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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, and
RORIE WATT, in his official capacity as
City Manager**

Defendants.

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

**THE CITY AND BOROUGH OF JUNEAU AND RORIE WATT'S MOTION TO TAKE
JUDICIAL NOTICE IN CONNECTION WITH CBJ'S REPLY IN SUPPORT OF
CROSS-MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO PLAINTIFFS'
MOTION TO STRIKE AFFIDAVIT OF MEGAN J. COSTELLO**

Defendants, The City and Borough of Juneau, a municipal corporation and Rorie Watt, in his official capacity as City Manager (collectively hereafter CBJ), by and through their attorney Robert P. Blasco, of Hoffman & Blasco, LLC, respectfully move this Court, pursuant to Federal Rule of Evidence 201 and Local Rule 7.1(d), to take judicial notice of the exhibits listed

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

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

THE CITY AND BOROUGH OF JUNEAU AND RORIE WATT'S MOTION TO TAKE JUDICIAL NOTICE IN CONNECTION WITH CBJ'S REPLY IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO PLAINTIFFS' MOTION TO STRIKE AFFIDAVIT OF MEGAN J. COSTELLO Page 1 of 7

below attached to *CBJ's Reply in Support of Cross-Motion for Summary Judgment* and *CBJ's Opposition to Plaintiffs' Motion to Strike the Affidavit of Megan J. Costello*.¹

D) THE MATERIAL TO BE NOTICED AND ITS RELEVANCE TO THIS ACTION

CBJ respectfully requests the Court take judicial notice of the following documents and materials as submitted in connection with CBJ's Reply in Support of Cross-Motion for Summary Judgment and CBJ's Opposition to Plaintiffs' Motion to Strike the Affidavit of Megan J.

Costello:

- | | |
|------------|---|
| Exhibit MB | December 17, 2012 Cruise Industry Press release “Cruise Industry Forms Global Trade Association,” available on the world wide web at: https://www.prnewswire.com/news-releases/cruise-industry-forms-global-trade-association-183771941.html , last accessed on April 20, 2018. |
| Exhibit MC | “About CLIA North West & Canada” webpage, available on the world wide web at: http://clia-nwc.com/index.php/about/ , last accessed April 20, 2018. |
| Exhibit MD | Division of Corporations, Business and Professional Licensing Corporation Details for CLIA Alaska/Alaska Cruise Association, available on the world wide web at: https://www.commerce.alaska.gov/CBP/Main/Search/EntityDetail/106387 , last accessed on April 18, 2018. |
| Exhibit ME | Cruise Line International Association - North West and Canada information webpage, referencing NWCA, available on the world wide web at: https://www.tourismvancouver.com/listings/cruise-line-international-association-north-west-and-canada/19179/ , last accessed on April 20, 2018. |
| Exhibit MF | CLIA Northwest & Canada webpage linked from Exhibit ME, available on the world wide web at: http://clia-nwc.com/ , last accessed on April 20, 2018. |

¹ To avoid duplicate efforts, CBJ has not reattached these exhibits to this Motion for Judicial Notice.

- Exhibit MG Alaska Division of Corporations, Business, and Professional Licensing Corporation Details for Northwest Cruiseship Association of Alaska, available on the world wide web at: <https://www.commerce.alaska.gov/CBP/Main/Search/EntityDetail/50518D>, last accessed on April 18, 2018.
- Exhibit MI CLIA Executive Partner 2016 Summit, available on the world wide web at: https://www.cruising.org/docs/default-source/ep/clia_epsummit_2016_agenda_email.pdf?sfvrsn=10, last accessed on April 28, 2018.
- Exhibit MJ September 5, 2017 Cruise Industry News “Christian Sauleau Rejoins Silversea” available on the world wide web at: <https://www.cruiseindustrynews.com/cruise-news/17701-christian-sauleau-rejoins-silversea.html>, last accessed on April 23, 2018.
- Exhibit MK LinkedIn of Minas Myrtidis, available on the world wide web at: <https://www.linkedin.com/in/minasmyrtdis>, last accessed on April 20, 2018.
- Exhibit ML Alaska Division of Corporations, Business, and Professional Licensing Corporation Details for Cruise Line Agencies of Alaska, available on the world wide web at: <https://www.commerce.alaska.gov/CBP/Main/Search/EntityDetail/93476>, last accessed on April 18, 2018.
- Exhibit MM CBJ Ordinance 2014-01 for bond indebtedness to be paid by Port Development Fee revenues; CBJClerks00035-00057.
- Exhibit MN April 6, 2018 KTOO article “What’s Juneau’s Capacity for Cruise Ship Visitors?” available on the world wide web at: <https://www.ktoo.org/2018/04/06/whats-juneaus-capacity-for-cruise-ship-visitors/>, last accessed on April 23, 2018.

Each of these Exhibits, which are filed concurrently with CBJ's Reply in Support Cross-Motion for Summary Judgment and CBJ's Opposition to Plaintiffs' Motion to Strike Affidavit of Megan J. Costello, may be judicially noticed by this Court and may be referenced and relied

upon by the Court as it considers CBJ's request for summary judgment on the defenses asserted in the Cross-Motion for Summary Judgment.²

II) LEGAL AUTHORITY FOR TAKING JUDICIAL NOTICE OF THIS MATERIAL

Federal Rule of Evidence 201 allows a court to take judicial notice of facts that are "generally known within the territorial jurisdiction of the trial court" or can be "accurately and readily determined from sources whose accuracy cannot reasonably be questioned". Fed R. Evid. 201 (b); *Hansen v. City of San Francisco*, No. 12-cv-04210-JST, 2014 WL 1310282, at *2 (N.D. Cal. Mar. 31, 2014)(a "court shall take judicial notice of a fact not subject to reasonable dispute is that it is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned"). Pursuant to the Rule, the court "must take judicial notice if a party requests it and the court is supplied with the necessary information." Fed R. Evid. 201(c)(2). This motion is filed pursuant to Local Rule 7.1(d).

