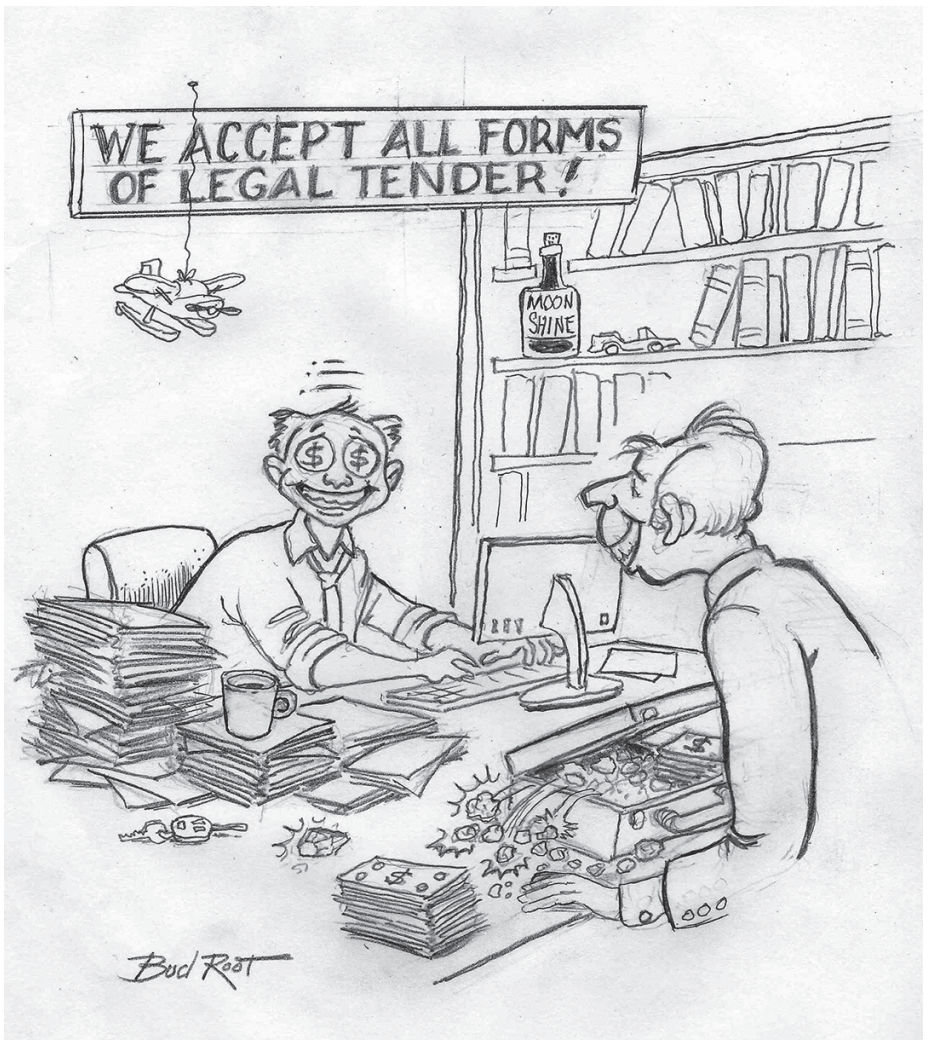
The Alaska
BAR RAG

Dignitas, semper dignitas

VOLUME 49, NO. 3 July - September, 2025



Do you do trade outs?

By William Satterberg

When I entered private practice, I pledged that I would also be open minded to obtaining payment in kind and not just cash. Although I preferred cash, because it was much more accountable and did not break like many of my in-kind automobile payments later did, I knew that some clients simply could not pay in legal tender. Although the advent of charge cards did much to alleviate that stress, credit cards did not fully solve the problem, since many of my clients were not trustworthy or creditworthy.

One of my first payments in-kind was from a gold miner. He had a mason jar of gold and asked if I would accept it as payment. Fortunately, I had once read a Gilbert summary on tax law. I recognized I would have to pay tax on the gold even if he did not. I willingly accepted his gold, but said that I would have it assayed. It was a wise decision. The gold fire assayed at about 85% pure. (And yes, I did pay my taxes). Later, the miner returned with another case he wanted me to handle gratis. When I declined to work for free, he asked me if I had "ever paid" my taxes on his last transfer, implying that I had not and that I might be facing IRS exposure. In response, I not so politely asked him to leave my office and not return.

My next in-kind payment was an aircraft. I was licensed to fly quite early in my life. Unlike many attorneys who became addicted to flying, some of whom are no longer with us due to crashes, I did not get to fly that much. My wife, Brenda, clearly was not excited about aircraft ownership. Plus, the plane was a junker. Fortunately, before I had to compute the taxes on the plane, the client redeemed the aircraft, apparently seeing some residual value in it after all.

I once took in a Corvette as payment from a local attorney. I was excited over the transfer. It was a 1978 model. I had always wanted a

Continued on page 3

Alaska Attorneys Mobilize to Support Immigrant Detainees at Anchorage Jail

By Lea McKenna

In early June, the Alaska Department of Corrections disclosed that 41 immigrant detainees had been transferred on June 8, 2025, from the Northwest ICE Processing Center, an overcrowded immigration detention center in Tacoma, Washington, to the Anchorage Correctional Complex (ACC). U.S. Immigration and Customs Enforcement (ICE) was able to transfer detainees to ACC's custody through an intergovernmental service agreement with the Alaska Department of Corrections (DOC). Reports rapidly surfaced that immigrant detainees at the ACC were being held under conditions resembling criminal incarceration.

The ACLU of Alaska, which is a qualified legal services provider designated by the Alaska Bar Association's Board of Governors, put out a call to Alaska attorneys to volunteer by interviewing immigrant detainees about conditions of confinement.

In response, 26 attorneys across Alaska responded to the call within days. Ultimately, 13 volunteer attorneys did legal visits in the week following the call for service with 23 detainees to collect information on conditions of confinement, facilitating the ACLU's work to demand accountability and lawful treatment.

Jessica Falke, a family law attorney at Nyquist Law Group, along with a paralegal from her firm, Victoria Vargas, a U.S. citizen who is the child of immigrants, volunteered to do legal visits with six of the detainees. Vargas served as a Spanish interpreter during the visits. Despite having no background in immigration law, the ACLU of Alaska was able to quickly train Falke and other volunteers on how to interview the detainees about the conditions of confinement and provided malpractice insurance.

Falke says she responded to the call for volunteers because "generally I feel that attorneys have a responsibility to stand up for justice, and as a human, I feel it is important to stand up for humanity. In this case, I was able to do both."

Falke adds that this volunteer opportunity was "particularly important. I was having conversations about how inhumane and unjust the current conditions were for ICE detainees and about how unbelievable it was for detainees to be brought to Anchorage Correctional Complex. When the ACLU sent out an email looking for volunteers, it was a way to reframe the conversation from 'this is not right' to 'what can we do to help change it.' "

Volunteer attorney Jessica Falke and paralegal/interpreter Victoria Vargas.

Falke describes her experience volunteering as powerful. "After the first two interviews, Victoria and I walked out of the jail and just started crying." Falke continues, "All of the interviews were difficult as the conditions the detainees were facing were uncomfortable, scary and confusing to everyone we spoke with, but the first day was particularly impactful. We had a legal visit with an elderly man who had been in the United States since he was five and had lived his entire life in the United States. He worked hard his whole life and should be enjoying retirement and taking care of his health. His only wrongdoing was not being able to follow the maze

Continued on page 3

Non-Profit Organization
U.S. Postage Paid
Permit No. 401
Anchorage, Alaska

Alaska Bar Association
840 K Street, Suite 100
Anchorage, AK 99501

PRESIDENT'S COLUMN

A Summary of Tribal Courts in Alaska

By Becca Patterson

Many Alaska lawyers are familiar with practicing in State or Federal court, but fewer are acquainted with Alaska's many Tribal courts.

Historically, Tribal courts comprise a panel of elders or other respected leaders applying the Tribe's laws, oral traditions and customs. Tribal courts today may allow for alternative dispute resolution mechanisms that reflect these traditions, like a "circle" or other restorative justice process aimed at keeping offenders within the community while also repairing the harm or damage that has been done. These courts may not look like Western courts.

While some traditional courts remain, most of the Tribal courts in Alaska are sanctioned not only by custom or tradition, but are expressly written into Tribal Constitutions, especially those approved by the Bureau of Indian Affairs under the Indian Reorganization Act. These Constitutions may define the jurisdiction of the courts, govern how judges are selected, and explain other matters, or they may only note that the Tribal Council has authority to establish a Tribal court. Judges may be elected or appointed, either by the Tribal membership as a whole or by the Council. Sometimes the Council *is* the Tribal court. Sometimes only one judge will hear a case, while in other courts, a panel of judges may hear a case. Tribal court judges do not necessarily need to be lawyers or law-trained, but they may have expertise on tribal customs, be tribal elders, or gain experience by sitting with more experienced judges on cases. Some Tribal courts may have lawyer advisors available to judges when they have questions.

Most Tribes have also enacted charters, ordinances, codes or regulations that provide more detail on how the courts are composed, the rules that apply to judges, the rights of litigants and court procedure. These Tribal Court codes are essential for practitioners with cases in these courts. Tribal court procedures may be unfamiliar to lawyers used to practicing in State or Federal court. In some courts, lawyers may not be permitted at all, or if they are permitted, they may not be allowed to speak for a party. Sometimes, a party may have an elder or other non-lawyer advocate with them. Tribal courts provide for due process, but notice may look different and timeframes may vary from Western courts.

"Tribal courts provide for due process, but notice may look different and timeframes may vary from Western courts. "

Tribal courts in Alaska are generally courts of limited jurisdiction, but that doesn't mean you can assume they do not have jurisdiction over your client. The geographic span of the courts may extend to the boundaries of each Tribe's traditional territory, which can be a much larger area than the current village they inhabit. The courts often only hear certain types of cases, like family law, disputes between tribal members, or misdemeanors committed by tribal members. However, under the expanded authority granted by the 2022 renewal of the Violence Against Women Act (VAWA), some courts may hear cases involving certain misdemeanors committed by both Indians and non-Indians. Other courts may hear more cases as part of special initiatives, like the Kenaitze Indian Tribe's Henu Community Wellness Court, a joint-jurisdiction diversionary program where Tribal and State judges sit together to hear cases.

If your client has a case in Tribal court and you are unsure of the court's practices, you may start by reaching out to Tribal court staff, such as a Tribal court clerk or Tribal court administrator.

Despite their differences from State and Federal courts, Tribal courts are real courts—if your client is summoned, the client must appear, even if only to contest jurisdiction. A collateral attack on the Tribal court in State or Federal court often only causes confusion, increases work for both courts and parties, and may end up backfiring if your client loses their claim or defense due to a failure to exhaust Tribal court remedies.

If your client has a case in Tribal court and you are unsure of the court's practices, you may start by reaching out to Tribal court staff, such as a Tribal court clerk or Tribal court administrator. These may be part-time positions, so keep that in mind when waiting for a response. Some courts have also published their Court codes online, to make them available to the public.

If you are looking for resources on Tribal courts generally, you may reach out to: the Alaska Legal Services Corporation, which maintains a Tribal court website at https://alaskatribes.org/; the Alaska Native Justice Center, which provides Tribal court support services, *see* https://anjc.org/services/tribal-justice-support/; the Alaska Native Women's Resource Center, *see* https://www.aknwrc.org/our-work/our-technical-assistance-work/; or by contacting individual Tribal courts directly.

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.

New Bar Rag Editor Needed

Interested in writing a quarterly column in the Bar Rag?

The editor:

- writes a quarterly column
- helps decide which articles should be printed, and discusses what should be on the front page
- reviews articles prior to publication and
- meets quarterly with the managing editor and production managers (non-lawyers who are paid to edit and layout the paper) and the Executive Director

Some editors are more active and solicit lawyers to write articles about specific subjects or write additional articles.


The Alaska BAR RAG

VOLUME 49, NO. 2 April - June, 2025

Dignitas, semper dignitas

Alaska Bar Convention Well Attended in Anchorage

By Kara Bridge, CLE Director

Over 380 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 Chemerinsky and Professor 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 individuals 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're 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 page 28.
Watch for Neil Katyal and Erwin Chemerinsky quotes scattered throughout the publication

Stephanie Rhodes beams with joy as attendees offer a standing ovation dining her acceptance of the Bryan R Timbers Pro Bono Award for Lifeime 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

Jim Shine sprints to the finish line.

If you are interested, send an email of interest to Danielle Bailey at bailey@alaskabar.org.

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:

- **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

Alaska Attorneys Mobilize to Support Immigrant Detainees at Anchorage Jail

Continued from page 1

of bureaucracy that is the United States immigration system to keep up his legal permanent resident status. He was now in a jail that houses criminal defendants, sick and scared. It could have been anyone's grandfather, father, brother, uncle. It was extremely emotional." After that first day, Falke continued to complete four more legal visits with detainees and she says she will continue to volunteer with the ACLU to assist with follow-up.

From the information gathered by the pro bono attorneys who did legal visits, the ACLU of Alaska learned that the detainees had been subject to prolonged lockdowns, exposed to pepper spray, shackled when outside of cells and held in overcrowded cells with toilets that did not flush on demand. They had difficulty contacting their attorneys and family. Many of the detainees had no criminal convictions.

Information on the conditions of confinement was published in a June 17, 2025, *Anchorage Daily News* article. Cindy Woods, Senior Immigration Law and Policy Fellow for the ACLU of Alaska states "When DOC houses federal civil detainees, it must follow federal detention standards." Woods adds: "The evidence the volunteer attorneys obtained from individuals in ICE custody was invaluable in demonstrating that DOC is failing to meet those standards of care, causing real harm and violating the constitutional rights of people held at ACC on an administrative, not a criminal, order."

