Debra Thompson

From: Aardvark LLC <architectureoffaith@gmail.com>
Sent: Wednesday, December 21, 2022 11:39 PM
To: Assembly
Subject: Purloined Judgeship
Attachments: 1PE-22-00031CI.pdf; 1PE-22-00031CI--Plaintiff's-Opposition-Dismiss--19Sep22(final).pdf

Dear Petersburg Assembly,

I have attached the files relating to the purloined Superior Court judgeship here in Petersburg. This is the matter of which I spoke in the last Assembly Meeting, you might recall. Fred Triem has been given a hearing as of February 3rd at 8:30am and will speak on our behalf. Mr. Triem has already had a hearing on this matter, and now is waiting for the oral argument, which is immensely important for the future of this case, and the possibility of regaining Petersburg's legal stature. The first attached file shows the date and time of the Oral Argument. The second file contains more details on the case, including evidence, legal testimony and arguments that will be used by Fred Triem during the Oral Argument.

It behooves us to *adopt a resolution* in solidarity with his case(which is really OUR case) so that his words may carry our best intentions. To do otherwise would demonstrate to the Courts in no uncertain terms that we as Petersburgians do not care if they take away this aspect of our government permanently.

sincerely,

Joshua S. Adams (Schramek)

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FIRST JUDICIAL DISTRICT AT PETERSBURG

FILED in the Trial Courts
State of Alaska
First Judicial District of Petersburg
DEC 19 2022
By:

FRED W. TRIEM, Plaintiff, v. ALASKA JUDICIAL COUNCIL, ALASKA COURT SYSTEM, ET AL. Defendants.	)	1PE-22-00031 CI

ORDERS FROM HEARING ON DECEMBER 9, 2022

For the reasons explained on the record December 9, 2022, the court enters the following orders:

1. The Plaintiff's Request for Oral argument (Courtview motion #3) and the Supplemental Request for Oral Argument (Courtview motion #7) are **GRANTED.** Oral argument is set for **February 3, 2023 at 8:30 a.m.**

2. Decision on all other pending motions is **DEFERRED** until oral argument.

3. Pending oral argument, discovery is temporarily **STAYED.**

SO ORDERED this 19th day of December, 2022.

Jude Pate
Superior Court Judge

CERTIFICATION
The undersigned certifies that on the 20th day of December, 2022, a true copy of the above was personally delivered or mailed/faxed to the following at their address/number of record.
BY: JD
F. Treim, R. Kutchin

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT PETERSBURG

IN THE MATTER OF THE SUPERIOR COURT JUDGESHIP FOR WRANGELL, PETERSBURG, AND KAKE.	:	
FRED W. TRIEM, *Plaintiff,* *vs.*	:	
ALASKA JUDICIAL COUNCIL [AJC], ALASKA COURT SYSTEM [ACS], *et al.,* *Defendants.*	:	Case No. 1PE-22-00031CI

PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS

(The Amended Complaint states claims upon which relief can be granted, thus is not dismissible.)

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Applicable Provisions of the Constitution, Statutes, and Rules of Court:

The CONSTITUTION

The Guarantee Clause of Article IV, § 4, cl. 1

> The United States shall guarantee to every State in this Union a Republican Form of Government . . . .

U.S. CONST. art. IV, § 4, cl. 1 (underlining added).

The Supremacy Clause of Article VI, cl. 2

> This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any thing in the Constitution or Laws of any State to the Contrary notwithstanding..

U.S. CONST. art. VI, cl. 2 (underlining added).

++++++++++++++++++

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The Alaska CONSTITUTION

The court clauses of Article IV, §§ 1 - 4:

§ 1. Judicial Power and Jurisdiction

The judicial power of the State is vested in a supreme court, a superior court, and the courts established by the legislature. The jurisdiction of courts shall be prescribed by law. The courts shall constitute a unified judicial system for operation and administration. Judicial districts shall be established by law.

§ 2. Supreme Court

(a) The supreme court shall be the highest court of the State, with final appellate jurisdiction. It shall consist of three justices, one of whom is chief justice. The number of justices may be increased by law upon the request of the supreme court.

(b) The chief justice shall be selected from among the justices of the supreme court by a majority vote of the justices. His term of office as chief justice is three years. A justice may serve more than one term as chief justice but he may not serve consecutive terms in that office.

§ 3. Superior Court

The superior court shall be the trial court of general jurisdiction and shall consist of five judges. The number of judges may be changed by law.

§ 4. Qualifications of Justices and Judges

Supreme court justices and superior court judges shall be citizens of the United States and of the State, licensed to practice law in the State, and possessing any additional qualifications prescribed by law. Judges of other courts shall be selected in a manner, for terms, and with qualifications prescribed by law.

* * * *

§ 16. Court Administration

The chief justice of the supreme court shall be the administrative head of all courts. He may assign judges from one court or division thereof to another for temporary service. The chief justice shall, with the approval of the supreme court, appoint an administrative director to serve at the pleasure of the supreme court and to supervise the administrative operations of the judicial system.

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ALASKA STATUTES

Title 1 — General Provisions
Chapter 10. Laws and Statutes
Article 1. Common Law

AS § 01.10.010 Applicability of common law.

So much of the common law not inconsistent with the Constitution of the State of Alaska or the Constitution of the United States or with any law passed by the legislature of the State of Alaska is the rule of decision in this state. (§ 2-12 ACLA 1949: § 65-1-3 ACLA 1949)

Title 22 — General Provisions
Chapter 10. The Superior Court

AS § 22.10.120. Number of judges

The superior court consists of 45 judges, six of whom shall be judges in the first judicial district, three of whom shall be judges in the second judicial district, 28 of whom shall be judges in the third judicial district, and eight of whom shall be judges in the fourth judicial district. At the time of submitting the names of nominees to the governor to fill a vacancy on the superior court bench, the judicial council shall also designate the district in which the appointee is to reside and serve.

AS §22.10.130. Appointment and duties of presiding judges.

The chief justice of the supreme court shall designate a presiding judge for each district. The presiding judge shall, in addition to regular judicial duties,

(1) assign the cases pending to the judges made available within the district;

(2) supervise the judges and their court personnel in the carrying out of their official duties within the district; and

(3) expedite and keep current the business of the court within the district.

AS §22.10.140. Chief justice may assign superior court judges.

The chief justice may assign a superior court judge and that judge's court personnel for temporary duty from time to time not to exceed 90 days annually anywhere in the state except to permit completion of hearings in progress. A judge may be temporarily assigned for longer and additional periods with the consent of that judge (underlining added).

