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7. IN THE UNITED STATES DISTRICT COURT
 8. FOR THE DISTRICT OF ALASKA

9. JOE MILLER,
 10. Plaintiff,
 11. v.
 12. LIEUTENANT GOVERNOR MEAD
 TREADWELL, in his official capacity; and
 13. the STATE OF ALASKA, DIVISION OF
 ELECTIONS,
 14. Defendants.

Case No. 3:10-cv-252 (RRB)

PROSPECTIVE INTERVENOR'S JOINDER IN MOTION TO LIFT STAY

16. This case involves the 2010 United States Senate election in Alaska. Joe Miller
 17. filed this case first in an effort to block the Alaska Division of Election's ("Division")
 18. hand count of the write in ballots. The Court refused to grant that relief. The unofficial
 19. count of the ballots showed that Senator Lisa Murkowski has 101,088 voted and
 20. Mr. Miller has 90,760.¹ Mr. Miller has challenged 8,159 of the votes counted for Senator

23. _____
 24. ¹ The Division of Elections has not certified the results of the election pursuant to the injunction this
 court imposed on certification in its order of November 19, 2010. The Division certified the results of the
 other statewide races on November 30, 2010.

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1. Murkowski. If all these challenges are sustained, Senator Murkowski still leads by a
2. margin of 2,169.² Mr. McAdams, the Democratic candidate, has conceded the election.

3. Mr. Miller then amended his complaint to allege various types of misconduct by
4. the Division in connection with the election. Principal among those allegations was that
5. the Division's interpretation of state law which allowed them to count various variations
6. of the candidate's name was improper. The Court concluded that the Division's
7. interpretation was plausible and that the interpretation urged by Plaintiff Miller was
8. reasonable but that was a state issue which should be decided by state courts. As a result,
9. this Court imposed an injunction barring the state from certifying the election, the
10. injunction was to expire if Mr. Miller did not file a state court action by a certain date.
11. Miller did file an action in state court, and that case is proceeding on an expedited basis.

12. Senator Murkowski is the candidate with the largest number of votes cast in this
13. election. She is the present holder of that seat. Her margin of victory is substantial.
14. Mr. Miller's case seeks to disenfranchise Alaskan voters by attempting to have the
15. Division refuse to count sufficient numbers of voters so that he will defeat Senator
16. Murkowski.

17. Senator Murkowski requests the Court lift the current stay and order that she may
18. intervene so she can then take appropriate action in this forum to defend the votes of the
19. over 100,000 Alaskans who voted for her. As pointed out in the motion to intervene
20. which is being filed with this motion, Senator Murkowski's interests are adverse to those
21. of the state. The Division refused to count over 2,000 votes, and many if not all those

22. _____
23. ² In the pending state court matter Mr. Miller has conceded that two classes of his objections—those to
24. ballots marked "Murkowski, Lisa" and to ballots where Lisa Murkowski is correctly spelled, are not well
25. founded and has withdrawn those objections. The exact number of those two types of ballots are unknown
but the withdrawal of these two classes of challenges probably added at least 1800 more unchallenged
votes to the margin of victory currently being reported for Senator Murkowski.

1. votes should, under Alaska law, have been counted. She intends, in her answer, to file a
2. cross claim against the state. Therefore, the state cannot adequately represent her and she
3. is, as discussed in the pleadings related to the Motion to Intervene, entitled to intervene to
4. protect her interests.

5. Also as the pleadings filed herewith demonstrate, it is urgent that the Court act
6. promptly on this matter. If the state cannot certify Senator Murkowski's election by noon
7. on January 3, 2011, Senator Murkowski's current term will end without a replacement
8. having been decided and Alaska will be left with only one senator in the United States
9. Senate. See Declaration of Timothy A. McKeever In Support of Motion For Order
10. Granting Leave To Intervene at ¶ 6. The effect of having the seat declared vacant could
11. be far ranging and long lasting. It is possible that Senator Murkowski could lose her
12. current seniority. *Id.* She could lose her position as ranking member on several
13. committees or subcommittees. That could mean members of her staff would be let go,
14. and the positions and influence that she has gained in her 8 years in the Senate would be
15. lost.

16. Granting the motion lifting the stay and expeditiously granting the motion to
17. intervene will allow Senator Murkowski to be prepared to fully participate in this matter
18. as it moves forward.

19. The Court should lift the stay it has imposed and should allow Senator Murkowski
20. to intervene.

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DATED this 10th day of December, 2010.

HOLMES WEDDLE & BARCOTT, P.C.

s/Timothy A. McKeever

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1. CERTIFICATE OF SERVICE

2. The undersigned certifies under penalty of perjury of the
3. laws of the State of Washington that, on the 10 day of
4. December, 2010, the foregoing was electronically
filed with the Clerk of Court using the CM/ECF system, which
will send notification of such filing to the following:

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34. _____
35. s/Timothy A. McKeever
36. Timothy A. McKeever

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38. PROSPECTIVE INTERVENOR'S JOINDER IN MOTION TO LIFT STAY
39. *Miller v. Lieutenant Governor Mead Treadwell, et al.*
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