

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

NATILIA EDWARDS, on behalf of  
herself and all those similarly  
situated,

Plaintiffs,

v.

STATE OF ALASKA, DEPARTMENT  
OF HEALTH, Heidi Hedberg in her  
official capacity as Commissioner of  
the Department, DIVISION OF  
PUBLIC ASSISTANCE, and Deb  
Etheridge, in her official capacity  
as Director of the Division,

Defendants.

Case No. 3AN-23-05707 CI

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**ORDER GRANTING PLAINTIFFS' MOTION FOR PARTIAL SUMMARY  
JUDGMENT CONCERNING 7 AAC 40.070(a)**

This Court, having considered the Plaintiffs' *Motion for Partial Summary Judgment Concerning 7 AAC 40.070(a)* hereby **GRANTS** this motion.

**Background**

The Alaska Division of Public Assistance ("DPA") is the primary administrator of state benefit programs for Alaskans in need and is housed within Alaska Department of Health.<sup>1</sup> The APA program is the "third largest DPA program" with approximately 15,000

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<sup>1</sup> Opposition to Motions for Class Certification & Preliminary Injunction at 2 (June 23, 2023) (hereinafter "Opposition").

recipients<sup>2</sup> receiving monthly cash assistance payments.<sup>3</sup> APA is a “solely state-funded and state-regulated program [program] with [its] full budget subject to annual legislative appropriation.”<sup>4</sup>

Individuals who qualify for APA benefits are also categorically eligible for Medicaid benefits and “a blind or disabled APA applicant under the age of 65 who qualifies for federal disability benefits must demonstrate that they are receiving those benefits in order to qualify for the APA program.”<sup>5</sup> Under 7 AAC 40.070(a), “the division will render an eligibility decision on each identifiable application and will mail the applicant a written notice of the decision within 30 days after receipt of the application.” However, the State has indicated that “[d]ue to the nature of the program, even when APA applications are worked promptly with 30 days, DPA frequently does not make a final eligibility determination within that time frame.”<sup>6</sup>

During the fall and winter of 2022-23, “[d]ue to numerous factors, including a cyber-attack, antiquated IT systems, and the unwinding of the COVID-19 public health emergency, DPA fell significantly behind in processing public benefits applications[.]”<sup>7</sup> Although the processing problems were the “most significant” for the SNAP program,

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<sup>2</sup> *Id.* (noting statistics from state fiscal year 2022).

<sup>3</sup> *Id.* (explaining that out of all the programs DPA administers, Medicaid is the largest with approximately one third of Alaskans receiving benefits and the SNAP food stamp program the second largest with approximately 95,000 Alaskans receiving aid).

<sup>4</sup> *Id.* at 3.

<sup>5</sup> *Id.* at 5 (citing 7 AAC 100.410).

<sup>6</sup> *Id.* at 5-7 (explaining DPA’s process of ‘pending’ APA applications while awaiting more information or further action).

<sup>7</sup> *Id.* at 11.

“[d]ue to the integrated nature of DPA’s workflow, other DPA benefit programs including APA were affected.”<sup>8</sup>

Ms. Edwards applied for APA benefits on February 3, 2023.<sup>9</sup> According to the State, her February 2023 application was her second application and she “first filed for APA benefits in a December 8, 2022 application that was combined with an application for Medicaid and expedited SNAP benefits.”<sup>10</sup> Ms. Edwards was approved for expedited SNAP benefits on December 20, 2022, but her application for APA benefits and Medicaid was not “worked” by the DPA eligibility technician.<sup>11</sup> On April 3, 2023, DPA completed the required interview for APA benefits; subsequently, on April 20, 2023, DPA approved Ms. Edwards’ APA application and issued back benefits to the date of the December application.<sup>12</sup>

### **Legal Standard**

#### I. 7 AAC 40.070

The Alaska Administrative Code 7 AAC 40.070 states “...the division will render an eligibility decision on each identifiable application and will mail the applicant a written notice of that decision within 30 days after receipt of the application.”<sup>13</sup>

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<sup>8</sup> *Id.* (“The problem was the most significant in the SNAP program, in which thousands of recertifications, which had been automatically renewed since 2020 during the COVID-19 public health emergency, all came simultaneously due for review when the emergency ended.”).