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ALASKA RULES OF COURT

Administrative Rules

Rule 24. Assignment of Judicial Officers

(a) Assignments Within Judicial Districts. Assignment of a judicial officer from the court location of the judicial officer's residence to locations within the same judicial district shall be made by the presiding judge of the judicial district or by the presiding judge's designee. In making such assignments, due regard shall be had of the status of accumulated calendars of the courts in the district to the end that judicial officers are assigned to such courts as needed in order to keep the calendars current.

(b) Temporary Assignments in Other Judicial Districts.

(1) When the volume of judicial business in the superior or district court in any judicial district warrants the temporary assignment thereto of one or more judicial officers from another judicial district, the presiding judge in the judicial district requiring such temporary assignment shall so advise the administrative director, giving details as to the reasons for the assignment, the length of time and the location of the temporary assignment.

(2) The administrative director shall thereupon determine the availability of judicial officers in other judicial districts and make such assignments as may be necessary.

* * *

(f) Scope and Duration of Assignment.

(1) A temporary assignment of an individual justice or judge under this rule shall be for specific cases or types of cases or proceedings; for general caseloads in a specific geographic location as necessary to ensure completion of a travel calendar; and for general caseloads as necessary to ensure continued judicial service during either the extended absence of a sitting judge or a judicial vacancy.

(2) A temporary assignment may not exceed 180 days in duration absent specific authorization by the chief justice; however a judge who is assigned pro tem on a specific case may continue to preside in that case beyond the expiration of the temporary assignment order.

(3) A single temporary assignment of a judicial officer to another judicial district may not exceed 90 days, unless the judicial officer consents to the additional assignment. Assignments in excess of 90 days or any assignment made without the consent of the assigned judicial officer may be made only by special order of the chief justice. * * * {Sub-sections (c) - (e), and (g) - (h) omitted}

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT PETERSBURG

IN THE MATTER OF THE SUPERIOR COURT JUDGESHIP FOR WRANGELL, PETERSBURG, AND KAKE.	:	
FRED W. TRIEM, *Plaintiff,* *vs.*	:	
ALASKA JUDICIAL COUNCIL [AJC], ALASKA COURT SYSTEM [ACS], *et al.,* *Defendants.*	:	Case No. 1PE-22-00031CI

PLAINTIFF'S OPPOSITION TO MOTION TO DISMISS

(The Amended Complaint states claims upon which relief can be granted, thus is not dismissible.)

CHANGES IN THE JUDICIARY

(1983 annual address of the Chief Justice to the Legislature):

> Since the time of my last appearance before this body, several changes have taken place within the ranks of the judiciary.
>
> In the First Judicial District, a Superior Court judge has been assigned to the Wrangell/Petersburg area. That judge is Henry Keene, formerly the District Court judge at Ketchikan. His position, created by the Legislature in 1982, came into being upon the resignation of the former District Court judge at Wrangell, Robin Taylor. * * * The Palmer Superior Court, like those in Barrow and Wrangell/Petersburg, was created by legislation passed in 1982.

Hon. Edmond W. Burke, Chief Justice, *The State of the Judiciary,* message to the Thirteenth Alaska Legislature, 15 February 1983, at pg. 1 (underlining added) [Exh. #10].

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(1) Introduction and Overview — This is a case about a purloined judgeship: In 1982, the Legislature created a new judgeship for central Southeast Alaska communities; but it has been kidnapped and improperly moved to a different location and venue in Ketchikan. The judgeship should be returned to the location that was established for it by the Legislature.

Defendants have violated the Separation of Powers Doctrine by re-writing the legislation *sub silentio* and by amending — without constitutional authority — the legislative act that placed the judgeship in its original geographic location and that established its vicinage by law. Among the three branches of government, only the legislature has the authority to create a new judgeship and to establish its geographic location and its vicinage, the area that it serves. This attempt by the judicial branch to change this legislative decision is *ultra vires* and void.

The law that was enacted to create the disputed judgeship, Ch 70, SLA 1982 [Exh.#27], contains four sections, of which only one was codified (to amend AS 22.10.120, amending the number of judges within some of the four judicial districts). However, the other three sections of this enactment are also part of the law, and one of them identifies the communities in which the new judgeships will be located [Exh.#27].

Therefore, it is not a defense to this suit that the *codified* portion of the law is silent on the names of the communities in which the new judgeships are to be located, because this designation appears in the uncodified text and also throughout the legislative history of the bill (*i.e.*, in the committee hearings and in the floor debates in both the House and in the Senate). An example is the *Letter of Intent* – it was added to the bill by the Senate to require the previous district court judgeship in Wrangell-Petersburg to be eliminated before the legislation creating the new superior court judgeship could become effective in this location. [Exh.#26]

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(2) Questions Presented:

Q-1 Did the 1982 legislation that created the disputed judgeship establish its permanent geographic location and vicinage in Wrangell and Petersburg?

Answer: YES. When the Legislature enacted the legislation, it simultaneously (a) created the new judgeship and (b) designated its location. Only the Legislature possesses these two powers. The act was not amended or repealed after it was passed. The subsequent declaration of the Alaska Judicial Council [AJC] that purports to amend the act is *ultra vires* and was issued without constitutional authority. [Exh.#17: "Ketchikan Superior Court – position moved from Wrangell."]

Q-2 Did the Alaska Court System [ACS] breach the covenant of Good Faith and Fair Dealing that inheres in its agreement with the Wrangell, Petersburg, and Kake communities (an agreement to give up their former shared district court judgeship as a condition of getting a new superior court judgeship)?

Answer: YES. The Senate's *Letter of Intent* imposed a condition and an obligation on these communities. The mutual agreement to create the judgeship upon their performance of a condition formed a legislative compact, a *contract.* Alaska law recognizes the implied covenant of Good Faith and Fair Dealing and our case law has adopted the RESTATEMENT (SECOND) OF CONTRACTS, § 205.

Q-3 Does the hyper-concentration of judicial resources in Ketchikan deny access to the courts to the residents of Wrangell, Petersburg, and Kake for whom the Legislature expressly designated the vicinage of this new judgeship in 1982 (which later was diverted and re-invented as a Ketchikan judgeship)?

Answer: YES. The citizens of these three towns cannot have a "day in court" because they have no court. The Court System and the Judicial Council permanently

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deprived them of a court in a local vicinage by moving the judgeship to a distant location and by reinventing it as a Ketchikan judgeship. [Exh.#17 ("position moved")].

