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* *Motion for admission Pro Hac Vice
forthcoming*

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

MIDNIGHT SUN INDEPENDENCE FUND,)

Plaintiff,)

v.)

NANCY DAHLSTROM, in her official)
capacity as Lieutenant Governor of Alaska;)
CAROL BEECHER, in her official capacity as)
Director of the Alaska Division of Elections;)
and the ALASKA DIVISION OF ELECTIONS,)

Defendants.)

Case No. 3AN-26- CI

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. Plaintiff Midnight Sun Independence Fund files this Complaint for Declaratory and Injunctive Relief against Defendants Nancy Dahlstrom, in her official capacity as Lieutenant

Governor of Alaska; Carol Beecher, in her official capacity as the Director of the Alaska Division of Elections; and the Alaska Division of Elections.

2. Defendants have unduly burdened Alaska voters' right to vote and violated their right to due process as guaranteed by the Alaska Constitution, Article V, Section 1, and Article I, Section 7, respectively, by failing to open and operate numerous absentee in-person voting locations which were advertised as open and operating to accept absentee ballots in the 15 days leading up to and through the November 2026 general election.

JURISDICTION AND VENUE

3. This is a complaint for declaratory and injunctive relief brought under AS 22.10.020(a), (c), and (g). This court has jurisdiction over the parties and over the subject matter of this dispute pursuant to AS 09.05.015(a)(1) and AS 22.10.020(a).

4. Venue is proper in this district under AS 22.10.030 and Alaska Rule of Civil Procedure 3(c) because one or more Defendants have offices in this district and because one or more of Plaintiff's claims arise in this district.

PARTIES

5. Plaintiff Midnight Sun Independence Fund ("Midnight Sun") is an IRS-registered 501(c)(4) nonprofit organization. Its core mission includes educating Alaska voters, particularly voters in rural, predominantly Alaska Native communities in western Alaska, about how to exercise their right to vote and the various options available to them under Alaska law. For example, Midnight Sun provides an online resource to Alaska voters to help them find their election day polling location or their nearest absentee in-person or early voting site. It communicates with Alaska voters through targeted digital ads informing them about the different

methods of voting offered in Alaska, including absentee in-person voting, mail voting, early voting, and election day voting. It also communicates with voters via text message and physical advertising such as signs and banners. And it works with partner organizations around the state with robust field organizing programs aimed at contacting voters in person.

6. Defendant Nancy Dahlstrom is the Lieutenant Governor of Alaska and is sued in her official capacity. She is responsible for the control and supervision of the Alaska Division of Elections, including appointing the Director of the Alaska Division of Elections. AS 44.19.020.

7. Defendant Carol Beecher is the Director of Elections for the State of Alaska Division of Elections (the “Director”) and is sued in her official capacity.

8. Defendant the State of Alaska Division of Elections (the “Division”) is the agency of the executive branch of Alaska responsible for the administration of Alaska’s elections and enforcement of Alaska’s election laws.

STATEMENT OF FACTS AND LAW

I. Alaska’s absentee in-person voting system is an important tool for Alaska voters.

9. Early in-person voting is critical for many Alaska voters to access the franchise. In the 2024 general election, 92,281 Alaskans voted early in-person, over 27% of voters in the State.¹ In the 2022 general election, that number was 47,298, or almost 18% of Alaskans voting in that election.²

¹U.S. Election Assistance Comm’n, *Election Administration and Voting Survey: Alaska Data Brief* (2024), <https://perma.cc/D54F-NHNNK>.

² U.S. Election Assistance Comm’n, *Election Administration and Voting Survey: Alaska Data Brief* (2022), <https://perma.cc/7M7Q-WWGY>.

