

observance, i.e., Juneteenth communities, to communicate the rectified issuance and;

3. To pay restitution and compensatory damages to affected individuals and civic organizations as set forth in the Alaska HB100 in a manner which is equitable. This is due to Defendant's willful failure to issue the 2007 proclamation even after great distress and outrage from the African American community surfaced.

4. Because the determination of the Alaska Personnel Board regarding Plaintiff's prior complaint was that no remedy existed under the ALASKA EXECUTIVE BRANCH ETHICS ACT because the element of personal gain was absent from the allegations. Additionally, the board's authority was limited to the provisions under this act.

II JURISDICTION

5. Jurisdiction exists under 42 U.S.C. § 1983- Civil action for deprivation of rights. Defendant under the color of Alaskan law, subjected Plaintiff, a United States citizen, and other citizens, to the deprivation of the privileges of Juneteenth legislation, and is liable in an action at law, suit in equity, or other proper proceeding for redress.

6. Though arguably, Plaintiff *may* have sought class action status in this "quasi-Writ of Mandamus", in consideration of Defendant's indefensible failure, Plaintiff's personal interaction with Defendant and subsequent anguish regarding Defendant in matters of race and the simplicity of the remedy sought, the economy of judicial resources justifies,

in part, filing by Plaintiff as an individual.

7. Jurisdiction also exists under 28 U.S.C. § 1332- Diversity of Citizenship. Parties are diversified and the amount in controversy, including equitable and monetary relief, exceeds \$75,000 and;

8. Jurisdiction also exists under 28 USC. § 1331- Federal Question. Defendant's willful actions, especially in light of public outrage and her refusal to mitigate, were clear violations of House Joint Resolutions 125 (104th Congress) and 56 (105th Congress) and, Senate Joint Resolution 11 (105th Congress) recognizing "Juneteenth as the day of celebrating the end of slavery in the United States and as the true day of independence for African-Americans in this country." and "19th of June" as "Juneteenth Independence Day in America"

III PARTIES

A. PLAINTIFF

9. Plaintiff is an African-American musical performer, educator, and producer and is the creator of a television program America's Hot Musician with his organization American Youth Symphony. Plaintiff is a resident of the District of Columbia and has been a touring musician in Alaska with the Duke Ellington Orchestra. Plaintiff also had

profound interaction with Defendant in Alaska in the past, which formed the basis and foundation for Plaintiff's moral obligation, civic duty and personal anguish to file an initial complaint with the Alaska Personnel Board regarding what he believes are the historic racially insensitive behaviors of Defendant.

B. DEFENDANT

10. Defendant is the current Governor of Alaska, elected on December 4 2006. At the time of the complaint from which this action arises (with the Alaska Personnel Board), Defendant was governor and a 2008 republican vice-presidential candidate. Defendant maintains an office in Washington, DC at 444 North Capitol Street NW.

IV RELEVANT FACTS

11 .Juneteenth, a holiday or observance as set forth by the 104th Congress in House Joint Resolution 125, "as the day of celebrating the end of slavery in the United States and as the true day of independence for African-Americans in this country", is an important and sacred day of celebration and remembrance.

12. It is so important, that Juneteenth is officially celebrated as a holiday or observance in 29 states, including Alaska who adopted it as a holiday observance in 2001.

13 . In 2001, the Alaskan Legislature unanimously passed the bill HB100 and the

Governor Tony Knowles subsequently signed the bill into law on April 11, 2001 with the specific directive that the Governor shall issue a yearly proclamation commemorating the day. The bill reads:

HOUSE BILL NO. 100 "An Act establishing the third
Saturday of each June as Juneteenth Day." BE IT
ENACTED BY THE LEGISLATURE OF THE STATE
OF ALASKA: Sec. 44.12.090. Juneteenth Day.

Juneteenth Day is established on the third Saturday in June each year to commemorate the abolition of slavery throughout the United States and its territories in 1865 and to remind all Americans of the status and importance of Americans of African descent as American citizens. **The governor shall issue a proclamation to commemorate the day.** Juneteenth Day may be observed by suitable observances and exercises by civic groups and the public, and citizens of the state are urged to reflect on the suffering and sacrifice endured by millions of early African-Americans and to appreciate the unique freedom and equality enjoyed by all state citizens today, today."

[Emphasis added]

14. Further setting forth the public policy and tone of Juneteenth Alaskan Representative

Lesil McGuire who sponsored the bill, wrote in her sponsor statement:

Juneteenth is the oldest known celebration of the ending of slavery. From its Galveston, Texas origin in 1865, the observance of June 19th as the African American Emancipation Day has spread across the United States and beyond.

Today Juneteenth commemorates African American freedom and emphasizes education and achievement. It is a day, a week, and in some areas a month marked with celebrations, guest speakers, picnics and family gatherings. It is a time for reflection and rejoicing. It is a time for assessment, self-improvement, and for planning the future. In cities across the country, people of all races, nationalities and religions are joining hands to truthfully acknowledge a period in our history that shaped and continues to influence our society today. Only when sensitized to the conditions and experiences of others, then can we make significant and lasting improvements in our society.

