IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

DANIEL J. SULLIVAN, JR., Appellant, v. STATE OF ALASKA, DIVISION OF ELECTIONS, Appellee.	Case No. 3AN–26–07485 CI

ON APPEAL FROM
A FINAL DECISION OF
THE STATE OF ALASKA, DIVISION OF ELECTIONS

REPLY BRIEF OF APPELLANT DANIEL J. SULLIVAN, JR.

#8

Filed in the Superior Court of the State of Alaska on this _____ day of June, 2026.

Clerk of the Superior Court

_____
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I. INTRODUCTION

The Division of Elections ("Division"), acting by and through Director Carol Beecher ("Director Beecher"), disregarded the plain language of the Alaska Statutes, its own regulations, and the U.S. Constitution when it adopted the unsupported and partisan arguments of a political party complainant and ousted Daniel J. Sullivan, Jr. from the 2026 primary election for the office of United States Senator. Mr. Sullivan timely declared his candidacy, accurately answered every question on the lawfully required form, and met the only three qualifications enumerated in the Federal Constitution to run: he is older than 30; he has been a citizen for more than nine years; and he will be a resident of Alaska when, if elected, his term begins. U.S. Const. Art. I, § 3, cl. 3.

The Division's position is a drastic reversal of course. The Division has refused, in response to numerous prior complaints regarding candidate qualifications, to step outside the "four corners" of the election laws it is tasked with enforcing. The Division has instead consistently considered (in line with its governing statutes and regulations) only "candidate qualifications established by the United States Constitution, the Alaska Constitution, or the Alaska Statutes." 6 AAC 25.260(c). For that reason, it previously found a candidate alleged to be affiliated with an extremist organization qualified to run for a seat in the State House of Representatives where that candidate met all of the constitutional and statutory requirements to be a candidate for that office. Likewise, for that reason, the Division previously found a felon serving a lengthy prison sentence outside of the State of Alaska (which was not expected to conclude in time for the commencement of his would-be term in office) qualified to serve as a candidate for U.S. Senate where, on paper, he too satisfied

all of the constitutional and statutory requirements for that office. It is only with Mr. Sullivan that the Division has opted to create a subjective "good faith" requirement unsupported by any law at all, and which indeed attempts to unlawfully *add* to the exclusive list of Constitutional qualifications.

This approach is dangerous and constitutionally infirm, and nothing in the Division's briefing changes that conclusion. Rather than grappling with the straightforward merits of the dispute—whether Mr. Sullivan met the legal requirements to run for office imposed by the federal Constitution, the Alaska Statutes, and the Division's own regulations—both the Alaska Republican Party ("ARP")[1] and the Division attempt to distract from these salient issues by raising frivolous procedural quibbles like the exhaustion of administrative remedies doctrine and the doctrine of laches. *See* Ae. Br. 7–10; ARP Br. 9–12. As argued herein, these arguments are meritless. Under Alaska and federal law, the choice whether to elect a candidate who shares a first and last name with another candidate is for Alaska voters, not for the Division, to decide. This Court should reverse the Division's decision and require it to place Mr. Sullivan on the ballot.

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[1] The ARP has moved to intervene in this action and filed a brief without leave of Court. At the time of this filing, Appellant has vigorously opposed ARP's intervention. Appellant is not in any way waiving his objection to ARP's right to intervene in this appeal. Out of an abundance of caution, and in light of the expedited schedule, however, Appellant briefly responds to some of the arguments raised in ARP's brief. To the extent the Court allows ARP to intervene in this appeal, Appellant requests the opportunity to respond more fulsomely to ARP's brief.

