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IN THE SUPREME COURT OF THE STATE OF ALASKA

STATE OF ALASKA; MICHAEL)
HANLEY, COMMISSIONER OF)
ALASKA DEPARTMENT OF)
EDUCATION AND EARLY)
DEVELOPMENT, in his official)
capacity,)

Appellants,)

v.)

KETCHIKAN GATEWAY)
BOROUGH; AGNES MORAN, an)
individual, on her own behalf and on)
behalf of her son; JOHN COSS, a)
minor; JOHN HARRINGTON, an)
individual; and DAVID SPOKELY, an)
individual;)

Appellees.)

Supreme Court No.: S-15811

Trial Court Case No.: 1KE-14-00016 CI

EMERGENCY MOTION FOR STAY PENDING APPEAL

A superior court final judgment received by the state last week has found unconstitutional a significant element of public school funding in Alaska.¹ Defendants State of Alaska and Michael Hanley (“the State”), move the Court for a stay pending appeal so that the Alaska Supreme Court has an opportunity to weigh in before policymakers feel obligated to overhaul public school funding without the benefit of this

¹ The superior court’s Final Judgment is attached as Ex. 1. The superior court’s November 21, 2014 order incorporated by reference in the Final Judgment is attached as Ex. 2.

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2 Court's determination of the constitutional issue.² **A decision on this emergency**
3 **motion is needed as soon as possible, and no later than February 17, 2015.**

4 The superior court's decision puts in jeopardy approximately \$300 million
5 dollars³ of education funding annually relied upon by Alaska school districts at a
6 moment when the governor's budget anticipating the presence of that funding has
7 already been submitted, the date for a revised budget is rapidly approaching, the
8 legislature's ninety-day session has already begun, and the legislature is already
9 weighing options for the next education budget.⁴ The superior court's decision
10 invalidated a longstanding requirement that has existed in some form since pre-
11 statehood: the requirement that local communities with taxing authority pay directly to
12 their own local school districts a small portion of the cost of educating their children as
13 a necessary prerequisite for receiving state (or territory) funding.⁵ The court's ruling
14 relied on an expansion of the dedicated funds clause, Article IX, section 7 of the Alaska
15 Constitution, and warrants appellate review before going into effect.
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20 ² The State moves pursuant to Alaska Rules of Appellate Procedure 205 and 504.

21 ³ Affidavit of Michael Hanley, dated January 27, 2015, at ¶¶ 2, 8, *attached* as
22 Ex. 3. This affidavit was initially submitted in support of a motion for emergency stay
23 before the superior court.

24 ⁴ The governor's preliminary budget was statutorily due by December 15, 2014
25 and his amended budget is due by February 18, 2015. AS 37.07.020(a);
26 AS 37.07.070(2). This year's legislature is scheduled to adjourn April 19, 2015.

⁵ See Alaska Compiled Laws, ch. 3, art. 3 §§ 37-3-32, art. 4 § 37-3-53, art. 5 § 37-
3-62 (1949); Sec. 1.03, ch. 164, SLA 1962.

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2 The State filed an emergency motion for stay pending appeal and motion for
3 expedited consideration with the superior court on January 28, 2015, requesting a
4 decision no later than February 12, 2014 in order to allow time for an emergency motion
5 in this court prior to the administration's amended budget deadline.⁶ The superior court
6 provided notice the next day that Judge Carey, who presided below, would be out of the
7 country for much of the next three weeks.⁷ At a status hearing on the case held on
8 Friday, January 30th, the superior court effectively denied the State's request for an
9 emergency stay by setting a briefing and argument schedule that will not allow for a
10 decision before February 23rd.

