

ALASKA BAR BRIEF

THE QUARTERLY NEWSLETTER OF THE ALASKA BAR ASSOCIATION
Vol. 6 2nd. Quarter 1977 No. 2

MADSON TAKES OFFICE AT KETCHIKAN CONVENTION

Fairbanks attorney Dick Madson assumed office as State Bar President at the close of the State Bar Convention held in June in Ketchikan. Madson succeeds Edward A. Stahla of Sitka, a partner in the firm of Christianson, Royce & Stahla.

Other 1977-78 Bar officers elected by the members attending the Convention are: Anchorage attorney Kenneth O. Jarvi, President-elect; Juneau attorney William B. Rozell, Vice President; Donna C. Willard, Anchorage attorney, secretary.

BAR LAUNCHES STATEWIDE CONTINUING LEGAL EDUCATION PROGRAM

A series of seminars will be presented in Anchorage, Fairbanks, Juneau and Ketchikan as part of the Bars 77-78 Continuing Legal Education Program.

The decision to present seminars in locations other than Anchorage was made by the State Bar Continuing Legal Education Committee at a meeting in May. The seminars in Fairbanks, Juneau and Ketchikan will be presented on videotape.

The series will lead off with a one day course on "Dilemmas in Legal Ethics." This course highlights the ethical problems involved in interviewing clients, counseling, negotiations, investigation and advocacy.

The second in the series will be a two day practice course in "Criminal Trial Proceedings". The course will be presented in Anchorage on October 1 and 2 by four experienced California Criminal Defense Attorneys. This same course has been presented by these attorneys for the C.E.B. in California on several occasions. The program stresses information and demonstration about proven techniques and tactics. The Anchorage program will be videotaped for presentation in other locations.

Details concerning other seminars to be presented during 1977/78 will be announced in the near future.

THREE ANCHORAGE ATTORNEYS ELECTED TO BOARD OF GOVERNORS

Albert (Harry) Branson, Karen L. Hunt and Donna C. Willard were elected in May to Board of Governors seats previously filled by Warren W. Matthews, Leroy J. Barker and Thomas M. Wardell. Ms. Hunt and Willard are the first women members of the Board.

Mr. Branson, a partner in the Anchorage firm of Branson, Jacobs & Guetschow, has served as state Chairman of the Bar's Continuing Legal Education Committee since 1974. Ms. Hunt has also served as a member of this Committee since 1974.

For several years prior to her election to the Board, Donna C. Willard served as Chairperson of the Statutes, Rules and By-laws Committee. Ms. Willard is a partner in the Anchorage firm of Richmond, Willoughby & Willard.

ETHICS OPINION 76-7

The Committee has been asked its opinion as to the proper ethical course of action for an attorney presented with the following fact situation:

Defendant is arrested, charged with robbing a bank. The teller was held at gun point, bound with tape and a red bandana, while the safe was blown with plastic explosives.

Defendant tells his attorney he is innocent - wasn't there. He can't get out of jail because of high bail. While defendant is in jail a friend comes to town and with defendant's consent occupies his trailer.

About a month after defendant is bound over by the grand jury and while he is still in jail, defendant authorizes his friend to "clean out" the car in his driveway.

In the car, friend finds the following:

1. A set of roller skates;
2. A detailed floor plan of the bank robbed

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President's Page

Edward A. Stahla
Immediate Past President

Picture the following scene where the District Court Judge in Anchorage, Alaska announces that trial in a certain matter is scheduled for the instant time and place. Legal Intern X, standing up and addressing the Court indicates that he is appearing on behalf of Client Z, and instead of Legal Intern Y, inasmuch as Legal Intern Y is tied up in a trial across the hall and was therefore unable to appear in this trial. The Legal Intern then requests permission of the Court to proceed. Neither Legal Intern as it turns out was physically accompanied by the supervising attorney. The above is just one of the concerns that has been addressed at a recent Board of Governors' meeting concerning the abuse of the Legal Intern Rule.

As a primary advocate of the Legal Intern Rule, I participated in the discussion concerning its adoption. I feel compelled to address the abuse of the Legal Intern Rule 44. I can personally vouch for the fact that the discussion of the Board of Governors at the time the Legal Intern Rule was being considered, reflected the foreseeable abuse and included a specific requirement that the supervising attorney be personally present and able to supervise the intern. Of course, this cannot be done if there is more than one supervising attorney for any one legal intern that is appearing in a trial, nor can one legal intern supervise or represent another legal intern. The reason for the rule, practical education of the intern, fails with the above and other abuses.

