



political process by not diluting their voice and representation in the legislature. We submit that the process followed by the Coalition is very close to that envisioned by the Hickel court.<sup>1</sup>

Consistent with this court's order of April 12, 2012 the Coalition will address the following issues:

- 1, Whether the Board in fact followed the Hickel process as directed by the Alaska Supreme Court;
2. Whether the Board had before it a plan developed in compliance with the Hickel process that also complied with the Voting Rights Act?

The Coalition has closely followed and participated in the 2011 redistricting process, as shown by Mr. Lawson's affidavit, and we will bring a unique perspective to the court in defending the RIGHTs plan which is Voting Rights Act compliant<sup>2</sup> with minimal deviations from Alaska Constitutional requirements.


Given the court's April 12 order, we are lodging a brief with this motion in which we argue that the Board did not comply with the Hickel process required by the Supreme Court's remand; that the amended Proclamation Plan adopted by the Board remains deficient for that reason; and that the Board had before it a plan, the RIGHTs plan, that was developed with Alaska Constitutional requirements as the guiding criteria, and then modified only to the extent required to bring it into compliance with the Voting Rights Act and the U.S. Constitution; and, finally, that the court should grant the parties an opportunity to challenge the Board's written findings which are littered with conclusions unsupported by the record. We would request the opportunity to file an additional brief of no more than 15 pages no more than three days after the conclusion of any additional evidentiary hearing ordered by the court. Coalition's participation will not cause undue delay or cause the parties to incur additional costs. We ask only that the court accept the brief lodged with this motion and allow the opportunity for a brief of no more than 15 pages to be submitted at a time set by the court at the conclusion of any additional evidentiary hearing set by the court.

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<sup>1</sup> Hickel v. Southeast Conference, 846 P.2d 38 (Alaska 1992)

<sup>2</sup> Leonard Lawson Affidavit  
In Re 2011 Redistricting Cases  
No 4FA-11-2209-CI  
RIGHTs Coalition Motion  
to Participate as Amicus Curiae  
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Respectfully submitted this 16<sup>th</sup> day of April, 2012

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

In Re 2011 Redistricting Cases

Superior Court No. 4FA-11-2209-CI

**AFFIDAVIT OF LEONARD LAWSON**

**STATE OF ALASKA:**

**THIRD JUDICIAL DISTRICT**

Leonard Lawson, being first duly sworn on oath, states as follows:

1. I have previously testified herein and my qualifications are a matter of record. I have been working with the RIGHTs Coalition (Coalition) for several months to assist in the drafting of a redistricting plan that complied with the requirements of the Alaska Constitution to the maximum extent possible while at the same time being in compliance with the federal Voting Rights Act.
2. Coalition is an unincorporated group that was formed primarily for citizen education and to aid in the formation of a new proclamation map that encouraged and empowered citizens to participate in the electoral process. From the beginning we operated on the premise that unnecessary changes to the electoral process fostered greater voter apathy and made the process of citizen involvement harder. Coalition, therefore, sought to maximize state constitutional compliance in the maps it drew,

while also trying to change existing districts as little as possible, so that communities that had been together in previous districts could continue to be together in the new plan, if possible.

3. These two objectives, creating the most state-constitution-compliant map and limiting changes from the current benchmark map, were treated as going hand in hand. The current map was considered to be constitutional when it was created so limiting deviation from the current plan was seen as a way to create a map that is compliant with the state constitutional requirements.
4. We understood the complicating factor that the federal Voting Rights Act (VRA) is the law of the land, but we also understood that the Redistricting Board would need to draw a map that met the requirements of the Alaska Constitution and then test that plan against applicable federal laws, deviating from the Alaska constitution only to the extent necessary to comply with the federal law.
5. The Coalition adopted, for the most part, the same guidelines as the Redistricting board with two major exceptions. First, the Coalition placed primary emphasis on the requirements and considerations of the State Constitution over and above any Federal law. The idea in this was that the State Constitution expressly authorized greater protections for the citizens of Alaska as a whole than do federal laws. For example, the State Constitutional requirement for socio-economic integration cannot, to my knowledge, be found in federal law. Second, from the very beginning Coalition placed an emphasis on maintaining local government boundaries. This was seen as something that not only maximized socio-economic integration but also further empowered citizen participation in the process by not unnecessarily fracturing their voice and representation in the state legislature.
6. The coalition actively sought advice from many boroughs in the State of Alaska. Where possible, suggestions from boroughs have been directly incorporated into our map as the process proceeded. We are proud of the fact that both the Fairbanks North Star Borough and the Matanuska-Susitna Borough submitted statewide plans to the board using an iteration of our map as a basis. Furthermore the City of Petersburg has used an iteration of our map in court filings and the Aleutians East Borough sent a



letter to the Board endorsing our final map submitted to the Board on March 28, 2012. That map, entitled "W plan March 28" is the culmination of months of work that sought to apply all that we had learned from speaking with citizens and working with local governments. It also represents our effort to make the map VRA compliant