10. Alaska law provides that, during the 15 days before an election and on Election Day, a qualified voter may vote early in-person through one of two methods, “early voting” or “absentee in-person.”³

11. At early voting locations, the voter’s eligibility is determined at the time they arrive to vote, and their ballot is inserted into the scanner that day.⁴ At absentee in-person locations, the voter completes an absentee envelope with their voted ballot and leaves their envelope and ballot in a ballot box; the ballots are not scanned at the voting location and the envelopes are later reviewed by the Absentee Review Board to confirm eligibility.⁵

12. Each of the five election supervisors’ offices—in Juneau, Anchorage, Fairbanks, Nome, and Wasilla—are automatically considered absentee in-person voting locations.⁶ The Director may designate additional absentee in-person voting locations.⁷ The Director shall supply all absentee in-person voting locations with ballots for all electoral districts in the State and designate absentee voting officials to serve at each location.⁸

³ Alaska Stat. § 15.20.064(a); Alaska Admin. Code tit. 6 § 25.500(a).

⁴ Alaska Stat. § 15.20.064(b)–(c).

⁵ *Absentee and Early Voting*, Alaska Div. of Elections, <https://perma.cc/5CAB-253Y> (last visited Oct. 29, 2026).

⁶ Alaska Admin. Code tit. 6, § 25.500(a).

⁷ Alaska Stat. § 15.20.045(b).

⁸ *Id.*

13. The Director must give notice of the location of designated absentee in-person voting sites at least 45 days before each election.⁹ This includes posting the locations on the Division of Elections' website.¹⁰

14. Absentee in-person voting is crucial for Alaska voters, particularly for those in small rural communities that otherwise have limited access to Election Day in voting. In the 2022 and 2024 general elections, 9,143 and 18,158 Alaska voters utilized absentee in-person voting, respectively.¹¹

II. The Division of Elections' website listed numerous absentee in-person voting sites that have failed to open for the 2026 general election.

15. In advance of the 2026 general election, the Division posted on its website a list of absentee in-person voting locations that would be available to voters in the 15 days leading up to the November 3, 2026 election.¹²

16. However, as of the week of October 19, 2026, at least 18 of the locations designated on the Division's website as open for absentee in-person voting were not in fact operating for Alaska voters. This includes listed locations in the communities of Chignik Bay, Holy Cross, Pilot Station, Goodnews Bay, Ekwok, Mountain Village, Alakanuk, Gambell,

⁹ *Id.* § 15.20.050.

¹⁰ See *Early & Absentee In-Person Voting Locations*, Alaska Div. of Elections, <https://web.archive.org/web/20261027204045/https://www.elections.alaska.gov/avo/> (last visited Oct. 27, 2026).

¹¹ See *Statistics*, Alaska Div. of Elections, <https://perma.cc/EAL4-68JK> (select "2022 General" and "2024 General" from dropdown under *Absentee, Early, and Questioned Ballot Statistics*).

¹² See *Early & Absentee In-Person Voting Locations*, *supra* note 10.

Quinhagak, Manokotak, Chistochina, Kongiganak, Huslia, Pedro Bay, Nanwalek, Napaskiak, Newhalen, and Toksook Bay.¹³

17. In some circumstances, the local officials running the absentee in-person location reported not receiving the necessary materials or information to operate the sites.¹⁴ Other local officials reported that they received the necessary materials from the Division but never received any training on how to operate an absentee in-person voting location.

18. State Senator Bill Wielechowski and Midnight Sun both separately sent letters to the Director on October 23, 2026, informing her of the discrepancy between the absentee in-person voting locations listed on the Division's website and those actually in operation. On October 27, the Director responded to Senator Wielechowski that, of the 18 locations listed in his letter, 12 confirmed to the Division that their site is open to voters, three responded that they no longer planned to open an absentee in-person location, and three have not responded. Midnight Sun has not been able to confirm the information in the Director's October 27 letter, including which locations correspond to the three categories the Director described.

19. As of October 28, 2026, the Division's website listed five absentee in-person voting locations as "temporarily closed": Ekwok, Goodnews Bay, Kongiganak, Mertarvik and Scammon Bay.¹⁵ It provides no information on how "temporary" those closures are. Three other locations—

¹³ See Anna Grffin & Emily Schwing, *In Alaska, Some Early Voting Sites in Rural Villages Have Not Yet Opened*, N.Y. Times (Oct. 24, 2026), <https://www.nytimes.com/2026/10/24/us/alaska-early-voting-sites.html>.

¹⁴ *Griffin & Schwing, supra* note **Error! Bookmark not defined..**

¹⁵ See *Early & Absentee In-Person Voting Locations, supra* note 10.