All of us that may be utilizing the Legal Intern Rule should pay particular attention to the requirements of the rule inasmuch as continuing abuse may prompt appropriate action against the legal intern or his supervising attorney, or further may prompt the Board to request the Supreme Court to abolish the rule.

BAR BENCH PRESS COMMITTEE

I have recently created a bar-bench press committee in Fairbanks, Anchorage and Juneau to specifically deal with the public relations of the Alaska Bar Association and the Alaska Court System. Primarily at the prod-

ding of Supreme Court Justice Bob Boochever, the committee has been created to respond to unjust criticism of the bench and the bar.

The Committee consists of the following:

Fairbanks: Dick Savell, Chairman
Bob Coates
Anchorage: Jerry Wade, Chairman
Charlie Tunley
Ron Benkert
Juneau: Art Peterson, Chairman
Bart Rozell
Mike Thomas

In view of the need for prompt response to unjust criticism of the bar or the bench, it was felt that local committees, rather than a statewide committee, would be more advantageous.

Any matter which you feel is unjust criticism should be brought to the attention of the President, the chairman or any member of the local committees.

LAW DAY - U.S.A.

The singular efforts of Superior Court Judge Craske and the seven members of the Sitka Bar Association are hereby commended for their very fine efforts in the program conducted for Law Day, U.S.A. The theme for law day "Partners in Justice" was first publicized by a Poster Contest involving the elementary and junior high school students. Two first prizes, one for the elementary students and one for the junior high students in the form of \$25.00 savings bonds was given for each category. After judging of the posters by Judge Craske, Edward Stahla, Paul Mann and Chris Maisel, the posters were displayed in the lobby of the new Sitka Courthouse. A Court building open house was held on Saturday, from 9:00 a.m. to 3:00 p.m.

The Court open house included a mock arraignment with Judge Craske presiding, City Attorney Pete Hallgren prosecuting, and Edward A. Stahla defending. After the arraignment, a mock sentencing was conducted in the presence of some 20 to 30 students and adults.

The afternoon open house involved a mock trial of a landlord-tenant dispute with Dennis Hopewell participating in addition to the above named individuals. Complimentary explanatory copies of dissolution of marriage procedure, the landlord-tenant law, the Alaska Constitution and an American Bar Association handout "Know Your Rights", were available for free distribution in the lobby of the Court building.

Two television presentations were made, one consisting of a panel dis-

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cussion on KIFW with Steve Rhyner acting as host, the panel consisting of Judge Craske and Edward A. Stahla. The second television program involved a one hour question and answer panel consisting of Bill Royce, Pete Hallgren and Dennis Hopewell. Chris Maisel and Paul Mann, who were awaiting their bar results, received the telephone inquiries and submitted them to the panel for answering.

The main purpose of the Law Day presentation was an attempt to foster public relations between the bench, the bar and the public. The public was very receptive of this type of general communication. In the future, the Sitka Bar Association has agreed to provide personnel for a speaker's bureau, which upon request to the Superior Court Judge made by a member of the public, the speaker's bureau would provide a speaker for a school or public event. Also to be considered is an ongoing question and answer session with KSA-TV where a group of attorneys would serve as the panel members, with a telephone question and answer format.

GRIEVANCES

The Bar Association's Executive Director and staff should be commended for their very fine efforts in clearing up the backlog of grievances that existed as of June 1976. Many hours, some donated and some paid for, were spent by Steve DeLisio, Terry Johnson, Mary LaPollette, Herb Ross and Brian Shute. The job needed to be done, had been sorely neglected and is now up to date. Thanks to all of you who have participated in the grievance procedures and in the fee arbitration process to solve the problems of the Bar Association. Only with your continuing efforts can the Bar Association stay in it's somewhat independent, self-regulated status.

This is the final column for me. During the past year I have concentrated on attempting to find out why many members of the bar felt frustrated with the bar office and staff. I for one, prior to election to the board, felt the same way. Although there are always areas for improvement, the bar office staff puts in many unpaid hours. The administrative demands of the office are great and only by knowing just what those demands are does one come away with the feeling that the criticism at times is unjust.

For the past year we have concentrated on reducing the number of pending grievances and the efficiency of the bar office. Your criticisms were

FROM OUR READERS:

Dear A. T. Torney (ooh, if I only knew who you really were)

Sometimes its really hard to remember, but who could forget a great line like that about wishing Uncle Bob had been playing a Tuba? The Advocate is the only newspaper I read now. Maybe its time to start a regular column: Does anyone remember?

So, even though they remember Rose Walsh and not L. Eugene try these for size. Anyone with all correct answers gets a free subscription to the Bar Brief and one years Malpractice Insurance underwritten by First State Equity.

