

Intervenor Westlake's

APPENDIX

1



State of Alaska Official Ballot
Primary Election, August 16, 2016

Alaska Democratic Party
 Alaska Libertarian Party
 Alaskan Independence Party



Alaska Republican Party

Instructions: To vote, completely fill in the oval next to your

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United States Senator (vote for one)	
<input type="radio"/> Blatchford, Edgar	Democrat
<input type="radio"/> Metcalfe, Ray	Democrat
<input type="radio"/> Stevens, Sean	Libertarian
United States Representative (vote for one)	
<input type="radio"/> Watts, Jon B.	Libertarian
<input type="radio"/> Hibler, William D. "Bill"	Democrat
<input type="radio"/> Hinz, Lynette "Moreno"	Democrat
<input type="radio"/> Lindbeck, Steve	Democrat
<input type="radio"/> McDermott, Jim C.	Libertarian
State Senator District T (vote for one)	
<input type="radio"/> Olson, Donald C. "Donny"	Democrat
State Representative District 40 (vote for one)	
<input type="radio"/> Westlake, Dean	Democrat
<input type="radio"/> Nageak, Benjamin P. "Piniqluk"	Democrat

United States Senator (vote for one)	
<input type="radio"/> Murkowski, Lisa	Republican
<input type="radio"/> Kendall, Paul	Republican
<input type="radio"/> Lamb, Thomas	Republican
<input type="radio"/> Lochner, Bob	Republican
United States Representative (vote for one)	
<input type="radio"/> Young, Don	Republican
<input type="radio"/> Heikes, Gerald L.	Republican
<input type="radio"/> Tingley, Jesse J. "Messy"	Republican
<input type="radio"/> Wright, Stephen T.	Republican



State of Alaska Official Ballot
Primary Election, August 16, 2016

HD 40

Alaska Democratic Party
 Alaska Libertarian Party
 Alaskan Independence Party

Instructions: To vote, completely fill in the oval next to your choice, like this:

United States Senator (vote for one)	
<input type="radio"/> Blatchford, Edgar	Democrat
<input type="radio"/> Metcalfe, Ray	Democrat
<input type="radio"/> Stevens, Sean	Libertarian
United States Representative (vote for one)	
<input type="radio"/> Watts, Jon B.	Libertarian
<input type="radio"/> Hibler, William D. "Bill"	Democrat
<input type="radio"/> Hinz, Lynette "Moreno"	Democrat
<input type="radio"/> Lindbeck, Steve	Democrat
<input type="radio"/> McDermott, Jim C.	Libertarian
State Senator District T (vote for one)	
<input type="radio"/> Olson, Donald C. "Donny"	Democrat
State Representative District 40 (vote for one)	
<input type="radio"/> Westlake, Dean	Democrat
<input type="radio"/> Nageak, Benjamin P. "Piniqluk"	Democrat

DEFENDANT
 EXHIBIT NO. **BB**
 ADMITTED
3AN-16-09015 C1
 (CASE NUMBER)



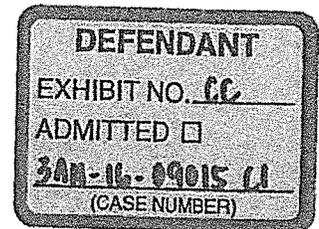
State of Alaska Official Ballot
Primary Election, August 16, 2016

HD 40

Alaska Republican Party

Instructions: To vote, completely fill in the oval next to your choice, like this: ●

United States Senator (vote for one)	
<input type="radio"/> Murkowski, Lisa	Republican
<input type="radio"/> Kendall, Paul	Republican
<input type="radio"/> Lamb, Thomas	Republican
<input type="radio"/> Lochner, Bob	Republican
United States Representative (vote for one)	
<input type="radio"/> Young, Don	Republican
<input type="radio"/> Heikes, Gerald L.	Republican
<input type="radio"/> Tingley, Jesse J. "Messy"	Republican
<input type="radio"/> Wright, Stephen T.	Republican



Intervenor Westlake's

APPENDIX

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1 Q Okay.

2 A -- working through that data.

3 Q Is it fair to say that you have had no academic training

4 in the area of the kinds of analysis of voter turnout,

5 voter persuasion, those kinds of things, that stuff that

6 you've learned on the job?

7 A No academic training in that I didn't receive that

8 training at a scholastic institution, but certainly have

9 had a lot of training in that capacity --

10 Q And how --

11 A -- on the job, as you say.

12 Q Okay. And have you obtained the training from other

13 people or was it something that you learned on your own?

14 A A lot of both. I mean -- yeah.

15 Q But you've taken no classes in the subject since you left

16 school.

17 A I've trained -- attended training seminars on the various

18 programs that -- that we use to work with voter and

19 elections data.

20 Q The programs you're referring to, those are computer

21 programs.

