


# **Alaska Bar Association**

## **1994 Annual Report**



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THE ALASKA BAR ASSOCIATION  
Annual Report for the Year 1994

Board of Governors

Daniel E. Winfree, President  
Brant G. McGee, President-Elect  
J. John Franich, Vice-President  
Dennis L. McCarty, Secretary  
Diane F. Vallentine, Treasurer  
David H. Bundy  
William E. Dam, Sr.  
Joseph Faulhaber  
Marc W. June  
Elizabeth J. Kerttula  
Ethel Staton  
Philip R. Volland

Staff

Deborah O'Regan, Executive Director  
Barbara Armstrong, Assistant Director & CLE Director  
Carolyn J. Woodstock, Executive Secretary  
Geraldine F. Downes, Controller  
Karen A. Schmidlkofer, Accounting Assistant  
Rachel M. Tobin, CLE Assistant  
Mia F. Jackson, Admissions Secretary/Receptionist  
Krista M. Scully, Lawyer Referral Receptionist  
  
Stephen J. Van Goor, Bar Counsel  
Mark Woelber, Assistant Bar Counsel  
Michael Sean McLaughlin, Assistant Bar Counsel  
Deborah C. Ricker, Discipline Investigator/Paralegal  
Ingrid Varenbrink, Arbitration/Discipline/CLE Library  
Norma L. Gammons, CPS®, Disc. Section Administrative Supervisor  
Cheryl L. Rapp, PLS®, CPS®, Discipline Secretary

March 15, 1995



## INTRODUCTION

On November 4, 1884, some six months after the passage of the Organic Act, three attorneys were admitted to the practice of law in Alaska. In the next two years, the Bar -- practicing before the District Court of the United States in and for the District of Alaska -- increased to thirteen (13) members and, by 1896, there were fifty-nine (59) members. Of that number, approximately twenty-one (21) resided within the State, either in Juneau, Nome, "Wrangle," Sitka, Valdez, "Skaguay," or Berners Bay.

It was those individuals who, in November of 1896, in Juneau, organized the Alaska Bar Association. The governing documents were a Constitution and Bylaws. Its object was "to maintain the dignity of the legal profession, to secure proper legislation for Alaska, to promote the administration of justice, and to cultivate social intercourse among its members."

Membership was voluntary, annual fees were \$1.00 (now they are \$450.00), and six members constituted a quorum. The standing committees were legislation, judiciary, and grievance. The first President was John S. Bugbee.

In 1955, the structure changed somewhat with the passage of the Integrated Bar Act by the Territorial Legislature. Nevertheless, the essential functions and purposes continued, albeit on an expanded, more formal basis.

Currently, the Alaska Bar Association has 3,212 members in the following categories: Active, 2,609; Inactive, 567; Honorary, 1; Retired, 35. Its affairs are governed by a twelve (12) member (attorney and non-attorney) Board currently comprised of the following persons:

Daniel E. Winfree, President  
Brant G. McGee, President-Elect  
J. John Franich, Vice President  
Dennis L. McCarty, Secretary  
Diane F. Vallentine, Treasurer  
David H. Bundy  
William E. Dam, Sr., (public member)  
Joseph Faulhaber, (public member)  
Marc W. June  
Elizabeth J. Kerttula  
Ethel Staton (public member)  
Philip R. Volland

Written guidelines for governance are contained in the Integrated Bar Act, the Alaska Bar Rules (promulgated by the Supreme Court of Alaska), the Code of Professional Responsibility, the Association's Bylaws and Regulations, the Board of Governors' Policy Manual, and a Personnel Manual.

The two most important functions of the Bar are the admission and discipline of its members, both of which are carried out under the supervision of the Supreme Court of Alaska.

There are presently 7 standing committees, 19 sections, 5 bar rule committees, and 2 special committees. In addition, the Bar Association participates in a number of adjunct organizations and administers special projects, such as the Statewide Lawyer Referral Service. In excess of half of the membership participates, voluntarily and without remuneration, in the affairs of the Association.

The staff of the Alaska Bar has grown from a part-time, volunteer executive secretary in 1968, to the following 15 full-time professionals:

Deborah O'Regan, Executive Director  
Barbara Armstrong, Assistant Director & CLE Director  
Carolyn J. Woodstock, Executive Secretary  
Geraldine F. Downes, Controller  
Karen A. Schmidlkofer, Accounting Assistant  
Rachel M. Tobin, CLE Assistant  
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Norma Gammons, CPS®, Disc. Section Administrative Supervisor  
Cheryl L. Rapp, PLS®, CPS®, Discipline Secretary

The Association is largely funded through monies garnered from its members through dues, continuing legal education programs, admissions, conventions, the Lawyer Referral Service, and interest income. The Association received no public monies this past year.



## **I. THE BOARD OF GOVERNORS**

The Board of Governors consists of twelve (12) members, nine (9) attorney members and three (3) non-attorney members. The nine active members of the Alaska Bar are elected by their peers to govern the affairs of the Association. Serving three year staggered terms, two attorneys represent the First Judicial District, four are from the Third Judicial District, two serve the Second and Fourth Judicial Districts, and one member is elected at-large. Any vacancy is filled by the Board through appointment until the next election. The three non-attorney members are appointed by the governor and are subject to legislative confirmation. The "public" members also serve staggered three year terms.

The Board generally meets five to six times a year at dates and places designated by the President of the Association; special meetings may be called by the President or three members of the Board of Governors. In 1994 the Board held five (5) meetings (January 7-8; March 4-5; May 2-4; August 18-19; and October 28-29) and two (2) telephone conference meetings (January 14 and April 14). The Bar Convention and Annual Business Meeting were held in Anchorage, May 5 through 7.

### **A. Officers**

There are five officers (President, President-Elect, Vice President, Secretary and Treasurer), all of whom are elected from among the members of the Board by the active Association members in attendance at the annual meeting held in May or June of each year.

The President of the Bar Association presides at all meetings of the Board and of the Bar Association, and is designated as the official spokesperson for the Association.

The President-Elect of the Alaska Bar Association is required to assist the President in all the President's endeavors and take the place of the President if the President is unable to perform the duties of that office. The President-Elect is also responsible for maintaining good communication with the presidents of the various local bar associations across the State.

The Vice President of the Association acts as liaison to the Bar's sections and the Secretary is in charge of all of the Association's committee operations. The Treasurer is

responsible for overseeing the fiscal affairs of the Association, including budget preparation, reports to the Board at each meeting, and the annual report to the membership.

## B. Purposes, Policies, and Procedures

In order to understand the commitment that each member of the Board of Governors makes, it is appropriate to review the Bylaws and policies of the Association, as well as the Alaska Bar Rules. Article 2, Section 2, of the Bylaws of the Alaska Bar Association sets out the purposes of the Association. They are:

1. To cultivate and advance the science of jurisprudence;
2. To promote reform in the law and in judicial procedure;
3. To facilitate the administration of justice; and
4. To encourage higher and better education for the membership in the profession, and to increase the usefulness and efficiency of the Bar Association.

The workload undertaken by members of the Board of Governors includes admissions, discipline, fiscal responsibility, and service activities. Admissions and discipline are discussed in other sections of this booklet. Illustrative of the other activities of the Board are the following:

1. The Board of Governors is required to approve an annual budget, oversee investment of Association funds, and maintain control of expenditures.
2. The Board approves and publishes all formal ethics opinions which respond to requests for rulings and gives guidance to the membership in the ethical conduct of the profession.

3. The Board of Governors has overall responsibility for defining the powers, duties, and functions of all of the committees of the Alaska Bar Association. These committees are designated as standing committees, as special committees, and as bar rule committees. The President appoints all members and designates a chairperson for each committee.

The members of all committees serve at the pleasure of the Board and their reports and recommendations must be adopted by the Board of Governors to be binding upon the Association.

4. The Board actively supports education and public relations, including programs in the schools with respect to the justice system, seminars for non-lawyers, institutional advertising, and a statewide lawyer referral service.
5. The Board oversees the administration of the Bar office and its staff, and has developed a personnel manual to guide its employees in the performance of their duties.
6. The Board recommends to the Supreme Court revisions and additions to the Alaska Bar Rules, and reviews and revises the Bylaws of the Association. In addition, the Board has promulgated a Policy Manual which sets forth the guidelines for the operation of the Board in all phases of Association activity.
7. In addition, the Board is directly responsible for all the other projects, programs, and activities described in this booklet.

### C. Admissions

The Alaska Bar Rules set forth the responsibilities of the Board of Governors with respect to admissions. They include the following:

1. The Board of Governors examines or provides by contract for the examination of all applicants and determines or approves the time, place, scope, form, and content of all bar examinations.
2. The Board of Governors sets the standards for the examinations.
3. Under the Rules, the Board has the power to require the appearance of an applicant before the Board in an instance where there is concern on behalf of the applicant or the Board regarding the application procedure, or to refer the matter to a Master for the purpose of accumulating all of the facts and supplementing the record before a decision is made.
4. Both the Board members and the Master have the power to issue subpoenas, administer oaths and affirmations, and take testimony concerning any application for admission to the Alaska Bar Association.
5. The Board of Governors must develop an appropriate application form requiring the applicant to file the necessary evidence and documents in support of the applicant's eligibility for admission.
6. The Board sets the fees and dates for filing of all documents with the Association.
7. The Board is required to certify the results of each exam to the Supreme Court for the State of Alaska with its recommendations for admission.

8. In the event an applicant is denied an exam permit or is denied certification, the applicant is required to file a verified statement with the Board of Governors and, upon a review of the sufficiency of the verified statement, a hearing may be granted. The burden of proof is upon the applicant to prove material facts that constitute an abuse of discretion or improper conduct on the part of the Board of Governors, the Executive Director, the Law Examiners Committee, or the Master appointed by the President. Each decision must be supported by findings of fact and conclusions of law, with the Board having the power to adopt the decisions of the Committee or Master in whole or in part, or reject the recommendation and draft its own findings and conclusions of law along with an appropriate order. In each instance, the applicant may appeal the decision of the Board of Governors to the Supreme Court.

#### D. Discipline

One of the most critical areas of responsibility for the Board of Governors is the discipline of Association members.

Whenever a disciplinary matter is before the Board of Governors, the Board sits as the "Disciplinary Board of the Alaska Bar Association."

In that capacity, it appoints Bar Counsel, supervises the Bar Counsel and Bar Counsel staff, and appoints members of three Area Discipline Divisions: one in the First Judicial District, one in the Third Judicial District, and one in the combined Second and Fourth Judicial Districts.

In addition, the Board is charged with overall responsibility for the functioning of the attorney discipline system, and for reviewing findings, conclusions and recommendations of the Hearing Committees. The Board administers reprimands and, in the case of disbarment, suspension, probation or public censure, forwards its recommendations to the Supreme Court of Alaska for final action.

The Disciplinary Board generally meets five times a year, not including telephone conference calls. Seven (7) members constitute a quorum. Records of disciplinary proceedings are maintained according to the Alaska Bar Rules promulgated by the Supreme Court.

#### E. Bylaw and Rule Amendments

The Board of Governors amended several bylaws of the Bar Association and proposed several rule changes to the supreme court. Article III, section 4 of the Bylaws was amended to provide that the required fee for other attorneys under Civil Rule 81 is \$250 annually, with \$10 of that fee contributed to the Lawyers' Fund for Client Protection, until the attorney notifies the Alaska Bar Association that the case in which the attorney is participating is closed or the attorney has withdrawn. Attorneys appearing in cases prior to the effective date of this rule were to begin paying the annual fee in January 1995.

A new committee was established under Article VII, section 1(a)(8). The Pro Bono Service Committee is responsible for identifying and promoting activities which would facilitate the provision of pro bono services and encourage all attorneys to provide pro bono service.

The Supreme Court passed Bar Rule 64 which had been recommended by the Board of Governors. This rule requires all active members of the Bar to submit an affidavit by July 15, 1996, stating that they have read and are familiar with the Alaska Rules of Professional Conduct.

The Supreme Court amended Alaska Bar Rule 26(h) following the recommendation of the Board of Governors. This rule provides that upon conviction of a crime relating to drug abuse or alcohol, the Court may refer this matter to the Substance Abuse Committee. The attorney is required to meet with the committee and comply with its recommendations or show cause why the attorney should not be suspended from the practice of law.

The Board also made several other recommendations which had not been acted on by the court at the end of the year. The proposed amendments to Bar Rules 1 and 60 would grant immunity to board and committee members acting within the scope of their authority in admissions and discipline matters. Rule 3, section 6, as proposed would set the reapplicant deadlines at January 15 and July 15, rather than 60 days following notice of failure.

## F. Sunset

The Board of Governors, like other state boards and commissions, is reviewed by the Alaska Legislature every four years to determine whether it is fulfilling its responsibilities and should continue in operation. The sunset review, originally scheduled for late 1992 or early 1993 had been postponed. The audit began in the fall of 1993, during what is technically the wind-down year for the Board of Governors. A preliminary report was issued in December, with this going before the Legislature in 1994. Several hearings were held before House and Senate committees and the Legislature voted to extend the Board of Governors until 1996.

## **II. ADMISSIONS PROCEDURES**

In order to practice law in the State of Alaska, membership in the Alaska Bar Association is a necessary prerequisite. In other words, it is an integrated (or unified) bar association.

### **A. Requirements for Admission**

Applicants for admission to the practice of law must 1) be graduates of an accredited law school; 2) pass the Alaska Bar Examination; 3) meet the standard of character and fitness as required pursuant to Bar Rule 2(1)(d); 4) pass the Multistate Professional Responsibility Examination (MPRE); and 5) attend a presentation on attorney ethics as prescribed by the Board. Attorneys who have been admitted in other jurisdictions but who did not graduate from accredited law schools may qualify to take the bar exam if they have been in active practice in another jurisdiction for five years or more.

The Alaska Supreme Court has adopted an admission without examination rule, with states which allow Alaskan attorneys admission without examination. (See Part J of this section for details on the amendments to the Alaska Bar Rules.)

The Alaska Bar Examination is intended to assist in the determination of whether applicants possess minimal competence to practice law. This includes the ability to analyze facts, apply the appropriate substantive and procedural law, and to effectively communicate the issues and the proposed solutions.

### **B. Application Procedure**

Information and application forms may be obtained from the Bar office. These include instructions and information on the examination; fingerprint cards; and an application form which includes an affidavit of personal history and an authorization and release form consenting to an investigation of moral character, professional reputation, and fitness for the practice of law. The application fee for first time applicants is \$700.00; for reapplicants (some one who has sat for and failed the Alaska Bar Exam within one year of application), the fee is \$400.00.

The Alaska Bar Association conducts a character investigation on each applicant for admission to the Bar based



on information provided by the applicant, contacts initiated by the Bar office with individuals familiar with the applicant, and on other information which may be sought by or come to the attention of the Bar Association. No applicant is certified for admission, regardless of the applicant's score on the written examination, if it is determined that he or she does not meet the required standard of character and fitness. The Bar Association may require a formal hearing with the introduction of sworn testimony and other evidence, where it determines that a hearing is necessary or appropriate to assist in its investigation. An applicant may appeal from an adverse determination on character to the Board of Governors and, if necessary, to the Alaska Supreme Court.

### C. Bar Examination

The Alaska Bar Examination is conducted twice each year in Anchorage, Fairbanks, Juneau, and Ketchikan and in such other locations as the Board may direct. It consists of: 1) one and one-half days of essay questions on Alaska law prepared by a permanent committee of the Association known as the Alaska Law Examiners; and 2) two half-days of objective, multiple choice questions (the Multistate Bar Examination or "MBE"), prepared by the National Conference of Bar Examiners and administered simultaneously in over forty states.

THE ESSAY EXAMINATION: Essay questions are of the analytical or problem type consisting of a hypothetical case or situation involving one or more principles of law. Answers to essay questions are expected to demonstrate the ability to analyze the facts presented by the questions, to select the material facts, to discern the points upon which the case turns, and to present the response in a logical, well-organized, literate manner.

The essay portion of the Alaska Bar Examination is structured as follows:

One half-day (three hour) session consists of three (3) "long" essay questions which require substantial legal analysis. An answer should reflect an applicant's knowledge and understanding of the pertinent principles and theories of law as applied in Alaska, their relationship to each other, and their qualifications and limitations. Answers should also demonstrate the applicant's ability to apply the law to the facts given and to reason logically -- in a lawyer-like manner -- to a sound conclusion.

One half-day (three hour) session consists of six (6) "short" essays which emphasize substantive knowledge of the law as applied in Alaska; an answer should reflect an applicant's knowledge and understanding of the pertinent law, but will not require extensive discussion.

The final half-day (three hour) session consists of a research/analysis task (or practicum) which assesses how well an applicant can both evaluate the effect of various facts, statutes, and case law on a client's case and integrate and present the results of that analysis in written form. In this session, the applicant is provided with an array of relevant factual and legal information about the client's case, such as previous cases, statutes, regulations, facts, documents, etc., and is best likened to an "open book" examination in that all the information needed is provided.

All three sessions of the essay examination consist of essay questions which are to be answered in accordance with principles of law as applied in Alaska and may involve one or more issues on the following subjects:

Business Organizations  
(corporations, partnerships,  
associations)

Civil Procedure

Constitutional Law  
(State and Federal)

Contracts  
(including Chapter 2 of the UCC)

Criminal Law and Procedure

Evidence

Family Law

Real Property

Torts  
(including Products Liability)

In addition, and if applicable, Remedies may be tested as a part of each of the topics listed above.

The following procedures govern the drafting of the essay questions:

1. At least 2 members of the Law Examiners Committee form a "team" to draft a question.
2. One member of the team is a drafter; the other edits and reviews.
3. A grader's guide is prepared at the time question is drafted.
4. The team suggests the tentative weights (points) to be assigned to the components of an answer recognized by the grader's guide as pertinent to a minimally competent answer.
5. The entire Law Examiners Committee meets and reviews each question as drafted by the teams.
6. The Committee next reviews each grader's guide to judge whether the Committee agrees that the question raises the same issues identified by the team in its analysis of the question.
7. The Committee reviews and either adopts or revises the tentative weights assigned to the components of each proposed grader's guide on a 100 point scale (no points are left for assignment at the discretion of graders).
8. The questions and proposed grader's guides are finalized and provided to Bar staff seven days prior to the exam.

