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

STATE OF ALASKA,  
Plaintiff/Counterclaim Defendant,

vs.

ALASKA STATE EMPLOYEES  
ASSOCIATION/AMERICAN  
FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES  
LOCAL 52, AFL-CIO,

Defendant/Counterclaimant.

ALASKA STATE EMPLOYEES  
ASSOCIATION/AMERICAN  
FEDERATION OF STATE, COUNTY  
AND MUNICIPAL EMPLOYEES  
LOCAL 52, AFL-CIO,

Third-Party Plaintiff,

vs.

MICHAEL J. DUNLEAVY, in his  
official capacity as Governor of Alaska;  
KEVIN G. CLARKSON, in his official  
capacity as Attorney General of Alaska;  
KELLY TSHIBAKA, in her official  
capacity as Commissioner of the Alaska  
Department of Administration; and  
STATE OF ALASKA, DEPARTMENT  
OF ADMINISTRATION,

Third-Party Defendants.

**COPY**  
Original Received  
**SEP 25 2019**

Clerk of the Trial Courts

Case No. 3AN-19-09971 CI

**ASEA'S ANSWER TO STATE OF ALASKA'S COMPLAINT**

1 Defendant/counterclaimant and third-party plaintiff Alaska State Employees  
2 Association / AFSCME Local 52, AFL-CIO (“ASEA”) answers plaintiff/counterclaim  
3 defendant State of Alaska’s (“State’s”) September 16, 2019 Complaint:  
4

5 **ANSWER TO COMPLAINT**

6 1. ASEA admits the State of Alaska has approximately 15,000 employees.  
7 ASEA admits that it is the collective bargaining representative of a bargaining unit of  
8 approximately 8,000 Alaska state employees (the “General Government Bargaining  
9 Unit”). ASEA admits that it has entered into a collective bargaining agreement (“CBA”)  
10 with the State covering the General Government Bargaining Unit employees. ASEA  
11 admits that the CBA sets forth provisions governing certain terms and conditions of  
12 employment for employees in the General Government Bargaining Unit. ASEA  
13 otherwise denies the allegations in Paragraph 1.  
14  
15

16 2. ASEA admits that it is a union based in Alaska, in general that it represents  
17 state and municipal employees, that it is the democratically elected collective bargaining  
18 representative of the General Government Bargaining Unit of Alaska state employees,  
19 and that the General Government Bargaining Unit is the largest bargaining unit of public  
20 employees in Alaska. ASEA denies that the General Government Bargaining Unit  
21 includes any municipal employees, and otherwise denies the allegations in Paragraph 2.  
22  
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25

1           3. Paragraph 3 states a legal conclusion to which no response is required. To  
2 the extent a response is required, ASEA admits that the Court has subject matter  
3 jurisdiction over this action.  
4

5           4. Paragraph 4 states a legal conclusion to which no response is required. To  
6 the extent a response is required, ASEA admits that venue is proper in this Court.  
7

8           5. Paragraph 5 states a legal conclusion to which no response is required. To  
9 the extent a response is required, ASEA admits that the First Amendment is made  
10 applicable to the States by the Fourteenth Amendment and that it generally forbids  
11 government abridgment of the freedom of speech and of expressive association.  
12 However, ASEA denies that the allegations in Paragraph 5 are a complete summary of  
13 the applicable law.  
14

15           6. Paragraph 6 states legal conclusions to which no response is required. To  
16 the extent a response is required, ASEA admits that the allegations in Paragraph 6  
17 describe general legal principles. However, ASEA denies that the allegations in  
18 Paragraph 6 are a complete summary of the applicable law.  
19

20           7. Paragraph 7 states legal conclusions to which no response is required. To  
21 the extent a response is required, ASEA admits that the allegations in Paragraph 7  
22 describe general legal principles. However, ASEA denies that the allegations in  
23 Paragraph 7 are a complete summary of the applicable law.  
24

1           8.     Paragraph 8 states legal conclusions, to which no response is required. To  
2 the extent a response is required, ASEA denies the allegations in Paragraph 8.

3           9.     Paragraph 9 states a legal conclusion, to which no response is required. To  
4 the extent a response is required, ASEA denies the allegations in Paragraph 9.  
5

6           10.    Paragraph 10 states legal conclusions to which no response is required. To  
7 the extent a response is required, ASEA denies the allegations in Paragraph 10.

