

IN THE SUPREME COURT OF THE STATE OF ALASKA

LA QUEN NÁAY ELIZABETH MEDICINE
CROW, AMBER LEE, and KEVIN MCGEE,
Appellants,

v.

DIRECTOR CAROL BEECHER, in her official
capacity, LT. GOVERNOR NANCY
DAHLSTROM, in her official capacity, and the
STATE OF ALASKA, DIVISION OF
ELECTIONS,

Appellees,

v.

DR. ARTHUR MATHIAS, PHILLIP IZON, and
JAMIE R. DONLEY,
Intervenor Appellees.

Supreme Court Case No. S19182

Superior Court Case No. 3AN-24-
05615CI

ON APPEAL FROM THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE
THE HONORABLE CHRISTINA A. RANKIN, PRESIDING

**BRIEF OF AMICUS CURIAE ALASKA
FEDERATION OF NATIVES IN SUPPORT OF APPELLANTS**

Thomas P. Amodio (AK#8511142)
REEVES AMODIO LLC
500 L Street, Suite 300
Anchorage, AK 99501
(907) 222-7104
tom@reevesamodio.com

Attorney for Amicus Alaska Federation of Natives

Filed in the Alaska Supreme Court
this ____ day of August 2024.

Meredith Montgomery, Clerk

By: _____
Deputy Clerk

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
STATEMENT OF INTEREST OF AMICUS.....	1
PRELIMINARY STATEMENT	1
ARGUMENT.....	6
I. Initiative 2 is a natural fit for Alaska given the state’s tradition of independence in voting and other particular characteristics.	6
II. This Court should closely scrutinize, and ultimately disallow, this premature effort to undo Initiative 2.	9
CONCLUSION	14

TABLE OF AUTHORITIES

Cases	Page(s)
<i>Dudum v. Arntz</i> , 640 F.3d 1098 (9th Cir. 2011)	7
<i>Kohlhaas v. State</i> , 518 P.3d 1095 (Alaska 2022).....	2, 4, 10
Statutes and Regulations	
AS 15.45.140(a).....	12
6 AAC 25.240(c)	12
Legislative Materials	
Alaska State Legislature: House Judiciary Standing Committee (May 11, 2023), https://www.akleg.gov/PDF/33/M/HJUD2023-05-111357.PDF	10
Alaska State Legislature: House State Affairs Standing Committee (May 2, 2023), https://www.akleg.gov/PDF/33/M/HSTA2023-05-021507.PDF	10
Alaska State Legislature: House State Affairs Standing Committee (May 9, 2023), https://www.akleg.gov/PDF/33/M/HSTA2023-05-091509.PDF	10
<i>Bill History/Action for Legislature: HB 4</i> , Alaska State Legislature (last accessed Aug. 5, 2024), https://perma.cc/Y6RW-6ALC	10
Rep. Sarah Vance, <i>Sponsor Statement: HB4 Elections; Repeal Rank Choice/Open Primary</i> (last accessed Aug. 5, 2024), https://www.akleg.gov/basis/get_documents.asp?session=33&docid=26838	10
Other Authorities	
<i>Alaska Native Peoples</i> , Alaska Federation of Natives (last accessed Aug. 5, 2024), https://perma.cc/RCT7-QKRD	8
Deb Otis, <i>Analysis From Alaska’s RCV Elections in November 2022</i> , FairVote (Dec. 23, 2022), https://perma.cc/6KSC-C9GT	8

