COUNSEL OF RECORD

CASE NO. 3AN-22- CI

KEEP ON TOP OF FILE

NAME	MAILING ADDRESS & PHONE NUMBER	FOR WHOM
Stacey C. Stone	701 W. 8th Ave., Ste 700, Anchorage, AK 99501	PLAINTIFF
	(907) 274-0666 sstone@hwb-law.com	
Richard R. Moses	701 W. 8th Ave, Ste 700, Anchorage, AK 99501	PLAINTIFF
	(907) 274-0666 rmoses@hwb-law.com	

TF-900 (3/00)(5 ½ X 8 ½)(canary cdsk)

CASE DESCRIPTION – SUPERIOR COURT Case Number: 3AN-22- CI

Type of Action		For Court Use Only	
Check the box that best describes the case. Mark **one** box only. For district court cases, use form CIV-125D.		Case Type	Action Code
Domestic Relations			
	Divorce With Children (or Pregnant)	Div or Cust w/Children	CISDVC
	Divorce Without Children	Divorce Without Children	CISDIV
	Uncontested Divorce With Children (or Pregnant)	Div or Cust w/Children	CISUDVC
	Uncontested Divorce Without Children	Divorce Without Children	CISUDIV
	Custody (Unmarried Parents)	Div or Cust w/Children	CISCUS
	Uncontested Custody (Unmarried Parents)	Div or Cust w/Children	CISUCUS
	Visitation by Person Other than Parent	Domestic Relations Other	CIVIS
	Property Division – Unmarried Partners	Domestic Relations Other	CISPROP
	Legal Separation With Children (or Pregnant)	Legal Separation	CICLS
	Legal Separation Without Children	Legal Separation	CISLS
	Annulment	Domestic Relations Other	CIANNUL
	Uncontested Legal Separation with Children (or Pregnant)	Legal Separation	CIUCLS
	Uncontested Legal Separation Without Children	Legal Separation	CIUSLS
	Paternity - Establishment	Domestic Relations Other	CISPAT
	Paternity - Disestablishment	Domestic Relations Other	CIDPAT
	Genetic Testing - Failure to Comply with Order for Testing	Domestic Relations Other	CIOSCP
	Administrative Child Support Order – Modification or Enforcement	Domestic Relations Other	CIPCS
	PFD or Native Dividend Case	Domestic Relations Other	CIPND
	Foreign Support Order - Registration, Modification or Enforcement under AS 25.25	Domestic Relations Other	CIUIFSA
	Foreign Custody Order – Registration, Modification or Enforcement under AS 25.30	Domestic Relations Other	DR483
	Both Foreign Custody & Support Order – Registration, Modification or Enforcement under AS 25.30 and AS 25.25	Domestic Relations Other	CIFCS
	Foreign Domestic Relations Order (Not Custody or Support) – Registration, Modification or Enforcement	Domestic Relations Other	CIDRFJ
Landlord/Tenant			
	Eviction (May Include Rent or Damages)	Eviction-Superior Court	CISFED
	Other Landlord/Tenant (No Eviction)	Civil Superior Court	CISLT
Debt/Contract			
	Debt Collection	Civil Superior Court	CISDEB
	Claim by Buyer Against Seller of Goods/Services	Civil Superior Court	CISCLAIM
	Employment – Discrimination	Civil Superior Court	CISEMPD
	Employment – Other Than Discrimination	Civil Superior Court	CISEMP
	Other Contract	Civil Superior Court	CISOCT
Real Property Actions			
	Condemnation	Civil Superior Court	CISCNDM
	Foreclosure	Civil Superior Court	CISFOR
	Quiet Title	Civil Superior Court	CISQIT
	Real Property Tax Foreclosure	Superior Court Misc Petition	CISTAX
	Other Real Estate Matter	Civil Superior Court	CISREM
Foreign Judgment			
	Registration of Foreign Judgment – SEE DOMESTIC RELATIONS FOR FOREIGN **SUPPORT/CUSTODY** ORDERS	Foreign Judgment Superior Ct	CISFOJ

CASE DESCRIPTION – SUPERIOR COURT Case Number: 3AN-22- CI

	Type of Action	For Court Use Only	
	Check the box that best describes the case. Mark **one** box only. For district court cases, use form CIV-125D.	Case Type	Action Code
Tort			
	Wrongful Death	Civil Superior Court	CISPID
	Automobile Tort (But Not Wrongful Death)	Civil Superior Court	CISIDA
	Claim Against Owner of Real Property for Personal Injury	Civil Superior Court	CISPIO
	Product Liability	Civil Superior Court	CISPL
	Intentional Tort (e.g., assault, battery, vandalism)	Civil Superior Court	CISIT
	Slander/Libel/Defamation	Civil Superior Court	CISSLD
	Other Tort	Civil Superior Court	CISIDO
	Approval of Minor Settlement – Civil Petition *May also be filed as probate case.*	Superior Court Misc Petition	CISPET
Malpractice			
	Legal Malpractice	Civil Superior Court	CISLMP
	Medical Malpractice	Civil Superior Court	CISMMP
	Other Malpractice	Civil Superior Court	CISOMP
Other Civil			
	Election Contest or Recount Appeal	Civil Superior Court	CISELE
	Change of Name - Adult	Change of Name	CICON
	Change of Name - Minor	Change of Name	CICONM
	Confession of Judgment	Civil Superior Court	CISCCONF
	Structured Settlement – AS 09.60.200	Superior Court Misc Petition	CISSS
	Administrative Agency Proceeding – Request for Court Assistance	Superior Court Misc Petition	CISWRNT
	Arbitration - Action Under Uniform Arbitration Act	Civil Superior Court	CISAP
	Fraud	Civil Superior Court	CISFRAUD
	Unfair Trade Practice and Consumer Protection	Civil Superior Court Clerk: Issue form CIV-128	CISUTP
	Writ of Habeas Corpus	Civil Superior Court	CIWHC
	Fish & Game - Abatement & Forfeiture of Equipment	Superior Court Misc Petition	CISAF
	Appointment of Trustee Counsel	Superior Court Misc Petition	CISTC
	Action Under Alaska Securities Act	Civil Superior Court	CISASA
X	Other Superior Court Complaint	Civil Superior Court	CISOCI
	Other Superior Court Petition	Superior Court Misc Petition	CISPET
Post-Conviction Relief to Superior Court			
	Post-Conviction Relief	Post-Conviction Relief-Sup Ct	CISPCR
Appeal to Superior Court - From Administrative Agency			
	Election Contest or Recount Appeal – SEE OTHER CIVIL		
	DMV Appeal	Appeal from Admin Agency	CIADDMV
	Employment Security Appeal	Appeal from Admin Agency	CIADRESA
	Administrative Agency Appeal - Other	Appeal from Admin Agency	CIADR
	CSSD License Review Action	Petition for Review or Relief	CICSED
	Petition for Review from Administrative Agency	Petition for Review or Relief	CIPRA
	Petition for Relief from Administrative Agency – AS 44.62.305	Petition for Review or Relief	CIPRLF
Appeal to Superior Court - From District Court			
	Civil Appeal	Appeal from District Court	CIACI2
	Criminal Appeal	Appeal from District Court	CIACRM
	Minor Offense Appeal	Appeal from District Court	CIAMO
	Small Claims Appeal	Appeal from District Court	CIASC
	Petition for Review from Civil, Criminal, or Minor Offense Case	Petition for Review or Relief	CIPRD2
	Petition for Review from Small Claims	Petition for Review or Relief	CIPRSC