II. ARGUMENT

The Division's role in determining whether a candidate meets the legal requirements to run for office is, as the Division itself has previously stated, "appropriately narrow." State's Mot. to Dismiss at 2, *Kowalke v. Eastman*, No. 3AN–22–07404 CI (Alaska Super. Ct. Aug. 12, 2022). Pursuant to AS 15.25.042 and 6 AAC 25.260, this "narrow role" is "to confirm a candidate's basic eligibility for an elected office—such as age, residency, and citizenship based on review of public agency records, not to investigate candidates' political associations" or otherwise scrutinize the ideological or practical considerations underlying the candidate's declaration. *Id.* The Division, it has acknowledged, "is not equipped for that task." *Id.* Indeed, because the Division is a "nonpartisan, nonpolitical agency charged with administering elections," such subjective inquiries would risk delving into the partisan, which "would threaten the public's perception of the Division's political neutrality." *Id.* Unfortunately, faced with a complaint from the ARP asserting that Mr. Sullivan was not a "good faith candidate," the Division appears to have disregarded its previous position and stepped outside both its own procedural limitations and the limitations on states' authority to interfere with elections for federal office. The Division failed to ground its Final Decision in Mr. Sullivan's declaration of candidacy, and improperly expanded the qualifications for U.S. Senator beyond those imposed by federal law.

A. Alaska Law is Clear: Mr. Sullivan Was a "Candidate."

i. The Division's "Appropriately Narrow" Review Does Not Allow It to Look Beyond the Candidacy Requirements Imposed by Law.

The Division's overarching argument is the surprising position that Mr. Sullivan was not a "candidate." Ae. Br. 10–18. But under Alaska law, a person *becomes* a candidate when he or she completes a lawful declaration of candidacy in the manner required by AS 15.25.030. The Division does not identify a single required item on that declaration that Mr. Sullivan did not accurately and truthfully fill out. *See, e.g.*, Ae. Br. 1-2. Neither the declaration of candidacy form itself, as promulgated by the Division, nor any other source in Alaska law contains *anything* that limits the purposes for which someone could declare himself or herself a candidate.

And the Division's obligation to act impartially and facilitate fair elections requires that the Division treat all qualified candidates the same and place them on the ballot in a manner that ensures a fair election and, to the extent reasonably possible, minimizes voter confusion. It does not allow the Division to impose additional ballot-access requirements of its own design, grounded nowhere in Alaska law. Indeed, the Division's ballot-design regulation—6 AAC 25.212—simply requires the Division not to place a candidate's name on the ballot "in a *manner* that is confusing or misleading to voters or compromises the fairness or neutrality of the ballot." 6 AAC 25.212(b)(2) (emphasis added).

To the extent the Division had concerns of voter confusion, the solution was therefore not to exclude Mr. Sullivan from the ballot, but rather to alter the "manner" in which his name and Senator Sullivan's name are listed. If the Division were truly worried

about voters confusing Mr. Sullivan and Senator Sullivan, the solution was not only obvious (distinguish the two men on the ballot, such as by referring to them as Daniel J. Sullivan, Jr. and Daniel S. Sullivan, respectively, or as Dan J. Sullivan and Dan S. Sullivan), but was also *already implemented by the Division*. The Division told Mr. Sullivan on June 1, 2026 that *he would be listed on the ballot as Sullivan, Dan J.* R. DOE 016. The Division had thus implemented the solution to any purported voter confusion it believes exists of its own volition weeks before it reversed course and determined that this measure was insufficient to address voter confusion.

It is implausible that Alaska voters could not distinguish between two candidates with similar names. *See* Ae. br. 11. Senator Sullivan's campaign is well situated to warn voters about the difference, and the official election pamphlet promulgated by the Division will no doubt help address this concern, as well. But what the Division may *not* do is precisely what it has done here: patronizingly assume that voters are too simple to appreciate the nuances of a dynamic campaign or the differences between two candidates, particularly in a race that has been the subject of an astonishing amount of press coverage. *See* Ae. Br. 11, 17. Rather than taking reasonable steps to comply with the mandates of 6 AAC 25.212 and print ballots that clearly present voters with the full panoply of available candidates, the Division has abused its discretion and improperly foisted its own obligation to prevent voter confusion onto Mr. Sullivan.

