

## Orth V. Largent Trial Notes

2/13/23 – Monday

- Introductions
  - CPLAW Paralegal Mary Crockett (From Brevig Mission – Her father was the Pastor and mother was the school principal.)
  - Bucky Largent – Walter Largent’s son (Worked mine for 37 years – 51 years old)
  - Walter Largent is 84 – It has been 1.5 years since stroke and will attend trial by phone. Bucky will be his representative.
- Schedule
  - The trial is supposed to run from 8:30am to 1:30pm each day. However, Judge Lyle has other business that will either delay start time or require an early end to our day.
- Attorney Issues
  - Several witnesses will testify via Zoom – Judge Lyle hates Zoom and it was justified by the immediate failure in maintaining a connection. The court IT person was called in.
  - Lyle was unhappy with Satterberg as the “Bench” copies of exhibits were not tabbed and difficult for Lyle to find.
- Of Note
  - Satterberg makes comment that “Acquiescence is enough to create hostility” with regard to a claim of a public prescriptive easement.
  - Tiemessen says that there is a presumption of permissive use by the owner of the servient estate and so the claimant must show use adverse and hostile to the owner in order to succeed with their claim. (See [Dault v. Shaw 2013](#)) Tiemessen also notes that there exists an express easement to the FNSB and State as landowners but that this does not make them available for the public at large.
  - There was a comment about [Matt Reckard’s 2013 email exchange](#) with me. This email in is the exhibits but does not include his final response to me on 6/18/13. He said “John: Wow. I am stunned by your lengthy, thorough, thoughtful and rapid response. Thanks a heap.” His initial email was a bit testy and suggested that DOT&PF was at fault for not resolving the Ester Creek Road issue.
  - I should take a look at the [1974 Department of Highways Trail Inventory](#) for the Ester area. The exhibits already contain email responses from the DNR PAAD unit saying that the trail was not asserted due to lack of evidence. I later found that Trail Map 100, Trail 73e system – Ester Mining Area is shown but no trail is identified through the tailings within Largent’s claims. The “North” road along the northerly edge of the claims is shown as it was identified on the USGS Quads.
- Witnesses
  - The first witness was a dog musher in the Denali area who testified via Zoom and casual use of the trails in Ester area.
  - Witness Laiti also spoke to trail use. Judge Lyle admonished Satterberg for questions that did not focus solely on the Ester Creek Trail. Bucky Largent responded to a comment from the witness and Lyle said “We are not here to have a conversation, sir!” (Note: This is not Judge Judy!)

- Final witness Spindler – another Ester resident who spoke of casual and sporadic use of the Ester Trail System.

## 2/14/23 – Tuesday

- Witnesses
  - Continue with witness Spindler – he was an archeologist.
  - View video of Bucky Largent deposition. (Note: If this had been Perry Mason’s first episode, it would have been his last... Fortunately, these types of trials are “Bench” trials where the Judge alone is the finder of fact and applies the law as he understands it. There is no jury.)
  - Witness Pete Eagan (Note: I worked for his father Dan Eagan at the Illinois offices of Alaska Gold Co. during the 75-76 winter for 7 months) Pete testified as to the name transition of the Alaska Gold Co. from the Fairbanks Exploration Co. to USSR&M and UV Industries. He was the Fairbanks AGC manager for many years. Prior to ANCSA, the Alaska Gold Co. was the largest private land owner in the State of Alaska. He testified that he and AGC always considered the road through the Ester Creek Claims to be a “public” road. He noted that there were some properties that were restricted and had locked gates, but not on Ester Creek. He is also familiar with the “Northern Road” that goes past the mill. He defined the “Left Limit” and “Right Limit” of a claim as one looks downstream. Pete said he was not likely involved in writing the easement language in the deeds that conveyed the AGC claims to Largent, but that he likely reviewed it. He said it was likely developed either by a corporate attorney or a local realtor who was used to sell the claims. The court ruled that Pete cannot testify as to the easement language. On cross examination JT asked whether Pete understood that in the statutory definition of a “Warranty Deed”, the deed is supposed to be free of encumbrances. Pete responded that “Alaska Gold did not consider the road to be an encumbrance.”
  - Viewed video deposition of Walter Largent and two more local witnesses speaking to trail use that appears to be sporadic and occasional.