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdahl,
Plaintiff(s),
vs.
State of Alaska Division of Elections, et. al.,
Defendant(s).

CASE NO. 3AN-22- CI

SUMMONS AND NOTICE TO BOTH PARTIES OF JUDICIAL ASSIGNMENT

To Defendant: State of Alaska Division of Elections

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) Stacey Stone and Richard Moses, whose address is: 701 W. 8th Avenue, Suite 700, Anchorage, AK 99501.

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at https://public.courts.alaska.gov/web/forms/docs/tf-955.pdf to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

NOTICE OF JUDICIAL ASSIGNMENT

TO: Plaintiff and Defendant

You are hereby given notice that:

☐ This case has been assigned to Superior Court Judge _____. and to a magistrate judge.

☐ This case has been assigned to District Court Judge _____.

CLERK OF COURT

_____ By: _____
Date Deputy Clerk

I certify that on _____ a copy of this Summons was ☐ mailed ☐ given to ☐ plaintiff ☐ plaintiff's counsel along with a copy of the ☐ Domestic Relations Procedural Order ☐ Civil Pre-Trial Order to serve on the defendant with the summons.
Deputy Clerk _____

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA
AT ANCHORAGE

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdahl,
Plaintiff(s),
vs.
State of Alaska Division of Elections, et. al.,
Defendant(s).

CASE NO. 3AN-22- CI

SUMMONS AND NOTICE TO BOTH PARTIES OF JUDICIAL ASSIGNMENT

To Defendant: Gail Fenumiai, in her official capacity as Director of the Division of Elections

You are hereby summoned and required to file with the court a written answer to the complaint which accompanies this summons. Your answer must be filed with the court at 825 W. 4th Ave., Anchorage, Alaska 99501 within 20 days* after the day you receive this summons. In addition, a copy of your answer must be sent to the plaintiff's attorney or plaintiff (if unrepresented) Stacey Stone and Richard Moses, whose address is: 701 W. 8th Avenue, Suite 700, Anchorage, AK 99501.

If you fail to file your answer within the required time, a default judgment may be entered against you for the relief demanded in the complaint.

If you are not represented by an attorney, you must inform the court and all other parties in this case, in writing, of your current mailing address and any future changes to your mailing address and telephone number. You may use court form *Notice of Change of Address / Telephone Number* (TF-955), available at the clerk's office or on the court system's website at https://public.courts.alaska.gov/web/forms/docs/tf-955.pdf to inform the court. - OR - If you have an attorney, the attorney must comply with Alaska R. Civ. P. 5(i).

NOTICE OF JUDICIAL ASSIGNMENT

TO: Plaintiff and Defendant

You are hereby given notice that:

☐ This case has been assigned to Superior Court Judge _____. and to a magistrate judge.

☐ This case has been assigned to District Court Judge _____.

CLERK OF COURT

_____ By: _____
Date Deputy Clerk

I certify that on _____ a copy of this Summons was ☐ mailed ☐ given to ☐ plaintiff ☐ plaintiff's counsel along with a copy of the ☐ Domestic Relations Procedural Order ☐ Civil Pre-Trial Order to serve on the defendant with the summons.
Deputy Clerk _____

* The State or a state officer or agency named as a defendant has 40 days to file its answer. If you have been served with this summons outside the United States, you also have 40 days to file your answer.

Stacey C. Stone, Esq.
Richard R. Moses, Esq.
Holmes Weddle & Barcott, P.C.
Email: sstone@hwb-law.com
Email: rmoses@hwb-law.com

Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

COMPLAINT FOR DECLATORY AND INJUNCTIVE RELIEF

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdhal ("Plaintiffs"), by and through their counsel of record Holmes Weddle & Barcott, P.C., hereby file this complaint against the State of Alaska Division of Elections and Gail Fenumiai in her official capacity as Director of the Division of Elections ("Defendants") by stating and alleging the following:

JURISDICTION

1. The Alaska Superior Court has jurisdiction under and by virtue of AS 22.10.020 and other applicable law.

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2. Venue is proper in the Third Judicial District pursuant to Alaska R. Civ. P. 3(c) and 4(d)(8).

PARTIES

3. Plaintiffs are public interest litigants registered to vote in the State of Alaska, and have a public interest in seeing that the law with regard to elections for public office that occur within the State of Alaska are followed.

4. Defendant State of Alaska Division of Elections ("Division") is the state agency that administers elections that occur within the State of Alaska.

5. Defendant Gail Fenumiai is the Director of the Division.

RELEVANT FACTUAL ALLEGATIONS

6. Jennifer "Jennie" Armstrong ("Armstrong") filed a Declaration of Candidacy ("Declaration") with the Division for election to the State House of Representatives in House District 16 in the November General Election.

7. On or about June 13, 2019, Armstrong posted "last weekend, I moved to Alaska" on Instagram. Given the stated date, "last weekend" would have been between June 7 through 9, 2019. Therefore, Armstrong maintained her residence in another state, and did not intend to make Alaska her principal place of abode until at least June 7, 2019.