#### D. Grading of Examinations

All examinations are graded anonymously using a double number coding system. A law examiner who is able to identify a particular applicant's examination paper is required to disqualify himself from the grading of that exam. The following procedures govern the grading of the essay exam:

1. A calibration team consisting of at least five members of the Committee is convened for each essay question given on the exam;
2. As a group, the team will read two randomly selected applicant answers to that essay question;
3. The team will compare and discuss the answers and agree on a ranking of the essay answers they have just read;
4. The team will then read a third essay answer, compare and discuss this answer with the answers previously ranked, and agree on a ranking of all the answers they have read. The team reads and ranks a total of ten answers;
5. The team will continue this process until the team is calibrated and the team selects five benchmarks;
6. The team reviews the grader's guide and the weights assigned to particular portions of the question to take into account any issues identified during the reading of the applicant answers; the 2 graders are responsible for amending the grader's guide into its final form;
7. The team selects five benchmark applicant essays; a benchmark is an answer which represents one of the 5 points on the grading scale. ("5" is high, "1" is low.) It is not a model answer, nor a minimally competent answer, but is a representative answer for this particular point on the scale;
8. From this calibration team, two people, not including any member of the original drafting team, are assigned to independently read and score each applicant's answer to the essay question they have just calibrated;
9. The two graders submit their scores to the Executive Director;
10. The Executive Director determines whether a discrepancy of more than one point exists between the rankings given by the two graders to a particular applicant on the question;

11. If a discrepancy of more than one point is found, the graders must reconcile their differences by reference to the benchmarks and grader's guide. The graders must agree on a score that is the same or no more than one point apart;
12. The two scores given to a particular applicant's answer are averaged for a final score on that essay;
13. The scores of the various sections of the essay exam (the short essay, long essay, and research/analysis question) are tabulated, weighted, and combined according to the following procedures for determining the pass/fail status of applicants.

A passing score on the Alaska Bar Examination is determined by "combining" the scaled score received by the applicant on the MBE with the weighted score he or she received on the essay portion of the bar exam. A combined score of 140 or above is required to pass the Alaska Bar Examination. Applicants who receive a combined score between 139.00 and 139.99 will have appropriate portions of their essay exam reread by the graders before the scores are released. The mathematical procedures by which a combined score for each applicant is derived are performed for the Alaska Bar by the National Conference of Bar Examiner's (NCBE's) Division of Testing and is based on the scaled MBE and weighted essay scores provided to the NCBE by the Alaska Bar for each applicant.

The Multistate Bar Examination objective answer sheets are graded by machine by the National Conference of Bar Examiners. These scores are scaled to compensate for any difference in difficulty of the examination from one administration to another, based on a detailed national statistical analysis, a comparison of performance on repeat questions, and other factors.

In reviewing the examination results before certification, the Board of Governors receives a report on the examination, including irregularities (if any), a compilation of scores by applicant number for each portion of the examination, a sampling of "benchmark" papers, copies of the essay questions, and the grader's analysis for each question. Once the examination results are approved, the names of the passing and failing applicants are disclosed and the names of passing applicants are published. Individual scores are released to all failing applicants.

## E. Appeals

An applicant will be granted a hearing in either of two circumstances: 1) denial of an examination permit, or 2) denial of certification to the Supreme Court for admission. The applicant has the burden of alleging and proving an abuse of discretion or improper conduct on the part of the Executive Director, the Law Examiners Committee or the Board of Governors. If the applicant is not satisfied with the action taken on his appeal by the Board of Governors, he or she can appeal to the Alaska Supreme Court.

A failing applicant may obtain copies of the essay questions, his or her answers, the "benchmark" essays, a representative sampling of answers of other applicants who received overall passing and overall failing scores, and the grader's guides for each of the essay questions. Failing applicants are further afforded an opportunity to review their Multistate Bar Examination questions, answers, and correct answers under a supervised policy which provides for the exam's security.

When a appeal is filed which raises factual issues of whether the Association has abused its discretion or acted improperly, the appeal is assigned to a Master for a hearing. The Master hears testimony, considers other evidence, and then prepares in writing a proposed decision supported by findings of fact and conclusions of law. The Master's report is then submitted to both the applicant and the Board. Thereafter, either the applicant or Bar Counsel may file exceptions and briefs and, upon request, may appear and present oral argument to the Board of Governors. The Board may adopt the decision of the Master in whole or in part, or reject it in its entirety and adopt its own findings of fact, conclusions of law, and issue its own decision.

On the other hand, if there are no factual matters in dispute, the Board may decide the appeal without assigning it to a Master. If there are questions concerning the applicable legal principles, the Board will consider written or oral argument from the applicant and from Bar Counsel and will issue a written decision.

The applicant may appeal any adverse decision by the Board of Governors to the Supreme Court, which is the final authority on admissions questions. The Supreme Court reviews the findings of fact, conclusions of law and recommendations concerning procedure, due process, or other matters which are raised by the applicant, and issues its decision, which if published, establishes precedent for future admissions cases.

## 1994 Report

In 1993, an applicant filed an appeal following notification of failure of the July 1993 exam. The applicant alleged an abuse of discretion in the grading of bar essay exams and that the MBE was racially biased. This matter was heard by a hearing master and considered by the Board in 1994. The Board adopted the hearing master's Findings and denied the appeal.

### F. Assistance to Unsuccessful Applicants

The Board has a procedure for review of the MBE by failing applicants (which has also been reviewed and approved by the National Conference of Bar Examiners). The procedure allows failing applicants, upon request, to have a 3 hour period in which to review a copy of their answer sheet, a copy of the questions and the correct answers. Applicants are not permitted to take notes or copy any part of the test material.

The Board of Governors and NCBE felt that these procedures were a fair compromise between maintaining the security of the MBE and allowing applicants access to their MBE materials.

As a service to failing applicants, the Bar Association offers several alternatives for assistance. A member of the Tutoring Committee will, upon request, accompany the applicant for the purpose of reviewing the essay exams and assist in identifying the individual causes for failing the Bar Exam.

A failing applicant may also request a member of the Tutoring Committee to assist in preparing for the next bar exam. The tutoring emphasis is on how to write essay exams. Eleven applicants requested a tutor following the results of the February exam, and six applicants requested assistance after the July exam results were released.

Concerned about the low pass rate of minority applicants, the Board formed a subcommittee to review this and investigate any options which could help increase the minority applicant pass rate. The Board decided to implement a pilot tutorial program starting with applicants preparing for the February 1994 bar exam. A solicitation went out to lawyers asking who would be willing to tutor minority applicants. They were advised that a training/orientation on how to tutor for the exam would be held. Two sessions were scheduled for applicants on how to prepare and take the exam. To be eligible for the program, an applicant must be a minority who has either failed

the Alaska bar exam or who can submit an LSAT score which is below a certain level. Six applicants participated in the program prior to the February exam, with three passing and three failing the exam. No applicants opted to participate in the program prior to the July exam. The Board will be reviewing the pilot program in the spring of 1995.

#### G. Statistical Summary

In 1994, 178 individuals applied for admission to the Bar and 128 were admitted.

1994 Alaska Bar Exam pass/fail statistics for the February and July exams are included in Appendix 1.

#### H. The Multistate Professional Responsibility Exam (MPRE)

Passage of the MPRE is required as a condition of certification for admission to provide some assurance that persons admitted to the Alaska Bar are prepared to identify and deal with ethical problems in the practice of law. The MPRE is not administered as a part of the bar exam, but is given separately three times a year (March, August, November) by the National Conference of Bar Examiners in cooperation with Educational Testing Services. This examination may be taken at any time by an applicant to the Alaska Bar (e.g., while still in law school; before the bar exam; after the bar exam). Receipt of a scaled score of 80 or above on the MPRE has been determined by the Board of Governors as demonstration of adequate awareness of the ethical responsibilities of the Code of Professional Responsibility and the Code of Judicial Conduct.

#### I. Ongoing Review of the Exam

The Board of Governors retains the assistance of Stephen P. Klein, Ph.D., who is a consultant to the National Conference of Bar Examiners and many state boards of bar examiners on statistical studies of bar examinations. He is a senior research scientist with the Rand Corporation in Santa Monica, California and a nationally recognized authority on bar examinations. Dr. Klein's assistance in the development of the "All Alaska" Bar Exam, necessitated by the withdrawal of the assistance of the California Bar Examiners effective with the July, 1982 Bar Exam, was invaluable. The essay drafting and



grading procedures detailed above in "D" of this Section were developed with his advice and counsel, as was the decision to "combine" the essay and MBE scores after "scaling" the weighted essay scores to the MBE scaled scores.

Law Examiners participated in two training sessions in 1994. Dr. Klein presented a half day session on grading and scoring the exam in February. In March, 13 law examiners traveled to Chicago to participate in the law examiners workshop sponsored by the National Conference of Bar Examiners.

#### **J. Admission Without Examination**

Effective January 1, 1985, the Alaska Supreme Court approved an admission without examination rule, with reciprocity provisions. An amendment to Bar Rule 2 removed the requirement that applicants for admission who have practiced law five or more years must take a bar exam prior to admission. Rather, such applicants would be able to apply for admission "upon motion" and without examination, so long as the applicant met certain requirements outlined below.

First, the attorney seeking admission on motion rather than by examination has to meet a number of general standards required of any applicant for admission (i.e., be a graduate of an accredited law school; be at least 18 years of age; and be of good moral character). In addition, the attorney must also have passed a written bar exam administered by a reciprocal jurisdiction and have engaged in the active practice of law in one or more states for five of the seven years preceding application to the Alaska Bar.

A "reciprocal" state or jurisdiction is one which has a rule providing that attorneys admitted in Alaska may be admitted to that jurisdiction without examination and under prerequisites similar (but not more demanding) than those set forth in Bar Rule 2. A total of twenty-seven (27) jurisdictions provide for admission without examination.

In 1994, sixteen applicants applied for and were admitted without examination.

#### **K. Mandatory Ethics: Professionalism in Alaska**

All applicants are now required to attend a course on ethics as prescribed by the Board prior to admission. The

three hour course is be offered twice a year, live in Anchorage, Juneau and Fairbanks. Applicants may watch the course on videotape if they cannot attend one of the live programs.

### **III. DISCIPLINE OF MEMBERS**

The activities of attorneys admitted to practice within the State of Alaska are governed by the Rules of Disciplinary Enforcement adopted by the Alaska Supreme Court. The substantive and procedural rules of the Supreme Court in regulating the practice of law in Alaska are significantly different from those of agencies of the State of Alaska charged with the regulation of legislatively controlled businesses and professions. For example, a ruling as to a permit or license issued by the Alcoholic Beverage Control Board is final and binding, subject only to the right of a party to appeal questions of law to the Superior Court and, thereafter, if desired, to the Supreme Court. In matters involving public censure, probation, suspension, or disbarment of attorneys, however, the Supreme Court is the decision maker, acting not as an appellate body but as the final forum with authority to make and enforce disciplinary decisions.

A thorough revision of the Rules of Disciplinary Enforcement was accomplished by the Board in 1984 and made effective by the Supreme Court on January 1, 1985. The most significant change is the opening of attorney discipline proceedings to the public after a Petition for Formal Hearing is filed. Now, the public is able to attend formal discipline hearings conducted before hearing committees and the Disciplinary Board in the same way as they have been able to attend court or other government proceedings. The following discussion reflects the revised procedures in effect.

#### **A. The Supreme Court's Authority**

The Supreme Court has held that an attorney's license to practice law is "a continuing proclamation by the Court that the holder is fit to be entrusted with professional and judicial matters...as an officer of the courts."

Attorneys are, therefore, bound to act in conformity with standards adopted or recognized by the Supreme Court of Alaska. The Supreme Court has also declared that any attorney admitted to practice in Alaska, or who appears or participates in legal matters within the State, is subject to the jurisdiction of the Supreme Court of Alaska and the Disciplinary Board which the Court established.

Due to the size of the State of Alaska and the great distance between population centers, the Supreme Court has

established three disciplinary areas: 1) the First Judicial District; 2) the combined Second and Fourth Judicial Districts; and 3) the Third Judicial District. Charges of misconduct against a lawyer are assigned to be heard by members of the hearing committee established for the district in which the attorney lives or practices. Such charges may be based upon a violation of the Alaska Rules of Professional Conduct, Ethics Opinions adopted by the Board of Governors, criminal convictions, or misconduct within or arising from disciplinary proceedings themselves. Depending on the severity of the misconduct, violations may result in disbarment, suspension, probation, or public censure by the Court or, in less serious cases, in reprimand by the Disciplinary Board or written private admonition by Bar Counsel.

## **B. The Disciplinary Board**

As discussed above, the Board of Governors acts as the Disciplinary Board for the Supreme Court. The day-to-day operation of the disciplinary process has been delegated to Bar Counsel and Assistant Bar Counsel, attorneys hired by the Board, whose functions include assisting the public in the grievance process, maintaining records, investigating, processing, and prosecuting grievances and appeals.

The procedures for disciplinary enforcement begin upon the filing of a grievance by any person alleging misconduct on the part of any attorney. During this stage, grievances against attorneys are confidential by court rule. Assistant Bar Counsel review the grievance to determine whether it is properly completed and contains allegations which, if true, would constitute grounds for discipline. They also request a voluntary response from the attorney involved. If they determine that the allegations are inadequate or insufficient to warrant an investigation, an investigation will not be opened. If a grievance is accepted for investigation, the attorney involved must provide full and fair disclosure in writing of all the facts and circumstances pertaining to the alleged misconduct.

If Bar Counsel determines that probable cause exists to believe that attorney misconduct has occurred, permission may be requested from a Hearing Committee member to issue a written private admonition (in less serious cases) or to file a Petition for Formal Hearing in serious matters. Once the petition is filed, the proceedings are open to the public.

### C. Summary of Public Discipline Actions in 1994

The Alaska Supreme Court disbarred Melody J. Crone effective May 1, 1994 and Jon E. Wiederholt effective July 8, 1994. The Court suspended David E. Grashin for 9 months effective May 1, 1994 and Kenneth J. Cusack for 60 days effective July 3, 1994. The Court publicly censured Bruce W. Rausch, Mitchel J. Schapira, and William P. Bryson. Finally, disciplinary probation ended for Kathryn M. Coleman.

The Disciplinary Board issued a reprimand, publicly imposed, to Robert J. Jurasek.

### 1994 DISCIPLINE CASE STATISTICS\*

Open cases pending as of January 1, 1994 . . . . . 68

New cases opened in 1994 . . . . . (+) 99

#### Cases closed in 1994:

Closed after disbarment by Supreme Court . . . . . 10

Closed after suspension by Supreme Court . . . . . 2

Closed after probation ended . . . . . 1

Closed after public censure by Supreme Court . . . . . 4

Closed after reprimand publicly imposed

by Disciplinary Board . . . . . 1

Closed after reprimand privately imposed

by Disciplinary Board . . . . . 2

Closed after written private admonition

by Bar Counsel . . . . . 2

Dismissed by Bar Counsel . . . . . 54

TOTAL closed cases . . . . . (-) 76

Open cases as of December 31, 1994 . . . . . 91

### STATUS OF OPEN CASES AS OF 12-31-94

Pending First Response from Respondent Attorney . . . . . 6

Pending Complainant's Reply . . . . . 2

Pending Second Response from Respondent Attorney . . . . . 1

Pending Bar Counsel Investigation/Decision . . . . . 53

Abeyance Pending Outcome of Related Court Case . . . . . 2

Abeyance Pending Outcome of Fee Arbitration . . . . . 0

Pending Approval to Issue Written Private Admonition . . . . . 1

Pending Acceptance of Written Private Admonition by

Respondent Attorney . . . . . 0

Pending Approval to File Petition for Formal Hearing . . . . . 5

Pending Stipulation for Discipline between

Bar Counsel and Respondent Attorney . . . . . 2

Pending before Area Hearing Committee . . . . . 5

Pending before Disciplinary Board . . . . . 4

Pending before Supreme Court . . . . . 9

Respondent Attorney on Probation . . . . . 1

TOTAL open cases . . . . . 91

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\*All numbers reflect individual complaints filed and not the number of attorneys involved.

#### **D. The Hearing Committee**

Investigations which result in the filing of a Petition for Formal Hearing by Bar Counsel are referred to a Hearing Committee in the relevant geographical area. The attorney may thereafter file a written answer admitting or denying the charges, or setting forth a claim of mitigation. Hearings are then held before the Committee. At the hearing, Bar Counsel prosecutes the case on behalf of the Bar Association. The responding attorney may be represented by counsel. Either party may call, examine, and cross-examine witnesses and otherwise request the production of evidence. The burden of proving misconduct by clear and convincing evidence is placed upon Bar Counsel. The Committee may direct the submission of briefs.

At the conclusion of the hearing, the Committee must file a written report to the Board, together with the recorded transcript, briefs, findings, conclusions and recommendations. If either party appeals from the Committee's recommendation, briefs may be filed with the Board. If desired, the matter may be orally argued to the Board. The Board must then conduct a review of the record and briefs and enter its order or recommendation to the Court.

#### **E. The Recommendation**

If the Board's decision recommends either public censure, probation, suspension, or disbarment, the recommendation is filed with the Supreme Court, which makes the final decision. The Board must submit a case record, including the hearing transcript, to the Supreme Court. The parties are required to file briefs in accordance with the Supreme Court rules for regular civil and criminal appeals; oral argument is available. It is only after review of this record by the Court that the Court enters its order relating to the attorney's discipline. The Court may also issue an opinion published in the Pacific Reporter which becomes a precedent for future cases.

The Board may impose a reprimand to be publically disclosed if it decides the matter can be resolved appropriately without referral to the Court. The Board may also consider stipulations of proposed discipline entered into between Bar Counsel and a respondent attorney and enter an order for a reprimand (either publically or not publically disclosed) or submit its recommendation on the stipulation to the Supreme Court.

As with civil litigation, many of the above procedures may be lengthy or protracted before the issuance of a Hearing Committee report or a Board order. Thus, a need exists -- and a procedure has been formulated -- whereby either party can make an interlocutory appeal to the Supreme Court for review of the procedures and evidentiary rulings of the Hearing Committee.

#### F. Interim Suspension

The Rules of Disciplinary Enforcement anticipate situations requiring immediate action against an attorney for protection of the public pending the completion of the full disciplinary process. One such situation exists when an attorney is convicted of a serious crime, such as a felony or when he is convicted of certain other crimes including those relating to interference with justice, false swearing, fraud, deceit, misappropriation or theft.

