The Alaska
BAR RAG

Dignitas, semper dignitas VOLUME 49, NO. 2 April - June, 2025

Alaska Bar Convention Well Attended in Anchorage

By Kara Bridge, CLE Director

Over 360 attendees gathered for the 2025 AK Bar Convention, which offered two and a half days of CLE sessions and social events. The convention provided ample opportunities to learn, connect and engage with fellow legal professionals.

One of the main highlights was the keynote address by Neal Katyal, "The Modern Supreme Court and the Rule of Law," which sparked insightful discussions on the judiciary's role in upholding justice.

We were excited to welcome back two popular speakers, Dean Erwin Chemerinsky and Professor Laurie Levenson, whose sessions on the U.S. Supreme Court Opinion Update and the Alaska Appellate Law Update are always well-attended and engaging.

At the Awards Reception, we celebrated the achievements of those who have made significant contributions to the legal community. The awards presented included the Bryan P. Timbers Pro Bono Awards, the Judge Nora Guinn Award, the Rabinowitz Public Service Award, and the Board of Governors Awards. Additionally, we recognized members who reached significant career milestones, honoring those with 25, 50 and 60 years of service.

Looking ahead, we are excited to announce that next year's convention will take place from April 29-May 1, 2026, in Juneau. We hope to see you there!

See more convention photos on pages 14-16.

Watch for Neal Katyal and Erwin Chemerinsky quotes scattered throughout this issue.

Retired Judge Stephanie Rhoades beams with joy as attendees offer a standing ovation during her acceptance of the Bryan P. Timbers Pro Bono Award for Lifetime Achievement. Photo by Michael Dinneen Photography

Alaska Lawyers Reflect on Iconic Mount Marathon Race

By Clarice Ruhlin-Hicks

As the days grow longer and summer draws closer, many Alaskans are preparing for the 2025 Mount Marathon Race, an event that takes competitors a thrilling 3.1 miles and 3,000 feet up the beautiful peak overlooking Seward – and then a brutal 3.1 miles and 3,000 feet back down to the finish line. Among them are more than a few attorneys, many of them seasoned professionals in this unique event. Held every Fourth of July, this year's race will be its 97th iteration, and many members of the Alaska Bar are as excited as ever about the adventure it brings.

For attorney Jim Shine, preparation is the key to being successful both as an athlete and lawyer. Shine has competed in the Mount Marathon event five times spanning from 2004 to his most recent race in 2018. Unfortunately, he will not be racing this summer. He and his family enjoy spending time outside when summer rolls around, and, as he says, "I unfortunately understand how punishing MMR can be, and family hikes do not necessarily prepare you for the intensity of that race!" Shine had an especially spectacular race in 2015, when he summited Mount Marathon on the heels of Coloradan Ricky Gates and Spaniard Kilian Jornet. He finished in third place with an incredible time of 43 minutes and 11 seconds. As the first Alaskan off the mountain, he was met with the deafening cheers of thousands of spectators as he ran the finishing stretch down Fourth Avenue.

The infectious energy of the crowd is part of what has kept attorney Kneeland Taylor coming back to Mount Marathon year after year. Taylor has completed the race an impressive 21 times. In his first race in 1977, he recalls badly spraining his ankle "showing off" near the finish line. He raced every year from 1977 to 2006 before taking a year off. He was back on the mountain in 2008, 2011 and every year from 2012 to 2019. Mount Marathon was canceled in 2020 due to COVID-19, but Taylor returned in 2021. His race that year came to a dramatic end as he sprinted across the line and went crashing to the pavement, fracturing his right femur. His plan was to race in 2022 as well, but a fall while biking led to a severely broken left hip, and he was forced to take the year off to recover. Now, at 77, Taylor says he wants to keep trying to do things that give him joy. This summer, Taylor plans to race in the Golden Racer division, a race option for competitors over 70 years of age.

Jim Shine sprints to the finish line. Photos provided by Jim Shine and Danielle Bailey.

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PRESIDENT'S COLUMN

New Bar President Provides Comment on Current Events

By Becca Patterson

Hello, I am your incoming President and I am honored to represent our State's legal community. I have dedicated my practice to supporting Tribal sovereignty and furthering Tribal self-governance. As a Board member, and now as your president, I am committed to engaging with Bar members to address your individual and collective needs.

In this column, I focus on a recent topic that has generated significant feedback from our membership—principally, actions targeting bar associations, lawyers (including specific law firms) and members of the judiciary.

Some public officials have suggested that certain legal rulings should be ignored, or that the judges who issued the rulings should even be impeached if the rulings disfavor the government. In response, Chief Justice John Roberts issued the following statement: "For more than two centuries, it has been established that impeachment is not an appropriate response to disagreement concerning a judicial decision. The normal appellate review process exists for that purpose."

The Board of Governors considered multiple requests from our members to issue a statement similar to the statement made by Chief Justice Roberts, and to deliberate upon other messages promulgated by various lawyers and bar associations with respect to the rule of law. This matter was placed on the Agenda for the Board's April 23rd meeting, which took place immediately before the Annual Convention.

Every Board packet starts with a reminder of the purposes of the Alaska Bar. Beyond regulating the practice of law, we must "facilitate the administration of justice." The Board does not believe this is an arbitrary or aspirational goal. Thus, as a Bar, we must be compelled to administer justice by reaffirming our core values. For instance, in the past, our standing committee on Fair and Impartial Courts publicly supported our judicial selection and retention system, and has taken "an official position to explain the rule of law, including the concept that judicial decisions should be made on the facts and the law, not on personal belief, political views or public pressure."

"With respect to the individual lawyer, the preamble to the Alaska Rules of Professional Conduct has a lot to say about the duties of lawyers . . . "

With respect to the individual lawyer, the preamble to the Alaska Rules of Professional Conduct has a lot to say about the duties of lawyers: "A lawyer should further the public's understanding of and confidence in the rule of law and the justice system because legal institutions in a constitutional democracy depend on popular participation and support to maintain their authority." It similarly states, "all lawyers should devote professional time and resources and use civic influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel." And it goes on to explain: "The legal profession is largely self-governing. . . . Self-regulation also helps maintain the legal profession's independence from government domination."

Similarly, the Comment to Alaska Rule of Professional Conduct 8.2 provides "To maintain the fair and independent administration of justices, lawyers are encouraged to continue traditional efforts to defend judges and courts unjustly criticized." Additionally, each member of the Alaska Bar must take the attorney oath, in which the attorney states, "I will strive to improve both the law and the administration of justice."

In light of these requirements and the feedback received from Bar members, on April 25, 2025, the Board of Governors released this statement, which was read aloud during our Annual Business Meeting:

As the preamble of the Alaska Rules of Professional conduct explains, "An independent legal profession is an important force in preserving government under law, for abuse of legal authority is more readily challenged by a profession whose members are not dependent on government for the right to practice." Each and every Alaska attorney took an oath to support the Constitution, to respect courts of justice and judicial officers, and to uphold the honor and dignity of the legal profession. As a Board of Governors, we also must fulfill the purposes of our Bar Association, which include to regulate the practice of law and to facilitate the administration of justice. The Board wholeheartedly supports, and reaffirms our belief in, the Rule of Law and the independence of the legal profession and our courts, and we reject efforts to intimidate or sanction lawyers for the advocacy efforts that lawyers have undertaken in fulfilling their sacred professional duties.

Thank you for your comments on this issue. As I hope you can see, we are listening, and we value the contributions of all our members as this dialogue continues. I look forward to carrying this message forward.

Rebecca (Becca) Patterson is the President of the Alaska Bar Association. She moved to Alaska in 2011 for a one-year clerkship, and, like many Alaska lawyers, never left. Becca did her undergraduate education at Washington University in St. Louis, graduating in 2007; worked briefly for the Legal Assistance Foundation of Metropolitan Chicago; and then attended Harvard Law School, graduating in 2011. She moved to Alaska to clerk for then-Chief Justice Bud Carpeneti, followed by a clerkship with U.S. District Court Judge Sharon Gleason. She has been a partner at the Sonosky Law Firm since 2017. When not at work, she enjoys running, skiing, hiking and exploring the outdoors with her husband, three children and friends.

American College of Trial Lawyers (ACTL) fellows Jeff Barber, Mike Moberly and Mike Schneider at Mr. Moberly's induction ceremony in Maui, Hawaii on March 9, 2025. ACTL is an organization of trial lawyers demonstrating high standards of trial advocacy, ethical conduct, integrity, professionalism and collegiality. Photo and text provided by Jeff Barber.

The Alaska BAR RAG

The Alaska Bar Rag is published quarterly by the Alaska Bar Association, 840 K St., Suite 100, Anchorage, Alaska 99501 (272-7469).

Board of Governors meeting dates:

- **June 4, 2025**
- **August 21 & 22, 2025**
- **October 30 & 31, 2025**
- **January 22 & 23, 2026**
- **April 28 & 29, 2026**

Annual Convention and Annual Meeting (Juneau)
April 29-May 1, 2026

Publication Dates	Editorial Deadlines
March	Feb. 10
June	May 10
September	Aug. 10
December	Nov. 10

[Editor's Disclaimer: As with all *Bar Rag* articles, advertisements and letters, we do not vouch for, stand by, or support most of what we publish. Nor have we cleared any of this with either the FDA or the Department of Homeland Security (aka Interior Ministry). We sure as hell won't be responsible for your hurt feelings or misguided reliance on anything we publish or not]. TVF 2000

Law Firms Could Learn a Lesson from Alaska's Past

By Diane F. Vallentine

The decision by some of the nation's most prominent law firms, including Paul, Weiss and Skadden, Arps, to capitulate to the Trump administration rather than litigate the constitutionality of executive orders impairing their ability to represent clients in federal courts, reminded me how Alaska lawyers banded together to support Steve DeLisio in the 1980s.

Steve DeLisio, an attorney in private practice in Anchorage, was appointed to represent an indigent charged with sexual abuse of a minor. DeLisio refused the appointment, arguing, among other things, that he had not handled a criminal case in 15 years so was incompetent to handle a criminal case, and that requiring him to represent a criminal defendant without reasonable compensation is a taking of private property for public use. DeLisio's appointment was confirmed by the Superior Court. He was ordered to start representation by a specified date or be jailed for contempt until such time as he undertook the representation. The Supreme Court stayed the contempt citation pending resolution of a motion for reconsideration. The contempt was reconfirmed and DeLisio appealed.[1]

By-and-large, attorneys in Alaska supported DeLisio. Local bar associations, law firms, and sole practitioners contributed funds to pay the law firm handling the appeal.

Ultimately, the Supreme Court held that a court appointment compelling an attorney to represent an indigent criminal defendant is a taking of property for which just compensation is required.

Looking back at how the attorneys and law firms in Alaska stood up to ensure that one of its own was not denied his constitutional rights, I'm shocked that law firms that have the experience and resources to fight unconstitutional orders would abandon their principles and those of the legal profession. I'm appalled that other law firms would take advantage of the firms impacted by the executive orders by attempting to poach attorneys and clients from those firms.

If attorneys in Alaska can band together to protect the constitutional rights of an Alaska attorney, it is imperative that the American Bar Association, state bar associations, and the most powerful law firms and attorneys in the country stand together to protect the legal profession and the rule of law.

Clients of the firms in question should consider whether those firms will zealously advocate for them in the face of adversity.

Footnote

1 DeLisio v. Alaska Superior Court, 740 P.2d 437, (AK. 1987)

The views expressed in this opinion piece are the writer's and are not necessarily endorsed by the Alaska Bar Association or the Bar Rag, which welcomes a broad range of viewpoints. To submit an opinion piece or other article for consideration, email info@alaskabar.org.

Bar Member is Dissatisfied with Board's Rule of Law Statement

By Paul Grant

I am writing to express my extreme dissatisfaction with the "Statement in Support of the Rule of Law" recently put out by the Board of Governors. As a piece of advocacy, it is entirely insufficient to meet the moment of peril that our democracy faces. Of course we are lawyers. Of course we support the rule of law. Please, please, say something that is not obvious and trite. The public deserves a better message from the legal profession.

An adequate statement would talk about what the rule of law actually means in real terms in this unprecedented moment. Lawyers must not make shit up. Lawyers must make arguments to the court that are based on real facts. Lawyers must not deliberately misstate legal precedent. Lawyers must obey court orders. If asked to behave unethically, lawyers must decline representation (as, apparently many in the Department of Justice have done). Lawyers must not facilitate kidnapping and rendition of citizens to the gulags of foreign nations without due process of law. Lawyers must not aid in the unlawful firing of federal employees without due process of law. If lawyers behave unethically, they should be disciplined. An adequate statement would name the perpetrators of these legal abuses that we read about every day: Donald Trump and his administration.

Our laws and constitutions only mean something when they protect real people in the real world. If you want to convince the public that we matter, then you need to make clear why we're the good guys. The "Statement" you issued just strokes our lawyerly egos without conveying anything meaningful to anyone.

The views expressed in this opinion piece are the writer's and are not necessarily endorsed by the Alaska Bar Association or the Bar Rag, which welcomes a broad range of viewpoints. To submit an opinion piece or other article for consideration, email info@alaskabar.org.

> *One of the most fascinating parts about Alaska opinions is that the Alaska Supreme Court continues to develop its own constitutional law, separate from federal constitutional law. In that way, it is a model for many other states.*
>
> . . .
>
> ***Quote from Erwin Chemerinsky's talk at the Alaska Bar Convention***

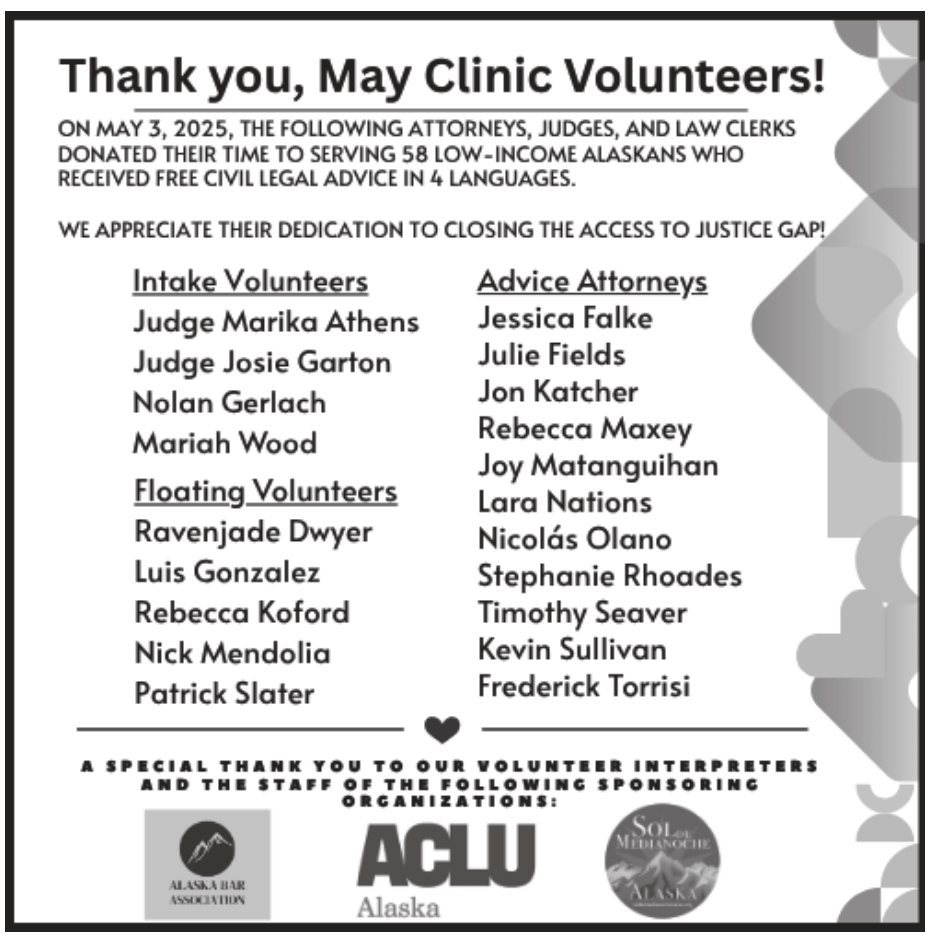
If you are aware of anyone within the Alaska legal community (lawyers, law office personnel, judges or courthouse employees) who suffers a sudden catastrophic loss due to an unexpected event, illness or injury, the Alaska Bar Association's SOLACE Program can likely assist that person in some meaningful way.

Contact the Alaska Bar Association or one of the following coordinators when you learn of a tragedy occurring to someone in your local legal community:

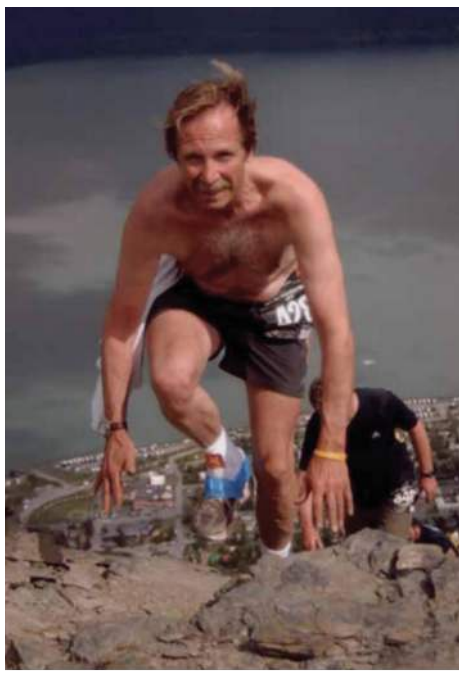
Mat-Su: Greg Parvin, gparvin@gparvinlaw.com
Anchorage: Stephanie Joannides, joannidesdisputeresolution@gmail.com

Through working with you and close friends of the family, the coordinator will help determine what would be the most appropriate expression of support. We do not solicit cash, but can assist with contributions of clothing, transportation, medical community contacts and referrals, and other possible solutions through the contacts of the Alaska Bar Association and its membership.

