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 5. Attorneys for Intervenor, Senator Lisa Murkowski

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,

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

14. Defendants.

15. **DECLARATION OF TIMOTHY A. MCKEEVER IN SUPPORT OF**  
 16. **SENATOR LISA MURKOWSKI'S MOTION FOR ORDER**  
 17. **GRANTING LEAVE TO INTERVENE**

18. I, Timothy A. McKeever, declare as follows:

19. 1. I am over the age of 18, am competent to be a witness and make the  
 20. following declaration based on my personal knowledge.

21. 2. I am an attorney for Senator Lisa Murkowski, and I have personal  
 22. knowledge of the facts set forth below.

23. 3. Plaintiff Joe Miller was the Republican Party candidate for U.S. Senator in  
 24. Alaska's 2010 general election. Senator Lisa Murkowski, the incumbent senator, was a

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1. write-in candidate for the office. By the final, but yet-to-be certified count of the Alaska  
2. Division of Elections, Senator Lisa Murkowski defeated Miller by a count of 101,088  
3. votes to 90,760.

4.           4.       During the process for tabulating write-in ballots, the Division of Elections  
5. refused to count 2,016 ballots that Senator Murkowski believes it should have. These  
6. challenged ballots break down into three primary categories. First on some ballots, the  
7. voter wrote Senator Murkowski's name but did not fill in the oval next to the write-in line  
8. on the ballot. On others, the entry on the write-in line shows that the voter intended to  
9. vote for Senator Murkowski, but her name was simply misspelled. And the third primary  
10. group consists of ballots where the oval was filled in and the voter wrote in the nickname  
11. "Lisa M."

12.           5.       Senator Murkowski's current term in the U.S. Senate ends on January 3,  
13. 2011. After eight years of service to the people of Alaska in the Senate, she has she  
14. obtained a seniority status in the upper half of all senators and has earned desirable  
15. committee assignments where she can advance Alaska's interests. Those include being  
16. the ranking member of the Senate Energy and Natural Resources Committee and a  
17. ranking member on a subcommittee of the Senate Appropriations Committee.

18.           6.       Senator Murkowski is due to be sworn in for her new term on January 5,  
19. 2011 with the other members elected in 2010. If she cannot be sworn in on this date,  
20. there are several likely consequences:

21.           a.       Her seat will be vacant, and Alaska will have only one senator.  
22. There are numerous critical issues facing our nation, and Alaska deserves to have full  
23. representation in the United States Senate.

1.                   b.       Senator Murkowski could have a “gap in service,” which could  
2. mean that she could lose her seniority status in the Senate. If she is sworn in after the  
3. other persons elected in 2010, she could plummet from her current seniority rank in the  
4. upper half of the Senate to being behind all other members, i.e. in 100th position.

5.                   c.       Shortly after January 5, 2011, the Senate committees organize and  
6. select chairs and ranking members. The rules of the Republican Conference govern the  
7. process used to select Republican members and leadership of committees. Since only  
8. members of the Senate can be selected, Senator Murkowski, if she is not sworn in as a  
9. member, may not be eligible for re-election as ranking member of the Senate Energy and  
10. Natural Resources Committee (or of any subcommittee on the Appropriations  
11. Committee). The effect on Alaska from the loss of these positions would be very harmful  
12. and could be long lasting.

13.                  7.       Counsel for the state Division of Elections and Lieutenant Governor  
14. Campbell have indicated that they do not object to Senator Murkowski’s intervention in  
15. this matter. However, Mr. Miller’s counsel has indicated that he will object.

16.                  I declare under the penalty of perjury under the laws of the United States of  
17. America that the foregoing is true and correct.

18.                  DATED at Seattle, Washington, this 10th day of December, 2010.

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21. \_\_\_\_\_  
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. March, 2010, the foregoing was electronically  
5. filed with the Clerk of Court using the CM/ECF system, which  
6. will send notification of such filing to the following:

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39. s/Timothy A. McKeever  
40. Timothy A. McKeever

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