

STATE OF ALASKA
THIRD JUDICIAL DISTRICT
2020 OCT -8 PM 3:26
CLERK OF THE TRIAL COURTS
JESSIE PERKINS

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

THE ALASKA CENTER EDUCATION
FUND, ALASKA PUBLIC INTEREST
RESEARCH GROUP, and FLOYD
TOMKINS,

Plaintiffs,

v.

GAIL FENUMIAI, in her official capacity as
the Director of the Alaska Division of
Elections, KEVIN MEYER, in his official
capacity as the Lieutenant Governor of Alaska;
and THE STATE OF ALASKA, DIVISION
OF ELECTIONS,

Defendants.

Case No. 3AN-20-08354 CI

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**PLAINTIFFS' MOTION FOR EXPEDITED CONSIDERATION OF
PRELIMINARY INJUNCTION MOTION**

Pursuant to Alaska Rule of Civil Procedure 77(g), Plaintiffs the Alaska Center Education Fund, Alaska Public Interest Research Group, and Floyd Tomkins (collectively, "Plaintiffs") respectfully move for expedited consideration of their Motion for Preliminary Injunction ("Motion for PI"), an expedited briefing schedule, and expedited oral argument. Because this case implicates Plaintiffs' fundamental rights—including in the case of the Alaska Center Education Fund and the Alaska Public Interest Research Group, the fundamental rights of their members and constituents, *see* Motion for PI and supporting evidence—expedited consideration is

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necessary to avoid the pressing harm of disenfranchisement in the upcoming election.

I. BRIEFING ON MOTION FOR EXPEDITED CONSIDERATION

Plaintiffs request that this Court order that Defendants shall file and serve by email any response to this Motion for Expedited Consideration by 10:00 a.m. on Friday, October 9, 2020, and that any reply be filed and served by email by noon on Friday, October 9, 2020. Plaintiffs do not request oral argument on this Motion for Expedited Consideration.

II. EXPEDITED CONSIDERATION OF PRELIMINARY INJUNCTION MOTION

Plaintiffs request that the Court enter an order directing that: (1) Defendants file and serve by email any response to Plaintiffs' Motion for PI by close of business on Monday, October 12, 2020; (2) Plaintiffs file and serve by email any reply by close of business on Wednesday, October 15, 2020; and (3) oral argument be held on the Motion for PI for a period of one hour on Thursday, October 16, 2020.

Pursuant to Alaska R. Civ. P 77(g)(3), Plaintiffs respectfully request that the Court issue a ruling at the close of the oral argument on the Motion for PI. Alaska's absentee ballot counting boards are able to begin reviewing mail-in ballot envelopes on October 27, 2020. *See* AS 15.20.201(a). Plaintiffs' proposed briefing and expedited consideration schedule will afford both parties the opportunity to be heard in time for meaningful relief to be granted, and also to allow for expedited review by the Alaska

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Supreme Court, if necessary.

III. ORAL ARGUMENT

Plaintiffs recognize that, under Alaska R. Civ. P 77(e)(2), oral argument shall be held only in the discretion of the judge except for on dispositive motions and motions for delivery or attachment. Oral argument is warranted for Plaintiffs' Motion for Preliminary Injunction because it aims to protect Plaintiffs' fundamental rights in the upcoming general election, including in the case of the Alaska Center Education Fund and the Alaska Public Interest Research Group, the fundamental rights of their members and constituents. *See* Motion for PI and supporting evidence.

Notably, a preliminary injunction is the only remedy that can protect Plaintiffs. Once the election has occurred, the risk of harm that Plaintiffs face cannot be undone. *See Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) ("It is well established that the deprivation of constitutional rights 'unquestionably constitutes irreparable injury.'") (citation omitted); *see also Mat-Su Coal. for Choice v. Valley Hosp.*, No. 3PA-92-1207, 1993 WL 13013293, at *3 (Alaska Super. Ct. Feb. 9, 1993) (recognizing "significant authority for the proposition that they will suffer per se harm from the denial of a fundamental constitutional right.").

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IV. CERTIFICATION OF GOOD FAITH CONFERRAL AND NOTICE OF THE RIGHT TO FILE A WRITTEN OPPOSITION TO THE MOTION FOR PRELIMINARY INJUNCTION

Counsel for Plaintiffs, Kevin R. Feldis, certifies in the affidavit that accompanies this motion that he has conferred with opposing counsel as required by Rule 77(g)(4), and detailed the facts which justify expedited consideration as required by Rule 77(g)(3).

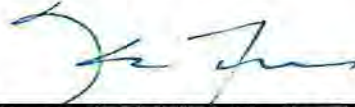
Additionally, in accordance with Rule 77(b)(4), counsel for Plaintiffs have advised Defendants of their right to file a written opposition to this motion, the place where it must be filed, and the time within which the opposition must be filed under Civil Rule 77(c)(2)(i), although Plaintiffs seek to modify this schedule, as noted above.

V. CONCLUSION

Plaintiffs respectfully request that the Court grant this Motion for Expedited Consideration and set oral argument on their Motion for PI.

DATED: October 8, 2020

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CERTIFICATE OF SERVICE

I hereby certify that on October 8, 2020
a true and correct copy of the foregoing
document was sent via US Mail to:

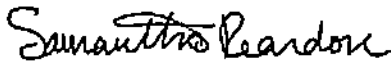
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