


Exhibit B¹

| PAGE NO. | ASSERTED FACT STATEMENT | CITED EXHIBITS | CLIA’S FRCP 56(C)(1) AND (2) RESPONSES |
|-----------------|--|-----------------------|---|
| 2 ² | The plaintiff members include: Carnival Cruise Lines, Celebrity Cruises, Crystal Cruises, Disney Cruise Lines, Holland America Line, Norwegian Cruise Line, Oceana Cruises, Princes Cruises, Regent Seven Seas Cruises, Royal Caribbean International, and Silverseas Cruises. | FQ pg. 4 | |
| 2 | CLIA is a “unified global organization,” consisting of 62 cruise lines, “representing more than 95% of global cruise capacity,” 275 executive partners, 30,000 travel professionals. | FQ pg. 2 | Unsupported by the cited Exhibit with the exception of the assertion that CLIA has 275 executive partners, and 30,000 travel professionals. |
| 2, n. 3 | Many of these “Executive Partners” are tour companies with whom the plaintiffs have contracts for the provision of tours in Juneau from which the Plaintiffs derive significant profits. | A, B, C pg. 11 | Unsupported by the cited exhibits. |
| 2, n. 3 | CLIA represents the interests of the tour groups. | | No citation to evidence in the record. |
| 2, n. 3 | These tour companies are part of the overarching “cruises” offered to the passengers from whom the fees are collected. | D, E | Unsupported by the cited exhibits. |
| 2 | CLIA represents the interests of the “entire cruise industry.” | FQ, pg. 2 | Unsupported by the cited exhibit. |
| 2 | CLIA has 15 offices globally. | FQ, pg. 2 | |
| 2 | The cruise industry is very successful: In 2010 the yearly profits of just one company, Carnival cruises, was \$2 billion. | JN, JO | Exhibit JN does not support the statement that “The cruise industry is very successful”. |
| 2, n. 7 | According to CBJ’s research, Princess Cruises became part of Carnival Corporation in 2013. | | No citation to evidence in the record. |
| 2, n. 8 |  | JO | |

¹ “CBJ” refers collectively to Defendants City and Borough of Juneau and Rorie Watts, and “CLIA” refers collectively to Plaintiffs Cruise Lines International Association and Cruise Line International Association Alaska.

² CLIA references the ECF page numbers.

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EXHIBIT B TO PLAINTIFF’S RESPONSE TO CITY AND BOROUGH OF JUNEAU’S AND RORIE WATT’S STATEMENT OF FACTS IN SUPPORT OF CBJ’S CROSS-MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO PLAINTIFF’S MOTION FOR SUMMARY JUDGMENT AND IN SUPPORT OF CBJ’S MOTION TO STRIKE CERTAIN EXHIBITS (ECF NO. 118-2)

Cruise Lines International Association Alaska, et al. v. City and Borough of Juneau, et al.

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| 2, n. 8 | Carnival Corporation did not have to pay any federal income tax for most of this profit. | JP, pg. 31 | |
| 2-3 | The same year the economic <u>recovery of the nation</u> allowed the industry to raise their ticket prices, _____. | JN, JO | |
| 3 | In 2016, Carnival Corporation & plc (the parent company of Carnival cruises Line, Holland America Line, and Princess Cruises), had revenue of \$16.4 billion dollars, which was 40% higher than 2015. | JQ | |
| 3 | CLIA's members admitted that passenger fees do not prohibit commerce or impact what ports they visit. | | No citation to evidence in the record. |
| 3 | In response to the City of Sitka, Holland America admitted that consumer demand and times are considerations for ports, as well as speed and tides, but "the tax is not," and explained that "So the tax is paid by guests, not Holland America line... So it has no impact on our profitability, and thus would not be a reason for us to consider that." | AV, AW | |
| 3 | The Juneau fees do not prevent passengers from traveling, <u>do not have more than a small burden on interstate commerce, if any,</u> _____. | BA, BB, JN, JO | Unsupported by the cited exhibits. Contains improper legal arguments. |
| 3, n. 12 | _____ _____ _____ _____ | BA, BB | Not supported by cited Exhibits. |
| 3 | CLIA's large cruise line companies are registered as foreign corporations. | JP, JR, JS, JT, JU, JV, JW | |
| 3, n. 14 | Carnival Corporation & plc which includes Holland America, Princess Cruises, and Carnival Cruise Line) is incorporated in Panama. Royal | JP, JR, JS, JT, JU, JV, JW | |

³ CLIA redacts only those documents that are subject to CBJ's Motion to Seal. CLIA directs the Court to the CBJ's Motion as well as CLIA's response thereto, which outline the basis for these redactions. Following the Court's decision on the Motion to Seal, CLIA will lodge an unreacted copy of this document with the clerk.

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| | Caribbean (which includes Celebrity Cruises) is incorporated in Liberia. Norwegian Cruise Line Holdings, Ltd (which includes Norwegian Cruise Line and Prestige Cruise Holdings (parent company of Oceana Cruises and Regent Seven Seas Cruises) is incorporated in Bermuda. Seven Seas Cruises is incorporated in Panama. Disney Cruise Line is part of the Magical Cruise Company Limited, incorporated in the United Kingdom. Silverseas Cruises is privately owned with headquarters in Monaco. Crystal Cruises operates under a parent company, "Genting Hong Kong," incorporated in Bermuda with headquarters in Hong Kong. | | |
| 3-4 | CLIA'S members have successfully lobbied as foreign companies to not have to pay corporate income tax on the money they make from passenger voyages that embark or disembark in the United States; they also pay little corporate income tax in their home countries. | JX, JP pg. 31 | Exhibits do not support the assertion that "CLIA's members have successfully lobbied as foreign companies to not have to pay corporate income tax on the money they make from passenger voyages that embark or disembark in the United States". Exhibit JX presents foundation and hearsay issues. |
| 4 | Congress unsuccessfully recently proposed changing this, to help the federal government pay for the costs of the industry, including the costs for sending the United States Coast Guard to service vessels and costs with port maintenance. | JZ, KA, JX, JY | Exhibits present foundation and hearsay issues. |
| 4 | Congress eventually passed the tax bill without requiring CLIA's members to pay income tax. | | No citation to evidence in the record. |
| 4, n. 17 | The cruise lines provided over \$3 million each year in lobbying money to Congress in 2016 and 2017 and spent higher than usual amounts in 2016 for campaign spending. | KB | Exhibit does not support the assertion that the cruise lines "spent higher than usual amounts in 2016 for campaign spending". Exhibit presents foundation issues. |
| 4 | CLIA's members do pay income taxes for their land-based income from | JP, KA | Not supported by cited Exhibits. |

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| | tour operations. | | |
| 4 | CLIA's members bring foreign-flagged ships to Juneau. | | No citation to evidence in the record. |
| 4-5 | <p>Despite the large group of ships that arrived in 2017, none were CLIA member ships registered/flagged in the United States (as listed in order of the 2017 calendar):</p> <ul style="list-style-type: none"> • Nieuw Amsterdam, Holland America, flagged in Netherlands, • Eurodam, Holland America, flagged in Netherlands, • Oosterdam, Holland America, flagged in Netherlands • Noordam, Holland America, Holland America, flagged in Netherlands, • Carnival Legend, owned by Carnival Cruise Lines, flagged in the country of Malta, • Norwegian Jewel, Norwegian Cruise Line, flagged in the Bahamas, • Ruby Princess, Princess Cruises, flagged in Bermuda, • Star Princess, Princess Cruises, flagged in Bermuda, • Norwegian Pearl, Norwegian Cruise Line, flagged in the Bahamas, • Coral Princess, Princess Cruise Lines, flagged in Bermuda, • Grand Princess, Princess Cruise Lines, flagged in Bermuda, • Volendam, Holland America, flagged in Netherlands, • Island Princess, Princess Cruises, flagged in Bermuda, • Regatta, Oceania Cruise Line, flagged in Marshall Islands, • Emerald Princess, Princess Cruises, flagged in Bermuda, • Amsterdam. Holland America Line, flagged in the Netherlands, • Europa, HAPAG-Lloyd Cruises, flagged in Bahamas, • Seven Seas Mariner, Seven Seas Radisson, also flagged in Bahamas, • Solstice, Celebrity Cruises, flagged in Malta, | G, HZ, AA-AF, AH-AM | |

