

STANDARD AGREEMENT FORM

1. Agency Contract Number 20-207-1092	2. Billing Contact Michael Connolly, Partner mike@consvoymccarthy.com	3a. Appropriation 033040700	3b. Unit 2060	3c. Program
4. EN Doc Type and # CAE 20*	Project Constitutional Issue re: Collective Bargaining	Matter ID: 2019102869	6. AK Biz License # n/a	Vendor Number
This contract is between the State of Alaska,				
7. Department of Law	Division Labor and State Affairs	hereafter the State, and		
8. Contractor Consvooy McCarthy, PLLC Email wll@consvoymccarthy.com 703-243-9423 hereafter the Contractor				
Mailing Address 1600 Wilson Boulevard, Suite 700 Arlington, VA 22209				
9. ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.				
ARTICLE 2. Performance of Service:				
2.1 Appendix A (General Provisions), Articles 1 through 14, governs the performance of services under this contract.				
2.2 Appendix B sets forth the liability and insurance provisions of this contract.				
2.3 Appendix C sets forth the services to be performed by the contractor.				
ARTICLE 3. Period of Performance: The period of performance for this contract begins <u>July 30, 2019</u> and ends <u>with the resolution of the matter.</u>				
ARTICLE 4. Considerations:				
4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed \$50,000 in accordance with the provisions of Appendix D.				
4.2 When billing the State, the contractor shall refer to Contract #20-207-1092 and shall mail the invoice to the address below with a courtesy copy in PDF format emailed to UNContractPayments@alaska.gov .				
10. Department of Law				
Mailing Address 1031 W. 4th Avenue, Suite 200 Anchorage, AK 99501				
Attention: Ed Sniffen ed.sniffen@alaska.gov				
11. CONTRACTOR				
Name of Firm Consvooy McCarthy, PLLC				
Signature of Authorized Representative <i>[Signature]</i>				Date July 31, 2019
Typed or Printed Name of Authorized Representative Michael Connolly				
Title Partner EIN: on record				
12. CONTRACTING AGENCY				
Department/Division Law/Civil-Labor and State Affairs				Date 8-2-19
Signature of Project Director <i>[Signature]</i>				Signature of Head of Contracting Agency or <i>[Signature]</i>
Typed or Printed Name of Project Director Clyde E. Sniffen				
Title Chief of Staff				
Authorized by AS 36.30.130				

NOTICE: This contract has no effect until signed by the head of contracting agency or designee.

**APPENDIX A
GENERAL PROVISIONS**

Article 1. Definitions.

- 1.1 In this contract and appendices, "Project Director" or "Agency Head" or "Procurement Officer" means the person who signs this contract on behalf of the Requesting Agency and includes a successor or authorized representative.
- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

Article 2. Inspections and Reports.

- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
- 2.2 The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

Article 3. Disputes.

- 3.1 If the contractor has a claim in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620-632.

Article 4. Equal Employment Opportunity.

- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including these provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problems of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of the contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law; Forum Selection.

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees, among other things, that provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

Article 15. Compliance.

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

Article 16. Force Majeure.

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

APPENDIX B²
INDEMNITY AND INSURANCE

Article 1. Indemnification

The Contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the Contractor under this agreement. The Contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Contracting agency's selection, administration, monitoring, or controlling of the Contractor and in approving or accepting the Contractor's work.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

2.1 Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

2.2 Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.3 Commercial Automobile Liability Insurance: covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.4 Professional Liability Insurance: covering all errors, omissions or negligent acts in the performance of professional services under this agreement. Limits required per the following schedule:

Contract Amount	Minimum Required Limits
Under \$100,000	\$300,000 per Claim / Annual Aggregate
\$100,000-\$499,999	\$500,000 per Claim / Annual Aggregate
\$500,000-\$999,999	\$1,000,000 per Claim / Annual Aggregate
\$1,000,000 or over	Refer to Risk Management

APPENDIX C

Article 1. Services to be performed by the Contractor

Article 1.1. At the specific direction of the Attorney General's Office, the Contractor, Consovoy McCarthy, PLLC shall provide legal services regarding possible constitutional issues concerning dues and agency fees in a bargaining unit agreement.

It is agreed between the parties that the State shall determine the scope of the services to be rendered by the Contractor. It is further agreed that the State may require a separate contract on any matter which, in its judgment, may be sufficiently complicated or prolonged to justify a separate contract.

Article 2. Contract Management

Article 2.1 The designated contact person for the Contractor is William S. Consovoy. The Contractor's services under this agreement shall be directed and managed from the contractor's Arlington, Virginia office. The Contractor may assign other consulting professionals to provide services under the contract after providing notice to, and obtaining approval from, the Project Director. All such individuals assigned to provide services under this Contract shall work under the direction and management of the individual listed above.

Article 2.2 The Contractor will maintain the involvement of those individuals identified in Article 2.1 above. In the event of an unforeseeable circumstance that requires substitution for any of those individuals, the Contractor shall notify the State in writing of the proposed substitution. The State reserves the right to accept or reject a proposed substitute. In addition, before substitution of any individual is effected, the State must approve the extent to which transitional time will be billed.

Article 2.3 At the discretion of the Project Director, the Contractor may be required to prepare an estimate of the time and costs necessary to complete any matter assigned under this contract.

Article 2.4 The contractor agrees to closely monitor costs incurred and fees to be charged for services provided under this agreement and to alert the Project Director before such costs and fees exceed the authorized contract amount. In the event the Contractor fails to notify the Project Director prior to incurring a cost overrun, the contractor shall assume liability for any excess costs and fees incurred up until the time at which the contractor notifies the project director of the overrun.

Article 2.5 The period of performance, scope, and amount of this agreement may be amended in writing at the discretion of the State. In addition, the parties to this agreement acknowledge that work may begin on the date shown in Article 3. ("Period of Performance") and that the foregoing date may precede the date of execution of this agreement because immediate performance is required to serve the best interest of the state.

Article 2.6 The Attorney General's Office shall be the primary point of contact for all substantive dealings with the media. In the event the Contractor is contacted by media representatives concerning this or other cases being handled on behalf of the state, the Contractor should decline any comment beyond confirming factual matters that are already a matter of public record and refer the individuals to the Project Director.

Article 2.7 **FOREIGN CONTRACTING:** By signature on this Contract, the Contractor certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States. Failure to comply with this requirement will cause the state to reject the bid or proposal as non-responsive, or cancel the contract.

Article 2.8 **HUMAN TRAFFICKING:** By signature on this contract, the contractor certifies that:

- 1) the contractor is not established and headquartered or incorporated and headquartered, in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report; or 2) if the contractor is established and headquartered or incorporated and headquartered, in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report, a certified copy of the contractor's policy against human trafficking must be submitted to the State of Alaska prior to contract award.

APPENDIX D

Article 1. Consideration

Article 1.1 In full consideration of the Contractor's performance under this agreement, the State shall pay the Contractor the following hourly rates for the professional services of individuals below:

<u>Name/Title</u>	<u>Standard Rate</u>	<u>Alaska Discounted Rate</u>
William Consvooy, Partner	\$950 per hour	\$600 per hour
Michael Connolly, Partner	\$950 per hour	\$600 per hour
Steven Begakis, Associate	\$600 per hour	\$450 per hour

In addition, the State will reimburse the Contractor for the services of other consulting professionals or temporary personnel that may be employed to provide services under this agreement so long as the use of such additional personnel and their rates are approved in advance by the State's project director.

Article 1.2 The State agrees to reimburse the Contractor on a monthly or other periodic basis for reasonable and necessary out-of-pocket expenses incurred under this contract. No reimbursement shall be made for any administrative, surcharge, or other overhead recovery fee. Unless otherwise noted, reimbursement for out-of-pocket expenses shall be limited to actual costs except that reimbursement for those specific services or expenses listed below shall be limited as follows:

<u>Service or Expense</u>	<u>Charge/Rate</u>
Reproduction	\$0.10 per page
Computerized Database Research	At cost as invoiced
Courier Services	
Automobile Messenger Deliveries	At cost as invoiced
Overnight Deliveries (such as UPS, Federal Express, Express Mail, DHL)	At cost as invoiced
Postage	At cost
Telephone	At cost as invoiced
Telecopier	\$0.75(local), \$1.50(domestic), \$2.25(international)
Travel and Lodging	
Hotel Accommodations	Not to exceed \$300.00/night
Air Fare	Not to exceed coach class
Cab Fare	At cost as invoiced
Meals & Incidental Expenses	Flat rate payment of \$60.00/day for each full day (midnight to midnight) of travel.