7. The most interesting part of the process as a whole was the discovery that state constitutional requirements often supplemented the requirements of federal laws like the VRA. Rather than acting as an opposing consideration, many times districts drawn primarily to promote state constitutional requirements ended up creating very compliant VRA districts.
8. District 36 in "W plan March 28" was such a district. The primary reason for its shape was to maximize socio-economic integration and equal protection consideration arising out of the fact that the district has a high number of villages where Yupik language is spoken and therefore has more challenges concerning ballot access. This area had already seen legal challenges to the state asking that greater effort be placed on translating election ballots for Yupik speakers. We tried to balance competing requirements of the state constitution involving equal protection, socio-economic integration, and compactness. The balancing of these concerns makes attainment of the ideal on any one of those issues nearly impossible. But this is caused by an attempt to balance competing state constitutional requirements and not federal law.
9. We understood that the map needed to comply with the VRA and Professor Arrington, a court recognized expert on the VRA, has opined that the "W plan March 28" in fact does comply with the requirements of that statute.
10. Coalition had been trying to arrange opportunities for interested parties to offer testimony to the Board after the remand. The process had been very open to public participation prior to adoption of the Proclamation Plan and we were hopeful it would continue to be. However, the Board determined early on that public participation would not be allowed. Coalition and at least two other groups did submit final maps to the Board and I was able to submit the letter attached hereto as Exhibit A. Our plans were submitted on March 28 and the Board in fact considered them on March



- 29<sup>th</sup>, rejecting all the plans. None of the groups submitting plans were given the opportunity to answer questions or provide additional information to the Board.
11. The Coalition plan was discussed first on March 29<sup>th</sup> in a report given by Mr. White, counsel to the Board. There was a recess of approximately 4 hours between the morning session which ended at approximately 10:25 am and the afternoon session which convened at about 2:40pm.
  12. The first objection to the Coalition plan involved our compliance with the *Hickel* process. The Board was told and apparently agreed, that the only way to comply with *Hickel* was to use the map adopted by the Board. First, we were never made aware of that the Board considered that a final map and, second we considered the process followed to arrive at our "W plan March 28" to be fully *Hickel* compliant. This plan is a direct descendant of our first plan, which admittedly did not comply with the VRA, but did comply with the State Constitution.
  13. Exhibit B to the Notice of Compliance submitted to the court is a verbatim transcript of the Board hearings after remand. The March 29<sup>th</sup> transcript contains the discussion of all the plans submitted on March 28<sup>th</sup>. There was no opportunity for public comment. At page 24, line 14 there is a discussion of a Bethel House District. The discussion centers on VRA requirements. To begin with, this is not the Bethel District. Mr. White is actually referring to District 38, which is the Mountain Village House District, and White acknowledges that it is VRA compliant but still lists this factor as an objection. This district is approved by both Professor Arrington.
  14. On page 26, line 11 there is a discussion of the fact that Representative Thomas is paired, however, Thomas is in an influence district that we now know is not required to be protected. District 5 is not an effective district and Thomas is only sometimes the native candidate of choice there is no reason to violate the State Constitution to draw non-compact districts to meet a requirement that is not in the VRA
  15. The fourth objection is that District 39 (Nome to Eagle) is not compact and not socio-economically integrated. The Yukon River integrates this district. The Yukon River has been used for transportation and commerce from before the founding of the United States. Trading trails, from Kaltag to Nome connect the Bearing Sea Coastal



areas to the interior river section. 230 miles of the frozen Yukon River and trails from Kaltag to Nome were used for the historic "Great Race of Mercy" to deliver diphtheria anti-toxin to Nome. Kaltag was a key point of the Seward to Nome mail route which connected several villages on the Yukon River with Nome.

16. House District 38, referred to as the Bethel District by Mr. White, is in fact the Homer District. The contention, on page 28, line 12 is that it is not socio-economically integrated. However, Homer has flights six times a week to Aniak and there are a large number of Bristol Bay permits that fish out of Homer. Homer serves as a fuel transportation hub into the rural area of the Lake and Pen Borough. White also objects as to compactness because the district stretches across water. However, the "stretch" is not a long one, there is frequent travel to and fro across the particular body of water, and most important, the preference for compactness and contiguity that does not involve bodies of water is a relative one, given the size, huge coast line and rugged interior of Alaska which is also fragmented by mountain ranges, rivers and drainages and a small population that is frequently isolated in small communities. This district does have the appearance of perhaps being unconstitutional on socio-economic integration grounds. Yet when examined in detail this district does meet state constitutional requirements as the need to balance "one person one vote" and the irregular geography of Alaska is considered. This district has the added benefit of satisfying key Voting Rights Act requirements and leads to the plan as a whole being considered compliant with the VRA by Professor Arrington.