Cindy Woods, Senior Immigration Law and Policy Fellow for the ACLU of Alaska, testifying to the Alaska House Judiciary Committee on June 20, 2025, regarding the conditions of confinement of ICE detainees at ACC.

Woods later testified before the Alaska House Judiciary Committee during a hearing on June 20, 2025, where she described the detainees' inability to exercise basic rights such as access to legal counsel, medical care, religious materials, and communication with family and consular officials. During the hearing, DOC Commissioner Jennifer Winkelman confirmed that pepper spray was deployed in areas where detainees were being held, causing them ongoing respiratory distress.

On June 28, 2025, the ACLU of Alaska, the ACLU National Prison Project, and the law firm Rosen Bien Galvan & Grunfeld LLP sent a letter to DOC, ICE and Alaska Attorney General Treg Taylor. The letter demanded that DOC end its agreement to detain ICE individuals for more than 72 hours unless the conditions of confinement were brought into compliance with federal civil detention standards and constitutionally adequate conditions of confinement and attorney access could be guaranteed.

According to Woods, the pro bono attorneys' rapid response played a pivotal role in elevating public awareness and ensuring that detainees received attention and advocacy.

Two days later, following media coverage and legal advocacy, ICE transferred all the detainees back to Tacoma.

According to Woods, the pro bono attorneys' rapid response played a pivotal role in elevating public awareness and ensuring that detainees received attention and advocacy.

While the broader policy questions surrounding immigration enforcement and state-federal detention arrangements remain unresolved, this episode underscored the critical role of legal professionals in defending immigrant detainees' rights.

Although immigrants have the right to counsel in immigration court, they do not have the right to free counsel. According to a 2016 study by the American Immigration Council of immigration court records across the country, only 14 percent of detained immigrants have legal counsel. Represented immigrants in detention, who had a custody hearing, were four times more likely to be released from detention (44 percent with counsel versus 11 percent without).

"The evidence the volunteer attorneys obtained from individuals in ICE custody was invaluable in demonstrating that DOC is failing to meet those standards of care, causing real harm and violating the constitutional rights of people held at ACC on an administrative, not a criminal, order."

The study highlighted the barriers to immigrant detainees' ability to obtain representation, including limited access to phones, strict visitation rules, frequent transfers of detainees to locations far from where they reside, and inability to pay an attorney.

Woods states that it was an attorney of one detainee who alerted the ACLU of Alaska to the presence of ICE detainees being transferred to ACC from the Tacoma immigration detention facility.

According to Woods, it is unclear whether ACC will accept future immigrant detainee transfers from other areas of the country. Alaska prison officials issued a statement in late June stating "The DOC values its ongoing relationship with the federal government and stands ready to support coordinated efforts that promote public safety and efficient use of resources."

If you would like to be part of closing the access to justice gap, please visit alaskabar.org/pro-bono for a list of pro bono opportunities with the Bar's qualified legal services providers.

Lea McKenna is the Pro Bono Director at the Alaska Bar Association.

Do you do trade outs?

Continued from page 1

Corvette, even if the tires were bald. I drove the sports car for two summers before I realized that it had serious safety issues, which involved both the driver and the machine. Not to mention Brenda. So, once again, I divested myself of the asset. And, yes, I paid the taxes on it, too.

In fact, I have paid taxes on all the in-kind payments I have received.

On two occasions, I have accepted real estate as payment. One case involved an attempted murder case and the civil case that followed. The property was transferred to me by my client who realized he would be spending a significant amount of time in prison. The larger parcel consisted of 160 acres, but a major portion of land was swamp. As such, I elected to only accept 70 of the acres. I left the rest on the table for my opposing counsel, to obtain for his client when he received the expected civil judgment. So, where I ended up with a nice 70 acre piece of sloping, prime view property, I understand the attorney and/or his client got the remaining swampland. I don't know if they paid taxes on the bog or not, but it was not my concern. What I do know is that they likely got to enjoy prime duck hunting and an active beaver breeding refuge.

My second land case involved a small junkyard in North Pole owned by an alleged drug dealer. I called it meth acres. It took me years to get rid of that one. Everyone turned up their nose at it.

Recently, I accepted an interesting DUI case. My client was an amateur moonshiner. After I had quoted my fee, he asked if I would accept trade in moonshine. After a few swigs, I began to realize it was a very high-quality product. Fortunately, while still somewhat sober and having not yet gone blind, I recognized that I would have a storeroom with over 50 gallons of the product if I agreed to accept only moonshine in trade. Instead, I suggested that he raise his money elsewhere, while avoiding the revenuers, and pay me in a traditional fashion.

Probably the most memorable trade out offer I ever received was when I represented a local massage parlor. The establishment quite patriotically served returning servicemen from the first Iraq war. I remember when the owner came into my office. She was a true professional in more ways than one. I could actually smell her perfume in the lobby even before I met her. She wore a bright, red sequined dress with matching spiked high heel shoes. After I had completed the intake interview, the discussion turned to payment. My client's business actually had been quite lucrative and was not in the hole. Still, she told me she liked to bargain. She wanted to negotiate a deal with me, as well.

"Do you do trade outs?" she asked, adding "As an attorney, I am sure your back bothers you from time to time and that you could use regular massages." Although the offer was intriguing, once again, I suspected Brenda would disapprove. More critically, how would I appraise and pay taxes on such a trade out? So, discretion being the better part of valor, (and wanting to preserve my marriage and my life), I responded "No, madam, I take only cash. After all, you and I are in the same business."

In the end, the case had a happy ending with the charges being fully dismissed when it became disclosed in seized evidence that my client had also been an exceptionally meticulous records keeper, to include the names and preferences of many of her local, most respectable clients and town fathers who regularly suffered from late night back pains. Just not me.

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.

Alaska Bar Association Travels to Homer

By Kara Bridge

On August 15, 2025, staff of the Alaska Bar Association (AK Bar) traveled to Homer as part of their rural outreach initiative. Executive Director Danielle Bailey, Bar Counsel Phil Shanahan, CLE Director Kara Bridge, Pro Bono Director Lea McKenna and Board member Jeffrey Robinson traveled from Anchorage to Homer. The Bar outreach team met with local attorneys, toured the courthouse, updated members on Bar initiatives and Pro Bono opportunities. In addition, Shanahan led a free ethics presentation for all members in attendance. Over the past two years the AK Bar has conducted similar outreach in Sitka, Juneau, Kodiak, Palmer and Nome. When possible, AK Bar staff have also coordinated meetings with local tribal court leaders and school visits to encourage students to consider careers in the law.

Phil Shanahan, Bar Counsel, presents to the Kenai Peninsula Bar Association at the Homer Courthouse on August 15, 2025, as part of the Alaska Bar's rural outreach program with staff and the Board of Governors.

Palmer District Court Recognizes Judge Glenn James Shidner

By Alaska Court System

Judge Glenn James Shidner was appointed to the Palmer District Court by Governor Michael Dunleavy on April 14, 2025. He was installed at a ceremony at the Palmer courthouse on August 15, 2025. Justice Jennifer S. Henderson administered the oath of office and remarks were also provided by Justice Henderson, Judge Paul A. Roetman, Judge Shawn Traini, and Joshua Traini.

Judge Shidner was born in Newark, Delaware and raised primarily in Port Allegany, Pennsylvania by his parents, Randall and Ruth Shidner, with sibling Sarah Donovan (Shidner). He attended Penn State University, graduating in 2010 with a B.S. in Political Science and Sociology. He worked in the natural gas industry while studying for the bar exam, managing a team of operators installing erosion control barriers throughout the Marcellus Shale region.

Judge Paul A. Roetman, Judge Glenn Shidner, Justice Jennifer Henderson, and Judge Shawn Traini.

Judge Shidner received his J.D. from Florida State University, graduating magna cum laude in 2015 and as a member of the Order of the Coif. While in law school, he worked as a law clerk for the Florida Attorney General's Office within their Consumer Protection Division. Additionally, he completed an externship with the State Attorney's Office as a prosecutor and volunteered at the Legal Services of North Florida's Quincy office, providing civil legal assistance to indigent clients.

After passing the bar, Judge Shidner accepted employment with the Alaska Legal Services Corporation as their Elder Law staff attorney in Anchorage. While with ALSC, Judge Shidner's practice primarily focused on wills, Medicaid trusts, and social security benefits. In 2017, he accepted a position as an Assistant District Attorney with the Palmer District Attorney's Office under Roman Kalytiak's stewardship. Judge Shidner handled both misdemeanor and felony cases in the Matanuska Susitna Borough, Glennallen, and Cordova. While at the Palmer DAO, Judge Shidner also served as the supervising attorney for the district court.

In the spring of 2022, Judge Shidner accepted a position with the Department of Justice as an Assistant United States Attorney for United States Attorney's Office for the District of Alaska within their Civil Division. While in that position, Judge Shidner handled defensive civil cases covering complex medical malpractice, torts, Bivens defense, land disputes, immigration, APA challenges, and bankruptcy matters. Judge Shidner also handled affirmative civil enforcement cases focusing on the recovery of fraudulent funds under the False Claims Act. He was made the Financial Ligation Coordinator in early spring of 2023, and shortly thereafter, became the Bankruptcy Coordinator. Judge Shidner defended the federal government's interests in multiple federal trials and handled multiple appeals before the Ninth Circuit.

Judge Shidner's success is made possible through the empowerment of his wife, Chelsie. Chelsie and Judge Shidner met in elementary school, attended Penn State together, and she has been unwavering in her support of his legal career. They were joined at the installation by their two children, Rowan and Wren.

The Bar Stool: Book Discussion of Far From Home

By Howard Trickey

I grabbed two stools at Fletcher's. I arrived a few minutes before meeting my partner, Matt Singer. Matt is curious and open minded. He reads a lot of nonfiction. Our bar stool conversations are usually about practicing law, court decisions, politics and family. When he walked in, I waved him over to the empty stool next to me.

Matt sat down and ordered an Old Fashioned, "You want to run a tab?"

"Sure. I just finished Senator Murkowski's book. It will take a couple of drinks to review it. If you want to understand politics and power, but also the rewards and sacrifices of public service, you will want to read *Far From Home*."

Matt: "She turned out to be a better Senator than I expected. What's the key to her success?"

"I have a few takeaways. *Far From Home* is written with the assistance of Charles Wohlforth. It's not written to advance a political career. Lisa's political life shows how to make democracy work. Each vote or decision reveals Lisa's values, fidelity to the Constitution, deliberate thought process and assessment of what's the right thing for Alaska. She does her homework, studies the issues and listens. She does not blindly follow the party. She is not looking for political wins. She takes her time to make the right decision for all Alaskans, not just Republicans."

Matt raised his eyebrows, wrinkled his forehead, "I thought she followed McConnell."

"Not unless the lead is consistent with her values and conscience. Look at her no vote on Kavanaugh and the second Trump impeachment vote."

Matt: "Why did she vote no?"

"In the chapter, Brett Kavanaugh and 'No More Silence', Lisa rejected the poisonous party line vote process for judicial nominees and followed the constitutional duty of advice and consent. Lisa believes in the right to choose and personal freedom, so she was in play as a potential no vote, if Roe v. Wade were in jeopardy. She was targeted from the right and the left. The Kavanaugh vote came up at the height of the 'Me Too' movement. Women came from Alaska to share their stories of survival from assault. Senator Murkowski had her own 'Me Too' experience as a young girl but was silent about it her whole life. But the threat to Roe v. Wade and her personal experience did not motivate her vote. Kavanaugh assured her, as he did Susan Collins, that he would honor and follow fifty years of precedent."

Matt: "What was the basis for her decision?"

"Lisa was focused on whether Kavanaugh was qualified. That's the Senate's constitutional role under advice and consent. Kavanaugh's performance when denying allegations of sexual assault raised questions about his qualifications. Kavanaugh's angry outbursts and aggressive confrontation in response to Senators' questions, 'undermined my confidence in his temperament as a judge.' (p. 201) After his testimony, 2,400 law professors signed a letter arguing his performance disqualified him. Lisa sought a second interview with Kavanaugh. She knew it would be impossible to resolve the assault allegations in the confirmation process, as it is not a trial and not a search for truth. She wanted a face-to-face meeting to ask about his understanding of survivors. She wanted to know if he could 'show that he understood the perspective of women who had been assaulted'. (p. 202) Lisa concluded he could not. Kavanaugh could only talk about himself and the unfairness of the charges. Lisa concluded that Kavanaugh would be blind and biased against a woman's perspective. She found his bias disqualifying, when the Supreme Court as an institution needed to be viewed as fair and impartial."

Matt: "That's intriguing. She cares about the constitutional roles and credibility of the Senate and the Court. What else did you find most admirable?"

"All the stories in the book are told with a directness and authenticity that make you feel like you are sitting in a room just talking, like you are traveling alongside Lisa as she makes tough decisions. A case in point is the 'Write In, Get it Right' campaign in 2010. She stood up to the chaos and extremism of the Tea Party with that campaign."

Matt: "How did she break from the party and not support the nominee, Joe Miller?"

"If you recall, she was a moderate state legislator. She incurred the wrath of Bill Allen and Bob Gillam by caucusing with other moderates and Democrats to work on a fiscal plan for the state in 2002. But she found her voice and power when she won the write-in campaign. She decided to be herself and not tack to the right. The 2010 election gave her independence in the Senate."

Matt: "I never thought that campaign could succeed. Everyone who voted for her had to spell a nine-letter last name on a ballot. How did she pull that off?"

"John Tracy came up with an ingenious TV ad that helped with the spelling of the name. Her husband, Vern, came up with the yellow wristbands. But the real story is that the campaign brought together Independents, moderates, Democrats, unions, AFN, rural and urban communities, and former enemies. Alaskans wanted a Senator that would work for them and get things done."

Matt: "Did that campaign change Lisa?"

