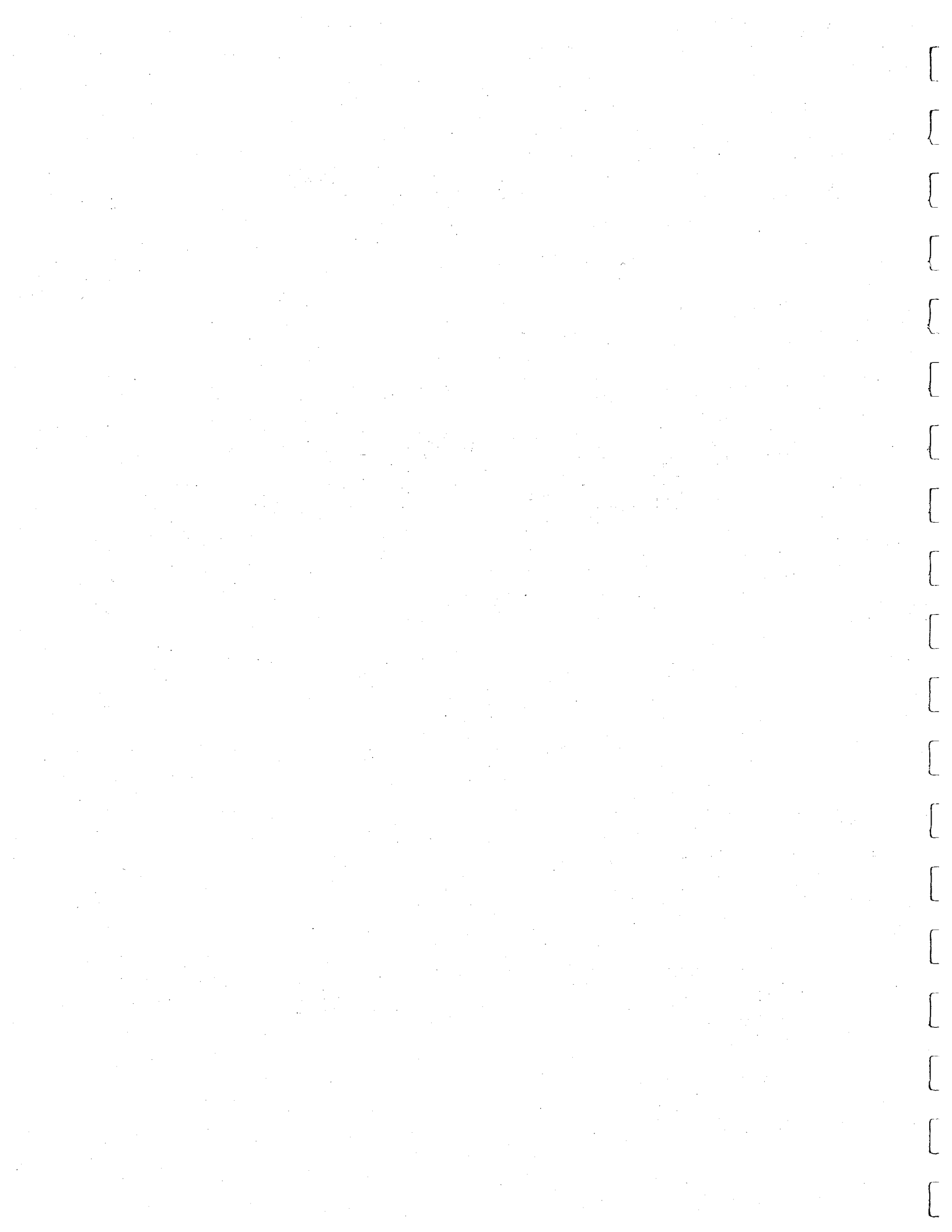




# 1997 Annual Report



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# THE ALASKA BAR ASSOCIATION

Annual Report for the Year 1997

## Board of Governors

David H. Bundy, President  
William B. Schendel, President-Elect  
Joseph Faulhaber, Vice President  
Ray R. Brown, Secretary  
Barbara Miklos, Treasurer  
Debra Call  
Lisa Kirsch  
Barbara L. Schuhmann  
Robert D. Stone (New Lawyer Liaison)  
Kirsten Tinglum  
Diane F. Vallentine  
Venable Vermont, Jr.  
Bruce B. Weyhrauch

## Staff

Deborah O'Regan, Executive Director  
Barbara Armstrong, Assistant Director & CLE Director  
Deb Lash, Executive Secretary  
Geraldine F. Downes, Controller  
Karen A. Schmidlkofer, Accounting Assistant  
Rachel M. Tobin, CLE Assistant  
Teresa Thacker, Admissions Secretary/Receptionist  
Anna Marie Prestwick, Lawyer Referral Receptionist  
Kristine Dale-Schwankl, Lawyer Referral Receptionist  
  
Stephen J. Van Goor, Bar Counsel  
Mark Woelber, Assistant Bar Counsel  
Louise R. Driscoll, Assistant Bar Counsel  
Deborah C. Ricker, Discipline Investigator/Paralegal  
Ingrid Varenbrink, Arbitration/Discipline/CLE Library  
Joanne Baker, Arbitration/Discipline/CLE Library  
Norma L. Gammons, CPS®, Disc. Section Administrative Supervisor  
Cheryl L. Rapp, PLS®, CPS®, Discipline Secretary

March 24, 1998

## 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 3,333 members in the following categories: Active, 2,608 (2,198 in-state and 410 Outside); Inactive, 681; Honorary, 1; Retired, 43. Its affairs are governed by a twelve (12) member (attorney and non-attorney) Board currently comprised of the following persons:

David H. Bundy, President  
William B. Schendel, President-Elect  
Joseph Faulhaber, Vice President  
Ray R. Brown, Secretary  
Barbara Miklos, Treasurer  
Debra Call  
Lisa Kirsch  
Barbara L. Schuhmann  
Kirsten Tinglum  
Diane F. Vallentine  
Venable Vermont, Jr.  
Bruce B. Weyhrauch  
Robert D. Stone (New Lawyer Liaison)

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 9 standing committees, 21 sections, 5 bar rule committees, and special committees as appointed by the Board. 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  
Deb Lash, Executive Secretary  
Geraldine F. Downes, Controller  
Karen A. Schmidlkofer, Accounting Assistant  
Rachel M. Tobin, CLE Assistant  
Teresa T. Thacker, Admissions Secretary/Receptionist  
Anna Prestwick & Kristine Dale-Schwankl, Lawyer Referral Receptionists

Stephen J. Van Goor, Bar Counsel  
Mark Woelber, Assistant Bar Counsel  
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Ingrid Varenbrink & JoAnn Baker, Arbitration/Discipline/CLE Library  
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 1997 the Board held five (5) meetings (January 17-18; March 21; May 6-7; September 5-6; and October 24-25). Conference calls were held on February 6, June 20 and July 18. The Bar Convention and Annual Business Meeting were held in Anchorage, May 8-10.

### **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 chair 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 report.

### **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 important responsibilities of 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 Bar Counsel and Bar Counsel's staff, and requests member applications to submit to the Chief Justice of the Alaska Supreme Court for assignment to 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 Bar Rule Amendments**

The Board of Governors proposed a rule change to Alaska Bar Rule 43. Rule 43 permitted lawyers who are admitted in another state, but not in Alaska, to practice law for Alaska Legal Services for two years. The amendment, which was adopted by the Supreme Court, eliminated the two year limitation and allows lawyers to practice law with ALSC indefinitely, without being admitted to the Alaska Bar, as long as they are eligible to practice in another state.

The Legislature modified Alaska Bar Rule 3(2) to require the application for admission to the Bar to contain the applicant's social security number.

### **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 Board had been extended until June 30, 1998. In November and December 1997, the Board underwent a legislative audit, with a report going to the legislature in January 1998.

### **G. Website**

In July 1997, the Bar set up a Website. This site includes information on the Board and staff, admissions, CLE, the Sections and Section News, committees, the Bar Rag, and the Convention. It also includes a page on frequently asked questions. The Website will continue to be an evolving work-in-progress to provide on-line information to Bar members and the public. The homepage can be found at [www.alaskabar.org](http://www.alaskabar.org).

## **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); 5) attend a presentation on attorney ethics as prescribed by the Board; and 6) file an affidavit that they have read and are familiar with the Alaska Rules of Professional Conduct. 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, which provides for reciprocal admission for attorneys from 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 \$800.00; for reapplicants (some one who has sat for and failed the Alaska Bar Exam within one year of application), the fee is \$500.00. The Board set this fee effective with the July 1996 exam.

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 him or herself 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 an 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.

### **1997 Report**

In 1997 a hearing master presided over a hearing on the matter of a character investigation of an applicant. The applicant later withdrew his application for admission. The Board then took no action on the application, found that it had been withdrawn and expressly took no position on the findings of the hearing master and neither accepted nor rejected the record and his findings.

#### **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. 3 applicants requested a tutor for the February exam, and 1 applicant requested assistance for the July exam.

The Board of Governors reviewed its pilot program which was formed to provide tutoring and lectures for minority bar applicants who qualified for the program. Although six applicants had participated prior to the February 1995 exam, no minority applicants opted to apply for the program since then. The Board decided to suspend the program in August of 1995 until sufficient interest was expressed in the program.

### **G. Statistical Summary**

In 1997, 115 individuals took the Bar Exam and 75 passed the exam.

1997 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.

#### **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-six (26) jurisdictions provide for admission without examination.

In 1997, 12 applicants applied for and were admitted without examination.

#### **K. Mandatory Ethics Course and Affidavit of Review**

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

All applicants must also submit an affidavit that they have read and are familiar with the Alaska Rules of Professional Conduct.

### **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 attorney discipline matters, however, the Supreme Court has original jurisdiction under the Alaska Constitution and, after considering the findings, conclusions and recommendations by the Board, is the final decision maker.

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 was 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 Alaska 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. The 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 Court and the Disciplinary Board which the Court established.

Due to the size 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. Charges may be based upon a violation of the Alaska Rules of Professional Conduct, Ethics Opinions adopted by the Board of Governors, criminal convictions, the Alaska Bar Rules 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 from the Board Discipline Liaison 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 1997**

The Alaska Supreme Court disbarred Homer L. Burrell, Martin Wolff, George E. Weiss, Carol Zamarello Johnson and John G. Frank. The Court suspended: Frederick W. Triem for 90 days (and also imposed probation), David E. Kohfield for two years, and Brian Easton for 60 days.

The Disciplinary Board issued a reprimand, publicly imposed, to Barry Donnellan, and Darryl L. Jones.

### 1997 DISCIPLINE CASE STATISTICS<sup>1</sup>

Open cases pending as of January 1, 1997	94
New cases opened in 1997 (+)	46
Cases closed in 1997:	
Closed after disbarment by Supreme Court <sup>2</sup>	16
Closed after suspension by Supreme Court <sup>3</sup>	7
Closed after probation ended	0
Closed after public censure by Supreme Court	0
Closed after reprimand publicly imposed by Disciplinary Board	4
Closed after reprimand privately imposed by Disciplinary Board	3
Closed after written private admonition by Bar Counsel.	2
Dismissed by Bar Counsel	32
TOTAL closed cases (-)	<u>64</u>
Open cases pending as of December 31, 1997	76

### STATUS OF OPEN CASES AS OF December 31, 1997

Pending First Response from Respondent Attorney	8
Pending Complainant's Reply	1
Pending Second Response from Respondent Attorney	0
Pending Bar Counsel Investigation/Decision	51
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	1
Pending Stipulation for Discipline between Bar Counsel and Respondent Attorney	0
Pending before Area Hearing Committee	9
Pending before Disciplinary Board	2
Pending before Supreme Court	0
Respondent Attorney on Probation	<u>1</u>
TOTAL open cases	76

<sup>1</sup> All numbers reflect individual grievances filed and not the number of attorneys involved.

<sup>2</sup> Five attorneys were disbarred: 1 attorney based on 11 grievances, 1 attorney based on 2 grievances, 1 attorney based on 1 grievance, 1 attorney based on reciprocal disbarment, and 1 attorney based on a criminal conviction.

<sup>3</sup> Three attorneys were suspended: 1 attorney based on 5 grievances and 2 attorneys based on 1 grievance each.

#### **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 appropriate geographical area. The attorney must file a written answer admitting or denying the charges, and stating any defenses. Hearings are then held before the Committee. At the hearing, Bar Counsel prosecutes the case on behalf of the Bar Association. The respondent attorney may be represented by counsel. Either party may call, examine, and cross-examine witnesses and otherwise request the production of evidence. Bar Counsel must prove the respondent's misconduct by clear and convincing evidence. 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 report, briefs may be filed with the Board. If requested, 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 Court. The parties are required to file briefs in accordance with the Appellate Rules for regular civil and criminal appeals and 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 precedent for future cases.

The Board may issue a reprimand, publicly imposed, if it decides the hearing 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 the respondent and enter an order for a reprimand (either publicly or not publicly 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 the attorney 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 interim 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 the attorney's 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 or her 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 or she 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 (currently the *Alaska Bar Rag*) 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.<sup>4</sup> 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 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.

## **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 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.

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<sup>4</sup> 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 in which a case they must appear before an appropriate Area Hearing Committee. Similarly, attorneys who have been disbarred or suspended for more than one year must appear before a Hearing Committee.

## **Summary of Reinstatement and Disability Actions in 1997**

Frederick W. Triem was automatically reinstated following his 90 day suspension.

There were no disability transfers.

### **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 (position currently job-shared), 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 totaled \$543,503.69 in 1997, 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 1997**

Changes to the Bar Rules regarding admissions are reported in section L of the Admissions portion of this report.

The Supreme Court amended Bar Rule 26 to allow an attorney to appeal a recommendation of the Lawyers' Assistance Committee. An attorney convicted of a crime relating to alcohol or drug abuse must meet with the Committee and follow its recommendations for professional evaluation and professionally recommended treatment. These recommendations may now be appealed to the Board and the Board's determination may, in turn, be reviewed on a petition for review filed with the Court.

Bar Rule 37, relating to fee arbitration, was amended to allow fee disputes involving \$5000 or less to be assigned to a single arbitrator. Prior to the change, only disputes involving \$2000 or less could be heard by a single arbitrator.

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

Continuing Legal Education (CLE) programs and activities are a significant part of the work of the Alaska Bar Association and have an essential role in enhancing a lawyer's skills, attitudes, knowledge and sense of professional responsibility. Members of the legal profession have an obligation to be competent in performing legal services. 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.

##### **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 15 Bar Association members: 12 attorney members representing the various geographic areas of the state, 2 new lawyers representatives, and 1 judicial representative. Members serve staggered 3-year terms, with the exception of New Lawyer members who serve staggered 2-year terms.