## 2/15/23 – Wednesday

- Witnesses
  - Witness Leslie Kitchen – She was on the FNSB Trails Advisory Commission and is an avid horse rider. She stated that she had asked for permission to ride past the gate. (Note: JT always asks a witness whether they contributed funds to Orth for his effort to open the trail across Largent’s claims. Possibly to indicate a stake in the outcome which could bias their testimony?) JT also asks most witnesses what width of trail would have been sufficient for their use. Many who testified that they used it for hiking, skiing, mountain biking, horse riding, motorcycles and snow machines indicated that 2-3 feet would be sufficient. I think this is if a public prescriptive easement is found to exist, it can be limited in width to the uses that were most prevalent. When commenting on the width required for her horse, she noted that she had brought the horse into her house and that it was a 36” door. JT followed up asking why she brought the horse into her house

and she commented that it was to bandage its leg. Lyle did not appreciate the sideline commentary and cut it off telling JT that “Your curiosity is not helpful.”

- Witness – Mark Lockwood testified by Zoom – again with technical issues! He was a geologist who lived in Ester and is familiar with the trails. Most witnesses speak to specific trail use by themselves but are at best fuzzy on use by others.
- Witness – Sheryl Riley via Zoom – She is Geoff Orth’s wife testifying from Mexico. Her experience along Ester Creek trail is by running, skiing, biking and hiking. She says she also observed others.
- Witness – Judi Stauffer testified to Ester Creek trail use.
- Witness Maureen Knuutila – Testified as to trail use with horses.
- Witness Tom Clark – Testified as to trail use mountain biking. (Note: October 2012 – This lawsuit has been going on for over 10 years!!!)

## 2/16/23 – Thursday

- Witnesses
  - Donald Cameron – Came to Alaska in 1967. Maintenance man for the Ester Gold Camp (Cripple Creek Resort) Testified that road has moved around within the Largent claims, not a specific trail. He had used cars, pickup, motorcycle, and walking a dozen or more times per years. He figured a 10’ width would be necessary for cars and trucks.
  - Tony Pastro – Lived in Fairbanks since 1980 but never lived in Ester. He testified to snow machining on the trail 4 times between 89/90 to 1993.
  - Matt Reckard – Matt came to Alaska in 1979. 15 years at DOT&PF primarily Research section and UAF. He has a masters in historic preservation. He has been a registered engineer since 1983 and has lived in Ester since 1980. He has been familiar with Ester Valley (Creek) Trail since 1980 and has used it for running, hiking and skiing. Matt is being offered as a history expert although JT attempts to show that Matt’s experience as a historian does not rise to being an expert. The email exchanged between Matt and I in 2013 is referenced regarding trails and who manages them. He refers to “John is the guy who knows...”. Matt may only testify as to the history of the Ester Valley Trail and no others. He may not offer opinions as to public prescriptive easements or RS2477 trails.

Matt has issued two history reports – February and May of 2014. He notes that miners came from Rampart to the town of Chena and then to Ester. Winter claim location in Ester began in January and February of 1903. JT suggested that Matt was guessing as to indigenous trails in the area. Judge Lyle – “Speculation is not relevant evidence and will not be allowed.”

Exhibit 83 – Matt’s Acad map – “There are roads crossing the claims that are not identified on the Mineral Survey plats. Note: Look at MS Surveys, surveyors and field notes regarding roads. Exhibit 44 – the 1938 oblique photo up Ester Creek showing the dredge tailings and the “North” road.

[JFB – T1S R2W was approved 6/7/13. The N. half of Section 7 includes USMS 350, 1992,

356 and the easterly portion of 357. T1S R 3W was approved on 4/28/66. The N. quarter of Section 12 includes USMS 357, 1650, 794, 1651, 799 & 813. The USMS made ties to section corner monuments from MS 813, 799, 1651 1650 & 1992. These ties were graphically validated on USMS 813, 799, 1650 & 1992 by measuring on the FNSB GIS system from MS corners to section corners. They were all within 10 to 20' from the record dimension which at that scale is within reason.

