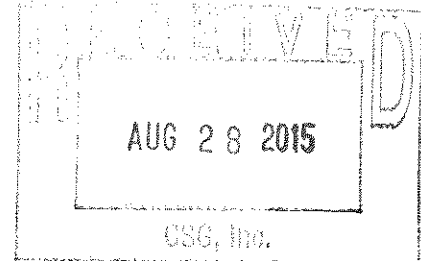


August 21, 2015

Ruth Meier, Clerk of Court
Alaska Trial Courts
101 Lacey Street
Fairbanks, Alaska 99701



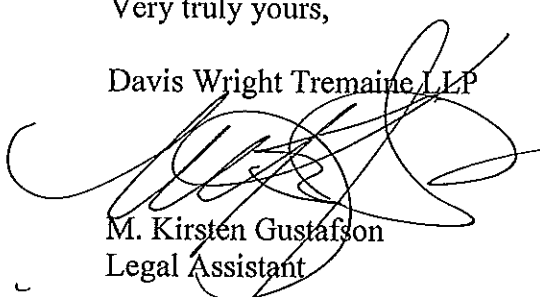
Re: *Tok Community Umbrella Corporation v. Tok Chamber of Commerce*;
Case No. 4FA-15-1930 CI

Dear Ms. Meier:

Enclosed for filing are the following documents: *Motion for Reconsideration; Memorandum in Support of Third-Party Defendant's Motion for Reconsideration; (proposed) Order Granting Third-Party Defendant's Motion for Reconsideration; Unopposed Motion for Extension of Time and [Proposed] Order*. Also enclosed are an extra copy of each document for conforming and a return envelope.

Very truly yours,

Davis Wright Tremaine LLP


M. Kirsten Gustafson
Legal Assistant

Enclosures

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

TOK COMMUNITY UMBRELLA)
CORPORATION (as represented by the)
Board who contends they were not removed)
from office by the membership),)

Plaintiff,)

vs.)

TOK CHAMBER OF COMMERCE, INC.,)

Defendant.)

TOK COMMUNITY UMBRELLA)
CORPORATION (as represented by the)
Board elected on July 9, 2015),)

Third-Party Plaintiff,)

vs.)

TOK COMMUNITY UMBRELLA)
CORPORATION (TCUC) (as represented by)
the Board who contends they were not)
removed from office by the membership),)

Third-Party Defendant.)

Case No. 4FA-15-1930 CI


MOTION FOR RECONSIDERATION

Third-Party Defendant Tok Community Umbrella Corporation (as represented by the Board who contends they were not removed from office by the membership) ("TCUC I"), pursuant to Alaska R. Civ. P. 77(k), hereby submits its Motion for Reconsideration of the Court's August 17, 2015 Order ("Order") granting Tok Community Umbrella

1 Corporation's (as represented by the Board elected on July 9, 2015) ("TCUC II")
2 "Motion to Substitute [TCUC II] for Lisa Conrad and to Correct the Caption to Reflect
3 the Actual Status of the Plaintiff/Third Party Defendant" ("Motion to Substitute"). This
4 motion is supported by the Memorandum in Support filed herewith and the pleadings and
5 record herein.

6 DATED this 25th day of August, 2015.

7 DAVIS WRIGHT TREMAINE LLP
8 Attorneys for Tok Community Umbrella
9 Corporation

10 By: 
for Elizabeth P. Hodes, ABA #0511108

11 Certificate of Service

12 On the 25th day of August, 2015, a true and
13 correct copy of the foregoing document was sent
14 by U.S. Mail, postage paid to the following parties:

15 Zane D. Wilson
16 Cook Schuhmann & Groseclose, Inc.
17 (714 Fourth Ave. Ste. 200)
18 P.O. Box 70810
19 Fairbanks, AK 99707-0810

20 Heidi M. Holmes
21 Burns & Associates, PC
100 Cushman St., Ste. 311
Fairbanks, AK 99701

By: 
M. Kirsten Gustafson

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

TOK COMMUNITY UMBRELLA
CORPORATION (as represented by the
Board who contends they were not
removed from office by the membership),

Plaintiff,

vs.

TOK CHAMBER OF COMMERCE, INC.,

Defendant.

TOK COMMUNITY UMBRELLA
CORPORATION (as represented by the
Board elected on July 9, 2015),

Third-Party Plaintiff,

vs.

TOK COMMUNITY UMBRELLA
CORPORATION (TCUC) (as represented by
the Board who contends they were not
removed from office by the membership),

Third-Party Defendant.