Q-4 Does the public have a right to know *how, when, by whom, by what mechanism, by what authority,* and *by what procedure* was the judgeship moved to Ketchikan? Authorized by a court order? Perhaps an undisclosed SCO? Was the decision made by the CJ? By the PJ? By Art Snowden? By the local ACA? By an individual superior court judge acting with or without permission? And if with permission, then from whom? By what law or rule? *When* was all this done?

Answer: YES. The common law presumes that the public has a right of access to judicial records, which include the mystery memos and/or order(s) that authorized the move of the disputed judgeship to Ketchikan. The public's ability to oversee and to monitor the workings of the Judicial Branch promotes the institutional integrity of the Judiciary.

Q-5 Did the Alaska Court System [ACS] and the Alaska Judicial Council [AJC] violate Article IV, § 4 of the U.S. Constitution, which "guarantee[s] to every State in this Union a Republican Form of Government"?

Answer: YES. When the Legislature approved the act, it simultaneously designated the location and vicinage for the newly created judgeship. Only the Legislature possesses these powers. Defendants have impaired our government's functioning by usurping the Legislature's exclusive authority and by subverting its Republican Form in which these major decisions are made only by an elected body of representatives who are chosen by citizens (i.e., in a *republic*).

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(3) History of this dispute — The Factual Background:

Table-I — Timeline of Principal Events:

Date	*Event or Document*	*Exh.#*
1981-1982	Petersburg and Wrangell seek a superior court judgeship	##01-07
22 May 1981	Rep. Ernie Haugen (Petersburg-Wrangell) introduces HB 590	#23
Jan-Jun 1982	The Legislature considers HB 590; then passes the bill	##24-28
Apr-May 82	Senate adopts *Letter of Intent,* new judgeship only if old abolished	#26
01 Jun 1982	HB 590 becomes law in ch 70 SLA 1982, creates new judgeship	#27
15 Nov 1982	Judge Robin Taylor resigns district court; old judgeship dissolved	#07, 26
Nov 1982	Judge Henry Keene is first appointment to the new judgeship	##08-10
1986	Judge Keene retires, is succeeded by Thomas Jahnke	##11-14
1988-90	Judge Jahnke declares *ex parte* he is changing his "duty station"	##11-13
June 2000	AJC declares relocation: "position moved from Wrangell"	##17-18
29 Nov 2021	AJC press release: to apply for the "Ketchikan" judgeship vacancy	#15
02 Dec 2021	Alaska Bar Association E-mail announcement (excerpt of Exh.#15)	#16
04 Jan 2022	AJC bar poll about applicants for Ketchikan judgeship vacancy	#19
06 Jan 2022	Five applicants for the Ketchikan judgeship vacancy	#20
Feb 2022	Three incumbent Ketchikan judges plan retirement celebrations	#21-22
23 Mar 2022	Original Application filed in the Supreme Court, Case No.S-18366	—
19 Apr 2022	Original Application denied by the Supreme Court	—
May 2022	AJC meeting(s) to review applications for *Ketchikan* vacancy	†
Mid-2022	Governor appoints new superior court judge for Ketchikan	—
22 Jun 2022	*This* suit filed; amended complaint filed, Case No. 1PE-22-00031CI	—

† The AJC website announced the meeting dates: May 9-13, 2022; Ketchikan, Anchorage, and Fairbanks Superior Courts & Retention.

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(a) Legislature created new judgeship and designated its vicinage (its geographic location): In 1982, the Alaska Legislature created a superior court judgeship for the two neighboring communities of Wrangell and Petersburg. [Exh.##23-28] Nearby Kake also benefited because its court calendar was traditionally handled by a visiting judge from Petersburg and Wrangell.

(b) Before passage, the Senate added a rider to the bill, a **LETTER OF INTENT:** A condition of authorizing a new superior judgeship was to decommission and to abolish the local district court judgeship that had been in existence since 1970 to serve the same communities with a resident judge (initially Hon. Duane K. Craske, and then Hon. Robin L. Taylor). Before the final floor vote, the Senate's passage of the bill added a *Letter of Intent* that merged into the bill and became part of the uncodified portion of this legislation. The *Letter of Intent* required that the then-existing district court judgeship be abolished in order before the new superior court judgeship would become effective.

> It is the intent of the Legislature that the superior court judgeship in Wrangell shall not be filled until the Supreme Court eliminates the WRG-PSG district court judgeship.

SENATE JOURNAL pg. 1129-1130, 4 May 82 [Exh.#26 at pg. 3]. The *Letter of Intent* merged into the final version of the bill. SENATE JOURNAL pg. 1239, 10 May 82 [Exh.#26 at pg. 6] it was part of the bill at passage in both houses and was adopted and passed unchanged. House JOURNAL pg. 2353 [Exh.#25 at pg. 3-4], thereby became an uncodified part of the final act. [Exh.##27, 28].

(c) Appointment of first judge for the new judgeship in 1982: Soon after this new judgeship was created in mid-1982 and a new superior court judge had

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been appointed by the Governor in November 1982, Chief Justice Burke identified the newly-appointed judge for Wrangell and Petersburg when he explained these changes to the Legislature in his annual *State of the Judiciary* address in early 1983:

> CHANGES IN THE JUDICIARY
>
> Since the time of my last appearance before this body, several changes have taken place within the ranks of the judiciary.
>
> In the First Judicial District, a Superior Court judge has been assigned to the Wrangell/Petersburg area. That judge is Henry Keene, formerly the District Court judge at Ketchikan. His position, created by the Legislature in 1982, came into being upon the resignation of the former District Court judge at Wrangell, Robin Taylor. * * * The Palmer Superior Court, like those in Barrow and Wrangell/Petersburg, was created by legislation passed in 1982.

Hon. Edmond W. Burke, *The State of the Judiciary,* message to the 13th Alaska Legislature, Juneau, 15 February 1983, at pgs. 1-2 (underlining added) [Exh. #10]. [Exh. #10]. The address is an *admission by a party opponent.* EVID. RULE 801(d)(2)(A-D)

(d) "Position moved from Wrangell": The AJC declared the "position moved" but cited no cause and no authority [Exh. #17].

(e) Recent retirement of the former judge and appointment of a new judge for the Ketchikan judgeship: In January 2022, Hon. Trevor N. Stephens, who was the current incumbent in the disputed Wrangell-Petersburg superior court judgeship, announced his retirement, effective at the end of May 2022. [Exh. ##21, 22]. When the Alaska Judicial Council publicized this vacancy and solicited applications to fill it, it described the position as a superior court judgeship "in Ketchikan," not for Wrangell and Petersburg [Exh.##15, 16, 19, 20]. The AJC conducted a public hearing in Ketchikan in May 2022, and the Governor since has since appointed a new superior court judge to fill the disputed judgeship . . . in Ketchikan.