"After the success, reporters asked what she would do for 'paybacks and 'revenge' against those who opposed her write-in campaign. The historic campaign was a new source of strength. The campaign gave her a new way of looking at her responsibilities as Alaska's Senator. I have the book in my briefcase. Let me read a passage. She wrote that her responsibilities were about 'doing the best I possibly can to represent everybody. And that's a challenge. It'd be a heck of a lot easier if all I was going to do is represent Republicans ... .I'm in a different spot than I ever have been before. Which I think is a good spot for Democrats and for Independents and for the Natives and laborers.'" (p. 118)

The campaign gave her a new way of looking at her responsibilities as Alaska's Senator.

Matt: "What else marks her career?"

"She learned from Ted Stevens and Don Young. Stevens got things done without drawing attention to himself. His relationships spanned both parties. His best friend was Daniel Inouye, a democrat. Don Young would work with anyone to pass legislation. Bipartisanship starts with trust. She figured out how to deal with Trump: ignore his threats. He bluffs and then backs down from strength. She got Trump to open the Petroleum Reserve. She passed a comprehensive Energy Bill working with Maria Cantwell, a democrat. She played a key role in the Biden legislation. She helped prepare the economy for the future and made the largest investment in infrastructure in recent history. Alaska did very well because she could work as a bipartisan. She has a deep respect and understanding of Alaska Native values and culture. She learned the importance of listening to Alaska Natives. She understands Alaska."

Matt: "Does she have advice for other politicians in our polarized environment?"

"Yes. Worry less about getting reelected. There is one message she offers her colleagues. 'Do the work. Don't worry so much about keeping your job.' (p. 302) For her, doing the work is a successful political strategy. She would say 'all you have is your vote, reputation, integrity.' (p. 73) Good advice for lawyers as well. Integrity. Reputation."

Matt picked up the tab. I handed him my marked-up copy of *Far From Home*.

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.

The views expressed in this 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.

Why Do Mediations Fail and What You Can Do to Prepare for Success

William Earnhart

By William Earnhart

As a mediator and trial attorney, I see mediations from both sides – many successful and some not. Almost every practitioner agrees a "fair" settlement is preferable to a trial and that mediation can be an important tool in getting to a settlement. We all generally feel we need to pick the "best" mediator. I regularly hear complaints that one or another mediator was a disappointment because the case did not settle. As a practitioner and as a mediator, I have experienced a number of mediations that did not move the parties any closer to resolution.

There are a number of factors a mediator can control, but, in my experience, mediations fail because one or more of the parties and counsel did not come prepared with the proper expectations and material.

Mediation as discussed in this article is not synonymous with "settlement conference," although they are similar and can occur concurrently. Yes, a mediator can listen to the parties and establish a point or a range where a case "should" settle or what a value might be at trial. These are often part of the discussion. However, mediation also involves exploring risks and motivations. More importantly, it encourages parties to explore options outside of the box of a verdict. I have settled cases that have included apologies, revised policies going forward, new business structures and relationships, and creative solutions to unquantified future liabilities.

Come with a mindset to settle the case

Prepare your client. As a mediator, I require accessibility to the decision maker on each side. In most cases, this means they must actually be present throughout the mediation. Discuss settlement and the mediation process with your client before agreeing to mediate. It is important that each party understands the role of a mediator as a neutral and is prepared to resolve the litigation.

Prepare yourself. Have access to important pleadings, documents and depositions. More importantly, prepare your own mindset. Advocacy at a mediation must be in the context of considering settlement itself to have some value. Yes, you should put out your best case scenario, but also be prepared to consider weaknesses. Mediation is not a trial. The purpose of hiring a third party is to explore facts, arguments and law to hopefully come to an agreement. Be prepared to provide rationale for your settlement positions and offers. Be prepared to be asked to see the case from your opponent's perspective.

At the mediation, present your arguments dispassionately and without accusation. If an issue has an important emotional aspect, say as much, but don't feel the emotion must be demonstrated. People respond predictably to confrontation presentations, and emotional arguments beget a response in kind. As an advocate for your client, you need to approach the other party with openness.

Prepare the meditator. As a mediator, although I do not give legal advice, I will prepare myself on the substantive area of law and give forethought to potential strategies to bring the parties together. To those ends, well thought out mediation briefs are incredibly helpful. Mediation briefs should be short and succinct; the mediator will have follow-up questions. Specific citations are not helpful, unless a fact or legal proposition is central to the case and actually in dispute. Hit the important highlights, but don't make it a legal brief. If the mediator needs more "proof" than your word, they will ask. Along with material facts, a mediator often needs context for those facts. Mediation is not a trial and mediators are not there to render a verdict; nor are their opinions subject to appellate review. Prepare your mediator by providing any particular points of emotion or "principle" that are significant to your client.

No surprises

Make sure you have shared key information, but do not mediate too early. Sufficient discovery must be completed so that there is substantial agreement as to what facts are in dispute and some confidence in what evidence is available on those facts. You are mediating to settle the case; if there is important evidence, get it out there. Also, make sure both sides have considered key legal issues. Mediation is not the time to introduce a previously undisclosed affirmative defense or a unique theory of legal liability. Surprises can be effective at trial, and occasionally in a deposition, but in a mediation, they only halt the negotiation.

Consider contingencies

Make sure you have a plan to address any liens or third-party interests and inform the mediator of any such issues. Will there be an ongoing relationship between the parties going forward? Are there any concerns regarding current litigation? Are there any potential liabilities that may not have been identified or quantified? Too often, what appears to be a settlement quickly unravels when the parties have either not considered a significant issue or have proceeded under different assumptions as to who would be responsible for related matters outside of the lawsuit.

Every case, every client, and every mediation is different. However, the right mindset and thoughtful preparation are always an advantage for coming to an agreement and can save the parties from wasting time and mediator fees.

William Earnhart is a Partner at Birch Horton Bittner & Cherot. He has been a member of the Alaska Bar since 1994 and has practiced as a civil litigator, trial attorney, and labor negotiator throughout his career. He is also a member of the Professional Mediators of Alaska.

AAWL Corner: News and Upcoming Events

By Chelsea Ray Riekkola

With a new membership year beginning on ***July 1***, ***2025***, now is the perfect time to renew your membership with the Anchorage Association of Women Lawyers! If you haven't yet, please take a moment to visit https://aawl-ak.org/membership to renew or join today. We would love to have you as part of our vibrant community. Law clerks, interns and attorneys in their first year of practice receive AAWL membership at no cost.

AAWL kicked off its summer event season with another strong showing at the Alaska Run for Women, once again fielding a spirited team, spearheaded by board member and Susitna Law sole shareholder Cristina Tafs. Members met up by the yellow balloons and sported our signature AAWL baseball caps as they ran and walked in support of breast cancer research and awareness.

Shortly thereafter, we were honored to co-host a reception celebrating the women judges of Alaska at the home of Alaska Supreme Court Senior Chief Justice Dana Fabe. The evening brought together current and retired members of the judiciary from all levels (Supreme Court, Court of Appeals, Superior Court, and District Court) alongside practicing and retired attorneys, and included some cameos by the Alaska Bar Association's all-star staff. We were especially grateful to welcome the entire Alaska Supreme Court bench: Chief Justice Peter J. Maassen, Justice Dario Borghesan, Justice Susan Carney, Justice Jennifer S. Henderson and Justice Jude Pate. The event offered a unique opportunity for connection and recognition, made even more memorable by the warm hospitality of Justice Fabe and the charming presence of her basset hound, Cleo, who greeted guests and happily posed for photos.

Personal interaction remains one of our most meaningful tools for building a strong, inclusive network, and we were delighted to participate.

Our outreach efforts also continued at the Alaska Bar Association Career Fair, where AAWL hosted a table to share our mission, recruit new members, and connect with the broader legal community. Personal interaction remains one of our most meaningful tools for building a strong, inclusive network, and we were delighted to participate.

Looking ahead, mark your calendars for our Annual Meeting on ***Thursday, October 23, 2025, from 5:00 to 7:00 PM*** at Williwaw Social in downtown Anchorage. This year's event, *Bridging the Gap: How Male Attorneys Can Support Gender Equity*, will feature a thoughtful panel discussion moderated by AAWL and include speakers:

- Jim Torgerson, of Stoel Rives LLP, known for his longstanding support of diversity and inclusion in the legal profession;
- Bill Falsey, Chief Administrative Officer of the Municipality of Anchorage and respected civic leader; and
- Phil Blumstein, named partner of Landye Bennett Blumstein, a seasoned litigator and mentor committed to equity in the legal field.

The event is free to AAWL members and their guests (no RSVP required). Members are encouraged to bring a male colleague—or several!—to help broaden the conversation. Guests should simply mention the name of the AAWL member they're attending with at check-in. In typical AAWL fashion, the evening will feature substantial appetizers and both alcoholic and non-alcoholic beverages. Special thanks to Stoel Rives LLP, our generous event sponsor.

Lastly, stay tuned for details on our end-of-year ethics event, which we will host this December. It promises to be another can't-miss opportunity for learning, reflection and community.

Next, on ***Monday, November 3, 2025, from 11:45 AM to 1:00 PM***, we hope you'll join us for the annual *Diversity Luncheon: Stories Affecting Our Lives* at the Captain Cook Hotel (939 W 5th Ave, Anchorage). This popular event, moderated by Alaska Supreme Court Senior Chief Justice Dana Fabe, is co-sponsored by AAWL, the Alaska Bar Association, the Alaska Supreme Court's Fairness, Diversity, and Equality Committee, and Outlook Law. The luncheon is free to attend and includes CLE credit and a catered lunch. Kindly RSVP to admin@outlooklaw.com to reserve your spot.

Lastly, stay tuned for details on our end-of-year ethics event, which we will host this December. It promises to be another can't-miss opportunity for learning, reflection and community.

AAWL is where professional growth meets genuine connection, and we are excited for what the new year holds. Whether you're a longtime member or just joining for the first time, we hope to see you at one of our upcoming events. Together, we're building a stronger legal community—one conversation, one connection and one celebration at a time.

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

Alaska Bar Receives National Award at Annual Meeting in Toronto

By Kara Bridge

The Alaska Bar Association (AK Bar) was presented the 2025 LexisNexis Community & Education Outreach Award in the category of bar associations with fewer than 18,000 members for the Law & Culture Day CLE series at the National Association of Bar Executives Annual Meeting in Toronto on August 7, 2025. This national honor recognizes the AK Bar and the Alaska Native Justice Center (ANJC) for their collaborative efforts in delivering culturally responsive legal education in Alaska.

By bringing together legal professionals, cultural educators and tribal leaders, the program fosters cultural competence and encourages respectful, informed engagement across tribal and state justice systems.

The Law & Culture Day CLE was designed to deepen understanding of the unique legal needs, values and traditions of Alaska Native communities. By bringing together legal professionals, cultural educators and tribal leaders, the program fosters cultural competence and encourages respectful, informed engagement across tribal and state justice systems.

The inaugural program was held on Wednesday, February 12, 2025, at the Dena'ina Civic and Convention Center in Anchorage, drawing nearly 50 attendees for a full day of education and discussion.

The CLE event was inspired by ANJC's Alaska Native Law and Culture Day, launched in 2022, an annual gathering of Alaska-based law clerks to learn about Alaska's unique legal landscape. The goal of ANJC's Law and Culture Day is to provide participants a deeper understanding of Alaska Native law and a stronger awareness of Alaska as an Indigenous place.

The 2025 NABE/LexisNexis Community & Education Outreach Award reflects the AK Bar and ANJC's shared commitment to advancing cultural awareness and building stronger bridges between legal systems in Alaska. It is part of a broader CLE initiative focused on improving legal practice in rural and cross-cultural settings throughout the state.

Alaska Bar Association Executive Director Danielle Bailey receives the 2025 LexisNexis Community & Education Outreach Award.

Bar People

LBB welcomes new attorney

Dezi Robb

Landye Bennett Blumstein LLP is pleased to announce that Dezi Robb has joined the firm, bringing her wide-ranging experience in employment law, business litigation, and labor matters to LBB's legal team.

She joins with a proven record of success representing both employers and individuals on complex employment disputes, workplace investigations, non-compete and employment agreements, Equal Employment Opportunity (EEO) matters, and separation negotiations. In addition, she has extensive experience guiding clients through liability and tort-based claims, and is known for her pragmatic, client-centered approach to risk management, compliance, hiring, discipline, and termination.

Dezi earned a J.D. from Willamette University College of Law and holds a B.A. from the University of Alaska, Anchorage. She is licensed to practice law in Oregon, where she started her legal career, and Alaska where she is glad to serve fellow Alaskans for many years to come.

At Landye Bennett Blumstein, we've built our practice around great lawyers who are leaders in their respective fields. We are excited to welcome Dezi to the firm, further strengthening the high-quality legal services we provide to our clients and our community.

The Alaska High School Mock Trial Competition Success Story of Talia Veldstra

By Dena Boughton

Dimond High School graduate Talia Veldstra enters Harvard University in the fall. Her interests are environmental science and public policy. She hopes to attend Harvard Law School upon completion of her bachelor's degree.

Talia joined the Mock Trial Competition Team in her sophomore year. One of her close friends established the competition team in the school year 2022/23 and Talia joined one week before the competition. She said, "they handed her the affidavits and said: know everything in here" and she did. There was no coach, so her mother, Jessica Veldstra, and a family friend stepped in to assist.

Her senior year, Talia asked the school administration if she could have a recruitment table for the team at the student orientation for freshmen. She crafted the posters. The team reached out to local and rural schools to give more students the opportunity and built two teams.

Talia continued through her junior and senior year as treasurer and acting vice-president of the Mock Trial Competition Team. She also trained new members and created a PowerPoint slide show which included how to make and rebut objections.

