

IN THE SUPREME COURT OF THE STATE OF ALASKA

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In the Matter of the 2021)	Supreme Court No. S-18419
Redistricting Cases)	
(Alaska Redistricting Board/Girdwood)	Trial Court Case No. 3AN-21-08869CI
Plaintiffs/East Anchorage Plaintiffs))	
)	
)	

**GIRDWOOD PLAINTIFFS’ NOTICE REGARDING MAY 18, 2022
BORROMEO EMAIL**

On May 18, 2022, Alaska Redistricting Board Member Nicole Borromeo sent the enclosed e-mail to the Court, stating that Board counsel had filed the Board’s Petition for Review without proper authority. The Girdwood Plaintiffs believe that the issue of the Board’s authority to bring this appeal is important and potentially dispositive;¹ however, they are cognizant that any delay in the Court’s decision on the merits of the Petition may jeopardize the upcoming election cycle. Accordingly, the Girdwood Plaintiffs intend to continue their participation in this appeal as scheduled, and request that any determination

¹ Other jurisdictions have found appeals filed by public entities without authority to be invalid. See *Comm’n on Ethics of the State of Nevada v. Hansen*, 134 Nev. 304 (2018) (invalidating notice of appeal where it was not authorized by commission); *State ex rel. Hjelle v. Bakke*, 117 N.W.2d 689, 696 (N.D. 1962) (invalidating notice of appeal where it was not authorized by board of arbitrators); *Shaw v. Common Council of City of Watertown*, 75 S.D. 241, 63 N.W.2d 252, 255 (1954) (invalidating notices of appeal where they were not authorized by city council). There is legitimate cause for concern here because publicly available information corroborates Member Borromeo’s e-mail. After receiving the Superior Court’s February 16, 2022 ruling, the Board convened in a public meeting within 12 hours and voted to file appeals. By contrast, no such process appears to have been followed here, as the Board has had no public meeting since April 13, 2022.

of the appeal's legitimacy be addressed separately as the merits briefing and argument process continues.

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DATED: May 19, 2022

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CERTIFICATE OF SERVICE

On May 19, 2022, a copy of the foregoing was served by e-mail on:

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From: Nicole Borromeo

Sent: Wednesday, May 18, 2022 9:36 PM

To: pleadings@akcourts.gov

CC: Ginter, Ashley S.; Benjamin Farkash; Brian Fontaine; Eva Gardner; Gregory Stein; Heidi Wyckoff; Holly Wells; Jake Staser; Huston, Jeanine; Jon Wakeland; Chapman, Julie M.; Karin Gustafson; Karina Chambers; Tanner, Kayla J.F.; Baxter, Lee C.; Linda Gould; Mara Michaletz; Mary Hodsdon; Singer, Matthew; Melody Nardin; Mike Schechter; Nathaniel Amdur-Clark; Peggy Crowe; Richard Curtner; Robin Brena; Sarah Clinton; Shaunalee Nichols; Stacey Stone; Susan Orlansky; Tempest Evans; Tom Flynn; Trina Marshall; Whitney Leonard; Zoe Danner

Subject: S-18419 Alaska Redistricting Board's Petition for Review —Illegitimate Appeal

Dear Alaska Supreme Court Justices and Counsel:

I write as a duly appointed member of the Alaska Redistricting Board to advise that today's filing is not a legitimate appeal.

The Board has not held a public hearing, executive session, or otherwise to discuss and vote on this pleading. In fact, the first time I had the opportunity to review it was after it was filed.

By way of background, the Board formed a 'Litigation Committee' last December to manage the day-to-day affairs the of five lawsuits challenging our 2021 Final Proclamation. It was not intended to usurp the Board's governance powers. Unfortunately, that is exactly what it is being used for, with the assistance of the Board's counsel Matt Singer.

The language from motion that was made forming the Litigation Committee is below (NOTE: this has been cut and pasted from an email between Peter Torkelson and Melanie Bahnke earlier today).

Here you go:

"I move to appoint a litigation subcommittee consisting of two members to work with our legal counsel and executive director to oversee the pending litigation in coordination with counsel and staff the committee shall be delegated responsibility for routine day-to-day litigation strategy. **Any final decision that would directly impact our proclamation plan is reserved for decision by the full Board**"

You may listen to it here:

<https://www.akredistrict.org/files/9316/3969/7303/2021-12-15-ARB-Audio.mp3>

The motion comes at 1 hour and 34 minutes and 30 second in (1:34:30)

P.

I would like to respectfully call the Court and Counsel's attention to the part in bold. It is direct evidence that the Litigation Committee is exceeding its limited scope of authority. The two-member Committee made up of John Binkley and Budd Simpson, with Matt Singer acting as an *ex officio* third-member, should be not taking any action related to the Board's 2022 Final Proclamation.

I understand that I may not be able to prevent the majority of the Board from ultimately filing this appeal. Nonetheless, I believe the Board has a fiduciary duty to hear from the Board's counsel about the points we are raising on appeal, discuss them, and vote on whether or not we think the Board should pursue this line of action.

Please know that I am not sending this message lightly. I have been calling for a meeting for days. If you search the Board's emails, you will see this. Most of my texts and emails go on unanswered. My calls are not returned, even from the Board's counsel.

I am in the process of exploring independent conflict counsel, which something I have been requesting for months.

Sincerely,
Nicole Borromeo

Sent from my iPhone