



1           4.     The Superior Court erred by ruling different neighborhoods within the  
2 Municipality of Anchorage—specifically, residents living near Muldoon Road and in  
3 Eagle River—constitute different “communities of interest” for equal protection  
4 analysis under the Alaska Constitution.  
5

6           5.     The Superior Court erred in ignoring the overwhelming evidence,  
7 including undisputed and sworn testimony, that the Board exhaustively discussed in  
8 open session the possible pairings of the sixteen house districts within the Municipality  
9 of Anchorage to create eight senate districts before adopting Senate District K in open  
10 session, and instead relying upon plaintiffs’ mere speculation and inference that the  
11 Board engaged in “secretive deliberations.”  
12

13           6.     The Superior Court erred in finding that the Board reached a secret or  
14 tacit agreement on senate pairings within the Municipality of Anchorage during  
15 executive session when the decision was plainly made on the record in an open session.  
16

17           7.     The Superior Court erred in ruling that Article VI, Section 10 of the  
18 Alaska Constitution requires proposed redistricting plans to include senate pairings,  
19 which are necessarily dependent upon the creation of house districts.  
20

21           8.     The Superior Court erred by not ruling that any violation of Article VI,  
22 Section 10 arising from the Board’s failure to adopt senate pairings in proposed  
23 redistricting plans of its own drafting was harmless error, given that the Board adopted  
24 four senate pairing plans on September 20 before holding over 25 separate public  
25  
26

1 hearings throughout Alaska, during which it heard ample testimony about senate district  
2 preferences from the public.

3  
4 9. The Superior Court erred in ruling that Article VI, Section 10 requires  
5 separate public hearings on the final senate pairings adopted by the Board in its final  
6 redistricting plan.

7  
8 10. The Superior Court erred in failing to afford equal treatment to all  
9 proposed plans and senate pairings adopted by the Board on the basis that some plans  
10 and senate pairings were proposed by third-parties despite being subsequently adopted  
11 by the Board.

12  
13 11. The Superior Court erred in creating a new requirement under Article VI,  
14 Section 10 and the Due Process Clause of the Alaska Constitution that displaces the  
15 substantive requirements of Section 6 and the Board's sound discretion in creating  
16 election districts with a new standard that requires the Board to abide by the "weight of  
17 public testimony" unless the Board finds that it is "impossible" to follow the weight of  
18 public testimony due to state or federal law.

19  
20 12. The Superior Court erred in adopting a new standard under Article VI,  
21 Section 10 that allows the court to substitute its judgment for the judgment of the Board  
22 and places the wisdom of the redistricting plan at issue.

23  
24 13. The Superior Court erred in holding that election districts that comply  
25 with the substantive requirements of Article VI, Section 6, including House Districts 3  
26 and 4 and Senate District K, can nonetheless be "unreasonable" election districts.

1           14. The Superior Court erred in articulating a new “hard look” standard  
2 through incorporation of the inapplicable federal Administrative Procedures Act to the  
3 independent Alaska Redistricting Board to invalidate election districts that comply with  
4 the substantive requirements for election districts contained in Article VI, Section 6.  
5

6           15. The Superior Court violated the Board’s due process rights at trial,  
7 including by denying the Board a fair opportunity to present its defense and confront  
8 the evidence and allegations against it, and Alaska Civil Rule 32(c), by precluding  
9 direct testimony and precluding re-direct with regard to deposition testimony pre-filed  
10 in its entirety for otherwise available Board-member witnesses.  
11

12           16. The Superior Court erred in holding that the Board violated the statutory  
13 Open Meetings Act.  
14

15           17. The Superior Court erred in suggesting that waiver of the attorney-client  
16 privilege is ever a remedy to an alleged violation of the statutory Open Meetings Act,  
17 when such remedy is found nowhere in the Act.  
18

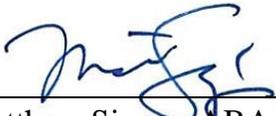
19           18. The Superior Court erred in requiring production of attorney-client  
20 privileged communications for *in camera* review absent the showing mandated by the  
21 Alaska Supreme Court in *Christensen v. NCH Corporation*, 956 P.2d 468, 474 (Alaska  
22 1998).  
23

24           19. The Superior Court erred in denying the Board any discovery regarding  
25 the motives, including communications evidencing partisan and special interest group  
26 affiliation, of plaintiffs in challenging the Final Proclamation of Redistricting.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DATED at Anchorage, Alaska this 17th day of February, 2022.