Elin Johnson, <i>Native Groups Endorse Preservation of Open Primaries, Ranked-Choice Voting</i> , Cordova Times (Dec. 13, 2023), https://perma.cc/K6W7-8QK6	9
Get Out the Native Vote & Ship Creek Group, <i>Open Primaries in Alaska Native Communities</i> (July 2024), https://perma.cc/YSX7-WWFX	8, 9
James Brooks, <i>Ranked-Choice Repeal Measure Awaits Signature Count After Alaska Judge’s Ruling</i> , Alaska Beacon (July 19, 2024), https://perma.cc/Q2GH-MZEL	11
Jeannette Lee & Jay Lee, <i>Nonpartisan Open Primaries Let Alaskans Choose Values Over Party</i> , Sightline Institute (Apr. 3, 2024), https://perma.cc/7VKV-HUBC	6
Matt Acuña Buxton, <i>AFN Passes Resolution Opposing Repeal of Open Primaries, Ranked-Choice Voting</i> , Alaska Current (Oct. 23, 2023), https://perma.cc/HE3B-K5VV	9
<i>Political Parties and Groups in Alaska</i> , Div. of Elections: State of Alaska (last updated July 17, 2024), https://perma.cc/Q5BS-WRWF	6
Rachel Leven & Tyler Fisher, <i>Alaska’s Election Model</i> , Unite America Institute (Oct. 2023), https://docsend.com/view/hmamd934tzjtt22	7, 8
Ryan Williamson, <i>Evaluating the Effects of the Top-Four System in Alaska</i> , R Street (Jan. 2023), https://perma.cc/S5UN-3DWL	8
Sara Swann, <i>Alaska Voters Enacted Ranked Choice Voting. Why Do Some People Want to Change That?</i> , Poynter (June 18, 2024), https://perma.cc/QV5T-GPV9	3, 7
<i>Voters by Party and Precinct</i> , Div. of Elections: State of Alaska (July 3, 2024), https://www.elections.alaska.gov/statistics/2024/JUL/VOTERS%20BY%20PARTY%20AND%20PRECINCT.pdf	6

STATEMENT OF INTEREST OF AMICUS

The Alaska Federation of Natives (“AFN”) is a statewide, nonprofit organization representing hundreds of thousands of Alaska Natives—descendants of the original inhabitants of the State of Alaska. Its membership includes 177 federally recognized tribes, 154 village corporations, 9 regional corporations, and 9 regional nonprofit and tribal consortiums. For more than 50 years, AFN has been the principal forum and voice of Alaska Natives in addressing critical public-policy issues that affect the cultural and economic well-being of Native peoples and villages.

AFN’s mission is to enhance and promote the cultural, economic, and political voice of the entire Alaska Native community. The present lawsuit deals with whether ballot measure 22AKHE, which would repeal Alaska’s present system of open primaries and ranked-choice voting, may be allowed to appear on the ballot for the 2024 general election. If this repeal is enacted, it will hinder AFN’s mission. The open primary and ranked-choice voting give all Alaskans, including Alaska Natives, more choice in their representation and a greater voice in government. They offer more opportunities for Alaska Natives to run for public office and get elected. And they allow Native peoples, who disproportionately hold “crossover” voting preferences, to express those preferences in a way that is more accurately reflected in their ballots. AFN thus submits this brief in support of Appellants.

PRELIMINARY STATEMENT

In November 2020, Alaskans voted in favor of a ballot measure known as Initiative 2 that made two significant, welcome reforms to the state’s election laws that are relevant

here.¹ First, Initiative 2 repealed the existing party-primary system “in favor of an open primary for state legislative, state executive, and federal congressional offices, with the top four candidates advancing to the general election.”² Next, the measure created a system of ranked-choice voting for the general-election stage, which “permits voters to rank candidates for each office in order of preference and instructs the Division of Elections [‘Division’] to tabulate these preferences in a series of rounds.”³ As this Court has described that system, ballots are initially tabulated as votes for the highest-ranked candidate; if after that tabulation “one candidate has more than half of the votes, voting is complete and that candidate is declared the winner.”⁴ If no candidate obtains more than half the votes, the candidate with the fewest votes is eliminated; each ballot initially counted for that candidate is reassigned to that voter’s second choice; and this process repeats in a series of rounds until one candidate has a majority of the remaining votes.⁵

Even though only one full election cycle has been completed under Initiative 2, in 2022, the results have already shown it to be enormously positive. It has benefited independent-minded voters—of whom Alaska has the highest percentage of any state in the nation—by allowing them to better express their political preferences and increase their voting power. It has benefited the roughly one in five members of Alaska’s general population who are Native, who display significantly higher rates of crossover voting than

¹ The measure also enacted positive reforms dealing with the problem of “dark money” through increased requirements for the disclosure of political fundraising sources.