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| | <ul style="list-style-type: none"> • Norwegian Sun, Norwegian Cruise Line, flagged in Bahamas, • Explorer of the Seas, Royal Caribbean, flagged in Bahamas, • Radiance of the Seas, Royal Caribbean, flagged in Bahamas, • Seabourn Sojourn, Seabourn Cruises, registered in the Bahamas, • Disney Wonder, Disney Cruise Line, flagged in Bahamas, • Silver Shadow, Silversea Cruises. flagged in the Bahamas, • Millennium, Celebrity Cruise Line. flagged in either China or Malta, • Infinity, Celebrity Cruise Line, flagged in Malta, • Crystal Serenity, Crystal Cruises, flagged in the Bahamas, | | |
| 4-5 | <p>Despite the large group of ships that arrived in 2017, none were CLIA member ships registered/flagged in the United States (as listed in order of the 2017 calendar):</p> <ul style="list-style-type: none"> • Grand Princess, Princess Cruise Lines, registered in Bermuda, World of Residensea, "The World", owned by Resideansea, not a CLIA member, Registered in Bahamas. | G, HZ, AA-AF, AH-AM | |
| 4, n. 19 | CLIA provided Exhibit 102, an inaccurate cruise ship calendar for Juneau for 2017 and is missing several ships; most obviously Exhibit 102 is blank for ships during the week... | CLIA 102 | Does not contain historical facts. |
| 4, n. 19 | ... Juneau had ships almost every day in 2017, with the majority of days having two or more ships | | No citation to evidence in the record. |
| 4, n. 20 | The owners of these ships are taken off Plaintiff's Exhibit 104. CBJ does not know which is the correct misnomer, for instance some have Princess Cruise Lines" and others "Princess." CBJ believes these ships are owned by the same company, but whether it is one company or a separate company does not matter as the registration information has been determined regardless. | | Does not contain historical facts. |
| 5, n. 21 | There are two ships named Millenium. | AI, AJ | |

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| 5, n. 22 | This is a permanent floating residence at sea, with 165 apartments with private owners. | AO | |
| 5,n4. 22 | The ship itself is registered in the Bahamas. | AP | |
| 5, n. 23 | There were a few non CLIA-member ships who came to Juneau in 2017: <ul style="list-style-type: none"> • Sea Lion and Sea Bird, Wilderness Cruises/National Geographic, flagged in United States • Quest, Lindblad Expeditions/National Geographic; CBJ could not determine the flagging of this ship. | Y | Unsupported by the cited Exhibit. |
| 5 | The flagging of the vessel in foreign countries means that they are exempt from many U.S laws including labor laws for their crew. | AN, KD | Exhibits present foundation and hearsay issues. Assertion contains legal conclusions. |
| 5, n. 24 | CBJ has found numerous other articles with similar facts. | | No citation to evidence in the record. Does not contain historical facts. |
| 5 | This has kept CLIA's members costs down and their profits high. | | No citation to evidence in the record. |
| 6 | Juneau is a town with approximately 32,000 year round residents. | KE | |
| 6 | CBJ receives approximately 1,000,000 cruise ship passengers per year during a period from approximately May 1 to September 30. | CG | |
| 6 | This amount has fluctuated, but in recent years the number has been steadily increasing, and ships have started coming earlier and later, extending the season. | CH, CI | |
| 6 | It is estimated that 1.2 million passengers will arrive in Juneau next season, an increase of 200,000 passengers. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 6 | The Plaintiffs' project larger and more ships and record years in 2018 and 2019. | KF | |
| 6 | [REDACTED] | KG | Not supported by cited Exhibit. |
| 6, n. 30 | [REDACTED] | KG | Assertion unclear. |
| 6 | CLIA's members agree that Alaska is currently seeing the most growth. | KH pg. 5 | Supported to the extent CLIA stated in a |

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| | | | September 2017 document that "Alaska is currently seeing the most growth". |
| 6 | As the cruise ship passengers continue to come in record numbers, Juneau's fees at issue do not unfairly burden the passengers who pay the fees or the CLIA members who collect the fees from the passengers and remit the fees to CBJ. | | No citation to evidence in the record. Includes improper legal arguments. |
| 6 | There is an additional influx of people through crew members who leave the ships while in port. | | No citation to evidence in the record. |
| 6 | [REDACTED] | KI | |
| 6, n. 32 | [REDACTED] AJ Dock LLC which is privately owned by Holland America. | BT | Supported with the exception of the assertion that Drew Green is the industry representative. |
| 6 | The number of individual crew who disembark in Juneau several times a summer was estimated in 2009 at 25,000. | KJ pg. 8 | |
| 6-7 | It seems reasonable these numbers are substantially higher today as the number of cruise passengers, size of ships, and number of ships has increased significantly. | CH | Unsupported by the cited Exhibit. Contains factual conclusions. |
| 7 | CLIA members own tour companies providing land-based tours for their passengers or are directly affiliated with these tour companies. | CJ pg. 3; IW, C pg. 7-8 | |
| 7, n. 35 | Only Princess Cruises passengers who book tours through Princess Cruises will be allowed to be picked-up at the pier, and that the only signs allowed will be Princess shore excursions. | IW | Mischaracterizes the exhibit cited. |
| 7 | CLIA's members have been known to off-load passengers who have booked tours through the ship before they have off-load passengers who booked independent tours; thereby negatively impacting the efficiency of commerce of these independent tourists. | KL | Mischaracterizes the cited Exhibit. |
| 7 | CLIA's members collect commissions from other tours that the passengers purchase through them and these tours appear to be covered | A, KM, D, E | |

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| | under the cruise line limit of liabilities to their passengers. | | |
| 7 | An older (2000) McDowell study gave an example of a cruise ship collection 25% of the sales commission for adventure tours. | CJ pg. 4 | |
| 7 | CBJ has no evidence that this amount has lowered. | | No citation to evidence in the record. |
| 7 | According to CLIA's expert, the largest category of cruise passenger spending is on these tours and activities. | Calvin Affidavit ¶ 20 | |
| 7 | A large percentage of the tours by cruise ship passengers are purchased from the cruise ship companies before departure or during the cruise. | KN pg. 11 | Supported to the extent CBJ asserts that some passengers purchase their tours either before departure or during the cruise. |
| 7-8 | Those commissions go directly to the CLIA member and do not account for any spending or revenue in Juneau. | CJ pg. 3 | Not supported by the cited Exhibit, which is based on hypotheticals. |
| 8 | CLIA's members directly profit from these tours through their own companies who provide the tours as well as profiting through commissions of other companies' sales. | | No citation to evidence in the record. |
| 8 | The commissions that the CLIA members extract for the sale of Juneau tours are not taxable under Juneau sales tax. | Bartholomew Affidavit; Calvin Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 8 | [REDACTED] | KO | Unsupported by exhibit cited. |
| 8 | These tour companies are part of the overarching "cruises" offered to the passengers from whom the fees are collected. | D, E | Assertion unclear, does not appear to be supported by cited Exhibit. |
| 8 | CLIA members benefit from services provided by CBJ that improve transportation for the tour groups, whether owned by a CLIA member affiliate, or from a tour vendor which the CLIA members take a commission. | | No citation to evidence in the record. |
| 8 | The cruise ship passengers visit many areas of the CBJ, with the most popular public area being the Mendenhall Glacier (which requires transport from the docks, a distance of approximately 12 miles). | | No citation to evidence in the record. |

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| 8 | According to a 2005 survey, 42% of all cruise passengers booked a glacier tour provided by a tour group-this number does not include the passengers undertaking their own trip to the glacier. | KP pg. 5 | |
| 8 | Other popular areas utilized by cruise ship passengers are the Juneau-City Museum, hiking trails in North Douglas, Mendenhall Lake, and Mount Roberts, and the City owned Arboretum (23 miles from downtown), the fisheries center DIPAC (9% of visitors in 2005), the Tram (14% of visitors in 2005), the Alaskan Brewery in Lemon Creek, the two zip lines on Douglas Island, and Glacier Gardens (7% in 2005). | KP pg. 5 | Not supported to the extent cited Exhibit does not provide the distance of the locations listed from downtown Juneau, does not discuss the location of the hiking trails, the specific museum visited, the Arboretum, the brewery, Douglas Island, or the zip lines. |
| 8 | These are areas throughout the CBJ. | | No citation to evidence in the record. |
| 8 | With the increase in passengers, CBJ has no information that these uses have decreased. | | No citation to evidence in the record. |
| 9 | Many of the cruise passengers are shuttled out to these facilities by large buses operated by CLIA's cruise line members or by those affiliated companies who have contracts or sales agreements with CLIA's cruise line members, many of whom are likely also CLIA members. | CY pg.'s 1-12 | Not supported by cited Exhibit |
| 9, n. 48 | Many travel agents and tour groups are CLIA members. | CY | Supports the assertion that that many travel agents are members of CLIA. |
| 9 | Holland America is a primary operator of the large coaches at Statter Harbor... | CZ | Supported to the extent that a Holland America employee stated in 2010 that Holland America was the "primary operator of these coach". |
| 9 | ... other CLIA members have buses to transport passengers. | DA, B | |
| 9 | Cruise ship passengers also use CBJ public buses to visit many of these sites. | DB, DC | |
| 9 | The CBJ has provided some MPF funds to locations frequented by the cruise passengers which is a benefit to interstate commerce as well as CLIA's members and passengers. | | No citation to evidence in the record. Includes improper legal arguments. |
| 9 | For example, in FY01 CBJ provided funds to upgrade a road at Amalga | BV pg. 11 | Unsupported except the extent CBJ asserts |

