

Vance A. Sanders
Law Office of Vance A. Sanders, LLC
636 Harris Street
Juneau, AK 99801
Tel: (907) 586-1648
Fax: (907) 586-6329
Email: vance@spw.law

Libby Bakalar
Attorney at Law
211 4th Street, Suite 108
Juneau, AK 99801
Tel: (907) 723-9492
Email: info@libbybakalar.com

Attorneys for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT KETCHIKAN

MARION RIDER, et al.

Plaintiffs,

vs.

MICHAEL J. DUNLEAVY, et al.

Defendants

**FIRST AMENDED
CLASS ACTION COMPLAINT**

CASE NO. 1KE-19-00453 CI

INTRODUCTION

1. This putative class action lawsuit challenges the defendants' abrupt, astronomical, and untenable increases of up to 140% for the monthly rates charged to aged and infirm residents of the Alaska Pioneers' Home and Alaska Veterans' Home.

2. Plaintiffs, on behalf of themselves and similarly situated Alaskans, seek preliminary and permanent injunctive relief estopping the defendants from enforcing the monthly rate increases adopted in regulation on August 30, 2019.

JURISDICTION

3. This Court has jurisdiction pursuant to AS 22.10.020(c) and (g).

4. Venue is proper under AS 22.10.030 and Alaska Civil Rule 3(c).

PARTIES

5. Plaintiffs Marion and Howard Rider are married residents of the State of Alaska and live together in the Pioneers' Home in Juneau, Alaska.

6. Plaintiff Brad Rider is the adult son of Marion and Howard Rider, and holds a Power of Attorney that enables him to act on their behalf in all respects relevant to this matter.

7. Plaintiff Eileen Casey is a disabled resident of the Pioneers' Home in Ketchikan, Alaska.

8. Defendant Adam Crum is the Commissioner of and oversees the Alaska Department of Health and Social Services (DHSS or Department), which is the state agency that in turn oversees the Alaska Pioneers' Home and Alaska Veterans' Home. Commissioner Crum is sued in his official capacity.

9. Defendant Clinton Lasley is the Director of the Alaska Pioneers' Home and Alaska Veterans' Home under DHSS. Director Lasley is sued in his official capacity.

10. Defendant Michael J. Dunleavy is the Governor of the State of Alaska and oversees DHSS. Governor Dunleavy is sued in his official capacity.

11. Defendant State of Alaska is a sovereign entity organized in accordance with the laws of the United States.

CLASS ALLEGATIONS

12. Plaintiffs bring this action on their own behalf and on behalf of all persons who are similarly situated, pursuant to Rule 23 of the Alaska Rules of Civil Procedure.

13. The class is defined as follows: All residents of the Alaska Pioneers' Homes and Alaska Veterans' Home who are subject to DHSS's monthly rate increases, effective August 30, 2019.

14. All requirements for class certification under Rule 23(a) are met in this case. Specifically:

(a) The class is so numerous that joinder of all members is impracticable. The number of individuals in the above-defined class, although presently unknown, is, on information and belief, approximately 497.¹

(b) There are questions of law or fact common to the class, including but not limited to those stated in this Complaint.

(c) The claims of the representative parties are typical of those of the putative class members.

¹ See <http://dhss.alaska.gov/daph/Pages/aboutUs.aspx>.

1 (d) The representative parties will fairly and adequately represent the
2 class. Neither the representative plaintiffs nor their counsel has interests which
3 might cause them not to vigorously pursue this action.

