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

RANDALL KOWALKE,)
)
 Plaintiff,)
)
 v.)
)
 DAVID EASTMAN, STATE OF)
 ALASKA, DIVISION OF)
 ELECTIONS, and GAIL FENUMIAI in)
 her official capacity,)
)
 Defendants.)

Case No. 3AN-22-07404 CI

AFFIDAVIT OF GAIL FENUMIAI

STATE OF ALASKA)
) ss.
 THIRD JUDICIAL DISTRICT)

1. I am the director of the Division of Elections for the State of Alaska, and I have personal knowledge of the matters in this affidavit. I was first appointed as director in January 2008 after serving in other roles in the Division for approximately 10 years. I ended my first tenure as director in July 2015 and then was reappointed by Lieutenant Governor Kevin Meyer in January 2019.

2. Since 2020, the Division has conducted elections using the Dominion Voting Systems' Democracy Suite election management system. This allows the Division to designate races and candidates, design and deliver ballots, program voting tablets and ballot tabulators, count ballots, and tabulate and report the results. All of these pieces must work together to ensure an accurate and secure election.

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3. The Division begins programing the “election project” software by selecting races and entering candidates. This is the foundation on which the rest of the election is built, including the ballots, the voting tablets, the tabulators, and, ultimately, the results.

4. All of the physical components—meaning the ballots, USB sticks, memory cards, and voting machines—are designed and tested together. The State Review Board and regional offices conduct logic and accuracy testing to make sure that the ballots will be counted accurately.

5. Once the ballots are finalized and sent to the printer, the Division cannot change the candidates on the ballots for a single house district. The election project cannot be edited after it is completed. This is an election security measure. Changes to the election project are timestamped so that no one, not even the Division, can alter it without detection. Ballots printed before a change to the election project are void and the Division would have to conduct additional testing to determine whether they would count properly.

6. The Division finalized the ballots for the November 8, 2022 general election on September 8.

7. If the Division were ordered to remove a candidate from the ballots for one house district, it would have to reprogram the election project from the beginning. It would have to redefine the candidates in the general election and reprogram and retest all of the software and hardware, to make sure the ballots would count accurately. The Division cannot simply remove one name and reprint the paper ballots for one district.

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8. The Division does not have the capacity or the time to reprogram the election project before the November 8 general election. It takes weeks to program the election project and complete logic and accuracy testing. Division staff are busy preparing for the general election and they cannot divert their time to reprogramming the election project. The State Review Board already started logic and accuracy testing on September 12.

9. Now that ballots have been finalized and sent to the printer, they must be mailed in nine days. State and federal law require the Division to mail absentee ballots to uniformed and overseas voters by September 24—45 days before the election. The Division will send ballots to approximately 2,200 uniformed and overseas voters.

10. The ballots for uniformed and overseas voters are processed through the United States Postal Service bulk mail facility in Anchorage. Bulk mail is not available on Saturdays, so the Division must mail these ballots on Friday, September 23.

11. Uniformed and overseas voters may vote and return their ballots as soon as they receive them. The Division expects to begin sending absentee ballots to in-state voters on October 14. Absentee in-person voting begins October 24.

12. In the 2020 general election, the Division was able to add a party designation to one House candidate and re-print the ballots for that district that had not already been mailed. This was possible because the modification did not alter the list of candidates on the ballot and did not require changes to the election project. The Division could not use the same solution to remove a candidate, because that requires changes the election project and the list of candidates in the election—and thus who

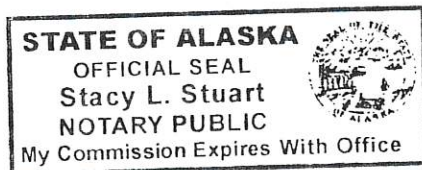
voters can vote for and how their votes will be counted by the machines and software—rather than just the appearance of the ballot.

13. Although removing a candidate from the race entirely would not be practically possible, the Division could “withdraw” a candidate from the ranked-choice tabulation any time before the Division certifies the final results. This would mean that no votes would count toward that candidate. Instead, votes for that candidate would go to the voters’ next-highest choices. The “withdrawn” candidate’s name would still appear on the ballots and the voting tablets.

DATED: September 14, 2022

Gail Fenumiai
Division of Elections Director
Office of the Governor

SUBSCRIBED and SWORN before me this 14 day of September, 2022.



Notary Public, State of Alaska
My commission expires w/office

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