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Attorneys for Plaintiff Jennifer Fletcher

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Jennifer Fletcher,

Plaintiff,

vs.

State of Alaska,

Defendant.

Case No. 1:18-cv-00007-HRH

**DECLARATION OF ERIC CROFT IN SUPPORT OF PLAINTIFF'S MOTION
FOR ATTORNEY'S FEES AND EXPENSES**

Fletcher v. Alaska, No. 1:18-cv-00007-HRH

I, Eric Croft, do hereby declare as follows:

1. I am more than eighteen (18) years of age, have personal knowledge of the facts set forth herein, and am otherwise competent to testify to the matters set forth herein.

2. I am a partner at Croft Law Office, and counsel for Plaintiff Jennifer Fletcher in this litigation. I make this declaration in support of Plaintiff's Motion for Attorney's Fees and Expenses.

3. I earned my undergraduate degree from Stanford University and graduated from Hastings College of Law in 1992. After graduation, I clerked for the Honorable James Fitzgerald in the United States District Court for the District of Alaska from 1992-1993, and for Alaska Supreme Court Justice Allen Compton from 1993-1994. After my clerkships, I worked as an associate at Hedand, Brennan & Heideman from 1994-1996. I was also the founder and president of Alaska Bar Review, now an affiliate of Bar/Bri, from 1996-2014. I am admitted to practice in state and federal courts in Alaska.

Attached as Exhibit A is a true and correct copy of my resume.

4. Since 2010, I have practiced law at Croft Law Office, where my practice focuses on work-related injuries. My representative legal experience includes the following Alaska Supreme Court cases: *Traugott v. ARCTEC*, Opinion No. 7456 (June 12, 2020) (remote worker awarded benefits despite pre-existing condition that made him more susceptible to work-place infection); *Warnke-Green v. Pro-West Contractors*, 440 P.3d 283 (Alaska 2019) (paralyzed worker awarded cost of modified van and full attorney fees); *Unisea v. Morales*, 435 P.3d 961 (Alaska 2019) (worker awarded penalty for late payment

of benefits); *Harris v. Millennium Hotel*, 330 P.3d 330 (Alaska 2014) (unmarried same-sex partner of employee killed at work awarded death benefits, ruling contrary provisions of the workers' compensation law unconstitutional); *Adamson v. MOA*, 333 P.3d 5 (Alaska 2014) (firefighter awarded benefits based on substantial compliance with requirements of new firefighter presumption); *MOA v. Adamson*, 301 P.3d 569 (Alaska 2013) (firefighter awarded medical benefits pending appeal).

5. As noted above, my experience includes civil rights litigation. I previously co-counseled with Peter Renn of Lambda Legal Defense and Education Fund (“Lambda Legal”) to litigate the *Harris* case on behalf of the surviving same-sex partner of an employee who was killed at work. At the time, same-sex couples were excluded from marriage, and the Alaska Supreme Court held that denying them access to death benefits that were provided to spouses violated the Alaska Constitution. 330 P.3d at 330.

6. I have also held multiple public offices. I served as a representative in the Alaska House of Representatives from 1997-2006, as a member of the Anchorage Municipal Assembly from 2016-2019, and as a member of the Anchorage School Board from 2013-2016. I also served as Anchorage municipal prosecutor from 2007-2008.

7. I worked closely with my co-counsel at Lambda Legal to represent Ms. Fletcher in this case. Neither Croft Law Office nor Lambda Legal charged Ms. Fletcher, and there was a risk that we would not recover fees for our legal services. Despite the merit of Ms. Fletcher's legal claim, I also recognized based on my political experience that some could view her requested relief—publicly funded coverage of gender-

confirming surgical care for transgender people—as politically unpopular, which could therefore deter other local counsel from undertaking representation.

8. In light of Lambda Legal’s subject matter expertise, and my knowledge of local practice, we divided responsibilities to be as efficient as possible and to take advantage of the expertise and experience of each attorney. Lambda Legal’s representation of Ms. Fletcher was essential to the success achieved in the case, and I am not aware of any other attorney in Alaska who possessed an appropriate level of subject matter expertise to prosecute the case without partnering with out-of-state counsel.

9. I am seeking fees for 26.1 hours of work on this case. Attached as Exhibit B is a true and correct copy of the task-based itemized charges for my time in this case, which I have reviewed and approved. The entries are based on contemporaneous recordings of time. I exercised billing judgment to ensure that the time spent was reasonable and necessary under the circumstances. As part of that process, I eliminated unnecessary, duplicative, and excessive time. I have also discounted or eliminated certain entries for which fees could be appropriately sought. For example, I have not sought fees for the time spent by another attorney in my office in connection with this case.

