

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

In Re 2011 Redistricting Cases.) **CONSOLIDATED CASE NO.:**
) **4FA-11-2209-CI**
) 4FA-11-2213 CI
) 1JU-11-782 CI
) 4FA-13-2435 CI

UNOPPOSED MOTION TO CONTINUE TRIAL

Defendant Alaska Redistricting Board (“Board”), by and through undersigned counsel Patton Boggs LLP, hereby moves for a continuance of trial due to the medical unavailability of Defendant’s lead counsel, Michael D. White. This motion is supported by the Declaration of Michael D. White filed contemporaneously herewith.¹

On September 19, 2013, this Court issued an Order Regarding Hearing reserving full trial days from November 7, 2013 through November 15, 2013 to address all remaining issues following issuance of an omnibus summary judgment order.

Regrettably, the Board must request the Court’s consideration of counsel’s recently diagnosed medical condition which ultimately required several surgeries, a lengthy hospital stay, delayed recovery and further future treatment all of which necessitate a continuance of trial in order that counsel may participate and the Board is not prejudiced in its ability to defend the 2013 Proclamation Plan.

¹ Counsel for Plaintiff Alaska Democratic Party has indicated he does not oppose a continuance of the current trial dates. *See* Aff. of N. Corr at ¶ 4. Counsel for the Riley Plaintiffs also does not oppose the Board’s request of a continuance. *Id.* at ¶ 5.

In this regard, on August 5, 2013 the Board's lead counsel, Michael D. White, was diagnosed with a form of skin cancer in his mouth and jaw.² Mr. White subsequently consulted with an expert in head and throat cancer and scheduled an appointment in Seattle.³ Additional consultation and scans occurred on August 15, 2013 at Virginia Mason Hospital in Seattle where Mr. White was advised that the cancer was localized but small tumors in his jaw and hard pallet required surgical removal.⁴ Surgery was scheduled for September 5, 2013 in Seattle and was originally estimated to last approximately one and one-half to two hours and require a hospital stay of only three to five days.⁵ Radiation treatment was to begin several weeks after release from the hospital with all treatment completed before the end of October.⁶ Work plans were made accordingly.⁷

Unfortunately, while Mr. White was in the operating room on September 5 the surgeon discovered that the tumors were far more expansive than previously seen on the CT-scan requiring postponement of surgery for several days to accommodate a far more

² Decl. of M. White at ¶ 2.

³ *Id.* at ¶ 3.

⁴ *Id.* at ¶ 4.

⁵ *Id.* at ¶ 5.

⁶ *Id.*

⁷ *Id.*

expansive surgery to include the use of several skin grafts.⁸ On September 9, 2013, Mr. White endured over four hours of surgery, including two skin grafts and was subsequently hospitalized for sixteen days during which time three additional surgical procedures were required.⁹ Mr. White was finally released from the hospital on the evening of September 24, 2013.¹⁰ Aftercare in Seattle area is scheduled to continue until at least October 12, 2013, with radiation treatments scheduled to commence in mid-October and continuing until the Thanksgiving holiday.¹¹

Mr. White's radiation treatment includes daily radiation five times each week, with only a weekend respite, for the duration of the treatment, thus preventing him from attending trial in Fairbanks in November.¹² Moreover, the radiation treatment will be physically taxing and will likely cause Mr. White to lose the ability to speak and eat for several weeks as the radiation treatment essentially creates a severe sunburn in his mouth and throat requiring nutrition to be received through a feeding tube in his

⁸ *Id.* at ¶ 6.

⁹ *Id.* at ¶ 7.

¹⁰ *Id.*

¹¹ *Id.* at ¶ 8.


¹² *Id.* at ¶ 9.

stomach.¹³ Delaying trial until December will allow Mr. White's participation in the trial as his medical treatment should be completed by the end of November.¹⁴

Accordingly, the Board respectfully requests a one-month continuation of the currently scheduled trial dates and proposes that trial be scheduled within the first three weeks of December, 2013 in order that the Board is not prejudiced in its ability to defend the 2013 Proclamation Plan. The Board acknowledges the time frame within which the parties and the Court are working to reach final judgment regarding the 2013 Proclamation Plan and appreciates Plaintiffs' counsel's and the Court's consideration of the Board's Counsel's medical issues necessitating the instant motion.

DATED at Anchorage, Alaska this 27th day of September 2013.

PATTON BOGGS LLP
Counsel for Defendant
Alaska Redistricting Board

By: 
Michael D. White
Alaska Bar No. 8611144
Nicole A. Corr
Alaska Bar No. 0805022

¹³ *Id.*

¹⁴ *Id.* at ¶ 10.

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of September 2013, a true and correct copy of the foregoing document was served on the following via:

Electronic Mail on:

Michael J. Walleri; walleri@gci.net;
mwalleri@fairbanksaklaw.com

Jason Gazewood; jason@fairbanksaklaw.com
Gazewood & Weiner PC
Attorneys for Riley/Dearborn
1008 16th Ave., Suite 200
Fairbanks, AK 99701

Thomas F. Klinkner; tklinkner@BHB.com
Birch, Horton, Bittner & Cherot
Attorney for Petersburg Plaintiffs
1127 W. 7th Avenue
Anchorage, AK 99501

Jill Dolan; jdolan@fnsb.us
Attorney for Fairbanks North Star Borough
P.O. Box 71267
Fairbanks, AK 99707

Carol Brown; cbrown@avcp.org
Association of Village Council Presidents
P.O. Box 219, 101A Main Street
Bethel, AK 99550

Thomas E. Schultz; tschulz235@gmail.com
Attorney for RIGHTS Coalition
715 Miller Ridge Road
Ketchikan, AK 99901

Supreme Court of the State of Alaska
jhotho@appellate.courts.state.ak.us
mmay@appellate.courts.state.ak.us

Joseph N. Levesque;
joe@levesquelawgroup.com; joe-wwa@ak.net
Levesque Law Group, LLC
Attorney for Aleutians East Borough
3380 C Street, Suite 202
Anchorage, AK 99503

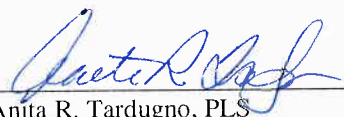
Natalie A. Landreth; landreth@narf.org
Native American Rights Fund
Attorney for Bristol Bay Native Corporation
801 B Street, Suite 401
Anchorage, AK 99501

Marcia R. Davis; mdavis@calistacorp.com
Attorney for Calista Corporation
301 Calista Court
Anchorage, AK 99518

Scott A. Brandt-Erichsen; scottb@kgbak.us
Ketchikan Gateway Borough
1900 1st Avenue, Suite 215
Ketchikan, AK 99901

Joe McKinnon; jmckinn@gci.net
Attorney for Alaska Democratic Party
1434 Kinnikinnick Street
Anchorage, AK 99508

By: _____


Anita R. Tardugno, PLS
Legal Secretary
PATTON BOGGS LLP

029810.0101\4810-9827-7654.

PATTON BOGGS LLP
601 West Fifth Avenue
Suite 700
Anchorage, AK 99501
Phone: (907) 263-6300
Fax: (907) 263-6345