SOLACE Alaska

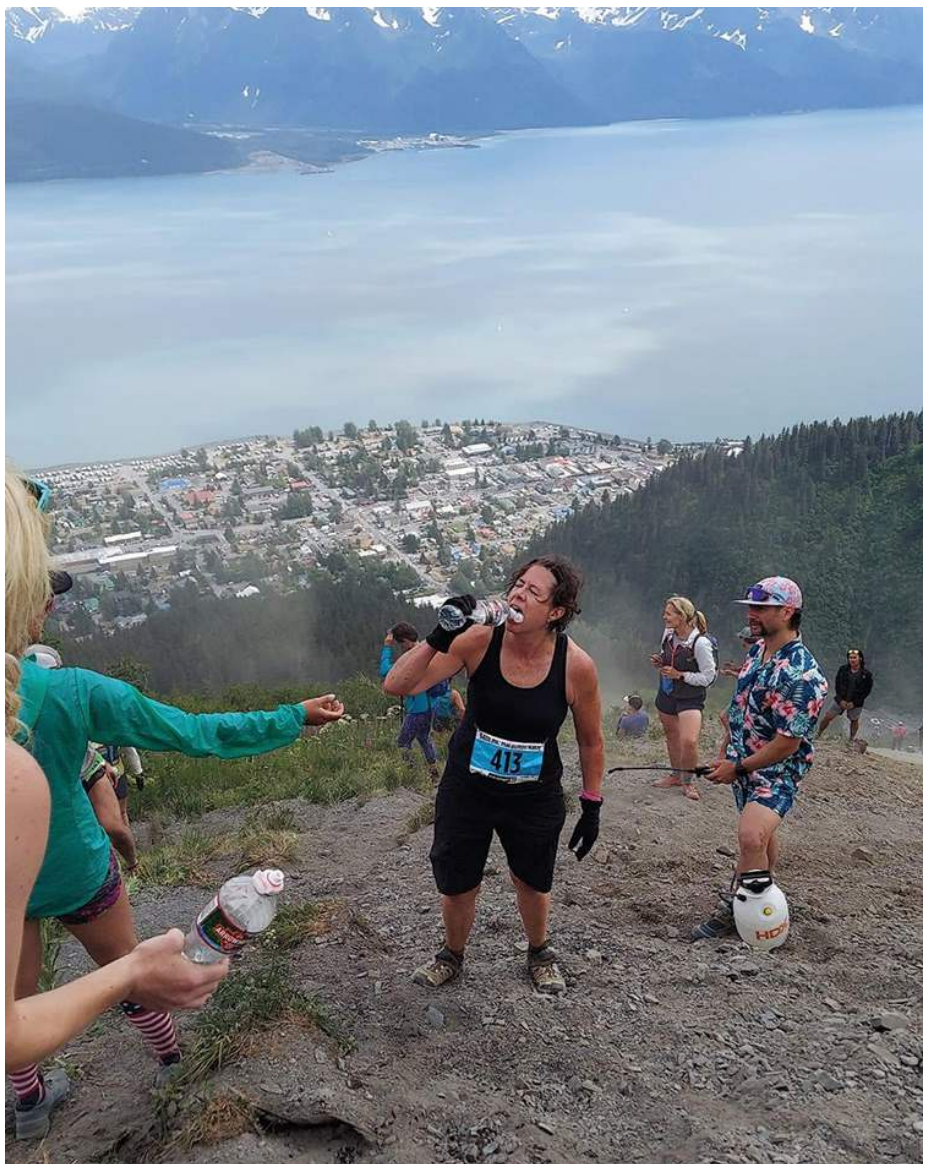


Alaska Lawyers Reflect on Iconic Mount Marathon Race



Kneeland Taylor near the top of Mount Marathon in 2021. Photo provided by Kneeland Taylor.

Tom Meacham as he heads for the finish line in one of his last Mount Marathon races. Photo provided by Tom Meacham.



Leslie Dickson pauses on her way up Mount Marathon. Photo provided by Danielle Bailey.

Continued from page 1

Gold Racers run up to the halfway point on the mountain and back down, and they must complete the race within 2 hours, 30 minutes to officially finish.

Attorney Tom Meacham ran his first Mount Marathon in 1980, and he has completed the race an incredible 36 non-consecutive times since then. He recalls, "A law clerk had run the Mount Marathon race, which I had not yet heard of, and he had returned skinned and scuffed up, with a tale of adventure. So, I decided to try it and became hooked." Meacham ran his first Mount Marathon in 1980 and "retired" from the mountain in 2021, with 34 full-length races and two Golden Racer events under his belt. Despite his extensive race experience, Meacham recalls the sense of naked fear that always accompanied him to the starting line, noting that no other race in his more than 55 years of running has generated such a feeling. While runners around the world carry memories of races finished, Mount Marathon leaves reminders in a way most other footraces don't - Meacham says he has permanent scars on both forearms from trying to slow down as he slid down the snow field just below the peak. He recalls heading to the finish line one year, scratched and muddied, carrying his fogged-up glasses in his hand. Meacham can attest to the fact that Mount Marathon is, as reputed, the toughest 5-kilometer race on the planet.

Attorney Mike Kramer was also drawn into the Mount Marathon event without knowing quite what to expect. He first raced in 2006 and competed in 2007 and from 2018 to 2024. He plans to race again this summer. He recalls, "Being from Fairbanks, Mount Marathon was never on my radar until a friend talked me into signing up. I didn't know what to expect, so I just stayed right behind the leader and did what they did until we neared the top, at which point I went to the lead." After the turn-around point, Kramer said his hopes of victory were quickly dashed as he was passed by several other competitors on the treacherous downhill portion of the race.

Unexpectedly, Kramer's professional and athletic spheres overlapped in a lawsuit involving the runner who went missing on the mountain in 2014. Kramer served as an expert witness on this case due to his knowledge of organizing adventure races.

Kramer now competes in the Mount Marathon race for the pure challenge of it. He also enjoys the chance to support his daughter, who has an impressive race record of her own, winning the junior Mount Marathon once and finishing second in the women's division last year.

Anchorage District Court Judge Leslie Dickson is another attorney who plans to race this Fourth of July. She is a devoted Mount Marathon participant and has raced 17 times - every year from 2006 to 2024, with 2020 the only exception. She says she has many stories or moments that stand out from racing, but that most of them would probably get her in trouble. While her job as a judge does not tend to overlap much with her Mount Marathon experiences, her busy work schedule does interfere with her hiking and training. "At this point," Judge Dickson says, "I'm just doing it to get a 20-year plaque."

The mountain clearly possesses some magnetism that pulls participants back year after year. Everett Billingslea has run Mount Marathon 42 times, competing nearly every year from 1980 to 2023. Everett is one of only six men who can say they have completed over 40 Mount Marathons, and he doesn't plan to miss a race anytime soon. When the race was cancelled in 2020, Everett Billingslea drove down to Seward and ran up the mountain anyway, earning him a hand embroidered Mount Marathon finisher patch from his daughter. The event is a family occasion for Everett Billingslea – his two adult daughters have never been anywhere but Seward on

Continued on page 5

Alaska Lawyers Reflect on Iconic Mount Marathon Race

Everett Billingslea holds his longevity award, which marks his 40-plus years of racing Mount Marathon. Photo provided by Everett Billingslea.

Susan Urig on Mount Marathon in a postcard spotted by her husband and a colleague at a store in Seward.

Continued from page 4

the Fourth of July, even though they live on the East Coast. One of Everett Billingslea's best race memories is toeing up to the starting line next to Kilian Jornet, one of the top mountain runners in the world. He says, "I think the race attracts people who have the willpower to grind through arduous and sometimes painful tasks," noting that this is something that can be helpful in the practice of law.

Mount Marathon clearly runs in the family, as Magistrate Judge Sidney Billingslea, Everett Billingslea's sister, is another racer with an impressive Mount Marathon resumé. She has completed the race 22 times spanning from 1979 to 2018. She doesn't plan to race this summer, but just like her brother, she retains a strong family connection to the mountain. Every Fourth of July, Everett and Sidney's 94-year-old mother holds a party for extended family and friends at her house in Soldotna. This year's guests will include friends from as far away as Ireland. Magistrate Billingslea knows that it takes hard work and determination to run Mount Marathon, and that competitors share a special bond. "We proudly bear our 3022 stickers on the car, maybe give a little chin or wave to others with them."

This sentiment is echoed by Susan Urig, who ran the race in 1984. She says, "The camaraderie of the entire Mount Marathon event and the feeling of being welcome and a worthy competitor by other racers, especially the men, … was welcoming and empowering." When she raced in 1984, she had never been up Mount Marathon or seen the route. Just before the start of the race, Tim Middleton, another Anchorage attorney and veteran racer, generously offered her gloves and tape to protect her hands and keep scree out of her running shoes. Susan's ascent of the racecourse went well, but on the descent, she encountered a sheer drop over a rock face longer than her stride. Seeing no other option, she stepped over the ledge and dropped down. Propelled by the momentum of the fall, she righted herself just in time to avoid tumbling down the lower portion of the mountain. She made it to the finish line with a respectable time. This year, Susan will be in Seward to cheer on her daughter as she races the mountain.

The list of attorneys who have raced Mount Marathon goes on. Andrew Steiner says his race was, "not fast, but awesome"; and Thomas Ballantine has a habit of hosting racers in his house and yard every Fourth of July. Many other attorneys and judges have completed Mount Marathon or plan to race for the first time this summer. It's perhaps not surprising that so many lawyers have competed in Mount Marathon. As Sidney Billingslea points out, "It's a real accomplishment to run the race. It may be why lawyers like it. Hard work and payoff and satisfaction and bragging rights. Something to be proud of."

Clarice grew up in Anchorage and studied Political Science at Western Washington University. After living in Washington, she returned to Anchorage, where she was the receptionist at the Alaska Bar Association.

ALASKA BAR ASSOCIATION

Membership Years

25 Years of Bar Membership *(2000-2025)*


Surasree Acharya


Jerry Anderson


David Arganian


Carole Barice


J. Adam Bartlett


William Beaver


Joanne Blackburn


Steven Bookman


Lyudmila Botchkareva


Diane Brewer


Raymond Bridges


Michelle Buhler


Michael Burke


Natalie Cale


Peter Carney


William Colbert

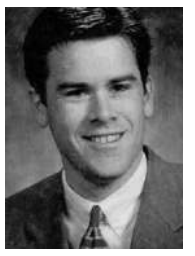

Eric Conard


Jeffrey Conrad


Judith Conte


Judith Crowell


Vincent Curry


John Dean


Laura Eakes


Bruce Edwards


Martin Engel


John Erickson


Lea Filippi


Cameron Fraser


Windy Hannaman


Dorne Hawxhurst


John Herrig


Jeffrey Holloway


Terry Horton


Gerald Hunt


Eric Jenkins


Carl Johnson


Shanna Johnston


Lee Jones


Charles Jordan


Mary Knack

John Knottnerus

Judy Kuipers

Karen Lambert

Thomas Larkin

Jeffrey Leppo

Rachel Levitt

Colleen Libbey

Daniel Libbey

Satrina Lord

John Lowndes

Olivia Mackin

Kristina Mason

Rebecca Maxey

Erin McCrum

Michael McDonough

Samuel Tye Menser

Peter Michaelson

Lisa Mock

Douglas Morrison

William Brendan Murphy

Mila Neubert

Heather Nobrega

Kara Nyquist

Duane Petersen

ALASKA BAR ASSOCIATION

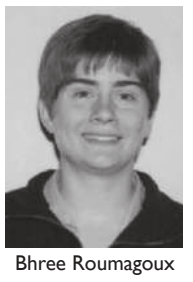
Membership Years

25 Years of Bar Membership *(2000-2025)*


Alicia Porter


Richard Postma


Peter Reckmeyer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Andrea Russell


Aaron Schutt


Krista Schwarting


Jean Seaton


Michael Shaffer


Kevin Smith


Steven Soha


Frank Spaulding


Nicholas Spiropoulos


Joseph Stacey


Daniel Sullivan


Maarten Vermaat


Katherine Voke


Corinne Vorenkamp


Clayton Walker


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Dayle Wallien


Timothy Ward


A. Cristina Weidner Tafs

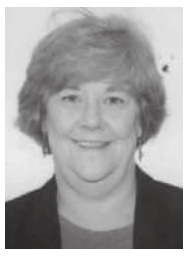

Steven Wells


John White


Daniel Winkelman


Jonathan Woodman


Isaac Zorea


Edie Zukauskas

Bar People

Larry B. Monsma Joins Landye Bennett Blumstein LLP

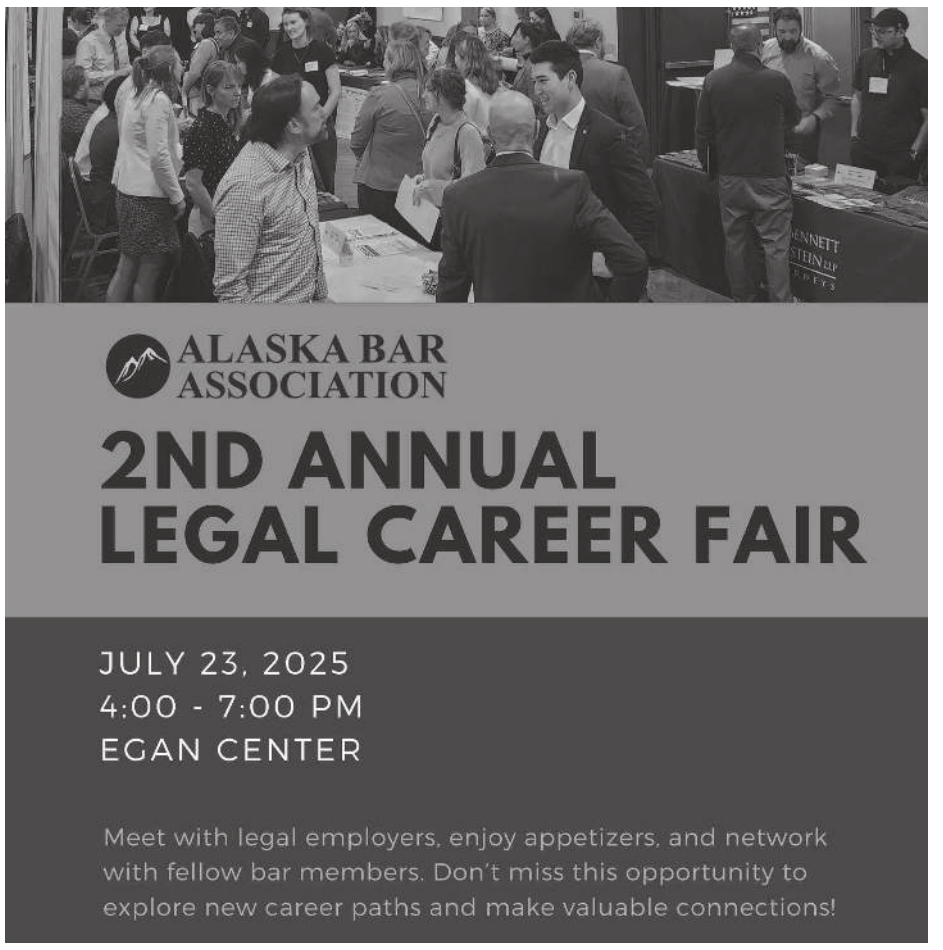

Larry Monsma

Landye Bennett Blumstein LLP is pleased to announce that Larry B. Monsma has joined the firm as an associate attorney. Larry's practice will focus on civil litigation, construction law, insurance litigation and liability defense.

Larry is an accomplished and seasoned trial litigator with over 20 years of courtroom experience, conducting over 150 criminal jury trials and delivering winning verdicts through well-planned, logical and compelling arguments. He brings a deep knowledge of trial preparation and advocacy in complex cases.

Larry earned a JD *with honors* from John F. Kennedy School of Law at National University, School of Law and a BS *with honors* in Criminal Justice from California State University, Long Beach. He has worked for the Alaska Attorney General's Office, the Municipality of Anchorage and county agencies across California.

At Landye Bennett Blumstein, we have built our practice around great lawyers who are leaders in their respective fields. We are pleased to welcome Larry to the firm and expand the high-quality legal services we offer to our clients and community.



ALASKA BAR ASSOCIATION

Membership Years

50 Years of Bar Membership *(1975-2025)*


Rita Allee


Ralph Beistline


Julius Brecht


Andrew Brown


James Cannon


Anne Carpeneti


David Case


Dan Coffey


Robert Collins

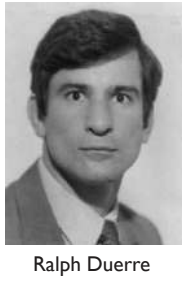

William Cook


Richard Crabtree


Peter Crosby


Beverly Cutler


Joseph Donohue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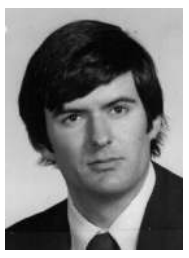
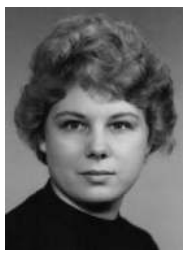
Stephen Ellis


Pamela Finley


Peter Galbraith


Mary Hughes


Ame Ivanov


George Kapolchok

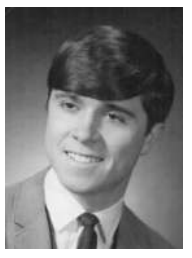

G. Rodney Kleedehn

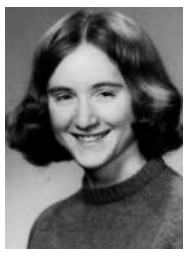

Jeffrey Lowenfels


Margie MacNeille


Julian Mason


Douglas Mertz


Dennis Mestas


Susan Miller


Martha Mills


Mark Moderow


Lance Parrish


T.W. Patch


Frank Pfiffner


Margaret Rawitz


William Reeves


Mark Sandberg


Eric Sanders


Ernest Schlereth


G. Charles Schmidt


Michael Schneider

Michael Sewright

Nancy Shaw

Connie J Sipe

Craig Smith

Kim Stohr

Timothy Stone

Richard Svobodny

J. P. Tangen

Kneeland Taylor

John Vacek

Thomas Waldock

David Walker

David Walsh

Dale Walther

Janis Williams

Nancy Williams

Mark Wood

Gary Zipkin

Congress has delegated its authority to Federal agencies. The agencies use their expertise in rulemaking and adjudication and the assumption has been that the Court should defer to that. The 6-person majority currently on the Supreme Court accepts none of those assumptions.