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| | Harbor that was being used by cruise ship tour groups for kayaking, the improvement allowed buses to access the area to bring kayakers, which was an increase in cruise ship commercial activity. | | that funds were allocated to improve the road to Amalga Harbor. |
| 9 | The cruise ship passengers and crew use roads throughout the CBJ, as well as the sidewalks and walkways. | | No citation to evidence in the record. |
| 9 | Of particular importance to CLIA's allegations about CBJ expenditures for a seawalk along the docks, as far back as 2005, cruise ship passengers that visited Juneau cited a continuous walkway along the waterfront as the most needed waterfront improvement, with 78% of all cruise ship passengers finding this as important or very important. | KP pg. 12 | |
| 9-10 | Not only do the cruise ship passengers use the continuous walkway complained of by CLIA, the cruise ship passengers overwhelming view the walkway as the most important improvement for Juneau in enhancing their visit experience. | KP pg. 12, AG, KQ. | Mischaracterizes cited Exhibits. |
| 10, n. 54 | The recommendation for a continuous walkway is consistent with cruise ship passengers. | | No citation to evidence in the record. Assertion unclear. |
| 10, n. 54 | McDowell Group did a study for Haines and the most recommended improvement for Haines by cruise ship passengers was a sea walk. | KR pg. 5 | |
| 10 | Two very popular activities are whale watching and fishing charters from Statter Harbor in Auke bay. | | No citation to evidence in the record. |
| 10 | In 2015 a study conducted by Sheinberg & Associates reported that an overwhelming majority, 86%, of all passengers on board for-hire commercial charters out of Statter Harbor came from cruise ships. | CW pg. 20 | |
| 10, n. 55 | The Plaintiffs did not admit this percentage but could not explain why nor provide any documents as to why it was inaccurate. | | No citation to evidence in the record. Does not state historical facts. |
| 10, n. 55 | The CLIA response was: "CLIA does not have any documents responsive to this request." | CX | |
| 10, n. 55 | As to whether CLIA contested the Sheinberg report, CLIA declined to respond. | | No citation to evidence in the record. Does not state historical facts. |

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| 10, n. 55 | As such, the expert consultant finding by Sheinberg must be accepted as undisputed. | | Does not state historical facts. Includes improper legal argument. |
| 10 | The cruise ship passengers purchase their whale watching and fish charters directly on board the ship from the CLIA member, with the CLIA members keeping 20% of the ticket price profits. | CW pg. 20 | Supported only to the extent CBJ asserts that in 2015, a percent of the passengers purchased charters onboard the cruise ship. |
| 10 | In 2015, these onboard sales to cruise passengers for tours originating out of Auke Bay resulted in approximately \$1,200,000 in profit to the CLIA members, which as noted by the McDowell Group above, is money not spent in Juneau, but rather pure profit to the CLIA members. | CW pg. 21 | Not supported by Exhibit, which is based on hypotheticals. |
| 10, n. 57 | The Plaintiffs did not admit this number but could not explain why nor provide any documents as to why this number was inaccurate. | CX | Does not state historical facts. |
| 10 | Whale watching tours have the vast majority of their customers from cruise ships. | CW pg. 's 6-19 | Supported to the extent this assertion is limited to the whale watching tours identified in the Exhibit. |
| 10-11 | In support of the project often referred to as Statter Harbor Phase III, directed at providing loading and unloading zone for the busses carrying cruise ship passengers, Mr. Ward stated: "I cannot imagine a more qualified proposal for a facility that will be built for and used by cruise ship passengers." | CW pg. 's 6-10 | |
| 11 | Mr. James of Gastineau Guiding stated plainly that the Phase III Statter Harbor facility is a matter of "safety" and would provide "a much safer experience to the cruise ship passengers." | CW pg. 12 | |
| 11 | This is a high-ranking activity for passengers; in 2005 16% of all cruise ship passengers said that whale watching tours were the most enjoyable experience in Juneau | KP pg. 7 | |
| 11 | The Plaintiffs' members also receive substantial income from the sale of these tours, which are sold on the cruise ships | CW pg. 20 | Mischaracterizes Exhibit, which is based on hypotheticals. |
| 11 | There are more than 25,000 individual cruise ship crew members who come to Juneau multiple times each summer. | KJ | Unsupported by the cited Exhibit. |

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| 11 | A crew shuttle is provided by various companies which provide rides to the crew members throughout town several times a day. | KS | Supported to the extent CBJ asserts that there were four crew shuttle companies in 2011. |
| 11 | The crew also frequent the public library for the CBJ provided wi-fi and the payphones provided by CBJ downtown. | CG, IU, Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 11 | The two different fees at issue in this case (the Marine Passenger Fee and the Port Development Fee) are used for services provided by CBJ to the cruise ship passengers, crew, and/or the vessels, as well as for the construction of docks and infrastructure. | | No citation to evidence in the record. Whether CBJ's various uses of the fees can be deemed services to the vessel or services to the passengers is a legal question. |
| 11 | The CLIA member contracts make clear that all government fees, including passenger fees, dockage fee, and wharfage fees, are added to the total ticket price. | D, E | General statement regarding "CLIA member contracts" not supported by cited Exhibit. |
| 11-12 | The CLIA members pay nothing to CBJ for the MPF and PDF as both fees are charged by CLIA members to the passengers. | AS | Unsupported by exhibit cited. In Exhibit AS CLIA stated: "CLIA admits that, generally, member cruise lines <i>attempt to recover</i> certain external charges, including port fees, through the mechanism of the ticket price." Moreover, in response to other requests, CLIA stated: "CLIA denies that any passenger has paid the entry fees to CBJ". |
| 12, n. 67 | CLIA objected to answering whether the CLIA members charge the fees to the passengers on the basis that they do not know what its members do about the fees. | | No citation to evidence in the record. Does not contain historical facts. |
| 12, n. 67 | Apparently, CLIA chose not to ask its board members who are executives of the CLIA cruise line members who bring cruise ships to Juneau. | | No citation to evidence in the record. Does not contain historical facts. |
| 12, n. | CLIA chose not to read its member cruise passenger contracts which are | | No citation to evidence in the record. Does |

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| 67 | available on line. | | not contain historical facts. |
| 12, n. 67 | CLIA did admit that generally the members collect the fees from the passengers. | | No citation to evidence in the record. Does not contain historical facts. |
| 12, n. 67 | CBJ views this as non-responsive and the RFA should be deemed admitted. | | Does not contain historical facts. Includes improper legal argument. |
| 12 | _____ _____ _____ _____ | AT | CLIA disputes this language amounts to an admission that the Entry Fees are not Tonnage Fees, as CBJ suggests. <i>See</i> CBJ Ordinance 69.20. 040 and CBJ Res. No. 2552. |
| 12 | CLIA Alaska's press release on the litigation also said that "the litigation is about the use of a specific tax, the \$8 local entry fee tax, each passenger pays to visit Juneau." | AU | CLIA disputes this language amounts to an admission that the Entry Fees are not Tonnage Fees, as CBJ suggests. <i>See</i> CBJ Ordinance 69.20. 040 and CBJ Res. No. 2552. |
| 12, n. 70 | CLIA members have also been alleged to collect fees from passengers that they claim art port charges, in addition to actual port charges, and then not pay them to government agencies. | Law Review Article | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and foundation issues. |
| 12 | By Resolution, the CBJ collects a \$3.00 Port Development Fee per arriving passenger. | | No citation to evidence in the record. |
| 12 | The purpose of this fee is to "provide funding for capital improvements to the downtown waterfront." | CBJ Res. 2552 | |
| 12 | It The PDF has been in place in different amounts since 1990. | | No citation to evidence in the record. |
| 12 | The first ordinance (Ord. 89-52) expired in 2002, and the assembly adopted resolution 2150 (April 2002, later continued through resolution 2163 (July 2002)), which established different fees for public and private facilities, resolution 2294bam (March 2005) which continued to have different fees for public and private facilities, resolution 2423(b) am | | No citation to evidence in the record. |

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| | (2008) which set the PDF as \$3.00 for both private and public facilities, and resolution 2552 (2010) which repealed the sunset provision. | | |
| 12-13 | The CLIA members supported the PDF in 2008 and did not object to the same fee for both private and public facilities. | BI pg. 3 | Both the assertion and the cited Exhibit are worded such that their meaning is unclear. |
| 13, n. 72 | The Seawalk was part of the waterfront plan as written at the time of this resolution. | BG | |
| 13 | At a January 7, 2008 Assembly meeting: Don Habeger "clarified that his letter was addressed from Royal Caribbean and Celebrity Cruises, however, he had checked with his colleagues in the industry about his comments, and all including John Hanson of the Northwest Cruise Association supported his comments. They support the \$3.00 fee." | BI pg. 3 | |
| 13, n. 73 | The Northwest Cruise Association was the predecessor of the Plaintiffs and acted as the industry representative in communications with the CBJ. | AS | Unsupported by cited Exhibit. |
| 13, n. 73 | CLIA's response was equivocal, but CLIA did not deny that NWCA was the industry representative at the time of the letter and comments by Mr. Habeger and Mr. Hanson supporting the \$3.00 Port Development Fee. | AS | Mischaracterizes the exhibit cited. CLIA admitted that the NWCA was "a cruise line industry representative to government entities in Alaska from January 1, 1991 until February 7, 2007." Mr. Habeger's comments came in January, 2008. |
| 13 | Mr. Habeger went on to say the funds should be used for the benefit of all users, such as "the parking lot." | BI pg. 3 | Mischaracterizes cited Exhibit. |
| 13 | CBJ has used the PDF consistent with the Resolution and in doing so has consulted with CLIA's predecessor and cruise line representatives or gave them the opportunity to consult. | Watt Affidavit, Bartholomew Affidavit, Botelho Affidavit | Objection to the extent CBJ relies on the Bartholomew and Watt Affidavits. <i>See</i> Motions to Strike Bartholomew and Watt Affidavits. Assertions that individuals or entities were CLIA's predecessors or representatives are unsupported by CBJ's Exhibits. |

