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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

ALASKANS FOR MARY, 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

PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Pursuant to Alaska Statute 09.40.230 and Alaska Rule of Civil Procedure 65(b), Plaintiff Alaskans for Mary moves for a temporary restraining order and preliminary injunction. As set

forth in its memorandum in support of this motion, Plaintiff is entitled to a temporary restraining order and preliminary injunction requiring Defendants Nancy Dahlstrom, in her official capacity as Lieutenant Governor of Alaska; Carol Breeacher, in her official capacity as Director of the Alaska Division of Election; and the Alaska Division of Elections to produce copies of the requested public records in electronic format to Plaintiff or make the public records available to Plaintiff to inspect and copy without further delay.

This motion is supported by the memorandum in support and proposed order. Given the urgency of this matter, Plaintiff respectfully requests that expedited consideration is granted, that a temporary restraining order is issued immediately, and that a hearing on the motion for preliminary injunction is set prior to the expiration of the TRO.

DATED this 6th day of November, 2026 at Anchorage, Alaska.

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CERTIFICATE OF SERVICE
I certify that the foregoing was served upon the following parties by email and US Mail this 6th day of November, 2026 to the following:

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ALASKANS FOR MARY, 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-

MEMORANDUM IN SUPPORT OF PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Plaintiff Alaskans for Mary moves for a temporary restraining order and preliminary injunction requiring Defendants Nancy Dahstrom, in her official capacity as Lieutenant Governor of Alaska, Carol Beecher, in her official capacity as Director of the Alaska Division of Elections,

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and the Alaska Division of Elections to immediately make available public records pertaining to ballots rejected in the 2026 General Election. Ballot tabulation is currently underway, and Defendants' failure to provide records duly requested pursuant to the Alaska Public Records Act ("APRA"), AS 40.25.110 *et seq*., is severely prejudicing Plaintiff's ability to monitor Alaska's election certification process to make sure that all ballots are counted according to law.

BACKGROUND

On October 27, 2026, Plaintiff submitted a written request to each regional office of the Division of Elections seeking "a copy of the Absentee Register showing the accept or reject code for each absentee ballot returned for the 2026 General Election, or any other documents sufficient to show the identities of voters whose absentee ballots for the 2026 General Election have been rejected as well as the reasons for each rejection."[1] Plaintiff did not receive a response to its request.

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On November 4, 2026, Plaintiff submitted additional correspondence demanding the requested records by Thursday, November 5, 2026, and providing that Plaintiff would deem any failure to provide the records by that deadline as constructive denial.[2] During a telephonic conferral and subsequent email correspondence on November 5th, counsel for Defendants rejected Plaintiff's request to immediately provide the records at issue.

Meanwhile, Defendants continue to tabulate ballots cast in the November 3, 2026, General Election for U.S. Senate. By statute, the local canvass of in-person ballots was completed on

[1] *See* Compl. Ex. 1.
[2] *See* Compl. Ex. 2. Note the demand letters at Exhibit 2 were inadvertently dated November 5, 2026, but were transmitted to parties via email at 9:15 p.m. Alaska Standard Time.

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November 4;[3] the questioned ballot board began review of questioned ballot envelopes on November 5;[4] early vote ballots voted the Friday before Election Day through Election Day are to be counted by November 10;[5] and district absentee and questioned ballot counting boards must certify results by November 18.[6]

LEGAL STANDARD

Under Alaska Rule of Civil Procedure 65, "[a] party may obtain preliminary injunctive relief under one of two standards: the balance of hardships standard or the probable-success-on-the-merits standard."[7] The balance of hardships standard applies where "the plaintiff faces the danger of irreparable harm" and "the opposing party is adequately protected."[8] If those conditions are met, a plaintiff must raise only "serious and substantial questions going to the merits of the case."[9] But even if "the plaintiff's threatened harm is less than irreparable or if the opposing party cannot be adequately protected," a plaintiff may still succeed by making a "clear showing of probable success on the merits."[10]

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ARGUMENT

The Court should immediately grant a Temporary Restraining Order and Preliminary Injunction requiring Defendants to produce copies of the Absentee Register and other requested records to Plaintiff without further delay, and restrain Defendants from denying, obstructing,

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[3] AS 15.15.370.
[4] *Id.* 15.20.205(a).
[5] Alaska Div. of Elections, *Alaska's Ballot Counting System and Schedule*, https://perma.cc/V58M-29Y3 (last visited Nov. 5, 2026).
[6] AS 15.20.201(c), 15.20.205(c).
[7] *State v. Galvin*, 491 P.3d 325, 332 (Alaska 2021).
[8] *State v. Arctic Vill. Council*, 495 P.3d 313, 320 (Alaska 2021) (quotation omitted).
[9] *Id.* (quotations omitted).
[10] *Id.* (quotations omitted).