1. Who caused Title Companies to rewrite their policies to cover leaps and bound land descriptions?

2. Who thought that the Great Caruso spent time on a deserted island?

3. What famous person often stated that certain propositions were diabolically opposed to one another?

4. What great trial attorney in cross examining one of Anchorages finest, came up with the line: "Well, you are from California, aren't you?"

5. What stern trial judge in discussing a plea bargain involving assault with a deadly weapon when he learned that the offense was shaving a certain lady's private parts suggested that they plead to barbering without a license?

I know, Mr. A. T. Torney, you can answer all these.

Don't remember,

L. Eugene Williams

heard. To me these two areas were and are the most important to the state association.

Travel to American Bar meetings and issues of national concern took a second seat. I feel that with the very able leadership of and continual emphasis by President Dick Madson and President-Elect Ken Jarvi the "raison d'etre" for the Alaska Bar will continue to be served.

It was my pleasure serving as your President.

MINOR DISPUTES SETTLEMENT
CONFERENCE ATTENDED BY CONN

Bar member Stephen Conn attended a National Conference on Minor Disputes Resolution, sponsored by the American Bar Association, at Columbia Law School, May 25-27.

What minor disputes are, in the context of procedural reforms, remained the most illusive question. Like Al Capp's shmoo, they were what the judges, attorneys, arbitration and mediation specialists and others in attendance wanted them to be.

For participant Chief Justice Warren E. Burger, they were "small hurts" priced out of the legal market place, which if unremedied, "could create festering social sores and undermine confidence in society."

For Judges Felice K. Shea and Earl Warren, Jr. they were cases which could be brought in small claims courts already established if a generally uninformed public was apprised of this much maligned, but useful forum.

For ABA President Justin A. Stanley, they were factual disputes of small dollar value that had simply been priced out of the legal market place.

For Deputy Assistant Attorney General Paul Nejelski, the shmoo were neighborhood, family, housing and consumer problems with little dollar or public consequence. He announced that the Federal government would establish three neighborhood mediation centers - one each in Los Angeles, New York and Atlanta to test mediation of these problems.

The purpose of the conference was to create a mandate for experimentation with alternatives to the adversary process be they arbitration, mediation, small claims courts, ombudsmen or other administrative remedies.

While some conferees emphasized the need to "delawyerize" situational disputes or those involving ongoing personal relationships with little or no legal interpretation, others suggested that the bar had a professional mandate to recreate the community alternatives of yesteryear in order to assure accessible, efficient and economical justice for cases not likely to be presently handled by lawyers and courts.

A national study of small claims courts presented at the conference suggested that the commonly held view that these courts were collection agencies was incorrect. The problems, as the lawyer researchers saw it, were lack of information about these courts by many potential clients and lack of out-of-

court legal assistance by lawyers or by paralegals.

The ABA views it's role as that of a clearing house, suggesting alternative approaches to the states. Conference coordinator, Harvard Law Professor Frank E. A. Sander, emphasized that much preliminary investigation remains to be done, both to find the needs of potential clients who now "lump it" and to determine the strengths and weaknesses of alternatives to the adversarial approach. The role of lawyers would be then to design new alternatives and to assure that checks and balances appropriate to legal institutions are created.

These invisible clients were not present. It remains to be seen whether, given the choice, they would prefer legal representation with the expertise and the threat of clout that this implies to fast, efficient and cheap resolution of their problems.

In an era when a surplus of law graduates are besieging the job market, this inquiry by the ABA was not without its ironic side.

On several fronts, Alaska has considered alternatives to the courts. Historically, it has winked at village councils. The court has tested conciliation boards. The judicial council is studying the feasibility of a citizens' dispute settlement center which would employ arbitration and mediation. Bicultural legal education texts have been published by Alaska Legal Services to acquaint a larger class of consumers. We have one of four state ombudsmen.

Sanders suggested that a screening mechanism might route and distinguish the simple problem from the complex matter, masquerading as a minor dispute. It is that device, as yet undeveloped, which has the most promise for separating out disputes appropriate to lawyers from disputes appropriate to some other form of therapy.

Only as problems and the desires of people with problems are evaluated on a case by case basis will shmoo's seductive desire to please in the name of reform be muted.

COMINGS AND GOINGS

The Law Firm of KEMPEL and HUFFMAN is pleased to announce the association of PETER C. GINDER to their firm.

The Law Firm of ELY, GUESS & RUDD is pleased to announce that ROBERT H. WOLFE has become associated with the firm.