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys for Alaska Redistricting Board,

By:   
Matthew Singer, ABA No. 9911072  
Email: [msinger@schwabe.com](mailto:msinger@schwabe.com)  
Lee C. Baxter, ABA No. 1510085  
Email: [lbaxter@schwabe.com](mailto:lbaxter@schwabe.com)  
Kayla Tanner, ABA No. 2010092  
Email: [ktanner@schwabe.com](mailto:ktanner@schwabe.com)

1 IN THE SUPREME COURT OF THE STATE OF ALASKA

2 )  
3 In the Matter of the )  
4 2021 Redistricting Plan. )  
5 ) Supreme Court No. S-\_\_\_\_\_  
6 )  
7 Trial Court Case No. 3AN-21-08869CI (Consolidated)

8 **NOTICE OF APPEAL**

9 Appellant Alaska Redistricting Board (“Board”), by and through its attorneys  
10 Schwabe, Williamson & Wyatt, P.C., and pursuant to Alaska Rules of Appellate  
11 Procedure 216.5(b) and 202(a), hereby appeals to the Supreme Court of the State of  
12 Alaska from the final decision entered by the Superior Court, Third Judicial District at  
13 Anchorage, on February 16, 2022 (Findings of Fact and Conclusions of Law dated  
14 February 15, 2022).<sup>1</sup>

15  
16 DATED at Anchorage, Alaska, this 17th day of February, 2022.

17 SCHWABE, WILLIAMSON & WYATT, P.C.  
18 Attorneys for Alaska Redistricting Board

19  
20 By:   
21 Matthew Singer, ABA No. 9911072  
22 Email: [msinger@schwabe.com](mailto:msinger@schwabe.com)

23 <sup>1</sup> While Alaska Rule of Appellate Procedure 216.5(h) discusses petitions for  
24 review in the event the superior court’s decision remands the case to the Alaska  
25 Redistricting Board (“Board”), the Superior Court’s Findings of Fact and Conclusions  
26 of Law dated February 15, 2022, constitutes a final decision as to the Board that the  
Board may appeal as a matter of right. *See Ostman v. State, Commercial Fisheries  
Entry Commission*, 678 P.2d 1323, 1327 n.2 (Alaska 1984); *see also City and Borough  
of Juneau v. Thibodeau*, 595 P.2d 626, 628-29 (Alaska 1979) *overruled on other  
grounds in State v. Alex*, 646 P.2d 203, 209 (Alaska 1982); *see also* Alaska R. App. P.  
202(a).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Lee C. Baxter, ABA No. 1510085  
Email: [lbaxter@schwabe.com](mailto:lbaxter@schwabe.com)  
Kayla J. F. Tanner, ABA No. 2010092  
Email: [ktanner@schwabe.com](mailto:ktanner@schwabe.com)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

DATED at Anchorage, Alaska, this 17th day of February, 2022.

SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys for Alaska Redistricting Board

By:  \_\_\_\_\_

Matthew Singer, ABA No. 9911072

Email: [msinger@schwabe.com](mailto:msinger@schwabe.com)

Lee C. Baxter, ABA No. 1510085

Email: [lbaxter@schwabe.com](mailto:lbaxter@schwabe.com)

Kayla J. F. Tanner, ABA No. 2010092

Email: [ktanner@schwabe.com](mailto:ktanner@schwabe.com)

# IN THE SUPREME COURT OF THE STATE OF ALASKA

## DOCKETING STATEMENT A

### For Use in Appeals Under Appellate Rule 204 and 218

(for court system use)

No. \_\_\_\_\_

**INSTRUCTIONS FOR MULTIPLE PARTIES OR ATTORNEYS:** If there are multiple parties or attorneys, repeat the appropriate box. This may be done on a separate page. Please clearly indicate which attorney represents which party.

