IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ALASKA

AL HUTTON and DOUG WHORTON, Plaintiffs, vs. CITY OF FAIRBANKS; CHIEF DANIEL P. HOFFMAN; and DEPUTY CHIEF BRAD JOHNSON, each in his individual and official capacity, Defendants.	Case No. 4:08-cv-0029-RRB **ORDER FOR CERTIFICATION**

Pursuant to Alaska Rule of Appellate Procedure 407, the United States District Court for the District of Alaska requests that the Alaska Supreme Court answer questions of law that may be determinative of the above-captioned matter pending in the certifying court.

I. QUESTIONS OF LAW TO BE ANSWERED

The following questions shall be certified to the Alaska Supreme Court for decision:

(1) Whether Alaska law recognizes a cause of action for "retaliation" when an employee is subjected to disciplinary action short of termination – i.e., for demotion, reassignment, threats, harassment or requiring a medical examination.

(2) Whether Alaska law recognizes a cause of action for "violation of public policy" when an employee is subjected to disciplinary action short of termination – i.e., for demotion, reassignment, threats, harassment or requiring a medical examination.

II. STATEMENT OF RELEVANT FACTS

Plaintiffs in the matter pending in the certifying court are both police officers employed by the City of Fairbanks. Plaintiffs allege adverse employment actions taken against them by the Chief of Police and Deputy Chief, including a "disciplinary demotion" and a psychological evaluation ordered as "retribution," in addition to lost wages and retirement benefits, and public humiliation. The underlying disputes involved Plaintiffs' discussions and complaints regarding officer safety, department morale, union issues, and nepotism. Both Plaintiffs are currently employed as police officers with the Fairbanks Police Department and at no point during the events in question was either Plaintiff discharged or otherwise terminated from his public employment.

The Defendants have filed a motion for judgment on the pleadings as to the third and fourth causes of action in the Complaint. Specifically, Defendants argue that, absent allegations of employment *termination,* there is no independent cause of action in Alaska for "violation of public policy" or "retaliation." As these questions are a matter of first impression in Alaska, they are being certified to the Alaska Supreme Court by this order.

ENTERED this 13th day of November, 2008.

S/RALPH R. BEISTLINE
UNITED STATES DISTRICT JUDGE