22 A Yeah. I also took -- when I was working at the U.S.

23 Senate took an advanced certification course in Microsoft

24 Excel. It's just -- it's just occurring to me.

25 Q You did not mention that to me when we spoke a few minutes

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1 ago.

2 A I-- I didn't, and I --

3 Q Okay.

4 A -- apologize for that. I-- skipped my mind.

5 Q And for several months you told me before that you worked

6 in Washington for a U.S. senator; is that correct?

7 A Yeah, from September to December to 2013 I was an intern.

8 Q Okay. And your sum total of experience with politics is

9 something on the order of six years and four months?

10 Actually, four years and four months.

11 A Yeah. That's correct.

12 MR. McKEEVER: Okay. Thank you.

13 THE COURT: So, Mr. Amodio, you're tendering

14 Mr. Heckendorn as an expert in what specifically?

15 MR. AMODIO: That he can look at the data from the 2016

16 and some earlier years and compare them and contrast it, and

17 what it means and why, the effect of this particular race in

18 House District 40, how that -- and it's based on both his

19 personal involvement in that House District 40, but also his

20 analysis of data and results from that.

21 THE COURT: All right. Did you have personal involvement

22 in House District 40?

23 A Yeah, both in the -- the 2014 contest between Mr. Westlake

24 and Representative Nageak, and then my firm directly

25 managed the campaign for Dean Westlake in the House

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1 District 40 race in 2016, so experience over multiple

2 cycles.

3 THE COURT: All right. I'll recognize him as an expert,

4 at least able to give the opinions that you're sort of

5 describing about the voter patterns. Is that a good way to

6 describe it in those -- in that district?

7 A Sounds good to me.

8 MR. AMODIO: Okay. And I apologize to the Court, I -- to

9 me this is more factual.

DIRECT EXAMINATION CONTINUED

11 BY MR. AMODIO:

12 Q So, Dean, why don't you -- Dean, pardon me -- John Henry,

13 why don't you go ahead and tell us in more detail about

14 your experience with the House District 40 race, both in

15 2016 and in 2014.

16 A So I'll start in 2014. I was serving as political

17 director for the Alaska Democratic Party, with

18 responsibility for legislative campaigns around the state.

19 The Democratic Party was supporting Dean Westlake in his

20 campaign against Ben Nageak for the House District 40

21 Democratic primary, and he bought into the coordinated

22 campaign, which is a program the Democratic Party runs to

23 support candidates in a variety of ways, of which I had

24 primary responsibility.

25 There were very few competitive primary campaigns in

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1 which the Democratic Party was involved in 2014, and so

2 Dean Westlake's campaign took -- took something of a

3 priority, particularly when we learned, with about a

4 month-and-a-half left in the election, that he had done

5 very little to -- to further his own cause. He was new to

6 campaigning and didn't have a lot of experience, and I

7 think Nageak was perceived as a formidable opponent and

8 likely to win, and so he didn't get a lot of institutional

9 support from his own community.

10 I wasn't working for Mr. Westlake officially, and I

11 was constrained in -- in terms of what I was able to do to

12 advance his campaign, based on how much he was able to pay

13 into the coordinated campaign. But I was speaking on the

14 phone with him at least once, if not multiple times a day,

15 and helping him organize his campaign plan.

16 At that point the campaign was largely run from

17 Anchorage, which, obviously, as you can imagine for a -- a

18 rural campaign with a very different community context

19 from Anchorage, isn't ideal. But we were able to help

20 Mr. Westlake design mail pieces and -- and target those

21 mail pieces to likely voters or people who were likely to

22 support him if they turned out to vote, and then get those

23 mail pieces out, mail pieces that also articulated

24 problems the voters might have with Mr. Nageak's record --

25 or Representative Nageak's record.

(Pages 661 to 664)

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1 Also, able to provide some support via Facebook and
 2 digital advertising, though fairly limited. And to assist
 3 with organizing volunteers to make phone calls into the
 4 district, but those were volunteers calling from
 5 Anchorage, so somewhat less likely to be effective.
 6 And ultimately, Mr. Westlake came close, but lost by
 7 a margin that I don't quite recall. I think it was on the
 8 order of three points. And -- but we -- we learned some
 9 things from the -- the conduct of that campaign and the
 10 analysis that we did afterwards.
 11 We had expected that Mr. Westlake because he lived in
 12 Kotzebue would have strong support in Kotzebue, where he
 13 lived and had served on the borough assembly and in a
 14 variety of other positions, that Mr. -- Representative
 15 Nageak would have strong support in Barrow, and that the
 16 villages would represent the bulk of the persuasion
 17 campaign. In -- in politics on these sort of campaigns
 18 you talk about two forms of voter com-- voter
 19 communication, predominantly. One is persuasion, which is
 20 identifying people who are likely to vote, but unlikely to
 21 have made up their mind, and figuring out ways to try and
 22 persuade them of why they should vote for your candidate.
 23 The other is get out the vote, or commonly referred
 24 to as GOTV, and that describes communication that's
 25 primarily targeted towards people who are likely to

