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

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

Plaintiffs,

v.

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

Defendants.

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

**DEFENDANTS CITY AND BOROUGH OF JUNEAU AND RORIE WATT'S  
REPLY IN SUPPORT OF CROSS-MOTION FOR LEAVE TO FILE LIST OF  
EXHIBITS SHOWING EXPENDITURES REQUESTED AND EXPENDITURES  
AGREED TO INTO EVIDENCE**

The City and Borough of Juneau and Rorie Watt's (hereafter collectively CBJ) *Cross-Motion for Leave to File Lists of Exhibits Showing Expenditures Requested and Expenditures Agreed to Into Evidence* requested the following relief:

- 1) That the Court accept Exhibits MO and MP;
- 2) That the Court enter a finding that CLIA has admitted NWCA represented the same cruise ship companies as CLIA and the NWCA had the authority to represent those companies in communications with CBJ related to the Port Development Fee and the Marine Passenger Fee.

The Cruise Line International Association's ("CLIA") reply only non-opposed that part of the *Cross-Motion for Leave to File Lists of Exhibits Showing Expenditures Requested and Expenditures Agreed to Into Evidence* requesting admission of Exhibits MO and MP. CLIA did oppose the second part of the Cross-Motion. As such, there is no prohibition in L. Dist. Ct. R. 7.1 for CBJ to file a Reply on that issue.<sup>1</sup>

The fundamental issue CLIA continues to skirt is that CLIA has never denied that the Northwest Cruiseship Association (NWCA) represented the same cruise ship companies as CLIA does in this litigation. As only the cruise ship companies themselves have collected the fees from the passengers, the association of CLIA only has standing on behalf of the cruise ship companies to bring this lawsuit and does not have any individual constitutional rights in this case apart from the cruise ship companies. The NWCA was an authorized representative of those companies before it reorganized into CLIA,

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<sup>1</sup> If the Court deems otherwise, CBJ understands the Court has the discretion to not consider this Reply. *CLIAA, et al. v. CBJ, et al.* Case No. 1:16-cv-00008-HRH  
DEFENDANTS CITY AND BOROUGH OF JUENAU AND RORIE WATT'S REPLY IN SUPPORT OF CROSS-MOTION FOR LEAVE TO FILE LIST OF EXHIBITS SHOWING EXPENDITURES REQUESTED AND EXPENDITURES AGREED TO INTO EVIDENCE

maintaining the same cruise ship company members. CBJ previously provided the Court with a volume of exhibits demonstrating the succession of the representation from NWCA to CLIA and how the companies were organized, none of which CLIA has ever disputed with any admissible evidence.

By offering the Court its proposed exhibit of “objections” by the NWCA, such an exhibit could only be admissible and potentially have relevance if in fact the NWCA was the authorized representative of the CLIA member cruise ship companies in communicating with CBJ. Random “objections” by persons or entities having no authority to represent the current CLIA members would clearly have no relevance on the issues in the pending motions. CLIA did not offer the Court any case or evidentiary rule by which the Court could accept the “objections” by NWCA as authorized by the CLIA members, but reject the approval of the Port Development Fee by NWCA and reject NWCA's approval for certain PDF and MPF expenditures as shown by CBJ in its pleadings and on Exhibits MO and MP.

The finding of authority by the NWCA based on CLIA’s admission in its proposed exhibit is important to the pending motions, because as to the PDF, the NWCA did “unequivocally” approve the PDF as a reasonable fee and approved as proper the expenditures of the PDF for projects in the Long Range Waterfront Development Plan, such as the SeaWalk and the 16B docks. CLIA has never identified in any pleading to the Court, and again at oral argument failed to identify, even a single expenditure of the PDF claimed to be unconstitutional. There is no presumption of unconstitutionality as

CLIA proposes in its Reply. By accepting CLIA's admission of the authority of NWCA to act on behalf of the cruise ship companies who are the same member companies as in CLIA<sup>2</sup>, the Court can significantly narrow the issues by granting CBJ's Cross-Motion for Summary Judgment on the PDF.

CBJ respectfully requests the Court grant the second part of *the Cross-Motion for Leave to File Lists of Exhibits Showing Expenditures Requested and Expenditures Agreed to Into Evidence* and enter a finding that CLIA, for purposes of the pending summary judgment motions, has admitted that the NWCA had the authority to communicate with CBJ on behalf of the member cruise ship companies, which are the same member cruise ship companies of CLIA who bring cruise ships to the Port of Juneau.

HOFFMAN & BLASCO, LLC

Dated: October 4, 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: October 4, 2018

By: /s/ Megan J. Costello  
Megan J. Costello, AK Bar #1212141  
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Juneau, Alaska, a municipal corporation,

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<sup>2</sup> It is not binding on the Court that CLIA wrote a footnote saying it does not waive whether NWCA had the authority to act on behalf of the same member cruise ship companies. The Court can accept as an admission that CLIA, by asserting NWCA had authority to "object" to expenditures, CLIA necessarily admits that the same NWCA had the authority to approve of the PDF fee as reasonable and agree with expenditures of the PDF.

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

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

*DEFENDANTS CITY AND BOROUGH OF JUENAU AND RORIE WATT'S REPLY IN SUPPORT OF CROSS-MOTION FOR LEAVE TO FILE LIST OF EXHIBITS SHOWING EXPENDITURES REQUESTED AND EXPENDITURES AGREED TO INTO EVIDENCE*

and Rorie Watt, in his official capacity as  
City Manager

**CERTIFICATE OF SERVICE**

The undersigned certifies that on October 4, 2018 a true and correct copy of the foregoing **DEFENDANTS CITY AND BOROUGH OF JUNEAU AND RORIE WATT'S REPLY IN SUPPORT OF CROSS-MOTION FOR LEAVE TO FILE LIST OF EXHIBITS SHOWING EXPENDITURES REQUESTED AND EXPENDITURES AGREED TO INTO EVIDENCE** was served on the following parties of record via ECF:

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          /s/ Robert P. Blasco            
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