ALASKA BAR BRIEF

The Alaska Bar Brief is the quarter's newsletter of the Alaska Bar Assn., published in Anchorage by the Assn. staff. Subscription rates are \$6.00 annually. Additional copies may be purchased for \$1.00 ea. Correspondence, manuscripts and letters submitted for publication are to be sent to Editor, Alaska Bar Brief, Box 279, Anchorage, Alaska 99510.

ALASKA BAR ASSN. OFFICERS:

Dick L. Madson.....President
 Kenneth O. Jarvi.....President-Elect
 William B. Rozell.....Vice-President
 Donna C. Willard.....Secretary

BOARD OF GOVERNORS

Dick L. Madson	R. Stanley Ditus
Kenneth O. Jarvi	Karen L. Hunt
William B. Rozell	Richard D. Savell
Donna C. Willard	Edward A. Stahla
Albert H. Branson	

COMINGS & GOINGS

The Bar Office has received a change of address for the following:
 JACOBS, BRANSON & GUETSCHOW, 425 G St. #650, Anchorage; MALCOLM L. MCCAIN, 6013 Sundown Dr., Coeur D'Alene, ID 83814; JULIE A. CLARK 101 Christensen Dr., Anchorage; CRAIG CORNISH 333 K St., Anchorage; ANTHONY D.M. DOYLE 1016 W. 6th #435, Anchorage.

ALASKA BAR ASSOCIATION AUDIT FOR 1976

At the request of the Board of Governors, the accounting firm of Coopers & Lybrand, conducted an examination of the books and financial records of the Alaska Bar Association for the calendar year 1976. The examination was made in accordance with generally accepted auditing standards and included such tests of the accounting records and other auditing procedures as the firm considered necessary to present fairly the financial position of the Association at December 31, 1976.

For purposes of the financial statements, assets, fund balances, revenues and expenses are recognized on the accrual basis of accounting. However, some expenses accruing in 1975 were inadvertently in the 1976 expense item for the U.C.L.A.-Alaska Law Review in the Statement of Unrestricted Revenues & Expenses.



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NOTES TO FINANCIAL STATEMENTS

1. Significant Accounting Policies:

Library and Equipment

Contributions of books are recorded at their estimated fair market values at time of receipt, and other items are recorded at cost.

Depreciation is provided by charges to operations at rates calculated to amortize the cost of the assets over their estimated useful lives using the straight-line method of depreciation.

Membership Dues

Receipts for annual membership dues are recognized as revenue in the period to which they apply.

Admissions Income

Fees collected from applicants for admission to the Association are recognized as revenues on the following basis:

- a) Application fee - during the period in which the applicant sits for the examination.
- b) Character investigation fee - as received.
- c) Forms fee - as received.

Group Insurance Administrative Fees

Administrative fees are recognized as revenue in the General Fund when collected by the Alaska Bar Association Insurance Trust Fund.

Deferred Interest

Deferred interest is amortized over the life of the related note by the use of the sum-of-the-years-digits method.

2. Income Taxes:

The association is exempt from income taxes as a public agency of the State of Alaska.

3. Reserve for Working Capital:

The reserve was created by the Board of Governors as a segregation of the General Fund balance; an equal amount is treated as a segregation of

cash. The cash and fund are not restricted to any specific purpose.

4. Client Security Fund:

During 1975, the Board of Governors established a fund, pursuant to a rule promulgated by the Supreme Court of the State of Alaska, to provide amounts for settling claims related to members' client trust funds. The Client Security Fund is funded from membership dues.

5. Note Payable:

The note payable, net of deferred interest, at December 31, 1976 is as follows:

<u>Current Portion</u>	<u>Long-term Portion</u>	<u>Total</u>
<u>\$1,545</u>	<u>\$552</u>	<u>\$2,097</u>

Installment note payable to a bank, dated April 3, 1975 payable in 36 equal installments of \$140.96 per month including interest. Collateralized by duplicating equipment.

6. Group Insurance Fund Transfer:

On March 31, 1976, the association transferred the assets and liabilities of the Group Insurance Fund to the Alaska Bar Association Trust Fund. Below is a summary of the assets and liabilities transferred to the trust:

Cash	\$3,616
Premiums & administrative fees receivable	<u>469</u>
Assets transferred	<u>\$4,085</u>
Insurance premiums received in advance	\$3,716
Administrative fees collected for the Alaska Bar Association	<u>369</u>
Total liabilities transferred	<u>\$4,085</u>