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1 support your candidate, but may or may not turn out, based
 2 on their -- their prior record of turnout in other
 3 elections.
 4 And so the surprise for us was that Mr. Westlake had
 5 exceptionally strong support in -- in the villages,
 6 particularly the villages in the Kobuk River Delta and in
 7 the Northwest Arctic Borough, and had much more muted
 8 support in Kotzebue proper. Mr. Westlake is, obviously,
 9 from Kotzebue, and his opponent from Barrow, and there's
 10 a -- there's a divide there in the election results
 11 that -- that is pretty obvious.
 12 So when we approached the 2016 campaign we did a lot
 13 of things differently. First of all, Mr. Westlake hired
 14 us to come onto his campaign much earlier, and we were --
 15 we were planning that move even in advance of that date.
 16 So the campaign plan -- the campaign itself was much more
 17 anticipated. We were able to conduct a much more thorough
 18 and comprehensive campaign plan.
 19 He was able to raise much more money, and fund-
 20 raising tends to be a pretty good litmus test for how
 21 effective and active a campaign is. I believe he raised
 22 on the order of \$9,000 in his 2014 race. In 2016, he
 23 raised 35,000, and that number actually comes from the
 24 seven-day report due to the Alaska Public Offices
 25 Commission seven days prior to the election, so that's not

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1 a total number that he raised. That's what he has raised
 2 to date that has been put on the public record.
 3 So he's probably likely to raise more than that going
 4 forward, and -- and that is an indicator, I think,
 5 probably the strongest indicator of a comprehensive
 6 campaign and a real systematic improvement in the quality
 7 of the campaign from 2014 to 2016.
 8 He -- so then he -- he -- we -- like I said, we were
 9 able to conduct a much more thorough voter identification
 10 campaign, which involved reaching out to voters in a
 11 variety of ways, primarily through the phone, but also
 12 through door-to-door work and Facebook, figuring out
 13 whether voters were likely to support Mr. Westlake. And
 14 then we were able to -- to have a different -- use
 15 different campaign tactics in different geographic
 16 regions.
 17 So in Barrow, obviously, the focus was much more on
 18 getting Mr. Westlake's name ID up and on persuading voters
 19 to peel off from likely support for Benj-- Ben Nageak. In
 20 Kotzebue, we needed to also increase the amount of
 21 support, but in the villages we needed to determine who
 22 was likely to support Dean already and make sure they knew
 23 he was running again and that they needed to turn out and
 24 vote in the Democratic primary, and that was a -- a real
 25 focus for us.

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1 He would -- we actually chartered plane flights to a
 2 number of the villages, including two trips to Shungnak,
 3 where Mr. Westlake was able to go out and have rallies and
 4 encourage people to vote, able to put up yard signs all
 5 over the village, and -- and -- and make it really clear
 6 that people needed to vote. We had literature that we
 7 passed out that said you need to vote in the Democratic
 8 primary on August 16th for Dean Westlake.
 9 And just to give you some context, when Dean Westlake
 10 would get off the plane in Shungnak, as he did the day
 11 before the election, he was met by a crowd of people
 12 cheering for him, which is -- is -- is significant. The
 13 village administrator told him don't stop here, keep
 14 going, we're all voting for you already. But he -- he did
 15 stay and go door to door, and make sure that everybody
 16 knew about the election, because we knew we were going to
 17 win Shungnak big. We'd done it when we ran a much more
 18 inferior campaign in 2014. So the key was to make sure
 19 that we got our voters out in an election cycle with much
 20 less general awareness of the election.
 21 2014, you not only had the SB 21 oil referendum,
 22 which both NANA and ASRC, the two major Native
 23 corporations in that area, poured six, if not seven
 24 figures' worth of investment into, but you also had an
 25 extremely competitive Republican U.S. Senate primary

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1 featuring three candidates, all running competitive
 2 campaigns, and a Mark Begich campaign that was preparing
 3 for the general and using the 2014 primary as a test run,
 4 so they were employing all of their GOTV efforts as well.
 5 So you had an election cycle in 2014 with much more
 6 general focus on the election, but much less focus coming
 7 directly from the Democratic state house primary
 8 campaigns.

9 And so it was -- it was important for us to make sure
 10 that the people we knew were going to vote for Dean in
 11 those villages, were going to turn out and show up in the
 12 Democratic primary. And, you know, ultimately, I-- I
 13 think we moved the needle. And I think that was the
 14 result of the ability to -- to plan more effectively, to
 15 raise a lot more money.

16 We were able to get Dean out to the villages faster
 17 and more aggressively, and we were able to -- for example,
 18 we had a team up in Kotzebue that shot a video of Dean
 19 actually traveling out to the villages, and then we were
 20 able to disseminate that video through Facebook and
 21 digital advertising. And that was a really important way.