11
12 Specifically, the court issued the attached "Order Setting Schedule," giving
13 plaintiffs (collectively, "the borough" or "Ketchikan Gateway Borough") a full twelve
14 days to file an opposition and indicating that oral argument, which the plaintiffs said
15 they would request, would be scheduled for February 23, 2015.⁸ During Friday's
16 superior court hearing, counsel for plaintiffs informed the court that they might also
17 seek an evidentiary hearing on the stay, and the superior court indicated that if a request
18 for evidentiary hearing were granted, the court would be unable to schedule it for more
19 than a month.⁹

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22 ⁶ These are attached as Ex. 4 and Ex. 5, respectively.

23 ⁷ See Notice to Parties attached as Ex. 6.

24 ⁸ The superior court's Order Setting Schedule is attached as Ex. 7.

25 ⁹ The borough also stated their position on an evidentiary hearing request in an
26 email before the hearing. See Email from Louisiana Cutler, January 30, 2015, attached
as Ex. 8.

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2 Every day that passes without a stay is a day of legislative session in which the
3 enforceability of the education funding formula reflected in the proposed education
4 budget is in limbo. The State requests that the stay be ruled upon in advance of the
5 February 18, 2015 statutory deadline for the administration to propose a revised
6 budget.¹⁰ Lawmakers should not be put in the position of being compelled to
7 preemptively and precipitously reimagine public school funding out of concern that a
8 funding gap will affect students before this Court has had a chance to rule.
9

10 STANDARD FOR A STAY PENDING A PETITION FOR REVIEW

11 “Whether a stay of an injunction pending appeal will be granted is a question
12 directed to the sound discretion of the court.”¹¹ In considering whether to grant a stay
13 pending appeal, a court “must consider criteria much the same as it would in
14 determining whether to grant a preliminary injunction.”¹²
15

16 Alaska courts employ a “balance of hardships” test when considering a motion
17 for a preliminary injunction.¹³ In order for an injunction to issue, the party requesting
18 the injunction “must be faced with irreparable harm; ... the opposing party must be
19

20 ¹⁰ AS 37.07.070 (“Requests by the governor for budget amendments to state agency
21 budgets for the budget fiscal year may be received by the finance committees only
22 through the 30th legislative day.”). February 18, 2015 is the 30th legislative day of the
23 2015 session, which began on January 20, 2015.

24 ¹¹ *Powell v. City of Anchorage*, 536 P.2d 1228, 1229 (Alaska 1975) (internal
25 citations omitted).

26 ¹² *Id.*

¹³ *N. Kenai Peninsula Rd. Maint. Serv. Area v. Kenai Peninsula Borough*, 850 P.2d
636, 639 (Alaska 1993).

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2 adequately protected; and ... [the party requesting the injunction] must raise serious and
3 substantial questions going to the merits of the case; that is, the issues raised cannot be
4 ‘frivolous or obviously without merit.’”¹⁴

5 LEGAL AND FACTUAL BACKGROUND

6 I. Education funding

7
8 Public education in Alaska is funded through multiple sources that include
9 predominantly state funding and—from municipalities with taxing authority—a
10 required local contribution that goes directly from a local municipality to its local
11 school district.¹⁵ The lawsuit brought by Ketchikan Gateway Borough concerns the
12 constitutionality of the required local contribution described in statute at
13 AS 14.12.020(c) and AS 14.17.410(b)(2), but its outcome impacts the entire school
14 funding formula statewide. In recent years the required local contribution has totaled
15 more than \$220 million per year, statewide.¹⁶ Payment of the local contribution is an
16 important part of Alaska’s equalized school funding across all districts, which enables
17 the State to deduct \$70 million of eligible federal impact aid from its funding
18 allocations.¹⁷

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22 ¹⁴ *Id.* (quoting *State v. Kluti Kaah Native Village*, 831 P.2d 1270, 1273 (Alaska
23 1992)).

24 ¹⁵ AS 14.12.020(c).

25 ¹⁶ Ex. 3, affidavit of Commissioner Hanley at ¶ 4.

26 ¹⁷ Ex. 3, affidavit of Commissioner Hanley at ¶ 8.

