

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

EDWARD ALEXANDER, JOSH
ANDREWS, SHELBY BECK
ANDREWS, & CAREY CARPENTER,

Plaintiffs,

vs.

ACTING COMMISSIONER HEIDI
TESHNER, in her official capacity,
STATE OF ALASKA, DEPARTMENT
OF EDUCATION & EARLY
DEVELOPMENT,

Defendant,

vs.

ANDREA MOCERI, THERESA
BROOKS, and BRANDY
PENNINGTON.

Intervenors.

Case No. 3AN-23-04309CI

MOTION FOR LIMITED STAY

INTRODUCTION

On April 12, 2024, this Court issued an order granting Plaintiffs' Motion for Summary Judgment and denying Defendants' Motion to Dismiss (the "Order"). The impact of the Order was to void AS 14.03.300-.310 in their entirety as violative of Article VII, Section 1 of the Alaska Constitution.

Plaintiffs Edward Alexander, Josh Andrews, Shelby Beck Andrews and Carey Carpenter, by and through counsel, hereby request that this Court stay the effect of the Order until the end of the State of Alaska’s current fiscal year on June 30, 2024 at midnight.

DISCUSSION

Currently, we are near the end of the 2023-2024 school year. Many school districts, parents, and students have engaged in their educational plans in reliance on the availability of the allotment and correspondence system contained in AS 14.03.300-.310. Plaintiffs understand that upending that system with only a month left in the academic year could place a great hardship on those districts and families. Additionally, the Alaska Legislature appropriated funds and built its 2024 Fiscal Year budget while these statutes were still viable.

It is unconventional for prevailing parties to seek a stay of ruling in which they prevailed. However, Plaintiffs do not wish to cause any undue hardship or disruption resulting from the timing of the Order. Accordingly, Plaintiffs respectfully request that this Court stay the Order’s effect until the end of the State of Alaska’s current fiscal year, which occurs at midnight on June 30, 2024. On July 1, 2024 this Court could then enter its Final Judgment and finalize the dissolution of AS 14.03.300-.310.

Plaintiffs do not know whether the Defendant and Intervenors will oppose this Motion for Stay. Undersigned counsel has reached out to counsel for both the Defendants and the Intervenors and offered to agree to a stay as requested here.

Counsel for the Defendants, the Commissioner and the Alaska Department of Education and Early Development, has not responded to this offer.¹

Counsel for the Intervenors have stated that they want a stay of indefinite length and then to appeal to the Alaska Supreme Court under a typical timeline,² which would delay a resolution of this matter into at least the next fiscal year and likely into the following fiscal year as well. Plaintiffs responded that we would oppose an indefinite stay, but that we would support an expedited appeal process such that the Alaska Supreme Court could rule before June 30, 2024.³ That offer was rejected.⁴

Plaintiffs will oppose any request to stay the Order beyond the current fiscal year. This Court correctly determined that AS 14.03.300-.310 are facially unconstitutional. Although there is current spending and reliance on these statutes in progress for the current fiscal and school year, allowing such reliance to continue would be a grave and uncorrectable mistake. Now that these statutes are known to be defective, allowing additional unconstitutional spending to occur under them beyond June 30, 2024 would

¹ See Affidavit of Scott Kendall at paragraphs 3, 4, and 6.

² *Id.* at paragraph 5.

³ *Id.*

⁴ *Id.*

compound those violations and continue unlawful expenditures of public funds in amounts in the millions.

CONCLUSION

Accordingly, Plaintiffs reiterate their request for a stay of the Order, and that this stay last only until the end of the current fiscal year on June 30, 2024. The two and one-half month reprieve created by such a stay allows adequate time for the Alaska Legislature to craft constitutional replacement language and/or for the Intervenors and Defendants to seek emergency relief from the Alaska Supreme Court. However, allowing a stay of indefinite length is an invitation for additional reliance and unconstitutional spending based on a statutory scheme that was *sui generis* invalid.

CASHION GILMORE & LINDEMUTH
Attorneys for Plaintiffs

DATED: April 15, 2024

/s/ Scott M. Kendall

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via email on April 15, 2024, on the following:

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