

The Alaska **BAR RAG**



Retired Magistrate Judge & Bar Rag Editor Emeritus Harry Branson and Judge Michael Thompson enjoyed the Convention.
..... pages 8, 16-17, 28-30, 32

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Dignitas, semper dignitas

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Dissent is an 'appeal' for the future

By Justice Ruth Bader Ginsburg

The 2008 Bar Convention Keynote Address, "The Role of Dissenting Opinions"

As the U.S. Supreme Court approaches the term's final months, it is good to have some days far away from D.C. in a most welcoming place, our great 49th State. On a Court of nine members, facing no easy cases, reasonable minds may divide, sometimes intensely, on important issues. This audience, I thought, might find of interest some reflections on the role dissenting opinions play in the U. S. judicial system generally, and the U. S. Supreme Court in particular.

Our Chief Justice, in his 2005 confirmation hearings, expressed admiration for the nation's fourth Chief Justice, John Marshall — frontrunner for the title greatest Chief Justice in U. S. history. Our current Chief admired, perhaps most of all, Chief Justice Marshall's unparalleled ability to achieve consensus among his colleagues. During his tenure, the Court spoke with one voice most of the time.

In Chief Justice Roberts' first year at the helm, which was also Justice O'Connor's last term on our bench, it appeared that the Chief's hope for greater unanimity might be realized. In the 2005-2006 Term, 45% of the cases we took up for review were decided unanimously, with but one opinion for the Court, and 55% were unanimous in the bottom line judgment.¹ Last term, however, we spoke with one voice in only 25% of the cases presented, and were unanimous in the bottom line judgment less than 40% of the time.² Fully one-third of the cases we took up — the highest share in at least a decade — were decided by a bare majority of five.³

Typically, when Court decisions are announced from the bench, only the majority opinion is summarized. Separate opinions, concurring or dissenting, are noted, but not described. A dissent presented orally therefore garners immediate attention. It signals that, in the dissenters' view, the Court's opinion is not just wrong, but grievously misguided. Last term, a record seven dissents were summarized from the bench, six of them in cases decided by 5-4 votes.⁴

I described from the bench two dissenting opinions in the 2006-2007 Term. The first concerned the Court's approval of a federal ban on so-called "partial-birth abortion."⁵ Departing from decades of precedent, the Court placed its imprimatur on an anti-abortion measure that lacked an exception safeguarding a woman's health. Next, I objected to the Court's decision making it virtually impossible for women complaining of pay discrimination to mount a successful challenge under Title VII, the nation's principal law banning discrimination in employment.⁶

Linda Greenhouse, the New York Times's superb, but sadly for Court watchers, soon-to-retire Supreme Court

Continued on page 6

SUFFERING THE INEVITABLE 'PAYMENT DUE' PG. 5



Be a lawyer, see the world – CLE redux

By Rich Curtner

What would it be like to start a public defender program in Armenia? Or to assist public attorneys in Afghanistan? To be a consultant for "court improvement in Mongolia"? To teach at a law school in Cambodia? Or to take a sabbatical with the Kosovo Rule of Law Program?

In September 2006, the International Law Section at the Bar Association sponsored a program called "Be a Lawyer – See the World: International Rule of Law Opportunities for Alaskan Lawyers." (You can review the materials from that CLE at <http://www.alaskabar.org/INDEX.CFM?ID=5476>.)

That program featured

Alaska lawyers that had fascinating experiences overseas (Andy Haas in Armenia; Susanne DiPietro in Mongolia; Brant McGee in Afghanistan), as well as attorneys from outside (Professor Speedy Rice and Wendy Betts in Serbia; Jay Stansell in Cambodia). The program was well received and sparked much interest in rule of law opportunities.

Did you ever wonder what it might be like to observe elections in Kazakstan, Ukraine, or Herzegovina? To work in China? To be a public defender in Micronesia? A law clerk with the Palau Supreme Court? How about creating a judicial system in Iraq?

Since the program in 2006, many Alaskan attorneys have

contacted the International Law Section willing to share equally fascinating experiences abroad. For example, retired Justice Alex Bryner, Judge Phil Volland and Assistant United States Attorney Joe Bottini are participating in a legal conference in Khabarovsk, Russia on behalf of the Khabarovsk-Alaska Rule of Law Partnership in May 2008. So, the International Law Section is an afternoon CLE at the Hotel Captain Cook sponsoring in Anchorage on Monday, December 1, 2008 (1:30-4:30 p.m.).

Anyone interested in joining a new panel of "Be a Lawyer – See the World" should contact me at Rich_curtner@fd.org.

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Why a Bar Association?

By Mitch Seaver

Why should the Alaska Bar Association even exist? The question is relevant because the Association is up for sunset review in the next regular legislative session. I have a confession to make. Before going on the Board of Governors, I didn't know much about what the Bar Association did. I knew it gave the bar exam. I knew your application had to explain that little misunderstanding with the campus police. I knew if I had an ethical issue, I could call Steve Van Goor for advice. I also knew it was better if I called Steve instead of Steve calling me. In short, I knew the Bar Association handled admissions and discipline.

Since being on the Board, I have remembered or learned that the Association is involved in much more than admissions and membership. Like

admissions and discipline, these functions and indeed the very justification for the Bar Association's existence boil down to one thing: protection of the public. Attorneys are as susceptible to mental health and substance abuse problems as anyone else. I sometimes think the nature of our work makes us more susceptible and that the condition is harder to detect, especially for solo practitioners. The Lawyers Assistance Committee protects the public by working with attorneys with addiction, suffering from mental illness or addiction. In addition, the Bar protects the public by appointing Trustee Counsel to administer the practices of disabled attorneys, those that abandoned their practices and solo attorneys who have died.



"...the very justification for the Bar Association's existence boil down to one thing: protection of the public."

It is an unfortunate but inescapable fact that there are dishonest lawyers. The Bar Association maintains the Lawyers Fund for client protection to reimburse victims of dishonest lawyers for uninsured losses. Again, the reason is the protection of the public.

The Bar Association also provides continuing education courses to members. In 2007, courses were offered in 30 different topics. The Association has over 20 substantive sections that promote an interchange of ideas between peers and also provide education to the section members and other lawyers. Keeping lawyers current protects the public from those that are not.

If you think about it, even programs characterized as member services have a public protection component. For example, ALPS (Attorney Liability Protection Society) increases the availability of coverage to Bar members at predictable rates. Casemaker provides online legal research at no cost to Association members, helping them serve their clients in a cost effective manner.

This is not an exhaustive list or discussion of all the Bar's programs and how they serve the public, but it does illustrate that the Association is centered around the protection of the public. Ultimately, that is the reason there even is an Alaska Bar Association. Finally, it is worth noting that the Bar Association carries out its work without relying on any public monies, due in large part to the countless hours donated by attorney and public member volunteers.

EDITOR'S COLUMN

Creating uncertainty: Offers of judgment and the nominal offer

By Thomas Van Flein

One of the more frustrating aspects of advising clients in litigation is overcoming their rational expectation that there are rules of engagement that provide certainty. More often than not our advice is prefaced with cautionary disclaimers such as "usually the courts will" or "probably" the court will, followed by a recitation of the exceptions and limitations. One commentator has noted that "Lawyers get paid well because the law is uncertain, and you want a good lawyer who can resolve that uncertainty in your favor." If true, then it would be against our economic interests to seek certainty in the law, but so be it. Chris Edwards, of the Cato Institute, writes (in the context of taxation) "Certainty in the law is a bulwark against arbitrary and abusive government."

The opposite position is taken by legal realists, such as iconoclast Judge Jerome Frank, who authored "Law and the Modern Mind" and considered by many to be the source of modern legal realism, wherein he posited that the search for certainty in the law was fruitless. As Stephen Presser wrote, "Legal realism, however, is skeptical even about certainty in the law, preferring instead to make things up as it goes along in pursuit of a particular policy goal or a client's interests."

Elsewhere in this issue we have Justice Ginsburg's comments on the role of dissent on the court, with a passing reference by her weighing unanimous or almost unanimous decisions with the loss of certainty in the law a split decision offers. (Incidentally, for a very good comment on dissenting opinions, see Australian Supreme Court Justice Michael Kirby's speech "Judicial Dissent" available at http://www.hcourt.gov.au/speeches/kirbyj/kirbyj_feb05.html, asserting that "[t]he demand by observers for unanimity amongst judges is often infantile"). The type of certainty in the law I am talking about here is not the policy impact a unanimous decision may have in

construing a constitutional provision. Rather, my focus is narrower: the civil rules, and more particularly, Rule 68.

Civil Rule 68 and its statutory source, AS 09.30.065, were revised in 1997. Our legislature amended the procedure for offers of judgment and imposed what, on its face, appear to be a fairly clear set of guidelines to follow in order to properly serve an offer of judgment, and more importantly, the impact of that offer if your client beats that offer at trial or through a pre-trial disposition. It all seems straightforward enough. Calculate the number of days the offer is served after the pretrial order or prior to trial (which will determine if the fee shifting will be 30%, 50% or 75% of "reasonable actual attorney's fees").

Nowhere in the statute or the rule is there a minimum dollar amount required. A plaintiff could serve an offer of judgment for \$5 along with the complaint, and if the defendant fails to timely accept, and at trial the Plaintiff gets a verdict for \$50, the Plaintiff is the prevailing party entitled to the fee shifting as set forth in the rule. Thus, even if the plaintiff's recovery is modest, and the fees exceed the recovery by a magnitude, the risk of that occurrence is shifted to the defendant who failed to properly assess the case, value it and resolve it timely when presented with the chance to do so. In other words, the time and expense of obtaining even a modest plaintiff's verdict is shifted, by law, to the defendant, and the plaintiff is not culpable for pursuing a low value claim that the defense could have resolved without trial.

Similarly a defendant could serve an offer of judgment at some point in the litigation, for \$1, \$5, or \$1,000, and if the plaintiff obtains less than that at trial, the defendant is to be deemed the prevailing party. Indeed, some defendants may assess the odds



One commentator has noted that "Lawyers get paid well because the law is uncertain, and you want a good lawyer who can resolve that uncertainty in your favor."

of liability being imposed to be low enough that a \$1 offer of judgment sends the message that the defense is confident in a defense verdict, and the plaintiff would be better off taking the dollar (in essence, dismissing the case) than proceeding further.

These outcomes are a known, if not certain, risk under the statute and its civil rule counterpart. Into this certainty, however, the Alaska Supreme Court has of late injected some uncertainty, to its discredit. In *Lowell v. Hayes*, 117 P.3d 745, 760 n. 76 (Alaska 2005), the court stated that "[a] Rule 68 offer of judgment may be invalid where a party disingenuously makes a low offer so that it may benefit from Rule 68." This reasoning defies logic since in order for Rule 68 to play any role in the litigation, the party had to beat its offer. If the offer was for \$1.00, and the plaintiff or defendant beat that offer, it makes no difference to application of the rule. In that event, the party would have been better off taking the offer, \$1.00 or not, avoiding costly litigation, and freeing up the courts, all of which serve the purposes of the rule.

Our court in *Olivit v. Comolli*, (unreported MOA dated August 15, 2007) 2007 WL 2333352 at p. 4, mentioned the concept of nominal offers and its impact on the offer's validity: "CBJ's February 10, 2005 offer of judgment was for one dollar. It made the offer well before the date established in the pretrial order for initial disclosures required by Rule 26. Olivit did not accept the offer. Although we have questioned the validity of a one-dollar offer of judgment, that issue is not properly before us here because Olivit did not raise it below or on appeal." Thus, there are at least two decisions raising the issue of invalidating low value offers of judgment. This line of

The Alaska BAR RAG

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Letters

In defense of the Judicial Council

The December Bar Rag published a column by Wayne Anthony Ross headlined "Anonymous hate mail should not be permitted." Mr. Ross's column described his experience applying to the Judicial Council to be nominated to fill a Supreme Court vacancy. He repeated some of the negative comments he received in the bar poll, and he left the impression that all or most of them were anonymous comments. He also stated his belief that the Council, or the bar as a whole, is left-leaning, so that a

conservative candidate could never be nominated.

As a former member of the Judicial Council, I want to set the record straight on both points. In the bar survey, the Council received 116 comments on Mr. Ross. More than half of both the positive and negative comments were signed. Identifying information is redacted from the comments given to applicants, but candidates are advised which comments are signed and which are not. Of the negative comments that Mr. Ross selected for inclusion in his column, the majority were signed. The

implication that all, or even most, of the nasty notes were submitted anonymously is incorrect.

The Council has no use for childish name-calling and vicious attacks, whether signed or unsigned. I agree completely with the last paragraph of Mr. Ross's column: that the lack of civility from some members of the bar hurts and does not help the selection process.

I can assure Mr. Ross and other candidates that never in my six years on the Council did I ever hear a member give any weight to those kinds of comments.

On the other hand, the Council finds detailed, specific comments very helpful, particularly when comments from diverse people paint the same picture, positive or negative. The numerical bar poll ratings cannot tell the whole story about anyone. Council members are educated consumers of bar poll numbers, and the contractor who processes the data can assist in identifying block voting and atypical patterns — but narrative comments provide information that is unavailable in the numbers alone.

The Council greatly appreciates people who sign their names to their comments, whether the comments are positive or negative. It assures the Council that people have the courage of their convictions; maybe it makes them think twice about being unduly nasty; and it allows the Council to follow up when serious wrongdoing is alleged. Council staff does investigate serious allegations and often learns facts that put allegations in context. Signed comments also help Council members assess whether a candidate's supporters all come from within his office or are spread widely among the bar. Likewise, the Council sees one picture when most of the negative comments come from the attorney's adversaries in the courtroom, and another when negative comments on temperament or talent come from other lawyers in the applicant's own firm.

The Council's bylaws specifically forbid giving any weight to unsubstantiated anonymous comments, and in the hundreds of interviews and dozens of nomination discussions I participated in, I observed no evidence that any Council member gave any weight to those type of comments.

During my time on the Council, Council members seriously considered refusing to accept anonymous comments at all, but voted not to go that far, because our experience included too many people who do not trust the anonymity of the process but have information that the Council should know. Sometimes an anonymous comment suggests serious misconduct — and when the Council asks the applicant about the incident, the applicant admits it. In that circumstance, the Council relies not on the anonymous comment but on what the applicant stated, but the Council (and the public) are well served by having had the anonymous comment that prompted the inquiry. If the candidate denies the allegation, then the Council must ignore the accusation unless it is substantiated in another way, such as from review of court records.

As to the allegation that a candidate's politics affect his or her chance of being nominated, it's simply untrue. During my years on the Council, I was pleasantly surprised by the extent

of consensus that Council members share concerning who would make a good judge. We might vote for different people for president, but we held very common ideas about who would make a great judicial officer.

Unless a candidate had been extremely outspoken in his or her views, I rarely had any idea of the candidate's politics — and I really did not care. My Council colleagues had the same attitude. And contrary to Mr. Ross's belief, the Council never was bothered by the fact that someone was outspoken. With outspoken people, we cared only whether the person could put his or her personal views aside and decide cases impartially.