Moreover, none of the underlying facts upon which the Division relies (*see* Ae. Br. 2–4, 16) to argue that Mr. Sullivan's declaration of candidacy was not properly filed with the Division is a legally adequate ground to keep Mr. Sullivan's name off the ballot. The

Division complains about Mr. Sullivan's use of the nickname "Dan," but Alaska's election regulations specifically authorize a candidate's nickname to appear on a ballot as long as the nickname "is a name by which the candidate is commonly and generally known in the community." 6 AAC 25.212. The Final Decision makes no finding that Mr. Sullivan is not commonly or generally known as "Dan Sullivan," R. DOE 128–30, and the Division does not even now argue otherwise.

Second, the Alaska Supreme Court has already rejected the Division's argument that having a Republican designation next to Mr. Sullivan's name on the ballot would cause voter confusion and compromise the fairness of the primary ballot because Mr. Sullivan was newly affiliated with that party. In *Kohlhaas v. State*, the Court recognized that, the present open primary system would allow a candidate to "register with a political party . . . as an election tactic." 518 P.3d 1095, 1109 (Alaska 2022). But the Court upheld the procedure anyway, reasoning that "parties can warn voters about Trojan horse candidates." *Id.*

Third, there is nothing in Alaska law that regulates the design or contents of a campaign website or restricts which campaign consultant a candidate can work with, nor could the State constitutionally exclude a candidate from the ballot based on the substance of the candidate's political expression and association. *See, e.g.*, *Bond v. Floyd*, 385 U.S. 116, 136–37 (1966). And besides being legally inadequate, the Division's claim that Mr. Sullivan's campaign website demonstrates an intent to deceive or confuse voters is factually inaccurate. Mr. Sullivan's website, for example, prominently features a large photo of Mr. Sullivan, and he looks nothing like Senator Sullivan. R. DOE 038–39. And

the asserted similarity between Mr. Sullivan and Senator Sullivan's websites reflects that both websites incorporate Alaska flag motifs, something commonly done by candidates.

ii. The Division has Departed from Past Practice.

The Division's Final Decision is not only inconsistent with its own governing law, but also with its past practice. *See* Ae. Br. 18–19. In *Kowalke,* the Alaska Superior Court affirmed a decision of the Division declining to exclude a candidate for the Alaska House of Representatives from the ballot despite having received a complaint alleging that that candidate was a member of an extremist organization who had participated in the January 6, 2021 rally in Washington, D.C. *See generally* Findings of Fact and Conclusion of Law, *Kowalke v. Eastman*, No. 3AN–22–07404 CI (Alaska Super. Ct. Dec. 23, 2022). In that case, the Division accurately described its ministerial role in response to complaints as "limit[ed] to relevant evidence 'in the custody of the division . . . including, in the discretion of the director, any other document of public record on file with the state.'" Reply to Pl.'s Opp. to State's Mot. to Dismiss at 5, *Kowalke*, No. 3AN–22–07404 CI (Alaska Super. Ct. Sept. 9, 2022). This is a "quick, limited-scope process [which] is designed to verify a candidate's residency, age, citizenship, and voter qualifications, not to delve into . . . complex and politically fraught question[s] . . . ." State's Mot. to Dismiss, *Kowalke*, No. 3AN–22–07404 CI (Alaska Super. Ct. Aug. 12, 2022).

More recently, in *Alaska Democratic Party v. Beecher,* 572 P.3d 556 (Alaska 2025), the Division found—and the Alaska Supreme Court affirmed—that an incarcerated convicted felon, Eric Hafner, who was serving a lengthy prison sentence in New York was nevertheless qualified to run for the office of U.S. Senator despite the fact that Mr. Hafner

had never been to Alaska, was incarcerated out of state, and was unlikely to be released by election day. *Id.* at 560. In its trial court briefing, the Division urged the Court to "not attempt to predict the future," and noted that "however unlikely" it was that Mr. Hafner would be released, pardoned, or successful in his criminal appeal, "Mr. Hafner certified to the Division that he would meet the residency requirement," and "the Division must treat him the same way it would treat any other qualified candidate. . . ." Defs.' Opp. to Mot. for TRO and PI at 19, *Alaska Democratic Party v. Beecher*, No. 3AN–24–08665 CI (Alaska Super. Ct. Sept. 6, 2024).