8. On or about June 15, 2019, Armstrong applied for and received a "Nonresident 1 Day Sport Fish License." The license number was 9714111. On said

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application and license, Armstrong asserted she was a resident of Louisiana and listed her permanent mailing address as 1625 N. Cumberland St. in Metairie, LA.

9. On or about June 23, 2019, Armstrong applied for and received a "Nonresident Annual Sport Fishing License." The license number was 9734965. On said application and license, Armstrong asserted she was a resident of the State of Louisiana and listed her permanent mailing address as 1625 N. Cumberland St. in Metairie, LA.

10. On or about June 21, 2020, Armstrong applied for and received a "2020 Resident Sport Fishing License." The license number was 20735794. Armstrong was also issued King Salmon Stamp number 20567094. On said application, Armstrong indicated that she was a resident for one year and zero months, meaning that she asserted her residency in Alaska did not begin until June 2019.

11. On or about July 20, 2021, Armstrong applied for and received a "2021 Resident Sport Fishing License." The license number was 21898512. On said application, Armstrong indicated that she was a resident for two years and one month, meaning that she asserted her residency in Alaska did not begin until June 2019.

12. Armstrong first registered to vote in Alaska on or about August 26, 2019. Voter registration is indicative of a person's intent to remain in a state indefinitely.

13. Armstrong did not demonstrate the intent to remain in Alaska until at least June 7, 2019, but possibly later than June 23, 2019 and as late as August 26, 2019.

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14. Armstrong executed her Declaration on May 28, 2022 and filed the same with the Division on June 1, 2022.

15. As a result of the date of filing the Declaration, to be eligible to hold office as a member of the state legislature, Armstrong must have been a resident on or before June 1, 2019.

16. As of June 1, 2019, Armstrong had not maintained her principal place of abode within the State of Alaska for 30 days or longer.

17. As of June 1, 2019, Armstrong maintained residency in another state, not Alaska.

18. Armstrong was not physically present in Alaska with the intent to remain until at least June 7, 2019.

19. Defendants have indicated publicly that they do not intend to investigate the constitutional residency issue and intend to certify the results of the upcoming general election on November 29, 2022, including the results for the House District 16 election.

20. Defendants have indicated publicly that a delay in the certification of the election of results for one house district will not affect the certification of any other elections in this state, including other elections on the same ballot as the House District 16 election.

21. Defendants have indicated publicly that they can tabulate the results for an election in one house district and then re-tabulate the results with a withdrawn

candidate. Defendants publicly explained that the votes for that candidate would not count, but that those voters' second and subsequent rankings would count.

COUNT I – DECLARATORY JUDGMENT

22. Plaintiff re-alleges and incorporates by reference all previous and subsequent paragraphs as if set forth herein.

23. Alaska Const. Art. II, § 2 mandates that each member of the state legislature "be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office."

24. AS 01.10.055, pertaining to residency in the State of Alaska, provides in pertinent part:

> (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.
>
> (b) A person demonstrates the intent required under (a) of this section
>
> (1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and
>
> (2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

25. AS 15.05.020 states that "[a] change of residence is made only by the act of removal joined with the intent to remain in another place . . . [t]here can only be one residence."

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26. Pursuant to the Alaska Constitution, as Armstrong was not a resident of the State of Alaska on or before June 1, 2019, she is not eligible to run as a candidate for the state legislature.

27. Pursuant AS 01.10.055, as of June 1, 2019, Armstrong was not a resident of the State of Alaska.

28. Pursuant to AS 15.05.020, as of June 1, 2019, Armstrong had not engaged in the act of removal, and therefore, was not a resident of the State of Alaska.

29. The court must declare Armstrong ineligible under Alaska law to hold office as a member of the state legislature because she did not meet the residency requirements on the date she filed to run for office.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment as follows:

1. A declaration that Armstrong is ineligible to hold office as a member of the state legislature pursuant to Alaska Const. Art. II, § 2.

2. An injunction preventing the Defendants from certifying Armstrong the winner of the aforementioned House District 16 election in the event that she receives the most votes and would otherwise be declared the winner under relevant Alaska law.

3. For such other and further relief, as the court deems just and equitable.

DATED this 28th day of October, 2022, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
Counsel for Plaintiffs

By: *s/ Stacey C. Stone*
Stacey C. Stone
Alaska Bar No. 1005030
Richard R. Moses.
Alaska Bar No. 1311096

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Email: rmoses@hwb-law.com

Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

MOTION FOR EXPEDITED CONSIDERATION OF MOTION FOR PRELIMINARY INJUNCTION

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdhal ("Plaintiffs"), by and through their counsel of record Holmes Weddle & Barcott, P.C., hereby move this court pursuant to Alaska R. Civ. P. 77(g) for expedited consideration of the accompanying Motion for Preliminary Injunction. As revealed by the accompanying Affidavit of Stacey C. Stone, expedited consideration is necessary, as Director Fenumiai has stated publicly that the Division plans to certify the Election by November 29, 2022. Therefore, a decision on the underlying Motion for Preliminary Injunction is necessary as soon as practicable, but no later than November 28, 2022. Therefore, Plaintiffs

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respectfully request this court grant expedited consideration and issue a decision on the Motion for Preliminary Injunction in advance of November 28, 2022.

DATED this 28th day of October, 2022, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
Counsel for Plaintiffs

By: *s/ Stacey C. Stone*
Stacey C. Stone
Alaska Bar No. 1005030
Richard R. Moses.
Alaska Bar No. 1311096

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Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
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CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

NOTICE OF FILING UNSIGNED AFFIDAVIT

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdhal ("Plaintiffs"), by and through their counsel of record Holmes Weddle & Barcott, P.C., hereby provide notice of the filing of the unsigned Affidavit of Stacey C. Stone. Ms. Stone drafted said Affidavit, and she has reviewed and approved the contents of the filing. Ms. Stone is on part-time medical leave, and will file the signed Affidavit as soon as possible.

