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10 **UNITED STATES DISTRICT COURT**
 11 **DISTRICT OF ALASKA**

| | | | |
|----|-------------------------------------|---|---------------------|
| 12 | JOE MILLER, |) | |
| 13 | |) | Civil Action No: |
| 14 | <i>Plaintiff,</i> |) | 3:10-CV-00252 (RRB) |
| 15 | |) | |
| 16 | v. |) | |
| 17 | |) | |
| 18 | LIEUTENANT GOVERNOR CRAIG |) | |
| 19 | CAMPBELL, in his official capacity; |) | |
| 20 | and DIVISION OF ELECTIONS, |) | |
| 21 | STATE OF ALASKA, |) | |
| 22 | |) | |
| 23 | <i>Defendants.</i> |) | |
| 24 | _____ |) | |

25 **PLAINTIFF’S AMENDED MOTION FOR**
 26 **PRELIMINARY INJUNCTION**

27 Plaintiff Joe Miller, by and through undersigned counsel, hereby amends his Motion
 28 for Preliminary Injunction, based on recent events. Because Defendants already have
 29 finished, or are nearly finished with, their initial count of write-in votes in the 2010 general
 30 election for U.S. Senate, Plaintiff Miller must amend the relief he is seeking from this
 31 Court.

32 Amended Motion for Preliminary Injunction
 33 *Miller v. Campbell*, No. 3:10-CV-00252 (RRB)
 34 Page 1

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1 Plaintiff Miller respectfully moves this Court for a preliminary injunction
2 prohibiting Defendants from:

3 1. certifying the results of the 2010 general election for the office of U.S.
4 Senator based on a count in which write-in votes were accepted as valid, on which the
5 candidate's name was misspelled, or was not written on the ballot as it appeared on the
6 candidate's write-in declaration of candidacy; or

7 2. accepting as valid any write-in votes in which a candidate's name is
8 misspelled, or is not written on the ballot as it appears on the candidate's write-in
9 declaration of candidacy, in any further counts or recounts of the ballots in the 2010 general
10 election for the office of U.S. Senator.
11

12 Plaintiff Miller also wishes to clarify that the relief that he seeks would not apply to
13 any federal write-in absentee ballots, cast in compliance with the Uniformed and Overseas
14 Citizens Absentee Voting Act (UOCAVA), 42 U.S.C. § 1973ff, et seq., as that statute
15 (unlike the Alaska law that generally applies to write-in ballots, Alaska Stat. § 15.15.360)
16 expressly allows such ballots to be counted if they contain minor misspellings or variations
17 on candidates' names.
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1 The Memorandum of Points and Authorities Plaintiff filed with his original motion,
2 and the Reply Brief Plaintiff is filing concurrently, establish that Plaintiff is entitled to this
3 relief.

4 DATED at Anchorage, Alaska, this 18th day of November 2010.

5 **CLAPP, PETERSON, VAN FLEIN,
6 TIEMESSEN & THORSNESS, LLC**
7 Attorneys for Plaintiff Joe Miller

8
9 By: /s/ Thomas V. Van Flein
10 Thomas V. Van Flein, #9011119

11 Certificate of Service:

12 The undersigned hereby certifies that a true
13 and exact copy of the foregoing was served
14 this 18th day of November 2010 via:

- 15 First Class Mail
16 Hand-Delivery
17 Facsimile
18 E-Mail
19 ECF

20 to the following listed individual(s):

21 Michael Barnhill
22 Sarah Felix
23 Margaret Paton-Walsh

24 By: /s/ Thomas V. Van Flein
25 Thomas V. Van Flein