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

PATTON BOGGS LLP

IN RE 2011 REDISTRICTING CASES

RILEY ET. AL. PLAINTIFF'S REPLY  
MEMORANDUM IN SUPPORT OF  
MOTION FOR LAW OF THE CASE  
REGARDING DISTRICT 38,  
SPLITTING THE EXCESS  
POPULATION OF THE FAIRBANKS  
NORTH STAR BOROUGH, AND  
BURDEN OF PROOF

Case No. 4FA-11-02209 CI.

The ARB has filed a limited opposition to the Riley Plaintiffs motion on excess population and burden of proof. In essence, the board does not object to entry of a "law of the case" order ruling that the Board has "the burden of proof to show a legitimate, nondiscriminatory reasons for its configuration of House District 38." Additionally, the Board does not oppose entry of a "law of the case" order ruling that the Board has the burden of proof to show "a legitimate, nondiscriminatory reasons for its decision to divide the Fairbanks North Star Borough's ("FNSB") excess population."<sup>1</sup> As a result, the Court should simply grant the order as requested.

The ARB's remaining points of disagreement asserted are mere flotsam which 1) mischaracterizes the Court's earlier order respecting Proc. HD 38,<sup>2</sup> and 2) argues a point of distinction respecting law of the case and summary judgment motions which

<sup>1</sup> Id., at 2

<sup>2</sup> Id. at 1-2. The Court's order speaks for itself. It states "House District 38 does not comprise a relatively intergrated socio-economic area within the meaning of Article VI, Section 6 of the Alaska Constitution" See Order of October 25, 2011.

is more metaphysical than practical import.<sup>3</sup>

In the absence of serious opposition, the Court should simply grant the motion.

Date: December 20, 2011



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Certificate of Service

I certify that a true and correct copy of the foregoing was served by e-mail on this December 20, 2011 to:

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<sup>3</sup> The doctrine of the “law of the case” provides that the matter so determined has a “preclusive effect of judicial determinations made in the course of a single litigation before a final judgment.” 20 Am Jur. 2D Courts § 130 (2005) cited in *Hora v Smith*, 2011 WL 6116477 (Alaska, Dec. 7, 2011) While there may be significant distinctions between a “law of the case” and “summary judgment” motion, in the context of the current matter, the distinction is without a difference, and is nothing more than an invitation to engage in a metaphysical exogenic debate of dubious import and consequence.

**Reply: Sum Jud. Split Excess Population**

*Riley, et. al. v Redistricting Board*  
Case No. 4FA-11-02209 Ci

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