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BY: \_\_\_\_\_

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Attorneys for Defendant  
LEGISLATIVE AFFAIRS AGENCY

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

ALASKA BUILDING, INC., an Alaskan  
corporation,  
  
Plaintiff,

Case No.: 3AN-15-05969CI

v.

716 WEST FOURTH AVENUE, LLC,  
KOONCE PFEFFER BETTIS, INC., d/b/a  
KPB ARCHITECTS, PFEFFER  
DEVELOPMENT, LLC, LEGISLATIVE  
AFFAIRS AGENCY, and CRITERION  
GENERAL, INC.,  
  
Defendants.

**LEGISLATIVE AFFAIRS AGENCY'S MOTION FOR RECONSIDERATION**  
**(of June 16, 2015 Order Denying Motion for Expedited Consideration of Defendant**  
**Legislative Affairs Agency's Motion for Stay of Proceedings)**

Pursuant to Civil Rule 77(k)(1)(ii), Defendant Legislative Affairs Agency (the "Agency") requests that the Court reconsider its June 16, 2015 order denying Defendant Legislative Affairs Agency's Motion for Expedited Consideration of its Motion for Stay

LEGISLATIVE AFFAIRS AGENCY'S MOTION FOR RECONSIDERATION OF THIS COURT JUNE 16, 2015  
ORDER DENYING THE AGENCY'S MOTION FOR EXPEDITED CONSIDERATION OF ITS MOTION TO  
STAY PROCEEDINGS

ALASKA BUILDING, INC. v. 716 WEST FOURTH AVENUE, LLC, et al., Case No. 3AN-15-05969CI

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of Proceedings. The Court based its denial on its belief that “LAA has not complied with ARCP 77(g) 4.” The Agency respectfully submits that the Court appears to have overlooked or misconceived the Agency’s compliance with Civil Rule 77(g)(4). In the alternative, the Agency submits an updated certification to clarify that Mr. Gottstein does not oppose expedited consideration of the motion to stay proceedings, but does oppose the Agency’s request to stay proceedings.

### I. DISCUSSION

The Court denied the Agency’s motion because the Court believed that the Agency failed to comply with Rule 77(g)(4) by failing to certify that its counsel had conferred with opposing counsel regarding its motion for expedited consideration. Page 2 of the Agency’s motion for expedited consideration states:

**Civil Rule 77(g)(4) Certification:** The undersigned counsel certifies that he spoke with opposing counsel, Jim Gottstein, on June 12, 2015, about whether he would oppose the instant motion. Mr. Gottstein stated that he does not oppose this request for expedited consideration, as long as he could get expedited consideration of the Agency’s motion to dismiss or sever.

During the same conversation, as reflected in an email exchange on June 15 (attached as Exhibit A), Mr. Gottstein confirmed that he did oppose the substantive request for a stay of the proceedings. The parties were unable to resolve their dispute concerning the requested stay of the proceedings because Mr. Gottstein wished to keep the proceedings moving and was concerned that the requested stay would hinder that effort. The undersigned counsel certifies that the parties were unable to resolve the issues concerning

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the stay of proceedings, but that the request for expedited consideration is unopposed by Plaintiff.

The Agency requested expedited consideration of its motion to stay proceedings in an effort to conserve the parties' and the Court's time and resources. The Agency has filed a potentially dispositive motion to dismiss Count 1 of the Complaint on standing grounds that will be fully briefed tomorrow. On June 12, 2015 Plaintiff Alaska Building, Inc. filed a motion for partial summary judgment with respect to Count 1 that may be rendered moot if the Agency's motion to dismiss is granted. In light of the fact that standing is a threshold issue, the Court should stay the proceedings as to Count 1 until such time that the Court has ruled on the Agency's Motion to Dismiss. The Court recently granted the Agency's motion to stay discovery as to Count 1, and the same reasons apply to the requested motion to stay proceedings as to Count 1.

## II. CONCLUSION

For the foregoing reasons, the Agency respectfully requests that the Court reconsider its ruling denying the unopposed motion for expedited consideration.

DATED: June 18, 2015

STOEL RIVES LLP

By: 

KEVIN CUDDY

(Alaska Bar #0810062)

Attorney for Defendant

LEGISLATIVE AFFAIRS AGENCY

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**CERTIFICATE OF SERVICE AND OF FONT**

This certifies that on June 18, 2015, a true and correct copy of the foregoing was served via First Class Mail on:

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(Attorney for Plaintiff)

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Seattle, WA 98101  
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Anchorage, AK 99501  
(Attorneys for Defendant 716 West Fourth Avenue, LLC)

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Richmond & Quinn  
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(Attorneys for Defendant Koonce Pfeiffer Bettis, inc. d/b/a KPB Architects)

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(Co-Attorneys for Def/Criterion General, Inc.)

I further certify that this document was substantively produced in Times New Roman 13, in compliance with Alaska Appellate Rule 513.5(c)(1) and Civil Rule 76(a)(3).

  
\_\_\_\_\_  
Debby Allen, Practice Assistant

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**Cuddy, Kevin M.**

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**From:** James B. Gottstein <james.b.gottstein@gottsteinlaw.com>  
**Sent:** Monday, June 15, 2015 1:08 PM  
**To:** Cuddy, Kevin M.  
**Cc:** james.b.gottstein@gottsteinlaw.com  
**Subject:** RE: Motion for Partial Summary Judgment

Hi Kevin,

I remember saying that if you file a motion for expedited consideration for the stay of proceedings motion, I might file a motion for expedited consideration of your motion to dismiss or sever. Would you oppose expedited consideration of your motion?

