

4. **Merideth is Entitled to Statutory and Qualified Immunity.**

Statutory and qualified immunity provide further grounds for dismissal of Count XV. An action for damages may not be brought against a municipality or any of its employees if the claim is based upon the exercise or performance or the failure to exercise or perform a discretionary function or duty by a municipality or its employees, whether or not the discretion involved is abused.<sup>26</sup> Police officers are included as public officials entitled to qualified immunity for discretionary actions under AS 09.65.070(d).<sup>27</sup> The Alaska Supreme Court has directed that claims of immunity under AS 09.65.070(d) be examined under the same standard as federal cases examining qualified immunity under 42 U.S.C. § 1983.<sup>28</sup> Under this standard, the relevant inquiry is whether a reasonable official could have believed the challenged conduct was lawful in light of clearly established law and the facts of the case.<sup>29</sup>

The cases decided by the United States Supreme Court establish that qualified immunity shields officials from suits for damages if "a reasonable officer could have believed the arrest to be lawful, in light of clearly established law and the information the arresting officer possessed."<sup>30</sup> Even law enforcement officials who reasonably but mistakenly conclude that probable cause is present are entitled to immunity.<sup>31</sup>

In the present case, the issue is whether a reasonable officer could have believed that the citizen's arrest by Max Lamoureux was lawful in light of clearly established law and the

<sup>26</sup> AS 09.65.070(d).

<sup>27</sup> Samaniego v. City of Kodiak, 2 P.3d 78, 83 (Alaska 2000).

<sup>28</sup> Breck v. Ulmer, 745 P.2d 66, 72 (Alaska 1987), citing Harlow v. Fitzgerald, 457 U.S. 800, 819 (1982).

<sup>29</sup> Samaniego, 2 P.3d at 84, quoting Mathis v. Sauser, 942 P.2d 1117, 1125 (Alaska 1997).

<sup>30</sup> Hunter v. Bryant, 502 U.S. 224, 227 (1991), quoting Anderson v. Creighton, 483 U.S. 635, 641 (1987). The court in Anderson also noted that the right the official is alleged to have violated must have been clearly established "in a more particularized, and hence more relevant sense. The contours of the right must be sufficiently clear that a reasonable official would understand that what he is doing violates that right. Anderson 483 U.S. at 640.

<sup>31</sup> Id.

information Officer Merideth possessed. This Court must keep in mind that this inquiry is separate and apart from any examination of Lamoureaux's knowledge or Lamoureaux's actions. Plaintiffs claim that Lamoureaux made false and misleading statements to Fairbanks police officers in order to cause the arrest and detention of Plaintiffs [SAC ¶ 226, 227]. Even assuming, *arguendo*, that Plaintiffs could show that these allegations against Lamoureaux are true, they still cannot defeat a grant of summary judgment for Merideth based upon qualified immunity. Plaintiffs must show that Merideth's reliance on Lamoureaux's representations were unreasonable.

Under Alaska law, a citizen can make an arrest for a crime committed in his presence. Max Lamoureaux made a citizen's arrest. He was the victim of these crimes. They were obviously committed in his presence. At the scene, Officer Merideth was presented with Lamoureaux's account of the incident as well as the accounts of other witnesses that supported Lamoureaux's statement. Lamoureaux signed a sworn statement to accompany his citizen's arrest forms. The physical evidence corroborated Lamoureaux's statement, and Plaintiffs admitted they had committed the crimes. Given the state of the evidence known to Officer Merideth, his belief that there was probable cause to support Lamoureaux's citizen's arrest was reasonable. Officer Merideth is entitled to qualified immunity as to Count XV.

**5. There was no deprivation of property attributable to the City.**

Plaintiff's<sup>32</sup> constitutional property deprivation claim (Count XIV) against Officer Merideth and the City of Fairbanks is a mystery. It appears that Plaintiff is claiming that he was deprived of property that was inside the restaurant and bar on December 19, 2004, and that he

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<sup>32</sup> The claim in Count XIV is made by Plaintiff Yong Yi only [SAC ¶ 230].

was deprived of the use of the restaurant/bar premises. It also appears that Plaintiff bases his property deprivation claims against Officer Merideth and the City of Fairbanks on two acts: the allegedly wrongful arrest and alleged statements by Fairbanks police officers forbidding Plaintiffs from entering the premises.<sup>33</sup>

Plaintiff's claims are again defeated by the undisputed facts, facts Yi himself alleges and relies upon in other counts and in support of other motions. The City's involvement in this matter started at around 10:00 a.m. on Sunday, December 19, 2004. Several hours before City police officers arrived on the scene, Defendant Max Lamoureaux and/or Jung Lee, representatives of Defendant Harris Yang, entered the Klondike Bar and Restaurant with the help of a locksmith, retrieved the liquor license, and posted an eviction notice on the front door [Affidavit of Max Lamoureaux, Exh. City F]. The eviction notice posted by Jung Lee was the "Notice To Quit" dated December 10, 2004, signed by John Pharr and prepared on the letterhead of Pharr's law office [Exh City G and H]. This notice was addressed to Yong Yi and to Kenny Yi, was written on behalf of Harris Yang, who is described as the owner of the Klondike Restaurant & Sports Bar, gave Yong Yi and Kenny Yi until midnight on December 15, 2004, to vacate the premises, and was in place when Fairbanks police officers arrived at the Klondike on that Sunday morning.

Plaintiff Yong Yi admits, in a letter to the Fairbanks Police Department dated December 23, 2004, that the "landlord changed the lock on 19th of December" [Exh. City M]. The landlord, Defendant Harris Yang, testified in his deposition that he directed Lamoureaux to come to Fairbanks on December 19, 2004, to shut down the restaurant and bar portions of the

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<sup>33</sup> Plaintiffs allege that they requested assistance from the police to enter the leased premises to secure cash and personal property owned by Yong (SAC ¶ 163) and that in response, the police ordered Yong and other members of the Yi family to not enter the lease premises for any purpose (SAC ¶ 164).

Klondike [Exh. City N]. So even assuming that Plaintiffs were deprived of property, any deprivation was instigated by Defendant Harris Yang and put into place by Lamoureaux and Lee before the Fairbanks police became involved. Fairbanks police officers did not enter the premises of the Klondike bar and restaurant and did not seize any of Defendant's property.

Count I of Plaintiffs' Second Amended Complaint is a claim against other Defendants for wrongful eviction/ouster (from the Klondike Bar and Restaurant). Plaintiffs have filed a motion for summary judgment on this claim, arguing that Defendants (other than Officer Merideth and the City of Fairbanks) wrongfully evicted/wrongfully ousted them from the premises. While the underlying validity of Plaintiffs' wrongful eviction/ouster claim is irrelevant to this motion to dismiss, it serves to defeat Yong Yi's civil rights claim against Officer Merideth and the City, as nothing in the Due Process Clause of the Fourteenth Amendment requires the City to protect the life, liberty, and property of its citizens against invasion by private actors.<sup>34</sup>

The Fourteenth Amendment prohibits the deprivation of property without due process of law. As set forth above, Plaintiffs Kenny Yi and Yong Yi were afforded due process with regards to their arrest on December 19, 2004. The citizen's arrest by Max Lamoureaux was supported by probable cause, including the admissions of Kenny Yi and Yong Yi. Neither Plaintiff makes any claim that they were not allowed bail or were not properly arraigned on the charges against them. It is still undecided whether Plaintiff was deprived of any property. That issue will ultimately be decided by this court, after it has heard the arguments of all the parties. The "process" that Plaintiff is "due" will be provided by this court and this lawsuit.

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<sup>34</sup> DeShanney, 489 U.S. at 195.

6. **The City's Liability.**

Plaintiffs premise the City's liability upon allegations in Count XIV that the actions of Officer Merideth, in acting upon the false and misleading statements of Defendants Harrssion [sic] and Max Lamoureaux and in arresting Yong Yi and Kenny Yi, were consistent and a consequence of the City's policy or custom (SAC ¶ 231). The United States Supreme Court in Monell<sup>35</sup> held that § 1983 claims may, in certain circumstances, be brought against cities. The court in Monell held that *respondeat superior* is not a permissible theory for holding a local governmental body liable for constitutional violation of its employees.<sup>36</sup> A local governmental body may be liable under § 1983 when a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers can be causally related to the allegedly unconstitutional conduct of the employee.<sup>37</sup> In addition, municipal liability may be founded upon a governmental custom, that is, a well-settled practice of government officials, which is not necessarily authorized by written law.<sup>38</sup>

The first ground for dismissal of the claims against the City of Fairbanks is quite simple: plaintiffs suffered no constitutional deprivation. A review of the facts set out above demonstrates that plaintiffs were not falsely arrested. Plaintiffs were arrested pursuant to a citizen's arrest, authorized by state law and supported by probable cause. Absent any constitutional deprivation, there can be no basis for liability on the part of the City. Absent any misconduct by Fairbanks police officers, there can be no basis for liability on the part of the City.

<sup>35</sup> Monell v. Dept. of Social Services of City of New York, 436 U.S. 658 (1978).

<sup>36</sup> Id. at 690.

<sup>37</sup> Id.

<sup>38</sup> Id.

Plaintiffs do not and cannot point to any policy or custom of the City that supports their claim. It is difficult to defend against a "phantom allegation," but, ultimately, it is even more difficult for Plaintiffs to prosecute a phantom claim. The City will gladly admit that it has a policy and/or custom of taking people into custody on the basis of a citizen's arrest, when the facts support a finding that the crime complained of was committed in the presence of the citizen making the arrest and when the facts support a finding that there is probable cause to believe that the crime was committed by the person accused. Another way to state this is that the City has a policy of following the laws of the State of Alaska.

The City also has a policy of not intervening in civil law disputes [Exh. City O, affidavit of Patrick Cole]. Citizens are informed that such disputes must be decided by the courts and that City police officers will not decide civil law disputes. The Fairbanks Police Department does make officers available for "civil standbys" for parties with appropriate court orders [Exh. City O]. This service was provided to the Yong Yi on December 21, 2004 [Exh. City M].

The incident at the Klondike on December 19, 2004, presented Fairbanks police officers with both a criminal case and a civil dispute. Before the police arrived, Plaintiffs took the law into their own hands. They destroyed property belonging to another and assaulted Lamoureux and Lee. Fairbanks police officers took action to resolve the criminal matter. Based upon the citizen's arrest, they transported Yong Yi and Kenny Yi to the Fairbanks Correctional Center.

The civil dispute between the Yi's and the Yang's was the classic commercial landlord/tenant dispute over possession of a business premises. There is no dispute that Harris Yang was the owner of the premises and that Yong Yi was the lessee. There is also no dispute that by the time Fairbanks police officers arrived at the scene on December 19, 2004, the property had been seized by Lamoureux/Lee at the direction of Harris Yang and posted with an

eviction notice drafted by attorney John Pharr. There is also no dispute that Plaintiffs had previously filed a civil law suit against Yang over the business operation. The propriety of the actions by other defendants (not Merideth and the City) in seizing the Klondike restaurant and bar will ultimately be decided by this court in this lawsuit. The non-intervention by City police officers in this civil legal dispute between private parties does not give rise to a cause of action under 42 U.S.C. § 1983 against the City of Fairbanks.

