**10.00 CONSUMER PROTECTION ACT – INTRODUCTION**

The instructions in Article 10 are intended for use in cases seeking damages under AS 45.50.531(a). AS 45.50.531(a) is a provision of the Alaska Unfair and Deceptive Trade Practices Act, AS 45.50.471 *et seq.*, commonly called the “Consumer Protection Act” (“CPA”). The CPA, enacted in 1970, is Alaska’s principal consumer protection statute. The CPA is modeled after the Federal Trade Commission (“FTC”) Act, 15 U.S.C. § 45. A specific provision in the CPA provides that “due consideration” should be given to the FTC Act when interpreting the CPA. AS 45.50.545.

The CPA broadly prohibits “unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce.” AS 45.50.471(a). There are currently 57 specific practices identified in the CPA that are *per se* violations of the CPA. AS 45.50.471(b). Any unfair or deceptive act or practice, however, can be a violation of the CPA regardless of whether it appears in a specific subsection of the CPA.

The CPA provides a private right of action for the recovery of treble damages (or $500, whichever is greater), injunctive relief, and full reasonable attorney’s fees. AS 45.50.531, .535, .537. When the State of Alaska is a plaintiff, the state can recover restitution on behalf of consumers, injunctive relief, attorney’s fees and penalties between $1,000 to $25,000 per violation. Each separate transaction is considered a separate violation for purposes of calculating an appropriate penalty.

The CPA requires that a private plaintiff sustain an ascertainable loss of money or property in order to maintain an action for damages. AS 45.50.531(a). The State, however, does not need to demonstrate such a loss, and can bring an action to stop illegal conduct regardless of whether any consumers have suffered a loss.

The leading CPA case in Alaska is *State v. O’Neill Investigations, Inc.*, 609 P.2d 520 (Alaska 1980). In that case the Alaska Supreme Court set out the factors to consider when deciding if a specific act or practice is “unfair.” Although originally applied only to consumer transactions involving “consumer goods,” the scope of the CPA was expanded to include business transactions involving commercial goods and services. *Western Star Trucks, Inc. v. Big Iron Equip. Svc., Inc.*, 101 P.3d 1047 (Alaska 2004). In *ASRC Energy Servs. Power & Commc'ns, LLC v. Golden Valley Elec. Ass'n, Inc.*, 267 P.3d 1151 (Alaska 2011), the Alaska Supreme Court summarized its precedents regarding AS 45.50.471, and affirmed its prior application of that statute.

These instructions do not address private claims for injunctive relief (AS 45.50.535), or the CPA remedies that are available to the Alaska attorney general (AS 45.50.495, .501, .551).