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| | | | Whether the CBJ has used the PDF "consistent with the Resolution" is a conclusion of law and/or fact. |
| 13 | Until CLIA filed its Summary Judgment Motion, CLIA did not object to or challenge the collection of the PDF and did not challenge the reasonableness of the fee. | Watt Affidavit, Bartholomew Affidavit, Bohelho Affidavit | Objection to the extent CBJ relies on the Bartholomew and Watt Affidavits. <i>See</i> Motions to Strike Bartholomew and Watt Affidavits. CLIA disputes that it did not challenge the use of the PDF. <i>See e.g.</i> ECF No. 131 at ¶¶ 9, 10, 24, 28, 35. |
| 13 | The PDF has only been used to fund capital improvements to the downtown waterfront. | BO | Unsupported by cited Exhibit. |
| 13 | The last several years, the PDF was used to pay back bond indebtedness for the 16b cruise ship berth project and the multi-phase Seawalk project. | Bartholomew Affidavit, BO | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 13 | The 16b Project constructed a public dock and upgraded an existing dock specifically to accommodate the Plaintiffs members' 1000 foot vessels. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 13 | These docks have no other purpose. | | No citation to evidence in the record. |
| 13-14 | The CBJ incurred substantial indebtedness to plan, design and build the dock, with the express intent to repay the indebtedness in large part from the PDF. | | No citation to evidence in the record. |
| 14 | But for the CLIA's members' need for docks to accommodate larger ships, Juneau would not have undertaken such a massive project. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 14 | Similarly, but for the concurrence of CLIA's predecessor and the CLIA members in approving the PDF and its use, CBJ would not have taken on | | No citation to evidence in the record. |

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| | the indebtedness necessary to build 16b. | | |
| 14 | CBJ relied to its detriment on the assurance of CLIA's predecessor and its members that CLIA and its members did not and would not challenge the PDF. | Watt Affidavit, Bartholomew Affidavit, Botelho Affidavit | Objection to the extent CBJ relies on the Bartholomew and Watt Affidavits. <i>See</i> Motions to Strike Bartholomew and Watt Affidavits. Consists of legal and factual conclusions rather than historical facts. |
| 14 | CLIA members or representatives were involved with the new docks design; Princess Cruises suggested options for 16b. | FT pg. 14 | Unsupported to the extent CBJ asserts that individuals or entities were CLIA representatives. |
| 14 | CLIA members previously agreed to help the CBJ design the 16B project for the industry's needs. | KV | |
| 14 | CLIA has admitted since the construction of 16b that this was a good project. | Bartholomew Affidavit, FE, FF | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 14 | As outlined above, CLIA's passengers overwhelmingly approved of a continuous walkway in Juneau's waterfront. | | No citation to evidence in the record. |
| 14 | The Seawalk was also designed and constructed with prior approval of the CLIA member representatives. | | No citation to evidence in the record. CLIA specifically disputes CBJ's suggestion that CLIA approved the use of Entry Fees to fund the various projects that make up the Seawalk. (<i>See e.g.</i> CBJ Ex's. AT, LP, KT, filed under seal.) |
| 14 | The Seawalk was identified as a project since at least 2004, when it was part of the 2004 Long Range Waterfront Plan. | BG | |
| 14, n. | | KW | |

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| 85 | | | |
| 14 | Don Habeger represented the CLIA members and stated publicly the cruise ship industry supported any project within the Long Range Waterfront Plan as funded with PDF. | BI | Mischaracterizes Exhibit BI. |
| 14-15 | Drew Green as cruise ship industry representative on the CBJ Passenger Fee Committee stated that he "appreciate[d]" the marine passenger fee being used for the waterfront seawalk. | DK | Unclear in Exhibit if Mr. Green was stating he appreciated the fees going to the Seawalk generally or to a specific section of the Seawalk. Assertion that Mr. Green was an "industry representative" not supported by Exhibit. |
| 15 | In 2013, K. Day approved the seawalk funding for FY14 and that this was a "good project." | DI | Unsupported to the extent CBJ suggests this Exhibit includes approval for the FY14 funding of the Seawalk. |
| 15, n. 88 | Mr. Day is and has been a Princess Cruise Director since at least 2000 and has been the designated representative of the CLIA members throughout that period of time. | | No citation to evidence in the record. |
| 15, n. 88 | For example, the NWCA notified CBJ that Mr. Day was its representative. | BC | Supported to the extent the NWCA informed CBJ that Mr. Day would be attending one meeting on NWCA's behalf. |
| 14, n. 88 | This is just one example: CBJ will make many other references to Mr. Day acting on behalf of the CLIA members. | | No citation to evidence in the record. Does not contain historical facts. |
| 15, n. 88 | CBJ also notes that Exh. BC directly contradicts the CLIA response to RFAs Nos. 1 and 2 as the NWCA continued to represent the CLIA members after 2007. | BC, AS | Not supported by cited Exhibits, particularly considering CBJ's RFA No.'s 1 and 2 are expressly limited in time from January 1, 1991 to February 7, 2007. |
| 15 | D. Green also emailed the City regarding the FY14 proposed list, stating: "Use of MPF funds on sea walks that provide, infrastructure, safety, or efficiency benefit to passengers at or near cruise facilities where they are berthed or lightering is appropriate." | DJ | |

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| 15 | CLIA did not comment negatively on the Seawalk until they wrote a letter commenting on the funding source in February 2016... | KY | Not supported by cited Exhibit. In KY, Mr. Binkley states "I have previously communicated our concern to the City Manager and testified to the Assembly on our viewpoint utilizing passenger fees for the bridge park project is not consistent with federal law." |
| 15 | ... despite the CLIA members past support... | | No citation to evidence in the record. |
| 15 | ... and after the seawalk sections starting at industry-owned Franklin Dock and continuing along the CT and AS dock had already being constructed. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 15 | Juneau's Code (CBJ Code) 69.20.020 imposes a \$5.00 fee per passenger visit, the Marine Passenger Fee. | CBJ Code | |
| 15 | The MPF has been in place at \$5.00 per passenger since 1999 after the voters passed a proposition which the CBJ implemented in Ordinance 2001-01am (Plaintiff's Exh.5) and which was embodied in CBJ Code 69.20. | CLIA Ex. 5 | |
| 15 | The process for soliciting and deciding projects was amended in 2008 (Ord. 2008-7). | | |
| 15 | The purpose of the MPF is to "address the costs to the City and Borough for services and infrastructure rendered to cruise ships and cruise ship passengers visiting the City and Borough." | CBJ Code | |
| 16 | CBJ Code 69.20 et.seq. sets out the complete code related to the MPF, including the administrative remedies for protest or challenges to the collection or expenditure of the fees. | CLIA Ex. 11 | |
| 16 | Since 2001, no CLIA member has instituted any action to challenge the constitutionality of the collection or expenditure of the MPF. | | No citation to evidence in the record. |
| 16 | Since 2001, no CLIA member has availed itself of its administrative remedies to protest and appeal the collection of the MPF. | AY | Mischaracterizes cited Exhibit. |

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| 16, n. 94 | The Plaintiffs refused to respond to the Interrogatory regarding not having invoked the protest an appeal process. | AY | Not supported by cited Exhibit. |
| 16, n. 94 | Their response repeated the Plaintiffs' conclusion that the fees and expenditures are unconstitutional, which is not a response as to why the protest an appeal process was not invoked. | | Does not stated historical facts. |
| 16, n. 94 | The Plaintiffs have not produced any document or any other evidence that any CLI member ever file a protest or invoked the protest and appeal process afforded each of them in the CBJ Code. | | Does not state historical facts. |
| 16 | CBJ's ordinance directs that the MPF is to be spent to support the marine passenger industry, with a detailed list including capital improvements, operating funds for services made available required as a result of the ships, projects and programs that promote safety, environmental improvements, efficiency of commerce, or enforcement of laws, acquisition of land needed for these services, and surveys or similar tools to measure, describe or predict the ships and passengers. | CBJ Code | |
| 16 | Each year, the City Manager presents a list of expenditures to the CBJ Assembly for approval for the MPF fees. | | No citation to evidence in the record. |
| 16 | This list is based off of requests from the public and CLIA members and representatives. | | No citation to evidence in the record. |
| 16 | To facilitate requests, the City Manager annually solicits for projects by posting an announcement on the CBJ website each year, and making a media announcement. | KZ | Not supported except to the extent KZ demonstrates that the City Manager solicited projects in 2012. |
| 16-17 | CLIA member representatives have submitted requests, including projects that benefit passengers. | AR, AQ, DG | Unsupported to the extent CBJ asserts that individuals or entities were CLIA representatives. |
| 17, n. 97 | ... A.J. Juneau Dock, LLC, which is 50% owned by Holland American Line, Inc., a CLIA member... | | No citation to evidence in the record. |
| 17, n. 97 | While that specific request was not funded, (see Exh. DH) CBJ did fund many projects requested by CLIA members at the Franklin Dock and AJ | DH | DH appears to apply to the wrong year. Not otherwise supported by citations to evidence |