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DATED this 28th day of October, 2022, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
Counsel for Plaintiffs

By: *s/ Stacey C. Stone*
Stacey C. Stone
Alaska Bar No. 1005030
Richard R. Moses.
Alaska Bar No. 1311096

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Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

AFFIDAVIT OF STACEY C. STONE

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

Stacey C. Stone, being first duly sworn upon oath deposes and states as follows:

1. I am an attorney admitted to practice in the State of Alaska and am counsel of record for Plaintiffs in this action. I make this Affidavit in support of Plaintiff's Motion For Expedited Consideration of Plaintiff's Motion for Preliminary Injunction and have personal knowledge of each fact herein recited; they are true and correct to my knowledge and belief.

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2. As the matter has just been filed, there is no ability to confer with Defendants regarding the expedited filing, however, given the nature of the issues raised in the Complaint, counsel for Plaintiffs believes that Defendants will anticipate that any matter pertaining to the General Election will as a matter of necessity be heard in an expedited fashion.

3. Expedited consideration of the Motion for Preliminary Injunction is necessary, as Director Fenumiai has stated publicly that the Division plans to certify the Election by November 29, 2022. Therefore, a decision on the underlying Motion for Preliminary Injunction is necessary as soon as practicable, but no later than November 28, 2022.

FURTHER YOUR AFFIANT SAYETH NAUGHT.

_____
Stacey C. Stone

SUBSCRIBED AND SWORN TO before me this _____ day of _____, 20__, at Anchorage, Alaska.

_____
Notary Public in and for Alaska
My Commission Expires: _____

HOLMES WEDDLE & BARCOTT, PC
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Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
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CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

[PROPOSED] ORDER GRANTING MOTION FOR EXPEDITED CONSIDERATION

The Court having considered Plaintiff's Motion for Expedited Consideration, and any opposition thereto, hereby GRANTS the motion. Defendants shall file any Opposition to the Motion on or before _____ a.m./p.m. on the ____ day of _____, 2022. Plaintiffs shall file any Reply to any Opposition on or before _____ a.m./p.m. on the ____ day of _____, 2022.

IT IS SO ORDERED.

DATED this _____ day of _____, 2022, at Anchorage, Alaska.

_____
Superior Court Judge

HOLMES WEDDLE & BARCOTT, PC
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Stacey C. Stone, Esq.
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Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
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CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

MOTION FOR PRELIMINARY INJUNCTION

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdhal ("Plaintiffs"), by and through their counsel of record Holmes Weddle & Barcott, P.C., hereby file this Motion for Preliminary Injunction pursuant to Alaska R. Civ. P. 65(a). This motion is supported by the attached memorandum and proposed order.

DATED this 28th day of October, 2022, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
Counsel for Plaintiffs

By: *s/ Stacey C. Stone*
Stacey C. Stone
Alaska Bar No. 1005030
Richard R. Moses.
Alaska Bar No. 1311096

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Counsel for Plaintiffs

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL, Plaintiffs, v. STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections, Defendants.	Case No. 3AN-22-_____ CI

MEMORANDUM IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdhal ("Plaintiffs"), by and through their counsel of record Holmes Weddle & Barcott, P.C., hereby file this memorandum in support of their Motion for Preliminary Injunction.

I. INTRODUCTION

Defendant State of Alaska Division of Elections and Gail Fenumiai in her official capacity as Director of the Division of Elections administer elections that occur within the State of Alaska ("Defendants"). As such, Defendants are in charge of administering the upcoming general election on November 8, 2022, in which early, absentee, and mail-in voting has already started. Defendants currently plan to certify the results of each election on November 29, 2022.

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One such election that Defendants are tasked with administering is the state legislative election for House District 16. Defendants plan to certify the winner of this election on November 29, 2022 in conjunction with all other races on the November 8, 2022 general election ballot. In said election, Jennifer "Jennie" Armstrong ("Armstrong") is running for election to that house seat. But, Armstrong did not become a resident until at least June 7, 2019, making her constitutionally ineligible for office as she had not been an Alaska resident for three years at the time she declared her candidacy on June 1, 2022.

Plaintiffs Chris Duke, Randy Eledge, Steve Strait, and Kathryn Werdahl ("Plaintiffs") filed a complaint seeking declaratory relief that Armstrong is constitutionally ineligible to hold the office for which she is running. Plaintiffs also asked the court to enjoin Defendants from certifying the election results for House District 16 because of Armstrong's ineligibility under the Alaska Constitution.

Now, Plaintiffs seek a preliminary injunction to prevent Defendants from certifying the results of the election in House District 16 because of quickly approaching target certification date, which could easily pass during the pendency of this litigation.

II. FACTS

Armstrong did not become a resident of Alaska until at least June 7, 2019, but most likely later than that. First, Armstrong publicly asserted on Instagram that she moved to Alaska "last weekend" on June 13, 2019; by "last weekend," Armstrong meant June 7-9, 2019.[1] Armstrong applied for a non-resident one day fishing license on June 15, 2019 in which she

[1] Ex.1. It is further curious that as soon as the issue with her residency became public, she immediately modified her public Instagram post, but such modification did not cure the fact she was not a resident for the constitutionally-required three period prior to her declaration.

certified that her home mailing address was 1625 N. Cumberland St. in Metairie, LA.[2] She later, on June 23, 2019, again applied for a non-resident annual fishing license and again certified that her home mailing address was 1625 N. Cumberland St. in Metairie, LA.[3]

Armstrong first applied for a resident sport fishing license on June 21, 2020.[4] On said application, Armstrong certified that she had been a resident for one year and zero months – since June 2019.[5] Armstrong registered to vote in Alaska on August 26, 2019. Armstrong again applied for an annual resident sport fishing license on July 20, 2021; she certified that she had been an Alaska resident for two years and 1 month – since June 2019 – on said application.[6]

Armstrong declared her candidacy for State House District 16 on June 1, 2022. Subsequently, Armstrong applied for her 2022 resident sport fishing license on July 26, 2022.[7] On said application, Armstrong falsely certified that she had been a resident for three years and two months – since May 2019.[8] This was the first time Armstrong had ever publicly asserted that she became a resident in May 2019 as opposed to June 2019.

III. LAW AND ARGUMENT

Preliminary injunctions are governed by Alaska R. Civ. P. 65(a). A preliminary injunction may be ordered under Alaska law when a party meets "either the balance of hardships or the probable success on the merits standard."[9] If the "threatened harm is

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2 Ex. 2, pg. 3.