4 (e) Certification of a class under Alaska R. Civ. P. 23(b)(2) is
5 appropriate, because the defendants at all times have acted and/or refused to act
6 on grounds generally applicable to the class, thereby making appropriate final
7 injunctive relief and corresponding declaratory relief with respect to the class as
8 a whole.
9

10 STATUTORY AND REGULATORY SCHEME

11 15. The Alaska Pioneers' Homes and Alaska Veterans' Home are
12 licensed assisted living facilities that are owned and operated by the State of
13 Alaska.
14

15 16. The Pioneers' Homes system is one of the oldest governmental
16 institutions in Alaska; it was established to care for and honor Alaskan elders
17 who built the state and ensure that they were cared for in their old age.
18 Accordingly, since 1949, the State has been required to "maintain and operate
19 facilities known as the Alaska Pioneers' Home at Sitka, Anchorage, Fairbanks,
20 Juneau, Ketchikan, Palmer, and other sites designated by" DHSS.²
21

22 17. The Pioneers' Home system is currently licensed to serve 497
23 persons at any given time and maintains a waiting list for admission.³
24

25 ² AS 47.55.010(a).

³ See <http://dhss.alaska.gov/daph/Pages/aboutUs.aspx>.

1 18. DHSS is required to adopt regulations “necessary to conduct
2 business and to carry out the provisions” of the statutes governing the Pioneers’
3 Home system.⁴

4 19. DHSS “may engage in activities directed to increase revenue from a
5 home. These activities may include the lease of excess bed or floor space, up to 50
6 percent of the total floor space in a home, or lease of space or buildings that are
7 not in use or are underutilized.”⁵

8 20. Criteria for admission to the Pioneers’ Homes are: “Every person
9 residing in the state who is 65 years of age or older, has been a resident of the
10 state continuously for more than one year immediately preceding application for
11 admission, and is in need of residence at a home because of physical disability or
12 other reason.”⁶

13 21. Every person who resides in a Pioneers’ Home or Veterans’ Home
14 and has income greater than \$200 per month is required to pay toward his or her
15 cost of care. “However, the department may not require in any month the
16 payment of an amount greater than the monthly rate set under AS 47.55.030(b)
17 except to satisfy indebtedness incurred under AS 47.55.070.”⁷

18 22. A person who is otherwise eligible for admission to a Pioneers’ Home
19 or Veterans’ Home may be admitted “upon the person’s agreement to pay to the
20
21
22
23

24 ⁴ AS 47.55.010(b); DHSS has adopted such regulations at 7 AAC 74 *et seq.*

25 ⁵ AS 47.55.010(e).

⁶ AS 47.55.020(a).

⁷ AS 47.55.020(b).

1 state each month an amount the department considers sufficient to compensate
2 the state for the cost of care and support of the person at the home.”⁸

3 23. A person who satisfies the residency and other requirements for
4 admission to the Pioneers’ Homes but whose income and assets “are insufficient
5 to pay the monthly rate” and “who does not have private insurance to cover the
6 cost of care” qualifies for payment assistance. “The amount of payment assistance
7 equals the amount needed . . . to pay the monthly rate.”⁹

8 24. DHSS is required to “adopt regulations establishing a monthly rate
9 for the compensation a resident is to be charged . . . [t]he rate charged need not
10 fully compensate the state for the cost of care and support. The commissioner of
11 health and social services shall review the rate each year.”¹⁰

12 25. DHSS is required to “provide to all residents of the homes written
13 notice of any proposed change in the rate charged for care and support of persons
14 at the homes. Notice . . . shall be given not less than 60 days before a change is
15 adopted. The notice must include the time, date, and place of a hearing to be held
16 by the department . . . [t]he department “may not change the rate charged more
17 than once in a fiscal year.”¹¹

18 26. “Not less than 30 days before a proposed rate change is adopted,
19 [DHSS] shall conduct a hearing at which interested persons shall be given the
20
21
22

23
24 ⁸ AS 47.55.030(a).

25 ⁹ AS 47.55.020(d); 7 AAC 74.075(a).

¹⁰ AS 47.55.030(b).

¹¹ AS 47.55.030(c).

1 opportunity to submit written or oral testimony, statements, arguments or
2 contentions relating to the proposed rate change.”¹²

3 27. Each session, the legislature is required to “appropriate the
4 necessary funds for the maintenance of the Alaska Pioneers’ Home and the
5 Alaska Veterans’ Home to be expended by the department.”¹³
6

7 28. Certain expenses incurred for a Pioneers’ Home or Veterans’ Home
8 resident and not recoverable from a collateral source are considered a debt of the
9 resident to the State. One such expense is the “costs of standard or nursing care
10 provided in the home each month to the resident not exceeding the rate
11 established by the department under AS 47.55.030.”¹⁴
12

13 29. The Pioneers’ Homes are further governed by regulations at 7 AAC
14 74.010 *et seq*, including regulations governing levels of service and rates charged
15 to residents.