#### 1. TYPE OF APPEAL

a. <input checked="" type="checkbox"/> General Civil Rule Appeal (App. Rule 204)	b. <input type="checkbox"/> Appeal in Child Custody Case (App. Rule 218)
---	---

#### 2. PARTY FILING APPEAL (Appellant)

a. Name Alaska Redistricting Board	b. Status in the Trial Court <input type="checkbox"/> Plaintiff <input checked="" type="checkbox"/> Defendant <input type="checkbox"/> Other. Specify: _____
c. Party Mailing Address (not attorney's address) P.O. Box 240147	
City State Zip Code Anchorage AK 99524	d. Telephone 907-563-0300

#### 3. APPELLANT'S ATTORNEY

a. Name Matthew Singer (see attached)	b. Bar Number 9911072	
c. Attorney Mailing Address 420 L Street, Suite 400	d. Telephone 907-339-7129	e. Fax 503-796-2900
City State Zip Code Anchorage AK 99501	f. Firm/Agency Schwabe, Williamson & Wyatt, P.C.	

#### 4. PARTY APPEALED AGAINST (Appellee) [All parties in the trial court when the final order/judgment were entered are appellees and must be listed if they did not file a notice of appeal. AR 204(b)[1] & (g).]

a. Name Felisa Wilson (see attached)	b. Status in the Trial Court <input checked="" type="checkbox"/> Plaintiff <input type="checkbox"/> Defendant <input type="checkbox"/> Other. Specify: _____
c. Party Mailing Address	
City State Zip Code Anchorage AK	d. Telephone

#### 5. APPELLEE'S ATTORNEY

a. Name Holly C. Wells (see attached)	b. Bar Number 0511113	
c. Attorney Mailing Address 510 L Street, Suite 700	d. Telephone 907-276-1550	e. Fax 907-276-3680
City State Zip Code Anchorage AK 99501	f. Firm/Agency Birch Horton Bittner & Cherot	

#### 6. SUPERIOR COURT PROCEEDING

a. Case No. 3AN-21-08869CI	b. Superior Court Judge Thomas A. Matthews	c. Date Judgment Distributed February 15, 2022			
d. Post-Judgment Motions: List all post-judgment motions that affect time for filing appeal. See Appellate Rule 204(a)(3).					
DATE OF FILING		DATE ORDER DISTRIBUTED			
Month	Day	Year	Month	Day	Year
Type of Post-Judgment Motion					
_____			_____		

#### 7. CONSTITUTIONAL ISSUES

Is the constitutionality of a state statute or regulation at issue in this appeal?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
If yes, cite statute or regulation: _____		

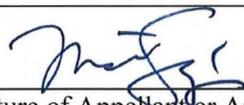
**8. FINALITY OF JUDGMENT OR ORDER BEING APPEALED**

- a.  The judgment or order being appealed is final and disposes of ALL claims by ALL parties. (The judgment or order is final under City and Borough of Juneau v. Thiboudeau 595 P.2d 626 (AK 1979).)
- b.  The judgment or order being appealed does not dispose of all claims by all parties but is final under Civil Rule 54(b). (The trial court's Civil Rule 54(b) order must be attached.)
- c.  The judgment or order being appealed is not final. The authority for this appeal is \_\_\_\_\_

**9. ATTACHMENTS**

- The following items are submitted with this form (except that cross-appellants need not submit item a.):
- a.  A copy of the final order or judgment from which the appeal is taken.
  - b.  A statement of points on appeal.
  - c.  A \$250 filing fee or  a motion to appeal at public expense (financial statement affidavit form must be included).
    - a motion to waive filing fee (if basis for motion is inability to pay, financial statement affidavit form must be included).
    - an application for exemption from filing fee under AS 9.19.010.
    - no filing fee is required because appellant is  represented by court-appointed counsel, and AS 9.19.010 does not apply.
      - the state or an agency thereof.
      - an employee appealing denial of benefits under AS 23.20 (Employment Security Act)
  - d. A \$750 cost bond or deposit or
    - a copy of a superior court order approving appellant's supersedeas bond or a copy of appellant's motion to the superior court for approval of a supersedeas bond.
    - a motion to waive cost bond (if basis for motion is inability to pay, financial statement affidavit form must be included).
    - a motion to appeal at public expense (financial statement affidavit form must be included.)
    - no cost bond is required because appellant is  represented by court-appointed counsel.
      - a state agency, municipality, or state or municipal officer.
      - an employee appealing denial of compensation by Alaska Workers' Compensation Board or denial of benefits under AS 23.20 (Employment Security Act).
  - e. Designation of transcript  submitted  not submitted (no transcript being requested)  motion to extend submitted

