

1 Savannah Fletcher, AK Bar No. 1811127
2 James J. Davis, Jr., AK Bar No. 9412140
3 Goriune Dudukgian, AK Bar No. 0506051
4 **NORTHERN JUSTICE PROJECT, LLC**
5 406 G Street, Suite 207
6 Anchorage, AK 99501
7 (907) 308-3395 (telephone)
8 (866) 813-8645 (fax)
9 Email: sfletcher@njp-law.com
10 Email: jdavis@njp-law.com
11 Email: gdudukgian@njp-law.com

12 Attorneys for Plaintiff Randall Kowalke

13 IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

14 THIRD JUDICIAL DISTRICT AT ANCHORAGE

15 RANDALL KOWALKE,)
16)
17 Plaintiff,)
18)
19 vs.)
20)
21 DAVID EASTMAN, STATE OF)
22 ALASKA, DIVISION OF ELECTIONS,)
23 and GAIL FENUMIAI in her official)
24 capacity as Director of Elections)
25)
26 Defendant.)
27)

Case No. 3AN-22-07404 CI

28 **MOTION TO STRIKE JURY DEMAND**

I. PRELIMINARY STATEMENT

Defendant David Eastman has requested “a jury trial for all issues triable by jury in this case.”¹ However, because plaintiff’s complaint in this lawsuit seeks only equitable relief and nominal damages, there are no issues triable by a jury in this case. Therefore, this Court

¹ Demand for Jury Trial (Sep. 6, 2022).

1 should strike Representative Eastman’s jury demand.

2 **II. ARGUMENT AND AUTHORITIES**

3
4 Article 1, §16 of the Alaska Constitution guarantees the right to a jury trial in some,
5 but not all, civil cases in Alaska. It provides in pertinent part: “In civil cases where the
6 *amount in controversy exceeds two hundred fifty dollars*, the right of trial by a jury of twelve
7 is preserved *to the same extent as it existed at common law*.” (Emphasis added).

8
9 Because the right to a jury trial only existed at common law for legal claims,² “[t]he
10 Alaska Constitution preserves a jury trial only for those causes of action which are legal, and
11 not equitable in nature.”³ The Alaska Supreme Court has made clear that “[w]hen only
12 equitable relief is sought, there is no right to a jury trial.”⁴ Thus, there is no right to a jury
13 trial where a lawsuit seeks injunctive and restitutionary relief,⁵ a prescriptive easement,⁶
14 eviction of a tenant,⁷ reformation of a contract,⁸ setting aside a foreclosure sale,⁹ or in child-
15 in-need-of-aid cases.¹⁰ In contrast, a party is entitled to a jury trial “where part of the relief

16
17
18
19
20 ² *State v. First Nat’l Bank*, 660 P.2d 406, 424 (Alaska 1982) (citing *Ross v. Bernhard*, 396
21 U.S. 531, 533 (1970)).

22 ³ *McGill v. Wahl*, 839 P.2d 393, 396 (Alaska 1992).

23 ⁴ *First Nat’l Bank*, 600 P.2d at 424.

24 ⁵ *See id.*

25 ⁶ *See McGill*, 839 P.2d at 396.

26 ⁷ *See Vinson v. Hamilton*, 854 P.2d 733, 736-37 (Alaska 1993).

27 ⁸ *See Alaska N. Dev. v. Alyeska Pipeline Serv. Co.*, 666 P.2d 33, 40-41 (Alaska 1983).

28 ⁹ *See Young v. Embley*, 143 P.3d 936, 948-49 (Alaska 2006).

¹⁰ *See Alyssa B. v. Dep’t of Health & Soc. Servs.*, 123 P.3d 646, 648-49 (Alaska 2005).

1 sought is compensatory and punitive damages.”¹¹

2 Here, plaintiff’s complaint primarily seeks injunctive relief against the defendants.¹²

3 While plaintiff’s complaint also seeks nominal damages, such damages “are by definition
4 minimal monetary damages,” and are “usually one cent or one dollar.”¹³ As such, plaintiff’s
5 claim for nominal damages is far below the \$250 “amount in controversy” requirement for a
6 jury trial under Article 1, §16 of the Alaska Constitution. Thus, there are simply no claims
7
8 at issue in this case to which the right to a jury trial attaches.
9

10 **III. CONCLUSION**

11 For the foregoing reasons, this Court should strike defendant David Eastman’s
12 demand for a jury trial.
13

14 DATED: October 20, 2022

NORTHERN JUSTICE PROJECT, LLC
Attorneys for Plaintiff

15
16
17 By: /s/ Goriune Dudukgian
18 Goriune Dudukgian, ABA No. 0506051
19 James J. Davis, Jr., ABA No. 9412140
20 Savannah Fletcher, AK Bar No. 1811127
21
22
23
24
25

26 ¹¹ *Loomis Elec. Protection v. Shaefer*, 549 P.2d 1341, 1344 (Alaska 1976).

27 ¹² Complaint (Jul. 29, 2022) at 8 (prayer for relief).

28 ¹³ *Zok v. State*, 903 P.2d 574, 578-59 (Alaska 1995).

Northern Justice Project, LLC
A Private Civil Rights Firm
406 G Street, Suite 207
Anchorage, AK 99501
Phone: (907) 308-3395; Fax: (866) 813-8645

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
27
28

CERTIFICATE OF SERVICE
I hereby certify that on 10/20/2022 a true
and correct copy of the foregoing document
was served via E-MAIL on:

Joseph Miller
Law Offices of Joseph Miller, LLC
Email: info@aklaw.us

Lael Harrison and Thomas Flynn
State of Alaska, Department of Law
lael.harrison@alaska.gov
thomas.flynn@alaska.gov

By: /s/ Goriune Dudukgian
Goriune Dudukgian

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

RANDALL KOWALKE,

Plaintiff,

vs.

DAVID EASTMAN, STATE OF
ALASKA, DIVISION OF ELECTIONS,
and GAIL FENUMIAI in her official
capacity as Director of Elections

Defendant.

Case No. 3AN-22-07404 CI

ORDER STRIKING JURY DEMAND

Defendant David Eastman has requested “a jury trial for all issues triable by jury in this case.” However, because plaintiff Randall Kowalke’s complaint seeks only equitable relief and nominal damages, Eastman is not entitled to a jury trial under Article 1, §16 of the Alaska Constitution. Therefore, this Court hereby GRANTS plaintiff Randall Kowalke’s motion to strike Eastman’s jury demand.

DATED this ____ day of _____, 2022 at Anchorage, Alaska.

Hon. Jack McKenna
Superior Court Judge