#### VI. CONCLUSION

Given the facts, one could easily picture this Court scratching its head and wondering aloud why Plaintiffs have dragged the City and Officer Merideth into this case. It is perhaps understandable that Plaintiffs, untrained in the law, would be upset that they were arrested while Lamoureux and Lee were not. They may well have believed, mistakenly, that they were justified in smashing the windshield and windows of the truck driven by Lamoureux and in trying to hurt Lamoureux and Lee. But Plaintiffs' emotional response to these events does not excuse the filing of patently frivolous claims against Officer Merideth and the City of Fairbanks.

Plaintiffs Kenny Yi and Yong Yi were "arrested" by Max Lamoureux. Alaska law gives Lamoureux the authority to make a citizen's arrest, and the arrest in this case was supported by probable cause. That alone puts an end to Plaintiffs' claims against Officer Merideth. In addition, Merideth is entitled to dismissal based on statutory and qualified immunity.

Plaintiffs have not and cannot point to any City policy or custom that can be causally related to the allegedly unconstitutional conduct of its employees. As noted above (repeatedly), there was no unconstitutional conduct by Fairbanks police officers. The City's policy of not intervening in civil legal disputes between private parties cannot give rise to a claim under 42

MEMORANDUM IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT

Yi, et al. v. Yang, et al., 4FA-04-2761 CI

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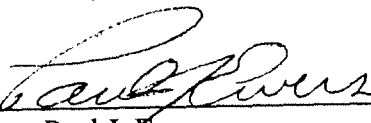
EXC 62

U.S.C. § 1983. Nothing in the Due Process Clause of the Fourteenth Amendment requires the City to protect Plaintiffs' property from actions by private actors.

For the reasons set forth above, Defendants Merideth and the City of Fairbanks are entitled to summary judgment dismissing all claims against them.

Dated this 20th day of February 2007 at Fairbanks, Alaska.

OFFICE OF THE CITY ATTORNEY  
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By:   
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TRANSCRIPT OF 911 CALLS (12/19/04) (Digital Evidence 4-24759)

CALL 1

**Dispatch:** Dispatch.

**Hayes:** Yes, hi, I'm.....I don't know how to explain this but I'm calling, at the Klondike and the owner is right now attempting to seize this property and he wanted the the police there, so they could trespass the former management group he is about to evict.....

**Dispatch:** What?

**Hayes:** You can't hear me at all.....

**Dispatch:** I can hear you....you're just not being no you're not being very clear as to what you want.....you're at the Klondike?

**Hayes:** Yes, I am at the Klondike.

**Dispatch:** OK, and who are you?

**Hayes:** This is Joe Hayes.

**Dispatch:** OK, and how you are affiliated with?

**Hayes:** With the owner.

**Dispatch:** Umm hmm.

**Hayes:** I am, I am the one that is supposed to hold all the deeds and stuff and make sure that when when the police gets there they know that this person is the owner because what he's what he's doing is changing the locks on this property and then he is.....

**Dispatch:** At the Klondike?

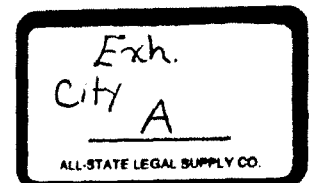
**Hayes:** At the Klondike, at the bar part.

**Dispatch:** At the Klondike Bar, OK.

**Hayes:** Yes.

**Dispatch:** The Klondike Inn, the?

**Hayes:** Yes.



**Dispatch:** Ok. So the real owner is going over there to change the locks on the doors.

**Hayes:** Yes and then he wants the management group no trespassed off of his property.

**Dispatch:** The old management group?

**Hayes:** Yes, the folks who had been managing the operation, yes.

**Dispatch:** OK.

**Hayes:** I know this sounds squirrely but I don't know exactly how to explain it.

**Dispatch:** Ok. Did he just become the new owner? Or has there been a new owner in the past?

**Hayes:** Yes, I guess he just bought the property, I guess a year ago.

**Dispatch:** Who is that, is that Charlie?

**Hayes:** Mr. Wang, uhh....Chang.....Wang....one or the other.

**Dispatch:** OK, does he have a writ of assistance from the Court for this?

**Hayes:** Yes, he has all the legal paperwork that he needs, yes.

**Dispatch:** OK, does he have a specific writ of assistance to take possession and have the people removed?

**Hayes:** I think he does, yes.

**Dispatch:** OK, if he does, he needs to come down here to the Department and bring his paperwork with him so we can verify that he has that.

**Hayes:** OK.

**Dispatch:** And what he will do then, is, he will ask for a civil standby and if we have an Officer available at the time we'll go ahead and do that for him but he is going to have to bring the paperwork down here and show us the writ of assist, before we are going to get involved in that.

**Hayes:** OK, that sounds good. I'll let him know.

**Dispatch:** OK, thank you.

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CALL 2

**Dispatch:** 911.

**Dockery:** Yes, Ma'am, this is the front offices of the Klondike Inn. I've got a couple of people here that have got some no trespassing order that I need removed.

**Dispatch:** Who's that?

**Dockery:** The name is Kenny and Jerry. I'm not sure of the last name. They used to run the restaurant but they have been evicted from it and they are trying to get back into it.

**Dispatch:** Hold on.

**Dockery:** Thank you.

**Dispatch:** OK, wait a second – are guys both calling up on 911?

**Dockery:** Ahh, I didn't know there was someone else calling.

**Dispatch:** Hold on.

**Dockery:** OK.

**Dispatch:** What's your name?

**Dockery:** My name is John Dockery, I

**Dispatch:** And you run which part?

**Dockery:** I run the front desk of the Motel. Yeah, and we got 'em sitting outside our front door right now. I understand they're supposed to have a 1000 foot no trespassing order.

**Dispatch:** Is this through the Courts?

**Dockery:** Ahh, I'm not sure, that's just what I've been told.

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**CALL 3**

**Dispatch:** 911. Where is your emergency?

**K. Yi:** Oh, hi, my name is Kenny and I am calling from the Klondike Restaurant and Bar. I have someone trying to break it in.

**Dispatch:** Someone tried.....

**K. Yi:** Yes and he is breaking all the locks.....

**Dispatch:** Ok. Someone tried to break into the Klondike Bar?

**K. Yi:** Yeah. And we caught him, and he's a here right now.

**Dispatch:** Who is it that's there?

**K. Yi:** I don't know, I haven't seen him before.

**Dispatch:** Who, you don't know who it is?

**K. Yi:** Yes. But I don't know who it is, but I know where he is right now.

**Dispatch:** You do know who it is?

**K. Yi:** Yeah....(inaudible).

**Dispatch:** Sir. Ok. You either do or you do not know who it is. Who, do you know who it is?

**K. Yi:** I don't know, I don't know him and I don't know him, his name, and I don't know who it is, but I know him, where he is right now.

**Dispatch:** Where is he?

**K. Yi:** He is right front of us.

**Dispatch:** What is your name?

**K. Yi:** My name is Kenny.

**Dispatch:** Kenny who?

**K. Yi:** Kenny Lee.

**Dispatch:** Kenny Lee.

**K. Yi:** Yes. So (inaudible)

**Dispatch:** Where is the other guy?

**K. Yi:** He's right across the street.

**Dispatch:** He's across the street.

**K. Yi:** Yes.

**Dispatch:** So, if he is across the street, how is he trying to break in?

**K. Yi:** He bust (inaudible) lock.

**Dispatch:** He did what?

**K. Yi:** He tried to bust my lock and

**Dispatch:** He tried to break your lock?

**K. Yi:** Yeah.

**Dispatch:** Ok, did you put a, did you put a lock on that building, did you just go over there and put a lock on there?

**K. Yi:** No.

**Dispatch:** You didn't just put a lock on?

**K. Yi:** No, I didn't.

**Dispatch:** Why would he be trying to break your lock?

**K. Yi:** I don't know.

**Dispatch:** Do you own that building?

**K. Yi:** No, we lease it out, that building.

**Dispatch:** Are you (uncertain, sounds like "stacking")?

**K. Yi:** Pardon me. Yes I am.

**Dispatch:** OK, now, is he the owner of the other place?

K. Yi: No (inaudible).

Dispatch: He's not?

K. Yi: No. Maybe he's working for him, or something, but.....

Dispatch: Ah huh.

K. Yi: I haven't seen his face before.

Dispatch: You have never seen him?

K. Yi: No.

Dispatch: OK, well we're going to send some officers over there. Where are you at? Are you inside? Where are you?

K. Yi: Waiting outside.

Dispatch: You're outside, are you by your vehicle, or?

K. Yi: Yes, right by the vehicle.

Dispatch: What vehicle?

K. Yi: Ah, that's the a Dodge Durango.

Dispatch: What color?

K. Yi: Red.

Dispatch: Red Dodge Durango.

K. Yi: Yeah.

Dispatch: OK, you stay right there. Do not make any contact with him, do you hear me?

K. Yi: Yeah. I hear you.

Dispatch: OK, and they'll be right there.

K. Yi: OK, thank you.

Dispatch: OK. Bye.

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CALL 4 [RETURN TO DOCKERY'S CALL - CALL 2]

**Dispatch:** Is it Kenny that's trying to get in?

**Dockery:** Ah, yes, Ma'am.

**Dispatch:** How can you guys both be breaking in to the same place, two different places?

**Dockery:** I don't know. I am in the front office. They're trying to get in to the restaurant part.

**Dispatch:** You think he is trying to break into the restaurant....

**Dockery:** Yes, Ma'am.

**Dispatch:** And he's saying you are trying to break into the bar?

**Dockery:** Ok. Ah, I'm sitting in the office, so I can't be trying to break into the bar. I...they went in.....the owner of the Klondike.....

**Dispatch:** We'll send someone over to talk to you guys.

**Dockery:** Ok. Thank you much.

**Dispatch:** Good bye.

\*\*\*\*\*

**Call from Dispatch to Officer Merideth**

**Officer:** Morning, Officer (inaudible)....

**Dispatch:** Can you go to the Klondike, with someone else? You know how the owner of the two places don't get along?

**Officer:** Yeah.

**Dispatch:** Well, they're reporting, they're both on 911 reporting that the other person is breaking into each other's stuff.

**Officer:** Oh, Jesus. They're over at the restaurant?

**Dispatch:** They're at both.

**Officer:** Ok.

**Dispatch:** Thank you.

**Officer:** Alright.

**Dispatcher:** Good bye.

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**CALL 5**

**Dispatch:** 911.

**Bartender:** Yes, I need a Trooper over here at the Klondike ah Inn. Ah, there's a robbery attempt going on. It's a silver minivan, they just took off and tried to run some guy over, and the owner's here and I have his cell phone and . .

**Dispatch:** Who is trying to break in?

**Bartender:** Ah, the perpetrators just left in, the perpetrators just left in a . . .

**Dispatch:** OK, Ma'am, I have two people on the way to the Klondike, is this in reference the last call?

**Bartender:** Ah, I guess. Has there already been a call....cause the owner just to me to call because of a break-in here at the Klondike and they're headed up ...probably ....they took off .... They're heading towards down Airport towards ah um Peger area in a silver brand new minivan.....



**Dispatch:** Where is the owner?

**Bartender:** The owner is on his way over here right now. I'm the bartender and I just got here and he threw the phone at me and asked me to call. [calling out to someone at the scene] Did you get the license number?

**Dispatch:** So you have no idea what's going on here.

**Bartender:** [calling out to someone at the scene] The Troopers are on the their way here. Did you get the license plate number of the vehicle? That's the vehicle, the white truck?