Case No. 4FA-15-1930 CI

**MEMORANDUM IN SUPPORT OF THIRD-PARTY DEFENDANT'S
MOTION FOR RECONSIDERATION**

I. INTRODUCTION

Third-Party Defendant Tok Community Umbrella Corporation (as represented by
the Board who contends they were not removed from office by the membership) ("TCUC

1 I”) submits this memorandum pursuant to Alaska R. Civ. P. 77(k) in support of its
2 Motion for Reconsideration of the Court’s August 17, 2015¹ Order (“Order”) granting
3 Tok Community Umbrella Corporation’s (as represented by the Board elected on July 9)
4 (“TCUC II”) *“Motion to Substitute [TCUC II] for Lisa Conrad and to Correct the*
5 *Caption to Reflect the Actual Status of the Plaintiff/Third-Party Defendant”* (“Motion to
6 Substitute”).

7 TCUC I believes the Order: (a) denied TCUC I procedural due process because it
8 was issued before the time period had elapsed for TCUC I to file a motion for oral
9 argument; (b) overlooked the significant and incongruous impact of the TCUC
10 corporation suing itself, including the potential use of corporate funds by the new
11 “trustee” to maintain Conrad’s lawsuit; and (c) threatens to disrupt the status quo before
12 the validity of the TCUC I Board is litigated. TCUC I respectfully requests the Court
13 either reconsider its Order, or permit TCUC I to file a request for oral argument on the
14 underlying motion, and hear oral arguments, before issuing a subsequent order.

15 II. RELEVANT FACTUAL AND PROCEDURAL HISTORY

16 TCUC II filed its Motion to Substitute on July 23. Although TCUC I’s Opposition
17 was originally due August 5, a mutually agreed-upon extension made TCUC I’s
18 Opposition due August 12.² TCUC I timely served its opposition to TCUC II on August
19 10, and it was filed in the Court on August 12. Under the applicable civil rules, TCUC

20 ¹ Hereafter, all dates referenced occurred in 2015 unless otherwise noted.

21 ² TCUC I has filed herewith an unopposed motion for an extension of time to file its opposition to TCUC II’s Motion for Substitution.

1 II's deadline for replying to TCUC I's opposition would have been due August 20, and
2 TCUC I would have had until August 27 to file a request for oral argument. Rule 77(d),
3 (e), respectively. The Court, however, issued an Order granting TCUC's Motion to
4 Substitute on August 17, prior to the deadline for: (a) TCUC II to submit a reply; and/or
5 (b) TCUC I to submit a request for oral argument. Moreover, the Order only: (a)
6 substituted TCUC II for Conrad; (b) stated that TCUC II shall act as trustee of TCUC
7 until final adjudication; and (c) amended the case caption.

8 III. LEGAL ARGUMENT

9 TCUC I's motion for reconsideration is timely filed with the Court having been
10 brought within ten days after the ruling. Rule 77(k). A motion for reconsideration must
11 set forth the grounds for reconsideration and designate what the moving party seeks the
12 court to reconsider. Rule 77(k)(2). TCUC I urges the Court to reconsider its Order on
13 grounds that it "*overlooked or misconceived some material fact or proposition of law . . .*
14 *[or] a material question in the case[.]*" Rule 77(k)(1)(ii)(iii). TCUC I further urges the
15 Court to consider the advancement of judicial economy, procedural fairness and sound
16 corporate governance in ruling on its motion for reconsideration.

17 As noted, the Court's departure from the timetable set forth in Rule 77 has
18 deprived TCUC I of its procedural right to file a request for oral argument. And because
19 the Court issued its Order before the deadline for TCUC II's reply, TCUC II's position on
20
21

1 the issues raised in TCUC I's opposition remains unknown. Oral argument is necessary
2 to determine both parties' position on the remaining issues.

3 The Order substituting TCUC II as a named Third-Party Plaintiff also lacks
4 guidance on the nature and extent of trustee power granted to TCUC II for the
5 Corporation.³ This leaves open whether TCUC II may: (a) utilize corporate funds to
6 pursue Lisa Conrad's claims against TCUC I; and/or (b) seek legally privileged material
7 and/or communications between TCUC I and its attorneys/corporate insurer. These are
8 material questions that TCUC I asks be resolved as this lawsuit moves forward. At a
9 minimum, TCUC I believes oral argument will assist the Court in resolution of the issues
10 and clarification of the facts before a final order is issued.

11 Finally, aside from TCUC now being both a Plaintiff and Defendant in this
12 lawsuit, the Order appears to decide that the July 9 Board is authorized to represent the
13 Corporation before a final determination has been made as to whether Theresa Woody, et
14 al. are properly seated Board members. Lisa Conrad was appointed trustee because she
15 was (and remains) the only uncontested Board member. The more appropriate course is
16 to keep her in the trustee capacity to avoid further confusion and litigation in this case, or
17 at the very least, to clarify the limits on the trustee authority provided to TCUC II.