Reimbursement for any of the above shall be limited to actual costs. No reimbursement shall be made for any administrative, surcharge, or other overhead recovery fee. Reimbursement shall not be made for the purchase or lease of office space, furnishings, equipment, or software unless approved in advance by the Deputy Attorney General. Upon conclusion of this agreement, unless the Deputy Attorney General approves other arrangements, the ownership of any furnishings, equipment, or software purchased under this contract shall revert back to the State and those items returned to the Department of Law.

Reimbursement for secretarial overtime or other temporary administrative or clerical assistance may be authorized but only if required by the nature or timing of assignments made under this contract (e.g. large projects or court imposed deadlines) and not because of other client work or firm priorities.

Unless otherwise approved by the Project Director, reimbursement for airline travel costs under this contract shall be limited to coach class fares. Contractor will not bill the State for time in travel status, except for that time during which the individual has performed work on the State's matter while in travel status; in that situation the Contractor shall adhere to billing rates provided in Article 1.1 of this appendix.

Reimbursement of hotel costs shall be limited to a maximum of \$300.00 per night unless otherwise approved by the Project Director. The Contractor shall, when possible, use moderately priced hotels comparable to those used by Department of Law employees. Reimbursement for meals and other incidental expenses shall be made at the flat rate of \$60.00 per day for each full day (midnight to midnight) of travel along with partial payment of \$45.00 for the day of departure and \$45.00 for the day of return.

Article 1.3 Unless the contract is amended in writing, the total sum expended under this agreement shall not exceed \$50,000 including all out-of-pocket expenses.

Article 2. Billing Procedures

Article 2.1 The Contractor agrees to bill the State within thirty days of the end of the monthly billing period. All billing statements shall be sent directly to the state's designated Project Director with a pdf copy emailed to 03ContractPayments@alaska.gov

Article 2.2 The Contractor's billing statements shall be itemized to show the agency contract number, time spent, a task description and the date that tasks were performed by the name and hourly rate of the individual performing the work. All billing statements shall include an itemization of all costs and copies of invoices for travel and other out-of-pocket expenses.

Article 2.3 As a standard cost control practice, the State may conduct an audit of time and cost records of the Contractor, its employees and subcontractors. Any such audit may be conducted at the Contractor's offices or a place mutually agreed to by the Contractor and the Project Director.

Article 2.4 Billing rates are capped for one year from date of execution of the Contract. If after one year the Contractor wishes to seek an adjustment to its billing rates, the Contractor shall:

- a. notify the Project Director and obtain approval in writing at least sixty (60) days before activating any change in billing rates;
- b. specify the impact the rate adjustment would have on the existing workplan and budget; and
- c. limit the change in any individual billing rate to an amount that does not exceed the percentage increase in the Consumer Price Index (CPI) for the locale from which the services are being rendered, or obtain the approval of the Project Director for any increase above the CPI.

If billing rates are increased under this Article, the new rates shall be capped for one year following the date of the increase.

STANDARD AGREEMENT FORM

1. Agency Contract Number 20-207-1111	2. Billing Contact Michael Connolly, Partner mike@cmis.yovinecarthy.com	3a. Appropriation 033048700	3b. Unit 2060	3c. Program
4. EN Doc Type and # GAE 20*	Project Matters related to Janus decision	Matter ID: 2019200724	6. AK Biz License # n/a	Vendor Number VC030136
This contract is between the State of Alaska,				
7. Department of Law	Division Labor and State Affairs	hereafter the State, and		
8. Contractor Consovoy McCarthy, PLLC Email will@consovoymccarthy.com 703-243-9423 hereafter the Contractor				
Mailing Address 1600 Wilson Boulevard, Suite 700, Arlington, VA 22209				
9. ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.				
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2.1 Appendix A (General Provisions), Articles 1 through 14, governs the performance of services under this contract.				
2.2 Appendix B sets forth the liability and insurance provisions of this contract.				
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ARTICLE 3. Period of Performance: The period of performance for this contract begins December 19, 2019 and ends with the resolution of the matter.				
ARTICLE 4. Considerations:				
4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed \$600,000 in accordance with the provisions of Appendix D.				
4.2 When billing the State, the contractor shall refer to Contract #20-207-1111 and shall mail the invoice to the address below with a courtesy copy in PDF format emailed to ContractPayments@alaska.gov				
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Mailing Address 1031 W. 4th Avenue, Suite 200 Anchorage, AK 99501		Attention: Ed Sniffen ed.sniffen@alaska.gov		
11. CONTRACTOR				
Name of Firm Consovoy McCarthy, PLLC		13. CERTIFICATION: I certify that the facts herein and on supporting documents are correct, that this voucher constitutes a legal charge against funds and appropriations cited, that sufficient funds are encumbered to pay this obligation, or that there is a sufficient balance in the appropriation cited to cover this obligation. I am aware that to knowingly make or allow false entries or alterations on a public record, or knowingly destroy, mutilate, suppress, conceal, remove or otherwise impair the verity, legibility or availability of a public record constitutes tampering with public records punishable under AS 11.56.815-.820. Other disciplinary action may be taken up to and including dismissal.		
Signature of Authorized Representative <i>Michael Connolly</i>	Date 12/29/2019			
Typed or Printed Name of Authorized Representative Michael Connolly				
Title Partner EIN: on record				
12. CONTRACTING AGENCY				
Department/Division Law/Civil-Labor and State Affairs	Date 1-8-2020	Signature of Head of Contracting Agency or <i>Kevin G. Clarkson</i>	Date 1-8-2020	
Signature of Project Director <i>Clyde E. Sniffen</i>		Typed or Printed Name Kevin G. Clarkson		
Typed or Printed Name of Project Director Clyde E. Sniffen		Attorney General		
Title Chief of Staff		Authorized by AS 36.90.130 - RFP-2020-0300-1430		

NOTICE: This contract has no effect until signed by the head of contracting agency and signatory.

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Attention:		Ed Sniffen ed.sniffen@alaska.gov		
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Signature of Authorized Representative	Date			
Typed or Printed Name of Authorized Representative Michael Connolly				
Title Partner EIN: on record				
12. CONTRACTING AGENCY				
Department/Division Law/Civil-Labor and State Affairs	Date	Signature of Head of Contracting Agency or	Date	
Signature of Project Director		Typed or Printed Name Kevin G. Clarkson		
Typed or Printed Name of Project Director Clyde E. Sniffen		Attorney General		
Title Chief of Staff		Authorized by AS 36.30.130 RFP 2020-0300-4430		

NOTICE: This contract has no effect until signed by the head of contracting agency or designee.

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- 1.2 "State Contracting Agency" means the department for which this contract is to be performed and for which the Commissioner or Authorized Designee acted in signing this contract.

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- 2.1 The department may inspect, in the manner and at reasonable times it considers appropriate, all the contractor's facilities and activities under this contract.
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- 3.1 If the contractor has a claim in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620-632.

