

Kenai Peninsula Borough

Legal Department

LITIGATION STATUS REPORT

TO: Ryan Tunseth KPB Assembly President
Members, KPB Assembly
Jason Tauriainen, KPBSD Board of Education
President Members, KPBSD Board of Education

THRU: Peter A. Micciche, Mayor *PAM*
Clayton Holland, KPBSD Superintendent *CH*

FROM: Sean Kelley, Borough Attorney *SK*

DATE: March 5, 2026

RE: Litigation Status Report – 4th Quarter 2025

This report includes brief descriptions of pending non-routine court cases, as well as administrative appeals and code compliance enforcement actions set for hearing before the administrative hearing officer, which name the KPB and/or School District as parties.

- A. Administrative Appeals. The following is a summary of open or recently resolved administrative appeals from Planning Commission decisions:
1. None.
- B. Alaska Superior Court cases. This list does not include the real property tax foreclosures and numerous standard tax collection cases pursued by the KPB:
1. 2FishAlaska v. Kenai Peninsula Borough, 3KN-24-00905CI. The owner of real property appealed the denial of charitable purpose exemption application. The Court affirmed the KPB's denial of the exemption and denied reconsideration.
 2. Kenai Peninsula Borough School District v. Fischer, No. 3KN-19-00185CI. The Supreme Court upheld summary judgment in favor of the School District on breach of contract grounds but determined a genuine dispute of material fact remained regarding damages and remanded this case to the Superior Court on the limited issue of determining if some of the costs included in the damage determination were not subject to subrogation. The judgment funds in the amount of \$367,676.83 have been deposited into a constructive trust. Trial is scheduled for the week of August 3, 2026

Page -2-

4th Quarter 2025

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3. *Furie Operating Alaska, LLC. v. State of Alaska, Department of Revenue, and State Assessment Review Board*, Case No. 3AN-21-06462CI. The taxpayer paid the judgment in this matter pursuant to an agreement to keep the funds set aside until the Alaska Supreme Court issues a final decision in the appeal.
 4. *Jennifer Harvey-Kindred, et al. v. Kenai Peninsula Borough, Kenai Peninsula Borough School District*, 3AN-23-08723CI. This matter has resolved after mediation and is now closed.
 5. *David Yragui, v. Kenai Peninsula Borough*, 3KN-24-00123CI. Plaintiff, David Yragui, filed suit for damages to property and for defamation related to his unpermitted activities within KPB rights-of-way (Mary Jeanne Yragui was originally included as a Plaintiff but was subsequently dismissed from the case.) Trial is scheduled for the week of May 4, 2026. Plaintiff filed for declaratory judgment, which the court denied. The parties recently filed cross motions for summary judgment.
 6. *Harvath v. KPB, et al.*, Case No. 3KN-25-00734CI. The Harvath plaintiffs filed a quiet title complaint alleging they are entitled to use KPB land to access their property. The court granted KPB's motion to dismiss KPB attorneys and motion for Rule 11 sanctions. KPB attorneys have entered an appearance. KPB recently filed a motion for summary judgment, the Court granted opposing counsel's request for an extension to respond until April 15, 2026.
 7. *Parker v. Schultz and KPB*, Case No. 3KN-25-00706CI. This complaint alleges the wrongful discharge of Ms. Parker, a firefighter with Kachemak Emergency Service Area (KESA). KPB has responded to the complaint. Discovery is currently ongoing. Trial is scheduled for the week of December 7, 2026.
- C. Alaska Supreme Court cases.
1. *Beachcomber v. Kenai Peninsula Borough Planning Commission*, Case Nos. S-19091 & S-19092 (Consolidated) (Trial Court Case Nos. 3KN-20-00034CI & 3KN-23-00004CI). The parties await the Court's decision on appeal.
- D. U.S. District Court cases.
1. *Nicholas Conner v. Kenai Peninsula Borough; Mayor Peter Micciche*, Case No. 3:25-cv-00054-HRH. Plaintiff filed this complaint on March 19, 2025, alleging his constitutional right to film public officials in public spaces was violated and asks the court to permanently enjoin application of KPB Ordinance 2024-27, and declare the ordinance unconstitutional, and for costs and attorney fees. The court granted KPB's partial motion to dismiss – dismissing Count I and Count IV to the extent it seeks relief based on the claim that KPB Ordinance 2024-07 is an unconstitutional bill of attainder. Discovery is ongoing.