The CLE Committee members for June 30, 1996 - June 30, 1997 were David Ingram, Chair; Gail Ballou, Fairbanks; Allan Beiswenger, Soldotna; Cheryl Rawls Brooking, New Lawyer, Anchorage; Ray Brown, Anchorage; Dawn Collinsworth, New Lawyer, Juneau; James DeWitt, Fairbanks; Paul Eaglin, Fairbanks; Justice Dana Fabe, Judicial Representative; Brian Hanson, Sitka; Joseph Loescher, Anchorage; Holly Montague, Kenai; Lawrence Ostrovsky, Anchorage; James Stanley, Anchorage; and Trevor Stephens, Ketchikan.

The CLE Committee members for June 30, 1997 - June 30, 1998 are David Ingram, Chair; Gail Ballou, Fairbanks; Allan Beiswenger, Soldotna; Ray Brown, Anchorage; Dawn Collinsworth, New Lawyer, Juneau; James DeWitt, Fairbanks; Jeanne Dickey, Anchorage; Paul Eaglin, Fairbanks; Justice Dana Fabe, Judicial Representative; Brian Hanson, Sitka; Tina Kobayashi, Juneau; Paul Niewiadomski, New Lawyer, Anchorage (resigned December 30, 1997), Dennis Efta, New Lawyer, Kenai (appointed to replace Mr. Niewiadomski); Lawrence Ostrovsky, Anchorage; James Stanley, Anchorage; and Trevor Stephens, Ketchikan.

The 21 substantive law sections of the Bar Association are responsible for sponsoring a minimum of one CLE seminar every two years. Most sections sponsor one CLE activity per year, in addition to holding regular monthly section meetings and an annual section meeting. CLE seminars not sponsored by a particular Substantive Law Section are sponsored by the CLE Committee itself or by the Board of Governors. 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 Academy of Trial Lawyers, the State of Alaska Real Estate Commission, ALPS (Attorneys

Liability Protection Society), and the Alaska Society of Certified Public Accountants

In 1997 forty-seven different CLE topics were scheduled. Twenty-nine live Bar-administered programs, not including the convention CLEs or Mandatory Ethics, were presented in 1997 primarily in three locations: Anchorage, Juneau and Fairbanks. In 1997 we also presented an "Off the Record" live in Kenai.

The Bar also presented a total of 4 live "Mandatory Ethics: Professionalism in Alaska" programs for applicants: one in Juneau, one in Fairbanks, and two in Anchorage. The Spring 1997 programs in Fairbanks and Juneau were cancelled due to low registration. Six CLE topics were presented at the Annual Convention in Juneau held in conjunction with the Alaska Judicial Conference.

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.

Fourteen programs were also approved for CLE credit and administered by other groups or organizations. A \$35 non-refundable application fee is charged per request which goes toward covering the minimal staff and fiscal impact on Bar CLE.

The CLE Director works with individual CLE Planning Committees and faculty to incorporate into each CLE issues of professional responsibility and ethical concern to lawyers, and consults with Alaska Bar Counsel for assistance in identifying these issues. In addition, beginning in 1997, CLE Planning Committees and faculty are requested to look at issues of gender fairness in their topic areas.

In 1997 Barrow, Kotzebue, Nome and Sitka were added to the list of video replay sites around the state, bring the total number of sites to eleven. Forty-five video replays in these 11 sites were presented in 1997. CLE Videotape Replays are routinely scheduled in Barrow, Dillingham, Fairbanks, Juneau, Kenai, Ketchikan, Kodiak, Kotzebue, Nome, Sitka and Valdez. Local bar members act as volunteer video replay coordinators in these cities.

Total attendance at CLE programs in 1997 (including group video replays and convention CLE) was 3,174. The number of different attorneys served was 970, and the number of different non-attorneys was 732. These figures are an increase over 1996.

#### **1997 CLE Programs Summary**

Topics	Live Bar Programs	Tele-seminars	Mandatory Ethics	Convention	Accredited Programs	VTRs
47	29	0	4	6	14	40

#### **B. Mandatory Continuing Legal Education (MCLE)**

The CLE Committee met in September 1997 and recommended to the Board of Governors that a committee be established to re-examine the issue of adopting mandatory continuing legal education (MCLE) in Alaska. The

MCLE Committee (which includes members from the CLE Committee and the Board of Governors) was appointed in October 1997, and developed a plan to further explore this issue and to educate members about MCLE.

### **C. 1997 Accomplishments**

1. The goal in 1997 was to achieve a wider distribution of library materials and to increase CLE Library revenue by providing related-topic course materials and videotapes for sale at selected CLE programs. A special flyer was developed and distributed at these CLEs to advertise the inventory for sale, and a discount coupon good for future purchases was included. Response over all was very positive, and we plan to continue with this type of materials sales in 1998.

In January of 1997, the CLE Library Catalog listing CLE videotapes and materials that are available for rental and/or purchase was distributed to all Bar members. This catalog was published in-house, and features a new format and graphics.

2. In response to a request from Alaska Legal Services Corporation (ALSC) for assistance in providing CLE for ALSC staff, the Board of Governors agreed to waive the CLE registration fee for 30 admissions per year for ALSC staff. ALSC would, however, be required to pay any associated meal costs.

This action adds to the discounts and waivers the Bar currently offers:

- 20% registration fee discount for Bar members traveling 100 or more miles one way to a CLE;
- 50% registration fee discount for Bar members traveling via commercial carrier to a CLE;
- 10% registration fee discount for 2 or more members of the same organization attending a CLE;
- 20% registration fee discount for 3 or more members of the same organization attending a CLE;
- 50% registration fee discount for full-time students.

In addition, new admittees are given one "Free CLE" registration valid for one year after admission to the Bar.

3. The CLE Calendar and articles about CLE continued to appear regularly in the Bar Rag to better communicate with members about course offerings.

4. The 5-Year Plan for CLE originally approved in 1996 continues to be a strategic tool for CLE. This plan covers five main areas listed in order of priority: Course Materials, Marketing of CLE Programs to Members, Information Dissemination, Enhancing Technological Efficiency of CLE Department, and Mandatory Continuing Legal Education.

5. Course materials for CLE programs are a critical part of any CLE presentation, and we continue to work with CLE faculty to create materials that are of value and easy to use. Our new desktop publishing software and the acquisition of graphics programs and a scanner have given us greater

capability to produce materials that are more visually interesting; have a more consistent format, and are easier to read.

6. Our desktop published brochures and flyers for CLE programs have a consistent look and are easily recognizable as Alaska Bar events. We strive to provide a consistent format or look for Bar publications.

7. In July 1997 the Alaska Bar Association went on-line with its own website: [www.alaskabar.org](http://www.alaskabar.org). The website currently lists information on the Board of Governors; Bar Staff; Admissions and Fees; Committees; CLE Information including the CLE Calendar; Sections including the entire text of the newsletter, "Section News"; and Frequently Asked Questions. There are links to the American Bar Association and the Alaska Court System websites.

Additional information on Ethics Opinions, the CLE Catalog, and other related items are scheduled for phased-in addition to the website.

Plans were also begun in 1997 to setup a CLE Committee Listserve to enhance communication among committee members.

8. As noted earlier, the number of videotape replay sites was increased to 11 with the addition of Barrow, Kotzebue, Nome and Sitka. A video replay evaluation survey was also developed for feedback from our members at replay sites.

9. The Alaska Bar and the Alaska Superior Court in Kotzebue embarked on a pilot project in Fall 1997 suggested by Judge Richard Erlich called the Public Education Program (PEP). The goal of the program is to present Alaska Bar CLE videotaped programs in Kotzebue that would be of interest to the public.

There is no charge for the programs, and they are held at the court house. Three programs have aired in Kotzebue to date: "Politics, Public Policy and the Law" from the 1997 Annual Convention, "Indian Country' in Rural Alaska: How It Could Change the Practice of Law and the Administration of Justice" (Day 1 of the 10th Annual Alaska Native Law Conference), and "Sexual Harassment in the Workplace: Where Do You Draw the Line?", originally presented in cooperation with the Joint State-Federal Gender Equality Task Force.

The highest attendance at one of these replays was twelve members of the public, a very gratifying response to the program. Comments from public viewers in Kotzebue on the replays have included, "Very interesting," "Thank you for sharing this information," "Very informative," and "Good presentation."

Judge Erlich noted that this kind of presentation provides individuals in the community different types of information. For those who represent themselves in court proceedings, it provides useful insight on specific legal issues. For those represented by counsel, it provides information on issues that need to be dealt with. Finally, for those not involved in any litigation, it provides information on the issue.

The Alaska Bar is very excited about this pilot program and looks forward to working with the Alaska Court System.

10. For the second year in a row, the Alaska Bar assisted in presenting an "Off the Record with the U.S. Court of Appeals for the Ninth Circuit" in cooperation with the U.S. District Court. This CLE with 3 members of the Ninth Circuit Panel focused on appellate motion practice, appellate brief requirements, oral argument, and an overview of the Court's rehearing and rehearing *en banc* process.

11. 1997 also marked the first ever "Off the Record With the Alaska Supreme Court." This program focused on appellate practice and included the Clerk of the Appellate Court. We anticipate presenting future "Off the Records with the Alaska Supreme Court" in Fairbanks and Juneau during oral argument weeks.

12. Other programs of particular note in 1997 include "Sexual Harassment: Where Do You Draw the Line in the Workplace" which was sponsored by the Employment Law Section and presented in cooperation with the Alaska Association of Legal Administrators and the Alaska Joint State-Federal Courts Gender Equality Task Force. This program was designed for bar members as well as employers, and was very well attended.

The issues of subsistence and sovereignty were major topics in 1997. The Alaska Native Law Section presented for the first time a conference on "Co-Management in Alaska: A Viable Alternative to Dual Management under ANILCA?" in March. The 10th Annual Alaska Native Law Conference is traditionally scheduled in October to coincide with the Alaska Federation of Native (AFN Convention). This year's conference was expanded to two days and focused on "Indian Country in Rural Alaska: How It Could Change the Practice of Law & the Administration of Justice" (day 1) and "Jobs Money and the Environment: Economic Development & Land Use Planning in Rural Alaska." (day 2).

In March, the Immigration Law Section presented a special program at Elemendorf Air Force Base, "Immigration Law for Honorary Consuls," in cooperation with the Honorary Consul of Iceland, Ben Benediktsson.

The CLE, "Breakfast with Bar Counsel," was developed and presented in March as a pilot project. Chief Bar Counsel and our two Assistant Bar Counsels were the faculty for this program. The CLE focused on discipline issues, how to respond to a grievance, national trends, and current ethics opinions and will be an annual offering.

13. The Alaska Bar continued in 1997 to present programs in cooperation with ALPS, Attorneys Liability Protection Service; the State of Alaska Real Estate Commission, and other local associations on topics of mutual concern and interest.

## 1997 CONVENTION

The 1997 Convention was held in Juneau in conjunction with the Alaska Judicial Conference. The theme was "Politics, Public Policy and the Law" and featured a panel of distinguished Alaskans including Jay Hammond, former



Governor of Alaska; Jay Rabinowitz, former Chief Justice, Alaska Supreme Court; Jay Kerttula, former Alaska State Senator; Arliss Sturgulewski, former Alaska State Senator; Esther Wunnike, former Commissioner, Alaska Department of Natural Resources; Charles Cole, former Alaska Attorney General; Julie Kitka, President, Alaska Federation of Natives; and Byron Mallott, Executive Director, Alaska Permanent Fund; former Commissioner, Alaska Department of Community and Regional Affairs; and President, Sealaska Corporation.

The CLE program, "Beyond the Mainstream: Cross-Cultural Communications in Alaska's Legal System," focused on how language and cultural differences affect participation in the justice system.

This year's convention included a pilot CLE, "Update on Alaska Appellate Decisions," by Theresa Newman, Lecturer in Law, Duke University School of Law which was designed as a companion to the regular annual offering "Update On U.S. Supreme Court Opinions" with Professors Peter Arenella and Erwin Chemerinsky.

Portions of the 1997 convention, including the "State of the Judiciaries" address and remarks by Lt. Governor Ulmer, were videotaped by the Juneau public television station, KTOO, and aired on "Gavel to Gavel."

### **C. Fiscal**

Overall program income exceeded this year's revenue target; however, expenses also exceeded our target figure due largely to increased costs in postage, paper, and professional videography services. However, we were able to control postage costs by switching to a different envelope size for mailing multiple pieces, and by using parcel post for Anchorage mailings of videotapes and materials.

The general fund of the Bar Association 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 50% registration fee discount to members traveling into Anchorage via commercial air carrier for a CLE program, a 20% discount to members traveling 100 miles or more one way to attend a CLE (other than on commercial air carrier), a 50% discount for full-time students, one "Free CLE" certificate to new admittees, and discounts to organizations for multiple registrations.

Alaska Bar CLE continues to exist in a competitive marketplace with outside profit and nonprofit providers. This competition creates a healthy environment and offers more choice of topics for Alaska Bar members, but also presents some challenges. The Alaska Bar is committed to continuing to offer quality and affordable CLE to our members.

### **D. Request for CLE Credits**

Private CLE providers, both profit and nonprofit, continued to present offerings in Alaska in 1997.

The Bar increasingly receives requests from in state and out of state organizations to review CLE programs they have developed and to approve them for CLE credit for Alaska Bar members attending these programs. Some of these programs are offered in Alaska, and other activities are offered outside the state.

Although Alaska is not currently a mandatory CLE jurisdiction, other providers of CLE request our CLE accreditation to indicate that a review of the program has been done, and that the program meets the standards of the Alaska Bar. Programs meeting the requirements and 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.

In 1997, the Alaska Bar reviewed and accredited programs by a number of Alaskan organizations including the Alaska Municipal Attorneys Association (AMAA), the Alaska Association of Trial Lawyers (AATL), the Alaska Miners' Association, and the Anchorage Estate Planning Council.

The Alaska Bar Association has been an approved provider since 1991 for California Bar members to meet the California State Bar Minimum Continuing Legal Education requirements, and is an approved provider for the State Bar of South Carolina.

### **E. Group Replays**

Group video replays of live programs are regularly scheduled in Barrow, Dillingham, Fairbanks, Juneau, Kenai, Kodiak, Ketchikan, Kotzebue, Nome, Sitka, and Valdez 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.

The Alaska Bar gratefully acknowledges the assistance of these organizations, firms, and members who donate space and time to provide this service for members.

Law firms and other organizations 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**

1. The CLE Library is a valuable member service and resource for bar members.

2. The updated CLE Library Catalog project was begun in 1996 as an in-house desktop publishing goal. This publication with a new format was issued in January 1997.

1997 Program Rentals	312 programs
1997 Program Purchases	155 programs
<u>Alaska Attorney's Desk Manuals</u>	6 purchases

#### **G. 800 CLE Information Line**

Thanks to the generosity of the Alaska Bar Foundation, the Alaska Bar Association has an 800 CLE information line. The recording gives general bar office information, the CLE schedule for the month, Multi-State Professional Responsibility Exam dates and Bar Exam information.

