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FILED
STATE OF ALASKA
APPELLATE COURTS

EMERGENCY

2018 DEC 10 AM 10:07

IN THE SUPREME COURT OF THE STATE OF ALASKA
CLERK APPELLATE COURT

Kathryn Dodge,

BY _____
DEPUTY CLERK

Appellant,

v.

Supreme Court No. S-17301

Lt. Governor Kevin Meyer, and
Division of Elections Director
Josephine Bahnke,

Appellees.

Trial Court Case No. 3AN-18-00001RA

EMERGENCY

MOTION TO EXPEDITE SCHEDULE

Under Appellate Rule 504, the State moves this Court to expedite the proposed schedule for this recount appeal so that the Legislature may have adequate time to organize before the first day of the legislative session. The State requests a decision on this emergency motion by the close of business on Monday, December 10.

On December 7, 2018, the Court issued a scheduling order in this matter providing for a hearing before special master in the next two weeks, briefing to the Supreme Court before January 2, 2019, and oral argument on January 8, 2019. This schedule means that, even if this Court issues an order on the same day as oral argument, this matter will be decided no more than a week before the 31st Alaska Legislature will convene on January 15, 2019.

This schedule, although expedited, will create hardships for the Legislature and increased expenses for the State because the recently-elected 31st Legislature is finely balanced and the outcome of the House District 1 election may hold the key to the formation of a majority in the Alaska State House. A party—or coalition group—enjoying a majority position in the House has the ability to elect the speaker of the House, choose committee leadership, and control the legislative agenda. Uncertainty about whether a majority can be formed—and by whom—has myriad trickle-down effects as explained in the attached affidavit of the Lieutenant Governor Kevin Meyer, who was in the Alaska State Legislature for 18 years before being elected as Lieutenant Governor in November. [Meyer Affidavit at ¶ 1]

Until a majority can organize, key decisions regarding the allocation of staff positions, hiring of staff, and authorization to travel to Juneau and find accommodation for the session will be delayed. [Meyer Affidavit at ¶¶ 2-3] This creates significant hardship for legislative staff coming from outside of Juneau, who need to be in Juneau by January 8, 2019 when ethics training and office orientation begins. Staff moving from outside of Juneau also need to know whether to sign leases for housing and enroll their children in Juneau schools. [Meyer Affidavit at ¶¶ 4-5]

Until a majority can organize, legislative office space will not be assigned, significantly hampering legislators' ability to work, respond to their constituents, and even to meet with each other to fulfill their legislative responsibilities. [Meyer Affidavit at ¶¶ 7-8]

The State's ability to address acceptance and allocation of federal assistance for a declared federal disaster could also be hampered if the House remains unorganized and without identified leadership. [Meyer Affidavit at ¶ 11]

Alaska's citizen Legislature is designed to convene in strictly time-limited sessions and, as recent history has shown, it is often difficult for the Legislature to accomplish its primary task of passing a budget in the time permitted by Article II, sec. 8 of the Alaska Constitution.¹ Delays in organizing at the start of a legislative session can only exacerbate these existing difficulties. [Meyer Affidavit at ¶ 10]

Therefore, the defendants request that the Court reconsider the current schedule for the appeal and adopt the defendants' proposed schedule—outlined in the accompanying proposed order—or some other more expedited schedule consistent with the needs of the Legislature and the Court's own scheduling constraints.

CONTACT INFORMATION OF COUNSEL

As required by Appellate Rule 504(c) for emergency motions, the telephone numbers and addresses of counsel are as follows:

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¹ Art. II, sec. 8 limits a regular legislative session to no more than 120 days. By statute, the Legislature must adjourn on the 90th consecutive calendar day. AS 24.05.150(b).

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DATED December 10, 2018.

KEVIN G. CLARKSON
ATTORNEY GENERAL

By: 
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FILED
STATE OF ALASKA
APPELLATE COURTS
IN THE SUPREME COURT OF THE STATE OF ALASKA

2018 DEC 10 AM 10:08

KATHRYN DODGE

Appellants

v.

LT. GOVERNOR KEVIN MEYER,
and DIVISION OF ELECTIONS
DIRECTOR JOSEPHINE BAHNKE

Appellees

CLERK APPELLATE COURT

BY _____
DEPUTY CLERK

Supreme Court No.: S-17301

AFFIDAVIT OF KEVIN G. MEYER

I, Kevin G. Meyer, being duly sworn, attest as follows:

1. I have been a member of the Alaska State Legislature since 2001 and for the past two years Rules Chairman in the State Senate. In this role I have personal and direct knowledge of the process and procedures required for the legislature to operate during the time between a November election and the swearing in which occurs in mid-January. I have experienced the challenges with staff allocation and hire, transportation of staff to the State Capitol, housing and transportation arrangements required, allocation of legislative office space, and know the necessity of staff to the operations of a legislative office and the Legislature as a whole.

2. Delay in knowing the outcome of the election result in District 1 has put the members of the State House in a position where they cannot properly organize a majority of their members and proceed with the process of preparing for the 31st Legislative Session. This includes identifying a hiring authority, so members can begin

to solicit, evaluate and acquire new staff, designating an incoming Rules Chair to allocate the available office spaces in the State Capitol Building so members may have a place in which to conduct their constituent and committee work, and selecting a leadership team needed to address the needs of the body and fulfil their obligations as members of the State House.

3. It is incumbent upon the incoming Rules Chair to be the body's hiring authority. This position, after consideration of the current budget and in consultation with House leadership, directs a memorandum to all members outlining the available positions allocated to each office and provides a process for members to submit Staff Hiring Authorizations to the Rules Chair for approval. Once the members have selected their staff, whether returning or as newly hired, they are authorized to work by the Rules Chair and can begin to make their arrangements for travel to Juneau.

