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IN THE SUPREME COURT FOR THE STATE OF ALASKA

STATE OF ALASKA, DIVISION OF ELECTIONS, and GAIL FENUMIAI, DIRECTOR, STATE OF ALASKA, DIVISION OF ELECTIONS; STAND TALL WITH MIKE, an independent expenditure group, Appellant, v. RECALL DUNLEAVY, an unincorporated association, Appellee.	Supreme Court Nos. S-17706, S-17715 Trial Court No. 3AN-19-10903 CI **APPELLANT STAND TALL WITH MIKE'S OPPOSITION TO MOTION TO LIFT STAY PENDING APPEAL**

COMES NOW, Appellant Stand Tall With Mike ("STWM"), by and through counsel, and opposes Recall Dunleavy's "RDC" Motion to Lift Stay Pending Appeal.

I. INTRODUCTION

The superior court exercised its discretion to stay its order that recall petition booklets be printed and distributed to RDC for signature-gathering. This was the right call. After reading hundreds of pages of merits briefing and briefing on the motion for a stay and hearing oral argument, the superior court knew that the stakes in this case are high. It

understood that the case presents hard legal questions of first impression, and that the State's and STWM's "arguments have a basis in law and logic."[1] And it understood that if this Court overrules the superior court's holding on any one issue, voter confusion and further litigation will result. Weighing these considerations, the court thought it better for all to measure twice and cut once.

RDC, declaring an "emergency," urges haste on this Court. It gestures at a vague interest in quickly ushering its recall application through certification and signature-gathering. But it does not explain how deliberation hurts it. Instead, it attempts to cast the superior court's considered ruling as containing legal error in an effort to sweep aside the deference that this Court owes the superior court's stay order. But there was no legal error—the superior court applied the correct legal standard and was not precluded from issuing a stay in an election-related case. The superior court's concern for voters' and STWM's interest in an orderly recall process was not only within its discretion, it was right. STWM respectfully requests that this Court leave the stay in place.

II. BACKGROUND

This appeal concerns whether RDC's application to certify a petition to recall Governor Michael Dunleavy was in the required form. *See* AS 15.45.080. RDC's recall application states five separate charges of conduct matched to a list of three statutory grounds for recall, joined by the term "and/or," for a total of fifteen possible combinations.

[1] Super. Ct. Order re Pltf.'s Mot. for Summ. J. 18.

The Lieutenant Governor, acting on the advice of the Attorney General, determined the application was not in the required form because it failed to state with particularity allegations against the Governor satisfying the grounds for recall set forth in AS 15.45.510. RDC sued for an order that the State certify the recall application and print petition booklets. STWM intervened in the suit. Over the arguments of the State and STWM, the superior court granted RDC partial relief, holding that four of its conduct charges met statutory grounds and leaving its "and/or" list of three applicable grounds undisturbed.[2] This left twelve possible combinations of conduct and matching statutory grounds. The superior court ordered the State to print petition booklets by February 10, 2020.[3]

A. *STWM's Motion for a Stay*

STWM moved the superior court to stay its order pending an expedited appeal to this Court. STWM's opening brief explained that the court's discretion to grant a stay should be "guided by the public interest."[4] STWM went on to state that the availability of a stay depended on whether STWM, RDC, or both faced irreparable harm. STWM explained that if it was the only party facing irreparable harm it needed to show only that it "'raised questions goin[g] to the merits so serious substantial, difficult, and doubtful as

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[2] *Id.*

[3] *Id.*

[4] Super. Ct. Mot. Stay Pending Expedited Appeal 2 (quoting *Keane v. Local Boundary Comm'n*, 893 P.2d 1239, 1249 (Alaska 1995).

to make them a fair ground for litigation.'" [5] By contrast, STWM explained, if it lacked irreparable harm or if RDC also faced irreparable harm, STWM needed to show "probable success on the merits."[6] STWM further said that "[i]f the latter part of this standard come into play, the court is to use a balance of hardships approach . . . weigh[ing] the harm that will be suffered by [one party] if a[]][stay] is not granted, against the harm that will be imposed upon the [other party] if the [stay] is granted."[7]

RDC stated the law similarly in opposing the motion. It explained that a stay "is warranted under [the balance of hardships] standard [only] when . . . : (1) the [moving party is] . . . faced with irreparable harm; (2) the opposing party [is] . . . adequately protected; and (3) the [moving party] raise[s] serious and substantial questions going to the merits of the case . . . ." By contrast, RDC said, if "one party will invariably see unmitigated harm to its interests," the court needed to use "the probable success on the merits standard." It then explained that this standard required "a clear showing of probable success on the merits."