Years ago, I clerked for a federal court judge who was devoutly religious, but who issued a decision in an important case that involved setting his own beliefs aside. He taught me well that personal religious or political philosophy has no place in a courtroom, and that conscientious people can hold one view in private and apply the law impartially from the bench. In the intervening decades, I have known many lawyers and judges who live up to his ideals, and I have known some I mistrust, from both ends of the political spectrum; they are great advocates, but I don't want them as judges.

When someone does not get nominated for a judgeship, it is easy for that person, or his or her friends, to blame others' intolerance for the candidate's political views or outspoken style. The hundreds of pages of materials that the Council reviews tell a different story.

When the Council fails to nominate someone as one of the most qualified in a group of applicants, the Council has considered not just the bar poll scores and lawyer comments, but Council members read every word of writing samples, comments from judges and opposing counsel in recent cases, and signed comments from lawyers that start "I like this person but she/he simply is not an extraordinary lawyer." The Council considers testimony at a public hearing, the breadth of the candidate's life experiences and legal experiences, and the candidate's demeanor during a 45-minute interview with the Council. Humility, honesty, thoughtfulness, and sensitivity in the interview often tell the Council more than bar poll scores about judicial temperament.

I applied for the Council position six years ago, because I believed I was blessed to live in a state with the best possible way for selecting judges, and I wanted to be a part of making the system work. I was honored to be selected as a Council member. My experience on the Council left me even more convinced that our

Creating uncertainty

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reasoning is counterproductive to the courts and the parties.

The outcome of the case determines what is "disingenuous" not the offer itself. A defense verdict at trial does not render a \$100 offer of judgment a year prior to trial "disingenuous"; to the contrary, it renders it prophetic or at the least, it speaks to a better evaluation of the true value of the case. A "low offer" in order to "benefit from Rule 68" is precisely what is encouraged by the statute and Rule 68, it is not to be condemned as "disingenuous." Further, who is to determine what is "too low" and when is that determination made? Offers of judgment are often made at the outset of the case (the rule encourages this by the way) and it is a far easier task to judge the value of a case after trial (when a court is likely to do this) than a year prior to trial when the initial disclosures are first being served (when the parties have to do this, or should do this).

Let's hope that the footnote in *Lowell* and the comment in *Olivit* and the concept of invalidating "nominal" offers of judgment remain an idle speculation by our court and are not given further mention. The risks


of rejecting or making a low offer are known to the parties and their counsel. The biggest risk should be failing to beat a low offer at trial that your client rejected. A court's 20-20 hindsight evaluation and subsequent invalidation of an offer should not be a risk under Rule 68.

Should the concept of "nominal" offers of judgment be developed further, the court, through its Civil Rules Committee, should amend Rule 68 to require a "minimum" offer that satisfies the court in all cases,

Should the concept of "nominal" offers of judgment be developed further, the court, through its Civil Rules Committee, should amend Rule 68 to require a "minimum" offer that satisfies the court in all cases

rather certain of the merits of their case, and what appears to be a nominal offer is in reality a wise assessment of potential liability and damages. Whether the offer was a prudent and early assessment or a reckless and meaningless offer should matter little since all that matters in the end is the actual award entered and whether the party beat its offer. Indeed, a good argument can be made that any party that fails to beat a "nominal" offer should not only not be rewarded for failing to beat that offer, but should be subjected to an even higher award under the rule since that party so clearly miscalculated his or her case and potentially wasted court resources.

Further, who is to determine what is "too low" and when is that determination made? Offers of judgment are often made at the outset of the case (the rule encourages this by the way) and it is a far easier task to judge the value of a case after trial (when a court is likely to do this) than a year prior to trial when the initial disclosures are first being served (when the parties have to do this, or should do this).



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Letters

Continued from page 3

system works very well. Not every lawyer participates in the bar polls in good faith — but most do — and Council members take any isolated comment with a grain of salt and look for the patterns that truly reflect a candidate's talent, temperament, and integrity. If people take Mr. Ross's comments to heart and stop writing juvenile attacks, the system will improve.

—Susan Orlansky

The Tao of legal writing

The recent bar convention was, so far as I can tell, a tremendous success, and the organizers should be congratulated. The CLE presentations were especially good. I would like to make a few observations, however, about the presentation by Bryan Garner on legal writing.

Judging by the comments I heard during and immediately after Mr. Garner's presentation, and the expressions of rapt attention on the faces of most audience members, I would say the presentation was wildly successful. As a one-time academic myself, I take my hat off to anyone who can talk about legal writing for three hours and still have other people in the room. People not asleep, I mean. And I agree with about ninety percent of what Mr. Garner had to say. But, for me, there were three troubling aspects to the presentation.

First, Mr. Garner was allowed to make the case for some fairly controversial propositions without presenting any significant contrary views. These propositions included Mr. Garner's own hobby horse: the proposition that all legal citations belong in footnotes. (The two video clips Mr. Garner played as a nod to fairness concerns on the question of footnotes were essentially neutral in tone and content.) This may seem like a small point, in the grand scheme of things, but remember that these propositions are not small points at all to Mr. Garner: he claimed that his footnote proposal is the single most important innovation in legal writing during our lifetimes, or something on that order. Contrary to Mr. Garner's suggestion that people who put citations in the text of legal documents are doing so out of ignorance or in mindless adherence to tradition, there is a case to be made for the other side in this debate, and members of the

Alaska bench and bar deserve to hear it, especially if they are to be subjected to the sort of advocacy engaged in by Mr. Garner. (And there were other controversial propositions put forward that should also have been covered by this "equal time" principle. One that springs to mind is Garner's notion that the formal "questions presented" in legal documents, especially briefs and memoranda in support of motions, should be chopped up like so many earthworms and reconstituted as syllogisms.)

Second, Mr. Garner indulged in a few casual swipes at American legal education, suggesting that law schools are (a) teaching students silly rules about writing, and (b) leaving students no better off than they would have been if they had never gone to law school at all, at least with regard to their writing skills. Unless Mr. Garner has taken the trouble to closely monitor the curricula of a fairly representative sampling of the almost 200 accredited law schools in this country (which I sincerely doubt), his opinions on this point ought to be rejected out of hand, and (in light of the lack of an opponent in the ring) condemned as a species of cheap shot.

Finally, while I recognize that this part of the presentation may have been intended more as entertainment than instruction, I cannot help feeling that Mr. Garner's five-question test for membership in his SNOOT society (or whatever he called it) significantly undercut many of the other points he was making. I won't go through the tedious business of arguing the correctness of his answers to each of the five questions he posed, but consider for just a moment the word "octopi." Mr. Garner condemned this variant of the plural of "octopus" in favor of "octopuses," apparently on grounds that "octopus" was a Greek word before it was a Latin word, and therefore cannot take a Latin plural form. A quick look at several dictionaries fails to turn up a single one that rejects "octopi" as incorrect or unacceptable. Of course, the Greeks had a different alphabet, so they didn't actually write the word "octopus." The second edition of the Oxford English Dictionary (OED) lists the plural as the Latin "octopodes," but says this was anglicized into "octopuses." To complicate the matter further, the word at first referred to a whole genus, rather than an individual animal, so there wouldn't have been much need

for a plural. (The word "cactus" has undergone a similar transformation, in that it has Greek roots — so to speak — but means something different today than it did when the ancient Greeks might have used it. A Greek named Theophrastus used something like this word to describe what we today would call an artichoke, but then it was adapted into Latin, and eventually Linnaeus used the word to refer to a whole genus of entirely different plants, and this genus has now been divided into twenty or more genera. The plural favored by the OED is "cactuses," but most American dictionaries accept "cacti" without so much as a blush.) Most importantly, even if we accept the proposition that "octopi" is wrong in some absolute sense, by Mr. Garner's own admission, the majority of the audiences Mr. Garner has spoken to over the years have given the "wrong" answer to this question. If Mr. Garner's audiences have been fairly representative of the current readers of legal documents in this country, it follows that most readers would not react with the sort of shock and horror that Mr. Garner would apparently display if, in the unlikely event that more than one octopus were involved in a legal dispute worth discussing on paper, a lawyer used this supposed barbarism, "octopi."

The lessons I would draw are ones that Mr. Garner himself has already drawn and applied in most other areas of his work: that the meanings of words change over time, as we use them; that what might have shocked law-trained readers 50 or 100 years ago is now commonplace; and that, rather than resisting this inevitable process of transformation, lawyers and judges should acknowledge and even embrace it. To put this another way, there are three questions all writers must ask themselves when they set about to write something:

- (1) who will be reading this document? [audience]
- (2) what am I trying to accomplish with this document? [purpose]
- and (3) what formal constraints are in place with respect to this document? [limits]

Mr. Garner would do better to

stick to fundamental questions like these, rather than indulging in this particular form of the "gotcha!" game. (This game, as played by Mr. Garner, has much more to do with the question of class in America, rather than writing, despite Mr. Garner's protestations to the contrary.) In the context of his overall presentation, the SNOOT quiz stood out as a mere parlor trick, not worthy of Mr. Garner or his subject.

—Doug Miller

P.S. In case my boss is reading this, let me hastily add that the research for and writing of this letter all occurred on the weekend, and no octopuses were harmed in the process.

Ken Jensen remembered

When my copy of THE BAR RAG arrived Monday, I read with great interest, if sadly, the In Memoriam section. I knew Tom Stewart well, because I had worked for him in Anchorage when he was Administrative Director of the Alaska Court system when it was in its infancy. And I knew Chuck Cloudy, Dick McVeigh, Brian Brundin and Dave Roderick as well.

But I was deeply disappointed that my partner of 30 years (1965-1995) Ken Jensen, who died January 11 just past, was not included in the section. Ken was very active in the Bar Association. I cannot recall his ever missing even one Bar convention. He was twice elected president of the Anchorage Bar Association. When there were the initial three Superior Court Judges in Anchorage (Davis, Fitzgerald & Cooper) he was the first and then only law clerk. He surely deserves a place in the Memoriam section, even if late in the next BAR RAG.

Ken was a brilliant and effective lawyer. It was a rare privilege to have been his associate. He had many friends. He earned well his place in THE BAR RAG

—R. Everett Harris

Editor's comment: Mr. Jensen was a respected member of our Bar Association and made many great contributions. His obituary is in this issue, and we regret that we were not able to publish it in our last edition.

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THE KIRK FILES

The Devil opened up his case . . .

By Kenneth Kirk

BEGIN TRANSCRIPT

Judge: We're here for a probate hearing in the Estate of Attorney Beauregard B. Smedley. For the claimant we have... I'm sorry, sir, is it pronounced Satin? Sat-tan?

Satan: No, it's Satan.

Judge: You're not *the* Satan? I mean, the Prince of Darkness, Lord of the Underworld?

Satan: I'm flattered, but nowadays I generally refer to myself as a mere business consultant.

Judge: And you're appearing *pro hac vice* for your organization, it says here? I didn't know you were an attorney.

Satan: I do a lot of prosecution work. But that's not why we're here.

Judge: No, of course not. If I understand the pleadings correctly, you have some sort of legal services organization?

Satan: Yes, your honor. We market to lawyers, businessmen, elected officials... heck, practically anybody... with contracts under which we provide various benefits now, in return for payment much, much later.

Judge: And you're apparently making a claim for Mr. Smedley's immortal soul. The Estate doesn't claim the contract isn't valid. What's the issue here?

Satan: They're contesting the security. You see, when Mr. Smedley sold his soul to us, we took a security interest in it. If you'll look at Exhibit A to our motion, you'll see it clearly spelled out, and Exhibit B shows we perfected the interest. But the Estate is trying to ignore that and just treat us as an unsecured creditor.

Judge: I'm looking at Exhibit A, which is the contract. Does the Estate's attorney have a copy? Good... this is a very thorough contract, I can see.

Satan: We have some very good attorneys in my... uh, office.

Judge: And some interesting specifics. So this is how he managed not to get disbarred all those years? I had him in my courtroom once, he was one of the worst lawyers I ever saw.

Satan: That's right. And we fully performed our part of the bargain. See paragraph 36(b)? He got every one of those women.

got what he bargained for, that's what matters.

Judge: But why isn't this moot? I mean, you're to be listed as a general creditor anyway, right? So won't you get paid regardless of which way I rule?

Satan: Are you kidding? He ran up credit card bills like they were going out of style. If we're not treated as a secured creditor, we'll have to share whatever's left in the estate with them. And even before general creditors get paid, there's the exempt property allowance for his illegitimate children, the back taxes, back child support, funeral and burial costs... let's face it, this is an insolvent estate. His soul will have to be sold to pay expenses.

Judge: Who would buy it?



"We market to lawyers, businessmen, elected officials... heck, practically anybody... with contracts under which we provide various benefits now, in return for payment much, much later."

important to him, I guess. But the important thing is, we produced,

Satan: It's a limited market, granted, but there are a few Hollywood producers, sports agents, and pawn shop owners who dabble in it.

Judge: Just looking at the contract, it doesn't seem like a very fair agreement.

Satan: What's not fair about it? He got through law school, passed the bar, stayed in practice all those years despite his questionable ethics, seduced a few women, and reached the fifth level of Donkey Kong.

Judge: Donkey Kong was in there?

Satan: He was a first-year law student when we made the deal, and it was

and he didn't have to pay anything from his early 20's until late middle age. Not a bad deal at all from his perspective.

Judge: All right, I think I understand your position. Did counsel for the Estate want to be heard?

Lawyer: Yes, your honor, thank you. Oh, Mr. Satan, you left some photos here on the podium. They must be your exhibits... hey, wait, these are pictures of me and... oh boy....

Judge: You may proceed, counselor.

Lawyer: You know, judge, on second thought I'll just rest on my pleadings. I have nothing to add to the... uh... cogent arguments of my opposing counsel.

Judge: I'm going to take this under advisement, then. Hey, where did he go?

Lawyer: He was right here a moment ago... Do you smell brimstone?

END TRANSCRIPT.



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He got what he bargained for, that's what matters.

Judge: Which is only a handful. You'd think if he were selling his soul...

Satan: Hey, he wasn't a very good negotiator, I'll give you that, but I can't give away the farm on every deal. He

Quote of the Month

“ We are made wise not by the recollection of our past, but by the responsibility for our future. ”

--George Bernard Shaw

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'Appeal' for the future

Continued from page 1

reporter, wrote that the 2006-2007 Term will be remembered as the one in which I "found [my] voice, and used it."⁷ That appraisal surprised my husband, my children, my chambers staff, and even my colleagues at the Court. All of them have heard me use my voice, sometimes to stirring effect. But it is true, as Linda Greenhouse knew, that only six times before, in thirteen terms on the Court, and never twice in the same term, did I find it appropriate to underscore a dissent by reading a summary of it aloud in the Courtroom.⁸

Our practice of revealing dissents, I should emphasize, is hardly universal. In the civil law tradition that holds sway in Europe, and in countries once controlled by a continental power, courts issue a collective judgment, written in an impersonal style. The author of the judgment is neither named nor otherwise identifiable. Disagreement, if it exists, as it sometimes does, is not disclosed.