² *Kohlhaas v. State*, 518 P.3d 1095, 1101 (Alaska 2022).

³ *Id.* at 1102 (citing AS 15.15.350(c)–(e); AS 15.15.360(a)(1)).

⁴ *Id.* (citing AS 15.15.350(d)).

⁵ *See id.* (citing AS 15.15.350(d)).

the population at large. And it has benefited *all* of Alaska's citizens by measurably raising the level of competitiveness in Alaska's elections, giving each voter an increased ability to cast a meaningful ballot.

The results speak for themselves, showing a diversity of choices and a shift in responsiveness, as candidates have realized they must now persuade voters to support them, rather than relying on their party affiliation to carry them through. For example, in 2022, Alaskans used the new system to elect conservative Republican Mike Dunleavy to the governor's office, moderate Republican Lisa Murkowski to the U.S. Senate, and Democrat Mary Peltola as the first Alaska Native to be elected to U.S. Congress. Republican Cathy Giessel, who currently serves as majority leader in Alaska's state senate, has said that she changed the way she campaigned as a result of the reform and that it caused her to meet and gain the support of a wider coalition of voters.⁶ Similarly, the reforms have also served to encourage coalition governance. For example, in Alaska Senate District D, Jesse Bjorkman, a moderate Republican, defeated the more conservative Tuckerman Babcock in a three-way race in 2022, and subsequently joined a bipartisan coalition of senators who held the majority in the Alaska state senate.

Not everyone was happy about this voter-friendly reform, however. Before the ink was even dry on Initiative 2, it came under attack on multiple fronts. Opponents of Initiative 2 challenged its constitutionality in court, but this Court rejected those

⁶ Sara Swann, *Alaska Voters Enacted Ranked Choice Voting. Why Do Some People Want to Change That?*, Poynter (June 18, 2024), <https://perma.cc/QV5T-GPV9>.

challenges.⁷ Legislation was introduced to repeal it in the legislature’s 2023–24 sessions, but that legislation was not enacted before the legislature adjourned at the close of those sessions. And, in November 2022, an application was filed for the ballot measure at issue here, 22AKHE, which if enacted would repeal the open primary and ranked-choice voting and restore the previous system. As the record before the court below reflected, there were many irregularities associated with the circulation process and ultimate determination by the Division that the measure could appear on the ballot for this coming November 2024 general election. Nevertheless, on March 8, 2024, the Division notified 22AKHE’s individual sponsors (the “Sponsors”) that it had determined that the measure was properly filed and would appear on the general-election ballot.⁸

Appellants brought the present lawsuit on April 2, 2024, against the Division and other individual state officials. Appellants contended that the Division’s conclusion that the measure was properly filed was error and that the measure should not be permitted to appear on the November 2024 ballot based on deficiencies with the Sponsors’ signature-collecting methods and the Division’s review process.⁹ The Sponsors also intervened as defendants in this action.¹⁰ Ultimately, the Superior Court entered judgment against Appellants and ruled that 22AKHE could remain on the ballot.¹¹ But in doing so, the court acknowledged that numerous serious irregularities plagued the 22AKHE campaign. These

⁷ See generally *Kohlhaas*, 518 P.3d 1095.

⁸ Order re Summary Judgment at 8–9 (June 7, 2024).

⁹ See generally Complaint for Injunctive and Declaratory Relief (Apr. 2, 2024).

¹⁰ See Order Granting Intervention (Apr. 22, 2024).

