

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

VERN T. WEISS, father and)
next friend of CARL WEISS,)
a minor child, and EARL) FILED in the
HILLIKER, on behalf of) Trial Courts
themselves and all others) State of Alaska,
similarly situated; the) Fourth District
ALASKA MENTAL HEALTH) DEC 14 1994
ASSOCIATION, MARY C. NANUWAK)
and JOHN MARTIN, on behalf)
of themselves and all others)
similarly situated; ANITA)
BOSEL, FRANCES DOULIN, SHARON)
GOODWIN, and GABRIEL MAYOC;)
and H.L., M.K., and ALASKA)
ADDICTION REHABILITATION)
SERVICES,)
)
Plaintiffs,)
)
vs.)
)
STATE OF ALASKA,)
)
Defendant.)
)

Case No. 4FA-82-2208 Civil

ORDER

On December 6, 1994, final approval was granted for the settlement contained in Chapters 5 and 6, FSSLA 1994, Chapters 1 and 2, SSSLA 1994, Chapter 66, SLA 1991, and the Settlement Agreement signed on June 10, 1994. The following sections of Chapter 5, FSSLA 1994, as amended by Chapter 1, SSSLA 1994,

are incorporated into and material to the settlement agreement: Sections 2 through 9, 12 through 40(a) and (b), 41, 43, 46, 49, 50, and 51. Chapter 6, FSSLA 1994, as amended by Chapter 2, SSSLA 1994, is also material to the settlement agreement. In the event the Legislature materially alters any of these legislative enactments, the plaintiffs may seek relief from the judgment dismissing this case, pursuant to Alaska Civil Rule 60(b)(6), and file a new action reasserting all of their claims including their original claims and the claim that the mental health lands trust has not been adequately reconstituted. This dismissal with prejudice will not bar these claims.

Interim deeds conveying reconstituted trust lands to the Alaska Mental Health Trust Authority, created by Section 26 of Chapter 66, SLA 1994 (to be codified as AS 47.30.011(a)), were tendered by the State and accepted by the court on November 4, 1994. Chapter 6, FSSLA 1994, as amended by Chapter 2, SSSLA 1994, appropriates two hundred million dollars (\$200,000,000) to the mental health trust fund, which is created by Section 12 of Chapter 5, FSSLA 1994 (to be codified as AS 37.14.031).

The court has been assured that the State will promptly implement the following: (1) delivery of the interim deeds to the Alaska Mental Health Trust Authority upon its request; and (2) payment of the two hundred million dollars (\$200,000,000) into the mental health trust fund on December 16, 1994, the effective date for Chapters 5 and 6, FSSLA, as amended by Chapters 1 and 2, SSSLA 1994. The court finds that with recordable conveyances of original trust land and replacement trust land and payments of cash into the trust fund along with creation of the Alaska Mental Health Trust Authority and other program improvements, as required by the Settlement Agreement and the legislation described above, the State will have satisfied its obligations to reconstitute the mental health trust under State v. Weiss, 706 P.2d 681 (Alaska 1985). Failure of the State to complete its obligations under the settlement in a timely manner will be grounds for plaintiffs to seek relief from judgment.

Therefore, in view of the above IT IS ORDERED that

1. The preliminary injunction issued July 9, 1990 is dissolved.
2. The 1986 mineral closing order entered by this court is vacated. However, the order Temporarily Closing Trust Land to Mineral Location, dated August 15, 1994, remains in effect. All lands designated as trust land pursuant to Chapter 5, FSSLA 1994, as amended by Chapter 1, SSSLA 1994 are temporarily closed to mineral location until regulations regarding development of mineral trust land are adopted and become effective pursuant to sections 9 and 17 of Chapter 5, FSSLA 1994.
3. The case of Weiss v. State, 4FA-82-2208 Civil, is DISMISSED with prejudice.

If no appeal is taken from the dismissal of this case and the December 6, 1994, decision granting final approval of the settlement, the dismissal of this action terminates the operation of the lis pendens¹ identified in the attached Exhibit A. See Blake v. Gilbert, 702 P.2d 631, 642 (Alaska 1985), overruled on other grounds, Bibo v. Jeffrey's Restaurant, 770 P.2d 290, 296 n.9 (Alaska 1989). If final approval and dismissal are appealed, the lis pendens identified in Exhibit A automatically remain in effect pending a decision on appeal. See id.; AS 09.45.940.

¹ The recording of a notice of lis pendens provides constructive notice to purchasers and encumbrancers that their interests may be affected by a pending action affecting the title to or the right of possession of real property described in the notice. AS 09.45.940.

DATED at Fairbanks, Alaska this 13th day of December,
1994.

MARY E. GREENE
Superior Court Judge