10. The hours expended by Lambda Legal attorneys Tara Borelli and Peter Renn in this case, as detailed in their time records attached to their declarations, were also reasonable and necessary, particularly to achieve the degree of success attained in the case.

11. Based on my legal experience, the hourly rates sought in Plaintiff’s motion (\$400/hour for me, \$375/hour for Tara Borelli, and \$325/hour for Peter Renn) are in line

with prevailing market rates in this jurisdiction for comparable legal work by comparable attorneys. I have also been awarded \$400/hour by other Alaska courts. *Warnke-Green*, 440 P.3d at 292-93.

12. I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: August 28, 2020

/s/ Eric Croft (consent)
Eric Croft

CERTIFICATE OF SERVICE

I hereby certify that on August 28, 2020, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, causing a copy of the foregoing document and all attachments to be served on all counsel of record.

/s/ Peter C. Renn

Peter C. Renn (admitted *pro hac vice*)
Tara L. Borelli (admitted *pro hac vice*)
Eric Croft (Alaska Bar No. 9406031)

Attorneys for Plaintiff Jennifer Fletcher

EXHIBIT A

Eric Croft
Croft Law Office
738 H Street
Anchorage, Alaska 99501
(907) 272-3508

CURRENT EMPLOYMENT:

Partner	Croft Law Office	1/2012-Present
Attorney		3/2010-12/2011

Eponymous legal practice limited to work-related injuries.

ALASKA SUPREME. COURT CASES:

Traugott v. ARCTEC, Opinion No. 7456 (June 12, 2020). Remote worker awarded benefits despite pre-existing condition that made him more susceptible to work-place infection.

Warnke-Green v. Pro-West Contractors, 440 P.3d 283 (Alaska 2019). Paralyzed worker awarded cost of modified van and full attorney fees.

Unisea v. Morales, 435 P.3d 961 (Alaska 2019). Worker awarded penalty for late payment of benefits.

Harris v. Millenium Hotel, 330 P.3d 330 (Alaska 2014). Unmarried same-sex partner of employee killed at work awarded death benefits, ruling contrary provisions of the workers' compensation law unconstitutional.

Adamson v. MOA, 333 P.3d 5 (Alaska 2014). Firefighter awarded benefits based on substantial compliance with requirements of new Firefighter presumption.

MOA v. Adamson, 301 P.3d 569 (Alaska 2013). Firefighter awarded medical benefits pending appeal.

PRIOR EMPLOYMENT:

Member	Anchorage Municipal Assembly	4/2016-4/2019
Chair		1/2019-4/2019

Member	Anchorage School Board	4/2013-4/2016
President		4/2014-4/2015

Candidate for Mayor	Municipality of Anchorage	12/2008-6/2009
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Prosecutor	Municipality of Anchorage	2/2007-12/2008
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Managed misdemeanor general trial caseload from initial charging decision to change of plea or trial.
Litigated ten misdemeanor jury trials to guilty verdicts.

Candidate for Governor	State of Alaska	2/2006-9/2006
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LEGISLATIVE EXPERIENCE:

Representative	Alaska State House of Representatives	1997-2006
Member	House Judiciary Committee	1997-2000
Member	House Finance Committee	2001-2006

Represented Downtown and Spenard Anchorage in the Alaska State House for 10 years.

LEGISLATIVE BILLS:

HB 241	Alaska Pioneers' Dignity Act	Chapter 101 SLA 97
HB 69 (w/ Rep. Rokeberg)	Local Control of Problem Bars	Chapter 74 SLA 99
HB270	Sexual Assault Exams	Chapter 57 SLA 00
HB 348	Domestic Violence Restraining Orders	Chapter 113 SLA 02
HB 102	Alaska Constitutional Carry Law	Chapter 62 SLA 03
SB 12 (w/ Sen. Dyson)	Prohibit Sex-Tourism Advertising	Chapter 72 SLA 06

PUBLIC INITIATIVE LAWS:

Wrote three public initiatives. Coordinated the certification process from signature gathering through public vote. Two of the three were passed and enacted into law.