Quote from Erwin Chemerinsky's talk at the Alaska Bar Convention

ALASKA BAR ASSOCIATION

Membership Years

60 Years of Bar Membership (1965-2025)


Douglas Baily


Michael Briggs


R. Stanley Ditus


Theodore Fleischer


Jay Hodges


James Hornaday


Warren Matthews


Raymond Nesbett


James Powell


Thomas Schulz


Thomas Wardell


Roger Young

AK Bar CLE

Register @ www.alaskabar.org

Tuesday, June 10 | CLE SharedEd: Defeating Imposter Syndrome for Lawyers
9:00 – 10:00 a.m. | Shared CLE/Webinar | 1.0 General CLE Credit

Tuesday, June 10 | Clio: Trial Lawyer Summit
7:15 – 11:15 a.m. | Clio -Webinar | 2.25 General CLE Credits

Friday, June 13 | CLE SharedEd: Find and Use Historical Web Information with the Internet Archive Wayback Machine
11:00 a.m. – 12:00 p.m. | Shared CLE/Webinar | 1.0 General CLE Credit

Friday June 20 | CLE SharedEd: A Day in the Life: Practical Examples of Artificial Intelligence in Law Firms
9:00 – 10:00 a.m. | Shared CLE/Webinar | 1.0 General CLE Credit

Tuesday, June 24 | CLE SharedEd: How Secondary Trauma Affects Attorney Mental Health
9:00 – 10:00 a.m. | Shared CLE/Webinar | 1.0 Ethics Credit

Friday, June 27 | Ethics with Bar Counsel - Homer
TBD | In-person | 1.0 Ethics Credit

Monday, June 30 | CLE SharedEd: Elimination of Bias–Combating Age Bias in the Legal Field
9:00 – 10:00 a.m. | Shared CLE/Webinar | 1.0 Ethics Credit

Wednesday, July 2 | CLE SharedEd: The Yellowstone CLE: Can the Dutton Family Get Away with Murder?
9:00 – 10:00 a.m. | Shared CLE/Webinar | 1.0 General CLE Credit

Thursday, August 14 | Federal Bar Association – Alaska Chapter District Conference 2025
TBD | Marriott Downtown | TBD CLE credits

Wednesday, September 3 | OTR: Alaska Supreme Court
TBD | Supreme Court Courtroom – Boney Courthouse, 303 K Street, 5th Floor / Court Streaming | 1.0 General CLE Credit

Tuesday, September 16 | Aging & Mental Health
12:00 – 1:00 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Thursday, September 25 | Legal Writing and AI
12:00 – 1:00 p.m. | AK Bar Zoom | 1.0 General CLE Credit

For more CLE offerings, visit our Event calendar or our Video on Demand Catalog!

The Bar Stool: Advocacy and Story Craft

By Howard Trickey

The Bar Stool conjures up friendly conversations with colleagues sharing information and ideas. The column provides helpful tips and advice but doesn't aim to take itself too seriously.

Advocates can use elements of story craft to present what is compelling about their client's case. Advocates should make storytelling a priority in written and oral advocacy. An advocate cannot change the facts and chronology. An advocate needs to get the facts right. An advocate needs to stick to the truth. But, an advocate can do more than report the facts and summarize what happened. Just relating what happened is history. A compelling client story can include the story craft elements of plot, scene, structure and character.

A likeable client can help carry a case to a successful outcome. Clarence Darrow said, "The main work of a trial attorney is to make the jury like his client." Looking at how creative fiction and nonfiction writers develop characters can provide some useful insights for advocates. A focus on character development can go a long way to achieving Darrow's goal of making your client likable, credible and empathetic.

As advocates, we tend to be good at explaining what happened that precipitated a dispute. We piece together what happened as we investigate and conduct discovery in a case. We like to ask witnesses plot questions like, "What happened next?" But plot is what happens and is not the story. Creative writers recognize a difference between plot and a memorable story. The story is how what happens drives change, or not, in the main character. A character goes through a transformation. Advocates can think of their clients as the main character in the story.

In developing the main character in a story, the writer starts with a character who has a need or want. Better yet, a problem that needs fixing. Kurt Vonnegut once quipped, "The main character needs to want something, even if it's just a glass of water." What does the character want? What does the character need? What is the problem that needs fixing? What are the character's values? What are the character's beliefs? What are the obstacles that must be overcome for the character to get what they want or need? What are the obstacles in the way of fixing the problem? What are the stakes, if the character does not get what they want or need? What are the character's motivations? Ask your client these questions to develop the character traits that fit the actions and choices your client made in the case.

Like good stories, the cases we handle as advocates start with a client that has a problem or suffered harm. The problem or harm needs fixing. You can make your client likable and empathetic by telling how the client tried to proactively fix the problem by hard work. The client likely struggled to overcome obstacles that stood in the way of fixing the problem or harm. The obstacles created by the opposing party. Change will come as your client learns something new, overcomes obstacles, and in the process grows or becomes worse. The main character learns something universal in this transformation, like standing up for a cause, performing a duty, accepting responsibility, making a sacrifice, or enduring pain and suffering. Every case needs a theme, and if you develop how your client changed because of the case, you can find the main theme for your case. If you trust the process of developing character, the character's change and transformation will reveal the universal theme that makes the story compelling. Remember, your case will have a theme whether you develop it or not.

While developing the main character will make your client likable and empathetic, a story is memorable for what the client did. Early in my career, I stumbled across a weathered copy of Aristotle's *Poetics* in a used bookstore. Although written in the fourth century BC, *Poetics* is a manual for storytelling and character development. Aristotle observes that characters should be likeable and resourceful. A character's actions and choices should be consistent. A speech or action can reveal character. Aristotle wrote, "Now any speech or action that manifests moral purpose of any kind will be expressive of character: the character will be good if the purpose is good." (Aristotle, *Poetics*, Compass Circle, A Division of Garcia & Kitzinger, 2020, p. 43) You can make your client likable and empathetic by developing the character traits that motivated their actions and choices in the case. What are the client's values and beliefs that led to the action and choices in the case?

A compelling story needs structure. The three-act structure of beginning, middle and end is most common because it works. The beginning should have a hook or lead. The beginning is about connecting the reader to the main character. You want to convey that something is about to happen or is happening. The middle is about the confrontation with the obstacles and outside forces the main character must overcome to fix the problem or overcome the harm. There needs to be something at stake. The end should be strong and decisive about what needs to be done to fix the problem or repair the harm as the case is handed to the jury.

By drawing on the elements of story craft to tell a compelling story, I do not suggest you make your client's case more complex. An advocate must strive to make the messy facts, characters and legal claims add up to a simple, comprehensible story. You can use story craft elements to reduce the complex to the simple. I agree with the advice of Rick Friedman in "On Becoming a Trial Lawyer." In a short chapter on "More is Not Better," Friedman writes, "You must present a story that is easy to understand, consistent, believable and compelling." (Friedman, On Becoming a Trial Lawyer, Trial Guides, LLC, 2008, p. 89)

Just like good advocates, storytellers are self-made and self-educated. Think about the story craft element of character development as you prepare your next case.

Howard Trickey is a partner with the Schwabe law firm. For the past forty-nine years, he has represented public and private clients in trials, appeals, arbitrations, administrative hearings, and mediations. His cases involved employment and labor matters, commercial disputes, professional negligence, and injury cases.

Alaska Bar Association Awards Scholarships


Sahil Bathija


Jason Brune


Theodore Chau


Cindy Colbert


Jackson Gould


Micah Jones

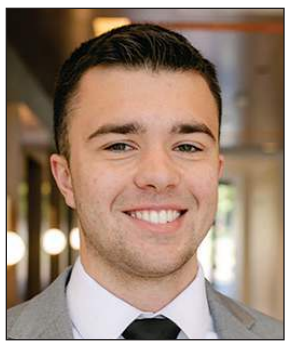

Maria Kling


Stefania Kristjansson


Hunter Mabry


Isaac Meline


Kirahy Meyers


Carter Moore


Aaron Oskolkoff


Patrick Schmidt


Joshua Schulze


David Song


Shenjie "Sandra" Song

In the 1980s, the Alaska Bar Association offered a scholarship program for Alaskans who were first- and second-year law students and intended to return to Alaska after law school graduation. Alaska has no law schools, so the cost of a legal education for Alaskans is even more expensive because of travel, housing and out-of-state tuition costs. Law students today face a much larger financial burden than most seasoned practitioners did when they were in law school 30 years ago. Unfortunately, the Bar's scholarship program was discontinued long ago. In 2018, however, the Board of Governors voted to implement a new scholarship program.

The scholarship program works as follows: The Bar Association created a special fund managed by the Alaska Bar Foundation, a 501(c)(3) organization. Donations to the fund are therefore tax-deductible. Interested first- and second-year law students are required to submit an application and a one-page essay about why they want to come back to Alaska and practice law here. The Bar's Scholarship Committee may request proof of residency and law school enrollment to verify applicant eligibility requirements.

The Scholarship Committee met in April to review applications and announce the scholarship recipients. The Bar received a total of $29,300 in generous donations. All funds received were applied to this year's scholarship program. After reviewing all applicants' ties to Alaska, their intent to return to Alaska, and their reason for applying for the scholarship, the Scholarship Committee decided to award the following scholarships:

- **$3,700 Scholarship awarded to:**
  - Sahil Bathija
  - Cindy Colbert
  - Maria Kling
  - Stefania Kristjansson
- **$2,000 Scholarships awarded to:**
  - Theodore Chau
  - Hunter Mabry
  - David Song
- **$1,350 Scholarships awarded to:**
  - Jason Brune
  - Jackson Gould
  - Micah Jones
  - Carter Moore
  - Aaron Oskolkoff
  - Patrick Schmidt
- **$100 Scholarships awarded to:**
  - Isaac Meline
  - Kirahy Meyers
  - Joshua Schulze
  - Shenjie "Sandra" Song

"I think now the justices have to have a conversation among themselves about institutional legitimacy.

. . .

Highlight from Neal Katyal's keynote address

The Alaska Bar Association would like to thank all of the 2025 scholarship donors:

- **$2,000 and over**
  - Clifford J. Groh Sr. & Lucy W. Groh Memorial Fund
  - Landye Bennett Blumstein LLP
- **$1,000-$1,999**
  - Ballard Spahr LLP
  - Dickson, Leslie
  - Robinson, Jeffrey
  - Schwabe, Williamson & Wyatt
- **$300-$999**
  - AK Assoc of Criminal Defense Lawyers Inc.
  - Alteneder, Katherine
  - Carr, Jacqueline
  - Christen, Morgan
  - Fabe, Dana
  - Featherly, Walter
  - Gleason, Sharon
  - Gross, David
  - Katchen, Jonathan
  - Paver Family Foundation
- **$1-$299**
  - Bailey, Danielle
  - Berens, Brooke
  - Brown, Ashley
  - Charities Aid Foundation
  - Cutler, Beverly
  - Filippi, Lea
  - Gardner, Darrel
  - Gordon, Bill
  - Laffey, Samuel
  - McCollum, James
  - Nave, Thomas
  - Nesbett, David
  - O'Regan, Deborah
  - Osborne, Melanie Baca
  - Pickrell, Kristian
  - Thompson, Dean
  - White, Morgan
  - Winfree, Sr. Justice (Ret.) Daniel

The Bar is now accepting donations for the next round of scholarships. Any contribution will be greatly appreciated. This is a great opportunity to help struggling Alaska law students make the most of their legal education. These students will return to Alaska to become our next generation of lawyers and judges.

The Bar would also like to extend a thank you to our scholarship committee members for their fundraising efforts. Thank you: Darrel Gardner (chair), Ashley Brown, Thomas Mooney-Myers, Melanie Osborne, Ambriel Sandone, and Kathe Talmadge!

Please send your tax-deductible check, payable to the Alaska Bar Scholarship Fund, to the Bar office, or log in to your Bar member portal and click on "Make a Donation." Please contact Bar staff if you have any questions. Thank you for your consideration and support.

ESTATE PLANNING CORNER

Tax Apportionment Clauses – Part 5

By Steve O'Hara

What is tax apportionment? It is not the legal duty of the fiduciary to pay tax. The code section that requires federal estate tax to "be paid by the executor" is not a tax apportionment statute. IRC Sec. 2002. Rather, tax apportionment goes deeper, beyond the surface level where you see funds transmitted to the U.S. Treasury. In going deeper, tax apportionment identifies the person or persons whose shares are charged with the tax.

In this series on tax apportionment clauses, I have illustrated tax apportionment, including where beneficiaries are in fact not beneficiaries because their shares are eliminated by tax on property passing to one or more other people. These illustrations are combined into one blog post at **www.oharatax.lawyer** titled "Interrelated Computations: Part 2."

I have shared my simplistic assumption that has served me well in the design-stage of the tax apportionment clause. This assumption is that if the client does not adopt equitable tax apportionment, then the client's tax apportionment clause makes the effective rate of estate and inheritance taxes 100% or more. See the related discussion in my blog post "Interrelated Computations: Part 2."

With equitable tax apportionment, if your share does not generate any estate and inheritance taxes, then your share is not charged with the estate and inheritance taxes that the shares of others generate. See AS 13.16.610(i) and (l). See also AS 13.16.610(c)(the statute uses the words "inequitable" and "equitable").

"I have shared my simplistic assumption that has served me well in the design-stage of the tax apportionment clause."

There are legal rights of recovery that are complementary to equitable tax apportionment. These rights may be waived by the client in the client's governing document. In other words, while federal tax law may grant rights of recovery, tax apportionment is generally a matter of state law based on the client's governing document. See Riggs v. Del Drago, 317 U.S. 95, 98-99 (1942).

The state courthouse is the place to obtain court orders specifying who is responsible for what amount of tax and to recover the tax. See AS 13.16.610(b), (n), and (o)(granting rights of recovery to personal representatives and "person[s] required to pay the tax"). Federal law grants rights of recovery to persons other than the decedent's executor, but allows the decedent's Will to control with the following words: "unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution." IRC Sec. 2205 (emphasis added).

My favorite rights of recovery in terms of practicality are listed in my blog post at **www.oharatax.lawyer** titled "Tax Apportionment Clauses."

Consider a hypothetical married couple. They are both United States citizens domiciled in Alaska. They each want a Will and a Revocable Living Trust. And they want equitable tax apportionment.

Below are hypothetical tax apportionment clauses as might be presented to the hypothetical clients as first drafts for them to consider. I provide these hypothetical clauses here for illustration and discussion purposes only with no guarantee of completeness or accuracy or anything, without warranty of fitness for a particular use and, indeed, without warranty of any kind, express or implied.

WILL OF
HYPOTHETICAL CLIENT
***
ARTICLE VI

A. My Personal Representative shall pay from my residuary estate: (1) all my funeral expenses, and my Personal Representative shall be the sole judge of their appropriateness; and (2) all expenses of administering my estate wherever located. Administration expenses payable by reason of my death attributable to property disposed of under this Will or the Hypothetical Client Trust [Client's revocable trust] (including pursuant to any Memorandum), as well as my funeral expenses, shall be charged to the property disposed of by that trust, subject to the provisions of paragraph A of Article XI of that trust and the provisions of paragraph C of this Article.

B. My Personal Representative shall seek reimbursement for, recovery of, or contribution toward payment of all estate and inheritance taxes (and any interest and penalty on such taxes) payable in any jurisdiction by reason of my death (including those taxes payable with respect to property not passing under this Will), but only if such taxes are not otherwise paid or payable. If such taxes are not otherwise paid or payable, my Personal Representative shall first apply any right of recovery granted under federal law (e.g., IRC Section 2207A) and then the principles contained in the Equitable Apportionment Act of the State of Alaska in effect on the date I sign this Will (i.e., Alaska Statute 13.16.610), regardless of whether or not I die domiciled or owning property in Alaska, provided that estate and inheritance taxes (and any interest and penalties on such taxes) payable in any jurisdiction by reason of my death attributable to property disposed of by the Hypothetical Client Trust (including any property passing under this Will that is part of the property disposed of by that trust) shall be charged to the property disposed of by that trust, subject to the provisions of paragraph A of Article XI of that trust and the provisions of paragraph C of this Article.

C. Notwithstanding any other provision of this Will:

1. In apportioning estate and inheritance taxes (and any interest and penalty on such taxes) payable in any jurisdiction by reason of my death (including those taxes payable with respect to property not passing under this Will), any exemption or deduction allowed by reason of the relationship of any person to me, or by reason of the purpose of the gift, shall inure to the benefit of the person bearing the relationship or receiving the gift, as and to the extent currently provided in AS 13.16.610(i);

2. If there is a federal estate tax system in effect for the date of my death, no estate or inheritance taxes (nor any interest or penalty on such taxes), nor any administration expense, nor any debt shall be paid out of amounts not otherwise includable in my gross estate for federal estate tax purposes nor any property traceable to any such amount; and

3. No additional estate tax imposed pursuant to IRC Section 2032A (nor any interest or penalty on such tax) shall be payable by or chargeable to anyone other than the persons entitled to the property to which such tax is attributable.