**Unknown voice:** Yes.

**Bartender:** Oh, OK, well here comes the owner, here's his phone right here. Hold on.

**Voice:** This guy, he just tried to run over my...my brother and me .

**Dispatch:** Hello. Hello. [background noise]

**Bartender:** Hello. Hello.

**Dispatch:** Hello.

**Bartender:** Yeah, he just handed me back the phone, he is in a panic state...he said that..

**Dispatch:** Who is it? Is it the owner of the bar and one of the owners of the restaurant?

**Bartender:** Kenny. The owner of the Klondike Inn off of the . . . the whole conglomerate over here, the owner of the whole place. They have the.....

**Dispatch:** Is it the two owners?

**Bartender:** Yeah. There's two owners, I guess.

**Dispatcher:** Ok. Is it the two owners that are reporting this against each other still?

**Bartender:** Someone tried to run over this woman. I just got here, Ma'am. He threw this phone at me and asked me to call the Troopers because they were chasing the people down. Now. We're here now and we're just waiting on the Officers to get here, I guess. [talking to some on the scene] They're on their way, hon. Where's the people at that did it? Right where? They're here? Do they have a gun or anything?

**Man's voice:** I don't know.

**Bartender:** Well, where are they at? Are they . . .

**Dispatcher:** Can I talk to him?

**Bartender:** OK, hold on one second.

**Dispatcher:** Thank you.

**Bartender:** You talk to the Dispatcher. It's 911.

**Dispatcher:** Hello. Who is this?

**Kenny:** My name is Kenny!

**Dispatcher:** Kenny. Who did this to you?

**Kenny:** He just tried to run over.....

**Dispatcher:** Who, who?

**Kenny:** These guys, [inaudible] I was telling you about

**Dispatcher:** Ok. Is it the owner of the bar?

**Kenny:** No . .

**Dispatcher:** The owner of the other part?

**Kenny:** Yes, I don't know he.[inaudible].workers or I don't know.....But he tried to run over me and ran over my brother with a truck. I need you guys ...immediately..... Please

**Dispatcher:** We have them on the way.

**Kenny:** Thank you!

**Dispatcher:** Were you supposed to wait in a certain spot?

**Kenny:** Yes, I was trying to wait and . . .

**Dispatcher:** Where did you try to wait?

**Kenny:** Yes, I . . . here's a police officer . .

**Dispatcher:** Where?

**Kenny:** He's right in front of me, OK, ah, . . . shit. Can I talk to the Police Officers now?

**Dispatcher:** Yes

**Kenny:** Thank you.

\*\*\*\*\*

**CALL 6**

**Dispatcher:** Sir

**Max:** Yes

**Dispatcher:** Where are you at right now?

**Max:** We're, we're locked into a hotel. These people are nuts.

**Dispatcher:** Ok, and which person are you?

**Max:** My name is Max. I'm an employee of the Klondike Inn.

**Dispatcher:** Ok.

**Max:** And we're got the manager here and.....

**Dispatcher:** OK, so you're Max , you're, what do you do?

**Max:** Ah, I'm a manager.

**Dispatcher:** You're the manager?

**Max:** Yeah, and there's, there's two managers here.

**Dispatcher:** OK, and who's with you?

**Max:** Ah, the, a couple of other people named John .

**Dispatcher:** OK.

**Max:** John Lee

**Dispatcher:** John . . . Lee?

**Max:** Yeah. [To person on the scene] Did you see those guys run into us? In . .

**Unidentified:** Yes, I did.

**Max:** Ok.

**Dispatcher:** Ok, now what did they run into you with? They run into you with their truck?

**Max:** Well, first of all we were trying to drive off.

**Dispatcher:** Sir, was that a red Dodge?

**Max:** Ahh, no, it's a....what did they hit us with? I was trying to drive and while the guy was in the back jabbing me.

**Dispatcher:** So he actually hit your vehicle with another vehicle?

**Max:** Ran into it . . .they were trying to kill us.....they smashed the front window and the back window....they were in the back of the truck.....

**Dispatcher:** Ok. Hold on.

**Max:** [to someone at the scene] Oh, look at that , see they stabbed me with that....If that wouldn't of been here....

**Dispatcher:** And where are you locked into right now? Tell me where....

**Max:** The Klondike Inn, itself.

**Dispatcher:** You're locked into the Klondike itself?

**Max:** And the Police are here, finally.

**Dispatcher:** [to someone else] I have Max, he's the manager that was working...

**Max:** Yes, Ma'am....

**Dispatcher:** Um hm, Yeah, he locked himself in....

**Max:** [to someone on scene] No, I'm not bleeding.....

**Dispatcher:** Is that an Officer?

**Max:** No, it's someone else, one of my guys here.

**Dispatcher:** OK. So you're locked in there. Are you in like the bar area or the restaurant area?

**Max:** No, we're in the hotel

**Dispatcher:** No, you're in the hotel

**Max:** And, and I'm not going out there.

**Dispatcher:** Are you in the hotel office?

**Max:** Yes

**Dispatcher:** You're in the hotel office

**Max:** Yeah. I don't even want those guys to see me, they . . .

**Dispatcher:** What kind of vehicle are you driving?

**Max:** Ah, the company truck, a white Ford.

**Dispatcher:** You had a white Ford?

**Max:** Yeah, they rammed into the side of us, you can see it.

**Dispatcher:** OK.

**Max:** I mean we, we did nothin' but get in the truck and drive in the opposite direction, and they attacked us...

**Dispatcher:** Was that before or...had you talked to them prior to leaving?

**Max:** No, the, the fellows that beat us up?

**Dispatcher:** Hmm mm.

**Max:** No, not at all.

**Dispatcher:** You hadn't had any - talked to them at all?

**Max:** Zero, zero. hey chased us down, jumped in the back of the truck....shattered the window...

**Dispatcher:** OK.

**Max:** And then went crazy from there...

**Dispatcher:** OK. I want you to stay right where you're at, with the gentleman that's with you, OK, and we'll have the Officer come to you.

**Max:** Thank you

**Dispatcher:** Alright.

**Max:** He's coming in right now.

**Dispatcher:** OK.

**Max:** Thank you.

**Dispatcher:** Bye.

**END OF TRANSCRIPTION OF 911 CALLS ON 12/19/04**



# STATEMENT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

0141-247579  
CROSS REFERENCE CASE NUMBER  
CASE OFFICER: McGlashan 1 K67

IDENTITY OF PERSON  
MAKING THIS STATEMENT

Valerie Hopson

(PRINT FULL NAME)

make the following voluntary statement at:

time:

9:45 am

date:

12-19-04

ROLE <b>W</b>	LAST NAME, FIRST NAME, M.I. <b>Hopson</b>	RACE <b>I</b>	SEX <b>F</b>	AGE <b>40</b>	DATE OF BIRTH <b>[REDACTED]</b>	DRIVERS LICENSE NO. <b>[REDACTED]</b>	STATE <b>AD</b>
AKA / ALIAS	RESIDENCE ADDRESS <b>306 Pausanias St</b>	ZIP <b>99701</b>	MAILING ADDRESS	ZIP	RESIDENCE TELEPHONE NO. <b>[REDACTED]</b>		
TITLE / OCCUPATION	PLACE OF EMPLOYMENT / SCHOOL	EMPLOYMENT / SCHOOL ADDRESS		ZIP	EMPLOYER / SCHOOL TELEPHONE NO. <b>460-7100</b>		
DOB <b>[REDACTED]</b>	PLACE OF BIRTH <b>BARROW</b>	STATE <b>AK</b>					

STATEMENT

At 9:45 am, I saw Red truck go after white truck and I saw a man with Brown Leather jacket and a lady with Red winter jacket go in after the people on the white truck. I was by the lounge to get news paper and I swear if the people in Red truck would of kill them with gun if they had it, that how I see it from my point of view. They had no mercy at all.

The Man in Brown Leather said get the fuck out and the were talking Korean but they said get the fuck out and the lady in Red winter jacket was dragged and saying get the fuck out with a stick.

SIGNATURE

Signed: **X**

Valerie Hopson

FPD USE ONLY

(35) STATEMENT RECEIVED BY:

FPDIN

LPM

EXC 7B

Exh.  
City  
B



# STATEMENT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

CASE NUMBER	041-12417519
CROSS REFERENCE CASE NUMBER	
CASE OFFICER	Mendenhall
STAR #	10039

IDENTITY OF PERSON  
MAKING THIS STATEMENT

Benee Bullock  
(PRINT FULL NAME)  
make the following voluntary statement at: time: 10:10 AM date: 12/19/04

ROLE	LAST NAME, FIRST NAME, MI	RACE	SEX	DATE OF BIRTH	DRIVERS LICENSE NO.	STATE
	Bullock Renee	WF				AK
AKA / ALIAS	RESIDENCE ADDRESS	APT	DE	99765	RESIDENCE TELEPHONE NO.	
	1191 Lakeway Drive				488-6771	
TITLE / OCCUPATION	PLACE OF EMPLOYMENT / SCHOOL	EMPLOYMENT / SCHOOL ADDRESS	DE	99711	EMPLOYER / SCHOOL TELEPHONE NO.	
Backend	Klondike	FBI, AK			479-2224	
SSN	PLACE OF BIRTH	STATE				
	Battle Creek, MI	MI				
LINKING						

STATEMENT

As I pulled into the parking lot at approx 9:45 am Sunday (this) morning I witnessed a white late model Ford pickup up almost running a lady in a red coat over trying to speed out of the noted parking lot as she was trying to stop him or get out of his/her way. Then a silver late model minivan took off after the speeding white Ford ~~minivan~~ set a high rate of speed, then Kerry my boss said call 911 it's a robbery in progress and he's getting away. I yelled chase after him and get plate # and I phoned 911, watching the white truck cut off the minivan hitting it. Then white vehicle comes back.

SIGNATURE

I have read the above and foregoing statement and I have been given the opportunity to make any corrections or changes I might make. Any changes that I have made are initialed by me in my own handwriting.

Signed: X

FPD USE ONLY

(35) STATEMENT RECEIVED BY:

STAR #

WELBORN

Exc 79

Exc.  
City  
C





# STATEMENT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

CASE NUMBER	0141-2417519
CROSS REFERENCE CASE NUMBER	
CASE OFFICER	MEP:dek
STAR #	1657

IDENTITY OF PERSON  
MAKING THIS STATEMENT

I, Conrad (PRINT FULL NAME)  
make the following voluntary statement on this date: \_\_\_\_\_

ROLE	LAST NAME, FIRST NAME, MI	RACE	SEX	DATE OF BIRTH	DRIVERS LICENSE NO.	STATE
AKA / ALIAS	RESIDENCE ADDRESS	APT		ZIP	RESIDENCE TELEPHONE NO.	
TITLE / OCCUPATION	PLACE OF EMPLOYMENT / SCHOOL	EMPLOYMENT / SCHOOL ADDRESS		ZIP	EMPLOYER / SCHOOL TELEPHONE NO.	
SSN	PLACE OF BIRTH	STATE				
LINKING						

STATEMENT

and pulled into hotel parking lot. I did not see who was all in the vehicle. I saw 3 passengers. 1 in back. Looked like jiffy in back. Then police came. Jiffy

Michael Jiffy

SIGNATURE

I have read the above and foregoing statement and I have been given the opportunity to make any y corrections or changes I might make. Any changes that I have made are initialed by me in my own handwriting.