2/17/2022  
Date

  
Signature of Appellant or Appellant's Attorney

**CERTIFICATE OF SERVICE**

I certify that on 2/17/2022 a copy of the notice of appeal, this docketing statement, and all attachments (except filing fee and cost bond) were

mailed	emailed	to <b>All Parties</b> (listed)
<input type="checkbox"/>	<del>delivered</del>	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Holly Wells, Mara Michaletz, William Falsey & Zoe Danner
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Robin Brena, Jake Staser, Laura Gould, Jon Wakeland
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Attorney General Treg R. Taylor
<input type="checkbox"/>	<input type="checkbox"/>	Hand Delivery - Hon. Thomas A. Matthews
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Office of the Lt. Governor

Signature: Jeanne M. Huston

**FILING INSTRUCTIONS**

File original docketing statement and notice of appeal with all attachments listed in #9 and ONE copy of ALL except filing fee and cost bond.

ATTACHMENT TO DOCKETING STATEMENT A

<b>3. APPELLANT'S ATTORNEY</b>	
Name	Lee C. Baxter
Alaska Bar Number	1510085
Telephone	907-339-7132
Name	Kayla J. F. Tanner
Alaska Bar Number	2010092
Telephone	907-339-7148
Attorney Mailing Address	420 L Street, Suite 400 Anchorage, AK 99501
Fax	503-796-2900
Firm/Agency	Schwabe, Williamson & Wyatt, P.C.

<b>4. PARTY APPEALED AGAINST (Appellee)</b>	<b>East Anchorage Plaintiffs</b>
Name	George Martinez
Status at Trial Court	Plaintiff
Mailing Address	Anchorage, AK
Telephone	
Name	Yarrow Silvers
Status at Trial Court	Plaintiff
Mailing Address	Anchorage, AK
Telephone	

<b>5. APPELLEE'S ATTORNEY</b>	<b>East Anchorage Plaintiffs</b>
Name	Mara E. Michaletz
Alaska Bar Number	0803007
Name	William D. Falsey
Alaska Bar Number	0511099
Name	Zoe A. Danner
Alaska Bar Number	1911094
Attorney Mailing Address	510 L Street, Suite 700 Anchorage, AK 99501
Telephone	907-276-2550
Fax	907-276-3680
Firm/Agency	Birch Horton Bittner & Cherot

<b>4. PARTY APPEALED AGAINST (Appellee)</b>	<b>Skagway Plaintiffs</b>
Name	Municipality of Skagway Borough
Status at Trial Court	Plaintiff
Mailing Address	700 Spring Street, P.O. Box 415 Skagway, AK 99840
Telephone	907-983-2297
Name	Brad Ryan
Status at Trial Court	Plaintiff
Mailing Address	Skagway, AK
Telephone	

<b>5. APPELLEE'S ATTORNEY</b>	<b>Skagway Plaintiffs</b>
Name	Robin O. Brena
Alaska Bar Number	8511130
Name	Jake W. Staser
Alaska Bar Number	1111089
Name	Laura S. Gould
Alaska Bar Number	0310042
Name	Jon S. Wakeland
Alaska Bar Number	0911066
Attorney Mailing Address	810 N Street, Suite 100 Anchorage, AK 99501
Telephone	907-258-2000
Fax	907-258-2001
Firm/Agency	Brena, Bell & Walker, P.C.