D. Any federal or state GST tax resulting from a transfer under this Will or the Hypothetical Client Trust (including pursuant to any Memorandum) shall be charged to the property constituting the transfer in the manner provided by applicable law.

E. Any income taxes imposed upon or chargeable to the income

Continued on page 13

Tax Apportionment Clauses – Part 5

Continued from page 12

of my estate shall be apportioned to and deducted from the shares of all beneficiaries (exclusive of any charitable organization) having an interest in income, but not from the share of any beneficiary that is a charitable organization. Such apportionment and deduction shall be made in such equitable manner as my Personal Representative determines. As used in this instrument, the term "charitable organization" means any organization described in IRC Sections 170(c)(2), 2055(a), and 2522(a).

***

REVOCABLE LIVING TRUST OF HYPOTHETICAL CLIENT

***

ARTICLE XI

A. Notwithstanding any other provision of this instrument:

1. Administration expenses shall not be charged to property disposed of under Article IV [the specific gifts article] (including pursuant to any Memorandum); provided, however, that this subparagraph 1 is subject to subparagraphs 3 and 4 of this paragraph;

2. Estate and inheritance taxes (and any interest and penalty on such taxes) payable in any jurisdiction by reason of my death attributable to property disposed of by Article IV (including pursuant to any Memorandum), determined on a pro rata and not marginal basis as certified in writing by my Personal Representative, shall be charged ratably to such property, but excluding any property to the extent the disposition of such property qualifies for the federal estate tax marital or charitable deduction. If my spouse predeceases me, the words "Article IV" in the preceding sentence shall automatically be substituted with the words "this instrument." The values used in determining such taxes shall be used in apportioning taxes;

3. Except as otherwise provided in this subparagraph 3, property allocated to the Marital Gift shall not be charged with any estate or inheritance taxes (nor any interest or penalty on such taxes) nor any administration expenses not deducted from my gross estate for federal estate tax purposes, until all other property passing under Article V [the residue article] has been exhausted. Estate and inheritance taxes (and interest and penalties on such taxes) payable by reason of my death as to any portion of the Marital Gift for which a QTIP election is not made, determined on a marginal and not pro rata basis as certified in writing by my Personal Representative, shall be chargeable to and paid from such portion of the Marital Gift to the extent thereof. Where the Marital Gift is held in two or more separate trusts named for my spouse with different Inclusion Ratios, any amount to be charged pursuant to this subparagraph 3 to the Marital Gift shall be charged to and paid from such trusts sequentially (to the exhaustion of each of them respectively) in descending order of their Inclusion Ratios. Any such taxes (including any interest or penalty) or expenses not chargeable to the Marital Gift (where my spouse survives me) shall be charged ratably first to such other property that does not qualify for the federal estate tax marital or charitable deduction;

4. Property disposed of under Article VII [the ultimate taker article] that qualifies for the federal estate tax charitable deduction, if any, shall not be charged with any estate or inheritance taxes (nor any interest or penalty on such taxes), nor any administration expenses not deducted from my gross estate for federal estate tax purposes, until all other property passing under Article VII has been exhausted;

5. No additional estate tax imposed pursuant to IRC Section 2032A (nor any interest or penalty on such tax) shall be payable by or chargeable to anyone other than the persons entitled to the property to which such tax is attributable; and

6. If there is a federal estate tax system in effect for the date of my death, no estate or inheritance taxes (nor any interest or penalty on such taxes), nor any administration expense, nor any debt shall be paid out of amounts not otherwise includable in my gross estate for federal estate tax purposes nor any property traceable to any such amount.

B. As soon as may be required or practicable after my death, the Trustee shall pay from trust principal, to or as the Personal Representative of my estate may direct, all estate and inheritance taxes (and any interest and penalty on such taxes), payable in any jurisdiction by reason of my death attributable to property disposed of by this instrument (exclusive of property that was part of my probate estate and the proceeds of such property), as certified in writing by my Personal Representative, and expenses of administering my probate estate wherever located, provided that the Trustee shall pay expenses of administering my probate estate only to the extent my Personal Representative shall certify in writing to the Trustee that the value of the cash and readily marketable assets of my residuary estate, as determined by my Personal Representative, is insufficient to pay those expenses.

C. Any federal or state GST tax resulting from a transfer under this instrument (including pursuant to any Memorandum) shall be charged to the property constituting the transfer in the manner provided by applicable law.

D. Notwithstanding any other provision of this instrument, if a trust (the "original trust") would otherwise be partially exempt from GST tax after the intended allocation of a GST exemption to it, then, before such allocation and as of the relevant valuation date under IRC Section 2642 with respect to such allocation, the Trustee shall create two separate trusts of equal or unequal value, which shall be funded fractionally out of the available property, and which shall be identical in all other respects to the original trust, so that the allocation of GST exemption can be made to one trust that will be entirely exempt from GST tax. The two trusts created under this subparagraph (a) may have the same name as the original trust except that the trust to which the GST exemption is allocated shall have the phrase "GST Exempt" added to its name and (b) are sometimes referred to herein as "related."

E. Notwithstanding the foregoing provisions of this instrument, the following provision shall apply on the death of any beneficiary other than me: On the death of any beneficiary (other than me), unless he or she directs otherwise by Will with specific reference to this provision, (1) the Trustee shall pay from that trust principal which is included in such beneficiary's taxable estate for federal estate tax purposes the amount by which estate and inheritance taxes (including interest and penalties, if any, but excluding any GST tax) payable in any jurisdiction by reason of such beneficiary's death shall be increased as a result of the inclusion of all such trust principal, without reimbursement or contribution, and (2) where such trust principal is held in two or more separate trusts with different Inclusion Ratios, the amount to be paid under this provision shall be charged against and paid out of the trusts sequentially (to the exhaustion of each of them respectively) in descending order of their Inclusion Ratios. The Trustee may rely on federal estate and other death tax returns and related valuations and calculations prepared by such beneficiary's Personal Representative, if any, without verification or liability, and taxes due from trust principal under this provision may be paid either directly or to that Personal Representative in the Trustee's discretion.

***

Nothing in this article is legal or tax advice. Non-lawyers must seek the counsel of a licensed attorney in all legal matters, including tax matters. Lawyers must research the law touched upon in this article.

In private practice in Anchorage, Steven T. O'Hara has written a column for every issue of The Alaska Bar Rag since August 1989.

ALASKA BAR ASSOCIATION BOARD OF GOVERNOR AWARDS

Distinguished Service Award
Michael McLaughlin

The Distinguished Service Award honors an attorney for outstanding service to the membership of the Alaska Bar Association.

Michael McLaughlin

Michael McLaughlin has served on the Lawyers Assistance Committee (LAC) since 2006. He has been the chair of the committee since 2016. In his service on the LAC, he has made hundreds of calls to lawyers who are dealing with substance abuse, mental health issues, or just fellow attorneys that need advice or a friendly ear. He has always handled these confidential matters with the highest levels of not only discretion but also compassion. It is not unheard of for Mike to show up on the side of a hospital bed of a Bar member.

He is largely responsible for the push in expanding the reach of the LAC to cover not just attorneys who are dealing with substance abuse, but to also handle mental health issues and he has recently made a larger push to help our aging Bar community by helping serve as a resource for attorneys that may need help winding up their practice.

Mike was also the driving force behind the 2020 free legal ethics course on mental health issues and bringing awareness of the LAC. While our records do not cover his full service on the committee, in the past few years he has served over 20 LAC subcommittees assisting attorneys in need, and he has overseen every other subcommittee during his 9-year period as chair. By these metrics, Mike has had a hand in directly helping to enhance the health and well-being of hundreds of Alaska Bar members.

Robert K. Hickerson Award
Heather Kendall-Miller

The Robert K. Hickerson Award recognizes lifetime achievement for outstanding dedication and service in the State of Alaska in the provision of pro bono legal services and/or legal services to low income and/or indigent persons.

Heather Kendall-Miller

Heather Kendall-Miller has devoted her nearly 30 year career to the Native American Rights Fund. Heather's legal experience includes cases involving subsistence, tribal sovereignty, human rights and taxation. She is well known for being instrumental in winning the Katie John subsistence hunting and fishing rights case in 2001. Heather has worked with other Alaska Native communities like the Native Village of Venetie, the Native Village of Kluti Kaah, the Native Village of Barrow and the Nome Eskimo community.

She is currently mentoring lawyers on a Ninth Circuit case to help build the next generation to tackle these issues. Heather, thank you for not only making public service such an important part of your practice, but for mentoring and inspiring the next generation to do so as well.

Layperson Service Award
Deborah Engles

The Layperson Service Award is given to a non-lawyer who has provided outstanding service to the Alaska Bar Association.

Deborah Engles

Deborah Engles is the Senior Director of Risk Management & Safety with the Anchorage School District. She has been an outstanding individual in helping the Alaska Bar with fee arbitration matters. Deb has been on four different panels within one-and-a-half years. Normally the Bar only likes to use public volunteers once or at the very most twice a year. She is always willing to volunteer for these panels and help assist the Bar in getting case matters resolved. Every Bar member who has served with her has enjoyed her company and appreciates her input.

Professionalism Award
Katherine Demarest

The Professionalism award recognizes an attorney who exemplifies the attributes of the true professional, whose conduct is always consistent with the highest standards of practice, and who displays appropriate courtesy and respect for clients and other attorneys.

Katherine Demarest

Kate Demerest found her way to Alaska's legal community after receiving an engineering degree, river guiding, Peace Corps service, attending law school at the University of Minnesota, and completing two appellate clerkships. Her Alaska legal career has similarly been varied where she has divided her time between both private practice and the Department of Law. She is a former partner at Dorsey & Whitney LLP and is currently a Senior Assistant Attorney General in the Civil Appeals Section.

For the past three years, Kate has volunteered to serve as one of the teachers of Alaska's free legal ethics CLEs. In addition, she has served on the LFCP committee since 2020. She has taken on complex pro bono cases, notably when she partnered with the Alaska Innocence Project to help in the unconditional release from incarceration of the Fairbanks Four.

While her practice and volunteer experience are varied, co-workers frequently remark that the constant through all her work is the high level of professionalism that Kate brings to every endeavor. She holds herself to the highest of ethical standards, and she displays nothing but respect and courtesy to everyone in and out of the profession.

Alaska Bar Foundation Jay Rabinowitz Public Service Award
Douglas B. Baily

The Jay Rabinowitz Public Service Award is given out each year by the Board of Trustees of the Alaska Bar Foundation. The award is given to a well-deserving individual whose life work has demonstrated a commitment to public service in the State of Alaska.

The 2025 Award went to former Attorney General, Doug Baily. While his public service representing the State of Alaska during the Exxon Valdez oil spill brought him the kind of acclaim that many lawyers would have rested their laurels on, not Doug. As his nominating letters showed, Doug is the kind of Alaskan who walks the talk of a true public servant - seeking neither status nor acclaim. Whether he is resisting efforts by the Homer Library Board to remove children's books, speaking out to bring reason to charged political issues, or helping create a beloved state park, Doug is diligent, sharp minded and caring.

During his sixty years of practice Doug had clients from Ketchikan to Kaktovik and has helped Alaskans from all walks of life, many times for little or no remuneration. His service centers on his ethics of fair treatment - including racial justice, strong representation (whether for the state or an individual) and compassion. Perhaps most touchingly, Doug organized the effort to bring a young Kenyan man to America, and to see him through his entire education - including getting his PhD. They are friends to this day. In closing, Doug is not content to just let his past service be enough. He cares about the future. Doug has always mentored and supported young people. As one person said, "he understands youth vitality and the importance of their engagement in all aspects of a community's life." A true Alaskan public servant, Doug is humbled by and grateful for this wonderful award.

Beth Kertulla, Doug Baily and Landa Baily.

BRYAN P. TIMBERS PRO BONO AWARDS

Each year Alaska's pro bono service providers select the recipients of the annual Bryan P. Timbers pro bono awards. 2025 marked the 35th anniversary of this award and recognition of excellence in our community's access to justice efforts.

Lifetime Achievement Award — Stephanie Rhoades

Judge Rhoades has spent her career serving the people of Alaska with unwavering dedication. She was appointed to the Anchorage District Court in 1992 and was instrumental in founding Alaska's first Mental Health Court in 1999. Retirement from the bench was not an end to her service, it was simply the next chapter.

Judge Rhoades has provided thousands of hours of pro bono legal services since leaving the bench. Judge Rhoades is known for her willingness to take on any case. At Alaska Legal Services Corporation, she has handled bulk administrative appeals to address the ongoing SNAP crisis, served as Attorney of the Day, drafted Wills, provided family law consultations and volunteered at Veteran's Stand Down.

At the Alaska Network on Domestic Violence and Sexual Assault, she has represented clients in several family law cases pro bono, providing survivors of domestic violence with compassionate, forthright and dignified support through their legal challenges.

Beyond her work with in-person legal services, since 2021 Judge Rhoades has been a dedicated volunteer with the online legal clinic Alaska Free Legal Answers. She has spent 423 hours answering 745 client questions, ensuring that individuals who may not have access to traditional legal services still receive the guidance they need. She has single handedly answered over 75% of the questions asked on Alaska Free Legal Answers.

She has been recognized as Volunteer of the Month by the Alaska Network on Domestic Violence and Sexual Assault, by the Alaska Legal Services Corporation with the SNAP Volunteer Recognition Award, and by the American Bar Association for her dedication to volunteering for Alaska Free Legal Answers. Her work has touched the lives of countless Alaskans facing legal challenges.

Stephanie Rhoades

Law Firm Award — Ashburn & Mason

Ben Farkash and Dylan Hitchcock-Lopez

Recently, two attorneys from Ashburn & Mason, Ben Farkash and Dylan Hitchcock-Lopez, accepted four pro bono cases from the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA). Ashburn & Mason attorneys have also taken on asylum cases at the Alaska Institute for Justice, and volunteered at the MLK Day Free Legal Clinic and the Elizabeth Peratrovich Legal Clinic. In the last year alone, Ashburn & Mason has taken on 23 pro bono cases at Alaska Legal Services Corporation (ALSC), that vary from complex family law issues to public benefit delays and denials. Their willingness to review high need cases and step in swiftly is critical to meeting ALSC's high need for impactful, driven and compassionate pro bono attorneys from all levels of legal expertise.

Ben Farkash previously clerked for the Honorable Dani Crosby on the Anchorage Superior Court and joined Ashburn & Mason in 2021, focusing on civil litigation. He has donated substantial pro bono hours to clients from ANDVSA, ALSC and AIJ, in addition to volunteering at the Bar's free legal clinics. In 2023, Ben flew to Bethel to launch an MLK Day Free Legal Clinic there, bringing legal services to rural Alaskans who face even greater barriers to access.

Dylan Hitchcock-Lopez was born and raised in Alaska, and clerked in Fairbanks with the Honorable Bethany Harbison on the Alaska Court of Appeals before moving to Anchorage to join Ashburn & Mason in 2023. Dylan has volunteered with ALSC and ANDVSA doing SNAP and family law cases. Dylan estimates that around a third of his workload is dedicated to pro bono work, and he credits Ashburn & Mason for making this possible since the firm "unequivocally supports us in the amount of pro bono work we do."

Ben and Dylan both say that Ashburn & Mason's strong commitment to pro bono service was one of the things that drew them to the firm. Dylan says, "pro bono work is not something we do on the side, but part of what we do and part of our practice," noting that they "don't distinguish between a pro bono client and a firm client." They add that they are "not outliers at the firm" and that many attorneys at Ashburn & Mason work to expand access to justice by taking on cases, serving on nonprofit boards, and sharing their valuable experience and expertise with others. They also point out that support from the non-attorneys at Ashburn & Mason is critical to their pro bono work and emphasize how "heartening it is to be in a place where everyone pulls together to make this work possible."

Individual Award — Eric Glatt

In 2023, Eric took advantage of Bar Rule 43.2, the Emeritus Attorney rule that allows inactive and retired attorneys to have their bar dues waived if they provide pro bono service to a qualified legal services provider willing to sponsor them. Sponsored by the ACLU of Alaska—the employer that first drew him to Alaska, in 2015—Eric began serving as pro bono co-counsel in litigation, including to challenge "prohibited camping" laws for violating unhoused Alaskans' state constitutional rights. While similar claims have been brought on behalf of unhoused persons Outside, many of these are questions of first impression under Alaska's Constitution.

Eric's advocacy on behalf of unhoused Alaskans extends beyond the walls of the courtroom. He is dedicated to a community-centered approach to this work and can frequently be found at encampments across Anchorage. He also advocates before the legislature, with administrative agencies, and among the nonprofits and individuals who play important roles confronting this challenge.

In addition, Eric is the Executive Director of Borealis Legal Services, a non-profit legal services organization that he and two other attorneys incorporated in 2024. Though its current footprint is small, it has high hopes for its mission to advance economic justice in Alaska by developing creative solutions that help bridge the Access to Justice Gap.

Eric Glatt

Historians Committee Award: Judge Nora Guinn Award — Nicole Borromeo

The Judge Nora Guinn Award is presented to a person who has made an extraordinary or sustained effort to assist Alaska's rural residents, especially its Native population, overcome language and cultural barriers to obtaining justice through the legal system. Selection is designated to the Historians Committee.

