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FILED
STATE OF ALASKA
APPELLATE COURTS

IN THE SUPREME COURT OF THE STATE OF ALASKA

CLERK APPELLATE COURT

SCOTT A. KOHLHAAS, THE)
ALASKAN INDEPENDENCE)
PARTY, ROBERT M. BIRD, and)
KENNETH P. JACOBUS,)

BY _____
DEPUTY CLERK

Appellants,)

v.)

STATE OF ALASKA, DIVISION OF)
ELECTIONS, LIEUTENANT)
GOVERNOR KEVIN MEYER, in his)
official capacity as supervisor of)
elections, and GAIL FENUMIAI, in)
her official capacity of Director of the)
DIVISION OF ELECTIONS,)

Appellees,)

Supreme Court No. S-18210

ALASKANS FOR BETTER)
ELECTIONS, INC.,)

Intervenor.)

NOTICE OF FILING ORIGINAL AFFIDAVIT

Appellees file this original Affidavit of Gail Fenumiai in Support of Request for Scheduling Conference. A scanned copy previously accompanied the Request for Scheduling Conference filed on October 12, 2021.

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DATED October 19, 2021.

TREG R. TAYLOR
ATTORNEY GENERAL

By: /s/ Laura Fox
Laura Fox
Assistant Attorney General
Alaska Bar No. 0905015

CERTIFICATE OF SERVICE

I certify that on October 19, 2021, a true and correct copy of the **Notice of Filing Original Affidavit** and the original **Affidavit of Gail Fenumiai in Support of Request for Scheduling Conference** and this **Certificate of Service** were served on the following via email:

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/s/ Jamie Dodd 10/19/21
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DIVISION OF ELECTIONS,)

Appellees,)

Supreme Court No. S-18210

ALASKANS FOR BETTER)
ELECTIONS, INC.,)

Intervenor.)

Trial Court Case No. 3AN-20-09532 CI

AFFIDAVIT OF GAIL FENUMIAI IN SUPPORT OF REQUEST FOR SCHEDULING CONFERENCE

STATE OF ALASKA)
) ss.
FIRST JUDICIAL DISTRICT)

1. I am the director of the Division of Elections for the State of Alaska, and I have personal knowledge of the matters in this declaration. I was first appointed as director in January 2008 and had worked in the Division for approximately 10 years before my appointment. I ended my first tenure as director in July 2015 and then was

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reappointed by Lieutenant Governor Kevin Meyer in January 2019.

2. The following is a general timeline of some of the steps the Division has already taken to prepare for and implement the changes to election law as a result of Ballot Measure 2, along with deadlines that have already passed:

- In June and July 2021, the Division created and publicized mock, online primary and general elections to educate Alaskans on the open primary and the ranked-choice general election.
- In July and August 2021, the Division produced ads explaining the new election system and ran them during the 2021 Summer Olympics.
- In August 2021, the Division began translating materials that explain ranked-choice voting in Alaska Native and other languages. Additional translation for glossaries and other election materials will continue. These translations require that translation boards meet and agree on the translations.
- The Division drafted proposed regulations implementing Ballot Measure 2's changes and published these regulations for public comment on August 3, 2021. The public comment period ended on October 7, 2021.
- The Division submitted instructions for the 2022-2023 voter guide produced by the Federal Voting Assistance Program (FVAP). These instructions explain Alaska's open primary and ranked-choice general election. The deadline for any changes to these instructions was September 24, 2021.

- Division staff gave multiple interviews and presentations to educate the public about the changes to Alaska’s voting system.
- The Division designed sample ballots for the primary and general elections and posted them on its website, so that the public could provide comments to the Division.
- The Division purchased the software necessary to conduct ranked-choice elections and Division staff started testing the software with sample ballots and mock election results.
- The Division started programing the “election project” for the 2022 primary election, meaning the Division is programming software, importing ballot designs, and preparing the systems that will tabulate votes.
- The Division updated the declaration of candidacy forms to reflect the open primary system, and candidates have already started to file for the 2022 primary election using these forms.
- The Division updated election supplies like posters and training materials to reflect the changes to the primary and general elections, and it has already ordered some of these supplies. Editing training videos must begin in February in order for training to begin in May.

3. The Division will continue to educate the public, update materials, test software, train staff, translate documents, purchase supplies, and otherwise prepare for

the open primary and ranked-choice general election between now and the primary election in August 2022. The following are some events and deadlines between now and the end of 2021:

- In November or December, the FVAP will print the voter guide and then post it on their website. It will reflect the open primary and the ranked-choice general election.
- The Division plans to educate voters and hold a mock ranked-choice election at the Alaska Federation of Natives Convention, currently scheduled for December 2021.
- The Division anticipates that the final regulations implementing Ballot Measure 2 will go into effect in December 2021.
- On January 1, 2022, voters will begin applying for absentee ballots. The Division has updated the absentee ballot application in light of the open primary, so voters will no longer be required to select a particular political party's ballot.

4. If any part of Ballot Measure 2 is struck down, the Division will have to reverse the changes it has made. In particular, the Division will have to contact the candidates who have declared their candidacy and the voters who have applied to vote absentee using the updated forms, and obtain new candidacy and absentee application forms from them. The Division will also have to rescind its regulations and counteract the public education campaign it conducted in 2021. The Division would be unable to reverse commitments of resources it has already made, including the purchases of

software and supplies to implement Ballot Measure 2.

5. The Division would prefer a final determination regarding Ballot Measure 2 by the end of 2021 or as soon as possible after that. The more time the Division has to reverse its changes if the law is overturned, the better, in terms of reducing voter and candidate confusion and conserving public resources. Until there is a final determination, the Division will continue to prepare for and implement the statutory changes that resulted from Ballot Measure 2.

6. The Division absolutely needs a final determination regarding Ballot Measure 2 before the summer of 2022. In the summer, there are statutory and other deadlines in advance of the August 16 primary. In particular:

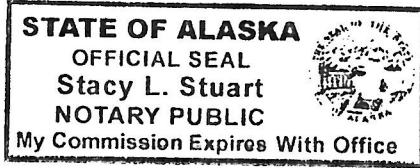
- The candidacy filing deadline is June 1, 2022. Candidates must know, before this date, whether or not they are filing for the open primary created by Ballot Measure 2. No candidate may file a declaration after this date.
- After the candidate withdrawal deadline on June 25, 2022, the Division will send ballots to the printer. If the open primary were overturned after this date, the Division would have to re-start its preparations for the primary, including designing and printing new ballots, at great expense. There may be insufficient time to complete the process before voting begins.
- Voting will begin on July 2, 2022, 45 days prior to the primary election, when the Division will mail absentee ballots to uniformed and overseas

voters and to voters who requested special advance ballots. Changes to the open primary after this date would cause significant disruption and require the Division to start the primary over again, even though some voters would have already received ballots.

Gail Fenumiai

Gail Fenumiai

SUBSCRIBED AND SWORN to before me October 12, 2021.



Stacy L. Stuart

Notary Public in the and for Alaska

My Commission Expires: w/office

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