Signed: X

FPD USE ONLY

(35) STATEMENT RECEIVED BY:

STAR #



# STATEMENT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

CASE NUMBER	014-1247519
CROSS REFERENCE CSE NUMBER	
CASE OFFICER	Meriden / 1059
STAR #	

IDENTITY OF PERSON  
MAKING THIS STATEMENT

Samantha Marie Bergman  
(PRINT FULL NAME)  
make the following voluntary statement at: time 9:40-9:45 date 12/19/04

ROLE	W	LAST NAME, FIRST NAME, M.I.	Bergman Samantha M.	RACE	W	SEX	F	AGE	19	DATE OF BIRTH	[REDACTED]	DRIVERS LICENSE NO.	[REDACTED]	STATE	AK
AKA/ALIAS		RESIDENCE ADDRESS	P.O. Box 56488	ZIP	99705	MAILING ADDRESS	P.O. Box 56488	ZIP	99705	RESIDENCE PHONE NO.	(907) 488-8873	EMPLUSCH PHONE NO.	N/A		
TITLE / OCCUPATION	Student	PLACE OF EMPLOYMENT / SCHOOL	Independent study	EMPLOYMENT/SCHOOL ADDRESS	N/A										
SSN	[REDACTED]	PLACE OF BIRTH	Fairbanks	STATE	Alaska										
LINKING	Witness														

STATEMENT

Personally, I wasn't really paying attention... but I did happen to see a man chasing the 2 managers and trying to hit the managers with the stick. Then the managers came to the front door in the truck, stopped, immediately ran from the truck to inside. At the same time the "crazy" guy was still chasing the managers with the stick and threatening them. Then we locked the door and called you people.

SIGNATURE

(34) I have read the above and foregoing statement and have been given the opportunity to make any corrections or changes I might want to make. The changes which I have made are initialed by me in my own handwriting.

Signed: X Samantha M Bergman

FPD USE ONLY	(35) STATEMENT RECEIVED BY: LPM	FPDIN
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# CITIZEN'S ARREST REPORT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

CASE NUMBER	04-1247159
CROSS REFERENCE CSE NUMBER	
CASE OFFICER	MERIDETH / 1059
STAR #	

INCIDENT

NO. 1	TITLE OF PRIMARY INCIDENT	LOCATION OF INCIDENT
	ASSAULT IV, CRIM MIS IV	KLONDIKE INN
DAY(S) OF INCIDENT	DATE(S) OF INCIDENT	HOUR(S) OF INCIDENT
SUN 1	12/19/04 1	1

DO NOT WRITE ABOVE THIS LINE

I, MAX LAMOURCAUX hereby declare and certify that I have arrested  
(PRINTED NAME OF THE CITIZEN MAKING THIS ARREST)  
YOUNG VI for the following offense(s) ASSAULT IV X2  
(NAME OF THE PERSON ARRESTED/DEFENDANT) CRIMINAL MISCHIEF IV

I do hereby request that you, OFC. MERIDETH, a peace officer, take and conduct this person whom I have arrested to be dealt with according to the law. As requested, I will sign, under oath, the appropriate complaint against this person for the offense (s) which this person has committed and for which I made this arrest; and I will testify under oath as a witness against the defendant. I have completed a written statement.

(SIGNATURE OF CITIZEN MAKING THIS ARREST)

NO.	ROLE	LAST NAME, FIRST NAME, M.I. OF CITIZEN MAKING THE ARREST	RACE	SEX	AGE	DATE OF BIRTH	DRIVERS LICENSE NO.	STATE
	CW	LAMOURCAUX, MAX	W	M				AK
AKA/ALIAS	RESIDENCE ADDRESS	ZIP	MAILING ADDRESS	ZIP	RESIDENCE PHONE NO.			
	2301 N. TAHITI LP	99705			333-4629			
TITLE / OCCUPATION	PLACE OF EMPLOYMENT / SCHOOL	EMPLOYMENT/SCHOOL ADDRESS		EMPL/SCH PHONE NO.				
MANAGER	KLONDIKE INN	1316 BEDROCK						
SSN	PLACE OF BIRTH	STATE						
	MARTINEZ	CA						

## STATEMENT

SEE STATEMENT

STATEMENT

DATE - TIME PREPARED	REPORTING OFFICER - TITLE - STAR#	APPROVING SUPERVISOR - TITLE - STAR#	DATE APPROVED
12/19/04 1312	MERIDETH / PRO/CAN	/	

EXC 82

THIS REPORT IS CONFIDENTIAL & FOR OFFICIAL USE ONLY

Exh.  
City  
E



# CITIZEN'S ARREST REPORT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

CASE NUMBER	041-1247519
CROSS REFERENCE CSE NUMBER	
CASE OFFICER	MERIDETH / 105-9
STAR #	

INCIDENT	NO. 1	TITLE OF PRIMARY INCIDENT	LOCATION OF INCIDENT
	DAY(S) OF INCIDENT	DATE(S) OF INCIDENT	HOUR(S) OF INCIDENT
	SON 1	12/19/04 1	1

DO NOT WRITE ABOVE THIS LINE

CITIZEN'S CERTIFICATE AND  
DECLARATION OF ARREST

I, MAX LAMBOUREAU hereby declare and certify that I have arrested  
(PRINTED NAME OF THE CITIZEN MAKING THIS ARREST)  
KENNY YE for the following offense(s) ASSAULT IV X2  
(NAME OF THE PERSON ARRESTED/DEFENDANT) CRIMINAL MISCHIEF IV

I do hereby request that you, OFF. MERIDETH, a peace officer,  
take and conduct this person whom I have arrested to be dealt with according to the law. As requested, I will sign, under oath, the appropriate  
complaint against this person for the offense (s) which this person has committed and for which I made this arrest; and I will testify  
under oath as a witness against the defendant. I have completed a written statement.

(SIGNATURE OF CITIZEN MAKING THIS ARREST)

NO.	ROLE	LAST NAME, FIRST NAME, M.I. OF CITIZEN MAKING THE ARREST	RACE	SEX	AGE	DATE OF BIRTH	DRIVERS LICENSE NO.	STATE
	CW	LAMBOUREAU, MAX	W	M				AK
AKA/ALIAS	RESIDENCE ADDRESS	ZIP	MAILING ADDRESS	ZIP	RESIDENCE PHONE NO.			
	2301 N. TAHITI CT	99705			333-46029			
TITLE / OCCUPATION	PLACE OF EMPLOYMENT / SCHOOL	EMPLOYMENT/SCHOOL ADDRESS	EMPL/SCH PHONE NO.					
MANAGER	KLONDIKE INN	1316 BEDROCK						
SSN	PLACE OF BIRTH	STATE						
	MARTINEZ	CA						

## STATEMENT

SEE STATEMENT

STATEMENT

DATE - TIME PREPARED	REPORTING OFFICER - TITLE - STAR#	APPROVING SUPERVISOR - TITLE - STAR#	DATE APPROVED
12/19/04 1320	MERIDETH / PRO / CAP 1057	/ /	

EXC 83



# STATEMENT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

04	-	2471519
CROSS REFERENCE CASE NUMBER		
CASE OFFICER		STAR #
ME Eide		1059

IDENTITY OF PERSON  
MAKING THIS STATEMENT

I, Max Lamoureux  
(PRINT FULL NAME)

make the following voluntary statement at: time: 12/19/04

Max Lamoureux John Lee

ROLE <b>W</b>	LAST NAME, FIRST NAME, MI	RACE	SEX	AGE	DATE OF BIRTH	DRIVERS LICENSE NO.	STATE
AKA / ALIAS	RESIDENCE ADDRESS	MAILING ADDRESS	ZIP	RESIDENCE TELEPHONE NO.			
TITLE / OCCUPATION	PLACE OF EMPLOYMENT / SCHOOL	EMPLOYMENT / SCHOOL ADDRESS	ZIP	EMPLOYER / SCHOOL TELEPHONE NO.			
SSN	PLACE OF BIRTH	STATE					
LINKING							

STATEMENT

On 12-19 2004 I Max attempted to drive away form the Klondike Inn, John Lee , the manager, was with me. As we were pulling through the parking lot a van crossed in front of us cutting us off to stop. One of the men jumped in the back, shattered out back window of the truck. Then he jumped out of the back and then tried to scatter the front drivers window. Then the other male, man in black jacket, threw a cement block through the front window. We tried to pull away in fear of our lives. Man in black jacket jumped in back of truck, grabbed a broom, removed broom part and started to stab at back window to shatter it further in order to stab Max in back of head and hands. Then a silver van rammed into the side of us. At that point the male in the back broke broom handle to get sharp point to try and stab Max again. We were able to make it back the office of the Klondike Inn, lock the doors and call 911.

SIGNATURE

(14)

I have read the above and foregoing statement and d have been given the opportunity to make any y corrections or changes I might make. Any changes that I have made are initiated by me in my own handwriting.

Signed: X [Signature] 12-19-04

FPD USE ONLY

(35) STATEMENT RECEIVED BY: CPM FPDIN

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FOURTH JUDICIAL DISTRICT AT FAIRBANKS

YONG H. YI, KENNY YI, )  
LUNAR CHIN, and HYON CHA YI, )

Plaintiffs, )

v. )

HARRIS S. YANG, SHARON YANG, )  
MAX ARTHUR LAMOUREAUX, JOHN C. )  
PHARR, and Y & I CORPORATION, )

Defendants. )

Case No. 4FA-04-2761 CIVIL

AMENDED AFFIDAVIT OF MAX A. LAMOUREAUX

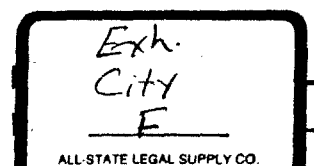
STATE OF ALASKA )  
 ) ss.  
THIRD JUDICIAL DISTRICT )

Max A. Lamoureux, being first duly sworn, deposes and states as follows:

1. I did not review my Affidavit of April 3, 2006 carefully before signing it. After further, careful review of my April 3, 2006 Affidavit I discovered some factual errors that I am correcting with this Amended Affidavit.

2. I did not work for Y & I Corporation from October 2004 to December 2004. I met Harris Yang in approximately October 2004. My last dealings with Harris Yang, other than this litigation, were in December 2004.

EXC 85



3. I never worked for Y & I Corporation or Harris Yang. I was never on any payroll and never received, or expected to receive, any compensation for what I did for Harris Yang.

4. I agreed to assist Harris Yang with discussions with the Yi's regarding the purchase price for the inventory of the Klondike Restaurant and Bar and the possible sale of the liquor license for the Klondike bar, and with getting the Klondike on the internet.

5. In December 2004, I spoke with the Yi's a couple times about the purchase of the inventory from Harris Yang and the possible purchase of the liquor license. The Yi's were extremely profane during our conversations, but they spoke and understood English well. Following our discussions on December 13, 2004, I wrote the Yi's a letter with a written proposal. A true and correct copy of my December 13, 2004 letter is attached hereto as Exhibit A. I received no response from the Yi's to my December 13, 2004 letter, and had no further conversations with them.

6. I traveled to Fairbanks on or about December 19, 2004 to assist Harris Yang with getting the Klondike on the internet.

7. At about 8:00 a.m. on December 19, 2004, John Lee asked me to come with him to the Klondike Restaurant and Bar while he removed the liquor license from the bar and posted an eviction notice on the door.

8. The locksmith popped the lock on the back door, John Lee entered the premises, removed the license, and came back out. At all times, I stayed outside. I did not enter the Klondike Restaurant and Bar at any time on December 19, 2004.

