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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

**REPLY OF DEFENDANTS IN SUPPORT OF MOTION TO STAY BRIEFING
SCHEDULE AND DECISION ON PLAINTIFFS' MOTION FOR SUMMARY
JUDGMENT**

The parties agree that the core, determinative issue in this case is the scope of federal law applicable to CBJ's use of passenger fees. CBJ poses in its Motion to Determine Law of the Case that neither the Tonnage Clause nor the Rivers and Harbors

Act limits the expenditures of passenger fees to only services or projects attached to the vessel. CLIA's position is that all expenditures must be only for the physical vessel.

CLIA's Summary Judgment Motion includes a 38 page Statement of Facts, with 223 separate proposed facts, and 135 exhibits attached to support those facts. The Motion also includes an affidavit from a purported "expert." Much of the Motion is directed at a multitude of categories of expenditures over a 17 year period.

Conversely, CBJ's Motion presents the Court with the isolated issue of law that must be decided before there is any analysis of the facts and exhibits — as that scope of federal law will determine whether and to what extent any individual expenditures are examined, if at all. Before the Court can evaluate whether CLIA has shown that it is entitled to judgment "as a matter of law", the "law" must be defined. If the Court holds that the scope of federal law is as presented by CBJ in its Motion, the Plaintiffs' Summary Judgment Motion becomes dramatically narrower and limited. There will be no need to address 223 separate factual points and 135 exhibits and purported expert opinion.

If briefing is to proceed on the Summary Judgment Motion, CBJ will necessarily have to engage in the immense time and expense to address CLIA's factual points and exhibits, and present its own Statement of Facts, which may be as long, and present its own exhibits, as well as address the purported expert opinion, possibly with its own expert opinion. CLIA will then have to prepare a Reply addressing all of those matters in

the CBJ Opposition. The expense of such time and effort will be enormous for both sides.

An equal if not more important consideration is the goal of conserving judicial resources. Deciding the narrow legal issue to be applied to CLIA's summary judgment motion is the most efficient and cost effective path for the case to proceed toward resolution. If the Court rules in CBJ's favor, CLIA's Motion for Summary Judgment becomes significantly narrowed, thereby greatly reducing the resources both the parties and the Court would need to expend. Conversely, if the Court rules on the scope of law in CLIA's favor, nothing has been lost, no party is prejudiced, and the Court can set a briefing schedule to conform to its decision on the scope of federal law.

CBJ respectfully requests the Court stay the briefing on the Plaintiffs' Motion for Summary Judgment pending decision by the Court on CBJ's Motion to Determine the Law of the Case, and upon ruling on that motion, set a status conference to give direction to the parties as to further briefing on the issues that remain after that decision.

HOFFMAN & BLASCO, LLC

Dated: November 6, 2017

By: /s/ Robert P. Blasco
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Juneau, Alaska, a municipal corporation,
and Rorie Watt, in his official capacity as
City Manager

HOFFMAN & BLASCO, LLC

Dated: November 6, 2017

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 6, 2017 a true and correct copy of the foregoing **REPLY OF DEFENDANTS IN SUPPORT OF MOTION TO STAY BRIEFING SCHEDULE AND DECISION ON PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT** was served on the following parties of record via ECF and U.S. First Class Mail.

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