The British common law tradition lies at the opposite pole. In appeals in that tradition, there was conventionally no "opinion for the court." Instead, the judges hearing the matter composed their own individual opinions (called speeches) which, taken together, revealed the court's disposition. Changes in British practice and in some European tribunals have brought these divergent systems closer together. The European Court of Human Rights, for example, seated in Strasbourg, publishes signed dissenting opinions.⁹ But, by and large, the historical traditions hold.

Our system occupies a middle ground between the continental and the British patterns. In the earliest days of our national existence, the U. S. Supreme Court, like the House of Lords, Britain's highest tribunal, issued *seriatim* opinions. Each Justice spoke for himself whenever more than a memorandum judgment issued. But John Marshall, who served as Chief Justice from 1801 until 1835, thought that practice ill-advised. In its place, he established the practice of announcing judgments in a single opinion for the Court, which he generally wrote himself. Opinions that speak for the Court remain the custom today. But unlike courts in civil law systems, and in line with the British tradition, each member of the Court has the prerogative to speak out separately.

What is right for one system and society may not be right for another. In civilian systems, the nameless, stylized judgment, and the disallowance of dissent, are thought to foster the public's perception of the law as dependably stable and secure.

No doubt, as Chief Justice Roberts suggested, the U. S. Supreme Court may attract greater deference, and provide clearer guidance, when it speaks with one voice. And I agree that a Justice, contemplating publication of a separate writing, should always ask herself: Is this dissent

or concurrence really necessary? Consider the extra weight carried by the Court's unanimous opinion in *Brown v. Board of Education*.¹⁰ In that case, all nine Justices signed on to one opinion making it clear that the Constitution does not tolerate legally enforced segregation in our Nation's schools.

On the utility of dissenting opinions, I will mention first their in-house impact. My experience teaches that there is nothing better than an impressive dissent to lead the author of the majority opinion to refine and clarify her initial circulation. An illustration: The Virginia Military Institute case,¹¹ decided by the Court in 1996, held that VMI's denial of admission to women violated the Fourteenth Amendment's Equal Protection Clause. I was assigned to write the Court's opinion. The final draft, released to the public, was ever so much better than my first, second, and at least a dozen more drafts, thanks to Justice Scalia's attention-grabbing dissent.

Sometimes a dissent is written, then buried by its author. An entire volume is devoted to the unpublished separate opinions of Justice Brandeis.¹² He would suppress his dissent if the majority made ameliorating alterations or, even if he gained no accommodations, if he thought the Court's opinion was of limited application and unlikely to cause real harm in future cases.

On rare occasions, a dissent will be so persuasive that it attracts the votes necessary to become the opinion of the Court. I had the heady experience once of writing a dissent for myself and just one other Justice; in time, it became the opinion of the Court from which only two of my colleagues dissented.

Are there lasting rifts sparked by sharply worded dissents? Justice Scalia spoke to that question nicely. He said: "I doubt whether any two [J]ustices have dissented from one another's opinions any more regularly, or any more sharply, than did my former colleague Justice William Brennan and I. I always considered him, however, one of my best friends on the Court, and I think that feeling was reciprocated."¹³ The same might be said today about my close friendship with Justice Scalia.

Describing the external impact of dissenting opinions, Chief Justice Hughes famously said: "A dissent in a Court of last resort is an appeal . . . to the intelligence of a future day, when a later decision may possibly correct the error into which the dissenting judge believes the court to have been betrayed."¹⁴

A classic example is Justice Benjamin Curtis' dissent from the Court's now notorious 1856 decision in *Dred Scott v. Sandford*.¹⁵ The Court held, 7-2, in *Dred Scott* that people of African descent whose ancestors were brought here as slaves could never become citizens of the USA. Justice Curtis disagreed in an opinion remarkable for its time. At the founding of our Nation, he wrote, Blacks were "citizens of at least five States, and so in every sense part of the people of the United States," thus "among those for whom

Honoring Ruth Bader Ginsburg

Introductory remarks by spouse, Professor Martin Ginsburg
at the Bar Convention banquet

As some of you know, my field is tax law. When Barbara Armstrong asked me to speak this evening on what she termed my favorite subject, naturally I prepared a lengthy talk addressing the Supreme Court's performance in tax cases. Sadly, Barbara reacted with frightening hostility. And so I am going to speak instead, two minutes only, about my life with Honorable Ruth. But you are the losers because, I promise you, the Supreme Court's performance in tax cases is an extremely funny subject.

In December 2000, just after the Court decided *Bush v. Gore*, Ruth and I were in New York City to see the play *Proof*. After the first act intermission, as we walked down the aisle to our seats, what seemed the entire audience began to applaud. Many stood. Ruth beamed. I beamed too, leaned over, and whispered loudly, "I bet you didn't know there's a convention of tax lawyers in town."

Without changing her bright smile, Ruth smacked me right in the stomach. But not too hard. I give you this picture because it captures fairly our 54 year happy marriage, during which I have offered many foolish observations with complete assurance and Ruth, with only limited rancor, has swatted down every one.

A few years ago, speaking of Ruth who in 1972 was his first Columbia Law School tenure hire, Columbia University's then President Michael Sovern wonderfully commented that he had known Ruth so long, it had begun before either of them was worth cultivating. I'm not sure that's really true about Ruth and Mike, but it surely fits Ruth and me. In 1950 we met as undergraduates at Cornell University on a blind date. I have no idea what she saw in me. I have an excellent idea what I saw in her, because it was what you see in Ruth today: great intelligence, fine judgment, personal warmth, unremitting hard work, a genuine concern for the less fortunate, and — if I may stray for a moment into the realm of the fanciful — a truly advantageous marriage.

And now, I am instructed to say, please enjoy a few good words from my life's partner, Justice Ruth Bader Ginsburg.

and whose posterity the Constitution was ordained and established."¹⁶

Dissents of this order, Justice Scalia rightly commented, "augment rather than diminish the prestige of the Court."¹⁷ He explained: "When history demonstrates that one of the Court's decisions has been a truly horrendous mistake, it is comforting . . . to look back and realize that at least some of the [J]ustices saw the danger clearly and gave voice, often eloquent voice, to their concern."¹⁸

Though Justice Scalia would not agree with me in this further example, I would place Justice Breyer's dissent in last term's school integration cases in the same category.¹⁹ In those cases, the Court invalidated student assignment plans designed by city authorities to counter resegregation in the local public schools. The question was whether local communities had leeway to use race-conscious criteria to promote the kind of racially integrated education *Brown v. Board of Education* anticipated. The Court held, 5-4, that the Constitution prohibited the city councils' efforts.

Justice Breyer's exhaustive dissent concluded: "[T]he very school districts that once spurned integration now strive for it. . . . [T]hey have asked us not to take from their hands the instruments they have used to rid their schools of racial segregation The last half-century has witnessed great strides towards racial equality, but we have not yet realized the promise of *Brown*. To invalidate the plans under review is to threaten [Brown's promise] This is a decision . . . the Court and the Nation will come to regret."

Another genre of dissent aims to attract immediate public attention and, in some cases, to propel legislative change. A fit example is

the second dissent I read from the bench last term. The case involved a woman, Lilly Ledbetter, who worked as an area manager at a Goodyear tire

plant in Alabama; in 1997, she was the only woman in Goodyear to hold such a post. Her starting salary (in 1979) was in line with the salaries of men performing similar work. But over time, her pay slipped. By the end of 1997, there was a 15 to 40 percent disparity between Ledbetter's pay

and the salaries of her fifteen male counterparts. A federal jury found it "more likely than not that [Goodyear] paid [Ledbetter] a[n] unequal salary because of her sex."²¹ The Supreme Court nullified that verdict, holding that Ledbetter filed her claim too late.

It was incumbent on Ledbetter, the Court said, to file charges of discrimination each time Goodyear failed to increase her salary commensurate with the salaries of her male peers. Any annual pay decision not contested promptly (within 180 days), the Court ruled, became grandfathered, beyond the province of Title VII (as I said before, our principal law prohibiting employment discrimination) ever to repair.

The Court's ruling, I observed for the dissenters, ignored real-world employment practices that Title VII was meant to govern: "Sue early on," the majority counseled, when it is uncertain whether discrimination accounts for the pay disparity you are beginning to experience, and when you may not know that men are receiving more for the same work. (Of course, you would likely lose such a less-than-fully baked case.) If you sue only when the pay disparity becomes steady and large enough to enable you to mount a winnable case, you

"When history demonstrates that one of the Court's decisions has been a truly horrendous mistake, it is comforting . . . to look back and realize that at least some of the [J]ustices saw the danger clearly and gave voice, often eloquent voice, to their concern."
—Justice Scalia

Continued on page 7

Law Day celebrated around the state

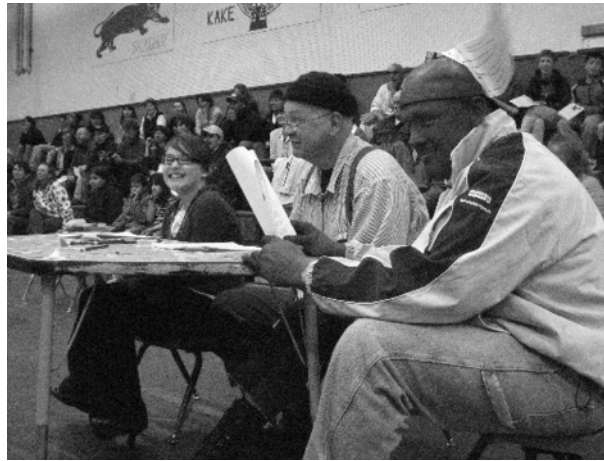
Law Day 2008 celebrated the Rule of Law throughout Alaska. Alaska's legal system joined with communities statewide. Fairbanks Judge Winston Burbank flew his own plane to Nulato for a day of activities on May 6, with Fairbanks Magistrate Patrick Hammers. The theme for the day was health awareness and careers, so they made presentations on legal careers, the court system, and the upcoming Color of Justice program. Many elders were present and the community hosted a potluck lunch in honor of the visitors.

In Anchorage, an assembly event at South High School was organized by Krista Scully, Pro Bono Director at the Alaska Bar Association with a panel presentation by Dana Fabe, Chief Justice of the Alaska Supreme Court; Rob Huen, Anchorage Police Chief; and Matt Claman, Chair of the Anchorage Municipal Assembly (and, coincidentally, President of the Alaska Bar Association).

The panelists responded to a series of questions presented by student moderators and responded to questions from the audience.

1. What is one pivotal moment in your professional career that illustrated the rule of law in your mind?
2. How does the rule of law guide police procedure with our campus police?
3. How does the rule of law impact municipal curfew laws?
4. How does the rule of law drive judicial decisions at the Supreme Court level and why is it different from the lower courts?

Following the lead of the American Bar Association, the students also asked a question based on the works of J.K. Rowling:



Hoonah Magistrate Maureen DesRosiers hosted a mock trial of Paul Bunyan and Babe the Blue Ox in the local gym as part of Law Day activities.

5. Based on the evidence presented at Harry Potter's hearing on his alleged misuse of magic, how stable is the rule of law in the wizarding world?

After the panelists' answers, student audience members asked some of the following questions:

* Is Alaska's 66% recidivism rate related to increased gang activity in Anchorage? How are the three agencies (police, municipal assembly, courts) working together to reduce the recidivism rate?

* How does the court consider maturity criteria when a youth goes through the emancipation process?

* What are students' free speech rights, particularly in light of the recent Bong Hits for Jesus case that originated in Juneau, Alaska?

The event was a big hit attended by over 200 high school students—primarily juniors and seniors—and we're already booked for a 2009 Law Day event at another high school. If you haven't had the chance to participate in a Law Day event yet, please make 2009 the year you do!



South High School teacher Stephanie Seward, L, helped organize a Law Day event with panelists Chief Justice Dana Fabe, Assembly Chairman Matt Claman, and Anchorage Police Chief Rob Huen. Also pictured are Barbara Jones, LRE Committee Chair, South High students, Sgt. Denise Rollins, and APD School Resource Officer and Krista Scully.



Kyrstin Hardin, L, Dillingham Clerk of Court, helped host a showing of the movie "To Kill a Mockingbird" at the Dillingham Courthouse in honor of Law Day. Over 70 community members attended the event and enjoyed a meal of fried chicken provided by several Dillingham attorneys with roots in the South. Dillingham Superior Court Judge Fred Torrissi and Law Clerk Ruby Wells also traveled to Togiak to celebrate Law Day, where they hosted another showing of the movie followed by a discussion of its enduring justice themes.

Dissent is an 'appeal' for the future

Continued from page 6

will be cut off at the court's threshold for suing too late. That situation, I urged, could not be what Congress intended when, in Title VII, it outlawed discrimination based on race, color, religion, sex, or national origin in our Nation's workplaces.

Several members of Congress responded within days after the Court's decision issued. A corrective measure passed the House on July 31, 2007.²² Senator Kennedy introduced a parallel bill, with 21 co-sponsors.²³ That response was just what I contemplated when I wrote: "The ball is in Congress' court . . . to correct [the Supreme] Court's parsimonious reading of Title VII."²⁴ The fate of the proposed legislation has been dimmed, but perhaps only in the short term. The White House announced that, if the measure "were presented to the President, his senior advisors would recommend that he veto the bill."²⁵ And on April 23, 2008, the Senate fell four votes short of the number needed to close debate.²⁶

Another example of a dissent designed to garner public attention comes from this term's medical-device case. The FDA's premarket approval of medical devices, the Court held, preempts common-law tort claims for injuries caused by those devices. I was the lone dissenter. In my view, the Court had strayed far from Congress' paramount purpose for regulating medical devices: consumer safety. I agreed that Congress had preempted state premarket approval systems rival to the FDA's regime. But as I read the federal legislation, Congress did not intend to effect a radical curtailment of state common-law suits. My

dissent aimed to focus lawmakers' attention on the Court's deep cut into a domain historically occupied by state law.

To sum up, although I appreciate the strength of unanimous opinions, I will continue to speak in dissent if, in my judgment, the Court veers in the wrong direction when important matters are at stake. I stress *important* matters because I try to follow Justice Brandeis' counsel. He cautioned that "in most matters it is more important that the applicable rule of law be settled than that it be settled right."²⁷ One might put in that category an ambiguous provision of a complex statutory regime — for example, the Internal Revenue Code. Justices take comfort in such cases from the knowledge that Congress can amend the provision if it believes the Court has gone astray.

On when to acquiesce in the majority's view, and when to take an independent stand, U. S. Court of Appeals Judge Jerome Frank wrote in 1958 of the model Brandeis set:

Brandeis was a great institutional man. He realized that . . . random dissents . . . weaken the institutional impact of the Court and handicap it in the doing of its fundamental job. Dissents . . . need to be saved for major matters if the Court is not to appear indecisive and quarrelsome . . . To have discarded some of [his separate] opinions is a supreme example of [Brandeis'] sacrifice to [the] strength and consistency of the Court. And he had his reward: his shots [were] all the harder because he chose his ground.

In the years I am privileged to

serve on the Court, I hope I will be granted similar wisdom in choosing my ground.²⁸

Footnotes

¹Goldstein, End of Term Statistics and Analysis, in *Preview of United States Supreme Court Cases*, October Term 2005-2006 (July 31, 2006).