3 Ex. 2, pg. 4.

4 Ex. 2, pg. 5.

5 Ex. 2, pg. 5.

6 Ex. 2, pg. 6.

7 Ex. 2, pg. 7.

8 Ex. 2, pg. 7.

9 *Alsworth v. Seybert*, 323 P.3d 47, 54 (Alaska 2014) (citing *A.J. Inds., Inc. v. Alaska Pub. Serv. Comm'n*, 470 P.2d 537, 540 (Alaska 1970), *modified in other respects*, 483 P.2d 198 (Alaska 1971)).

less than irreparable . . . the heightened standard of a 'clear showing of probable success on the merits' " applies.[10]

Plaintiffs anticipate that Defendants will argue, in opposition to this motion, that the public as a whole has an interest in an orderly election and that the public's interest is so great that Plaintiffs cannot pass the balance of the hardships test accordingly. And while of course the public has an overwhelming interest in an orderly election, Plaintiffs, as discussed below, can pass the balance of the hardships test.

To begin with, Plaintiffs concede that the court can and should "consider the proximity of [the] forthcoming election and the mechanics and complexities of [Alaska's] election laws."[11] While the General Election is fast-approaching and will conclude soon, the mechanics of Alaska's election laws and procedures allow for the very injunctive relief Plaintiffs seek without any actual harm or prejudice to the voting public or to Defendants.

One of the primary purposes "of a preliminary injunction is to maintain the status quo."[12] And the status quo is what Plaintiffs seek during the pendency of this case. They are not seeking to remove Armstrong from the ballot. They are not asking the court to declare a winner for the election of House District 16. They are simply seeking to maintain the status quo – lack of a certified election result – until their case is decided on the merits.

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[10] *State, Div. of Elections v. Metcalfe*, 110 P.3d 976, 978 (Alaska 2005) (quoting *State v. Kluti Kaah Native Vill. of Copper Ctr.*, 831 P.2d 1270, 1272 n.4 (Alaska 1992)).

[11] *State v. Galvin*, 491 P.3d 325, 339 (Alaska 2021) (quoting *Reynolds v. Sims*, 377 U.S. 533, 585 (1964)).

[12] *Martin v. Coastal Villages Region Fund*, 156 P.3d 1121, 1126 (Alaska 2007).

Further, the maintenance of the status quo will not cause harm to Defendants or the public as a whole. Defendant Fenumiai recently swore in an affidavit that "[i]t is feasible for the Division to delay certifying the results from the House District 27 race until after trial, while certifying all the other results as planned."[13] Defendant Fenumiai also explained in said affidavit the process for delaying the certification of election results and how the votes would be tabulated in either of the following scenarios: that the challenged candidate was found to be ineligible or that the challenged candidate was found to eligible.[14]

a. *Plaintiffs face irreparable harm and Defendants can be adequately protected*

> A plaintiff may obtain a preliminary injunction by meeting the balance of hardships . . . . The balance of hardships standard requires balancing the harm that the [moving party] will suffer without the injunction against the harm the injunction will impose on the [non-moving party]. A preliminary injunction is warranted under that standard when three factors are present: (1) the [moving party] must be faced with irreparable harm; (2) the [non-moving party] must be adequately protected; and (3) the plaintiff must raise serious and substantial questions going to the merits of the case; that is the issues raised cannot be frivolous or obviously without merit.[15]

"Irreparable harm is an injury which should not be inflicted" and is a harm which no court can reasonably redress "because it is so large or so small, or is of such constant and frequent occurrence, or because no certain pecuniary standard exists for the

[13] *See* Exhibit 3, pg. 1, ¶ 3.

[14] Exhibit 3, pgs. 1-3, ¶¶ 4-8.

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

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measurement of damages."[16] Additionally, the non-moving party is adequately protected when they can be indemnified by a bond or is facing "only relatively slight harm compared to the potential harm facing the party seeking relief."[17]

First, Plaintiffs, all resident registered voters in the State of Alaska, face irreparable harm if Armstrong wins the election and Defendants certify her win prior to this case being adjudicated on its merits. The voters of House District 16 have a massive interest in choosing who represents them in the state legislature – all of them. But, if Defendants certify Armstrong as the winner of the election and she is later found to be ineligible as alleged in Plaintiffs' complaint, the voters of House District 16 will not get to choose their representative. Rather, the Governor will choose for them.[18] Simply put, Plaintiffs cannot be adequately protected with any provisional remedy other than a preliminary injunction.

Second, Defendants, by their own admissions, would not suffer any harm should the court grant the requested preliminary injunction. And third, and as discussed in more detail below, Plaintiffs have submitted evidence that raises serious and substantial questions going to the merits of the case – when Armstrong became a resident of Alaska.

In conclusion, because Plaintiffs, particularly as voters of House District 16, have met all three factors of the balance of hardships test, the court must now balance Plaintiffs' potential of irreparable harm – being rendered unable to choose their state

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16 *Galvin*, 491 P.3d at 333 (internal citations omitted).

17 *Id* at 332 (internal citations omitted).

18 *See* AS 15.40.320.

house representative – with the little to no harm that Defendants will suffer by the grant of the preliminary injunction. Accordingly, Plaintiffs' potential irreparable harm far outweighs Defendants' lack of harm; thus, the court should grant the preliminary relief they seek.

b. *Plaintiffs Will Most Likely Succeed on the Merits.*

In the alternative, and in the event that the court finds Plaintiffs do not meet the balance of hardships test, the court should still grant the preliminary injunction because Plaintiffs "can make a clear showing of probable success on the merits."[19] To prove their case, Plaintiffs must prove that Armstrong was not a resident for the three full years prior to her filing the declaration of candidacy on May 28, 2022 – by May 28, 2019.[20]

There are two relevant statutes that define residency that are applicable here. The first, AS 01.10.055, provides in pertinent part:

> (a) A person establishes residency in the state by being physically present in the state with the intent to remain in the state indefinitely and to make a home in the state.
> (b) A person demonstrates the intent required under (a) of this section
> (1) by maintaining a principal place of abode in the state for at least 30 days or for a longer period if a longer period is required by law or regulation; and
> (2) by providing other proof of intent as may be required by law or regulation, which may include proof that the person is not claiming residency outside the state or obtaining benefits under a claim of residency outside the state.