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(4) The Legal Landscape-I — Alaska law recognizes the Separation of Powers Doctrine, which is the cornerstone of our constitutional system:

(a) Our Supreme Court has described the separation of powers doctrine as "a brooding omnipresence": The Supreme Court of Alaska has recognized that the separation of powers doctrine is firmly embedded in the American scheme of government, at both the federal and state level: "Those who wrote our constitution followed the traditional framework of American government. The governmental authority of the State of Alaska was distributed among the three branches, the executive, the legislative and the judicial." *Alaska State-Operated School System v. Mueller*, 536 P.2d 99, 103 (Alaska 1975) (Dimond, J.).

Alaska's constitutional jurisprudence has developed with the separation of powers doctrine as a core and foundational principle:

> Analyzing this tripartite form of government provided for Alaska, this court concluded, in *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947, 950 (Alaska 1975), that '. . . it can be fairly implied that this state does recognize the separation of powers doctrine.' {ftn [7]} Our recent opinion in *Continental Insurance Cos. v. Bayless & Roberts, Inc.,* 548 P.2d 398, 410-11 (Alaska 1976), acknowledges that the underlying rationale of the doctrine of separation of powers is the avoidance of tyrannical aggrandizement of power by a single branch of government through the mechanism of diffusion of governmental powers. {ftn [8]} It is clear that the doctrine is not a common law concept; it is, however, a brooding omnipresence [[1]] by virtue of its conceptually central role in the structure of American constitutional government.

Bradner v. Hammond, 553 P.2d 1, 5 (Alaska 1976) (Rabinowitz, J.) (underlining added) (the bracketed footnote is added in *this* memo). Footnote #8 observes that

[1] *Cf.* "The common law is not a brooding omnipresence in the sky, but the articulate voice of some sovereign or quasi-sovereign that can be identified." *Southern Pacific Co. v. Jensen,* 244 U.S. 205, 222 (1917) (the original use) (Holmes, J., dissenting).

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"The doctrine prohibits one branch from encroaching upon and exercising the powers of another branch." *Id,* 553 P.2d at 5, n.8 (underlining added; citing cases).

(b) The Doctrine protects the Legislature's decisions about location of judgeships from amendment, self-help, or trespass by the other two branches: In situations of conflict or friction between the judiciary and the other two branches of our government, this Court has prohibited action by one branch that may lead to trespass upon another branch. *See, e.g., Gieffels v. State*, 552 P.2d 661, 667 & n.5 (Alaska 1976) (Boochever, CJ.) (in light of separation of powers principles, Legislature may not impose a rule that would interfere with the proper functioning of the judicial system).

The *Gieffels* case is the mirror image of the instant case; here, this present judgeship dispute presents the intrusion *by* the judicial branch into the exclusive turf of the legislative branch – i.e., ACS and AJC silently changing the vicinage of a judgeship that previously had been determined by the legislative act that created the judgeship. This presents a conflict between the branches. *Cf.,* "In order to invoke the doctrine of separation of powers, actions by two branches of government must be involved." *Hornaday v. Rowland*, 674 P.2d 1333, 1339 (Alaska 1983) (Rabinowitz, J.).

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(5) The Legal Landscape-II — Separation of Powers – The Legislature is the only branch that can create a judgeship and is the only branch that can determine its vicinage (i.e., its geographic location and area of service):

(a) The Framers of the Constitution designated the judgeship power to be a legislative power: The starting point for study of this topic lies in the history of our federal Constitution, specifically its incorporation of the separation of powers doctrine:

> One additional aspect of mixing deserves notice. In defense of his interpretation of the common defense and general welfare clause as a separate and substantive grant of power to the Congress, William Crosskey has argued that some of the congressional powers that appear in Section 8 of Article I were included there not to secure them as against the states but to prevent their passing to the President as executive prerogatives. One need not agree with Crosskey's position on federal as against state powers to conclude that his argument has merit and has implications for the separation of powers doctrine. Commercial powers, the naturalization power, and the power to establish courts, subdue rebellions, make war, raise armies, or callout the militia were prerogatives that the delegates to the Convention did not hesitate to turn into legislative powers. In doing so, they simply followed the prior example of the state constitutions.

GERHARD CASPER, SEPARATING POWER – ESSAYS ON THE FOUNDING PERIOD, 21 (Harvard 1997) (footnotes omitted; underlining added).

(b) Federal judgeships are created by Congress, and with this power is the legislative authority to establish geographic location and vicinage: When Congress creates new federal court judgeships, it describes the geographic area to be served and the precise location where court will be held. Examples are seen in the federal statutes that routinely are amended to expand the number of federal judgeships at both the trial court and the appellate levels: For example:

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- 28 U.S.C. § 133 (authorizing federal district court judgeships and sometimes declaring place of court: e.g., "shall reside at Wichita.").
- 28 U.S.C. § 44 ("each circuit judge shall be a resident of the circuit for which appointed at the time of his appointment and thereafter while in active service.").

> Court for the Eastern Division shall be held at a suitable site in the city of Riverside, the city of San Bernardino, or not more than 5 miles from the boundary of either such city.

- 28 U.S.C. § 84(c)(1) (creating judgeship and designating location of the court in Southern California).

(c) Alaska law precisely replicates the federal law principle: The authority of Congress to establish judgeships in our federal system is replicated here in our state government as well. The Alaska Constitution confers upon the Alaska Legislature the exclusive power to create judgeships. ALASKA CONST. Article IV, § 3: "The number of judges may be changed by law" (underlining added).

Question: Does our legislature have the constitutional authority to create judgeships?

Excerpt from the Minutes of the Alaska Convention of 1955:

> V. RIVERS: May I ask a question of Mr. Taylor?
>
> PRESIDENT EGAN: You may, Mr. Victor Rivers.
>
> V. RIVERS: Mr. Taylor, if the Governor does not appoint and the appointment springs from judicial council, why is not only one name recommended to him instead of two?
>
> TAYLOR: It is to give a choice.
>
> V. RIVERS: He has a choice power and appointive power?
>
> TAYLOR: That is correct. I might say that there will be legislative act to implement these sections that are in here. He

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> will have to appoint because it devolves upon him. There can be three to give him a choice if he wants them, according to what the legislature says.

