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To: ANC_civil@akcourts.us
Cc: Matt.Singer@hklaw.com, Lee.Baxter@hklaw.com, margaret.paton-walsh@alaska.gov,
Subject: 3AN-20-05901CI - Motion to Renew Motion for Expedited Consideration
Date: 5/5/2020 4:29:31 PM

matt.singer@hklaw.com
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

RESOURCE DEVELOPMENT COUNCIL)
FOR ALASKA, INC.; ALASKA TRUCKING)
ASSOCIATION, INC.; ALASKA MINERS)
ASSOCIATION, INC.; ASSOCIATED)
GENERAL CONTRACTORS OF ALASKA;)
ALASKA CHAMBER; and ALASKA)
SUPPORT INDUSTRY ALLIANCE,)

Plaintiffs,)

v.)

KEVIN MEYER, in his official capacity,)
as Lt. Governor of the State of Alaska;)
GAIL FENUMIAI, in her capacity as Director)
of the Alaska Division of Elections; the)
STATE OF ALASKA, DIVISION OF)
ELECTIONS; and VOTE YES FOR)
ALASKA'S FAIR SHARE,)

Defendants.)

FILED in the TRIAL COURTS
STATE OF ALASKA, THIRD DISTRICT

MAY 05 2020

Clerk of the Trial Courts

By _____ Deputy

Case No. 3AN-20-05901CI

**MOTION TO RENEW MOTION FOR EXPEDITED CONSIDERATION
OF MOTION TO CHARACTERIZE CASE AS NON-ROUTINE AND
SET EXPEDITED DISCOVERY AND AUGUST 2020 TRIAL DATE**

Plaintiffs Resource Development Council for Alaska, Inc.; Alaska Trucking Association, Inc.; Alaska Miners Association, Inc.; Associated General Contractors of Alaska; Alaska Chamber; and Alaska Support Industry Alliance (collectively "Plaintiffs") hereby renew their motion for expedited consideration of their motion to characterize this case as non-routine and set expedited discovery and an August 2020 Trial Date. Plaintiffs

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#73622141_v1

modify their Motion for Expedited Consideration to request a telephonic status hearing with the parties to determine the pretrial deadlines, discovery and trial date in this matter.

On April 29, 2020, this Court issued its Order Re Motion for Expedited Consideration. In that Order, the Court denied Plaintiffs' motion because: (1) "Plaintiffs have not filed proof of service, and only one of the Defendants has appeared through counsel"; and (2) the Court read the Presiding Judges' Statewide Administrative Order Governing Relaxation and Suspension of Various Court Rules Based on the COVID-19 Pandemic as suspending all civil cases except priority hearings.

All defendants have now appeared in this lawsuit. On April 28, 2020, Plaintiffs filed a Civil Rule 4(f) Declaration¹ that all defendants had been served with Plaintiffs' Complaint and a Declaration of Service of Motions Practice² that all defendants had been served with Plaintiffs' Motion to Characterize Case as Non-Routine and Motion for Expedited Consideration of that motion. On April 27, 2020, counsel for Defendant Vote Yes for Alaska's Fair Share entered its appearance in this lawsuit. On April 30, 2020, counsel for Defendants Lieutenant Governor Kevin Meyer, Director Gail Fenumiai, and the Division of Elections filed a motion to dismiss in response to Plaintiffs' Motion to Characterize this Case as Non-Routine. All parties have entered appearances.

As to the Court's second issue, Plaintiffs acknowledge and appreciate the Court System has generally suspended all civil proceedings until May 31, 2020. However,

¹ See Civil Rule 4(f) Declaration (Apr. 28, 2020).