22 Video is the most highly-prioritized content on
 23 Facebook, so when you put money behind video content
 24 you're -- you're going to get the farthest reach,
 25 especially in a district where there's very little

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1 corporate digital advertising. You know, Walmart might
 2 advertise here in -- in Anchorage on -- on Facebook, but
 3 they're not going to do it out there. And that video was
 4 really well-received because it showcased that Dean was
 5 actually going out to the villages and -- and making those
 6 a priority, and was able to also increase support for
 7 Dean.

8 And that's a lot of information, but I -- I think,
 9 hopefully, gives -- gives the context of the distinction
 10 between the two campaigns.

11 Q So just one point of clarification. So you mentioned, I
 12 believe you testified that Dean had strong support in the
 13 Kobuk River villages, in your testimony. Would that
 14 include -- is Shungnak one of those villages?

15 A Yeah, and I probably should -- should say the -- the
 16 villages in the Northwest Arctic Borough outside of
 17 Kotzebue.

18 Q Right. No, you mentioned that, too. Uh-huh
 19 (affirmative). Okay.

20 A So, yeah, including Shungnak in that.

21 Q Okay. And then can you briefly describe -- you mentioned
 22 the 2014 election cycle and the different races in there.
 23 What about other races in the 2016 primary, what -- and
 24 that would have been on the ballot in House District 40.

25 A So it's my opinion that there weren't really competitive

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1 races other than the District 40 race. You didn't have a
 2 major ballot initiative or any -- any ballot initiative
 3 on -- on the ballot, which is a huge contrast to the --
 4 what, \$15 million that were spent on SB 21 when the dust
 5 had settled. And we all remember what that was like.

6 But, also, Congressman Young's primary campaign was
 7 not competitive. I think the data bears that out.
 8 Senator Murkowski's primary campaign was especially not
 9 competitive. At one point she had a challenge from former
 10 Anchorage mayor Dan Sullivan, but he dropped out.

11 And at that point she didn't have much work to do,
 12 and I think -- my sense was, you know, given some -- some
 13 exposure to what was happening on the ground in District
 14 40, that where Senator Murkowski's campaign was making an
 15 investment, they were doing it in places where
 16 conservative turnout tends to be especially high, such as
 17 the Kenai Peninsula, the Mat-Su Borough. I -- I would be
 18 surprised to learn that they were making a significant
 19 district in House District 40, and we didn't see that
 20 borne out with the volunteers and people that we had on
 21 the ground in that race.

22 Same is even more true on the Democratic side. You
 23 had a congressional campaign between Edgar Blatchford and
 24 Ray Metcalfe in which virtually no money was spent. And
 25 Steve Lindbeck cruised to victory in -- in his -- in his

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1 race. So we -- you know, the House District 40 Democratic
 2 primary race was the race.

3 Q And you mentioned seeing on the ground, so was there -- in
 4 a village like Shungnak were there other campaigns going
 5 door to door in your -- or putting out yard signs, vote
 6 for some other candidate other than Dean Westlake?

7 A I -- I could be wrong, but I believe we were the only
 8 campaign that had significant yard sign activity, if any,
 9 and we were the only campaign that was going door to door
 10 in Shungnak.

11 Q Okay. And to your knowledge did any other candidate visit
 12 Shungnak during the election period?

13 A I know that Representative Nageak made a trip to the
 14 Northwest Arctic Borough shortly before the election in
 15 the company of Senator Dan Sullivan. It was an official
 16 visit. They may have briefly gone out to the villages.
 17 I'm not sure. I don't -- I don't think that they did, and
 18 short of that, I'm not aware of any other candidate going
 19 out to Shungnak or -- or campaigning actively there.

20 Q Okay. So you mentioned, briefly, going to door to door
 21 and the -- kind of the distinction between the GOTV and
 22 the persuasion. So in Shungnak what were your efforts,
 23 the campaign's efforts, what were they directed at? And I
 24 think you might have given us generally, but let's just
 25 focus on Shungnak for the moment.

(Pages 669 to 672)

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1 A So we suspected that even Republicans in -- in those
2 outlying villages were likely to support Westlake. He's
3 the director of village economic development for the NANA
4 corporation, and so has a lot of involvement in those
5 villages, grew up in those villages and in camps around
6 the Kobuk, and -- and so he's well-known, he's popular and
7 he's respected. So -- but in general we did not want more
8 Republicans voting in the Democratic primary.
9 It was pretty clear that the Republican party was
10 supporting Nageak. He had Republican legislators posting
11 on Facebook, soliciting donations for Nageak. I'm not
12 sure if they were deputy treasurers or not, but they
13 were -- they were doing it. You had a Republican
14 legislator in a meeting who said that Ben Nageak is the
15 best Republican we've got in the state legislature.
16 Pretty clear support from the Republican Party for Nageak.
17 And then on the Democratic side, obviously, I believe
18 the party -- I don't how it all -- all the bureaucracy
19 works, but whether they formally endorsed or not, they
20 were obviously put-- spending a lot of money, and -- and
21 party surrogates were co-hosting events for Westlake
22 and -- and behind him. So you had this sort of unique
23 political dichotomy in a -- in a Democratic primary race,
24 and as a result, we didn't want more Republicans voting in
25 the Democratic primary, because we believed they'd be more