1 ALASKA JUDICIAL COUNCIL, MINUTES OF THE DAILY PROCEEDINGS – ALASKA CONSTITUTIONAL CONVENTION, 32nd Day, at pg. 590 (9 December 1955) (underlining added). Other authority explains that the separation of powers doctrine is part of state law.

(d) The Legislature did not (and could not) delegate its power to the Judiciary: When the bill was passed, it designated the location of the new judgeships. The legislation did not convey authority to the court system to locate the sites of these new judicial offices. This power cannot be shared or delegated.

> The doctrine of separation of powers does not permit a legislature to abdicate its function to the judiciary by passing statutes which operate at the discretion of the courts, or under which courts are allowed to determine conditions in which the statute will be enforced.

1 NORMAN J. SINGER, SUTHERLAND STATUTORY CONSTRUCTION, § 4:6, *Delegation to the judiciary*, 149-50 (7th ed. 2010), (underlining added).

(6) The uncodified portions of the legislation are part of the law, and they include the geographic placement of the new superior court judgeships: When Rep. Ernie Haugen (R-Petersburg) introduced HB 590 on 22 May 1981, the original version of the bill stated only that the number of judges within the First Judicial District would be increased from four to five. [Exh.## 23] But then, two other members of the House jumped on Mr. Haugen's wagon and added their communities to the request for a superior court (*i.e.,* Palmer and Barrow), so the final version added three judgeships. [Exh.## 27, 28].

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(a) The entire legislation became law, both the codified and uncodified sections: The codified portion of Alaska's superior court judgeship statute, which appears as AS 22.10.120, does not name the individual communities in which the court shall sit, but instead lists only the total number of judgeships in each judicial district. However, the uncodified portion of the authorizing legislation does designate and does identify the precise locations, the specific communities or towns wherein the new court is to sit and to conduct its proceedings. [Exh.## 24, 28 (annual editions of BILL HISTORY & JOURNAL INDEX, SUMMARY OF ALASKA LEGISLATION); *see generally,* Exh.## 25, 26. (proceedings in House and Senate)].

It is not a defense to this suit that the *codified* portion of the law is silent on the names of the communities in which the new judgeships are to be located, because this designation appears in the uncodified text and also throughout the legislative history of the bill.

An uncodified portion of the bill, Sec. 3, identifies facilities "for lease or rental of space in . . . Wrangell for the use of the superior court." The legislation identified the communities in which the new judgeships would be located. [Exh.#27 (underlining added)]

(b) Uncodified text is still law: Just because a key provision of legislation does not later arrive in the bound, blue statute pamphlets does not mean it is not law. Uncodified laws still have the force of law:

> **Uncodified provision.** A 'noncode section' is one which, though enacted with a piece of legislation, is not codified within the state code; such noncode provisions are appropriately considered by a court when interpreting statutes. As a general matter, uncodified provisions of an act express the legislature's view on some aspect of its operation; they are not the source of the substantive provisions of the law. Uncodified

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> provisions express the legislature's view on a particular aspect of the operation of a new statute . . . .

82 C.J.S. *Statutes,* § 308, Allocation of statutes in code or revision (2022) (underlining added; footnotes omitted).

- Once enacted by the legislature and signed by Gov., the entirety of a bill, including provisions uncodified, become law. *Smith v. Guest,* 16 A.3d 920 (Del.2011).
- Courts apply the same standards of construction to both codified and uncodified provisions. *Chin v. Merriot,* 23 N.E.2d 929 (Mass. 2015).
- Uncodified law is binding law. *St Clair Twnshp v. City of Hamilton,* 125 N.E.2d 863 (Ohio 2019).
- Reliance upon an uncodified portion of Alaska statute. *Adamson v. Municipality of Anchorage,* 333 P.3d 5 (Alaska 2014).

(c) Repeated mentions of Petersburg and Wrangell in the floor debates and in the legislative history confirm the Legislature's intent to place the new judgeship there and not in some never-mentioned city 100 miles to the south:

(1) "This position is in Wrangell." [Rep. Haugen (sponsor), House Judiciary Comm. 2 Feb 82–Tape Log 1295]

(2) "Mr. Snowden stated ... The upgraded judgeship would be in Wrangell." [Sen Fin Comm Tape SFC 82, #24, Side 1, 30 Apr 1982]. {Mr. Art Snowden was the Administrative Director of the Alaska Court System in the 1980s.; he appeared and testified at legislative committees, including those that considered this legislation.}

(3) Several references in the committee and floor discussions to Petersburg and Wrangell, and to the existing district court judgeship then shared by these towns.

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(7) The Legal Landscape-III – The Separation of Powers Doctrine is present in the Alaska Constitution – When the Legislature creates a judgeship it also determines its vicinage (i.e., its geographic location):

Table-II — Allocation of constitutional authority in the appointment of superior court judges – The Separation of Powers Doctrine with its Checks & Balances:

Branch of Government	*Scope of its Authority*
Legislative Article II	Enacts legislation that *creates* new judgeships, that designates and determines their geographic locations within the State; Appropriates funds for Court System's facilities and operating expenses.
Executive Article III	Governor signs into law the bill that creates new judgeship, designates and determines locations; Appoints new judges to fill vacancies.
Judicial Article IV	Judicial Council administers the application and nomination process; Chief Justice is chair of Judicial Council; CJ meets with the Council; CJ annually reports to the Legislature; CJ can reassign judges "for temporary service." †

† "The Chief Justice . . . may assign judges from one court or division thereof to another for temporary service." ALASKA CONSTITUTION, Art. IV, § 16 (underlining added).

Cf., AS 22.10.140 (chief justice may assign a superior court judge "for temporary duty . . . not to exceed 90 days annually anywhere in the state . . . A judge may be temporarily assigned for longer periods . . .") (underlining added).

The full text of these sections appears at pages vii - viii, above.

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(8) The Alaska Court System has breached the covenant of good faith and fair dealing by abolishing the former district court and then moving the replacement superior court to Ketchikan, leaving the victim communities with no judge at all: Leaving Kake, Petersburg, and Wrangell in a judicial desert. [Exh.#17]

(a) Historical note — In its debates, the Legislature required the elimination of the existing district court judgeship: The Senate Finance Committee included this restriction in its approval of the bill; the full Senate then adopted this pre-condition on the occasion of the bill's final passage in the Senate:

> HB 590 cont'd
> Letter of Intent on SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 590 (FIN) follows:
> "It is the intent of the Legislature that the superior court judgeship in Wrangell shall not be filled until the Supreme Court eliminates the Wrangell-Petersburg district court judgeship".
>
> SENATE JOURNAL, May 4, 1982, at pgs 1129-30 (underlining added).
>
> +++++++
>
> HB 590 cont'd
> Senator Sturgulewski moved and asked unanimous consent that the Finance Committee Letter of Intent offered on page 1129 be adopted as a Senate Letter of Intent. Without objection, the Letter of Intent was adopted. * * * and so,
> SENATE CS FOR CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 590 (FIN) passed the Senate with Senate Letter of Intent.
>
> SENATE JOURNAL, May 10, 1982, at pg. 1239 (underlining added).