²Goldstein, End of Term Statistics and Analysis, in *Preview of United States Supreme Court Cases*, October Term 2006-2007 (Aug. 6, 2007).

³*Id.*

⁴*Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. ___, 127 S. Ct. 2738 (2007); *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. ___, 127 S. Ct. 2705 (2007); *Federal Election Comm'n v. Wisconsin Right to Life, Inc.*, 551 U.S. ___, 127 S. Ct. 2652 (2007); *Uttecht v. Brown*, 551 U.S. ___, 127 S. Ct. 2218 (2007); *Ledbetter v. Goodyear Tire & Rubber Co.*, 550 U.S. ___, 127 S. Ct. 2162 (2007); *Scott v. Harris*, 550 U.S. ___, 127 S. Ct. 1769 (2007); *Gonzales v. Carhart*, 550 U.S. ___, 127 S. Ct. 1610 (2007).

⁵*Carhart*, 550 U.S. ___.
⁶*Ledbetter*, 550 U.S. ___.
⁷*Greenhouse*, Oral Dissents Give Ginsburg a New Voice, *N. Y. Times*, May 31, 2007, p. 1.

⁸See *Cheney v. United States Dist. Court for D. C.*, 542 U.S. 367 (2004); *American Ins. Assn. v. Garamendi*, 539 U.S. 396 (2003); *Republican Party of Minn. v. White*, 536 U.S. 765 (2002); *Buckhannon Board & Care Home, Inc. v. West Virginia Dept. of Health and Human Resources*, 532 U.S. 598 (2001); *Grupo Mexicano de Desarrollo, S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308 (1999); *Miller v. Johnson*, 515 U.S. 900 (1995).

⁹*Id.*, at 395.

¹⁰347 U.S. 483 (1954).

¹¹*United States v. Virginia*, 518 U.S. 515 (1996).

¹²Bickel, *The Unpublished Opinions of Mr. Justice Brandeis* (1957).

¹³Scalia, *Dissents*, 13 *Judicial History* (1998), available at <http://www.oah.org/pubs/magazine/judicial/scalia.html>.

¹⁴Ginsburg, *Remarks on Writing Separately*, 65 *Wash. L. Rev.* 133, 144 (1990) (quoting Hughes, *The Supreme Court of the United States* 68 (1936)).

¹⁵19 *How.* 393 (1857).

¹⁶*Id.*, at 582 (CURTIS, J., dissenting).

¹⁷Scalia, *supra*.

¹⁸*Id.*

¹⁹See *Parents Involved in Community Schools v. Seattle School Dist. No. 1*, 551 U.S. ___, 127 S. Ct. 2738 (2007).

²⁰127 S. Ct., at 2837 (BREYER, J., dissenting).

²¹*Ledbetter*, 127 S. Ct., at 2178 (GINSBURG, J., dissenting).

²²H. R. 2831, 110th Cong., 1st Sess. (2007).

²³S. 1843, 110th Cong., 1st Sess. (2007).

²⁴*Ledbetter*, 127 S. Ct., at 2188 (GINSBURG, J., dissenting).

²⁵Executive Office of the President, Statement of Administration Policy: H. R. 2831—Lilly Ledbetter Fair Pay Act of 2007 (July 27, 2007), available at <http://www.whitehouse.gov/omb/legislature/sap/110-2/saphr2831-s.pdf>.

²⁶156 Cong. Rec. S3288 (Apr. 23, 2008) (cloture vote on Lilly Ledbetter Fair Pay Act of 2007).

²⁷*Burnet v. Coronado Oil & Gas Co.*, 285 U.S. 393, 406 (1932) (BRANDEIS, J., dissenting).

²⁸Frank, *Book Review*, 10 *J. Legal Ed.* 401, 404 (1958) (reviewing Bickel, *supra*).



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Pro Bono awards goes to firms and private

Each year Alaska's legal services providers - Alaska Pro Bono Program, Alaska Legal Services, Corporation, Alaska Network on Domestic Violence and Sexual Assault and the Alaska Immigration Justice Project - select a private practitioner and a firm that has donated extraordinary time, resources and talents to pro bono efforts in Alaska. This year is extra special: for the second time in nearly 20 years, a law firm received a Lifetime Achievement award.

Congratulations to all the 2008 Bryan P. Timbers Pro Bono Service Award recipients!



Members of the law firm of Ashburn & Mason received the Pro Bono Service Lifetime Achievement Award. (L to R) Jacob Sonneborn, Don McClintock, Kelly McCann, Robert Royce, Chief Justice Dana Fabe, Bill Saupe, Matt Findley, and Dani Saupe.

Lifetime Achievement: Ashburn & Mason

As mentioned earlier, in 20 years only one other law firm has earned this distinguished title as the recipient of a Lifetime Achievement award for their pro bono service. The firm of Ashburn and Mason are clearly no strangers to the world of giving back to their community by using their legal skills.

Collectively they have donated countless—easily in the hundreds—hours to clients with immigration issues. They are a signature law firm in Alaska that represents abused and neglected immigrant children who have no immigration documents and must navigate the complex intersection of immigration and juvenile dependency law. Several of the children they have represented proved themselves to be stellar students and have gone on to college.

In addition to immigrant children, firm member Bill Saupe has represented asylum seekers from El Salvador, Gambia and Liberia. The firm has been 100% successful in their representation of immigrants and was also closely involved with the formation of the Alaska Immigration Justice Project.

Private Practitioner award: Phillip Eide

Since 2004, Phillip has been dedicated to providing pro bono services by representing asylum seekers. Initially through the now defunct Pro Bono Asylum Project housed at Catholic Social Services, Phillip continued his commitment to this work by assisting the Alaska Immigration Justice Project when it was formed in 2006.

Phillip's asylum cases have been extraordinarily complicated because all of the asylum seekers have been from a remote part of Mexico and speak an indigenous language. He has search the United States looking for and then paying for an interpreter capable of interpreting Triqui, his clients' first language, into Spanish and then into English.

Each case has involved complex areas of immigration law and Phillip continues to rise to each challenge. His current case is pending in the 9th Circuit where he is seeking an en banc decision and working with the American Immigration Lawyer's Association.

Seaver is new Bar President

Mitchell Seaver was elected as the President of the Alaska Bar Association at its annual convention held in Anchorage in May, 2008. Seaver is an attorney with the Ziegler Law Firm in Ketchikan.

Sidney Billingslea was elected president-elect of the Alaska Bar Association. Billingslea is an Anchorage attorney in private practice.

The other officers elected at the convention are Vice President **Dr. Don McLean**, a public Board member who owns a dental practice in Wasilla; Treasurer **Jason Weiner**, an attorney in private practice in Fairbanks; and Secretary **Chris Cooke**, who is with the law firm of Cooke Roosa in Anchorage.



Seaver



Billingslea



The firm of Davis Wright Tremaine received the Pro Bono Firm Award. Pictured (l to r) Elizabeth Hodes, Karmyn Jones, Eric Jenkins, Robert K. Stewart, Jr., Scott Broadwell, and Jim Juliussen.

Firm award: Davis Wright Tremaine

True to its mission, the law firm of Davis Wright and Tremaine remains one of the top pro bono service providers in Alaska. In fact, it would be an anomaly if one of their attorneys did not participate in pro bono and that's the kind of business culture that we love to see.

Their involvement is too lengthy to fully detail in our time here tonight but I want to share some highlights with you:

Robert K. Stewart, Jr. of Davis Wright Tremaine has served as the Chair of the Alaska Bar Association's Pro Bono Service Committee since 2005. During his tenure the committee has strived to ripen the culture of law firms' pro bono involvement. Much to the Alaska Bar's Pro Bono Director's delight and amusement, Bob Stewart coined the term "lightening rod" to describe and encourage law firms to assign a firm contact that legal services providers could contact to help them place cases. Saving them precious time from making numerous phone calls allows them to do more direct service work.

The firm's involvement with the vision, founding, and leadership of the Alaska Immigration Justice Project has included firm members assisting with bylaw development, corporate structure strategizing, corporate counsel, and Board of Director service. Their work, especially that of Bob Stewart, has ensured that the organization is a sustainable, innovative and extraordinarily successful non-profit serving Alaskans.

The firm routinely steps up to assist in cases involving domestic violence. A common partner with the Alaska Network on Domestic Violence and Sexual Assault, two cases within the last year proved to be extremely difficult. The firm assisted a shelter program avoid an enormous tax liability and another case found an associate helping a client regain custody from an abusive father and his family.

That's how the folks at Davis Wright Tremaine are: responsive, compassionate and always ready to help.

Letter of thanks

Davis Wright Tremaine says it's a team tribute

Davis Wright Tremaine is honored and grateful to receive this recognition. I feel this is a tribute, in the first place, to an institution that I am so very proud to belong to. Davis Wright has long made a commitment to public service, including pro bono legal work targeted primarily at those who could not otherwise afford private legal services. That tradition runs from our founding partners, such as John Davis and Bill Wright, to the more than 260 lawyers in the firm who annually make a significant pro bono commitment which, this past year, was worth more than \$5 million.

This is also a tribute to the efforts of the individual lawyers in our Anchorage office. To recognize them briefly:

Eric Jenkins who is always willing to take tough cases that I try to place and who has taken two very difficult family law matters simply because I've told him that's where the needs are the greatest;

Karmyn Jones who helped a man and his family in Bethel sort out a difficult real property dispute, and is currently working with the Disability Law Center on some complex class action discovery and motion practice issues;

Scott Broadwell, our newest associate, who is working with Karmyn on that Disability Law Center matter;

Elizabeth Hodes who literally about three months into practice let me talk her into taking a landlord-tenant matter which was going to trial about two weeks later. She found some counterclaims for the client, tried the case and won, recovering \$5,000 for a deserving single mom;

Barbara Kraft who brought her transactional skills to bear to help the various regional Big Brother/Big Sister agencies in the State merge into one consolidated organization to achieve efficiencies; and

Jim Juliussen who helped an Alaska Native elder in Dillingham in a case where a contractor sought to collect a debt for home improvement services that exceeded the initial estimate by several thousand dollars.

Finally, I also wear the hat of Chair of the Alaska Bar Association's Pro Bono and Public Service Committee. Speaking with that voice, if any of this has touched any of you out there who are not already active in pro bono work or who want to become more involved, let me say that the needs in the community continue to far outstrip the available resources. In particular, the area of family law services—things like domestic violence proceedings, custody issues, dissolutions—is where the needs are greatest. While not high profile, they exemplify the type of bread and butter legal efforts which people need the most. They are also where our resources come up short the most. If you are interested in that type of work, or any other type of pro bono work, the folks from the Alaska Network on Domestic Violence and Sexual Assault, Alaska Legal Services Corporation, and the Alaska Pro Bono Program can tell you how you can help. Or call up any of the members of the Pro Bono Services Committee. Me included.

I want to close with the words of one of our founders, John Davis. John told us that:

"A life is worth living when it is dedicated to the service of others."

I think John got it right. Thank you, again.

— Robert K. Stewart, Jr.

Turning things upside down

By Steven T. O'Hara

When representing a wealthy client, consider recommending the opposite of what the client intuitively believes is the best option. In other words, consider turning things upside down.

In family meetings, turning things upside down triggers healthy debate. Often turning things upside down can lead to a fortune in tax savings.

Life insurance is a good example. Wealthy clients often determine that the premiums on one or more life insurance policies could be substantially less than estate taxes payable upon the client's death. Intuitively, families want to pay the least amount in life insurance premiums. They naturally gravitate toward life insurance policies that appear to have sufficient death benefit but the least amount of premiums.

What might actually be needed to serve the client's objective, however, are one or more life insurance policies that require more substantial premiums. Assuming the family is dealing with only the best insurance

companies, my experience is that the larger the annual premiums the happier the client will be down the road in terms of the insurance performing as advertised.

As another example, consider the federal gift tax. A wealthy client might save substantial taxes by electing, in effect, to pay gift taxes instead of estate taxes.

The thought of paying taxes early, before death, turns things upside down. But wealthy clients need to consider that the estate tax is calculated on the whole or gross amount, including the portion going to the IRS. So there is tax on tax with the estate tax.

By contrast, the gift tax is generally tax-exclusive. In other words, the gift tax paid by the donor is excluded in computing the amount of the taxable gift. Noteworthy is that the donor's payment of generation-skipping transfer tax, such as with respect to a gift to a grandchild, is considered an additional gift, thus increasing gift



"In family meetings, turning things upside down triggers healthy debate."

tax (IRC Sec. 2515).

After recognizing the tax-inclusive nature of the estate tax, and after learning of the tax-exclusive nature of the gift tax, wealthy clients may decide to make substantial gifts before death and systematically pay gift tax.

The federal government is well aware that the payment of gift taxes can result in substantial tax savings. Thus the Internal Revenue Code provides that gift taxes paid with respect to gifts made within three years of death are included in the tax base on which the estate tax is calculated (IRC Sec. 2035(b)).

For wealthy clients, retirement accounts are another example. Consider again the tax-inclusive nature of the federal estate tax. In calculating the estate taxes on retirement accounts, no deduction is allowed for the income taxes that will be payable on the accounts, let alone for the estate taxes.

Accordingly, an unmarried wealthy client whose death is believed to be imminent may want to consider withdrawing all her retirement accounts before death. Doing so could create a deduction on the client's federal estate tax return for the income taxes triggered by the pre-death withdrawal (IRC Sec. 1(c) and Treas. Reg. Sec. 20.2053-6(f)). Consideration of this issue takes coordination with the wealthy client's beneficiaries, who may have other resources (such as life insurance) with which to pay estate taxes and thus may prefer to leave the retirement accounts intact in order to defer income taxes. Noteworthy here is that retirement accounts may also have desirable asset protection benefits which are lost upon termination of the accounts.

The above examples illustrate that wealthy clients may never understand their options unless we make suggestions that turn things upside down.

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Bar People

Dan Rodgers has retired from ConocoPhillips and is now working at the Alaska Immigration Justice Project....**John Tiemessen** of Clapp, Peterson, Van Flein, Tiemessen & Thorsness LLC was recently elected vice-president of Western States Bar Conference. WSBC is the regional association of bar associations for the western and southwestern United

States....**Rick Johannsen** is relocating from the U.S. Embassy in Copenhagen, Denmark to the U.S. Embassy in Yaoundé, Cameroon. His e-mail will remain the same....**Terry and Claire Hall** are moving from Fairbanks. They are off to Huntsville, Alabama after a stop in Little Rock for the birth of their 6th grandchild.

Ashburn & Mason welcomes two attorneys to the firm

Ashburn & Mason is pleased to announce that **Robert Royce** and **Jacob Sonneborn** have joined the firm.

Mr. Royce practices in the areas of telecommunications, public utilities and employment law. He was previously employed as a Senior Assistant Attorney General for the State of Alaska, where he was counsel to the Regulatory Commission of Alaska. He received his B.A. from the State University of New York at Oswego and his J.D. from California Western School of Law. Mr. Royce clerked for U.S. District Court Judge James M. Fitzgerald and was admitted to practice in Alaska in 1985.