#### **H. 1997 CLE Program Listing**

The numerous bar, non-bar, and bench faculty for our CLE programs are volunteers in service to the legal community. Their generous contributions of time, talent and energy make Alaska Bar programs possible. See Appendix 2.

## 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 957 volunteer attorneys throughout Alaska, or 59% of the State's available Bar Association membership, with an open case load of 450 - 500 cases. These cases can range from the most complex litigation to emergency death-bed wills to issues facing Alaskan Natives. Appendix 3 shows the Alaska communities in which the APBP operates, the number of panel members in each community, and the numbers of cases closed from 1991 to December, 1997.

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; an immigration law clinic; a child support clinic; weekly advice-only question and answer clinics (including one in Spanish); 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 1,265 people in 1997. More than 250 elderly received assistance through the Elderlaw Projects last year.

In addition, the APBP attempts to assist the U.S. District Court to find counsel for pro se parties in U.S. District Court. To date, 90 cases have been referred to volunteer attorneys through this appointment project.

The APBP is also proud to boast that more than 270 other professionals (doctors, court reporters, certified public accountants, translators, private investigators) are members of the program. In 1997, the total number of hours donated to the APBP was more than 6,917.9.

Certain aspects of the Alaska Pro Bono Program have been changed to comply with new Federal restrictions and guidelines. For instance, as of December 1, 1995, the APBP ceased accepting cases for people who are incarcerated.

The APBP receives its 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 \$50 per category selected for listing in any calendar year. Attorneys who are renewing a panel pay an enrollment fee of \$20.

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 \$4.00 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.

At the end of 1997, 138 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 808 requests for referrals. Calls received by the Alaska Bar Association for Lawyer Referrals were as follows:

	1996	1997
Administrative	176	393
Admiralty	68	65
Adoption	87	72
Alaska Native Law	30	25
Arts	12	10
Bankruptcy	317	302
Commercial	303	287
Construction	19	35
Consumer	917	761
Criminal: Felony	323	287
Criminal: Misdemeanor	352	497
Discrimination	155	51
Divorce/Dissolution/Custody	2,749	2464
Eminent Domain	6	6
Environmental	13	14
Foreign Language	5	15
Guardian/Conservator	54	49
Immigration	41	44

Insurance  
 Labor Relations  
 Landlord/Tenant  
 Malpractice  
 Military  
 Mining  
 Negligence  
 Patent/Copyright  
 Public Interest  
 Real Estate  
 SSI Cases  
 Tax  
 Traffic  
 Trusts/Wills/Estates  
 Workers' Compensation

143	167
955	891
570	415
362	376
25	39
8	3
1341	1271
4	35
4	3
297	272
354	227
67	56
150	106
301	300
396	157
10,600	9,695
+ 1.0% (Change from 1995)	- 8.5% (Change from 1996)

## **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 First Judicial District, one in the Third 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 Chief Justice of the Alaska Supreme Court 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 Chief Justice 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 or herself 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 hear 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 \$5000 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. The attorney must file an answer to the petition within 20 days of the notice of the accepted petition unless the matter is settled.

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 on limited grounds 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 Bar 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 Executive 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. They also determine whether a matter should be considered "complex" arbitration (*e.g.*, more than \$50,000 in dispute, complex legal or factual issues or a hearing likely to last more than 8 hours). This finding generally requires the parties to pay the reasonable fees and costs of the proceeding.

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

#### **1997 FEE ARBITRATION STATISTICS**

Arbitrations pending January 1, 1997	49
Arbitrations <u>opened</u> during 1997 (+)	74
Arbitrations <u>closed</u> in 1997 (-)	87
Arbitrations pending January 1, 1998	36

#### **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 yearly assessments on active members paid at the same time as membership dues as well as interest earned on the Fund balance.

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 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, in its discretion, bring suit against 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.

## 1997 LFCP Report

Case Number	Claim(s) Paid by Board	Claim(s) Rejected by Board	Claim(s) Rejected by LFCP Committee
1995L006		\$8700	
1996L001	\$2500		
1995L010	\$2316		
1997L001			\$22,000
1996L002	\$510		
<b>Totals</b>	<b>\$5326</b>	<b>\$8700</b>	<b>\$22,000</b>

At the close of 1997, two claims were pending consideration by the LFCP Committee.

D. Rebecca Snow currently chairs the LFCP 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 Alaska Legal Services Corporation may receive permission to practice law in Alaska, indefinitely, as long as the attorney is working for ALSC and is admitted to or eligible to practice law in another state, 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. This waiver was previously good for two years, but in 1997, the Bar Rule was amended to extend the waiver for as long as the person works for ALSC.

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 21 Substantive Law Sections of member attorneys and non-bar members with similar interests in a particular area of law.

The Sections and Chairs and Co-Chairs for 1997 were:

**Administrative Law**

June 30-1996 - June 30, 1997

Teresa Williams

June 30, 1997 - June 30, 1998

Teresa Williams

**Admiralty Law**

June 30, 1996 - June 30, 1997

Steve Shamburek

June 30, 1997 - June 30, 1998

Steve Shamburek

**Alaska Native Law**

June 30, 1996 - June 30, 1997

Heather Kendall

June 30, 1997 - June 30, 1998

Mark Kroloff

<b>Alternate Dispute Resolution</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Glenn Cravez	Glenn Cravez
<b>Bankruptcy Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Michael Mills	Diane Vallentine & Gary Sleeper
<b>Business Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
John Tindall	John Tindall
<b>Criminal Defense</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Kevin McCoy	Mike Smith
<b>Criminal Prosecution</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Karen Loeffler & Bob Linton	Karen Loeffler & Bob Linton
<b>Education Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Paul Eaglin	Marc Grober
<b>Elder Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Dick Thwaites	Marcia Rom & Ernest Schlereth
<b>Employment Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Barbara Jones & Tom Daniel	Barbara Jones & Tom Daniel
<b>Environmental/Natural Resources Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Randal Buckendorf	Randal Buckendorf
<b>Estate Planning/Probate Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Russ Nogg	Tonja Woelber
<b>Family Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Maryann Foley & Fran Purdy	Joan Clover & Sharon Gleason
<b>Immigration Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Ken Diemer	Jim Glaze
<b>Intellectual Property Law</b> (formed in October 1997)	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
	Valli Goss Fisher
<b>International Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Patrick Rumley	Patrick Rumley
<b>Real Estate Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Jim Stanley	Jim Stanley
<b>Solo &amp; Small Firms</b> (formerly Law Practice Management)	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Harold Green	Ken Kirk
<b>Tax Law</b>	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Charles Schuetze	Charles Schuetze
<b>Torts/Personal Injury Law</b> (formerly Torts - Fall 1996 inactive/reactivated 1997)	
June 30, 1996 - June 30, 1997	June 30, 1997 - June 30, 1998
Loretta Cieutat	Ward Merdes

The 21 Substantive Law Sections offer members a number of opportunities for professional growth and development by providing:

- Exchange of information among lawyers with similar legal interests.
- Continuing legal education programs.
- Section News, a monthly newsletter of section events and topics of interest. This is mailed to members and is also on our website.
- Review of legislative and court actions in the "Annual Update" compiled by each section.
- 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, 1997, 895 bar members and 72 non-bar members were involved in one or more sections. The Board of Governors has asked each section, when appropriate, to encourage membership by non-bar members. Section chairs meet regularly with the Board of Governors on a rotating basis.

A majority of the sections meet on a monthly basis. Section chairs contribute to the monthly newsletter, Section News, with such items as case citations and comment on legislation. In addition, each section is responsible for preparing an "Annual Update" reviewing significant cases and legislative issues in their respective areas of law. This "Update" is submitted to the Bar each spring prior to the Annual Convention, is distributed to section members, and is available for purchase by non-section members. The Alaska Court System also routinely requests copies of "Updates" in the areas of Administrative Law, Employment Law, Family Law, and Alaska Native Law for the bench.

## **2. Activities**

Each section is administered by an executive committee composed of at least five members who serve three-year staggered terms beginning June 30. 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) oversee the preparation of the "Annual Update," 3) sponsor a CLE seminar at least once every 2 years, 4) submit an annual report to the Board describing the section's activities, and 5) preside at the annual section meeting and election of new executive committee members. Non-bar members may join as

non-voting associate members of a section, but may not serve on the executive committee. Section activities are coordinated by the Bar Assistant Director.

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. In addition, the listing of section chairs and the current issue of Section News is now available on the Alaska Bar Association website.

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. Other sections meet on an "as needed" basis depending on developments within their area of interest.

Section News is produced monthly in-house through desktop publishing, and we have continued to highlight the teleconference capability the Bar provides. The majority of section meetings are held in Anchorage; however, any section member outside Anchorage may participate telephonically, at the Bar's expense, in section meetings. There has been a very positive response to this offer of telephonic hookup, and many section meetings now routinely include telephonic participation by members outside Anchorage.

Section meetings with formal presentations and course materials are eligible for CLE accreditation by the Alaska Bar.

Section chairs routinely distribute information and case citations to members to help keep them keep current in their area of practice.

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 educate Alaskan lawyers about new developments in the field of law and to emphasize their ethical responsibilities. 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 or by Bar Counsel. 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 over 700 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. The three historical panels with photos and text which were developed in 1996 were hung in the Jury Assembly room in the fall of 1997. The Committee concentrated on fundraising in order to make another set of panels meant to be a travelling exhibit. A subcommittee also focused on selecting materials to be displayed in the display cases in the Jury Assembly room and courthouse. Leroy J. Barker chaired this committee in 1997.

## **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 9th year. Anchorage members of the committee also met with an exchange delegation of russian educators.

#### **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, chaired by Mark Rindner, 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. The committee brought together representatives from other organizations which provide legal services to indigent people. The committee Chair, Bar President and Pro Bono Director met with the Alaska supreme court and requested that the court form an Access to Civil Justice Task Force, which the court did in November 1997. At the end of the year, the composition of the Task Force was being firmed up.

#### **8. Lawyers' Assistance Committee**

John Abbott chairs this committee (formerly known as the Substance Abuse 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.

## **9. Alaska Rules of Professional Conduct Committee**

This 9 member committee, chaired by Robert Bundy, is responsible for reviewing suggested amendments to the ARPC and making recommendations for amendments to the Board of Governors.

## **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. ALPS began issuing policies in spring of 1988. Keith E. Brown serves as Alaska's director on the ALPS Board of Directors.

Previously, in order to be eligible for coverage by the company, Alaskan lawyers were required to contribute \$2,200 as their capital share. In 1997, ALPS dropped the requirement for attorneys to make a capital contribution before they are eligible for coverage. Rates are computed for each participating state based upon the claims experience in that state.

### **B. LEXIS and West CD-ROM**

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.

The Bar also sponsors a discount program with West which provides for discounts on West CD-ROM and other West programs.

### **C. Group Insurance**

The Bar Association sponsors a life insurance program for Bar members with States West Life Insurance Company. 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 Paul Revere 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 for sale to members. There are approximately 135 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 48%; Alaska Bar Association 12%. The revenue to the Alaska Bar Association in 1997 was \$8,659.

#### **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. Since 1994, the civil instructions have been offered for sale on disk.

## **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.

In 1997, the Board of Trustees consists of Mary K. Hughes, Winston S. Burbank, Leroy J. Barker, William B. Rozell and Eric T. Sanders.

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 former 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.

When the Code of Professional Responsibility was replaced by the Alaska Rules of Professional Conduct in 1993, the language of the IOLTA requirements was updated and incorporated into Alaska Rule of Professional Conduct 1.15.

In 1997, there were 393 firms participating in the program.

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 \$236,838 from interest in 1997.

In 1997 the Foundation made the following grants: \$180,000 to the Alaska Pro Bono Program; \$3,000 to CASAs for Children, \$2,750 to Anchorage Youth Court; \$6,750 to Catholic Social Services; and \$4,500 to the Alaska Women's Resource Center.

## **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.

## **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 1997 were Patrick T. Brown, Arthur H. Peterson 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 1997 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 1997, Paul J. Ewers, Thomas G. Nave and Robert H. Wagstaff 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 applications from Bar members. A selection committee was appointed by the Bar president which reviewed the applicants who were interested in the position and recommended four applicants to the Chief Judge. For the 1997 Ninth Circuit Conference, the representatives were Mary K. Hughes, Rex Lamont Butler, Michelle L. Boutin and Charles P. Flynn.

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. After 10 years of service as the Alaska Bar's representative, Joseph J. Perkins, Jr. resigned and James D. Linxwiler was appointed as the current representative. He 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 4 contains the year end monthly report on the 1997 income and expense budget for the Association. The 1997 report reflects a total revenue of \$1,905,696 with total expenses of \$1,740,462 for a net gain of \$165,233.

The Board formed a budget subcommittee which met three times before the full Board considered the budget. The subcommittee reviewed fees, reserves, overhead and salaries.

Changes in legislation allowed the Board of Governors to establish a 401(k) Plan for the Bar staff. However, because the law did not allow such plans by state agencies or instrumentalities, and the Integrated Bar Act states that the Alaska Bar Association is an instrumentality of the state, it was necessary to first get a private letter ruling from the IRS.

A private letter ruling was issued in September 1997 which concluded that the Bar is not an instrumentality of the state for the purposes of a 401(k) Plan. The Plan will be effective January 1, 1998.

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# **Appendix 1**



# ALASKA BAR ASSOCIATION

Carolyn E. Jones  
1031 W. 4th Avenue, Suite 200  
Anchorage, AK 99501  
May 12, 1997

Elizabeth J. Kerttula  
President, Board of Governors  
Alaska Bar Association  
Post Office Box 100279  
Anchorage, AK 99510

Dear Ms. Kerttula:

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 25, 26, and 27, 1997. 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 44 applicants participated in the July 1996 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.

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.

P.O. Box 100279 • Anchorage, Alaska 99510-0279  
907-272-7469 • Fax 907-272-2932

Elizabeth J. Kerttula

5/12/97

Page 2

The Committee read the essay and research answers during the months of March through May, 1997. The results of the February 1997 examination were certified by the Committee on May 12, 1997, after the evaluation was completed and the statistics were compiled.