This year's recipient is Nicole Borromeo. Nicole is Athabascan and was raised in McGrath, AK, where she is enrolled in the McGrath Native Village Tribe. Nicole's current capacity is Counsel for the House Majority caucus. Previously, she served as a Law Clerk to the Honorable Judge Patricia Collins (ret.), worked as an Associate in the Anchorage office of Sonosky, Chambers, Sasche, Miller & Munson, LLP, and served as the Executive Vice President and General Counsel of Alaska Federation of Natives.

Nicole Borromeo

Nicole has an extraordinary record of service to rural Alaska and the Alaska Native community. In her service on Alaska's Redistricting Board, she fought tirelessly to ensure that rural Alaska got fair and equitable legislative and congressional districts. She was also critical in the creation of Alaska's first Alaska Tribal Child Welfare Compact, which has transformed child welfare by improving the lives and outcomes of Alaska Native children in state custody at a lower cost and higher quality, while expanding the capacity and self-determination of Alaska Native organizations and communities.

Nicole's volunteer civic engagement includes participation on the U.S. Department of Energy's Indian Country Energy and Infrastructure Workgroup, to which she was appointed in 2017; and the U.S. Census Bureau's National Advisory Committee on Race, Ethnicity, and Other Groups, to which she was appointed in 2019. Additionally, she is a Founding Board Member of Justice Not Politics Alaska, a nonpartisan organization promoting the independence of Alaska's judiciary, but no longer serves on the Board. Since 2008, Nicole has also acted as a mentor to high school students who are considering legal and judicial careers through the Color of Justice Program. Nicole is a strong leader and a role model for other Alaska Native lawyers. She is willing to help others, and she is continually looking for ways to improve the lives and well-being of the Alaska Native community.

Dean Chemerinsky and Professor Levenson address a full crowd at the 2025 AK Bar Convention.

Mario Bird of North Star Law Group poses a question to Dean Erwin Chemerinsky during the US Supreme Court Opinions Update.

Members actively participate by raising their hands during the 2025 AK Bar Convention.

L-R: Board of Governors' Secretary Patrick Roach, Fairbanks member Tom Chard and Board of Governors' President Jeffrey Robinson, chat before the start of the 2025 AK Bar Convention.

Neal Katyal delivering the keynote address – The Modern Supreme Court and the Rule of Law at the 2025 AK Bar Convention.

Photos by Michael Dinneen Photography

> *Justices Kagan and Sotomayor vote together 97% of the time. Chief Justice Roberts and Justice Kavanaugh vote together 96% of the time.*
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> . . .
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> ***Highlight from Neal Katyal's keynote address***

Benjamin O. Walters Distinguished Service Award
Mary Geddes

The Anchorage Bar Association gives the Benjamin Walters Distinguished Service Award to an individual who exemplifies the qualities of Benjamin Walters, who was a longtime Board member and who gave many hours to the community in the legal arena as well as simply giving his time and effort to community activities in general. The Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) nominated Anchorage lawyer Mary Geddes for the Benjamin O' Walters Distinguished Service Award.

Mary Geddes

Mary had a long career in criminal defense and retired in 2016; her last 20 years of practice were exclusively in federal court. In 2020, she attended ANDVSA's Back to Basics CLE to learn about representing survivors of domestic violence and sexual assault in civil cases. Mary started out volunteering to answer ANDVSA's Information & Referral Hotline and then took her first pro bono case, a divorce and custody matter for an Anchorage survivor of DV. Mary was deeply committed to the case and client, spending over 100 pro bono hours on the matter. Mary went on to take two more pro bono cases from ANDVSA, including a rural Alaskan who has survived severe domestic violence. Mary assisted the client with her family law matter and also supported her as the victim in a criminal case.

Mary is a great example of someone who is finding new ways in retirement to continue giving back to the community. Most recently, Mary came out of retirement to assist the Municipality of Anchorage when its criminal division was direly understaffed. ANDVSA is honored to have Mary be recognized by the Anchorage Bar Association.

IMMIGRATION INSIGHTS

Explaining Immigration Law Without Losing the Room

By Nicolás A. Olano and Lara E. Nations

A while back, one of our sons asked what "immigration" means. We started the way many of us would—with laws, policies and an overview of federal authority. We talked about status, inadmissibility and removal grounds. Within minutes, we had lost him. His eyes wandered, his interest evaporated, and then we realized we were talking to him like he was co-counsel on a Ninth Circuit petition for review.

That moment reminded us of something fundamental: as lawyers, we often forget that the people we're speaking to—clients, family or even colleagues in other practice areas—aren't necessarily steeped in our language, our case law or our acronyms. Immigration law, in particular, is a discipline that often feels like a tangle of statutes, regulations and policy memos. For those who do not practice in the field, it can be hard to distinguish between what the law says and what happens on the ground.

Here is a way we have found useful to explain immigration law: think of the United States as a house. There are owners and guests.

U.S. citizens are the owners. This is their house. Once you are a citizen, no one can kick you out—not for a criminal conviction, not for bad behavior, not for anything short of fraud in obtaining that citizenship. Owners get to stay, full stop. Everyone else is a guest in some form. Some guests are invited for dinner (e.g., tourists, students), others for a years-long stay (e.g., employment visas like H-1Bs or Ls), and some move in with permission that could last a lifetime (lawful permanent residents, commonly called green card holders), so long as they follow the house rules.

Now, as with any house, there is a door. To get to the front door, you need to walk up to the door and knock. The ability to walk to the door and knock on it is called a visa. A visa is not a guarantee of entry; it is permission to approach the front door and request admission. It is issued by a U.S. consulate abroad and reflects a particular reason for coming to the house: maybe to visit, to study, to work, or to join family already inside the house. But the visa itself just gets you to the doorstep. Whether you enter—and under what conditions—is up to the person standing at the door, usually a CBP officer at an airport or other port of entry, who grants or denies admission.

Nicolás A. Olano

Lara E. Nations

When a guest is let into the house, they are admitted in a particular status. This is where many immigration clients, and frankly, many lawyers, get confused. The visa is the ability to knock on the door. The status is the terms of the stay. Think of the visa as what got you in, and the status as what you're allowed to do once you are inside. Someone might enter on a student visa and be granted F-1 status. That status defines the conditions of their presence in the country: where they can study, whether they can work, and how long they can stay.

Something important to understand is that guests seeking to enter the house carry the burden of proving that they are not inadmissible. Grounds of inadmissibility are the various reasons for which a person might not be eligible to come into the United States, such as a prior immigration violation or a criminal record. The presumption is that you do not get in unless you affirmatively show that you qualify. You must demonstrate you pose no risk, have the proper documents, and are coming for a legitimate, lawful purpose.

Once inside, the dynamic shifts. A guest cannot be asked to leave unless the owner, meaning the government, can present clear and convincing evidence that the guest has violated the terms of their stay or otherwise broken the house rules. In immigration law, this is the distinction between being "inadmissible" at the door and "deportable" once inside. The burden moves from the individual to the government, and the standard of proof becomes significantly higher.

Among the guests to and in the house, we often speak broadly of immigrants and nonimmigrants. Immigrants are more like renters with long-term leases — green card holders. They are allowed to stay indefinitely, renew their lease, work, travel, and build a life here. If they follow the rules and live here long enough, they can apply to become owners – U.S. citizens – via the naturalization process. Nonimmigrants, in contrast, are temporary visitors: tourists, students, temporary workers, diplomats, artists and athletes. They are in the house with permission, but that permission has an expiration date. Their status is tied to a specific purpose and duration, and when that ends, they're expected to leave.

The system does allow for some flexibility. Some guests already inside the house might ask to stay longer or to change the nature of their visit. A tourist might fall in love and want to marry a citizen. A student might get a job offer. These shifts require applications, approvals and often a healthy dose of discretion. Meanwhile, others may have entered without permission at all, or overstayed their welcome. These individuals face the possibility of removal—our term for eviction—and may ask for relief: asylum, cancellation of removal, adjustment of status or other forms of protection. The proceedings are civil, but the consequences—deportation and permanent exclusion—can feel almost criminal in nature.

What makes immigration law especially difficult to explain is that it is an administrative system dressed in the garb of federal procedure. The law is applied nationally but its enforcement varies by region, and its outcomes often depend more on adjudicator discretion and shifting policy guidance than on predictable, statute-driven rules. Cases that look the same on paper can have radically different results depending on where they are filed or who adjudicates them. The Immigration and Nationality Act might look rigid, but the lived experience of immigration law is often anything but.

Still, the basic structure is understandable. The house. The knock on the door. The invitation. The rules for staying. If we as lawyers remember this framework when talking to others, be it clients, jurors, judges or even our own children, we might just manage to make sense of an area of law that often seems deliberately designed not to make any sense at all.

Nicolás A. Olano and Lara E. Nations are the founding attorneys of Nations Law Group based in Anchorage. Their practice focuses on immigration law, including removal defense, family petitions, humanitarian relief and federal court litigation. They regularly represent clients across Alaska and around the world.

Out-of-State Attorneys Represent Alaskan Survivors of Domestic Violence

By Sadie Cowles

Tiffany Wang, a Seattle-based attorney at Stoel Rives LLP, never imagined that she would have the opportunity to provide pro bono legal services in Alaska while living out-of-state. However, she recently found herself litigating a domestic violence protective order case in Anchorage District Court, despite not being licensed in Alaska. To do so, Wang obtained a waiver to practice in Alaska under Bar Rule 43.6.

Did you know that out-of-state attorneys can practice pro bono in Alaska? Bar Rule 43.6 was implemented last year and has already increased Alaskans' access to legal representation. Rule 43.6 allows attorneys in good standing in other jurisdictions, but not licensed in Alaska, to do pro bono work in Alaska under the supervision of a qualified legal services provider, such as Alaska Legal Services Corporation, Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) and the ACLU of Alaska.

Wang chose to work with ANDVSA to represent an Anchorage client in a domestic violence protective order case. Wang primarily works in environmental law, so protective order law was new to her. However, she received lots of support and guidance from ANDVSA as well as mentorship from Kevin Cuddy, a colleague at Stoel. Wang was able to gain trial experience, something less common in the environmental law field, and the 20-30 hours she spent on her pro bono case was manageable with her workload.

Wang found the administrative process to request the practice waiver to be streamlined and quick. The most difficult part of her pro bono work was exploring a new area of law and working with a client who had suffered significant trauma. That said, Wang speaks highly of her experience and says that it was a "great opportunity to broaden my skill set" and "a great reminder of why we became attorneys."

Tiffany Wang (left) and Ali Harris (right) were able to provide pro bono services to Alaskans through Bar Rule 43.6. Photo by Sadie Cowles.

Qualified legal service providers are eager to expand the use of Rule 43.6 waivers because Alaska's limited in-state resources are not sufficient to meet the many legal needs of low-income Alaskans. "At ANDVSA, we have to turn away nearly half of all domestic violence survivors who apply to us for help because we simply don't have enough attorneys," says ANDVSA attorney Katy Soden.

Ali Harris, another Seattle-based attorney at Stoel Rives, also recently litigated a pro bono domestic violence protective order case in Anchorage. Harris's application for a Rule 43.6 waiver was approved by the Bar within 24 hours, allowing her to jump right into the case. Harris wanted to help fill the gap in legal advocacy in Alaska and found it to be a great opportunity to advance her trial skills. Like Wang, she reached out to ANDVSA for guidance and found them to be extremely eager and willing to help. Remote practice was straightforward and in total she spent around 10-15 hours on her long-term protective order case. Harris found it fulfilling to make the client's "really terrible situation a little bit easier to navigate."

"Without Tiffany and Ali's willingness to help from afar, it's very possible that I would not have been able to find attorneys to represent those Anchorage clients," says Katy Soden of ANDVSA. "We need Alaskan attorneys to spread the word to their out-of-state attorney colleagues, friends and family that opportunities to do pro bono work – and gain trial experience – are ready and waiting here in Alaska."

Information about Rule 43.6 and the waiver application can be found on the Bar Association's website. To take a pro bono case from ANDVSA, contact Katy Soden at ksoden@andvsa.org or (907) 297-2791.

Sadie Cowles is a Legal Fellow at the Sitka office of the Alaska Network on Domestic Violence and Sexual Assault. She is part of the Alaska Fellows Program. She graduated from Georgetown University in May 2024 with a bachelor's degree in American Studies.

> *What is the most critical area of focus for preserving the rule of law? Immigration shows us that the big question is about what rights people are owed who are the most vilified. If the people are as bad as they say, why not have a hearing?*
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> . . .
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> ***Highlight from Neal Katyal's keynote address***

New Lawyers Sworn-In to the Alaska Bar Association

The Alaska Court System and the Alaska Bar Association hosted a swearing-in ceremony for new members of the Alaska Bar Association on May 7, 2025 in the Supreme Court Courtroom of the Boney Courthouse in Anchorage. Justice Dario Borghesan presided over the swearing-in of nine new lawyers. Family, friends and colleagues appeared in person or viewed the live stream of the event through the court system's website. An invitation was also extended to all Alaska Bar members to retake their Attorney's Oath alongside the new members. The new attorneys can be seen in the picture raising their right hands as they take the Oath of Attorney, which was administered by Meredith Montgomery, clerk of the Appellate Court.

New Lawyers Sworn-In Included:

- Hannah Andersen
- Alexandra Broaddus
- Kiana Carlson*
- Jacob Davis*
- David Donaldson*
- Casey DuBose*
- Kaycee Goodwin
- Louis Swanson*
- B. Malone Van Wieren

*Denotes United States District Court Admission

AAWL Corner: You Don't Have to be a Lady!

By Chelsea Ray Riekkola

During our presence at the Alaska Bar Convention—thank you to those of you who popped by to say, "hi!"—we fielded a number of questions about membership, which we feel must be addressed right here, in print. To be clear, the Anchorage Association of Women Lawyers, known as AAWL, does not eschew male members. In fact, we encourage them! Although our audience is largely female attorneys, the mission of AAWL is to promote gender equality and leadership roles for women in the legal profession, judiciary and community at large. Membership in AAWL is open to any attorney (or clerk, intern or law student) who shares this mission, regardless of gender.

Why would someone want to be a member of AAWL even if they are not a "woman lawyer," you ask? Not only does it allow you to connect with other attorneys who share this mission of gender equity in the practice of law, but we have fabulous and fun events that support our members and the greater community. A shining example was our *Pivots, Promotions and Partnerships* speed networking event in March. The program was very well-received by members and non-member attendees alike, and we believe many valuable connections were made. We are especially grateful to our generous sponsors, including Landye Bennett Blumstein (Mount Susitna level) and Schwabe, Williamson & Wyatt and Sundquist Law (Pioneer Peak level), for helping make the event possible.

Looking ahead, we have a full calendar of events and opportunities for our members:

- **Alaska Run for Women** – We're excited to sponsor a team again this year! The run will be held on **June 7, 2025**, and we encourage all members to participate or support. No financial contribution—or running—is necessary, although both are welcome. This fantastic event raises funds for and awareness of breast cancer and women's health, and showcases the talents of Alaska's women athletes. Virtual participation is also an option, for anyone wishing to run/walk on their own. Visit https://www.akrfw.org/register/registration to register.
- **Judicial Reception** – Please save the date for a special evening hosted by Retired Alaska Supreme Court Justice Dana Fabe on **June 26, 2025, from 5:00 to 7:00 p.m.**, to celebrate the remarkable contributions of Alaska's female jurists. For the first time in our state's history, women make up a majority of both the Alaska Supreme Court and the Alaska Court of Appeals. And our very own Judge Pam Washington will soon be taking the reins as President of the National Association of Women Judges. RSVPs will be required for this event, so visit this link to reserve your spot: https://forms.gle/uSEgNiJZ4yqzCECy8.
- **Annual Meeting & Panel Discussion** – Mark your calendars for **October 23, 2025, from 5:00 to 7:00 p.m.** This year's meeting will be open to all members of the Bar, not just members of AAWL, and will feature panelists Bill Falsey, Jim Torgerson, and Phil Blumstein sharing their perspectives on how male colleagues can support gender equity in the practice of law.

We are pleased to welcome Whitney Brown as AAWL's incoming president. Whitney brings terrific energy and focus to the organization, and we look forward to the year ahead under her leadership.

AAWL will have an opening on the AAWL board in the coming year. If you are interested in serving, please submit a letter of interest to Kristal Graham at kristalgraham@dwt.com confirming your current AAWL membership, area of practice, years of experience, employer and any additional information you wish to provide in support of your application. Applications will be reviewed at the next AAWL quarterly board meeting.

If you are not yet a member of AAWL, we encourage you to join. Whether you are looking for professional development, mentorship or camaraderie, AAWL is a place to connect and grow. Visit our website at aawl-ak.org for more information on membership benefits and how to join. All practitioners are welcome, and we would love to have you as part of our community!

Chelsea Ray Riekkola has practiced estate planning and administration at Foley & Pearson, P.C. since 2014.

NEWS FROM THE BAR

ALASKA BAR ASSOCIATION ETHICS OPINION 2025-1

Generative Artificial Intelligence & The Practice of Law Issue

What rules of professional conduct govern or should inform the use of generative artificial intelligence ("GAI") in the practice of law?

Questions Presented & Short Answers

1. **Is it ethically permissible for a lawyer to use GAI to assist a client?**

   Yes, but before doing so, the lawyer should understand, to a reasonable degree, how the technology works, its limitations, and its ability (or not) to safeguard client confidences and secrets.

2. **Does a lawyer using GAI have an ethical duty to review the GAI output to ensure it is free from errors and, if applicable, sufficiently advocates for a client's interests?**

   Yes.

3. **Is it ethically permissible for a lawyer to input client confidences or secrets into an GAI tool?**

   It depends. Before doing so, the lawyer must review the program's policies on data retention, data sharing, and self-learning from user inputs to ensure that the GAI tool will protect client confidences and secrets. If client confidences and secrets are not protected by the GAI tool, then the lawyer must anonymize their inputs to protect client details.