The Division's past practice of refusing to conduct an open-ended and free-wheeling inquiry into issues unrelated to statutory candidate qualification was well-supported. There is nothing in either AS 15.25.042 or 6 AAC 25.260 that allows the Division to conduct an extensive fact-finding foray. *See* 6 AAC 25.260(c) (limiting the director's review to the grounds cited in the complaint that are related to candidate qualifications addressed in the candidate's declaration of candidacy). Moreover, AS 15.25.042 requires the Division to make a decision within thirty days and does not give it the power to subpoena witnesses or evidence, or to administer oaths. Nor does any other statute or regulation supply those powers. The State offers no explanation for its radical departure from its prior refusal to go beyond the four corners of a candidate's declaration in determining candidate qualifications, nor would any such explanation be well-taken even if offered. *See* Ae. Br. 13–15.

iii. The Division Cannot Consider the "Good Faith" of Election Candidates.

Attempting to expand the universe of information that the Division may include in its review of Mr. Sullivan's candidate qualifications, the Division identifies cases from other jurisdictions purporting to exclude "bad faith" candidates from ballots. *See* Ae. Br. 10–19. None are probative to the issue at hand.

There are states where laws applicable to local elections allow election officials to inquire into the subjective good faith or bad faith of a candidate, but Alaska is not one of them. *See, e.g., Freeman v. State Election Bd.,* 969 P.2d 982, 984 (Ok. 1998) (discussing application of statute requiring good faith certification and imposing hearing process where candidate uses "a name that is the same as or similar to an incumbent's name"); *cf. State, ex rel. Allen v. Warren Cty. Bd. Of Elections,* 874 N.E.2d 507, 508 (Ohio 2007) (candidate for office of municipal court judge was improperly excluded from ballot for lack of "good faith" where statute governing candidate qualifications included no such requirement). The Division must follow the election laws of *this state,* not other states. And the U.S. Constitution, which is the supreme law of the land, does not tolerate a regulation that contradicted its clear and mandatory qualification requirements.

Nor do the cases upon which the Division attempts to rely create a common-law "good faith" requirement for Alaska election officials. *See* Ae. Br. 11–13. *Planas v. Planas,* 937 So. 2d 745 (Fla. Dist. Ct. App. 2006) involved the disqualification of a candidate who designated a name for the ballot that had not been adopted by him, and under which he had never conducted business. *Id.* at 746. Mr. Sullivan, in contrast, has requested to use an

extremely common short form of his legal name. R. DOE 052 (requesting to appear on the ballot as "Dan J. Sullivan"). Likewise, in *State v. Marsh*, 232 N.W. 104 (Neb. 1930), a nearly 100-year-old case from Nebraska, a candidate sought to run not under his "real and true name," Arthur Fred Johnson or some variation thereof, but rather as "Fred Johnson," the same name as another candidate. *Id.* at 104–05. A Louisiana case, *None-Of-The-Above v. Hardy,* 377 So.2d 385, 386 (La. Ct. App. 1979) suffers from the same defect: there, a candidate initially declared using his legal name, but then changed his name to "None-Of-The-Above." *Id.* at 386. Mr. Sullivan has done no such thing. He is a man with a common name who submitted a declaration of candidacy that met the requirements of Alaska law. He has not changed his name to try to mirror Senator Sullivan's—indeed, he has proposed reasonable alternatives that would allow the Division to distinguish between his legal name and Senator Sullivan's similar legal name on the ballot (*i.e.*, the inclusion of both candidates' middle initials). Though the Division lacks authority to consider a candidate's subjective "good faith" in determining whether they are qualified, no legal basis for a finding of "bad faith" is present here in any event.

