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

AMERICAN CIVIL LIBERTIES )  
UNION OF ALASKA, BONNIE L. )  
JACK, and JOHN D. KAUFFMAN, )

Plaintiffs, )

v. )

MICHAEL J. DUNLEAVY, in his )  
official capacity as Governor of Alaska, )  
and STATE OF ALASKA, )

Defendants. )

Case No. 3AN-19-08349 CI

**OPPOSITION TO LEGAL VOICE'S MOTION FOR  
LEAVE TO FILE BRIEF OF AMICUS CURIAE**

This Court should deny Legal Voice's motion to file a brief of amicus curiae in this matter. The proposed brief contains no legal citations or argument. It will not meaningfully assist this Court in applying the separation of powers doctrine or interpreting the Alaska constitution. Instead, it is merely a request to have this Court look beyond what is at issue in this case and take an active role in directing how the governor implements his policy and fiscal priorities.

The Alaska Rules of Civil Procedure do not provide for amicus briefing at the superior court level.<sup>1</sup> The Alaska Supreme Court has indicated that amicus briefing may be appropriate in superior court as an alternative to permissive intervention when "an applicant's claim or defense and the main action have a question of law or fact in

<sup>1</sup> Compare to Alaska R. App. P. 212(c)(9) ("A motion for leave [to file an amicus brief] shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable.")

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STATE OF ALASKA  
THIRD JUDICIAL DISTRICT  
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1 common” but intervention may unduly delay or prejudice the adjudication of the rights  
2 of the original parties.<sup>2</sup> Legal Voice has not made that showing.

3 The bulk of Legal Voice’s proposed brief is a broad indictment of the Alaska  
4 Court System’s provision of judicial services to minority and low-income women over  
5 the past three decades. The brief describes the many challenges faced by this  
6 constituency in accessing state justice systems, including factors both external and  
7 internal to the Alaska courts. External factors cited include the high cost of legal  
8 services, the high cost of travel to court locations, and poor or nonexistent internet  
9 access in rural communities. Internal factors cited include language accessibility, filing  
10 fees, and real or perceived bias against this constituency. The proposed amicus brief  
11 also describes some of the Alaska Court System’s efforts, since as early as 1997, to  
12 rectify and ameliorate these conditions.

13 Legal Voice’s proposed brief then attacks the governor’s veto on the grounds that  
14 it runs counter to the generalized goal of improving access to justice. It exhorts the  
15 governor to embrace broad policy positions of improvement of access to justice as a tool  
16 to alleviate poverty and promote prosperity.<sup>3</sup> However, Legal Voice makes no practical  
17 connection between the systemic access-to-justice barriers of the past two decades and  
18 the veto of \$334,700 from the Court System’s budget for fiscal year 2020. This is  
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24 <sup>2</sup> See Alaska R. Civ. P. 24(b). See e.g. *Neese v. State*, 218 P.3d 983 (Alaska 2009) (citing  
25 Alaska R. Civ. P. 24(b) and stating “where no new issues are presented, it is most effective to  
26 allow participation by a brief of amicus curiae rather than by intervention”); *Alaskans for a  
Common Language, Inc. v. Kritz*, 3 P.3d 906 (Alaska 2000).

<sup>3</sup> See e.g. Legal Voice [Proposed] Brief of Amicus Curiae at pages 12-13, discussing the  
role of access to justice in the United Nations Sustainable Development Goals.