Juneteenth Day has been celebrated in Anchorage on the Park strip for the past 8 years. Other states have recognized the value of celebrating this day as a nationally recognized holiday. This would be a non-paid holiday on the third

Saturday of each June as the official day, and would be listed on the calendar. I respectfully urge your support in this effort of acknowledging and showing the appreciation of African American history and culture by passage of HB 100.

15. Such an official observance has not only social and educational significance but economic ramifications with regard to a myriad of issues from days off for employees to solicitation of funds for celebratory events.

16. From 2001 through 2005, the Alaskan Governors Tony Knowles, 2001-2002, and Frank Murkowski, 2003-2006, also a co-sponsor of the bill as a state senator, did in fact issue proclamations as set forth in HB100 and furthermore, those Alaskan Governors reached out to the African American Community and participated in many of the Juneteenth events across the state.

17. In June 2007, Defendant, who became Alaska's newly elected governor in December 2006, failed to issue the proclamation as required by law.

18. Defendant's actions were not only in violation of law, but extremely disruptive with citizens and civic groups who had historically celebrated Juneteenth in terms of public policy, expectation, event planning and education, with social and financial consequences.

19 Defendant has since refused to issue the proclamation for 2007 retroactively.

20. Defendant's actions have caused and continue to cause tense race relations with citizens and civic leaders particularly in the African American community.

21. On or about September 15, 2008 Plaintiff became aware that Defendant was in fact Sarah Heath with whom Plaintiff, to the best of his knowledge, had a racial encounter with in 1991 in Alaska while on tour with the Duke Ellington Orchestra. At that time, Defendant stated to Plaintiff that she does not "talk" or "mess with" Black men.

22. Newly aware that Defendant was now a vice-presidential candidate, greatly disturbed and anguished Plaintiff who went public with his experience.

23. As a result, Plaintiff was made aware by African Americans in Alaska that Defendant had also in fact, failed to issue the 2007 Juneteenth Proclamation and that several citizens had been trying, unsuccessfully, to consult with Defendant regarding her race record in Alaska.

24. Plaintiff, with media resources in Washington, DC coupled with a sense of civic obligation and personal anguish, held a press conference at the National Press Club on October 7, 2008 with several affected Alaskan citizens and civic leaders to communicate Defendant's alleged racial intolerance before the national media.

25. Plaintiff surmised that his personal knowledge of Defendant's actions would be of reasonable concern to the public- considering Defendant was a vice presidential candidate.

26. Certain citizens at the October 7, 2008 press conference expressed a fear to come forward so Plaintiff initiated an individual complaint with the Alaskan Attorney General Talis Colberg at or around October 15, 2008 regarding the Juneteenth failure.

27. Alaskan statutes give standing to individuals to file complaints against the governor. In pertinent part:

Chapter 39.52. ALASKA EXECUTIVE BRANCH

ETHICS ACT

Article 04. COMPLAINTS; HEARING PROCEDURES

Sec. 39.52.310. Complaints.

(b) A person may file a complaint with the attorney general regarding the conduct of a current or former public officer.

A complaint must be in writing, be signed under oath....

Sec. 39.52.960. Definitions.

(17) "person" includes a natural person, a business, and an organization;

28. Colberg forwarded the complaint to the Alaska Personnel Board who had jurisdiction

over the complaint according to Colberg.

29. In November 2008, the Alaska Personnel Board responded to Plaintiff's complaint that they would not be able to take action because the Ethics Act, which they are limited to for review of complaints, requires an element of monetary or personal gain within the allegations. The board further stated that if Plaintiff were to make such allegations clear, they could act on the complaint.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays:

30. That the Court adjudge and decree that Defendant Sarah Palin, in failing to issue the 2007 Juneteenth Proclamation, violated and continues to violate the law.

31. That the Court adjudge and order Defendant Sarah Palin to issue either retroactively or in another equitable manner prescribed by the Court, the 2007 Juneteenth Proclamation, restoring the integrity of and compliance with the law.

32. That Defendant be ordered to publish any such 2007 Juneteenth Proclamation in media outlets throughout the state of Alaska and in the remaining 28 states where

Juneteenth is a holiday or observance, i.e., the Juneteenth communities, to communicate the rectified issuance.

33. That Defendant pay restitution and compensatory damages to affected individuals and civic organizations for losses, including but not limited to, unrealized event revenues and event cancelations during June 2007 and any other equitable relief the Court deems proper to make such entities whole. (Paragraph 31 and 32 estimated at over \$75,000.00 dollars).

JURY TRIAL DEMANDED ON APPLICABLE CLAIMS

Dated this 13th day of February, 2009

Respectfully submitted,

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