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- 4.1 The contractor may not discriminate against any employee or applicant for employment because of race, religion, color, national origin, or because of age, disability, sex, marital status, changes in marital status, pregnancy or parenthood when the reasonable demands of the position(s) do not require distinction on the basis of age, disability, sex, marital status, changes in marital status, pregnancy, or parenthood. The contractor shall take affirmative action to insure that the applicants are considered for employment and that employees are treated during employment without unlawful regard to their race, color, religion, national origin, ancestry, disability, age, sex, marital status, changes in marital status, pregnancy or parenthood. This action must include, but need not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training including apprenticeship. The contractor shall post in conspicuous places, available to employees and applicants for employment, notices setting out the provisions of this paragraph.
- 4.2 The contractor shall state, in all solicitations or advertisements for employees to work on State of Alaska contract jobs, that it is an equal opportunity employer and that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, disability, sex, marital status, changes in marital status, pregnancy or parenthood.
- 4.3 The contractor shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' compensation representative of the contractor's commitments under this article and post copies of the notice in conspicuous places available to all employees and applicants for employment.
- 4.4 The contractor shall include the provisions of this article in every contract, and shall require the inclusion of these provisions in every contract entered into by any of its subcontractors, so that those provisions will be binding upon each subcontractor. For the purpose of including those provisions in any contract or subcontract, as required by this contract, "contractor" and "subcontractor" may be changed to reflect appropriately the name or designation of the parties of the contract or subcontract.
- 4.5 The contractor shall cooperate fully with State efforts which seek to deal with the problems of unlawful discrimination, and with all other State efforts to guarantee fair employment practices under this contract, and promptly comply with all requests and directions from the State Commission for Human Rights or any of its officers or agents relating to prevention of discriminatory employment practices.
- 4.6 Full cooperation in paragraph 4.5 includes, but is not limited to, being a witness in any proceeding involving questions of unlawful discrimination if that is requested by any official or agency of the State of Alaska; permitting employees of the contractor to be witnesses or complainants in any proceeding involving questions of unlawful discrimination, if that is requested by any official or agency of the State of Alaska; participating in meetings; submitting periodic reports on the equal employment aspects of present and future employment; assisting inspection of the contractor's facilities; and promptly complying with all State directives considered essential by any office or agency of the State of Alaska to insure compliance with all federal and State laws, regulations, and policies pertaining to the prevention of discriminatory employment practices.
- 4.7 Failure to perform under this article constitutes a material breach of the contract.

Article 5. Termination.

The Project Director, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the State. In the absence of breach of contract by the contractor, the State is liable only for payment in accordance with the payment provisions of this contract for services rendered before the effective date of termination.

Article 6. No Assignment or Delegation.

The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Project Director and the Agency Head.

Article 7. No Additional Work or Material.

No claim for additional services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Project Director and approved by the Agency Head.

Article 8. Independent Contractor.

The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

Article 9. Payment of Taxes

As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any Subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

Article 10. Ownership of Documents.

All designs, drawings, specifications, notes, artwork, and other work developed in the performance of this agreement are produced for hire and remain the sole property of the State of Alaska and may be used by the State for any other purpose without additional compensation to the contractor. The contractor agrees not to assert any rights and not to establish any claim under the design patent or copyright laws. Nevertheless, if the contractor does mark such documents with a statement suggesting they are trademarked, copyrighted, or otherwise protected against the State's unencumbered use or distribution, the contractor agrees that this paragraph supersedes any such statement and renders it void. The contractor, for a period of three years after final payment under this contract, agrees to furnish and provide access to all retained materials at the request of the Project Director. Unless otherwise directed by the Project Director, the contractor may retain copies of all the materials.

Article 11. Governing Law; Forum Selection.

This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

Article 12. Conflicting Provisions.

Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees, among other things, that provisions in any documents it seeks to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

Article 13. Officials Not to Benefit.

Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

Article 14. Covenant Against Contingent Fees.

The contractor warrants that no person or agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee except employees or agencies maintained by the contractor for the purpose of securing business. For the breach or violation of this warranty, the State may terminate this contract without liability or in its discretion deduct from the contract price or consideration the full amount of the commission, percentage, brokerage or contingent fee.

Article 15. Compliance.

In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

Article 16. Force Majeure.

The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

APPENDIX B²
INDEMNITY AND INSURANCE

Article 1. Indemnification

The Contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the Contractor under this agreement. The Contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Contracting agency's selection, administration, monitoring, or controlling of the Contractor and in approving or accepting the Contractor's work.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

2.1 Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

2.2 Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.3 Commercial Automobile Liability Insurance: covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of \$300,000 combined single limit per claim.

2.4 Professional Liability Insurance: covering all errors, omissions or negligent acts in the performance of professional services under this agreement. Limits required per the following schedule:

Contract Amount	Minimum Required Limits
Under \$100,000	\$300,000 per Claim / Annual Aggregate
\$100,000-\$499,999	\$500,000 per Claim / Annual Aggregate
\$500,000-\$999,999	\$1,000,000 per Claim / Annual Aggregate
\$1,000,000 or over	Refer to Risk Management

APPENDIX C

Article 1. Services to be performed by the Contractor

Article 1.1. At the specific direction of the Attorney General's Office, the Contractor, Consovoy McCarthy, PLLC, shall represent the State in its litigation efforts to defend the Attorney General's opinion concerning interpretation of the *Janus V AFSCME* decision and the Governor's administrative order implementing the decision.

It is agreed between the parties that the State shall determine the scope of the services to be rendered by the Contractor. It is further agreed that the State may require a separate contract on any matter which, in its judgment, may be sufficiently complicated or prolonged to justify a separate contract.

Article 2. Contract Management

Article 2.1 The designated contact person for the Contractor is William S. Consovoy. The Contractor's services under this agreement shall be directed and managed from the contractor's Arlington, Virginia office. The Contractor may assign other consulting professionals to provide services under the contract after providing notice to, and obtaining approval from, the Project Director. All such individuals assigned to provide services under this Contract shall work under the direction and management of the individual listed above.

Article 2.2 The Contractor will maintain the involvement of those individuals identified in Article 2.1 above. In the event of an unforeseeable circumstance that requires substitution for any of those individuals, the Contractor shall notify the State in writing of the proposed substitution. The State reserves the right to accept or reject a proposed substitute. In addition, before substitution of any individual is effected, the State must approve the extent to which transitional time will be billed.

Article 2.3 At the discretion of the Project Director, the Contractor may be required to prepare an estimate of the time and costs necessary to complete any matter assigned under this contract.

Article 2.4 The contractor agrees to closely monitor costs incurred and fees to be charged for services provided under this agreement and to alert the Project Director *before* such costs and fees exceed the authorized contract amount. In the event the Contractor fails to notify the Project Director prior to incurring a cost overrun, the contractor shall assume liability for any excess costs and fees incurred up until the time at which the contractor notifies the project director of the overrun.

Article 2.5 The period of performance, scope, and amount of this agreement may be amended in writing at the discretion of the State. In addition, the parties to this agreement acknowledge that work may begin on the date shown in Article 3. ("Period of Performance") and that the foregoing date may precede the date of execution of this agreement because immediate performance is required to serve the best interest of the state.

Article 2.6 The Attorney General's Office shall be the primary point of contact for all substantive dealings with the media. In the event the Contractor is contacted by media representatives concerning this or other cases being handled on behalf of the state, the Contractor should decline any comment beyond confirming factual matters that are already a matter of public record and refer the individuals to the Project Director.

Article 2.7 **FOREIGN CONTRACTING:** By signature on this Contract, the Contractor certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States. Failure to comply with this requirement will cause the state to reject the bid or proposal as non-responsive, or cancel the contract.

Article 2.8 **HUMAN TRAFFICKING:** By signature on this contract, the contractor certifies that:

- 1) the contractor is not established and headquartered or incorporated and headquartered, in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report; or 2) if the contractor is established and headquartered or incorporated and headquartered, in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report, a certified copy of the contractor's policy against human trafficking must be submitted to the State of Alaska prior to contract award.

APPENDIX D

Article 1. Consideration

Article 1.1 In full consideration of the Contractor's performance under this agreement, the State shall pay the Contractor the following hourly rates for the professional services of individuals below:

<u>Name/Title</u>	<u>Standard Rate</u>	<u>Alaska Discounted Rate</u>
William Consovoy, Partner	\$950 per hour	\$600 per hour
Michael Connolly, Partner	\$950 per hour	\$600 per hour
Steven Begakis, Associate	\$600 per hour	\$450 per hour

In addition, the State will reimburse the Contractor for the services of other consulting professionals or temporary personnel that may be employed to provide services under this agreement so long as the use of such additional personnel and their rates are approved in advance by the State's project director.

Article 1.2 The State agrees to reimburse the Contractor on a monthly or other periodic basis for reasonable and necessary out-of-pocket expenses incurred under this contract. No reimbursement shall be made for any administrative, surcharge, or other overhead recovery fee. Unless otherwise noted, reimbursement for out-of-pocket expenses shall be limited to actual costs except that reimbursement for those specific services or expenses listed below shall be limited as follows:

<u>Service or Expense</u>	<u>Charge/Rate</u>
Reproduction	\$0.10 per page
Computerized Database Research	At cost as invoiced
Courier Services	
Automobile Messenger Deliveries	At cost as invoiced
Overnight Deliveries (such as UPS, Federal Express, Express Mail, DHL)	At cost as invoiced
Postage	At cost
Telephone	At cost as invoiced
Telecopier	\$0.75 (local), \$1.50 (domestic), \$2.25 (international)
Travel and Lodging	
Hotel Accommodations	Not to exceed \$300.00/night
Air Fare	Not to exceed coach class
Cab Fare	At cost as invoiced
Meals & Incidental Expenses	Flat rate payment of \$60.00/day for each full day (midnight to midnight) of travel.

