

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

REPRESENTATIVE WES KELLER;
REPRESENTATIVE MIKE KELLY;
SENATOR FRED DYSON; SENATOR
TOM WAGONER; REPRESENTATIVE
CARL GATTO; and REPRESENTATIVE
BOB LYNN,

Appellants,

vs.

Supreme Court No. S-13296

SENATOR HOLLIS FRENCH;
SENATOR KIM ELTON; STEPHEN E.
BRANCHFLOWER; and THE ALASKA
LEGISLATIVE COUNCIL,

Appellees.

Trial Court Case No. 3AN-08-10489 CI

**OPPOSITION TO EMERGENCY MOTION
FOR EXPEDITED APPEAL**

Appellees Senator Hollis French, Senator Kim Elton, Stephen E. Branchflower, and the Alaska Legislative Council oppose Appellants' request that this appeal be briefed, argued, and decided "by no later than the close of business, 4:30 p.m., Thursday, October 9, 2008." See Emergency Motion at 1. The expedited schedule puts an incredible strain on the parties, counsel, and the Court in circumstances where it is inconceivable, as a legal matter, that a last-minute decision would make the slightest bit of difference.

INGALDSON,
MAASSEN &
FITZGERALD, P.C.
Lawyers
813 W. 3rd Avenue
Anchorage, Alaska
99501-2001
(907) 258-8750
FAX: (907) 258-8751

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As the plaintiff legislators note, Mr. Branchflower intends to issue his investigative report “on October 10, 2008.” *See* Emergency Motion at 5. An order issued the evening before would not shut down the investigation, which would be complete; its only possible effect could be to suppress the next day’s release of the report that the Legislative Council has authorized for release on that day.

The prospect that this Court would suppress a report, the contents of which are at this point wholly unknown, solely on the unsupported assertions of the plaintiff legislators that it might possibly say something hurtful about somebody – the most likely “somebody,” in the plaintiff legislators’ view, being the Governor, who can presumably fight her own legal battles (*see* Emergency Motion at pp. 1-2) – is utterly far-fetched.

The plaintiff legislators cite no cases in which any court at any time in our nation’s constitutional history has suppressed the report of a legislative body. They cite no cases in which any court has suppressed the publication of anything at all on grounds that it *just might be* offensive to a national politician. The undersigned, in the limited time available to him, has not found any such cases either.

This Court, and counsel, all have many important matters on their plates involving genuine controversies over significant issues. The undersigned, in fact, is preparing for oral argument in another case, *Hageland Aviation Services, Inc. v. Harms*, Case No. S-12871, set for next Tuesday, October 7. The Court should not give way on its schedule for an expedited appeal in which a last-minute ruling could not conceivably


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make a bit of difference to the "harm" the plaintiff legislators claim they are trying to avoid.

INGALDSON, MAASSEN &
FITZGERALD, P.C.
Attorneys for Defendants

DATE: 10-3-08

By: 
Peter J. Maassen
ABA No. 8106032

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on 3 day of ~~September~~ ^{October}, 2008, a copy of the foregoing was sent to the following via:

- U.S. mail
- Hand-delivery
- Fax
- Federal Express

Kevin G. Clarkson, Esq.
Brena, Bell & Clarkson, P.C.
810 N Street, Suite 100
Anchorage, AK 99501

Jan Hart DeYoung
Assistant Attorney General
Attorney General's Office
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501

via mail only:

Kelly J. Shackelford
Hiram S. Sasser, III
Liberty Legal Institute
903 E. 18th St, Suite 230
Plano, TX 75074



INGALDSON,
MAASSEN &
FITZGERALD, P.C.
Lawyers
813 W. 3rd Avenue
Anchorage, Alaska
99501-2001
(907) 258-8750
FAX: (907) 258-8751

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