Of the Largent claims, Davidson surveyed the three claims that note roads crossing the claims. These were surveyed between 11/2/11 and 6/6/13. McReed surveyed 3 of the remaining claims and Baldry 3. The plats and notes for each of the survey indicate ties or graphic representations to Ester Creek, stoped/drifted/worked ground, ditches, drill holes, shafts, flumes, cabins and roads. There is no logical reason to conclude that two of the 3 surveyors who performed Largent's mineral surveys purposely chose to not reference existing roads. The township plat and field notes for T1S, R2W indicate an existing road to the north of the northerly boundary for MS 356.}

Judge Lyle and Satterberg argue over Matt testifying to opinions that have not been disclosed? (Not sure what this refers to...) It gets a bit testy until Lyle ends the discussion with "The court has ruled!".

MS 1649 – 1933 Road is labeled as "Government Road". Then discussion goes to Alaska Road Commission Reports citing Route 7D – Ester Creek Road. Matt testifies that the **ARC reports indicate that Route 7D is 13 miles long** and by driving the current road from the intersection with Illinois Street that the end of the road must have gone up the tailings through the Largent claims.

[JFB – I found references in early ARC reports both to "Ester Creek Road" and "Ester Creek Roads" a wagon trail both with a length of 13 miles. This suggests the possibility that the road was not a continuous 13 miles from Fairbanks but consisted of branches or stubs off of the main trail that summed up to 13 miles.

The 1924 ARC Report says that Route 7D connects the Town of Fairbanks with "Ester City on Ester Creek" suggesting that the road ended in the developed Ester community and did not extend further west through the Largent claims.

Also note that Ester Creek Road was not listed in the Omnibus Act QCD but Ready Bullion Creek Road was. This was Secondary Class B Route No. 6421 with 2.5 miles of constructed road. It is noted as commencing at FAP Route 37 (Fairbanks – Nenana) then northwest to Ready Bullion mining area, and a spur westerly. (This appears to be the "Northern road". There is no separate mileage listed for the spur.]

- Of Note
  - Public Prescriptive Easement – Use must be Open, Notorious, Hostile, Continuous for at least 10 years. (Notorious definition – "In a way which anyone can observe is as if the

person is the owner.) It was noted by Satterberg that the prescriptive use claimed will all be prior to 2003. This is because the Adverse Possession statute (AS 9.45.052) was revised in July of 2003, adding paragraph (d) “Vesting interest in the state or a subdivision of the state” would require that a Public Prescriptive Easement be assigned to a public entity such as the State of Alaska or the Fairbanks North Star Borough. So, after July 2003, prescriptive use of the Ester Creek Trail would have required bringing the State or FNSB into the case as a party. Given the lack of desire to increase their current road maintenance and management burden, it would be expected that neither the State nor FNSB would be willing to join the suit. Therefore, all prescriptive use asserted in this case must have occurred prior to July of 2003.

- Question: **How many hours have I logged on this case?** (Approximately **60 hours** as of 2/17/23) What is my billing rate? (As of the contract in May of 2018 it was **\$195/hour**)
- Note: The testimony in this case revolves around recreation along area trails. RS-2477 relates to public highway use that requires definite termini. I’m not seeing this yet!!!
- Who I am connected with in this case – My life passing before my eyes!
  - Paul Lyle – Judge: Paul prepared Lisa’s and my wills in July of 1983 while he was an attorney at Birch/Horton. I worked with Paul extensively while he was a Transportation Assistant Attorney General in Fairbanks and I was either the ROW Engineering Supervisor or ROW Chief.
  - John Tiemessen – Largent’s Attorney: I’ve never worked with John Tiemessen before but in the summer of 1972, my first assignment to the Department of Highways was to his father, John Tiemessen Sr., a construction engineer. Our task was to ferry new orange ½ ton DOH pickup trucks from the old Illinois Street offices of DOH to the new office on Peger road. Possibly the next year I was assigned to his project at the end of Chena Hot Springs road. I walked into the office at about 9am and he was upset when he saw me because he thought I was Scott Elieff, Jim Elieff’s brother. Scott was assigned to work at the truck scales and several people thought Scott and I look a lot alike. John thought I was Scott and that I had abandoned my post!
  - Bill Satterberg – Orth’s Attorney: I first met Bill at 710 3<sup>rd</sup> Avenue, the office of Alaska Architectural & Engineering Co. I had worked here between 1974 & 1976 when Lee Linck was still the owner. I met Bill sometime between 1979 & 1980 when the business had been purchased and renamed Finstad, Ringstad & Assoc. Bill was walking up the front steps with Clint Finstad while I was walking down, likely on my way to a cheap lunch at Woolworths. I would have been about 26.
  - Pete Eagan: So, the reason I’m in Fairbanks is that I played in a Rock ‘n Roll band with Pete’s cousin Steve Sather during my Senior year at Monroe HS. My folks moved to Buffalo NY as soon as I graduated and the band asked if I would stay the summer to play and then move down to NY and find a school to go to. I did but returned to Fairbanks just a few days after visiting Buffalo. It wasn’t for me. Steve and Pete were a part of a third generation Fairbanks mining family out at Meehan, off of Fairbanks Creek. Steve’s brother Jack was a surveyor with the Department of Highways and got me interested enough to take a surveying class which got me a job with DOH in the summer of 1972. During the off season