<sup>9</sup> Exhibit 3 to Plaintiff’s Motion for Class Certification.

<sup>10</sup> Opposition at 19.

<sup>11</sup> *Id.* (“However, contrary to DPA policy and practice of simultaneously working all benefits applied for on an application, the eligibility technician left Ms. Edwards’ application for APA benefits and Medicaid unworked.”).

<sup>12</sup> *Id.* at 19-20.

<sup>13</sup> 7 AAC 40.070

## II. *Summary Judgment*

Summary judgment will only be granted if ““there is no genuine issue of material fact and if the party is entitled to judgment as a matter of law.’ ”<sup>14</sup> A material fact is a fact that would be a basis for which the resolution turns.<sup>15</sup> The burden shifts from the movant to the non-moving party if that moving party can show through admissible evidence that there is no genuine dispute of material fact.<sup>16</sup> Any submitted affidavit is admissible, but cannot be too conclusory in its analysis over disputes of material fact.<sup>17</sup> The non-moving party must then set forth specific facts ““that he could produce evidence reasonably tending to dispute or contradict the movant’s evidence and thus demonstrate that a material issue of fact exists.””<sup>18</sup>

## Applicable Law

### I. *Binding Regulations*

A regulation is adopted when the agency “(1) implements, interprets, or makes specific statutory directive and (2) that action impacts the agency’s dealings with the public.”<sup>19</sup> In *Stosh’s I/M v. Fairbanks North Star Borough*, the Court stated that “[a]n administrative agency is generally required to follow its own regulations.”<sup>20</sup>

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<sup>14</sup> *Societe Fin., LLC v. MJ Corp.*, 542 P.3d 1159, 1165 (Alaska 2024); (citing *ConocoPhillips Alaska, Inc. v. Williams Alaska Petrol., Inc.*, 322 P.3d 114, 122 (Alaska 2014)).

<sup>15</sup> *Id.* at 1166; See *Christensen v. Alaska Sales & Serv., Inc.*, 335 P.3d 514, 519 (Alaska 2014).

<sup>16</sup> *Id.*; See also *Christensen*, 335 P.3d at 517.

<sup>17</sup> *Id.* at 1173.

<sup>18</sup> *Id.* at 1166, (citing *Christensen*, 335 P.3d at 517).

<sup>19</sup> *Stefano v. Dep’t. of Corrections*, 539 P.3d 497, 502 (Alaska 2023).

<sup>20</sup> *Stosh’s I/M v. Fairbanks North Star Borough*, 12 P.3d 1180, 1185 (Alaska 2000).

## Discussion

In order for summary judgment to be granted, there must be no genuine issue of material fact.<sup>21</sup> The Plaintiffs have made a motion for summary judgment regarding 7 AAC 40.070(a), which limits the application processing time to 30 days.<sup>22</sup>

In response to Interrogatory No. 14<sup>23</sup>, the State of Alaska responded that there were about 786 applications that were received more than 30 days prior that had not yet been determined.<sup>24</sup> There is no dispute that there were applications that were over the 30-day period.<sup>25</sup>

In its opposition, the State of Alaska stated that because there was no relief asked for, summary judgment cannot be granted.<sup>26</sup> The State of Alaska relies on *Sagoonick v. State*, in which the Court granted a motion to dismiss after there was no viable relief identified.<sup>27</sup> *Sagoonick* decided a 12(b)(6) motion to dismiss, not a motion for summary judgment.<sup>28</sup> The State also relies on Rule 56(d), which states that the Court must make an order that includes “the extent to which the amount of damages or other relief is not in controversy.”<sup>29</sup>

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<sup>21</sup> See *Societe Fin., LLC.*, 542 P.3d at 1165 (Alaska 2024); (citing *ConocoPhillips Alaska, Inc. v. Williams Alaska Petrol., Inc.*, 322 P.3d 114, 122 (Alaska 2014)).

