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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 - Reply in Support of Motion to Characterize Case as Non-Routine and Set
Date: 5/7/2020 3:58:33 PM

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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; 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 07 2020

Clerk of the Trial Courts

By _____ Deputy

Case No. 3AN-20-05901CI

**REPLY IN SUPPORT OF MOTION TO
CHARACTERIZE CASE AS NON-ROUTINE AND
SET EXPEDITED DISCOVERY AND AUGUST 2020 TRIAL DATE**

Plaintiffs file this Reply out of an abundance of caution. The original deadline for this Reply is May 7, 2020. On May 6, 2020, the Court issued its Order Granting Renewed Motion for Expedited Consideration (of Motion to Characterize Case as Non-Routine and Set Expedited Discovery and August 2020 Trial Date), and ruled that "[a]ny party wishing to file a written response to the *Motion to Characterize the Case as Non-Routine and Set*

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Expedited Discovery and August 2020 Trial Date shall do so by Monday May 11, 2020. Plaintiffs may file a Reply by May 12, 2020.” Plaintiffs file this Reply to ensure they do not default on filing a reply in support of the principal motion, but respectfully reserve the right to file a reply by May 12, 2020, if any of the Defendants take the Court up on its offer for them to file a written response by May 11.

To date, only the State Defendants have filed a response to Plaintiffs' Motion to Characterize the Case as Non-Routine and Set Expedited Discovery and August 2020 Trial Date.¹ While the State has filed what is labeled a response and cross-motion, it has offered no meaningful opposition to Plaintiffs' motion to treat this case as non-routine. To the contrary, State Defendants agree that if this case proceeds, an expedited timeline and trial will be necessary: “The plaintiffs correctly note that this litigation will have to proceed on an extremely expedited schedule in order for the factual issues to be resolved at a trial before the initiative appears on the ballot in November.”² State Defendants then go on to move to dismiss the lawsuit, arguing that the remedy Plaintiffs seek—invalidation of petitions supported by false circulator affidavits—is not a permissible remedy. Plaintiffs will file a separate opposition to State Defendants' motion to dismiss, but it suffices for now to show that the State Defendants are wrong, and the Division of Elections has

¹ See State Defendants' Response to Plaintiffs' Motion to Characterize Case as Non-Routine and Cross-Motion to Dismiss Pursuant to Alaska Civil Rule 12(b)(6) (Apr. 30, 2020).

² *Id.* at 3.

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invalidated otherwise valid subscriber signatures on a petition because of circulator neglect,³ and that the same remedy is available for circulator misconduct.

A motion to dismiss is not a response—it is rather an attempt to change the story. The Court should grant the motion for the reasons provided in plaintiffs' opening brief. As to the State's misguided motion to dismiss, plaintiff will file a full opposition in due course.

DATED at Anchorage, Alaska this 7th 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

³ See e.g. *North West Cruiseship Association, Inc. v. State*, 145 P.3d 573, 578 (Alaska 2006) (Alaska Supreme Court approving of the Division's disqualification of otherwise valid subscriptions contained on pages of the petition that did not include the required disclosure of who was paying the circulator).

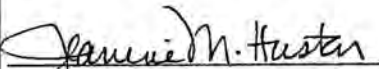
CERTIFICATE OF SERVICE

I hereby certify that on the 7th day of May, 2020, a true and correct copy of the foregoing was served by email upon the following:

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REPLY IN SUPPORT 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: Reply in Support of Motion to Characterize Case as Non-Routine and Set Expedited Discovery

Attached is my Reply in Support of Motion to Characterize Case as Non-Routine

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

* Case No. 3AN-20-05901CI

* I attached 1 document

* The documents is called: Reply in Support of Motion to Characterize Case as Non-Routine and Set Expedited Discovery and August 2020 Trial Date

* I attached a total of 4 pages

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