STWM noted in its reply brief that "[t]he parties agree on the law governing the Court's discretion."[8] At oral argument, none of the parties raised as an issue any difference

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[5] *Id.* (quoting *A.J. Indus. Inc. v. Alaska Pub. Servs. Comm'n*, 470 P.2d 537, 540 (Alaska 1997)).

[6] *Id.* (quoting *A.J. Indus. Inc.*, 470 P.2d at 540).

[7] *Id.* (quoting *Keanve*, 893 P.2d at 1250 n.22.

[8] Super Ct. Reply Support Mot. Stay Pending Expedited Appeal 1.

in their statement of the law. Instead, STWM and RDC reiterated their brief's arguments about irreparable harm.

STWM contended its members would suffer irreparable harm if they were required to spend time and money arguing against the validity of charges ultimately stricken from the recall petition, that a hastily certified petition would distract the Governor from fulfilling the campaign promises that led STWM members, and over 145,000 Alaskans, to support him, and that STWM members and all Alaskans would be harmed if Alaska's system of recall for cause were transformed into a political recall system without this Court having the opportunity to construe the recall provisions in Title 15.[9] STWM further argued that in seeking to avoid this harm, it vindicated the interests of Alaska voters in an orderly recall process. If this Court were to hold invalid even one of the charges in RDC's recall application after signatures were gathered, it would sow confusion among signers and voters, lead to litigation over the intent of subscribers to the petition, and erode the credibility of the recall process.[10]

RDC argued that the recall process was intended to move quickly.[11] Had the State certified the recall application in November, RDC argued that an election could have been held in the spring. "Alaskans could then have had a different governor address the

[9] Super. Ct. Mot. Stay Pending Expedited Appeal 3–4.

[10] *Id.* at 4.

[11] Super. Ct. Opp'n Mot. Stay Pending Appeal 5.

legislature's budget and other laws proposed during this upcoming session," RDC stated, and "[a]ny and all delay" constituted irreparable harm to it.[12]

B. *The Superior Court's Ruling*

The superior court issued an oral ruling on January 29, 2020. The court agreed with STWM that the motion concerned "public interest," CD #604 at 25:53–58, and said STWM and RDC were each "arguing public interest" but from "different viewpoints." *Id.* 25:59–26:03. The court then proceeded in a two-step analysis. First, it held that STWM would face irreparable harm without a stay. Second, it held that STWM raised a serious issue on appeal.

The court began with its perspective on the public interest: "Yes, we're supposed to move quickly, but yes, we're also supposed to move carefully in terms of how we do this." *Id.* at 27:20–29. The court stressed the need to "have as much clarity for the public as you can when [it] ha[s] to start making . . . decisions" about subscribing to a recall petition. The court explained that if voters based a decision to sign a petition on grounds the superior court had approved, but which this Court later struck, "[t]hat's going to create confusion, and from the court's perspective, confusion equals harm." CD at 28:35–40. The court found "there is no cure for that." *Id.* at 28:46–48. In such a situation, the burden to explain the sources of confusion could fall to STWM, the court stated, leaving STWM "to carry more

[12] *Id.* at 5.

water in this process than they probably should have had to do." *Id.* at 28:58–29:03. "That then becomes irreparable." *Id.* at 29:09–11.

Moving to "the next step in this analysis," the superior court found that STWM raised a serious issue on appeal. *Id.* at 30:01–05. RDC had not argued otherwise, the superior court noted. *Id.* at 30:05–07.

The court memorialized its oral ruling in a written order. It explained that confusion about which grounds are actually at issue "would represent a harm to [STWM] and the public interest" because "[t]he burden would lie on [STWM] to provide clarity for the public."[13] In the "absence of a reasonable cure to resolve the potential confusion," STWM faced "irreparable harm," the court wrote.[14] And because it had raised "a serious issue on appeal," STWM was entitled to a stay.[15]

III. ARGUMENT

The Court did not commit legal error. It could not have because the parties did not dispute the law. They disputed only which party would suffer irreparable harm from an adverse decision on a stay. Accordingly, the superior court's order is entitled to deferential review and should not be overturned because it was well within the court's discretion. More than that, it was right. STWM will suffer irreparable harm without a stay while RDC will

[13] Super Ct. Order Granting Stay Pending Expedited Appeal 1.

