

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

Josett Banks, Kyla Friedenbloom, and )  
Kristine Shawanokasic, )  
Appellants, )  
v. )  
Municipality of Anchorage, )  
Appellee. )

Case No. 3AN-23-06779 CI

Joene Atoruk, Heather Wolfe Aragon, )  
Leonly Fratis III, Seone Lima, Darrell )  
Dean Miller, Beulah Moto, Lillian )  
Sheakley, Gregory Michael Smith, Tracy )  
Lynn Thompson, Della L. Tunkle, Larry )  
C. Tunley, Brian Keith Vaughan, and )  
Lucille Jane Williams, )  
Appellants, )  
v. )  
Municipality of Anchorage, )  
Appellee. )

Case No. 3AN-23-07037 CI

**ORDER CONSOLIDATING CASES, LIFTING STAY, AND SETTING  
OPENING BRIEF DEADLINE**

On June 16, 2023 and June 28, 2023, Appellants Josett Banks, et al., and Joene Atoruk, et al., filed superior court appeals in these cases challenging abatement actions taken by the Appellee Municipality of Anchorage. Appellants filed a Motion to Consolidate Appeals. Having reviewed the motion, response, and reply, the Motion to Consolidate is granted.

Under Civil Rule 42(a), courts have discretion to consolidate cases “[w]hen actions involving a common question of law or fact are pending before the court.”

Here, Appellants in both cases assert that the Municipality's actions in May and June 2023 violated the Eighth and Fourteenth Amendments of the United States Constitution and Article I, Sections 7 and 12, and Article VII, Sections 4 and 5, of the Alaska Constitution. There are clearly common questions of law.

The Municipality argues that the factual differences between the abatement actions being challenged warrant denial of the request for consolidation.

However, the cases clearly involve common questions of fact related to the Municipality's abatement actions in Anchorage during summer 2023, including the availability of shelter space and the Municipality's interest in prohibitions on camping. Nothing in Rule 42 requires that the facts of the cases be identical in order to consolidate the cases.<sup>1</sup>

Both cases are in the same procedural posture, with the Appellants not yet having filed an opening brief in either case. Consolidation will preclude "the possibility of two separate trials" and prevent "rising costs and delay for both of the parties and unnecessary use of the court's time."<sup>2</sup>

Under Civil Rule 42(a), the Court consolidates the two cases. No future documents should be filed in Case No. 3AN-23-7037 CI. All future filings related to the appeals of the Municipality's actions should be filed in Case No. 3AN-23-6779 CI.

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<sup>1</sup> See *Baseden v. State*, 174 P.3d 233, 242 (Alaska 2008) ("Nothing in Rule 42 suggests that the legal theories of consolidated cases must be identical in order for a judge to consolidate them.")

<sup>2</sup> *Dean v. Fior*, 681 P.2d 321, 329 (Alaska 1984).

The stay ordered on September 20, 2023 is now lifted. Appellants' Opening Brief must be filed by October 26, 2023.

DATED this 26th day of September 2023, at Anchorage, Alaska.

  
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Yvonne Lamoureux  
Superior Court Judge

I certify that on 9/26/23  
a copy of the above was served on:

M. Vidmar, R. Botstein, E. Glatt,  
J. Thomas, J. Willoughby

B. Cavanaugh  
Judicial Assistant