² See Declaration of Service of Motions Practice (Apr. 28, 2020).

because of the limited amount of time between now and the November state-wide general election, Plaintiffs respectfully request this Court grant a telephonic status hearing to set pretrial deadlines, discovery, and an August 2020 trial date. Discovery, for example, can commence without creating any public health risks. The Amended Second Updated Presiding Judges' Statewide Administrative Order Governing Relaxation and Suspension of Various Court Rules Based on the COVID-19 Pandemic dated April 24, 2020, provides:

Emergency Exceptions

The assigned trial court judge may hold a telephonic hearing that is not on the list of priority hearings in paragraphs 2 and 5 or hearings permitted under this Order to address an emergency that requires an immediate decision. When requesting an emergency hearing the party must identify and show proof of the alleged emergency by motion. However, the judge must always take into consideration the impact the hearing will have on the available court staff, attorneys, and litigants. Unanticipated staffing shortages or participant unavailability may require that a hearing be canceled on short notice.

Plaintiffs respectfully request that this Court recognize that Plaintiffs have shown the need for emergency relief to set pretrial deadlines and an August 2020 trial date. Otherwise, the remedy Plaintiffs seek will be unavailable and the controversy mooted by the State's printing of ballots in early September 2020.³ Therefore, this Court should calendar a status hearing to discuss characterization of this case, and the setting of pretrial deadlines and an August 2020 trial date.

³ See Motion for Expedited Consideration of Motion to Characterize Action as Non-Routine (Apr. 17, 2020); *see also* Motion to Characterize Case as Non-Routine (Apr. 17, 2020).

DATED at Anchorage, Alaska this 5th day of May, 2020.

HOLLAND & KNIGHT LLP
Attorneys for Plaintiffs

By: /s/Matthew Singer
Matthew Singer
Alaska Bar No. 9911072

By: /s/Lee C. Baxter
Lee C. Baxter
Alaska Bar No. 1510085

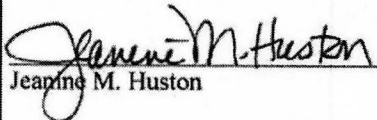
CERTIFICATE OF SERVICE

I hereby certify that on the 5th day of May, 2020, a true and correct copy of the foregoing was served by email upon the following:

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MOTION TO RENEW MOTION FOR EXPEDITED CONSIDERATION OF MOTION TO CHARACTERIZE
CASE AS NON-ROUTINE AND SET EXPEDITED DISCOVERY AND AUGUST 2020 TRIAL DATE
RESOURCE DEVELOPMENT COUNCIL, INC. ET AL. V. FENUMIAI AND DIVISION OF ELECTIONS
CASE NO. 3AN-20-05901 CI

PAGE 4 OF 4

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Attachments: Motion to Renew Motion for Expedited Consideration of Motion to Characterize Case as Non-

Attached are Plaintiffs' Motion to Renew Motion for Expedited Consideration of Motion to Characterize Case as Non-Routine and Set Expedited Discovery and August 2020 Trial Date and proposed Order

* Name: Jeanine Huston jeanine.huston@hklaw.com<mailto:jeanine.huston@hklaw.com> (907)
263-6335

* Case No. 3AN-20-05901CI

* I attached 2 documents

* The documents are called:

o Plaintiffs' Motion to Renew Motion for Expedited Consideration of Motion to Characterize Case as Non-Routine and Set Expedited Discovery and August 2020 Trial Date (4 pp.)

o Proposed Order Granting Motion to Renew Motion for Expedited Consideration (2 pp.)

* I attached a total of 6 pages

Jeanine

Jeanine Huston | Holland & Knight

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[HAJ5GZ5MiLS7-x_16e6hMfsMP8-jBrOY\\$](https://urldefense.com/v3/__http://www.hklaw.com__;!!LViD8WrmGQU!8YFH_PD2BE6qdsIj9HJ8rdoMXhqWhGP0PcbVHAJ5GZ5MiLS7-x_16e6hMfsMP8-jBrOY$)

<[https://urldefense.com/v3/__http://www.hklaw.com__;!!LViD8WrmGQU!8YFH_PD2BE6qdsIj9HJ8rdoMXhqWhGP0PcbVHAJ5GZ5MiLS7-x_16e6hMfsMP8-jBrOY\\$](https://urldefense.com/v3/__http://www.hklaw.com__;!!LViD8WrmGQU!8YFH_PD2BE6qdsIj9HJ8rdoMXhqWhGP0PcbVHAJ5GZ5MiLS7-x_16e6hMfsMP8-jBrOY$)>

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