¹¹ Final Judgment at 2 (July 24, 2024).

included, most notably, repeated instances of circulators leaving petition booklets entirely unattended, raising serious questions about whether the voters who signed those booklets in fact understood what they were signing, and making clear that the circulators of those booklets could not truthfully affirm “that the signatures were made in the circulator’s actual presence” as is required.¹² They also included other instances where circulators violated the statutory requirement that they be the “only circulator of that petition” by sharing signature booklets with other individuals.¹³

The court invalidated the signatures affected by these and other issues, but it was unwilling to conclude that these and other serious problems with the method used by the Sponsors to obtain the necessary amount of signatures brought the legitimacy of the entire operation into question. In reviewing this appeal, however, AFN strongly urges this Court to carefully review the many questions raised by this unusual and troubled effort to undo the choice Alaska voters made just a few years ago. Initiative 2 was not only the choice of the voters, but it has also brought numerous benefits to the state by enabling a more representative democracy that better reflects the choices and preferences of Alaska’s voters. Before 22AKHE may be permitted on the ballot, the courts should be confident that Alaska law has been followed and that corners were not cut in this effort to so quickly undermine the recently expressed will of the electorate.

¹² Findings of Fact and Conclusions of Law at 74, 84–87 (July 19, 2024) (quoting AS 15.45.130(3)).

¹³ *Id.* at 74, 81–84 (quoting AS 15.45.130(2)).

ARGUMENT

I. Initiative 2 is a natural fit for Alaska given the state’s tradition of independence in voting and other particular characteristics.

Alaska has a proud tradition of independent-mindedness in its citizens’ approach to voting and elections. The state has four recognized political parties, three limited political parties, and eleven organized political groups.¹⁴ Alaska also currently “has the highest percentage of independent voters in the nation.”¹⁵ As of last month, only 36% of registered voters in Alaska were registered with either the Alaska Democratic or Republican Parties, leaving a full 64% identified as either nonpartisan, undeclared, or affiliated with one of the state’s other political parties.¹⁶

Against this background, Initiative 2’s adoption of an open primary and ranked-choice voting was a natural fit for Alaska. Its reforms serve the interests of independent voters in both primary and general elections.¹⁷ In a closed party-primary system, independent voters have no influence over who will become the nominees of the two major parties. Under Alaska’s open-primary system, by contrast, independent voters have an equal say to any other voter in determining which four candidates advance to the general

¹⁴ See *Political Parties and Groups in Alaska*, Div. of Elections: State of Alaska (last updated July 17, 2024), <https://perma.cc/Q5BS-WRWF>.

¹⁵ Jeannette Lee & Jay Lee, *Nonpartisan Open Primaries Let Alaskans Choose Values Over Party*, Sightline Institute (Apr. 3, 2024), <https://perma.cc/7VKV-HUBC>.

¹⁶ *Voters by Party and Precinct*, Div. of Elections: State of Alaska (July 3, 2024), <https://www.elections.alaska.gov/statistics/2024/JUL/VOTERS%20BY%20PARTY%20AND%20PRECINCT.pdf>.

¹⁷ This brief uses “independent voters” or “independent legislators” as shorthand for anyone who is identified as nonpartisan, undeclared, or affiliated with one of the Alaska’s political parties other than the Republicans or Democrats.

election. Similarly, in a plurality-voting general election, voters whose first preference is not a Republican or Democrat are often forced to choose between voting for the candidate who they actually support and casting a vote that has any realistic chance of affecting the outcome. In contrast, as the Ninth Circuit has put it, in ranked-choice voting systems, voters “are more free to vote their true preferences, because they face less of a threat of having their votes entirely ‘wasted’ on unsuccessful candidates.”¹⁸

The 2022 election cycle demonstrated in practice that Initiative 2 has already brought numerous benefits to Alaskans. For one, the system has in fact empowered independents to better express their preferences and increase their voting power. Indeed, six independent candidates won their elections for the state legislature in 2022, leaving Alaskans with “a larger independent delegation in Juneau than ever before.”¹⁹ With independent legislators representing 10% of the state legislature, Alaska now has “a higher share of independent legislators than any other state.”²⁰ And Initiative 2 has encouraged politicians—including high-profile ones like Alaska’s Senate Majority Leader—to have more conversations with a wider coalition of voters, building stronger and more diverse support for the major-party candidates who win their elections as well.²¹

Initiative 2 has also better served *all* voters by measurably increasing the level of competitiveness in Alaska’s elections. In a poll taken immediately after the 2022 elections,

¹⁸ *Dudum v. Arntz*, 640 F.3d 1098, 1105 (9th Cir. 2011).