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| | dock that have benefitted passengers, not only the physical vessel. | | in the record. |
| 17 | After receiving and reviewing requests, the City Manager prepares a draft list of projects and programs proposed for funding and publishes these on the CBJ website and makes another a media announcement. | CBJ Code, LA, DC | |
| 17 | The list is also forwarded to the cruise lines representatives and the CBJ Docks and Harbors Board for review and comment. | CBJ Code, DF | Not supported to the extent CBJ's suggests that cruise line representatives were generally provided copies of the list. DF indicates that the list was forwarded to Mr. Day and Mr. Green. |
| 17 | CLIA members and representatives provided comments; and at times approved of projects benefitting passengers. | DI, DJ | Unsupported to the extent CBJ asserts that any individuals or entities were CLIA representatives. |
| 17 | The manager then publishes the final recommendations on the CBJ website prior to the Assembly Finance Committee and then the Assembly's approval. | CBJ Code, LB | |
| 17 | The Assembly makes the final determination as to what is funded. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 17 | The CBJ has funded many services to the cruise ships, passengers, and crew, in addition to the dock projects. | | No citation to evidence in the record. To the extent CBJ means to rely on later cited Exhibits, this statement is not supported: CBJ did not fund these services with its own revenues; they were funded by Entry Fees. (CBJ Ex. LB.) |
| 17 | One such example of this is crossing guards stationed in downtown near the cruise ship docks during the cruise ship season. | LB | |
| 17 | The crossing guard schedule is dependent on the ship schedule and the crossing guards are only in place when ships are in port. | HP, HK, Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. Unsupported by cited Exhibits. |

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| 17 | The crossing guards are not there after the cruise ships leave. | HQ | Not supported by cited Exhibit. |
| 17 | The crossing guards are needed due to the high volume of pedestrians coming off the cruise ships... | | Not citation to evidence in the record. |
| 17-18 | ... a study in 2009 estimated 447 passengers per 15 minutes on one sidewalk, and 428 on the other side. | EM pg. 7 | Not supported to the extent CBJ uses the term "passengers" as opposed to "pedestrians". |
| 18 | The same study counted 8,370 pedestrians in one day (over 1,000 during the highest hour of activity) who crossed from the ship side of Franklin Street to the Alaska Shirt Company, a store only open in the summer for the cruise season, and 5,010 pedestrians at the second highest crosswalk during the same day. | EM pg. 4 | Supported except for the assertion that Alaska Shirt Company is "only open in the summer for the cruise season". |
| 18 | The crossings guards help ensure that these cruise ship passengers cross safely and comfortably. | EM pg. 8 | Not supported to the extent CBJ uses the term "passengers" as opposed to "pedestrians". |
| 18 | CLIA members and representatives consistently recognized the crossing guards as a proper use of the MPF | HJ, HK | Not supported by cited Exhibits. |
| 18 | The City of Ketchikan funds crossing guards for their downtown with their marine passenger fees. | HI | Not supported for the assertion that the City of Ketchikan's crossing guard program is funded with their marine passenger fees. |
| 18 | CLIAA has not sued the City of Ketchikan for the collection or use of their marine passenger fees. | | No citation to evidence in the record. |
| 18, n. 111 | Ketchikan has similar fees charging \$7.00 per passengers. | Ketchikan Code | CLIA disputes the assertion that Ketchikan's fees are "similar". Ketchikan asses a wharfage fee. Ketchikan Muni. Code 13.10.030. |
| 18 | The crossing guards provide a safety and beneficial service to the passengers. | HY | Not supported by cited Exhibits. |
| 18 | CBJ has followed the procedure in the code for developing recommended expenditures and projects for consideration by the Assembly. | Watt Affidavit, FL | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt |

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| | | | Affidavit. Not supported by Exhibit FL. |
| 18 | Every year the proposed list has been distributed to CLIA, and its predecessors, NWCA and ACA, and to many other cruise lines representatives. | Watt Affidavit, DF | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. Not supported by cited Exhibit. Unsupported to the extent CBJ asserts any individuals or entities were CLIA predecessors or representatives. |
| 18 | CLIA and its predecessors specifically requested some expenditures, approved of others, objected to some, or did not respond. | | Not citation to evidence in the record. |
| 18 | For example, CLIA specifically approved funding for crossing guards, now being challenged in this summary judgment motion. | BV | Not supported by cited Exhibits. Includes assertions that not historical facts. |
| 18-19 | Some years one or more of CLIA's cruise line members specifically requested CBJ approve the expenditure of MPF for projects now being challenged, such as the walkway at the private docks and security at the private docks, and the cleaning and maintenance of downtown restrooms. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. Unsupported by cited Exhibits. |
| 19 | Since FY10, CLIA's members have specifically requested projects for their private docks, many of which CBJ has used MPF to fund or partially fund. | AR, AQ, DG, GL, GM, GN, GO, GQ, GS, GT, GV, GW, GY, GZ, IP, HB, HD, HF | |
| 19 | The original manner in which the CBJ solicited input from CLIA's predecessors and industry representatives was through a Passenger Fee Proceeds Committee, of which Mr. Habeger was a member and industry representative. | DL, DS | Unsupported to the extent CBJ asserts that any individuals or entities were CLIA predecessors or representatives. |
| 19, n. 118 | NWCA nominated Habeger as their representative and re-nominated for him to be the representative in 2002. | DS | |
| 19 | For example, the first MPF expenditures, FY01 were approved by the | DM, CN, DN, | |

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| | Passenger Fee Committee and included construction of a visitor center and restrooms, Auke Bay Commercial Loading Facility, Gold Creek Entrance enhancement, downtown sidewalk, stairway, and street reconstruction, trail maintenance, crossing guards, refinishing the downtown street lights, commercial trail planning, funding of a trail monitor position, a tourism coordinator at the CBJ and two assistants, tourism ambassador, and funding for capital transit, local emergency planning committee, funding for baseline noise study, funding for tourism advisory committee and a tourism long range plan, among others. | BV, page 6 | |
| 19, n. 119 | CBJ does not agree these past expenditures should be considered by the Court on the Plaintiffs' constitutional claims, as any claims regarding those expenditures have long passed the statute of limitations and are otherwise barred by waiver, laches or estoppel. | | Does not contain historical facts. Includes improper legal arguments. |
| 19, n. 119 | CBJ provides this history to the Court to clarify the process for the expenditures and to demonstrate CBJ's reliance on the CLIA members' approval and their lack of objection to the expenditures. | | Does not contain historical facts. Includes improper legal arguments. |
| 19, n. 120 | Mr. Habeger did tell the Assembly on June 6, 2000 he dissented to some items on the list and that he wanted the fees to be used to "make plans for bringing bigger ships in, creating a waterfront corridor." | DN | Supported with the exception of the date. Exhibit DN is dated June 26, 2000. |
| 19, n. 120 | The NWCA also made a general statement that the money should be spent on improvements for the ships and passengers. | BV | |
| 19-20 | This list provided many projects that benefitted passengers, and even included preparation for part of the Seawalk by Gold Creek | CN | Supported to the extent CBJ asserts the list included preparations for part of the Seawalk by Gold Creek. |
| 20 | Kirby Day with Princess Cruises was not a member of the committee, but expressed to the Assembly that congestion downtown was a big issue that needed addressing, including traffic movement, pedestrian | BV, pg. 7 | |

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| | movement, and that the CBJ should look at instituting a crossing guard program such as Sitka and Ketchikan. | | |
| 20 | Mr. Habeger wrote the city manager with NWCA's view of how to use the marine passenger fees on June 22, 2000 for the FY01 list: "The projects I believe to be of the utmost importance are to organize, revamp and improve the downtown waterfront corridor...Likewise the fees should be concentrated to the areas of greatest impact first then radiating outward." | CN, pg. 4 | |
| 20 | Mr. Habeger specifically requested concentration to improve Marine Park, purchase land, improve the "waterfront promenade", enhance vehicular traffic patterns, and enhance municipal wharves, the start of a long-range tourism plan, and "enhancement designing" of the downtown. | CN, pg. 4 | |
| 20 | On behalf of the NWCA members (now CLIA members), he also approved of a second wave of projects such as work to trails used by passengers. | CN, pg. 4 | Not supported by cited Exhibit. |
| 20 | As another example, in 2001, the Passenger Fee Committee continued along the same vein for FY03, and did not discuss using the fees on projects only for services to the physical vessels. | DQ | Mischaracterizes cited Exhibit. DQ purports to be the minutes from one meeting of the Passenger Fee Committee in 2001 in which projects not related to the vessel were discussed. |
| 20 | As another example, in 2001, the Passenger Fee Committee continued along the same vein for FY03, and did not discuss using the fees on projects only for services to the physical vessels. | DQ | Mischaracterizes cited Exhibit. DQ purports to be the minutes from one meeting of the Passenger Fee Committee in 2001 in which projects not related to the vessel were discussed. |
| 20-21 | John Hanson, President of the NWCA, wrote a letter to the City manager on the proposed list, stating general support for three types of projects: projects that ameliorate the public impact of noise from aircraft in cruise passenger flight excursions; projects related to dock and ship security and | DR | |