<sup>22</sup> See Plaintiffs’ Motion for Partial Summary Judgment Concerning 7 AAC 40.070(a) at 1; State of Alaska’s Responses to Plaintiffs’ Interrogatories Nos. 13-29 at 3.

<sup>23</sup> State of Alaska’s Responses to Plaintiffs’ Interrogatories Nos. 13-29 at 3 (“Please state how many initial applications for APA benefits that the State of Alaska received more than 30 days ago, but that the State of Alaska has not yet made an eligibility decision about.”).

<sup>24</sup> State of Alaska’s Responses to Plaintiffs’ Interrogatories Nos. 13-29 at 3.

<sup>25</sup> See *Societe Fin., LLC.*, 542 P.3d at 1165.

<sup>26</sup> Opposition to Plaintiff’s Motion for Partial Summary Judgment Re: 7 AAC 40.070(a) at 1.

<sup>27</sup> *Id.* at 1; See also *Sagoonick v. State*, 503 P.3d 777, 803 (Alaska 2022).

<sup>28</sup> *Sagoonick*, 503 P.3d at 790.

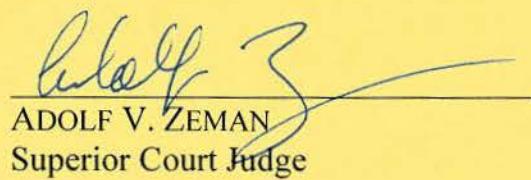
<sup>29</sup> See Alaska R. Civ. P. 56(d).

As there were no damages pleaded, the extent of the damages for the violation of 7 AAC 40.070(a) is still in dispute the both parties will have an opportunity to demonstrate the extent of the damages, if any, during the trial.

### Conclusion

For the aforementioned reasons, Plaintiffs' *Motion for Partial Summary Judgment* Regarding 7 AAC 04.070 is **GRANTED**.

DATED at Anchorage, Alaska this 3rd day of January, 2025.



ADOLF V. ZEMAN  
Superior Court Judge

I certify that on 1/3/25 a copy  
of the following was mailed/mailed to each  
of the following at their address of record.

N. Ferante, G. Didukyan, J. Davis, D. Wilkinson, J. Nelson, H. Hammon



Administrative Assistant

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

NATILIA EDWARDS, on behalf of  
herself and all those similarly  
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STATE OF ALASKA, DEPARTMENT  
OF HEALTH, Heidi Hedberg in her  
official capacity as Commissioner of  
the Department, DIVISION OF  
PUBLIC ASSISTANCE, and Deb  
Etheridge, in her official capacity  
as Director of the Division,

Defendants.

Case No. 3AN-23-05707CI

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**ORDER DENYING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**  
**RE: ALASKA RULE OF CIVIL PROCEDURE 65(d).**

This Court, having considered the Defendants' *Motion for Summary Judgment Re: Alaska Rule of Civil Procedure 65(d)*, hereby **DENIES** this motion.

**Background**

Defendants move for summary judgment because they believe that the Plaintiffs' requested injunctive relief "does not meet specificity requirements of Alaska Rule of Civil Procedure 65(d).<sup>1</sup> This Court previously ruled that the plaintiffs' requested preliminary injunction, which would have ordered the defendants to immediately comply

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<sup>1</sup> Motion for Summary Judgment Re: Alaska Rule of Civil Procedure 65(d) at 1.

with state law, and to process APA applications on time, 100% of the time, starting today, was too vague to satisfy the specificity requirements of 65(d).<sup>2</sup> The Defendants claim that the Plaintiffs have failed to refine their injunctive relief request.<sup>3</sup> The overarching issue in this case is the Division of Public Assistance's application processing time for Adult Public Assistance.<sup>4</sup> The contention is that DPA allowed the APA program to fall into backlog and leave many of the applications unworked past 30 days.<sup>5</sup>