Chignik Bay, Fort Wainwright and Levelock—were removed from the Division’s website completely since the October 23 letters were sent to the Director.¹⁶

20. In addition, local community members have reported that at least five additional locations not mentioned in either letter—Kwenthluk, Napakiak, Oscarville, Tuntutuliak, and Tununak, all in the Yukon-Kuskokwim Delta region—were not operating as of October 27, 2026, despite their inclusion on the Division’s website as open for absentee in-person voting. These communities and others in the Yukon-Kuskokwim Delta are disconnected from the state’s road system and accessible only by boat or plane. Traveling to Bethel—the nearest community with a confirmed absentee in-person voting site—requires significant advance planning and can be prohibitively burdensome and expensive. Flying to Bethel from Toksook Bay, for example, costs roughly \$450. That is a particularly severe burden in communities like Toksook Bay where the median income is less than \$25,000 annually.

III. The Defendants’ failure to open the designated absentee in-person locations harms Alaska voters and Midnight Sun.

21. Absentee in-person voting is vital for many Alaskans that have limited access to other voting methods. The Defendants’ unannounced closure of numerous absentee in-person voting locations—despite designating these locations 45 days in advance of Election Day, in accordance with their duties under AS 15.20.050, and including them on the Division’s website—

¹⁶ Eric Stone & Hannah Flor, *Some Rural Alaska Absentee Voting Sites Failed to Open Ahead of Midterms*, Alaska Pub. Media (Oct. 27, 2026), <https://perma.cc/PB6K-77R5>; see also *See Early & Absentee In-Person Voting Locations*, Alaska Div. of Elections, <https://web.archive.org/web/20261023010327/https://www.elections.alaska.gov/avo> (last visited Oct. 22, 2026).

forces Alaska voters to undertake significant burdens to exercise their right to vote. For some, these burdens will likely be insurmountable.

22. Many of the locations incorrectly listed on the Division’s website as having an open absentee in-person voting site are in rural precincts with no other early voting or absentee in-person location. Due to their remote locations, those areas now lack meaningful access to in-person absentee voting, in-person early voting, or in-person Election Day voting. “Approximately 82% of Alaska’s communities are not connected to the road system,”¹⁷ and roughly half of Alaska’s precincts are “only accessible by boat or plane.”¹⁸ For example, the town of Nanwalek has no Election Day polling place for the 2026 General Election. Without absentee in-person voting at the Nanwalek Community Center, voters in Nanwalek must travel to Tyonek in order to vote in-person—a trip that can only be made by boat. Some voters in communities along the Kuskokwim River with closed absentee in-person locations may not be able to access their in-person polling place if the river is too high on Election Day.

23. Voters who make the trip to an absentee in-person voting location—sometimes over great distances in bad weather—in reliance on the Division’s website only to find that absentee voting is in fact unavailable will be forced to travel a second or third time to vote. For many, the cost and burden of making this additional trip will be prohibitive.

24. Voting by mail is an inadequate alternative for voters who do not have access to reliable mail service. Indeed, even the State of Alaska has acknowledged in briefing before the

¹⁷ Am. Soc’y of Civ. Eng’rs, *Alaska 2025 Report*, 2025 Report Card for Am.’s Infrastructure (2025), <https://infrastructurereportcard.org/state-item/alaska/>.

¹⁸ U.S. Election Assistance Comm’n, *The State of Alaska Div. of Elections Election Official Training - Television Broadcast 1* (2020), <https://perma.cc/JK5K-8T8J>.

U.S. Supreme Court that “mail delivery isn’t guaranteed for remote areas of Alaska” due to the “bad weather and unreliable or nonexistent weather reporting” that are frequent issues in the state.¹⁹ Furthermore, many voters may not realize they need to vote by mail until it is too late to return a ballot in time, believing—in reliance upon the Division’s designations and the locations listed on its website—that they can vote at an absentee in-person location that is in fact closed.

25. Midnight Sun has invested significant resources into encouraging voters to vote as early as possible using absentee in-person voting. It purchased banners encouraging voters in rural communities to vote early or absentee in-person, listing the times and places where those forms of voting would be offered. And it relied on the Alaska Division of Elections’ website to identify those hours and locations and made sure that the banners were prominently displayed in small rural communities, particularly in western Alaska.