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2 Both the local contribution and any voluntary contribution (the legality of which
3 is not being challenged here) are paid by a city or borough directly to its local school
4 district, and the funds are incorporated into the city or borough's school budget.¹⁸

5 Although statute specifies the amount of the local contribution, the statute does not
6 dictate the method that a city or borough must use to obtain the funds.¹⁹

7
8 The State dispenses its own legislatively-apportioned share of education funding
9 only after the local community has paid its required local share. Alaska
10 Statute 14.17.410(d) provides that: "State aid may not be provided to a city or borough
11 school district if the local contributions required under (b)(2) of this section have not
12 been made." The requirement of a local financial stake to access state funds seeks to
13 ensure prudent expenditure of state and federal education dollars. The requirement is
14 also not new. Pre-statehood, Alaska cities and independent school districts had taxing
15 power and were required to fund local public schools.²⁰ The territory then "refunded" a
16 percentage of the school expenses to the local entities.²¹ Constitutional delegates
17 envisioned that the process of local expenditure followed by state support would
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21 ¹⁸ See Ex. 2, Order on Motion and Cross Motion for Summary Judgment at 5.

22 ¹⁹ AS 14.17.410(b)(2) states that the amount of required local contribution is "*the*
23 *equivalent of a 2.65 mill tax levy on the full and true value of the taxable real and*
24 *personal property in the district . . . not to exceed 45 percent of a district's basic need*
25 *for the preceding fiscal year . . .*" (emphasis added).

26 ²⁰ Alaska Compiled Laws, ch. 3, art. 4 § 37-3-32, 37-3-35, 37-3-53 (1949).

²¹ Alaska Compiled Laws, ch. 3, art. 5 § 37-3-61 (1949).

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2 continue.²² And following statehood the statutory expectation of local contributions did
3 continue in school districts with taxing authority, including the newly formed
4 boroughs.²³

5 **II. Dedicated fund prohibition**

6 Ketchikan Gateway Borough sued the State arguing in relevant part that the
7 required local contribution violates the Alaska Constitution's prohibition on dedicated
8 funds. The Dedicated Fund provision, Article 9, section 7 of the Constitution states:
9 "The proceeds of any state tax or license shall not be dedicated to any special
10 purpose" The provision was inserted into the constitution as a way to combat
11 earmarking of specific sources of state revenue to particular projects on the theory that
12 such earmarking tied the hands of future legislatures and prevented them from
13 exercising budgetary controls.²⁴ Additionally, during the constitutional convention, the
14 language of the provision was changed from referencing "all public revenue" to "the
15 proceeds of any state tax or license" in direct response to a memorandum stating the
16 need to create exceptions to the dedicated fund prohibition for seven categories of
17 moneys including "contributions from local government units for state-local cooperative
18 programs."²⁵

22 ²² 4A Proceedings of Alaska Constitutional Convention 2640 (Jan. 19, 1956).

23 ²³ See Sec. 1.03, ch. 164, SLA 1962.

24 ²⁴ *State v. Alex*, 646 P.2d 203, 209 (Alaska 1982).

25 ²⁵ 1975 Op. Att'y Gen. No. 9 at 4, 7 (May 2) (quoting 6 Proceedings of Alaska
26 Constitutional Convention, App. V, 106-07 (Dec. 19, 1955)).

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2 The State argued that the dedicated fund provision does not apply to required
3 local contributions to local schools because the money is not “the proceeds of any state
4 tax or license” and is not state revenue.²⁶ The State also argued that even if the money
5 were state public revenue, it falls within the category of local money for a state-local
6 cooperative program that is an exception to the prohibition on dedication.²⁷
7