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1 likely to support Nageak.
2 But we did target Democrats and Independents in every
3 village with at least some history of voting. You know,
4 maybe they'd shown up once in a primary in the last three
5 or four years. And tried to, one, see if they were aware
6 of the race, if they were supporting Westlake, confirm
7 that, and then once we'd had that conversation, then have
8 a follow-up conversation about why it was important to
9 vote in this election and what the stakes were. And sent
10 literature and mail, and phone calls, and -- and Facebook
11 advertising to that effect.
12 Q So just -- so would you describe it as being towards a
13 GOTV effort in Shungnak or more towards a persuasive
14 effort?
15 A It was a general persuasion effort that included mail,
16 digital advertising, advertising in the Arctic Sounder
17 newspaper and other things, and Shungnak was certainly
18 part of that. We didn't take them out. But we did make
19 Shungnak, along with a number of other villages, a real
20 focus for get out the vote efforts where we were, trying
21 to push ID'ed voters to the polls who -- who we knew were
22 going to vote for Westlake if they showed up, and it was
23 just a question of whether they showed up and voted in the
24 Democratic primary.
25 Q Do you know in 2014 what the vote difference in Shungnak

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1 was for Dean versus Ben Nageak?
2 A I -- I don't have the numbers memorized in my head, but I
3 know it was comparable. Nageak received a few less votes
4 in 2016 and the overall turnout was slightly lower, but
5 the -- if you looked at the two spreads and someone told
6 you it was the same village, you'd nod your head. I
7 mean --
8 Q So it was fairly close to the same -- similar spread as in
9 2016.
10 A Yeah.
11 Q Okay. Can you describe generally the racial makeup of a
12 place like Shungnak or some of the other villages in the
13 Kobuk River area that you were talking about. I mean, is
14 there a particular racial ethnic background that they
15 share?
16 A So I think if you look at U.S. Census data, I think you're
17 going to see that Shungnak is about 95 percent Alaska
18 Native, four to five percent white, and maybe, you know, a
19 nominal percentage of -- of other ethnicities.
20 Q And I -- it seems pretty obvious, but Shungnak isn't on
21 the Alaska road system, right? It's considered the Bush
22 or rural Alaska?
23 A That's correct.
24 MR. AMODIO: Okay. I'd like to -- I have an Exhibit I-B
25 that Mr. Heckendorn has -- actually had prepared for this

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1 (indiscernible) and have him (indiscernible). So that's
2 Intervenor B.
3 THE COURT: Thank you.
4 Q Can you describe for the Court what that exhibit I just
5 handed you is?
6 A So this is a simple spreadsheet that I prepared using
7 Division of Elections data, to look at election results in
8 House District 40 over the last four election cycles.
9 Q And so it's a spreadsheet. Where is the information on
10 that spreadsheet, where was it taken from?
11 A From the Division of Elections.
12 Q So this would be Division of Elections information
13 available on its website or official results or whatever.
14 A That's correct, with some calculations then drawn from --
15 from that data.
16 Q Right, right, but the -- I guess the information that
17 you're relying on to make those calculations, that's
18 official Division of Elections information.
19 A That's correct.
20 MR. AMODIO: Okay. We would ask to admit Exhibit I-B.
21 MR. McKEEVER: I'm objecting to the admission of Exhibit
22 I-B at this point. I don't know that we know what it means;
23 what it says; what it's supposed to talk about.
24 THE COURT: All right. I mean, I don't think there's
25 enough foundation yet, Mr. Amodio.

Intervenor Westlake's

APPENDIX

3

September 1, 2016

Josephine Bahnke, Director, Division of Elections
PO Box 110017
Juneau, AK 99811
josie.bahnke@alaska.gov

Subject: HD 40 State House election

Dear Director Bahnke,

We understand from media reports that the Chairman of the Republican Party has requested that the Division of Elections disregard the August Democratic primary results and conduct a new election in November. A review of the facts indicates a costly, wholesale restructuring of the election is unwarranted. Every eligible voter was able to exercise their right to vote, and only registered voters were permitted to vote. Evidence and testimony also indicates that eligible voters were not permitted to vote for the same person more than once. Ultimately, there is no evidence to suggest that the outcome of any race was affected by any of the issues that occurred on the day of the Primary Election.