between 1975 to 1976 I worked 7 months for Pete's dad, Dan at Alaska Gold Co. and lived in a cabin on skids located between the Alaska Gold office on Illinois Street and GVEA. Pete eventually came to work as a ROW Agent in the DOT Property Management section and eventually became supervisor of that section. As ROW Chief, I was Pete's supervisor. There is a lot of history with me and Pete's family and I spent several holiday dinners at Pete's parent's house or his various aunt's houses. In the summers we spent many weekends out at Fairbanks creek riding our motorcycles.

- Matt Reckard: I know Matt from DOT&PF but only slightly as he was located at UAF in the Research section.
- Mike Tinker: In the fall of 1972, my first season with DOH, I was assigned to the last section of the Parks Highway before it was fully connected. I was assigned for some of that time to Mike Tinker's Survey crew and he would occasionally give me a ride back to town on the weekends. As I joined DOT&PF ROW in 1986, Mike was Chief of the Environmental section. I joined Mike and several other DOT&PF supervisors at various after work social events.
- Jim "Clutch" Lounsbury: Lorna Lounsbury, Clutch's wife was a draftsman in DOT ROW when I started. I vaguely remember Clutch from the 1973 Eagle Summit to Central project on the Steese Highway where I stayed in Doc Baggen's old cabin and partied at the Circle Hot Springs lodge that had at the time just built an Olympic sized swimming pool. The Lounsburys are an old mining family and the family mine was called the Old Clipper Mine out at Ester. This was the one and only Mineral Survey that I ever performed under my MS Appointment. Clutch said it was the last mineral patent issued in Alaska.
- Teri Key, JT's Paralegal – Jim and Mary Anne Elieff's granddaughter.

## 2/17/23 – Friday

- Of Note – Satterberg noted that Orth has no voice and is likely afflicted with laryngitis. Judge Lyle is immediately on edge. He says that if Orth has covid he cannot be in the courthouse and that there is a large sign to that effect on the front door. Lyle insists that Orth must leave until he can prove via a test that he does not have Covid. Satterberg tells Orth to run to Fred's or Safeway, purchase a test and take it. About 15 minutes later Lyle comes into the courtroom with a Covid test and offers it but Orth is gone. He is back after a half hour stating that his test is negative and the trial continues.
- Witnesses
  - Matt Reckard – Matt continues to testify regarding the specific Mineral Surveyors who surveyed the claims in the Ester vicinity. He suggests that surveys by Baldry do not show roads while surveys by Davidson do show roads. He is attempting to prove that the US Survey plats cannot be trusted as to whether a road existed through the claim at the time of survey.

General questions: Did Route 7D go to the mill? On the "North" road? Why would a mining company contribute money to the Alaska Road Commission?

**2/21/23**

- Of Note: Today's first order of business is Orth withdrawing their assertion that RS-2477 is the basis for the public ROW across Largent's claims. This was the basis for most of my report. Satterberg commented that they did not believe their RS-2477 claim to be very strong. The remaining issue is a public prescriptive easement.

JT mentioned that Largents don't have the money to pursue this case and that he has been working a lot of free hours. He believes they have spent up to \$300k so far and that in addition to Orth's contributors, Orth has spent \$60k of his own money on this case.