1 particularly true given that the described challenges exist primarily at the district and  
2 superior court levels,<sup>4</sup> and the veto reduced the budget of the appellate courts. Legal  
3 Voice alleges, vaguely, that “[w]ith fewer resources to go around, women with low  
4 incomes will suffer particularly as they likely will receive less support from the court  
5 system, whether in staff-time, self-help resources, victim-witness resources, language  
6 access services—or, more probably, all of these.”<sup>5</sup> But this fails to recognize that, in  
7 fact, the Alaska Court System’s final fiscal year 2020 budget, in total, was almost three  
8 million dollars higher than its fiscal year 2019 budget.<sup>6</sup>

9  
10 The only other connection Legal Voice draws between these access-to-justice  
11 challenges and the governor’s veto is a facially political argument. Legal Voice alleges  
12 that the veto message was intended to undermine the broad goal of improving access to  
13 justice for this group of Alaskans, and that it may undermine their faith in their  
14 government institutions. “Combating those [access-to-justice] challenges and restoring  
15 faith in the courts as unbiased tribunals should be a top priority for every branch of  
16 government in every state. The Governor’s actions do precisely the opposite.” This type  
17 of political argument, regarding what policies the governor should embrace and what  
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21 <sup>4</sup> The briefing particularly refers to the areas of family law, domestic violence, evictions,  
and debt collection. Legal Voice [Proposed] Brief of Amicus Curiae at 8.

22 <sup>5</sup> The plaintiff’s Motion for Summary Judgment, filed on the same day as the proposed  
amicus brief, alleges that the \$334,700 veto primarily affected the ability of the appellate courts  
23 to hire pro tem judges at the appellate level, which would have no impact on the types of  
access-to-justice issues described by Legal Voice. ACLU’s Memorandum in Support of Motion  
24 for Summary Judgment at page 5.

25 <sup>6</sup> State of Alaska, Office of Management and Budget, Alaska Court System, “Component  
Summary—All Funds,” available online at  
26 [https://omb.alaska.gov/ombfiles/20\\_budget/ACS/Enacted/20compsummary\\_acs.pdf](https://omb.alaska.gov/ombfiles/20_budget/ACS/Enacted/20compsummary_acs.pdf) (last  
visited March 2, 2020).

1 actions the governor should take to implement those policies, do not assist the court in  
2 deciding this case. The reaction of a particular constituency to a veto message is a  
3 matter for the ballot box, not the courtroom.

4  
5 The proposed brief contains no legal analysis; Legal Voice does not establish that  
6 it has “claims or defenses” that share common questions of fact or law with the main  
7 action. The proposed brief contains no discussion of the Alaska Constitution or any  
8 other legal authority. Its few statements purporting to address the substance of the main  
9 action are unsupported and facially erroneous. For example, the proposed brief states:

10 If the Governor’s veto is allowed to stand, there will be nothing to stop the  
11 Executive or Legislative branches from using their budgetary power to  
12 attempt to control the courts and influence the outcome of a case in which  
13 they have an interest, political or otherwise.<sup>7</sup>

14 This plainly ignores Article 4, Section 13 of the Alaska Constitution, which  
15 prohibits the reduction of judge’s salaries during their terms of office. It also ignores the  
16 inherent power of the judicial branch to compel funding necessary to execute its  
17 constitutionally-mandated responsibilities.<sup>8</sup> And, of course, it ignores the power of the  
18 electorate. Thus, this type of facially erroneous, conclusory argument does not assist the  
19 Court in its analysis of this case.

20 In conclusion, Legal Voice’s brief states political, not legal, arguments. To the  
21 extent Legal Voice does state legal claims regarding improving access to justice for  
22 minority and low-income Alaskan women, those claims do not share questions of fact or  
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25 <sup>7</sup> Legal Voice [Proposed] Brief of Amicus Curiae at page 4.

26 <sup>8</sup> See e.g. *State ex rel. Metropolitan Public Defender Services, Inc. v. Courtney*, 64 P.3d  
1138 (Or. 2003).

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law in common with this case, which is about the Alaska Constitution and the separation of powers doctrine. This Court should deny Legal Voice's motion for leave to file the proposed brief.

DATED: March 5, 2020.

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CERTIFICATE OF SERVICE

I certify that on March 5, 2020, true and correct copies of the **Opposition to Legal Voice's Motion for Leave to File Brief of Amicus Curiae, Proposed Order,** and this **Certificate of Service** were served via U.S. Mail on the following:

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