B. The State's Imposition of Ideological Barriers to Candidacy is Not Consistent with Federal Law.

The Division's Final Decision should be called out for what it is: an attempt to keep Mr. Sullivan from running because of a personal attribute—his name—and the Division's suppositions about his political beliefs or affiliations. These are not procedural issues, like a signature requirement or a filing deadline, that he could overcome or change with more effort, or by filing corrected paperwork. The Division's Final Decision is a complete barrier

to his participation in the U.S. Senate race based on his name and the purposes for which the Division has decided he is participating. Our Federal Constitution does not allow states to exclude candidates from running for U.S. Senate based on name or political ideology or private motivation. Nor do any of the cases cited by the Division, *see* Ae. Br. 19–20, stand for such a proposition.

All of these cases are distinguishable because they involve challenges to written, duly enacted procedural statutes limiting a candidate's ability to access the ballot. They do not involve circumstances, as here, where the Division has created a never-before-seen-in-Alaska ballot access requirement ("good faith") out of thin air. Likewise, none consider whether a new, content-based qualification ("good faith") is consistent with the Qualifications Clause.

Anderson v. Celebrezze, 460 U.S. 780 (1983) for example, is completely unhelpful to the Division. That case involved a challenge to an Ohio statute requiring that a candidate for the office of President of the United States file a statement of candidacy and nominating petition in March in order to appear on the general election ballot in November. The Court found that these limitations were constitutionally untenable and placed an unfair burden on Ohio voters' freedom of choice and freedom of association. *Id.* at 806. The dicta the Division cites from footnote 9, which notes generally that states may adopt by statute reasonable limitations to ballot access to help avoid "frivolous candidates" is not to the contrary where, as here, no such procedural limitations have been enacted. *Jenness v. Fortson*, 403 U.S. 431 (1971); *Libertarian Party of Illinois v. Rednour*, 108 F.3d 768 (7th Cir. 1997); *American Party of Texas v. White*, 415 U.S. 767 (1974); and *Cartwright v.*

Barnes, 304 F.3d 1138 (11th Cir. 2002), all of which likewise involve signature requirements, are inapposite for the same reasons. *Bullock v. Carter*, 405 U.S. 134 (1972) and *Lubin v. Panish*, 415 U.S. 709 (1974) involve filing fees; Mr. Sullivan paid his filing fee. *Storer v. Brown*, 415 U.S. 724 (1974) involves a party-disaffiliation requirement; there is no dispute that Mr. Sullivan is and was a registered Republican at the time he declared his candidacy. R. DOE 129 (acknowledging Mr. Sullivan was affiliated with the Republican Party "two days before [he] filed [his] declaration of candidacy").

Mr. Sullivan is not taking the position that the State may not pass laws regulating the *procedure* through which a U.S. Senate candidate may apply to be placed on the ballot, to the extent such laws pass constitutional muster. *See* Ae. Br. 22–23. He is simply asking the Division to be held to the procedures that the legislature has implemented and that the Division has enacted through its own regulations. The Division cannot impose new limitations which are neither procedural nor within the four corners of the Qualifications Clause. To the extent the Division's brief can be construed to rely upon *Smiley v. Holm,* 285 U.S. 355 (1932) for the proposition that it can do so, this case does not expand the scope of the Qualifications Clause. *See* Ae. Br. 19. *Smiley* was a legislative redistricting suit which has nothing to do with candidate qualification issues. Mr. Sullivan met all state-law procedural requirements to declare his candidacy; the three qualifications set by the Qualifications Clause are exclusive; and Mr. Sullivan meets all three.