- It has been reported that voters in Shungnak were given both the closed Republican ballot and the open ADL ballot. While this is a breach of election protocol, there is no evidence that this impacted the outcome. The Democratic primary results from Shungnak show candidate Dean Westlake received 48 votes while Ben Nageak received two votes. This wide margin in Shungnak is consistent with the results of the 2014 Democratic Primary Election. In 2014, when Westlake ran against Nageak for the first time, he won 46 of the Shungnak votes compared to Nageak's 6.
- Speculative claims about the number of voters who would have selected the Republican ballot are debunked by simple statistical analysis. Voting records show there are 17 registered Republicans in Shungnak. We also see that in the 2014 primary, an election that had much higher Republican voter turnout than the 2016 primary, 11 people voted in the Shungnak Republican primary. These statistics debunk the supposition that there could have been as many as "25" votes for Westlake in Shungnak votes that should have been thrown out. Further, Nageak's heavy Republican backing would suggest that he would have been more likely to be disadvantaged had Republicans not been permitted to vote in the Democratic primary.

We are all frustrated by how aspects of this election were handled. But there is no need to further escalate the consequences of these errors by overreacting. The people of District 40 have spoken and we must respect that. If Mr. Babcock succeeds in undermining their voice, that would be the real failure of this election.

Thank you for considering this information.

Regards,

A handwritten signature in cursive script that reads "Casey Steinau". The signature is fluid and somewhat stylized, with the first name being more prominent.

Casey Steinau, Chair
Alaska Democratic Party

Intervenor Westlake's

APPENDIX

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1 polls, which is where poll workers normally are on polling
2 day.
3 Q Did you look at the names of the special needs voters who
4 voted those ballots in Buckland?
5 A Yes.
6 Q Did you observe that one of those voters is named Hadley?
7 A Two of them are named Hadley.
8 Q And the poll worker is also named Hadley.
9 A Yes.
10 Q So, in fact, this poll worker might also be a relative of
11 the people whose special needs ballots she was
12 facilitating; isn't that correct?
13 A Yes. I would offer --
14 MS. PATON-WALSH: That's all right. I have no further
15 questions.
16 THE COURT: Mr. Amodio.
17 MR. AMODIO: Thank you, Your Honor. I don't have many,
18 but I do have just a few for clarification.
19 CROSS-EXAMINATION
20 BY MR. AMODIO:
21 Q Good morning, Mr. Ruedrich. My name is Tom Amodio. I
22 represent Dean Westlake.
23 A Yes.
24 Q I'd like to ask you a few questions about Exhibit --
25 Plaintiffs' Exhibit 46, which has already been admitted.

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1 This is the 2016 statement of votes cast in the primary
2 election in House District 40.
3 A Okay.
4 MR. McKEEVER: This is four six? It's Exhibit 46?
5 MR. AMODIO: 46, sorry. Yeah.
6 Q And I understand you've already testified and -- that --
7 the name identification in the senate race, U.S. Senate
8 race, and that -- I understand all that. I'm not here to
9 banter that with you. I just wanted to make sure I
10 understand the -- what this shows.
11 So on page 1 it shows U.S. senator, ADL, and it
12 has -- looks like three candidates, two Democrats and one
13 Libertarian; is that correct?
14 A Yes, sir.
15 Q Okay. And in this -- in the ADL primary any Alaskan --
16 qualified Alaskan voter could have voted; is that right?
17 A That's correct.
18 Q Okay. On the next page, it shows the first section is
19 U.S. senator, Republican, and it shows Lisa Murkowski, and
20 it looks like three other candidates. Can you tell me how
21 many votes the other three candidates in House District 40
22 accumulated total? If my math is right, looks like maybe
23 54?
24 A I'm sorry?
25 Q I say it looks like 54, but I'm not sure on my math, so go

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1 ahead.
2 A The other senate candidates?
3 Q The three Republican-listed candidates other than Senator
4 Murkowski.
5 A I believe they -- they -- are you talking about Shungnak
6 or the -- or the district as a total?
7 Q District as a total.
8 A Okay. District as a total, I believe that's correct.
9 Q Okay. Do you know statewide what the final result, how
10 much -- what percentage, what the margin that Senator
11 Murkowski won by?
12 A She had over 70 percent of the vote. I do not recall
13 specific num-- numbers.
14 Q Okay. So over 70. Thank you. Then the next column over
15 it says U.S. representative, ADL?
16 A Yes.
17 Q And that would be -- looks like three Democrats and two
18 Libertarians ran in that?
19 A Yes.
20 Q And, again, any Alaska qualified voter could have voted in
21 that primary election?
22 A Yes.
23 Q And page 3, and the first section, if you will, that's
24 U.S. representative?
25 A Uh-huh (affirmative).