US Senate Vacancies filled by Election not Appointment

Measure #4	2004 General Election	55.6% Yes / 44.4% No
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Restoring \$500 Campaign Contribution Limits and Disclosures

Measure #1	2006 Primary Election	73.0% Yes / 27% No
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Alaska Gas Pipeline Incentive Act

Measure #2	2006 General Election	34.6% Yes / 65.4% No
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PRIOR LEGAL EMPLOYMENT:

Associate	Hedland, Brennan & Heideman	1994-1996
Clerk to Justice Allen Compton	Alaska Supreme Court	1993-1994
Clerk to Judge James Fitzgerald	U.S. District Court for Alaska	1992-1993

Founder and President	Alaska Bar Review	1996-2014
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Started and ran successful bar review preparatory business. Wrote the Alaska materials, hired local lecturers and conducted all aspects of the business. Alaska Bar Review is now an affiliate of Bar/Bri.

EDUCATION:

Juris Doctor	Hastings College of the Law	1989-1992
B.S., Electrical Engineering	Stanford University	1982-1987

OTHER:

Board Member	Blood Bank of Alaska	2011-2015
Board Member	STAR (Standing Together Against Rape)	2001-2009
Member	Alaska Bar Association	#9406031
Member	California Bar Association	#168017 (inactive)

Eric is a long-time and regular blood donor, now on a once-per-month apheresis donation schedule.

Eric's hobbies include bow hunting (theoretical), reading history, and swearing at his outboard engines. He is married to the beautiful Joanna Burke Croft, a founder and majority owner of Burkhart Croft Architects, LLC and has two brilliant children, Shannon (21), who recently graduated from Vassar College with a degree in English, and Burke (18), a rising Sophomore at the University of Chicago.

EXHIBIT B

Activities Export

03/20/2020

11:27 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
03/13/2020		Draft Email: email from TB, email to TB on counsel withdrawal	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
03/09/2020		Draft Email: email from TB, 2x email to TB, email to client re: potential settlement	08105-Fletcher Fletcher	Eric Croft	1.00h	400.00	-	400.00
03/06/2020		Review pleading: SJ order	08105-Fletcher Fletcher	Eric Croft	1.00h	400.00	-	400.00
02/20/2020		Review transcript order form & draft related email: email from TB, email to same, email from same	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
02/19/2020		Attend Legal Proceeding: oral argument on SJ Motion before Judge Holland	08105-Fletcher Fletcher	Eric Croft	1.00h	400.00	-	400.00
02/14/2020		Review File to prepare for moot oral argument	08105-Fletcher Fletcher	Eric Croft	1.30h	400.00	-	520.00
02/14/2020		Prepare for moot oral argument; participate in moot oral argument	08105-Fletcher Fletcher	Eric Croft	2.20h	400.00	-	880.00
02/13/2020		Conf w/ Client: and legal team on case by teleconference	08105-Fletcher Fletcher	Eric Croft	0.60h	400.00	-	240.00
								NO CHARGE
01/03/2020		Prepare for Hearing: evaluate scheduling issues in response to court order	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
					26.10h		\$0.00	\$10,440.00
							0.0h	26.1h

Activities Export

03/20/2020

11:27 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
01/02/2020		Prepare for Hearing: scheduling issues on oral argument before Judge Holland	08105-Fletcher Fletcher	Eric Croft	0.40h	400.00	-	160.00
10/10/2019		Message from: reporter, text to PR on same	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00 NO CHARGE
06/25/2019		Phone call to Tara Borelli on case, incl. revising & finalizing SJ motion	08105-Fletcher Fletcher	Eric Croft	0.40h	400.00	-	160.00
06/24/2019		Phone call to Susan Orlansky, left message for Tara Borelli re: decl. for fees motion	08105-Fletcher Fletcher	Eric Croft	0.40h	400.00	-	160.00
04/11/2019		Conf. w/ E. Croft	08105-Fletcher Fletcher	James Croft	0.20h	275.00	-	55.00 NO CHARGE
04/11/2019		Review discovery: Def's privilege logs, email to Tara B and P Renn re: same	08105-Fletcher Fletcher	Eric Croft	0.50h	400.00	-	200.00
04/11/2019		Prepare for discovery meet & confer; call to P Renn, phone call w/ State & team on discovery, phone call w/ team after	08105-Fletcher Fletcher	Eric Croft	1.50h	400.00	-	600.00
03/15/2019		Draft Email: email to Tara B on draft witness list for filing	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
02/14/2019		Conf w/other than client: telephonic meeting on discovery, phone call to PR and others	08105-Fletcher Fletcher	Eric Croft	1.00h	400.00	-	400.00
					26.10h		\$0.00	\$10,440.00
							0.0h	26.1h