[19] *Metcalfe*, 110 P.3d at 978 (internal citations omitted).

[20] *See* Alaska Const. Art. II, § 2.

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And second, AS 15.05.020 states that "[a] change of residence is made only by the act of removal joined with the intent to remain in another place . . . [t]here can only be one residence."

As cited above, under AS 01.10.055, Armstrong would need to have been present with the intent to remain in Alaska for a period of at least thirty days before she filed her declaration of candidacy – on or before May 1, 2019. But according to her Instagram post, she did not move to Alaska until at least June 7, 2019.[21] And her Instagram post was consistent with her several applications for fishing licenses – non-resident and resident – in which she certified that she had been a resident of Alaska since June of 2019.[22] It was not until her 2022 fishing application that she inexplicably backdated her residency. But even if that were true, she was still not a resident on or before May 1, 2019.

Also as cited above, under AS 15.05.020, Armstrong would need to have removed herself from Louisiana with the intent to remain in Alaska in order to establish residency. But she did not do so before June 1, 2019. Rather, her aforementioned Instagram post and fishing license applications reveal that she maintained a residence in Louisiana until at least June 7, 2019, and that she asserted to the State of Alaska that she still had a home mailing address within the State of Louisiana on June 23, 2022. The law is clear that "there ca only be one residence." It is a legal impossibility for Armstrong to have simultaneously been a resident of Alaska and of Louisiana. And by

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21 *See* Exhibit 1.

22 *See* Exhibit 2.

her own certified statement on June 23, 2022, Armstrong had a home mailing address within the State of Louisiana; therefore, she could not legally have been a resident of Alaska on that day.

Finally, Armstrong did not register to vote in Alaska until August 26, 2019, which is further proof that she was not a resident of Alaska early enough to run for the house seat she seeks. This is because, Armstrong never demonstrated her intent to remain in Alaska indefinitely until that date, which was several months later than necessary for her to be constitutionally qualified to run for the office she seeks.

Accordingly, Plaintiffs have demonstrated probable success on the merits because they have produced sufficient evidence to prove that Armstrong was not a resident of Alaska for the three years preceding her filing to run for House District 16. Therefore, the court should grant the preliminary injunction.

IV. CONCLUSION

For the reasons discussed above, Plaintiffs have shown that they meet the balance of hardships test and have demonstrated probable success on the merits. Accordingly, the court should grant their motion for preliminary injunction.

DATED this 28th day of October, 2022, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
Counsel for Plaintiffs

By: *s/ Stacey C. Stone*
Stacey C. Stone
Alaska Bar No. 1005030
Richard R. Moses.
Alaska Bar No. 1311096

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jenniemarmstrong
East Hampton, New York
jenniemarmstrong (13/13) post-road trip adventures: nyc, eh, rhode island, nola, d.c., back to Alaska oh and spoiler alert - I'm in Toronto with Ben right now, but last weekend, I moved to Alaska
174w
I just love you!!!!
173w Reply
YOU MOVED TO ALASKA!!!
173w 1 like Reply
Oh gawwwwwsh what a great leap you lion heart. I'm coming up there git ready
173w 1 like Reply
You're amazing!!!
173w 2 likes Reply
YEAH YOU DID
174w 1 like Reply
Alaska is my most favorite place in the world!
174w 1 like Reply
174w 1 like Reply
I just squealed and this was the best series of posts ever!!! I wrote you out a long message but it didn't send. I'm retyping it because it's worth it.
155 likes
JUNE 13, 2019
Add a comment...
Post

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game

DIVISION OF ADMINISTRATIVE SERVICES
Headquarters Office
Licensing Section

1255 West 8th Street
P.O. Box 115525
Juneau, Alaska 99811-5525
Phone: 800. 478.2376 or 907.465.2376
Fax: 907.465.2440
Email: adfg.license@alaska.gov

October 17, 2022

Following is the response to your request for Fish and Game Licensing information.

LICENSEE NAME(S): Jennifer M Armstrong
LICENSE NUMBER / YEAR: 2019-2022
LICENSE TYPE CODE: AA, KS

COMMENT: A license database search was performed on this individual on 10/17/2022. All licenses that have been turned in to the Department of Fish & Game, Licensing Section and are available

EndorsementNumber	LicenseType	LicenseYear	IssueDate	CustomerName	DateOfBirth
9714111	AA-6C	2019	6/15/2019 0:00	Jennifer M Armstrong	12/8/1988 0:00
9734965	AA-07	2019	6/23/2019 0:00	jennifer m armstrong	12/8/1988 0:00
20735794	AA-01	2020	6/21/2020 0:00	Jennifer M Armstrong	12/8/1988 0:00
20567094	KT-KS	2020	6/21/2020 0:00	Jennifer M Armstrong	12/8/1988 0:00
21898512	AA-01	2021	7/20/2021 0:00	Jennifer M Armstrong	12/8/1988 0:00
22928273	AA-01	2022	7/26/2022 0:00	Jennifer Armstrong	12/8/1988 0:00

through the licensing database are presented below.
**License images dating back further than 2010 or purchased online will have a different format.*

As a custodian of records for Department of Fish and Game which maintains the records of all sport hunting, fishing and trapping licenses and big game tag records issued for the State of Alaska, I hereby certify under penalty of perjury that the above is correct.

These licenses and records are kept by a public agency and are part of the regularly conducted and regularly recorded activities, or matters observed pursuant to duty imposed by law, and as to which there was a duty to record.

Nick Samaniego _____ 10/17/2022

Licensing Officer Date

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game
DIVISION OF ADMINISTRATIVE SERVICES

Below is your 2019 Nonresident 1 Day Sport Fish License. If your license is not electronically signed, you must physically sign your license.You must carry the license in your possession whenever you are engaged in the licensed activity (sport fishing, hunting, etc.) and show it upon request to any person authorized to inspect it.

Please check your license carefully for accuracy. If there are any errors, email adfg.license@alaska.gov or call (907) 465-2376.