¹⁹ Rachel Leven & Tyler Fisher, *Alaska’s Election Model 15*, Unite America Institute (Oct. 2023), <https://docsend.com/view/hmamd934tzjjt22>.

²⁰ *Id.*

²¹ Swann, *supra* note 6.

60 percent of Alaskans reported believing that the 2022 elections were more competitive than other recent elections.²² The results themselves further confirm this impression. In 2022, 32.5% of Alaska state house races were won by fewer than 10 percentage points—a full 44% increase over the state’s rate in 2020 and the second-highest rate in the country.²³ And, for statewide and legislative races, an average of 2.39 candidates reached the general election, a total that was 16% higher than in any of the three previous election cycles.²⁴ Competitive elections serve all citizens’ interests by enhancing the probability that each voter has the opportunity to cast a ballot that meaningfully affects the result. Initiative 2 has demonstrably advanced this interest. The data further show that Alaskans easily transitioned to the new system, as an analysis of the November 2022 elections found that 99.9% of voters cast valid ballots across all races that employed ranked choice voting in Alaska.²⁵

Finally, Initiative 2 is especially beneficial for Alaska’s Native population. A full 18% of Alaska’s population is American Indian or Alaska Native, which is the highest percentage in any state.²⁶ A study of voting behavior in the 2022 Alaska open primary demonstrated this by looking at the prevalence of “crossover voting”—that is, voting for candidates who would otherwise have been on separate primary ballots. It concluded that

²² Ryan Williamson, *Evaluating the Effects of the Top-Four System in Alaska* 3, R Street (Jan. 2023), <https://perma.cc/S5UN-3DWL>.

²³ Leven & Fisher, *supra* note 19, at 14.

²⁴ *Id.* at 13.

²⁵ Deb Otis, *Analysis From Alaska’s RCV Elections in November 2022*, FairVote (Dec. 23, 2022), <https://perma.cc/6KSC-C9GT>.

²⁶ *Alaska Native Peoples*, Alaska Federation of Natives (last accessed Aug. 5, 2024), <https://perma.cc/RCT7-QKRD>.

nearly 80% of voters in predominantly Alaska Native communities were crossover voters, compared to just under half of the population at large.²⁷ In other words, almost four out of five of these voters “voted in ways that would be impossible in a closed primary system,” and Initiative 2 alone allowed them to express those preferences.²⁸ The 2022 cycle also featured the historic election of Mary Peltola as the first Alaska Native chosen for the U.S. Congress. In light of these and other factors, numerous Native groups have expressed their enthusiastic support for keeping Initiative 2. AFN, for example, adopted a resolution at its 2023 annual convention endorsing the preservation of the open primary and ranked-choice voting system because, among other reasons, they provide “more opportunities for Alaska Natives to run for public office and get elected.”²⁹ The Alaska Native Brotherhood and Alaska Native Sisterhood have also made similar endorsements.³⁰

II. This Court should closely scrutinize, and ultimately disallow, this premature effort to undo Initiative 2.

Despite all these many benefits, some want to turn back the clock and prematurely cut short Alaska’s successful experiment. Since its passage in November 2020, Initiative 2 has been under near-constant attack.

First, in the month immediately following its enactment, a group of plaintiffs filed a suit in which they brought a series of claims challenging the measure’s constitutionality.

²⁷ Get Out the Native Vote & Ship Creek Group, *Open Primaries in Alaska Native Communities* 15 (July 2024), <https://perma.cc/YSX7-WWFX>.