ALASKA BAR ASSOCIATION BALANCE SHEET
December 31, 1976

ASSETS

General Fund:	
Current assets:	
Cash:	
General	\$108,236
Segregated for working capital (Note 3)	13,577
Accounts Receivable	3,024
Accounts Receivable-Idaho Bar Association	653
Accounts Receivable-Alaska Bar Association Insurance Trust Fund (Notes 1 & 6)	205
Other convention receivables	456
Prepaid expenses	2,997
Total current assets	<u>129,148</u>
Library & equipment (Notes 1 & 5):	
Video tape library	4,830
Library	1,868
Office furniture & equipment	15,076
	<u>21,774</u>
Less accumulated depreciation	<u>10,848</u>
	<u>10,926</u>
	<u>\$140,074</u>
Client Security Fund (Note 4):	
Receivable from General Fund	<u>\$ 10,428</u>

LIABILITIES & FUND BALANCES

General Fund:	
Current liabilities:	
Accounts payable	\$ 6,325
Accrued & withheld payroll taxes	1,085
Membership dues unearned (Note 1)	39,960
Unearned admission fees (Note 1)	11,200
Current portion of long-term debt (Note 5)	1,545
Payable to Client Security Fund	<u>10,428</u>
Total current liabilities	70,543
Long-term debt, net of current portion (Note 5)	<u>552</u>
Total liabilities	71,095
General Fund balances:	
Reserve for working capital (Note 3)	\$13,577
Unappropriated	<u>55,402</u>
	<u>68,979</u>
	<u>\$140,074</u>
Client Security Fund:	
Amounts collected in advance	\$ 2,290
Client Security Fund balance	<u>8,138</u>
	<u>\$ 10,428</u>

STATEMENT OF CHANGES IN GENERAL FUND
Balances for the year ended
December 31, 1976

	Reserve for Working Capital	Unappropriated
Balance, beginning of year	\$12,531	\$27,403
Add (deduct):		
Excess of unrestricted revenues over expenses		29,045
Appropriations:		
Interest income, earned and appropriated funds	<u>1,046</u>	<u>(1,046)</u>
Balance, end of year	<u>\$13,577</u>	<u>\$55,402</u>

GENERAL FUND STATEMENT OF
UNRESTRICTED REVENUES & EXPENSES
FOR THE YEAR ENDED DECEMBER 31, 1976

Revenues:	
Membership dues	\$143,993
Admission fees	40,213
Continuing legal education	8,956
Insurance fees	1,925
Convention revenues	16,754
News letter revenues	660
Interest income	1,146
Lawyer referral & administrative services - Anchorage Bar Association	4,453
Contract to provide disciplinary services for the Alaska Court System	21,766
Miscellaneous	769
	<u>240,635</u>
Expenses:	
Bar admission	33,079
Board of Governors	11,517
Discipline & unauthorized practice	22,660
Continuing legal education	8,705
Committees	137
Legislative	9,952
News letter	1,675
U.C.L.A. - Alaska Law Review	10,630
Convention	16,847
Lawyer referral	548
Administrative, including depreciation expenses in the amount of \$2,335	95,840
	<u>211,590</u>
Excess of unrestricted revenues over expenses	<u>\$ 29,045</u>

STATEMENT OF GROUP INSURANCE FUND,
REVENUES & EXPENSES for the three
months ending March 31, 1976

Revenues:	
Insurance premiums earned	\$49,870
Administrative fees collected	380
Total revenues	<u>50,250</u>
Expenses:	
Insurance premiums expense	49,509
Administrative fees expense	380
Uncollectible premiums	745
Total expenses	<u>50,634</u>
Excess of expenses over revenues	(384)
Balance at beginning of period	<u>384</u>
Balance at end of period	<u>\$</u>

GENERAL FUND DETAIL OF SELECTED
EXPENSES for the year ended
December 31, 1976

Bar admission:	
Rentals	\$ 1,349
Mailing & supplies	639
Salaries	9,118*
Grading fees & per diem	10,103
Litigation costs	10,933
Telephone	937
	<u>\$33,079</u>
Board of Governors:	
Travel & per diem	\$ 8,608
Telephone	1,324
Rent	1,130
Postage & supplies	291
Miscellaneous	164
	<u>\$11,517</u>
Discipline & unauthorized practice:	
Salaries	\$20,284*
Supplies	464
Travel	176
Telephone	446
	<u>\$21,370</u>
Lawyer referral, principally telephone & postage	<u>\$ 588**</u>

Administrative:	
Telephone & telegraph	\$ 2,099
Salary of Executive Director	35,700*
Expense allowance & travel, Executive Director	1,200
Secretarial & bookkeeping salaries	29,292**
Office supplies	4,906
Postage	4,576
Office equipment rental	3,902
Audit & accounting	2,850
Library	633
Payroll taxes	5,357
Depreciation	2,335
Insurance, including employee medical	1,372
Reproduction & printing	478
Dues	125
Interest expense	314
Judicial poll	491
Miscellaneous	210
	<u>\$95,840</u>

* Does not include an allocation of Executive Director's salary.