Activities Export

03/20/2020

11:27 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
01/28/2019		Draft Email: compile and send email to Lambda Legal on 2018 activities	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00 NO CHARGE
01/14/2019		Periodic File Review	08105-Fletcher Fletcher	James Croft	0.10h	275.00	-	27.50 NO CHARGE
11/06/2018		Phone call to PR re: case/ settlement status	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
11/05/2018		Draft Email: email from PR & client, email to same, left message for Bill Milks re: settlement status	08105-Fletcher Fletcher	Eric Croft	0.30h	400.00	-	120.00
10/29/2018		Teleconference with client and PR/Tara to discuss possible settlement	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
10/29/2018		Teleconference with AG Bill Milks, K. Dilg, P Renn and Tara to discuss possible settlement	08105-Fletcher Fletcher	Eric Croft	0.50h	400.00	-	200.00
10/27/2018		Teleconference with client JF, P Renn, Tara on State's offer/ negotiations.	08105-Fletcher Fletcher	Eric Croft	0.90h	400.00	-	360.00
10/26/2018		Review email from other: P Renn by text and multiple emails re: possible settlement	08105-Fletcher Fletcher	Eric Croft	0.30h	400.00	-	120.00
08/17/2018		Periodic File Review	08105-Fletcher Fletcher	Eric Croft	0.10h	400.00	-	40.00 NO CHARGE
					26.10h		\$0.00	\$10,440.00
							0.0h	26.1h

Activities Export

03/20/2020

11:27 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
06/27/2018		Review email from P. Renn, left message for Mary Stoll re: health coverage for state union employees	08105-Fletcher Fletcher	Eric Croft	0.30h	400.00	-	120.00
06/14/2018		Review correspondence to client; phone call to P. Renn; email to Mary Stoll	08105-Fletcher Fletcher	Eric Croft	1.40h	400.00	-	560.00
06/07/2018		Review/respond to : email from P. Renn re: potential additional witness	08105-Fletcher Fletcher	Eric Croft	0.20h	400.00	-	80.00
06/06/2018		Review email from ACLU re: case filing, email to team Jennifer	08105-Fletcher Fletcher	Eric Croft	0.80h	400.00	-	320.00
06/06/2018		Phone call to ACLU Alaska re: case filing, phone call & text with P Renn and others	08105-Fletcher Fletcher	Eric Croft	1.20h	400.00	-	480.00
06/05/2018		Research, Legal in regard to case filing, serving as local counsel	08105-Fletcher Fletcher	Eric Croft	2.20h	400.00	-	880.00
06/05/2018		Conf w/ Client: press training	08105-Fletcher Fletcher	Eric Croft	2.30h	400.00	-	920.00 NO CHARGE
06/05/2018		Emails with legal team re: filing complaint.	08105-Fletcher Fletcher	Eric Croft	0.60h	400.00	-	240.00
06/03/2018		Conf w/ Client: 2nd press training	08105-Fletcher Fletcher	Eric Croft	1.00h	400.00	-	400.00 NO CHARGE
06/01/2018		Edit Pleadings: complaint	08105-Fletcher	Eric Croft	0.70h	400.00	-	280.00
					26.10h		\$0.00	\$10,440.00
							0.0h	26.1h

Activities Export

03/20/2020

11:27 AM

Date	Type	Description	Matter	User	Qty	Rate (\$)	Non-billable (\$)	Billable (\$)
			Fletcher					
05/31/2018		Conf w/ Client: press training with client	08105-Fletcher Fletcher	Eric Croft	1.30h	400.00	-	520.00 NO CHARGE
05/30/2018		Prepare email to other: federal court on status of admission, email to P Renn	08105-Fletcher Fletcher	Eric Croft	0.40h	400.00	-	160.00
05/29/2018		Travel: but in Anchorage, to AK Bar Assoc, USDC, AK Bar re: federal court admission; email from P Renn, email to same	08105-Fletcher Fletcher	Eric Croft	1.50h	400.00	-	600.00
05/25/2018		Draft Pleading: application for district court filing registration	08105-Fletcher Fletcher	Eric Croft	0.50h	400.00	-	200.00
05/23/2018		Review email from P Renn, and respond re: co-counsel ag'ment and court admission	08105-Fletcher Fletcher	Eric Croft	0.30h	400.00	-	120.00
05/18/2018		Review and sign: retainer w/ client and letter contract with Lambda Legal	08105-Fletcher Fletcher	Eric Croft	0.50h	400.00	-	200.00
04/25/2018		Preparation for, and participate in, teleconference with Peter Renn and Tara re: co-counseling case	08105-Fletcher Fletcher	Eric Croft	1.60h	400.00	-	640.00
					26.10h		\$0.00 0.0h	\$10,440.00 26.1h