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| | minimizing any negative community impact of security measures; and "projects related to the efficient handling of passengers who come ashore, and the safe maneuvering in the harbor and docking of ships at the public docks in Juneau." | | |
| 21 | All members of the committee, including the Plaintiffs' representative, Mr. Habeger, unanimously supported using MPF for: Bus Transit services, Crossing Guards, and downtown restroom maintenance. | DS, DL | No supported by cited Exhibits. Neither DS nor DL indicate unanimous consent to any projects or consent by Mr. Habeger, nor do these Exhibits support the assertion that Mr. Habeger represented CLIA. |
| 21 | On January 28, 2002, the CBJ Manager reported the final recommendations of the Passenger Fee Committee for FY03, indicating the committee, including Mr. Habeger, recommended expenditure of the fees on the following projects: Auke Bay Commercial Loading Facility, City Museum, Crossing Guards, Dock Security, Downtown Restroom Maintenance, Front Street Restrooms, Heliport Plan, Juneau Convention and Visitors Bureau, Local Emergency Planning Committee, Planning and Policy Committee, Marine Park/Admiral Way/Steamship Wharf, Montana Creek Bike Trail, Open Space Acquisition, Park Rangers, Marine Wharf Improvements, Princess Cruises Shore Power, Tourism Personnel, Trail Maintenance, Transit | CQ | |
| 21, n. 129 | Drew Green became the industry representative in FY06 and approved similar projects that were not limited to the only the physical vessel. | CR | Not supported by cited Exhibit. Exhibit merely demonstrates that Mr. Green was a member of the Passenger Fee Committee at a point in 2006 and that CBJ referred to him as an "industry member". |
| 21-22 | On January 30, 2006, Mr. Day sent an e-mail to CLIA members and others indicating the industry's support for spending MPF monies to "widen 300 feet of side walk between the parking garage and the new Timberwolf building on the water side of S. Franklin Street. We believe | EL | |

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| | this is a pro-active step to address some of the concerns over pedestrian congestion in this area.” | | |
| 22 | The pedestrian congestion is the 1,000,000 cruise ship passengers coming into Juneau per season. | | No citation to evidence in the record. |
| 22 | The Passenger Fee Committee disbanded with the agreement of CLIA's members starting in 2008 for the FY09 year, and the process switched to the City Manager presenting his recommended list of expenditures to the CLIA members before submitting to the Assembly Finance Committee. | ED | |
| 22 | CLIA members had an avenue to request, approve, or object to projects and continued to request projects from the CBJ funded with MPF and PDF that were not limited to only the physical vessel. | | No citation to evidence in the record. |
| 22 | In 2008 Princess Cruises requested MPF in FY09 be used to construct a covered staging area for passengers while waiting for tours and transport | EF | |
| 22 | In 2010, CLIA members and representatives requested a larger turnaround for buses in the Columbia lot to allow delivery trucks access to the ships; this is evidence that the ships require vehicular access and loading and parking areas | EG, EH | Supported only to the extent Exhibits demonstrate requests from CLIA members regarding parking areas. |
| 22 | On January 28, 2013, Mr. Day emailed the CBJ finance director and manager that “Seawalk is a good project.” | DI | Supported with the exception that DI does not identify email recipients as CBJ's finance director or manager. |
| 22 | On the same day, Mr. Green emailed the manager on the proposed FY14 MPF list and said: “Use of MPF funds on sea walks that provide infrastructure, safety, or efficiency benefit to passengers at or near cruise facilities where they are berthed or lightering is appropriate.” | DJ | Supported with the exception that DJ does not identify email recipient CBJ's manager. |
| 22 | Princess Cruises and Holland America, through representatives Kirby Day and Drew Green also have requested funding for expenditures at their private docks since FY2010. | AR; AQ; GL; GM; GN; GQ; GR; GS; GT; GV; GW; GY; | |

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| | | GX; GZ; HB; HD; HF; HH; IP | |
| 22-23 | These requests have included funding for covered walkways, security citations, restroom maintenance, landscaping, and parking lot maintenance. | | No citation to evidence in the record. |
| 23 | These requests specifically asked for projects for services to passengers. | | No citation to evidence in the record. |
| 23 | Letter from K. Day with Princess Cruises "It also seems logical that a passenger stepping off of a ship at the Franklin Dock should expect that a portion of the passenger fee he or she has paid would be allocated to provide a service and/or improve their experience at that facility." | EO | |
| 23 | 12/31/11 letter from Franklin Dock Enterprises asking for funding for "decorative banners" to "create a pleasant and welcoming visual affect" to the passengers." | DG | |
| 23, n. 139 | This specific request was not funded. | | No citation to evidence in record. |
| 23 | 12/21/15 letter from AJ Juneau Dock LLC requesting \$26,000 for restroom cleaning and landscaping enhancement/maintenance, and stating that this request "qualify for funding from the MPF in keeping with the state and federal legal requirements that encumber the use these Funds." | HF | |
| 23 | CLIA's members continue to request funding for services to passengers even after filing this lawsuit and after CLIA's Summary Judgment Motion was filed. | EX; EY; EZ; FA, Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. See Motion to Strike Watt Affidavit. |
| 23 | As the ships have gotten bigger, they have started providing on-board medical staff for when the ships are underway. | | No citation to evidence in the record. |
| 23, n. 143 | Until 2010, the medical providers on the member ships did not have to be licensed in the U.S; under the 2010 Cruise Vessel Security and Safety Act the ships arc now required to have a medical professional licensed to | | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and |

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| | handle sexual assault evidence gathering; there are no other licensing requirements that CBJ is aware of. | | foundation issues. |
| 23-24 | There are no universally uniform medical standards used to determine minimum credentials for physicians or medical equipment used on board the ship nor any agency regulating the medical practice on board the cruise ships. | LD, HZ, KB | Citation is convoluted, unclear if supported. |
| 24, n. 144? | CBJ notes that in April 2017 there was a proposed bill to create standard for medical care, but that this did not pass. | HZ | Supports the assertion that a bill was introduced to create medical standards. Exhibit presents foundation and hearsay issues. |
| 24, n. 144 | The bills H.R. 2173 and S.965 proposed amending the Passenger Vessel Security and Safety Requirement, Section 3523, to add a section on medical standards. | | Not citation to evidence in the record. |
| 24, n. 144 | The cruise lines provided over \$3 million each year in lobbying money to Congress in 2016 and 2017 and spent higher than usual amounts in 2016 for campaign spending. | | Exhibit does not support the assertion that the cruise lines "spent higher than usual amounts in 2016 for campaign spending". Exhibit presents foundation issues. |
| 24 | CLIA members are not typically found liable for any medical misdiagnosis or mistreatment of their medical staff, who are not certified in advanced medicine, and only agree to provide service on the ship until shore side medical care becomes available... | Law Review Article | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and foundation issues. |
| 24 | ... the courts also often deny jurisdiction on claims brought against the doctors. | Law Review Article | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and foundation issues. Finally, citation is convoluted, unclear if otherwise supported. |
| 24, n. 145 | The passengers often are denied jurisdiction for claims against cruise ship doctors because the ships hire foreign medical providers. | Law Review Article | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and |

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| | | | foundation issues. Finally, citation is convoluted, unclear if otherwise supported, and cited cases merely establish that passengers have been denied jurisdiction, not that they are "often" denied jurisdiction. |
| 24 | CLIA (in response to a proposed law requiring guarantees for cruise ship passengers in 2013), voluntarily created a "passenger bill of rights" which specifically states that CLIA members will ensure passengers "the right to have available on board ships operating beyond rivers or coastal waters full-time, professional emergency medical attention, as needed until shore side medical care becomes available. | LE, LF, HX | No support for statement "in response to a propose law requiring guarantees for cruise ship passengers in 2013". Cited articles presents hearsay and foundation issues. |
| 24 | Emergency evacuations are often not covered under a passenger's medical insurance and the cruise ship does not pay for this. | LD | Not supported by cited Exhibit. Exhibit presents hearsay and foundation objections. |
| 25 | According to CLIA, their medical guidelines include the goal "to facilitate the evacuation of seriously ill or injured patients when deemed necessary by a shipboard physician." | LG | |
| 25 | CBJ is helping CLIA members meet their own guidelines by providing some MPF funding to CCFR and Airlift Northwest. | | No citation to evidence in the record. |
| 25 | This funding helps ensure the availability of emergency airlifts from the cruise ships and the smaller ports the ships call that do not have medical facilities. | ID, IE, LH, Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. Not supported by remaining Exhibits. |
| 25 | The cruise ship doctors make the call as to when a passenger needs emergency evacuation; the airlift is provided as requested by the vessel. | LG, Law Review Article. | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and foundation issues. The statement is not supported by the cited Exhibit. |
| 25 | CLIA's members have promoted the ability to have emergency evacuation and shoreside facilities in their public documents regarding | IM | General statement regarding "CLIA's members" not supported by cited Exhibit. |