- Witnesses
  - Nancy Burnham - She has lived in Ester for 42 years and is married to Don Cameron. Testified as to trail use – skiers, 4-wheeler, snow machines & bicycles prior to 2003.
  - Bucky Largent – He is not the owner of this property; his father Walter is. He testified regarding miners and hunters going through the property.
  - Walter Largent – testified by phone from Louisiana. He claims to have never met nor had a conversation with Geoff Orth.
  - Mike Tinker: He has lived in Ester since 1965. He referred to Bob Anconatoni (Bob A.) as inviting him to trap up Ester Creek using a trail on the south side of the tailings. The trail was also used for hunting and was 10-12' wide (bulldozer width) although he had never driven a vehicle up the trail. He observed no truck sized vehicles until the trail was moved to the middle of the claims. He observed users hiking, skiing, dog sledding & runners all prior to 2003. (Note that JT never questions "hostility" element. People who use trail without regard to land owner's rights.)
  - Geoff Orth – Came to Alaska in 1972 and moved to Ester in 1978. He claims to be an expert on RS-2477 trail cases and was involved in the TCC v. Greer native allotment case (as was I when hired by Kramer and met with TCC staff). Orth testified to Ester Creek trail use – skiing. He said he had seen a lot of evidence of use. (Both Largents say they have never spoken with Orth but Orth says they did. – Satterberg says his case was limited to 19 witnesses.)

**2/22/23**

- Witnesses
  - Geoff Orth continued – Geoff testified that it was perfectly fine to have a floating easement.

JT cross examination – If court finds an easement, it will be for a specific route – Orth believes a floating easement is possible. In pre-trial memo Orth asked for a 100' wide easement. Orth said this was based on RS-2477. JT asked a question regarding the FNSB constructing a road through the Largent's claims. Judge Lyle responded that this was not legally possible as the FNSB does not have road powers. My note – The FNSB owns land to the west of the Largent's claims. As a land owner and developer, if the FNSB subdivided the property they would be obligated under their own platting rules to construct subdivision streets and ensure that the subdivision had physical and legal access to the nearest public road.

Orth was questioned regarding whether the 4-wheeler/snow machine/truck trails across the Largent claims may have been established by Largent. Orth could not deny that possibility. Width – Orth has cut trails from 18-24” wide for biking & hiking but trail would need to be wider for x-country skiing. Orth wants public access 24/7.

Orth commented on Clutch and Lorna Lounsbury – owners of the Clipper mine off of Henderson Road (my only mineral survey and last mineral patent issued in Alaska). Orth stated that Lounsbury granted a trail easement through the mine property.

Lyle getting a bit testy with BS over hearsay objections and asking irrelevant questions. “We are 7 days into this trial and we need to stop with the irrelevant questions!” Take a break and BS apologized after Lyle came back in.

JT re-cross – He asks Orth “you say that Federal Land orders (See Dixon RS-2477 case) dictate a 100’ ROW width... Orth is last Plaintiff witness.

BS is now asserting “Implied Dedication”. Lyles says that only RS-2477 and prescription was argued. (How is this different from common law dedication? ... Offer is implied by actions – perception that road is public? Implied dedication using 1927 & 1907 ARC reports. (Can implied dedication work for a public ROW? Deeds to DOH/DOT require an acceptance certificate to indicate an intent by the public to take on the potential burden of the ROW. Note that Route 7D “Ester Creek Road” cited in the ARC reports was dropped off the road system and never conveyed in the 1959 Omnibus QCD – Was this because ARC/BPR did not perceive this to be a valid public ROW?)