Robert Royce



Jacob Sonneborn

Mr. Sonneborn practices in the areas of family law and general civil litigation. He moved to Alaska in June of 2007 after practicing public interest law in Milwaukee, Wisconsin.

He graduated from the University of Michigan with a B.A. in Economics in 1996 and earned his J.D. cum laude from the University of Wisconsin in 2000.

Ashburn & Mason attorneys earn recognition

Ashburn & Mason has been honored with recent recognition. In Benchmark: Litigation, which is a guide to the nation's leading litigation firms and attorneys, Ashburn & Mason was listed as a recommended firm in Alaska. The firm earned this distinction based on recommendations from both clients and peers. Partner Mark Ashburn was given the distinction of a "Local Litigation Star." This honor is given to individuals who have consistently been recommended and praised by clients and peers. Partner Dani Crosby also received recognition.

In addition, several attorneys at Ashburn & Mason have been named as "Super Lawyers" in Alaska. Super Lawyers is a publication that lists top lawyers in a wide range of practice areas. The attorneys at Ashburn & Mason who have received this distinction are **William Saupe** (utilities), **Mark Ashburn** (general litigation), **Julian Mason** (utilities, business/corporate), and **Don McClintock** (real estate, eminent domain, land use/zoning).

Lane Tucker joins Perkins Coie's litigation team

Perkins Coie announced that **S. Lane Tucker** has joined the firm as an attorney in its Anchorage office. Lane's practice will focus on government contracts, construction law, and governmental investigations.

Previously, Tucker served as Civil Chief with the U.S. Attorney's Office in the District of Alaska where she supervised the Civil Division and was responsible for overseeing all civil litigation. She also served as the Affirmative Civil Enforcement Coordinator and the Health Care Fraud Coordinator. In these roles she handled or coordinated all civil fraud, government contract fraud, health care fraud and qui tam matters from investigation through resolution.

Prior to working with the U.S. Attorney's Office, Tucker served as a Trial Attorney with the U.S. Department of Justice and before that as Assistant General Counsel with the U.S. General Services Administration. In

those capacities, Lane specialized in bid protests and government contracts counseling and litigation before federal agencies and the courts.

"We are delighted that Lane has joined the firm," said Eric Fjelstad, Anchorage managing partner. "We are bullish on Alaska, and Lane's extensive federal counseling and litigation experience is a great addition to our growing construction and government contract practices."

She earned her law degree from the University of Utah College of Law, where she was a William H. Leary Scholar, and her undergraduate degree, with honors, from Mary Baldwin College.



Lane Tucker

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Equador: A microcosm of South American ecology & culture

By S.J. Lee

Quito, Equador is one of the highest capital cities in the world, well over 8,000 feet and requires acclimation when one arrives. It's only 4½ hours from Houston, which is a great jumping off spot for Central and South America. Located near the equator, as is all of the country, Quito's weather is generally cool, cloudy, and can be rainy. Although the entire country is no larger than the state of Arizona, it has such variety in climates and topography that they call it a microcosm of South America.

We traveled there in early April. After one full day and two short nights in Quito, we departed on an overnight trip away from the city to the Bellavista Cloud Forest Eco Reserve, about two hours outside of Quito. It felt like it was worlds away, however. En route we stopped at an ancient volcano crater and overlooked the vast squared off patches of farmland below us in those varied and intense shades of green you see in the photographs.

Afterwards, we motored upwards into the reserve, our stay consisting of hiking all around it while looking for and finding birds of all kinds. These included literally hundreds of hummingbirds in an amazing variety of species within an arm's length of us. The lovely lodge had hummingbird feeders scattered all around it and they took huge advantage of this diner, starting every day at barely first light. They were a visual and auditory overload with all the varieties of their little calls, their flashing, luminescent feathers, and their insane energy. We grew very accustomed to hearing the mad whizz of their wings buzz by our ears as they raced each other to the feeders and trees all around them.

The reserve had many hiking trails and between afternoon outings and very early morning bird-watching walks, we were plenty active. The Cloud Forest foliage is difficult to describe in its vast thickness, variety, and intense greenness. Huge trees with huge leaves and vines enveloped everything, all fed by the moisture in the clouds skating over the mountain and hilltops. Truly a birder's paradise. We shared dinner with a couple from England (Adrian and Margaret), Adrian being an avid birder, the kind that carries around

large volumes of birding books so as to identify his finds. They stayed for longer than we, and one morning he'd set out at 4:15 in order to get to the spot frequented by "cocks of the rock" to see them strut their stuff and puff up their magnificent red chests. I passed on this opportunity, believing I see plenty of that in my work.

We returned to Quito after a one night, two-day stay in order to get ready for the next segment of our trip which was a three-day trip into the Amazon Basin on the Napo River, one of the Amazon's major tributaries. After a 35 minute flight from Quito to Caco, we transferred with our group of about 10 others to a motorized boat that took us two hours up the Napo River to the lodge's staging area or "warehouse." We then switched to dugout canoes and floated another two hours while looking for and spotting birds and other wildlife, and listening to our guide tell us about where we were and its history.

The water route we took was often reduced to a very narrow stream with vines and tree boughs overhead, requiring us to duck down or around as we went by. That night we went for a night walk and found tarantulas, lots of other spiders, and many other creatures of the night. Our guides told us that the water level was way down and that things had been dry, by jungle standards, for a few days. However, that night we were treated to a huge quaking thunderstorm complete with lightning and thunder that shook our individual cabanas. It cleared by our morning outing but left the jungle landscape flooded. As it turned out, this became a treat--we all donned wellies (we felt right at home) and rain ponchos and tromped into the jungle for a truly memorable jungle "slog," as I called it. Our group of six spent the better part of that long morning walking through the flooded jungle and again saw more jungle-like creatures and growth, including a troupe of spider monkeys.

During the course of our three days there, we made two or three outings a day into the jungle, including a climb up a 130-foot tower in order to view the immense jungle canopy. It is difficult to describe how amazing or how exceptional that part of the trip was — it was truly awe inspir-



The ecosystems of South America have created unique species.

ing and equaled my feelings of awe and insignificance at my first sight of the Grand Canyon decades ago. It is truly something you cannot appreciate until you've seen it.

We spent a fair amount of our afternoon there watching the sunset, all with our binoculars and cameras out looking for the canopy dwellers, which of course, were mostly macaws, toucans, and other large and not-so-large birds. We also saw a big red howler monkey perched in a tree-top. The platform was partially supported and had been built around a huge tree, the top of which was just above us as we stood on top of the platform. While there, some beautiful brightly colored little birds dipped themselves in bowls formed by tree leaves to bathe. We climbed down with great reluctance that evening. As we walked back to the canoe in the gathering gloom of the forest floor, we were startled by the contrast between all the light up above and the darkness on the floor. We were treated to twilight jungle life and saw large frogs, bats, and other creatures coming out for the night hunt.

Another excursion consisted of

a nighttime canoe ride in which we searched for Caiman, which are relatives of crocodiles, but posed no threat to us. We could see their red eyes in the light of our flashlights on the lake that the lodge sat upon and many large bats skimming the surface of the lake looking for bugs.

On our last day there my husband and I opted to strike out on our own and returned to the lodge in early afternoon so as to enjoy some quiet time there. We were fortunate and

had assigned to us as our escort a native guide who got us on the right trail we needed and into the jungle. Although we were moving at a very good pace, it was amazing to realize what was not escaping

his notice as we marched along. He would suddenly stop for what seemed like no reason to us and look or listen for something and suddenly make a call of his own in response. We saw a couple of things but toward the end of the hike, he stopped to pay special attention to something on our left. He began then to make some calls and before we knew it there was a small troop of six or so tamarind monkeys poking their little white faces out from behind tree trunks and branches to peer at us. They were very excited and curious and began to move closer and closer so that finally they came swinging over our heads, across the trail, and several stopped quite close. It was truly a memorable experience and one of the highlights of our jungle trip. We got back to our lodge about 1:00 and decided to rinse off the jungle sweat by jumping into the lake and going for a swim--just us and the caimans. It was the only time we really got to relax during that part of the trip and we were told by our group mates that we had made the right choice for that afternoon's excursion.

In spite of all the endlessly amazing things you see in the jungle, for me, the most magical and mysterious thing about it was the sounds. Whether day or night, there was always an underlying hum. Whether it consisted of bird calls (of all kinds coming from all directions), the sound of the water, the hum of insects, the dripping from the leaves, or the sounds of various primates. Each evening we would hear the very haunting sounds of the

During the course of our three days there, we made two or three outings a day into the jungle, including a climb up a 130-foot tower in order to view the immense jungle canopy.



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Equador: A microcosm of South America

Continued from page 10

howler monkeys, which is impossible to describe, but certainly far different than they sound on television. It is very easy to see why the jungles are called the lungs of the world.

After the jungle, we returned again to Quito to sort out and prepare for the next leg of our journey which was the Galapagos. Although maybe only an hour and 45 minute flight from Quito, the country has decided to make it more time consuming than needed for everyone to get there.

Because of the competition (political and economic) between the two major cities of Quito and Guayachil all flights going to or coming from the Galapagos must stop in Guayachil. This is not a problem if you happen to be in Guayachil but coming and going from Quito can be more of a hassle. Having said that, our flight from Quito was short and painless and we got to the Galapagos well before noon the morning we were due. We did not opt for cruises from that point around to the various islands but, instead, anchored ourselves in Puerto Ayora on the island of Santa Cruz.

My husband is a diver and was booked on day trip diving expeditions for the three solid days we had there. But, after we got in, we walked over to the world famous Charles Darwin Institution to visit up close and personal with the huge and ancient Galapagos tortoises. We saw a lot of them and were lucky to see them active more than once when we were there. We also learned about the history of the Galapagos, about its incredible diversity of land and water life and the reasons for it. Given the mind-boggling predation wrought by humans over the centuries, it was truly amazing that there was any wildlife left at all. The vast majority of it is either in or around the ocean however, and it is in or near the water you need to be to see it.

On my husband's first dive day, I was lucky enough to be able to accompany the group as the lone snorkeler because the boat was not fully booked. We went to two dive sites and when they would descend into their watery depths, I would don my snorkel and fins and snorkel along the island or whatever piece of shoreline or reef that was available. That first day, I saw walls of fish by the thousands, and just made out the shell top of a slowly moving sea turtle way beneath me. However, and without a doubt, the highlight was snorkeling with a group of four to six sea lions up close and personal. One youngster, after being invited to come play with the 2 of us from his perch (within five feet of our noses as we stuck our heads out of the water) looked playfully at us in a way that could only be described as "puppy-dog-like", flopped across the rocks and into the water, and accepted our invitation. Several younger adults joined him and before I knew it, I was being circled and entertained by sea lions who seemed extremely curious. They would swim right towards me on the top of the water, eye to eye, and then at the last possible second dip below me just before we collided. With their incredible swimming skills they can torpedo in and out of sight faster than you can even grasp. They are truly poetry in motion under water. This happened on both of my snorkels that day and was one of my Galapagos highlights.

Meanwhile, my husband saw all matter of wildlife deeper down. His boat was full the next two days, leaving me to find something else to do. The next day I set out on a tour boat with about 15 others to go to the island of South Ceymore, a mating ground for the blue-footed boobie and the magnificent frigate birds.

It was a very hot, warm day and I headed for the "second story" of the boat's deck where I could be in the sun and the ocean breeze. As I tried to snooze on the very edge of the deck I became aware of what sounded like the flapping of wings. I opened my eyes to find myself almost directly underneath a flock of frigate birds flying alongside the boat at exactly eye level to me, hoping for fish coming off of the boat. Frigate birds have wing spans of six or more feet across. Being eye level with birds that size actually in flight, within arms reach from me, was exhilarating. I could hear every beat of their wings, look into their eyes, and the whole thing went on long enough that I began to identify each one as they would circle the boat, get in line, and start to fly by me again. At one point, one of their wings actually brushed the top of my head. For me, everything else that happened that day was anti-climactic.

South Ceymore island is a very desert like place. We got off the boat and walked around the island to see the nesting boobies and frigate birds, the males with their huge red throats they puff out to impress all around them. Also, of course, were the land iguanas. None of the animals on any part of the trip showed any fear of us at all. After touring the island we got back into the boat, went a short distance, and were given the opportunity to jump in, swim, and snorkel to a nearby beach where wild pink flamingos sometimes congregated to skim the surface of the island's ponds. They did show up for some of us but not for all of us. I settled for watching a group of about six of the huge birds circle the island and come in for a landing. As the sun gleamed off of them it highlighted the contrast in their pink and black feathering.

The next day the dive boat was still full so I set out on a snorkeling boat with four others to look for sharks and anything else we could snorkel past. Our morning snorkel included a large shark swimming slowly underneath me. But murky conditions otherwise obscured much of what we may have otherwise been able to see. Our lunch stop included a walk onto a volcanic rock-covered beach where black iguanas congregate during their time on land. We saw many large ones in the water, their big black heads sticking up like floating pieces of debris as they would make their way down the small channels carved by the ocean into the island where they'd then scamper to shore. They were amazingly big, far bigger than the ones constantly around the hotel.

At lunch we watched the trials and tribulations of a mother bird endlessly harassed by her fat overgrown offspring insisting that it be fed. It did this all within arm's reach of my head in the branch above me. Even the smallest bird showed no fear of us whatsoever. This was the exceptional thing about the Galapagos for me, the

effortlessness involved in getting close to any of the animals, sea or otherwise. Sleeping sharks, preening birds, curious sea lions, or the huge manta rays my husband saw while diving, were unfazed by our presence. Most were, in fact, indifferent, oblivious, or simply bored by it. As they should be.

Our return to Quito from the Galapagos was nowhere near as effortless as our arrival there. Our flight from the is-

land left over an hour and a half late and stopped in Guayachil for a half an hour before departing for Quito. With the hour time difference between the Galapagos and the mainland, we lost most of the day to travel time just returning from the islands. We left for home the next morning so instead of one day travel to get home, it felt more like two days by the time we were done. The flight from Seattle to Anchorage, seemed like the longest of my life.

We did not go to Ecuador to see the city, but Quito was interesting. Easily more than a million in population, it offered good, cheap food, friendly locals and was

easy to find our way around. It was also the loudest city I've ever been to with sirens, car alarms (mostly false), and all manner of noise night and day. In the future if a guidebook mentions soundproofing as a plus at a hotel, I'll know why!

This was our first trip to South America and will hopefully not be our last. There are many other remarkable tributaries to explore, wildlife to watch, and sights to appreciate—all fascinating in their endless variety and beauty. I'd strongly recommend it!

This was our first trip to South America and will hopefully not be our last.



The jungles of South America offer magical sights and sounds for the author.

Need clients?