26. Because of the Division of Elections’ failure to operate the absentee in-person locations advertised on its website, the information it has been providing to voters is no longer accurate. This has produced a last-minute scramble to ascertain which absentee in-person voting sites are actually operating so that it can provide accurate information to voters.

27. Midnight Sun has ramped up its efforts to communicate with affected voters and educate them about alternative ways to cast their ballot. This is made difficult, however, by the lack of reliable information coming from the Division of Elections. Midnight Sun has had to devote significant time and resources to working with partners on the ground to understand the shifting landscape of closures, limited hours, and minimal (or misleading) information.

¹⁹ Br. of Amicus Curiae State of Alaska in Supp. of Neither Party at 4, *Watson v. Republican Nat’l Comm.*, No. 24-1260 (U.S. Jan. 9, 2026), <https://perma.cc/6YD7-QU7K>.

28. Since Midnight Sun sent its letter to Director Beecher on October 23, the Division has updated its website to remove some sites and note that others are “temporarily closed.” Still, however, the information on the website is not consistent with the reports Midnight Sun is receiving from the field.

29. Midnight Sun has explored purchasing “care packages” of fax machines and Starlink satellite internet routers to send to affected communities where absentee in-person voting is unexpectedly unavailable. But even this effort has been hindered by the lack of reliable information coming from the Division of Elections. Because of the ever-changing landscape of absentee in-person voting sites and numerous discrepancies between the information provided by the Division and reporting from individuals on the ground, it is impossible to know which communities to prioritize when sending these care packages. Midnight Sun is thus forced to make critical decisions about the allocation of its limited resources without reliable information.

30. These unanticipated challenges have severely hampered Midnight Sun’s ability to execute its mission of educating, protecting, and turning out voters in rural communities. It has had to take time and resources away from its planned and critical activities, including contacting low propensity voters and encouraging them to vote.

31. Moreover, the confusion created by the Division of Elections will discourage some voters from heading to the polls at all. When voters receive incomplete, conflicting, or simply wrong information, they lose trust in the electoral process and become less likely to vote. This is all the more problematic for voters who plan and make the effort to vote at an absentee in-person voting site only to find that site is not available when they get there; it is difficult for voters to turn

out multiple times in a single election in the hopes that they will eventually be able to successfully cast a ballot.

CAUSES OF ACTION

COUNT I

Violation of Article V, Section 1: Right to Vote

32. Plaintiff realleges and incorporates by reference all prior paragraphs of this Complaint as if fully set forth herein.

33. Article V, Section 1 of the Alaska Constitution ensures the right of qualified voters to vote in any state or local election.

34. When an election practice is challenged under the Alaska Constitution, courts apply “a flexible test: as the burden on constitutionally protected rights becomes more severe, the government interest must be more compelling and the fit between the challenged legislation and the [S]tate’s interest must be closer.”²⁰

35. While Alaska courts employ a similar version of the well-established federal *Anderson-Burdick* balancing test for right-to-vote claims, they also recognize that “Alaska’s constitution is *more* protective of rights and liberties than is the United States Constitution.”²¹

36. “[T]he right of the citizens to cast their ballots . . . is one of the fundamental prerogatives of citizenship.”²²

²⁰ *State v. Arctic Vill. Council*, 495 P.3d 313, 321–22 (Alaska 2021).

²¹ *Id.* at 321 (quoting *State, Div. of Elections v. Green Party of Alaska*, 118 P.3d 1054, 1060 (Alaska 2005)).

²² *Id.*

37. “The accessibility, prominence, facilities, and prior notice of [a] polling place’s location all have an effect on a person’s ability to exercise his franchise.”²³

38. The right of Alaskans to vote is unconstitutionally burdened by Defendants’ failure to open absentee in-person voting locations, despite their previous designation and inclusion on the Division’s website as locations available to voters. The continued closure of the listed absentee in-person voting locations will force voters to incur severe costs and burdens to travel to alternative in person voting sites. Other voters will not be able to access in person voting and will likely be disenfranchised.