18
19
20 _____
21 ³ Unlike the trustee-related limitations the Court placed on Lisa Conrad at the June 23 hearing,
no limitations were addressed in the Order.


1 IV. CONCLUSION

2 For the reasons provided herein, and based further upon concepts of judicial
3 economy, fairness and the avoidance of expending further resources (by Court/parties) on
4 this action, TCUC I respectfully requests that the Court either reconsider its Order
5 substituting TCUC II as trustee, or permit TCUC I to file a request for oral argument on
6 the underlying motion, and hear oral arguments, before issuing a subsequent order.

7 DATED this 25th day of August, 2015.

8 DAVIS WRIGHT TREMAINE LLP
9 Attorneys for Tok Community Umbrella
Corporation

10 By: 

11  Elizabeth P. Hodes, ABA #0511108

12 Certificate of Service

13 On the 25th day of August, 2015, a true and
correct copy of the foregoing document was sent
by U.S. Mail, postage paid, to the following parties:

14 Zane D. Wilson
Cook Schuhmann & Groseclose, Inc.
15 (714 Fourth Ave., Ste. 200)
P.O. Box 70810
16 Fairbanks, AK 99707-0810

17 Heidi M. Holmes
Burns & Associates, PC
100 Cushman St., Ste. 311
18 Fairbanks, AK 99701

19 By: 

20 M. Kirsten Gustafson

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

TOK COMMUNITY UMBRELLA)
CORPORATION (as represented by the)
Board who contends they were not)
removed from office by the)
membership),)

Plaintiff,)

vs.)

TOK CHAMBER OF COMMERCE,)
INC.,)

Defendant.)

TOK COMMUNITY UMBRELLA)
CORPORATION (as represented by the)
Board elected on July 9, 2015),)

Third-Party Plaintiff,)

vs.)

TOK COMMUNITY UMBRELLA)
CORPORATION (TCUC) (as)
represented by the Board who contends)
they were not removed from office by)
the membership),)

Third-Party Defendant.)

Case No. 4FA-15-1930 CI

ORDER GRANTING THIRD-PARTY DEFENDANT'S
MOTION FOR RECONSIDERATION

This Court, having considered Third-Party Defendant Tok Community Umbrella Corporation's (as represented by the Board who contends they were not removed from

1 office by the membership) ("TCUC I") Motion for Reconsideration of the Court's August
2 17, 2015 Order ("Order") granting Tok Community Umbrella Corporation's (as
3 represented by the Board elected on July 9, 2015) ("TCUC II") *"Motion to Substitute*
4 *[TCUC II] for Lisa Conrad and to Correct the Caption to Reflect the Actual Status of the*
5 *Plaintiff/Third Party Defendant*" ("Motion to Substitute"), and the record and pleadings
6 herein, and considering it fully advised,

7 IT IS HEREBY ORDERED that:

- 8 1. TCUC I's Motion for Reconsideration of the Order is granted;
- 9 2. The [August 17, 2015] Order is set aside; and
- 10 3. TCUC I is permitted to file a request for oral argument pursuant to Alaska
11 R. Civ. P. Rule 77(e).

12 DATED this _____ day of _____, 2015.

13
14
15 _____
Michael P. McConahy
Superior Court Judge
16
17
18
19
20
21

1 Certificate of Service

2 On the 25th day of August, 2015, a true and
3 correct copy of the foregoing document was sent
4 by

☒ U.S. Mail, postage paid
☐ Facsimile
☐ Email

5 to the following parties:

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P.O. Box 70810
Fairbanks, AK 99707-0810

7 Heidi M. Holmes
8 Burns & Associates, PC
100 Cushman St., Ste. 311
Fairbanks, AK 99701

9
10 By: 

M. Kirsten Gustafson

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

TOK COMMUNITY UMBRELLA
CORPORATION (as represented by the
Board who contends they were not removed
from office by the membership),

Plaintiff,

vs.

TOK CHAMBER OF COMMERCE, INC.,

Defendant.

TOK COMMUNITY UMBRELLA
CORPORATION (as represented by the
Board elected on July 9, 2015),

Third-Party Plaintiff,

vs.

TOK COMMUNITY UMBRELLA
CORPORATION (TCUC) (as represented by
the Board who contends they were not
removed from office by the membership),

Third-Party Defendant.