Reimbursement for any of the above shall be limited to actual costs. No reimbursement shall be made for any administrative, surcharge, or other overhead recovery fee. Reimbursement shall not be made for the purchase or lease of office space, furnishings, equipment, or software unless approved in advance by the Deputy Attorney General. Upon conclusion of this agreement, unless the Deputy Attorney General approves other arrangements, the ownership of any furnishings, equipment, or software purchased under this contract shall revert back to the State and those items returned to the Department of Law.

Reimbursement for secretarial overtime or other temporary administrative or clerical assistance may be authorized but only if required by the nature or timing of assignments made under this contract (e.g. large projects or court imposed deadlines) and not because of other client work or firm priorities.

Unless otherwise approved by the Project Director, reimbursement for airline travel costs under this contract shall be limited to coach class fares. Contractor will not bill the State for time in travel status, except for that time during which the individual has performed work on the State's matter while in travel status; in that situation the Contractor shall adhere to billing rates provided in Article 1.1 of this appendix.

Reimbursement of hotel costs shall be limited to a maximum of \$300.00 per night unless otherwise approved by the Project Director. The Contractor shall, when possible, use moderately priced hotels comparable to those used by Department of Law employees. Reimbursement for meals and other incidental expenses shall be made at the flat rate of \$60.00 per day for each full day (midnight to midnight) of travel along with partial payment of \$45.00 for the day of departure and \$45.00 for the day of return.

Article 1.3 Unless the contract is amended in writing, the total sum expended under this agreement shall not exceed \$600,000 including all out-of-pocket expenses.

Article 2. Billing Procedures

Article 2.1 The Contractor agrees to bill the State within thirty days of the end of the monthly billing period. All billing statements shall be sent directly to the state's designated Project Director with a pdf copy emailed to 03ContractPayments@alaska.gov

Article 2.2 The Contractor's billing statements shall be itemized to show the agency contract number, time spent, a task description and the date that tasks were performed by the name and hourly rate of the individual performing the work. All billing statements shall include an itemization of all costs and copies of invoices for travel and other out-of-pocket expenses.

Article 2.3 As a standard cost control practice, the State may conduct an audit of time and cost records of the Contractor, its employees and subcontractors. Any such audit may be conducted at the Contractor's offices or a place mutually agreed to by the Contractor and the Project Director.

Article 2.4 Billing rates are capped for one year from date of execution of the Contract. If after one year the Contractor wishes to seek an adjustment to its billing rates, the Contractor shall:

- a. notify the Project Director and obtain approval in writing at least sixty (60) days before activating any change in billing rates;
- b. specify the impact the rate adjustment would have on the existing workplan and budget; and
- c. limit the change in any individual billing rate to an amount that does not exceed the percentage increase in the Consumer Price Index (CPI) for the locale from which the services are being rendered, or obtain the approval of the Project Director for any increase above the CPI.

If billing rates are increased under this Article, the new rates shall be capped for one year following the date of the increase.

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA,

Plaintiff,

v.

ALASKA STATE EMPLOYEES
ASSOCIATION/AMERICAN
FEDERATION OF STATE,
COUNTY AND MUNICIPAL
EMPLOYEES LOCAL 52, AFL-CIO,

Defendant.

Case No.: 3AN-19-9971 CI

COPY
Original Received
SEP 16 2019

Clerk of the Trial Court

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiff State of Alaska, pursuant to AS 22.10.020(g) and Alaska R. Civ. Proc. 57(a), brings this action for declaratory relief against Defendant Alaska State Employees Association/American Federation of State, County and Municipal Employees Local 52, AFL-CIO. Plaintiff alleges as follows:

PARTIES

1. Plaintiff State of Alaska ("State") has approximately 15,000 employees. Approximately 8,000 of these employees are represented in collective bargaining negotiations by Defendant. The State has entered into a collective bargaining agreement ("CBA") with Defendant. The CBA governs the employment terms and conditions of these employees.

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Anchorage, AK 99501
Phone: (907) 269-5100 Fax: (907) 276-3697

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2. Defendant Alaska State Employees Association/American Federation of State, County and Municipal Employees Local 52, AFL-CIO ("Defendant" or "Union") is a public sector union based in Alaska. Defendant represents state and municipal employees in the General Government Unit and is the largest public union in Alaska.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this declaratory action pursuant to AS 22.10.020(a), (g).

4. Venue is proper in this Court pursuant to Civil Rule 3(c) and AS 22.10.030.

STATEMENT OF FACTS

A. **The First Amendment to the U.S. Constitution and Public Sector Unions**

5. The First Amendment, made applicable to the States by the Fourteenth Amendment, forbids abridgment of the freedom of speech and association.

6. The First Amendment creates an "open marketplace" in which differing ideas about political, economic, and social issues can compete for public support free from government interference. It also protects the rights of individuals to associate with others in pursuit of a wide range of political, social, economic, educational, religious, and cultural ends. Free speech thus is critical to our democratic form of government and to the search for truth.

7. Freedom of speech protects more than the right to speak freely and to associate with others. It also protects the right *not* to speak and the right *not* to associate. As the Supreme Court has long recognized, "[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be

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1 orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to
2 confess by word or act their faith therein." *West Virginia Bd. of Ed. v. Barnette*, 319 U.S.
3 624, 642 (1943).

4
5 8. Compelling a person to subsidize the speech of others raises similar First
6 Amendment concerns. It is a "bedrock principle that, except perhaps in the rarest of
7 circumstances, no person in this country may be compelled to subsidize speech by a third
8 party that he or she does not wish to support." *Harris v. Quinn*, 573 U.S. 616, 656 (2014).

9
10 9. These important First Amendment principles are always at stake whenever
11 a state subsidizes public sector unions through employee paycheck deductions.

12
13 10. Such state actions receive heightened First Amendment scrutiny because
14 the collective bargaining, political advocacy, and lobbying of public sector unions is
15 directed at the government, and bargaining subjects (such as wages, pensions, and
16 benefits) are important political issues. Public sector unions also engage in an array of
17 other speech, including on issues related to state budgets, healthcare, education, climate
18 change, sexual orientation, and child welfare.

19
20 11. "Because a public-sector union takes many positions during collective
21 bargaining that have powerful political and civic consequences," the Supreme Court has
22 held, "compulsory fees constitute a form of compelled speech and association that
23 imposes a 'significant impingement on First Amendment rights.'" *Knox v. SEIU, Local*
24 *1000*, 567 U.S. 298, 310-11 (2012). Compulsory-fee requirements, therefore, "cannot be
25 tolerated unless [they] pass[] exacting First Amendment scrutiny." *Harris*, 573 U.S. at
26 647-48 (citation omitted).
27

1 **B. The State's Collective Bargaining Agreement with Defendant**

2 12. The Public Employment Relations Act ("PERA") authorizes public
3 employees to "self-organize and form, join, or assist an organization to bargain
4 collectively through representatives of their own choosing, and engage in concerted
5 activities for the purpose of collective bargaining or other mutual aid or protection."
6

7 AS 23.40.080.

8 13. Under PERA, public employers must "negotiate with and enter into written
9 agreements with employee organizations on matters of wages, hours, and other terms and
10 conditions of employment." AS 23.40.070.
11

12 14. Defendant, as a public sector union, engages in collective bargaining with
13 the State over the employment terms and conditions of the employees it represents.
14

15 15. Through its collective bargaining and lobbying efforts, Defendant has
16 advocated on political issues concerning wages, pensions, and employee benefits.
17

18 16. In accordance with PERA, the State has negotiated a collective bargaining
19 agreement with Defendant ("CBA"). The CBA governs the employment terms and
20 conditions of approximately 8,000 state and municipal employees in the General
21 Government Unit.
22

23 17. Section 3.04 of the CBA governs payroll deductions of state employees. It
24 states: "Upon receipt by the Employer of an Authorization for Payroll Deduction of
25 Union Dues/Fees dated and executed by the bargaining unit member which includes the
26 bargaining unit member's employee ID number, the Employer shall each pay period
27 deduct from the bargaining unit member's wages the amount of the Union membership

1 dues owed for that pay period. The Employer will forward the monies so deducted to the
2 Union together with a list of bargaining unit members from whose wages such monies
3 were deducted no later than the tenth (10th) day of the following calendar month.”