SENATE JOURNAL, 12th Legislature, Second Session, at 1129-30, 1239 [Exh #26].

(b) It is a legislative <u>contract</u>, subject to contract law: In a three-way compact, the Legislature and the Court made a bargain with these communities: Give up your old Ford and you will get a new Lincoln in exchange. But the Court System breached the contract, took away *both* parts of the deal (the old judgeship and the new replacement), and left these towns with a mere bicycle.

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*(c) **Breach of the covenant of good faith and fair dealing – The Court System broke its compact with these communities:*** The Court took away the district court under the promise of the superior court, and then moved the new judgeship to a distant place; a breach of good faith.

Alaska law recognizes the implied covenant of Good Faith and Fair Dealing that inheres in every bargain; this Court has adopted the RESTATEMENT (SECOND) OF CONTRACTS, § 205, which provides:

> **§ 205. Duty of Good Faith and Fair Dealing**
>
> **Every contract imposes upon each party a duty of good faith and fair dealing in its performance and its enforcement.**

The duty of good faith and fair dealing implied in all contracts requires "that neither party will do anything which will injure the right of the other to receive the benefits of the agreement." *Guin v. Ha,* 591 P.2d 1281, 1291 & n.24 (Alaska 1979) (Boochever, J.); *see also, Klondike Industries v. Gibson,* 741 P.2d 1161, 1168 (Alaska 1987) (Moore, J.) (neither party may do anything that impairs the other party's right to receive the benefits of the agreement) (quoting Comment a of § 205: "Good faith performance or enforcement of a contract emphasizes faithfulness to an agreed common purpose and consistency with the justified expectations of the other party..." and Comment d of § 205: "Subterfuges and evasions violate the obligation of good faith in performance even though the actor believes his conduct to be justified. But the obligation goes further: bad faith may be overt or may consist of inaction, and fair dealing may require more than honesty.").

Where a contract confers discretion upon one party, the covenant of good faith and fair dealing is breached when that party abuses its discretion. Abuse is found where the controlling party uses its discretion in a manner that was not contemplated

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by the parties when the contract was made. Breach of the covenant is also found where one party attempts to recapture foregone opportunities that were renounced at the time the contract was made. Steven J. Burton, *Breach of Contract and the Common Law Duty to Perform in Good Faith,* 94 HARV. L. REV. 369, 385-392 (1980) (explaining two types of breach).

The Court has breached the legislative compact in both ways — by misleading and by recapture: *First,* the towns and villages had an expectation – later betrayed – that they would have a resident judge within their local communities. *Second,* the Court recaptured its contractual promise and rendered it worthless when it moved the new judgeship to a distant location.

(d) By moving the judgeship, the Court recaptured it and breached the compact with the Legislature: *Recapture* is a breach of the covenant of good faith and fair dealing. Burton, 94 HARV. L. REV. at 385-94. *See generally,* STEVEN J. BURTON AND ERIC G. ANDERSEN, CONTRACTUAL GOOD FAITH – FORMATION, PERFORMANCE, BREACH, ENFORCEMENT, 45 (1995): "Bad faith in contract performance is a use of contractual discretion to recapture opportunities forgone when contracting"; *id.,* at 39: "[A]ny promisor who uses discretion in performance to recapture foregone opportunities is in breach of contract"; *id.,* at 40 & n. 67: "Several opinions endorse the specific idea that bad faith consists of a use of discretion to 'recapture forgone opportunities'" (collecting cases); *id.,* at 43-44: "A promisor who recaptures forgone opportunities harms the promisee's contractual expectation and reliance interests by redirecting resources away from the contract (underlining added)."

Conclusion: The ACS and the AJC *recaptured* the disputed judgeship by moving it to Ketchikan, thereby breaching the covenant of good faith and fair dealing.

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(9) Removing the judges from central Southeast Alaska blocks access to the courts and denies litigants their "day in court": This Court recognizes the importance of access to judicial facilities, especially for village communities such as Kake. *Aguchak v. Montgomery Ward Co. Inc.*, 520 P 2d 1352, 1353 (Alaska 1974) (Boochever, J.) ("we use the term 'bush' to refer to those sparsely-inhabited, minimally-accessible areas of the state which participate only marginally in the urban money economy"). In her 2013 address to the Legislature, C.J. Dana Fabe explained:

> Access. The importance of early intervention brings me to another continuing concern: improving and strengthening access to justice in Alaska's rural communities. As we all know, providing judicial services in remote villages across our state has been an enduring and formidable challenge from the earliest days of the Territory. * * *
>
> Yet despite the logistical hardships, early state court leaders were unwavering in their commitment to rural Alaska. In 1970, Chief Justice George Boney spearheaded the first "Alaska Bush Justice Conference," which passed the following resolution:
>
> > The locale of decision-making in the administration of justice in village Alaska must move closer to the village. To achieve this result there must be greater native participation at all levels in the administration of justice . . . there must be greater access to legal services and the process of justice in Village Alaska.
>
> In his 1972 State of the Judiciary address, Chief Justice Boney recommended the construction of "no less than 50 . . . bush facilities" across the state. . . . [W]e have ensured that rural court locations are staffed with professional court personnel.

Chief Justice Dana Fabe, *The State of the Judiciary*, address to the Legislature, 13 February 2013, at pgs 6 - 8 (indented quote from C.J. Boney–1970; underlining added). [Exh.#10 - 2nd part]

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Alaska's case law acknowledges a right of access to courts, to a "day in court":

- "A right of access to the courts has been founded in specific state constitutional provisions pertaining to access." *Keyes v. Humana Hosp. Alaska, Inc.*, 750 P.2d 343, 358-59 & n.32 (Alaska 1988) (Rabinowitz, J.).
- "Our cases have recognized that the due process clause of the Alaska Constitution guarantees the right of access to Alaska's courts." *State v. Native Village of Nunapitchuk*, 156 P.3d 389, 405 & n.75 (Alaska 2007) (Matthews, J.).
- "The courts may take creative actions to discourage hyperactive litigators so long as some access to courts is allowed." *DeNardo v. Cutler*, 167 P.3d 674, 681 (Alaska 2007) (Carpeneti, J.).
- "[A] court . . . cannot justify denial of a party's fair day in court." *Mely v. Morris,* 409 P.2d 979, 982 (Alaska 1966) (Rabinowitz, J.).
- "[B]asic justice requires that . . . Agnes Lovell be given her day in court." *Lovell v. Lovell*, 645 P.2d 151, 154 (Alaska 1982) (Rabinowitz, J.).

