

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: October 8, 2026

RE: Litigation Status Report – Period Ending 09/30/26

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 September 30, 2026.

(A) Administrative Appeals. The following is a summary of open or recently resolved administrative appeals from Planning Commission decisions:

- (1) *Colaska, Inc.d/b/a QAP*; OHA Case No. 26-0655-MUN. This is an appeal of a KPB Planning Commission decision that denied the Conditional Land Use Permit Modification to Operate a Sand, Gravel or Material Site. A Limited Entry of Appearance and Notice of Non-Participation was filed by KPB. Hearing is currently scheduled for November 5, 2026
- (2) *Sondra Starnes*; OAH Case No. 26-0702-MUN. This is an appeal of a KPB Planning Commission Decision which denied a Plat Waiver. Ms. Starnes withdrew her appeal and the matter was dismissed by the Administrative Law Judge. This matter is now closed.
- (3) *Trevor Wilson*, OHA Case No. 26-0799-MUN. This is an appeal of a KPB Planning Commission decision denying a Conditional Use Permit. KPB has filed an Entry of Appearance and will be participating in this matter.

(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

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- to subrogation. The judgment funds in the amount of \$367,676.83 have been deposited into a constructive trust. Mediation in this matter is scheduled for October, 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 parties are awaiting a ruling on KPB's Motion for Summary Judgment.
 - (3) *James v. KPB*, 3HO-26-00212CI. Mr. James filed an appeal of a decision of the Assessing Department regarding denial of an extension request to file 2026 \$75K Residential Exemption. KPB has filed an Entry of Appearance and awaits a scheduling order from the court.
 - (4) *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). This matter has resolved through and out-of-court settlement. Order on Stipulation to Dismiss with Prejudice entered 08/14/2026. The case is now closed.
 - (5) *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 for failure to supervise and provide protective equipment. This matter is set for trial the week of September 20 or 27, 2027. Discovery is ongoing.
 - (6) *Spurgeon v. KPB*, 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. KPB filed a motion to dismiss on May 13, 2026. The parties await the Court's decision.
 - (7) *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 represents Mr. Severs. Mr. Severs automobile insurance is primary and KPB is the excess. This matter is set for Trial the week of January 24, 2028. Discovery is ongoing.
 - (8) *Wright v. Humphreys, et. al.*, 3AN-26-05397CI. The Wright plaintiffs filed an action for a fall that occurred at Tsateshi Trails resulting in alleged injuries as well as a medical malpractice claims against CPGH, Inc. and multiple providers. Trial is set to begin on October 25, 2027. Discovery is ongoing.
 - (9) *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. A hearing is set for October 15, 2026 to set a trial date. The court ruled on the pending *Motions for Summary Judgment*, denying the Plaintiff's *Motion* and partially granting KPB's *Motion*. Recently, the court denied Plaintiff's Motion for Reconsideration. Plaintiff's claim for Inverse Condemnation is the only claim that remains for trial.

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(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. KPB 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 KPB 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 KPB Ordinance 2024-27, and declare the ordinance unconstitutional, and for costs and attorney fees. On July 9, 2026, KPB filed a motion for summary judgment. On September 4, 2026, the parties agreed to a walk-away dismissal with prejudice, with each party bearing their own costs and fees and no other settlement conditions. Final execution of settlement agreement is pending and then the case will be dismissed and closed; however, current status is that the parties have reached an agreement in principle to fully and finally resolve this matter.