Of the 44 applicants, 28 (64%) received a combined score of 140 or greater. 30 first time applicants received a passing score for a first time applicant pass rate of 67%. Subject to other eligibility requirements contained in the Alaska Bar Rules, the Committee recommends to the Board of Governors that the 28 applicants achieving passing scores on the February 1997 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



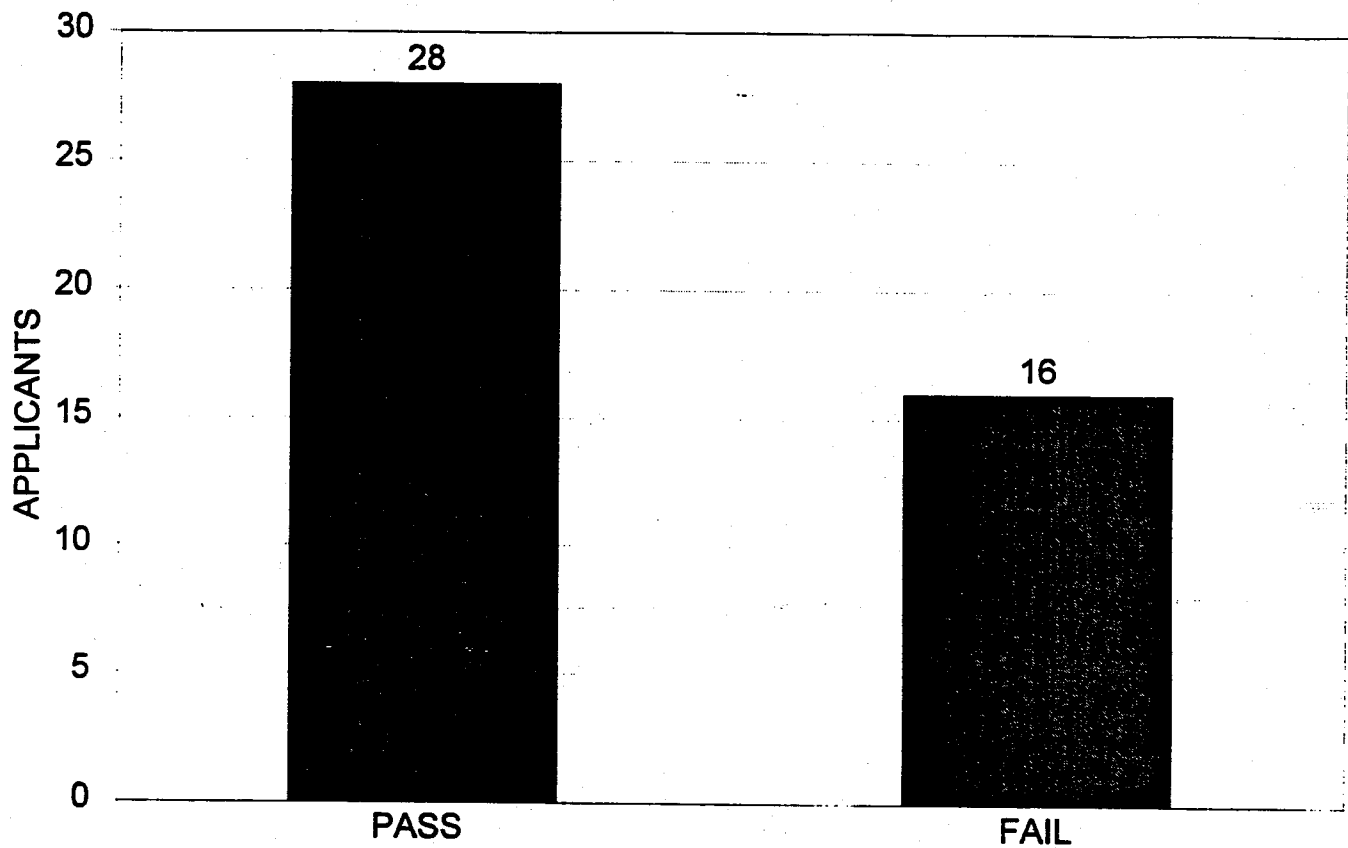
for Carolyn E. Jones  
Chair

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# FEBRUARY 1997

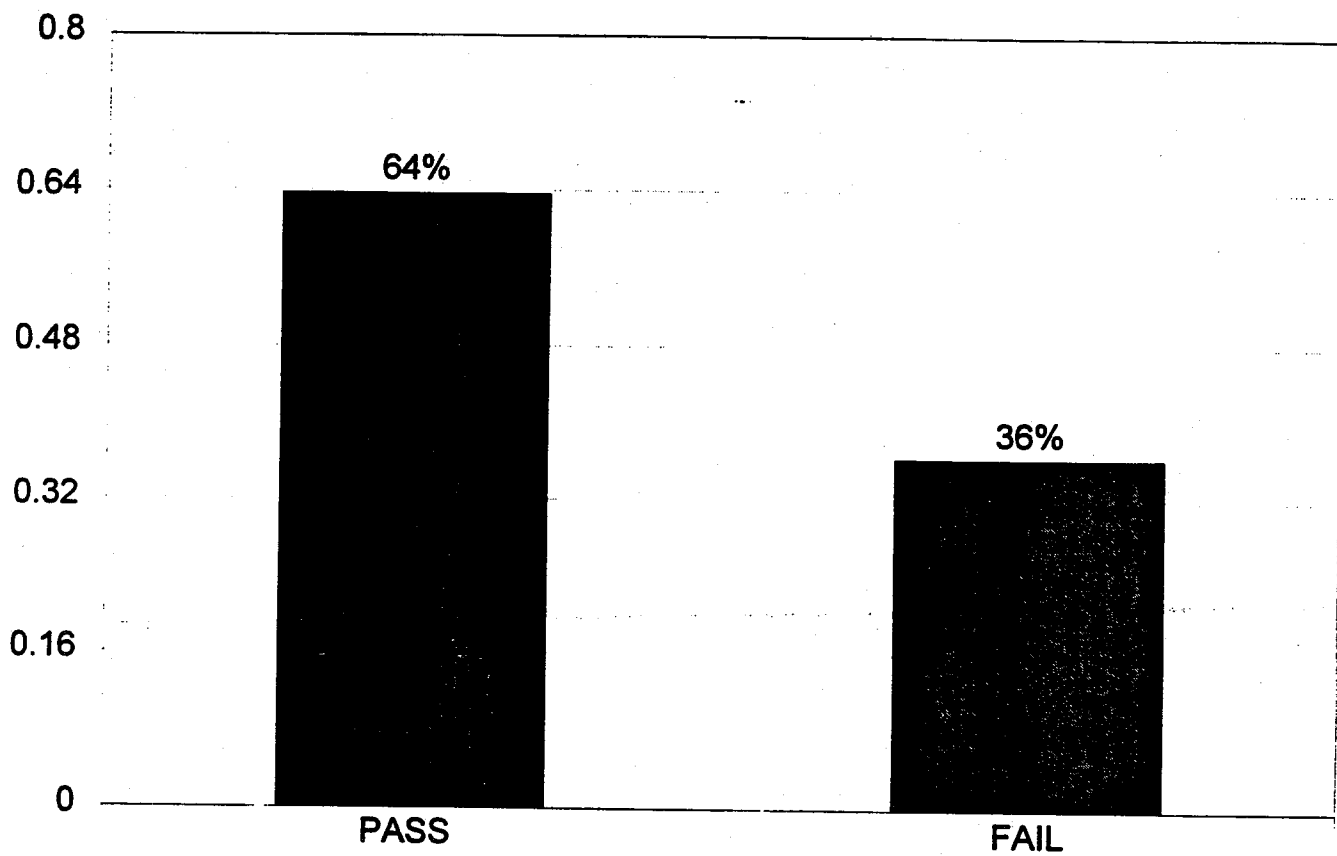
## PASS/FAIL RESULTS (NUMBER)