To support the Mock Trial endeavor, Talia and other teammates worked concessions and solicited donations from law offices to earn the entry fee. This year the Anchorage Bar waived the entry fee. So, after convincing the school officials to allow the Mock Trial Competition Team to wear cords at graduation, they used the savings to purchase the cords. They chose the color brown signifying their high academic achievement beyond the classroom. Four graduates wore the cords during the graduation ceremony.

Talia and her mother Jessica are Inupiaq. Talia's great-grandmother was from Kotzebue and moved to Homer in 1970 with her husband. Her paternal grandparents moved to Homer in 1954 to homestead and commercial fish. Her grandmother, mother and her father were raised in Homer.

Inupiat elders play a crucial role in transmitting cultural knowledge, language and traditional practices to younger generations.

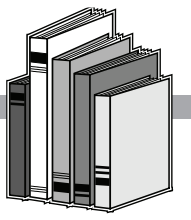
Tattooed on Jessica's chin are the traditional hand-poked markings of the Inupiat women. It is a traditional form of facial tattooing that signifies womanhood and marks a rite of passage for Inuit women in Alaska. With the introduction of missionaries in the villages, traditional tattooing was frowned upon, so Talia's great-grandmother and grandmother do not have traditional markings. The revival of chin tattoos is not just about aesthetics; it is about healing from historical trauma and celebrating the strength and resilience of women. Jessica chose to get her chin tattooed as a personal expression of her Inupiat identity and as a way to honor her heritage. Talia holds the same traditional values as her mother and honors her cultural heritage with each step of her educational journey.

Talia Veldstra and her mother Jessica Veldstra.

The Anchorage Bar Association acknowledges Talia's great achievement and is proud to sponsor the Alaska High School Mock Trial Competition.

Dena Boughton is the Administrative Director of the Anchorage Bar Association.

Law Library



Restatements Coming to the Lexis Digital Library

By Susan Falk, State Law Librarian

The American Law Institute's Restatements are treatises that, as their name implies, restate basic principles of common law. Published on a wide variety of topics including contracts, torts and property law, the Restatements set out black letter principles, provide history and context, and add comments and illustrations to help the reader understand these bedrock concepts. These seminal sets are heavily used by Alaska Bar members and are among the library's most in-demand titles. For many years, the Restatements were printed by Thomson Reuters and were also available electronically via Westlaw.

This past winter, the printed Restatements moved from Thomson Reuters to Lexis. Our library sets should remain unchanged, aside from potential aesthetic differences that accompany the move from one printer to another. We will continue to carry the Restatements in print in the Anchorage, Fairbanks and Juneau Law Libraries.

The real change for Alaska attorneys, however, will be in electronic access to the Restatements, which are currently available on Westlaw on all public law library computers. Thomson Reuters assures us that the Restatements will remain on Westlaw, and that they have no plans to remove them. Regardless, the Restatements are definitely coming to the Lexis Digital Library.

This addition is significant for two reasons. First, the Lexis Digital Library presents material as ebooks, so the material will look similar to its print counterpart, rather than the html version you get on Westlaw. Second, while the Lexis Digital Library is also available on all public law library computers, it is notably the one electronic resource we are licensed to offer remotely to all Alaska Bar Members. As a result, all of you will soon be able to access the Restatements outside of our libraries, from your own devices, in your own homes or offices.

The real change for Alaska attorneys, however, will be in electronic access to the Restatements, which are currently available on Westlaw on all public law library computers.

As a quick refresher, the Lexis Digital Library includes ebook versions of every Lexis treatise the library owns in print. If we have a Lexis title in the Anchorage Law Library treatise collection, we generally also have that title in the Lexis Digital Library, now including the Restatements. Once you are authorized as a borrower, you do not need to come into the library to access this material.

If you do not have logon credentials for the Lexis Digital Library, contact the law library for assistance. We are available to help Monday through Thursday, 8:00 a.m. to 6:00 p.m., 8:00 a.m. to 4:30 p.m. on Fridays, and 12:00 to 5:00 p.m. on Sundays. You can reach us at library@akcourts.gov or 907-264-0856. Once you have a username and password, you're all set!

AK Bar CLE

Register @ www.alaskabar.org

Friday, September 12 | Limited Scope Representation/AKFLA
12:00 – 1:00 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Tuesday, September 16 | Clio: The Law Firm Leadership Summit
7:15 – 11:00 a.m. | Clio Zoom | 4.0 General CLE Credits

Monday, September 22 | CLE Rerun: Free Ethics: The Guardian
1:00 – 4:15 p.m. | Alaska Bar Association Office | 3.0 Ethics Credits

Thursday, September 25 | Using AI to Speed Up Your Writing
12:00 – 1:00 p.m. | AK Bar Zoom | 1.0 General CLE Credit

Wednesday, October 1 | Celebrate Pro Bono Month: Drafting Estate Planning Documents
12:00 – 1:30 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Friday, October 3 | Historians Committee: The Taproot: Perspectives on the Pipeline in Alaska Legal History
11:30 a.m. – 1:00 p.m. | Snowden Training Center/AK Bar Zoom | 1.5 General CLE Credits

Monday, October 7 | Celebrate Pro Bono Month: DVPO Basics
12:00 – 1:00 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Wednesday, October 8 | Perspectives on PCCP/ Family Law
9:00 a.m. – 12:00 p.m. | Marriot/Webcast | 3.0 General CLE Credits

Thursday, October 9 | 41st Annual Alaska Native Law Conference
9:00 a.m. – 3:10 p.m. | Dena'ina/ Webcast | TBD General /Ethics Credit

Tuesday, October 14 | Celebrate Pro Bono Month: Work-Life-Pro Bono Balance: How to Fit Pro Bono Into Your Busy Schedule
4:00 – 5:00 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Monday, October 20 | Celebrate Pro Bono Month: Asylum/SIJS
4:00 – 5:00 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Tuesday, October 28 | Celebrate Pro Bono Month: Poverty Law
4:00 – 5:00 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Monday, November 3 | Diversity: Stories Affecting Our Lives
11:45 a.m. – 1:00 p.m. | Hotel Captain Cook | 1.0 Ethics Credit

Thursday, November 6 | Aging & Mental Health
11:30 a.m. – 1:30 p.m. | AK Bar Zoom | 2.0 Ethics Credit

Friday, November 14 | 2025 Annual Alaska Workers' Compensation Review
8:30 a.m. – 1:30 p.m. | Marriot Anchorage Downtown / Webcast | 4.0 General CLE

Thursday, December 4 | Alaska Judicial Council
4:30 -5:30 p.m. | AK Bar Zoom | 1.0 Ethics Credit

Friday, December 12 | Ethics with Stuart Teicher
9:00 a.m. – 12:15 p.m. | AK Bar Zoom| 3.0 Ethics Credit

Monday, December 15 | LAC/Mentorship
12:00 – 1:00 p.m. | AK Bar Zoom | TBD General/Ethics Credit

Wednesday, December 17 | CLE Rerun: Free Ethics: The Guardian
1:00 – 4:15 p.m. | Alaska Bar Association Office | 3.0 Ethics Credit

Tuesday, December 30 | CLE Rerun: Free Ethics: The Guardian
1:00 – 4:15 p.m. | Alaska Bar Association Office | 3.0 Ethics

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

Legal professionals meet with employers during the 2nd Annual Legal Career Fair & Reception at the Egan Convention Center in Anchorage, AK.

2nd Annual Legal Career Fair & Reception Connects Alaska's Legal Community

The 2nd Annual Legal Career Fair & Reception, co-sponsored with the Alaska Bar Association and the Anchorage Bar Association, was held July 23, 2025, at the Egan Convention Center in Anchorage, drawing 29 employers and approximately 50 job seekers. The event offered attorneys, law students, criminal justice students and other legal professionals an opportunity to network, explore career options, and connect with law firms, government agencies and nonprofit organizations.

Municipality of Anchorage representative talks with prospective applicants.

Davis Wright Tremaine LLP representatives speak with potential candidates.

Annual Conference of Federal Bar Association Alaska Chapter

By Sarah Schirack

In late August 2025, the Federal Bar Association (FBA) Alaska Chapter held its annual conference at the Anchorage Marriott. The conference had over 100 attendees who started off their day with a welcome from FBA President Sarah Schirack, followed by a live taping of the Advisory Opinions podcast (free episodes available wherever you get your podcasts). Next up was a panel on motivations for and reflections on public lawyering and judgeships, featuring Judge Patrick Bumatay (9th Cir.), Judge Chad Readler (6th Cir.), and Stephen Cox (former E.D. Tex. AUSA), moderated by Joe Busa (Deputy Municipal Attorney, Municipality of Anchorage). After a networking lunch was an ethics panel on meeting the current moment with respect to professional obligations to our institutions, the rule of law, and the judiciary, with speakers Judge Robert Lasnik (W.D. Wash.), Bob Bundy (former D. Alaska AUSA and US Attorney for Alaska), and Professor Dakota Rudesill (Assoc. Prof. Ohio State College of Law), moderated by Kate Vogel (Senior Counsel, Municipality of Anchorage). Last but not least was a panel with visiting Ninth Circuit Judges Susan Graber, Ryan Nelson and John Owens, moderated by Anchorage's own Judge Morgan Christen (9th Cir.). The FBA conference closed with a convivial reception at Birch Horton. The FBA encourages *you* to think about (a) joining and (b) becoming an Alaska Chapter board member. Please contact current FBA President Sarah Schirack at sschirack@perkinscoie.com to express interest.

Sarah Schirack is the President of the Alaska Federal Bar Association.

Panel with Visiting Ninth Circuit Judges (L to R) Judge Nelson, Judge Graber, Judge Owens and Judge Christen

Ethics Panel on Meeting the Current Moment (L to R) Kate Vogel, Professor Rudesill, Judge Lasnik & Bob Bundy

Advisory Opinions Live Podcast (L to R) Sarah Schirack, President, FBA Alaska Chapter, Sarah Isgur and David French

Correction and Thank You to our Scholarship Donors

On page 10 of our recent edition of the Alaska Bar Rag, we regretfully omitted two of our valued donors to the scholarship program. We extend our heartfelt appreciation to: Landye Bennett Blumstein LLP and Darrel Gardner.

Your generous support helped us fund 17 awards to law students with Alaskan ties who intend to practice in Alaska after graduation. We sincerely apologize for the oversight and are truly grateful for your contributions. To properly recognize all who have given, we have updated the online version of the Bar Rag and are pleased to share the complete list of our 2025 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
- Charities Aid Foundation
- Christen, Morgan
- Fabe, Dana
- Featherly, Walter
- Gleason, Sharon
- Gross, David
- Katchen, Jonathan
- Paver Family Foundation

$1-$299

- Bailey, Danielle
- Berens, Brooke
- Brown, Ashley
- 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

ALASKA BAR ASSOCIATION

Adventures in Probate Land: When Death Do We Part

By Chelsea Ray Riekkola

Many people assume that their spouse will be protected if something happens to them, or they might assume that the law will step in to fill any gaps if they have not updated their estate plan. However the statutory framework defining the rights of surviving spouses is often more nuanced than one would expect.

This article explores what happens when a surviving spouse is left out - either because the decedent died without a Will or because the existing Will did not provide for the surviving spouse. In both cases, the surviving spouse may have rights under Alaska law, but those rights depend heavily on the specific facts.

Spouses in Intestacy

As outlined in the first installment of *Adventures in Probate Land* (Alaska Bar Rag, Apr.–June 2025), the intestate share of a surviving spouse depends on the decedent's family structure at death. If the decedent has no surviving parents or descendants, the spouse inherits the entire estate. But if there are children from a prior relationship, or even just a living parent, the spouse's share may be reduced significantly. For the purposes of this article, the term "surviving spouse," means a legal spouse who survived the decedent by the requisite 120 hours required by Alaska Statute 13.12.702.

These default rules often come as a surprise. Spouses may be required to share with stepchildren or in-laws and may need to negotiate for title to the family home or other essential assets. For a deeper discussion of those scenarios, readers can refer to the original article.

However, we must now address what happens when a surviving spouse is omitted from a Will or explicitly disinherited—and what legal rights exist in those circumstances.

The Omitted Spouse Doctrine: AS 13.12.301

The "Omitted Spouse Doctrine" applies when someone executes a Will and later marries, but never updates the Will to include their spouse. If the decedent's Will was signed before the marriage and does not mention the spouse, the surviving spouse is considered "omitted" under AS 13.12.301. In such cases, the spouse is entitled to the share they would have received under the intestate succession statutes, unless one of three exceptions applies:

1. The omission appears intentional from the language of the Will;
2. There is other evidence that the decedent intended the Will to remain unchanged after marriage; or
3. The decedent otherwise provided for the spouse by transfers outside the Will (e.g., by trust or beneficiary designation).

If none of these exceptions apply, the surviving spouse can claim the same share they would have received had the decedent died without a Will. This provision protects spouses from being unintentionally disinherited due to oversight.

However, asserting that right may require formal legal action. The burden will likely fall on the surviving spouse to show that the omission was not intentional and that no alternative provision was made. And even where the claim succeeds, the share may be limited depending on the presence of children or other heirs.

The Elective Share: AS 13.12.201–207

When a surviving spouse is expressly disinherited or left only a minimal gift, the omitted spouse statute does not apply. Instead, the spouse may have the option to file for an elective share under AS 13.12.201–207.

The elective share is based not on the testator's Will, but instead represents a policy choice to prevent complete disinheritance of a surviving spouse. In Alaska, the elective share is one-third of the augmented estate, as defined by AS 13.12.214(a). The augmented estate includes the probate estate and certain non-probate transfers made by the decedent. These can include:

- Joint tenancy and tenancy by the entirety property;
- Pay-on-death (POD) and transfer-on-death (TOD) designations;
- Revocable trust assets; and/or
- Certain lifetime transfers made without adequate consideration.