17. There is an objection to the Aleutian Chain District on Compactness grounds.

However, this district is definitely socio-economically integrated and, as the letter from the Aleutian East Borough shows, they, in fact, support the plan, as opposed to the Board's plan.

18. At page 36, line 6, White raises concerns over compactness in House District 36.

This is actually the Bethel House District and it was drawn with input from Professor Charles Walkie of UAF in order to better provide socio-economic integration. The villages in this district have strong Yupik speaking populations and have strong cultural ties. This district as drawn, strives to place as many Yupik speaking villages



in one house district to maximize equal protection of a language minority. The Wade Hamilton area is culturally rich but faces economic and political disenfranchisement challenges. It has been the subject of multiple voting rights challenges and faces a great need for translation services and has ballot access concerns. It is placed with Bethel as its center because of the strong cultural ties and economic reliance on Bethel as a transportation hub.


19. White challenges the socio-economic integration of House District 31 at page 32, line 9. This district is integrated with tourism and both sport and commercial fishing being its major binding economic forces. Travel in the district is relatively easy with road and marine highway service. In addition the "milk run" out of Anchorage provides daily service to and from Yakutat and Cordova.
20. If in fact, the compactness challenge to House District 18 were valid, it is an easy fix. The area in question is a low population area that could be easily placed in the adjoining district. The reason the area was placed in with District 18 was Mr. White's concern over pairing Republican house members. The incumbent pairing could be remedied without creating compactness or deviation concerns so the move was made.
21. At page 33, line 7, there is an objection to district 10 on compactness grounds. This district is done this way in order to have one district entirely inside the City of Fairbanks and have to cross the city border only once.
22. Mr. White also objected to District 5 on the basis of lack of socio-economic integration and compactness. (Page 33 at line 13). It is my understanding that the Denali Borough was ruled as non-integrated with the MatSu Borough in both 2002 and in 1992. It was ruled as being integrated with the Fairbanks Northstar Borough and so was placed in a Fairbanks district in the current benchmark plan. Valdez argued strongly that it was integrated with Fairbanks Northstar Borough.
23. Finally, Mr. White claims the proportionality of Kenai Borough may be violated (page 34, line 9). To begin with the Kenai Borough has the majority in the three house districts to which it is entitled and so is in a position of control. The VRA is not what compelled splitting this borough; it is a one person one vote concern. The Kenai is bordered by four boroughs (MatSu, Lake & Pen, Anchorage, and Kodiak)

and three of those boroughs were in need of population sufficient to bring deviation within 10% of the plan as a whole. The Kenai was the sole area that was relatively integrated with each of the areas needing population and also could give population while still maintaining control over the 3 house districts to which they are entitled.

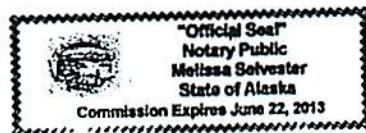
24. I make this affidavit in support of Coalition's contention that the Board did not follow a *Hickel* process in drafting the Amended Proclamation Plan now before the court

Further your affiant sayeth not.

Dated: April 16, 2012

  
Leonard Lawson

SUBSCRIBED AND SWORN to before me, a Notary Public in and for the State of Alaska, this 16<sup>th</sup> day of April, 2012



  
Notary Public  
My Commission Expires 6/22/13



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

In Re 2011 Redistricting Cases	)	
	)	
	)	Superior Court No. 4FA-11-2209-CI
	)	
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**(PROPOSED) ORDER GRANTING LEAVE FOR RIGHTS COALITION  
TO PARTICIPATE AS AMICUS CURIAE**

Rights Coalition has requested that it be allowed to participate as amicus curiae in this proceeding. The request is hereby granted on the same terms as those provided to the Alutians East Borough, the Ketchikan Gateway Borough and the Fairbanks Northstar Borough, namely by submitting a single 15-page brief after the close of any additional evidentiary hearing ordered herein, said brief to be addition to the brief lodged with Coalition's motion in response to the court's order of April 12, 2012.

DATED at Fairbanks, Alaska this \_\_\_\_\_ day of April, 2012.

By: \_\_\_\_\_  
Michael P. McConahy  
Superior Court Judge

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 16<sup>th</sup> day of April, 2012, a true and correct copy of the **MOTION AND MEMORANDUM IN SUPPRT OF LEAVE FOR RIGHTs COALITION TO PARTICIPATE AS AMICUS CURIAE with proposed ORDER and MEMORANDUM IN RESPONSE TO COURT'S ORDER RE BOARD'S NOTICE OF COMPLIANCE with proposed ORDER** was sent by electronic mail to:

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