8           11.    Paragraph 11 states legal conclusions to which no response is required. To  
9 the extent a response is required, ASEA denies the allegations in Paragraph 11.  
10

11          12.    Paragraph 12 states a legal conclusion to which no response is required. To  
12 the extent a response is required, ASEA admits the allegations in Paragraph 12.

13          13.    Paragraph 13 states a legal conclusion to which to response is required. To  
14 the extent a response is required, ASEA admits the allegations in Paragraph 13.  
15

16          14.    ASEA admits that it engages in collective bargaining with the State over  
17 the employment terms and conditions of the employees in the bargaining unit ASEA  
18 represents.

19          15.    ASEA admits that it represents the employees in the General Government  
20 Bargaining Unit in collective bargaining regarding wages, pensions, and certain other  
21 benefits of those employees. ASEA admits that it has engaged in lobbying efforts related  
22 to certain issues. ASEA otherwise denies the allegations in Paragraph 15.  
23  
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1           16.     ASEA admits that, in accordance with PERA, it has negotiated a collective  
2 bargaining agreement (“CBA”) with the State on behalf of the General Government  
3 Bargaining Unit of State employees. ASEA admits that the CBA governs certain  
4 employment terms and conditions of approximately 8,000 State employees. ASEA denies  
5 that the General Government Bargaining Unit includes any municipal employees, and  
6 otherwise denies the remaining allegations in Paragraph 16.  
7

8           17.     ASEA admits that Section 3.04 of the CBA contains the language quoted in  
9 Paragraph 17.  
10

11           18.     ASEA admits that Section 3.04 of the CBA contains the language quoted in  
12 Paragraph 18.  
13

14           19.     ASEA admits that it has been the State’s practice to deduct money from an  
15 employee’s paycheck, pursuant to that employee’s voluntary dues deduction  
16 authorization, and transfer that money to ASEA, when the State receives a dues  
17 deduction authorization from ASEA signed by that employee.  
18

19           20.     ASEA admits that the voluntary member dues deduction authorization  
20 agreement contains the language quoted in Paragraph 20. Paragraph 20 otherwise  
21 contains legal conclusions to which no response is required. To the extent a response is  
22 required, ASEA denies the remaining allegations in Paragraph 20.  
23

24           21.     ASEA admits that the language quoted in Paragraph 20 from the voluntary  
25 member dues deduction authorization agreement establishes an annual period during  
26

1 which the member may revoke his or her dues deduction authorization. Paragraph 21  
2 otherwise states legal conclusions to which no response is required. To the extent a  
3 response is required, ASEA denies the remaining allegations in Paragraph 21.  
4

5 22. ASEA admits the allegations in Paragraph 22.

6 23. Paragraph 23 states a legal conclusion to which no response is required. To  
7 the extent a response is required, ASEA admits that the allegations in Paragraph 23  
8 summarize some of the facts of *Janus v. AFSCME, Council 31*, 138 S.Ct. 2448 (2018).  
9 However, ASEA denies that the allegations in Paragraph 23 are a complete summary of  
10 the applicable law.  
11

12 24. Paragraph 24 states a legal conclusion to which no response is required. To  
13 the extent a response is required, ASEA admits that the allegations in Paragraph 24  
14 summarize the plaintiff's argument in *Janus*. However, ASEA denies that the allegations  
15 in Paragraph 24 are a complete summary of the applicable law.  
16

17 25. Paragraph 25 states legal conclusions to which no response is required. To  
18 the extent a response is required, ASEA admits that the *Janus* opinion contains the  
19 language quoted in Paragraph 25. ASEA otherwise denies the allegations in Paragraph 25  
20 and denies that the allegations in Paragraph 25 are a complete summary of the applicable  
21 law.  
22

23 26. Paragraph 26 states a legal conclusion to which no response is required. To  
24 the extent a response is required, ASEA denies the allegations in Paragraph 26.  
25

1           27. Paragraph 27 states a legal conclusion to which no response is required. To  
2 the extent a response is required, ASEA admits that *Janus* generally held that the Illinois  
3 law requiring non-union members such as plaintiff *Janus* to pay compulsory fair share  
4 fees to which they never consented violated *Janus*'s free speech rights. ASEA denies that  
5 the allegations in Paragraph 27 are a complete summary of the law.  
6

7           28. Paragraph 28 asserts legal conclusions to which no response is required. To  
8 the extent a response is required, ASEA denies the allegations in Paragraph 28.  
9