- Settlement Proposal – Lyle asks whether there is no way to settle this case? “This doesn’t seem to be something that should be decided here.” (in court) He would not predict or indicate which way his decision might fall based upon the evidence and testimony presented so far. He did not that he would be obligated to provide “reasonable accommodation” for the interests of both the user and land owner if a public prescriptive easement is found to exist. Lyle noted that everyone is obligated to obey MSHA, a federal agency whose actions would be independent of any state court ruling. “Reaching a settlement would be easier on both parties, Largent and users.” Lyle is “not forecasting outcomes” but says he will do his job as finder of fact.
- Pre-trial prep meeting at Tiemessen’s office – We went over expert status & CV. We went over my report and noted the bulk of it was in regard to RS2477 which was dropped from the Plaintiff’s arguments. I reminded JT that I had never been on the property and that my report was limited to a review of Richard Hieren’s affidavits and exhibits in addition to references from my library and items readily found on the internet. So my testimony will be limited to the roads and trails that can be seen on the various maps, none of which show a trail or road through the center of the Largent’s claims. My focus will be on the road which can be seen which is the “Northern Road” that partially crossed the westerly claims and is located to the north of the remaining claim boundaries.

We discussed a mineral survey to the east of Largent and the label “government road” on the



east-west road through Ester. We also discussed my relationship with Pete Eagan and Matt Reckard and that Satterberg might use that to temper my testimony. I mentioned my concern about Satterberg's 2/22/23 Memorandum of Law Re: Easements in which he expands upon his assertion that "hostility" under the adverse possession/prescriptive easement requirements could be established by mere "acquiescence". (I'm not clear on the cases BS cites for this proposition but it is contrary to my understanding of how "hostility" is shown. At this point I'm not sure how much weight my testimony will carry.

- Expert Report - I had a discussion with JT that shed new light on my understanding of expert reports. Generally, when contacted by an attorney to assist them on a case, they make it clear that I am not to put any of my thoughts into writing until they are requested. This is because once they are in writing, they are discoverable by the other party. So, if my preliminary discussions indicate that my opinion will not be helpful, I will be told to not produce any report. This has happened at least once, but as I was already under contract, I would also not be available to the opposition. So effectively, they bought my silence.

In the Largent case, once I produced my report, it was copied to Orth. Observing how all exhibits must be admitted into evidence and how they must either be accepted by the opposition or their objection ruled on by the Court, I asked JT whether my report would be admitted and entered into evidence. He said that typically expert reports are not. I thought this was odd because I recall that in Collins v. Hall, both of my expert reports were admitted into Superior court and they were cited in the Supreme Court opinion. I went back into my email and found that when the opposition in Collins moved to have me removed as an expert, that opened the door for the attorney I was working for to not only comment on my expertise in her reply motion but to attach the entirety of my two reports. JT noted that expert reports could be admitted if agreed to by both parties but that typically the court will rely upon the oral testimony of the expert and the parties use the report as a framework for questions to be asked. Essentially, the oral testimony is considered to be more reliable.

#### ***Alaska Expert Witness Reports and Disclosures Rules***

Under Rule 26(a)(2) of the Alaska Rules of Civil Procedure, both parties in a case must disclose the identities of any experts who might be used at trial. For most experts, this disclosure must include a written report, prepared and signed by the expert, which provides a comprehensive summary of all of the opinions that the expert will testify to and the reasons for those opinions, including the data or information used in reaching those opinions and any exhibits that the expert will present. Under Rule 703 of the Alaska Rules of Evidence, the information relied on by the expert does not have to be admissible in evidence, but it must be information that is commonly considered by experts in the particular field. The report must also provide the compensation that the expert will receive for the case, the qualifications of the expert, a list of all publications authored by the expert in the ten years prior to the case, and a list of all cases in which the expert has testified either at trial or through deposition in the four years prior to the case. Under Rule 26(e) of the Alaska Rules of Civil Procedure, the expert has a duty to correct or supplement any information provided either by the expert's report or through deposition that the expert discovers to be incomplete or incorrect.

2/23/23

- Settlement – Before Judge Lyle enters the courtroom, the parties commence settlement negotiations. Largent agrees to permit a trail from the gate to the southern boundary, then westerly along the southerly claim boundaries. There was a bit of confusion as I heard the parties discussing MHT ownership of MS 1992, a sliver fraction near the east end and west boundary of MS 350. This was odd news as I was under the impression that Largent owned all 9 contiguous claims and now a settlement would be contingent on MHT permission to cross MS 1992. It was also suggested that an RS-2477 claim be preserved against MHT as the MS 1992 date of location was in the 1930's. Upon further investigation, Bucky said that he was told about MHT ownership from Ron Brooks who heard this from FNSB. In fact FNSB had not sent Largents a tax bill for MS 1992 under the mistaken belief it was owned by MHT. Bucky then heard from Brooks that FNSB had fixed the error and the ownership of MS 1992 was now shown as Largent. I went to Law Library and pulled up the 1993 deed from Alaska Gold Co to Largents and it clearly included MS 1992.