²⁸ *Id.*

²⁹ Matt Acuña Buxton, *AFN Passes Resolution Opposing Repeal of Open Primaries, Ranked-Choice Voting*, Alaska Current (Oct. 23, 2023), <https://perma.cc/HE3B-K5VV>.

³⁰ Elin Johnson, *Native Groups Endorse Preservation of Open Primaries, Ranked-Choice Voting*, Cordova Times (Dec. 13, 2023), <https://perma.cc/K6W7-8QK6>.

This Court rejected that effort, holding that the plaintiffs in that action had not “carried their burden to show that the Alaska Constitution prohibits the election system Alaska voters have chosen.”³¹ Legislation was also introduced in the legislature that would have repealed Initiative 2’s provisions relating to open primaries and ranked-choice voting, but that legislation failed to be enacted before the legislature adjourned at the end of its most recent session.³² Notably, when Alaska’s House State Affairs and House Judiciary Committees held public testimony on this legislation, significantly more people testified in opposition to Initiative 2’s repeal than in favor of it at each of the three hearings on it, with margins running as high as three-to-one opposed at one hearing.³³

Then there is the initiative at issue here, designated as 22AKHE, which too would repeal the use of an open primary system and ranked-choice voting for the general election. The initiative’s sponsors filed the application for 22AKHE mere weeks after the 2022 general election.³⁴ The act of seeking to repeal a law recently passed by initiative through another, successive initiative is itself deeply anomalous.

³¹ *Kohlhaas*, 518 P.3d at 1100.

³² See, e.g., Rep. Sarah Vance, *Sponsor Statement: HB4 Elections; Repeal Rank Choice/Open Primary* (last accessed Aug. 5, 2024), https://www.akleg.gov/basis/get_documents.asp?session=33&docid=26838; *Bill History/Action for Legislature: HB 4*, Alaska State Legislature (last accessed Aug. 5, 2024), <https://perma.cc/Y6RW-6ALC>.

³³ See Alaska State Legislature: House State Affairs Standing Committee (May 2, 2023), <https://www.akleg.gov/PDF/33/M/HSTA2023-05-021507.PDF>; Alaska State Legislature: House State Affairs Standing Committee (May 9, 2023), <https://www.akleg.gov/PDF/33/M/HSTA2023-05-091509.PDF>; Alaska State Legislature: House Judiciary Standing Committee (May 11, 2023), <https://www.akleg.gov/PDF/33/M/HJUD2023-05-111357.PDF>.

³⁴ See Order re Summary Judgment at 5.

Not only was 22AKHE unusual in its conception, but its signature-gathering process was also marked by numerous, serious irregularities. After conducting fact-finding through a trial, the Superior Court determined that various individuals violated the statutory requirement that they be the “only circulator of that petition” by sharing signature booklets among multiple circulators.³⁵ Others violated the requirement that circulators affirm “that the signatures were made in the circulator’s actual presence” by leaving booklets unattended.³⁶ One circulator, for instance, “testified that she would sometimes leave her petition booklets unattended, that she gave a petition booklet to another individual to gather at least one signature, and that she was unable to identify which petition booklets were not properly circulated.”³⁷ Two other circulators invoked the Fifth Amendment when asked questions about their conduct in circulating the petitions, which the Court found to amount to a failure to reaffirm the accuracy of their certifications.³⁸ On these bases, the Superior Court held that 27 booklets, which collectively had 10 different circulators and contained nearly 3,000 signatures, must be disqualified.³⁹ Despite this alarming and, it appears, quite common behavior among the circulators of 22AKHE, the court was unwilling to find “that there was a pervasive pattern of intentional, knowing, and orchestrated misconduct to warrant invalidating” the initiative petition in its entirety.⁴⁰

³⁵ Findings of Fact and Conclusions of Law at 74, 81–84 (quoting AS 15.45.130(2)).

³⁶ *Id.* at 74, 84–87 (quoting AS 15.45.130(3)).

³⁷ *Id.* at 86.

³⁸ *See id.* at 56, 62, 87–89.