Conviction of such a crime is conclusive evidence that disciplinary action is necessary. The sole issue for determination is the nature of the final discipline to be imposed. Such a conviction also requires interim suspension, regardless of whether the conviction is based on a jury verdict or a plea of guilty, and regardless of whether an appeal is pending. In the event the conviction is reversed, the suspension is lifted, but formal disciplinary proceedings may nevertheless continue to final disposition.

Further, if Bar Counsel shows that an attorney's conduct constitutes a substantial threat of irreparable harm to his or her clients or prospective clients or where there is a showing that the attorney's conduct is causing great harm to the public by a continuing course of conduct, the Court may impose interim suspension.

An attorney facing disciplinary charges cannot avoid the consequence of his misconduct by simply leaving the practice of law, thus leaving open the possibility of a future return to the profession. The Rules of Disciplinary Enforcement permit discipline by consent of attorneys under disciplinary investigation but only upon the free and voluntary admission by the attorney that he is guilty of the charges, and with the consent of Bar Counsel, the Board and/or the Court.



## G. The Court's Order

When either disbarment, suspension or probation is ordered by the Court, more is involved than a simple order to that effect. There are various notification requirements to that attorney's clients, to opposing counsel and other jurisdictions in which the attorney is admitted. Sworn proof that these notification requirements have been met must be filed with the Court. Proof of compliance with these requirements is a prerequisite to any subsequent reinstatement.

The Bar Rules, however, do not rely solely on notification by the disbarred or suspended attorney. They also require the Board to publish notice of disbarment and suspension in a newspaper in Anchorage, Fairbanks and Juneau, the official Bar publication and a newspaper serving the community where the attorney practiced. The Board must also advise the presiding judges of all courts within the State and, through the Attorney General, all administrative agencies.

## H. Reinstatement

Disbarred or suspended attorneys can, under certain circumstances and procedures, be reinstated to the practice of law. However, in cases of disbarment, a minimum of five years must pass before the attorney is eligible for reinstatement.

Petitions for reinstatement are filed with the Supreme Court and served upon the Executive Director for the initiation of reinstatement proceedings.\* As with the imposition of discipline, the findings and recommendations of the Hearing Committee -- and thereafter the Board -- are only advisory, and the final determination on reinstatement is made by the Supreme Court. In order to be reinstated, a disbarred attorney or an attorney suspended for more than one year has the primary burden of establishing at a hearing that he or she possesses the moral qualifications, competency, and knowledge of law required for admission to practice and that the attorney's resumption of practice will not be detrimental to the integrity and standing of the Bar, or to the administration of justice, or subversive of the public interest.

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\*Attorneys who have been suspended for one year or less will be automatically reinstated by the Court unless Bar Counsel files an opposition to automatic reinstatement. Attorneys who have been disbarred or suspended for more than one year must appear before an appropriate Area Hearing Committee.

## I. Disability

The Rules of Disciplinary Enforcement also anticipate circumstances where the need for protection of the public arises from an incapacitating illness, addiction to drugs or intoxicants, senility, death, disappearance, or judicially declared incompetence of an attorney, rather than actual misconduct by the attorney. Upon a finding by the Supreme Court that such a disability exists, an order is entered transferring the attorney to disability inactive status until further order of the Court during which time the attorney is prohibited from engaging in the practice of law. As with public discipline, notice of the Court's action must be published. Likewise, presiding judges of all courts and administrative agencies are also notified. However, while the Court's final order is public, the disability proceedings themselves are confidential.

Reinstatement of the right to practice can thereafter only be granted by the Supreme Court upon a showing by the attorney that the disability no longer exists and that he or she is fit to resume the practice of law.

While the above procedures are designed to remove the disabled attorney from active status, it is essential that the interests of the clients of the disabled, deceased or unavailable attorney are also protected. Thus, the Bar Rules provide for appointment by the Superior Court of Trustee Counsel to protect the interests of this unavailable attorney and his clients. Trustee Counsel, on behalf of the unavailable attorney, exercises powers similar to those of a personal representative of a deceased person, but does so only in those matters specifically provided in the rules and allowed by State law.

### Summary of Disability/Reinstatement Actions in 1994

In 1994, the Alaska Supreme Court transferred George E. Weiss to interim disability inactive status and Lester W. Miller to disability inactive status.

In 1994, the Alaska Supreme Court reinstated Kenneth J. Cusack to active status following a 60 day disciplinary suspension.

## **J. Alternative Proceedings**

Some grievances do not rise to the level of professional misconduct warranting formal discipline. Nevertheless, two other forums are available to review the reasons for a client's dissatisfaction.

If the matter involves a dispute concerning the fee charged by an attorney, it is referred to a Fee Arbitration Panel. If the allegations involve a grievance which is not amenable to either discipline or fee arbitration, it is referred to a Conciliation Panel. Both are more fully discussed in Section VIII of this report.

## **K. Discipline Staff and Budget**

The Discipline Section is currently staffed by Bar Counsel, two Assistant Bar Counsel, a Discipline Investigator/Paralegal, a Discipline Section Administrative Supervisor, a part time Arbitration/Discipline Assistant, and a Discipline Secretary. Bar Counsel has the overall responsibility for the review, investigation, prosecution and appeal of attorney grievance cases. This level of staffing is a reflection of the continued commitment by the Board to the efficient and thorough processing of grievance matters.

Expenditures for the Discipline Section totalled \$472,790 in 1994, a substantial allocation of Bar Association resources for the protection of the public and the administration of justice through the attorney discipline process.

## **L. Bar Rule Changes in 1994**

The Court added a section to Bar Rule 26 relating to proceedings against attorneys following a criminal conviction. Now, if an attorney is convicted of a crime relating to alcohol or drug abuse, the attorney is required to meet with the Substance Abuse Committee of the Bar Association and to follow its recommendations for professional evaluation and professional recommended treatment. If the attorney fails to do so, the attorney may be suspended by the Court until the attorney complies.

The Court made a housekeeping change to Bar Rule 15(a) to reflect the new Alaska Rules of Professional Conduct which

replaced the old Alaska Code of Professional Responsibility and the Court corrected the street address for the Bar Association in Bar Rule 39(a) of the fee arbitration rules.

In addition, the Court made amendments to Bar Rules 1, 3, 4, 6, 7, 22, 43, 44, 46, 50, 52, 55, 56, and 62 to make the language gender neutral. These technical changes were not intended to affect the meaning of any of these rules.

#### **IV. CONTINUING LEGAL EDUCATION**

Continuing Legal Education programs and activities are a significant part of the work of the Alaska Bar Association and promote the goals of serving and assisting the legal profession in the State of Alaska. Programs and activities presented for Continuing Legal Education (CLE) purposes are aimed at the professional development of the membership of the Alaska Bar Association. It is critical that the Bar Association provide an appropriate number of quality CLE seminars to educate attorney members about new developments in the field of law and to emphasize their ethical responsibilities. Continuing Legal Education is an important component of assisting bar members in providing effective legal services to the public and the justice system.

##### **A. Administration**

The Continuing Legal Education Committee and the Association's Director of Continuing Legal Education are responsible for presenting and administering all CLE programs and activities. The CLE Committee is composed of 14 Bar Association members: 12 attorney members representing the various geographic areas of the state, 1 new lawyer representative, and 1 judicial representative. All members serve staggered 3-year terms.

The 19 substantive law sections of the Bar Association are responsible for sponsoring one CLE seminar a minimum of every two years. Most sections sponsor one CLE activity per year, in addition to holding regular monthly section meetings and an annual section meeting at the yearly Bar convention. Other CLE seminars not sponsored by a particular substantive law section are sponsored by the CLE Committee itself. In addition, CLE seminars of value and interest to attorneys and other professional groups are sometimes presented in cooperation with those groups, such as the Alaska Association of Legal Assistants, the Anchorage Legal Secretaries Association, the Alaska Association of Legal Administrators, the Alaska Academy of Trial Lawyers, the State of Alaska Real Estate Commission, and the Alaska Society of Certified Public Accountants. In 1994 the Alaska Bar also participated for the fourth year in the Western Consortium of CLE Providers and presented "Masters of the Courtroom" in Nevada. Each year an Alaska Bar member is selected to serve as one of the faculty for this program. Judge Karen Hunt was this year's faculty member.

In 1994 53 topics were scheduled (not including CLE topics presented at the convention). Forty live Bar-administered programs were presented in 1994 in three sites: Anchorage, Juneau and Fairbanks. In addition, the Bar presented 6 Mandatory Ethics programs and 16 Convention CLE programs. Six additional live programs were certified for CLE credit and presented in cooperation with other organizations. These six programs had no staff or fiscal impact on the Alaska Bar.

Nineteen video replays were scheduled for 1994. CLE Videotape Replays are routinely scheduled in Juneau, Fairbanks, Ketchikan, Kodiak and Dillingham.

Although none of the Mandatory Ethics or Convention programs included in the above figures has fiscal impact on the CLE budget, staff time is required to develop and implement these events.

Total attendance at CLE programs (including the convention and group video replays, but excluding mandatory ethics) was 2,575. The number of different attorneys served was 967; the number of different non-bar members was 397.

Sixteen CLE programs were presented at the 1994 Annual Bar Convention in Anchorage held in conjunction with the Alaska Judicial Conference. In 1994, the Bar designed a new convention registration fee structure to encourage greater attendance. This effort was successful and 187 individuals registered for various programs and events.

## **B. 1994 Goals**

The major goals of 1994 were to: 1) develop an evaluation form for CLE tapes and materials that are rented/purchased, 2) revise the CLE Library Catalog format, 3) develop a user-friendly order form for the CLE Library Catalog, 4) request the CLE Committee to recommend to the Board of Governors that CLE adopt a 60-minute hour as the standard, rounding off fractions of credits to the nearest quarter, 5) include a CLE Library Flyer in Bar New Admittees Packets, 6) revise welcome letter for new admittees, 7) schedule more Law Practice Management programs, 8) make CLE tapes and materials available to Bar Fee Arbitration Committee members, 9) begin publication of "The Alaska Attorney Desk Manual" in 1994, 10) investigate putting CLE materials on disk for future editing, focusing on repeat materials such as Native Law, Real Estate, and Family Law.

New evaluation and order forms were developed and are in use. The 1994 CLE Library Catalog format was revised and the cost of publication substantially lowered from previous years. The Alaska Bar now has a standard "60-minute hour" for CLE credit. CLE Library information sheets are part of the New Admittee packet along with a CLE information sheet regarding details of the awarding of credits, etc. The revised welcome letter for new admittees reflects updated information. The Bar presented a new CLE program, "Hanging Out Your Own Shingle," aimed at practitioners setting up their own solo practice, and also presented "Advanced Networking In Your Law Office," both sponsored by the Law Practice Management Section. The first stand alone publication of "The Alaska Attorney Desk Manual," entitled "Real Estate Law Issues," was completed in December. Law Practice Management materials are available to Fee Arbitration Committee members, and the Bar has begun evaluating proposals concerning OCR scanning of CLE materials.

### C. Fiscal

The CLE program met and exceeded its 1994 revenue target by \$7,000. Direct program expenses are offset by fees charged for each CLE. Any gain over direct expense is returned to the general fund to assist in covering CLE indirect costs. The average attendance at a CLE is 30-40, and the average registration fees are \$90.00 for a half day program and \$110.00 for a full day program.

The Bar Association general fund covers the indirect costs of CLE programs, including staff time. This financial arrangement allows the Bar to offer programs at lower registration fees than if indirect costs had to be covered by direct program income. The Bar also offers a registration fee credit option of up to 50% to members traveling into Anchorage via commercial carrier for a CLE program, as well as discounts to organizations sending two or more individuals to a program.

During 1994, CLE library usage for self-study also declined. Thus, Bar members are currently faced with more choices of topics and providers. However, during the current economic climate, it appears bar members hesitated to invest as much time and dollars in live CLE programs as in the past. The CLE library also experienced a downturn in number of programs requested this year by members.

#### D. Request for CLE Credits

Private CLE providers in 1994 continued to present more offerings in Anchorage.

The Bar continues to receive requests from organizations such as the Alaska Society of CPAs, the Alaska Association of Legal Administrators and the Alaska Academy of Trial Lawyers to review programs they have developed and approve them for CLE credit for Alaska Bar members attending these programs. Programs offered by sister organizations and adhering to the standards outlined in the CLE Policies and Guidelines adopted by the Board of Governors are considered to be an extension of the Bar's educational effort on behalf of its members. The Bar is glad to assist in making CLE credit approval available when appropriate.

The Alaska Bar Association is an approved provider for California Bar members to meet the Minimum Continuing Legal Education requirements of the California State Bar, and is also an approved provider for the State Bar of South Carolina.

#### E. Group Replays

Group video replays of live programs are regularly scheduled in Juneau, Fairbanks, and Kodiak, Dillingham and Ketchikan, to meet the educational needs of bar members outside Anchorage (the usual site for live programs). There is an average attendance of 5 bar members at each of these replay programs. Bar members receive CLE credit for attending a group video replay. A bar member in each city serves as the volunteer coordinator for these programs and handles scheduling, logistics, and registration. In addition, Nome and Kenai occasionally schedule group video replays.

Law firms and other organization from time to time also request in-house group video replays. The Bar is always ready to assist with in-house CLE programs for members.

#### F. CLE Library

The CLE Library received an average of 25-30 requests per month from members in 1994. The library provides resource materials in 21 topic areas for over 200 CLE programs. In addition, the library contains copies of Annual Convention CLE



materials, videotapes and course materials for CLE seminars, including the "Practicing Law in Alaska" series, the "Alaska Attorney Desk Manual (93/94 edition forthcoming), copies of Annual Section Updates, and reference and research materials in substantive and non-substantive areas, such as Law Practice Management, Women in the Courts, Gender Equality, Substance Abuse, and Stress Management. Members may rent or purchase videotapes as well as purchase course materials. Audio cassettes of CLE programs are available for purchase upon request. Facilities are available in the Bar office for members to review tapes and materials.

The 1993 edition of the CLE Library Catalog was distributed in the spring of 1994, representing an update of the original 1989 catalog and supplements. Each bar member receives a catalog and copies are also distributed to the state law libraries.

#### G. 800 CLE Information Line

Thanks to the generosity of the Alaska Bar Foundation, the Alaska Bar Association has an 800 CLE Information line which receives over 75 calls per month. The recording gives general bar office information, the CLE schedule for the month, and MPRE and Bar Exam information.

#### H. 1994 CLE Program Listing

Over 150 volunteer bench, bar and non-bar lecturers served as faculty for the 40 Bar-administered CLE programs presented live in 1994:

January 4	Risk Management	Anchorage
January 26	Ethical Close Calls	Anchorage
February 3-4	Admin Law: Challenging & Advising Agency Conduct	Anchorage
February 7	Civil Seminar: Expert Witnesses/AATL (NV)	Anchorage
February 8	Farm Bankruptcies Under Chapter 12 (video) (NV)	Anchorage
February 10	Client & Witness Interviewing	Anchorage

February 12	Ethics for All - in cooperation with Legal Administrators, Assistants & Secretaries Associations	Anchorage
February 15	Workers' Compensation	Anchorage
February 18	Networking: The Key to Law Office Computing	Anchorage
March 2	Interactive Video/ Direct Examination (NV)	Anchorage
March 10	Improve Your Memory by 110% in Less Than 3 Hours	Anchorage
March 23	Mandatory Ethics: Professionalism in Alaska	Anchorage
March 24	Mandatory Ethics: Professionalism in Alaska	Fairbanks
March 24	Clients & The Grieving Process	Anchorage
March 26-27	Cross Examination/AATL (NV)	Anchorage
March 30	Mandatory Ethics: Professionalism in Alaska	Juneau
April 1	Bankruptcy Lunch (NV)	Anchorage
April 6	New Construction, Land Development & Warranties	Anchorage
April 25	Creditors Rights (NV)	Anchorage
May 4	Anchorage Police Department: Family & Gang Violence (NV)	Anchorage
May 5-7	1994 Annual Bar Convention	Anchorage
May 24	Rotary/Ethics (NV)	Anchorage
May 24	Hanging Out Your Own Shingle	Anchorage
June 3	Jury Psychology: Communication in the Courtroom (NV)	Anchorage

June 17	OTR Bankruptcy Issues (NV)	Fairbanks
June 23	Reducing Fiduciary Liability (NV)	Anchorage
June 24	Bankruptcy Appellate Panel Issues (NV)	Anchorage
June 29	Off the Record - Juneau (NV)	Juneau
July 15	Advanced Networking In Your Law Office	Anchorage
July 19	Conflicts of Interest & Litigation Ethics	Anchorage
July 21-23	Advanced Estate Planning ALI-ABA (NV)	Anchorage
August 2	Fed. Appellate Practice & Procedure	Anchorage
August 12	Interactive Video/ Cross Examination (NV)	Anchorage
September 8-10	1994 ATLA Criminal Defense Conference (NV)	Anchorage
September 13, 20	Ethics for All For AG's Office Only	Anchorage
September 16	Mandatory Ethics: Professionalism in Alaska	Anchorage
September 22	Mandatory Ethics: Professionalism in Alaska	Fairbanks
September 23&24	Deposing & Cross Examining Expert Witnesses (NV)	Anchorage
September 28	Mandatory Ethics: Professionalism in Alaska	Juneau
September 28	Off the Record: Bankruptcy Issues (NV)	Juneau
September 29-30	Masters of the Courtroom Western CLE Consortium (NV)	Las Vegas

September 30	Off the Record (Kenai Bar Association) (NV)	Kenai
October 7	Winning Through Mediation (NV)	Anchorage
October 12	7th Annual AK Native Law Conference	Anchorage
October 18	Basic Estate Planning & Basic Probate	Anchorage
October 20	Lawyers Making A Difference (AK Assn. of Legal Administrators) (NV)	Anchorage
October 25	HR 5116/Bankruptcy Law Section Meeting	Anchorage
October 28	Gateway to Maritime Law (Admiralty)	Anchorage
November 2	New Construction Warranties (Real Estate)	Anchorage
November 8	Computer Assisted Legal Research (NV)	Anchorage
November 9	Basic Probate and Basic Guardianship(NV)	Fairbanks
November 10	Computer Assisted Legal Research (NV)	Fairbanks
November 10	Questioned Documents	Anchorage
November 14-15	AK Municipal Attorneys Conference (NV)	Juneau
November 16	New Appeals Process (Anch. Assn. of Legal Secretaries	Anchorage
November 29	HR 5116: Part II (NV)	Anchorage
November 29	Fam Law: Tax Tips	Anchorage
December 1	Off the Record-ANCHORAGE (NV)	Anchorage

December 2	Interactive Video: Direct Examination (NV)	Juneau
December 6	Fam Law: QDROS	Anchorage
December 6	Damages for Maritime Personal Injury & Wrongful Death	Anchorage
December 9	Interactive Video: Direct Examination (NV)	Fairbanks
December 9	Fam Law: Bank. & Divorce	Anchorage
December 20	Federal Local Rules (NV)	Anchorage

## **V. ALASKA PRO BONO PROGRAM**

The Alaska Pro Bono Program (APBP), jointly sponsored by the Alaska Legal Services Corporation (ALSC) and the Alaska Bar Association, is a State-wide, Direct-Service Pro Bono program involving private and public attorneys in the delivery of free legal services to low-income Alaskans. The APBP is the only Private Bar Involvement program in Alaska, a state twice the size of Texas with a population only half the size of Dallas, and is staffed by a full-time coordinator and a part-time support person. All ALSC staff assist the coordinator in administering the APBP.

