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FILED
STATE OF ALASKA
APPELLATE COURTS

2016 SEP 16 AM 11:55

CLERK, APPELLATE COURTS

BY: _____
DEPUTY CLERK

IN THE SUPREME COURT FOR THE STATE OF ALASKA

BENJAMIN N. NAGEAK,

Appellant,

vs.

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. 516462

NOTICE OF APPEAL

COMES NOW Appellant Benjamin N. Nageak by and through his attorneys,
Holmes, Weddle & Barcott, P.C. and hereby gives notice of his appeal to the Alaska
Supreme Court pursuant to AS 15.20.510. Appellant hereby notifies the court that it
believes no cost bond is due pursuant to AS 15.20.450. However, Appellant will
deliver the same to the Court if so ordered.

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Dated this 16th day of September, 2016, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.
Counsel for Appellant

By: 

Timothy A. McKeever
Alaska Bar No. 7611146
Stacey C. Stone
Alaska Bar No. 1005030

CERTIFICATE OF SERVICE

The undersigned certifies that on this 16th day of September, 2016, a true and correct copy of the foregoing document was served via:

- E-Mail
- U.S. Mail
- Facsimile
- Hand-Delivery

to:

Attorney General
Alaska Department of Law
c/o Elizabeth Bakalar
P.O. Box 110300
Juneau, AK 99801
Email: libby.bakalar@alaska.gov

Thomas Amodio
Reeves Amodio LLC
500 L St. Ste 300
Anchorage, AK 99501
Email: tom@reevesamodio.com

By: 

Legal Assistant/Secretary
Holmes Weddle & Barcott, P.C.

STATE OF ALASKA
DIVISION OF ELECTIONS
JUNEAU

CERTIFICATE

I, Josie Bahnke, Director of the Division of Elections for the State of Alaska, do hereby certify that in accordance with the provisions of AS 15.15.020 and AS 15.20.480, a Primary Election was held on the 16th day of August, 2016, and a recount for State Representative, House District 40 was held on the 12th, day of September, 2016. Following are the certified recount results for the office designated:

State Representative
House District 40

Dean Westlake	(Democrat)	825
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The vote totals for all candidates were as follows:

Dean Westlake	(Democrat)	825
Benjamin P. "Piniqluk " Nageak	(Democrat)	817
Write-in Votes		0



In Testimony Whereof, I have hereunto set my hand and affixed hereto the Seal of the State of Alaska, at Juneau, the Capital, this 12th day of September, A.D. 2016.



Josie Bahnke, Director
Division of Elections

STATE OF ALASKA DIVISION OF ELECTIONS
OFFICE OF THE DIRECTOR
P.O. BOX 110017, JUNEAU, AK 99811-0017

APPLICATION FOR RECOUNT – DISTRICT 40
(AS 15.20)

ATTN: Josephine Bahnke, Director
Alaska Division of Elections

Benjamin Nageak ("Nageak") hereby applies for a recount of the State House race in the August 2016 primary for House District 40, pursuant to AS 15.20.430-440. Pursuant to AS 15.20.430(a), I am a candidate for the state house in that race who, pursuant to the certified results, has fewer votes than my opponent, and I believe that a mistake has been made by an election official. I am therefore eligible to file this application.

The basis of this application is that per the numerous reports in the media and the Division's own admissions, errors occurred within District 40. Specifically, the press release issued by the Division on August 31, 2016 stated in pertinent part:

The Division is aware of a number of issues, both documented and rumored, that arose on Primary Election Day at specific polling places, and it takes those issues seriously... In House District 40, data provided to the Division indicates that an error at the Shungnak precinct—where a poll worker mistakenly gave all in-person voters both the combined Democratic-Libertarian-Alaska Independence ballot and the Republican Primary ballot and all voters voted both ballots—could potentially alter the outcome of the race... (emphasis added).

Furthermore, there were numerous reports that ballots were unaccounted for from multiple precincts for varying amounts of time, that certain voters were not allowed to vote ballots for which they were eligible and other errors and irregularities occurred in the conduct of the election.

The full name and mailing address of the two persons who shall represent me and be present and assist during the recount are:

PERSON 1 Maridon Boario

ADDRESS 403 1st St, Juneau, Alaska 99803

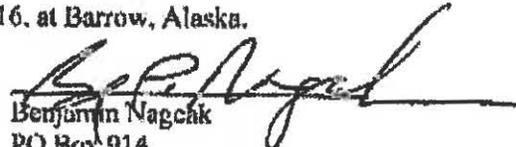
PERSON 2 Gary Zepp

ADDRESS PO Box 35884, Juneau, Alaska 99803

As the official results certified by the Division indicate a 4-vote margin between me and Mr. Westlake, no deposit is required and the State shall bear the cost of the recount pursuant to AS 15.20.450.

In connection with the recount I am represented by the law firm of Holmes Weddle & Barcott, P.C. and request that any communications concerning this recount be made to Timothy McKeever or Stacey Stone of that firm. Their email addresses are tmckeever@hwb-law.com and ssstone@hwb-law.com and both can be reached at (907) 274-0666.

DATE: this 9th day of September, 2016, at Barrow, Alaska.


Benjamin Nagchik
PO Box 914
Barrow, AK 99723

CERTIFICATE OF SERVICE

The undersigned certifies that on this 9th
day of September, 2016, a true and correct
copy of the foregoing document was served
via:

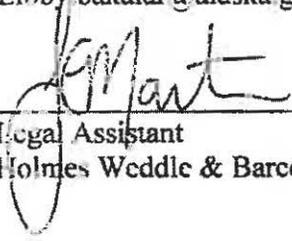
- E-Mail
- U.S. Mail
- Facsimile
- Hand-Delivery

to:

Josephine Bahnke, Director
P.O. Box 110017
Juneau, Alaska 99811-0017
josi.bahnke@alaska.gov

Libby Bakalar
Assistant Attorney General
P.O. Box 110300
Juneau, Alaska 99801-0300
Libby.bakalar@alaska.gov

By: _____


Legal Assistant
Holmes Weddle & Barcott, P.C.