[14] *Id.* at 1–2.

[15] *Id.* at 2.

not suffer irreparable harm with a stay in place. Finally, even if RDC faces irreparable harm, the probability that STWM will succeed on the merits warrants a stay.

C. *Standard of Review*

While this Court reviews legal determinations de novo,[16] it reviews a superior court's decision regarding a stay for abuse of discretion.[17] This is because "'[t]he stay or suspension of . . . judgments often involves a delicate balancing of the equities that only the court thoroughly familiar with the case is able to make.'"[18] "A decision constitutes abuse of discretion if it is 'arbitrary, capricious, manifestly unreasonable, or . . . stems from an improper motive.'"[19]

D. *The Court Did Not Commit Legal Error*

The court did not commit legal error. It found that STWM would suffer irreparable harm and noted—but did not credit—RDC's argument for harm by delay. This led the superior court to correctly apply the balance of hardships standard and conclude that STWM was entitled to a stay because it raised a serious appellate issue. After reading hundreds of pages of briefing in this case, the superior court was in the best position to

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[16] *Alsworth v. Sybert*, 323 P.3d 47, 54 (Alaska 2014).

[17] *See Alsworth*, 323 P.3d at 54; *Keane*, 893 P.2d at 1250.

[18] *Powell v. City of Anchorage*, 536 P.2d 1228, 1230 (Alaska 1975) (quoting 9 J. Moore, Federal Practice ¶ 208.04 at 1409 (2d ed. 1973)).

[19] *Olivera v. Rude-Olivera*, 411 P.3d 587, 590 (Alaska 2018) (reviewing an award of attorney fees).

"exercise the nice discretion needed to determine" the appropriateness of a stay.[20] It did not abuse its discretion, and its decision should not be disturbed.

1. Standards Governing Stays

A superior court should apply one of two standards in determining whether to stay a judgment pending appeal. In applying either standard, the superior court's discretion "is guided by the 'public interest.'"[21] The applicable standard depends on whether parties will suffer irreparable harm from an adverse decision. The court "is to assume the [movant] ultimately will prevail when assessing the irreparable harm" to the movant without a stay, and "to assume the [non-movant] ultimately will prevail when assessing the harm to the" non-movant from a stay.[22]

First is the balance of hardships standard. Under this standard, a stay is warranted when "(1) the [movant] must be faced with irreparable harm; (2) the opposing party must be adequately protected; and (3) the [movant] must raise serious and substantial questions going to the merits of the case."[23] Adequate protection of the non-movant "exists where the injury that will result from the [stay] can be indemnified by a bond or where it is

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[20] Powell, 536 P.2d at 1230 (quoting *Cumberland Tel. & Tel. Co. v. Pub. Serv. Comm'n*, 260 U.S. 212, 219 (1922)).

[21] *Keane*, 893 P.2d at 1249.

[22] *Alsworth*, 323 P.3d at 54.

[23] *Id.* (quoting *City of Kenai v. Friends of Recreation Ctr., Inc.*, 129 P.3d 452, 455 (Alaska 2006)).

relatively slight in comparison to the injury which the person seeking the [stay] will suffer if the [stay] is not granted."[24]

Second is the probable success standard. Under this standard, the movant must make "a clear showing of probable success on the merits."[25] This standard applies if the movant's "threatened harm is less than irreparable or if the opposing party cannot be adequately protected."[26] In other words, this heightened standard applies "where the party asking for relief does not stand to suffer irreparable harm, or where the party against whom the [stay] is sought will suffer injury if the [stay] is issued."[27]

2. Superior Court's Proper Application of Balance of Harms Standard

Because they agreed on the substance of the two standards and what triggered application of one standard or the other, STWM and RDC each argued in briefs and in oral argument that it was the only party that would suffer irreparable harm if the court rejected its position on the stay. Addressing these arguments, the court found that voter confusion would follow if voters subscribed to a petition that this Court later modified. "Confusion equals harm," the court explained, and the confusion would burden STWM. Because there would be no remedy for STWM's burden to rectify voter confusion, the court held STWM's harm was irreparable. By contrast, the court acknowledged that "we're supposed

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[24] *Alaska Div. of Elections v. Metcalfe*, 110 P.3d 976, 978–79 (Alaska 2005).