16 FACTUAL ALLEGATIONS

17 **Facts Common to the Class**

18 30. The Alaska Pioneers’ Homes and Alaska Veterans’ Home are
19 licensed assisted living homes owned and operated by the State of Alaska.

20 31. The Pioneers’ Home system is licensed to serve 497 persons at any
21 given time and has a waitlist for admission. As of July 1, 2019, the system serves
22

23
24
25 ¹² AS 47.55.030(d).

¹³ AS 47.55.050.

¹⁴ AS 47.55.070(1).

1 Alaskans who, on average, are 87 years old and have lived in Alaska for more
2 than 40 years.¹⁵

3 32. Shortly after Governor Dunleavy took office, during a January 11,
4 2019 Advisory Board Meeting, Director Lasley stated that the Homes' "have to be
5 prepared to advocate for the Pioneer Homes and get the people behind us if we
6 start seeing drastic budget recommendations aimed at us."¹⁶

7
8 33. In that same meeting, Director Lasley shed some light on the
9 imminent budget process. He stated that "last year was [the] first year we didn't
10 run a budget deficit and this year we are on track to do the same. We don't know
11 anything for FY20, as this budget session was done differently. With the new
12 administration, we are not being pulled into the budget discussions, the Office of
13 Management and Budget (OMB) is making all the decisions; after the directors
14 submitted our recommendations for how we could find cost efficiencies in our
15 divisions, we have not heard anything else."¹⁷

16
17 34. At that meeting, Director Lasley noted that the rate hikes would be
18 "drastic." Specifically, he said that "[w]e are asking for a pretty drastic rate
19 increase for Level III, and the creation of a Level IV as we cannot continue to
20 offer those services without charging the actual cost of them. This will make us
21 hugely unpopular but we have to do it."¹⁸

22
23
24 ¹⁵ See <http://dhss.alaska.gov/daph/Pages/aboutUs.aspx>

25 ¹⁶ Exhibit 1.

¹⁷ Exhibit 1.

¹⁸ Exhibit 1.

1 35. One of the Pioneers' Home Board members asked about a timeline
2 for the rate hikes, because "it sounds like we'll need to be prepared to field
3 questions about this." Director Lasley noted that he hadn't previously mentioned
4 the planned rate increases, "even internally, because I needed to make sure we
5 actually had Department support to go through with it."¹⁹

6
7 36. On February 13, 2019, Governor Dunleavy released his proposed
8 FY2020 state operating budget. The proposed budget included a \$12.3M cut to
9 the Pioneers' Home system.²⁰

10 37. On February 25, 2019, Director Clinton Lasley wrote a letter to the
11 Pioneer Home Elders and Families.²¹ In that letter, he stated that the Governor's
12 budget "does not reduce our authority to spend the same approximate funding as
13 we have this year, but goes to the core of the governor's objective which is that we
14 must earn what we spend."

15
16 38. In his February 25, 2019 letter, Director Lasley further stated that
17 "[t]o meet the expectation of a budget where expenditures cannot exceed existing
18 revenue, I will be putting forward a regulation package in the coming days that
19 aligns our rates with the cost of providing services. The Division of Alaska
20 Pioneer [*sic*] Homes has historically charged rates for services substantially
21

22
23 ¹⁹ Exhibit 1.

24 ²⁰ See James Brooks, *Dunleavy Administration Presses Ahead with Sharp Increases to Pioneer Home Rates September 1*, Anchorage Daily News, August 2, 2019 available at:
25 <https://www.adn.com/politics/2019/08/02/state-presses-ahead-to-sharply-increase-pioneer-home-prices-sept-1/>

²¹ Exhibit 2.

