

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 *PM*
Clayton Holland, KPBSD Superintendent *CH*

FROM: Sean Kelley, Borough Attorney *SK*

DATE: July 23, 2026

RE: Litigation Status Report – FY26 Year End

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, as of June 30, 2026.

(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) *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 October 12, 2026.
- (2) *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 said it would rule on KPB's motion for summary judgment on July 20, 2026. The parties await the Court's decision.
- (3) *Parker v. Schultz and KPB*, Case No. 3KN-25-00706CI. This complaint alleges the wrongful discharge of a probationary firefighter with Kachemak Emergency Service Area (KESA). Discovery is currently ongoing. A trial setting conference is set for September 2, 2026.

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- (4) *Purcell v. KPBSD*, 3KN-26-00396CI. This complaint alleges injuries sustained by a minor struck by the rubber floor hockey stick of another student while playing floor hockey in physical education class was due to negligence of KPBSD. A trial setting conference is set for August 25, 2026.
 - (5) *Spurgeon v. KPBD*, 3KN-26-00244CI. This complaint alleges whistleblower and wrongful employment actions taken in response to investigation into to a claim of misconduct against the Plaintiff. KPBD filed a motion to dismiss on May 13, 2026. The parties await the Court's decision.
 - (6) *Wells v. Colaska, Inc., et. al. and Colaska, Inc. v. Severs*, 3SW-25-00055CI. A Third - Party complaint was filed in this automobile accident matter by Colaska, Inc. bringing claims against Mr. Severs, a volunteer with the BCFSA, for injuries sustained by Ms. Wells in an automobile accident. Clayton & Diemer, LLC has been retained by KPBD to represent Mr. Severs. A trial setting conference is set in this matter for August 4, 2026.
 - (7) *Wright v. Humphreys, et. al.*, 3AN-26-05397CI. The Wright plaintiffs filed an action for a fall that occurred at Tsalteshi Trails resulting in alleged injuries as well as a medical malpractice claims against CPGH, Inc. and multiple providers. Discovery is ongoing.
 - (8) *Yragui v. Kenai Peninsula Borough*, 3KN-24-00123CI. Plaintiff, David Yragui, filed suit for damages to property and for defamation related to water issues in the K-Beach area. Trial is scheduled to begin on August 31, 2026. Cross motions for summary judgment were filed and the parties await a decision from the Court.
- (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.
 - (2) *Furie Operating Alaska, LLC. v. State of Alaska, Department of Revenue, and State Assessment Review Board*, Case No. S-19169, (Trial Court Case No. 3AN-21-06462CI). Taxpayer appeal of State assessment of oil and gas production property per AS 43.56. KPBD did not participate in the appeal to the Alaska Supreme Court and the Court has not yet entered a final decision in this case.
- (D) U.S. District Court cases.
- (1) *Conner v. Kenai Peninsula Borough, et al.*, Case No. 3:25-cv-00054-SLG. Plaintiff's Complaint alleges that KPBD trespassing him for disruptive and threatening behavior violates his constitutional right to film public officials in public spaces and asks the court to permanently enjoin application of KPBD Ordinance 2024-27, and declare the ordinance unconstitutional, and for costs and attorney fees. On July 9, 2026, KPBD filed a motion for summary judgment.