10           29. Paragraph 29 states a legal conclusion to which no response is required. To  
11 the extent a response is required, ASEA admits that the *Janus* opinion contains the  
12 language selectively quoted in Paragraph 29 but denies that the language is being quoted  
13 in context. ASEA denies that the allegations in Paragraph 29 are a complete or accurate  
14 summary of the applicable law.  
15

16           30. Paragraph 30 states a legal conclusion to which no response is required. To  
17 the extent a response is required, ASEA admits that the *Janus* opinion contains the  
18 language selectively quoted in Paragraph 30 but denies the language is being quoted in  
19 context. ASEA denies that the allegations in Paragraph 30 are a complete or accurate  
20 summary of the applicable law.  
21

22           31. Paragraph 31 states a legal conclusion to which no response is required. To  
23 the extent a response is required, ASEA admits that the *Janus* opinion contains the  
24 language selectively quoted in Paragraph 31 (except for the alterations reflected in  
25

1 Paragraph 31) but denies the language is being quoted in context. ASEA denies that the  
2 allegations in Paragraph 31 are a complete or accurate summary of the applicable law.

3  
4 32. ASEA admits that, before *Janus*, the State's prior collective bargaining  
5 agreement with ASEA (which has been superseded by the current CBA) required the  
6 State to deduct a service fee from employees who were not members of the Union and  
7 provided that the State would deduct dues from employees who were members of the  
8 Union and authorized such deductions. ASEA otherwise denies the allegations in  
9 Paragraph 32.

10  
11 33. ASEA admits that, in response to *Janus*, the State, under the administration  
12 of then-Governor Bill Walker, stopped deducting agency fees from non-members'  
13 paychecks. ASEA admits that the State and ASEA reached an agreement to modify the  
14 terms of the General Government Bargaining Unit's CBA to comply with the *Janus*  
15 decision. ASEA otherwise lacks sufficient knowledge to admit or deny the remaining  
16 allegations in Paragraph 33, and on that basis denies those allegations.

17  
18 34. Paragraph 34 states legal conclusions to which no response is required. To  
19 the extent a response is required, ASEA denies the allegations in Paragraph 34.

20  
21 35. ASEA admits that Attorney General Clarkson issued a legal opinion  
22 regarding the *Janus* decision but denies that the opinion is correct. ASEA otherwise lacks  
23 sufficient knowledge to admit or deny the remaining allegations in Paragraph 35, and on  
24 that basis denies those allegations.  
25



1           36.    ASEA admits that Attorney General Clarkson issued a legal opinion on  
2 August 27, 2019 but denies that the opinion is correct. ASEA admits that this legal  
3 opinion contains the language quoted in Paragraph 36. ASEA denies that the allegations  
4 in Paragraph 36 contain an accurate or complete summary of the applicable law.  
5

6           37.    ASEA admits that Attorney General Clarkson’s August 27, 2019 legal  
7 opinion contains the language quoted in Paragraph 37 but denies that the opinion is  
8 correct. ASEA denies that the allegations in Paragraph 37 contain an accurate or  
9 complete summary of the applicable law. Paragraph 37 otherwise states legal conclusions  
10 to which no response is required. To the extent a response is required, ASEA denies the  
11 remaining allegations in Paragraph 37.  
12

13           38.    ASEA admits that Attorney General Clarkson’s August 27, 2019 legal  
14 opinion contains the language quoted in Paragraph 38 but denies that the opinion is  
15 correct. ASEA denies that the allegations in Paragraph 38 contain an accurate or  
16 complete summary of the applicable law. Paragraph 38 otherwise states legal conclusions  
17 to which no response is required. To the extent a response is required, ASEA denies the  
18 remaining allegations in Paragraph 38.  
19

20           39.    ASEA admits that Attorney General Clarkson’s August 27, 2019 legal  
21 opinion contains the language quoted in Paragraph 39 but denies that the opinion is  
22 correct. ASEA denies that the allegations in Paragraph 39 contain an accurate or  
23 complete summary of the applicable law. Paragraph 39 otherwise states legal conclusions  
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1 to which no response is required. To the extent a response is required, ASEA denies the  
2 remaining allegations in Paragraph 39.

3  
4 40. ASEA admits that Attorney General Clarkson's August 27, 2019 legal  
5 opinion contains the language quoted in Paragraph 40 but denies that the opinion is  
6 correct. ASEA denies that the allegations in Paragraph 40 contain an accurate or  
7 complete summary of the applicable law. Paragraph 40 otherwise states legal conclusions  
8 to which no response is required. To the extent a response is required, ASEA denies the  
9 remaining allegations in Paragraph 40.  
10

11 41. Paragraph 41 states a legal conclusion to which no response is required. To  
12 the extent a response is required, ASEA denies the allegations in Paragraph 41.

