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

CRUISE LINES INTERNATIONAL  
ASSOCIATION ALASKA, *et al.*,

Plaintiffs,

v.

THE CITY AND THE BOROUGH OF JUNEAU,  
ALASKA, *et al.*,

Defendants.

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

**CRUISE LINES INTERNATIONAL  
ASSOCIATION'S OBJECTIONS AND  
RESPONSES TO CBJ'S SECOND SET OF  
INTERROGATORIES TO CRUISE  
LINES INTERNATIONAL  
ASSOCIATION**

Pursuant to Fed. R. Civ. P. 26(b)(1) and 33, Cruise Lines International Association ("CLIA"), by and through undersigned counsel, responds to CBJ's Second Set of Interrogatories to Cruise Lines International Association.

**OVERARCHING OBJECTIONS**

I. In accordance with Fed. R. Civ. P. 26-36, CLIA objects to and declines to be bound by the "INSTRUCTIONS" and "DEFINITIONS" to the extent they exceed the Federal Rules of Civil Procedure and/or purport to require of CLIA more than the Federal Rules of Civil Procedure require.

In particular, but in no way limiting CLIA's overarching objections, CLIA objects to and declines to be bound by the following:

- A. *CBJ's Interrogatory instruction F.* CLIA objects to this instruction as outside the scope of Fed. R. Civ. P. 26 and 33. CLIA will produce a privilege log with the information required by Fed. R. Civ. P. 26(b)(5)(A).
- B. *CBJ's Interrogatory instruction E.* CLIA objects to this instruction as compound and violative of the 25-interrogatory rule in the Federal Rules and the D. Alaska Local Civil Rules.
- C. *CBJ's Interrogatory instruction D and Interrogatory definition of "Document."* CLIA objects to CBJ's instruction as containing a requirement not contained in the Federal Rules or in any agreement between the parties: that "Document shall be free of electronic usage restrictions of any type, including, without limitation, time, date, organization, corporate, office, site, domain, users, printing, deleting, forwarding, viewing, copying, opening, password (provide), properties or metadata." CLIA will produce documents in a format that adheres to the parties' agreement in the Scheduling and Planning Conference Report ("Rule 26(f) Report") (ECF No. 43, filed 12/08/16). CLIA further objects to this instruction and its competing definition as duplicative and inconsistent.
- D. *CBJ's Interrogatory instruction C.* CLIA objects to this instruction to the extent it suggests that proper relief for a failure to supplement is necessarily exclusion of evidence, particularly but not solely in the event that CBJ otherwise possessed or had access to the relevant information or documents.
- E. *CBJ's Interrogatory instruction B.* CLIA objects to this instruction to the extent its request for "information and documents known or available to you, your employer, agents, attorneys, investigators, representatives and consultants" is outside the scope of information and

documents covered by Fed. R. Civ. P. 26 and 33 and to the extent it requests privileged information and documents.

F. *CBJ's Interrogatory definition of "Plaintiffs."* CLIA objects to this definition because it contains cruise lines who are members of CLIA. The cruise line members of CLIA are not plaintiffs in this litigation. CLIA further objects to this definition insofar as "Plaintiffs" is defined as any person except for CLIA and Cruise Lines International Association Alaska ("CLIAA").

II. The maximum number of interrogatories that CBJ can pose, including all discrete subparts, is twenty-five. Fed. R. Civ. P. 33(a); LCvR 33.1. CBJ's first set of interrogatories exceeded this limitation. As set forth in CLIA's Overarching Objections to CBJ's first set of interrogatories: (a) Interrogatory No. 1 constituted no fewer than four interrogatories; (b) Interrogatory No. 3 constituted no fewer than two interrogatories; and (c) Interrogatory Nos. 4, 5, 6, 7, 8, and 9 (which related to any denials made by CLIA in response to CBJ's Requests for Admissions 8, 9, 10, 11, 12, and 13) constituted no fewer than three interrogatories each, without even accounting for the fact that the tables found in Requests for Admissions 8, 9, 10, 11, 12, and 13 are compound requests, containing multiple data points in unsourced tables and requiring their own discrete, separate inquiries and admissions or denials. For example, the table in Request for Admission 8 seeks CLIA's affirmance or denial of 135 separate data points. The table in Request for Admission 9 seeks CLIA's affirmance or denial of 440 separate data points. If CLIA denied just twenty-three of the 135 separate inquiries of Request for Admission 8, CBJ's Interrogatories exceed the limits set forth in the Federal Rules.

III. CLIA submits these responses without conceding the relevancy or materiality of the subject matter of any request and without prejudice to CLIA's right to object to further discovery or to the admissibility of any additional proof on the subject matter of any response at the time of trial.

IV. CLIA's responses and objections are based on information currently known to CLIA. CLIA reserves the right to supplement its responses as its investigation and discovery continues; CLIA, however,

assumes no obligation to supplement its responses beyond that imposed by the Federal Rules of Civil Procedure or court orders.