Total Applicants 44

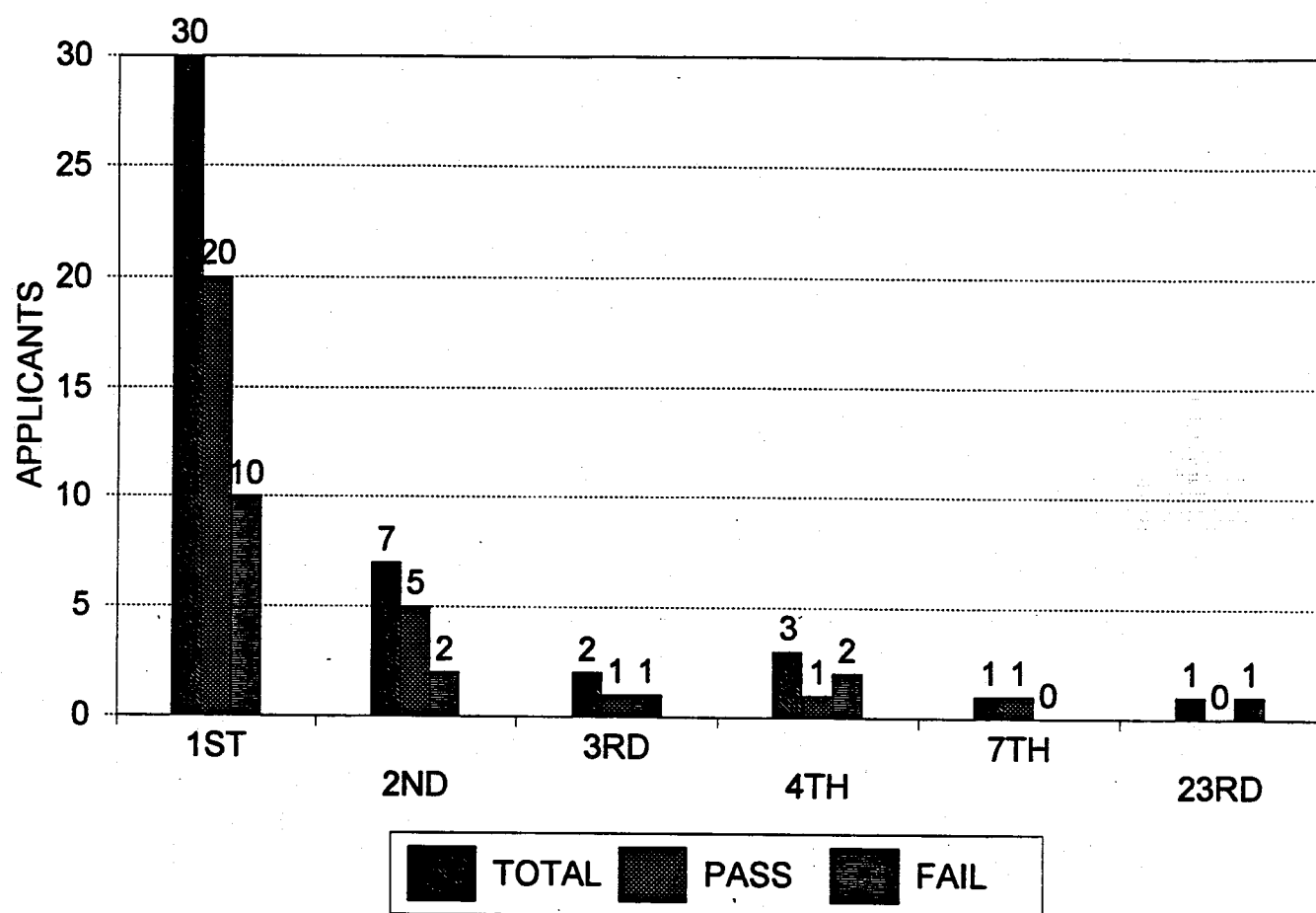
# FEBRUARY 1997

## PASS/FAIL RESULTS (PERCENT)



# FEBRUARY 1997

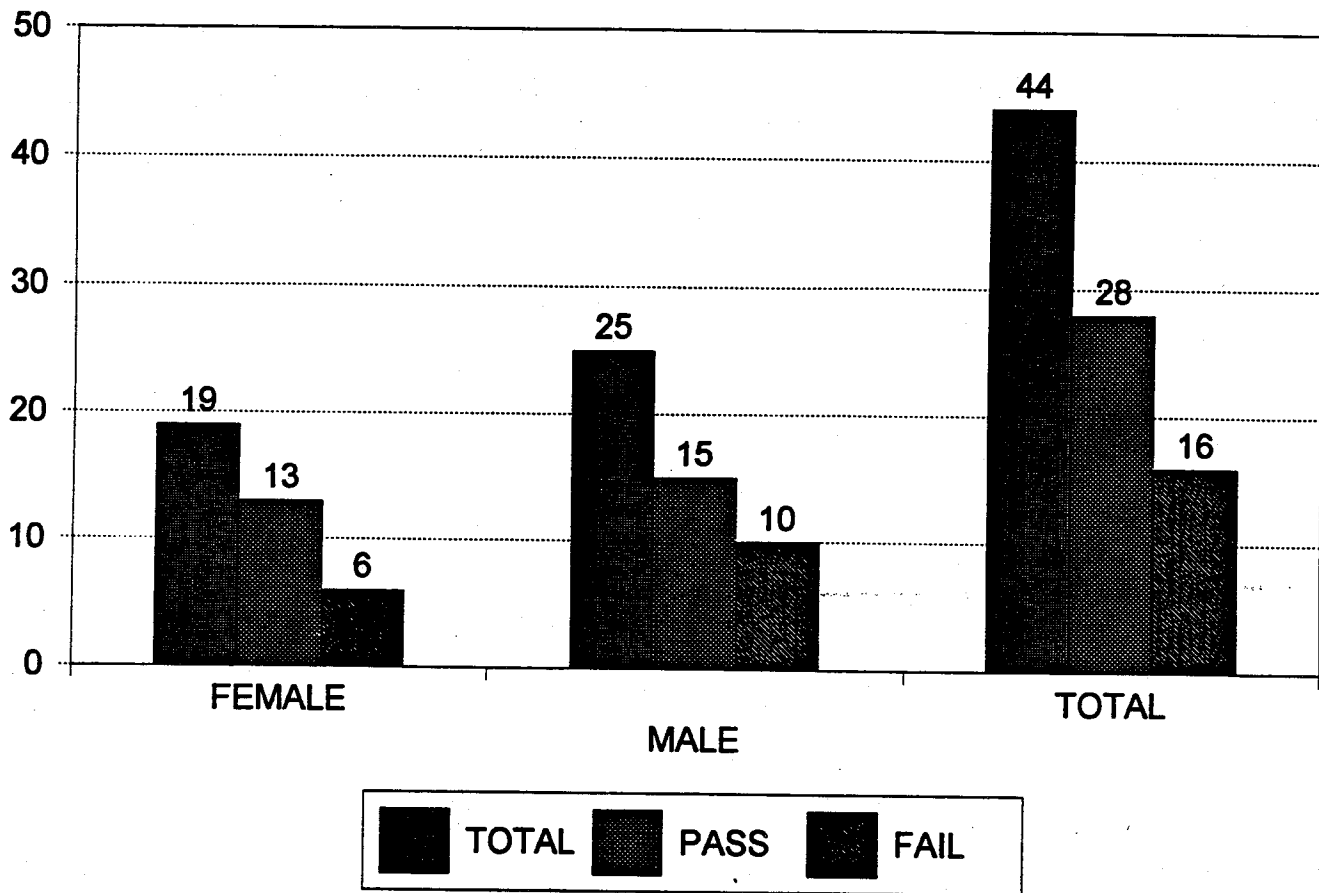
## TIMES TAKEN V. PASS/FAIL



1<sup>st</sup> Time Takers Pass Rate = 67 %

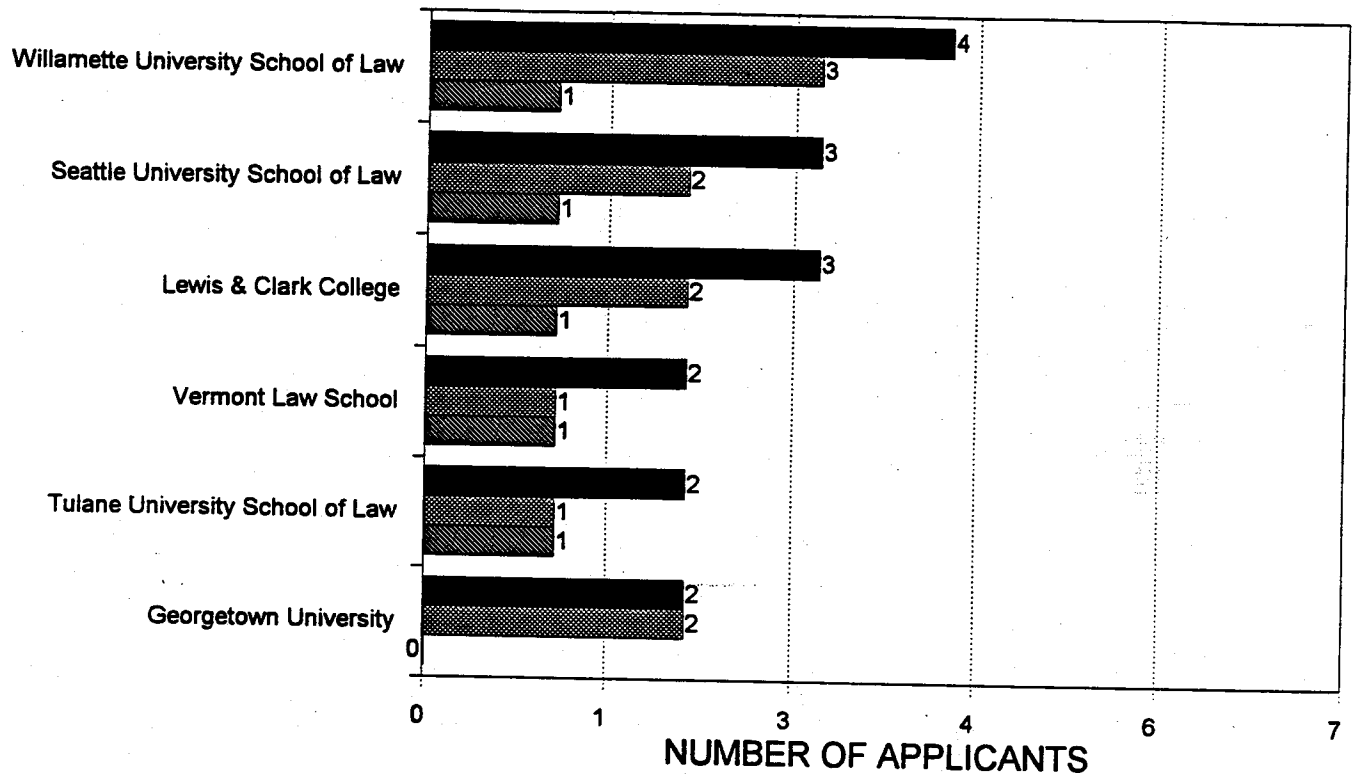
# FEBRUARY 1997

## GENDER V. PASS/FAIL (NUMBER)



# FEBRUARY 1997

## LAW SCHOOLS V. PASS/FAIL



Schools with 2 or more Applicants



FEBRUARY 1997

## LAW SCHOOLS V5. PASS/FAIL RESULTS

Report Date: 05/05/97

T TOTAL  
P PASSED  
F FAILED

	0	5	5	8	10	13	15
American University Washington College	I I IT 1 IP 1 I 0 I I						
Columbia University School of Law	I IT 1 IP 1 I 0 I I						
Columbus School of Law	I IT 1 IP 1 I 0 I I						
Duquesne University School of Law	I IT 1 I 0 IF 1 I I						
Georgetown University	ITTT 2 IPPP 2 I 0 I I						
Gonzaga University	IT 1 IP 1 I 0 I I						
Lewis & Clark College	ITTTT 3 IPPP 2 IF 1 I I						
Nashville School of Law	IT 1 IP 1 I 0 I I						
Northeastern University School of Law	IT 1 I 0 IF 1 I I						
Rutgers University-Newark	IT 1 I 0 IF 1						

Seattle University School of Law

I  
ITTTT 3  
IPPP 2  
IF 1  
I  
I

Syracuse University College of Law

IT 1  
I 0  
IF 1  
I  
I

T.C. Williams School of Law

IT 1  
I 0  
IF 1  
I  
I

Temple University School of Law

IT 1  
IP 1  
I 0  
I  
I

Thomas M. Cooley Law School

IT 1  
IP 1  
I 0  
I  
I

Tulane University School of Law

ITTT 2  
IP 1  
IF 1  
I  
I

University of California, Berkeley

IT 1  
IP 1  
I 0  
I  
I

University of California, Davis

IT 1  
IP 1  
I 0  
I  
I

University of Colorado

IT 1  
I 0  
IF 1  
I  
I

University of Denver College of Law

IT 1  
I 0  
IF 1  
I  
I

University of Georgia School of Law

IT 1  
IP 1  
I 0  
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University of Idaho

IT 1  
I 0  
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I

University of Iowa

IT 1  
IP 1  
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T

University of Michigan School of Law	IT	1	
	IP	1	
	I	0	
	I		
	I		
University of Minnesota Law School	IT	1	
	IP	1	
	I	0	
	I		
	I		
University of Mississippi School of Law	IT	1	
	IP	1	
	I	0	
	I		
	I		
University of Missouri School of Law	IT	1	
	IP	1	
	I	0	
	I		
	I		
University of San Diego School of Law	IT	1	
	IP	1	
	I	0	
	I		
	I		
University of Texas School of Law	IT	1	
	I	0	
	IF	1	
	I		
	I		
University of Utah	IT	1	
	I	0	
	IF	1	
	I		
	I		
Vermont Law School	ITTT	2	
	IP	1	
	IF	1	
	I		
	I		
Washburn University @ Topeka	IT	1	
	I	0	
	IF	1	
	I		
	I		
Willamette University School of Law	ITTTTTTT	4	
	IPPPP	3	
	IF	1	
	I		
	I		
William Mitchell College of Law	IT	1	
	IP	1	
	I	0	
TOTAL SCHOOLS	34		



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# ALASKA BAR

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## A S S O C I A T I O N

Carolyn E. Jones  
1031 W. 4th Avenue, Suite 200  
Anchorage, AK 99501  
October 22, 1997

David H. Bundy  
President, Board of Governors  
Alaska Bar Association  
Post Office Box 100279  
Anchorage, Ak 99510

Dear Mr. Bundy:

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 29, 30 and 31, 1997. 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 71 applicants participated in the July, 1997 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.

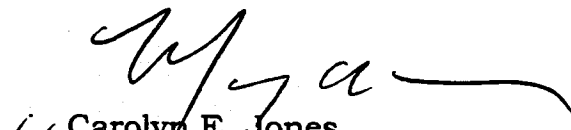
The components of the exam were weighted as follows: Essay portion, 50%; MBE, 50%; with the essay portion sub-weighted as follows: the three long essays, 30%; the six short essays, 45%; the research/analysis question, 25%. A combined score of 140 or above was passing.

The Committee read the essay and research answers during the months of August through October, 1997. The results of the July 1997 examination were certified by the Committee on October 10, 1997, after the evaluation was completed and the statistics were compiled.

Of the 71 applicants, 47 (66%) received a combined score of 140 or greater. Fifty-eight (58) first time applicants received a passing score for a first time applicant pass rate of 76%. Subject to other eligibility requirements contained in the Alaska Bar Rules, the Committee recommends to the Board of Governors that the 47 applicants achieving passing scores on the July, 1997 Alaska Bar Examination be certified to the Alaska Supreme Court for membership in the Bar and admission to the practice of law in Alaska.

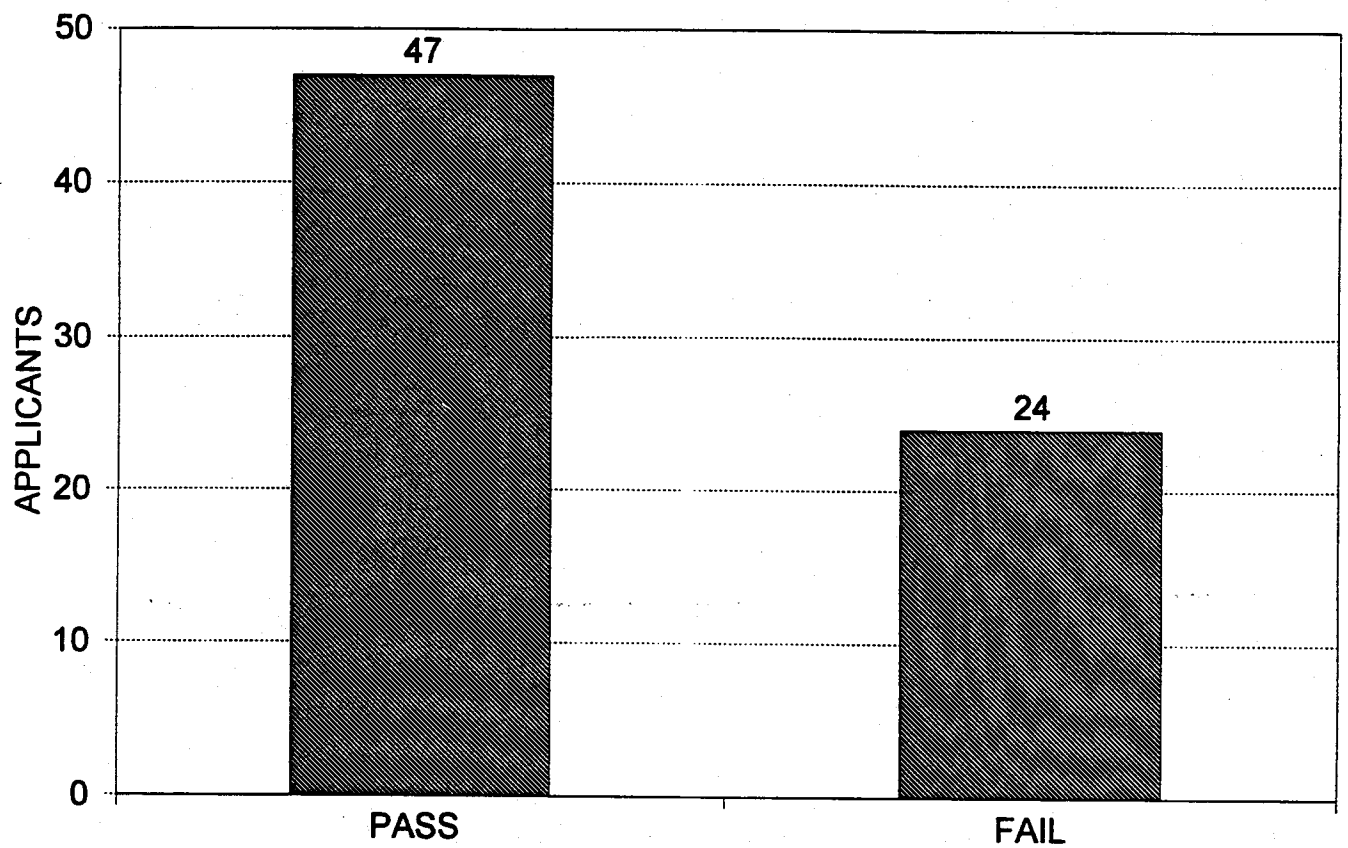
Respectfully submitted,

COMMITTEE OF LAW EXAMINERS

  
Carolyn E. Jones  
Chair

# JULY 1997

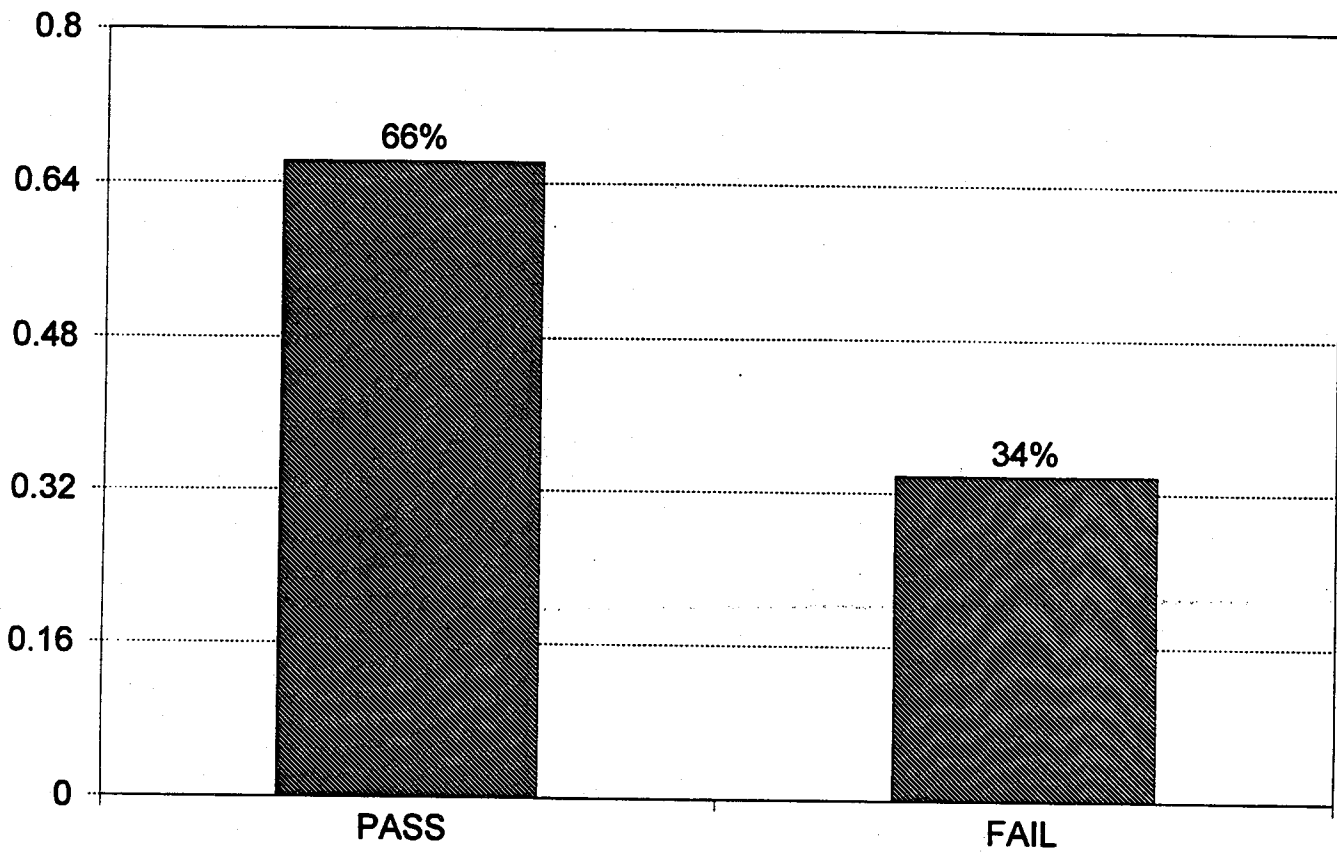
## PASS/FAIL RESULTS (NUMBER)



