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IN THE DISTRICT COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

MUNICIPALITY OF ANCHORAGE, )

Plaintiff, )

v. )

JACQUELINE LaFRANCE, )

Defendant. )

Case 3AN-06-10675 CR

Handwritten signature and circular court stamp.

MOTION TO SUPPRESS/DISMISS

VRA CERTIFICATION

I certify that this document and its attachments do not contain (1) the name of a victim of a sexual offense listed in AS 12.61.140 or (2) a residence or business address or telephone number of a victim of or witness to any offense unless it is an address used to identify the place of the crime or it is an address or telephone number in a transcript of a court proceeding and disclosure of the information was ordered by the court.

Comes now the defendant, Jacqueline LaFrance, by and through counsel, pursuant to Criminal Rules 42 and 5, and hereby moves to suppress/dismiss the DUI charge against her on the basis the police lacked probable cause for her arrest. The following memorandum of law and affidavit of counsel support this request.

- 1. The Factual Background.

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INGALDSON,  
MAASSEN &  
FITZGERALD,  
P.C.  
Lawyers  
813 W. 3<sup>rd</sup> Avenue  
Anchorage,  
Alaska  
99501-2001  
(907) 258-8750  
FAX: (907) 258-  
8751

Near 4:30 a.m. on October 5, 2006 Jacqueline LaFrance called the police to report she had been involved in a motor vehicle accident. She reported she was southbound on Minnesota near the Lagoon when a car traveling the wrong way collided with her. She did not have her cell phone so when the other car did not stop; she continued to her residence and called the police.

The police also got a report of the same accident from a different driver. He reported he had been northbound on Minnesota near the Lagoon when a car traveling the wrong way south collided with him. He could provide no information on the driver or the license plate of the other car.

The police gave field sobriety tests to LaFrance. She passed the walk-and-turn and the one-leg stand. On the tape she does not sound impaired. There is no slur in her voice. She is oriented to person, place, and time. She is cooperative.

The police report 6 clues on the HGN. The audio recording of that test indicates that the police spent enough time to comply with the duration required by NHTSA, but it is impossible to determine whether the officer otherwise strictly complied with the requirements of a valid viewing.

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The police came to the conclusion that when Jacqueline got off work at McGinley's Pub that evening she drove first to 9<sup>th</sup> where she made a right to travel west-bound. Then she mistakenly turned south on I instead of L, thus ending up on the wrong side of the concrete divider at the Lagoon.

Jacqueline informed the police that she was very tired. She also informed them that she had consumed alcohol just as she left McGinley's Pub at the end of her work shift. It takes less than 10 minutes to drive from McGinleys', downtown on H and 7<sup>th</sup>, to her residence.

The police arrested Jacqueline. She provided a .096 BrAC at 6:22 a.m. She also obtained an Independent Blood Draw. The blood test result shows a .10 BAC for the sample drawn at 7:03 a.m. This rising breath alcohol level substantiates Jacqueline's statement to the officers that she had consumed the shift beverage just as she left the bar.

## 2. Authorities for the Motion and Defense.

The Fourth Amendment to the United States Constitution provides as follows:

*Searches and seizures.* The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly

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