4. Staff travel is paid for by the State but this reimbursement is only available to those staff who have received authorization. While this is not a concern for those staff currently living in Juneau, it creates a significant hardship for the staff who are required to travel into the Capital City, particularly those from rural Alaska. Additionally, once someone has been notified that they are hired, selection and acquisition of housing is necessary – something that cannot be completed until they know they will be employed for the session.

5. Traditionally, the hiring authority is delegated from the outgoing Rules Chair to the incoming Rules chair. This was done in the State Senate when I delegated authority to Senator John Coghill in November. Additional delay has the potential to put

on hold the hiring and transportation of up to 120 legislative aides who will have no ability to get travel authority to arrive in Juneau by January 8, 2019 when staff ethics and office orientation begins. Per Statute and policy every staff member must attend these trainings before the start of the Legislative session.

6. Any staff with children in school who would be relocating to Juneau would also be subjected to additional hardship as they will be unable to know for certain that they have a job and will have to make a decision on faith whether to enroll their school-aged children in school or keep them in their current educational location pending a firm hiring decision from the legislature.

7. After the November election and subsequent organization of a body's majority, the necessary process of office space allocation begins. There are 40 members of the State House, most of whom packed up their offices and are awaiting the assignment of new office space in Juneau's Capitol Building. This effort can be a herculean task, giving priority to members based on newly acquired positions, chairmanships, and seniority. This is most commonly done in the first weeks of December allowing the Legislative Affairs Agency enough time to move office furniture, supplies, boxes, artwork and electronics such as phones and computers necessary to conduct the basic tasks of constituent relations, bill drafting, and communications.

8. To not have these office assignments set would create internal and external chaos hampering the members of the State House from completing their constitutional duties as elected representatives. Alaskans will have no way to contact

them directly as no phone numbers would be assigned, there would be no location to meet with them as there will be no office space assigned, and there will be continued confusion and costs as to where and how to store equipment and furniture until such a time as a Rules Chair is selected.

9. The results of District 1 need to be known as quickly as possible to allow the membership of the State House to determine a leadership team for the 31st Legislative Session. The longer the delay, the more costs will be incurred by the State having to adjust plans and contracts that have been set months in advance to accomplish the yearly move of members to Juneau. The added cost to the annual legislative move as a result of a delay cannot be accurately predicted as it would include possible storage costs and increased moving costs due to last minute shipping changes. Legislator and staff training sessions would have to be rescheduled and the increased LAA staff time required to accommodate the staff hiring, the office reassignments and managing the annual migration to Juneau will all result in additional state expense, money that could better be allocated to needed state operations.

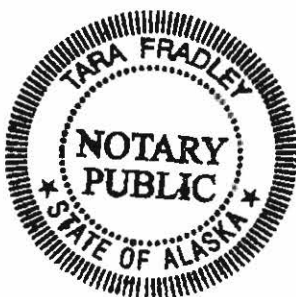
10. Additionally, should the House not be ready to conduct business at the beginning of the session, there is a significant possibility that either an extended session or special sessions might be required to complete the necessary legislative budget work, and these would further add to the cost of delay.

11. The State's ability to address acceptance and allocation of federal assistance for a declared federal disaster could also be hampered if the House remains unorganized and without identified leadership.

Kevin G. Meyer

Kevin G. Meyer

SUBSCRIBED AND SWORN TO before me this 10th day of December 2018.



Tara Fradley

Notary Public in and for Alaska

My Commission expires with 2021

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KATHRYN DODGE

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Appellants

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v.

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LT. GOVERNOR KEVIN MEYER,
and DIVISION OF ELECTIONS
DIRECTOR JOSEPHINE BAHNKE

Supreme Court No.: S-17301

Appellees

AFFIDAVIT OF COUNSEL

I, Margaret Paton Walsh, being duly sworn, attest as follows:

1. I am one of the assistant attorneys general assigned to represent the Lieutenant Governor and the Director of the Division of Elections in this matter.

2. On Friday afternoon, December 7, 2018, I called Patrick Munson and Tom Amodio, the attorneys representing Ms. Dodge, and Stacey Stone, attorney for Mr. LeBon and the Alaska Republican Party, and notified them that the defendants would be filing a motion this morning, Monday, December 10, 2018, asking the Court to expedite the schedule in this recount appeal, and outlining the proposed schedule.

M. A. Paton Walsh

Margaret Paton Walsh

SUBSCRIBED AND SWORN TO before me this 10th day of December 2018.



Notary Public in and for Alaska
My Commission expires with office

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PROPOSED ORDER

After considering the arguments raised in the defendants' motion to expedite the schedule and any opposition, the Court GRANTS the defendants' motion.

IT IS THEREFORE ORDERED:

1. The special master's report is due by December 14, 2018.
2. The parties shall file simultaneous briefs including any objections to the master's findings by December 17, 2018. The parties shall file briefs in response to those objections by December 19, 2018. The briefs shall follow the format required by Appellate Rule 212.
3. Oral argument is scheduled for December 21, 2018 at _____.

Entered at the direction of _____.

Clerk of the Appellate Courts

Marilyn May

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Josephine Bahnke,**

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Trial Court Case No. 3AN-18-00001RA

CERTIFICATE OF SERVICE AND TYPEFACE

This is to certify that on the 10th day of December, 2018, true and correct copies of an NOTICE OF CORRECTED LIST OF PARTIES and this CERTIFICATE OF SERVICE were sent via Hand Delivery to the following:

Thomas P. Amodio
500 L St., Suite 300
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Patrick W. Muson
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Stacey C. Stone
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Anchorage, AK 99501

I further certify, pursuant to Appellate Rule 513.5, that the font used in the documents is Times New Roman 13 point.



Kate Demarest