++++++++++++++++++++++

The residents of central Southeast Alaska (e.g., Kake, Petersburg, and Wrangell) do not have access to the courts because they no longer have a judge. Their court was kidnapped and moved away without any disclosed reason or explanation.

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(10) The Alaska public and the communities that have lost their judgeship have a right to know how, when, by whom, by what mechanism, by what authority, and by what procedure the judgeship was moved to Ketchikan: The only clue that we have is found in the AJC's webpage that once described the disputed judgeship as "position moved from Wrangell." [Exh.#17] I have not been able to find any other mention of the move, and I have not found *any* explanation or justification for it?

Modern law recognizes that "the public's ability to oversee and monitor the workings of the Judicial Branch . . . promotes the institutional integrity of the Judicial Branch." *Doe v. Public Citizen*, 749 F.3d 246, 263 (4th Cir. 2014).

The *people's right to know* theme has been a central theme in the recent litigation about the Government's search warrant that was served upon the former President, now residing in Florida. The right to access derives from two sources: (1) a common law rule and (2) the First Amendment. The U.S. Attorney filed a four-page memo that is packed with discussion and case law authority about the *right of access to judicial files, records, proceedings, and decisions* (both common law and constitutional).[2] I recommend that memorandum of law to the interested reader who would want to learn more about this topic, which also is raised by the Amended Complaint here in the instant case.

This court should deny the pending motion to dismiss and then direct the parties to undertake discovery, including the mandatory *initial disclosures* that are required by Civil Rule 26(a)(1) and also by 26(a)(3).

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[2] *In re Sealed Search Warrant,* CASE NO. 22-MJ-8332-BER, United States' Motion to Unseal Limited Warrant Materials, Case 9:22-mj-08332-BER, Document 18 Entered on FLSD Docket 08/11/2022. {available on PACER}.

(11) Modern constitutional law recognizes a claim based on the Guarantee Clause; The Supreme Court has repudiated the older case law that is cited and relied upon by defendants in this case: Defendants' citation to older authority is not valid; the time has long passed in which a claim based in the Guarantee Clause would be rejected on the ground that it raised a non-justiciable political question.

The Guarantee Clause of the Constitution provides:

> The United States shall guarantee to every State in this Union a Republican Form of Government . . . .

U.S. CONST. art. IV, § 4, cl. 1 (underlining added).

Defendants have impaired the functioning of our state government by usurping the Alaska Legislature's exclusive authority to create a new judgeship, and thereby subverting its Republican Form in which this major decision is made only by an elected body of representatives who are chosen by citizens (i.e., in a *republic*).

Defendants' motion to dismiss presents an outdated argument that is based upon superseded and expired legal authority: case law that was formerly valid but it no longer current. The defendants cite *Colegrove v. Green,* 328 U.S. 549, 556 (1946) (alleged violation of the Guarantee Clause "cannot be challenged in the courts"). Yes, there was a time decades ago when public schools were segregated and political questions were non-justiciable. But happily for plaintiff's cause, the law has changed:

- A "republican form of government" includes the right to have a system of state courts. *U.S. v. Downey,* 195 F.Supp. 581 (S.D. Ill. 1961).
- Abrogation of judicial immunity would destroy independence of state judiciary and would deprive states of republican form of government. *Bauer's v. Heiser,* 361 F.2d 581 (3rd Cir. 1966).
- [P]erhaps not all claims under the Guarantee Clause present nonjusticiable political questions." *New York v. United States,* 505 U.S. 144, 185 (1992).

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(12) CODA – The motion to dismiss is "disfavored and should rarely be granted:" Our case law, like that interpreting the similarly-worded federal version of Civil Rule 12(b)(6), is both extensive and unanimous in its vigorous dislike of the motion to dismiss:

(a) A motion to dismiss is disfavored and should rarely be granted: Alaska law strongly disfavors a dismissal for failure to state a claim. "The motion to dismiss for failure to state a claim is viewed with disfavor and is rarely granted." *Knight v. American Guard & Alert, Inc.,* 714 P.2d 788, 791 (Alaska 1986). This admonition appears throughout Alaska's civil practice jurisprudence. Examples from our Alaska case law are collected in the footnote. [3]

The reason often given for this disfavor is "the primary objective of the law is to obtain a determination on the merits of the claim, and that accordingly, a case should be tried on the proofs rather than on the pleadings." 61 AmJur2d, *Pleading,* § 582, Motion as sparingly granted, at 477-78 (1999).

(b) In Alaska, our case law adopts a liberal pleading standard: A complaint should not be dismissed unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief. *Shooshanian v. Wagner*, 672 P.2d 455, 461 (Alaska 1983). *See also, Martin v. Mears*, 602 P.2d 421, 429 & n. 20 (Alaska 1979) (similar).

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[3] "Motions to dismiss are viewed with disfavor and should rarely be granted":
Reed v. Municipality of Anchorage, 741 P.2d 1181, 1184 (Alaska 1987) (same)
Mattingly v. Sheldon Jackson College, 743 P.2d 356, 359 (Alaska 1987) (same)
Kollodge v. State, Op. No. 3342, 757 P.2d 1024, 1026 (Alaska 1988) (same)
Van Biene v. ERA Helicopters, Inc., 779 P.2d 315, 317-18 (Alaska 1989) (same)
Odom v. Fairbanks Memorial Hospital, 999 P.2d 123, 128 (Alaska 2000) (same)
Guerrero v. Alaska Housing Finance Corp., 6 P.3d 250, 253-54 (Alaska 2000) (same)
Catholic Bishop of N. Alaska v. John Does 1-6, 141 P.3d 719, 722 (Alaska 2006) (same).

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A complaint should not be dismissed for failure to state a claim upon which relief can be granted unless it appears beyond doubt that the plaintiff can prove no set of facts in support of the claims that would entitle the plaintiff to any relief. *Angnabooguk v. State*, 26 P.3d 447 (Alaska 2001).

