

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

In the Matter of the 2021 )  
Redistricting Plan ) Case No.: 3AN-21-08869 CI  
 ) 4BE-21-00372 CI  
 )

**RESPONSE TO ALASKA REDISTRICTING BOARD’S OBJECTIONS TO  
CALISTA PLAINTIFFS’ PRE-FILED DIRECT TESTIMONY**

Plaintiffs Calista Corporation, William Naneng, and Harley Sundown (collectively “Calista Plaintiffs”) submit the following response to the Alaska Redistricting Board’s (“Board”) Objections to Plaintiffs’ Pre-Filed Direct Testimony.

Generally, the Calista Plaintiffs respond that the Board’s objections are premature and that the Court should hold them for decision until trial. The format of this case, with written testimony filed before discovery, depositions, and expert reports or testimony, is unique and created difficulties in providing “perfect” self-contained testimony to the Court by the specified deadline. The Calista Plaintiffs expect the development of the evidence at trial, and supplementation of the Calista Plaintiffs’ testimony prior to trial, to resolve many, if not all, of the Board’s objections. Moreover, the Court can—at trial—assess the evidence and, rather than exclude testimony, decide how much weight to give various portions of the testimony.

The Calista Plaintiffs respond to the Board’s specific objections below.

## I. Response to Objections to Testimony of Andrew Guy

**Foundation objections (P.1, P.3, P.4, P.5, P.6, P.7):** These objections are premature. The Calista Plaintiffs expect to lay additional foundation for Mr. Guy's testimony through supplementation and additional evidence at trial. To the extent they do not, the Calista Plaintiffs respond that the Board's foundation objections go to weight, not admissibility, in this bench trial. The Court is well able to ascertain which statements are Mr. Guy's opinion, which are directly supported by the totality of the evidence, which come from facts that are common knowledge, and assign an appropriate degree of weight to those statements.

Moreover, Mr. Guy's position as President and CEO of Calista Corporation, an Alaska Native Regional Corporation, gives him the experience and qualifications to comment on facts and data affecting and occurring within the Calista Region.

**Improper expert testimony (P.5):** This objection is meritless. Mr. Guy is well-qualified, as an Alaska Native and head of an Alaska Native Regional Corporation, to comment on differences between Alaska Native peoples and how they relate to the integration of communities.

**Hearsay, lack of authentication (P.6):** The map marked as CAL-1 will be explained and supported by the testimony of the Calista Plaintiffs' expert witness Randy Ruedrich.

**Improper expert testimony (P.7):** This objection is meritless. Any resident of the State of Alaska, or indeed the United States, is qualified to comment on the basic

“one person, one vote” principle that underlies our system of representative democracy. It is not a “legal requirement or conclusion” that requires expert testimony. If the Board intends this objection to argue that “one person, one vote” is *not* an accepted principle in the redistricting process, the Calista Plaintiffs would appreciate clarification of that position.

## II. Response to Objections to Testimony of William Naneng

**Foundation, hearsay, lack of authentication (P.2):** The map marked as CAL-1 will be explained and supported by the testimony of the Calista Plaintiffs’ expert witness Randy Ruedrich.

**Hearsay (P.6):** Mr. Naneng was speaking to his understanding of what he has heard. The Court can decide what weight to give this statement.

## III. Response to Objections to Testimony of Harley Sundown

**Foundation, lack of authentication (P.1):** The map marked as CAL-1 will be explained and supported by the testimony of the Calista Plaintiffs’ expert witness Randy Ruedrich.

**Foundation (P.3):** Mr. Sundown testified that he has been a resident of Scammon Bay for his entire life and has worked for the school district for nearly three decades. His personal experience as a resident and his work experience managing the school qualify him to speak regarding issues affecting the city and him personally, such as the age of the water/sewer system, problems with it, and public funding information.

**Foundation (P.8):** This portion of Mr. Sundown’s testimony relates a part of Scammon Bay’s cultural oral history, a story that has been handed down through generations. Mr. Sundown’s testimony clearly identifies this as a “story” and identifies how it was told to him. The fact that Scammon Bay does not have an English-language written record of its cultural history should not render all such information inadmissible. Objecting to this story based on hearsay is inappropriate from an evidentiary perspective in addition to being culturally insensitive. Overall, the testimony should be allowed, and the Court can decide how much weight to give it.