2019 NONRESIDENT 1 DAY SPORT FISH LICENSE #9714111

Effective 6/15/2019 5 PM to 6/16/2019 5 PM

Jennifer M Armstrong
1625 N Cumberland St
Metairie LA 70003-5735 USA

DOB: 12/8/1988
Driv Lic LA [redacted]

Issued 06/15/2019

ALASKA FISH & WILDLIFE SAFEGUARD
(800) 478-3377
Callers remain anonymous and are eligible for a reward

I have read and understand the definition of Alaska "resident" (AS 16.05.415 and AS 16.05.940). My license has not been suspended or revoked in any state. This information is subject to public disclosure. Making false statements herein is subject to criminal penalties (AS 11.56.210 and AS 16.05.420). **I certify all the information is true and correct.**

Questions adfg.license@alaska.gov or (907)465-2376

Fee may include surcharges per A.S. 16.05.340

Signature of Licensee X

The following species have annual limits in specific areas. Check the current sport fishing regulations for current annual limit provisions.

1. **King Salmon** - Fresh waters: Kenai Peninsula, Susitna-West Cook Inlet, Bristol Bay, Unalakleet River, Aniak River, Upper Copper River, Kodiak Island, Alaska Peninsula, Aleutian Islands, Southeast Alaska (nonresidents only) and Yakutat (nonresidents only); Salt waters: Cook Inlet, Southeast Alaska (nonresidents only), and Yakutat (nonresidents only).
2. **Steelhead/Rainbow Trout** - Kenai Peninsula, Susitna-West Cook Inlet, Southeast Alaska, Yakutat, Alaska Peninsula/Aleutian Islands, Kodiak Island, Prince William Sound, and Lower Kuskokwim River drainages.
3. **Lingcod** - Southeast Alaska (nonresidents only).
4. **Sablefish** (Black Cod) - Southeast Alaska (nonresidents only).
5. **Yelloweye Rockfish** - Southeast Alaska (nonresidents only).
6. **Sharks** (except spiny dogfish) - Statewide.
7. **Other**

Check current regulations for harvest limits. Immediately upon harvesting a fish for which an annual limit exists, you are required to record details (in ink) below.

Water	Species	Date

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game
DIVISION OF ADMINISTRATIVE SERVICES

Below is your 2019 Nonresident Annual Sport Fishing License. If your license is not electronically signed, you must physically sign your license.You must carry the license in your possession whenever you are engaged in the licensed activity (sport fishing, hunting, etc.) and show it upon request to any person authorized to inspect it.

Please check your license carefully for accuracy. If there are any errors, email adfg.license@alaska.gov or call (907) 465-2376.

2019 NONRESIDENT ANNUAL SPORT FISHING LICENSE #9734965

Effective 6/23/2019 to 12/31/2019

jennifer m armstrong
1625 N Cumberland St
Metairie LA 70003-5735 USA

DOB: 12/8/1988
Driv Lic LA [redacted]

Issued 06/23/2019

ALASKA FISH & WILDLIFE SAFEGUARD
(800) 478-3377
Callers remain anonymous and are eligible for a reward

I have read and understand the definition of Alaska "resident" (AS 16.05.415 and AS 16.05.940). My license has not been suspended or revoked in any state. This information is subject to public disclosure. Making false statements herein is subject to criminal penalties (AS 11.56.210 and AS 16.05.420). **I certify all the information is true and correct.**

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Signature of Licensee X

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6. **Sharks** (except spiny dogfish) - Statewide.
7. **Other**

Check current regulations for harvest limits. Immediately upon harvesting a fish for which an annual limit exists, you are required to record details (in ink) below.

Water	Species	Date

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game
DIVISION OF ADMINISTRATIVE SERVICES

Below is your 2020 Resident Sport Fishing License. If your license is not electronically signed, you must physically sign your license.You must carry the license in your possession whenever you are engaged in the licensed activity (sport fishing, hunting, etc.) and show it upon request to any person authorized to inspect it.

You also purchased a king salmon stamp along with your license. Your valid king salmon stamp number is printed directly on your license. You will not receive a separate stamp in the mail.

Please check your license carefully for accuracy. If there are any errors, email adfg.license@alaska.gov or call (907) 465-2376.

2020 RESIDENT SPORT FISHING LICENSE #20735794

Effective 6/21/2020 to 12/31/2020

Jennifer M Armstrong
731 Ash Place
Unit B
Anchorage AK 99501 USA

DOB: 12/8/1988
Driv Lic AK [redacted]
AK Res 1 yrs 0 mo

King Salmon Stamp: **#20567094**

Issued 06/21/2020

ALASKA FISH & WILDLIFE SAFEGUARD
(800) 478-3377
Callers remain anonymous and are eligible for a reward

I have read and understand the definition of Alaska "resident" (AS 16.05.415 and AS 16.05.940). My license has not been suspended or revoked in any state. This information is subject to public disclosure. Making false statements herein is subject to criminal penalties (AS 11.56.210 and AS 16.05.420). **I certify all the information is true and correct.**

Questions adfg.license@alaska.gov or (907)465-2376

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Signature of Licensee X

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7. **Other**

Check current regulations for harvest limits. Immediately upon harvesting a fish for which an annual limit exists, you are required to record details (in ink) below.

Water	Species	Date

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game
DIVISION OF ADMINISTRATIVE SERVICES

Below is your 2021 Resident Sport Fishing License. If your license is not electronically signed, you must physically sign your license.You must carry the license in your possession whenever you are engaged in the licensed activity (sport fishing, hunting, etc.) and show it upon request to any person authorized to inspect it.

Please check your license carefully for accuracy. If there are any errors, email adfg.license@alaska.gov or call (907) 465-2376.

2021 RESIDENT SPORT FISHING LICENSE #21898512

Effective 7/20/2021 to 12/31/2021

Jennifer M Armstrong
3001 Illiamna Ave
Anchorage AK 99517-1267 USA

DOB: 12/8/1988
Driv Lic AK [redacted]
AK Res 2 yrs 1 mo

Issued 07/20/2021

ALASKA FISH & WILDLIFE SAFEGUARD
(800) 478-3377
Callers remain anonymous and are eligible for a reward

I have read and understand the definition of Alaska "resident" (AS 16.05.415 and AS 16.05.940). My license has not been suspended or revoked in any state. This information is subject to public disclosure. Making false statements herein is subject to criminal penalties (AS 11.56.210 and AS 16.05.420). **I certify all the information is true and correct.**

Questions adfg.license@alaska.gov or (907)465-2376

Fee may include surcharges per A.S. 16.05.340

Signature of Licensee X

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Water	Species	Date

THE STATE of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Fish and Game
DIVISION OF ADMINISTRATIVE SERVICES

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Please check your license carefully for accuracy. If there are any errors, email adfg.license@alaska.gov or call (907) 465-2376.

