

RECEIVED

JUL 26 2011

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

PATTON BOGGS LLP

IN RE: 2011 REDISTRICTING CASES.)
)
)
_____)
Case No. 4FA-11-2209CI

C/M # 029810.0101		
DUE DATE	EVENT	CAL'D BY
DISTRIBUTION:		
INT.:	MDW - NAC - LEM	
EXT.:	T. Bickford (e) - J. Torgerson (e)	
ORG:	MNH - ART	

***Order Consolidating Cases, Establishing Case Name and Case Number,
Establishing Venue in Fairbanks, and Establishing Service and Filing Methods***

This matter originated as three separate cases: the case filed by the *Riley* plaintiffs in Fairbanks [4FA-11-2209], the case filed by the *Petersburg* plaintiffs in Juneau [1JU-11-782], and the case filed by the *Fairbanks North Star Borough* [FNSB] in Fairbanks [4FA-11-2213]. All cases arise out of the Final Redistricting Plan adopted on 13 June 2011 by the Alaska Redistricting Board [Board].

Judge Pallenberg consolidated the *Petersburg* case with the *Riley* case by order dated 21 July 2011. This court held a scheduling conference in the Fairbanks cases on 22 July 2011;¹ the *Petersburg* parties appeared telephonically per the suggestion and direction of Judge Pallenberg's order.

Consolidation and venue issues arose by an awkward process. The Alaska Redistricting Board filed an application in Anchorage, where no case existed, for consolidation of the cases. Although this pleading was styled a Motion to Consolidate, it also sought the additional and different relief of having venue changed to Anchorage. The parties filed various responsive pleadings. At the 22 July 2011 scheduling conference, after reviewing all the pleadings and the positions advanced by the parties on

¹ CR 90.8 requires this scheduling conference within 10 days of application.

these issues, and otherwise being fully informed in the premises, the court found as follows:

1. **Consolidation.** IT SHALL BE, and hereby is, ORDERED that all three cases are consolidated for all purposes.

2. **Case Name and Case Number.** IT SHALL BE, and hereby is, ORDERED that the case name henceforth shall be In Re: 2011 Redistricting Cases and the case number will be 4FA-11-2209CI.

3. **Venue.** IT SHALL BE, and hereby is, ORDERED that Fairbanks is the venue for the consolidated cases for all purposes except as noted herein. Out of town counsel and witnesses may appear telephonically.² To the extent the plaintiffs from Petersburg intend to testify at trial, the court will travel to Petersburg to take that testimony based upon application by the plaintiffs from Petersburg.

4. **Service/Filing.** Applications to compel corrections of errors in a redistricting plan have extraordinary priority over other cases.³ Given the exigencies of the litigation and the fact that litigants and lawyers are in different communities, the court will, for the purposes of this case only, authorize service between the parties by email.⁴

The FNSB has agreed to coordinate the electronic flow of pleadings.⁵ The parties are agreed with electronic service and filing and with FNSB coordinating the process. Therefore,

² The court will issue a separate order regarding attending by conference call for the 4 August 2011 status conference. The parties are free to propose another method for telephonic participation that may better meet their needs.

³ Article VI, Section 11 of the Alaska Constitution and CR 90.8(c).

⁴ CR 5.1 envisions service by facsimile transmission, not email, but provides sufficient precedence for the use of email service in this case.

⁵ The Federal Courts utilize electronic service and filings on a more formal, court operated system [PACER].

IT SHALL BE, and hereby is, ORDERED

- a. that the parties shall serve all pleadings on each other electronically. Pleadings shall be in PDF format only.
- b. that all pleadings must include an affidavit of service indicating the date and time of electronic service;
- c. that the parties, other than the FNSB, will not file the pleadings, either electronically or by hard copy, with the court;
- d. that the FNSB will be responsible for filing all pleadings from all parties by sending an electronic copy to 4faclerk@courts.state.ak.us and kerickson@courts.state.ak.us. The FNSB shall file all pleadings received by other parties the same day the pleadings are received and shall serve all orders and other documents from the court⁶ on the other parties the same day such orders or documents are received.⁷ The court shall use the date pleadings are served by or served to the FNSB as the day for all time calculations under the Civil Rules. Pleadings filed with the court shall be received by 4:30 p.m. in order to be file stamped with that date.
- e. that the court system will print a hard copy of pleadings received from the FNSB in lieu of original documents for the purpose of this case only. The court system will thereby have a complete file with all pleadings that shall constitute the record in the matter and be available to the public for inspection and review.

⁶ Other documents include hearing notices, pleading deficiency notices, and any other document not specifically a pleading by the parties or an order from the court.

⁷ Service of court orders and documents upon the FNSB and by the FNSB upon the other parties is further addressed in section f below.

f. that the court system will serve orders and other documents originating from the court electronically only on the FNSB at jdolan@fnsb.us and the FNSB will be responsible for serving court documents on the other parties and keeping a record of the time and date of service of such documents. The FNSB is responsible for ensuring this email address is monitored for pleadings at all times, even if the addressee [Ms. Dolan] is on leave or otherwise not checking email. The FNSB does not need to electronically file with the court proof of electronic service each time it forwards such court documents, but it must at the end of every calendar month electronically file an omnibus electronic proof of service documenting the date and time of all such service.

g. that by agreement of the parties that the Lt. Governor and the Attorney General do NOT need to be served with any pleadings from this date forth.

DATED this 26th of July 2011.



Michael P. McConahy
Superior Court Judge

I certify that a copy of the foregoing was distributed via:

MAIL

U.S. Postal Svc. _____
 Other _____

HAND DELIVERY

Courier Svc. _____
 Pick Up Bin _____

Fax _____
 Other email to J. Dolan

By: ke Date: 26 Jul 2011

Clerk

4FAclerk@courts.state.ak.us