Join the Alaska Bar Lawyer Referral Service

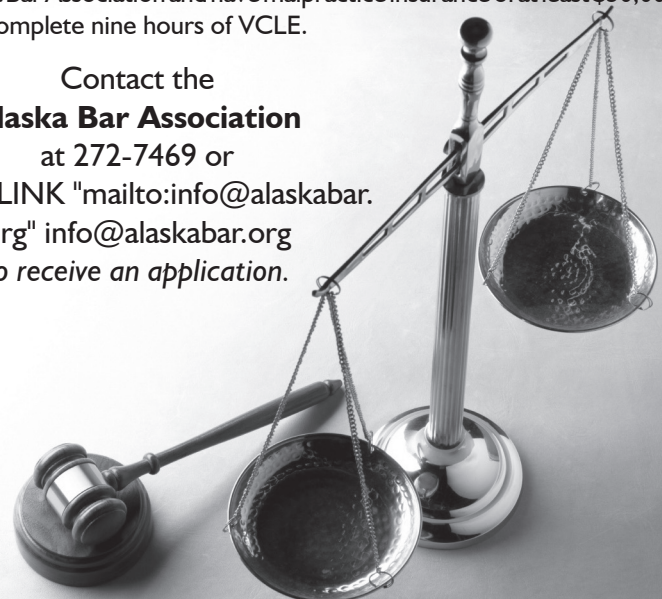
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How do I join?

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Voluntary Continuing Legal Education (VCLE) Rule – Bar Rule 65 8th Reporting Period January 1 - December 31, 2007

The following is a list of active Alaska Bar members who voluntarily complied with the Alaska Supreme Court recommended guidelines of 12 hours (including 1 hour of ethics) of approved continuing legal education in the 2007 reporting period.

We regret any omissions or errors. If your name has been omitted from this list, please contact the Bar Office at 907-272-7469 or e-mail cle@alaskabar.org. We will publish a revised list as needed.

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Andrus, Beth M.	Brandeis, Jason	Clark, Victoria	Domke, Loren C.	Gallagher, Sheila	Herz, Robert M.	Kerry, Glenda J.
Angius, Christopher W.	Brandt-Erichsen, Scott A.	Clement, Jonathan	Donnelley, Lisa H.	Gamache, Peter C.	Hickerson, Elizabeth J.	Kester, Olivia L.
Aschenbrenner, Con- stance A.	Brandt-Erichsen, Svend A.	Clocksinn, Donald E.	Donovan, John	Gandbhir, Una Sonia	Hiebert, Leslie A.	Kesterson, Linda L.
Aschenbrenner, John L.		Clover, Joan M.	Dooley, Timothy D.	Ganopole, Deidre S.	Higuchi, Michelle D.	Keyes, Christopher M.
Ascott, Ivan L.	Brar, Devinder	Coats, Robert G.	Douglass, Patricia P.	Gardner, Douglas D.	Hill, Holly Roberson	Khalsa, Amrit Kaur
Atkinson, Kathy L.	Brautigam, Peter B.	Coe, Charles W.	Dowling, Margaret A.	Garner, John N.	Hillhouse, Theresa	Kirk, Kenneth C.
Atwood, Nathaniel B.	Bray, Aisha Tinker	Colberg, Talis J.	Downes, Robert B.	Garrigues, Gayle L.	Hite, Jennifer	Kirsch, Lisa M.
Auten, Eric A.	Brecht, Julius J.	Colbert, Lori Ann	Drinkwater, Cynthia C.	Gater, Bradley N.	Holbrook, Deborah A.	Kissner, Barbara E.
Auth, Robert	Breckberg, Robert L.	Colbert, William H.	Driscoll, Louise R.	Gates, Dean T.	Holen, M. Lee	Kitchen, Donald R.
Bacchus, Sheila J.	Brenckle, Carol A.	Colbo, Kimberlee	Dronkert, Elizabeth M.	Gatti, Michael R.	Holmes, Roger F.	Kittleson, Nicholas J.
Bachand, Rachel R.	Brennan, Elizabeth D.	Colburn, William R.	Dunlop, Brittany L.	Gazewood, Jason	Holt, Chad Wynn	Klasen, James F.
Bachelor, Katherine R.	Bressers, Jacqueline R.	Cole, Steve W.	Dunn, Kim	Geddes, Mary C.	Hompesch, Richard W.	Kleedehn, G. Rodney
Bachman, Adrienne P.	Brice, Monte L.	Cole, Suzanne	Dunnagan, Charles A.	George, Jamilia A.	Hookland, Douglas	Kleinsmith, Philip M.
Bailey, Allen M.	Briggs, Robert B.	Coleman, Terri-Lynn	Durrell, Brian W.	Germain, Dawn C.	Hopper, James L.	Klinkner, Thomas F.
Bair, Daniel S.	Brink, Barbara K.	Collins, Patricia A.	Duvall, Wendy	Gernat, Rachel K.	Hopwood, Donald D.	Knoll, James L.
Baird, Ronald L.	Brink, Robert C.	Collins, Robert J.	Eaglin, Paul B.	Gershel, Michael A.	Horetski, Gayle A.	Kobayashi, Tina
Bales, Candice Marie	Brislawn, C. Dennis	Collins, Stephan A.	Ealy, Jonathan B.	Gibson, Kirk H.	Horton, Bruce E.	Kolbe, Thomas
Ballou, Gail M.	Broker, Ann R.	Condie, Craig S.	Earthman, John A.	Gifford, Allan H.	Hosie, Spencer	Kossler, Douglas H.
Bandle, John	Bronen, Robin A.	Connors, John J.	East, Windy	Gifford, Ann	Hotchkin, Michael G.	Koteff, Stephen N.
Banker, Anthony N.	Brooking, Cheryl Rawls	Cook, Bret D.	Easter, Catherine M.	Gillilan-Gibson, Kelly E.	Hough, C. Michael	Kraft, Barbara S.
Barber, Jeffrey J.	Brown, Bruce L.	Cook, Craig A.	Ebenal, Shelley D.	Gilmore, Chester	House, Dale W.	Kraly, Stacie L.
Barice, Carole J.	Brown, Eric J.	Cook, Tim O.	Eberhart, John Michael	Gilson, Mary A.	Hovanec, Lorie L.	Kron, Michael C.
Barkeley, James N.	Brown, Fred G.	Cook, William D.	Edmiston, Gregory A	Ginder, Peter C.	Hughes, Mary K.	Kulas, John Noel
Barkis, AJ	Brown, Fred G.	Corbridge, Clark	Edwards, B. Richard	Gist, Jason	Huguelet, Charles T.	Lamantia, Vanessa M.
Barlow, Nora G	Brown, Gayle J.	Corey, David J.	Edwards, Brent	Gleason, Sharon L.	Hume, Robert H.	Lambert, Karen L.
Barnhill, Michael A	Brown, Harold M.	Coughlin, Patrick J.	Edwards, Bruce N.	Glogowski, Katrina	Humm, Marguerite	Lamoureux, Yvonne
Barr, Sharon	Brown, Molly C.	Coulter, James A.	Eggers, Kenneth P.	Goad, Raymond E.	Huna-Jines, Patricia	Landau, Robert W.
Barrack, Martin J.	Brown, Ray R.	Cox, Susan D.	Ellis, Donald C.	Goerig, George E.	Huna-Jines, Patricia	Landreth, Natalie
Barry, Elizabeth J.	Brown, Valerie L.	Crabtree, Richard L.	Ellis, Peter R.	Goering, Stuart W.	Hunt, Gerald W.	Landy, David S.
Basi, Rajpreet S.	Browning, Brooke	Craill, Elizabeth F.	Engel, Martin A.	Goff, Darin B	Hunt, Karen L.	Latta, Leroy K.
Bast, Melissa A.	Bruner, Ann M.	Crane, James S.	Erickson, Heidi K.	Goldman, Kenneth J.	Hunter, Grant W.	LaVonne, Jeanne M.
Bauer, David A.	Bryner, Alexander O.	Cravez, Glenn Edward	Erickson, John W.	Goldsmith, Donna J.	Huntington, Karla F.	Lawrence, David
Bauer, Leigh Ann	Buettner, David	Crawford, S. Jason	Ericsson, Robert J.	Goltz, Jon K.	Hyatt, Chris Foote	Lawrence, H. Van Z.
Bauman, Carl J. D.	Bundy, Robert C.	Crepps, Janet L.	Erllich, Richard H.	Gordon, Nancy R.	Icardi, Patrice A.	Lawrence, Leslie Drou- bay
Baumetz, Jason	Burke, Edmond W.	Croft, Leland Chancy	Erwin, Robert C.	Gorski, James M.	Illsley, Sharon A. S.	Layman, Gabriel D.
Baxter, Colleen Rae	Burke, G. Dana	Crowell, Judith A.	Erwin, Roberta C.	Grace, Joanne M.	Isbell, Shawn Mathis	Lazarus, Denis R.
Beardsley, Jennifer	Burke, Michael J.	Cucci, Mark	Esch, Ben J.	Graham, David A.	Iversen, Jonathan	Leaders, Scot Henry
Beardsley, Mary Ellen	Burke, Michael T.	Cummings, Dennis P.	Estelle, William L.	Graham, Jessica Carey	Jackson, Barry W.	Ledden, Michael P.
Beckwith, Martha	Burling, James S.	Curda, Dale O.	Evans, Charles G.	Grannik, Andrew V.	Jacobsen, Jordan E.	Lee, S.J.
Beecher, Linda R.	Burseth, Stephen J.	Currie, Jennifer	Evans, Gordon E.	Graves, Cary R.	Jacobus, Kenneth P.	Lee, Wei-Drin
Behr, Deborah E.	Bussard, Vicki L.	Curtin, Richard A.	Evans, Joseph W.	Gray, J. Michael	Jahnke, Thomas M.	Legacki, Kenneth W.
Behrend, Andrew F.	Butterfield, Rhonda F.	Curtner, F. Richard	Evans, Marie	Gray, Russell	Jamgochian, Thomas V.	Leonard, Cameron M.
Beistline, Ralph R.	Byrnes, Timothy R.	Cusack, Kenneth J.	Evans, Susan L.	Green Jr, Harold W.	Jamieson, Angela	Leonard, David F.
Beiswenger, Allan D.	Cahill, H. Frank	Cutler, Louisiana W.	Fabe, Dana	Greene, Angela M.	Janidlo, Thom F.	Lepore, John
Bell, Keith W.	Cain, Rebecca H.	Dale, Pamela	Faith, Joseph R.	Greene, Mary E.	Jeffery, Michael I.	Leque, John A.
Belman, Roger P.J.	Call, Blake H.	Dalrymple, DanaLyn	Farleigh, Randall E.	Greenough, Marc	Jenicek, Monica	Lerman, Averil
Beldner, Karen E.	Campbell, Kristen	Daniel, Carol H.	Fayette, James J.	Greenstein, Marla N.	Jensen, Jill	LeRoy, Erik
Bennett, Brent E.	Canarsky, Paul J.	Daniel, Thomas M.	Fehlen-Westover, Rhonda	Greer, Stephen E.	Joanis, Jennifer	Leuning, Scott J. Hen- dricks
Bennett, Laurel Carter	Cannon, James H.	Daniels, Susan L.	Felix, Sarah Jane	Griffin, Robert L.	Joanis, Lance	Levesque, Joseph N.
Benson, Ann E.	Cantor, James E.	Darnall, John M.	Fellerath, Sheila Hogan	Griffin, Robert Lee	Johnson, Carl H.	Levitt, Rachel E.
Berck, Margaret W.	Card, Larry D.	Dattan, D. Scott	Ferguson, April S.	Gross, Joseph B.	Johnson, Carl A.	Levy, Janice G.
Berdow, Lauren A.	Carew, Shane C.	Daugherty, Steven A.	Findley, Matthew T.	Gustafson, Gene L.	Johnson, Douglas G.	Levy, Keith B.
Bernitz, John A.	Carey, William B.	Davis, Douglas R.	Fink, Joshua P.	Guy, Andrew J.	Johnson, Joyce Weaver	Lewis, Eben T.
Bersch, F. Joseph	Carlisle, Robyn L.	Davis, James J.	Fisher, Gregory S.	Haden, Mary Jane	Johnson, Linda J.	Lewis, Robert D.
Bey, Kirsten J.	Carlson, Craig A.	Davis, Jody L.	Fitzgerald, Joshua D.	Haffner, R. Poke	Johnson, Robert M.	Libbey, Colleen A.
Biderman, Michael	Carman, Dawn M.	Davis, Marcia R.	Fleischer, Hugh W.	Hafner, Janell	Johnston, Shanna R.	Libbey, Daniel
Billingslea, Sidney K.	Carney, Steven J.	Davis, Mark R.	Fletcher, Ginger L.	Haines, Nathan R.	Jones, Barbara Ann	Liburd, Ann C.
Birnbaum, Alan	Carney, Susan M.	Davis, Trigg T.	Fleurant, David C.	Hall, Helena	Jones, David T.	Limon, Lynda A
Bishop, Sheila Doody	Carpeneti, Walter L.	Davison, Bruce E.	Floerchinger, David D.	Hall, Leigh Michelle	Jones, Karmyn A.	Lindemann, Cole
Biskowski, Lawrence	Carson, Italia A.	Dawson, Jon S.	Foley, Maryann E.	Hall, Terrance W.	Jones, Margaret Sullivan	
Bjorkquist, Brian D.	Carter, David S.	Dayan, Allen N.	Foley, Richard H.	Halloran, Sean	Jones, Paul B.	
Blair, Maude	Cartledge, Cynthia L.	de Lucia, Tamara Eve	Foley, Susan Behlke	Hamilton, Marvin C.	Jones, Walter S.	
Blankenship, Douglas L.	Case, David S.	Dean, Jill K.	Footo, Alexis G.	Hammers, Patrick S.	Jordan, Charles S.	
	Cashion, John P.	Dennis, Elliott T.		Hanley, James Patrick		