James B. Gottstein  
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Tel: (907) 274-7686 Fax: (907) 274-9493  
e-mail: James.B. Gottstein@GottsteinLaw.Com

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**From:** Cuddy, Kevin M. [<mailto:kevin.cuddy@stoel.com>]  
**Sent:** Monday, June 15, 2015 10:11 AM  
**To:** James B. Gottstein  
**Subject:** RE: Motion for Partial Summary Judgment

Thanks, Jim.

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**From:** James B. Gottstein [<mailto:james.b.gottstein@gottsteinlaw.com>]  
**Sent:** Monday, June 15, 2015 10:10 AM  
**To:** Cuddy, Kevin M.  
**Cc:** [james.b.gottstein@gottsteinlaw.com](mailto:james.b.gottstein@gottsteinlaw.com)  
**Subject:** RE: Motion for Partial Summary Judgment

Hi Kevin,

I don't remember saying I didn't oppose expedited consideration, but if you say I did, I will accept that. Maybe it is that I have thought about it and it just doesn't seem like the sort of thing for which expedited consideration is warranted.

In any event, if you remember me saying I wouldn't oppose expedited consideration, Okay.

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Tel: (907) 274-7686 Fax: (907) 274-9493

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---

**From:** Cuddy, Kevin M. [mailto:kevin.cuddy@stoel.com]  
**Sent:** Monday, June 15, 2015 10:02 AM  
**To:** James B. Gottstein  
**Subject:** RE: Motion for Partial Summary Judgment

Hi Jim,

Thanks. I'll take a look. As mentioned during our call on Friday, I plan to file a motion to stay proceedings later today and a motion for expedited consideration so that the issue is addressed before our opposition to your partial summary judgment motion would be due. My understanding is that you do not oppose the motion for expedited consideration, but that you do oppose the motion to stay the proceedings. If that's incorrect, please let me know ASAP. I'm going to ask the Court to rule on the motion to stay proceedings by June 22.

Please call me if you have any questions or concerns.

-Kevin

**Kevin M. Cuddy**  
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**From:** James B. Gottstein [mailto:james.b.gottstein@gottsteinlaw.com]  
**Sent:** Friday, June 12, 2015 4:35 PM  
**To:** Cuddy, Kevin M.  
**Cc:** [james.b.gottstein@gottsteinlaw.com](mailto:james.b.gottstein@gottsteinlaw.com)  
**Subject:** Motion for Partial Summary Judgment

Hi Kevin,

I have this niggling feeling that I didn't get the right Exhibit for the Memorandum in Support of Plaintiff's Motion for Partial Summary Judgment (Not Extension), June 12, 2015. It is correct at the link.

BTW, I didn't really file today to ruin your weekend—I wanted to file so that mine wouldn't be. I won't object to a short extension(s); I just want to keep things moving.

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LEGISLATIVE AFFAIRS AGENCY

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

ALASKA BUILDING, INC., an Alaskan  
corporation,

Case No.: 3AN-15-05969CI

Plaintiff,

v.

716 WEST FOURTH AVENUE, LLC,  
KOONCE PFEFFER BETTIS, INC., d/b/a  
KPB ARCHITECTS, PFEFFER  
DEVELOPMENT, LLC, LEGISLATIVE  
AFFAIRS AGENCY, and CRITERION  
GENERAL, INC.,

Defendants.

**[PROPOSED] ORDER GRANTING DEFENDANT LEGISLATIVE AFFAIRS  
AGENCY'S MOTION FOR RECONSIDERATION**  
**(of June 16, 2015 Order Denying Motion for Expedited Consideration of Defendant  
Legislative Affairs Agency's Motion for Stay of Proceedings)**

THIS COURT, having reviewed Defendant Legislative Affairs Agency's (the  
"Agency") Motion for Reconsideration of the June 16, 2015 Order Denying Motion for  
Expedited Consideration of Defendant Legislative Affairs Agency's Motion for Stay of

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Proceedings, any opposition and/or responses thereto, and being duly advised in the premises, this Court finds and ORDERS as follows:

(1) The Agency's Motion for Reconsideration is GRANTED;

(2) Plaintiff's opposition to the motion to stay proceedings shall be due on

\_\_\_\_\_, and any reply brief from the Agency shall be due on

\_\_\_\_\_.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Honorable Patrick McKay  
Superior Court Judge

#### **CERTIFICATE OF SERVICE AND OF FONT**

This certifies that on June 18, 2015, a true and correct copy of the foregoing was served via first class mail on:

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(Attorneys for Def/Criterion General, Inc.)



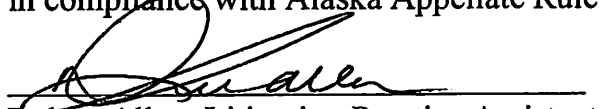
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I further certify that this document was substantively produced in Times New Roman 13, in compliance with Alaska Appellate Rule 513.5(c)(1) and Civil Rule 76(a)(3).

  
Debby Allen, Litigation Practice Assistant

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