If, within the framework of the complaint, evidence may be introduced that will sustain a grant of relief to the plaintiff, the complaint is sufficient. *Linck v. Barokas & Martin*, 667 P.2d 171 (Alaska 1983).

(c) Alaska law is especially reluctant to terminate a case when the pleader alleges an unusual claim or legal theory: "Courts 'should be especially reluctant to dismiss on the basis of the pleadings when the asserted theory of liability is novel or extreme, since it is important that new legal theories be explored and assayed in the light of actual facts rather than a pleader's suppositions.'" *Knight v. American Guard & Alert, Inc.*, 714 P.2d 788, 792 (Alaska 1986) (quoting WRIGHT & MILLER treatise [4]) (underlining added).

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[4] In *Knight,* the court cited 5 C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1357, at 598 (1969) ("'The motion to dismiss for failure to state a claim is viewed with disfavor and is rarely granted.'"). Similar language still appears in the current edition of the treatise. 5B C. WRIGHT & A. MILLER, FEDERAL PRACTICE AND PROCEDURE § 1357, text at n. 34 (3d ed. and 2022 supp) (the footnote collects an army of cases that express the theme of "disfavored").

*(13) **Conclusion – Return the purloined judgeship:*** This judicial kidnapping should be overturned and the missing superior court judgeship should be returned to the towns and villages that are the avowed, expressed, and intended site of this judicial office that the Legislature created for them by law. [Exh.## 23 - 28]

In the American system of tripartite government:

- The legislative branch creates a new judgeship; and
- The legislative branch determines *where* the new court will be situated by designating its geographic location and its vicinage in the legislation that creates it.

Defendants have violated the Separation of Powers Doctrine by foiling the choice made by the Alaska Legislature to create a superior court judgeship for the towns in central Southeast Alaska. The purloined judgeship should be returned to them.

Respectfully submitted this 19th day of September in 2022.

Fred W. Triem

Fred W. Triem, No. 7912140
Attorney for Applicant-Petitioner

Attachments:

- List of Exhibits ## 01 - 28
- [proposed] order denying dismissal

CERTIFICATE OF SERVICE

I certify that on 19 September 2022, I will send this memo and its attachments by E-mail to Robert Kutchin, Esq., attorney for the defendants, AJC and ACS. *Fred Triem*

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***In the Matter of the Wrangell-Petersburg Judgeship* — List of the Plaintiff's Exhibits:**

Exh. #	***Date***	***Description — Document — Event***
PART-I — HISTORY OF THE WRANGELL-PETERSBURG JUDGESHIP		
Exh.#01	02 Dec 1981	Wrangell *Sentinel:* "Wrangell may ask for superior court"
Exh.#02	02 Dec 1981	Petersburg *Pilot:* "Council expanded court" and "Trial delays"
Exh.#03	23 Dec 1981	"Superior filing Court will open January 1 [1982]"
Exh.#04	24 Feb 1982	"Good chance for local Superior Court judgeship"
Exh.#05	28 Apr 1982	"Council opposes land sale . . ." (*see* ltr. changing judgeship)
Exh.#06	11 Aug 1982	"Tent City ..." (*see* resolution supporting new super. judgeship"
Exh.#07	13 Oct 1982	"Taylor seeks Superior Court judgeship"
Exh.#08	17 Nov 1982	"Keene named to new Court Bench"
Exh.#09	08 Dec 1982	"[new WRG-PSG Judge] Keene to be welcomed Dec. 18th"
Exh.#10	15 Feb 1983	*The State of the Judiciary* address by CJ Burke and CJ Fabe
Exh.#11	01 Sep 1988	"Judge Jahnke is house hunting in both WRG and PSG mkts"
Exh.#12	06 Oct 1988	"Judge Jahnke building home in KTN, commute to PSG-WRG"
Exh.#13	03 May 1990	"Jahnke seeks Juneau Superior Court seat"
Exh.#14	17 Oct 2011	Obituary for Judge Henry C. Keene (Alaska Court System)
Exh.#15	29 Nov 2021	Judicial Vacancy Announcement – Ketchikan Superior Court
Exh.#16	29 Nov 2021	Judicial Position Description for Ketchikan Superior Court
Exh.#17	28 Dec 2021	AJC web page – historical log entry for Ketchikan in 2000
Exh.#18	28 Dec 2021	AJC web page – current entry for Ketchikan judgeship
Exh.#19	04 Jan 2022	AJC current announcement–bar poll for Ketchikan judgeship
Exh.#20	06 Jan 2022	Ketchikan Daily *News: Five apply for Superior Court judgeship*
Exh.#21	29 Jan 2022	Ketchikan Daily *News: Three local judges reflect... retirement*
Exh.#22	03 Feb 2022	Petersburg *Pilot: Judge Carey to celebrate retirement in Petersburg*
PART-II — THE LEGISLATION AND LEGISLATIVE HISTORY		
Exh.#23	22 May 1981	House Bill 590 (original version) by Rep. Haugen (Petersburg)
Exh.#24	July 1982	BILL HISTORY & JOURNAL INDEX, House of Representatives
Exh.#25	03 Jun 1982	HOUSE JOURNAL, Vol. 3 (excerpts about HB 590, Haugen bill)
Exh.#26	03 Jun 1982	SENATE JOURNAL, Vol. 2 (excerpts re HB 590, Haugen bill)
Exh.#27	1 Jun 1982	Ch. 70, Session Laws of Alaska [SLA], HB 590 becomes law
Exh.#28	July 1982	SUMMARY OF ALASKA LEGISLATION, 12th Legislature, 2nd Session

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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

FIRST JUDICIAL DISTRICT AT PETERSBURG

IN THE MATTER OF THE SUPERIOR COURT JUDGESHIP FOR WRANGELL, PETERSBURG, AND KAKE.	:	
FRED W. TRIEM, *Plaintiff,* *vs.*	:	
ALASKA JUDICIAL COUNCIL [AJC], ALASKA COURT SYSTEM [ACS], *et al.,* *Defendants.*	:	Case No. 1PE-22-00031CI

ORDER DENYING DEFENDANTS' MOTION TO DISMISS COMPLAINT

The court has been presented with the Defendants' Motion to Dismiss Complaint, which was filed on 25 August 2022 [CourtView, Case Motion #1}, and it appearing that plaintiff has shown cause for denying the defendants' motion, now therefore, it is:

ORDERED that defendants' Motion to Dismiss Complaint, of 25 August 2022 be and the same hereby is DENIED.

IT IS SO ORDERED this _____ day of _____2022 at Petersburg, Alaska.

_____

Hon. Katherine H. Lybrand,
Superior Court Judge

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