9. John Lee told me he was posting an eviction notice, but I did not see what he posted or whether he actually posted anything on the door.

10. John Lee and I walked back to the Klondike Inn and got into Harris Yang's 1998 Ford F-250. I was driving. As we were leaving, a van pulled up and blocked our exit. At this point the events described in my statement to the police occurred. A true and correct copy of my statement to the police is attached hereto as Exhibit B.

11. A man jumped in the bed of the truck and shattered the back window. He then jumped out of the truck bed and tried to shatter the front, driver's side window. Another man threw a



cement block through the front window. I then tried to pull away. One of the men jumped back into the truck bed and tried to further shatter the back window with a broom handle. He then tried to stab John Lee and I with the broom handle. Then a silver mini-van driven by a female rammed the side of the truck. The man in the back of the truck then broke the broom handle and began trying to stab us with the sharp point of the broke broom handle. I was able to drive back to the office of the Klondike Inn. John Lee and I made it inside and called 911. The police arrived shortly thereafter and arrested the two men.

12 I later learned that Kenny Yi was the one who initially jumped in the back of the truck, and Yong Yi was the one who threw the cement block through the front window of the truck and then tried to stab me with the broken broom handle.

13. As soon as possible, I returned to Anchorage. I did not see the Yi's return to the Klondike at any time.

14. It was a terrifying experience. I firmly believe that the Yi's would have killed me, if they could have.

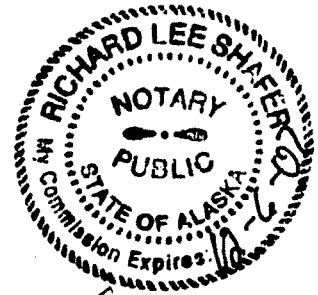
  
Max A. LaMoureaux

SUBSCRIBED and SWORN to before me this 25<sup>th</sup> day of  
May, 2006.

Richard Lee Shafer

Notary Public in and for Alaska

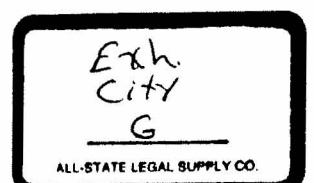
My Commission Expires: 12-6-07



04-24759



EXC 90



**LAW OFFICES OF JOHN C. PHARR**

731 West Fourth Avenue, Suite 304  
Anchorage, Alaska 99501

Phone (907) 272-2525

Fax (907) 277-9859

jpharr@agc.net

December 10, 2004

VIA HAND DELIVERY AND CERTIFIED MAIL R/R

Yang H. Yi

Kenny Yi

Kloodika Restaurant & Sports Bar

P.O. Box 81251

Fairbanks, Alaska 99708

**NOTICE TO QUIT**

Location:

I am writing on behalf of Harris Yang, Owner of the Kloodika Restaurant & Sports Bar and its Beverage Dispensary/Tourist liquor license. He has physically removed the license from the premises and you are hereby instructed not to sell any more liquor on the premises.

It has come to his attention that you are occupying the premises under an agreement that does not comply with the statutes and regulations of the State of Alaska pertaining to the sale of alcohol. You are selling and have sold alcohol without a license. You have therefore violated AS 24.03.100(a) and have used the premises for an illegal purpose. You must vacate within five (5) days pursuant to AS 09.45.060(2)(C).

There is no action you can take to remedy this wrongful occupancy. Therefore, you must vacate the premises by midnight on December 15, 2004.

If you do not vacate the premises by that date and time, Harris Yang will commence a civil action to remove you from the premises.

Sincerely,

# LAW OFFICES OF JOHN C. PHARR

By:  John C. Pharr

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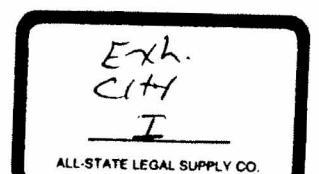
ALL-STATE LEGAL SUPPLY CO.

EXC 91

04-24759

04-247559

EXC 92



temporarily  
CLOSED !!!  
UNDER  
Renovation !!!  
We will be opening

65262-10

EXC 93

Exh.  
CITY  
J  
ALL-STATE LEGAL SUPPLY CO.

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

YONG H. YI, KENNY YI, HYONG C. YI  
and LUNAR CHIN,

Plaintiffs,

vs.

HARRIS S. YANG, SHARON YANG, MAX  
ARTHUR LAMOUREAUX, Y & I  
CORPORATION, OFFICER LAWRENCE  
PEYTON MERIDETH, and the CITY OF  
FAIRBANKS,

Defendants.

Case No. 4FA-04-2761 CI

**AFFIDAVIT OF LAWRENCE PEYTON MERIDETH**

STATE OF ALASKA

FOURTH JUDICIAL DISTRICT

Lawrence Peyton Merideth, being first duly sworn, upon oath, deposes and states as follows:

1. I am currently a detective with the Fairbanks Police Department. I have been employed by the Fairbanks Police Department since July 1, 2000. In December of 2004, I was working as an officer assigned to a regular patrol shift. In February of 2005, I moved to investigations.

2. On the morning of December 19, 2004, I was dispatched to an incident in progress at the Klondike Inn/Restaurant. The Klondike is located on Bedrock Street in the City of Fairbanks. The Inn is on one side of the street, and the bar/restaurant is across the street from the Inn. Officer Douglas Welborn, Officer David McKillikan, and then Sergeant (now Lieutenant) James Geier also responded.

**AFFIDAVIT OF LAWRENCE PEYTON MERIDETH**  
Yi, et al. v. Yang, et al., 4FA-04-2761 CI  
Page 1 of 5

EXC 94

3. While in route to the scene, we received information from dispatch that a silver van had possibly been involved in the incident and that the driver of the van had attempted to run someone over. While approaching the scene, I observed a silver Chrysler minivan, Alaska license EBF777, stuck in a snow bank near the intersection of Bedrock and Rewak Streets, very close to the Klondike Inn.

4. I arrived in my patrol vehicle at approximately the same time that Officer Wellborn arrived in his patrol vehicle, around 9:45 a.m. There was a group of people standing outside on the restaurant side of the street. Officer Wellborn parked his vehicle on that side of the street and made contact with those people. I parked near the office entrance to the Klondike Inn and entered the office.

5. As I pulled up to the office area, I observed a white Ford pickup truck, Alaska license plate DMS745, parked outside the Inn. It was parked at an odd angle, it was running, and the driver's-side door was open. The rear windows and the front windshield of the truck were all shattered.

6. Inside the office, I contacted Max Lamoureux and Jung (John) Lee, both identified themselves as managers of the Klondike Inn. Lamoureux stated he had come to Fairbanks from Anchorage to help the owner of the Klondike serve eviction paperwork on the owners of the Klondike restaurant. He stated that at approximately 8:00 a.m. that morning he and Lee placed eviction notices on the door of the restaurant. At approximately 9:30, he and Lee were going to leave the Klondike office in the white Ford pickup to drive to breakfast. As he and Lee were exiting the parking lot, the silver Chrysler minivan cut in front of them and forced them to come to a stop. A female, believed to be HyongYi, was driving the minivan at that time. A man wearing a tan jacket and blue pants (later identified as Kenny Yi) exited the

AFFIDAVIT OF LAWRENCE PEYTON MERIDETH

Yi, et al. v. Yang, et al., 4FA-04-2761 CI

Page 2 of 5

EXC 95

City K



van and began to yell and curse at Lamoureux and Lee. Kenny Yi then jumped into the bed of the truck and with the handle of a push broom that was in the bed of the truck broke out one of the truck's rear sliding windows. Another man (later identified as Yong Yi) approached the vehicle and grabbed a large object and threw it at the front windshield, shattering the windshield. Yong Yi then jumped into the bed of the truck. Kenny Yi had gotten out of the truck and was now yelling at Lamoureux through the driver's side window. Yong Yi used the same, now broken, push broom handle and broke out another window. With the broom handle, Yong Yi continuously tried to stick Lamoureux and Lee through the broken back window. Lamoureux then drove off with Yong Yi still in the bed of the truck. When Lamoureux drove out onto Rewak Street, he was followed by the silver minivan being driven by Hyong Yi. The front of the minivan collided with the driver's side door area on the Ford truck. The van spun around and became stuck in a snow bank. Lamoureux then turned the truck around and drove back into the Klondike parking lot to the office area. He and Lee exited the truck and ran into the office. They were chased by Yong Yi, who had jumped out of the bed of the truck and was still trying to stick Lamoureux and Lee with the broken broom handle. They were able to lock the door to the office before Yong Yi could catch them.

7. Both Lee and Lamoureux stated that they were placed in fear based upon the actions of Yong Yi and Kenny Yi when they broke out the truck's windows and threatened them with the broken broom handle. Lamoureux was struck in the wrist by the broom handle being wielded by Yong Yi. Lamoureux's watch was broken by this contact. Lamoureux stated that he thought that he and Lee would have been killed if Yong Yi and Kenny Yi had had the opportunity.

AFFIDAVIT OF LAWRENCE PEYTON MERIDETH

Yi, et al. v. Yang, et al., 4FA-04-2761 CI

Page 3 of 5

ICE OF THE  
ATTORNEY  
O CUSHMAN  
ANKS, ALASKA  
701-4615

7-459-6750

EXC 96

City K

8. While I was speaking with Lamoureaux and Lee, I contacted Officer Welborn by radio. He was across the street speaking to the people there. I asked him to have Kenny Yi and Yong Yi stand in a clear area so Lamoureaux could see them. Lamoureaux identified the two men as the men who had broken the windows and windshield of the truck and tried to stab him and Lee with the broken broom handle.

9. I spoke with Valerie Hopson who was standing outside the Klondike when the incident started. She observed Kenny Yi and a female wearing a red coat exit a red truck and walk up to the white truck. Hopson stated the man in the brown jacket (Kenny Yi) kept yelling "get the fuck out". Hopson stated that Kenny Yi and the female were so upset that if they had a gun, they would have killed the men in the truck.

10. I spoke with Samantha Bergman. She observed the two managers (Lee and Lamoureaux) run into the office being chased by, in her words, "the crazy guy" with a stick.

11. I walked from the Klondike Inn office across the street to Officer Welborn's location. I asked Kenny Yi and Yong Yi if they had broken out the windows and windshield of the white Ford pickup truck. They confirmed that they had. I then told them that they were being put under arrest. Kenny Yi and Yong Yi were handcuffed, placed in the back of patrol cars and transported to FCC. Officer Welborn transported Yong Yi to FCC, and I transported Kenny Yi to FCC.

12. Max Lamoureaux told me that he and Jung Lee had posted eviction notices on the door of the Klondike bar and restaurant. The photographs from the scene show a notice posted on the door and a notice posted in the window of the restaurant stating it was closed for renovations.

OFFICE OF THE  
CITY ATTORNEY  
800 CUSHMAN  
IRBANKS, ALASKA

99701-4615  
AFFIDAVIT OF LAWRENCE PEYTON MERIDETH  
Yi, et al. v. Yang, et al., 4FA-04-2761 CI  
Page 4 of 5

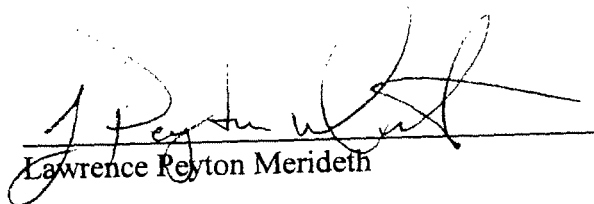
EXC 97

CITY K

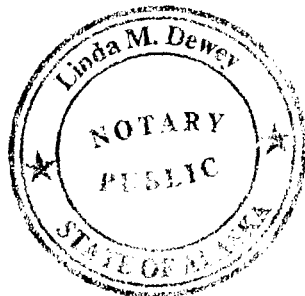
13. I did not enter the Klondike restaurant and bar that day, and I did not see anyone else enter.