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Lintott, Robert W.	Mertz, Douglas K.	Pate, Michael J.	O'Toole	Simpson, Edward B.	Tatsuda, Laurel K.	Wanamaker, Caroline P.
Linxwiler, James D.	Messenger, John R.	Paton-Walsh, Margaret	Rohlf, Joan E.	Simpson, Sara E.	Tatter, Sue Ellen	Wanner, Heidi C.
Liska, Joyce	Messick, Jennifer	Patterson, Michael J.	Roley, Ryan R.	Sims, Steve	Taylor, Christopher J.	Ward, Timothy C.
Lisowski, Maria	Metcalfe, James K.	Patteson, Curtis W.	Roosa, Kenneth S.	Singer, Matthew	Taylor, Kneeland L.	Warren, Robert J.
Loeffler, Karen L.	Metras, Lisa	Pauli, Rebecca L. Cohen	Rosano, Lisa	Sivertsen, John W.	Taylor, R. Scott	Wasche, Kenneth M.
Loesch, John L.	Metzger, Yale H.	Pawlowski, Stephanie B.	Rose, Erin	Skidmore, John B.	Taylor, Tregarrick R.	Watts, Darren R.
Lohff, John R.	Meyen, Bradley E.	Payne, Richard K.	Rose, Stephen D.	Skinner, Rebecca	Taylor-Welch, Karla	Wayne, Daniel C.
London, Toni B.	Meyer, Thomas J.	Payton, Gwendolyn C.	Rosen, Joshua	Skladal, George Wayne	Teaford, Matthew	Weaver, Steven C.
Long, Mauri E.	Michaelson, Peter L.	Pearson, Stephen J.	Rosenstein, Kenneth M.	Skrocki, Steven E.	Teal, Gilbert Earle	Webb, Linda A.
Longacre, Roy L.	Michalski, Peter A.	Pearson, William	Ross, Herbert A.	Sleeper, Eugenia G.	Tempel, Janet K.	Webb, Megan R.
Longenbaugh, Leslie	Miller, A. Fred	Peck, George	Ross, Patrick G.	Sleeper, Gary	Theiler, Shana L.	Weber, David R.
Lord, Daniel B.	Miller, Gregory A.	Pederson, Elizabeth A.	Ross, Steven G.	Slusser, Joseph S.	Therrien, Valerie M.	Weeks, Kathleen A.
Lowery, Daniel L.	Miller, Joseph W.	Pederson, Lawrence A.	Roumagoux, Bhree	Smith, Elizabeth-Ann	Thibodeau, Nicole	Weeks, Larry R.
Luckhaupt, Gerald P.	Miner, David	Periman, Deborah K.	Routh, Stephen D.	Smith, Eric B.	Thomas, Cindy	Weeks, Mandy
Luke, Jacquelyn R.	Minor, Michelle V.	Perkins, Douglas C.	Rozell, William B.	Smith, Jack W.	Thomas, Lisa N.	Weiner, Jason A.
Lundquist, Mary Ann	Mitchell, Michael G.	Perkins, Joseph J.	Runnels, Katholyn A.	Smith, Michael R.	Thompson, Colette G.	Weiner, R. Leonard
Luther, Frederick C.	Mitchell, P. Susan	Peters, Gregory L.	Russell, Andrea K.	Sniffen, Clyde E.	Thompson, Darryl L.	Weiss, Pamela
Lyle, George R.	Mock, Lisa C.	Peters, Timothy P.	Russell, Margaret R.	Snodgrass, John R.	Thompson, David	Wells, Jennifer K.
Lynch, Ardith	Moeller, Jeffrey S.	Peterson, Alfred A.	Russo, Elizabeth M.	Snow, Harold E.	Thompson, G. Nanette	Wendlandt, Diane L.
Ma, Louise E.	Molloy, Robert J.	Peterson, Drew	Rutherford, Jan A.	Soberay, Gary	Thompson, Michael A.	West, Stephen R.
Maciolek, Krista	Monkman, Richard D.	Pfiffner, Frank A.	Ryman, Danielle M.	Sorensen, Stephen F.	Thoreson, Christine M.	West, Susan M.
MacKinnon, Dawn	Montgomery, Greg	Pickrell, Kristian B.	Sachtjen, Eric J.	Spaulding, Franklin	Thorsness, John B.	Westbrook, Randall W.
Maffei, Albert	Montgomery, Tom	Pike, David A.	Sandberg, Annette M.	Eleazar	Tiemessen, John J.	Whipple, Benjamin I.
Mahlen, Jeffrey D.	Moore, Bruce A.	Pillick, Aleta	Sato, Jean W.	Speck, Brita L.	Tillery, Craig J.	White, Jimmy E.
Mahoney, Francis S.	Moore, Christine	Pinkel, Mary B.	Satterberg, William R.	Spencer, John R.	Tilly, Cassandra J.	White, Marshall T.
Malchick, Barbara L.	Moore, Colleen J.	Platt, Janet D.	Sauer, Jane E.	Sperbeck, Aaron D.	Timmerman, Heather J.	White, Morgan
Malin, Paul E.	Moran, Anna M.	Pleninger, Stanley B.	Saupe, A. William	Spiers, Mary	Timmermans, Todd J.	Wibker, Susan G.
Mandala, Cheryl	Moran, Joseph M.	Plumlee, Rachel	Savell, Richard D.	Spiers, William A.	Tindall, John H.	Wielechowski, William P.
Manley, Robert L.	Morris, Shauna	Plummer, Raymond E.	Saxby, Kevin M.	Spikes, M.R.	Tipp, Bryan C.	Wilder, Patricia C.
Manly, John C.	Morrison, Douglas S.	Pomeroy, Richard L.	Saxe, Keith E.	Spiropoulos, Nicholas	Tony, Paul D.	Wilhelm, Marc G.
Mannheimer, David	Morse, William F.	Pontious, Danee L.	Scanlon, Kathleen M.	St. John, Matthew	Torgerson, James E.	Wilkerson, Daniel
Manning, Mark C.	Motyka, Gregory	Porcello, Tasha M.	Schadt, Gordon F.	Staack, Anselm C. H.	Torrisi, Frederick	Wilkerson, Joan M.
Manzella, Zachary T.	Moudy, Julia D.	Porter, Alicia D.	Schally, Daniel J. M.	Stanage, Todd A.	Tostevin, Breck C.	Willard, Donna C.
Marchand, Scott	Mulder, Steven E.	Postma, Richard W.	Schandel, William B.	Stanley, Michael A. D.	Treiber, Mary P.	Williams, D. Kevin
Marisseau, Medora A.	Murphy, Dennis P.	Poulson, Jack G.	Scherger, Judy M.	Stanton, Loren K.	Tresser, Irene S.	Willoughby, Julie
Marsh, Michael S.	Murphy, Kathleen A.	Powell, Suzanne	Schickli, Scott	Stapp, Gary L.	Trickey, Howard S.	Wilson, Joan M.
Marshall, Sharon	Murphy, Margaret L.	Power, Michele L.	Schillinger, Scott A.	Stark, Jeffrey P.	Triem, Frederick W.	Wilson, Linda K.
Martin, Curtis	Murphy, Michele	Pradell, Steven	Schindler, Cathy	Stearns, Krista S.	Trumble, Jay W.	Wilson, Lisa M. F.
Marx, Brandon	Murphy, Sigurd E.	Pribila, Bethany	Schlereth, Ernest M.	Steeves, Michael	Tuberg, Judd E.	Wilson, Lisa M. F.
Mason, Walter W.	Murtagh, John M.	Price, J. David	Schmidt, Jack	Stein, June	Tucker, Julia S.	Winner, Russell L.
Mathis, C. James	Murto, Susan D.	Provost, Chris	Schmidt, Robert H.	Steinberg, Stacy K.	Urig, Susan L.	Winston, Taylor Elizabeth
Mattern, Scott L.	Nangle, Paul J.	Pryzmont, Erica R.J.	Schnebel, Debra J.	Steinberger, Toby N.	Ustasiewski, James J.	Wittow, Mark H.
Matthews, Meredith S.	Nash, Phil N.	Rabe, Cynthia K.	Schneider, Michael J.	Steiner, John L.	Valdez, Fred H.	Woelber, Mark
Matthews, Warren W.	Neeleman, John R.	Racette, Justin	Schoeggl, David M.	Steiner, Quinlan G.	Valenta, Lisa	Woelber, Tonja J.
Maule, Byrona J.	Nelson, Antone	Raforth, John H.	Schuetze, Charles F.	Stemp, Donald R.	Vallentine, Diane F.	Wohlforth, Eric E.
Maxey, Rebecca L.	Nelson, Lance B.	Rahoi, Alice M.	Schwaiger, Michael T.	Stephens, Trevor N.	Van Flein, Thomas	Wolfe, John W.
May, Marilyn	Nelson, Richard L.	Ralston, Richard S.	Scuderi, Joseph	Stevens, Rebecca	Van Goor, Stephen J.	Wolter, Lindsay
McCann, Kelly	Nemecek, Vennie E.	Randall, Deborah H.	Sears, Trina	Wright	Van Meter, Heather J.	Wolverton, Michael L.
McClintock, Donald W.	Nesbett, David A.	Rankin, Christina	Seaton, Jean E.	Stewart, David	Vance, Jeffrey H.	Wood, John P.
McClure, Maurice R.	Newman, Amy S.	Rapoza, Suzanne	Sebens, Jane E.	Stock, Margaret D.	Vance, Leon T.	Wood, Larry D.
McCollum, James H.	Nogg, Russell A.	Rasley, Alicemary L.	Sebold, Hanna	Stohler, Lyle	Vandor, Marjorie L.	Wood, Mark I.
McComas, James H.	Nolan, Nancy J.	Rawitz, Margaret J.	Seedorf, James M.	Stoller, Robert E.	Varela, M. Elizabeth	Woodell, Michael H.
McConnaughy, John E.	Norris, Natasha Marie	Ray, Colleen A.	Seekins, Benjamin A.	Stone, Andrena L.	Vasauskas, Alexander	Woodman, Jonathan A.
McConnell, Dwayne W.	Norville, Michael	Raymond, Carla M.	Seid, David M.	Stone, Catherine M.	K.M.	Woods, Fronda C.
McCord, Elizabeth Anne	Novak, John J.	Razo, Gregory P.	Severin, Samuel C.	Stone, Jack R.	Vassar, Kenneth E.	Woodworth, Glen E.
McCoy, Kevin F.	Nyquist, Kara A.	Redmond, Sonja	Seville, Michael W.	Stone, Timothy M.	Vazquez, Elizabeth	Woolford, Larry R.
McCready, Donna	O'Bannon, Linda M.	Reep, Janine J.	Seymour, S. Jay	Stowers, Craig F.	Veerman, Louis R.	Wright, Janel L.
McDannel, Marcelle	O'Brien, Mike	Reese, John E.	Shaffer, Michael D.	Strout, Cynthia L.	Vermilyea, Jeremy T.	Wyatt, Mitchell K.
McDermid, Lea S.	O'Bryant, Jeffrey A.	Reineke, David D.	Shaftel, David G.	Stryszak, Michal	Viccellio, Megan-Brady	Yerbich, Thomas J.
McDermott, Thomas M.	O'Hara, Steven T.	Rhoades, Stephanie L.	Shamburek, Steven J.	Stuart, Jennifer	Viergutz, Herbert A.	Yim, Chong M.
McDonough, Michael	O'Kelley, Judith R. T.	Rice, Janet L.	Shanahan, Philip E.	Suddock, John	Vochoska, Virgil D.	Young, Clay A.
McFarland, Renee	O'Regan, Deborah	Richard, John M.	Shea, Wev	Summit, Natasha M.	Voigtlander, Gail T.	Young, David
McFarlane, Amy A.	O'Tierney, Daniel Patrick	Richardson, Ann Marie	Sherwood, Todd K.	Suozzo, Holly	Vorenkamp, Corinne M.	Young, Min H.
McFarlane, Robert E.	Oberg, David D.	Rieger, Lisa R.	Shine Sr, James M.	Sutherland, Jody W.	Wagner, Jennifer	Youngmun, Gregory L.
McGrady, Jamie	Odsen, Frederick J.	Rindner, Mark	Shippis, Ra	Sutliff, Richard N.	Wagstaff, Robert H.	Zeman, Adolf V.
McGrady, Philip	Ogg, R. Danforth	Ringsmuth, Eric	Shoemaker, David B.	Svobodny, Richard A.	Walashek, Paula J.	Zerby, David A.
McKay, Cheryl L.	Olsen, Dianne E.	Ritchie, Barbara J.	Shorey, Daniel K.	Swanson, Danika	Walker, Herman G.	Zervos, Larry C.
McKay, D. John	Olsen, Randy M.	Robbins, J. Michael	Shortell, Caitlin	Swiderski, Alex	Walker, William K.	Zipkin, Gary A.
McKay, Patrick J.	Olson, Greggory M.	Robbins, Rebecca	Siemers, John C.	Swinton, Richard B.	Walsh, Diane Busch	Zobel, Patricia
McKim, Bradley S.	Olson, Gustaf	Robertson, J. Martin	Sigmon, Sharon DeLana	Syren, Lester K.	Walther, Byron D.	Zuanich, Robert P.
McLaughlin, Michael	Oravec, Aimee Anderson	Robinson, Kari A.	Silvey, Gregory G.	Talbot, James W.	Walther, Dale J.	Zwink, David L.
Sean	Oravec, Scott A.	Roetman, Paul A.	Simel, Nancy R.	Tangen, J.P.	Walton, William B.	
McLean, Susan S.	Osborne, Melanie Baca					
McLeod, Jill	Oowski, Shane J.					
McNamara, Cara	Ostrovsky, Lawrence Z.					
McQuerry, Samuel A.	Owens, Bradley D.					
McVicker, Suzanne	Owens, Thomas P.					
Meachum, Robert F.	Page, Brenda B.					
Meade, Nancy B.	Page, Nelson G.					
Meddleton, Mary-Ellen	Pallenberg, Philip M.					
Menard, Amy R.	Palmer, Lance E.					
Mendel, Allison E.	Palmier, Joseph P.					
Menser, Samuel Tye	Parker, James H.					
Merdes, Ward M.	Parkes, Susan A.					
Merriner, Charles M.	Parrish, Albert					
	Paskvan, Bonnie J.					
	Paslay, Paul W.					
	Patch, T.W.					

*Circle these dates --
don't miss 2009 and
Justice Alito!
Get all your CLE credits
at this one event!*

- Social Events
- Opening Reception
- Annual Business Meeting
- 25, 50 & 60 Year Member Recognition Lunch
- Awards Reception and Banquet

2009 Bar Convention and Judicial Conference

Wednesday, Thursday, & Friday • May 6, 7 & 8
Centennial Hall, Juneau

KEYNOTE SPEAKER
Justice Samuel Alito, Jr.
Supreme Court of the United States

CLEs

- U.S. Supreme Court Update
Professors Chemerinsky & Levenson
- Alaska Appellate Update
Professor Chemerinsky

- Legal Ethics -- a 3 hour program!
- "5 Easy Pieces": The 5 Most Commonly Used Trusts and How to Administer Them
- Alaska Estate Planning/Probate Section
- Federal-State Appellate CLE
& More!

Communities learn more about Atticus & the law

By Krista Scully

The legal community throughout Alaska celebrated this year's Big Read Project in a big way!

The Big Read Project is a nationwide project of the National Endowment for the Arts which encourage communities to select one of eight classic books to read as a community. Alaska's book selection was Harper Lee's *To Kill a Mockingbird*.

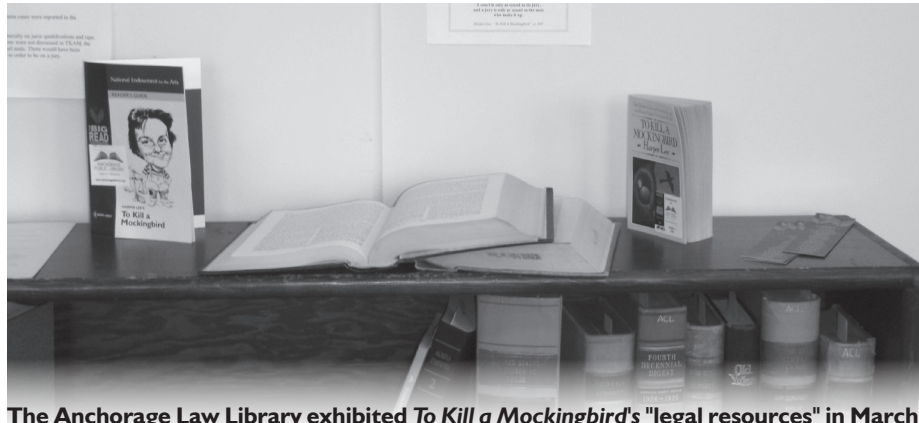
Volunteers from the Anchorage legal community took part in a live reading of the book in honor of this year's Big Read project. In partnership with the Lousac Library, the Alaska Bar Association and Cyrano's Theatre hosted the free community event to highlight the importance of justice and volunteerism through pro bono work like that of Lee's hero Atticus Finch. The performance was presented to a full house and has since garnered interest in starting a legal literature reading series at Cyrano's.