1 below what it cost the state to provide these essential services and below market
2 rate.”²²

3 39. In his February 25, 2019 letter, Director Lasley proposed new
4 monthly rates for five levels of care in the Homes as follows: Level I: \$3,623;
5 Level II: \$6,569; Level III: \$11,185; Level IV: \$13,333; and Level V: \$15,000.²³ He
6 further referenced the requirements of AS 47.55.020 that “[t]he State provides
7 payment assistance equal to the amount needed, when added to income and other
8 assets of the resident, to pay the monthly rate.”²⁴

10 40. Director Lasley concluded his February 25, 2019 letter by stating: “I
11 understand the effects of these changes on your finances and the uncertainty that
12 these changes place on each of you. Making these changes once instead of having
13 the uncertainty year after year will not only make us a stronger organization, but
14 you will have the security you deserve because we took corrective actions today in
15 planning for the future.”²⁵

17 41. On March 15, 2019, ten members of the Alaska House of
18 Representatives introduced HB 96, “An Act relating to Alaska Pioneers’ Home
19 and Alaska Veterans’ Home rates and 2 services.”²⁶ HB 96 allowed for a one-time
20 rebasing of rates for the Pioneers’ Homes system and provided a structure for
21 reasonable and regular rate increases.

22 ²² Exhibit 2.

23 ²³ Exhibit 2.

24 ²⁴ Exhibit 2.

25 ²⁵ Exhibit 2.

26 ²⁶ See <http://www.akleg.gov/PDF/31/Bills/HB0096A.PDF>.

1 42. On May 28, 2019, sixteen members of the Alaska House of
2 Representatives wrote to Commissioner Crum and Director Lasley, noting that
3 “[i]ncreasing Pioneer Home rates above and beyond those proposed in HB 96 will
4 result in an increased number of seniors going onto Medicaid and public
5 assistance.” These representatives further stated that Alaskan seniors “may have
6 to absorb a shock to their retirement plans while living on fixed incomes provided
7 by Social Security. Many may choose to leave Alaska, taking their families,
8 wisdom, and history with them. Many of these seniors helped establish our state,
9 often through sacrifice and with the risk of dangerous occupations.”²⁷ The
10 Legislature did not enact HB 96 last session.

12 43. On April 9, 2019, DHSS noticed on the State Online Public Notice
13 System a regulations project to increase levels of service from three to five levels
14 at 7 AAC 74.010, and to “increase the rate charged for each level of service to
15 align with the actual cost of providing the service.”²⁸ On the same system, DHSS
16 noticed a hearing on May 28, 2019 and a comment period deadline of June 28,
17 2019.

19 44. In an undated letter posted to its website, the Pioneers’ Home
20 announced in August 2019 that it would be raising the rates of its residents
21 based on regulations proposed in April 2019 and made effective August 30, 2019
22

25 ²⁷ Exhibit 3.

²⁸ See <https://aws.state.ak.us/OnlinePublicNotices/Notices/View.aspx?id=193764>.

1 in 7 AAC 74.025,²⁹ at five levels of services as follows: Level I: \$3,623; Level II:
2 \$6,569; Level III: \$11,185; Level IV: \$13,333; and Level V: \$15,000.

3 45. On August 30, 2019, the Pioneers' Home adopted the final
4 regulations adding two additional levels of service and raising rates of services to
5 the above-noted rates from prior monthly rates, which had previously been as
6 follows: Level I: \$2,588; Level II: \$4,692; Level III: \$6,795. The regulations added
7 two additional levels of service at Level IV: \$13,333; and Level V: \$15,000.³⁰

8 46. On information and belief, since 2009, rates in the Pioneers' Home
9 have been increased three times as follows: 5%, 8.5%, and 1.5%.³¹ This is a
10 cumulative increase of 15% over an eleven-year period.

11 47. Pursuant to these adopted regulations, as of August 30, 2019, Level
12 I and II Pioneers' Home residents experienced monthly rate increases of 40%.
13 Level III residents saw their monthly rate increase by 65% from the prior month.