[25] *Id.* at 978.

[26] *Id.* at 978.

[27] *Keane*, 893 P.2d at 1249 (quoting *A.J. Indus.*, 470 P.2d at 540).

to move quickly" but did not describe a slower, more deliberate process as "harm" to RDC, let alone irreparable harm. Having found that STWM was the only party to face irreparable harm, the court properly moved to the next step of the analysis and determined that STWM raised a serious issue on appeal. RDC seeks to paint this as legal error. It is not.

First, RDC says that "the superior court purported to balance the harms without considering whether [RDC] could be adequately protected."[28] But the court never found that RDC would be harmed by delay. It had no need to consider whether RDC's injury "is relatively slight in comparison to" STWM's injury or whether RDC could be adequately protected.[29] Instead, the superior court acknowledged RDC's argument for harm and found it unpersuasive. A court's determination about a party's irreparable harm is a finding subject to abuse of discretion review, not a legal conclusion subject to de novo review.[30] Factual findings are no less entitled to deferential review if a court, moving quickly to explain a decision, makes the finding implicitly rather than explicitly.[31]

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[28] Mot. Lift Stay Pending Appeal 6.

[29] *Alsworth*, 323 P.3d at 54 (quoting *Alaska v. United Cook Inlet Drift Ass'n*, 815 P.2d 378, 378–79 *Alaska 1991)).

[30] *See Friends of Recreation Ctr., Inc.*, 129 P.3d at 457 (declining to consider "whether the superior court abused its discretion in *finding* the threat of irreparable harm" (emphasis added)).

[31] *See Beaux v. Jacob*, 30 P.3d 90, 96 (Alaska 2001) ("Because the superior court implicitly addressed each of the Beauxs' allegations of comparative fault, and because its findings were not clearly erroneous, we need not remand for further fact findings."); *Foster v. Cross*, 650 P.2d 406, 409 (Alaska 1982) ("While there was no explicit finding on the effect of the factual clause here, it is implicit in the trial court's findings that it did not think that the existence of the clause outweighed the other evidence. We will not disturb that implicit finding.").

Second, RDC contends that it was legal error for the court to fail to credit its factual argument that delay would cause it harm. RDC contends "this Court repeatedly has found that any request for a stay in an elections-related case must be analyzed under the probable success on the merits test."[32] RDC failed to make this argument to the superior court and should not raise it now.[33] Even if RDC had preserved the argument, it fails to hold water. RDC's key case, *Alaska Division of Elections v. Metcalfe*,[34] is inapposite. *Metcalfe* concerned a challenge to the statutory requirements for recognition of a political party.[35] The superior court issued a preliminary injunction ordering the state to list on the ballot a candidate whose party failed to meet statutory requirements. This Court held that in light of the state's "interest in the consistent administration of elections according to a considered statutory scheme," the superior court should have applied the probable success standard.[36] This is not the interest that RDC asserts. To the contrary, the State seeks in this case to administer a considered statutory scheme. *Metcalfe* simply does not stand for the broad proposition that the probable success standard applies to all elections cases.

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[32] Mot. Lift Stay Pending Appeal 7.

[33] *See Hoffman Const. Co. of Alaska v. U.S. Fabrication & Erection, Inc.*, 32 P.3d 346, 355 (Alaska 2001) ("As a general rule, we will not consider arguments for the first time on appeal.")

[34] 110 P.3d 976 (Alaska 2005).

[35] *Id.* at 978.

[36] *Id.* at 979 n.1.

Nor would such a rule make sense. This case illustrates the point: RDC's desire for speed is not the basis for an irreparable injury. As explained below, the superior court could not have—and this court should not—find that a stay threatens irreparable harm to RDC.

E. *RDC Does Not Face Irreparable Harm*

The superior court's findings on harm should not be disturbed because they are not "arbitrary, capricious, manifestly unreasonable, or . . . stem[ing] from an improper motive."[37] More than that, the superior court's findings on harm were correct.