Case No. 4FA-15-1930 CI

UNOPPOSED MOTION FOR EXTENSION OF TIME
AND [PROPOSED] ORDER

Third-Party Defendant Tok Community Umbrella Corporation (as represented by
the Board who contends they were not removed from office by the membership) ("TCUC
I") hereby submits an unopposed motion for extension of time until August 12, 2015 to

1 respond to Third-Party Plaintiff Tok Community Umbrella Corporation's (as represented
2 by the Board elected on July 9, 2015) ("TCUC II") "*Motion to Substitute the Tok*
3 *Community Umbrella Corporation (as Represented by the Board Elected on July 9,*
4 *2015) for Lisa Conrad and to Correct the Caption to Reflect the Actual Status of the*
5 *Plaintiff/Third-Party Defendant*" ("Motion to Substitute"). TCUC I is filing this motion
6 because a stipulation for an extension of time was not filed by TCUC I's counsel in early
7 August 2015. Undersigned counsel certifies that she discussed this matter with Zane
8 Wilson, counsel for TCUC II, prior to TCUC I's opposition being due, and Mr. Wilson
9 did not oppose TCUC I's motion for an extension of time until August 12, 2015.¹

10 DATED this 25th day of August, 2015.

11 DAVIS WRIGHT TREMAINE LLP
12 Attorneys for Tok Community Umbrella
Corporation

13 By: 

14 Elizabeth P. Hodes, ABA #0511108
15 

16
17
18
19
20
21 ¹ See attached Exhibit A.

Davis Wright Tremaine LLP
LAW OFFICES
188 West Northern Lights Blvd., Ste. 1100
Anchorage, Alaska 99503-3985
(907) 257-5300 • Fax: (907) 257-5399

[PROPOSED] ORDER

IT IS SO ORDERED, TCUC I shall have until August 12, 2015, to file its
opposition to TCUC II's Motion to Substitute.

DONE this _____ day of _____, 2015.

Michael P. McConahy, Superior Court Judge

Certificate of Service

On the 25th day of August, 2015, a true and
correct copy of the foregoing document was sent
by U.S. Mail, postage paid, to the following parties:

Zane D. Wilson
Cook Schuhmann & Groseclose, Inc.
(714 Fourth Ave., Ste. 200)
P.O. Box 70810
Fairbanks, AK 99707-0810

Heidi M. Holmes
Burns & Associates, PC
100 Cushman St., Ste. 311
Fairbanks, AK 99701

By: 
M. Kirsten Gustafson

Hodes, Elizabeth

From: Zane Wilson <zane@alaskalaw.com>
Sent: Tuesday, August 04, 2015 9:47 AM
To: Hodes, Elizabeth
Cc: Niki L. Lightly; tom@twickwire.com
Subject: RE: Conrad re: Tok Community Umbrella Corp (TCUC)

Yes, that is fine.

From: Hodes, Elizabeth [<mailto:ElizabethHodes@dwt.com>]
Sent: Tuesday, August 04, 2015 8:50 AM
To: Zane Wilson
Cc: Niki L. Lightly; tom@twickwire.com
Subject: RE: Conrad re: Tok Community Umbrella Corp (TCUC)

Hi Zane,

Yes, I agree to the extension. I would likewise appreciate an extension to August 12 to file our response to your Motion to Substitute the TCUC as Represented by the Board Elected on July 9 for Lisa Conrad and to Correct the Caption. Please confirm as soon as possible whether you agree to extend us the courtesy.

Thank you,
Liz

Elizabeth P. Hodes | Davis Wright Tremaine LLP
188 West Northern Lights Blvd, Suite 1100 | Anchorage, AK 99503
Tel: (907) 257-5337 | Fax: (907) 257-5399
Email: elizabethhodes@dwt.com | Website: www.dwt.com

Anchorage | Bellevue | Los Angeles | New York | Portland | San Francisco | Seattle | Shanghai | Washington, D.C.

Disclaimer: This message may contain confidential communications protected by the attorney client privilege. If you received this message in error, please delete it and notify the sender.

From: Zane Wilson [<mailto:zane@alaskalaw.com>]
Sent: Monday, August 03, 2015 11:24 AM
To: tom@twickwire.com; Hodes, Elizabeth
Cc: Niki L. Lightly
Subject: Conrad re: Tok Community Umbrella Corp (TCUC)

Dear Ms Hodes:

I have been very busy and unable to address the TCUC submission re: July 9 Election. I request an extension to oppose this filing until the close of business on August 12, 2015. Your prompt response is appreciated.

Thanks.

Zane D. Wilson
CSG, Inc.
714 Fourth Avenue, Suite 200
Fairbanks, AK 99701

907/452-1855 FAX 907/452-8154
zane@alaskalaw.com

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