³⁹ *Id.* at 94–95; James Brooks, *Ranked-Choice Repeal Measure Awaits Signature Count After Alaska Judge’s Ruling*, Alaska Beacon (July 19, 2024), <https://perma.cc/Q2GH-MZEL>.

⁴⁰ Findings of Fact and Conclusions of Law at 78.

But the persistent circulator misconduct was not the only concern with the acceptance of the filing. There were other issues with the signature booklets that the Division allowed the Sponsors to revisit, even when doing so flew in the face of statutory deadlines. For example, after 655 petition booklets were submitted on January 12, 2024, the Division returned 64 petition booklets to the Sponsors for correction.⁴¹ It did so despite the fact that Alaska law requires that “[a]ll petition booklets must be filed together as a single instrument” and in the absence of any authority allowing such a piecemeal “cure” procedure.⁴² Even more concerning, the Division accepted corrections to 62 of those booklets *after* two significant deadlines. *First*, the law provides that any petition must be filed “within one year from the time the sponsors received notice from the lieutenant governor that the petitions were ready for delivery to them”; here, that deadline passed on February 7, 2024.⁴³ None of the corrections that the Division accepted were submitted any earlier than February 12, 2024, nearly a week after that deadline.⁴⁴ *Second*, a petition “must be filed before the legislature convenes in order for it to be placed on the next subsequent election ballot”; here, that deadline passed on January 16, 2024.⁴⁵ Without those 62 booklets, the petition could not be certified because it would lack sufficient signatures.⁴⁶

Much of this could have been avoided if the Sponsors had not waited until the absolute last minute available to file their petition so as to get 22AKHE on the 2024

⁴¹ Order re Summary Judgment at 6, 8.

⁴² 6 AAC 25.240(c).

⁴³ AS 15.45.140(a); Order re Summary Judgment at 7.

⁴⁴ Order re Summary Judgment at 7–8.

⁴⁵ *Id.* at 24 (citing AS 15.45.190).

⁴⁶ *Id.* at 9.

general-election ballot. Despite being in such an apparent hurry to get rid of Initiative 2 and having almost a full year from the day they were issued their petition booklets on February 8, 2023, before the legislature convened on January 16, 2024, the Sponsors did not file their petition until the last business day before, on January 12, 2024.⁴⁷ This not only created unnecessary issues related to the “cure” process but also compressed the time available for the Division’s and the courts’ review.

Although the Superior Court held that 22AKHE ultimately qualified for the ballot, both the proceedings below and this broader history make clear that the campaign against Initiative 2 has been deeply irregular and riddled with problems that raise serious questions about its validity. These issues would be concerning under any circumstances, but they are particularly so here, where 22AKHE was submitted for certification so soon after the passage of Initiative 2, for the purpose of undoing that voter-approved reform, and where the irregularities raise real questions as to whether the signature-gathering efforts complied with safeguards meant to ensure that voters appreciate what they are signing. If 22AKHE is approved, moreover, it will undo not only the will of the electorate as expressed only four short years ago, but also all of the significant advances that have followed as a result of its reforms, including a more representative government, more competitive elections, and a stronger voice for independent and Native voters in particular. Against this backdrop, it is more important than ever that the courts carefully scrutinize whether the measure was in fact properly filed, or if the serious questions that Appellants have raised about whether

⁴⁷ *Id.* at 5–6.

22AKHE and the process employed by the Division violate state law counsel in favor of finding that the measure cannot appear on the ballot this November. AFN appreciates the Court taking into consideration its concerns in connection with this matter.

CONCLUSION

For the reasons stated above, the Court should reverse the judgment of the Superior Court and rule that 22AKHE may not appear on the ballot in the 2024 general election.

Dated: August 5, 2024

Respectfully submitted,

/s/ Thomas P. Amodio

Thomas P. Amodio (AK#8511142)

REEVES AMODIO LLC

500 L Street, Suite 300

Anchorage, AK 99501

(907) 222-7104

tom@reevesamodio.com

*Attorney for Amicus Alaska Federation of
Natives*