4
5 18. Section 3.04 further states: “Bargaining unit members may authorize
6 payroll deductions in writing on the form provided by the Union. Such payroll deductions
7 will be transmitted to the Union by the state. The amount of voluntary contribution shall
8 be stated on the authorization form, together with the bargaining unit member’s employee
9 identification number.”

10
11 19. Thus, it has been the State’s practice to take money from an employee’s
12 paycheck and transfer it to Defendant when the State receives a payroll deduction
13 authorization form from Defendant for that employee.
14

15 20. According to Defendant’s payroll deduction authorization form, the
16 employee is prohibited from withdrawing his financial support for the Union unless he
17 gives “the Employer and the Union written notice of revocation not less than ten (10)
18 days and not more than twenty (20) days before the end of any yearly period.”
19

20 21. In other words, if the employee does not provide this notification to both
21 the Union and the State during this ten-day window, the employee must continue to
22 subsidize the Union’s speech for another year.
23

24 **C. The Supreme Court’s Opinion in *Janus v. AFSCME, Council 31***

25 22. On June 27, 2018, the U.S. Supreme Court issued its opinion in *Janus v.*
26 *AFSCME, Council 31*, 138 S. Ct. 2448 (2018).
27

1 23. In *Janus*, an Illinois state employee (Mark Janus) challenged an Illinois law
2 that required him to pay an "agency fee" to a union even though he was not a member of
3 the union and strongly objected to the positions the union took in collective bargaining
4 and related activities.
5

6 24. Janus argued that such a scheme violated his rights under the First
7 Amendment, and the Supreme Court agreed.
8

9 25. The Court noted it had long recognized that "a significant impingement on
10 First Amendment rights occurs when public employees are required to provide financial
11 support for a union that takes many positions during collective bargaining that have
12 powerful political and civic consequences." These types of compulsory-fee provisions
13 thus required heightened scrutiny under the First Amendment.
14

15 26. Applying heightened scrutiny, the Court concluded that neither of the
16 rationales for the Illinois law—promoting "labor peace" and preventing "free riders"—
17 could justify the serious burdens imposed on employees' free speech rights.
18

19 27. The Supreme Court thus concluded that the Illinois law was unconstitutional
20 because it violated Janus' free speech rights by compelling him to subsidize private speech
21 on matters of substantial public concern.
22

23 28. In finding this law unconstitutional, the Court made clear that its holding
24 was not limited to the facts before it. *All* employees—not just non-members like
25 Mr. Janus—had a First Amendment right not to be forced to subsidize the speech of
26 public unions.
27

1 29. Going forward, the Court warned, public employers may not deduct “an
2 agency fee nor any other payment” unless “the employee affirmatively consents to pay.”
3

4 30. The Court stressed that a waiver of First Amendment rights must be “freely
5 given and shown by ‘clear and compelling evidence,’” and such a waiver “cannot be
6 presumed.”
7

8 31. Thus, the Court explained, “[u]nless employees clearly and affirmatively
9 consent before any money is taken from them, this [clear and compelling] standard
10 cannot be met.”

11 **D. The State’s Response to *Janus***

12 32. Before *Janus*, the State’s collective bargaining agreement with Defendant
13 (which has been superseded by the current CBA) required the State to deduct dues from
14 employees who were members of the Union and deduct an agency fee (or “service fee”)
15 from employees who were not members of the Union.
16

17 33. In response to *Janus*, the State, under the administration of then-Governor
18 Bill Walker, stopped deducting agency fees from non-members’ paychecks. The State
19 also reached agreement with a number of unions, including Defendant, modifying the
20 terms of the collective bargaining agreements to account for *Janus*.
21

22 34. The State, however, failed to take sufficient steps to comply with *Janus*’s
23 requirements. In particular, the State did not ensure that the First Amendment rights of *all*
24 employees (both members and non-members) were protected.
25

26 35. Shortly after taking office, Governor Michael J. Dunleavy requested a legal
27 opinion from Attorney General Kevin G. Clarkson as to whether the State had fully

1 complied with its obligations under *Janus*. The Governor sought this opinion to ensure
2 that the State's employee payroll-deduction process complied with the First Amendment
3 in light of *Janus*.
4

5 **E. The Attorney General Opinion**

6 36. On August 27, 2019, Attorney General Clarkson issued a legal opinion in
7 which he concluded that "the State's payroll deduction process is constitutionally
8 untenable under *Janus*."
9

10 37. Although the plaintiff in *Janus* was a non-member who was objecting to
11 paying a union's agency fee, the Attorney General recognized that the "the principle of
12 the Court's ruling ... goes well beyond agency fees and non-members." The Court had
13 held that the First Amendment prohibits public employers from forcing *any* employee to
14 subsidize a union, whether through an agency fee or otherwise.
15

16 38. The Attorney General explained: "Members of a union have the same First
17 Amendment rights against compelled speech that non-members have, and may object to
18 having a portion of their wages deducted from their paychecks to subsidize particular
19 speech by the union (even if they had previously consented)." Thus, "the State has no
20 more authority to deduct union dues from one employee's paycheck than it has to deduct
21 some lesser fee or voluntary non-dues payment from another's." In both cases, "the State
22 can only deduct monies from an employee's wages if the employee provides affirmative
23 consent."
24

25
26 39. That was why, as the Attorney General further explained, "the Court in
27 *Janus* did not distinguish between members and non-members of a union when holding

1 that 'unless *employees* clearly and affirmatively consent before any money is taken from
2 them, this standard cannot be met.'"

3
4 40. Following Supreme Court guidance governing the waiver of constitutional
5 rights in other contexts, the Attorney General concluded that an employee's consent to
6 have money deducted from his or her paycheck was constitutionally valid only if it met
7 three requirements. The employee's consent must be (1) "free from coercion or improper
8 inducement"; (2) "knowing, intelligent[, and] done with sufficient awareness of the
9 relevant circumstances and likely consequences"; and (3) "reasonably contemporaneous."

10
11 41. In light of these constitutional requirements, the Attorney General
12 identified three overarching problems with the State's payroll deduction process.

13
14 42. First, because unions design the form by which an employee authorizes the
15 State to deduct his or her pay, the State cannot "guarantee that the unions' forms clearly
16 identify—let alone explain—the employee's First Amendment right *not* to authorize any
17 payroll deductions to subsidize the unions' speech." Nor could the State ensure that its
18 employees knew the consequences of their decision to waive their First Amendment
19 rights.
20

21 43. Second, because unions control the environment in which an employee is
22 asked to authorize a payroll deduction, the State cannot ensure that an employee's
23 authorization is "freely given." For example, some collective bargaining agreements
24 require new employees to report to the union office within a certain period of time so that
25 a union representative can ask the new employee to join the union and authorize the
26 deduction of union dues and fees from his or her pay. Because this process is essentially a
27

1 "black box," the State has no way of knowing whether the signed authorization form is
2 "the product of a free and deliberate choice rather than coercion or improper
3 inducement."
4

5 44. Third, because unions often add specific terms to an employee's payroll
6 deduction requiring the payroll deduction to be irrevocable for up to twelve months, an
7 employee is often "powerless to revoke the waiver of [his] right against compelled
8 speech" if he disagrees with the union's speech or lobbying activities. This is especially
9 problematic for new employees, who likely have no idea "what the union is going to say
10 with his or her money or what platform or candidates a union might promote during that
11 time." An employee, as a result, may be forced to "see [his] wages docked each pay
12 period for the rest of the year to subsidize a message [he does] not support."
13
14

15 45. To remedy these First Amendment problems, the Attorney General
16 recommended that the State implement a new payroll deduction process to bring the State
17 into compliance with the Supreme Court's *Janus* decision.
18

19 46. First, the Attorney General recommended that the State require employees
20 to provide their consent directly to the State, instead of allowing unions to control the
21 conditions in which the employee consents. The Attorney General recommended that the
22 State implement and maintain an online system and draft new written consent forms.
23

24 47. Second, the Attorney General recommended that the State allow its
25 employees to regularly have the opportunity to opt-in or opt-out of paying union dues.
26 This process would ensure that each employee's consent is up to date and that no
27 employee is forced to subsidize speech with which he disagrees.

