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Thomas P. Amodio
Reeves Amodio, LLC
510 L Street, Suite 300
Anchorage, Alaska 99501
(907) 222-7104 (phone)
(907) 222-7199 (fax)
tom@reevesamodio.com

Counsel for Intervenor Dean Westlake

IN THE SUPREME COURT FOR THE STATE OF ALASKA

BENJAMIN N. NAGEAK,

Appellant,

v.

LT. GOVERNOR BYRON MALLOT, in
his official capacity as Lt. Governor for the
State of Alaska, and JOSEPHINE
BAHNKE, in her official capacity as
Director of the Division of Elections,

Appellees.

Supreme Court No. S-16462

MOTION TO INTERVENE OF DEAN WESTLAKE

COMES NOW Dean Westlake, prospective intervenor ("Westlake"), by and through his attorneys, Reeves Amodio, LLC, and, pursuant to Civil Rule 24, hereby moves this Court to allow him to intervene in the above-referenced lawsuit as a matter of right or as a matter of discretion.

Losing candidate Benjamin Nageak has filed this action in the Alaska Supreme Court (and a related action in Superior Court) against the Lieutenant Governor and the

REEVES AMODIO LLC
500 L STREET, SUITE 300
ANCHORAGE, ALASKA 99501-1990
PHONE (907) 222-7100, FAX (907) 222-7199

Director of the Division of Elections (the "Division") challenging the Division's certification of the results of the Democratic party primary in District 40, which certified that Dean Westlake had won the election by eight votes. Although he is not named as a party, winning candidate Westlake has the right under well-established precedent to appear and participate in this election contest. See *Finkelstein v. Stout*, 774 P.2d 786 (Alaska 1989) (winning candidate W.E. "Brad" Bradley, intervenor) and *Cissna v. Stout*, 931 P.2d 363 (Alaska 1996) (winning candidate Ann Spohnholz, intervenor).

There is no question that Westlake meets the criteria to intervene as a matter of right: this motion is timely, the contest having been filed only shortly before noon on Friday;¹ Westlake has a paramount interest in the subject matter of this action, since it involves an attempt to overturn the results of an election that he won; Westlake's interest may be seriously impaired as a consequence of this action; and Westlake's interest is not adequately represented by an existing party. Alaska R. Civ. P. 24(a); see *State v. Weidner*, 684 P.2d 103, 113 (Alaska 1984) (citation omitted).

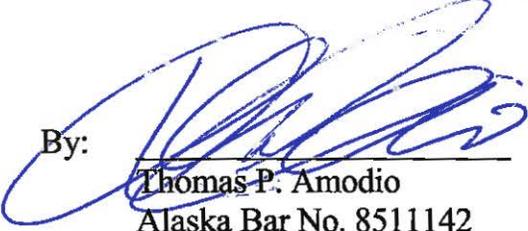
Accordingly, the Court should grant Westlake the right to intervene and participate as a full party in this action. Alternatively, the Court should, in the exercise of its discretion, allow Westlake to intervene and participate as a full party in this action.

¹ And Intervenor's Motion was ready for filing on Friday but, as the Court knows, it is closed on Friday afternoons.

REEVES AMODIO LLC
500 L STREET, SUITE 300
ANCHORAGE, ALASKA 99501-1990
PHONE (907) 222-7100, FAX (907) 222-7199

Dated this 19th day of September, 2016.

REEVES AMODIO, LLC
Counsel for Intervenor Dean Westlake

By: 

Thomas P. Amodio
Alaska Bar No. 8511142

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was
Emailed, mailed and/or faxed to
the following this 19th day of September, 2016.

Timothy A. McKeever
Stacey C. Stone
Holmes Weddle & Barcott, PC
701 West Eighth Avenue, Suite 700
Anchorage, AK 99501
(907) 277-4657 (fax)
Tmckeever@hwb-law.com
SStone@hwb-law.com

Elizabeth Bakalar
Ass't Attorney General
P.O. Box 110300
Juneau, AK 99801
(907) 465-2520 (fax)
libby.bakalar@alaska.gov

Joanne Grace
Laura Fox
Ass't Attorneys General
1031 W. 4th Avenue, Suite 200
Anchorage, AK 99501
(907) 279-2834 (fax)
joanne.grace@alaska.gov
laura.fox@alaska.gov

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