** Administrative salaries were not allocated to Lawyer referral during the year.

ALASKA BAR ASSOCIATION
Trust Fund Balance Sheet
December 31, 1976

Examination for period April 1, 1976
(inception) through December 31, 1976

ASSETS

Cash \$5,342

LIABILITIES & FUND BALANCE

Insurance premiums received in advance (Note 1):	
Active subscribers	\$4,243
Inactive subscribers	894
	<u>5,137</u>
Administrative fees payable to Alaska Bar Association	<u>205</u>
Total liabilities	5,342
Fund balance	<u>\$5,342</u>

**BAR ADMISSIONS AT RECORD HIGH
FOR SEVENTH CONSECUTIVE YEAR**

Bar admissions in 1976 reached a record high for the seventh consecutive year the National Conference of Bar Examiners reported in September. NCBE is an affiliate of the American Bar Association.

The total number of persons admitted to practice in 49 states, the District of Columbia, Guam, Puerto Rico and the Virgin Islands was 35,741.

Exact admissions figures for Florida were not available, according to William H. Morris, director of the NCBE. Florida instituted a three part bar exam that can be taken at various times, Morris said.

With an estimated 2,000 and 2,400 persons taking all parts of the Florida exam in 1976, Morris said, admittees totalled more than 37,000, compared with 1975 when 34,930 new attorneys were admitted to practice.

Morris predicted that 1977 admissions nationwide would be another record, based on the number of students now attending law school.

Of the 1976 admissions (excluding Florida) 34,951 were gained by passing a bar examination and 790 by receiving a diploma. Mississippi, Montana, South Dakota and West Virginia automatically admit to the bar state university law school graduates. Wisconsin automatically admits graduates of the state law school and of Marquette University Law School.

Of the nearly 50,000 applicants taking the 1976 examinations, 14,148 failed to pass, up from 12,000 in 1975, the NCBE said.

Once again California admitted the largest number of lawyers to practice, a total of 5,437, up from 4,905 in 1975. The next largest number of admissions were in New York--3,727; Illinois--2,040; Texas--1,946, and Pennsylvania--1,898.

A few jurisdictions showed a decline in bar admissions: Arkansas, Indiana, Kansas, Mississippi, New Jersey, North Carolina, Oklahoma, Oregon, Guam and Puerto Rico.

COMINGS & GOINGS

The Law Offices of ABBOTT, LYNCH, FARNEY & RODEY announces with pleasure that PETER J. CROSBY and ROD SISSON have been made partners of the firm and CAMERON SHARICK and LEE DANFORTH are now associated with the firm.

The Law Firm of ELY, GUESS & RUDD pleased to announce that LOUIS R.

VEERMAN and GENE W. NICHOL have become associated with the firm.

EDWARD A. STAHLA, former City Attorney of Ketchikan, and WILLIAM G. ROYCE, who was with the firm of JERNBERG and TAYLOR, in Ketchikan, have formed a partnership with WARREN CHRISTIANSON, under the firm name of CHRISTIANSON, ROYCE & STAHLA, P.O. Box 4, Sitka, AK 99835.

The Bar office has received a change of address for the following: T.W. PATCH 1049 W. 5th Ave., Anchorage; JOHN W. PLETCHER 510 L St. #405, Anchorage; CHRIS J. RIGOS 601 W. 5th, Anchorage; SAMUEL J. ROSER 428 W. 4th #201, Anchorage; MICHAEL W. SHARON Box 503 Kodiak, AK 99615; HELEN I. SIMPSON 401 E. Northern Lights #202, Anchorage; JAMES SLAYBAUGH 1200 Airport Heights Rd. #500, Anchorage; JAMES D. SOURANT 425 G St. #630, Anchorage; DOUGLAS F. STRANDBERG 425 G St. #630, Anchorage; GEORGE TREFRY 506 W. 6th, Anchorage. FURTHER CHANGES: DRATHMAN, WEIDNER & BRYSON have relocated their offices to 333 W. 4th Ave. #35; KEN ROSENSTEIN 2060 Campbell Place, Anchorage; CHARLES G. EVANS 201 E. 3rd Ave., Anchorage.

ALASKA BAR ASSN.

