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STATE OF ALASKA  
APPELLATE COURTS

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Timothy A. McKeever, Esq.  
Stacey C. Stone, Esq.  
Holmes Weddle & Barcott, P.C.  
701 W. 8th Ave., Suite 700  
Anchorage, Alaska 99501  
Ph: (907) 274-0666  
Fax: (907) 277-4657  
Counsel for Appellant

*date 9-19-16*

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. SI6462

STATEMENT OF POINTS ON APPEAL

COMES NOW Appellant Benjamin N. Nageak by and through his attorneys,  
Holmes, Weddle & Barcott, P.C. and provides the following statement of points on  
appeal pursuant to AS 15.20.510 and Alaska R. App. P. 204(e) as numerous errors  
have been made in the Primary Election Recount for House District 40:

1. At the recount, three questioned ballots not counted previously were counted in violation of the law and Division of Election regulations and procedures.
2. At the recount, it was discovered that seven voters from Kivalina had voted twice, i.e. seven voters voted both the Republican Ballot and the ADL Ballot in

HOLMES WEDDLE & BARCOTT, PC  
701 WEST EIGHTH AVENUE, SUITE 700  
ANCHORAGE, AK 99501-3408  
TELEPHONE (907) 274-0666  
FACSIMILE (907) 277-4657

violation of AS 15.15, *et seq.* Those ballots were rejected as improper by the Regional Questioned Ballot Review Board and by the State Review Board however at the recount those illegally voted ballots were counted.

3. Fifty voters in Shungnak were given both the Republican and the ADL ballots in the primary in violation of the law and during the recount those ballots were counted again in violation of the law and regulations.

4. Twelve voters in Buckland were allowed to vote special needs ballots but the voters and the representatives failed to properly document the ballots. In spite of the violations of the law and regulations these ballots were allowed to be counted.

5. Election official in the regional office misplaced 4 absentee ballots and improperly substituted replaced 4 ballots that had been cast as questioned ballots for the 4 missing ballots.

6. Voters in several precincts were improperly, illegally and unconstitutionally deprived of the primary ballot of their choice and the right to have elections properly conducted in accordance with state and federal law.

7. Numerous other violations of the law occurred in the conduct and counting of the primary election held on August 16, 2016 in various precincts in House District 40 depriving the voters of their right to a fair and objective election.

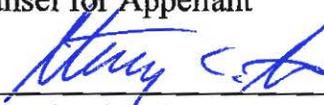
8. The Division of Elections erred in its recount to ensure an election that did not disenfranchise voters pursuant to AS 15.15, *et seq.* and AS 15.20, *et seq.*

9. This court should promptly conduct a complete review of the election and the recount and require a retabulation of the votes, properly and legally cast

consistent with the law in the August 16, 2016 primary election for the State House in Alaska Election District 40.

Dated this 16<sup>th</sup> day of September, 2016, at Anchorage, Alaska.

HOLMES WEDDLE & BARCOTT, P.C.  
Co-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 16<sup>th</sup> 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.