4. **Can a lawyer bill a client for the cost of using GAI?**

   Yes, but to do so, within a reasonable time after beginning the representation, the lawyer must explicitly disclose to the client (a) the client's liability for the charges; and (b) the basis on which the charges will be computed.

5. **If using GAI reduces the time it takes a lawyer to perform legal work, does that need to be reflected in the fees the lawyer charges to their client?**

   Yes, lawyers must ensure that their fees remain reasonable and proportionate to the actual work performed. The lawyer may not duplicate fees for work done by GAI or bill clients for time that the lawyer did not work.

6. **Does a lawyer who serves as a partner or manager of a firm that uses GAI, or a lawyer who supervises other lawyers or nonlawyers who use GAI, have an ethical responsibility to ensure that the use of GAI is compatible with the lawyer's professional obligations?**

   Yes.

Introduction

Artificial intelligence is the ability of computer systems to perform tasks that usually require human intelligence, like interpreting and drafting language, answering questions, making decisions, and learning from data inputs. This opinion focuses on a particular form of artificial intelligence—generative AI—which can create content and is relatively new and different from basic AI that lawyers have already been using for years. Among many other abilities, GAI-powered software can quickly perform legal research, draft pleadings, analyze contracts, and review and summarize documents, and it has the potential to greatly increase a lawyer's efficiency.

This opinion discusses some of the ethical issues that lawyers should consider when deciding when and how to use GAI in the practice of law. Like any technology, a lawyer's use of GAI must align with their professional responsibility obligations. How these obligations apply to the use of GAI may depend on many factors, including the client, matter, practice area, firm size, and the tools themselves, ranging from free and readily available to custom-built, proprietary tools. GAI is rapidly evolving, and this opinion does not address every ethical issue that may arise when using GAI in legal practice, now or in the future. Instead, it provides a starting point that discusses foundational rules and applicable ethical principles that should guide each lawyer's use of GAI in a professional capacity.[1]

Applicable Rules & Analysis

Numerous provisions of the Alaska Rules of Professional Conduct ("ARPC") govern or should inform the use of GAI in the practice of law. This includes, but is not limited to, Rules 1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 3.1, 3.3, 4.1, 5.1, 5.3, and 8.4.

ARPC 1.1—Competence; ARPC 1.3—Diligence.

To "maintain[] competence" in the practice of law, "a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology." APRC 1.1 cmt. Throughout its history, the legal profession has incorporated countless new technologies.[2] Some of these are now so critical to the profession—*e.g.*, email and word processing—that a lawyer likely cannot be competent *unless* they use those technologies. Lawyers should continually educate themselves on the evolving nature of GAI so they can exercise sound professional judgment as to whether adopting or regularly using GAI is or becomes "reasonably necessary" to represent their clients' interests. ARPC 1.1. The duty of "competence [is] ongoing and not delegable."[3] Before incorporating any GAI tool into the practice of law and throughout its use, lawyers must educate themselves about its capabilities and limitations, and its terms of use and other policies, to ensure that their use of it complies with the other ARPCs discussed below.

This dovetails with the requirement that lawyers "act with reasonable diligence" in representing clients. ARPC 1.3. To do so with respect to GAI use, lawyers must exercise sound, independent judgment and critically examine and improve GAI outputs to best support their client's interests and priorities. The scope of such review depends on the tool used and the task performed, and may include review to ensure the accuracy of legal citations, as discussed below. A lawyer's uncritical reliance on GAI tools can result in inaccurate legal advice to a client or misleading representations to a court or a third party that do not comport with the lawyer's ethical duties. *See* ARPCs 3.3 and 4.1.

Lawyers should also confirm whether and when any court rules or orders require them to disclose the use of GAI, as a lawyer's representation cannot be competent or diligent if it does not comply with such authorities.

ARPC 1.2—Scope of Representation; ARPC 1.4—Communication.

"[A] lawyer shall abide by a client's decisions concerning the objectives of representation and shall consult with the client as to *the means by which* they are to be pursued," which may include the use of GAI. APRC 1.2 (emphasis added). Likewise, lawyers must "reasonably consult with th[eir] client[s] about the means to be used to accomplish the client's objectives," which also may include the use of GAI. ARPC 1.4 cmt. "In some situations—depending on both the importance of the action under consideration and the feasibility of consulting with the client—this duty will require consultation prior to taking action"—that is, before using GAI to assist with the representation. *Id.*

The facts of each case shape the duty to communicate with a client about the use of GAI. Of course, if a client asks, a lawyer should candidly disclose the extent to which they used GAI to conduct their work, as the rules require lawyers to "promptly comply with reasonable requests for information." ARPC 1.4(a). The more difficult question is when unprompted disclo-

Continued on page 21

Invitation for Public Comment on the Reappointment of U.S. Bankruptcy Judge Gary A. Spraker

The current term of the Honorable Gary A. Spraker, U.S. Bankruptcy Judge for the District of Alaska, is due to expire in October 2026. The U.S. Court of Appeals for the Ninth Circuit is considering the reappointment of Judge Spraker to a new 14-year term of office. The Court invites comments from the bar and public about Judge Spraker's performance as a bankruptcy judge. The duties of a bankruptcy judge are specified by statute, and include conducting hearings and trials, making final determinations, and entering orders and judgments.

Members of the bar and public are invited to submit comments concerning Judge Spraker for consideration by the Court of Appeals in determining whether or not to reappoint him. Anonymous responses will not be accepted. However, respondents who do not wish to have their identities disclosed should so indicate in the response, and such requests will be honored.

Comments should be received no later than Thursday, July 25, 2025, to the following address:

Office of the Circuit Executive
P.O. Box 193939
San Francisco, CA 94119-3939
Attn: Reappointment of U.S. Bankruptcy Judge Spraker
Email: Personnel@ce9.uscourts.gov

NEWS FROM THE BAR

ALASKA BAR ASSOCIATION ETHICS OPINION 2025-1

Continued from page 20

sure is required. Many lawyers already routinely use GAI to provide legal services—for example, through legal databases like Lexis or Westlaw—and the use of these tools may be foreseeable and expected by clients. But in other instances, where GAI is used in a novel fashion, especially to perform substantive work, there may be a greater need for communication. To determine whether a lawyer should communicate their use of GAI to a client, the Committee recommends that the lawyer consider "the client's needs and expectations regarding the representation, the scope of representation, and the sensitivity of the case information that would be shared with the GAI tool."[4]

Several common scenarios illustrate when a lawyer should proactively disclose the use of GAI. For example, where a client is liable for the cost of using GAI—especially if it is a "significant expense"—the lawyer should disclose that cost as it may require a client's input. ARPC 1.4 cmt. As another example, "there may be situations where a client retains a lawyer based on the lawyer's particular skill and judgment, when the use of [GAI], without the client's knowledge, would violate the terms of the engagement agreement or the client's reasonable expectations regarding how the lawyer intends to accomplish the objectives of the representation."[5]

In sum, the duty to communicate with a client about the use of GAI depends mainly on the assistance provided. In instances where disclosing the nature and scope of GAI use is advisable, the engagement letter is the logical place to make such disclosures and to tee up a discussion with the client about how they want their lawyer to use GAI in the representation.

ARPC 1.5—Fees.

GAI may provide lawyers with faster and more efficient ways to provide legal services to their clients, which should be reflected in the fees that lawyers charge. When incorporating GAI into a lawyer's practice, the lawyer must ensure that their fees remain reasonable and proportionate to the actual work performed and time expended. *See* ARPC 1.5(a).[6] A lawyer cannot duplicate charges for work done by GAI or falsely inflate billable hours for time saved by GAI. A lawyer must also proactively communicate with their client about the basis for fees. *See* ARPC 1.5(b).

Questions may arise as to when a lawyer may bill a client for costs associated with the use of a GAI tool. Lawyers use GAI tools in many ways—*e.g.*, within a legal search engine such as Westlaw—and the expense of some uses may be considered simply overhead for operating a legal practice. "In the absence of disclosure to a client in advance of the engagement to the contrary," such overhead should be "subsumed within the lawyer's charges for professional services."[7] In other circumstances, a lawyer may opt to pass on GAI costs to a client. Before doing so and within a reasonable time after commencing the representation, the lawyer must make explicit disclosures to the client about "(a) the client's liability for the charges; and (b) the basis on which the charges will be computed."[8]

To note, while the duty of competence requires every lawyer to stay abreast of technological advances, lawyers "may not charge clients for time necessitated by their own inexperience. Therefore, a lawyer may not charge a client to learn about how to use [GAI] that the lawyer will regularly use for clients, unless a client requests or expressly approves such training."[9] In such instances, the lawyer should clearly communicate with the client about the cost of training and memorialize this agreement.

ARPC 1.6—Confidential or Secret Client Information.

Lawyers must "safeguard a client's confidences and secrets against unauthorized access, or against inadvertent or unauthorized disclosure," including by "others involved in transferring or storing client confidences or secrets." ARPC 1.6(c). This includes GAI if a lawyer inputs such confidences or secrets into a GAI program, whether by submitting prompts or queries, uploading data or documents, or otherwise. As with cloud computing, before using any GAI tool, "a lawyer should determine whether the provider of the services is a reputable organization" and "should specifically consider whether the provider offers robust security measures," including by reviewing the provider's terms of use and policies.[10] Such security measures in the context of GAI include strict prohibitions against retaining data, sharing data with third parties, and learning from user inputs—which is called "self-learning."

Most GAI programs "learn" by analyzing user inputs and adding those inputs to their existing response parameters. A "self-learning" GAI tool may store user inputs and reveal them in response to future inquiries, including inquiries by third parties, unless the GAI tool operates on a "closed" system. Some GAI tools keep inputted information entirely within a firm's own protected databases, called closed systems, which reduces the risk of sharing client confidences and secrets through self-learning. But it does not fully eliminate this risk if a firm has lawyers who are screened from certain matters and also use the same GAI tool, without further safeguards. To safely use GAI that self-learns outside of a closed system, lawyers must fully anonymize their inputs to protect client confidences and secrets, unless a client gives informed consent otherwise.

"A client may give informed consent to forgo security measures that would otherwise be required by this Rule." ARPC 1.6(c). Where there is a risk that a GAI tool may disclose inputted client confidences or secrets to a third party, a lawyer should (i) discuss with their client the proposed use of the GAI tool, (ii) advise their client of this risk, and (iii) obtain their client's informed consent to use the GAI tool, before inputting the client's confidences or secrets.

ARPC 5.1—Responsibilities of Partners, Managers, and Supervisory Lawyers.

Law firm partners and other lawyers who have "comparable managerial authority" must "make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct." ARPC 5.1(a). Such reasonable efforts may include having policies and procedures related to the use of GAI. For example, law firms may choose to prohibit the use of GAI that learns from user inputs to reduce potential disclosure of client confidences and secrets.

The Committee does not intend to specify what GAI policies a law firm should adopt because it is the responsibility of each law firm leader to determine how GAI might be used in their firm and then establish a GAI policy that addresses the benefits and risks associated with that use—and to continually reassess these issues as technology evolves. As a part of this process, it is appropriate to review the law firm's existing cybersecurity policies and ensure that they take GAI into consideration.

Relatedly, lawyers who have "direct supervisory authority" over any other lawyer must "make reasonable efforts to ensure that the other lawyer conforms to the Rules of Professional Conduct." ARPC 5.1(b). This requires that any lawyer who supervises a junior lawyer who in turn uses GAI must understand enough about GAI to provide appropriate oversight and supervision.

ARPC 5.3—Responsibilities Regarding Nonlawyer Assistance.

A lawyer with direct supervisory authority over a nonlawyer must make reasonable efforts to ensure that the nonlawyer's conduct is compatible with the lawyer's professional obligations. ARPC 5.3. Though ARPC 5.3(a)(1)-(3) speak in terms of a "person" nonlawyer, many of the standards applicable to nonlawyer assistance should also guide a lawyer's use of GAI.

For example, a lawyer should review GAI work product in situations requiring work product review for nonlawyer assistants like paralegals. Lawyers are ultimately responsible for their own work product, regardless of whether it was originally drafted or researched by a human nonlawyer or GAI. Functionally, this means a lawyer must verify the accuracy and sufficiency of all GAI research—including for the reasons described below with respect to GAI "hallucinations." Failure to do so can lead to violations of the lawyer's duties of competence and candor to the tribunal, among others. Likewise, lawyers should not fully delegate to GAI anything that could constitute the practice of law and that requires a lawyer's judgment and participation, like negotiation on a client's behalf or offering legal advice.

The rule applies to nonlawyers both within and outside a firm. ARPC 5.3 cmt. The fact that a GAI tool might be operated by a third-party thus does not eliminate a lawyer's imperative to ensure that its work product is consistent with a lawyer's professional obligations.

ARPC 8.4—Misconduct.

It is professional misconduct for a lawyer to "engage in conduct involving dishonest, fraud, deceit, or misrepresentation that reflects adversely on the lawyer's fitness to practice law." ARPC 8.4(c). A lawyer's use of GAI may run afoul of this rule to the extent a lawyer relies on and presents untrue information provided by GAI. Among the reasons that GAI is controversial is its ability to respond to queries with "hallucinations"—outputs that are nonsensical or inaccurate—based in part on perceived patterns or objects that do not actually exist or are imperceptible to humans.[11] GAI has even hallucinated entire court decisions that lawyers have then cited in court briefs. These outputs can be quite deceptive as they appear on their face to be accurate.

Lawyers must confirm that the information GAI generates is true when relying on it in the practice of law. This includes ensuring the accuracy and relevance of citations used in legal documents or arguments. When citing legal authorities such as statutes, regulations, case law, or scholarly articles, lawyers must verify that the citations accurately reflect the content they are referencing. Lawyers must also ensure that GAI-generated content, like legal documents or advice, reflects sound legal reasoning.

Such efforts will also help ensure compliance with **ARPC 3.3—Candor Toward the Tribunal**—which prohibits lawyers from knowingly making and failing to correct false statements of fact or law to a tribunal. At least two courts in other jurisdictions have sanctioned or suspended lawyers for submitting filings with fake quotes and citations generated by GAI and failing to "come clean" to the court about their use.[12]

It also helps ensure compliance with **ARPC 3.1—Meritorious Claims and Contentions**—which prohibits lawyers from bringing claims that do not have a basis in law. ARPC 3.1 also prohibits lawyers from bringing or defending claims without a basis in fact. If a lawyer suspects that a client may be providing GAI-generated or modified evidence, the lawyer should verify the veracity of the evidence to ensure that no fabricated facts are presented to a court.

Finally, ARPC 8.4(f) says it is professional misconduct to "engage in conduct that the lawyer knows is harassment or invidious discrimination" with individuals involved in the legal system. Some GAI is trained using historical and biased information—including information from eras when discrimination *was* the law—so lawyers should be cautious to avoid potential biases when using GAI, for example to screen potential clients.

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NEWS FROM THE BAR

ALASKA BAR ASSOCIATION ETHICS OPINION 2025-1

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Conclusion

In sum, a lawyer must reasonably ensure compliance with the lawyer's ethical obligations when using GAI tools. Those obligations include duties to (i) communicate with a client about the use of GAI where it may not be foreseeable or expected, (ii) avoid duplicative and excessive fees and costs for the use of GAI, (iii) confirm before using any GAI tool whether it will safeguard client confidences and secrets, (iv) set policies and procedures about the use of GAI and ensure appropriate supervision of others who use GAI within a firm, and (v) ensure the accuracy of GAI-provided information before communicating it to others. Lawyers should be cognizant that GAI is still in its infancy and not treat these ethical concerns as an exhaustive list. Rather, lawyers should continue to develop GAI technological competency and learn its benefits and risks when used in the practice of law.

Approved by the Alaska Bar Association Ethics Committee on April 3, 2025.

Adopted by the Board of Governors on April 23, 2025.

Footnotes

1 Other jurisdictions that have evaluated the issues posed by GAI under their corresponding ethical rules, have reached similar conclusions. See, e.g., Tex. Ethics Op. 705 (2025); N.C. Ethics Op. 2024-1 (2024); Mo. Informal Op. 2024-11 (2024); D.C. Ethics Op. 388 (2024); Ky. Ethics Op. E-457 (2024); ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 512 (2024) (hereinafter "ABA AI Opinion"); Fla. Ethics Op. 24-1 (2024); N.J. State Bar Ass'n, Task Force on Artificial Intelligence (AI) and the Law, Report, Requests, Recommendations, and Findings (2024); N.Y. State Bar Ass'n, Report & Recommendations of the Task Force on Artificial Intelligence (2024); Pa. State Bar & Philadelphia Bar Joint Formal Op. 2024-200 (2024); N.Y. City Bar Formal Op. 2024-5 (2024); W. Va. Ethics Op. 24-01 (2024); State Bar of Cal., Standing Comm. on Prof'l Resp. & Conduct, Practical Guidance for the Use of Generative Artificial Intelligence in the Practice of Law (Nov. 16. 2023); State Bar of Mich., JI-155 (Oct. 27, 2023).

2 *See, e.g.*, Alaska Ethics Op. 2014-3, Cloud Computing and the Practice of Law; Alaska Ethics Op. 98-2, Communication by Electronic Mail.

3 Alaska Ethics Op. 2014-3, Cloud Computing and the Practice of Law at 1.

4 ABA AI Opinion at 9.

5 *Id.*

6 ARPC 1.5(a) provides the following non-exhaustive list of factors to consider in assessing reasonableness: "(1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly; (2) the likelihood, that the acceptance of the particular employment will preclude other employment by the lawyer; (3) the fee customarily charged in the locality for similar legal services; (4) the amount involved and the results obtained; (5) the time limitations imposed by the client or by the circumstances; (6) the nature and length of the professional relationship with the client; (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and (8) whether the fee is fixed or contingent."

