

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

ALASKA REDISTRICTING BOARD'S
SECOND MOTION TO CONTINUE TRIAL

COMES NOW the Alaska Redistricting Board ("Board") by and through counsel, Patton Boggs LLP, and hereby requests a short continuance of trial due to the continued medical unavailability of Defendant's lead counsel, Michael D. White. This motion is supported by the Affidavits of Michael D. White and Nicole A. Corr filed contemporaneously herewith.

On September 27, 2013, the Board moved this court for a continuance of trial due to the medical unavailability of Mr. White.¹ On October 3, 2013, this Court granted the Board's request, finding good cause existed to continue trial from the previously reserved dates of November 7, 2013 through November 15, 2013.² This Court rescheduled trial to occur between December 9 and December 20, 2013.³

Since this Court's order, Mr. White has returned home from Seattle and has been recovering from the medical treatment and surgeries outlined in the Board's Unopposed

¹ *See* Unopposed Motion to Continue Trial (September 27, 2013).

² Order Continuing Hearing Dates (October 3, 2013).

³ *Id.*

Motion to Continue Trial.⁴ As the Board previously explained, Mr. White is required to undergo a series of thirty radiation treatments as part of his treatment plan. Mr. White had discussed these treatments with his team of doctors at Virginia Mason Hospital and believed the radiation treatments would commence as soon as he returned home in mid-October, concluding by the end of November.⁵ The Board and Mr. White relied upon this radiation schedule when it filed its Unopposed Motion to Continue Trial on September 27, 2013 and asked for a continuance until early December.⁶

Mr. White returned home from Seattle on October 12, 2013, and met with his local radiation oncologist on October 14, 2013 to schedule the radiation treatments.⁷ Mr. White's local radiation oncologist explained that he would have to undergo several pre-radiation appointments over the following two weeks before he could actually begin treatment, thereby postponing the previously understood radiation schedule.⁸ In this regard, the radiation oncologist works with a physicist to create a mesh mask of Mr. White's face and digitally map his face to focus the radiation on the affected areas thereby improving the efficacy of the treatment.⁹ This complicated process takes

⁴ Affidavit of Michael D. White at ¶¶ 2-4.

⁵ *Id.* at ¶ 5.

⁶ *Id.* at ¶¶ 5, 6; *see also* Unopposed Motion to Continue Trial at pg. 4.

⁷ *Id.* at ¶¶ 4, 6.

⁸ *Id.* at ¶ 6.

⁹ *Id.*

several weeks.¹⁰ Accordingly, Mr. White will not begin his radiation treatment until October 30, 2013.¹¹ He will undergo thirty daily treatments, five times each week, except for Thanksgiving and the Friday after, completing treatment December 12, 2013, which is during the currently scheduled trial.¹² Mr. White's doctors have informed him he cannot leave Anchorage until the radiation treatment is complete, and that he will need at least two weeks after concluding radiation to recuperate sufficiently to participate in any legal proceeding in this case.¹³

The Board previously requested a continuance of trial so that Mr. White, the Board's lead counsel, could participate. Given the recently discovered change in circumstances, the Board requests the Court grant another short continuance until early January so that Mr. White can, in fact, participate at trial. The Board understands the tight time frame within which the Court and the parties are operating in this matter, and it does not make this request lightly.¹⁴ The Board met on October 24 and discussed that it would be greatly prejudiced if its lead counsel was not permitted to participate at trial

¹⁰ *Id.* at ¶ 6.

¹¹ *Id.* at ¶ 7.

¹² *Id.* at ¶¶ 5, 7.

¹³ *Id.* at ¶ 7.

¹⁴ The undersigned contacted legal counsel for the Riley Plaintiffs and Plaintiff the Alaska Democratic Party ("ADP") to advise them of the unforeseen change in circumstances. [Affidavit of Nicole A. Corr at ¶¶ 5-6.] Counsel for the ADP informed the Board's counsel he would oppose the Board's motion. [*Id.* at ¶ 5.] Counsel for the Riley Plaintiffs informed the Board's counsel he would also oppose the Board's motion. [*Id.* at ¶ 6.]

given his extensive knowledge of the facts and unique legal issues involved in this case.¹⁵

A trial may not even be necessary should this Court resolve the issues in its omnibus order on the currently pending summary judgment motions. However, should issues regarding the Board's 2013 Proclamation Plan remain after this Court's order, the Board requests the Court allow its lead counsel to participate at any necessary hearing or trial. Mr. White will be medically unavailable until early January 2014. The Board therefore requests the Court vacate the reserved dates in December 2013 and reschedule for early to mid-January 2014 so that Mr. White may actively participate.

DATED at Anchorage, Alaska this 30th day of October, 2013.

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¹⁵ Corr Aff. at ¶ 4.

CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of October, 2013, a true and correct copy of the foregoing document was served on the following via:

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