

Law Project for Psychiatric Rights  
James B. Gottstein, Esq.  
406 G Street, Suite 206  
Anchorage, Alaska 99501  
(907) 274-7686

Attorney for Plaintiff

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

KATSUMI KENASTON,            )  
  )  
                  Plaintiff,        )  
  )  
STATE OF ALASKA,            )  
  )  
                  Defendant.     )  
\_\_\_\_\_ )

Case No. \_\_\_\_\_

COMPLAINT  
(For Declaratory Judgment)

COMES NOW, Katsumi Kenaston, Plaintiff in the above entitled action, and alleges as follows:

1. Plaintiff is a resident of the state of Alaska and is entitled to bring this action.
2. Defendant State of Alaska was granted one million acres of land from the federal government in trust under the Alaska Mental Health Enabling Act (Enabling Act), Pub.L. No. 84-830, 70 Stat. 709 (1956).
3. Plaintiff is a beneficiary of the trust created by the Enabling Act (Trust).
4. The Defendant purported to remove the corpus from the Trust and "redesignate" it as general grant land through Chapters 181 and 182 SLA 1978 (1978

Law), without compensation to the Trust, thereby appropriating the Trust's assets to the Defendant's own purposes rather than using them for Trust purposes.

5. In 1982, a class action lawsuit under Civil Rule 23 was commenced over this as a breach of Trust under Weiss, et al., v. State of Alaska, Case No. 4FA-82-2208 Civil (Weiss Case).

6. In *Alaska v. Weiss*, 706 P.2d 681 (Alaska 1985), the Alaska Supreme Court ruled this was a breach of trust and remanded the case with instructions that the Trust be reconstituted to match as nearly as possible the holdings which comprised the Trust when the 1978 Law became effective.

7. After a number of failed attempts at settlement, a Settlement Agreement and Stipulation to Terms of Dismissal (Settlement Agreement) was signed by 3 of the 7 sets of parties in the Weiss Case on June 10, 1994, and presented to the Weiss Case trial court for approval under Civil Rule 23.

8. Chapters 5 and 6 FSSLA 1994 and Chapter 2, SSSLA 1994 were enacted as "Settlement Legislation" to authorize and implement the Settlement Agreement for and by the Defendant.

9. The Weiss Case trial court granted preliminary approval of the Settlement on July 29, 1994 (Preliminary Approval Decision), but identified various problems which it indicated could preclude final approval if not corrected.

10. Chapters 1 and 2 of SSSLA 1994 were passed to correct most of the problems identified by the Weiss Case trial court in its Preliminary Approval Decision and became part of the Settlement Legislation.

11. Final approval of the Settlement was approved by the Weiss Case trial court on December 6, 1994, and the Weiss Case was dismissed with prejudice by Order dated December 13, 1994.

12. The Weiss Case trial court did not retain jurisdiction of the Weiss Case.

13. The Weiss Case trial court does not have jurisdiction to consider this controversy in 4FA-82-2208 Civil.

14. Among many other terms of the Settlement, four state boards, to wit: the Alaska Mental Health Board, the Advisory Board on Alcohol and Drug Abuse, the Governor's Council on Disabilities and Special Education, and the Alaska Commission on Aging (Four Boards) are mandated to perform certain functions and fulfill certain duties.

15. These functions and duties of the Four Boards are material terms of the Settlement.

16. The question has arisen whether adequate funding and adequate opportunity for the Four Boards to perform and fulfill their Settlement mandated functions and duties are implied material terms of the Settlement.

WHEREFORE, Plaintiff prays for relief as follows:

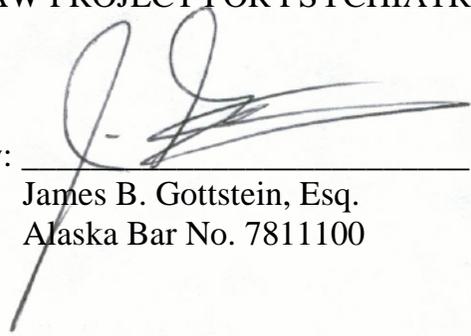
A. A judgment declaring that adequate funding and adequate opportunity for the Four Boards to perform and fulfill their Settlement mandated functions and duties are material terms of the Settlement.

B. Actual costs and actual reasonable attorneys fees.

C. For other such relief as this Court may deem just and equitable in these circumstances.

Dated this 12th day of January, 2004 at Anchorage, Alaska.

LAW PROJECT FOR PSYCHIATRIC RIGHTS

By:   
James B. Gottstein, Esq.  
Alaska Bar No. 7811100