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| | the cruise ship benefits; the evacuations and shoreside medical facilities to passengers are a service to the ship. | | Whether medical services to passengers constitute services to the vessel for Tonnage Clause purposes is a question of law. |
| 25 | While the information regarding the medical care may seem unrelated to this lawsuit, it is in fact related and relevant because the CBJ has used some of the MPF funds to provide medical care to passengers and crew while they are in Juneau as well as for emergency evacuations. | GH, IE, ID, LH, Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. Statement of relevancy (i.e. materiality) is a mixed question of fact and law. |
| 25 | CLIA's lawsuit claims that services to passengers are unconstitutional; CLIA has also listed the medical expenditures in their statement of facts, which CBJ presumes is because they allege these specific expenditures are unconstitutional uses of the passenger fees. | | Does not state historical facts. |
| 25-26 | Providing medical care to the passengers and crew when they are onshore, and otherwise do not have access to medical care, is a service that the passengers who pay the CBJ fees benefit from and would not object to. | | No citation to evidence in the record. |
| 26 | CLIA's members have decided to not provide onshore medical care. | | No citation to evidence in the record. |
| 26, n. 155 | CBJ notes that Royal Caribbean publicly promoted the fact that they did provide on-shore medical facility centers in the Dominican Republic, and so presumably CLIA members could provide their own on-shore medical facilities in Juneau, but have chosen not to. (<i>Franza v. Royal Caribbean Cruises, Ltd.</i> , 772 F.3d 1225, 1248, (11th Cir. 2014), citing Royal Caribbean's 2010 Stewardship Report, 8 (2010)) | IM, Case Law | CBJ's presumption not a historical fact and not supported by cited Exhibit or case. |
| 26 | Providing emergency airlift and medical services is a service to the vessel as it is requested by the vessel and as it means the vessel does not need to provide such services. | | No citation to evidence in the record. Whether these services can be deemed services to the vessel for Tonnage Clause purposes is a question of law. |
| 26 | It is a benefit to CLIA's members' passengers, crew, and their vessels that CBJ uses some of the MPF to ensure that emergency responders, | | No citation to evidence in the record. |

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| | ambulances, airlift aircraft, and the Bartlett Regional Hospital are available and equipped for the 1,000,000 passengers who come to Juneau. | | |
| 26, n. 156 | CBJ also notes that CLIA's members may in fact have a duty to provide medical transportation off the ship and are not doing so. This is an unresolved legal issue in the 9th Circuit. | Case Law | Does not state historical facts. |
| 26 | The CBJ uses some of the MPF to fund additional police downtown Juneau to protect the influx of passengers. | | No citation to evidence in the record. |
| 26 | No additional foot patrol would be necessary for the 30,000 residents of Juneau—the additional foot patrol is directly related to over 10,000 passengers disembarking per day. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 26 | This is a service to passengers, as well as a service to the vessel as it provides protection that the vessel does not. | | No citation to evidence in the record. Whether these services can be deemed services to the vessel for Tonnage Clause purposes is a question of law. |
| 26 | CLIA's members publicly state that they have a dedication to security, including in ports of call. | IM | General statement regarding "CLIA's members" not supported by cited Exhibit. |
| 26 | CLIA members have supported the downtown foot and bike patrol. | CQ, CO, HS, DW, DK | Not supported by cited Exhibits. |
| 26 | [REDACTED] | | No citation to evidence in the record. |
| | [REDACTED] | FX | |
| 26-27 | [REDACTED] | FP | |
| 27 | CBJ used a portion of the funds for the SAIL program (Southeast Alaska Independent Living) in FY14-FY16 to provide services allowing disabled cruise ship passengers to be able to enjoy Juneau and the various tours offered by CLIA's members as part of the cruises. | | No citation to evidence in the record. |

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| 27 | This spending improves accessibility and transportation for CLIA members' passengers by providing training to cruise and tour companies on accessibility. | IY, IX | |
| 27 | This expenditure seems particularly important as up until 2010, the CLIA members, although required to comply with ADA, were not subject to regulation and were not known for particularly accessible ships or excursions. | U.S. Code, Law Review Article | CBJ has not moved this Court to take judicial notice of the cited law review article. This article also presents hearsay and foundation issues. Finally, the importance of any given expenditure is a conclusion and not an historical fact. |
| | Title 49 U.S. Code of Federal Regulations, Part 39 Transportation for Individuals with Disabilities: Passenger Vessels (became effective November 3, 2010) contains a list of 128 specific guidelines and changes related to service and policy issues involving guests with disabilities. | | Does not contain historical facts. |
| 27 | The 2010 Regulations require cruise vessels to communicate tour limitations to passengers and requires cruise vessels to provide accessible transportation to and from the vessel. | U.S. Code | Does not contain historical facts. |
| 27 | ...the SAIL training helps the vessel in determining whether there are any limitations that need to be communicated to passengers and whether the transportation needs improvements. | | No citation to evidence in the record. |
| 27 | CLIA did not object to this expenditure. | | No citation to evidence in the record. |
| 27-28 | [REDACTED] | IZ, JA | Not supported to the extent CBJ refers to Mr. Green as an "industry representative". |
| 28 | Princess Cruises used SAIL to assist their customers with deciding what tours to take - a benefit to commerce and CLIA's members' bottom lines. | IX | No support for statement that SAIL is "a benefit to commerce and CLIA's members' bottom lines". |
| 28 | K. Day with Princess Cruises admitted that the SAIL request "will provide a service to passengers and be good for the community". | DI | Supported to the extent Mr. Day stated it was his opinion that "will provide a service to |

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| | | | passengers and be good for the community”. |
| 28 | CBJ reserves a portion of the MPF to pay back specific CBJ departments who provide services to ships and/or passengers for services that cannot be tracked by time records or invoices. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 28 | The CBJ determined it is reasonable and constitutional to allocate a portion of the fees collected to its general fund to distribute that portion of the fees to certain departments for those services for which it is not possible to minutes track all the cost elements of each service program. | | No citation to evidence in the record. Whether this allocation is constitutional is a question of law. |
| 28 | In 2003, CBJ developed formulas for that portion of the fees to be allocated to the general fund and then subsequently allocated to its departments. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 28 | The amount allocated to the CBJ general fund has increased, as related directly to increased passenger counts of the CLIA members and increases to the costs of those services, from about \$900,000 to \$1,400,000. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 28 | In Paragraph 29 of the Amended Complaint, the Plaintiffs allege that CBJ has collected more than \$35,000,000 in “Entry Fees” for the period of 2012 through 2016. | | Does not contain historical facts. |
| 28-29 | The total marine passenger fees and port development fees collected per year is approximately \$8,000,000. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 29, n. 173 | In comparison to the profit that the cruise lines make (see above) and the amount of federal income tax that CLIA’s members do not pay, estimated at \$70 million a year. | JZ | Exhibit presents hearsay and foundation issues. Not supported to the extent Unclear if this statement is intended as an historical fact. |
| 29 | For context on the over-all size of the fees collected, the CBJ recently completed the construction of two new cruise ship docks at a design, engineering and construction cost in excess of \$54,000,000. | | No citation to evidence in the record. |

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| 29 | These new docks are used nearly exclusively by the CLIA cruise ship member companies. | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 29 | The total departmental operating expenses for the CBJ are approximately \$68,300,000 for 2017 and the total CBJ budget approaches \$90,000,000. | Watt Affidavit, City Website | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 29 | Using the Plaintiff's amount from paragraph 27 of the Amended Complaint, the amount of the "Entry Fees" allocated to the departmental operating services is approximately 2% of CBJ's total budget for departmental operating expenses. | | Does not contain historical facts. |
| 29 | This allocation provides certain services to the cruise ships, crew and cruise passengers which CBJ would not provide by for the presence of the cruise ships, crew and cruise passengers. | | No citation to evidence in the record. |
| 29 | One example is the hiring of road crossing guards in the downtown area during the cruise season. | | No citation to evidence in the record. |
| 29 | The City would not need seasonal crossing guards but for the 1,000,000 annual passengers and approximately 200,000 additional crew members coming into the port. | | No citation to evidence in the record. |
| 29 | The CBJ funds the crossing guards with MPF funds routed to the organization that contracts the crossing guards: historically this has been the Tourism Best Management Program through the Juneau Visitors and Convention Bureau. | CLIA's Ex. 67, HN | |
| 29-30 | While the program is administered by a third-party, there are costs to CBJ in funding the program. | | No citation to evidence in the record. |
| 30 | The CBJ has not directly allocated the full cost of delivering the crossing guard service for the benefit of the cruise passengers and crew. | | Not citation to evidence in the record. |
| 30 | The CBJ both directly funds the cost of providing the crossing guards from the collected fees and provides indirect funding of a portion of the | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt |

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| | collected fees through an allocation formula to the Manager's office and the Finance Department to provide for the costs of administering the program and associated payments. | | Affidavit. |
| 30 | Other examples include services that the Fire Department provides for training, which is not directly funded. | LI, LJ, LH | |
| 30 | The funding also accounts for time the manager's office spends reading and responding to cruise ship passenger emails. | LM | Not supported by cited Exhibit. |
| 30 | For the City to provide services without the administrative costs related to tracking every second spend by every city employee providing a service to the cruise ships or passengers or crew, the CBJ developed an allocation formula. | | No citation to evidence in the record. |
| 30 | The application of the formulas to the total fees collected results in the amount allocated to the CBJ general fund for those departments that provide services. | | No citation to evidence in the record. |
| 30, n. 180 | This is evaluated each year to ensure only the departments that provide services are funded. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 30 | The yearly operating budget of every CBJ department comes out of the general fund and the MPF money for the nine CBJ departments is allocated through the General Fund. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 30-31 | CBJ departments is allocated through the General Fund. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 30 | CBJ then uses additional formulas to calculate how much each department will get out of the entire allocation. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 31 | The CBJ listened to and considered and relied on comments by CLIA | | No citation to evidence in the record. |

