

In the Supreme Court of the State of Alaska

**In the Matter of the 2021
Redistricting Cases,**
(Matanuska-Susitna Borough, S-18328)
(City of Valdez, S-18329)
(Municipality of Skagway, S-18330)
(Alaska Redistricting Board, S-18332)

Trial Court Case No. **3AN-21-08869CI**

Supreme Court No. **S-18332**

Order

Motions for Attorney's Fees and Costs

Date of Order: **8/22/2023**

Before: Borghesan and Henderson, Justices, and Matthews,
Eastaugh, and Winfree, Senior Justices.*

Matanuska-Susitna Borough and Michael Brown (collectively Mat-Su) and Felisa Wilson, George Martinez, and Yarrow Silvers (collectively East Anchorage) moved for awards of full reasonable attorney's fees and costs under AS 09.60.010, as prevailing constitutional litigants, for work performed on their behalf in this court during the redistricting litigation. The Alaska Redistricting Board opposed the motions in whole or in part. The motions are granted in part based on the following summary of relevant points and authorities.

1. The motions are governed by *Meyer v. Stand for Salmon*, specifically its holding that an otherwise qualified constitutional claimant is entitled to full reasonable attorney's fees "devoted in any reasonably connected way to the constitutional claims on which it prevailed" but is "not entitled to recover any fees devoted solely to the constitutional claims on which it did not prevail." 450 P.3d 689, 690-92 (Alaska 2019). Mat-Su and East Anchorage are incorrect in asserting that a redistricting challenger is entitled to *all* full reasonable attorney's fees and costs incurred in appellate proceedings for prevailing on any one of several constitutional

* Sitting by assignments made under article IV, section 11 of the Alaska Constitution and Alaska Administrative Rule 23(a).

claims. And unless non-constitutional claims are reasonably connected to a constitutional claim upon which a challenger prevails, the challenger is not entitled to recover attorney's fees devoted solely to those non-constitutional claims.

2. We conclude that Mat-Su prevailed as a constitutional claimant with respect to its position that the original redistricting plan violated art. VI, § 6's compactness requirement with respect to House District 36. We conclude that Mat-Su did not prevail on its assertions that the original redistricting plan violated art. VI, § 6's compactness requirement as to House District 29, violated art. VI, § 6's population and socio-economic integration requirements, and violated equal protection. Thus, Mat-Su is entitled to an award of full reasonable attorney's fees and costs devoted in any reasonably connected way to the art. VI, § 6 compactness issue about House District 36, and Mat-Su is not entitled to an award of attorney's fees and costs devoted *solely* to the other constitutional issues.

3. We conclude that East Anchorage prevailed as a constitutional claimant with respect to its position that the original redistricting plan violated equal protection with respect to Senate District K. Thus, East Anchorage is entitled to an award of full reasonable attorney's fees and costs devoted in any reasonably connected way to that issue.

4. The Board contends that services rendered for Mat-Su and East Anchorage in connection with *Hickel* process, due process ("hard look"), and Open Meetings Act issues, as well as in connection with discovery and trial process issues, were rendered for constitutional claims not prevailed upon or not rendered for constitutional claims at all, and therefore cannot be included in attorney's fees and costs awards. We disagree: on the specific facts and circumstances of the redistricting litigation in this court, those services were reasonably connected to the constitutional claims upon which Mat-Su and East Anchorage prevailed.


5. East Anchorage also is entitled to full reasonable attorney's fees and costs associated with opposing the Board's petition for review to this court that was filed during the superior court trial. Both East Anchorage and Mat-Su are entitled to full reasonable attorney's fees and costs associated with applying for awards of attorney's fees and costs under AS 09.60.010, although the same *Meyer v. Stand for Salmon* analysis applies.

6. The Board agrees that East Anchorage is entitled to its cost bill of \$1,638.78, but contends that East Anchorage's attorney's fees request is unreasonable in light of the hourly rates and time expended. We reject the Board's contention that the hourly rates for East Anchorage's attorneys were unreasonable. We agree that there should be some reduction for the number of hours spent by East Anchorage's attorneys. After reviewing the documentation presented in the motion papers, East Anchorage is AWARDED \$80,000 in attorney's fees and \$1,638.78 in costs.

7. The Board contends that Mat-Su actually did not prevail on a constitutional claim in this court; as noted above we reject that contention. The Board also contends that Mat-Su did not sufficiently segregate its attorney's fees for separate constitutional claims and for non-constitutional claims. We agree that Mat-Su should have done more to provide necessary information for an appropriate award, but, as noted above in Paragraph 4, we disagree with the Board that various non-constitutional issues did not reasonably relate to the constitutional claim upon which Mat-Su prevailed. After considering Mat-Su's presentation of its attorney's fees and costs and the Board's response, after taking all the foregoing into account, and upon exercising our discretion to avoid further expenditures for legal services by both Mat-Su and the Board in connection with an AS 09.60.010 award, Mat-Su is AWARDED \$15,000 in attorney's fees and costs.

Entered at the direction of the full court.

Clerk of the Appellate Courts


Meredith Montgomery

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