8 **III. Superior court decision**

9 Following cross-motions for summary judgment, the superior court held that the
10 required local contribution violated the dedicated funds prohibition, but rejected
11 Ketchikan Gateway Borough’s other arguments that the local contribution violated the
12 appropriation or gubernatorial veto provisions of the Alaska Constitution.²⁸ The court
13 agreed with the State that the borough was not entitled to a refund of the money it spent
14 on the local contribution in 2013 or 2014 because the State had not been unjustly
15 enriched by the borough’s payments.²⁹ The superior court denied a motion for partial
16 reconsideration on the issue of the refund, stating that “the KGB School District is the
17 only party enriched by a [local contribution] payment.”³⁰
18

19 The lawsuit did not re-litigate the already settled law that it is constitutional to
20 require municipal school districts to pay required local contributions when residents
21

22 ²⁶ See Ex. 2, Order on Motion and Cross Motion for Summary Judgment at 7.

23 ²⁷ See State’s opposition and cross motion at 15; reply brief 9-10.

24 ²⁸ See Ex. 2, Order on Motion and Cross Motion for Summary Judgment at 18-23.

25 ²⁹ *Id.* at 23-25.

26 ³⁰ Order on Motion to Reconsider at 2, attached as Ex. 9.

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2 living in unorganized Alaska do not.³¹ Similarly, the borough explicitly disclaimed the
3 argument that the State has the obligation to fully fund education in Alaska.³²

4 **ARGUMENT**

5 The court should stay the superior court's Final Judgment pending appeal
6 because the State faces irreparable harm if a stay is not granted, the borough is
7 adequately protected because it faces no cognizable legal harm from a stay, and the
8 State's arguments raise serious and substantial questions going to the merits of this case.
9 Under the balance of interests analysis, the balance clearly favors a stay pending appeal
10 because the stay would allow the legislature to overhaul the education funding system
11 only if necessary—or otherwise desirable—and then with the guidance of the Alaska
12 Supreme Court.

14 **I. The State and public face irreparable harm if the order is not stayed.**

15 The State has a strong interest in ensuring the solvency of local school districts.
16 Because required local contributions constituted over \$222 million dollars of public
17 education funding in the last school year,³³ the invalidation of the required local
18 contribution creates an enormous gap in education funding starting with the 2015-2016
19 school year. Indeed, school districts already submitted budget proposals for the
20 school year.

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22 ³¹ See *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391, 398-99
(Alaska 1997).

23 ³² Ex. 2, Order on Motion and Cross Motion for Summary Judgment at 24 (citing
24 borough's opposition and reply brief at 10); see also, *Matanuska Susitna Borough
25 School Dist.*, 931 P.2d at 399 (legislature acting in "furtherance of [its] constitutional
26 mandate" by enacting law requiring local contributions).

³³ Ex. 3, affidavit of Commissioner Michael Hanley ¶ 4.

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2 2015-2016 school year under the expectation that they would be using funds from
3 required local contributions.³⁴ As the superior court rightly held, the State is not legally
4 responsible for fully funding education or covering that shortfall, and the borough
5 conceded that it was not arguing for full funding.³⁵ Nonetheless, by declaring
6 unconstitutional the method by which schools receive their equalized funding, the
7 court's decision puts in limbo school budgets statewide, including the budgets of non-
8 parties to this suit.
9

10 Even if funding is eventually found from another source, financial limbo has
11 immediate and irreparable effects on schools, as a budget crisis and budget uncertainty
12 make schools less able to retain staff, embark on multi-year projects, or plan for the
13 future.³⁶ This problem is exacerbated by Alaska's unrelated revenue shortfall that is
14 already demanding tough decisions.
15

16 Moreover, the State would suffer irreparable harm from immediate enforcement
17 of the Final Judgment because resulting legislative amendments to ameliorate the
18 effects of the loss of funding may render the appeal subject to attack under the mootness
19 doctrine. The mootness of an appeal is an irreparable injury.³⁷ Because some form of
20 local contribution to schools has existed since before statehood, invalidation of the
21 practice through an expansion of the dedicated funds clause is an issue of constitutional
22

23 ³⁴ *Id.* at ¶ 3.

