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

LAW PROJECT FOR PSYCHIATRIC)
RIGHTS, an Alaskan non-profit corporation,)

Plaintiff,)

vs.)

REC'D MAR 16 2009

STATE OF ALASKA, SARAH PALIN,)
Governor of the State of Alaska,)

ALASKA DEPARTMENT OF HEALTH AND)
SOCIAL SERVICES, WILLIAM HOGAN,)

Commissioner, Department of Health and)
Social Services, TAMMY SANDOVAL,)

Director of the Office of Children's)
Services, STEVE McCOMB, Director of the)

Division of Juvenile Justice, MELISSA)
WITZLER STONE, Director of the Division of)

Behavioral Health, RON ADLER,)
Director/CEO of the Alaska Psychiatric)

Institute, WILLIAM STREUER, Deputy)
Commissioner and Director of the Division of)

Health Care Services,)
)

Defendants)

Case No. 3AN-08-10115 CI

STATE OF ALASKA'S MOTION AND MEMORANDUM IN SUPPORT OF
MOTION TO STAY DISCOVERY

Pursuant to Alaska Rule of Civil Procedure 77, defendants the State of
Alaska; Sarah Palin, Governor of the State of Alaska; the Department of Health and
Social Services; William Hogan, in his official capacity as Commissioner of the
Department; Tammy Sandoval, in her official capacity as Director of the Office of
Children's Services; Steve McComb, in his official capacity as Director of the Division

ATTORNEY GENERAL, STATE OF ALASKA
DIMOND COURTHOUSE
P.O. BOX 110300, JUNEAU, ALASKA 99811
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3 of Juvenile Justice; Melissa Stone, in her official capacity as Director of the Division
4 of Behavioral Health; Ron Adler, in his official capacity as Director of Alaska
5 Psychiatric Institute; and William Streur, in his official capacity as Deputy
6 Commissioner of the Department of Health and Social Services (hereinafter
7 collectively “the Department”), hereby move to stay discovery in the above-captioned
8 matter. The plaintiff is currently seeking discovery in this case. However, the
9 Department has filed contemporaneous to the instant motion a dispositive Motion for
10 Judgment on the Pleadings pursuant to Alaska Rule of Civil Procedure 12(c). For the
11 following reasons, the Department asks the court to stay discovery pending resolution
12 of the Department’s Civil Rule 12(c) motion.
13

14 A stay of discovery in litigation is within the discretion of the trial court
15 and appropriate pending the court’s decision on a dispositive motion.¹ This is
16 particularly true where—as here—such a motion raises pure questions of law which
17 discovery is not needed to resolve.² In such cases, and particularly where—also as
18 here—the pending motion would dispose of the entire case, staying discovery “is an
19 eminently logical means to prevent wasting the time and effort of all concerned, and to
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24 ¹ See, e.g., *Karen L. v. State Dept. of Health and Social Services, Div. of Family and Youth Services*, 953 P.2d 871, 880 (Alaska 1998).

25 ² *Brazos Valley Coalition for Life, Inc. v. City of Bryan, Tex.*, 421 F.3d
26 314, 328 (5th Cir. 2005).

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3 make the most efficient use of judicial resources.”³ Courts have granted government
4 defendants’ requests to stay discovery, specifically where “the burden and expense of
5 the subject discovery outweighed its likely benefit.”⁴ Such motions have been resolved
6 in favor of the government movant on threshold issues, based on the reasoning that
7 unfettered discovery in such a context may impose “an undue burden on public
8 officials and government agencies.”⁵
9

10 In this case, a stay of discovery is appropriate because if the court grants
11 the Department’s Motion for Judgment on the Pleadings, further discovery as it relates
12 to the Complaint in this matter will be moot.⁶ If the Department’s motion is denied,
13 the regular course of discovery can resume at that point. But continued discovery
14 while the Department’s dispositive motion is pending is a waste of the parties’ and the
15 court’s already-stretched resources. On February 24, 2009, the undersigned contacted
16 plaintiff to see if the parties could agree to stay discovery pending the outcome of any
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19 ³ See *Chavous v. District of Columbia Financial Responsibility and*
20 *Management Assistance*, 201 F.R.D. 1, 2 (D.D.C., 2001) (citing *Coastal States Gas*
Corp. v. Department of Energy, 84 F.R.D. 278, 282 (D. Del.1979)).

21 ⁴ See, e.g., *Schism v. U.S.*, 316 F.3d 1259, 1301 (Fed. Cir. 2002). See also
22 *James Madison Ltd. by Hecht v. Ludwig*, 82 F.3d 1085, 1091 (D.C. Cir. 1986).

23 ⁵ *Williamson v. U.S. Dept. of Agriculture*, 815 F.2d 368 (5th Cir 1987)
24 (citing *Halperin v. Kissinger*, 606 F.2d 1192 (D.C.Cir.1979), aff’d in pertinent part, 452
U.S. 713 (1981)) (Court properly stayed discovery pending resolution of threshold
governmental immunity issues).

25 ⁶ The Department’s Rule 12(c) Motion seeks dismissal of the Complaint on
26 the grounds that plaintiff has not presented the court with a justiciable case or
controversy and lacks standing to sue.

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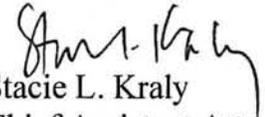
dispositive motions. Plaintiff agreed to postpone one pending deposition by a few weeks but declined to stipulate to the Department's proposed stay.

For the foregoing reasons, the Department requests that the court stay discovery pending the court's decision on the Department's contemporaneous Motion for Judgment on the Pleadings.

DATED this 12th day of March, 2009, at Juneau, Alaska.

RICHARD A. SVOBODNY
ACTING ATTORNEY GENERAL

By: 
Elizabeth M. Bakalar
Assistant Attorney General
Alaska Bar No. 0606036

By: 
Stacie L. Kraly
Chief Assistant Attorney General
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IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

LAW PROJECT FOR PSYCHIATRIC)
RIGHS, an Alaskan non-profit corporation,)

Plaintiff,)

vs.)

STATE OF ALASKA, SARAH PALIN,)
Governor of the State of Alaska,)

ALASKA DEPARTMENT OF HEALTH AND)
SOCIAL SERVICES, WILLIAM HOGAN,)

Commissioner, Department of Health and)
Social Services, TAMMY SANDOVAL,)

Director of the Office of Children's)
Services, STEVE McCOMB, Director of the)

Division of Juvenile Justice, MELISSA)
WITZLER STONE, Director of the Division of)

Behavioral Health, RON ADLER,)
Director/CEO of the Alaska Psychiatric)

Institute, WILLIAM STREUER, Deputy)
Commissioner and Director of the Division of)

Health Care Services,)
Defendants)

Case No. 3AN-08-10115 CI

**ORDER GRANTING STATE OF ALASKA'S MOTION
TO STAY DISCOVERY**

Having reviewed the State of Alaska's and the remaining above-named
defendants' Motion to Stay Discovery and any responses thereto, IT IS SO

ORDERED:

Discovery in this matter is hereby STAYED pending the court's decision
on the Department's Motion for Judgment on the Pleadings.

DATED this _____ day of _____, 2008.

Jack W. Smith
Superior Court Judge

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