Bucky said he was on the phone with his parents while JT explained the settlement and that there was a lot of crying by all after more than 10 years of litigation. But they accepted the settlement as it was just not clear how the court might rule on the prescriptive easement issue. A settlement will effectively result in Largents surveying the south boundary of the claims to avoid trespass to the south, clearing a 10' path through the woods and stripping (?) a 5' trail. There will be certain specs for maximum grade and cross slope.

On record with Judge Lyle – The settlement was read into the record. There will be a mutual waiver of costs and fees. A 10' recreational trail easement that will run with the land. Largent will clear and construct the trail and place occasional poles 6 feet apart to prevent car or truck passage. The trail will be built to Alaska Division of Parks standards. Largent has no responsibility for maintenance. There will be no right of the public to park on Largent's land. There will be an October 2025 construction deadline. Any disagreements will be resolved by negotiations or by arbitrator if necessary. All exhibits will be returned except for an aerial photo with the trail placement noted. The trail will be named the "Max Largent Trail".

- Over the last couple of weeks while waiting or taking breaks in the hallway I had time to talk with CPLAW Paralegal Mary Crockett. She grew up in Brevig Mission with a dad who was the pastor and mom who was the school principal. Her brother is an engineer at DOT&PF and her boyfriend is a surveyor at 3-Tier Alaska. I requested that she send me most of the superior court documents relating to legal reasoning that would be very difficult or expensive for me to obtain and she did. I also spoke a lot with Bucky Largent about his last 30 years on the claims working with his dad and son. He talked about flying and crashing his kit fox airplane and the fact that he has vertigo and has virtually no confidence when it comes to landing. I believe he is now 51. I also spoke with Satterberg (now 71) for a while, just not on issues relating to the case. He is preparing an Alaska Bar Rag article that is due in March. He said he stole several of my "Imponderables" that came from a presentation on RS-2477 many years ago. I told him that they should be attributed to comedian Steven Wright as I did in my paper. As we ended the day

I went around and shook hands with both parties, Orth and Bucky Largent, as well as both attorneys.

- Misc. Notes:
  - Settlement between Orth & Largent, other users cannot pursue claims against Largent as Orth's claims were brought on behalf of the public.
  - Must evidence of a prescriptive easement be provided for each specific parcel?
  - Must evidence for each diverse use be provided for prescriptive claim?
  - Orth attempted to have Judge Lyle disqualified based on his working relationship with me.
  - I attended the entire trial from Monday February 13 to the settlement date of Thursday March 23. During this time, I only billed for 2 hours when I was in Tiemessen's office for a trial preparation meeting on the afternoon of February 22. Recognizing that some witness can be excluded from the proceedings until they testify, I asked JT whether I could attend and he said that as an expert witness, the exclusionary rule allowed my attendance specifically so I could hear the testimony of others. My reason for attending the entire trial was that to this point I had never had an opportunity to observe the entire trial process. And now that I was approaching the end of my career, this might be my last chance.
  - Several days during the trial I would show up early and go to the law library. It opens at 8 am and closes at 2 pm and is closed on Fridays. My objective was to download certain briefs filed for the Ahtna Inc. v. SOA Klutina Lake Road case that could not be downloaded via the Westlaw online system which only allows you to download Alaska Supreme Court opinions. One of the only benefits to come out of the Covid pandemic is that the State worked with Westlaw to permit online access for the general public to most of Westlaw research capabilities. That is now gone. At the law library I found that this was still going to be a challenge. Once I found the briefs I looked for the ability to send them to myself by email but that option appeared to be missing. The librarian said that if I made a list she could send them for me. The library computers have usb ports but they are all deactivated so you cannot print to pdf to a usb drive. But what they did not protect was access to the DVD R/W drive that is available on all library computers. So once a brief is pulled up I can print to pdf to the DVD, I just have to remember to bring a compatible DVD R/W with me.