DISCIPLINE REPORT

Statistical Summary of Caseload
Jan. 1, 1977 to June 30, 1977

CASELOAD

1. Cases pending and carried forward on Jan. 1, 1977:	90
2. Cases filed or reactivated from Jan. 1, 1977 to June 30, 1977:	30
TOTAL CASELOAD FOR PERIOD:	120

Less: Cases Closed or ordered held in abeyance:

(a) Dismissed	42
(b) Informal Admonition	11
(c) Members transferred to inactive status	3
(d) Abeyance Status	3
Total number of cases closed or ordered held in abeyance	59
TOTAL NUMBER OF PENDING CASES AT END OF PERIOD:	61

STATUS OF CASES PENDING ON JUNE 30, 1977:

1. Investigative Stage	
(a) Review Comm. Members	11
(b) Bar Counsel	30
Total in investigative stage	41
2. Before Hearing Comm.	16
3. Before Board of Governors	2
4. Before Supreme Court	2
TOTAL NUMBER OF ACTIVE FILES ON JUNE 30, 1977:	61

ETHICS OPINION Cont'd from page 12
obligations regarding the evidence under relevant state law. If the client then declines to follow the course that he is legally obligated to follow, the attorney should either decline employment or withdraw from employment previously accepted. In our opinion, this is the correct balancing of the interests of society, the attorney's duty as an officer of the court, and the attorney's duty to preserve the confidences and secrets of a client.

Therefore, in the situation posed, it is our opinion that the attorney is ethically required to contact the "friend" who tendered the evidence to him, return it to his possession, advise the "friend" of the existence and terms of AS 11.30.315 and advise the friend, if asked any additional questions, to secure his own counsel.

Whether or not the lawyer is required to withdraw from representation of the accused will depend upon the course of future events. DR 2-110(B) (2) provides as follows:

A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment if:

- (2) He knows or it is obvious that his continued employment will result in violation of a Disciplinary Rule.

DR 7-102(A) & (B) provide in part as follows:

In his representation of a client, a lawyer shall not:

- (3) Conceal or knowingly fail to disclose that which he is required by law to reveal.
- (4) Knowingly use perjured testimony or false evidence.
- (5) Knowingly make a false statement of law or fact.
- (6) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.
- (7) Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent.
- (8) Knowingly engage in other illegal conduct or conduct

contrary to a Disciplinary Rule.

(B) A lawyer who receives information clearly establishing that:

- (1) His client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same, and if his client refuses or is unable to do so, he shall reveal the fraud to the affected person or tribunal.
- (2) A person other than his client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

Obviously there is a potential for violation of one of the Disciplinary Rules in the future evolution of this situation. If the lawyer knows, or it becomes obvious, that such a violation has occurred, is occurring, or will occur he will be obligated to withdraw.

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3. A list of "things to take with me", including roller skates, plastic explosives and "tape and red bandana to tie teller"
4. Receipt for purchase of plastic explosives dated two days before robbery took place.

Friend, without asking Defendant's permission or disclosing to him his intentions, calls Defendant's attorney, and turns over the above. Defendant's attorney takes possession of the writings.

All of the above were documents in handwriting of Defendant. Defendant's attorney asks Defendant if he wrote them, he admitted it, however explained they were written "after I read of the bank robbery - I was fantasizing how I would have done it, if it were me." Defendant's attorney cannot, in good faith, say that he believes defendant.

QUESTIONS:

1. Does Defendant's attorney have an ethical obligation to turn over the material - or part of it, to the District Attorney or police? (If so, should he withdraw from the case?)

2. If he keeps the material, should he keep it in his personal possession or return it to the car where it was found?

- (a) See AS 11.30.330 (Sic)
- (b) also note; car could be repossessed soon.

The Committee has considered the questions posed, and has formulated an opinion as to the present ethically-required course of conduct.

Our consideration and opinion is based solely upon the ethical requirements which may be imposed upon defendant's attorney. Defendant's attorney is a citizen and is subject to the law in the same manner and to the same extent as other citizens. As suggested, AS 11.30.315 may arguably impose some duty with respect to the physical evidence in the attorney's possession. That Statute provides as follows:

Destroying, altering or concealing evidence. A person who wilfully destroys, alters or conceals evidence concerning the commission of a crime or evidence which is being sought for production during an investigation, inquiry or trial, with the intent to prevent the evidence from being discovered or produced, is guilty of a misdemeanor and

upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$1,000, or by both.

The Committee has taken the statute into consideration, but obviously can render no definitive opinion as to its applicability, or the applicability of other civil and criminal law of the State of Alaska. The course of conduct outlined in this opinion is based upon ethical considerations, but if a different course of action is required by the statute, observance of the statutory requirement would also be ethically proper. See DR 4-101(c)(2), which provides: "A lawyer may reveal: (2) Confidences or secrets when permitted under Disciplinary Rules or required by law or Court Order."