14 48. Some residents have been, or imminently will be, elevated to new
15 service levels, thus increasing some residents' monthly rates by up to 140%.

16 Facts of Individual Named Plaintiffs

17 49. Plaintiffs Howard Rider, 93, and Marion Rider, 91, are married
18 residents of the Juneau Pioneers' Home.

29 See <http://dhss.alaska.gov/daph/Documents/docs/Rate-Increase-2019.pdf>.

30 See <https://aws.state.ak.us/OnlinePublicNotices/Notices/Attachment.aspx?id=118829>.

31 See http://dhss.alaska.gov/daph/Documents/docs/201811advisoryboard_report.pdf at 8-9.

1 50. Plaintiff Brad Rider is the unmarried adult son of Howard and
2 Marion Rider, and holds a Power of Attorney for them that enables him to act on
3 their behalf in all respects relevant to this matter.

4 51. Marion and Howard Rider first came to Alaska in July 1960. They
5 have been Alaska residents for 59 years. Marion was a stay-at-home mother and
6 Howard owned a furniture store in Juneau.

7 52. Brad Rider is a blue-collar union worker and a bush pilot. He has
8 worked at various times for the City and Borough of Juneau as a Harbor Officer,
9 for the State of Alaska as a snow-plow operator, as the airport manager in
10 Gustavus, and as a captain for private boat charters.

11 53. Marion and Howard Rider joined the waiting list for the Pioneers'
12 Homes on December 31, 1997.

13 54. Around 2013, Marion and Howard Rider began to need care in their
14 home, which proved difficult because the in-home and other care available to
15 them could not adequately meet their needs. Mr. Rider suffers from some
16 memory issues and Mrs. Rider is physically frail and infirm.

17 55. It soon became apparent that Marion and Howard Rider would need
18 full-time residential care. Accordingly, they were admitted to the Juneau
19 Pioneers' Home on November 1, 2016 and placed in a Level II service category for
20 \$4,622.10 per month for each of them, or a combined monthly total of \$9,244.20.
21
22
23
24
25

1 56. On March 7, 2017, the Riders' rate was increased to \$4,692.00 each
2 per month, in the Level II service category. This rate increase was effective April
3 1, 2017. This was an increase of 1.5% from the prior year's rates.

4 57. On October 1, 2019, the Juneau Pioneers' Home notified Brad Rider,
5 on behalf of his mother, that his mother's level of care was increasing from Level
6 II to Level III. Effective November 1, 2019, she will be required to pay \$11,185
7 per month. This is a 138% increase from her prior rate at a Level II service of
8 care prior to implementation of the August 30, 2019 regulations. Under prior
9 regulations, this increase would have been only 44%. Under the new regulations,
10 a change in level of care from Level II to Level III is a 70% increase in just one
11 month (from August to September 2019 and following months).

12 58. Although the Riders may be able to absorb these increases in the
13 near-term, they will eventually be unable to do so should they remain at the
14 same level of care.

15 59. Plaintiff Eileen Casey, 84, is a resident of the Ketchikan Pioneers'
16 Home.

17 60. Mrs. Casey moved to Juneau, Alaska in 1990 with her husband,
18 Robert Casey, who worked as a mining safety inspector for the federal
19 government. Mrs. Casey spent her career as a teacher in the Juneau School
20 District, working with at-risk middle schoolers and high schoolers with addiction
21 and substance abuse issues, and continued to be involved in this work after her
22 retirement in 1999.

1 61. Mr. Casey died in 2014. Mrs. Casey's health began deteriorating
2 shortly thereafter. She suffers from Multiple Sclerosis and frequently fell at
3 home. After trying several costly and ineffective care options, she applied to the
4 Pioneers' Home system in 2015. In September 2017, she was accepted into the
5 Ketchikan Pioneers' Home at a Level II level of care at a monthly cost of \$4,600.
6

7 62. In mid-2019, Mrs. Casey was moved up to a Level III level of care,
8 which raised her rates to \$6,795 per month.

