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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,)	
)	Case No. 3:10-cv-00252-RRB
Plaintiff,)	
)	
v.)	
)	
LIEUTENANT GOVERNOR MEAD)	
TREADWELL, in his official capacity;)	
and the STATE OF ALASKA,)	
DIVISION OF ELECTIONS,)	
)	
Defendants.)	
_____)	

**NOTICE OF SUPPLEMENTAL FACTS ABOUT THE STATE’S
MOTION TO RE-CONDITION THE PRELIMINARY INJUNCTION**

Defendants Lieutenant Governor Mead Treadwell and the State of Alaska, Division of Elections (“the state”) file this supplement to the state’s motion to re-condition this Court’s injunction preventing certification of Alaska’s seat for United States Senate. Docket #51. These facts occurred after the state filed its motion, and they directly relate to the importance of an order on that motion before the end of the day on Monday, December 13, 2010.

On Friday, December 10, 2010 Superior Court Judge William Carey issued a decision in the state court case, *Miller v. Treadwell*, 1JU-10-1007CI. See Docket # 62. This is the state court case that plaintiff Joe Miller initiated after this Court abstained on the state-law issues originally raised in this case. See this Court's order of November 19, 2010, Docket #39.

As explained in the accompanying affidavit, after Judge Carey issued his decision, the Alaska Clerk of the Appellate Courts, Marilyn May, called the attorney who represents the state in the state court litigation, and scheduled a conference call for all counsel in the case for later Friday afternoon. See Affidavit of Joanne Grace, ¶ 3. The purpose of the call was to inform the parties of the schedule that the Alaska Supreme Court intends to set for an appeal in the case, if one is filed. *Id.* at 5. The tight briefing and argument deadlines are necessary to accommodate the Alaska Supreme Court justices, who are willing to work the election appeal into their already busy December argument week. *Id.*

Ms. May informed the parties that the court would impose the following deadlines for an appeal:

Notice of Appeal due Monday, December 13th

Appellant's brief due at noon on Tuesday, December 14th

Appellee's brief due at 4:30 p.m. Wednesday, December 15th

Reply brief due at noon Thursday, December 16th

Oral Argument at 1:30 on Friday, December 17th

Id.

In its Motion to Re-condition the Preliminary Injunction, the state explained the critical importance of quickly resolving the state court litigation, to give this Court time to decide any remaining federal court issues and lift the injunction before early January. Both the state courts and this Court must move expeditiously in order to prevent irreparable harm to the people of Alaska. The availability of the Alaska Supreme Court to hear the issues on appeal is, of course, an essential element in the equation, and that court has signaled its willingness—and perhaps its limited window of opportunity—to hear the appeal this week.

For this reason, the state respectfully repeats its request that this Court issue an order making the continuance of its preliminary injunction contingent on Mr. Miller filing his appeal in the Alaska Supreme Court by close of business on Monday, December 13, 2010.

DATED December 13, 2010.

RICHARD A. SVOBODNY
ACTING ATTORNEY GENERAL

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Certificate of Service

The undersigned hereby certifies that on the 13th day of December, 2010, a true and correct copy of the above document, Notice of Supplemental Facts Regarding the State's Motion to Re-Condition the Preliminary Injunction was served via electronic mail on the following:

- Thomas Van Flein, Esq.
- Michael T. Morley, Esq.
- Scott Kendall
- Timothy McKeever

By: /s/ Margaret Paton-Walsh