attempting to obstruct, or delaying Plaintiff's access to the requested records. Plaintiff satisfies both standards for a preliminary injunction. First, because Plaintiff has made a "clear showing of probable success on the merits," it is entitled to a temporary restraining order and a preliminary injunction even without a showing of irreparable harm.[11] Second, Plaintiff is independently entitled to a temporary restraining order and preliminary injunction because it will suffer irreparable harm absent relief, the balance of equities tips in its favor, and it has at the very least raised "serious and substantial questions" on the merits.[12]

I. Plaintiff has made a clear showing of probable success on the merits.

The Absentee Register, as well as the accept or reject codes therein, is indisputably a "public record" subject to disclosure under APRA, which "articulate[s] a broad policy of open records."[13] "[P]ublic records" are defined broadly under APRA to include "books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency."[14]

The Division of Elections, regional offices, and absentee ballot review boards that process absentee ballots are public agencies, and a list of rejected absentee ballots is a "public record" because it is a document developed by an agency and preserved for its informational value. "Unless specifically provided otherwise, the public records of all public agencies are open to inspection by

[11] *Id*.
[12] *Id*.
[13] *Gwich'in Steering Comm. v. State, Off. of the Governor*, 10 P.3d 572, 578 (Alaska 2000) (further characterizing public access rights as "fundamental" in Alaska) (citations omitted).
[14] AS 40.25.220.

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the public[.]"[15] APRA therefore "creates a presumption in favor of disclosure," in recognition of "Alaska's strong commitment to ensuring broad public access to government records."[16]

No Alaska statute protects the requested information from disclosure. Alaska law provides that six specific identifiers in a voter's registration data should remain confidential: the voter's (1) age or date of birth, (2) Social Security number or any part thereof, (3) driver's license number, (4) voter identification number, (5) place of birth, and (6) signature.[17] Neither a voter's name nor a voter's ballot status appears among these specifically protected categories, which must be "narrowly construe[d]."[18] Moreover, the Court of Appeals has made clear in other contexts "that a person's name and address, by themselves, do not constitute information about which a person can have a reasonable expectation of privacy."[19]

Indeed, far from requiring secrecy, Alaska law treats the status of a voter's ballot and the reasons for its rejection as public information by allowing observers appointed by candidates and parties to attend absentee ballot review board meetings.[20] In other words, Alaska law expressly contemplates that members of the public will be able to learn firsthand whether a specific voter's ballot is accepted or rejected; the Request seeks nothing more than the public records that document those public determinations. Further, Alaska Secretary of State regulations provide that the Absentee Register "may be reviewed by interested persons at any time during the election

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[15] *Id.* 40.25.110.
[16] *Fuller v. City of Homer*, 75 P.3d 1059, 1061–62 (Alaska 2003).
[17] *See* AS 15.07.195(a).
[18] *Fuller*, 75 P.3d at 1062.
[19] *State v. Chryst*, 793 P.2d 538, 542 (Alaska Ct. App. 1990); *cf. Int'l Ass'n of Fire Fighters, Loc. 1264 v. Mun. of Anchorage*, 973 P.2d 1132, 1136 (Alaska 1999) (concluding release of public employee name and salary information did not violate right to privacy).
[20] *See* AS 15.10.170(a); *see also id.* 15.15.400 (allowing public purchase of voter list containing voter name, party affiliation, and voting history).

process at the regional elections offices," indicating that the non-confidential information contained on the Absentee Register—including the status of each absentee voter's ballot—is a public record.[21]

As the requested materials are public records not subject to any exception from disclosure, Defendants have a duty to "promptly fulfill requests" and must "disclose public records . . . in an expeditious manner."[22] While the APRA's implementing regulations set an *outer* deadline of 10 working days to respond to a request, they also make clear that agencies have an obligation to produce responsive materials "*as soon as practicable*."[23] Here, the requested records can be readily produced but have been withheld from Plaintiff for reasons that appear to have nothing to do with the practicability of production.

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II. Plaintiff alternatively satisfies the "balance of hardships" standard.

Because Plaintiff has made "a clear showing of probable success on the merits," it satisfies the probable-success-on-the-merits standard even if its "threatened harm is less than irreparable or if the opposing party cannot be adequately protected."[24] But even if the Court were unpersuaded, Plaintiff has, at the very least, raised "serious and substantial questions going to the merits of the case."[25] Its claims certainly are not "frivolous or obviously without merit."[26] The Court therefore

[21] 6 AAC 25.040.
[22] *Basey v. Dep't of Pub. Safety, Div. of Alaska State Troopers, Bureau of Investigations*, 462 P.3d 529, 534 (Alaska 2020) (quoting 2 AAC 96.200(a)).
[23] 2 AAC § 96.325(a).
[24] *Arctic Vill. Council*, 495 P.3d at 320 (quotation omitted).
[25] *Galvin*, 491 P.3d at 333 (quoting *Alaska Pub. Utils. Comm'n v. Greater Anchorage Area Borough*, 534 P.2d 549, 554 (Alaska 1975)).
[26] *Id.* (citation modified).