Clients with civil law problems approach ALSC for free legal representation. Screening of these individuals by ALSC personnel determines if the client meets federal poverty guidelines and ALSC priorities. The case is then forwarded to APBP for referral to an attorney who has volunteered to take one case per year in his/her area of expertise.

Attorneys who volunteer to become members of APBP agree to take cases in at least one of the following areas of law: consumer finance or bankruptcy; public benefits or health or employment issues; domestic relations; housing; Alaska Native issues; wills and/or probate. When a client from a particular region of the State requires legal assistance, an attorney from that region who has volunteered in that specific area of law is contacted. If no attorneys are available in that region, the Pro Bono Coordinator attempts to make the next best referral which would be most convenient to both client and volunteer attorney.

If an attorney is available, and accepts the case, the client is referred to him/her for full representation. The attorney is then contacted on a regular basis to ensure that the case is progressing satisfactorily. When the case is completed, the attorney provides APBP with a form summarizing the action taken on the case, the outcome of the case, and itemizes the time spent on the case, as well as expenses incurred, which are reimbursed by APBP.

Currently, APBP has a panel of 958 volunteer attorneys throughout Alaska, or 58% of the State's available Bar Association membership, with an open case load of 350 - 400 cases. These cases can range from the most complex litigation to emergency death-bed wills to issues facing Alaskan Natives. Appendix 2 shows the Alaska communities in which the APBP operates, the number of panel members in each community, and the numbers of cases closed from 1988 to December, 1994.

The APBP provides free CLE training seminars for its volunteer attorneys, as well as malpractice coverage, cost reimbursement, free depositions, free medical testimony in disability and family law cases, free process service, and free computerized research services. Additional services for the client community includes: free monthly classes to provide assistance to clients who wish to obtain uncontested divorces pro se (without representation by an attorney); pro se custody classes for uncontested custody and support orders for unmarried parents; pro se Chapter 7 Bankruptcy class; a landlord/tenant clinic; a child support clinic; weekly advice-only question and answer clinics; and Elderlaw projects for low-income clients over 60 years old, offering assistance in the areas of wills, public benefits, and housing. These advice-only and pro se clinics, held in numerous cities throughout Alaska, served 1,119 people in 1994. More than 250 elderly received assistance through the Elderlaw Projects last year.

In addition, the APBP has developed a set of Rules to govern the appointment of counsel for pro se parties in U.S. District Court. These new procedures, created in cooperation with the U.S. District Court in Alaska, took effect on January 1, 1989. To date, 60 cases have been referred to volunteer attorneys through these Rules.

The APBP is also proud to boast that more than 250 other professionals (doctors, court reporters, certified public accountants, translators, private investigators) are members of the program. In 1994, the total number of hours donated to the APBP was more than 8,762.16.

The APBP receives its principal funding from a grant from the Alaska Bar Foundation from the Interest on Lawyers' Trust Accounts (IOLTA) program.

## VI. STATEWIDE LAWYER REFERRAL SERVICE

The Bar Association operates a Lawyer Referral Service for the purpose of providing the general public with names of active members of the Alaska Bar Association who are in good standing and are willing and able to accept referral clients at a reasonable fee.

Enrollment in the Service is voluntary and all active members of the Association are urged to participate. Each participating lawyer pays an enrollment fee of \$25.00 per category selected for listing in any calendar year. Attorneys who are renewing a panel pay an enrollment fee of \$10.00

Each caller requesting services is given the names of three lawyers in his/her geographical area who are listed in the category requested. Each lawyer pays a \$2.00 surcharge on each referral made regardless of whether the caller actually contacted the lawyer as a result of the referral. The first half-hour conference may be charged at a maximum of \$50.00. Thereafter the fee is agreed upon by the attorney and the client.

In 1994, 166 attorneys were enrolled in thirty-one categories in the Lawyer Referral Service. All lawyers participating in the Service must maintain "Errors and Omissions" insurance of at least \$50,000.

In 1985, the Association switched the Lawyer Referral Service to an in-state (800) number. This results in increased convenience to callers who can now dial the service directly, without operator assistance.

In an average month, the Bar receives 871 requests for referrals. Calls received by the Alaska Bar Association for Lawyer Referrals were as follows:

	<u>1993</u>	<u>1994</u>
Administrative	171	505
Admiralty	36	65
Adoption		90
Alaska Native Law	0	33
Arts	12	12
Bankruptcy	239	251
Commercial	411	208
Construction	30	31
Consumer	649	1,057
Discrimination	49	341



Divorce/Dissolution/Custody		2,764
Eminent Domain	9	7
Environmental	4	13
Family	3,038	9
Felony/Misdemeanor	825	755
Foreign Language	15	4
Guardian/Conservator		102
Immigration	89	91
Insurance	99	100
Labor Relations	890	952
Landlord/Tenant	577	572
Malpractice	281	352
Mining	8	7
Negligence	1,013	947
Patent/Copyright	86	15
Public Interest	1	12
Real Estate	384	366
SSI Cases	131	104
Tax	84	65
Traffic	97	125
Trust/Wills/Estates	274	304
Workers' Compensation	<u>415</u>	<u>443</u>
	9,964	10,455
	- 11%	+ 4.7%
	(Change from	(Change from
	1992)	1993)

## **VII. THE COMMITTEES OF THE ALASKA BAR**

### **A. The Bar Rule Committees**

#### **1. The Committee of Law Examiners**

The President of the Alaska Bar appoints the thirty (30) members who comprise the Committee of Law Examiners. The terms are staggered, with each person serving for three years.

The Committee is charged with responsibility for preparing and grading the essay portion of the Alaska Bar Examination. Reports are made to the Board at least twice yearly with respect to the results of each examination. Included are a statistical analysis and any recommendations which the Committee might have with respect to the form and content of the examination. (See Part II of the Report for details concerning the Committee's annual work.)

The Committee consists of ten (10) members who draft the essay questions prior to the exam, and twenty (20) members who do the grading of answers after the exam. Carolyn E. Jones currently chairs this committee.

#### **2. The Disciplinary Hearing Committees**

There are three area discipline divisions, one in the Third Judicial District, one in the First Judicial District, and one serving the combined Second and Fourth Judicial Districts. The discipline divisions are comprised of attorneys and public members appointed by the president of the Bar Association to serve for staggered three year terms.

Three members constitute a quorum for a hearing committee. They may only act with the concurrence of a majority of the sitting members. One of those participating must be a public member. Members may be replaced by the President for good cause and they may not represent respondent attorneys during their term.

To insure the fairness of the disciplinary hearing process, committee members are prohibited from acting in matters where they are a party or directly interested, a material witness, related to a respondent by blood or affinity within the third degree, have been a lawyer for a respondent within two years of

the filing of the petition, or for any reason, cannot give a fair and impartial decision. The circumstances and procedures considered by the committee members are almost identical to those which a judge must follow in disqualifying himself in court proceedings.

The hearing committee has the power and duty to swear and examine witnesses and to issue subpoenas; at the conclusion of an evidentiary hearing, the committee may direct the submission of proposed findings, conclusions, recommendations and briefs. Thereafter, the committee is required to submit a written report to the Disciplinary Board, together with its findings, conclusions, recommendations, any briefs submitted, and the record.

Once the Board has acted on the Committee's recommendation, each participating member is advised of the Board's decision. (See also Part III of this Report.)

### **3. The Conciliation Panels**

There are three conciliation panels serving the First, Third and combined Second and Fourth Judicial Districts. Each panel consists of members of the Alaska Bar appointed by the President and subject to ratification by the Board. They serve staggered three year terms.

The conciliation procedure was created to deal with disputes which do not involve ethical misconduct or fee disputes. The conciliator's function is to resolve such disputes between attorneys and their clients in an informal manner.

Although the procedure is informal, the failure of any attorney to participate in good faith in an effort to resolve a dispute submitted to conciliation may constitute independent grounds for disciplinary action.

If a resolution is reached, the Conciliator reduces it to writing for signature by all parties. In any event, the Conciliator submits a written report to Bar Counsel, including a summary of the dispute, its outcome, and the Conciliator's opinion as to the merits and good faith or lack thereto of the attorney party.

#### **4. The Attorney Fee Dispute Review Committee**

The Bar Association, under the Alaska Bar Rules, maintains an Attorney Fee Dispute Review Committee to settle fee disputes between attorneys and clients where such disputes have not been determined by statute or court rule or decision. Five subcommittees residing in Ketchikan, Juneau, Anchorage, Kenai and Fairbanks comprise the Committee. Each subcommittee consists of a "pool" of attorney and non-attorney members. Each subcommittee member serves for three years. From these subcommittees, a panel of two attorneys and one non-attorney is convened to hear a fee dispute. If the amount in dispute is \$2000 or less, a single panel member will hear the matter.

The client initiates a fee arbitration by filing a petition describing the dispute and the efforts made to resolve the matter directly with the attorney. If Bar Counsel finds that reasonable efforts have been made to resolve the problem directly with the attorney, and that the Association has jurisdiction over the dispute, the petition will be accepted. Notification is sent to the client and the attorney that they have ten days to settle the matter before it goes to the appropriate panel.

At the hearing, the parties can present both written and oral evidence. The panel has the authority to subpoena witnesses. If the client believes any member of the Committee cannot be fair and impartial, he or she may request that the member not participate in the hearing. For similar reasons, a member may disqualify himself or herself.

At the hearing, basic rules of due process are followed, with some relaxation of the rules of evidence. Any party may be called to testify. A decision must be rendered by the panel within thirty days after the close of a hearing. An appeal may be taken from the decision to the Superior Court.

Forms and booklets explaining the Fee Dispute Review Committee's processes and procedures are available in the Association's office and are provided to the clerks of court in every location in the State.

The Executive Committee of the Fee Dispute Review Committee meets at least twice each year. The committee is responsible for reviewing the general operations of the Bar's fee dispute resolution program, reviewing summaries of denials of petitions prepared by Bar Counsel, formulating rules of procedure and policy, determining questions regarding interpretation and application of the rules, approving proposed forms and

referring apparent violations of Bar Rule 35 to Bar Counsel for disciplinary investigation, including instances in which attorneys have substantial numbers of fee arbitrations filed against them.

Any changes to the fee arbitration rules in this report year are reflected in Section III, L above.

#### 1994 FEE ARBITRATION STATISTICS

Arbitrations pending January 1, 1994 . . . . .	65
Arbitrations <u>opened</u> during 1994. . . . .	(+) 83
Arbitrations <u>closed</u> in 1994. . . . .	(-) 86
Arbitrations pending January 1, 1994 . . . . .	62

#### 5. The Lawyers' Fund for Client Protection Committee

The Bar Association maintains a fund for the purpose of making reimbursement to clients who have suffered non-insured losses of money, property, or other things of value as a result of dishonest conduct by attorneys. Dishonest conduct means acts of embezzlement, wrongful taking, or conversion of money, property, or other things of value. The monies of the Fund come from the membership of the Bar Association, as it is mandated that a portion of the annual dues paid by each member is required to be deposited in the Fund.

A client makes a claim by filing an application for reimbursement with the office of the Alaska Bar Association. The client may not be a spouse, relative, partner, associate, employee or insurer of the lawyer, a surety or bonding agency, or a governmental entity or agency. The sworn application contains the name and address of the lawyer, the amount of the client's alleged loss, the dates of the loss and discovery of the loss, the name and address of the client, a statement as to the facts, an agreement that the client will be bound by the Alaska Bar Rules concerning the Fund, and a statement that the loss was not covered by insurance or bond.

The Lawyers' Fund for Client Protection Committee consists of six members appointed by the President, subject to ratification by the Board. Each member serves for three years, and the Chairperson is appointed by the President. When an application is filed, an attorney appointed to aid the

Committee (Bar Counsel) will determine if, on its face, a legitimate claim for loss has been made. The claim will be denied only if both the appointed attorney and a majority of the Committee agree that the claim is not valid on its face. Otherwise, the claim goes to the Committee for a final hearing.

The Committee hears evidence, administers oaths, issues subpoenas and, with prior approval, hires experts to aid in its investigation. Because the technical rules of evidence are relaxed, the Committee may consider any previous disciplinary proceedings against the attorney, any criminal proceedings and any civil proceedings involving the lawyer. The determination of the Committee is advisory to the Board. The Board makes the final decision as to whether and how payment will be made.

The maximum loss to be paid any one claimant is the lesser of (a) \$50,000 or (b) 10% of the Fund at the time the award is made. The total amount of all claims paid in one year shall not exceed 50% of the total amount in the Fund as of January 1 of that calendar year. The aggregate maximum amount which all claimants may recover arising from an instance or course of dishonest conduct of any one lawyer is \$200,000.

Before funds are paid to the claimant, he or she must assign the amount of the claim to the Bar Association so that the Bar may legally sue the attorney for recovery of all amounts paid to the client from the Fund. If the Bar Association chooses to sue the lawyer on this assigned claim, it must give written notice of the suit to the claimant in case the claimant wishes to join such an action to recover any loss in excess of the amount awarded to the client from the Fund.

A \$2,000 LFCP claim was paid by the Board in 1994, but the Fund was later reimbursed from money being held by the Court System concerning the same claim. Twenty four claims were pending consideration by the LFCP Committee at the close of 1994. Rebecca Snow currently chairs this committee.

Any changes to the Fund rules in the report year are reflected in Section III, L above.

## **6. Admission Waiver Programs**

The Bar Association has three admission waiver programs allowing students and attorneys in special job classifications to perform certain legal services within the State of Alaska. These include:

a. Legal Intern Permit

An applicant for a legal intern permit files for a permit according to provisions set forth in the Bar Rules, stating that he is either 1) a student enrolled in an accredited law school who has completed one-half of his course work, 2) a graduate from an accredited law school who has never failed a bar examination or, 3) a law school graduate who has been admitted to another bar so long as the person submits proof of good standing.

Once a permit is issued, the legal intern may do the following:

1. Appear in any district or superior court proceeding, to the extent permitted by the judge, if the lawyer of the client is present and able to supervise;
2. Appear in district court in a number of matters, both civil and criminal, without the supervising attorney present, provided the supervising attorney has certified the intern is competent, the client gives written consent, or a governmental body has granted approval, and the judge or magistrate agrees.

The permit is good until one of the following events occur:

1. Six months have passed (the permit is renewable once for six more months);
2. The intern fails to take the first Alaska Bar Examination for which he or she is eligible;
3. The intern fails to pass any bar examination.

b. Alaska Legal Service Corporation Waiver

A person employed by or associated with Alaska Legal Services Corporation may receive permission to practice law in Alaska, for not more than two years, if the attorney is admitted to practice law -- or is eligible to be admitted to practice law -- in another state, territory, or the District of Columbia, and has not failed the Alaska Bar Examination. The permission to practice shall be withdrawn if the person at any time fails the Alaska Bar Examination or leaves the services of the Alaska Legal Services Corporation. The permission is only good for representation of Legal Services clients, and the

person is subject to the disciplinary rules of the Alaska Bar Association.

c. United States Armed Forces Expanded  
Legal Assistance Program (ELAP)

A person who is an active duty member of the United States Armed Forces assigned to the Judge Advocate General Program, or the United States Coast Guard, may receive permission to practice law in Alaska, representing military clients, for not more than two years if the attorney is admitted to practice -- or is eligible to be admitted to practice law -- in another state, territory or the District of Columbia, has graduated from an accredited law school, and has not failed the Alaska Bar Examination or does not leave military service.

B. The Substantive Law Sections

The Alaska Bar Association currently has 19 Substantive Law Sections of member attorneys with similar interests in a particular area of law.

The Sections for 1994 are:

- Administrative Law
- Admiralty Law
- Alaska Native Law
- Alternate Dispute Resolution
- Bankruptcy Law
- Business Law
- Criminal Defense
- Criminal Prosecution
- Elder Law
- Estate Planning/Probate Law
- Environmental/Natural Resources Law
- Employment Law
- Family Law
- Immigration Law
- International Law
- Law Practice Management
- Real Estate Law
- Tax Law
- Tort Law

The Immigration Law Section was organized in the summer of 1994.



The 19 Substantive Law Sections provide a number of opportunities for professional growth and development through:

- o An exchange of information among lawyers with similar legal interests.
- o Continuing legal education programs.
- o Section News, a monthly newsletter of section events and topics of interest.
- o A review of legislative and court actions in the "Annual Update".
- o A forum to respond to the needs of the community and the profession.

### 1. Membership

Section membership is open to all active members of the Alaska Bar Association. \$5.00 of a member's bar dues is budgeted to the first section joined by a member. Members may join additional sections for \$10.00 per section. Non-bar members may join a section as a non-voting associate member for dues of \$10 per year per section. New and renewing section memberships are solicited each January by mail. Section sign-up and renewals are included on the bar dues notice.

As of December 31, 1994, over 987 bar members were involved in one or more sections. A majority of the sections meet regularly and contribute to the newsletter such items as case citations and comments on legislation. In addition, each section is responsible for preparing an "Annual Update" reflecting significant cases and issues in their respective substantive law areas.