24 ³⁵ Ex. 9, Order on Motion to Reconsider at 3 (citing borough reply br. at 10).

25 ³⁶ Ex. 3, affidavit of Commissioner Michael Hanley ¶ 9.

26 ³⁷ *Artukovic v. Rison*, 784 F.2d 1354, 1356 (9th Cir. 1986).

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2 and practical significance that the Alaska Supreme Court should have the opportunity to
3 review.

4 Even if a subsequent appeal were allowed to proceed, the State also has an
5 interest in not overhauling a system before a final appellate judgment is issued. If the
6 legislature believes it is legally unable to require local contributions pending appeal, it
7 may urgently and imprudently overhaul education funding without the benefit of
8 appellate judgment on the permissibility of the status quo. Even should plaintiffs prevail
9 on some points on appeal, the exact contours of an Alaska Supreme Court decision may
10 not align with the superior court's judgment, causing a chaotic and disruptive funding
11 climate for schools in multiple years and creating repeated unnecessary legislative
12 crises.
13

14 Accordingly, the State and public face irreparable harm should the superior
15 court's judgment take immediate effect.³⁸
16

17 **II. The borough is adequately protected because they do not face cognizable**
18 **harm if the order is stayed.**

19 The borough is adequately protected by a stay because if they ultimately prevail
20 before the Supreme Court, the political discussion about how education should be
21 funded in Alaska will be able to occur in an atmosphere of legal finality and an agreed
22 understanding of the meaning of the dedicated funds prohibition. The only impact of the
23 stay would be that any judicially-mandated education overhaul would happen slightly
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26 ³⁸ *N. Kenai Peninsula*, 850 P.2d at 639.

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2 later in time—an insignificant factor given that the borough collected a required local
3 contribution for half a century prior to filing suit.³⁹

4 Where, as here, the borough has not, and cannot, establish that they would pay
5 less to educate their children in the absence of the “dedication” of their local
6 contribution to their local school district, a stay imposes no cognizable financial harm
7 on the borough. It is a political question whether an alternative to the current system of
8 local contributions would prove more or less costly for plaintiffs. For example, should
9 the legislature instead institute a state property or sales tax, it is far from certain that the
10 legislature’s formula would improve the financial position of the taxpayer plaintiffs
11 although it would deprive them of local control over how the money is raised. Should
12 the legislature respond to the lack of local contributions by drastically slashing
13 education funding, such precipitous action might well harm rather than benefit plaintiff
14 parents, students, or the borough as a whole.
15
16

17 Indeed, the only injury caused by an ongoing dedicated fund violation is a
18 limitation on the budgetary discretion of the *legislature* in future years, which is not a
19 harm to plaintiffs at all.⁴⁰ Moreover, this injury does not exist here. Allowing the State
20 to require local contributions of local money to joint state-local cooperative programs
21 such as public schools benefits rather than impedes legislative appropriation freedom.
22 Even if having local contributions did somehow impede future legislatures’ budgetary
23

24 ³⁹ See Sec. 1.07, ch. 164, SLA 1962 (requiring local contributions to education).

25 ⁴⁰ See *State v. Alex*, 646 P.2d 203, 209 (Alaska 1982) (provision motivated by
26 concerns about hampering scope and flexibility of budgeting in legislature).

1
2 discretion, because local contributions to education have been required since before
3 statehood, any impact caused to legislative discretion by allowing the legislature the
4 option of maintaining the status quo during the brief additional time required for an
5 Alaska Supreme Court appeal is negligible if not non-existent.

6 Accordingly, the borough will be “adequately protected” from harm should this
7 Court stay its order pending appeal.⁴¹

8
9 **III. The State’s arguments raise serious and substantial questions going to the
10 merits of the case.**

11 Alaska’s longstanding local contribution requirement is constitutional because
12 the local contribution is not state revenue and therefore is not subject to the dedicated
13 funds prohibition. The superior court’s decision to the contrary relied on what the State
14 believes is a misreading of key precedent resulting in the determination that local taxes
15 are equally subject to the dedicated funds provision—which is significantly outside of
16 the boundaries of this Court’s prior rulings on the dedicated fund provision.