The purpose of the elective share is to prevent a surviving spouse from being completely disinherited—regardless of the decedent's intent or estate plan structure. However, in order to properly claim the spousal election under AS 13.12.204(a), the surviving spouse must file a petition for the elective share in court and deliver or mail a copy to the personal representative, if any, within nine months of the decedent's death or within six months after the probate of the decedent's Will—whichever is later. If the spouse fails to file within that timeframe, the right to claim the elective share is waived.

It is worth noting that calculating the augmented estate and the corresponding elective share can be complex. Property interests must be valued, and certain types of lifetime transfers may require tracing or forensic accounting.

It is worth noting that calculating the augmented estate and the corresponding elective share can be complex. Property interests must be valued, and certain types of lifetime transfers may require tracing or forensic accounting. In some cases, litigation may be necessary to determine what assets are included and whether they were transferred with intent to circumvent the spouse's rights.

However, elective share rights can also be waived in a written agreement, typically a prenuptial or postnuptial contract, in accordance with Alaska Statute 13.12.213. Such a waiver is enforceable unless it was not executed voluntarily or was unconscionable at the time it was signed. Estate planners working with married clients—particularly those in second marriages or blended families—should clearly document the existence and scope of any waivers. In practice, these documents are often reviewed years later under the stress of conflict, so clarity matters.

A Practical Illustration

Suppose Howard dies leaving a Will that gives everything to his adult children from a prior marriage. Howard's Will states that his surviving spouse of twenty years, Wendy, is to receive the contents of their shared garage and a $5,000 specific bequest. In the years before his death, Howard maintained all financial accounts and real estate in his name, alone.

Wendy is not an omitted spouse—she was married to Howard when the Will was signed, and the Will acknowledges her. But she may still be entitled to an additional distribution, beyond what is provided in Howard's Will. If she files a timely petition, Wendy can claim one-third of the augmented estate, which includes the probate estate and certain non-probate assets, such as jointly held property, revocable trust assets, and pay-on-death accounts. However, it is important to remember that non-probate assets that passed to Wendy (for example, a retirement account naming her as the beneficiary) also compose this one-third share. Determining the contents and value of the augmented estate may require full disclosure of financial records, valuation of trust assets, and—if necessary—litigation.

In addition to the elective share, Wendy is also entitled to the relevant Alaska statutory allowances: the homestead allowance (AS 13.12.402), exempt property allowance (AS 13.12.403), and family allowance (AS 13.12.404). These are intended to support the surviving spouse and any dependent children during the estate's administration and are available regardless of what the Will provides.

A Note on Community Property

It is important to note that this article does not address Alaska's optional community property system, which allows spouses to opt in by agreement under AS 34.77. That system introduces a different set of rules that may affect the surviving spouse's share. For a helpful overview, see:

Stephen H. O'Hara, *An Overview of Alaska Community Property Law*, Alaska Bar Rag (Oct.–Dec. 2013).

Conclusion: Spousal Rights Depend on Statutory and Situational Analysis

As discussed above, Alaska law provides protections for surviving spouses, but those protections are not automatic and do not apply equally in every situation. Additionally, some of these rights must be affirmatively asserted, often under short deadlines, and are subject to statutory exceptions. In Probate Land, spousal rights depend on facts—how assets were titled, when documents were signed, and whether the spouse takes action to claim their share. The better course, always, is to review and update the estate plan before these questions arise.

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

ESTATE PLANNING CORNER

Pitfalls in Using an Ascertainable Standard

By Steven T. O'Hara

You are reading a trust and specifically its provisions on the trustee's power to make distributions. Is the trustee granted unlimited discretion? Or is the trustee's discretion limited by an ascertainable standard, defined as for purposes of 'health, education, maintenance, or support'?

State law may provide direction. For example, Alaska has a statute that identifies both of these standards. AS 13.36.215(b)(10). For a discussion on this statute and related law, see my blog post at www.oharatax.lawyer titled "Pitfalls In Using An Ascertainable Standard."

In my practice, clients frequently use an ascertainable standard in their trusts in an attempt to avoid certain problems under tax law. My blog post mentioned above touches upon some tax advantages of an ascertainable standard. However, there are instances where an ascertainable standard will not help avoid tax problems, and other times an ascertainable standard may actually create tax problems.

Consider a married couple, domiciled in Alaska, both United States citizens. They have no debts, and neither has ever made a taxable gift. Wife regularly pilots her personal aircraft for recreational purposes and is mindful of potential creditors from that activity. Cf. AS 09.65.112 (limiting liability in certain circumstances involving personal-use aircraft and watercraft liability insurance).

Suppose Husband dies, and under his Will and Revocable Living Trust his assets pass to a trust for the benefit of his surviving spouse with the goal that the trust will not be included in her gross estate for federal estate tax purposes in the event of her death. This trust is often called a "bypass trust," since it bypasses the surviving spouse's estate.

Under such circumstances, if the surviving spouse is considered to have a general power of appointment over the bypass trust, she will be considered the owner of the trust for tax purposes and thus one purpose of the trust will be defeated. IRC Sec. 2041(a)(2), 2514(b), and 2652(a)(1).

The surviving spouse will be considered to have a general power of appointment over the bypass trust if she, as trustee, has the power to distribute property to herself – that is, unless her distribution power is limited by an ascertainable standard relating to her needs for health, education, or support. 26 C.F.R. 20.2041-1(c)(2) and 25.2514-1(c)(2).

A circumstance where an ascertainable standard will not help is where the surviving spouse, as trustee, has the power to distribute property to discharge her personal legal obligation, such as to support a child. Here the surviving spouse is considered to have a power to distribute property to herself to the extent of her personal legal obligation. 26 C.F.R. 20.2041-1(c)(1) and 25.2514-1(c)(1). The ascertainable standard exception is no help because the surviving spouse's power to distribute property to discharge her personal legal obligation is not limited by her needs for health, education or support. Rather, the exercise of the power is based on the needs of the child.

"In my practice, clients frequently use an ascertainable standard in their trusts in an attempt to avoid certain problems under tax law."

State law may provide a savings clause dealing with this tax issue. For example, Alaska Statute 13.36.153(a)(2) prohibits a trustee from making a discretionary distribution "to satisfy a legal obligation that is owed by the trustee individually or by any person holding a power to remove and replace this trustee…."

Below is a hypothetical trust agreement savings clause dealing with this tax issue among others. I provide the following clause 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:

A. Notwithstanding the foregoing provisions of this instrument, to preclude undesired tax consequences, the Trustee of each trust held under this instrument shall administer the trust subject to the following:

1. The general discretionary powers of the Trustee shall be limited so that no Trustee shall participate in any decision regarding a discretionary distribution or grant of a power:

(a) To that Trustee individually (or to any person holding a power to remove that Trustee), except a discretionary distribution to the extent governed by and made pursuant to an ascertainable standard under IRC Sections 2041 and 2514;

(b) That would to any extent discharge a legal obligation (such as to provide support or education) which that Trustee individually (or any person holding a power to remove that Trustee) may have to a beneficiary hereunder; or

(c) That would constitute a taxable gift from that Trustee individually (or from any person holding a power to remove that Trustee); and

2. Where a standard for discretionary distribution consists of two or more elements, they shall be severable for purposes of participation by any Trustee under this paragraph.

There are at least two other instances where an ascertainable standard will not help and in fact may create adverse tax consequences.

The first is a minor's trust qualifying under IRC Section 2503(c). If a gift is made under such a trust, the gift will be deemed to be a gift of a present interest and thus may be sheltered from federal gift tax by the annual exclusion. IRC Sec. 2503(b) and (c).

To qualify as a minor's trust under IRC Section 2503(c), the trustee's discretion to make distributions may not be subject to substantial restrictions. 26 C.F.R. 25.2503-4(b)(1). An ascertainable standard could be considered a substantial restriction for these purposes. In 1991, a federal district court ruled that 12 trusts did not qualify under IRC Section 2503(c), and thus the annual gift tax exclusion was lost, where the trustee could make distributions only for education or in the event of an accident, illness, or disability or in the event of the death of a beneficiary's parents. Illinois Nat. Bank of Springfield v. U.S., 756 F. Supp. 1117 (C.D. Ill. 1991).

Another instance where we, as drafters, need to be careful in using an ascertainable standard is where the client ("grantor") creates any living irrevocable trust, naming his spouse or children as beneficiaries. If the trustee may use the trust to discharge the grantor's personal legal obligation, such as to support his children or spouse – indeed, if the trustee is subject to an ascertainable standard relating to the support needs of the grantor's children or spouse – the Internal Revenue Service may assert that the grantor has retained a beneficial interest in the trust. 26 C.F.R. 20.2036-1(b)(2). Thus the IRS may argue that the trust is includable in the grantor's gross estate – at least to the extent of the grantor's personal legal obligation to support his children or spouse.

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.

Updates from the Alaska Law Review

Members of the Alaska Law Review curling during their visit to Fairbanks in March.

The Alaska Law Review Welcomes Fourteen New Members

By Caitlyn Leary

The *Alaska Law Review* is pleased to welcome fourteen new members to the journal! These second-year law students have been selected based on their commitment to publishing high-quality, relevant articles for the Alaska legal community. *ALR* is excited to welcome the following Staff Editors: Adam Yaggy, Alison Tobin, Ben Helzner, Drew Loughlin, James Blair, Jordan Scott, Katie Roberts, Lily Skopp, Liv Sontag, Michael Ash, Mike Galane, Suleyman Amjad, Teddy Brodsky and Tommy Nowak. We look forward to publishing *ALR* Volume 42.1 this December.

Alaska Bar Renews Contract with the Alaska Law Review Through 2030

More good news: The Alaska Bar Association renewed its contract with Duke Law to publish the *Alaska Law Review* through 2030. *ALR* has thrived at Duke for over 40 years. The contract represents the dedicated effort of all 28 *ALR* editors who committed to maintaining and improving the publication's quality and comprehensiveness. "*ALR* provides both a critical service to its client and a unique opportunity for Duke Law students to support and pursue mission-oriented scholarship," says Allyson Barkley, JD/MPP '25, former Editor-in-Chief of *ALR* Volume 41. "I look forward to seeing how this wonderful relationship grows over the next five years."

The Alaska Law Review is a scholarly publication that examines legal issues affecting the state of Alaska. The Alaska Bar Association recognizes a need for a scholarly publication devoted specifically to issues affecting Alaska. Alaska does not, however, have a state law school so the Alaska Bar selected Duke University School of Law to publish the Alaska Law Review. It is composed of second- and third-year law students from Duke University School of Law and governed by a faculty advisory committee.

Have An Idea for the Alaska Law Review?

Do you have a topic idea you want to see published in the *Alaska Law Review*? *ALR* is committed to making the journal a valuable and relevant resource for practitioners in Alaska. As such, we are currently accepting topic suggestions for future *ALR* issues! Topic ideas are not confined to note-length articles and can include various kinds of research: case comments, legislative histories, case law review, etc. To submit a topic idea, please fill out this short form: https://forms.gle/Ax4AmnNGBpXji2Zx7. Please note that these are suggestions; we cannot guarantee that every submission will result in publication.

Alaska Law Review's Quarter 2024 in Review

The *Alaska Law Review* publishes its Year-in-Review, a collection of brief summaries of selected state and federal appellate cases concerning Alaska law. They are not an authoritative guide and are meant only to alert the Alaska legal community about judicial decisions from the previous year. Below is a selection of cases from the last quarter of 2024. To access the full 2024 Year-in-Review or follow their blog, visit: https://alr.law.duke.edu/year-in-review-main/.

PROPERTY LAW
Supreme Court of Alaska (2024)

By Madison Detweiler

Winco Anchorage Investors I, L.P. v. Huffman Building P, LLC

In *Winco Anchorage Investors I, L.P. v. Huffman Building P, LLC*, No. S-18582, 2024 WL 4402218 (Alaska 2024), the supreme court held that a party is not a "person aggrieved" with standing to appeal a zoning decision to the superior court just because (1) they are a "party of interest" with standing to appeal to the Zoning Board and (2) they have the interest of a business competitor. (*Id.* at 1). At the end of a 20-year lease to the U.S. Geological Survey (USGS), Huffman Building P, LLC (Huffman) lost its bid to renew that lease to Winco Anchorage Investors I, LP (Winco). (*Id.*). The Planning Department approved USGS's use of Winco's warehouse as appropriate, so Huffman appealed that decision to the Zoning Board, but his appeal was denied. (*Id.*). Huffman then appealed to the superior court, which held that he did have standing for that appeal and remanded the case to the Zoning Board. (*Id.* at 3). Winco petitioned the Supreme Court for review on the issue of Huffman's standing to appeal to the superior court. (*Id.*). Huffman argued that he was a "party aggrieved" because he was a "party of interest" that participated fully in the zoning process and lost his appeal of an adverse zoning decision. (*Id.* at 5). The supreme court explained the two-level Anchorage zoning appeals process allowed a "party of interest," which includes a very broad range of people determined by the municipality, to appeal to the Zoning Board, but only a "person aggrieved," a much narrower standard mandated by the legislature, to appeal to state courts. (*Id.* at 4). Thus, a "party of interest" is not always a "party aggrieved" because mere appearance before the Zoning Board does not make a person "aggrieved" with standing for further appeal since that is an opportunity available to everyone and the legislature defined "person aggrieved" more narrowly than that. (*Id.* at 5). Further, the court reasoned that standing based on potential business competition alone is not allowed because a more specific interest is needed to be a "person aggrieved" since zoning ordinances do not function to provide economic protection for businesses. (*Id.* at 7). Reversing the superior court's decision, the supreme court held that a party is not a "person aggrieved" with standing to appeal a zoning decision to the superior court just because (1) they are a "party of interest" with standing to appeal to the Zoning Board and (2) they have the interest of a business competitor. (*Id.* at 1).