7 ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 93-379 (1993).

8 Alaska Ethics Op. 95-4, Standards Governing Charges to Clients for Disbursements and Other Expenses.

9 ABA AI Opinion, at 14.

10 Alaska Ethics Op. 2014-3, Cloud Computing and the Practice of Law at 3 ("While a lawyer need not become an expert in [GAI], a lawyer must remain aware of how and where data are stored and what the service agreement says.").

11 In early 2024, researchers at Stanford University announced the preliminary results of a study finding that "[l]arge language models hallucinate at least 75% of the time when answering questions about a court's core ruling." Isabel Gottlieb & Isaiah Poritz, *Legal Errors by Top AI Models "Alarmingly Prevalent," Study Says*, Bloomberg Law (Jan. 12, 2024).

12 *See Mata vs. Avianca, Inc.*, 2023 WL 4114965 (S.D.N.Y. June 22, 2023); *People v. Crabill*, No. 23PDJ067, 2023 WL 8111898 (Colo. O.P.D.J. Nov. 22, 2023).

ALASKA BAR ASSOCIATION ETHICS OPINION No. 2025-2

A Lawyer's Duty to Safeguard Client Trust Funds from Third Party Fraudulent and Criminal Activity

Issue Presented

Fraudulent and criminal schemes directed at law firm trust accounts are widespread in Alaska and nationwide. When successful, these schemes can result in client trust funds being misappropriated, causing financial harm to clients. This Opinion examines what a lawyer should do under the Alaska Rules of Professional Conduct ("ARPC") to be aware of and mitigate the potential for harm from such schemes, in the context of a hypothetical situation.

Short Answer

ARPC 1.1 (competence) and 1.3 (diligence) provide that a lawyer shall provide competent and diligent representation, backed with the legal knowledge, skill, thoroughness and preparation reasonably necessary. ARPC 1.15 (safekeeping property) applies these rules with particular force in trust account transactions, where a lawyer is responsible for client and third party funds.[1] While a lawyer is required to "promptly deliver to the client or third person any funds or other property that the client or third person is entitled to receive," ARPC 1.15(d), the lawyer should not disburse trust account funds without taking all reasonable steps to assure that the funds are actually in the trust account and are correctly disbursed.

Analysis

Our hypothetical situation is regrettably typical. Lawyer Robin receives an email inquiry from a prospective client in another jurisdiction who claims to need assistance in a commercial dispute. The prospective client claims to be owed substantial funds. On behalf of the prospective client, Robin writes a demand letter to the alleged debtor. The alleged debtor responds immediately by acknowledging the debt and offering to pay the balance. Robin draws up settlement paperwork, and the alleged debtor promptly sends a check for the full amount, which Robin deposits in her trust account.

The client aggressively pressures Robin to release the settlement funds, claiming the funds are urgently needed. Robin transfers the settlement amount to the client, less her fees. One week later Robin checks her trust account and discovers that the alleged debtor's settlement check bounced. In a panic, Robin tries to reach her client, without success, and searches the public record for information about her client and the alleged debtor, but finds nothing. Neither the client nor the alleged debtor can be located. The result is that trust account funds belonging to other clients have been disbursed to an unknown, untraceable third party.

Robin ignored a series of "red flags": (1) a new or unfamiliar client from a foreign jurisdiction, who communicated primarily by email or text; (2) performance of a relatively simple task (in this case a demand letter[2]) that generated a speedy "payment"; and (3) immediate pressure from the client for the lawyer to make prompt payment from the lawyer's trust account, before the "payment" clears. Robin's failure to verify the prospective client's identity and bona fide existence and her haste in transferring funds out of the trust account violated her professional obligations under ARPC 1.1 (competence), 1.3 (diligence), and 1.15 (safekeeping property).[3]

Criminal and fraudulent activities directed at lawyers, law firms, and legal transactions have become commonplace, as acknowledged by the FBI,[4] professional trade associations[5], insurers[6], court systems[7] and bar associations around the country, both in informal guidance,[8] ethics opinions,[9] and discipline.[10] As the North Carolina State Bar opined in 2020 Formal Ethics Opinion 5, "given the constant threat to client funds and the significant harm that can result from such fraudulent activity, a lawyer's duty in representing clients …. necessarily requires the lawyer to be vigilant in reasonably educating him or herself on the current state of such fraudulent attempts and in communicating with clients and staff about such risks."

The risks of financial fraud in today's world are of such magnitude – and the speed of electronic transactions are so fast – that affirmative, competent, and diligent efforts of a lawyer are required to (1) understand the nature of the risks in such an undertaking, and (2) take reasonable steps to prevent such risks. This is particularly true when a lawyer encounters common and repeated patterns that are or should be well known to competent practitioners; are suspicious on their face; and are avoidable through the exercise of basic care, not requiring extraordinary efforts.[11] This is not to say that lawyers are the guarantors of all aspects of a transaction, nor that every fraudulent scheme can be prevented. Nonetheless, lawyers are required by the ARPCs to take all reasonable precautions to protect their clients' interests in the face of the rapid proliferation of fraudulent schemes.[12] To meet the ARPC duties of competence, diligence and safekeeping of others' property requires lawyers to be aware of the risks of fraud and to take all reasonable steps to protect against it.

Approved by the Alaska Bar Association Ethics Committee on February 6, 2025.

Adopted by the Board of Governors on April 23, 2025.

Footnotes

1 "Misappropriation of client funds usually is an obvious violation of the rule and is dealt with by disbarment or other severe disciplinary sanction." Annotated Model Rules of Professional Conduct, 10th Edition, p. 297 (Bennett, Gunnarsson, and Kisicki, eds.); "[S]uspension is generally appropriate when a lawyer knows or should know that he is dealing improperly with client property and causes injury or potential injury to a client." In the Disciplinary Matter Involving Triem, 929 P.2d 634, 647 (Alaska 1996).

2 While the hypothetical addresses a putative client purporting to have a legal claim against another person, these scams can also involve requests that an attorney provide assistance in a real estate or business transaction that may result in the client receiving funds as a "deposit" or holding funds as a trustee. Other variations will no doubt surface in the future. The common thread is that the lawyer's work generates a prompt deposit into the trust account, followed by a prompt demand for payment from the putative client.

3 See ARPC 1.15 Comment ("A lawyer should hold property of others with the care of a professional fiduciary."). The Comment further clarifies that the rule includes an obligation to ("maintain on a current basis books and records in accordance with generally accepted accounting practice…").

4 https://www.fbi.gov/file-repository/fy-2022-fbi-congressional-report-business-email-compromise-and-real-estate-wire-fraud-111422.pdf/view

5 https://www.nar.realtor/law-and-ethics/protecting-your-business-and-your-clients-from-cyberfraud

6 https://www.hanover.com/resources/tips-individuals-and-businesses/prepare-now-learn-how/email-wire-fraud-scam-affecting

7 https://www.wicourts.gov/courts/offices/docs/olrscams.pdf

8 https://blog.texasbar.com/2024/07/articles/law-firms-and-legal-departments/scams-continue-to-target-texas-attorneys/

9 North Carolina State Bar 2020 Formal Ethics Opinion 5; New York City Bar Formal Opinion 2015-3.

10 Private Reprimand 2024-OLR-08, Wisconsin Office of Lawyer Regulation.

11 Id.12 While many of the Rules of Professional Conduct are directed at intentional misconduct, no intent element is included in ARPC 1.15. "Some few offenses , such as those requiring a maintenance of office books and records… are so absolute in form, thus warranting a finding of a violation… no matter what the lawyer's state of mind." Restatement (Third) of Law Governing Lawyers Sec. 5 cmt. d (2000).

> *Even the clearest judicial decision can be rendered powerless when the President doesn't enforce it.*
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> . . .
>
> ***Highlight from Neal Katyal's keynote address***

REQUEST FOR COMMENT ON PROPOSED AMENDMENT TO ALASKA BAR RULE 65.

The Pro Bono Services Committee proposes that Alaska Bar Rule 65 be amended to permit general continuing legal education credit to be awarded for pro bono service. Following the lead of twenty other states who have adopted similar rules, the proposed rule would allow Bar members to earn one general CLE credit for every two hours of pro bono service, not to exceed 9 general credit hours per year. To receive CLE credit under the proposed rule, the pro bono work must be performed without compensation under the supervision of a "qualified legal services provider" or at a free legal clinic sponsored by a qualified legal services provider. If a pro bono attorney receives an award of attorney's fees, they may opt to either keep the award and forego CLE credit for their work, or donate the award to the sponsoring qualified legal services provider and earn CLE credit for their pro bono work. The mandatory reporting requirements of Rule 65(c) would apply to this activity.

At its April 23, 2025 meeting, the Board of Governors voted to approve publication of this proposed rule change to the membership for comments.

Please send any comments to Pro Bono Director Lea McKenna, at lmckenna@alaskabar.org, by July 15, 2025.

Alaska Bar Rule 65

(e) CLE Activities. The MCLE standards of this rule may be met either by attending approved courses or completing any other continuing legal education activity approved for credit under these rules. If the approved course or activity or any portion of it relates to ethics as described in (a) of this rule, the member may claim MECLE credit for the course or activity or for the ethics-related portion of it. Any course or continuing legal education activity approved for credit by a jurisdiction, other than Alaska, that requires continuing legal education is approved for credit in Alaska under this rule. The following activities may be considered for credit when they meet the conditions set forth in this rule:

(1) preparing for and teaching approved CLE courses and participating in public service broadcasts on legal topics; credit will be granted for up to two hours of preparation time for every one hour of time spent teaching;

(2) studying audio or video tapes or other technology-delivered approved CLE courses;

(3) writing published legal articles in any publication or articles in law reviews or specialized professional journals;

(4) attending substantive Section or Inn of Court meetings;

(5) participating as a volunteer in Youth Court or similar law-related educational youth activities;

(6) attending approved in-house continuing legal education courses;

(7) attending approved continuing judicial education courses;

(8) attending approved continuing legal education courses including local bar association programs and meetings of professional legal associations;

(9) participating as a mentor in a relationship with another member of the Alaska Bar Association for the purpose of training that other member in providing effective pro bono legal services;

(10) participating as a member of the Alaska Bar Association Law Examiners Committee, the Alaska Bar Association Ethics Committee, the Alaska Rules of Professional Conduct Committee, or any standing or special rules committees appointed by the Alaska Bar Association or the Alaska Supreme Court; and

(11) providing free civil legal services under the supervision of a "qualified legal services provider" as defined in Alaska Bar Rule 43.2(c)(2), or at a free legal clinic sponsored by a qualified legal services provider. A member may receive 1 general credit hour for every 2 hours of pro bono service as provided in this rule, not to exceed 9 general credit hours per year. To be eligible to receive general CLE credit under this rule, a member:

a. Must be in good standing of the Alaska Bar Association; and

b. May neither ask for nor receive personal compensation of any kind for the legal services rendered under this rule. If allowed by law, the pro bono attorney may seek attorney's fees on behalf of the client but may not personally retain them. Any attorney's fees awarded shall be donated to the sponsoring qualified legal services provider.

Alaska Supreme Court Disbars Anchorage Lawyer Kit Karjala

The Alaska Supreme Court, on March 7, 2025, disbarred Anchorage lawyer Kit Karjala. The Court's order was the culmination of several years of criminal and disciplinary proceedings.

In May 2017, authorities arrested Karjala, a criminal defense lawyer, for attempting to pass drugs to a client who was an inmate at the Anchorage Correctional Complex. In June 2018, a federal grand jury indicted Karjala on charges including conspiracy to distribute heroin, methamphetamine and other drugs. She pleaded not guilty and was released on bail with conditions including drug screening. After she tested positive for marijuana and failed to appear at a bail revocation hearing, the federal district court issued a warrant for her arrest. Karjala was taken into custody after being hospitalized for a possible drug overdose. She remained in jail during preliminary criminal proceedings, but eventually was released again with drug screening conditions.

In June 2018, after the grand jury indictment, the Alaska Bar Association filed a motion with the Supreme Court seeking Karjala's interim suspension. The Bar Association argued that, under Bar Rule 26(e), her conduct posed a substantial threat of irreparable harm to clients or was causing great harm to the public by a continuing course of misconduct. The Supreme Court granted the Bar's motion in July 2018. Karjala remained on interim suspension until the conclusion of her criminal case and Bar disciplinary proceedings.

Karjala's criminal proceedings lasted through 2021. Under a plea agreement, she pleaded guilty to a single felony count of money laundering conspiracy related to drug transactions and distribution at the Anchorage jail. The court considered mitigating factors, including a medical diagnosis that Karjala had a serious illness, and sentenced her to fifteen months of time already served. The Bar Association received the court's certified judgment in March 2022 and filed formal ethics charges against Karjala that November.

The Bar charged Karjala with violating Alaska Rules of Professional Conduct 8.4(b) (forbidding criminal conduct that reflects adversely on a lawyer's honesty, trustworthiness, or fitness to practice) and 8.4(c) (forbidding dishonesty, fraud, deceit, or misrepresentation). Karjala did not respond to the Bar's charges or participate in disciplinary proceedings during 2023 and 2024. After considering applicable sanction standards, an ethics hearing committee recommended that Karjala be disbarred. On review, the Disciplinary Board of the Bar and the Supreme Court concurred.

Alaska Supreme Court Disbars Nathan R. Michalski

The Alaska Supreme Court disbarred Nathan R. Michalski, effective immediately, on March 28, 2025. The Court had earlier issued an order on May 13, 2024, placing Mr. Michalski on interim suspension from the practice of law. Mr. Michalski had been found guilty of two felonies: Misconduct involving a Controlled Substance in the Second Degree, and Attempted Sexual Abuse of a Minor in the Second Degree. Under Alaska Bar Rule 26(b), the felony convictions were deemed serious crimes that warranted interim suspension.

Following the initiation of disciplinary proceedings, Bar Counsel and Mr. Michalski entered a stipulation for discipline by consent that recommended disbarment as the appropriate sanction. The Disciplinary Board reviewed and approved the stipulation and recommended disbarment to the Alaska Supreme Court.

The stipulation is available for review at the Alaska Bar Association.

Law & Culture Day CLE Launches Ongoing Series Focused on Alaska Native Experience

By Kara Bridge, CLE Director

Alex Cleghorn, Tangirnaq Native Village and Chief Operating Officer of the Alaska Native Justice Center welcomes attendees to the Law & Culture Day CLE.

On February 12, 2025, the Alaska Bar Association, in partnership with the Alaska Native Justice Center, hosted the first *Law & Culture Day* CLE at the Dena'ina Civic and Convention Center. Nearly 50 members attended the full-day event, which marked the beginning of a statewide effort to bring Alaska Native cultural programming to every judicial district. Sessions included a history and overview of the Alaska Native experience, an in-depth look at ANCSA and self-determination, subsistence rights, tribal justice systems under VAWA 2022 and ethical considerations when working with tribal courts.

This program reflects the Bar Association's commitment to fostering cultural understanding throughout the legal community. In a state where tribal and state legal systems often intersect, cultural competency is essential to ensuring fair and effective legal services. As the series expands, the Bar will continue working with local leaders to foster a better understanding of cultural awareness.

Black, Indigenous and People of Color Voluntary Affinity Bar Formed

By Aadika Singh

The Alaska BIPOC (black, Indigenous, and people of color) Bar formed this spring. They held their first meeting over Zoom on March 13, 2025 and held a meeting with some invited guests before the Alaska Bar Convention on April 23, 2025. Attendees of the meeting are pictured here. The mission of the Alaska BIPOC Bar is to: Provide opportunities for Alaska lawyers who identify as black, Indigenous or people of color to network with each other; to empower and champion BIPOC lawyers in leadership positions in Alaska's legal profession, judiciary and broader communities; and to serve as resources for BIPOC youth and other community members looking for models in the profession. If you are interested in joining or receiving more information about the Alaska BIPOC Bar, contact Aadika Singh at aadikasingh@gmail.com.

Photos by Patsy Shaha

In Memoriam

Long-time Alaskan Stephen Cooper died in Fairbanks on April 19, 2025 at age 87

Stephen was the fourth of six children born to Frederick and Katherine Cooper in Mount Holly, NJ. The family later moved to a farm in Penn Valley, PA.

Stephen attended Temple University in Philadelphia. In 1958, looking for adventure, he transferred his credits to the University of Alaska, hitchhiked to Seattle, and got on a plane to Anchorage. He graduated from the University of Alaska, Fairbanks, in 1959 and spent the summer working as a firefighter for BLM. Stephen then enlisted with the Army for a three-year tour of duty. He was sent to the Army Language School in California and trained to a high level of fluency in German. The Army stationed him in Berlin, where he worked as an interrogator of refugees.

He left military service in August 1962 and attended Boalt Hall School of Law in Berkeley, CA. He graduated with an LLB degree in 1965. Stephen returned to Alaska in 1969. He worked first in Juneau and later in Nome. From 1969-1971 Stephen was the district attorney in Fairbanks. He also commercially fished in Bristol Bay the summers of 1970 and 1971. In August 1971 he was appointed Assistant U.S. Attorney in Fairbanks. He served for 47 years with the U.S. Attorney's Office and a total of 53 years in the legal profession.

Stephen was active for many years as a lay minister in the Church of the Redeemer, a local traditional Anglican congregation. He was ordained to the ministry in April 2018 and faithfully served as rector for the next seven years, until his death. He was deeply sincere in his Christian faith.

In addition to his legal career and church ministry, many people in Fairbanks knew Stephen Cooper as a pilot. He enjoyed flying his 1942 Beechcraft biplane as well as smaller bush planes, and was active in various aviation organizations. He attained the rank of major in the Civil Air Patrol.