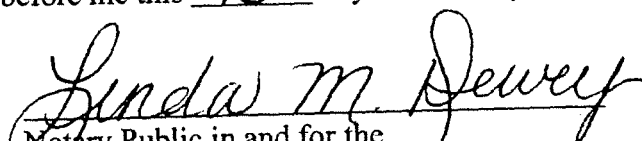
14. I remember that the Yi's came to FPD after the 19th to speak with someone, and I have reviewed copies of the written statements they made on December 23, 2004. I have had no direct contact with Kenny Yi or Yong Yi or any of their family members since then. I am sure I have been back to the Klondike on other police matters but not on any matters related to the Yi's.

**END OF AFFIDAVIT.**

  
Lawrence Peyton Merideth

SUBSCRIBED AND SWORN TO before me this 13 day of February 2007.



  
Notary Public in and for the  
State of Alaska.  
My Commission Expires: 9/16/09

ICE OF THE  
ATTORNEY  
DO CUSHMAN  
ANKS, ALASKA  
701-4615  
07-459-6750

AFFIDAVIT OF LAWRENCE PEYTON MERIDETH  
Yi, et al. v. Yang, et al., 4FA-04-2761 CI  
Page 5 of 5

EXC 98

city K

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

YONG H. YI, KENNY YI, HYONG C. YI )  
and LUNAR CHIN, )

Plaintiffs, )

vs. )

HARRIS S. YANG, SHARON YANG, MAX )  
ARTHUR LAMOUREAUX, Y & I )  
CORPORATION, OFFICER LAWRENCE )  
PEYTON MERIDETH, and the CITY OF )  
FAIRBANKS, )

Defendants. )

Case No. 4FA-04-2761 CI

**AFFIDAVIT OF DOUGLAS WELBORN**

STATE OF ALASKA )  
FOURTH JUDICIAL DISTRICT ) §

Douglas Welborn, being first duly sworn, upon oath, deposes and states as follows:

1. I am a police officer with the Fairbanks Police Department. I have been employed by the Fairbanks Police Department since August 18, 2003.

2. On the morning of December 19, 2004, I was dispatched to an incident in progress at the Klondike Inn/Restaurant. The Klondike is located on Bedrock Street in the City of Fairbanks. The Inn is on one side of the street, and the bar/restaurant is across the street from the Inn.

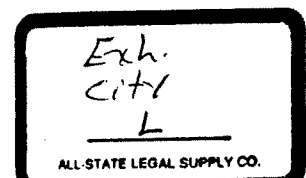
3. I arrived in my patrol vehicle at approximately the same time that Officer Merideth arrived in his patrol vehicle, around 9:45 a.m. There was a group of people standing outside on the restaurant side of the street. I parked my vehicle on that side of the street and made

**AFFIDAVIT OF DOUGLAS WELBORN**

Yi, et al. v. Yang, et al., 4FA-04-2761 CI

Page 1 of 3

EXC 99



contact with these people. Officer Merideth parked near the Inn office area.

4. Kenny Yi and Yong Yi were among the people in the group I contacted. I talked to the people in the group and asked questions in an attempt to figure out what had happened. Kenny Yi and Yong Yi admitted that they had broken out the windows of the Ford pickup.

5. At one point, Officer Merideth contacted me by radio and asked me to have two of the people in the group I was talking to stand apart from the others. The two people were Kenny Yi and Yong Yi.

6. Officer Merideth walked over from the Klondike Inn office to my location across the street. He asked Kenny Yi and Yong Yi if they had broken out the windows and windshield of the white Ford pickup truck. They confirmed that they had. Officer Merideth then told them that they were being put under arrest. They were handcuffed and placed in patrol cars. Yong Yi was placed in my patrol car, and I transported him to FCC.

7. I did not enter the Klondike restaurant and bar on that day, and I did not see anyone else enter.

8. On December 21, 2004, Kenny Yi came to FPD headquarters. The CAD notes indicate that Kenny Yi wanted to speak with an officer. He told FPD dispatch that the owner (Harris) would not let him into the lounge to get his property. He was informed that he would need a writ of assistance. A person named Dockery told dispatch that another person wanted to be present when Mr. Yi came to the Klondike to get his property. I went to the Klondike and conducted the civil standby while Mr. Yi retrieved his personal property. I also served DVPO's on Kenny Yi, Hyong Yi, and Yong Yi at that time. Since that date, I have been to the Klondike on unrelated police calls but not on any matters related to the Yis.

OFFICE OF THE  
ATTORNEY  
CUSHMAN  
ANKS, ALASKA  
9701-4615

07-459-6750

**AFFIDAVIT OF DOUGLAS WELBORN**

Yi, et al. v. Yang, et al., 4FA-04-2761 CI

Page 2 of 3

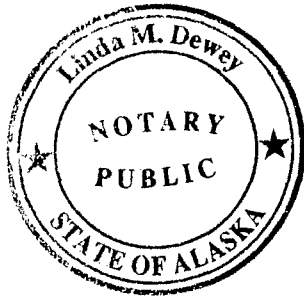
EXC 100

city L

END OF AFFIDAVIT.

*Douglas Welborn*  
Douglas Welborn

SUBSCRIBED AND SWORN TO before me this 15 day of February 2007.



*Linda M. Dewey*  
Notary Public in and for the  
State of Alaska.  
My Commission Expires: 9/16/09

OFFICE OF THE  
CITY ATTORNEY  
800 CUSHMAN  
AIRBANKS, ALASKA

99701-4615

907-459-6750

AFFIDAVIT OF DOUGLAS WELBORN

Yi, et al. v. Yang, et al., 4FA-04-2761 CI

Page 3 of 3

EXC 101

city L



# STATEMENT

FAIRBANKS POLICE DEPARTMENT  
FAIRBANKS ALASKA

CASE NUMBER	041 124121514
CROSS REFERENCE CASE NUMBER	
CASE OFFICER	MERIDETH
DATE	11059

IDENTITY OF PERSON  
MAKING THIS STATEMENT

1. YONG H YI

(PRINT FULL NAME)

make the following voluntary statement at: time: 13:44

12/23/04

ROLE	W	LAST NAME, FIRST NAME, MI	YI, YONG H	RACE	SEX	AGE	DATE OF BIRTH	DRIVERS LICENSE NO.	STATE
AKA / ALIAS		RESIDENCE ADDRESS	415 5TH AVE #301 99701	MAILING ADDRESS			PO Box 81251 99708	RESIDENCE TELEPHONE NO.	AK
TITLE / OCCUPATION	Self Emp	PLACE OF EMPLOYMENT / SCHOOL	Klondike Restaurant	EMPLOYMENT / SCHOOL ADDRESS			1347 Rewak Dr	EMPLOYER / SCHOOL TELEPHONE NO.	449-2224
DOB		PLACE OF BIRTH	S	STATE			KOREA		

STATEMENT

See Attachment.

We write with own Complain Paper

Please Read attachment

- Welborn

OFC Johnson 14:15 PM

SIGNATURE

I have read the above and foregoing statement and I have been given the opportunity to make any y corrections or changes I might make. Any changes that I have made are initialed by me in my own handwriting.

Signed: X [Signature]

FPD USE ONLY

(35) STATEMENT RECEIVED BY:

CITY  
EXH.  
M

Yong H Yi  
P O Box 81251  
Fairbanks, Ak 99708  
(907) 347-3810

Re: Stolen personal belongings and Money

Dear police officer

I am owner of Klondike Restaurant and Sports Bar where 1347 Rewak Drive in Fairbanks. I am also involved with incidents on December 19, 2004 at front of Klondike Restaurant.

When I arrested by police officer on December 19, 2004. I was informed one of police officer that we have lot of cash in the office area of restaurant and many of inventories.

Unfortunately I've got ignored by police officer and I couldn't got in to my restaurant to get my personal belongings and those cash that doesn't belong to landlord.

I was stopped by police officers, and I've told by police officers that I have to wait until landlord pack my belongings in the box. Also I must had permissions from landlord.

However, landlord changed the lock on 19<sup>th</sup> of December.

2 day later which is 21<sup>st</sup> of December, we walk-in to the restaurant with police officer Weinberg and we found out office door was unlock. Also safety box number was on different combination position.

The sum of amounts we missing is \$24,699.70. Explanation as below;

\$ 20,000.00 for business transaction in future,

\$ 1,200.00 for Starting money for bartender (There was 5 bundles missing, each bundle had \$240.00)

\$ 600.00 for dollar bills for weekend business,

\$ 1,000.00 for back up money,

\$ 1,899.70 for night shift sale of Friday night.

I would like to request investigation on this case as soon as possible.

We are still researching further missing items and money and I will notice you when I found out more.

Yours  
Yong Yi

EXC 103

12/23  
Yi v. Yang  
Plaintiff No. 14

city m



DATE TEXT &gt;

CASE NAME >  
WITNESS >

CASE NUM &gt;

Page 1

1 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
2 FOURTH JUDICIAL DISTRICT AT FAIRBANKS  
3 YONG H. YI, KENNY YI, LUNAR CHIN )  
4 and HYON CHA YI, )  
5 Plaintiff, )  
6 vs. )  
7 HARRIS S. YANG, SHARON YANG, MAX )  
8 ARTHUR LAMOUREAU, JOHN C. PHARR )  
9 and Y&I CORPORATION, )  
10 Defendant, )  
11 Third Party Plaintiff, )  
12 vs. )  
13 KENNY YI and LUNAR CHIN, )  
14 Third Party Defendants. ) Case No. 4FA-04-2761 CI  
15  
16 DEPOSITION OF HARRIS YANG  
17 June 23, 2005  
18 APPEARANCES:  
19 FOR THE PLAINTIFFS: MR. MICHAEL J. WALLERI  
20 Attorney at Law  
21 330 Wendell Street, Suite E  
22 Fairbanks, Alaska 99701  
23 (907) 452-4716  
24 FOR THE DEFENDANTS: MR. JOHN C. PHARR  
25 Law Offices of John C. Pharr  
Attorney at Law  
733 West 4th Ave., Suite 308  
Anchorage, Alaska 99501  
(907) 272-252  
ALSO PRESENT: Mr. Kenny Yi  
Mr. Yong Yi

Page 2

1 PURSUANT TO NOTICE, the Deposition of HARRIS YANG was  
2 taken on behalf of Plaintiffs, before Sharon Taylor, Notary  
3 Public in and for the State of Alaska, and Reporter for Liz  
4 D'Amour & Associates, Inc., at the offices of D'Amour and  
5 Associates, 330 Wendell Street, Suite A, Fairbanks, Alaska  
6 99701, on the 23rd day of June, 2005, commencing at the hour of  
7 9:20 o'clock a.m.  
8 \* \* \* \* \*