1 F. Defendant Threatens to Sue the State

2 48. Within hours of the release of the Attorney General's legal opinion,
3 Defendant threatened to sue the State.
4

5 49. Defendant's Executive Director, Jake Metcalfe, told *Alaska Public Media*
6 that the Attorney General's opinion was antagonistic and "legally incorrect." Metcalfe
7 warned: "If [the Governor] follows through with an administrative order, then we're
8 going to go to court and fight him from beginning to end on this." Metcalfe similarly told
9 the *Anchorage Daily News* that if the State implements an annual opt-in program, "we
10 will sue."
11

12 50. In an Alaska AFL-CIO press release, Metcalfe stated that the Attorney
13 General's opinion was "an attack on all of us, and we'll challenge it in the courts at every
14 step of the way to protect the Constitutional rights of Alaska's public employees in the
15 workplace."
16

17 51. On its website, Defendant stated that the Attorney General's
18 recommendations are "obviously illegal" and "ASEA won't let this happen. ASEA and
19 all the other Alaska public employee unions are prepared to fight this unconstitutional
20 power grab at every stage."
21

22 52. In an article entitled "Unions Pledge Legal Fight After State Announces
23 Plans to Intervene in Union Membership Process," the *Midnight Sun* wrote: "Alaska's
24 organized labor is pledging to take the Dunleavy administration to court if it implements
25 what they say will be one of the harshest implementations of the U.S. Supreme Court
26 ruling that found government employees can't be forced to pay union dues." According
27

1 to the article, Defendant "will plan to fight the implementation of any changes through
2 the courts."

3
4 53. Joelle Hall, operations manager for AFL-CIO, told the *Anchorage Daily*
5 *News*: "I believe this would be the most aggressive and interventionist interpretation of
6 [*Janus*] in the country. Obviously, we will be taking action to prevent this from taking
7 place."

8
9 **G. Employees Contact the State Seeking an End to Their Paycheck**
10 **Deductions**

11 54. Following the release of the Attorney General's Opinion, many state
12 employees contacted the State to ask it to stop deducting money from their paychecks to
13 give to Defendant.

14 55. According to one employee: "At the time when I started with the State in
15 October, I was told the dues were not optional, and it was only yesterday that I learned
16 that was not the case. I would like these deductions to cease immediately." The employee
17 continued: "In the time since I started, I have also told two new employees that these
18 dues were not optional, acting on the information I had been given by the union. If they
19 would also like to opt out at this time, can I let them know to contact you?"

20
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22 56. Another employee told the State: "After I was hired I received what I felt
23 was a threatening letter from the Union saying that I had TEN DAYS, in caps and
24 underlined, to contact the union office within the time specified or failure to do this may
25 result in dues arrearage." The employee requested: "I want my payroll deductions to
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GGU to stop and want back the dues that were deducted without my permission from 2/10/19 to this date.”

57. Another employee told the State that he had informed Defendant that he wanted to resign his membership in the Union and to no longer have dues deducted from his paycheck. The employee “requested to be provided with the timeframe for revocation of [his] signed and executed GGU Authorization for Payroll Deductions.” The Union, however, never provided this information nor granted his request to resign from the Union.

58. On September 9, 2019, the Department of Administration emailed Mr. Metcalfe in order to provide him “courtesy notice that the following individuals have reached out to the State to cease their membership dues deductions effective immediately.” The Department informed Mr. Metcalfe that it had processed these employees’ requests and that the changes should be reflected on the next payroll.

59. The next day, Mr. Metcalfe responded to the Department. He stated that if the State stopped deducting dues from these employees it would be in violation of the CBA and Alaska law. Mr. Metcalfe stated: “If you do not immediately notify me that you have ceased and desisted the action described in your email, we will notify our attorney and initiate legal action.”

60. The State continues to receive requests from employees who wish to no longer have their paychecks deducted to subsidize the Union’s speech.

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**CLAIM FOR RELIEF
(Declaratory Judgment)**

61. Plaintiff realleges paragraphs 1 through 60 as if fully stated herein.

62. Alaska Statute 22.10.020(g) (the "Declaratory Judgment Act") grants to superior courts the power to issue declaratory judgments in cases of actual controversy.

63. It states in relevant part: "In case of an actual controversy in the state, the superior court, upon the filing of an appropriate pleading, may declare the rights and legal relations of an interested party seeking the declaration, whether or not further relief is or could be sought."

64. Declaratory judgments are rendered "to clarify and settle legal relations, and to terminate and afford relief from the uncertainty, insecurity, and controversy giving rise to the proceeding." *Lowell v. Hayes*, 117 P.3d 745, 755 (Alaska 2005).

65. The State has received numerous requests from state employees to stop deducting money from their paychecks to transfer to the Union.

66. The State has concluded that the First Amendment to the U.S. Constitution and the Supreme Court's decision in *Janus v. AFSCME, Council 31* require the State to honor these employees' requests and stop deducting funds from their paychecks to transfer to the Union.

67. The Union, however, has threatened to sue the State if the State honors these employees' requests.

68. Accordingly, an actual controversy has arisen and now exists between the State and the Union regarding whether the First Amendment requires the State to stop

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deducting dues and/or fees from an employee's paycheck when the employee informs the State that he or she no longer wishes to subsidize the Union's speech.

69. To resolve this legal uncertainty, the State is entitled to a declaratory judgment that (1) the State, in accordance with the First Amendment, cannot deduct dues or fees from an employee to give to the Union unless the State has clear and compelling evidence that an employee has given his or her consent to subsidize the Union's speech; and (2) the State must timely stop deducting dues or fees from an employee's paycheck when the employee informs the State that he or she no longer wishes to subsidize the Union's speech.

WHEREFORE, Plaintiff respectfully requests that the Court:

(1) Declare that the State cannot deduct dues or fees from an employee to give to the Union unless the State has clear and compelling evidence that an employee has freely given his or her consent to subsidize the Union's speech;

(2) Declare that the State must timely stop deducting dues or fees from an employee's paycheck when the employee informs the State that he or she no longer wishes to subsidize the Union's speech;

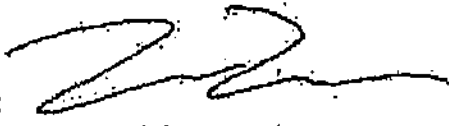
(3) Award the State its costs and attorney's fees to be paid by the defendant pursuant to Alaska Civil Rules 79 and 82; and

(4) Provide such other and further relief as this Court deems just and equitable under the circumstances.

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DATED: September 16, 2019

KEVIN G. CLARKSON
ATTORNEY GENERAL

By: 