### 2. Activities

Each section is administered by an executive committee composed of at least five members who serve three-year staggered terms. The Chair of each section is elected by the section's membership. The primary responsibilities of the executive committee are to: 1) administer the section, 2) coordinate the preparation of the "Annual Professional Update," 3) present a CLE seminar at least once every 2 years, and 4) preside at the annual section meeting and election of new executive committee members. Section activities are coordinated by the Bar Assistant Director.

At the 1994 Annual Convention in Anchorage, 11 Sections met for their annual meeting and review of "Updates."

The sections are encouraged to assist the Continuing Legal Education Committee in the presentation of seminars and to submit articles in their fields of expertise to the Bar Rag and to Section News, the monthly section newsletter published by the Bar office, and to the Alaska Law Review. A majority of the sections have regularly scheduled monthly meetings in Anchorage at which members are briefed on important developments within their area of law. The Bar office coordinates teleconferences for these meetings for members outside of Anchorage. The remaining sections meet on an "as needed" basis depending on developments within their area of interest. Section chairs also routinely distribute information and case citations to members. Sections holding meetings with formal presentations and course materials may apply to the CLE Director for approval of the awarding of CLE credits for such programs.

When appropriate, the sections are requested to advise the Board on substantive issues. While the sections cannot speak on behalf of the Alaska Bar Association without prior Board approval, several sections regularly monitor and testify concerning legislation both in Alaska and in Congress.

### C. The Standing Committees

#### 1. Bar Polls and Elections Committee

The function of this nine member committee is to prepare, at the direction of the Board, polls of the membership on any given number of subjects. In addition to formulation of requested polls, the Committee compiles the results of the poll and presents them to the Board.

The other major responsibility of the Committee is to tabulate the results of the yearly elections to membership on the Board of Governors and the Alaska Legal Services Corporation Board of Directors. In addition, it conducts advisory opinion polls for use by the Board in its appointment of lawyer representatives to the Judicial Council, Judicial Conduct Commission, Ninth Circuit Judicial Conference and the ABA Delegate. Timothy G. Middleton currently chairs this committee.

## **2. The Continuing Legal Education Committee**

One of the most vital committees of the Alaska Bar is the Continuing Legal Education (CLE) Committee, which is responsible for presenting substantive education programs in order to keep Alaskan lawyers abreast of new developments in the law. The Committee is currently chaired by David A. Ingram. (See Part IV of this Report.)

## **3. Ethics Committee**

Chaired by Robert J. Mahoney, the Ethics Committee issues opinions, based on actual circumstances but phrased in hypothetical terms, in order to give guidance to Association members in complying with the Alaska Rules of Professional Conduct.

An opinion may be requested by a member in good standing who is concerned about proposed conduct. The Ethics Committee then decides whether the matter may be resolved by issuing an informal opinion or by preparing a formal opinion for consideration by the Board of Governors. Only the Board may issue and publish formal opinions. If a formal opinion is adopted, it is published in the Bar Rag, and circulated to all law libraries. Copies of individual Ethics Opinions are available from the Bar office and a complete set of Ethics Opinions is available in the Bar office for review. The Board is also publishing complete sets of the Ethics Opinions for purchase.

Additionally, Bar Counsel may give informal ethics advice to practitioners who request assistance. The Bar Counsel and Assistant Bar Counsel field well over 500 calls a year from attorneys requesting this assistance. The availability of this service has helped practitioners become aware of ethical problems and thus avoid those problems in their day to day activities.

## **4. Historians of the Alaska Bar**

As one of the most unique bar associations, populated through the years by many colorful individuals, it was determined that before the incidents and events become lost, a group would be created to preserve the history of the Alaska Bar. Leroy J. Barker chaired this committee in 1994.

## **5. Law Related Education Committee**

The purpose of this committee is to present programs to the community and school system which will aid in an understanding of the law and the legal system. The Committee is currently chaired by David W. Baranow.

Several local bar associations have joined with their local school districts to form lawyer-teacher committees aimed at teaching students about the law, getting lawyers into the classroom and to otherwise act as resources for teachers. In Anchorage and Juneau, the committees developed credit courses for teachers which covered different substantive and procedural areas of the law. The Anchorage courses were held for the sixth year, with over 30 lawyers comprising the faculty and up to 100 teachers enrolled in the course.

## **6. Statutes, Bylaws and Rules Committee**

This standing committee of twelve persons is charged with responsibility for drafting proposed revisions of the statutes, bylaws, and rules which govern the Alaska Bar. The Board of Governors requests such proposals when it discovers an area that needs clarification or when new guidelines need to be adopted. Frederick H. Boness chaired this committee.

## **7. Pro Bono Service Committee**

This 9 member committee is responsible for identifying and promoting activities which would facilitate the provision of pro bono services and encourage all attorneys to provide pro bono service. At least 3 of the members shall be from communities outside of Anchorage, Juneau and Fairbanks.

This committee was established in the fall of 1994. It held two meetings, one of which was a day long facilitated session. The committee discussed activities to encourage attorneys to participate in providing pro bono service.

## D. Special Committees

### 1. Substance Abuse Committee

John Abbott chairs this committee which put together a program to assist lawyers who have problems with alcohol or drug abuse. Volunteer attorneys will review cases forwarded to the committee by any referring authority, will provide counselling or information to any person inquiring about the identification and availability of substance abuse programs, and perform interventions upon request by persons having a relationship with a substance abusing attorney.

Additionally, the Supreme Court may refer an attorney convicted of a crime relating to alcohol or drug abuse to the Committee. The attorney is required to meet with the Committee and follow its recommendations for professional evaluation and professionally recommended treatment or face suspension by the Supreme Court until the attorney complies.

### 2. Tutoring Committee

This committee consists of a pool of attorneys who tutor applicants to take the Alaska bar exam. Orientation and training material is provided to prospective tutors on how to tutor an applicant. Emphasis is placed on how to write essay exams, rather than substantive law.

Any applicant who has failed a bar exam may request tutoring assistance, which will be provided at no cost to the applicant. Thirteen applicants requested tutoring assistance in 1994.

## **VIII. MEMBERSHIP SERVICES**

### **A. ALPS (Attorney Liability Protection Society)**

The Alaska Bar Association is a member of a Multi-state lawyer-owned insurance company. Alaska joins in this endeavor with states including Delaware, Idaho, Kansas, Montana, Nevada, North Dakota, South Dakota, Vermont, West Virginia and Wyoming. A corporation called Attorney's Liability Protection Society (ALPS) was created. The ultimate goal is to increase the availability of coverage to Alaska lawyers at rates that are predictable and which avoid wild fluctuations based on policies and practices over which the lawyers have no control. Keith E. Brown serves as Alaska's director on the ALPS Board of Directors. ALPS began issuing policies in spring of 1988.

In order to be eligible for coverage by the company, Alaskan lawyers are required to contribute \$2,200 as their capital share. Rates are computed for each participating state based upon the claims experience in that state.

### **B. LEXIS**

The Bar Association sponsors a group program to provide members with access to LEXIS, a computer-assisted legal research service offered by Mead Data Central, (MDC). Participating firms pay a \$25.00 monthly subscription fee. Additionally, all members' use of LEXIS aggregates to take advantage of volume discounts.

### **C. Group Insurance**

The Bar Association sponsors a life insurance program for Bar members with Safeco Insurance Company of America. All members of the Association and employees of their firms are eligible.

The Bar Association also sponsors a group medical program. Medical, dental, vision, life and disability coverage are available to firms ranging in size from sole practitioners to over one hundred employees. The plan is underwritten by Blue Cross of Washington and Alaska.

The Bar Association sponsors a group Disability Insurance program offered by UNUM Life Insurance Company.

#### **D. The Alaska Bar Rag**

The official publication of the Bar Association is the Alaska Bar Rag, which is published bi-monthly. The editor is Peter J. Maassen.

#### **E. Section News**

This newsletter, which is compiled by the Assistant Director, is printed monthly and goes to all members of all of the substantive law sections. It contains notices of section meetings, CLE seminars, and information on new case law.

#### **F. Ethics Opinions**

The Board of Governors directed that the ethics opinions be printed and available in 3 ring binders for sale to members. There are approximately 190 subscribers for ethics opinions.

#### **G. Copying Machines in the Law Library**

The Alaska Bar Association and the Alaska Court System are continuing a cooperative agreement to provide copying services in the Anchorage Law Library. The Alaska Bar Association has a service agreement with the Anchorage Bar Association for the purpose of providing copiers in the Anchorage Law Library for the use of all library patrons. The revenue is divided as follows: Alaska Court System 50%; Anchorage Bar Association 35%; Alaska Bar Association 15%. The revenue to the Alaska Bar Association in 1994 was \$8,569.

#### **H. Jury Instructions**

The Alaska Bar Association, in cooperation with the court system, has sold copies of the Alaska Pattern Civil and Criminal Jury Instructions since 1984. In 1994, the civil instructions were offered for sale on disk for the first time.

## **IX. ADJUNCT INVOLVEMENT**

### **A. The Alaska Bar Foundation**

In October, 1972, the Board of Governors established the Alaska Bar Foundation for the purpose of fostering and maintaining the honor and integrity of the profession, improving and facilitating the administration of justice, promoting the study of law and continuing legal education, administering loans and scholarships, and maintaining a law library and research center.

The Foundation was incorporated as a Not for Profit Corporation in accordance with the laws of the State of Alaska.

The current Board of Trustees consists of Mary K. Hughes, Winston S. Burbank, John M. Conway, William B. Rozell and Sandra K. Saville.

The Foundation was originally supported by individual contributions. Since 1985, the dues notices have provided for a voluntary dues add-on contribution of \$9.00 to the Foundation. The voluntary add-on was requested in hopes of strengthening the Foundation's assets so that a sizeable fund could be developed over a period of time to be used for law-related education projects, community service programs and scholarships.

#### **1. IOLTA**

The Alaska Supreme Court adopted amendments to DR 9-102 in 1986, effective March 15, 1987, establishing a voluntary IOLTA (Interest on Lawyers Trust Accounts) program for the state of Alaska. Beginning March 15, 1987, lawyers could place client trust money, previously held in co-mingled, noninterest-bearing checking accounts, into interest-bearing accounts. Included were those client funds which are expected to be held for such a short duration or which were so small in amount that they could not as a practical matter produce interest for the client if held in a separate interest-bearing account. Funds which reasonably may be expected to generate in excess of \$100 interest to the client may not be deposited in an IOLTA account.

On March 30, 1989, the Alaska Supreme Court amended DR 9-102 which converted the IOLTA voluntary program to an opt-out program. This rule, effective July 15, 1989 provides that



unless an election not to participate is submitted in accordance with the procedures outlined in the rule, a lawyer or law firm must establish an IOLTA account. The rule stated that the lawyer or law firm must make the election on or before September 1, 1989 on a Notice of Election form provided by the Alaska Bar Association. If the Notice of Election is not submitted, the lawyer or law firm must maintain the IOLTA account. The election can be changed at any time by notifying the Alaska Bar Association.

In 1994, there were 328 firms, with an estimated 868 attorneys, participating in the program. This is approximately 49% of the eligible attorneys (those not working for a governmental agency.)

The interest earned on each account is paid periodically to the Alaska Bar Foundation. Designated by the Alaska Supreme Court as the organization to administer the IOLTA program, the Foundation must use the interest income to make grants to non-profit providers of legal services to the poor. The IOLTA program earned \$204,694 from interest in 1994.

In 1994 the Foundation made the following grants: \$132,000 to the Alaska Pro Bono Program; \$2,500 to Anchorage Youth Court; \$15,000 to Catholic Social Services; \$900 to the West High Mock Trial Team; and \$750 to CASAs for Children.

## **B. The Alaska Law Review**

The Alaska Bar publishes, semi-annually, for the benefit of its members and at no additional cost, the Alaska Law Review. Strong emphasis is placed on topics related to the laws of Alaska and contributions to the Review by members of the Bar are actively solicited.

The Alaska Law Review is edited by law students at Duke University School of Law in Durham, North Carolina, and includes articles by practicing attorneys, law professors, and notes and comments by Duke law students.

In March, several law students on the Review visited Alaska for a week to make contact with attorneys here and to gain a better insight into our state. They were hosted by local attorneys and firms, both in homes and at receptions.

### C. Alaska Legal Services Corporation

Nine attorneys serve on the Board of Directors of Alaska Legal Services Corporation (ALSC), two from the First Judicial District, one from the Second Judicial District, three from the Third Judicial District, and one from the Fourth Judicial District. Each serves for a term of three years. The ninth attorney on the Board of Directors is the President of the Alaska Bar (or his/her designee). In addition, there are nine alternate members who serve when a regular attorney member is unable to do so. The attorney members are appointed by the Board of Governors after an advisory poll of the Bar membership is conducted.

The ALSC Board of Directors carries out the purpose of the Corporation, which is to provide legal assistance to persons lacking the financial capability to obtain private counsel. It meets at least four times a year and supervises the staff.

### D. Alaska Code Revision Commission

The Alaska Code Revision Commission was established in 1976 to review and recommend revisions to the laws of Alaska. The Board of Governors appointed one attorney, Mary K. Hughes, to the Commission.

### E. Alaska Commission on Judicial Conduct

Three attorney members who have practiced law in the State for at least ten years are appointed to the Alaska Commission on Judicial Conduct by the Governor from a list of recommendations submitted by the Board of Governors. These appointments are subject to legislative confirmation. The attorney members in 1994 were Patrick T. Brown, Susan A. Burke and Jeffrey M. Feldman.

The Commission has the power to investigate malfeasance or misfeasance on the part of a member of the judiciary, and to recommend to the Supreme Court impeachment, suspension, removal from office, retirement or censure.

#### **F. American Bar Association**

Each state bar association has one representative in the House of Delegates of the American Bar Association. The delegate is elected by the active members of the Alaska Bar to serve a two year term. Alaska's representative in 1994 was Lynn M. Allingham.

Her function is to represent the views of the Alaska Bar on all matters which come before the House of Delegates for consideration.

#### **G. Judicial Council**

Three attorneys serve staggered six year terms on the Judicial Council. The Council's purpose is to recommend candidates for judicial office and to conduct studies for the improvement of the administration of justice in Alaska.

The attorney members are appointed by the Board of Governors after nominating petitions have been circulated and advisory polls conducted. In 1994, Christopher E. Zimmerman, Thomas G. Nave and Mark E. Ashburn served as the attorney members.

#### **H. National Conference of Bar Presidents**

At the time of their election to office, the President and President Elect of the Alaska Bar become members of the National Conference of Bar Presidents, which meets twice a year in conjunction with the meetings of the American Bar Association. In addition, all past Presidents of the Alaska Bar are members.

Its purpose is to educate and train bar leaders, to keep them abreast of current events, to improve the quality of delivery of legal services, and to improve the administration of justice.

#### **I. Ninth Circuit Judicial Conference**

The Ninth Circuit Judicial Conference was established by the Judicial Council of the Ninth Circuit Court of Appeals to

consider the business of the courts in the circuit, advise means of improving the administration of justice, and implement decisions regarding the administration of the federal courts.

All the judges in the Ninth Circuit, the president of each state bar association, the United States Attorney, Magistrates, law school representatives, and private practitioners comprise its membership.

In addition to the President of the Bar, Alaska has lawyer representatives who are appointed by the presiding judge of the Federal Court in Alaska to serve three year terms. The Bar Association participates in the selection of these attorney members by soliciting nominations, conducting an advisory poll, and recommending to the Chief Judge lawyers for each vacancy. For the 1994 Ninth Circuit Conference, the representatives were Sandra K. Saville, Eric T. Sanders, Douglas J. Serdahely, and Edmond W. Burke.

The lawyer representatives serve without compensation and without reimbursement for expenses.

#### **J. Rocky Mountain Mineral Law Foundation**

The Rocky Mountain Mineral Law Foundation, one of the preeminent natural resource organizations in the United States, sponsors continuing legal education programs, publishes books and treatises, provides scholarships and, in general, encourages development of natural resources law.

Its Board of Trustees is comprised of law school representatives, private practitioners, and one appointee from each bar association in the Western states. Joseph J. Perkins, Jr., the Alaska Bar's current representative, serves at the pleasure of the Board of Governors.

#### **K. Western States Bar Conference**

Fifteen (15) states are members of the Western States Bar Conference. The conference meets once a year to share the ideas and experiences of the member state bar associations.

The president and president elect of each state bar, as well as all past presidents, are members of the Conference.

## **X. BUDGET**

Appendix 3 contains the year end monthly report on the 1994 income and expense budget for the Association. The 1994 report reflects a total revenue of \$1,767,000 with total expenses of \$1,545,000 for a net gain of \$222,000.

The Board continued to budget conservatively, in spite of the revenue generated by the dues increase. Although the budget for 1994 projected a surplus of \$149,000, the actual amount of revenues over expenses was \$225,837. The goal is to make the dues increase last as many years as possible.

wplmanual87



# **Appendix 1**





# ALASKA BAR ASSOCIATION

Carolyn E. Jones  
1031 W. 4th Avenue, Suite 200  
Anchorage, AK 99501  
May 17, 1994

Daniel E. Winfree  
President, Board of Governors  
Alaska Bar Association  
Post Office Box 100279  
Anchorage, AK 99510

Dear Mr. Winfree:

This letter is written pursuant to Section 3 of Rule 4 of the Alaska Bar Rules and constitutes certification of the results of the Alaska Bar Examination given February 22, 23 and 24, 1994. Attached is a copy of the Bar Examination essay questions, the guides utilized by the graders of those questions, and the essays selected as "benchmarks" (i.e., those essays representative of each of the five possible points on the grading scale for each of the ten essays). A copy of the Multistate Bar Examination (MBE) is not included for your review. This letter shall constitute the written report of the Committee of Law Examiners pursuant to Rule 4.

A total of 86 applicants participated in the February, 1994 Bar Examination. The performance of each examinee is also attached.

The examination consisted of three parts. The first day of the examination consisted of three "long" essay questions given in the morning and six "short" essay questions which were given in the afternoon. The research/analysis portion of the examination consisted of one essay question given on the morning of the third day. The MBE, a multiple-choice examination, was given on the second day of the examination.

In accordance with Alaska Bar Rule 4, Section 6, the Committee submitted the weighted, standardized essay scores of the applicants to the National Conference of Bar Examiners for combining with the MBE scores.