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18 \* \* \* \* \*

Page 3

1 PROCEEDINGS  
2 (On record)  
3 COURT REPORTER: We're on the record. My name  
4 is Sharon Taylor with D'Amour and Associates in Fairbanks,  
5 Alaska. Today's date is June 23rd, 2005. The time is  
6 approximately 9:20 a.m. We are here in the case of Yong Yi,  
7 et. al. vs. Harris Yang, et. al., 4FA-04-2761 civil. We are  
8 meeting for the deposition of Mr. Harris Yang. And will  
9 counsel please identify themselves and the others in the room  
10 before I swear the witness, please?  
11 MR. WALLERI: My name is Mike Walleri for  
12 the -- attorney for the plaintiffs.  
13 MR. PHARR: John Pharr for the defendants.  
14 COURT REPORTER: Thank you. And who are the  
15 also presents in the room? Sir, your name?  
16 MR. KENNY YI: My name is Kenny Yi, the  
17 defendant's brother.  
18 COURT REPORTER: Okay. And, sir, your name?  
19 MR. YONG YI: My name is Yong Yi.  
20 MR. WALLERI: They're parties.  
21 COURT REPORTER: Okay. Thank you.  
22 MR. WALLERI: They're plaintiffs.  
23 COURT REPORTER: Okay. Sir, would you raise  
24 your right hand, please?  
25 (Oath administered)

Page 4

1 MR. YANG: Yes.  
2 COURT REPORTER: Thank you.  
3 HARRIS YANG  
4 having first been duly sworn under Oath, testified as follows  
5 on examination:  
6 COURT REPORTER: For the record, would you  
7 please state your name and spell your last name?  
8 A Harris Yang, H-a-r-r-i-s.  
9 COURT REPORTER: And the last name?  
10 A Oh, first, I can't talk very much. I had a big  
11 operation in my teeth....  
12 COURT REPORTER: Oh, okay.  
13 A .....so I had a hard time to talk.  
14 COURT REPORTER: Okay. I just need you to  
15 spell your last name.  
16 A Yeah. Y-a-n-g.  
17 COURT REPORTER: Okay. And I need a mailing  
18 address?  
19 A 1316 Bedrock Street.  
20 COURT REPORTER: In Fairbanks?  
21 A Yeah, Fairbanks 99709.  
22 COURT REPORTER: And a daytime telephone?  
23 A 347-6500.  
24 COURT REPORTER: Thank you. You may proceed.  
25 DIRECT EXAMINATION

Page 153

1 Q One is dated December 10th?  
2 A December 10th, uh-huh.  
3 Q Okay. And the second letter is from December 20th.  
4 A 20th, yeah.  
5 Q Okay. Did you direct your attorney Mr. Pharr, or did  
6 you authorize Mr. Pharr to send these notices to quit?  
7 MR. PHARR: That's privileged and don't answer  
8 the question.  
9 A I -- at that time....  
10 MR. PHARR: You don't have to answer the  
11 question.  
12 A Yeah. No, I'm not -- no, I don't care to answer or  
13 not. I don't know the time. I don't get involve. I  
14 just keep telling you, I don't get involve with the  
15 papers. This is not important. I'm dealing with the  
16 other -- with the business, yeah....  
17 Q Well, I'm saying, was Mr. Pharr your attorney?  
18 A .....because I don't know.  
19 Q Mr. Pharr -- you don't know whether or not....  
20 A Yeah, they were the contact....  
21 Q .....Mr. Pharr was your attorney?  
22 A Yeah, other people, having employees contact -- well, I  
23 know that -- I know who my attorney is, but I don't  
24 deal with it directly.  
25 Q How did you expect to get the Yis out?

Page 155

1 Q Okay. So you were unemployed but you didn't have time  
2 to....  
3 A I got a lot of work.  
4 Q .....pay attention to this information?  
5 A No, no, I still have a lot of work, a lot of work  
6 besides....  
7 Q What work did you have to -- that you were doing?  
8 A What I'm doing? I'm working a lot of things. I'm keep  
9 moving all the time. I told you, I'm....  
10 Q What were you working doing?  
11 A No, no, I'm not going to tell you what I'm doing.  
12 MR. WALLER: Do you want to instruct -- do you  
13 want to talk to your....  
14 A I got to go to bathroom....  
15 MR. WALLER: .....client again?  
16 A .....and I got to eat.  
17 MR. PHARR: Just ask your questions, counselor.  
18 A Just ask the....  
19 Q Okay. What were you doing in December that you didn't  
20 have time....  
21 A Uh-huh.  
22 Q .....to pay attention....  
23 A Just....  
24 Q .....to this?  
25 A December what?

Page 154

1 A Well, all my employees does the job, their job for me.  
2 I don't -- I don't have any other -- do all the jobs  
3 and the thousands things in my brain I can handle every  
4 day, so I got a lot -- lot of other -- lot more other  
5 things I have to taking care of with besides the --  
6 so....  
7 Q Was that notice to quit authorized by you?  
8 A Oh, I -- I heard that -- I sign it. It's got to be --  
9 it's got to be quit.  
10 Q Okay. So basically you....  
11 A Yeah, all this my....  
12 Q .....wanted them out?  
13 A Yeah, I want to get them out, definitely.  
14 Q And Mr. Pharr was representing you at the time?  
15 A Correct.  
16 Q Okay. Now, you said you had lots of other things to  
17 do.  
18 A Yes.  
19 Q What else were you doing?  
20 A I have a lot of things to myself. I'm not going to  
21 tell you all of -- this is my personal....  
22 Q Well, you were unemployed, weren't you?  
23 A Huh?  
24 Q You were unemployed at the time?  
25 A Correct, yeah.

Page 156

1 Q December 10th.  
2 A December 10th, what I'm -- what I been doing?  
3 Q Uh-huh (affirmative).  
4 A I'm working outside.  
5 Q Okay.  
6 A yeah.  
7 Q Did -- Max works for you, correct?  
8 A Correct.  
9 Q Was there ever a restraining order issued against you  
10 by the Yis?  
11 A Restraining -- no, I don't remember restraining order  
12 or not.  
13 Q Were you ever told by the police not to go back to the  
14 Yis restaurant?  
15 A No, I never heard about it. I don't remember.  
16 Q Now, on the events of -- do you remember what happened  
17 on December 19th, 2004?  
18 A What happened? December 19th?  
19 Q Were you aware that Max Lamoureux....  
20 A Yeah.  
21 Q .....came to Fairbanks on December 19th....  
22 A Yeah.  
23 Q .....2004?  
24 A Uh-huh (affirmative).  
25 Q Why did he come to Fairbanks?

Page 157

1 A Why?  
2 Q Why?  
3 A Well, he taking care of business?  
4 Q Did you tell him to come to Fairbanks?  
5 A Yeah. Oh, yeah, all the employees knows about it.  
6 Q And what was -- what did you tell him to do when he came to Fairbanks?  
7 A Well, we got to have the taking care of the business.  
9 Q What does that mean? What did you tell him to do when he came to Fairbanks?  
11 A He's -- he's -- he's got to be -- he's got to be quit the business.  
13 Q What did you specifically tell Max to do when he came to Fairbanks?  
15 A No, I said to quit, quit, that's what I tell him.  
16 Q You tell him what?  
17 A Quit for the business.  
18 Q That he was to quit?  
19 A Quit the business, no more business.  
20 Q No more business.....  
21 A Yeah.  
22 Q .....with what?  
23 A Well, no more business. I don't know.....  
24 Q So you weren't going to do anymore business?  
25 A Well, don't.....

Page 159

1 A Well, he just put the -- making sure the door -- all the door is locked, make sure. He's inspecting the lock, not going to open, and business.....  
4 Q How was he supposed to do that?  
5 A What?  
6 Q What was your understanding of what he was supposed to do?  
7 A Well, it was -- yeah, because the order from the law, so.....  
10 Q So he was supposed to get a court order?  
11 A Yeah, that's the way we going to.  
12 Q So you're going to go to court?  
13 A Yeah, we going to fight, yeah, fight at the court.  
14 Q Did you ever go to court?  
15 A Oh, not yet.  
16 Q Okay.  
17 A But we going to, yeah.  
18 Q So what was Max supposed to do when he got here on the 19th?  
19 A 19, that -- that's I told you, he got to watch them, the properties, making sure that.....  
22 Q He was just supposed to watch the property?  
23 A Yeah, exactly.  
24 A Right.  
25 Q Was he supposed to enter the bar?

Page 158

1 Q You were going to shut down the Klondike?  
2 A Yeah, exactly, yeah.  
3 Q Okay. You were going to shut down the motel?  
4 A No, not shut down motel.  
5 Q What were you going to shut down?  
6 A The bar and restaurant we talk about.  
7 Q Okay. And how was he to do that?  
8 A How?  
9 Q How?  
10 A Well, everything by the law, I do it by the law.  
11 Q So what were -- how was he going to do that, specifically? What was your understanding of what he was to do?  
14 A Well, I believe that somebody stealing the -- I consider it stealing, inventories in there to pay -- the selling, they put in their pocket money. So we just think this not a thief? That's a thief to me.  
18 Q So the Yis -- you believed that the Yis were stealing from you?  
20 A Thief, yeah, they are thief. That's what I believe.  
21 Q What were they stealing from you?  
22 A Inventories. Those belong to the Klondike if they took over, and they don't pay. I consider that stealing.  
24 That's.....  
25 Q So what was Max supposed to do when he got here?

Page 160

1 A Was supposed to be in the bar?  
2 Q Did you tell him to go into the bar?  
3 A Into the bar? I don't know he went into the bar or not. I -- I don't know.  
5 Q Do you know whether or not he did go into the bar?  
6 A I don't know.  
7 Q Did he ever tell you what happened?  
8 A Well, yeah, they told me.  
9 Q What did he say happened?  
10 A Well, they just attacking those people.  
11 Q Did he say that he went into the bar?  
12 A No.  
13 Q So he did not -- as far as you know, Max did not go into the bar?  
15 A Well, Max -- I consider his employee, anybody can -- my employees, managers can go (indiscernible) done, so they can -- I give.....  
18 Q I'm just trying to get a.....  
19 A I give order to.....  
20 Q Please answer the question. I want a straight answer. Did you tell Max to go into the bar?  
22 A No.  
23 Q Okay. Did you authorize Max to go into the bar?  
24 A No.  
25 Q Okay. So if Max went into the bar, it was without your

Page 161

1 authorization?  
2 A He was in the bar?  
3 Q If he did go into the bar, it was without your  
4 authorization?  
5 A Yeah, I give authorization, making sure everything's  
6 okay.  
7 Q So you did tell him he could go into the bar?  
8 A Well, I don't have to tell him. That's what -- he  
9 keep -- he keep the properties, making sure inside,  
10 outside is secure.  
11 Q So you didn't tell him to go in?  
12 A No, I didn't tell him. I -- you know, he's supposed to  
13 check in and out, so -- because making sure it's  
14 secure. That's the issue, if you want to check the  
15 inside, he's got to go inside.  
16 Q So you wanted Max to fly from Anchorage to  
17 Fairbanks.....  
18 A Uh-huh (affirmative).  
19 Q .....to sit and watch the bar?  
20 A Well, this is the property manager, so he's got to do  
21 watching the properties, making sure.....  
22 Q How many employees do you have on site at the Klondike  
23 on December 19th, 2004?  
24 A Oh, I don't know, probably -- maybe a few, huh, maybe  
25 four, five, something like that.

