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

THE DOWNTOWN SOUP KITCHEN d/b/a  
DOWNTOWN HOPE CENTER,

Plaintiff,

v.

MUNICIPALITY OF ANCHORAGE,  
ANCHORAGE EQUAL RIGHTS  
COMMISSION, and PAMELA BASLER,  
Individually and in her Official Capacity as the  
Executive Director of the Anchorage Equal  
Rights Commission,

Defendants.

Case No. 3:18-cv-00190-SLG

**PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR SHORTENED TIME  
TO CONSIDER MOTION TO STAY PROCEEDINGS**

Defendants (collectively Anchorage) ask the Court to expedite consideration of the Motion to Stay Proceedings to avoid responding to Plaintiff's Motion for Preliminary Injunction. Because Anchorage orchestrated this avoidable situation and First Amendment freedoms are at stake, Anchorage's request should be denied.

First, Anchorage created this situation in which it allegedly needs expedited relief and has done so to gain a tactical advantage. Specifically, Anchorage has filed numerous motions for extension to respond to Plaintiff's complaint and motion for preliminary injunction, only to wait until the last minute to file a motion to expedite in an effort to not respond to that motion. Seventy-five days elapsed between Anchorage's first responsive pleading deadline and the filing of its Motion for Federal Abstention. On September 4, 2018, Anchorage filed the first Motion for Extension of Time to File Answer to Complaint. Defs.' Mot. Ext. Time, ECF No. 18. Three days before that first extended deadline, Anchorage filed the Second Motion for Extension of Time to File Answer. Defs.' Mot. Ext. Time, ECF No. 20. And on October 12, 2018, the date of the second extended deadline, Anchorage filed yet another Motion for Extension of Time to File Answer. Defs.' Mot. Ext. Time, ECF No. 24. Finally, on October 17, 2018, Anchorage filed its Answer, with no accompanying motion to dismiss.

Two weeks after Anchorage filed the Answer, Plaintiff filed its Motion for Preliminary Injunction. Shortly before the initial response deadline, Anchorage requested its fourth extension—which importantly, is the two-week extension to respond to Plaintiff's Motion, the November 29, 2018 deadline that Anchorage now seeks to avoid. Defs.' Mot. Ext. Time, ECF No. 39. As a courtesy, Plaintiff agreed not to oppose that relief, unaware that Anchorage would later file the Motion for Shortened Time, a Motion to Stay Proceedings, and a Motion for Federal Abstention. Such maneuvering should not be rewarded.

Second, this situation was entirely avoidable. Anchorage could have filed a motion to dismiss based on abstention much earlier. Rather than do that, however, Anchorage chose to file an answer and weeks later ask the Court for expedited consideration of its motion. And it did so without complying with the Local Rules. The affidavit Anchorage filed does not adequately explain why shortened time is needed. *Aff. of R. Stuart*, ECF No. 46. Asking the Court to rectify its mistake by allowing it to not respond to a pending motion and leapfrog that motion with its own motion that could have been filed earlier does not meet that standard. D.Ak. L.R. 7.2(c). This Court should not incentivize such behavior. If parties can refuse to respond to pending motions with last minute motions to expedite, they will repeatedly do so. This will result in harm to movants and wasted judicial resources responding to last minute motions.

Third, Anchorage's request would severely prejudice the Hope Center. The purpose of seeking an injunction is to obtain immediate relief. Delaying resolution of that request is harmful. This is particularly true in a situation where First Amendment rights are at stake. As this Court has previously recognized, "the loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Shell Offshore, Inc. v. Greenpeace, Inc.*, No. 3:15-CV-00054-SLG, 2015 WL 11122099, at \*2 (D. Alaska June 15, 2015) (citing *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). And here, the Hope Center's loss is more than just a minimal time period. Each day, the Hope Center loses the freedom to speak and a threat hovers over its right to exercise its religious beliefs. Only an immediate injunction can remedy that harm. But Anchorage seeks not only a delay in briefing, but avoidance of this Court's consideration of the Motion for Preliminary Injunction altogether.

Lastly, Anchorage will not be harmed by responding to the Motion for Preliminary Injunction. Anchorage may respond to the Motion for Preliminary Injunction at the same time it

is pursuing its own motion for abstention. The same would be true if Anchorage had filed its motion first. Plaintiff would have still been able to file its own motion and briefing would have been done concurrently. Either way, Anchorage should not be able to avoid work or rectify a prior tactical decision by filing a motion for shortened time.

Simply put, Anchorage requested four previous extensions, chose the timing of its filings, could have raised its arguments earlier, and now seeks to shorten time on the recently filed motion to avoid filing a response to the Motion for Preliminary Injunction. The Court should deny the Motion for Shortened Time, enforce the November 16, 2018 text order which states Anchorage's response to the Motion for Preliminary Injunction is due by November 29, 2018, and order that Plaintiff's responses to Anchorage's Motion to Stay Proceedings and Motion for Abstention are due no earlier than December 5, 2018, the 14-day window provided for under the Local Rules. D.Ak. L.R. 7.1.

Respectfully submitted this 26th day of November, 2018.

By: /s/ Ryan J. Tucker  
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### **CERTIFICATE OF SERVICE**

I hereby certify that on November 26, 2018, the foregoing was filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

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/s/ Ryan J. Tucker  
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THE DOWNTOWN SOUP KITCHEN d/b/a  
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Case No. 3:18-cv-00190-SLG

**[PROPOSED] ORDER DENYING DEFENDANTS' MOTION FOR SHORTENED TIME  
TO CONSIDER MOTION TO STAY PROCEEDINGS**

The Court has reviewed Defendants' Motion for Shortened Time to Consider Motion to Stay Proceedings (Docket No. 45) and Plaintiff's Opposition.

IT IS HEREBY ORDERED that Defendants' Motion for Shortened Time to Consider Motion to Stay Proceedings (Docket No. 45) is DENIED.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Hon. Sharon L. Gleason  
United States District Court Judge