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| | and its predecessors and representatives in evaluating proposed projects and services each year. | | CLIA specifically disputes this statement to the extent it suggests that CLIA had control over how CBJ spent the Entry Fees. (<i>See e.g.</i> ECF No. 68 at ¶ 103; ECF No. 131 at ¶¶ 9, 10, 24, 28, 35; ECF No. 120-9 at pg. 12; ECF No. 120-22 at pg. 6; ECF No. 122-11 at pg.'s 1, 2; CBJ Ex. IZ (filed under seal), ECF No. 121-22, generally; ECF No. 130-14, generally.) |
| 31 | For example, the CBJ wrote letters in response to NWCA on the proposed FY07 list. | LN | Supports that CBJ wrote letters to NWCA. Exhibits demonstrate that NWCA had little control over how the Entry Fees were spent. |
| 31, n. 184 | <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> | | Does not contain historical facts. |
| 31, n. 184 | This [Exhibit LN] was in response to the letter from ACA which only object to a small number of expenditures, and did not object to the expenditures for passengers such as crossing guards and bathrooms. | CV | No support for assertion that expenditures for crossing guards and bathrooms were included such that NWCA did not object to them. |
| 31 | The CBJ also responded to NWCA in explaining the allocation in 2005; NWCA did not bring a lawsuit at that time. | LO | |
| 31 | As outlined above, many of the expenditures that CLIA lists in their Statement of Facts were requested, approved, or not objected to by CLIA and/or its members. | | No citation to specific evidence in the record. |
| 31 | Neither CLIA nor its predecessor nor their representatives claimed that projects and services must only be for the physical vessel. | | No citation to evidence in the record. |
| 31 | In 2011, CLIA claimed that funding could only be expended for services | CC | Not supported by cited Exhibit. |

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| | to the specific passenger who paid the fees, not for passengers generally. | | |
| 31 | Since FY2010, CLIA's members have directly requested MPF funding for projects on their own private dock facilities, which often include components not just to the physical vessel. | AR, AQ, DG, GL, GM, GN, GQ, GR, GS, GT, GV, GW, GY, GX, GZ, HB, HD, HF, HH, IP | |
| 31 | CLIA's members have continued to request funding for services which relate to the passengers. | Watt Affidavit, EZ, FA | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt Affidavit. |
| 31 | On January 5, 2018, CLIA members Princess Cruise lines wrote a letter to the City Manager requesting that \$1,777,000 of MPF be used for projects at the Franklin Dock including bathroom maintenance. | FA | |
| 31-32 | On December 29, 2017, the AJ Dock owned by Holland America wrote a letter requesting money for projects at their dock including those that benefit their passengers, such as bathroom maintenance. | EZ | |
| 32 | CLIA has not historically taken the stance that projects can only be used to fund the physical vessel in dealings outside of Juneau. | | No citation to evidence in the record. |
| 32 | [REDACTED] | LP | CLIA disputes that the language of this document suggests that CLIA approved using Entry Fees to fund projects not related to the vessels. |
| 32, n. 191 | Binkley has been a director of Alaska Railroad Corporation 1995 to the present. | LQ | |
| 32 | [REDACTED] | LR | Mischaracterizes Exhibit LR. |
| 32 | CLIA has not sued the City of Ketchikan or the Ketchikan Gateway Borough, despite these communities having similar fee structures, and | Watt Affidavit | Objection to the extent CBJ relies on the Watt Affidavit. <i>See</i> Motion to Strike Watt |

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| | similar uses of the fees, such as crossing guards. | | Affidavit. |
| 32 | In preparing this Statement of Facts, CBJ faced the conflicting positions of CLIA from its First Amended Complaint, other pleadings, discovery, and its Motion for Summary Judgment. | | Does not contain historical facts. |
| 32 | The history and difficulty with CLIA's conflicting position is set out for the Court to understand that the facts have different import depending on which theory CLIA asserts to the Court. | | Does not contain historical facts. |
| 32 | This history of continually conflicting factual and legal positions justifies CBJ's long time detrimental reliance on CLIA's historical requests and approval of funding for services and projects benefitting the passengers. | | Does not contain historical facts. Contains improper legal arguments. |
| 32-33 | <ul style="list-style-type: none"> CLIA omits the recitation of its allegations; the Amended Complaint is the best authority as to what CLIA alleges in the Amended Complaint. | | Statements regarding the Amended Complaint do not contain historical facts. Instead, they contain improper legal arguments. |
| 33, n. 199 | In surveys of cruise ship passengers, a large percentage have said they will return to Juneau. | | No citation to evidence in the record. |
| 33, n. 199 | This number was 55% in 2004, 46% in 2005. | KN, KP | Not supported by cited Exhibits. |
| 33, n. 199 | CLIA admitted this in a presentation on May 18, 2017, that 41% of cruise passengers are repeat visitors to Alaska. | KF | Cited Exhibit does not support suggestion that 41% will return to Juneau. |
| 34 | CLIA's press releases about the complaint also acknowledge the case is about services to passengers. | AT, AU | |
| 34 | <ul style="list-style-type: none"> CLIA omits the recitation of its allegations; the Amended Complaint is the best authority as to what CLIA alleges in the Amended Complaint. | | Statements regarding the Amended Complaint do not contain historical facts. Instead, they contain improper legal arguments. |
| 34-35 | <ul style="list-style-type: none"> CLIA omits the recitation of statements made in motions, discovery responses, and other documents connected to this litigation; those filings are the best authority as to what they state therein. | | Statements regarding the motions, discovery, and other documents do not contain historical facts. Instead, they contain |

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| | | | improper legal arguments. |
| 35 | "Law requires a service to the passenger and vessel not build an attraction." | KT | |
| 35, n. 216 | Note also that CLIA admits in this PowerPoint that the fees are paid by the passengers: "Industry feels a responsibility to our passengers to ensure the taxes they pay are being used in a legal manner." | KT | |
| 35, n. 216 | No passengers are listed as plaintiffs in this case and CLIA has admitted they do not have any complaints from passengers regarding the fees. | CX | Not supported by cited Exhibit. |
| 35 | <ul style="list-style-type: none"> CLIA omits the recitation of its allegations; the Amended Complaint is the best authority as to what CLIA alleges in the Amended Complaint. | | Does not contain historical facts. |
| 35 | The CBJ did fund some of the defense of this lawsuit by the MPF. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 35 | The CBJ is not currently using MPF funds for this lawsuit. | Bartholomew Affidavit | Objection to the extent CBJ relies on the Bartholomew Affidavit. <i>See</i> Motion to Strike Bartholomew Affidavit. |
| 35 | The Plaintiffs have not filed suit against Ketchikan for a declaration that Ketchikan's passenger fees are unlawful and for a permanent injunction against the collection of those fees | | No citation to evidence in the record. |
| 35, n. 219 | The same marine passenger fees and port development fees are collected by the City of Ketchikan, although the total is \$7.00 in Ketchikan, where it is \$8.00 in Juneau | | No citation to evidence in the record. |
| 35 | The Plaintiffs are assessed passenger fees in ports throughout the United States | AS, BA | Not supported by cited Exhibit. |
| 35, n. 220 | The table [in Exhibit AS] shows the port fees and the source document for each port fee. CBJ submitted a Request for Admission to CLIA to admit the accuracy of the fees for each port. CLIA assert many and | | Does not contain historical facts. Contains improper legal arguments. |

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| | varied objection to the Request and ultimately refused to answer saying it did not have sufficient information to admit or deny the Request. | | |
| 35, n. 220 | CLIA's members know what fees they pay in the ports where they bring cruise ships. | BA | Not supported by cited Exhibit. |
| 35-36 | To CBJ's knowledge, the Plaintiffs have not filed any action against any of these government entities seeking a declaration that the fees are unlawful and a permanent injunction to enjoin the collection of the fees. | | No citation to evidence in the record. |
| 36 | CBJ asserts the Court can take judicial notice that these other ports have populations which far exceed the year-round population of Juneau. | | No citation to evidence in the record. Contains improper legal arguments. |
| 36 | The Juneau fees are a small fraction of the total passenger ticket prices. | AS | Not supported by cited Exhibit. |
| 36, n. 221 | It is not believable that CLIA members have no knowledge as to what ticket prices they advertise for and charge their passengers. | | Does not contain historical facts. Contains improper legal arguments. |
| 36 | To protect the benefits and services of those very companies, crew and passengers, the Assembly has determined the importance of defending its right to charge a nominal passenger fee of \$5.00 and nominal port development fee of \$3.00 (when compared to the passenger and dock fees charged by other ports in the United States) justifies the use of the marine passenger fees to fund the defense and preserve the benefits those fees provide to the CLIA members, their crews and passengers. | | Does not contain historical facts. Contains improper legal arguments. |