13  
14 42. ASEA admits that Attorney General Clarkson's August 27, 2019 legal  
15 opinion contains the language quoted in Paragraph 42 but denies the opinion is correct.  
16 ASEA denies that the allegations in Paragraph 42 contain an accurate or complete  
17 summary of the applicable law. Paragraph 42 otherwise states legal conclusions to which  
18 no response is required. To the extent a response is required, ASEA denies the remaining  
19 allegations in Paragraph 42.  
20

21 43. ASEA admits that Attorney General Clarkson's August 27, 2019 legal  
22 opinion contains the language quoted in Paragraph 43 but denies the opinion is correct.  
23 ASEA denies that the allegations in Paragraph 43 contain an accurate or complete  
24 summary of the applicable law. Paragraph 43 otherwise states legal conclusions to which  
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no response is required. To the extent a response is required, ASEA denies the remaining allegations in Paragraph 43.

44. ASEA admits that Attorney General Clarkson’s August 27, 2019 legal opinion contains the language quoted in Paragraph 44 but denies that the opinion is correct. ASEA denies that the allegations in Paragraph 44 contain an accurate or complete summary of the applicable law. Paragraph 44 otherwise states legal conclusions to which no response is required. To the extent a response is required, ASEA denies the remaining allegations in Paragraph 44.

45. ASEA admits that the Attorney General’s August 27, 2019 opinion recommends that the State implement a new payroll deduction process but denies that the opinion is correct. Paragraph 45 otherwise states legal conclusions to which no response is required. To the extent a response is required, ASEA denies the other allegations in Paragraph 45.

46. ASEA admits that the Attorney General’s August 27, 2019 opinion contains the recommendation summarized in Paragraph 46 but denies that the opinion is correct. ASEA denies that the allegations in Paragraph 46 contain an accurate or complete summary of the applicable law. Paragraph 46 otherwise states legal conclusions to which no response is required. To the extent a response is required, ASEA denies the remaining allegations in Paragraph 46.

1           47.    ASEA admits that the Attorney General’s August 27, 2019 opinion  
2 contains the recommendation summarized in Paragraph 47 but denies the opinion is  
3 correct. ASEA denies that the allegations in Paragraph 47 contain an accurate or  
4 complete summary of the applicable law. Paragraph 47 otherwise states legal conclusions  
5 to which no response is required. To the extent a response is required, ASEA denies the  
6 remaining allegations in Paragraph 47.  
7

8           48.    ASEA denies the allegations in Paragraph 48.  
9

10          49.    ASEA admits that the news articles referenced in Paragraph 49 contain the  
11 language quoted in that paragraph and that ASEA Executive Director, Jake Metcalfe,  
12 made the statements in those quotations.  
13

14          50.    ASEA admits that the press release referenced in Paragraph 50 contains the  
15 language quoted in that paragraph.  
16

17          51.    ASEA admits the allegations in Paragraph 51.  
18

19          52.    ASEA admits that the article referenced in Paragraph 52 contains the  
20 language quoted in that paragraph.  
21

22          53.    ASEA admits that the article referenced in Paragraph 53 contains the  
23 language quoted in that paragraph. ASEA lacks sufficient knowledge to admit or deny the  
24 other allegations in Paragraph 53, and on that basis denies those allegations.  
25

26          54.    ASEA lacks sufficient knowledge to admit or deny the allegations in  
Paragraph 54, and on that basis denies those allegations.

1           55.    ASEA lacks sufficient knowledge to admit or deny the allegations in  
2 Paragraph 55, and on that basis denies those allegations.

3           56.    ASEA lacks sufficient knowledge to admit or deny the allegations in  
4 Paragraph 56, and on that basis denies those allegations.

5           57.    ASEA lacks sufficient knowledge to admit or deny the allegations in  
6 Paragraph 57, and on that basis denies those allegations.