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1 Q And that was Don Young, and apparently looks like three
2 challengers; is that correct?
3 A Yes.
4 Q And then the next column over, Senate District T, ADL,
5 that shows a Donald Olson, apparently the only candidate
6 in the Democratic primary for Senate District T. Was
7 there any candidate in the Republican primary for Senate
8 District T --
9 A No.
10 Q -- in that election? No? And the following page, House
11 District 40, and that's, of course, the election matter
12 we're here about today, that shows Dean Westlake and Ben
13 Nageak in the ADL primary; is that correct?
14 A Yes.
15 Q And was there any Republican candidate in House District
16 40 --
17 A No.
18 Q -- in the primary? Thank you. I don't want to put words
19 in your mouth, but is it fair to say you're a lifelong
20 Republican?
21 A Not at all.
22 Q Okay. So when did you become a Republican?
23 A In 1985.
24 Q Okay. And when did you come to Alaska?
25 A In 1975.

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1 Q '75. So before -- from '75 to '85, what party did you
2 identify with?
3 A I was a registered Libertarian prior to changing to
4 Republican, and for a number of the years in that 10-year
5 interval I was living in California and in Texas, so I
6 wasn't a registered Alaskan. I was a registered
7 Libertarian in California and was on the California --
8 active in California Libertarian activities.
9 Q So, I'm sorry, I'm a little confused. When did you move
10 permanently to Alaska?
11 A The -- the last time I -- I have lived in Alaska three
12 different times.
13 Q Okay.
14 A I came to Alaska as a resident in '75, returned in '83,
15 and returned in '94.
16 Q Okay. So '75, and how long did -- were you in Alaska for
17 that period of time?
18 A Three years plus.
19 Q Three years. And then, I'm sorry, I missed -- I have '94.
20 What was the intervening one?
21 A I came here in '83, and left in '88.
22 Q And '94 through present, I take it?
23 A Yes.
24 Q Okay. So let's -- from 1985 you said you've been a
25 Republican. Is that correct?

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1 A Yes.
2 Q Okay. Since 1985, have you -- well, let's -- I guess it
3 would be from -- starting in 2000. That was, you said,
4 when -- the time period when the Supreme Court announced a
5 rule about the Republicans being able to close their
6 primary to other party members; is that correct?
7 A The party had the right to select who they were affiliated
8 with, and chose to select the undeclared, nonpartisan and
9 Republican.
10 Q All right. So since 2000 have you ever selected the
11 Democratic -- voted in Democratic primaries?
12 A No, I have not.
13 Q Since 2000 have you ever voted for a Democratic candidate
14 in any race?
15 MR. McKEEVER: I'm going to object, Your Honor. I'm not
16 sure what Mr. Ruedrich's votes matter, and it does somewhat
17 invade his privacy.
18 THE COURT: I do have a problem with the question. What's
19 the relevance of how he might have voted in an individual race?
20 He hasn't --
21 MR. AMODIO: Just --
22 THE COURT: -- maintained that a person of one party would
23 never vote in -- across party lines.
24 MR. AMODIO: I would say it goes to his impartiality as an
25 expert. He's been offered as an expert to this Court, and I

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1 think it's a fair question.
2 I do not -- I guess I'm not asking him the specific people
3 who he voted for, but, rather -- he's, you know, full of
4 statistics, and he represented to this Court that he's an expert
5 whose opinion should be -- I will presume he wants the Court
6 to --
7 THE COURT: Is the suggestion that --
8 MR. AMODIO: Well --
9 THE COURT: -- by voting across property [sic] lines he
10 would be more biased or less biased? Because I'm having trouble
11 following that logic.
12 MR. AMODIO: Okay. Then I -- I'll withdraw that question.
13 THE COURT: All right.
14 Q Have you -- as part of your opinion today, had you
15 contacted any voters in Shungnak?
16 A I have not talked to anyone to Shungnak.
17 Q Have you ever been to Shungnak? Just out of curiosity.
18 A Not to my recollection.
19 Q Are you aware of how heavily any of the House District 40
20 candidates, either Mr. Nageak or Mr. Westlake, campaigned
21 in Shungnak?
22 A No.
23 Q Did the Republican Party support either Mr. Westlake or
24 Mr. Nageak in their -- the primary?
25 A Not to my knowledge.

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1 MR. AMODIO: Okay. That's all I have, Your Honor. Thank
2 you.
3 THE COURT: Thank you, Mr. Amodio. Any redirect?
4 MR. McKEEVER: Yes, Your Honor.
5 RANDOLPH RUEDRICH
6 testified as follows on:
7 REDIRECT EXAMINATION
8 BY MR. McKEEVER:
9 Q Mr. Roid-- Ruedrich, excuse me, did -- is the purpose of
10 this lawsuit to have Mr. Nageak return to the legislature
11 as a member of the Republican coalition?
12 A I'm sorry?
13 Q Is the purpose of this lawsuit to have Mr. Nageak return
14 to Juneau as a member of the Republican coalition?
15 A That is totally secondary.
16 Q What's --
17 A The concern is the Division of Election maintaining a
18 primary that we can view as being properly run for the
19 benefit of all Alaskans, so that Republicans can
20 nominate -- Republicans, undeclared and nonpartisan voters
21 can nominate the candidate they select for the general
22 election.
23 Q Have you discussed this lawsuit with any members of the
24 legislature?
25 A No.