### OBJECTIONS AND RESPONSES TO INTERROGATORIES

**INTERROGATORY NO. 20:** Please explain in complete detail the factual basis for the allegation in Paragraph 2 of your First Amended Complaint that: “The entry fees assessed out-of-state cruise visitors are used by CBJ to pay for projects that bear no relationship to costs imposed by cruise visitors or services provided by CBJ to cruise ships calling in Juneau,” stating in detail what are the costs imposed by cruise visitors or services provided by CBJ to cruise ships calling in Juneau, and identifying each and every project that you contend bears “no relationship” to those costs, and identify by name, address and telephone number all persons who can testify to the factual basis you provide in your Response.

This Interrogatory applies to all the years for which you are claiming the “entry fees” are “excessive and illegal under federal constitutional and statutory protections,” as alleged in paragraph 3 of your First Amended Complaint.

**RESPONSE:** CLIA objects to this Interrogatory as irrelevant because it misstates CLIA’s legal argument by quoting only a portion of First Amended Complaint paragraph 2. CLIA further objects to this Interrogatory because it calls for a legal conclusion. CLIA further objects to this Interrogatory because it calls for and may be the subject of expert testimony. CLIA further objects to this Interrogatory as containing multiple parts (constituting four separate interrogatories), thus exceeding the limits on interrogatories set forth in the Federal Rules. Specifically, this Interrogatory requests that CLIA identify: (1) the costs imposed by cruise visitors; (2) services provided by CBJ to cruise ships calling in Juneau; (3) identifying by name, address, and phone number all persons who can testify to subjects (1) and (2); and (4) which of the services in (3) provided by CBJ bear no relationship to (1). CLIA further objects to this Interrogatory because it is overly broad and unduly burdensome, essentially requiring CLIA to list each and every fact that it would ultimately present at a multi-day trial on the merits in response to a single interrogatory. CLIA further objects to this Interrogatory as unduly burdensome and beyond the scope of allowable discovery under Federal Rule 26(a) because it seeks information on the costs imposed on CBJ by cruise vessels and the costs to CBJ for providing services to cruise vessels – information that is within CBJ’s control and to which CBJ has better access than CLIA.

**INTERROGATORY NO. 23:** Please identify each and every project for which CBJ expended revenues collected from the entry fees referenced in paragraph 2 of your First Amended Complaint that do not have “the legally required relationship to services or facilities provided to cruise ships,” as alleged in paragraph 2 of your First Amended Complaint, and explain in detail how and why each project does not have “the legally required relationship to services or facilities provided to cruise ships,” and identify by name, address and telephone number all persons who can testify to the factual basis you provide in your Response.

This Interrogatory applies to all the years for which you are claiming the “entry fees” are “excessive and illegal under federal constitutional and statutory protections,” as alleged in paragraph 3 of your First Amended Complaint.

**RESPONSE:** CLIA objects to this Interrogatory because it calls for a legal conclusion. CLIA further objects to this Interrogatory because it calls for and may be the subject of expert testimony. CLIA further objects to this Interrogatory as containing multiple parts (constituting four separate interrogatories), thus exceeding the limits on interrogatories set forth in the Federal Rules. Specifically, this Interrogatory requests that CLIA identify: (1) the costs imposed by cruise visitors; (2) services provided by CBJ to cruise ships calling in Juneau; (3) identifying by name, address, and phone number all persons who can testify to subjects (1) and (2); and (4) which of the services in (3) provided by CBJ bear no relationship to (1). CLIA further objects to this Interrogatory because it is overly broad, unduly burdensome, and calls for CLIA to propound a factual response that is, at root, essentially irrelevant to the primary legal issues in this case, which include, among others, whether entry fees levied on cruise vessels are a fair or reasonable approximation of the costs imposed on CBJ by those cruise vessels. Certain of the entry fee revenues are transferred into a general operating account or budget while others are earmarked for and used to fund specific CBJ projects, departments, and enterprise operations that lack the requisite legal relationship to cruise vessels and cruise vessel passengers. This method of handling entry fees, as well as the ultimate disposition of those entry fees, is unlawful.

Subject to and without waiving these objections and CLIA’s Overarching Objections, CLIA states that it does not possess information necessary to formulate a final response to all elements of this Interrogatory in full, as information relevant to CLIA’s response is in the possession of CBJ and is likely to be the subject of written and oral discovery issued by CLIA. CLIA states that a non-exhaustive list of unlawful CBJ expenditures include those expenditures listed in paragraphs 26 and 27(a)-(f) of the First

Amended Complaint. Without limiting the foregoing, CLIA states that one example of CBJ's use of entry fees to fund projects that have no relationship to any costs imposed on CBJ by cruise visitors and vessels is CBJ's use of entry fee revenues to fund a man-made recreational island, elevated walkways, and infrastructure to support a whale statue nearly a mile away from the cruise ship docks. These projects and their attendant costs are elective civic improvements. They do not offset costs imposed by vessels on CBJ. They bear no relationship to any costs imposed on CBJ by cruise vessels.