An appreciation of classic vehicles, classic movies and fine craftsmanship was characteristic of Stephen Cooper. He enjoyed the wilderness and was intrigued by natural medicines. Other interests included fishing, trapping, hunting, bagpipe playing and military history. He loved classical music, traditional hymns and the folk music of various cultures, especially Celtic.

Stephen was preceded in death by his parents Frederick and Katherine Cooper and sisters Martha Anne, and Mary Elizabeth (Albert) Malischewski. He is survived by his brothers Paul (Therese), David (Gay), and Andrew (Mary Ann decd.) Cooper. Surviving nephews are Gregory, Timothy, Peter, John, Albert, Ron and Vincent Cooper. Surviving nieces are Margo, Margaret Dawn, Mary Beth, Katherine Ann, Patricia, Sarah and Jennifer Lee.

Stephen was an active member of the local Pioneers Igloo #4, Alaska Airmen's Association, QB Club, Civil Air Patrol, California Bar Association and the Alaska Bar Association. He leaves behind many friends who will remember him as a kind, quiet and highly intelligent gentleman.

Stephen's life in Alaska spanned 57 years of adventure and service. He was in many ways the quintessential old-time Alaskan. He requested that his ashes be scattered in the hills around Beaver Creek, where he used to trap.

Funeral Services will be held at the Church of the Redeemer, Pioneer Park, Fairbanks, AK, Wednesday, June 4th, at 1:00 PM. A Memorial Service will be held at Aurora Pointe, 570 Funk Road, Fairbanks, AK, Wednesday, June 4th, at 7:00 PM.

Kenneth F. Brittain (1955-2025) Passes Away in Portland, Oregon

Ken was born in Myrtle Creek, Oregon on August 10, 1955. Whenever he drove into Myrtle Creek, he would point out the derelict old building which had been the hospital and say that his mother had always told him he was delivered there by a woman doctor who had been the only physician practicing in the area at the time.

Sometimes he told stories about the pigs his family kept. He helped feed them. He would build a fire under a 5 gallon drum and cook potatoes and corn on the cob. He said the pigs loved the potatoes and would nibble the corn off the cobs. Later when they got hungry again, they would eat the cobs. Ken enjoyed state fairs and always visited the pigs.

He lived in Myrtle Creek until high school when his family moved to Roseburg, Oregon. He graduated from Roseburg High. Through his childhood and early adolescence, he aspired to be a professional baseball player when he grew up. At some point he came to the realization that this career path was unlikely to pan out, so he decided to become a lawyer.

He attended the University of Oregon in Eugene, graduating in 1978. He then attended the U of O Law School, graduating in 1981. He moved to Anchorage, Alaska that year to work at the law firm of Hughes Thorsness Gantz Powell & Brundin.

In 1985 he met Ev (Evelyn) Tucker in Dillingham. He was there on a case; she was doing field work for the University of Alaska. In 1988 they married.

In 1986 he started his own firm. A year later he joined with David Mersereau to form Brittain & Mersereau. Later James Pentlarge joined the firm. Eventually it became Brittain & Pentlarge. Ken loved fishing and gardening in the summers, but he hated the long dark winters. In 2002, he left the firm he founded and moved with his wife to Medford, Oregon.

In 2005 they started Rogue Gems, LLC, a wholesale gemstone company. They traveled throughout the west coast attending trade shows, rockhounding and making sales calls. They both loved spending time in Tucson, Arizona each January and February, attending the gem and rock shows there. In 2007 they relocated from Medford to Portland, Oregon.

In 2017 Ken joined the staff at the Social Services Office of Hearings Operations in Portland. He worked there until his death on January 25, 2025. He died at home. His death was sudden, unexpected and swift. He is sorely missed by his wife, his sister Mary Rutherford, nephew Thomas Stanphill, and his many long-time friends. He is also missed by his elderly dog, Izzy, who he indulged until she became a nuisance. Then he began affectionately calling her "Little Turd". The family of crows he befriended still hang out most mornings in his front yard hoping he will emerge and throw them their daily ration of peanuts.

Family and friends will be hosting a Celebration of Life/Memorial in Portland in the coming year. Anyone who would like to be notified of the event, please send an email to evtucker@comcast.net.

Adventures in Probate Land, Part I: A Practical Guide to the Rights of "Children" in Alaska Intestate Estates

By Chelsea Ray Riekkola

When a person dies without a will, the law springs into action with all the charm and subtlety of a flowchart. Alaska's intestacy statutes don't care who got along, who was estranged, or who showed up at the hospital. Instead, the outcome is governed entirely by legal relationships, particularly when it comes to defining "children." For general practitioners dipping a toe into probate, this article offers a guide to determining who counts as a child, and who doesn't, when there's no will to set the record straight.

The Law's View on Who Counts as a "Child"

Under Alaska law, intestate succession depends on whether a person is a legal descendant—not whether they were loved, present or even known. The statutory rules begin at AS 13.12.101 and define heirship through a series of increasingly distant categories. But the real landmines lie within AS 13.12.114, which governs the parent-child relationship. This statute codifies the default: a child inherits from their legal parent, and vice versa. Seems simple—until it isn't.

Adoption and Inheritance Rights

It should not be a surprise that once a child is adopted by someone outside the biological family, the legal parent-child relationship with the biological parent is severed. That child is no longer an heir of the biological family. Although Alaska is not technically a Uniform Probate Code state, many of its statutes were based on the Uniform Probate Code. Thus, Alaska follows a key Uniform Probate Code exception to the rule that adoption severs inheritance rights. Specifically, adoption of a child by a stepparent does not sever the child's right to inherit from their biological parent. For the sake of clarity, let's phrase this another way: under AS 13.12.114(b), if a child is adopted by their stepparent, they remain a legal heir of *both* their biological parent and their stepparent.

Here is a not-so-hypothetical scenario, the facts of which are based on a case in my practice. The names have been changed for this example. Lena had a son, Marcus, with her ex-husband, Ralph. Ralph and Lena divorced shortly after Marcus's birth, and Ralph did not have a relationship with or presence in Marcus's life. Ralph never had other children.

Lena later married David, while Marcus was still quite young. David then legally adopted Marcus as his son. Growing up, as far as Marcus was concerned, David was his father. He was not aware of who his biological father was until he was researching his own genealogy and discovered (1) that his biological father was Ralph (thanks to a genetic test and information entered by Ralph's sister via Ancestry.com), and (2) Ralph had passed away only weeks before (also information available via Ancestry.com). Upon learning of his biological father's death, Marcus asserted his claim to the assets as the sole heir under Alaska's laws of intestate succession. Guess what? He won.

Stepchildren, Foster Children, and "Raised Like My Own"

The Alaska statutes do not provide for inheritance by children unless they are biological or legally adopted. However, in Alaska, a child who is equitably adopted has inheritance rights similar to those of a legally adopted child, *specifically* in the context of intestate succession. Equitable adoption, also known as virtual adoption or adoption by estoppel, is recognized in Alaska and allows a child to inherit from foster parents as if they were legally adopted by those individuals. *Calista Corp. v. Mann*, 564 P.2d 53 (Alaska 1977).

To establish equitable adoption, the following elements must be proven by clear and convincing evidence: (1) the foster parents must have died intestate, (2) there must have been a contract or agreement to adopt, either express or implied from surrounding facts, (3) the foster parents must have represented to the child, either expressly or by their conduct, that he or she was adopted, thereby inducing the child to perform duties expected of an adopted child, (4) the child must have carried out his or her filial obligations in the belief that he or she was an adopted child, and (5) any steps taken by the foster parents to legally adopt the child must not have been perfected. *Id.*

Estranged or "Disinherited" Children: Still Heirs

Perhaps it is obvious to attorneys, but it is important to address the fact that estranged relatives, if they are the heirs at law in an intestate probate, are still entitled to inherit. A common refrain from surviving relatives: "He hadn't talked to his son in 25 years. There's no way he wanted him to get anything." Unfortunately (or fortunately, depending on whose perspective you take), it doesn't matter. Disinheritance only works if there's a will.

Posthumous and "Surprise" Children

Children conceived before but born after the decedent's death can inherit under AS 13.12.108—assuming they survive for at least 120 hours. There is currently no statute or case law governing children that were conceived *after* the decedent's death. In the age of assisted reproductive technology, this is a possibility. Other states' courts have addressed this, and some states even have laws on the books, but it remains untested in the State of Alaska.

The more concrete and common (yet complex) scenarios involve children who were previously unknown to the decedent or their family. This question was addressed directly by the Alaska Supreme Court in *Estate of James v. Seward*. The probate master initially recommended denying motions for genetic testing, stating that probate proceedings were not the proper venue for a paternity contest and that the claimant lacked standing as he was not an interested party in the estate, a recommendation the Superior Court accepted. 401 P.3d 976 (2017). The Alaska Supreme Court disagreed, holding that paternity adjudication could indeed be made during probate estate proceedings. *Id.*

Thus, Alaska law does allow for paternity tests to establish heirship in probate proceedings, provided the claimant can demonstrate sufficient evidence and standing.

As an aside, DNA testing is increasingly a part of probate litigation. The existence of adult children no one mentioned in the obituary may complicate things, but the law is clear: if the child was born to the decedent or legally acknowledged, they're presumptively an heir.

Blended Families: Just Math

Alaska treats both half- and full siblings as having the same rights. A sibling is a sibling, as far as AS 13.12.105 is concerned (although that does not extend to stepsiblings). This becomes relevant when a decedent leaves no spouse or descendants, and the estate passes to their parents, siblings, or nieces/nephews. Half-siblings inherit alongside full siblings, even if they barely knew each other.

Further complexity can arise from blended families. Under **AS 13.12.102**, the surviving spouse's share depends entirely on who the children belong to. Here's how it plays out:

Example 1: If All the Children Are Joint (*AS 13.12.102(1)*)

If every descendant of the decedent is also a descendant of the surviving spouse, the spouse gets everything. So, if John and Mary have two children together, and John dies intestate, Mary inherits 100% of John's estate.

Example 2: If all the Decedent's Children were Children of the Marriage, but the Surviving Spouse Also Has Children from a Prior Relationship (*AS 13.12.102(3)*)

If the couple had children before one of the spouses died, but the surviving spouse also has children from a prior relationship, the surviving spouse receives $55,000 (the total of the statutory allowances in AS 13.12.402-405), plus the first $150,000 in value from the probate estate, plus 50% of the remaining estate assets. The decedent's children split the other 50%. Assume again that John and Mary are married, but this time, John has two children from his first marriage. If John dies intestate with a $500,000 estate, Mary gets $55,000, + the next $150,000, for an initial portion of $205,000. She then receives half of the remaining $295,000 (which is $147,500), for a total of $352,500. John's children split the remaining $147,500.

If One or More of the Decedent's Children are Not from the Marriage (*AS 13.12.102(4)*)

If the decedent had any children that were not children of the surviving spouse (typically from a prior relationship, but not always), then the spouse receives the same $55,000 in statutory allowances, plus the first $100,000 in value from the probate estate, plus 50% of the remaining estate assets. The decedent's children then split the remaining estate assets, and this includes *all* of the decedent's children, even the children who *were* the children of the decedent and the surviving spouse.

For example, John and Mary have two children together. John has a child from a prior relationship. John dies intestate with $500,000. Mary receives the first $155,000 (statutory allowances plus $100,000) + half the remaining $345,000 (which is $172,500), for a total of $327,500. John's three children split the remaining $172,500, each receiving $57,500.

Some Suggestions on Best Practices for Lawyers

Whether you're advising a personal representative or the decedent's relatives, don't rely on family lore. Ask directly and specifically about prior relationships and children, and explain that legal relationships matter, not emotional ones. Further, it is best practice to confirm adoption status with court documents, not just anecdotes.

In the context of estate administration, be prepared to respond to surprise heirs, and don't assume a probate will stay quiet just because it starts that way. However, in real practice, practitioners may find that many clients and their families cannot produce complete records. There may be divorces, informal adoptions, guardianships, or long-term foster arrangements that blur legal relationships. But the safest approach is to insist on documentation and always double-check the statute when calculating the shares of children.

Chelsea Ray Riekkola has practiced estate planning and administration at Foley & Pearson, P.C. since 2014.

Lawyers should never be punished for the clients they represent. To go after law firms for their pro bono work goes against the First Amendment and the Sixth Amendment's guarantee to right of counsel.

. . .

I think if ultimately our Constitution will continue, it will be up to judges at all levels to enforce it. I don't think we have ever needed the judges at all levels as much as we do right now. Whether they will do it is the future of our constitutional democracy.

. . .

Quotes from Erwin Chemerinsky's talk at the Alaska Bar Convention

TALES FROM THE INTERIOR

And another one bites the dust!

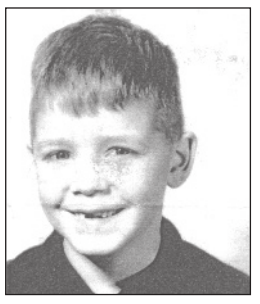
By William R. Satterberg

Little did Alaska's Deputy Attorney General Wil Condon know when he extolled the "Power of Sabotage" to a gaggle of young assistant attorney generals that it would someday backfire.

In 1978, I learned from a friend who was also a state employment fraud investigator that the Commissioner of Labor had a side deal with the unions. Union members would not be prosecuted for taking unemployment benefits even though jobs were available, and that was not all. The Commissioner also was upset that University of Alaska Fairbanks students were drawing benefits. He wanted the college kids prosecuted and had shared with the investigator that their precinct had previously cost him an election. However, UAF students were legally allowed benefits. Both my friend and I were UAF graduates.

The investigator was frustrated. Prosecute the innocent. But turn a blind eye to the guilty. Something needed to be done. He asked for my help.

I elected to go after the Commissioner of Labor. Politically. Prosecution of the Commissioner was out. Too sensitive of a topic. Unemployment fraud was rampant. Eventually, I received an "inquiry" from Alaska's Speaker of the House. Was the Commissioner ordering selective prosecution? Recognizing my dual obligations to both the legislature and to the executive branch as Wil had discussed at our conference, I felt required to respond. I also recognized that I should still run it past Wil, rather than going rogue. I wanted to follow all the rules and not expose myself or my boss to bureaucratic retribution.



At the time, I was single. I was also in a quiet relationship with Wil's secretary. I learned that Wil was going to take a secret vacation, but my plan could not wait. Timing was critical. Exercising an abundance of caution, I wisely decided to write to Wil about my intent to disclose the misconduct. I addressed my memo "For Deputy Attorney General Wilson Condon's Eyes Only," expedited its transmission and sent it post haste. Coincidentally, my memo arrived when Wil was on his vacation. No one else apparently read the memo. Either that, or chose not to disclose it.

After a reasonable delay, I cooperated with the Speaker of the House who successfully took the unions and Commissioner to task. It became a significant statewide issue. It made numerous headlines. Ultimately, the unemployment benefits bill failed and the abuses ceased.

It turned out it was not over. The next thing that my paramour told me was that Attorney General Avrum Gross had come storming out of his office yelling "Who the F… is Satterberg? Where the F… does he work? He is going to cost Hammond the election! Get him down here right F…--ing now!" Previously, I was an unknown minion in a remote outpost. Now, I was a somebody.

Wil's secretary called. I was to go immediately to Juneau. Wil was the enforcer that kept all us young assistant attorney generals in line.

So I caught the next flight to Juneau. I went directly to headquarters, where I was ushered into Wil's office. My friend, Bruce Botelho, another young assistant attorney general, was already seated in the office. Bruce and I had worked together in the past. Bruce respectfully offered to leave the meeting. But Wil told him "No, Botelho, I want you to witness this." I sensed then that maybe I was in trouble and might not be receiving the recognition and accolades I expected.

Wil got right to the point. "Satterberg, I'm going to fire you. This is an election year. You have embarrassed the State of Alaska. You are going to cost Hammond the election!" I was surprised. This was not my objective. I actually liked the governor.

I asked "Why are you going to fire me? I was simply performing under my oath as an assistant attorney general to root out corruption." In response, Wil told me that I was being fired because I had "exercised poor judgment." I should have told him of my plans before starting my one-man crusade. I innocently responded, "Didn't you receive my memo? I recognized that this was a very sensitive topic. I did not want to take action in this matter without you personally knowing about it." My memo, in fact, had stated that, due to the urgency of the situation, if I did not hear back within a week, I would proceed with my next steps. Wil had been on a two-week vacation.

At that point, Wil yelled to his second in command, "Ron?! Did I get any memos from Satterberg?" Ron's response from the next-door office was that a memo had been received, but he had not read it. It was meant for Wil's eyes only. Wil then demanded to see the memo. As Wil read my memo, his complexion visibly changed to a bright red and his neck veins stood out. The memo laid out not only my case for going after the Commissioner, but also requested his approval, and indicating that, due to the importance of the situation, I would take action if I did not quickly hear back. Unfortunately, Wil often ignored staff memos.

After reading my memo, visibly shaking, Wil bellowed "Get out of here!" Before I could move, he demanded, once again, to "Get out of here!" On leaving, I timidly asked if I still had a job. Wil's exasperated response was "Yes. You do! Now get the hell out of here!"

I returned to Fairbanks the next day after a fun night in Juneau. Later, in a call with Wil, I was told that I would "never get another step promotion" again. Nor should I plan on ever being responsible for running the Department's esteemed Fairbanks transportation section. Rather, that task was later given to a public defender who had no civil experience. But the final irony was that, when I sought my employment with the federal government, I received a glowing recommendation from Wil personally extolling my dedication, ethics, competency and integrity.

Admitted to the Alaska Bar in l976, William R. Satterberg Jr. has a private, mixed civil/criminal litigation practice in Fairbanks. He has been contributing to the Bar Rag for so long he can't remember.