Tregarrick R. Taylor
Deputy Attorney General
Alaska Bar No. 0411081

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Timekeeper	Date	Hours (.10 hr)	Amount	Description
SKoteff	6/28/2019	0.1	\$ 60.00	Review gov's veto
SKoteff	7/08/2019	2	\$ 1,200.00	Review cases & authorities re seapration of powers
SKoteff	7/10/2019	0.6	\$ 360.00	Call w/ Brennan Ctr attys re analysis of case; legal precedents
SKoteff	7/10/2019	0.8	\$ 480.00	Email from Brennan Ctr. Attys; review legal memo & authorities
SKoteff	7/10/2019	0.2	\$ 120.00	Review potential plaintiffs
SKoteff	7/10/2019	0.1	\$ 60.00	Call w/ [REDACTED], re knowledge of other challenges
SKoteff	7/11/2019	2.5	\$ 1,500.00	Draft Complaint
SKoteff	7/12/2019	4.5	\$ 2,700.00	Draft Complaint
SKoteff	7/12/2019	0.2	\$ 120.00	Call w/ [REDACTED] possible plaintiff
SKoteff	7/12/2019	0.1	\$ 60.00	Email from Doug Keith re legal argument
SKoteff	7/12/2019	0.1	\$ 60.00	Email from J. Kauffman re nature of case
SKoteff	7/12/2019	0.3	\$ 180.00	Email to J. Kauffman re nature of case; content of complaint
SKoteff	7/12/2019	0.1	\$ 60.00	Emails from/to J. Kauffman re signing on to case
SKoteff	7/12/2019	0.1	\$ 60.00	Email to Doug Keith re legal argument
SKoteff	7/13/2019	0.8	\$ 450.00	Call w/ Bonnie Jack re participation in case; legal theories; plaintiff responsibilities; case projection
SKoteff	7/13/2019	0.5	\$ 300.00	Draft Jack retainer agreement
SKoteff	7/13/2019	0.1	\$ 60.00	Email to/from B. Jack re retainer agreement
SKoteff	7/13/2019	0.5	\$ 300.00	Call w/ John Kauffman re participation in case; legal theories; plaintiff responsibilities
SKoteff	7/13/2019	0.5	\$ 300.00	Draft Kauffman retainer agreement
SKoteff	7/13/2019	0.1	\$ 60.00	Email to/from J. Kauffman re retainer agreement
SKoteff	7/13/2019	0.1	\$ 60.00	Email from J. Kauffman re info for complaint
SKoteff	7/13/2019	5.6	\$ 3,360.00	Research cases; draft complaint
SKoteff	7/15/2019	2.2	\$ 1,320.00	Review, edit complaint
SKoteff	7/16/2019	1.0	\$ 600.00	Finalize complaint
SKoteff	7/26/2019	0.9	\$ 540.00	Review MTD
SKoteff	7/28/2019	1.5	\$ 900.00	Review authorities re inherent powers
SKoteff	7/29/2019	1.3	\$ 780.00	Research inherent powers
SKoteff	7/31/2019	0.1	\$ 60.00	Review court notice to parties
SKoteff	8/07/2019	0.2	\$ 120.00	Call w/ Bonnie Jack re case status
SKoteff	8/07/2019	0.1	\$ 60.00	Call w/ Jessica Leah re ext for opp to MTD
SKoteff	8/12/2019	0.4	\$ 240.00	Draft Mtn for Ext to file Opp to MTD
SKoteff	8/21/2019	3.5	\$ 2,100.00	Research/draft Opp to MTD

Timekeeper	Date	Hours (.10 hr)	Amount	Description
SKoteff	8/22/2019	4.4	\$ 2,640.00	Draft Opp to MTD
SKoteff	8/23/2019	6.2	\$ 3,720.00	Continue research/draft opp to MTD
SKoteff	8/24/2019	7.2	\$ 4,320.00	Continue research/draft opp to MTD
J Decker	8/24/2019	0.7	\$ 420.00	Reviewing and editing opposition to motion to dismiss.
J Decker	8/25/2019	1.2	\$ 720.00	Reviewing and editing opposition to motion to dismiss.
SKoteff	8/26/2019	1.5	\$ 900.00	Finalize Opp to MTD
SKoteff	8/26/2019	0.2	\$ 120.00	Draft request for oral argument on MTD
SKoteff	8/27/2019	0.2	\$ 120.00	Emailing w/ J. Leah re def request for ext to file reply on MTD
SKoteff	8/30/2019	0.1	\$ 60.00	Review req for ext to file reply on MTD
SKoteff	9/11/2019	0.5	\$ 300.00	Review Def's reply on MTD
SKoteff	9/12/2019	0.8	\$ 480.00	Review cases re reply on MTD
SKoteff	9/19/2019	0.3	\$ 180.00	Email to clients re case status
SKoteff	10/18/2019	1.8	\$ 1,080.00	prepare for oral argument--review cases
SKoteff	10/28/2019	1.2	\$ 720.00	Review rules, draft citation of supplemental authority
SKoteff	10/28/2019	1.8	\$ 1,080.00	Prepare for oral argument--review cases & draft argument
SKoteff	10/31/2019	1.5	\$ 900.00	Prepare for oral argument--draft argument
SKoteff	11/04/2019	2.0	\$ 1,200.00	Prepare for oral argument--review cases
SKoteff	11/05/2019	2.0	\$ 1,200.00	Prepare for oral argument--finalize notes
SKoteff	11/05/2019	1.3	\$ 780.00	Oral argument on MTD
J Decker	11/05/2019	1.3	\$ 780.00	Oral argument on motion to dismiss.
SKoteff	12/12/2019	0.5	\$ 300.00	Review order denying MTD
SKoteff	12/12/2019	0.2	\$ 120.00	Email to clients re order denying MTD
SKoteff	12/13/2019	0.2	\$ 120.00	Email t B. Jack re case status
SKoteff	12/20/2019	0.5	\$ 300.00	Draft request for scheduling conference
SKoteff	12/26/2019	0.5	\$ 300.00	Review mtn for reconsideration
SKoteff	12/26/2019	0.8	\$ 480.00	Review answer
SKoteff	1/02/2020	0.1	\$ 60.00	Review order denying reconsideration on MTD
SKoteff	1/15/2020	0.5	\$ 300.00	Scheduling conference
J Decker	1/15/2020	0.5	\$ 300.00	Scheduling conference.
SKoteff	1/15/2020	0.5	\$ 300.00	Call with B. Jack re case status/impact of Recall Dunleavy case
SKoteff	1/16/2020	0.1	\$ 60.00	Email to clients re case status & oral argument date
SKoteff	1/28/2020	2.3	\$ 1,380.00	Research MSJ
SKoteff	1/29/2020	1.5	\$ 900.00	Research MSJ

Timekeeper	Date	Hours (.10 hr)	Amount	Description
S Koteff	1/30/2020	1.0	\$ 600.00	Research MSJ
S Koteff	2/08/2020	5.4	\$ 3,240.00	Draft MSJ memo
S Koteff	2/09/2020	0.8	\$ 480.00	Draft MSJ memo
S Koteff	2/10/2020	2.1	\$ 1,260.00	Draft MSJ memo
S Koteff	2/10/2020	2.4	\$ 1,440.00	Draft MSJ memo
S Koteff	2/11/2020	6.2	\$ 3,720.00	Draft MSJ memo
S Koteff	2/12/2020	6.5	\$ 3,900.00	Draft MSJ memo
S Koteff	2/13/2020	5.5	\$ 3,300.00	Draft MSJ memo
S Koteff	2/15/2020	3.5	\$ 2,100.00	Research/draft MSJ memo
S Koteff	2/17/2020	2.8	\$ 1,680.00	Review cases for MSJ
S Koteff	2/18/2020	2.4	\$ 1,440.00	Research/draft MSJ memo
S Koteff	2/19/2020	3.6	\$ 2,160.00	Draft MSJ memo
S Koteff	2/20/2020	7.5	\$ 4,500.00	Draft MSJ memo
S Koteff	2/21/2020	0.6	\$ 360.00	Draft MSJ/order
J Decker	2/21/2020	1.4	\$ 840.00	Reviewing and revising motion for summary judgment's motion, memorandum, and order.
S Koteff	2/21/2020	1.3	\$ 780.00	Finalize MSJ/memo/order
S Koteff	2/24/2020	0.4	\$ 240.00	Review amicus brief/mtn
J Decker	2/24/2020	0.1	\$ 60.00	Reviewing Legal Voice's amicus brief to the Superior Court.
J Decker	2/26/2020	0.2	\$ 120.00	Reviewing Legal Voice's amicus brief to the Superior Court.
S Koteff	3/09/2020	0.2	\$ 120.00	Review Def's opp to amicus brief
S Koteff	3/13/2020	0.8	\$ 480.00	Review Def's MSJ opp/memo
S Koteff	3/18/2020	0.1	\$ 60.00	Review reply re mtn for amicus brief
S Koteff	3/24/2020	0.1	\$ 60.00	Review ct notice re oral argument
S Koteff	3/30/2020	0.8	\$ 480.00	Draft response re oral arg/req for clarification
S Koteff	3/30/2020	3.5	\$ 2,100.00	Draft reply on MSJ
S Koteff	3/31/2020	4.1	\$ 2,460.00	Research/draft reply on MSJ
J Decker	3/31/2020	0.2	\$ 120.00	Revising Plaintiffs' notice re oral argument.
S Koteff	3/31/2020	0.1	\$ 60.00	Review def's notice re oral arg
S Koteff	4/01/2020	0.1	\$ 60.00	Review ct order vacating oral arg
S Koteff	4/01/2020	8.5	\$ 5,100.00	Research/draft reply on MSJ
J Decker	4/02/2020	2.2	\$ 1,320.00	Reviewing Defendants' summary judgment opposition & cross-motion; revising Plaintiffs' summary judgment reply and cross-motion opposition.
S Koteff	4/03/2020	1.3	\$ 780.00	Finalize reply on MSJ