Without waiver of CLIA's right to identify additional persons to testify regarding the subject-matter of this Interrogatory, CLIA states that John Binkley (identified in CLIA's Initial Disclosures, served 12/12/16) can testify to the substance of CLIA's response set forth herein. CLIA further identifies representatives of CBJ, including but not limited to CBJ's Finance Director and/or former Finance Directors, CBJ's City Manager and/or former City Managers, and persons within CBJ and its respective departments and enterprise operations, including but not limited to Docks and Harbors, Juneau Police Department, Capital City Fire & Rescue, Bartlett Regional Hospital, Juneau International Airport, Parks and Recreation, Public Works, Community Development, Juneau Convention and Visitors Bureau, and the City Manager's Office, that have knowledge of the use of fees collected from vessel interests by such departments or enterprise operations and the costs of same to CBJ as persons who can testify to the factual basis of any costs imposed on CBJ by vessels. CLIA does not waive its right to further respond to this Interrogatory and/or identify additional persons to testify regarding the subject matter of this Interrogatory.

**INTERROGATORY NO. 24: Please explain in complete detail why no "Cruise Lines" referenced in paragraph 22 of your First Amended Complaint invoked the protest and appeal process provided by CBJ to the "Cruise Lines" in CBJ Code 69.20.100, and identify by name, address and telephone number all persons who can testify to the factual basis you provide in your Response.**

**RESPONSE:** CLIA objects to this Interrogatory because it calls for or assumes a legal conclusion. CLIA further objects to this Interrogatory to the extent it requests information that is not in the possession, custody, or control of CLIA. CLIA further objects to this Interrogatory to the extent that it calls for privileged information. CLIA further objects to this Interrogatory as containing multiple parts

(constituting two separate interrogatories), thus exceeding the limits on interrogatories set forth in the Federal Rules. Specifically, this Interrogatory requests that CLIA identify: (1) why no cruise lines invoked the CBJ protest and appeal process and (2) all persons who can testify to the same.

Subject to and without waiving these objections and CLIA's Overarching Objections, CLIA states that CLIA has consistently objected to CBJ's proposed and actual uses of the entry fee revenues that CLIA considers violative of federal constitutional and statutory prohibitions governing the uses of such fees. Despite CLIA's objections, CBJ has continued to use the entry fee revenues for projects and services that do not bear the legally required relationship to cruise vessels and their passengers.

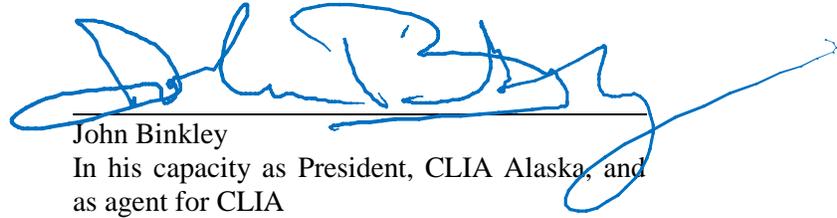
Without waiver of CLIA's right to identify additional persons to testify regarding the subject-matter of this Interrogatory, CLIA states that John Binkley (identified in CLIA's Initial Disclosures, served 12/12/16) can testify to the substance of CLIA's response set forth herein. CLIA does not waive its right to further respond to this Interrogatory and/or identify additional persons to testify regarding the subject matter of this Interrogatory.

**INTERROGATORY NO. 25:** Please provide the total expense for each and every "Cruise Lines" referenced in paragraph 21 of your First Amended Complaint to collect the Entry Fees and remit them to CBJ, including but not limited to the "accounting and recordkeeping obligations on the Cruise Lines," alleged in paragraph 21 of your First Amended Complaint, and in detailing the total expense for each "Cruise Lines," state how much of that expense is included in the ticket price for each passenger of each "Cruise Lines," and how each "Cruise Lines" determined the amount of the expense to charge each passenger per ticket, and identify by name, address and telephone number all persons who can testify to the factual basis you provide in your Response.

This Interrogatory applies to all the years for which you are claiming the "entry fees" are "excessive and illegal under federal constitutional and statutory protections," as alleged in paragraph 3 of your First Amended Complaint.

**RESPONSE:** Object. See Rule 33(a)(1); see also Overarching Objections above. By asserting the foregoing objection and CLIA's Overarching Objections, CLIA does not waive and specifically preserves all other objections to this Interrogatory.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on this 17 day of January, 2017.



John Binkley  
In his capacity as President, CLIA Alaska, and  
as agent for CLIA

DATED: January 17, 2017

By: /s/ C. Jonathan Benner

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