CIVIL PROCEDURE
Supreme Court of Alaska (2024)

By Brendan Genaw

Red Hook Construction, LLC v. Bishop

In *Red Hook Construction, LLC v. Bishop*, 556 P.3d 1188 (Alaska 2024), the supreme court held that a court's incorrect assumptions regarding contractual damage calculations may serve as the basis for relief under Rule 60(b)(1); however, motions for relief from judgment under Rule 60(b)(1) must be "made within a reasonable time" and courts cannot grant untimely motions filed after the one-year limitation period. (*Id.* at 1192). The Bishops paid a $15,000 credit card payment to Red Hook Construction for a construction project. A dispute ensued and the parties sued each other for breach of contract. (*Id.* at 1190). The superior court awarded the Bishops expectation damages for contractual breach but did not factor the $15,000 credit card payment into these damages because the court assumed the credit card charge would be disputed following the court's order. (*Id.* at 1190–91). Nevertheless, the credit card company processed the disputed payment, and Red Hook received the $15,000. (*Id.* at 1191). The Bishops filed a motion for relief from judgment under Alaska Civil Rule 60(b). (*Id.* at 1193–94). The supreme court affirmed the lower court in finding the ground for relief under Rule 60(b)(1) to be "quite broad" and encompassing of an error made by a court, such as the lower court's incorrect assumptions regarding expectational damages. (*Id.* at 1193). However, Rule 60(b)(1) has a one-year limitation period, and the Bishops filed their Rule 60(b)(1) motion outside this timeframe. (*Id.* at 1193–94). The supreme court therefore reversed the lower court's decision to grant relief and established this one-year limitation to be a strict, "outer limit" that cannot be stretched. (*Id.*).

TRUSTS & ESTATES LAW
Supreme Court of Alaska (2024)

By Rasa Kerelis

In the Matter of the Estate of Paul Arthur Bentley

In the Matter of the Estate of Paul Arthur Bentley, No. S-17944, 2024 WL 4246121 (Alaska 2024), the supreme court held that a testator may choose Alaska law to govern the effect and interpretation of the will with regard to property located in Alaska, including Alaska's after-married spouse statute. (*Id.* at 251). Paul Bentley, testator, drafted and signed a will following health complications which left property to Eleanor Haynes, his brother, and the National Kidney Foundation (NKF). (*Id.* at 245). Bentley also included a provision to administer his estate in accordance with Alaska law. (*Id.*). After signing the will and before his death, Bentley and Haynes married. (*Id.*). While Haynes filed a notice claiming entitlement to Bentley's estate according to Alaska law, NKF opposed the petition. (*Id.* at 245–46). NKF argued that because Bentley was domiciled in Washington when he died, the will should be interpreted according to Washington law, and therefore Haynes did not meet statutory criteria to inherit the estate. (*Id.* at 246–47). The superior court agreed, and Haynes appealed. (*Id.* at

Continued on page 17

Alaska Law Review's Quarter 2024 in Review

Continued from page 16

247). The supreme court rejected both parties' arguments regarding statutory interpretation of the relevant Alaska law. (*Id.* at 248). Rather than partitioning "intrinsic" and "formal" validity of spousal rights, the supreme court looked to the underlying policy of an Alaska probate statute to allow testators to choose to have Alaska law govern the broad interpretation and effects of their wills. (*Id.* at 249). As such, the supreme court rejected the superior court's order to apply Washington law and remanded the case to determine Haynes's inheritance accordingly. (*Id.* at 251).

NATIVE LAW
Supreme Court of Alaska (2024)

By Ryan Ciemny

O'Brien v. Delaplain

In *O'Brien v. Delaplain*, 2024 WL 4312649 (Alaska Sept. 27, 2024), the supreme court held that the superior court can exercise its discretion in conducting custody interviews with children via videoconference and that the court properly determined the custody action was a "foster care placement" under the Indian Child Welfare Act (ICWA), which applies to private custody disputes. (*Id.* at 7, 10). O'Brien is the mother of Eliza and Ben, who she left in Canada for two years under the care of her brother Delaplain while she pursued a romantic interest in Oregon and struggled with substance abuse. (*Id.* at 1). Ben is an Indian child as defined in ICWA. (*Id.* at 1). Delaplain and his wife made many efforts to keep O'Brien in the children's lives including attempts to set up family counseling, weekly video chats, and offers to pay for visits to Canada. (*Id.* at 13). O'Brien sought to have the children returned to Juneau and following a custody trial, the superior court granted legal and physical custody to Delaplain because it was in the best interest of the children. (*Id.* at 4). On appeal, O'Brien argued that the use of videoconferencing to interview the children was an abuse of discretion because the court could not ensure that the children's answers were uninfluenced. (*Id.* at 7). In affirming the lower court's decision, the supreme court reasoned that while judges usually conduct interviews with children in their chambers, Eliza and Ben were located in a different country and thus videoconference was reasonable. (*Id.*). The court also reasoned that the risk of infringing on the parent's due process rights is mitigated by providing both parties with a summary of the information from the interview. (*Id.*). O'Brien also argued that the lower court erred by determining that the custody action was a "foster care placement" under ICWA because no Provincial, State, or Tribal authority sought a foster placement. (*Id.* at 10). The supreme court affirmed the lower court's determination, confirming that ICWA applies to private disputes over children's custody in addition to disputes with nonfamily public and private agencies. (*Id.*). Affirming the lower court's decision, the supreme court held that the superior court can exercise its discretion in conducting custody interviews with children via videoconference and that the court properly determined the custody action was a "foster care placement" under ICWA, which applies to private custody disputes. (*Id.* at 7, 10).

IMMIGRATION INSIGHTS

Immigration Enforcement in the Administrative State: A Call for Clarity and Accountability

By Nicolás A. Olano

In recent discourse surrounding immigration enforcement, terms like "kidnapping" and "disappearance" have surfaced with increasing frequency. While these expressions may reflect the distress and fear that immigrant communities feel, they do not accurately describe what is taking place—and such mischaracterizations undermine both public understanding and effective legal advocacy.

Having personally witnessed true disappearances during the 1990s in Colombia, I can say unequivocally that the United States's current immigration enforcement practices, however flawed or harsh, do not rise to that level. More importantly, conflating lawful enforcement actions with extrajudicial violence dilutes the seriousness of the issues at hand and distracts from the reforms that are urgently needed.

Civil Enforcement, Codified in Law

Nicolás A. Olano

What Immigration and Customs Enforcement (ICE) and Department of Homeland Security (DHS) agents are doing when they detain noncitizens without prior notice or at their homes is generally not outside the law. It is a form of civil enforcement authorized in the Immigration and Nationality Act, the main body of law governing immigration in the United States. The federal government has the statutory authority to arrest and detain people who are in violation of immigration law, even when those people have no criminal history, have lived in the United States for decades, and have significant ties to their communities.

The problem is not that ICE is acting unlawfully, it is that the laws themselves permit this type of sweeping enforcement. These statutes, particularly as they have evolved since 9/11, are intentionally designed to minimize due process and maximize the government's detention authority. Administrative law, not criminal law, has become the primary tool through which immigration policy is carried out.

Mislabeling Undermines Advocacy

To call these detentions "kidnappings" or "disappearances" is factually inaccurate. It is also strategically unwise. Such terminology implies a lack of legal basis or governmental oversight, which is not the case. These are not rogue operations. They are the intended result of legislation passed by Congress and implemented by DHS. Mischaracterizing enforcement in this way may feel emotionally justified, but it risks discrediting advocacy efforts and confusing the public. If we are to oppose unjust enforcement practices, we must do so from a place of legal clarity and accuracy. The strength of our arguments lies in our ability to name the problem precisely: this is aggressive civil enforcement rooted in a statutory framework that grants the government disproportionate power with insufficient checks.

Most of the sections of the INA that allow the kind of enforcement we are seeing across the country today come from legislation that Congress passed and President Clinton signed into law in 1996, nearly thirty years ago. Although the ways in which the current administration is implementing the law are undoubtedly far more aggressive than anything we have seen before, the laws that allow those actions have been on the books for decades. It is important to recognize these facts.

On Transparency and Masked Agents

Transparency in government is a fundamental American value. One of the many concerning aspects of current immigration enforcement is that increasingly, agents are conducting operations while concealing their faces. While there may be legitimate safety concerns involved, this practice erodes public trust and accountability. Police officers, prosecutors and judges routinely perform dangerous public duties without resorting to anonymity. The same should be expected of immigration officers. If agents believe their actions are just and lawful, they should be willing to stand behind them openly. Bravery is not only about executing difficult tasks; it is also about owning them. It is critically important to be able to hold our government accountable. In order to do so, we must know who is responsible for the immigration enforcement actions that are taking place across the country.

Prioritization and Proportionality

Another concern is the breadth of current enforcement strategies. Rather than targeting people who pose genuine threats to public safety or national security, immigration authorities frequently detain people who have lived in the U.S. for years or decades, raised families, contributed to the economy, and remained otherwise law-abiding. The idea that every undocumented person is equally a priority for removal runs counter to any notion of fairness or proportionality. A long-time resident, with U.S. citizen children, a history of steady employment, and no negative record, should not be treated the same as someone who poses a demonstrated risk. The government has the resources and discretion to make distinctions, and should be expected to use both. Here, accountability is also critically important.

Post-9/11 and the Rise of the Administrative State

The broad enforcement authority we see today is not accidental. After the September 11 attacks, immigration law was recast as a front-line tool of national security. The federal government capitalized on the administrative nature of immigration proceedings, where due process protections are limited and constitutional rights are curtailed, and expanded its detention infrastructure accordingly. What we are now witnessing is a fully matured system of administrative enforcement that enables the detention and removal of individuals with minimal judicial intervention. The problem is not a rogue agency; it is a system working exactly as designed. The recent exponential funding increases to ICE will allow significant expansions in that regard.

Conclusion: Precision Before Reform

For those of us seeking change, whether in policy, legislation or public perception, it is essential to remain precise in how we describe the problem. Immigration enforcement today is not lawless. It is lawful, expansive and deeply flawed. The language we use should reflect this complexity. We must reject dramatization in favor of factual, strategic critique. The goal is not just to raise awareness; it is to compel reform. To do that effectively, we need clarity, not exaggeration. If we understand that the government's current actions, which are tearing immigrant communities apart, are lawful, then we understand that legal reform is urgently needed.

Nicolás A. Olano is a founding attorney of Nations Law Group based in Anchorage. His practice focuses on immigration law, including removal defense, family petitions, humanitarian relief and federal court litigation. He regularly represents clients across Alaska and around the world.

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

Does an Ethical Screen Work for a Private Law Firm?

By Phil Shanahan

For those dedicated readers of the *Bar Rag*, you all likely pause to review the popular section: "Bar People," the one that lets us know which colleagues have left Firm A to join Firm B, or left Firm C to join Firm D, or left (or joined) public practice (as a judge, law clerk, DA, PD, etc.).[1] Lawyer mobility is one of the great things about our profession. If you decide you want to leave your current job, there are often lots of employers waiting to lure you to their offices. But why is Bar Counsel writing a story about "Bar People" and lawyers changing jobs? You guessed it – there are ethical issues that arise each time a lawyer makes the move to a new office.

Which of the Alaska Rules of Professional Conduct apply? Of course, there are several – but ARPC 1.9 (Duties to Former Clients), ARPC 1.10 (Imputation of Conflicts of Interest: General Rule), and ARPC 1.11 (Special Conflicts of Interest for Former and Current Government Officers and Employees) are usually the most relevant. This article, though, is being published to remind Alaska lawyers that ARPC 1.10 does not allow the type of "ethical screens" that many of you might have heard about in law school, read about in the ABA Model Rules, or even applied to you in another jurisdiction.

For purposes of this article, we are going to assume that a lawyer recently left a private firm to join another private firm. In this scenario, ARPC 1.10 governs. I will not be addressing ARPC 1.11 in detail here (spoiler alert – Rule 1.11 permits ethical screens for former or current government officers and employees).

The private-to-private transition. After reviewing ARPC 1.9, our hypothetical recently-hired lawyer has determined that they have a conflict of interest – the new firm represents an opposing party in a case that the lawyer worked on at their previous firm (1.9(a) makes this a conflict). The question that I get in this scenario is often: *"The new firm can simply set up an ethical screen and keep their client, right?"* I always try my best to be polite when I respond, "NOPE!" Actually, I most often begin my answer more professionally by asking *"Have you taken a look at ARPC 1.10(a)?"*

After reviewing Rule 1.10(a), it usually becomes apparent that there is nothing in that Rule that mentions screening to avoid imputation of that former client conflict: "While lawyers are associated in a firm, none of them shall knowingly represent a client when any one of them practicing alone would be prohibited from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the prohibited lawyer and does not present a significant risk of materially limiting the representation of the client by the remaining lawyers in the firm." There is often a long, silent pause while the lawyer reads Rule 1.10(a), then reads it again, and then starts to realize that things are not as they had hoped. This conflict is, indeed, imputed to the entire firm and ensuring that the new hire is "screened" from the case does not solve the problem. As a result, unless the lawyer can get the affected clients to waive the disqualification (see ARPC 1.10(c)), there is a conflict that prohibits the new firm from continuing to represent that client.

The official Comment to ARPC 1.10 explains the policy behind this Rule as follows: "The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of loyalty to the client as it applies to lawyers who practice in a law firm. Such situations can be considered from the premise that a firm of lawyers is essentially one lawyer for purposes of the rules governing loyalty to the client, or from the premise that each lawyer is vicariously bound by the obligation of loyalty owed by each lawyer with whom the lawyer is associated."