2022 RESIDENT SPORT FISHING LICENSE #22928273

Effective 7/26/2022 to 12/31/2022

Jennifer Armstrong
3001 Illiamna Ave
Anchorage AK 99517-1267 USA

DOB: 12/8/1988
Driv Lic AK [redacted]
AK Res 3 yrs 2 mo

Issued 07/26/2022

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I have read and understand the definition of Alaska "resident" (AS 16.05.415 and AS 16.05.940). My license has not been suspended or revoked in any state. This information is subject to public disclosure. Making false statements herein is subject to criminal penalties (AS 11.56.210 and AS 16.05.420). **I certify all the information is true and correct.**

Questions adfg.license@alaska.gov or (907)465-2376

Fee may include surcharges per A.S. 16.05.340

Signature of Licensee X

The following species have annual limits in specific areas. Check the current sport fishing regulations for current annual limit provisions.

1. **King Salmon** - Fresh waters: Kenai Peninsula, Susitna-West Cook Inlet, Bristol Bay, Unalakleet River, Aniak River, Upper Copper River, Kodiak Island, Alaska Peninsula, Aleutian Islands, Southeast Alaska (nonresidents only) and Yakutat (nonresidents only); Salt waters: Cook Inlet, Southeast Alaska (nonresidents only), and Yakutat (nonresidents only).
2. **Steelhead/Rainbow Trout** - Kenai Peninsula, Susitna-West Cook Inlet, Southeast Alaska, Yakutat, Alaska Peninsula/Aleutian Islands, Kodiak Island, Prince William Sound, and Lower Kuskokwim River drainages.
3. **Lingcod** - Southeast Alaska (nonresidents only).
4. **Sablefish** (Black Cod) - Southeast Alaska (nonresidents only).
5. **Yelloweye Rockfish** - Southeast Alaska (nonresidents only).
6. **Sharks** (except spiny dogfish) - Statewide.
7. **Other**

Check current regulations for harvest limits. Immediately upon harvesting a fish for which an annual limit exists, you are required to record details (in ink) below.

Water	Species	Date

anc.law.ecf@alaska.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

RANDALL KOWALKE, Plaintiff, v. DAVID EASTMAN, STATE OF ALASKA, DIVISION OF ELECTIONS, and GAIL FENUMIAI in her official capacity, Defendants.	)	Case No. 3AN-22-07404 CI

SUPPLEMENTAL AFFIDAVIT OF GAIL FENUMIAI

STATE OF ALASKA)
) ss.
THIRD 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 affidavit.

2. The Division plans to certify the results from the November 8, 2022 general election, including the election for representative of House District 27, on November 29.

3. It is feasible for the Division to delay certifying the results from the House District 27 race until after trial, while certifying all the other results as planned.

4. Determining the winner of a ranked-choice election is a multi-step process. First, the Division determines whether a candidate has received a majority of first-choice rankings. If so, that candidate wins. If not, the Division applies the ranked-

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choice tabulation. Candidates with the fewest votes are eliminated in rounds until two candidates remain and the candidate with the most votes wins. The State Review Board then reviews the results and the Director of the Division of Elections certifies the winner.

5. The Division selects the races that must be decided using ranked-choice tabulation. This means the Division can complete this for every race except for House District 27; the Division can select and tabulate all of the races that require ranked choice tabulation and not select the House District 27 race. The Division can tabulate the House District 27 race later, if tabulation is required.

6. However, the Division cannot practically delay the reporting of unofficial first-choice results in House District 27. Doing so would require changing the status of all of the candidates in the race in the election project.

7. The Division can also tabulate the House District 27 race and then re-tabulate it later with a candidate "withdrawn." The Division can "withdraw" a candidate in the election project, meaning the votes for that candidate would not count towards that candidate but would count towards the voters' subsequent choices.

8. If ordered to delay certification until after trial, the Division would report unofficial first-choice results in House District 27. If a candidate achieved a majority, that candidate would be the unofficial winner. If no candidate achieved a majority, the Division could either (1) run the ranked-choice tabulation, report the unofficial winner, complete the State Review Board process, and delay certification until after trial, or (2) delay the ranked-choice tabulation, review, and certification until after trial. In either

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case, if the court found Representative Eastman ineligible, the Division could withdraw him as a candidate, tabulate the results, and certify the winner. The Division could complete the process of withdrawing Rep. Eastman, tabulating the results, recalling the State Review Board, and certifying the winner in approximately 24 hours.

9. It is also practically possible to withdraw a candidate and re-tabulate ranked choice votes in a race after certification. This makes it possible for the Division to re-certify a race previously certified, if ordered to do so by a court. So, rather than delay certification, the Division could certify the winner of House District 27 on November 29, as planned, then later re-certify the race based on the outcome of the trial, if ordered to do so.

DATED: September 22, 2022

Gail Fenumiai

SUBSCRIBED and SWORN before me this 22 day of Sept., 2022.

STATE OF ALASKA
OFFICIAL SEAL
Stacy L. Stuart
NOTARY PUBLIC
My Commission Expires With Office

Notary Public, State of Alaska
My commission expires w/office

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

CHRIS DUKE, RANDY ELEDGE, STEVE STRAIT, and KATHRYN WERDAHL,

Plaintiffs,

v.

STATE OF ALASKA DIVISION OF ELECTIONS, and GAIL FENUMIAI, in her official capacity as Director of the Division of Elections,

Defendants.

Case No. 3AN-22-_____ CI

[PROPOSED] ORDER GRANTING MOTION FOR PRELIMINARY INJUNCTION

The Court having considered Plaintiff's Motion for Preliminary Injunction, and any opposition thereto, hereby GRANTS the motion.

IT IS SO ORDERED.

DATED this _____ day of _____, 2022, at Anchorage, Alaska.

_____
Superior Court Judge

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