17 The superior court read *City of Fairbanks v. Fairbanks Convention and Visitors*
18 *Borough*⁴² as including the holding that Fairbanks’s local bed tax proceeds were
19 “proceeds of any state tax or license” and thus subject to the dedicated funds
20 prohibition.⁴³ From this the superior court concluded that no weight should be given to
21 the fact that the required local contribution at issue “is, essentially, a solely local matter
22

23
24 ⁴¹ *N. Kenai Peninsula*, 850 P.2d at 639.

25 ⁴² 818 P.2d 1153 (Alaska 1991).

26 ⁴³ Ex. 2, Order on Motion and Cross Motion for Summary Judgment at 14.

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2 and local source of funds.”⁴⁴ But *City of Fairbanks* contains no such holding, and never
3 refers to the local tax as state revenue. Instead, *City of Fairbanks* explicitly reserved
4 judgment on whether the previous iteration of Fairbanks’s bed tax, which dedicated its
5 revenue to a specific source, would have violated the dedicated funds provision of the
6 Constitution—presumably that issue would involve analysis of whether local
7 governments are allowed to have dedicated funds.⁴⁵
8

9 The court also relied on *State v. Alex*,⁴⁶ a dedicated funds case which struck
10 down a statute allowing regional aquaculture associations to levy an assessment on the
11 sale of salmon by commercial fisherman and funnel the revenue to the local aquaculture
12 associations.⁴⁷ The superior court did not address several of the State’s arguments for
13 why *Alex* is distinguishable: including that in *Alex* the court did not decide whether the
14 dedicated funds provision applies to money that is not state public revenue because the
15 State did not make that argument and argued to the contrary that the *Alex* money was
16 subject to appropriation by the legislature.
17

18 Moreover, even if the dedicated funds prohibition were interpreted broadly as
19 applying to local revenue, the Constitutional Convention Delegates drafted the
20 provision to exempt “contributions from local government units for state–local
21

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23 ⁴⁴ *Id.*

24 ⁴⁵ 818 P.2d at 1158 n.7.

25 ⁴⁶ 646 P.2d 203, 210 (Alaska 1982).

26 ⁴⁷ Ex. 2, Order on Motion and Cross Motion for Summary Judgment at 13.

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2 cooperative programs”⁴⁸ such as the local portion of public education funding. The
3 superior court never addressed this argument. For these reasons among others that the
4 state will fully brief on appeal, the State has met its burden of raising serious and
5 substantial questions going to the merits of its case.

6
7 **CONCLUSION**

8 Because the State faces irreparable harm if a stay is not granted, the plaintiffs are
9 adequately protected because they face no cognizable legal harm, and the State’s
10 arguments raise serious and substantial questions going to the merits of the case, this
11 Court should grant a stay of the superior court judgment pending appeal.

12 DATED February 3, 2015

13 CRAIG W. RICHARDS
14 ATTORNEY GENERAL

15 By:



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23 Phone: (907) 269-5275
24 *Attorneys for Defendants*

25 ⁴⁸ 1975 Op. Att’y Gen. No. 9 at 8 (May 2) (quoting 6 Proceedings of Alaska
26 Constitutional Convention, App. V, 106-07 (Dec. 19, 1955).

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2 **IN THE SUPREME COURT OF THE STATE OF ALASKA**

3 STATE OF ALASKA; MICHAEL)
4 HANLEY, COMMISSIONER OF)
5 ALASKA DEPARTMENT OF)
6 EDUCATION AND EARLY)
7 DEVELOPMENT, in his official)
8 capacity)

9 Appellants,)

10 v.)