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1 Q The -- in conjunction with -- you testified yesterday that
2 you were involved in litigation involving the
3 reapportionment plans, I think in 2010, and also the
4 previous one. In conjunction with looking at
5 reapportionment, did you also look at the issues of voter
6 turnout and where the voters are?
7 A Yes.
8 Q Is the issue in this case whether voters turn out or is
9 the issue whether voters choose the Republican ballot?
10 A **The specific issue we spent most of the morning talking**
11 **about is did people correctly choose the Republican**
12 **ballot.**
13 Q In a year when there is a primary -- there's a ballot
14 measure on the primary ballot, does that mean that there's
15 a separate ballot for the primary for ballot measures, or
16 are the ballot measures on the Democrat and the Republican
17 ballots?
18 A **The religious stipulations of a number of voters caused**
19 **the state to adopt a third ballot for ballot measures**
20 **only, so they can vote a nonpartisan ballot.**
21 Q So does the issue of whether you want to vote for a ballot
22 measure going to drive you to pick a Republican ballot
23 over a Democratic ballot?
24 A **You can pick a ballot that has no candidates on it, so**
25 **there -- you're definitely not forced to do one -- one or**

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1 the other.
2 Q But if -- so in an election when there -- like the --
3 we're talking about SB 21. That's on everybody's ballot.
4 A Yes.
5 Q So you don't have to pick one ballot to decide how --
6 A Absolutely.
7 Q -- you vote.
8 A **It -- it's -- it's everywhere, right.**
9 Q And your numbers are based on actual numbers of people who
10 selected the Republican ballot; is that correct?
11 A **Right. The only clean estimator of that behavior was**
12 **those elections.**
13 Q And in -- since both, I mean, Republicans can select the
14 Republican ballot and people who are not affiliated with
15 other parties can select the Republican ballot, the issue
16 is how many people take the ballot, not how many people
17 turn out to vote, right?
18 A **Right.**
19 Q And the average that you discussed covers multiple
20 elections over multiple years.
21 A Yes.
22 Q In 2014 the candidates were Mr. Westlake and Mr. Nageak;
23 is that correct?
24 A Yes.
25 Q And so that race in the question of whether there was a

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1 motivation to participate in the house primary, is sort of
2 a precursor to what happened this year.
3 A Yes.
4 Q It's basically a rerun of that election.
5 MS. PATON-WALSH: Objection. Mr. McKeever is leading the
6 witness.
7 **THE COURT:** Sustained.
8 **MR. McKEEVER:** I have no other questions, Your Honor.
9 **THE COURT:** All right. Mr. Ruedrich, thank you for your
10 time. You may be seated. You're welcome to remain in the
11 courtroom now. Actually, as an expert you could have remained
12 throughout, so there was a little confusion created yesterday
13 morning when we understood you were not an expert, but as any
14 member of the public who's completed -- or any witness who's
15 completed their testimony, you're welcome to remain, if you
16 wish.
17 A Thank you.
18 (Witness excused)
19 **THE COURT:** Should we take a short recess? And who will
20 the next witness be? Does -- Ms. Paton-Walsh, you indicated you
21 had some that were available?
22 MS. PATON-WALSH: So Angelique Horton is available, Your
23 Honor. We've taken a lot more time today than we anticipated.
24 We brought her here from Nome to testify today. She has to go
25 back tomorrow. There's an REA election on Tuesday --

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1 **THE COURT:** Uh-huh.
2 MS. PATON-WALSH: -- and she's actually going back
3 tonight.
4 **THE COURT:** Well, then --
5 MS. PATON-WALSH: So we need to --
6 **THE COURT:** -- is there any reason she shouldn't be the
7 next witness?
8 MS. PATON-WALSH: No, no, I think she's intended to be the
9 next witness. I guess I wanted to alert Mr. McKeever to the
10 time constraints that we're facing with respect to her.
11 **THE COURT:** All right. Let's come back on record with
12 Ms. Horton. Off record.
13 (Off record at 11:29 a.m.; on record at 11:46 a.m.)
14 **MR. McKEEVER:** -- coming up.
15 **THE COURT:** All right.
16 **MR. McKEEVER:** Ms. Bakalar and I talked. They want to
17 have her as a witness. We delayed her testimony from a couple
18 days ago. So we're going to try and divide -- we're going to go
19 for 50 minutes, she's going to have 50 minutes, and hopefully
20 we'll get everything done today.
21 **THE COURT:** All right. My preference is, as you, per your
22 agreement, actually is consistent with your agreement, that if
23 the parties are battling over who should call a witness first, I
24 generally have the party with whom that witness is aligned call
25 them up for direct, and then have cross. It just makes it