Daniel E. Winfree  
May 17, 1994  
Page 2


The components of the exam were weighted as follows: Essay portion, 50%; MBE, 50%; with the essay portion sub-weighted as follows: the three long essays, 30%; the six short essays, 45%; the research/analysis question, 25%. A combined score of 140 or above was passing.

The Committee read the essay and research answers during the months of March and April, 1994. The results of the February 1994 examination were certified by the Committee today, May 17, 1994, after the evaluation was completed and the statistics were compiled.

Of the 86 applicants, 61 (71%) received a combined score of 140 or greater. Fifty-two (52) first time applicants received a passing score for a first time applicant pass rate of 83%. Subject to other eligibility requirements contained in the Alaska Bar Rules, the Committee recommends to the Board of Governors that the 61 applicants achieving passing scores on the February, 1994 Alaska Bar Examination be certified to the Alaska Supreme Court for membership in the Bar and admission to the practice of law in Alaska.

Respectfully submitted,

COMMITTEE OF LAW EXAMINERS

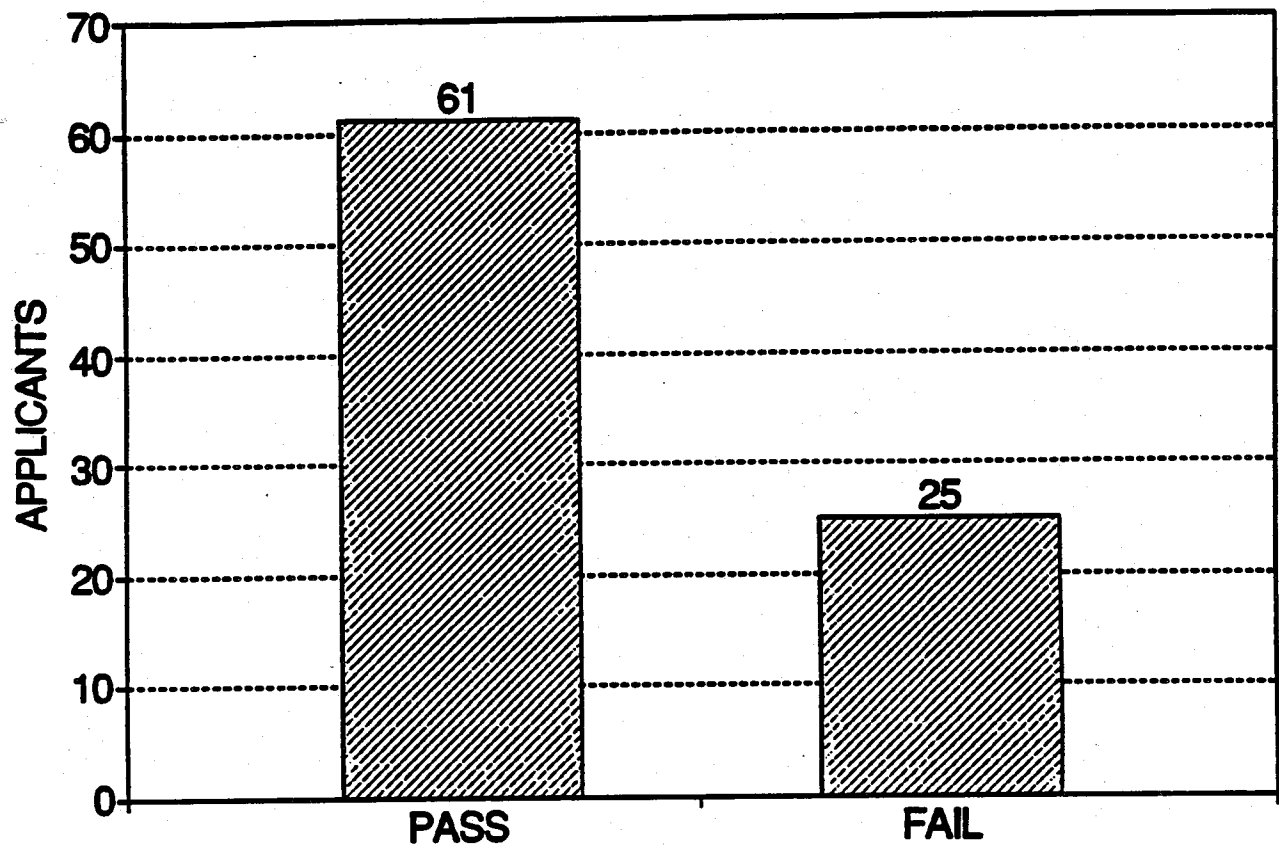
  
Carolyn E. Jones  
Chair

cjw

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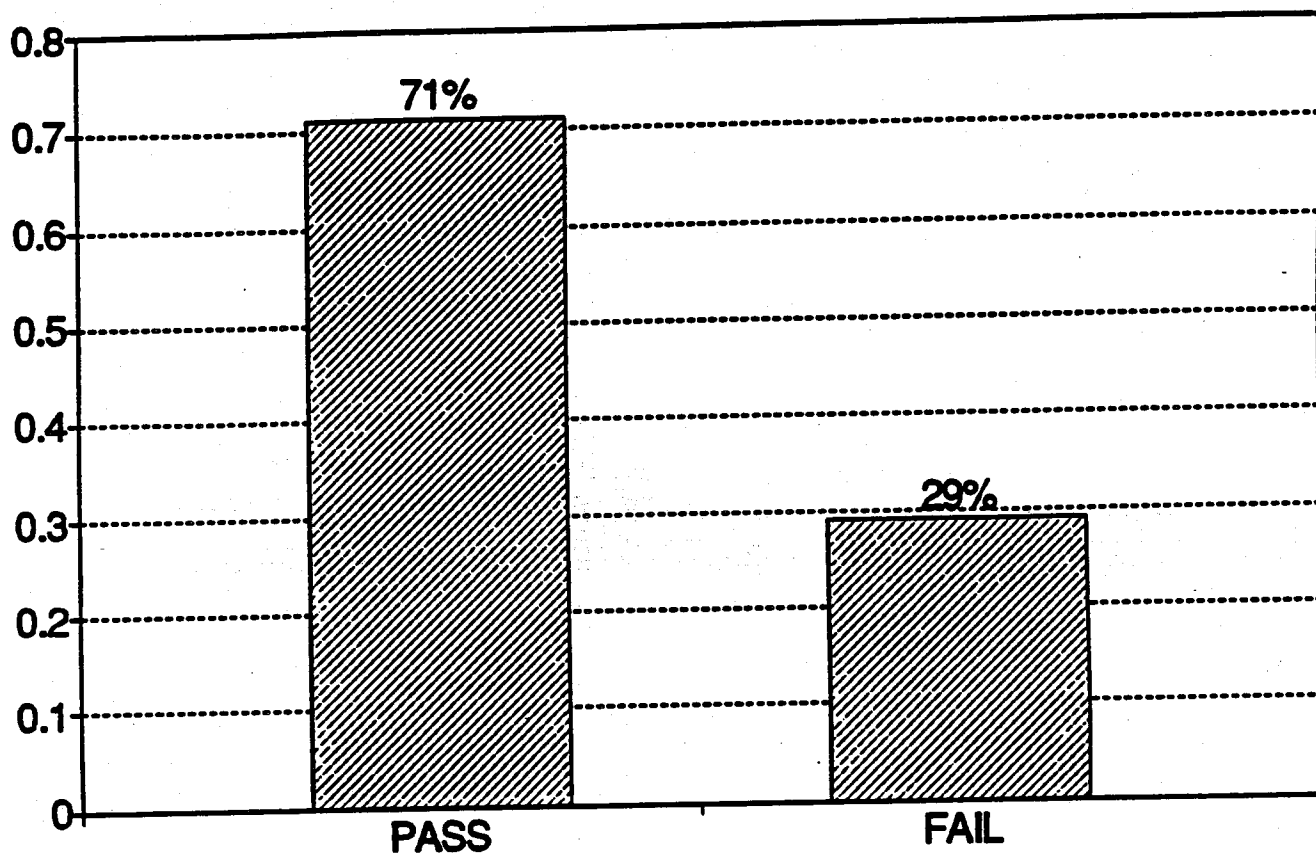
# FEBRUARY 1994

## PASS/FAIL RESULTS (NUMBER)



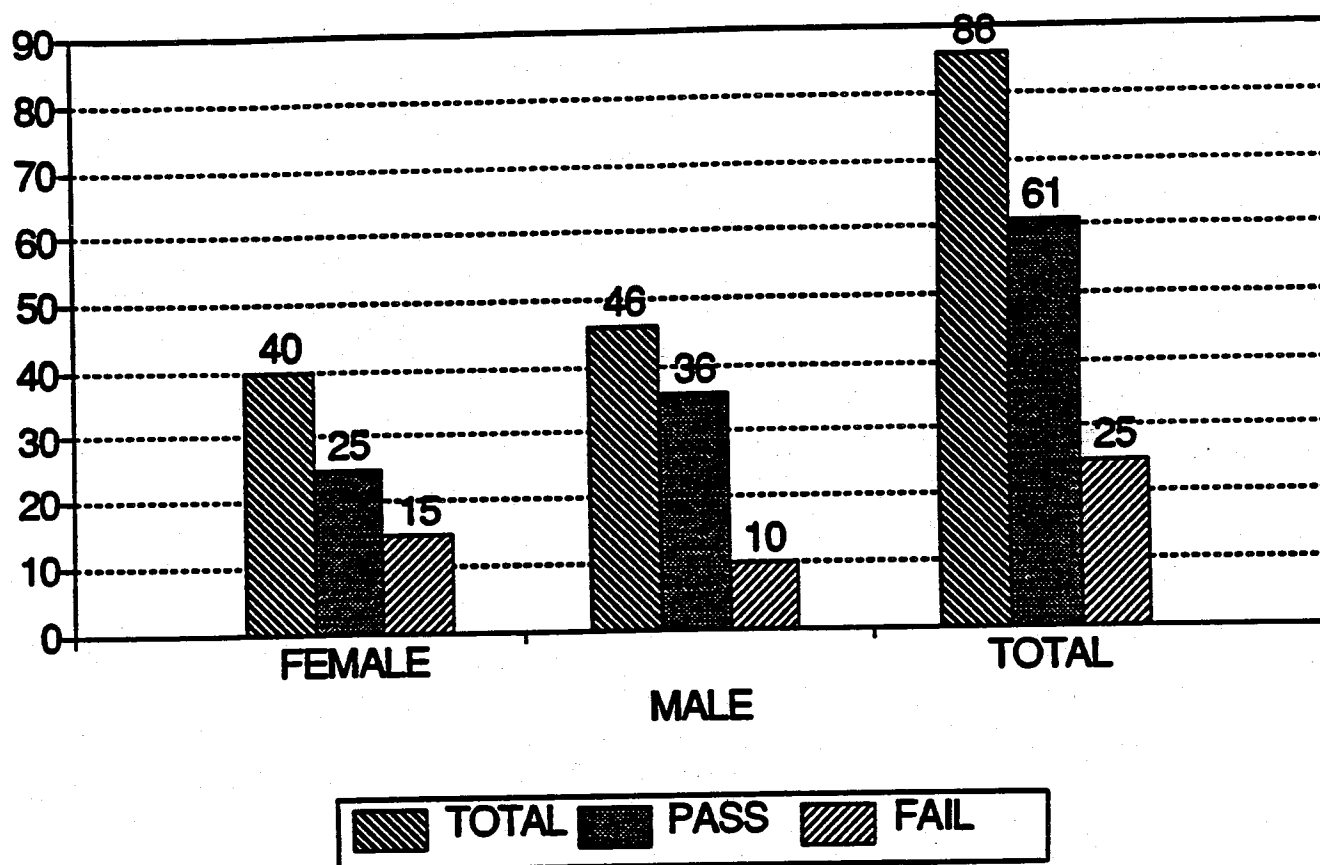
# FEBRUARY 1994

## PASS/FAIL RESULTS (PERCENT)



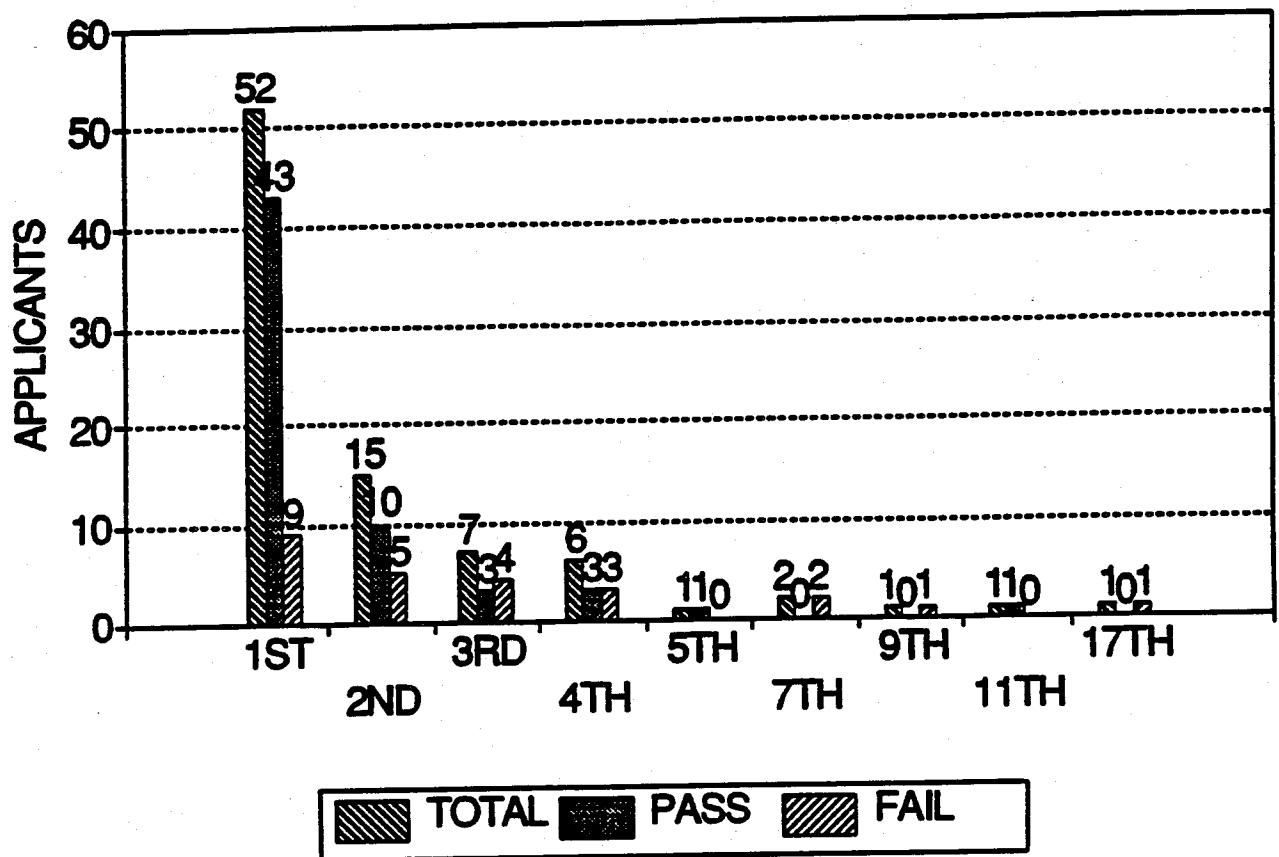
# FEBRUARY 1994

## GENDER V. PASS/FAIL (NUMBER)



# FEBRUARY 1994

## TIMES TAKEN V. PASS/FAIL



FEBRUARY 1994

LAW SCHOOLS VS. PASS/FAIL RESULTS  
=====

Report Date: 05/05/94

T TOTAL  
P PASSED  
F FAILED

0 5 10 15

+-----+

I						
I						
IT	1					
IP	1					
I	0					
I						
I						
IT	1					
I	0					
IF	1					
I						
I						
ITTT	2					
IPPP	2					
I	0					
I						
I						
IT	1					
IP	1					
I	0					
I						
I						
IT	1					
IP	1					
I	0					
I						
I						
ITTTT	3					
IPPPP	3					
I	0					
I						
I						
IT	1					
IP	1					
I	0					
I						
I						
IT	1					
IP	1					
I	0					
I						
I						
ITTT	2					
IPPP	2					
I	0					
I						

Albany Law School

American University Washington College

Arizona State University College of Law

Boston College Law School

Boston University School of Law

California Western School of Law

Columbia University School of Law

Cornell Law School

Creighton University School of Law

Detroit College of Law

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District of Columbia School of Law

IT 1  
I 0  
IF 1  
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Drake University Law School

IT 1  
I 0  
IF 1  
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Franklin Pierce Law Center

IT 1  
I 0  
IF 1  
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Golden Gate University

IT 1  
I 0  
IF 1  
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Gonzaga University School of Law

ITTTTTTT 4  
IPPP 2  
IFFF 2  
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Hamline University School of Law

IT 1  
I 0  
IF 1  
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I

Harvard University Law School

IT 1  
I 0  
IF 1  
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Lewis Clark College

ITTTTTTTTTTT 6  
IPPPPPP 4  
IFFF 2  
I  
I

Marshall-Wythe School of Law

ITTT 2  
IPPP 2  
I 0  
I  
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Northeastern University School of Law

ITTTTT 3  
IPPP 2  
IF 1  
I  
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Pepperdine University

IT 1  
IP 1  
I 0  
T



Regent University College of Law

Rutgers University - Newark

Stanford Law School

T.C. Williams School of Law

The John Marshall Law School

Thomas M. Cooley Law School

Tulane University Law School

University of Arizona College of Law

University of California Hastings

University of Colorado

University of Denver College of Law

University of Florida College of Law

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IT 1  
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IPPP 2  
I 0  
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IPPP 2  
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University of Idaho

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ITTT 2  
IP 1  
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University of Miami School of Law

IT 1  
IP 1  
I 0  
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University of Michigan School of Law

ITTT 2  
IPPP 2  
I 0  
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University of Minnesota Law School

ITTTTT 3  
IPPPPP 3  
I 0  
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University of Montana School of Law

IT 1  
IP 1  
I 0  
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University of New Mexico School of Law

IT 1  
IP 1  
I 0  
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University of North Dakota

IT 1  
I 0  
IF 1  
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University of Notre Dame

IT 1  
IP 1  
I 0  
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University of Oklahoma College of Law

IT 1  
IP 1  
I 0  
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University of Oregon School of Law

ITTTTTTTTTTT 6  
IPPPPP 3  
IFFFFF 3  
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University of Pennsylvania Law School

IT 1  
IP 1  
I 0  
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University of Puget Sound

ITTTTTTTTTT 5  
IPPPPP 3  
IFFF 2  
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University of Texas School of Law

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IT 1  
IP 1  
I 0  
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University of Tulsa College of Law

IT 1  
IP 1  
I 0  
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University of Utah

IT 1  
I 0  
IF 1  
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University of Washington School of Law

ITTTT 3  
IPPPP 3  
I 0  
I  
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University of Wyoming

ITTT 2  
IP 1  
IF 1  
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I

Western State University College of Law

IT 1  
IP 1  
I 0  
I  
I

Willamette University College of Law

IT 1  
I 0  
IF 1  
I  
I

William Mitchell College of Law

IT 1  
IP 1  
I 0

TOTAL SCHOOLS 53



# ALASKA BAR ASSOCIATION

Carolyn E. Jones  
1031 W. 4th Avenue, Suite 200  
Anchorage, AK 99501  
October 24, 1994

Daniel E. Winfree  
President, Board of Governors  
Alaska Bar Association  
Post Office Box 100279  
Anchorage, AK 99510

Dear Mr. Winfree:

This letter is written pursuant to Section 3 of Rule 4 of the Alaska Bar Rules and constitutes certification of the results of the Alaska Bar Examination given July 26, 27 and 28, 1994. Attached is a copy of the Bar Examination essay questions, the guides utilized by the graders of those questions, and the essays selected as "benchmarks" (i.e., those essays representative of each of the five possible points on the grading scale for each of the ten essays). A copy of the Multistate Bar Examination (MBE) is not included for your review. This letter shall constitute the written report of the Committee of Law Examiners pursuant to Rule 4.