1. STWM Faces Irreparable Harm

STWM and the public face irreparable harm without a stay. Voters will be asked to subscribe to a recall petition that this Court could invalidate in part or in whole. If the Court invalidates the petition in whole, voters could feel that their signatures were not given sufficient weight. If the Court invalidates the petition in part, there will almost certainly be litigation over the validity of the signatures. All Alaskans will be worse off for RDC having circulated a petition that does not meet constitutional and statutory requirements. But STWM will bear the brunt of that harm. The Governor is not entitled to make a 200-word rebuttal at the signature-gathering stage,[38] so it will fall to STWM's members to spend time and money persuading voters that the recall petition should not go forward. Without certainty as to which of RDC's stated grounds are at issue, STWM's members will have to

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[37] *Olivera v. Rude-Olivera*, 411 P.3d 587, 590 (Alaska 2018) (reviewing an award of attorney fees).

[38] *See* AS 15.45.680.

rebut a sprawling application. Their efforts will be diluted and rendered much less effective for the uncertainty.

RDC's response to this is to say that the superior court wrongly acted "as if [RDC] had lost on the question of whether its recall application was valid."[39] But this is precisely what the law requires the superior court to do—"assume the [movant] ultimately will prevail when assessing the irreparable harm" to the movant without a stay.[40]

2. <u>RDC Lacks Irreparable Harm</u>

RDC faces no irreparable harm from a stay pending an expedited appeal. Title 15 provides for a deliberate recall process. Recall applications are subject to pre-certification review, but this review is not governed by a statutory deadline.[41] Once a petition is certified and signatures gathered, the State faces deadlines—thirty days to review petition signatures[42] and after review, a period of sixty to ninety days during which to hold an election.[43] At each stage, "[a]ny person aggrieved by a determination made by the director" may bring an action in superior court within thirty days.[44] RDC has no legal right to a particular timeline before submitting a subscribed petition to the State. Even after

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[39] Mot. Lift Stay Pending Appeal 7.

[40] *Alsworth*, 323 P.3d at 54.

[41] AS 15.45.540.

[42] AS 15.45.620.

[43] AS 15.45.650.

[44] AS 15.45.720; *see also Nw. Cruisehsip Ass'n of Alaska v. Alaska Div. of Elections*, 145 P.3d 573, 581 (Alaska 2006) (construing an ambiguity in a statute with identical language).

submitting a subscribed petition, RDC is entitled only to State action falling within broad timeframes. This entitlement is qualified by the rights of aggrieved parties to seek judicial review. In short, the statute provides for speed at certain stages balanced by deliberation at all stages.

RDC make no good argument for why it faces irreparable harm from a deliberate process. Granted, RDC would suffer irreparable harm if a stay would prevent it from conducting a recall election at all. But there is no question that the Court will decide this case in time, if RDC prevails, for RDC to submit a subscribed petition that complies with the deadline in AS 15.45.610—180 days from the end of the Governor's term. This case does not concern a ballot initiative or candidacy for office where an election is scheduled and a party who narrowly misses a deadline must wait years for another chance to go before voters. If RDC prevails on appeal, it will have the chance at an election during 2020, and certainly during the Governor's term. That is all the statute entitles it to.

This leaves RDC to argue that had the State accepted its statement of grounds, an election could have been held by now.[45] Perhaps, but this does not mean RDC suffered irreparable harm. The superior court need only have assumed for the purpose of evaluating harm that RDC would prevail in this Court.[46] RDC is not entitled to an assumption that further events will line up to buttress its case for harm—namely, it is not entitled to an

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[45] Mot. Lift Stay Pending Appeal 7.

[46] *Alsworth*, 323 P.3d at 54.

assumption that Alaskans would vote the Governor out of office or that they would have done so sooner without a stay. RDC's harm must be keyed to the timing of signature-gathering, not the timing of the Governor's hypothetical removal from office. RDC makes no argument for why its signature-gathering efforts are weaker after the superior court proceedings than they were before.

In any case, RDC's argument that it has been unnecessarily delayed does not mean it would suffer irreparable harm by *further* delay. RDC offers no reason why the stay prevents it from gathering signatures in the spring or early summer with enough time for any recall election to be held concurrently with the August primary or November general election. Nor does it explain why it would be harmed by a recall election coinciding with a regularly scheduled election, at which voter participation is likely to be higher than in a special election.

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STWM and the voters face irreparable harm from the confusion that would result if signature-gathering began before this Court could rule on the merits of the appeal. RDC has no entitlement to haste at this stage and faces no harm to its interest if it collects signatures in June or July rather than February or March.