11 KETCHIKAN GATEWAY)
12 BOROUGH, an Alaska municipal)
13 corporation and political subdivision;)
14 AGNES MORAN, an individual, on)
15 her own behalf and on behalf of her)
16 son; JOHN COSS, a minor; JOHN)
17 HARRINGTON, an individual; and)
18 DAVID SPOKELY, and individual)

19 Appellees.)

Supreme Court No.: S-15811

20 **Trial Court Case #: 1KE-14-00016 CI**

21 **RULE 504 AFFIDAVIT OF KATHRYN R. VOGEL**

22 STATE OF ALASKA)
23) ss.
24 FIRST JUDICIAL DISTRICT)

25 Kathryn R. Vogel, being duly sworn, states as follows:

26 1. I am the Assistant Attorney General assigned to the above-captioned matter and I have personal knowledge of the matters stated in this affidavit. I represent the defendants in this matter.

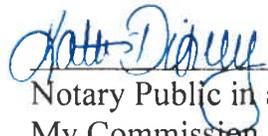
2. On February 3, 2015 I spoke to Louisiana Cutler, counsel for plaintiffs, and informed her that the State was filing a motion for emergency stay with this Court.

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Kathryn R. Vogel

SUBSCRIBED AND SWORN TO before me this 3rd day of February, 2015.




Notary Public in and for Alaska
My Commission Expires: with office

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4 HANLEY, COMMISSIONER OF)
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7 DEVELOPMENT, in his official)
8 capacity,)

Supreme Court No.: S-15811

9 Appellants,)

10 v.)

11 KETCHIKAN GATEWAY)
12 BOROUGH; AGNES MORAN, an)
13 individual, on her own behalf and on)
14 behalf of her son; JOHN COSS, a)
15 minor; JOHN HARRINGTON, an)
16 individual; and DAVID SPOKELY, an)
17 individual;)

18 Appellees.)

Trial Court Case No.: 1KE-14-00016 CI

19 **ORDER**

20 Upon consideration of the defendant State of Alaska's emergency motion for
21 stay and any opposition to the motion,

22 IT IS HEREBY ORDERED that the motion is GRANTED. The superior court's
23 Final Judgment is stayed pending appeal.

24 DATED this ___ day of February, 2015.

25 _____
Justice of the Alaska Supreme Court

1 **IN THE SUPREME COURT OF THE STATE OF ALASKA**

2 STATE OF ALASKA; MICHAEL)
3 HANLEY, COMMISSIONER OF)
4 ALASKA DEPARTMENT OF)
5 EDUCATION AND EARLY)
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Supreme Court No.: S-15811

8 Appellants,)

9 v.)

10 KETCHIKAN GATEWAY)
11 BOROUGH; AGNES MORAN, an)
12 individual, on her own behalf and on)
13 behalf of her son; JOHN COSS, a)
14 minor; JOHN HARRINGTON, an)
15 individual; and DAVID SPOKELY, an)
16 individual;)

17 Appellees.)

18 **Trial Court Case No.: 1KE-14-00016 CI**

19 **CERTIFICATE OF SERVICE AND TYPEFACE**

20 I hereby certify that on February 3, 2015 a true and correct copy of the
21 *Emergency Motion for Stay Pending Appeal, Affidavit of Kathryn R. Vogel, Order* and
22 *this Certificate of Service* were served by U.S. Mail and email to the following:

23 *Via hand delivery to:*

24 Louisiana W. Cutler
25 K&L Gates
26 420 L Street Suite 400
Anchorage, AK 99501-1971
louisiana.cutler@klgates.com
Phone: (907) 777-7630

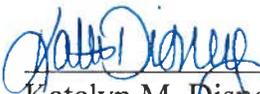
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I further certify, pursuant to App. R. 513.5, that the aforementioned documents were prepared in 13 point proportionately spaced Times New Roman typeface.



Katelyn M. Disney
Law Office Assistant

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