7           58.    ASEA admits that on September 9, 2019, a representative of the  
8 Department of Administration emailed ASEA’s Executive Director, Jake Metcalfe, with  
9 an email containing the language quoted in Paragraph 58 and stating that the Department  
10 would cease dues deductions for certain General Government Bargaining Unit employees  
11 beginning on the next payroll. ASEA lacks sufficient knowledge to admit or deny the  
12 allegations in Paragraph 58 regarding whether “these employees” were the same  
13 employees referenced in earlier paragraphs in the State’s Complaint, and on that basis  
14 denies those allegations.  
15  
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17

18           59.    ASEA admits that on September 10, 2019, Mr. Metcalfe responded to the  
19 Department’s email with an email stating that if the Department stopped deducting dues  
20 from certain employees, it would be in violation of the State’s CBA with ASEA and  
21 Alaska law. ASEA admits that Mr. Metcalfe’s email contained the language quoted in  
22 Paragraph 59.  
23  
24  
25

1           60.    ASEA lacks sufficient knowledge to admit or deny the allegations in  
2 Paragraph 60, and on that basis denies those allegations.

3           61.    In response to Paragraph 61, ASEA incorporates by reference its responses  
4 to the paragraphs above.  
5

6           62.    ASEA admits that AS 22.10.020(g) grants to superior courts the power to  
7 issue declaratory judgments in cases of actual controversy. However, ASEA denies that  
8 the allegations in Paragraph 62 are a complete summary of the applicable law.  
9

10          63.    ASEA admits that AS 22.10.020(g) contains the language quoted in  
11 Paragraph 63. However, ASEA denies that the allegations in Paragraph 63 are a complete  
12 summary of the applicable law.  
13

14          64.    ASEA admits the allegations in Paragraph 64. However, ASEA denies that  
15 the allegations in Paragraph 64 are a complete summary of the applicable law.

16          65.    ASEA lacks sufficient knowledge to admit or deny the allegations in  
17 Paragraph 65, and on that basis denies those allegations.

18          66.    ASEA admits that Paragraph 66 summarizes the Attorney General's  
19 opinion but denies that the opinion is correct. ASEA denies that the allegations in  
20 Paragraph 66 are accurate or complete statements of applicable law. Paragraph 66  
21 otherwise states legal conclusions to which no response is required. To the extent a  
22 response is required, ASEA denies the remaining allegations in Paragraph 66.  
23  
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1           67.    ASEA admits that it informed the State that it would pursue legal action if  
2 the State violates State law and the State’s CBA with ASEA. ASEA otherwise denies the  
3 allegations in Paragraph 67.  
4

5           68.    ASEA admits that an actual controversy has arisen and now exists between  
6 the State and ASEA regarding whether the First Amendment requires the State to violate  
7 State law and the State’s CBA. ASEA denies that the allegations in Paragraph 68 are a  
8 complete summary of the controversy between the State and ASEA. Paragraph 68  
9 otherwise states legal conclusions to which no response is required. To the extent a  
10 response is required, ASEA denies the remaining allegations in Paragraph 68.  
11

12           69.    Paragraph 69 states legal conclusions to which no response is required. To  
13 the extent a response is required, ASEA denies the State is entitled to a declaratory  
14 judgment as alleged in Paragraph 69.  
15

16           70.    The State’s request for relief does not require a response. To the extent the  
17 request for relief, including each and all of its subparagraphs, states any allegations,  
18 ASEA denies that the State is entitled to any relief in this case.  
19

20           71.    Except as expressly admitted above, all allegations in the State of Alaska’s  
21 Complaint are denied.  
22  
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1 **FIRST AFFIRMATIVE DEFENSE**

2 To the extent the State’s dispute with ASEA involves a dispute about the meaning  
3 of the State’s CBA, the dispute must be resolved through the CBA’s grievance/arbitration  
4 procedure.  
5

6 **PRAYER**

7 WHEREFORE, the Court should:

- 8 a. Dismiss the State’s Complaint with prejudice.
- 9 b. Award ASEA its attorney’s fees and costs.
- 10 c. Grant ASEA such other and further relief as is just and proper.

11 DATED this 25th day of September 2019, at Anchorage, Alaska.

12  
13  
14 DILLON & FINDLEY, P.C.  
15 Attorneys for Alaska State Employees  
Association / AFSCME Local 52, AFL-CIO

16 By: Molly C. Brown  
17 Molly C. Brown, ABA No. 0506057

18  
19 ALTSHULER BERZON, LLP  
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21 Scott A. Kronland (*Pro Hac Vice* Admission Pending)  
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23 Stefanie Wilson (*Pro Hac Vice* Admission Pending)

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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 25, 2019, a true and correct copy of the foregoing document was served by:

- hand delivery
- first class mail
- email

on the following attorneys of record:

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*Lisa Kusmider*  
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