Page 163

1 the bar?  
2 A No.  
3 Q Did anybody that you know of.....  
4 A Nobody -- they don't know. They don't.....  
5 Q They didn't know?  
6 A No, they didn't know.  
7 Q So they had no idea that anybody was.....  
8 A No.  
9 Q .....coming up from Anchorage?  
10 A Correct.  
11 Q Okay.  
12 A Correct.  
13 Q Do you know whether or not they had ever met Max.....  
14 A Yeah.  
15 Q .....in person?  
16 A They don't know.  
17 Q They don't know him?  
18 A Yeah.  
19 Q Okay. And you knew that they didn't know him?  
20 A Yeah.  
21 Q Okay.  
22 A Correct.  
23 Q And so you had Max.....  
24 A But John is there, so John knows, so.....  
25 Q So you knew -- they knew who John was?

Page 162

1 Q Four or five?  
2 A Yeah, somewhere around there.  
3 Q And your wife was there?  
4 A No, I don't think so.  
5 Q Your wife was not on the premises?  
6 A No.  
7 Q Okay. Was Rhyce on the premise?  
8 A No.  
9 Q Was John Lee on the premise?  
10 A Yeah, he was.  
11 Q And John Lee is a manager?  
12 A Yeah, correct.  
13 Q Okay. So rather than have John Lee do it, you brought  
14 up -- you had Max come up to watch the premises, watch  
15 the bar?  
16 A Well, yeah, that -- he's -- everybody -- you know, any  
17 managers, if I ask them, they have to do it, and I'm  
18 not just asking for the bar, but I'm asking, making  
19 sure property is secure. So even I -- I can ask --  
20 now, the California people can come up here, you know,  
21 they have fun visiting me and different world, they can  
22 see it. So I -- I used to do that, people -- not.....  
23 Q Did you tell Max -- in terms of entering the bar.....  
24 A Uh-huh.  
25 Q .....did you tell the Yis that Max was going to go into

Page 164

1 A Correct.  
2 Q But they didn't know who Max was by sight?  
3 A Correct.  
4 Q Okay. So you had Max come up. You didn't tell him to  
5 go into the bar, but you -- but he had the authority to  
6 go into the bar?  
7 A Yeah, that's a question to tell -- he can -- he -- he  
8 can go into the bar.  
9 Q He could go in the bar?  
10 A Oh, yeah, sure.  
11 Q And he was your agent when he went into the bar?  
12 A Yeah, sure.  
13 Q Okay. But you gave no notice to the Yis that anybody  
14 was going to enter the bar?  
15 A Well, I don't have to.  
16 Q You don't have to?  
17 A Yeah, I don't deal with a thief, so.....  
18 Q Okay. So you don't have to give any notice under the  
19 lease.....  
20 A Yeah.  
21 Q .....that somebody -- when you go into the bar?  
22 A Correct, yeah.  
23 Q Okay. Why didn't you go into the bar?  
24 A Me?  
25 Q Yeah. Were you too busy?

Page 165

1 A I'm too busy. I'm too old. I'm too old for that. I  
2 don't drink, I don't do that kind of business, get  
3 involved, so....  
4 Q So you know what....  
5 A .....this is young people....  
6 Q Do you know what....  
7 A .....like you guys.  
8 Q Do you know what Max was supposed to do if he got into  
9 the bar?  
10 A Supposed just -- yeah, they -- he supposed to be the  
11 secure, making sure everything is secure.  
12 Q And how was he to do that?  
13 A There is a secure means, you know, the definition is it  
14 have to be secure from -- from thief.  
15 Q Did you want him to secure the money in the till?  
16 A No.  
17 Q Did you want him to secure the inventory?  
18 A No.  
19 Q Did you want him to....  
20 A Yeah, we don't want him -- I mean, we don't want  
21 anybody making sure -- secure means. We have not just  
22 him, I told you that John was there and other people  
23 was there, so....  
24 Q So other people went into the bar besides Max?  
25 A Yeah, John -- John....

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1 Q .....says there was money on the premises, would they  
2 be lying?  
3 A Oh, that's -- that was -- I seen the coin, a little  
4 small monies in there.  
5 Q Did you secure the money?  
6 A There was quarters, you know, dimes and nickels kind of  
7 stuff.  
8 Q Did you own that money?  
9 A No.  
10 Q Who owned that money?  
11 A Oh, it probably belong to them.  
12 Q Did you ever give it back to them?  
13 A No.  
14 Q Why not?  
15 A It's only nickels and dimes in there, so....  
16 Q There was no bills?  
17 A No, no bills.  
18 Q No cash bills?  
19 A Oh, no, no. Nobody go in there, just only when the  
20 police came in -- I don't know, I wasn't there, so I  
21 don't know they came in there or not. We -- we going  
22 to find it out. You can ask them directly, you know,  
23 making sure when inside or not. I cannot answer  
24 because I wasn't there.  
25 Q Who did the inventory after you seized the building?

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1 Q John went into the bar?  
2 A I don't know. I -- I never ask him.  
3 Q So what exactly was Max securing in terms of just the  
4 building, or was he securing other things inside the  
5 building?  
6 A Oh, inside, outside, everything, making sure, you know.  
7 Q Do you know whether or not the Yis purchased any  
8 inventory?  
9 A I don't care about that.  
10 Q So you didn't care about that?  
11 A Yeah, I didn't care about....  
12 Q Did you do an inventory after you seized the property?  
13 A Oh, yeah.  
14 Q Where is the inventory?  
15 A We -- we have in the office.  
16 Q You have it in the office?  
17 A Yeah.  
18 Q Do you have a -- what about the money in the till?  
19 A There -- there was no money in there.  
20 Q You never saw any money in the premises?  
21 A No.  
22 Q There was no money?  
23 A No money in there.  
24 Q Okay. Now, if someone....  
25 A We....

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1 A We have the person who is professional inventory. They  
2 work for the lawyers, all the lawyers here in town, so  
3 they....  
4 Q What's his name?  
5 A I don't -- I don't know.  
6 Q You have no idea?  
7 A It was last year. It was last year right after close,  
8 so we have all the inventory lists.  
9 Q Okay. And it was a professional person that does this  
10 kind of thing?  
11 A Well, he -- he does the -- all the lawyers that  
12 request, and so he's a professional. I don't want  
13 anybody get in there touching inventories, and so I was  
14 very, very secure, you know, there is nobody can get  
15 in; nobody get in.  
16 Q But you don't know who that person is?  
17 A I know who the person -- I don't know the name.  
18 Q Okay.  
19 A We have -- we have a record....  
20 Q Do you know who arranged for him?  
21 A Huh?  
22 Q Do you know who arranged for him to go in and do the  
23 inventory?  
24 A Oh, yeah, the -- our lawyers.  
25 Q Which lawyer?

**IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS**

YONG H. YI, KENNY YI, HYONG C. YI, )  
and LUNAR CHIN, )

Plaintiffs, )

vs. )

HARRIS S. YANG, SHARON YANG, MAX )  
ARTHUR LAMOUREAUX, Y & I )  
CORPORATION, OFFICER LAWRENCE )  
PEYTON MERIDETH, and the CITY OF )  
FAIRBANKS, )

Defendants. )

Case No. 4FA-04-2761 CI

**AFFIDAVIT OF PATRICK B. COLE**

STATE OF ALASKA )  
 ) §  
FOURTH JUDICIAL DISTRICT )

Patrick B. Cole, being first duly sworn, upon oath, deposes and states as follows:

1. I have worked for the City of Fairbanks in various capacities for over 18 years.

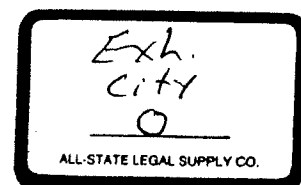
The positions I have held include Deputy City Attorney, Deputy City Manager, City Manager, and my current position is Chief of Staff.

2. I am familiar with the policies and procedures of the Fairbanks Police Department. Because state law allows for arrests by citizens, Fairbanks police officers will assist a citizen making a citizen's arrest by transporting the arrested person to the Fairbanks Correctional Center. The citizen making the arrest is required to sign a citizen's arrest form and sign a sworn statement, which must satisfy the requirements of AS 12.25.030.

OFFICE OF THE  
CITY ATTORNEY  
800 CUSHMAN  
FAIRBANKS, ALASKA  
99701-4615  
907-459-6750

AFFIDAVIT OF PATRICK B. COLE  
Yi, et al. v. Yang, et al., 4FA-04-2761 CI  
Page 1 of 2

Exc 109

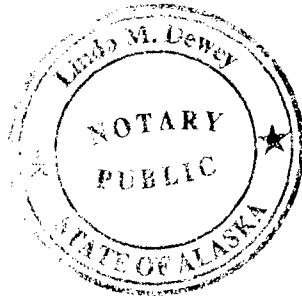


3. It is and has been the policy of the Fairbanks Police Department not to intervene in matters that involve civil legal disputes. The department does make officers available for civil "standbys" to assist citizens who have an appropriate court order in retrieving their property or gaining possession of their property.

**END OF AFFIDAVIT.**

Patrick B. Cole  
Patrick B. Cole

SUBSCRIBED AND SWORN TO before me this 20 day of February 2007.



Linda M. Dewey  
Notary Public in and for the  
State of Alaska.  
My Commission Expires: 9/16/09

2/21/07 aw

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

YONG H. YI, KENNY YI, HYONG C. YI  
and LUNAR CHIN,

Plaintiffs,

vs.

HARRIS S. YANG, SHARON YANG, MAX  
ARTHUR LAMOUREAUX, Y & I  
CORPORATION, OFFICER LAWRENCE  
PEYTON MERIDETH, and the CITY OF  
FAIRBANKS,

Defendants.

Case No. 4FA-04-2761 CI

**ORDER GRANTING MOTION FOR SUMMARY JUDGMENT**  
**(Officer Merideth and City of Fairbanks)**

The Court, having considered Defendants Lawrence Peyton Merideth and the City of Fairbanks motion for summary judgment and any opposition thereto and, pursuant to Rule 56(c), Alaska Rules of Civil Procedure, hereby **GRANTS** the motion and **DISMISSES** all claims against them with prejudice.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2007.

\_\_\_\_\_  
RANDY M. OLSEN  
Superior Court Judge

OFFICE OF THE  
CITY ATTORNEY  
300 CUSHMAN  
FAIRBANKS, ALASKA  
99701-4615  
907-459-6750

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT (Merideth and City of Fairbanks)  
Yi, et al. v. Yang, et al., 4FA-04-2761 CI  
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EXC 111



2/21/07 an

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

YONG H. YI, KENNY YI, HYONG C. YI  
and LUNAR CHIN,

Plaintiffs,

vs.

HARRIS S. YANG, SHARON YANG, MAX  
ARTHUR LAMOUREAUX, Y & I  
CORPORATION, OFFICER LAWRENCE  
PEYTON MERIDETH, and the CITY OF  
FAIRBANKS,

Defendants.

Case No. 4FA-04-2761 CI

CERTIFICATE OF SERVICE

I certify that on the 21st day of February 2007, the following documents: Motion For Summary Judgment (Defendants Merideth and City of Fairbanks), Memorandum in Support of Motion For Summary Judgment (with exhibits), and Order Granting Motion For Summary Judgment were served via courier (Court Courier Services) on:

Michael J. Walleri and Aisha T. Bray

And via first class mail on:

Harris Yang, Sharon Yang, John Pharr, and Kelly Fisher

Dated this <sup>20th</sup> ~~21st~~ day of February 2007 at Fairbanks, Alaska.

OFFICE OF THE CITY ATTORNEY  
Attorneys for Defendants City and Merideth

By: 

Paul J. Ewers  
Deputy City Attorney  
AK Bar No. 8711081