Plaintiffs sued under Alaska Statutes 47.25.450, .460, and 7 AAC 40.070.<sup>6</sup> The Plaintiffs request an injunction requiring decisions on applications within 30 days.<sup>7</sup>

At the close of written discovery, the State served Plaintiffs with two interrogatories that requests specific terms sought from the Court and describe all acts in detail that would be restrained or required under this injunction.<sup>8</sup> The Plaintiffs replied, "I am seeking an order for the State of Alaska to comply with timelines set forth in state law for APA applications, and any other relief that the Court believes is proper."<sup>9</sup> The State contends that this answer does not meet the requirements of Alaska R. Civ. Pro. 65(d).<sup>10</sup>

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<sup>2</sup> *Id.* at 1 (citing Order Denying Plaintiff's Motion for Preliminary injunction (April 5, 2024) at 15) (citations omitted)).

<sup>3</sup> *Id.* at 1.

<sup>4</sup> *Id.* at 2,

<sup>5</sup> Motion for Summary Judgment Re: Alaska Rule of Civil Procedure 65(d) at 2.

<sup>6</sup> *Id.* at 3.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.* at 5.

<sup>9</sup> *Id.* at 5 (citing Exhibit A).

<sup>10</sup> *Id.* at 5.

## **Legal Standard**

### **I. *Alaska Statutes 47.25.450 and .460***

Under Title 47 of the Alaska Statutes, the Alaska Legislature laid out the articles of the Adult Public Assistance program.<sup>11</sup> Alaska Statute 47.25.450, states “[u]pon application, the department shall investigate promptly and record the circumstances of each applicant to determine the facts supporting the application and other information required by the department.”<sup>12</sup>

### **II. *7 AAC 40.070***

The Alaska Administrative Code 7 AAC 40.070 states “...the division will render an eligibility decision on each identifiable application and will mail the applicant a written notice of that decision within 30 days after receipt of the application.”<sup>13</sup>

### **III. *Summary Judgment***

Summary judgment will only be granted if ““there is no genuine issue of material fact and if the party is entitled to judgment as a matter of law.’ ”<sup>14</sup> A material fact is a fact that would be a basis for which the resolution turns.<sup>15</sup> The burden shifts from the movant to the non-moving party if that moving party can show through admissible evidence that there is no genuine dispute of material fact.<sup>16</sup> Any submitted affidavit is admissible, but

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<sup>11</sup> See AS 47.25.450; See also AS 47.25.460.

<sup>12</sup> AS 47.25.450.

<sup>13</sup> 7 AAC 40.070

<sup>14</sup> *Societe Fin., LLC v. MJ Corp.*, 542 P.3d 1159, 1165 (Alaska 2024); (citing *ConocoPhillips Alaska, Inc. v. Williams Alaska Petrol., Inc.*, 322 P.3d 114, 122 (Alaska 2014)).

<sup>15</sup> *Id.* at 1166; *See Christensen v. Alaska Sales & Serv., Inc.*, 335 P.3d 514, 519 (Alaska 2014).

<sup>16</sup> *Id.*; *See also Christensen*, 335 P.3d at 517.

cannot be too conclusory in its analysis over disputes of material fact.<sup>17</sup> The non-moving party must then set forth specific facts ““that he could produce evidence reasonably tending to dispute or contradict the movant’s evidence and thus demonstrate that a material issue of fact exists.””<sup>18</sup>

#### IV. *Alaska R. Civ. P. 65(d)*

Orders granting injunctions are controlled by Rule 65(d) of the Alaska Rules of Civil Procedure:

Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not be reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.<sup>19</sup>

The Court has found that the Alaska Rule 65 is “analogous to the federal rule.”<sup>20</sup>

### **Applicable Law**

#### I. *Alaska R. Civ. P. 65(d)*

In *Williams*, Williams Alaska Petroleum, Inc. and the Williams Companies (Williams) owned and operated a refinery.<sup>21</sup> The refinery, on leased State land, used sulfolane as a purifying solvent in the refining process.<sup>22</sup> Sulfolane was found in

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<sup>17</sup> *Id.* at 1173.