C. The Contradictory Procedural Arguments Raised by the Alaska Republican Party and Division are Without Merit.

Finally, though not germane to the core issues in this case, Mr. Sullivan must address two distracting procedural arguments, one raised by non-party ARP in its merits brief filed without leave of court, and one raised by the Division. The two arguments are contradictory: the ARP claims that Mr. Sullivan should have prolonged the administrative proceeding below by engaging in further administrative process (despite the fact that none is apparent in the Division's procedural regulations), *see* ARP Br. at 9–12; the Division, in contrast, claims that Mr. Sullivan did not appeal from the Division's Final Decision to this Court quickly enough. *See* Ae. Br. at 7–10. Both arguments fail as a matter of law.

i. Mr. Sullivan was Not Required to Pursue Further Relief from the Division.

The ARP accuses Mr. Sullivan of making an "assault on Alaskans and the State's elections," ARP Br. at 20, and characterizes the open primary system that our state's high court has repeatedly blessed as a "jungle primary and ranked-choice voting scheme." ARP Br. at 21. Stripped of this astounding and vitriolic hyperbole, it appears that the ARP's primary point of contention is its assertion that Mr. Sullivan failed to exhaust his administrative remedies before commencing the instant appeal. The ARP appears to believe that because the Division on June 10, 2026, asked Mr. Sullivan to provide additional information relevant to the issues raised by the ARP's complaints by the following day, and he did not do so, he is barred from seeking relief from the Division's unexpected and unsupported decision from this Court.

The ARP's position is inconsistent with the regulatory scheme applicable to candidacy qualification complaints. After receiving a complaint, the Division *may*, but is not required to, request additional information from the candidate before rendering a final decision on the merits of the complaint. Likewise, a candidate may provide such information, but is not required to do so. Title 6, chapter 25.260(h) of the Alaska Administrative Code makes clear that the Director of the Division must still consider and decide the Complaint on the merits regardless of whether such supplemental information is provided. *See* 6 AAC 25.260(h) ("If the information requested by the director under (g) of this section is not received from the candidate by the specified deadline, the director will issue a final determination regarding the candidate's eligibility based on the public records initially reviewed."). More to the point, Mr. Sullivan *did* participate in the proceeding below. The Division already possessed Mr. Sullivan's response to the merits of the Complaint in the form of his June 3, 2026 letter to Lt. Governor Dahlstrom, R. DOE 048, and appears to have taken the same into account in crafting its final decision.

Mr. Sullivan was not required to produce additional information to the Division by 6 AAC 25.260 (though he had already done so). And after the Division rendered its Final Decision, there was no statute or regulation that required further administrative review before Mr. Sullivan could appeal to this Court. Indeed, both 6 AAC 25.260(g) and the Final Decision itself acknowledge that the decision was final and that the Division's work on the matter was done. As such, it informed Appellant of his right to lodge this very appeal. At its core, the ARP appears to fundamentally misunderstand the doctrine of exhaustion of administrative remedies. "Exhaustion is required if a statute or regulation provides for

administrative review." *Winterrowd v. State, Dept. of Admin., Div. of Motor Vehicles*, 288 P.3d 446, 450 (Alaska 2012). "[I]f . . . a regulation provides for administrative review of an agency decision, a person ordinarily must exhaust such administrative remedies before bringing an action in superior court challenging the decision." *Smart v. State, Dept. of Health & Social Servs.,* 237 P.3d 1010, 1015 (Alaska 2010). Here, the Division's decision was entitled to no further administrative review. Mr. Sullivan properly proceeded to the superior court.

ii. Mr. Sullivan Timely Pursued this Appeal.

Just as the ARP's procedural challenge is without merit, so too is the Division's intimation that Mr. Sullivan waited too long to bring the instant appeal inconsistent with the procedural facts and unjustified by case law. *See* Ae. Br. at 7–10. The Division has failed to satisfy the elements of the doctrine of laches. The doctrine requires that a party "show two 'independent elements': (1) that the plaintiff has unreasonably delayed in bringing the action, and (2) that this unreasonable delay has caused undue harm or prejudice to the defendant." *City & Borough of Juneau v. Breck*, 706 P.2d 313, 317 (Alaska 1985).