A total of 92 applicants participated in the July, 1994 Bar Examination. The performance of each examinee is also attached.

The examination consisted of three parts. The first day of the examination consisted of three "long" essay questions given in the morning and six "short" essay questions which were given in the afternoon. The research/analysis portion of the examination consisted of one essay question given on the morning of the third day. The MBE, a multiple-choice examination, was given on the second day of the examination.

In accordance with Alaska Bar Rule 4, Section 6, the Committee submitted the weighted, standardized essay scores of the applicants to the National Conference of Bar Examiners for combining with the MBE scores.

Daniel E. Winfree  
October 24, 1994  
Page 2


The components of the exam were weighted as follows: Essay portion, 50%; MBE, 50%; with the essay portion sub-weighted as follows: the three long essays, 30%; the six short essays, 45%; the research/analysis question, 25%. A combined score of 140 or above was passing.

The Committee read the essay and research answers during the months of August and September, 1994. The results of the July 1994 examination were certified by the Committee today, October 24, 1994, after the evaluation was completed and the statistics were compiled.

Of the 92 applicants, 67 (73%) received a combined score of 140 or greater. Fifty-nine (59) first time applicants received a passing score for a first time applicant pass rate of 77%. Subject to other eligibility requirements contained in the Alaska Bar Rules, the Committee recommends to the Board of Governors that the 67 applicants achieving passing scores on the July, 1994 Alaska Bar Examination be certified to the Alaska Supreme Court for membership in the Bar and admission to the practice of law in Alaska.

Respectfully submitted,

COMMITTEE OF LAW EXAMINERS

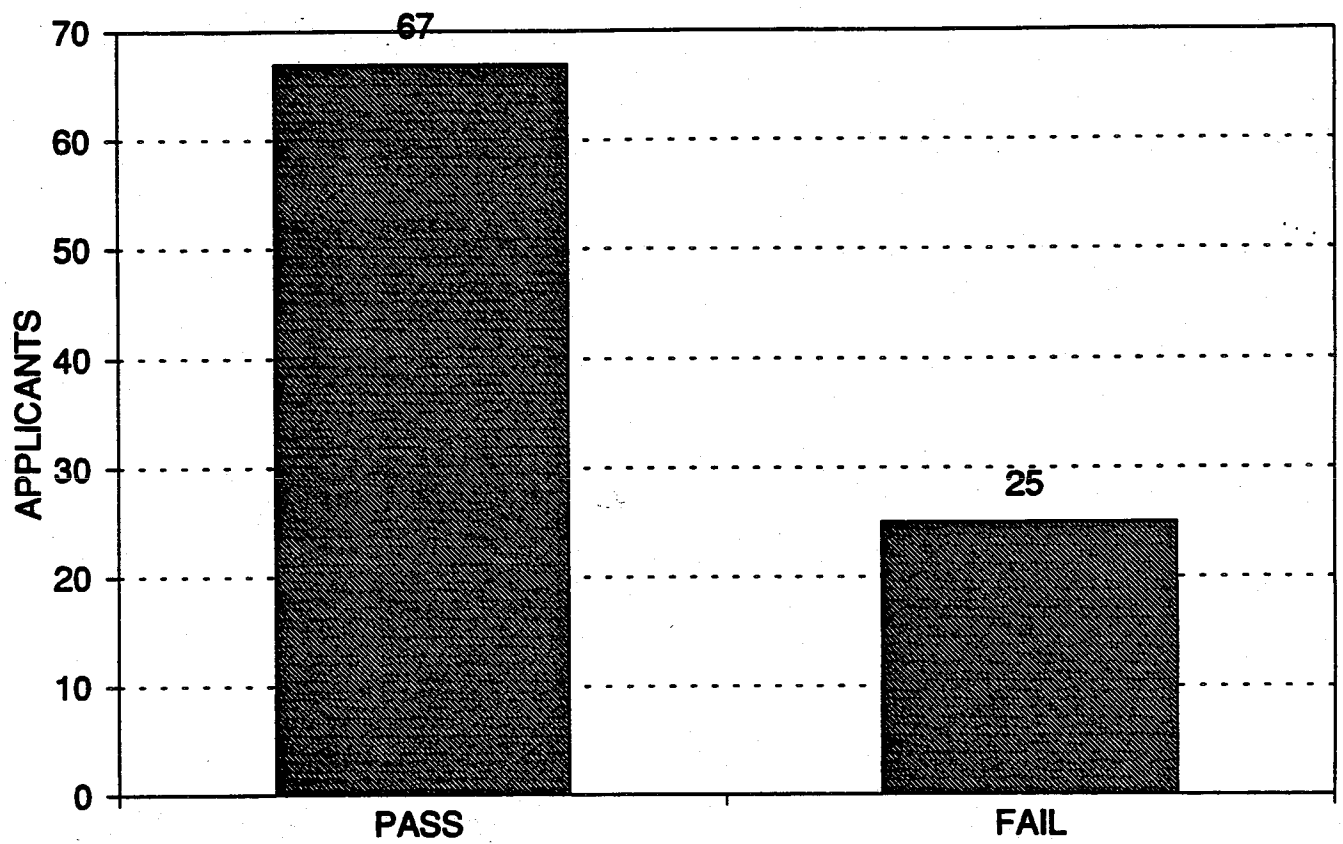
  
Carolyn E. Jones  
Chair

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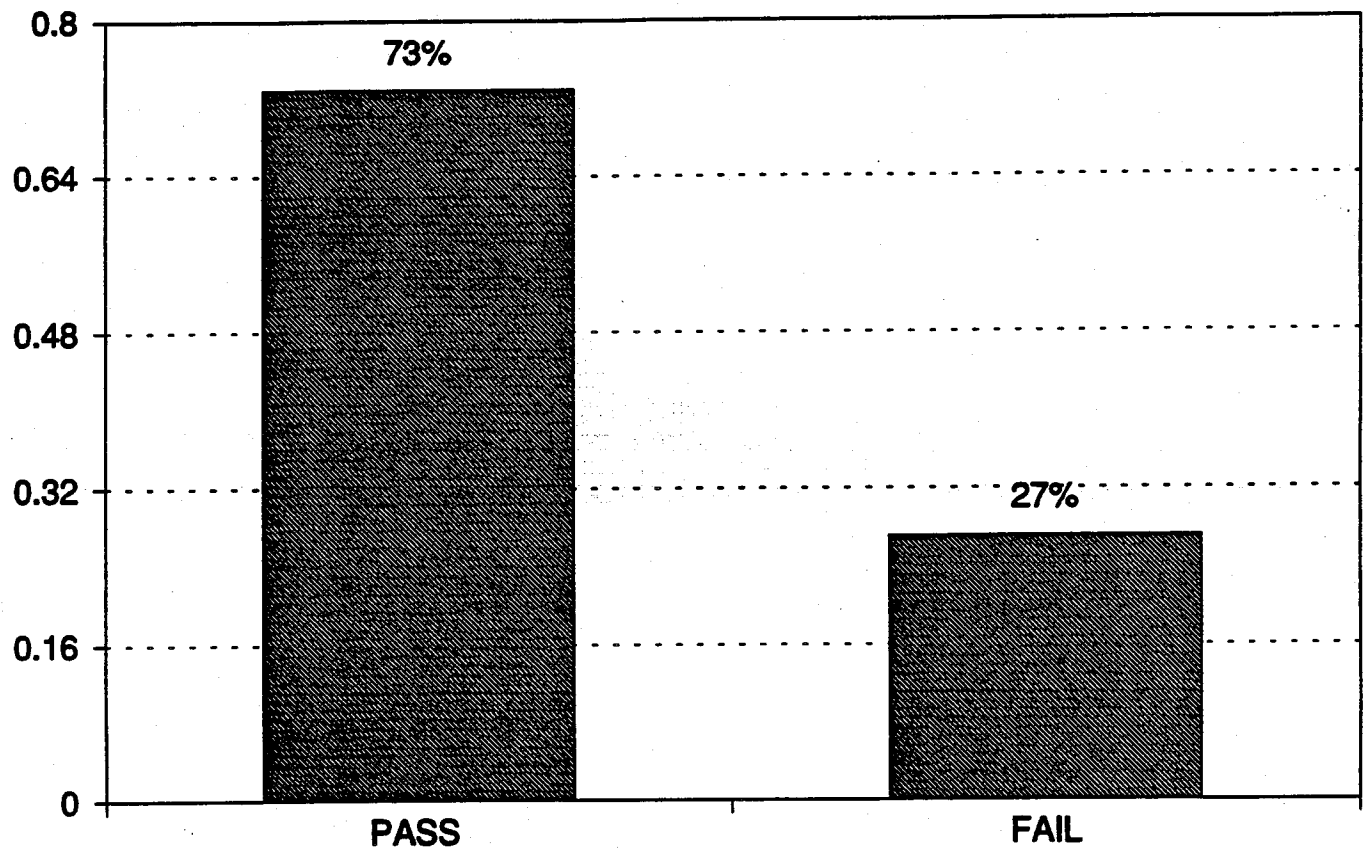
# JULY 1994

## PASS/FAIL RESULTS (NUMBER)



# **JULY 1994**

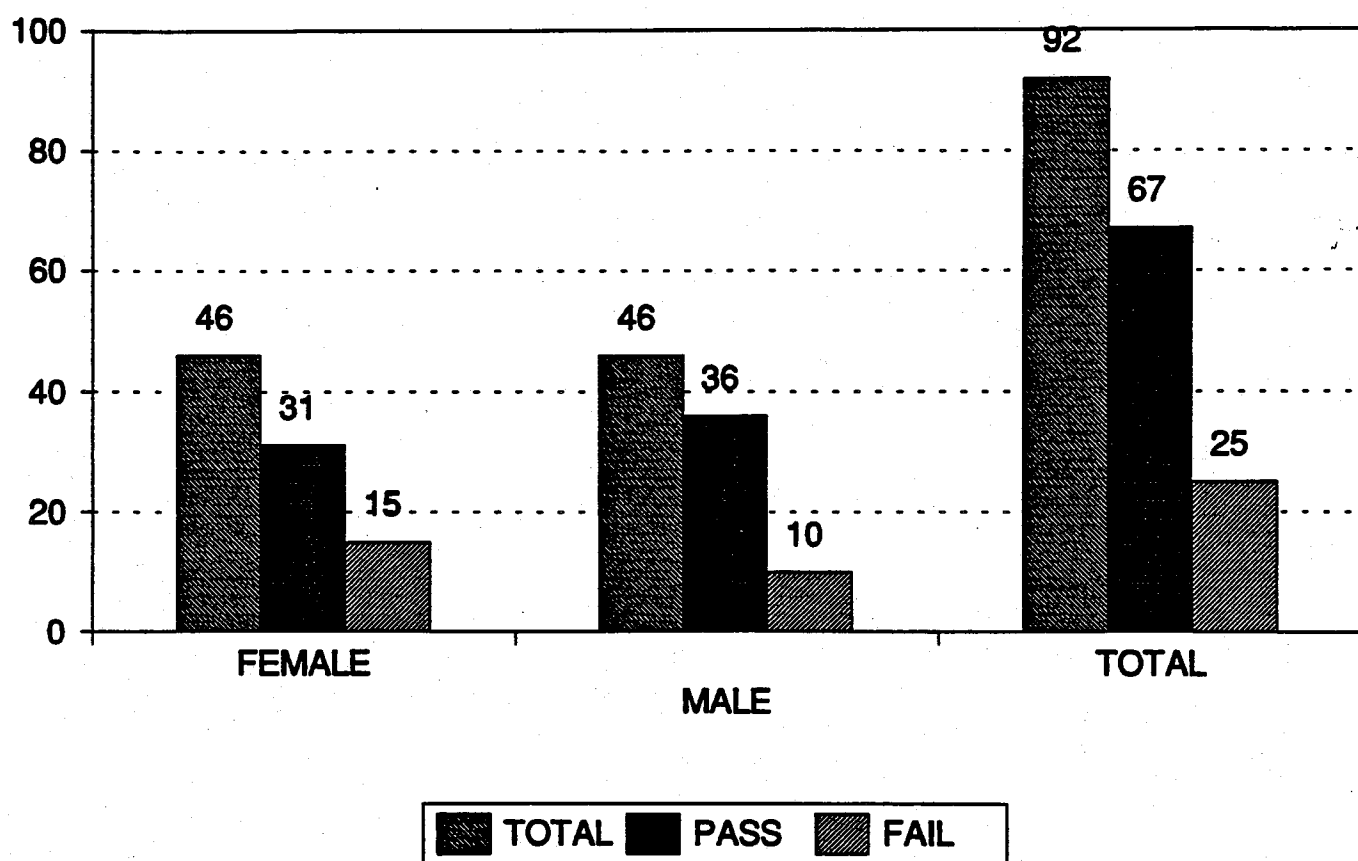
## **PASS/FAIL RESULTS (PERCENT)**





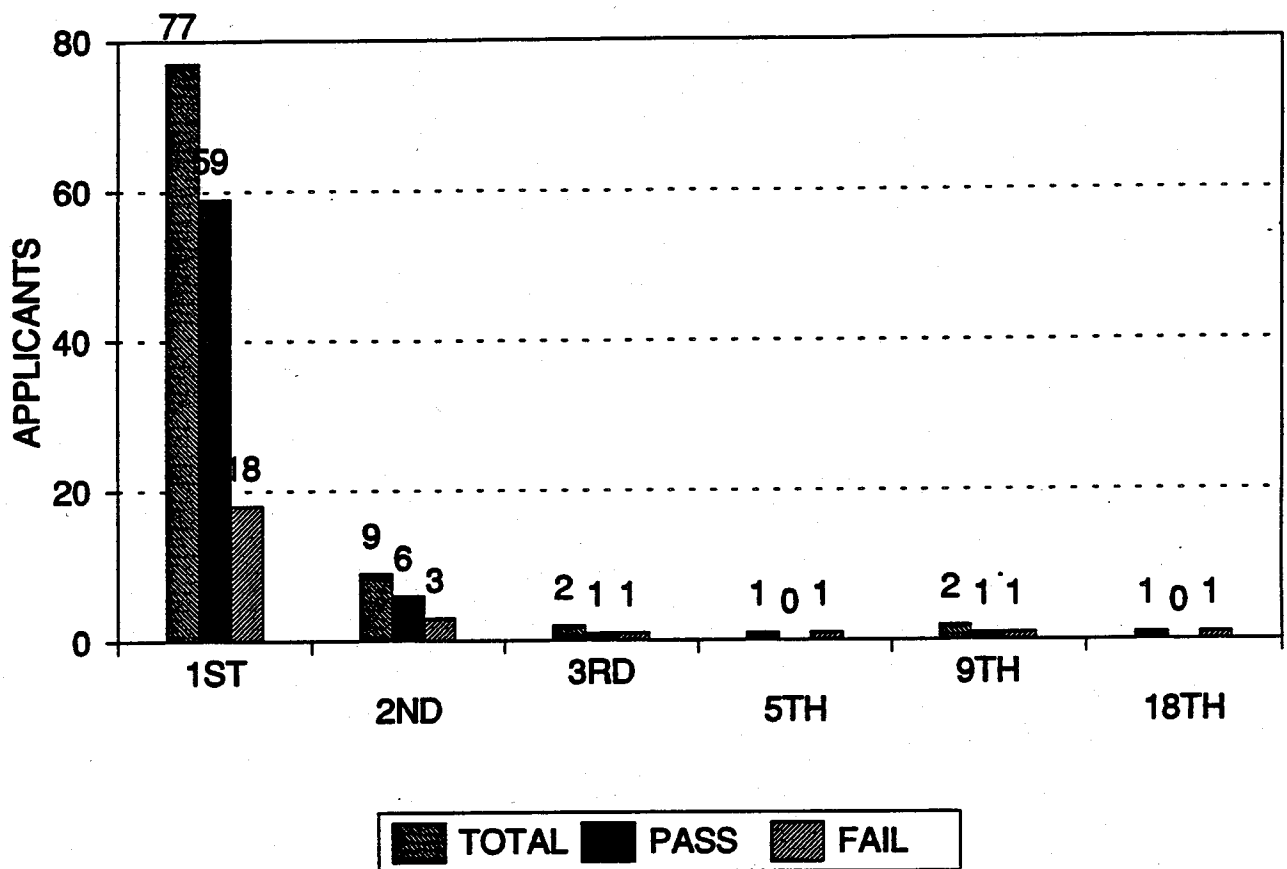
# JULY 1994

## GENDER V. PASS/FAIL (NUMBER)



# JULY 1994

## TIMES TAKEN V. PASS/FAIL



JULY 1994

## LAW SCHOOLS V5. PASS/FAIL RESULTS

Report Date: 10/05/94

T TOTAL  
P PASSED  
F FAILED

	0	3	5	8	10	13	15
American University Washington College	1	0	1				
Brigham Young University	1	1	0				
California Western School of Law	2	1	1				
District of Columbia School of Law	1	0	1				
Drake University Law School	2	1	1				
Fordham University School of Law	1	1	0				
George Mason University School of Law	1	0	1				
Georgetown University	1	0	1				
Golden Gate University	1	1	0				