71 total applicants

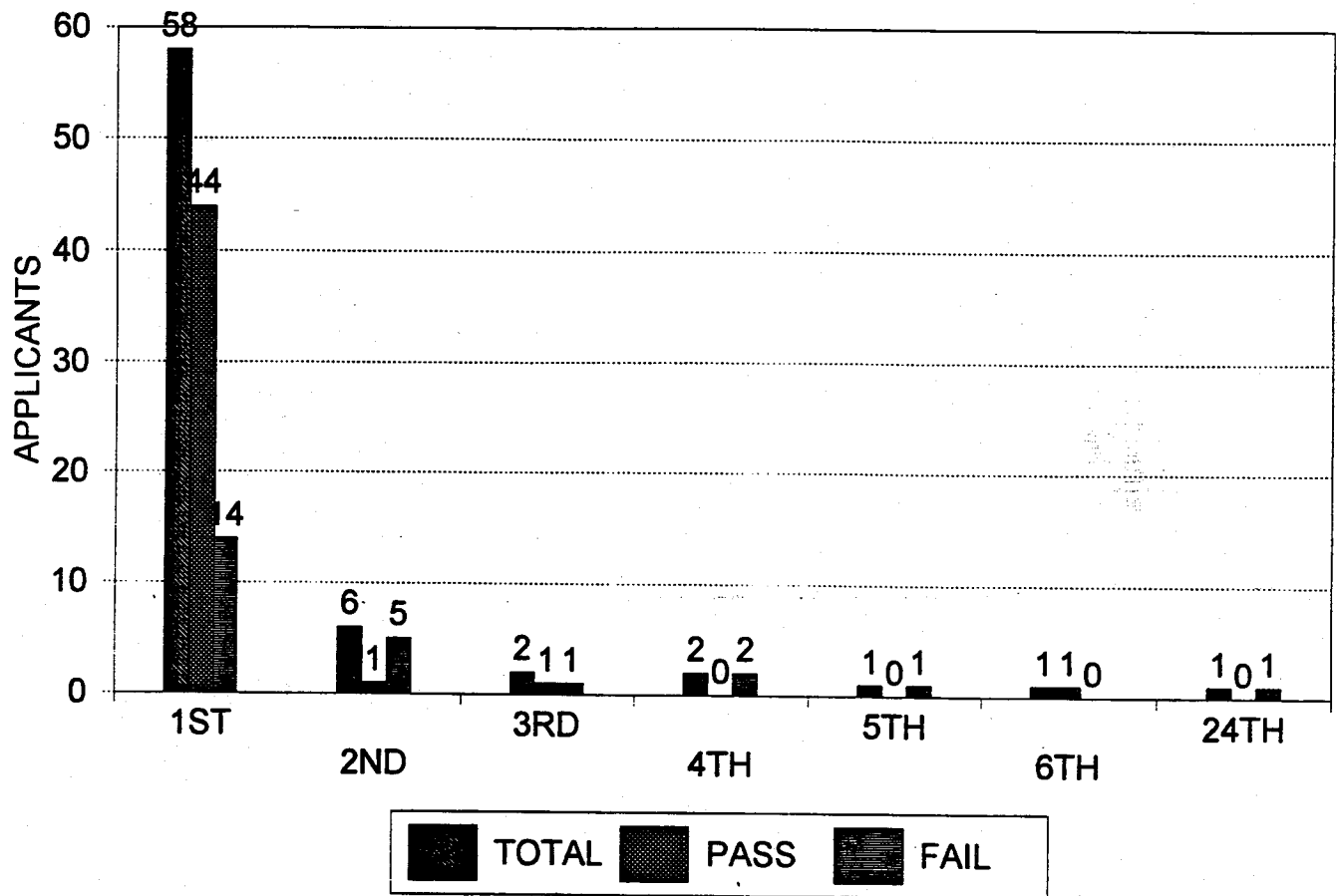
# JULY 1997

## PASS/FAIL RESULTS (PERCENT)



# JULY 1997

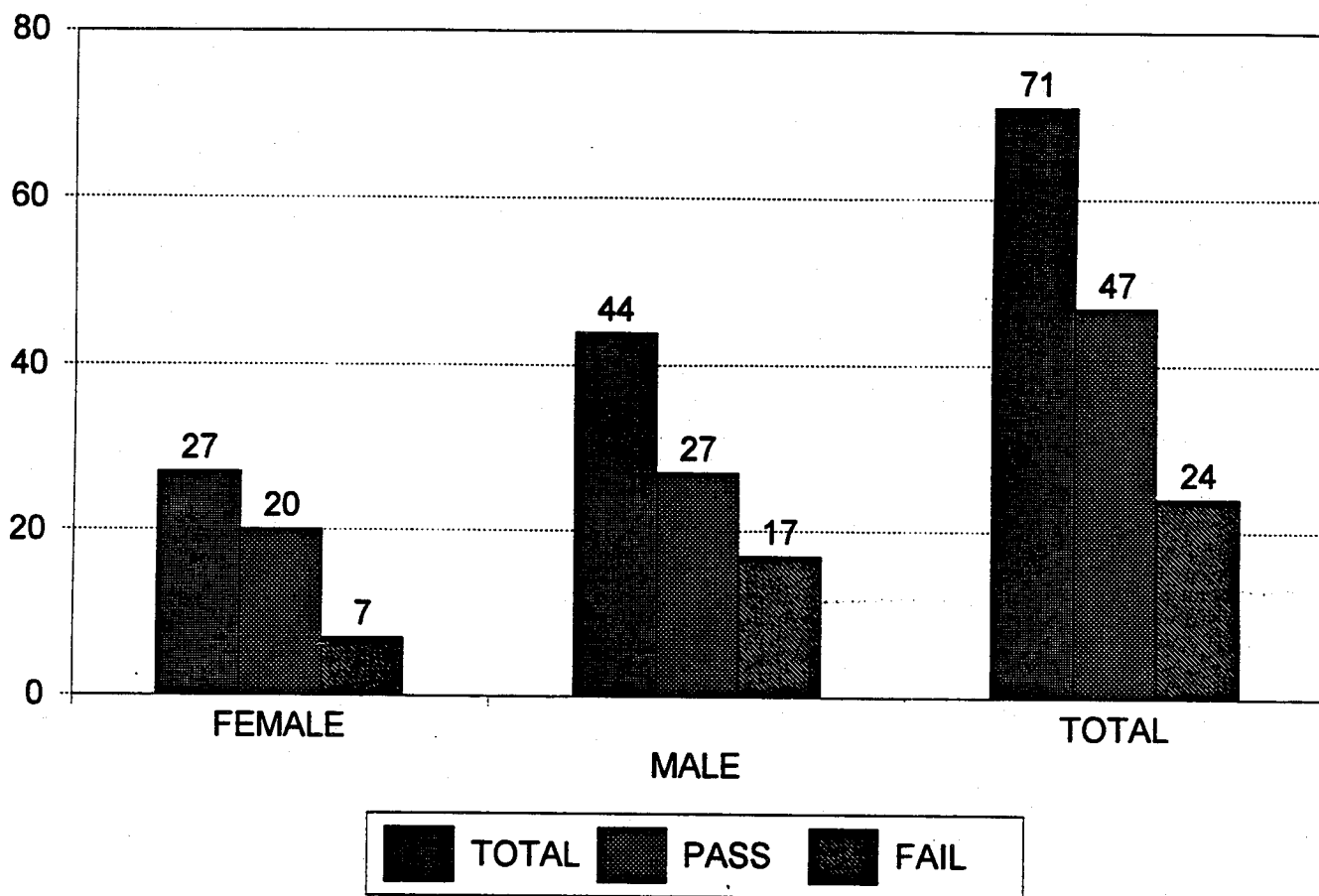
## TIMES TAKEN V. PASS/FAIL



Pass rate for 1st. time takers: 76%

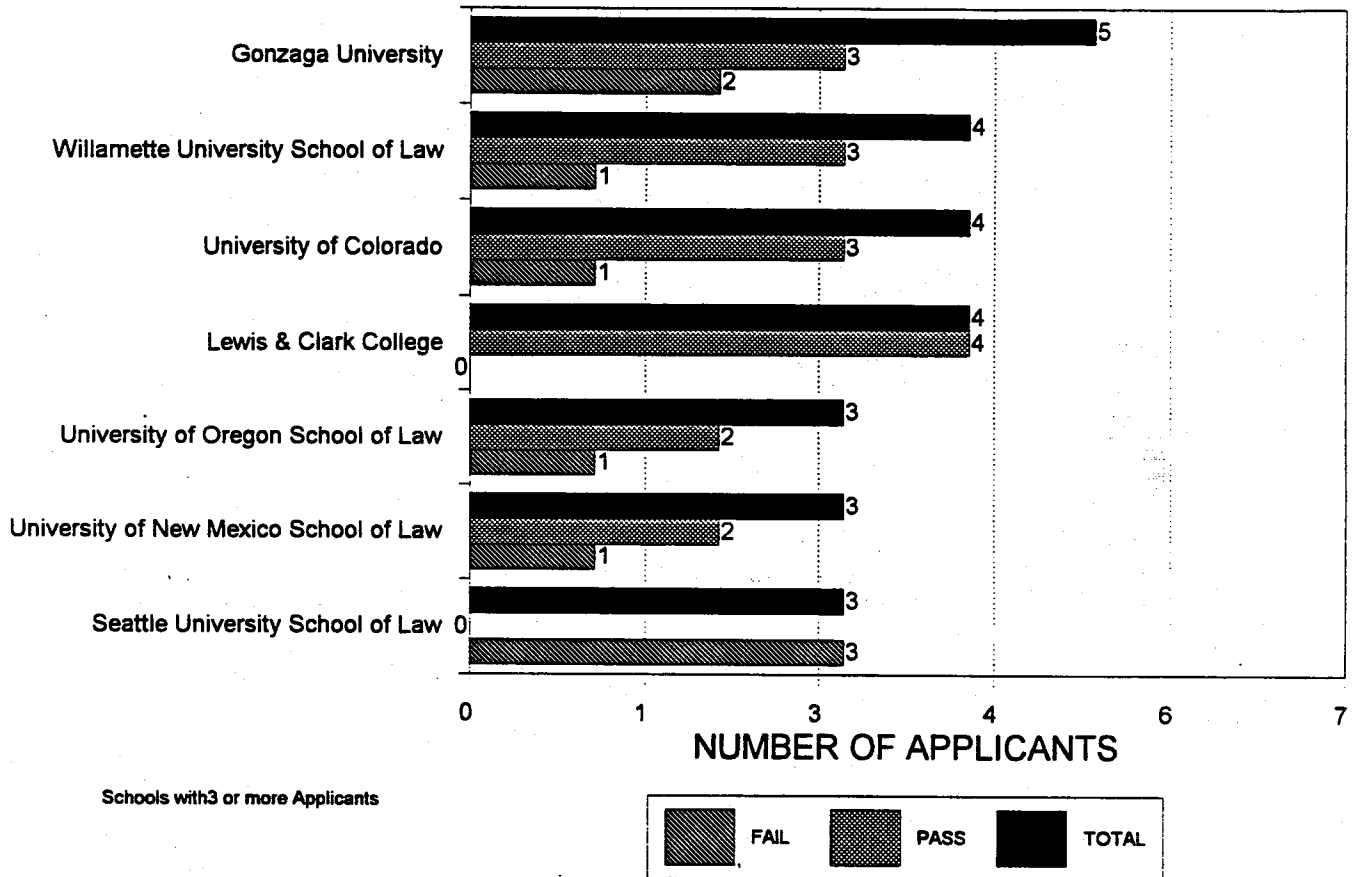
# JULY 1997

## GENDER V. PASS/FAIL (NUMBER)



# JULY 1997

## LAW SCHOOLS V. PASS/FAIL



JULY 1997

LAW SCHOOLS VS. PASS/FAIL RESULTS

Report Date: 10/09/97

T TOTAL  
P PASSED  
F FAILED

	0	3	5	8	10	13	15
	+-----+-----+-----+-----+-----+-----+-----+						
	I						
	I						
Brigham Young University	IT	1					
	IP	1					
	I	0					
	I						
	I						
Cornell Law School	IT	1					
	IP	1					
	I	0					
	I						
	I						
Duquesne University School of Law	IT	1					
	I	0					
	IF	1					
	I						
	I						
George Washington Law School	IT	1					
	I	0					
	IF	1					
	I						
	I						
Georgetown University	ITTT	2					
	IPPP	2					
	I	0					
	I						
	I						
Gonzaga University	ITTTTTTTTT					5	
	IPPPPP		3				
	IFFF	2					
	I						
	I						
Harvard University Law School	ITTT	2					
	IPPP	2					
	I	0					
	I						
	I						
Lewis & Clark College	ITTTTTTT					4	
	IPPPPPP					4	
	I	0					
	I						
	I						
Northeastern University School of Law	ITTT	2					
	I	0					
	IFFF	2					



Ohio Northern University

I  
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IT 1  
I 0  
IF 1

Rutgers University School of Law

I  
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IT 1  
I 0  
IF 1

Seattle University School of Law

I  
I  
ITTTTT 3  
I 0  
IFFFFF 3

Southern Illinois University Law School

I  
I  
IT 1  
IP 1  
I 0

Suffolk University School of Law

I  
I  
ITTT 2  
IPPP 2  
I 0

Syracuse University College of Law

I  
I  
IT 1  
I 0  
IF 1

T.C. Williams School of Law

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IT 1  
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IF 1

Temple University School of Law

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IT 1  
IP 1  
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The John Marshall Law School