Another follow-up question that arises now and then is, "well, isn't this a personal interest conflict for that lawyer?" Unfortunately, no, it is not. A personal interest conflict is something that is related to a personal interest of *the lawyer* and not of a current or former client. Some common examples might be when the probity of the lawyer's own conduct in a matter is in question, when a lawyer is having discussions regarding possible employment with a firm representing an opponent of the lawyer's client, or when the lawyer is closely related to a lawyer representing the opposing party. *See* Comment, "Personal Interest Conflicts" in ARPC 1.7. In those instances, an ethical screen is permitted by the plain language of ARPC 1.10(a).

Our imputation rule was first adopted by the Alaska Supreme Court in 1993 and then again when the rules were rescinded and repromulgated in 2009. Each time, the rule was the same – if one lawyer in a firm has a 1.7 or 1.9 conflict, that conflict is imputed to the entire firm. Yet, often when I discuss this issue with lawyers during ethics calls, they appear surprised. It is not fun to be the bearer of bad news, so I thought I would share this information in the *Bar Rag* to alert you all to the issue ahead of time.

So please remember, while ABA Model Rule 1.10, and Rule 1.10 in some other jurisdictions permit nonconsensual screening to remove imputation in the private practice context, the Alaska Rule of Professional Conduct 1.10 controls the issue for us here in the Last Frontier. As always, feel free to call me for informal ethics guidance as these, and any other, ethics issues arise.

Footnote

[1]Thank you to former Ethics Committee member Marc June for his idea on how to introduce this topic.

Phil Shanahan is Bar Counsel for the Alaska Bar Association.

Prospective Clients and the Conflicts They Bring

Mark Bassingthwaighte, Esq.
mbass@alpsinsurance.com

In the legal profession, failing to properly manage conflicts of interest with prospective clients can lead to ethical dilemmas, compromised client trust and potential legal repercussions. How? Consider the following.

A lawyer is approached by a family who owned and operated a daycare center. They needed a lawyer because their son was facing criminal charges alleging that he inappropriately touched several of the children at the center. Although this lawyer ultimately declined the matter, during the initial consultation he did learn what their defense strategy would be. In part, they claimed their son never had an opportunity to be alone with any of the children.

Now, let's fast forward eighteen months. This same lawyer just received a call from another prospective client, who happens to be the parent of one of the kids inappropriately touched. This individual is wanting to sue the daycare center. Unsure of his options, this lawyer sits down with his two partners to discuss the situation. During the discussion he shares the brief history of his limited involvement thus far, to include the information he had learned about the daycare center owner's defense strategy. Can this lawyer accept the civil matter?

It's tempting to immediately say "of course he can" based upon the fact that he never created an attorney-client relationship with the daycare center. Unfortunately, such a decision would contravene AK RPC 1.18(c) Duties to Prospective Client, which states in part that a lawyer "shall not represent a client with interests materially adverse to those of a prospective client in the same or a substantially related matter if the lawyer received information from the prospective client that could be significantly harmful to the prospective client in the matter." Thus, the answer to the question is no. The lawyer has a disqualifying conflict. He learned information from the owners of the daycare that could be significantly harmful to them in the civil suit, and the civil suit is a substantially related matter.

That said, do any options remain given the conflict? Possibly. RPC 1.18(d) sets forth two. According to paragraph (d)(1), this conflict is waivable but both the parent wanting to bring the civil suit, and the owners of the daycare must give informed consent in writing. Realistically, however, I suspect trying to successfully obtain consent to waive a conflict like this from the owners of the daycare center would be problematic.

Could one of the other partners in the firm take the civil matter on? This is the second option set forth under RPC 1.18(d). It might be possible if the lawyer in our hypothetical situation took reasonable steps during the initial consultation with the owners of the daycare center to avoid learning more disqualifying information than was necessary in order for him to determine if he wanted to take the representation on. Assuming this was the case, in a perfect world another partner could take the civil matter on if the disqualified lawyer were to be timely screened from any participation in the matter, apportioned no part of the fee, and written notice was promptly given to the owners of the daycare center.

Unfortunately, in this situation the perfect world outcome isn't possible because all of the lawyers at this firm are disqualified. Remember as these lawyers worked through the problem, the prospective client confidence was shared with all. That's a bell that can't be unrung.

There are two important takeaways here. First, if a prospective client shares confidential information during an initial consultation, those confidences must be kept. Loyalty is now in play even in the absence of an attorney-client relationship. Second, although the intake attorney is now tainted, none of the other firm attorneys need be. For example, if you establish a firm wide policy that mandates the timely entry of relevant information from declined matters where prospective client confidences were obtained into the firm's conflict database (to include notice that the intake attorney is privy to disqualifying information) and couple this with a policy that any attorney learning a confidence from a prospective client is to take whatever steps are necessary to make certain no one else at the firm has access to that information, you should be able to keep future options in play.

Mark Bassingthwaighte, Esq. Is the resident Risk Manager at ALPS Insurance. To learn more about how ALPS can support your solo or small firm visit: alpsinsurance.com

How a Member Benefit Can Help Alaska Solo Practitioners Gain Efficiency in Legal Research

By Sierra Van Allen

In April, part of the vLex Fastcase team had the privilege of traveling from the East Coast to meet fellow legal professionals at the 2025 Alaska Bar Convention. As people who work with solo practitioners and small firms across the country, our team was struck by the unique challenges and opportunities facing Alaska's legal community.

Meeting Alaska's lawyers made it clear that practicing law here looks different than anywhere else. Whether you're handling cases in Anchorage or serving clients in remote villages accessible only by bush plane, the demands on your time and resources are unique. That's why we want to make sure Alaska lawyers are getting the most out of their legal research. When you're already juggling the challenges that come with practicing law in the last frontier, inefficient research shouldn't be one of them.

Start with What You Already Have

Time is money, and for solo practitioners, inefficient research can be the difference between profitability and burnout. Before investing in expensive research platforms, take inventory of what's already at your fingertips. Most Alaska Bar Association members don't realize they have access to comprehensive legal research through vLex Fastcase, a platform that would normally cost nearly $1,000 annually. This includes federal and 50-state coverage, Alaska-specific materials, and AI-powered research capabilities that can dramatically reduce research time.

Log in to your bar member portal and explore what's available. You might discover you've been paying for services you already have access to. Many practitioners maintain multiple subscriptions that overlap, unnecessarily eating into their bottom line.

Strategize Before You Search

Research problems usually start before you even open a database. Most lawyers dive into research without a clear question, which is like starting a road trip without a clear destination. You'll eventually get somewhere, but it probably won't be where you needed to go.

Set a realistic time limit for research phases. For most matters, 80% of relevant authority can be found in the first hour of focused searching.

Write down your specific legal question before you start searching. Not the general area of law, the actual question you need answered. This one practice will save you from the rabbit hole of "interesting but irrelevant" cases that consume billable hours.

Alaska lawyers face unique challenges that lawyers in the Lower 48 don't always understand. Sometimes you need Alaska-specific authority, sometimes federal precedent applies, and sometimes you're looking for persuasive authority from other jurisdictions because Alaska simply hasn't addressed the issue yet. Determine upfront which jurisdictions you're open to investigating.

Set a realistic time limit for research phases. For most matters, 80% of relevant authority can be found in the first hour of focused searching. When you start seeing the same cases repeatedly, it's time to stop researching and start writing.

Track your research path to avoid duplicating work. A simple research log can save hours on similar future matters and helps with billing transparency.

Adopt Modern Research Techniques

Remember when legal research meant thumping a stack of books onto a library table and settling in for a long weekend? Those days are gone, but many lawyers still research using outdated methods.

Modern research platforms include AI tools that understand legal concepts, not just keywords. Vincent AI, developed by the vLex Fastcase team, can identify relevant cases even when they don't use your exact search terms. For example, if you're researching premises liability for a slip-and-fall case, AI will surface cases about "dangerous conditions" or "duty to warn" even if those cases never mention the words "slip" or "fall." It understands that these concepts are legally related.

Conduct a Subscription Audit

To get the most out of your technology, evaluate what you're already paying for. This exercise could save you thousands: List every legal research subscription you're currently subscribed to. Include the annual cost next to each one. Now compare that to what's included through your bar membership.

Many lawyers accumulate research subscriptions over time without reassessing whether they're necessary. It's like maintaining multiple gym memberships: expensive and redundant.

Before you renew anything, calculate the real value. If a premium feature saves you two hours monthly, determine whether that time savings justifies the cost based on your billable rate. Invest saved research dollars in revenue-generating activities like marketing, client development or additional training that directly impacts your practice growth.

Build Your Research Expertise

Take advantage of Alaska Bar CLE opportunities and training resources. Many research platforms (including vLex Fastcase) offer free training that can dramatically improve your efficiency. Get the most from your existing tools before adding new ones. Most practitioners only use a fraction of their research platform's capabilities.

Stay current with legal research innovations. The legal research landscape evolves rapidly, and new features are constantly being added to existing platforms. Use Alaska's relatively small legal community to your advantage by networking with other solo practitioners for tips and research strategies.

Chart Your Course

Efficient legal research involves using the right tools strategically. Before investing in expensive platforms, maximize the powerful resources you already have access to through your professional memberships.

Alaska's legal community embodies the same frontier spirit that built this state: resourceful, independent and incredibly capable. Apply that same mindset to your research practices. You don't need the most expensive tools to provide excellent legal services. You need the right tools used strategically.

Alaska's legal community embodies the same frontier spirit that built this state: resourceful, independent and incredibly capable.

Take inventory of your current resources this week. Explore the research capabilities already included in your Alaska Bar membership. Set research time boundaries for your next few matters. These small changes can free up hours every week—time you can spend with clients, building your practice, or enjoying everything Alaska has to offer outside the office.

Your clients deserve efficient research, and you deserve a sustainable practice. With the right approach, you can have both without breaking the bank.

Sierra Van Allen is a Content Writer at vLex, focused on developing educational thought leadership content that helps small law firms leverage Vincent AI—an award-winning legal assistant that combines vLex's comprehensive global legal database with cutting-edge AI technology to streamline research, transactional document analysis, and litigation workflows. Sierra is a licensed Florida lawyer, who previously practiced construction litigation at Carlton Fields in Tampa.

Faith in Fairbanks: an Excerpt from "Knocking Over the Melting Pot: Labor Politics and Jewish Immigration in the Life of Abe Spring"

By Mike Schwaiger

Abe Spring, License Inspector (top row, far left) and Judge James Wickersham (top row, center) with U.S. marshals, U.S. attorneys, and staff in Fairbanks in 1904. (P.E.O. Scrapbook, Box 1, UAF-1975-058, Luther C. and Harriet B. Hess Papers, Alaska and Polar Regions Collections and Archives, University of Alaska Fairbanks)

When Abraham Spring headed north to Circle in 1897, it had just had its greatest year, producing over a million dollars in gold and growing to a population of over twelve hundred people. Rising from the mud and muskeg, the "Paris of Alaska" boasted a music hall, two theatres, eight dance halls and twenty-eight saloons. But by the time Spring arrived, Circle was nearly a ghost town, drained by the new Klondike strikes of all but a handful of its miners. Even Deputy U.S. Marshal J. J. Rutledge, who had been assigned to go to Circle, had caught Klondike fever on the way to his post and never arrived. By 1900, with a new influx of gold rushers, the town had rebounded somewhat to a few hundred people. In this boom-or-bust town of mostly young, unmarried men, Spring, a devout Jewish immigrant in his forties with a wife and young son in Seattle and a teenage son in tow, had become the postmaster.

Like soldiers in a foreign land, it would be easy for many of them to slough off the social codes and moral precepts that had been enforced by family, friends and the influence of the church.

Spring heard that Circle had enjoyed a good set of rules back in 1895—so good that "you could leave your clothes with your watch and money in them hanging on the outside of the cabin door without the least danger." But Spring viewed most of those who had just stampeded or re-stampeded into Circle as "fellows the Canadian government were driving out of Dawson." He deeply feared that personal greed prevented these gold rushers from troubling themselves with setting up government for the district of Alaska or even basic local restrictions on staking mining claims. As historian J. S. Holliday described an earlier gold rush:

In a world of strangers, in a place without evidence of government, religion, or law, the goldseekers felt free to grasp for fortune. Like soldiers in a foreign land, it would be easy for many of them to slough off the social codes and moral precepts that had been enforced by family, friends and the influence of the church.

Now, this time in Alaska, were hundreds of strangers with little in common but their shared selfishness.

Spring's time in Alaska changed him and accelerated the process of colonization in Alaska. As a Jewish immigrant in Washington territory and state, Spring had found and founded communities in labor politics and advocated closing the door to the Jewish immigrants just behind him. Like many new to the American West, he had set out to strike it rich as a placer miner but soon found himself working for large companies, in his case against laborers. But while Spring turned his back on the labor movement in Fairbanks, he began to build religious and political communities there and helped give Interior Alaska a "good shaking" by trying to build the security and infrastructure he believed necessary for economic development. By the melting pots of the mining camps, Spring became an U.S. citizen, lawyer, politician, business owner and community leader. And he went on to help persecuted Jews escape Europe and campaign to make the United States, and especially Interior Alaska, a refuge for them.

* * * * *

Spring naturalized as a U.S. citizen on May 16, 1902. Within a few months, Judge James Wickersham admitted Spring to the practice of law. Spring's legal work was varied but included writing notices of forfeitures concerning mining claims. "Mining the miners" and their disputes was lucrative and more pleasant work than mining itself. In early 1903, he and Solly joined the gold rushers going to the Tanana Valley. Later that year, Spring acted as a friend of the court and made sophisticated legal arguments using Russian legal principles to advocate granting U.S. citizenship to Alaskans with Russian ancestry, which Wickersham ultimately accepted in a case that could have had far-reaching consequences for the territory. Wickersham supported Spring's entry into Fairbanks politics, and Spring was elected to the first Fairbanks city council in 1903.

But while Spring turned his back on the labor movement in Fairbanks, he began to build religious and political communities there and helped give Interior Alaska a "good shaking" by trying to build the security and infrastructure he believed necessary for economic development.

