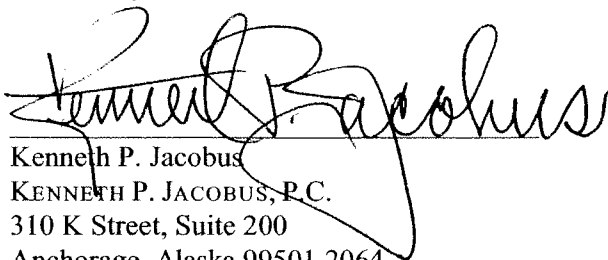


Conclusion

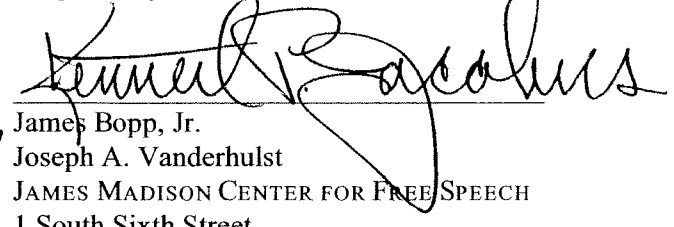
Accordingly, this Court should enjoin Defendants Cannon, Fitzgerald, and Menendez, the Attorney Members of the Alaska Judicial Council, from exercising any powers under Alaska Const. art. IV, §§ 5 and 8, and Alaska Stat. § 22.05.080 and from taking part in the deliberations and voting for nominees to fill the current impending vacancy created by the retirement of Justice Robert L. Eastaugh.

Furthermore, this Court should enjoin Defendants the Chief Justice, Clarke, Thompkins-Miller, and Williams, the remaining four members of the Alaska Judicial Council, from observing the requirement that they act by the concurrence of four or more members under Alaska Const. art. IV, § 8, so that they may proceed with the nomination procedure acting by majority vote.

Dated: July 2, 2009.


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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

WARD HINGER, KENNETH KIRK, and
CARL EKSTROM,

Plaintiffs,

v.

CHIEF JUSTICE WALTER CARPENETI, in
his official capacity as *ex officio* Member of
the Alaska Judicial Council; JAMES H.
CANNON, in his official capacity as Attorney
Member of the Alaska Judicial Council;
KEVIN FITZGERALD, in his official
capacity as Attorney Member of the Alaska
Judicial Council; and LOUIS JAMES
MENENDEZ, in his official capacity as
Attorney Member of the Alaska Judicial
Council; WILLIAM F. CLARKE, in his
official capacity as Non-Attorney Member of
the Alaska Judicial Council; KATHLEEN
THOMPkins-MILLER, in her official
capacity as Non-Attorney Member of the
Alaska Judicial Council; and CHRISTENA
WILLIAMS, in her official capacity as Non-
Attorney Member of the Alaska Judicial
Council,

Defendants

Civil Action Number 3:09-cv-00136-TMB

**ORDER GRANTING MOTION FOR
PRELIMINARY INJUNCTION**

This action is before the Court on Plaintiffs' Motion for Preliminary Injunction. The Court GRANTS the motion.

It is therefore ORDERED that the Attorney Members of the Alaska Judicial Council, James H. Cannon, Kevin Fitzgerald, and Louis James Menendez are preliminarily enjoined from participating in the procedure for nominating judicial candidates and acting in their official capacities under Alaska Const. art. IV, §§ 5 and 8, and Alaska Stat. § 22.05.080 for the vacancy created by the

impending retirement of Justice Robert L. Eastaugh from the Alaska Supreme Court, which retirement becomes effective November 2, 2009.

It is further ORDERED that the remaining Members of the Alaska Judicial Council, Chief Justice Walter Carpeneti, William F. Clarke, Kathleen Thompkins-Miller, and Christena Williams are preliminarily enjoined from observing the requirement under Alaska Const. art. IV, § 8, that they act by concurrence of four or more members of the Council, as not severable from the unconstitutional sections above, so that they may continue to act by majority concurrence.

SO ORDERED this _____ day of July, 2009.

United States District Judge