A. Documents Available Publicly Online from Reliable Sources

The documents listed above (with the exception of Exhibit MM) were taken from the world wide web, as listed. Courts may take judicial notice of documents "insofar as they are available via the worldwide web" when the Court is supplied with the necessary information to access the website and confirm the accuracy of the document's content.³

² CBJ has amended the Affidavit of Megan J. Costello to address CLIA's concerns with Paragraph 7, and there is nothing else for the Court to decide on CLIA's Motion to Strike, Dkt. 152.

³ *In re Tourism Assessment Fee Litig.*, No. 08cv1796-MMA WMC, 2009 WL 10185458, at *4-5 (S.D. Cal. Feb. 19, 2009) (quoting *In re Agribiotech Sec. Litig.*, 2000 U.S. Dist. LEXIS 5643, *4-5 (D. Nev. Mar. 2, 2000)), *aff'd* 391 F. App'x 643 (9th Cir. 2010); *see also Barnes v. Marriott Hotel Servs., Inc.*, No. 15-cv-01409-HRL, 2017 WL 635474, at *4 (N.D. Cal. Feb. 16, 2017) ("It is not uncommon for courts to take judicial notice of factual information found on the world wide web.") (citations omitted).

CLIA filed a similar motion to take Judicial Notice (Docket 79), with their Motion for Summary Judgment with the same legal basis as above. CBJ did not object to their request for Judicial Notice of documents found online.⁴ CBJ also filed a similar Motion to take Judicial Notice with the Cross-Motion to Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment, Statement of Facts in Support of the Cross Motion for Summary Judgment and Objections and Responses to Plaintiff's Statement of Facts (Dkt. 135) with the same legal basis as above.⁵ CLIA did not oppose that Motion.

The exhibits listed above are properly subject to judicial notice by this Court, as they are documents publicly available online. CBJ has provided the Court with website addresses for each of these documents in this Motion and Defendants' Index of Exhibits, enabling the Court to access the websites and confirm the accuracy of the document's content. Also, some of the materials are proper subjects of judicial notice apart from their public availability on the internet as they are press releases or news articles.⁶ Exhibits MD, MG, and ML are State of Alaska Department of Administration, Division of Corporation's records (public records), which further lends support to their accuracy.⁷ Therefore, these materials are proper subjects of judicial notice.

B. CBJ Ordinances

Exhibit MM is a CBJ Ordinance, which is bated stamped CBJClerks00035-57, and was disclosed by CBJ to CLIA on December 12, 2016. This Court can take judicial notice of Exhibit

⁴ CBJ did file a partial opposition on the basis of the language in Ms. Kraft's Affidavit.

⁵ Dkt. 135.

⁶ See *In re Am. Apparel, Inc. S'holder Derivative Litig.*, No. CV 10-06576 MMM RCX, 2012 WL 9506072, at *19 (C.D. Cal. July 13, 2012) (taking judicial notice of the contents of press releases and news articles).

⁷ *Lee v. City of Los Angeles*, 250 F.3d 668, 689 (9th Cir. 2001) (Judicial notice may be taken of public records).

MM as a municipal ordinance.⁸ CLIA filed a similar motion to take Judicial Notice (Docket 79) for CBJ ordinances with their Motion for Summary Judgment with the same legal basis as here.

III) CONCLUSION

For the reasons outlined above, CBJ respectfully moves the Court to take judicial notice of Exhibits MB, MC, MD, ME, MF, MG, MI, MJ, MK, ML, MM, and MN to CBJ's concurrently filed *The City and Borough of Juneau and Rorie Watt's Reply in Support of Cross-Motion for Summary Judgment and CBJ's Opposition to Plaintiffs' Motion to Strike the Affidavit of Megan J. Costello*. CBJ has used the same legal basis as CLIA's request, for the same kinds of exhibits, and as such, this motion should be unopposed.

HOFFMAN & BLASCO, LLC

Dated: May 1, 2018

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

HOFFMAN & BLASCO, LLC

Dated: May 1, 2018

By: /s/ Megan J. Costello
Megan J. Costello, AK Bar #1212141
Attorneys for the City and Borough of Juneau,
Alaska, a municipal corporation, and Rorie
Watt, in his official capacity as City Manager

⁸ See *Hansen v. City of San Francisco*, No. 12-cv-04210-JST, 2014 WL 1310282 at *2 (N. D. Cal. Mar. 31, 2014) (citing *Newcomb v. Brennan*, 558 F.2d 825, 829 (7th Cir. 1977)); *Engine Mfrs. Ass'n v. S. Coast Air Quality Mgmt. Dist.*, 498 F.3d 1031, 1039 (9th Cir. 2007); *Santa Monica Food Not Bombs v. City of Santa Monica*, 450 F.3d 1022, 1025 (9th Cir. 2006).

CERTIFICATE OF SERVICE

The undersigned certifies that on May 1, 2018 true and correct copy of the foregoing **THE CITY AND BOROUGH OF JUNEAU AND RORIE WATT'S MOTION TO TAKE JUDICIAL NOTICE IN CONNECTION WITH CBJ'S REPLY IN SUPPORT OF CROSS-MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO PLAINTIFFS' MOTION TO STRIKE AFFIDAVIT OF MEGAN J. COSTELLO** was served on the following parties of record via ECF:

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