9 63. Under the August 30, 2019 regulations, Mrs. Casey will be required
10 to pay \$11,185 per month for her Level III care. This is a 138% increase from her
11 rate at a Level II service of care prior to implementation of the August 30, 2019
12 regulations. Under prior regulations, this increase would have been only 44%.
13 Under the new regulations, a level of care change from Level II to Level III is a
14 70% increase in just one month (from August to September 2019, and subsequent
15 months).
16

17 64. Mrs. Casey began experiencing financial hardship after her move to
18 the Ketchikan Pioneers' Home. Because of her limited resources, and the drastic
19 increase in her cost of care, in June 2019, Mrs. Casey first applied for a Home
20 and Community-Based Medicaid Waiver to cover a portion of her monthly cost of
21 care. Ms. Casey understands that her application was recently approved, with
22 Medicaid coverage effective September 1, 2019.
23

24 65. However, prior to her approval for Medicaid, Mrs. Casey had
25 accumulated a debt of \$95,208 (as of the end of October 2019). On information

1 and belief, the Pioneers' Home has twice threatened Mrs. Casey with eviction due
2 to that debt. Eviction has so far been averted, but there is no assurance that she
3 will be permitted to remain in the Ketchikan Pioneers' Home, even with Medicaid
4 paying the lion's share of her ongoing cost of care as of and after September 1,
5 2019.
6

7 STATEMENT OF CLAIMS

8 66. Plaintiffs repeat and incorporate by reference the allegations in each
9 of the preceding paragraphs.

10 COUNT I. VIOLATION OF AS 47.55.030

11 67. Alaska Statute 47.55.030 requires the State, not less than 60 days
12 before a rate change is adopted, to provide to all residents written notice of the
13 proposed change. The statute further provides that the State will conduct a
14 hearing not less than 30 days before a proposed rate change is adopted. The State
15 did not comply with the notice and hearing requirements of AS 47.55.030 with
16 respect to the rate increases adopted August 30, 2019 in 7 AAC 74.025.
17

18 COUNT II. VIOLATION OF DUE PROCESS

19 68. Article I, sec. 7 of the Alaska Constitution provides that no person
20 shall be deprived of life, liberty, or property without due process of law.

21 69. The residents of the Pioneers' Homes have a constitutionally
22 protected interest in their residency at the Homes and the rates they pay to live
23 there.
24
25

1 70. The Alaska Supreme Court has held that the crux of constitutional
2 due process is a meaningful opportunity to be heard and adequately represent
3 one's interests, both of which are ensured by proper notice.³²

4 71. The Pioneers' Homes violated residents' due process rights by
5 inadequately noticing the rate changes adopted in 7 AAC 74.025 on August 30,
6 2019.

7
8 **COUNT III: VIOLATION OF AS 47.55.020 and 7 AAC 74.075**

9 72. AS 47.55.020(d) provides: "Notwithstanding AS 47.55.070 and (b) of
10 this section, a resident of the home whose income, assets, and other resources are
11 insufficient to pay the monthly rate set under AS 47.55.030(b), and who does not
12 have private insurance to cover the cost of care, qualifies for payment assistance
13 if the resident is otherwise in compliance with requirements under this chapter.
14 The amount of payment assistance equals the amount needed, when added to
15 income and other assets of the resident, to pay the monthly rate set under AS
16 47.55.030(b)." 7 AAC 74.075 contains similar language and implements the
17 foregoing statute.

18 73. Representations made by the Pioneers' Homes echo state statute
19 and regulation and guarantee that qualified residents will receive an amount of
20 payment assistance equal to the amount needed to pay their monthly rate.

21 74. The Pioneers' Homes are in violation of AS 47.55.020(d) and its
22 implementing regulations because they are not providing qualified residents with
23
24

25 ³² See, e.g., *Paula E. v. State, Dep't of Health & Social Svcs, Office of Children's Svcs*, 276
P.3d 422 (Alaska 2012);

1 an amount of payment assistance equal to the amount needed to pay their
2 monthly rate.