39. There is no State interest that justifies the burdens imposed by Defendants’ failure to open the absentee in-person voting locations listed on the Division’s website.

40. Even if Defendants were able to identify interests that are “legitimate . . . in the abstract,” they would be insufficient to “justify the burden on the rights of absentee voters guaranteed by article V, section 1 of the Alaska Constitution.”²⁴

COUNT II

Violation of Article I, Section 7: Right to Due Process

41. Plaintiff realleges and incorporates by reference all prior paragraphs of this Complaint as if fully set forth herein.

42. Article I, Section 7 of the Alaska Constitution provides that “[n]o person shall be deprived of life, liberty, or property, without due process of law. The right of all persons to fair and just treatment in the course of legislative and executive investigations shall not be infringed.”

²³ *Perkins v. Matthews*, 400 U.S. 379, 387 (1971).

²⁴ *Arctic Vill. Council*, 495 P.3d at 324–26.

43. The right to Due Process applies where a state action deprives an Alaskan of their right to vote.²⁵

44. “Alaska has a long history of substantive due process jurisprudence” drawing on Article I, Section 7’s counterpart in the Due Process Clause of the United States Constitution.²⁶

45. “Substantive due process focuses on the result of governmental action, not its procedures.”²⁷

46. Multiple federal courts have held that a state violates voters’ substantive due process rights when it tells voters “one thing before the election and change[s] its policy thereafter.”²⁸

47. A state may not constitutionally “induce the voters to vote by this means” and then fail to allow them to cast a ballot. Substantive due process is therefore violated “if two elements are present: (1) likely reliance by voters on an established election procedure and/or official pronouncements about what the procedure will be in the coming election; and (2) significant disenfranchisement that results from a change in the election procedures.”²⁹

48. Defendants violated substantive due process because (1) voters relied on the Division’s website—an “official pronouncement[] about what the procedure will be in the coming

²⁵ See, e.g., *In re 2021 Redistricting Cases Matanuska-Susitna Borough*, 528 P.3d 40, 58 (Alaska 2023) (noting that “courts in other jurisdictions have found Due Process violations if state action ‘seriously undermine[s] the fundamental fairness of the electoral process’”) (citation omitted).

²⁶ *Matter of Mabel B.*, 485 P.3d 1018, 1024 (Alaska 2021).

²⁷ *Id.*

²⁸ *Scheer v. City of Miami*, 15 F. Supp. 2d 1338, 1344 (S.D. Fla. 1998)

²⁹ *Griffin v. Burns*, 570 F.2d 1065, 1074 (1st Cir. 1978); *Bennett v. Yoshina*, 140 F.3d 1218, 1226–

²⁷ (9th Cir. 1998); see also *In re 2021 Redistricting Cases*, 528 at 58 (noting that “courts in other jurisdictions have found Due Process violations if state action ‘seriously undermine[s] the fundamental fairness of the electoral process’”) (citation omitted).

election”—in deciding how, when, and where to cast their vote; and (2) Defendants’ change of course is likely to result in “significant disenfranchisement.”³⁰

I. PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in its favor and against Defendants, and:

- A. Declare that Defendants’ failure to open and operate the absentee in-person voting locations listed on the Division’s website as of the week of October 19, 2026, violates the Right to Vote and Right to Due Process under the Alaska Constitution;
- B. Grant immediate, preliminary, and permanent injunctive relief requiring Defendants to open and operate each of the absentee in-person voting locations listed on the Division’s website as of the week of October 19, 2026;
- C. Award Plaintiff its costs, disbursements, and reasonable attorneys’ fees incurred in bringing this action pursuant to AS 09.60.010 and any other applicable laws; and

Grant such other and further relief as the Court deems just and proper.

DATED this 29th day of October, 2026 at Anchorage, Alaska.

REEVES AMODIO, LLC

By: /s/ Thomas P. Amodio
Thomas P. Amodio
Alaska Bar No. 8511142

By: /s/ Kevin M. Boots
Kevin M. Boots
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³⁰ *Bennett*, 140 F.3d at 1226–27.

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CERTIFICATE OF SERVICE

I certify that the foregoing was served
upon the following parties by email and U.S. Mail
this 29 day of October, 2026 to the following:

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