F. *STWM Will Probably Succeed on the Merits*

The superior court correctly held that the balance of harms standard applies in this case. But even if the standard does not apply, the Court should affirm the stay on the alternative ground that STWM will probably succeed on the merits.[47]

This is a case of first impression in Alaska. *Meiners v. Bering Strait School District*[48] and *von Stauffenberg v. Committee for an Honest and Ethical School Board*[49] both address different statutory and practical contexts. To the extent that case law construing Title 29 bears on Title 15, this Court's more recent decision in *von Stauffenberg* provides guidance for this case. A recall application fails to state valid statutory grounds when it targets the officeholder's lawful exercise of discretion.[50] As STWM will argue in its merits brief, this is precisely what several of RDC's charges of conduct do, particularly those that concern the Governor's communication with Alaskan voters and his exercise of the veto power. The superior court's merits decision did not squarely address the limit that *von Stauffenberg* places on recall applications. This Court will very likely do so. When it does, it will probably hold that RDC's recall application targets the Governor's lawful use of the powers of his office to communicate with Alaskans and exercise the line-item veto. Such an application does not meet the requirements of recall for cause.

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[47] *Zaverl v. Hanley*, 64 P.3d 809, 819 n.25 (Alaska 2003) (""We can affirm on alternative grounds apparent from the record.").

[48] 687 P.2d 287 (Alaska 1984).

[49] 903 P.2d 1055 (Alaska 1995).

[50] *See von Stauffenberg*, 903 P.2d at 1060.

The superior court made another error. In evaluating whether the recall application stated with particularity conduct matching statutory grounds, it relied on definitions described in other superior court cases.[51] The superior court explained that the legislature had not modified any statutory terms after these superior court cases and that the "[l]egislature's silence" denoted "the [l]egislature's acceptance and approval of the definitions used by the courts."[52] This was error. First, legislative silence in the face of a superior court decision is not worthy of consideration.[53] Second, these supposed superior court definitions were merely stipulations of the parties or dicta. As Judge Gleason explained, "[F]or the purposes of the motions now before [that] court, the plaintiffs have accepted the defendants' definitions of [the] terms [in AS 15.45.510]."[54] Guided by stipulation, Judge Gleason never opined on the definition of any term in AS 15.45.510. So too Judge Stowers, who also noted that the "parties in this case" agreed on a definition."[55] Judge Savell defined "unfitness" but did not apply the definition to reach a holding.[56] Accordingly, the superior court's opinion in this case rests on stipulated definitions and

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[51] *See* Order re Pltf.'s Mot for Summ. J. 6.

[52] *Id.*

[53] *See Providence Wash. Ins. Co. v. Grant*, 693 P.2d 872, 878 (Alaska 1985) ("We decline to attribute significance to the legislature's mere inaction.").

[54] *Valley Residents for a Citizen Legislature v. Alaska*, 3AN-04-06827, at 8 (Alaska Super. Ct. Aug. 24, 2004).

[55] *Citizens for Ethial Gov't v. Alaska*, 3AN-05-12133, at 6 (Alaska Super. Ct. Jan 4, 2006).

[56] *Coghill v. Rollins*, 4FA-92-1728, at 23–24 (Alaska Super Ct. Sept. 14, 1993).

dicta in another superior court case. The legislature does not acquiesce by failing to act in light of these cases.

The law is unsettled, and the superior court's decision rested on improper bases to hold sufficient charges that attack the Governor's lawful exercise of discretion. In doing so, it ordered certification of a recall application stating four conduct charges preceded by three statutory grounds, each of which is potentially applicable to all four charges. The Court will likely hold that at least one of these combinations of grounds and charges failed to describe conduct with particularity necessary to inform voters of what they were signing. This is probable, though it need not be because of the irreparable harm at issue. Virtually certain is the confusion that will result if the superior court's stay is lifted and this Court finds partly or wholly for the State and STWM.

IV. CONCLUSION

The superior court acted within its discretion—and correctly—in staying its order. STWM will suffer irreparable harm without a stay. So too will Alaskans who must grapple with confusion and endure further litigation if signatures are collected before this Court reverses any one of the superior court's holdings. RDC's interest is only in the chance to hold an election. That chance is governed by statutory timelines not yet at issue. And the chance is only imperiled if a recall petition cannot be submitted before the last 180 days of the Governor's term, a period still two years hence. Accordingly, RDC faces no peril from a stay while STWM and Alaskan voters will be irreparably harmed without one. A stay properly balances these hardships.

DATED this 7th day of February, 2020.

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