3 **COUNT IV: EQUITABLE ESTOPPEL**

4 75. Defendants are equitably estopped from raising the Pioneers' Homes
5 monthly rates as set forth in 7 AAC 74.025 and made effective August 30, 2019.

6 76. The Alaska Supreme Court has held that equitable estoppel applies
7 against the government in favor of a private party if four elements are present:
8 "(1) the governmental body asserts a position by conduct or words; (2) the private
9 party acts in reasonable reliance thereon; (3) the private party suffers resulting
10 prejudice; and (4) the estoppel serves the interest of justice so as to limit public
11 injury."³³

12 77. The Pioneers' Home has asserted through both conduct and
13 regulatory action that annual rates would not be raised by degrees of 40-140%
14 from a prior monthly rate.

15 78. Pioneers' Home residents relied on the rates under which they
16 signed their contracts and reasonable annual rate increases when they sought
17 admission to the Homes. They did not reasonably expect their rates to increase so
18 astronomically in a single month, thereby depriving them of the time and ability
19 to make family budgeting plans, possible relocation, and similar important
20 decisions.
21
22
23
24

25 ³³ See, e.g., *Allen v. State, Dep't of Health and Social Services*, 203 P.3d 1155, 1164 (Alaska 2009).

1 79. Pioneers' Home residents are suffering extreme prejudice because
2 they face eviction for "refusal to pay costs incurred" under their residential
3 services contracts with the Homes and have no other source of housing or care.
4 Although Director Lasley has represented that residents will not face eviction for
5 non-payment of increased rates, that representation is arbitrary and not credible;
6 it both contradicts the terms of the residents' contracts with the Homes, and the
7 Pioneer Homes has, in fact, threatened residents with eviction for non-payment
8 of rates and/or evicted residents in the past for that reason.

10 80. Families of Pioneers' Home residents are struggling with
11 "heartbreaking decisions" in the wake of these drastic rate increases, including
12 divorce and bankruptcy to absorb the State's sudden and astronomical rate
13 increases.³⁴

15 81. For many communities, the Pioneers' Home is the only viable option
16 for assisted living that can meet aged and disabled Alaskan resident's care and
17 housing needs.

18 82. The end result of the Pioneers' Homes sudden rate increases is that
19 with no meaningful notice, middle-income seniors are forced to divest all of their
20 assets and modest savings, go into poverty programs, or move out of the Homes
21 and/or the state.

23
24 ³⁴ See James Brooks, *Pioneer Home Residents and Families Struggle with 'Heartbreaking'*
25 *Decisions After Rate Increases*, Anchorage Daily News, September 18, 2019 available at:
<https://www.adn.com/alaska-news/2019/09/17/pioneer-home-residents-and-families-struggle-with-heartbreaking-decisions-after-rate-increase/>.

1 83. In initiating these cuts, Governor Dunleavy has created a
2 manufactured crisis for Alaska's seniors that could easily have been avoided
3 through a well-publicized, gradual rate increase.

4 84. Estopping the Pioneers' Homes from enforcing this catastrophic rate
5 increase serves the public interest, and the interest of justice, by honoring the
6 elders who built Alaska and making good on the State's promise to provide
7 quality, affordable care to those most invaluable of Alaska's resources: its elderly
8 long-time Alaskans.

9
10 **PRAYER FOR RELIEF**

11 WHEREFORE, plaintiffs respectfully request that this Court grant the
12 following relief:

- 13 1. Certification of the above-defined class pursuant to Alaska R. Civ. P.
14 23;
15
16 2. A declaration that the defendants are equitably estopped from
17 enforcing the rate changes adopted August 30, 2019 in 7 AAC 74.025 against
18 putative class members;
19
20 3. A preliminary and permanent injunction prohibiting defendants
21 from enforcing the foregoing rate increases set forth in 7 AAC 74.025;
22
23 4. A preliminary and permanent junction prohibiting the defendants
24 from evicting Pioneers' Home residents for non-payment of the foregoing rate
25 increases set forth in 7 AAC 74.025;

 5 Awarding the costs and expenses of litigation; and