In April 1904, Wickersham appointed Spring license inspector and requested he be appointed an assistant district attorney. The new municipality of Fairbanks also hired Spring as its attorney. According to their critics, Wickersham and Spring visited multiple times a day while Spring was license inspector and municipal attorney in Fairbanks. Some accused Spring of inappropriately charging the municipality and directing municipal land surveys to help Wickersham. But according to visiting Judge William A. Day, Spring was broad minded, an able civic official, and a good citizen. And Wickersham lauded Spring before a congressional committee, "There are no more reliable men in Alaska than Abe Spring." Wickersham protected Spring against other officials who questioned his appointments and who refused to pay his government salary. Just two years later, Spring would return the favor by charming President Roosevelt's personal secretary and serving as a lobbyist for Wickersham's work as a judge in Alaska.

Despite his good name outside of Fairbanks, Spring drew criticism for his political positions. For example, recognizing the importance of the demimonde to the community of overwhelming male miners, Spring pushed his "European ideas of the social evil" and attempted to control prostitution with modest fines; but even that was too much, and several johns attempted to use grand jury proceedings to indict him. He was ultimately excluded from the mayor's "Citizen's Ticket," and was defeated in his council reelection campaign in April 1905. According to one critical newspaper:

Abe Spring, formerly City attorney of Fairbanks, Special License Inspector for the Yukon, Deputy collector of customs for Fairbanks, Deputy Inspector [of] Hulls and Boilers, ect. ect. [sic] . . . wore a disconsolate expression, due no doubt to the wear and tear imposed by the exertions of filling his multitudinous offices and taking care of the emoluments. The recent city election at Fairbanks chased Abe from the feed trough.

If there had truly been a corrupt courthouse ring in Fairbanks, the voters had tried to remove Spring from it.

After his stinging loss, Spring returned to Seattle for a few months to develop an electric company for Fairbanks and to bring his wife north. It was Spring's first trip home in several years and, sadly, his wife died in Seattle during his visit following ten days of illness and an abdominal surgery. But after losing his wife and his elected office, Spring decided to live in Fairbanks with his eldest son. He had seen development in Fairbanks increase quickly when gold production jumped from $40,000 to $600,000 in 1904 to $6,000,000 in 1905. And Spring still had big dreams for Fairbanks.

For the complete article, see the Spring 2025 issue of Alaska History, https://alaskahistoricalsociety.org/publications/alaska-history/. This project is supported in part by a grant from the Alaska Humanities Forum and the National Endowment for the Humanities, a federal agency. Any views, findings, conclusions, or recommendations expressed in this article do not necessarily represent those of the Alaska Humanities Forum or the National Endowment for the Humanities.

Mike Schwaiger is an assistant public advocate with OPA's Rural Defense Section. He received his MA in history from Duke University in 2005.

Public Wi-Fi – Should Lawyers Just Say No?

Mark Bassingthwaighte, Esq.
mbass@alpsinsurance.com

In today's world, people frequently work outside of their offices. They may be working while visiting a coffee shop, sitting at an airport, staying at a hotel, or enjoying a city park. Public Wi-Fi networks are seemingly everywhere, but there's a problem. Accessing public Wi-Fi can be convenient when all you want to do is buy something on Amazon, check your e-mail or rebook a flight. There are associated risks that should never be minimized, or heaven forbid, dismissed out-of-hand. Unfortunately for lawyers, the risks are even more concerning given the sensitive nature of the information they handle.

Public Wi-Fi networks are inherently insecure. Unlike private, encrypted networks, public Wi-Fi often lacks robust security protocols, making it a prime target for cybercriminals.

Public Wi-Fi networks are inherently insecure. Unlike private, encrypted networks, public Wi-Fi often lacks robust security protocols, making it a prime target for cybercriminals. To give you an idea of the seriousness of the risk, here are a few specific threats everyone faces when connecting to unsecured networks:

- Man-in-the-Middle Attacks: This is one of the most common threats on public Wi-Fi networks. In this type of attack, a cybercriminal intercepts the communication between your device and the Wi-Fi network, allowing him to access sensitive information such as login credentials, emails, and the stored data on your drive.
- Malicious Hotspots: Cybercriminals can set up rogue Wi-Fi networks that mimic legitimate ones but are actually designed to enable a cybercriminal to capture your data. If you fall prey to this type of attack by unwittingly connecting to a rogue network, your data stream will be going directly into a cybercriminal's hands.
- Rogue Access Points: A rogue access point is something well-meaning employees of various businesses sometimes set up. In short, wireless routers are added to a Wi-Fi network in order to give more customers access to the Internet. Often these routers are not configured properly, which makes them easy to hack into, even though the network itself might be secure. If you unknowingly happen to use a rogue access point to connect to the Internet, you are now vulnerable to a wide variety of cyberattacks.
- Computer Worms and Other Malware Injections: Computer worms self-propagate and can be programmed to do all kinds of things to include stealing documents, capturing passwords, and spreading ransomware. If you happen to be on a public Wi-Fi network and fail to have robust security in place, a worm could readily jump from another infected user currently on the network to you. It's not just worms you need to worry about. Public Wi-Fi can serve as a conduit for a variety of malware attacks. If cybercriminals gain access to a shared network, they may distribute malicious software that can infect your devices potentially resulting in a data breach, ransomware attack or unauthorized remote access.
- Packet Sniffing: Packet sniffing is a technique used by cybercriminals to capture and analyze data packets traveling over a network. On an unprotected public Wi-Fi network, packet sniffing tools can be used to monitor and capture sensitive information, such as passwords and financial data.

Starting to get the picture? I hope so. Again, public Wi-Fi networks are inherently insecure. That's just the way it is. Does this mean lawyers and those who work for them should never access public Wi-Fi? In a perfect world, I might try to argue that one; but I can also acknowledge this wouldn't be realistic. There are going to be times when it's necessary; and truth be told, I occasionally use public Wi-Fi myself, but only for certain tasks. The better question is if you have a need to use public Wi-Fi, how can you responsibly address the associated risks? Start with the following:

- Approach All Public Wi-Fi Networks with a Healthy Level of Distrust - Never connect to an unknown network, particularly if the connection is offered for free or states that no password is necessary. Also, be on the lookout for network names that are similar to the name of the local venue offering a Wi-Fi connection. Just because a network connection that happens to be named Free Hilton Wi-Fi doesn't mean it's actually the legitimate Hilton network. If you're not 100% certain, always ask what the proper name of the local network you are wanting to connect to is and connect to that.
- Use a Virtual Private Network (VPN) - A VPN encrypts internet traffic, making it unreadable to cybercriminals on public Wi-Fi. You should always connect to a trusted VPN before accessing sensitive information. If your firm provides a corporate VPN solution, use it! If not, use a personal VPN service like NordVPN, ExpressVPN, or ProtonVPN.
- Enable Two-Factor Authentication (2FA) on All Accounts - 2FA adds an extra layer of security by requiring a secondary verification method (such as a text message code or authentication app) to access accounts. Even if cybercriminals obtain login credentials, they won't be able to access protected accounts without the second authentication factor.
- Avoid Accessing Sensitive Data on Public Wi-Fi - Whenever possible, avoid logging into case management systems, email accounts, or other sensitive applications while on public Wi-Fi. If urgent access is needed, a VPN should be used to secure the connection.
- Better Yet, Use Mobile Hotspots Instead of Public Wi-Fi: A safer alternative to public Wi-Fi is using a mobile hotspot from a smartphone or a dedicated cellular hotspot device. These connections are generally encrypted and far more secure than public networks.
- Disable Auto Connect to Wi-Fi Networks: When auto connect is enabled, your device can automatically connect to a malicious network. To prevent this unintentional result from ever occurring keep this setting disabled at all times.
- Keep Software and Security Patches Updated: Cybercriminals often exploit vulnerabilities in outdated software. Regularly update your operating systems, web browsers, and security applications to ensure you have the latest security patches. Enabling any automatic update features will help make this process as painless as possible.

I wish I could stop here but I can't, because almost every law firm I know of has more than one person. Anyone at a firm can naively or unwittingly fall prey to a cybercriminal when logging onto a public Wi-Fi network and this could result in very serious and unintended consequences not only for your firm, but firm clients as well. Best practices now mandate that everyone who uses a mobile device for work be subject to a written policy regarding the appropriate use of public Wi-Fi. If your firm has no such policy, now's the time. Any policy is going to be meaningless if there is no training on the risks and/or no enforcement of the provisions so keep that in mind.

Now to my initial question. Should lawyers just say no to the use of public Wi-Fi or try to prohibit anyone in their employ from using it? I don't necessarily go that far as long as all users have been made aware of the risks and given the appropriate tools that will help them minimize the risks.

That said, let me share one final thought because I do get push back on this topic and can anticipate you will too. Some will disagree and say something along these lines, "the Starbucks signal is free, I've used it many times before and never had a problem so why all the unnecessary fuss?" My response is always the same. How do you know you were never a victim? No one is going to send you a thank you card for allowing them to steal your credit card number or place a keylogger on your laptop. We all need to understand that hacking tools are widely available to the masses. Always remember that you are never alone while using public Wi-Fi and you simply have no way of knowing what everyone else's intentions are.

Mark Bassingthwaighte, Esq. Is the resident Risk Manager at ALPS Insurance. To learn more about how ALPS can support your solo or small firm visit: alpsinsurance.com

NOTICE TO THE PUBLIC

**By order of the Alaska Supreme Court,
Dated 6/18/2025,**

**KENNETH D. ALBERTSEN
Member No. 9211064
Palmer, Alaska**

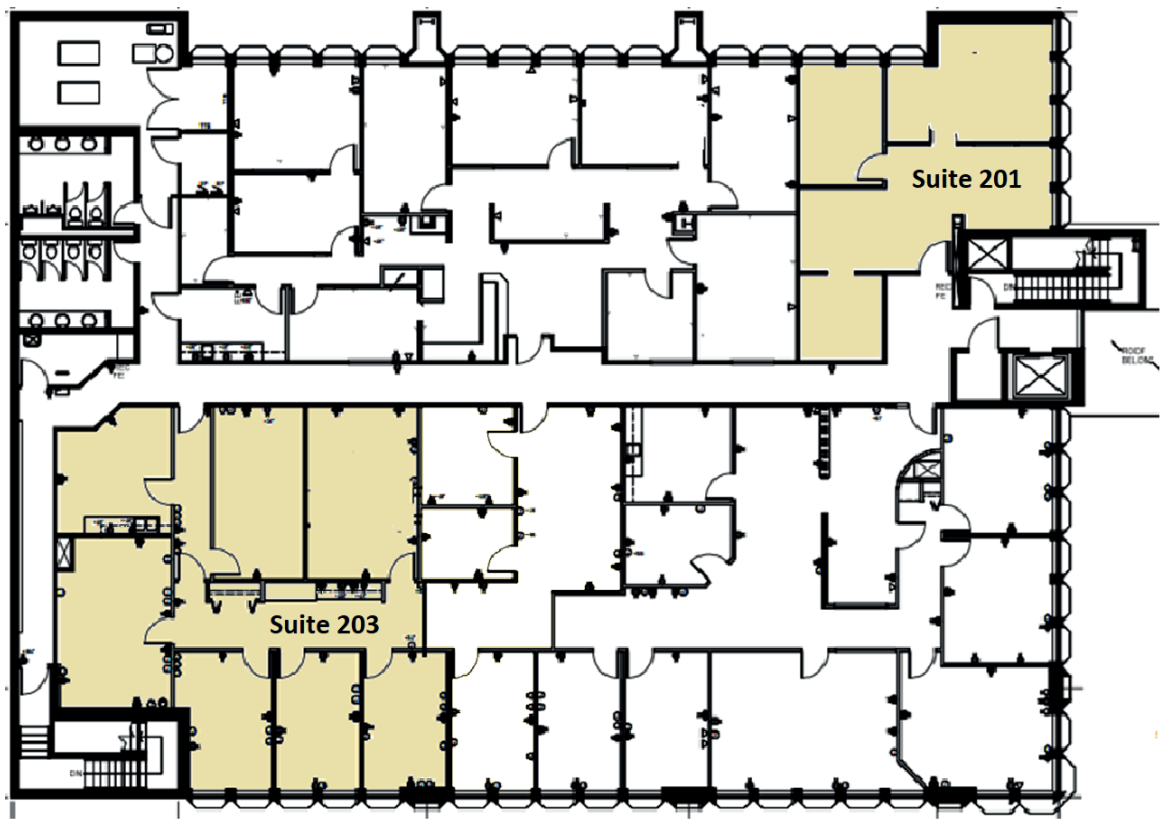
**is reinstated
to the practice of law
effective 6/23/2025.**

**Published by the Alaska Bar Association,
840 K Street, Anchorage, Alaska 99501
www.alaskabar.org
Pursuant to the Alaska Bar Rules**

Alaska Lavender Bar Association Launches, Seeking to Strengthen and Support Queer Legal Community Statewide

Calling all lavender lawyers! The newly formed Alaska Lavender Bar Association (ALBA) is looking for interested members willing to connect, network, advocate for and advance the legal interests of queer people and allies across the state. ALBA provides queer lawyers, legal professionals and allies with a safe space to meet, discuss and form connections in order to strengthen the queer legal community across the state. If interested in joining please fill out our membership registration form by scanning the QR code to the right, or email us at alaskalavenderbar@gmail.com.

- Suite 201 — 1,017 sq. ft.
- Suite 202 — 2,131 sq. ft.
- Great Downtown location
- Covered parking available
- Fully upgraded video security system with in-app access.
- Upgraded HVAC including state of the art UVGA filtration
- **$1.90 sq./ft.**



MLS #23-10374, 25-1546

Contact the Alaska Bar Association for interest in the vacant space.
(907)272-7469 or info@alaskabar.org