

1 Thomas V. Van Flein  
 2 John Tiemessen  
 3 Clapp, Peterson, Van Flein,  
 4 Tiemessen & Thorsness LLC  
 5 711 H St., Suite 620  
 6 Anchorage, Alaska 99501-3454  
 7 Phone: (907) 272-9228  
 8 Facsimile: (907) 272-9586  
 9 E-mail: [tvf@akcplaw.com](mailto:tvf@akcplaw.com)

6 Michael T. Morley  
 7 616 E St. N.W #254  
 8 Washington, D.C. 20004  
 9 Phone: (202) 393-2851  
 10 Facsimile: (907) 272-9586  
 11 E-mail: [michaelmorleyesq@hotmail.com](mailto:michaelmorleyesq@hotmail.com)  
 12 Application for *pro hac vice* admission pending

13 *Attorneys for Plaintiff Joe Miller*

14 **UNITED STATES DISTRICT COURT**  
 15 **DISTRICT OF ALASKA**

14	JOE MILLER,	)	Civil Action No:
15		)	
16	<i>Plaintiff,</i>	)	3:10-cv-252 (RRB)
17		)	
18	v.	)	
19		)	
20	LIEUTENANT GOVERNOR CRAIG	)	
21	CAMPBELL, in his official capacity;	)	
22	and the STATE OF ALASKA,	)	
23	DIVISION OF ELECTIONS,	)	
24		)	
25	<i>Defendants.</i>	)	
26		)	

27 **PROPOSED ORDER GRANTING PLAINTIFF'S**  
 28 **SECOND MOTION FOR PRELIMINARY INJUNCTION**

29 Proposed Order Granting Plaintiff's Second Motion for Preliminary Injunction  
 30 *Miller v. Campbell*, Case No. 3:10-CV-252 (RRB)  
 31 Page 1 of 3

1           Having considered Plaintiff Joe Miller's Second Motion for Preliminary Injunction, the  
2 Memorandum of Points and Authorities and Affidavits filed in support thereof, any Opposition  
3 thereto, any Reply, and for good cause shown, on this \_\_\_\_ day of November, 2010, this  
4 Court hereby:

5           FINDS that Plaintiff Miller is likely to succeed on the merits of his claims, he will  
6 suffer irreparable injury in the absence of a Preliminary Injunction, the balance of equities tips  
7 in his favor, and a Preliminary Injunction is in the public interest;

8           ORDERS that Plaintiff's Motion for a Preliminary Injunction is GRANTED, pursuant  
9 to Fed. R. Civ. P. 65(a);

10          FURTHER ORDERS that Defendants Craig Campbell, Lieutenant Governor, and State  
11 of Alaska, Division of Elections (hereafter, "Division") are hereby ENJOINED to:  
12

13          1.       ensure that an appropriate employee of the Division, or the Director of the  
14 Division, personally reviews each vote in the 2010 general election for U.S. Senate:

15               a.       that was rejected by an automated tally machine,  
16               b.       on which the voter did not attempt to vote for a write-in candidate, and  
17               c.       on which the voter did not write in the name of a candidate,  
18 to determine whether the markings are sufficiently clear to allow the ballot to be counted, based  
19 on the same criteria that were applied in determining the validity of write-in ballots;

20          2.       accept as valid and count any such ballots; and  
21  
22  
23

1           3.       refrain from certifying the results of the 2010 general election for U.S. Senate  
2 unless and until such hand count and manual review occurs, and the results of such hand count  
3 and manual review are included in the official tallies and results; and

4           FURTHER ORDERS that this Preliminary Injunction shall remain in effect until the  
5 conclusion of a trial on the merits of this matter, at which time it shall be converted into a  
6 Permanent Injunction, modified, or vacated.

7           SO ORDERED.

8  
9  
10 \_\_\_\_\_  
11 United States District Judge

12  
13 Certificate of Service:

14 The undersigned hereby certifies that a true  
15 and exact copy of the foregoing was served  
16 this 19<sup>th</sup> day of November 2010 via:

- 17  First Class Mail  
18  Hand-Delivery  
19  Facsimile  
20  E-Mail  
21  ECF

22 to the following listed individual(s):

23 Michael Barnhill  
24 Sarah Felix  
25 Margaret Paton-Walsh

26 By: /s/ Thomas V. Van Flein  
Thomas V. Van Flein