#### IV. Response to Objections to Testimony of Thom Leonard

**Foundation, lack of authentication (P.12):** The map marked as CAL-1 will be explained and supported by the testimony of the Calista Plaintiffs’ expert witness Randy Ruedrich.

**Foundation, relevance (P.7-8):** This portion of Mr. Leonard’s testimony relates a part of the Calista Region’s history, something that Mr. Leonard and his family have lived throughout generations. The fact that Mr. Leonard does not have an English-language written record of this history to attach as an exhibit should not render all such information inadmissible. Mr. Leonard’s personal experience and personal knowledge as a resident of the Calista Region, and a member of its Alaska Native population, qualifies him to comment on this history. Objecting to the history based on foundation is inappropriate from an evidentiary perspective in addition to being culturally insensitive. Similarly, the Board’s relevance objection discounts that cultural history is a significant

component of socio-economic integration, which is directly at issue in this suit. Overall, the testimony should be allowed, and the Court can decide how much weight to give it.

**Foundation (P.8):** Same response as above.

ASHBURN & MASON, P.C.  
Attorneys for Calista Corporation, William  
Naneng, and Harley Sundown

DATED: January 12, 2022

By: s/Eva R. Gardner

Eva R. Gardner  
Alaska Bar No. 1305017  
Michael S. Schechter  
Alaska Bar No. 1405044  
Benjamin J. Farkash  
Alaska Bar No. 1911095

ASHBURN & MASON P.C.  
LAWYERS  
1227 WEST 9TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501  
TEL 907.276.4331 • FAX 907.277.8235

## CERTIFICATE OF SERVICE

On January 12, 2022, a copy of the foregoing was served by e-mail on:

*Schwabe Williamson & Wyatt*

Matthew Singer

Lee Baxter

Kayla J. F. Tanner

[msinger@schwabe.com](mailto:msinger@schwabe.com)

[lbaxter@schwabe.com](mailto:lbaxter@schwabe.com)

[ktanner@schwabe.com](mailto:ktanner@schwabe.com)

[jhuston@schwabe.com](mailto:jhuston@schwabe.com)

*Sonosky, Chambers, Sachse, Miller & Monkman, LLP*

Nathaniel Amdur-Clark

Whitney A. Leonard

[nathaniel@sonosky.net](mailto:nathaniel@sonosky.net)

[whitney@sonosky.net](mailto:whitney@sonosky.net)

*Holmes Weddle & Barcott, PC*

Stacey Stone

Gregory Stein

[sstone@hwb-law.com](mailto:sstone@hwb-law.com)

[gstein@hwb-law.com](mailto:gstein@hwb-law.com)

[mmilliken@hwb-law.com](mailto:mmilliken@hwb-law.com)

*State of Alaska, Department of Law*

Thomas S. Flynn

Rachel Witty

[thomas.flynn@alaska.gov](mailto:thomas.flynn@alaska.gov)

[rachel.witty@alaska.gov](mailto:rachel.witty@alaska.gov)

*Brena, Bell & Walker, P.C.*

Robin Brena

Laura S. Gould

Jake Staser

Jack Wakeland

[rbrena@brenalaw.com](mailto:rbrena@brenalaw.com)

[lgould@brenalaw.com](mailto:lgould@brenalaw.com)

[jstaser@brenalaw.com](mailto:jstaser@brenalaw.com)

[mnardin@brenalaw.com](mailto:mnardin@brenalaw.com)

[mhodsdon@brenalaw.com](mailto:mhodsdon@brenalaw.com)

[jwakeland@brenalaw.com](mailto:jwakeland@brenalaw.com)

*Birch Horton Bittner & Cherot*

Holly Wells

Mara Michaletz.

William D. Falsey

Zoe Danner

[hwells@bhb.com](mailto:hwells@bhb.com)

[mmichaletz@bhb.com](mailto:mmichaletz@bhb.com)

[wfalsey@bhb.com](mailto:wfalsey@bhb.com)

[zdanner@bhb.com](mailto:zdanner@bhb.com)

[tevans@bhb.com](mailto:tevans@bhb.com)

[pcrowe@bhb.com](mailto:pcrowe@bhb.com)

[tmarshall@bhb.com](mailto:tmarshall@bhb.com)

ASHBURN & MASON

By: s/Sarah L. Clinton

Sarah L. Clinton