PDX\LCB\33002194.2

1 IN THE SUPREME COURT OF THE STATE OF ALASKA

2 )  
3 In the Matter of the )  
4 2021 Redistricting Plan. )

5 ) Supreme Court No. S-\_\_\_\_\_

6 Trial Court Case No. 3AN-21-08869CI (Consolidated)

7 **CERTIFICATE OF SERVICE AND TYPEFACE**

8 I hereby certify that on February 17, 2022, a true and correct copy of the Alaska  
9 Redistricting Board’s Notice of Appeal, Statement of Points on Appeal, Docketing  
10 Statement A, Designation of Transcript and this Certificate of Service and Typeface  
11 were served by email upon the following trial counsel of record:  
12

13 Holly Wells  
14 Mara E. Michaletz  
15 William D. Falsey  
16 Zoe A. Danner  
17 Birch Horton Bittner & Cherot  
18 Email: [hwells@BHB.com](mailto:hwells@BHB.com)  
19 [mmichaletz@bhb.com](mailto:mmichaletz@bhb.com)  
20 [wfalsey@bhb.com](mailto:wfalsey@bhb.com)  
21 [zdanner@bhb.com](mailto:zdanner@bhb.com)

Stacey C. Stone  
Gregory Stein  
Holmes Weddle & Barcott, PC  
Email: [sstone@hwb-law.com](mailto:sstone@hwb-law.com)  
[gstein@hwb-law.com](mailto:gstein@hwb-law.com)

Nathaniel Amdur-Clark  
Whitney A. Leonard  
Sonosky, Chambers, Sachse,  
Miller & Monkman, LLP  
Email: [nclark@sonosky.com](mailto:nclark@sonosky.com)  
[whitney@sonosky.net](mailto:whitney@sonosky.net)

20 Robin O. Brena  
21 Jake W. Staser  
22 Laura S. Gould  
23 Jon S. Wakeland  
24 Brena, Bell & Walker  
25 Email: [rbrena@brenalaw.com](mailto:rbrena@brenalaw.com)  
26 [jstaser@brenalaw.com](mailto:jstaser@brenalaw.com)  
[lgould@brenalaw.com](mailto:lgould@brenalaw.com)  
[jwakeland@brenalaw.com](mailto:jwakeland@brenalaw.com)

Eva R. Gardner  
Michael S. Schechter  
Ashburn & Mason  
Email: [eva@anchorlaw.com](mailto:eva@anchorlaw.com)  
[mike@anchorlaw.com](mailto:mike@anchorlaw.com)

1 Thomas S. Flynn  
2 State of Alaska  
3 Attorney General's Office  
4 Email: [thomas.flynn@alaska.gov](mailto:thomas.flynn@alaska.gov)

Susan Orlansky  
Richard Cutner  
American Civil Liberties Union  
of Alaska Foundation  
Email: [sorlansky@acluak.org](mailto:sorlansky@acluak.org)  
[richcurtner13@gmail.com](mailto:richcurtner13@gmail.com)

5 A true and correct copy of the above-listed documents were served by email on  
6 Attorney General Treg R. Taylor at [attorney.general@alaska.gov](mailto:attorney.general@alaska.gov).

7 A true and correct copy of the above-listed documents were served by U.S. mail,  
8 postage prepaid, upon the Office of the Lt. Governor, P.O. Box 110015, Juneau, AK  
9 99811-0001.

10 A true and correct copy of the above-listed documents were also provide to the  
11 Hon. Thomas A. Matthews by hand delivery to the Clerk of Court, 825 W. Fourth Avenue,  
12 Anchorage, AK 99501.

13 I further certify that pursuant to Appellate Rule 513.5(c)(2), the typeface used in  
14 this these pleadings is Garamond, 13-point, proportionally spaced.

15 DATED at Anchorage, Alaska, this 17<sup>th</sup> day of February, 2022.

16 SCHWABE, WILLIAMSON & WYATT, P.C.  
17 Attorneys for Alaska Redistricting Board

18 By: Jeanine M. Huston  
19 Jeanine M. Huston, Legal Assistant  
20 Email: [jhuston@schwabe.com](mailto:jhuston@schwabe.com)