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9 **UNITED STATES DISTRICT COURT**
 10 **DISTRICT OF ALASKA**

11	JOE MILLER,)	
12)	Civil Action No:
13)	
14	<i>Plaintiff,</i>)	3:10-cv-252 (RRB)
15)	
16	v.)	
17)	
18	LIEUTENANT GOVERNOR CRAIG)	
19	CAMPBELL, in his official capacity;)	
20	and the STATE OF ALASKA,)	
21	DIVISION OF ELECTIONS,)	
22)	
23	<i>Defendants.</i>)	
24	_____)	

25 **PLAINTIFF JOE MILLER’S OPPOSITION TO DEFENDANTS’**
 26 **AMENDED MOTION TO LIFT STAY AND ESTABLISH AN EXPEDITED**
 27 **SCHEDULE FOR BRIEFING ANY REMAINING FEDERAL ISSUES**

28 Plaintiff Joe Miller respectfully asks this Court to deny Defendants’ Amended Motion
 29 to Lift Stay and Establish an Expedited Briefing Schedule. It would be inappropriate to lift the
 30 stay or impose a briefing schedule for Plaintiff Miller’s federal case before the Alaska Supreme
 31 Court issues its ruling, for numerous reasons. *First*, the State’s schedule pre-supposes that the
 32 Alaska Supreme Court will issue an oral ruling on Friday, something that the clerk’s office did

33 Plaintiff Joe Miller’s Opposition to Defendants’ Amended Motion to Lift Stay
 34 *Miller v. Campbell*, Case No. 3:10-CV-252 (RRB)
 35 Page 1 of 4
 36

1 not suggest would occur. It is entirely possible that the court could take the weekend, or even
2 possibly longer, to consider these issues. Attempting to draft dispositive briefs in this Court
3 without the benefit of the Alaska Supreme Court’s ruling, would be a pointless and time-
4 consuming endeavor, requiring the parties to speculate as to each conceivable ruling the Court
5 could issue and address it.

6 **Second**, entry of a briefing schedule in this Court would unfairly prejudice Plaintiff
7 Miller by appearing, to both the Alaska Supreme Court itself and the general public, to suggest
8 or assume that this Court believes the supreme court will rule against him on all counts. In
9 their Motion to Dismiss for Lack of Subject-Matter Jurisdiction or, In the Alternative, to
10 Abstain (hereafter, “Abstention Motion”), Defendants argued, “The eventual outcome of an
11 Alaska Supreme Court decision on whether [the] Division is properly interpreting Alaska Stat.
12 § 15.15.010 and state election law is uncertain for abstention purposes.” Abstention Motion at
13 13. Thus, this court should not consider a briefing schedule in this case unless and until the
14 state court proceedings are concluded.

15
16 **Third**, in its November 19 ruling, this Court held that state-law issues are integral to
17 several of Plaintiff Miller’s federal claims. *See* Order of Nov. 19, at 4. Imposing a briefing
18 schedule in the instant case before the Alaska Supreme Court even rules on those state-law
19 issues—particular a schedule that may require one or more of the parties to file their briefs
20 before its ruling is available—would suggest a lack of comity and respect for the state
21 judiciary. *See Mun. of Anchorage v. Alaska*, 393 F. Supp. 958, 963 (D. Ak. 2005) (discussing
22

1 the importance of comity and deference to state courts where the same state-law issues are
2 pending concurrently in a state and federal court).

3 **CONCLUSION**

4 For these reasons, Plaintiff Miller respectfully requests that this Court deny Defendants'
5 Amended Motion to Lift the Stay and Establish an Expedited Briefing Schedule. In the event
6 the Alaska Supreme Court does issue a ruling adverse to Plaintiff Miller at some point, Plaintiff
7 Miller respectfully requests a minimum of three full business days from the date that court's
8 written opinion is available to make an appropriate filing in this Court.

9
10 Dated this 13th day of December, 2010.

11 Respectfully submitted,

12
13 /s/ Thomas V. Van Flein
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1 Certificate of Service:

2 The undersigned hereby certifies that a true
3 and exact copy of the foregoing was served
4 this 13th day of December 2010 via:

- 4 () First Class Mail
5 () Hand-Delivery
6 () Facsimile
7 () E-Mail
8 (X) ECF

9 to the following listed individual(s):

10 Michael Barnhill
11 Sarah Felix
12 Margaret Paton-Walsh
13 Timothy McKeever
14 Scott Kendall

15 By: /s/ Thomas V. Van Flein
16 Thomas V. Van Flein