juneau and Rorie Watt, individually and collectively, respectfully request the Court order:

1. The Plaintiffs' First Amended Complaint be dismissed in its entirety with prejudice;
2. The Plaintiffs to pay attorneys' fees and costs to the CBJ for defending this action in the highest amount allowable by law;
3. For such other and further relief as the Court deems just and proper.

Dated: October 28, 2016

By: /s/ Robert P. Blasco
Robert P. Blasco, AK Bar #7710098
Attorneys for the City and Borough of
Juneau, Alaska, a municipal corporation,
and Rorie Watt, in his official capacity as
City Manager

CERTIFICATE OF SERVICE

The undersigned certifies that on October 28, 2016 a true and correct copy of the foregoing **ANSWER ON BEHALF OF THE CITY AND BOROUGH OF JUNEAU AND RORIE WATT TO THE FIRST AMENDED COMPLAINT** was served on the following parties of record via ECF and U.S. First Class Mail:

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/s/ Robert P. Blasco
Robert P. Blasco