<sup>18</sup> *Id.* at 1166, (citing *Christensen*, 335 P.3d at 517).

<sup>19</sup> Alaska R. Civ. Pro. 65(d)

<sup>20</sup> See *Office of the Lieutenant Governor, Division of Elections v. Corbisier ex rel. B.L.*, 522 P.3d 174, 181 (Alaska 2022); See also *Cook Inlet Fisherman’s Fund v. State, Department of Fish & Game*, 357 P.3d 789, 804 n.60.

<sup>21</sup> *Williams Alaska Petroleum, Inc. v. State*, 529 P.3d 1160, 1171 (Alaska 2023).

<sup>22</sup> *Id.* at 1171.

groundwater at the refinery.<sup>23</sup> Additionally, Williams used aqueous foams that contained per- and polyfluoroalkyl substances as part of their fire response.<sup>24</sup> Lastly, the groundwater contained PFAS.<sup>25</sup> Williams sold the refinery to Flint Hills Resources, LLC and Flint Hills Resources Alaska, LLC (Flint).<sup>26</sup> Both parties were sued by the State for damages resulting from these discharges into the groundwater.<sup>27</sup> The Court originally awarded “injunctive and declaratory relief to the State and Flint Hills.”<sup>28</sup>

Williams argued that parts of the Court’s final judgment violated Alaska Civil Rule 65(d).<sup>29</sup> The argument stipulated that the paragraphs were “impermissibly vague because: (1) it identifies no ‘remediation and cleanup efforts’ that Williams must undertake and the Judgment refers to documents that did not yet exist; (2) the injunction’s geographic scope...is apparently limitless; and (3) there is no time limit on ...obligations.”<sup>30</sup> The Court agreed with Williams and ruled that there must be specificity as to what remediation and cleanup efforts are required of Defendant<sup>31</sup>

In *Cook Inlet Fisherman’s Fund v. State, Department of Fish & Game*, the Alaska Supreme Court affirmed the “[S]uperior [C]ourt’s refusal to grant an injunction that in effect ‘simply requir[ed] [the Department of Fish & Game] to obey the law, concluding that such an order lacks the specificity required to convey what management actions it

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.* at 1171-72.

<sup>25</sup> *Id.* at 1171

<sup>26</sup> *Id.* at 1172.

<sup>27</sup> *Id.* at 1174.

<sup>28</sup> *Id.* at 1191.

<sup>29</sup> *Id.* at 1192.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.* at 1193.

could take without risking contempt.”<sup>32</sup> The issue in this case was a decision by the Alaska Department of Fish and Game to establish an emergency order and then close the set net fishery while also increasing the drift net fishery time.<sup>33</sup> The set netters filed suit and “sought an emergency preliminary injunction to re-open their fishery.”<sup>34</sup> The Court declined to issue a preliminary injunction.<sup>35</sup> The Plaintiffs amended their complaint to request a permanent injunction directing the Defendant to follow their own management plans.<sup>36</sup> The Superior Court granted summary judgment in favor of the Defendant, denying the injunction.<sup>37</sup>

The Supreme Court upheld this decision, stating that the Plaintiff failed to cite to any specific management plan provision the Defendant had violated and that the injunction has to be more than just stating that the Defendant must obey the law.<sup>38</sup> Such a statement lacks the specificity required to convey what management actions the Defendant could take.<sup>39</sup> The Court would also like to avoid being put in the untenable position of managing a fishery, placing the trust in the expertise and knowledge of the Department.<sup>40</sup>

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<sup>32</sup> *Officer of Lieutenant Governor, Division of Elections v. Corbisier ex rel. B.L.*, 522 P.3d 174, 181 (Alaska 2022) (citing *Cook Inlet Fisherman’s Fund v. State, Department of Fish & Game*, 357 P.3d 789, 804 (Alaska 2015) (citations omitted)).