Timekeeper	Date	Hours (.10 hr)	Amount	Description
S Koteff	4/07/2020	0.4	\$ 240.00	Email to clients re case status
S Koteff	4/10/2020	1.0	\$ 600.00	Review def's reply on MSJ
S Koteff	4/10/2020	0.2	\$ 120.00	Review def's notice re supreme court order
S Koteff	4/15/2020	0.8	\$ 480.00	Draft response to def's notice re supreme court order
S Koteff	4/16/2020	1.5	\$ 900.00	Draft notice re supreme court order denying amicus brief
J Decker	4/16/2020	0.1	\$ 60.00	Reviewing and revising Plaintiffs' notice re Supreme Court order on amici curiae brief.
S Koteff	5/15/2020	0.5	\$ 300.00	Call w/B. Jack re case status
S Koteff	6/25/2020	2.3	\$ 1,380.00	Draft amended complaint
J Decker	6/30/2020	0.8	\$ 480.00	Reviewing and revising Plaintiffs' amended complaint.
J Decker	7/01/2020	0.2	\$ 120.00	Finalizing Plaintiffs' amended complaint.
J Decker	7/01/2020	0.6	\$ 360.00	Finalizing Plaintiffs' amended complaint; emailing J. Leeah and L. Harrison to ask if Defendants consent to Plaintiffs filing the amended complaint.
J Decker	7/06/2020	1.0	\$ 600.00	Reviewing email from J. Leeah re amending complaint; drafting stipulation to amend the complaint.
J Decker	7/07/2020	0.1	\$ 60.00	Finalizing Plaintiffs' amended complaint.
J Decker	7/07/2020	0.3	\$ 180.00	Finalizing Plaintiffs' amended complaint.
J Decker	7/07/2020	0.4	\$ 240.00	Finalizing Plaintiffs' amended complaint and stipulation to amend the complaint.
J Decker	7/07/2020	1.0	\$ 600.00	Finalizing Plaintiffs' amended complaint and stipulation to amend the complaint; emailing them to J. Leeah and L. Harrison.
S Koteff	7/08/2020	0.3	\$ 180.00	Email to clients re case status
J Decker	7/09/2020	0.1	\$ 60.00	Reviewing J. Leeah's email and her revisions to stipulation to amend the complaint.
J Decker	7/09/2020	0.2	\$ 120.00	Discussion with S. Koteff re Defendants' edits to stipulation to amend the complaint.
J Decker	7/09/2020	0.6	\$ 360.00	Revising Defendants' stipulation to amend the complaint and emailing those revisions to J. Leeah.
J Decker	7/10/2020	0.7	\$ 420.00	Finalizing Plaintiffs' revised amended complaint and revised stipulation to amend the complaint; emailing them to J. Leeah.
J Decker	7/13/2020	0.4	\$ 240.00	Filing the Plaintiffs' stipulation to amend the complaint and amended complaint; emailing copies and an update to the Plaintiffs.
J Decker	7/13/2020	0.1	\$ 60.00	Email to B. Jack re stipulation to amend the complaint.
S Koteff	10/16/2020	0.8	\$ 480.00	Review superior ct. sj decision
S Koteff	10/16/2020	0.2	\$ 120.00	Discuss sj decision with JAD
S Koteff	10/16/2020	0.2	\$ 120.00	Email to clients re sj decision
J Decker	10/16/2020	0.5	\$ 300.00	Reviewing Superior Court's summary judgment decision.

Timekeeper	Date	Hours (.10 hr)	Amount	Description
S Koteff	10/20/2020	0.1	\$ 60.00	Email to D counsel re need for add'l filing
S Koteff	10/27/2020	1.0	\$ 600.00	Draft proposed final judgment
S Koteff	10/29/2020	0.1	\$ 60.00	Email to D counsel re stip to final judgment
S Koteff	11/02/2020	0.3	\$ 180.00	Review email/edits to proposed judgment from Leeah
S Koteff	11/03/2020	2.0	\$ 1,200.00	Prepare motion for entry of judgment
S Koteff	11/04/2020	0.2	\$ 120.00	Email to J. Leeah re motion for entry of judgment
J Decker	11/4/20	0.1	\$ 60.00	Reviewing Plaintiffs' motion for entry of judgment.
S Koteff	11/4/20	0.2	\$ 120.00	Finalize/File mtn for final judgment and proposed judgment
J Decker	11/13/20	0.5	\$ 300.00	Discussion with S. Koteff re Defendants' opposition to Plaintiffs' proposed judgment and their own proposed judgment.
S Koteff	11/13/20	0.5	\$ 300.00	Call w/JAD re Defendants' opp to mtn for entry of judgment
S Koteff	11/23/20	0.3	\$ 180.00	Call w/ Jessica Leeah re possible stip to entry of judgment
S Koteff	11/30/20	0.1	\$ 60.00	Email to Jessica Leeah re stip to entry of judgment
S Koteff	11/30/20	2.0	\$ 1,200.00	Draft, edit, file reply in support of Mtn for Entry of Judgment
J Decker	11/30/20	0.6	\$ 360.00	Revising Plaintiffs' reply in Support of Plaintiffs' motion for entry of judgment.
S Koteff	12/2/20	0.1	\$ 60.00	Review court's final judgment
S Koteff	12/3/20	0.2	\$ 120.00	Email to clients re entry of judgment
S Koteff	12/03/2020	1.5	\$ 900.00	Research attorney fee rates; motion for fees
S Koteff	12/08/2020	0.1	\$ 60.00	Review court's corrected judgment
S Koteff	12/08/2020	0.1	\$ 60.00	Email to/from Jessica Leeah re extension to file atty fee mtn
S Koteff	12/14/2020	0.2	\$ 120.00	Draft mtn/order for extension to file atty fee mtn
S Koteff	12/16/2020	0.1	\$ 60.00	Review Order on atty mtn extension
J Decker	1/10/2021	0.7	\$ 420.00	Drafting cost bill.
J Decker	1/10/2021	0.1	\$ 60.00	Drafting cost bill.
J Decker	1/10/2021	0.8	\$ 480.00	Drafting cost bill.
J Decker	1/12/21	0.1	\$ 60.00	Email to J. Leeah and L. Harrison re extension to file motion for attorney fees and cost bill.
J Decker	1/13/21	0.1	\$ 60.00	Emails with J. Leeah and L. Harrison re extension to file motion for attorney fees and cost bill.
J Decker	1/13/21	0.6	\$ 360.00	Drafting unopposed motion and proposed order for extension to file motion for attorney fees and cost bill.
J Decker	1/13/21	0.3	\$ 180.00	Finalizing, filing, and serving unopposed motion and proposed order for extension to file motion for attorney fees and cost bill.
S Koteff	1/26/21	2.0	\$ 1,200.00	Research attorneys' fees cases re reasonableness of rates, prevailing party status
J Decker	1/26/21	0.1	\$ 60.00	Revising cost bill.

Timekeeper	Date	Hours (.10 hr)	Amount	Description
S Koteff	1/27/21	4.5	\$ 2,700.00	Draft attorneys' fees mtn/memo
J Decker	1/28/21	0.8	\$ 480.00	Revising attorney fees motion and supporting memorandum.
S Koteff	1/28/21	5.5	\$ 3,300.00	Draft affidavit, finalize attorneys' fees mtn/memo; review affiants' statements in support of motion
J Decker	1/28/21	1.0	\$ 600.00	Drafting affidavit in support of attorney fees motion.
J Decker	1/28/21	0.3	\$ 180.00	Finalizing affidavit in support of attorney fees motion.
J Decker	1/28/21	1.0	\$ 600.00	Drafting proposed order granting motion for attorney fees and costs; reviewing attorney fees motion and supporting memorandum.
Total Time & Amount		194.7	\$ 116,790.00	

Time after 5% discount 184.9
Amount after 5% discount \$ 110,950.50