In addition, if the statute requires the revelation of the confidence or secret, such revelation is ethically required. DR 7-102(A)(3) provides:

In his representation of a client, a lawyer shall not:
(3) Conceal or knowingly fail to disclose that which he is required by law to reveal.

It is the attorney's duty under Canon 4 of the Code of Professional Responsibility to preserve the confidences and secrets of a client. As DR 4-101(c) points out, you may ethically reveal confidences or secrets of a client when required by law, but otherwise, such revelation of confidences or secrets is prohibited. As EC 4-4 properly points out, this duty to safeguard the confidences and secrets of a client is broader than the attorney/client evidentiary privilege, and "...exists without regard to the nature or source of information or the fact that others share the knowledge." Thus, it seems clear to us that the attorney is ethically obligated not to reveal the existence of the physical evidence which has come into his possession, unless required to do so by statute.

We have also considered informal Opinion #1057 of the American Bar Association Committee on Ethics, and find the analysis therein persuasive. The American Bar Association has advised that when a client, or one acting on behalf of a client, presents evidence of the type described to us to the attorney, the attorney should decline to take possession of it and should advise the client with respect to his

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TRIAL COURT NOTICES
THIRD JUDICIAL DISTRICT

VERIFICATION:

Presiding Judge, Ralph E. Moody, has announced that documents and pleadings in pending cases or cases filed subsequent to May 6, 1977, which are required to be verified by statute or court rule, must comply with the verification requirements outlined in H.A.M.S. Co. v. Electrical Contractors of Alaska, Supreme Court Opinion No. 1415, May 6, 1977. This rule will remain in effect in the Third District unless or until a clarification is forthcoming from the Alaska Supreme Court with respect to whether it's interpretation of verification in the above case is limited to lien claims. (Effective May 18, 1977.)

DISSOLUTION OF MARRIAGE PROCEDURES:

Cases filed under the new dissolution of marriage statute will not be expanded into full contested divorces if the element of agreement is lost in the course of the dissolution proceeding. In such cases, the dissolution case shall be dismissed and parties wishing to pursue the divorce will be required to file a complaint for divorce subject to established rules of civil procedure. (Effective May 17, 1977.)

CHANGES IN PROCEDURE FOR PROCESSING APPEALS TO SUPERIOR COURT:

The following changes in the procedure for processing appeals to Superior Court became effective March 31, 1977:

1. Unless otherwise ordered by the Court, the practice of transcript preparation of District Court matters on appeal to Superior Court is discontinued.

2. Counsel for parties on appeal shall, by identifying the appropriate log notes and related tape footage indicators, specify that portion of the Trial Court record which is relevant to the appeal.

3. The noted portions of the Trial Court record shall be reproduced from the original tape to cassette and forwarded to the appropriate Superior Court judge for audio review.

OBITUARIES

DEATH CLAIMS JUNEAU BAR MEMBER

Frank M. Doogan died on March 11, 1977 at Bartlett Memorial Hospital after an illness of eight months.

Mr. Doogan was born in Juneau, November 6, 1923 of pioneer parents, Theodore J. Doogan and Mary Doogan, who came to Alaska in 1910 and 1908.

After graduation from Douglas High School in 1941, he entered the military service in 1943 and served both in Alaska and in Europe. He graduated from the University of Alaska in 1946 and received his Doctor of Jurisprudence degree from Gonzaga University in Spokane in February 1952.

Following graduation from law school he was admitted to the Bar of Alaska in 1952 and joined the firm of Faulkner, Banfield & Boochever in the practice of law. He has been a member of that firm since 1959. For several years prior to his death he was chief counsel of Alaska Pacific Assurance Company.

Mr. Doogan was a Judge of the Municipal Court in Juneau, a member of the Alaska Judicial Council and a regent of the University of Alaska. He served as president of the Juneau Chamber of Commerce one term, was a member of the Elks Lodge, the Juneau Rotary Club and Pioneers of Alaska.

He is survived by his daughters Terry, Deanna, Patricia and his son William, who reside in Colorado where William and Patricia are in school. He is also survived by his widow, Catherine Doogan, and three stepchildren, John, Linda and James Hogins. His surviving brothers and sisters are James Doogan, Sister Anna Marie, Sister Marjorie, John Doogan, Sister Theresa, Rose Navarre and Hugh Doogan.

Funeral services were held at the Cathedral of the Nativity on Sixth Street in Juneau on Monday, March 14.

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CONTACT: Alaska Bar Association
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