<sup>33</sup> *Cook Inlet Fisherman’s Fund*, 357 P.3d at 791-792.

<sup>34</sup> *Id.* at 792.

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> *Id.* at 804.

<sup>39</sup> *Id.* at 804.

<sup>40</sup> *Id.*

## Discussion

### I. *Alaska R. Civ. P. 65(d)*

With the knowledge that the Court tends to avoid being put in the position of managing a department and that injunctions require more than requiring agencies to follow the letter of the law, the Court proceeds with caution when imposing injunctions that impede on the ability of the Department to self-regulate.<sup>41</sup>

Following *Cook Inlet*, the Plaintiff must do more in the injunction than requesting the Defendant to follow the law.<sup>42</sup> Ms. Edwards is requesting an injunction to have the Department render decisions in accordance with 7 AAC 40.070: to require the State to “never cease payment of APA benefits without determining that an APA recipient is no longer eligible for APA benefits” and to require the State to “never cease payment of APA benefits without providing recipients notice and the opportunity for a pre-deprivation hearing.”<sup>43</sup>

In the 30(b)(6) *Deposition of Tracie Dablemont for State of Alaska, Department of Health*, Ms. Dablemont admitted that the DOH is having difficulty following the statutes, not through any fault of their own, but through the lack of manpower, there is little that can be done.<sup>44</sup> The Plaintiffs allege that there is more that could be done, through the use

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<sup>41</sup> See *Cook Inlet Fisherman's Fund*, 357 P.3d at 804.

<sup>42</sup> See *Id.*

<sup>43</sup> Verified First Amendment Class Action Complaint for Declaratory and Injunctive Relief at 11-12.

<sup>44</sup> 30(b)(6) Deposition of Tracie Dablemont for State of Alaska, Department of Health at 2 (“To be honest, that’s – it’s very frustrating because we’re doing everything we can do. I mean we – we are doing –we are working. You know, our eligibility workers are working seven days a week. They are working massive amounts of overtime. You know, I – they’ve done things like extending certifications to remove that burden of having to renew until they can—can try to get through the backlog. So, you know, I honestly don’t know what—what else they—they could do.”).

of notice and pre-deprivation hearings, pointing to actions they wish the Defendants to take outside of the current management process.<sup>45</sup> The difference between the aforementioned cases and the present case, is that the Plaintiffs in both of those cases failed to point to any specific management plan provisions or requesting the Court to do more than order the parties to “follow the law,” whereas here, the Plaintiffs have cited to specific provisions and have requested tangible changes the Department could possibly make.<sup>46</sup>

Since there is a genuine issue whether or not that the Plaintiff is requesting an injunction beyond simply following the letter of the law and the Plaintiff has demonstrated that there is more to the injunction than just following a statute, the Court cannot in good faith grant a motion for summary judgment on Alaska R. Civ. P. 65(d).

### **Conclusion**

For the aforementioned reasons, Defendants’ *Motion for Summary Judgment Re: Alaska Rule of Civil Procedure 65(d)* is **DENIED**.

**IT IS SO ORDERED.**

DATED at Anchorage, Alaska this 3rd day of January, 2025

I certify that on 1/3/25 a copy of the following was mailed/mailed to each of the following at their address of record.  
*N. Fenton, G. Duleck, J. D. Dinkins, J. Nelson, J. Hansen*  
Administrative Assistant

  
ADOLF V. ZEMAN  
Superior Court Judge

<sup>45</sup> Verified First Amendment Class Action Complaint for Declaratory and Injunctive Relief at 11-12; *See also Cook Inlet Fisherman’s Fund*, 357 P.3d at 804.

<sup>46</sup> *See Cook Inlet Fisherman’s Fund*, 357 P.3d at 804; *See also Williams Alaska Petroleum, Inc.*, 529 P.3d at 1192; *See also Verified First Amendment Class Action Complaint for Declaratory and Injunctive Relief at 11-12*