**03.13 HEIGHTENED LIABILITY STANDARD FOR MEMBERS OF BOARDS AND COMMISSIONS (AS 09.65.170)**

The defendant claims [he][she] is not liable because [he][she] was acting within the course and scope of [his][her] official duties as a member of [name entity listed in AS 09.65.170].

If the defendant was acting within the course and scope of [his][her] official duties, then [he][she] can only be liable if [he][she] was grossly negligent and [his][her] gross negligence was a substantial factor in causing the plaintiff’s harm.

You must first decide whether it is more likely true than not true that the defendant was acting within the course and scope of [his][her] official duties. If so, you must then decide whether it is more likely true than not true that:

(1) the defendant was grossly negligent; and

(2) the defendant’s gross negligence was a substantial factor in causing the plaintiff’s harm.

I will define gross negligence and substantial factor for you in a few moments.

# Directions for Use

Instruction 03.14 (Gross Negligence Defined) and Instruction 03.07 (Substantial Factor) must be given in addition to this instruction. This instruction should be given if the case involves issues as to whether the board member was acting within course and scope of official duties.

## Comment

AS 09.65.170 requires gross negligence as the standard necessary to impose liability upon persons serving on certain boards and commissions specified in the statute.