In the Supreme Court of the State of Alaska

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William Barickman,	)	
	)	Supreme Court No. **S-14084**
Petitioner,	)	
v.	)	**Order**
	)	Petition for Review
State of Alaska, Department of Transportation and Public Facilities; and Public Employees Local 71, AFL-CIO,	)	
	)	
Respondents.	)	Date of Order: **February 18, 2011**
	)	

Trial Court Case # **3PA-08-02356CI**

Before: Fabe, Winfree, Christen and Stowers, Justices.
[Carpeneti, Chief Justice, not participating.]

On consideration of the petition for review filed November 18, 2010, the response to the petition for review filed by Public Employees Local 71, AFL-CIO, filed December 17, 2010, and the "Notice" filed December 6, 2010 by the State of Alaska, Department of Transportation and Public Facilities,

IT IS ORDERED:

1. The petition is **DENIED** to the extent that it seeks review of the superior court's grant of summary judgment on petitioner's claim of negligent representation against the Union;

2. The State is requested to file a response to the petition that seeks review of the superior court's grant of summary judgment on the claims against the State. The response shall be filed on or before **3/3/11** and shall not exceed 17 pages in length. The response should address, among other arguments that the State wishes to raise, the

questions whether there is a genuine issue of material fact regarding whether petitioner was constructively discharged despite his letter of resignation and whether any eventual finding by a jury that the Union breached its duty of fair representation could provide an excuse to the failure to exhaust administrative grievance remedies.[1] Failure to file the requested response, an original and six copies, will be viewed by the court as a non-opposition to the petition for review; and

3. The petitioner is directed to file as a supplemental appendix to his petition the briefing and attachments filed in the superior court, both in support of and in opposition to the State's motion for summary judgment, due on or before **3/3/11**.

Entered by direction of the court.

Clerk of the Appellate Courts

Marilyn May

Marilyn May

cc: Supreme Court Justices
Judge Kristiansen
Trial Court Clerk - Palmer

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[1] *See, e.g.*, *Schaub v. K.L.*, 115 P.3d 555, 560 (Alaska 2005).