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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

**PARTIAL OPPOSITION TO PLAINTIFFS' MOTION TO TAKE JUDICIAL NOTICE  
IN CONNECTION WITH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND  
STATEMENT OF FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

The Defendants, CBJ collectively, do not oppose the Plaintiffs' reference to federal rules and cases for the basis to allow the Court to take judicial notice of the materials filed as exhibits by the Plaintiffs.

*CLIAA, et al. v. CBJ, et al.*

*PARTIAL OPPOSITION TO PLAINTIFFS' MOTION TO TAKE JUDICIAL NOTICE IN CONNECTION WITH  
PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND STATEMENT OF FACTS IN SUPPORT OF MOTION  
FOR SUMMARY JUDGMENT*

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

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The CBJ has objected to the use of specific exhibits by the Plaintiff in the separately filed Motion to Strike Certain Exhibits Attached to the Plaintiffs Motion for Summary Judgment.<sup>1</sup>

CBJ does object to that portion of the Declaration of Kathleen R. Kraft that purports to provide the Court with her legal opinion on admissibility. In Paragraph 6, Ms. Kraft states that documents produced by CBJ are “self-authenticating, constituting admissions by Defendants.” CBJ does not agree that a document that may be self-authenticating necessarily is also an admission for purposes of admissibility against the party who produced the document. CBJ produced approximately 200,000 pages of documents to the Plaintiffs. By producing those 200,000 pages of documents, CBJ has not agreed or conceded, nor is it aware of any case law, that makes all of those 200,000 pages “admissions” against CBJ. Whether any exhibit is admissible in the first instance is for the Court to decide. Whether an exhibit the Court determines is admissible also constitutes an admission against CBJ is also for the Court to decide.

The case cited by Ms. Kraft in her affidavit is *Welenco Inc. v. Corbell*, 126 F. Supp. 3d, 1154, 1163-64 (E.D. Cal. 2015). The *Welenco Inc.* court cites to *Anand v. BP West Coast Products, LLC*, 484 F. Supp. 2d 1086, 1092 (C.D. Cal. 2007). In *Anand*, at 1092, the court stated:

In judging evidence at the summary judgment stage, the court does not make credibility determinations or weigh conflicting evidence. Rather, it draws all inferences in the light most favorable to the nonmoving party. (internal citations omitted). The evidence presented by the parties must be admissible. 484 F. Supp. 2d at 1092.

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<sup>1</sup> For example, the Plaintiffs have filed numerous exhibits to show CBJ collects sales tax, hotel tax and receives CPV funds from the State. Because there is no case law that would support the Court considering alternate funding sources on the constitutional claims by the Plaintiffs, those exhibits are not relevant to the Summary Judgment Motion.

Ms. Kraft's opinion that all documents produced by CBJ are "admissions by the Defendants," should be disregarded by the Court. As discussed above, CBJ will address admissibility of the Plaintiffs' filed exhibits in its Opposition to the Plaintiffs' Motion for Summary Judgment and Objections to CLIA's Statement of Facts, and reserves that right independent of whether the Court takes judicial notice of the exhibits.

CBJ respectfully requests the Court order that in allowing the Plaintiffs' to file the exhibits by taking judicial notice, the Court is not ruling that the documents produced by CBJ constitute "admissions" by CBJ solely by the fact of the production.

HOFFMAN & BLASCO, LLC

Dated: January 30, 2018

By: /s/ Robert P. Blasco  
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Juneau, Alaska, a municipal corporation,  
and Rorie Watt, in his official capacity as  
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Dated: January 30, 2018

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#### **CERTIFICATE OF SERVICE**

The undersigned certifies that on February 6, 2018 a true and correct copy of the foregoing **PARTIAL OPPOSITION TO PLAINTIFFS' MOTION TO TAKE JUDICIAL NOTICE IN CONNECTION WITH PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND STATEMENT OF FACTS IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT** was served on the following parties of record via ECF:

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