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must grant a preliminary injunction because Plaintiff will suffer irreparable harm, and the balance of the equities and the public interest favor relief.

Absent relief, Plaintiff will suffer irreparable harm to its chief purpose to help achieve the election of Mary Peltola to the U.S. Senate. "Irreparable harm is an injury which should not be inflicted and which, because it is so large or so small, or is of such constant and frequent occurrence, or because no certain pecuniary standard exists for the measurement of damages, cannot receive reasonable redress in a court of law."[27] Where elections and voting rights are at stake, irreparable harm flows directly from the likelihood of success on the merits.[28] Furthermore, courts have recognized irreparable harm stemming from a failure to respond in a timely manner to public records requests when the requested records deal with "issues of vital national importance that 'cannot be restarted or wound back.'"[29]

The harms to Plaintiff's interests are ongoing and irreparable. The records subject to the Request directly concern the ongoing election for U.S. Senate and the ballots counted—or rejected—in that election. The Division's failure to produce the requested records will stymie Plaintiff's ability to safeguard an accurate ballot count and ensure that Mary Peltola's supporters are not unlawfully disenfranchised. Now that Election Day has passed, Alaska law imposes a series

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[27] *Id.* (citation modified).
[28] *See id.* ("If Galvin's statutory or constitutional arguments are correct, then she indeed faced irreparable harm; the ballots printed by the Division would be legally inadequate and misleading. The harm to her candidacy cannot be quantified with certainty, and so is not susceptible to monetary compensation.").
[29] *Elec. Frontier Found. v. Off. of the Dir. of Nat. Intel.*, 542 F. Supp. 2d 1181, 1186 (N.D. Cal. 2008) (quoting *Gerstein v. CIA*, No. C-06-4643 MMC, 2006 WL 3462659 at *4 (N.D. Cal. Nov. 29, 2006)); *see also Elec. Priv. Info. Ctr. v. Dep't of Just.*, 416 F. Supp. 2d 30, 40 (D.D.C. 2006) (acknowledging that "stale information is of little value" and that "the loss of that 'value'" can constitute an irreparable injury) (citing *Payne Enters., Inc. v. United States*, 837 F.2d 486, 494 (D.C. Cir. 1988)).

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of rapid-fire deadlines for tallying, counting, and canvassing the ballots cast in the election.[30] The usefulness of the requested records diminishes substantially as these deadlines approach and pass. Election officials are already engaged in the task of counting absentee ballots, which will continue through November 18, at which point district absentee boards and questioned ballot boards are required to certify their results.[31] In the interim, election boards will also announce 7-day, 10-day, and 15-day counts on November 10, November 13, and November 18, respectively.[32] "[O]nce the election occurs, there can be no do-over and no redress."[33] As a result, "no certain pecuniary standard exists for the measurement of damages," and Plaintiff "cannot receive reasonable redress in a court of law."[34] Relief issued after the ballots have been reviewed and election results have been certified would do nothing to redress Plaintiff's injuries: it will by that time be too late to utilize the requested records to ensure an accurate count of absentee ballots.

For the same reasons, the balance of the equities and the public interest also favor injunctive relief. The relief requested imposes no meaningful burden on the Division of Elections, which is obligated to comply with the APRA. Records custodians should be able to electronically produce (or allow Plaintiff to inspect and copy) the Absentee Register with minimal effort. And the requested relief is in the public interest because the right to access public records is "fundamental"

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[30] *See* Alaska Div. of Elections, *supra* note 5.
[31] *Id*.
[32] *Id*.
[33] *League of Women Voters of N.C. v. North Carolina*, 769 F.3d 224, 247 (4th Cir. 2014).
[34] *Galvin*, 491 P.3d at 333.

in Alaska.[35] Further, "[t]he public interest . . . favors permitting as many qualified voters to vote as possible."[36]

CONCLUSION

The Court should grant an immediate temporary restraining order requiring Defendants to produce copies of the requested records in electronic format to Plaintiff or make the public records available to Plaintiff to inspect and copy without further delay.

DATED this 6th day of November, 2026 at Anchorage, Alaska.

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[35] *Gwich'in Steering Comm.*, 10 P.3d at 578 (noting that the Alaska Public Records Act "articulate[s] a broad policy of open records.").
[36] *Obama for Am. v. Husted*, 697 F.3d 423, 437 (6th Cir. 2012).

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