The laches argument stumbles at the first hurdle: there was no delay on Mr. Sullivan's part, unreasonable or otherwise. Mr. Sullivan declared his candidacy on May 29, 2026, and was quickly determined to be a qualified candidate. *See* R. DOE 013, "Checklist – Declaration of Candidacy for Legislature" (determining that Mr. Sullivan's declaration of candidacy complied with all legal requirements). Despite receiving letter correspondence from special interest groups in early June expressing concerns about Mr. Sullivan's candidacy, the Division did nothing for weeks. Indeed, it even dragged its

heels after receiving and responding to the ARP's formal complaints regarding Mr. Sullivan's candidacy: the Division waited four days after the June 11, 2026 deadline for Mr. Sullivan to respond to its improper request for a "sworn statement" before it elected to release its two-page Final Decision late in the day on June 15, 2026. As the Court is aware, Friday, June 19 was a federal holiday. Accordingly, the timing of the Division's Final Decision—delayed by at least three days for reasons unknown—meant that Mr. Sullivan and his legal counsel had to scramble to review the decision, evaluate the merits of an appeal, and thoroughly prepare the same. It was not possible to do so before close of court on Thursday, June 18, and Mr. Sullivan could not file his appeal on either a court holiday or over the weekend. He filed his appeal promptly at the next available time: the morning of June 22, 2026. The Division's assertion that Mr. Sullivan somehow slept on his rights by proceeding swiftly to this Court is without merit.

The Division's position that Mr. Sullivan should have anticipated, weeks before the Final Decision, that the State would reject his candidacy on the basis that he is not a "good faith candidate" is flawed for at least two reasons. *See* Ae. Br. at 7. First, as discussed at length in Mr. Sullivan's opening brief and reiterated above, there is no support for the notion that a state may do what the state has done here: subjectively determine that a candidate is not seeking office in "good faith" and kick the candidate off the ballot where *no* state statute or regulation establishes "good faith" as a criterion to run for office. Second, as likewise explained above, the Division's June 15, 2026 Final Decision was a radical departure from the manner the Division appears to have handled every other candidate eligibility complaint it has received since the open primary system was implemented.

Appellant could not look into a crystal ball and predict, weeks in advance, that the Division would do something it had never done before, and certainly he could not be expected to prepare an appellate brief addressing vigorous constitutional questions based on such an unlikely premonition.

Even had Mr. Sullivan delayed—which he did not—the Division would not be prejudiced in the slightest. The parties have already agreed to an expedited briefing deadline, which the Court has accommodated. Though it is unfortunate that this expedited briefing deadline occurred following the Division's failure to adjudicate a third party's feigned concerns regarding Mr. Sullivan's candidacy in a timely manner, expedited briefing schedules are not unusual in election matters. The schedule to which the parties have agreed will, it appears, allow the Court to reach the merits of Mr. Sullivan's appeal before the Division's self-imposed ballot-related deadlines—or, if it does not, Mr. Sullivan retains and has not waived the arguments made in his timely filed Motion for Stay or, in the Alternative, for Temporary Restraining Order and Preliminary Injunction. The Division has not responded to those arguments, and has waived its ability to do so. Simply stated, the doctrine of laches is inapplicable and the Court should consider the merits of Mr. Sullivan's arguments.

III. CONCLUSION

For the foregoing reasons, and those set forth in Mr. Sullivan's opening brief, Mr. Sullivan respectfully requests that the Court expeditiously sustain Mr. Sullivan's appeal, vacate the Final Decision of the Division of Elections, and issue an order declaring that Mr. Sullivan is an eligible candidate for the office of United States Senator and

directing the Division to include his name and affiliation with the Republican Party on the ballot for the August 18, 2026 primary election.

DATED: June 24, 2026

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APPELLATE RULE 513.5(c)(3) CERTIFICATE

The undersigned certifies that the foregoing document is set in 13-point proportionally spaced Times New Roman, in conformity with Appellate Rule 513.5(c)(1)(A).

DATED: June 24, 2026

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