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IT 1  
I 0  
IF 1

Thomas M. Cooley Law School

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ITTT 2  
IPPP 2  
I 0

Tulane University

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IT 1  
I 0  
IF 1

University of California, Berkley

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IT 1  
IP 1  
I 0

University of California, Davis

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IT 1  
IP 1  
I 0  
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University of California, Hastings

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IT 1  
IP 1  
I 0  
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University of Chicago Law School

IT 1  
IP 1  
I 0  
I  
I

University of Colorado

ITTTTTTT 4  
IPPPPP 3  
IF 1  
I  
I

University of Denver College of Law

ITTT 2  
IPPP 2  
I 0  
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University of Idaho

ITTT 2  
IP 1  
IF 1  
I  
I

University of Michigan School of Law

IT 1  
IP 1  
I 0  
I  
I

University of Minnesota Law School

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

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

IT 1  
IP 1  
I 0  
I  
I

University of Montana School of Law

IT 1  
IP 1  
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University of New Mexico School of Law

ITTTTT 3  
IPPP 2  
IF 1

University of North Dakota	I I IT 1 IP 1 I 0 I I	
University of Oregon School of Law	ITTTTT IPPP IF 1 I I	3 2
University of Santa Clara	IT 1 I 0 IF 1 I I	
University of Texas School of Law	IT 1 IP 1 I 0 I I	
University of Utah College of Law	IT 1 I 0 IF 1 I I	
University of Virginia School of Law	IT 1 IP 1 I 0 I I	
University of Wyoming	IT 1 I 0 IF 1 I I	
Vanderbilt University School of Law	IT 1 IP 1 I 0 I I	
Vermont Law School	ITTT IPPP I 0 I I	2 2
Walter George Law School	IT 1 I 0 IF 1 I I	
Willamette University School of Law	ITTTTTTT IPPPPP IF 1	4 3
TOTAL SCHOOLS	<u>44</u>	



# **Appendix 2**



(NV) denotes No Video

Program #, Date & CLE Credits	Program Title	Program Location	In Cooperation With	Section
#23 Various Dates 6.5 CLEs Full Day	Managing Partner Workshop (NV)	Various Sites Alaska	Hildebrandt Institute	
#21 January 13 7.5 CLEs Full Day	Construction Industry Arbitrator Training Workshop (NV)	Anchorage	AAA	
#03 January 23 2.0 CLE Credits Early Morning	Practical Technology Solutions for the Small Law Office	Anchorage Hotel Captain Cook		Family LPM
#15 February 7 2.0 CLE Credits Early Morning	Breakfast with Bar Counsel	Anchorage Hotel Captain Cook		
#04 February 21 5.25 CLE Credits AM 2.75/PM 2.5 Full Day	1997 Probate in Alaska (NV)	Fairbanks Regency Hotel		Estate Planning & Probate

#01 February 27 - 28 Feb 27 - 3.0 CLEs Feb 28 - 3.5 CLEs Half Days/Mornings	Doing Business with Big Brother: Problems & Procedures in Administrative Law	Anchorage Hotel Captain Cook		Administrative
#02 March 4 7.75 CLE Credits Full Day	Co-Management In Alaska: A Viable Alternative to Dual Management Under ANILCA?	Anchorage Hotel Captain Cook		AK Native Law
#14 March 6-7 12.0 CLE Credits Full Days	33rd Annual Non-Profit Legal & Tax Issues Symposium (NV)	Washington, DC Marriott Hotel	OMI	
#88 March 6 3.0 CLE Credits Morning	Mandatory Ethics for Applicants	Anchorage Hotel Captain Cook		
#16 March 7 CANCELLED	Off the Record - JUNEAU (tentative) (NV)	Juneau TBA		
#30 March 7 2.75 CLE Credits	Off the Record - KENAI (NV)	Kenai Courthouse Grand Jury Room	Kenai Bar Association	
#22 March 14-15 12.0 CLE Credits Two Full Days	The Fundamentals of Prosecuting a Brain Damage Case (NV)	Anchorage Sheraton Hotel	Alaska Action Trust	
#18 March 15 3.0 CLE Credits Morning	Immigration Law for Consuls (NV)	Anchorage Elmendorf AFB		Immigration



#17 March 20 2.0 CLE Credits Morning	Proposed Regulations for Contaminated Cleanup Sites	Anchorage Hotel Captain Cook		Env./Natl. Res. Law and Alaska Native Law
#28 March 25 4.25 CLE Credits	Do the Right Thing (NV)	Anchorage Hilton Hotel	Rotary Club and NBA	
#04 March 26 5.25 CLE Credits AM 2.75/PM 2.5 Full Day	1997 Probate in Alaska	Anchorage Hotel Captain Cook		Estate Planning & Probate
#09 April 3 3.5 CLE Credits Morning	Malpractice in a Bombshell: Simple & Practical Disarming Techniques	Anchorage Hotel Captain Cook	ALPS	
#27 April 9-12 32 CLE Credits	International Law Conference (NV)	Washington, DC Hilton Hotel	American Society of International Law	
#88 April 11 CANCELLED	Mandatory Ethics for Applicants (NV)	Juneau Centennial Hall		
#05 April 11 CANCELLED	Defense & Prosecution of Environmental Crimes in Alaska	Anchorage Hotel Captain Cook		
#13 April 16 2.75 CLE Credits Morning	Negotiating Employment Law Settlements	Anchorage Hotel Captain Cook		Employment/ ADR
#88 April 18 CANCELLED	Mandatory Ethics for Applicants (NV)	Fairbanks Regency Hotel		

#31 May 8 5.75 CLE Credits Full Day	Confidentiality of Medical Records (NV)	Anchorage Sheraton Hotel	Medical Education Services	
#701 May 8 Convention CLE 3.0 CLE Credits	Politics, Public Policy & the Law	Juneau Centennial Hall		CONVENTION
#702 May 8 Convention CLE No CLE Credits	State of the Judiciaries Address	Juneau Centennial Hall		CONVENTION
#703 May 8 Convention CLE 1.75 CLE Credits	Alaska Appellate Decisions Update (T. Newman)	Juneau Centennial Hall		CONVENTION
#33 May 9-10 11.25 CLE Credits	Litigator's Conference	Girdwood Alyeska Prince Hotel	ATLA	
#704 May 9 Convention CLE 3.25 CLE Credits	U.S. Supreme Court Decisions Update (P. Arenella & E. Chernerinsky)	Juneau Centennial Hall		CONVENTION
#705 May 9 Convention CLE 2.0 CLE Credits	Beyond the Mainstream: Cross-Cultural Communication	Juneau Centennial Hall		CONVENTION
#706 May 10 Convention CLE 4.5 CLE Credits	Voir Dire: The Phil Donahue Approach to Jury Selection	Juneau Centennial Hall		CONVENTION

#35 May 19 4.25 CLE Credits Mid Day	Anchorage Estate Planning Council Lunch Meeting	Anchorage Hotel Captain Cook	Anchorage Estate Planning Council	
#08 June 5 3.75 CLE Credits Morning	4th Annual Workers' Comp Update	Anchorage Hotel Captain Cook		Employment
#26 June 13 2.75 CLE Credits Each AM: Private Attyns PM: Public Attyns	Conflicts of Interest: What You Don't See Will Hurt You	Anchorage Hotel Captain Cook		
#52 June 13-14 1.25 CLE Credits	How to Get a Divorce Without Really Crying (For Love or Money)	New Jersey	American Inns of Court National Conference	
#12 June 27 2.0 CLE Credits Early Morning	Off the Record with the Alaska Supreme Court (NV)	Anchorage Hotel Captain Cook		
#36 July 17 2.0 CLE Credits Early Evening	Off the Record with the 9th Circuit Court of Appeals (NV)	Anchorage Museum of History & Art Auditorium	US District Court	
#29 August 7 1.5 CLE Credits	7 Malpractice Traps in Handling Federal Divorces	Anchorage Hotel Captain Cook		Family Law
#25 September 12 5.5 CLE Credits Full Day	Mediation in Business Disputes: How It Works & How to Prepare	Anchorage Hotel Captain Cook		ADR

#37 September 19 6.0 CLE Credits Full Day	Medicaid Planning & Long Term Care in Alaska (NV)	Anchorage Regal Alaska Hotel		
#43 September 19-20 9/19: 5.75 CLEs 9/20: 6.0 CLEs Both Days: 11.75	Advanced Interviewing Techniques	Anchorage Day's Inn	AIA	
#88 September 22 3.0 CLE credits Morning	Mandatory Ethics for Applicants (NV)	Juneau <u>Baranof Hotel</u>		
#10 September 22 3.0 CLE Credits Afternoon	Morgantown Civic Center Collapse: A Case Study in Ethical Issues (NV)	Juneau <u>Baranof Hotel</u>	ALPS	
#88 September 24 3.0 CLE Credits Morning	Mandatory Ethics for Applicants	Anchorage <u>Egan Convention Center</u>		
#10 September 24 3.0 CLE Credits Afternoon	Morgantown Civic Center Collapse: A Case Study in Ethical Issues	Anchorage <u>Egan Convention Center</u>	ALPS	
#34 September 26 4.75 CLE Credits Half Day	National Trends in the Representation of Troubled Debtors	Anchorage Hotel Captain Cook		Bankruptcy
#88 September 26 3.0 CLE Credits Morning	Mandatory Ethics for Applicants (NV)	Fairbanks Regency Hotel		

#10 September 26 3.0 CLE Credits Afternoon	Morgantown Civic Center Collapse: A Case Study in Ethical Issues (NV)	Fairbanks Regency Hotel	ALPS	
#53 September 26-7 14.0 CLE Credits 2 Full Days	Trying Cases to Win	Seattle	University of Washington	
#32 Oct. & Nov. 18.75 CLEs Various Times	Utility Finance & Accounting for Attorneys (NV)	Lower-48 Various Locations	Financial Accounting Institute	
#24 October 3 2.75 CLE Credits Half Day	Sexual Harassment: Where Do You Draw the Line in the Workplace?	Anchorage Hotel Captain Cook	Gender Equality Task Force & AK Assn. of Legal Administrators	Employment Law Section
#39 October 3-4 7.5 CLE Credits Two Days	NCMIC Defense Counsel Seminar (NV)	Chicago, IL		
#47 October 6 - 8 11.25 CLEs	United Food & Commercial Workers International Union Attorney's Conference	Nantucket, MA	UFCW	
#38 October 9 3.75 CLE Credits Half Day	Limited Liability Vehicles	Anchorage Hotel Captain Cook		Estate Planning & Probate Law, Tax Law & Business Law

#11 October 21-22 7.25 CLEs 7.0 CLEs 2 Full Days	10th Annual Alaska Native Law Conference	Anchorage Hotel Captain Cook		AK Native Law & Env./Natl. Resources Law
#44 October 31 2.0 CLE Credits Afternoon	Computer Talk (NV)	Anchorage Hotel Captain Cook		Solo & Small Firms Law
#46 November 4 7.5 CLE Credits Full Day	Mine Safety & Health Act Overview and Compliance Update (NV)	Anchorage Sheraton Hotel	AK Miners Assn.	
#40 November 6 3.5 CLE Credits Half Day	Documents & Trends in Residential Transactions	Anchorage Hotel Captain Cook		Real Estate Law
#51 November 10-11 11.75 CLE Credits 2 Full Days	AMAA Annual Conference	Ketchikan Westmark Cape Fox Lodge	AMAA	
#49 November 14 7.0 CLE Credits Full Day	Depositions Seminar (NV)	Anchorage UAA Arts Building	AATL and UAA Justice Department	
#19 November 14 3.75 CLEs Morning	Child Sexual Abuse: What Family and Children's Lawyers Need to Know	Anchorage Hotel Captain Cook		Family Law
#50 December 4-6 8.5 CLE Credits	Winter Leadership Conference	Carlsbad, CA	American Bankruptcy Institute	

#44 December 5 POSTPONED	Immigration Update	Anchorage Hotel Captain Cook		Immigration Law
#07 December 11 1.0 CLE Credits Early Morning	Off the Record (NV)	Anchorage Hotel Captain Cook	Anchorage Bar Association	
#48 December 11 2.0 CLE Credits Morning	Fast Track Derailed!! How to Stay on the Train after the Demise of 16.1	Anchorage Hotel Captain Cook		
#45 December 16 POSTPONED	Tort Reform	Anchorage Hotel Captain Cook		

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# **Appendix 3**



APBP SUMMARY AS OF DECEMBER 31, 1997

City	Available Attorneys	Registered in 1996	Registered in 1997	Plus/ (Minus)	1991	1992	1993	1994	1995	1996	1997	Cases Pending
Haines	1	1	1	0	12	1		1		2		7
Juneau	158	93	91	(2)	86	86	124	44	92	82	69	59
Ketchikan	24	21	21	0	10	9	10	7	8	12	7	7
Petersburg	3	2	2	0								2
Sitka	12	9	10	1	1	4	5	3	4	2	3	7
Wrangell	3	2	2	0					1			2
Barrow	5	3	4	1				1	2		2	11
Kotzebue	0	0	0	0	1	6	3	1	3	5	3	9
Nome	6	5	5	0	7	9	13	5	11	10	6	18
Anchorage	1,161	617	617	0	957	842	804	802	814	895	888	96
Eagle River	5	2	3	1	3	1	1		3	3	1	7
Girdwood	3	0	3	3							5	2
Dillingham	2	2	1	(1)		4	3		1	1	2	5
Homer	11	9	9	0	13	44	24	49	39	41	38	10
King Salmon	1	1	1	0								1
Kodiak	17	13	14	1	24	46	57	42	51	34	41	6
Seward	2	1	1	0				1	6	1		0
Palmer	13	9	11	2	7	8	16	7	26	32	32	0
Soldotna/Kenai	24	18	20	2	9	12	27	10	5	7	15	25
Valdez	2	2	2	0		2	2		3	3		1
Wasilla	14	10	10	0	32	41	28	10	26	52	42	17
Bethel	11	10	9	(1)	6	3	10	6	11	11	8	15
Fairbanks	147	90	91	1	158	294	164	125	78	68	93	90
Out of State		29	29	0	4	8	5	5	9	8	10	14
Totals	1,625	949	957	8	1330	1420	1296	1119	1193	1269	1265	411

Other Volunteers

Doctors	124
Court Reporters	81
CPA's	11
Private Investigators	11
Paralegals	23
Others	29



# **Appendix 4**





Daniel, Hewko  
& Tharp

*Certified Public Accountants • A Professional Corporation*

Report of Independent Certified Public Accountants

Board of Governors  
Alaska Bar Association

We have audited the accompanying statements of 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, 1997, and the related statements of activities, functional expenses, and cash flows 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, 1997, and the changes in net assets and cash flows for the year then ended in conformity with generally accepted accounting principles.

