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Attorneys for Intervenors Barton LeBon
and the Alaska Republican Party

IN THE SUPREME COURT OF THE STATE OF ALASKA

KATHRYN DODGE,

Appellant,

v.

LT. GOVERNOR KEVIN MEYER, in his
official capacity as Lt. Governor for the
State of Alaska, and JOSEPHINE
BAHNKE, in her official capacity as
Director of the Division of Elections,

Appellees,

and

BARTON LEBON and the ALASKA
REPUBLICAN PARTY,

Intervenors.

Supreme Court No.: S-17301

INTERVENORS' NOTICE AND
STATEMENT OF POINTS FOR CROSS APPEAL

COME NOW Intervenors Barton LeBon and the Alaska Republican Party, by
and through their attorneys, Holmes Weddle & Barcott, P.C., and pursuant to this
INTERVENORS' CROSS APPEAL
Dodge v. Meyer, et. al.

Court's order dated December 10, 2018 ("Order"), hereby files this cross appeal identifying certain ballots that must be reviewed in addition to those set forth by Appellant Kathryn Dodge.

PARTIES

1. Appellant Kathryn Dodge was a candidate for State Representative House District 1.
2. Appellee Kevin Meyer is the current Lieutenant Governor of the State of Alaska.
3. Appellee Josephine Bahnke is the current Director of the Division of Elections for the State of Alaska.
4. Intervenor Alaska Republican Party had representatives present at the subject Recount who challenged certain ballots.
5. Intervenor Barton LeBon is the certified winner for State Representative House District 1.

JURISDICTION

6. Intervenor agree that pursuant to AS 15.20.510 and Alaska R. App. P. 404(a) this Court has jurisdiction to review this matter.¹
7. Intervenor further agree that this Court may elect to consider this an appeal under Alaska R. App. P. 204(e).

¹ Intervenor have not included the documents from which this appeal is taken, as those are already on file with the Court as provided by the Appellant.

8. This court has exclusive jurisdiction pursuant to AS 15.20.510.

FACTUAL BASIS

9. Intervenors maintain that the Division Director properly certified LeBon as the winner for State Representative House District 1.

10. Intervenors allege that errors occurred and were challenged by Intervenors, but the same do not disturb the certified results.

11. Intervenors maintain that if the Court is to review those errors alleged by Appellant Dodge, that the Court must also review those errors that were challenged by Intervenors.

12. This filing is timely both pursuant to the Order of this Court and AS 15.20.510.

POINTS ON APPEAL

13. The Division Director erroneously included two ballots that were over-voted.

14. One ballot had a mark touching the oval next to Intervenor LeBon as well as a mark touching the oval next to Appellant Dodge. This vote was counted for Appellant Dodge but should have been excluded as an over-vote. Therefore, the ballot should not have been included as a vote for Appellant Dodge.

15. One ballot had a mark touching the oval next to Intervenor LeBon as well as a mark touching the oval next to Appellant Dodge. Additionally, one of such marks also had an "x" over the oval. This vote was counted for Appellant Dodge but

should have been excluded as an over-vote. Therefore, the ballot should not have been included as a vote for Appellant Dodge.

16. The Director erroneously excluded two absentee ballots where the voters had substantially complied.

17. The absentee ballots were submitted by two spouses and were witnessed by the same individual. While the ballots contained opposite identifiers, i.e. the husband's ballot contained the wife's identifier and vice versa, it is clear when viewing the ballots in collaboration with one another that these voters substantially complied and should not be disenfranchised. Therefore, these ballots were improperly rejected.

18. The Director erroneously excluded two ballots where the voters cast his or her vote on the right side of the ballot. While the law is clear on its face with regard to how a mark should be placed touching the oval next to the candidate's name on the ballot, the voter's intention is readily apparent from the face of these two ballots. This is particularly true as the marks throughout each ballot are uniform and where there are no specific provisions afforded for those who are visually impaired. Therefore, these ballots were improperly rejected.

RELIEF REQUESTED

1. Intervenors respectfully request that the Division Director's Certification be affirmed.

2. In the alternative, Intervenors respectfully request that the Court remand this matter to the Division Director, order the Director to include and exclude the

foregoing ballots as referenced herein, and that Barton Lebon once again be certified the winner for State Representative House District 1.

DATED this 10th day of December, 2018, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of December, 2018, a true and correct copy of the foregoing was sent VIA e-mail to:

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