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 Mead Treadwell and the State of Alaska,
 Division of Elections

**IN THE UNITED STATES DISTRICT COURT
 FOR THE DISTRICT OF ALASKA**

JOE MILLER,)
)
 Plaintiff,)
)
 v.)
)
 LIEUTENANT GOVERNOR MEAD)
 TREADWELL, in his official capacity;)
 and the STATE OF ALASKA,)
 DIVISION OF ELECTIONS,)
)
 Defendants.)

Case No. 3:10-cv-00252 RBB

**MOTION TO LIFT STAY AND ESTABLISH AN EXPEDITED SCHEDULE FOR
 BRIEFING ANY REMAINING FEDERAL ISSUES**

Defendants Lieutenant Governor Mead Treadwell and the State of Alaska, Division of Elections (“the state”) move the Court to lift the stay of proceedings imposed on November 19, 2010; and establish an expedited schedule for briefing any remaining federal issues in this ligation.

The Honorable Judge William Carey of the Alaska Superior Court has indicated that he will issue a ruling today on the state law claims as to which this Court

abstained in its order of November 19, 2010. However, because this Court also enjoined certification of the results of the U.S. Senate election “until the legal issues raised [in the state court litigation] have been fully and finally resolved,” even if the state prevails in the superior court, the state cannot certify the winner of the Senate seat until the Alaska Supreme Court has reviewed the superior court’s ruling or until the 30 days to appeal have passed. In order to expedite the final resolution of the state court litigation, the state respectfully requests that this Court lift the stay in this matter and consider the state’s Motion to Re-Condition the preliminary injunction, for reasons more fully explained in that motion. Because the new Senate will be sworn in less than 30 days from now, on January 5, 2011, and the state has a compelling interest in ensuring that its citizens are fully represented in the new Congress, it is imperative that all litigation contesting the November 2, 2010 election result be resolved before that time.

In addition, because of this extremely compressed timeframe, it is impractical to suppose that the Alaska Supreme Court can review the superior court’s ruling sufficiently quickly to allow briefing of any remaining federal issues before this Court in time to have a decision before January 5, 2011, unless briefing on these federal issues is conducted contemporaneously with the Alaska Supreme Court appeal. The state recognizes that, in briefing on the federal issues before the Alaska Supreme Court has finally determined the underlying questions of state law, the parties may have to argue some issues in the alternative, but this is the only way to assure that the issues in this case can be resolved before January 5.

The state intends to move this Court to lift the preliminary injunction and grant summary judgment on any federal issues next week, so as to permit the full and final resolution of this litigation before the new Senate convenes in January. The state therefore respectfully asks the Court to lift the stay on this matter and order the parties to brief any federal questions that may remain after the state court ruling on the following schedule: the state will file its motion to lift the preliminary injunction and for summary judgment on Wednesday, December 15, 2010; plaintiff's opposition will be due on Friday, December 17, 2010; and the state's reply on Monday, December 20, 2010. The state intends to ask the Alaska Supreme Court to establish a comparable briefing schedule for the state appeal.

DATED December 10, 2010.

RICHARD A. SVOBODNY
ACTING ATTORNEY GENERAL

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Certificate of Service

The undersigned hereby certifies that on the 10th day of December, 2010, a true and correct copy of the above document, Motion to Lift Stay was served via electronic mail and fax on the following:

-Thomas Van Flein, Esq.

-Michael T. Morley, Esq.

By: /s/ Margaret Paton-Walsh