*Daniel, Hewko & Tharp*

Anchorage, Alaska  
February 17, 1998

**ALASKA BAR ASSOCIATION**  
**STATEMENT OF FINANCIAL POSITION**  
**December 31, 1997**

<b>ASSETS</b>	<b><u>General Fund</u></b>	<b><u>Lawyers' Fund for Client Protection</u></b>	<b><u>Court System Library Fund</u></b>	<b><u>Total All Funds</u></b>
<b>CURRENT ASSETS</b>				
Cash	\$ 594,134	\$ 46,193	\$ 53,992	\$ 694,319
Investments (Note 2)	898,862	663,789	-	1,562,651
Accounts receivable	877,887	-	-	877,887
Accrued interest receivable	15,255	4,127	-	19,382
Due from general fund	-	30,500	-	30,500
Prepaid expenses	<u>49,902</u>	<u>-</u>	<u>-</u>	<u>49,902</u>
<b>Total current assets</b>	<b><u>2,436,040</u></b>	<b><u>744,609</u></b>	<b><u>53,992</u></b>	<b><u>3,234,641</u></b>
<b>PROPERTY AND EQUIPMENT, at cost</b>				
Video tape library and equipment	5,485	-	-	5,485
Office furniture, equipment and lease- hold improvements	575,875	-	-	575,875
Historical artifacts	<u>3,750</u>	<u>-</u>	<u>-</u>	<u>3,750</u>
	585,110	-	-	585,110
Less accumulated depreciation and amortization	<u>(356,187)</u>	<u>-</u>	<u>-</u>	<u>(356,187)</u>
	<u>228,923</u>	<u>-</u>	<u>-</u>	<u>228,923</u>
	<b><u>\$2,664,963</u></b>	<b><u>\$ 744,609</u></b>	<b><u>\$ 53,992</u></b>	<b><u>\$3,463,564</u></b>



LIABILITIES AND NET 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 LIABILITIES</b>				
Accounts payable and accrued expenses	\$ 35,280	\$ -	\$ -	\$ 35,280
Due to Bar Foundation	3,420	-	-	3,420
Due to other funds	30,500	-	-	30,500
Unearned dues and fees	<u>1,288,696</u>	<u>26,530</u>	<u>-</u>	<u>1,315,226</u>
Total current liabilities	<u>1,357,896</u>	<u>26,530</u>	<u>-</u>	<u>1,384,426</u>
<b>COMMITMENTS (Note 4)</b>				
<b>CONTINGENCIES (Note 7)</b>				
<b>NET ASSETS</b>				
Unrestricted				
Designated by the Board of Governors for:				
Working capital	200,000	-	-	200,000
Asset acquisition	88,163	-	-	88,163
Undesignated	<u>1,015,154</u>	<u>718,079</u>	<u>53,992</u>	<u>1,787,225</u>
	1,303,317	718,079	53,992	2,075,388
Permanently restricted (Note 8)	<u>3,750</u>	<u>-</u>	<u>-</u>	<u>3,750</u>
	<u>1,307,067</u>	<u>718,079</u>	<u>53,992</u>	<u>2,079,138</u>
	<u>\$2,664,963</u>	<u>\$ 744,609</u>	<u>\$ 53,992</u>	<u>\$3,463,564</u>

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

# ALASKA BAR ASSOCIATION

## STATEMENT OF ACTIVITIES For the Year Ended December 31, 1997

	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>UNRESTRICTED NET ASSETS</b>				
<b>Revenue</b>				
Dues	\$1,275,333	\$ 30,299	\$ -	\$1,305,632
Admission fees	195,205	-	-	195,205
Share from copier	-	-	28,860	28,860
Continuing legal education	166,803	-	-	166,803
Lawyer referral fees	90,884	-	-	90,884
Annual meeting	33,552	-	-	33,552
Interest on investments	72,659	38,545	1,554	112,758
Other	<u>71,259</u>	<u>-</u>	<u>-</u>	<u>71,259</u>
<b>Total unrestricted revenue</b>	<u>1,905,695</u>	<u>68,844</u>	<u>30,414</u>	<u>2,004,953</u>
<b>Expenses</b>				
Admissions	162,834	-	-	162,834
Board of Governors	48,404	-	-	48,409
Discipline	543,504	-	-	543,502
Fee arbitration	44,883	-	-	44,880
Lawyer referral	51,735	-	-	51,735
Continuing legal education	308,663	-	-	308,664
Claims awarded	-	5,310	-	5,310
Administration	411,213	-	-	411,212
Annual meeting	57,484	-	-	57,484
Other	<u>112,705</u>	<u>150</u>	<u>23,196</u>	<u>136,051</u>
<b>Total expenses</b>	<u>1,741,425</u>	<u>5,460</u>	<u>23,196</u>	<u>1,770,081</u>
<b>Increase in unrestricted net assets</b>	<u>164,270</u>	<u>63,384</u>	<u>7,218</u>	<u>234,872</u>

(Continued)

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

# ALASKA BAR ASSOCIATION

## STATEMENT OF ACTIVITIES, Continued For the Year Ended December 31, 1997

	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>PERMANENTLY RESTRICTED NET ASSETS</b>				
Donated historical artifacts (Note 8)	<u>3,750</u>	<u>-</u>	<u>-</u>	<u>3,750</u>
Increase in permanently restricted net assets	<u>3,750</u>	<u>-</u>	<u>-</u>	<u>3,750</u>
Increase in net assets	<u>168,020</u>	<u>63,384</u>	<u>7,218</u>	<u>238,622</u>
Net assets, beginning of year	<u>1,139,047</u>	<u>654,695</u>	<u>46,774</u>	<u>1,840,516</u>
Net assets, end of year	<u>\$1,307,067</u>	<u>\$ 718,079</u>	<u>\$ 53,992</u>	<u>\$2,079,138</u>

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

# ALASKA BAR ASSOCIATION

## STATEMENT OF FUNCTIONAL EXPENSES

### GENERAL FUND EXPENSES

Year Ended December 31, 1997

	<u>Admissions</u>	<u>Board of Governors</u>	<u>Discipline</u>	<u>Fee Arbi- tration</u>
Salaries and related expenses	\$ 69,220	\$ -	\$ 403,910	\$ 31,885
Rent	20,667	350	47,043	4,694
Exam questions	6,000	-	-	-
Grading and review	22,435	-	-	-
Litigation support	634	-	5,587	-
Printing	-	530	-	-
Office supplies and expense	7,761	2,174	9,701	1,940
Telephone	1,285	1,288	2,803	481
Travel	-	19,245	6,275	-
Meeting expenses	-	13,769	-	-
Equipment lease	1,379	-	10,477	551
Postage	5,252	4,359	5,918	1,205
Copying	884	709	2,776	803
Accounting fees	-	-	-	-
Insurance	5,631	2,816	7,121	1,408
Repairs and maintenance	434	-	3,300	343
Depreciation and amortization	3,703	-	28,141	1,481
Advertising	-	-	-	-
Miscellaneous	17,549	3,164	10,452	23
Seminar costs	-	-	-	-
Newsletter	-	-	-	-
Committee expenses	-	-	-	69
Public relations	-	-	-	-
Duke/Alaska Law review	-	-	-	-
Annual meeting expense	-	-	-	-
Substantive law sections	-	-	-	-
Computer system training and installation	-	-	-	-
Foundation accounting services	-	-	-	-
	<u>\$ 162,834</u>	<u>\$ 48,404</u>	<u>\$ 543,504</u>	<u>\$ 44,883</u>

<u>Lawyer Referral</u>	<u>Continuing Education</u>	<u>Adminis- tration</u>	<u>Annual Meeting &amp; Other</u>	<u>Total</u>
\$ 28,766	\$ 109,838	\$ 243,082	\$ -	\$ 886,701
3,095	16,508	24,430	-	116,787
-	-	-	-	6,000
-	-	-	-	22,435
-	-	-	-	6,221
-	-	10,460	-	10,990
1,940	2,025	13,581	-	39,122
3,054	987	2,228	-	12,126
-	3,236	6,391	-	35,147
-	-	-	-	13,769
827	4,411	9,941	-	27,586
1,059	1,562	10,026	-	29,381
143	254	10,009	-	15,578
-	-	8,575	-	8,575
1,408	1,408	8,529	-	28,321
262	2,280	3,264	-	9,883
2,222	11,849	26,660	-	74,056
8,959	-	-	-	8,959
-	450	27,037	5,337	64,012
-	150,567	-	-	150,567
-	-	-	39,037	39,037
-	3,288	-	11,586	14,943
-	-	7,000	-	7,000
-	-	-	33,535	33,535
-	-	-	57,484	57,484
-	-	-	13,499	13,499
-	-	-	-	-
-	-	-	9,711	9,711
<u>\$ 51,735</u>	<u>\$ 308,663</u>	<u>\$ 411,213</u>	<u>\$ 170,189</u>	<u>\$1,741,425</u>

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

# ALASKA BAR ASSOCIATION

## STATEMENT OF CASH FLOWS For the Year Ended December 31, 1997

	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>				
Increase in unrestricted net assets	\$ 164,270	\$ 63,384	\$ 7,218	\$ 234,872
Adjustments to reconcile change in net assets to net cash:				
Depreciation and amortization	74,056	-	-	74,056
Amortization of premiums on investments	2,683	694	-	3,377
(Increase) decrease in operating assets:				
Accounts receivable	100,359	-	-	100,359
Accrued interest	1,146	1,074	-	2,220
Due from other funds	-	(3,920)	-	(3,920)
Prepaid expenses	(9,373)	-	-	(9,373)
Increase (decrease) in operating liabilities:				
Accounts payable and accrued expenses	7,701	-	-	7,701
Due to Bar Foundation	(988)	-	-	(988)
Due to other funds	4,120	-	-	4,120
Unearned dues and fees	<u>12,936</u>	<u>(50)</u>	<u>-</u>	<u>12,886</u>
Net cash provided by operating activities	<u>356,910</u>	<u>61,182</u>	<u>7,218</u>	<u>425,310</u>

(Continued)

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

# ALASKA BAR ASSOCIATION

## STATEMENT OF CASH FLOWS, Continued For the Year Ended December 31, 1997

	<u>General Fund</u>	<u>Lawyers' Fund for Client Protection</u>	<u>Court System Library Fund</u>	<u>Total All Funds</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>				
Change in short-term investments, net	(116,657)	(74,522)	-	(191,179)
Purchase of property and equipment	<u>(19,779)</u>	<u>-</u>	<u>-</u>	<u>(19,779)</u>
Net cash used by investing activities	<u>(136,436)</u>	<u>(74,522)</u>	<u>-</u>	<u>(210,958)</u>
Net increase (decrease) in cash and cash equivalents	220,474	(13,340)	7,218	214,352
Cash, beginning of period	<u>373,660</u>	<u>59,533</u>	<u>46,774</u>	<u>479,967</u>
Cash, end of period	<u>\$ 594,134</u>	<u>\$ 46,193</u>	<u>\$ 53,992</u>	<u>\$ 694,319</u>

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

## NOTES TO FINANCIAL STATEMENTS

### Note 1. Nature of Activities and Significant Accounting Policies

#### Nature of Activities:

The Alaska Bar Association's Board of Governors regulates the practice of law in the State of Alaska. The powers and duties of the Board are conferred by the Alaska Integrated Bar Act, the Alaska Bar Rules, and the Rules of Professional Conduct which are promulgated by the Alaska Supreme Court. The two primary functions of the Bar Association are the admission and discipline of its members. In addition, the Bar Association performs other functions including continuing legal education, lawyer referral service, and fee arbitration. The association is supported primarily through member dues, admission fees, continuing legal education programs, lawyer referral service fees, and interest income. The Association receives no public support.

The Alaska Bar Association maintains the Lawyers' Fund for Client Protection for the purpose of making reimbursements to clients who have incurred non-insured losses of money or property as a result of dishonest conduct by attorneys.

The Alaska Bar Association also maintains the Court System Library Fund under a cooperative agreement with the Alaska Court System and the Anchorage Bar Association to provide copying services in the Anchorage Law Library. The Court System's share of the copier revenues are utilized to purchase research materials and provide security services.

#### Investments:

The Association has invested funds in certificates of deposit in accordance with the investment policies established by the Board of Governors. It has been the Association's policy to hold these investments to maturity.

#### Property and Equipment:

Property and equipment is recorded at cost and is depreciated using the straight-line method which amortizes the cost of the assets evenly over their estimated useful lives.

(Continued)



# NOTES TO FINANCIAL STATEMENTS, Continued

## Note 1. Nature of Activities and Significant Accounting Policies, Continued

### Estimates:

The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect certain reported amounts and disclosures. Accordingly, actual results could differ from those estimates.

### Income Taxes:

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

### Cash and cash equivalents:

For purposes of the statement of cash flows, the Association considers all unrestricted highly liquid investment with an initial maturity of three months or less to be cash equivalents.

## Note 2. Investments

Statement of Financial Accounting Standards No. 124 requires that non-profit organizations carry investments in marketable securities and debt securities at their fair values in the statement of financial position. Investments, as described in Note 1, are presented in the statement of financial position in the aggregate at amortized cost which approximates market value at year end as follows:

	<u>Amortized Cost</u>	<u>Market Value</u>
General Fund	\$ 898,862	\$ 891,832
Lawyers' Fund for Client Protection	<u>663,789</u>	<u>659,952</u>
Total	<u>\$1,562,651</u>	<u>\$1,551,784</u>

The difference between amortized cost and market value of \$10,867 is not considered material to the financial statements.

(Continued)

NOTES TO FINANCIAL STATEMENTS, Continued

Note 3. Employee Pension Plan

The Association established an Employee Pension Plan in April 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 1997 totaled \$25,942.

Note 4. 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:

1998	112,673
1999	104,402
2000	104,402
2001	104,402
2002	104,402
Thereafter	<u>-</u>

Total future minimum  
lease payments \$ 530,281

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 1997 would be a decrease in expense of \$3,350.

Note 5. 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 January 1998 with the recommendation that the legislature extend the Board of Governors of the Alaska Bar Association until June 30, 2004.

(Continued)

NOTES TO FINANCIAL STATEMENTS, Continued

Note 6. Concentrations of Credit Risk Arising from Cash Deposits in Excess of Insured Limits

The organization maintains cash balances at several financial institutions located in Anchorage. Accounts at each bank are insured by the Federal Deposit Insurance Corporation up to \$100,000. At December 31, 1997, the organization's uninsured cash balances totaled \$172,551.

Note 7. Lawyers' Fund for Client Protection Contingencies

As of the date of the financial statements, the Lawyers' Fund for Client Protection had one case pending before the committee for a claim of \$500. In addition, the organization had received two applications for reimbursement totaling \$79,900 that had not yet been presented to the committee or Board of Governors for consideration of the claims.

Note 8. Permanently Restricted Net Assets

During 1997, the Association received a donation of historical artifacts which are to be displayed in the Alaska State Courthouse. These items are permanently restricted net assets and were determined to have a fair market value of \$3,750.