Gonzaga University School of Law

I  
ITTTTTTTTTTTTTTT 8  
IPPPPPPPPPPPPP 7  
IF 1  
I  
I

Lewis & Clark College

I  
ITTTTTTTTTT 5  
IPPPPPP 4  
IF 1  
I  
I

Loyola University - New Orleans

I  
IT 1  
IP 1  
I 0  
I  
I

Loyola University of Chicago

I  
IT 1  
IP 1  
I 0  
I  
I

McGeorge School of Law

I  
ITTT 2  
IPPP 2  
I 0  
I  
I

O.W. Coburn School of Law

I  
IT 1  
I 0  
IF 1  
I  
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Ohio Northern University

I  
IT 1  
I 0  
IF 1  
I  
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Pepperdine University School of Law

I  
IT 1  
I 0  
IF 1  
I  
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Regent University College of Law

I  
IT 1  
IP 1  
I 0  
I  
I

South Texas College of Law

I  
IT 1  
IP 1  
I 0  
I  
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Southern Illinois University Law School

I  
ITTT 2  
IP 1  
IF 1  
I

State University of New York at Buffalo

I  
I  
IT 1  
IP 1  
I 0  
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Temple University School of Law

IT 1  
IP 1  
I 0  
I  
I

Thomas M. Cooley Law School

ITTTTT 3  
IPPPPP 3  
I 0  
I  
I

Tulane University Law School

IT 1  
IP 1  
I 0  
I  
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University of Arizona College of Law

IT 1  
IP 1  
I 0  
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University of California, Berkeley

IT 1  
IP 1  
I 0  
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University of California, Davis

ITTTTT 3  
IPPPPP 3  
I 0  
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University of Chicago

IT 1  
IP 1  
I 0  
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University of Colorado

ITTTTTTT 4  
IPPPPPP 4  
I 0  
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University of Denver College of Law

IT 1  
I 0  
IF 1  
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University of Nebraska

IT 1  
I 0  
IF 1  
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University of Oregon School of Law

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ITTTTTTTTTTT 6  
IPPPPPPP 4  
IFFF 2  
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University of Puget Sound

ITTTTTTTTTTTTTTTTT 9  
IPPPPPPPPP 5  
IFFFFFFFFF 4  
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University of San Francisco Law School

IT 1  
IP 1  
I 0  
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University of Southern California

IT 1  
IP 1  
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University of Texas School of Law

IT 1  
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University of Toledo

IT 1  
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University of Utah

IT 1  
IP 1  
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University of Washington School of Law

ITTTTTTT 4  
IPPPPPPP 4  
I 0  
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University of Wisconsin Law School

ITTT 2  
IPPP 2  
I 0  
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Vermont Law School

IT 1  
I 0  
IF 1  
I  
I

Walter F. George School of Law

IT 1  
I 0  
IF 1  
I  
I

Washington University School of Law

ITTT 2  
IPPP 2  
I 0  
T

Widener University at Harrisburg

Willamette University College of Law

TOTAL SCHOOLS 45

I  
IT 1  
IP 1  
I 0  
I  
I  
TTTTTTTTTTTTTTTT 8  
IPPPPPPPP 5  
IFFFFF 3





# **Appendix 2**



City	Available Attorneys	Registered in 1993	Registered in 1994	Plus/Minus	1988	1989	1990	1991	1992	1993	1994	Cases Pending
Haines	1	1	1	0				12	1		1	6
Juneau	200	111	111	0	147	124	91	86	86	124	44	42
Ketchikan	33	24	25	1	12	11	10	10	9	10	7	9
Petersburg	2	1	1	0								1
Sitka	11	10	9	(1)	9	8	3	1	4	5	3	7
Wrangell	2	1	1	0								2
Barrow	6	7	4	(3)	8	12					1	4
Kotzebue	0	0	0	0	78	1	2	1	6	3	1	8
Nome	6	5	4	(1)	3	3	11	7	9	13	5	15
Anchorage	1,121	589	599	10	1,142	813	844	957	842	804	802	123
Eagle River	5	2	5	3	12	3	2	3	1	1		5
Cordova	1	1	1	0	2	1						
Dillingham	2	3	2	(1)					4	3		3
Homer	11	10	10	0	37	4	33	13	44	24	49	8
King Salmon	1	1	1	0			1					1
Kodiak	19	15	13	(2)	26	42	34	24	46	57	42	6
Seward	2	1	1	0							1	1
Palmer	10	8	8	0	4	11	3	7	8	16	7	10
Soldotna/Kenai	24	16	16	0	27	15	65	9	12	27	10	14
Valdez	1	1	1	0	2	0			2	2		6
Wasilla	13	10	8	(2)	65	63	34	32	41	28	10	13
Bethel	9	7	6	(1)		4	13	6	3	10	6	17
Fairbanks	170	102	107	5	135	122	122	158	294	164	125	54
Out of State		21	24	3	2	4	3	4	8	5	5	6
Totals	1,650	947	958	11	1,711	1,241	1271	1330	1420	1296	1119	361

#### Other Volunteers

Doctors	120
Court Reporters	78
CPA's	11
Private Investigators	16
Paralegals	25
Other	26



# **Appendix 3**





DANIEL, HEWKO  
& SCHAMBER

*Certified Public Accountants • A Professional Corporation*

Report of Independent Certified Public Accountants

Board of Governors  
Alaska Bar Association

We have audited the accompanying balance sheets of the General Fund, Lawyers' Fund for Client Protection and the Court System Library Fund of the Alaska Bar Association as of December 31, 1994, and the related statements of activity and changes in fund balances, and changes in financial position for the year then ended. These financial statements are the responsibility of the Association's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with generally accepted auditing standards. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the General Fund, Lawyers' Fund for Client Protection and the Court System Library Fund of the Alaska Bar Association as of December 31, 1994, and the results of its operations and its changes in financial position for the year then ended in conformity with generally accepted accounting principles.

*Daniel, Hewko & Schamber*

Anchorage, Alaska  
February 6, 1995

# ALASKA BAR ASSOCIATION

## BALANCE SHEET December 31, 1994

ASSETS	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>CURRENT ASSETS</b>				
Cash	\$ 481,689	\$ 62,259	\$ 12,051	\$ 555,999
Time certificates of deposit, at cost	645,663	527,548	-	1,173,211
Accounts receivable	867,963	-	-	867,963
Accrued interest receivable	19,602	13,237	-	32,839
Due from general fund	-	26,422	-	26,422
Prepaid expenses	<u>42,855</u>	<u>-</u>	<u>-</u>	<u>42,855</u>
<b>Total current assets</b>	<u>2,057,772</u>	<u>629,466</u>	<u>12,051</u>	<u>2,699,289</u>
<b>PROPERTY AND EQUIPMENT, at cost</b>				
Video tape library and equipment	8,390	-	-	8,390
Office furniture, equipment and lease- hold improvements	<u>284,714</u>	<u>-</u>	<u>-</u>	<u>284,714</u>
	293,104	-	-	293,104
Less accumulated depreciation and amortization	<u>(250,425)</u>	<u>-</u>	<u>-</u>	<u>(250,425)</u>
	<u>42,679</u>	<u>-</u>	<u>-</u>	<u>42,679</u>
	<u>\$2,100,451</u>	<u>\$ 629,466</u>	<u>\$ 12,051</u>	<u>\$2,741,968</u>

The Notes to Financial Statements are an integral part of this statement.



LIABILITIES AND FUND BALANCES	General Fund	Lawyers' Fund for Client Protection	Court System Library Fund	Total All Funds
CURRENT LIABILITIES				
Accounts payable and accrued expenses	\$ 21,244	-	-	\$ 21,244
Due to Bar Foundation	3,888	-	-	3,888
Due to other funds	26,422	-	-	26,422
Deferred revenue	<u>1,290,586</u>	<u>26,422</u>	<u>-</u>	<u>1,317,008</u>
 Total current liabilities	 <u>1,342,140</u>	 <u>26,422</u>	 <u>-</u>	 <u>1,368,562</u>
COMMITMENTS (Note 3)				
CONTINGENCIES (Note 5)				
FUND BALANCES				
Unrestricted				
Designated by the Board for:				
Working capital	200,000	-	-	200,000
Asset acquisition	101,479	-	-	101,479
Undesignated	<u>456,832</u>	<u>603,044</u>	<u>12,051</u>	<u>1,071,927</u>
	<u>758,311</u>	<u>603,044</u>	<u>12,051</u>	<u>1,373,406</u>
	<u>\$2,100,451</u>	<u>\$ 629,466</u>	<u>\$ 12,051</u>	<u>\$2,741,968</u>

# ALASKA BAR ASSOCIATION

## STATEMENT OF ACTIVITY AND CHANGES IN FUND BALANCE For the Year Ended December 31, 1994

	General Fund	Lawyers' Fund for Client Protection	Court System Library Fund	Total All Funds
Revenue				
Dues	\$1,231,678	\$ 27,917	\$ -	\$1,259,595
Admission fees	181,950	-	-	181,950
Share from copier	-	-	28,945	28,945
Continuing legal education	132,831	-	-	132,831
Lawyer referral fees	62,128	-	-	62,128
Annual meeting	35,871	-	-	35,871
Interest on investments	45,765	26,767	727	73,259
Other	76,444	4,417	25	80,886
Total revenue	<u>1,766,667</u>	<u>59,101</u>	<u>29,697</u>	<u>1,855,465</u>
Expenses				
Admissions	193,633	-	-	193,633
Board of Governors	50,736	-	-	50,736
Discipline	472,789	-	-	472,789
Administration	350,807	-	-	350,807
Lawyer referral	52,032	-	-	52,032
Continuing legal education	244,729	-	-	244,729
Fee arbitration	38,763	-	-	38,763
Annual meeting	35,236	-	-	35,236
Claims awarded	-	2,000	-	2,000
Other	106,000	-	97,588	203,588
Total expenses	<u>1,544,725</u>	<u>2,000</u>	<u>97,588</u>	<u>1,644,313</u>
Excess (deficiency) of revenues over expenses	221,942	57,101	(67,891)	211,152
Fund balances, beginning of year	<u>536,369</u>	<u>545,943</u>	<u>79,942</u>	<u>1,162,254</u>
Fund balances, end of year	<u>\$ 758,311</u>	<u>\$ 603,044</u>	<u>\$ 12,051</u>	<u>\$1,373,406</u>

The Notes to Financial Statements are an integral part of this statement.

# ALASKA BAR ASSOCIATION

## STATEMENT OF CHANGES IN FINANCIAL POSITION For the Year Ended December 31, 1994

	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>SOURCES OF FUNDS</b>				
Operations:				
Excess of revenues over expenses	\$ 221,942	\$ 57,101	\$ -	\$ 279,043
Items not requiring outlay of working capital during the year:				
Depreciation and amortization	<u>37,995</u>	<u>-</u>	<u>-</u>	<u>37,995</u>
Working capital provided by operations	<u>259,937</u>	<u>57,101</u>	<u>-</u>	<u>317,038</u>
<b>USES OF FUNDS</b>				
Deficiency of revenues over expenses	-	-	(67,891)	(67,891)
Purchase of property and equipment	<u>(12,989)</u>	<u>-</u>	<u>-</u>	<u>(12,989)</u>
Total uses of funds	<u>(12,989)</u>	<u>-</u>	<u>(67,891)</u>	<u>(80,880)</u>
Increase (decrease) in working capital, as below	<u>\$ 246,948</u>	<u>\$ 57,101</u>	<u>\$ (67,891)</u>	<u>\$ 236,158</u>

(Continued)

The Notes to Financial Statements are an integral part of this statement.

# ALASKA BAR ASSOCIATION

## STATEMENT OF CHANGES IN FINANCIAL POSITION, Continued For the Year Ended December 31, 1994

	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>SUMMARY OF CHANGES IN WORKING CAPITAL COMPONENTS</b>				
Increase (decrease) in:				
Cash	\$ 61,276	\$ 22,530	\$ (67,891)	\$ 15,915
Time certificates of deposit	227,043	28,864	-	255,907
Accounts receivable	3,547	-	-	3,547
Accrued interest receivable	6,931	5,707	-	12,638
Due from general fund	-	752	-	752
Prepaid expenses	(2,854)	-	-	(2,854)
Decrease (increase) in:				
Accounts payable and accrued expenses	(4,257)	-	-	(4,257)
Due to Bar Foundation	(450)	-	-	(450)
Due to other funds	(752)	-	-	(752)
Deferred revenue	<u>(43,536)</u>	<u>(752)</u>	<u>-</u>	<u>(44,288)</u>
 Increase (decrease) in working capital	 <u>\$ 246,948</u>	 <u>\$ 57,101</u>	 <u>\$ (67,891)</u>	 <u>\$ 236,158</u>

The Notes to Financial Statements are an integral part of this statement.

## NOTES TO FINANCIAL STATEMENTS

### Note 1. Significant Accounting Policies

The accounting policies relative to the carrying value of the time certificates of deposit and property and equipment are indicated in the captions on the balance sheet. Other significant accounting policies are as follows:

#### Depreciation:

Depreciation is computed using the straight-line method which amortizes the costs of assets evenly over their estimated useful lives.

#### Income Taxes:

The Association is an instrumentality of the State of Alaska whose activities are exempt from taxation under the Internal Revenue Code.

### Note 2. Employee Pension Plan

The Association established an Employee Pension Plan in April 1983, effective January 1, 1983. The plan is a defined contribution plan and covers all employees who have completed one year of service and who are twenty-one years of age. The Association's contributions are 5 percent of the compensation of each participant; contributions for 1994 totaled \$25,939.

### Note 3. Lease Commitments

The Association leases its office facilities, copier and postage machine under long-term leases. The copier lease is cancellable only if the State of Alaska terminates the Association's existence. The minimum future lease payments under these operating leases are as follows:

1995	126,685
1996	126,685
1997	74,517
1998	<u>13,081</u>
Total future minimum lease payments	<u>\$ 340,968</u>

(Continued)

## NOTES TO FINANCIAL STATEMENTS, Continued

### Note 3. Lease Commitments, Continued

The copier lease qualifies as a capital lease under Financial Accounting Standards No. 13. However, management has chosen to classify it as an operating lease because the effect on the financial statements is immaterial. The effect for 1994 would be a decrease in expense of \$1,262.

### Note 4. Legislative Audit

The Alaska Bar Association is subject to periodic "sunset reviews" by the State of Alaska Division of Legislative Audit. The most recent legislative audit was completed in November 1993 with the recommendation that the legislature extend the Board of Governors of the Alaska Bar Association until June 30, 1998.

### Note 5. Lawyers' Fund for Client Protection Contingencies

As of December 31, 1994, the Lawyers' Fund for Client Protection had twenty-four cases pending against seven attorneys. The potential liability for claims related to these cases totalled \$73,475.



# ALASKA BAR ASSOCIATION

## REVENUE AND EXPENSE STATEMENT DETAIL GENERAL FUND EXPENSES Year Ended December 31, 1994

	<u>Admissions</u>	<u>Board of Governors</u>	<u>Discipline</u>	<u>Adminis- tration</u>
Salaries and related expenses	\$ 74,839	\$ -	\$ 345,468	\$ 222,773
Rent	19,140	650	44,437	24,294
Exam questions	6,150	-	-	-
Grading and review	42,760	-	-	-
Litigation support	3,304	-	6,946	-
Printing	-	787	-	9,550
Office supplies and expense	6,944	1,930	8,479	12,067
Telephone	977	506	2,816	2,367
Travel	-	17,998	5,105	6,224
Meeting expenses	-	6,770	-	-
Equipment lease	1,423	-	10,460	9,206
Postage	5,450	5,142	5,563	8,349
Copying	2,080	667	2,689	4,734
Accounting fees	-	-	-	8,375
Insurance	5,888	2,943	7,299	8,771
Repairs and maintenance	1,262	-	8,577	7,444
Depreciation and amortization	1,859	-	14,497	13,010
Advertising	-	-	-	-
Miscellaneous	21,557	855	10,453	13,643
Seminar costs	-	-	-	-
Newsletter	-	-	-	-
Committee expenses	-	423	-	-
Long range planning	-	12,065	-	-
Duke/Alaska Law review	-	-	-	-
Annual meeting expense	-	-	-	-
Substantive law sections	-	-	-	-
	<u>\$ 193,633</u>	<u>\$ 50,736</u>	<u>\$ 472,789</u>	<u>\$ 350,807</u>



<u>Lawyer Referral</u>	<u>Continuing Education</u>	<u>Fee Arbi- tration</u>	<u>Annual Meeting &amp; Other</u>	<u>Total</u>
\$ 25,235	\$ 98,069	\$ 23,983	\$ -	\$ 790,367
3,035	15,178	5,985	-	112,719
-	-	-	-	6,150
-	-	-	-	42,760
-	-	-	-	10,250
-	-	-	-	10,337
1,696	1,970	1,696	-	34,782
3,395	901	1,303	-	12,265
-	3,252	-	-	32,579
-	-	-	-	6,770
796	3,884	796	-	26,565
1,059	2,157	1,059	-	28,779
24	510	710	-	11,414
-	-	-	-	8,375
1,471	1,471	1,471	-	29,314
645	3,102	645	-	21,675
1,115	6,400	1,115	-	37,996
10,956	-	-	-	10,956
2,605	283	-	22,003	71,399
-	105,060	-	-	105,060
-	-	-	31,882	31,882
-	2,492	-	9,655	12,570
-	-	-	-	12,065
-	-	-	33,124	33,124
-	-	-	35,236	35,236
-	-	-	9,336	9,336
<u>\$ 52,032</u>	<u>\$ 244,729</u>	<u>\$ 38,763</u>	<u>\$ 141,236</u>	<u>\$1,544,725</u>