The court system's law library in Anchorage created a display of law books Atticus Finch would have used in his research to defend Tom Robinson.

The court in Dillingham hosted a screening of the film version of the book and a southern style barbeque for attendees at the town's Law Day event.



Harper Lee



The Anchorage Law Library exhibited *To Kill a Mockingbird*'s "legal resources" in March. Photo by Catherine Lemann.

Former Alaska Bar Association President Matt Claman and LRE Committee member Kevin Anderson appeared on an Anchorage radio program for a 16 minute interview on the book, its themes, and importance to the community about the rule of law. In addition, former Alaska Bar Association President Jonathan Katcher was published in the Anchorage Daily News for a Compass piece written about the book, as well as being featured on APRN's "Hold This Thought" on March 18, 2008. Hold This Thought invited listeners to consider their own "one case or one challenge" in their lifetime that affected them personally like that of Atticus Finch.

Our sincere thanks to each volunteer, agency, and community that participated in this year's Big Read project!



Cyrano's stage lit up for the Big Read in March. Back row left to right: Luke Bartholemew, Jon Minton, Krista Stearns, Judge Stephanie Joannides, Barbara Hood, Nancy Meade, and John Steiner. Front row left to right: Retired Judge Larry Card, Jaina Willahan, Aidan Barlow Diemer, and Retired Judge Karen Hunt. Not pictured: Steve Van Goor, Judge Vanessa White, Kevin Anderson, Pamela Washington, Nora Barlow, and Mike White.

To Kill a Mockingbird holds a special place in law

By Jon Katcher

Harper Lee's *To Kill a Mockingbird* is perhaps the great modern American novel about lawyers, law and justice. The hero, Atticus Finch, is a small town Alabama lawyer and state legislator, fighting against the 1930's racism of which he is in fact an intrinsic part.

From the book's whimsical beginning, through its gripping courtroom drama, to its frightening finale, Lee weaves a compelling tale of mostly decent people struggling valiantly against their society's intractable racism. This is a beautiful novel well worth reading and rereading. We are also blessed by the remarkable film version, with Gregory Peck unforgettable as Atticus.

To Kill a Mockingbird holds a special place in the heart of almost all lawyers, especially trial lawyers. Why? To begin with there is Atticus. Honest. Hardworking. Humble. Smart. These are qualities to which any man or woman, lawyer or non-lawyer, would aspire. Gregory Peck's impressive looks and powerful baritone only add to Atticus' mystique.

But for lawyers there is more to Atticus than his outstanding character. This is because most lawyers can relate to his great challenge - the lost cause. He has a client for whom there is literally no hope. Tom Robinson is a poor black man accused of raping Mayella Ewell, a young white woman about whom we know little beyond her father Bob's contemptuous lifestyle and the flowers she meticulously attends in a corner of their squalid homestead. It is Tom's word against Mayella's and Bob's. These are impossible odds in the Jim Crow South of the Depression. Yet despite the risks Atticus knows the case presents to his family and his position, he takes

on this overwhelming challenge with zeal and skill. He does not sit back and lazily allow the prosecution's evidence to go unchallenged. He points out the lack of medical evidence to support the rape accusation. He establishes that Tom's lame left arm could not have marked the right side of Mayella's face and throat. And most importantly, without any joy, indeed with much compassion and sadness, he skillfully cross examines Mayella. Atticus knows this is a cruel thing to do to a young woman. But more importantly he knows that his duty to his client and justice compels it of him. Only a lawyer can know how that feels. And only a lawyer can truly understand how important it is to perform that service. Because those of us who have spent time in criminal court, no matter which side we are on, recognize that the very fabric of our society, the very basis of our liberty, are dependent upon these trials where the molten sword of truth is hammered on the anvil of justice.

Harper Lee does us a great service by not making justice easy. Unlike many crime dramas, Lee never presents the rape, or non-rape, through a neutral eye. We only hear the two impossibly disparate versions — Mayella's and Tom's. Only one version can be correct. And Mayella is adamant in her accusation. With great eloquence she tells the courtroom, indeed the entire town, that they can believe whom they want, but that if they chose to disbelieve her they can all in essence go to hell. What are the sheriff, prosecutor and judge to do in the face of such an accuser? Whatever doubts they may have, they must give Mayella her day in court.

The jury's predictable verdict leaves us with a sense of great injustice — not only Tom's tragic fate,

but more importantly the town's failure to get true closure on Atticus' defense — that the left handed Bob Ewell beat Mayella upon witnessing her attempt to violate the taboo of miscegenation. And while Bob's just desserts at the hands of Boo Radley may cleanse some of this injustice, it cannot cleanse the overarching stain of racism that burdens the entire town.

Which leads us back to Atticus. Hero lawyer he may be, but perfect he is not. He cannot be an effective small town lawyer or legislator unless he is an intrinsic part of the racist system that repels us. He values, indeed loves his servant Calpurnia, yet likely pays her a wage so modest that she is kept in poverty along with all the other blacks who serve

the whites. He works in the 1930's Alabama courts, a large part of which uses the criminal justice system to hold blacks down and feed the prison labor farms and road gangs. He knows the blacks cannot vote for or against him for the legislature.

All this is what makes Atticus so real and important to lawyers. We have the same faults of all other citizens. A hero like Atticus shows us that despite these faults we can and must struggle for justice through our imperfect system. And so Atticus, holding his head high and attempting to do his very best in the face of overwhelming odds amidst an intrinsically unfair system, is the ultimate example of what lawyers must do. To do any less would be to fail justice in general and ourselves in particular.



Gregory Peck and Brock Peters star as Atticus Finch and Tom Robinson in *To Kill a Mockingbird*, in 1962. As Harper Lee was honored with the Pulitzer Prize for the book, the film received 3 Oscars and the Golden Globe Award in 1963, with Peck receiving one of his three career performing Oscars. In 1995, the National Film Preservation Board placed the film in the National Film Registry.

NEWS FROM THE BAR

Board of Governors invites comments

The Board of Governors invites member comments concerning the following proposals regarding the Alaska Bar Rules, Alaska Rules of Professional Conduct, and Bylaws. Additions have underscores while deletions have strikethroughs.

Alaska Bar Rule 35 and Alaska Rule of Professional Conduct 1.5

At present, the Alaska Bar Rules and the Alaska Rules of Professional Conduct require a written fee agreement in a contingent fee matter or in any other matter where the fee to be charged exceeds \$500.

The Fee Arbitration Executive Committee recommended a rule change that would increase the threshold for a written fee agreement from in excess of \$500 to in excess of \$1,000.

Rule 35. Fees for Legal Services; Agreements.

(b) **Written Fee Agreement.** The basis or rate of the fee to be charged, including any fee of retainer or initial deposit, exceeding ~~\$500~~ \$1,000 shall be communicated to that client in a written fee agreement, before commencing the representation or within a reasonable time thereafter. This written fee agreement shall include the disclosure required under Alaska Rule of Professional Conduct 1.4(c). In a case involving litigation, the

attorney shall notify the client in the written fee agreement of any costs, fees or expenses for which the client may be liable if the client is not the prevailing party. In the absence of a written fee agreement, the attorney must present clear and convincing evidence that the basis or rate of fee exceeded the amount alleged by the client.

Rule 1.5. Fees.

(b) The basis or rate of a fee exceeding ~~\$500~~ \$1,000 shall be communicated to the client in a written fee agreement before or within a reasonable time after commencing the representation. This written fee agreement shall include the disclosure required under Rule 1.4(c). In a case involving litigation, the lawyer shall notify the client in the written fee agreement of any costs, fees or expenses for which the client may be liable if the client is not the prevailing party.

ARTICLE III. MEMBERSHIP FEES AND PENALTIES

The Board believes that a person who has been a member of the Bar for 60 years should not be assessed membership fees.

ARTICLE III. MEMBERSHIP FEES AND PENALTIES

Section 1. Annual Dues.

(a) **Active Members.** The annual membership fee for an active member is the amount approved by the Board, \$10.00 of which is allocated to the Lawyers' Fund for Client Protection. The annual membership fee for an active member, who is 70 years of age or more and who has practiced law in Alaska for a total of 25 years or more, is one half of the total amount assessed to each active member, \$10.00 of which is allocated to the Lawyers' Fund for Client Protection. No annual membership fee shall be assessed to an active member who has been admitted to the Association for a total of 60 years or more.

(b) **Inactive Members.** The annual membership fee for an inactive member is one third of the total amount assessed to each active member.

ARTICLE VII. COMMITTEES AND SECTIONS

The Board decided it was important to create a new standing committee on diversity for the reasons

outlined in the proposal.

ARTICLE VII. COMMITTEES AND SECTIONS

Section 1. Committees.

(a) Standing Committees.

(13) the Committee on Diversity, a Committee responsible for researching, developing and executing plans for increasing the diversity of race, ethnicity, gender, and sexual orientation within the Bar and of the Bar members who participate in activities of the Bar Association and of the profession. Increased diversity in the Bar will improve access to justice for the community of Alaskans, especially for Alaska Native and rural populations that have traditionally been underrepresented. The Committee shall consist of no fewer than nine members, and the membership shall as diverse as possible.

Please send comments to: Executive Director, Alaska Bar Association, PO Box 100279, Anchorage, AK 99510 or e-mail to info@alaskabar.org by August 22, 2008.

Board of Governors Action Items April 28 & 29, 2008

- Appointed Hanna Sebold to the vacant 1st Judicial District seat for this meeting.
- Announced the winners of the Board of Governors elections: 1st District – Hanna Sebold; 3rd District – Don McClintock; 2nd & 4th District – Jason Weiner.
- Heard a presentation by Terry Aglietti about a proposal for an Alaska School of Law.
- Voted to amend the Board policies to provide that a Board member may elect to claim either hotel plus per diem or actual reasonable expenses when on authorized Bar business.
- Heard from Barbara Jones, Chair of the LRE Committee, about the law related education grants made for 2008.
- Approved six reciprocity applicants for admission.
- Voted to approve accommodations for the July bar exam for two applicants.
- Voted to publish a Bylaw amendment establishing a Standing Committee on Diversity.
- Voted to appoint the following members to the ALSA Board of Directors: 1st District, Regular Vance Sanders and Alternate Kelly Henriksen; 4th District Regular Cameron Leonard and Alternate Dan Winkelman; Kenai/Kodiak Regular Karen Lambert and Alternate Andrew Ott.
- Voted to appoint Maryann Foley as the ABA Delegate.
- Voted to appoint Kevin Fitzgerald to the Alaska Judicial Council.
- Voted to approve the minutes of the January board meeting and the February conference call meeting.
- Voted to ratify the \$500 contribution to the Judge Thomas Stewart memorial ceremony.
- Was advised that John Tiemesen will be President of the Western States Bar Conference in 2011.

- Heard a request for a \$5,000 grant for the Language Interpreter Center and asked the representatives to come back in the fall when the Board considers the budget.
- Voted to publish a proposed amendment to Bar Rule 35(b) and ARPC 1.5(b) which would increase the threshold for written fee agreements to \$1,000.
- Voted to approve a stipulation in a discipline matter for a two year suspension with all but 90 days stayed; as a condition of reinstatement the attorney must submit a medical opinion from a board certified psychologist or neuropsychologist that he is fit to engage in the practice of law; that the attorney will be on probation for two years; that the attorney will meet with a mentor attorney at least every two months and the mentor attorney will provide a written report to the board each year; and the attorney will take CLE in law practice management for a minimum of three hours during his probation.
- Voted to publish a Bylaw amendment which would waive bar dues for lawyers who are members of the Bar for 60 years or more.
- Voted to adopt the recommendation of the Lawyers' Fund for Client Protection Committee to reimburse the client \$6,300.
- Voted on the resolutions for the annual business meeting.
- Viewed PSA's from other Bars and discussed various possibilities.
- Reviewed the bar exam statistics and voted to release the results May 9 once all the paperwork is complete.
- Voted to recommend the following slate of officers at the annual business meeting: President Mitch Seaver; President-elect Sid Billingslea; Vice President Don McLean; Secretary Chris Cooke; Treasurer Jason Weiner.

Alaska Bar Association Law Related Education LRE Grant Applications Subcommittee

Background: The Law Related Education Committee was allocated \$10,000 in the Alaska Bar Association's 2008 Budget for Law Related Education activities. The LRE Committee created a Grant Application Subcommittee consisting of Barbara Jones (chair), Kevin Anderson, Stephanie Galbraith Moore, and Stuart Rader. The application was published in December 2007 with a deadline to apply by January 8, 2008.

The Selection Criteria: The LRE Grant Subcommittee developed and considered the following criteria in determining the amount of the awards for the grants:

- Practical v. Education or Direct v. In-Direct
- Geography
- Will the project go forward without LRE funds?

The Applications: The information listed below summarizes the name of each applicant and the grant amount requested; the final column details the recommended amount to be awarded:

Name of Organization	Amount Requested	Amount Recommended by Subcommittee
Alaska Immigration Justice Project	\$2,100	\$2,000
Alaska Literacy Program	\$4,284	\$0
Color of Justice	\$3,000	\$1,500
Covenant House Alaska	\$3,000	\$500
KMD Services & Consulting	\$2,000	\$0
Mat-Su Youth Court	\$2,500	\$2,000
Mock Trial Committee	\$2,500	\$2,500
South Anchorage High School		
Drama Debate & Forensics Team	\$2,000	\$0
West High School We The People	Not specified*	\$1,500
TOTALS	\$21,384	\$10,000

* West High project budget: \$29,700



Chief Justice Dana Fabe and U.S. Supreme Court Justice Ruth Bader Ginsburg relax after the CLE "A Conversation with Justice Ruth Bader Ginsburg," on the last day of the convention.



Ken Eggers receives the Anchorage Bar Benjamin O. Walters Distinguished Service Award, presented by Anchorage Bar President Caroline Wanamaker.



Presiding Judge Morgan Christen receives the Alaska Court System Community Outreach Award presented by Chief Justice Dana Fabe.



Justice Ruth Bader Ginsburg receives an ivory carving, presented by Bar President Matt Claman on behalf of the Alaska Bar Association.



Hanna Sebold, Ben Brown, and Ethan Falatko enjoy the opening reception.

2008 BAR CONVENTION HIGHLIGHTS

Photos by Karen Schmidtkofer

Bar community gathers in Anchorage



The Alaska Bar Association Thanks the Sponsors

- Alaska Association of Legal Administrators
- Alaska Association of Paralegals
- Alaska Court System
- ALPS – Attorneys Liability Protection Society
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Special Thanks to the Following Law Firms for their Generous Contributions

- Azar & Schlehofer, PC
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- Rex Lamont Butler & Associates, Inc. PC
- Routh Crabtree, apc
- Sonosky, Chambers, Sachse, Miller & Munson, LLP

Thanks to the Exhibitors

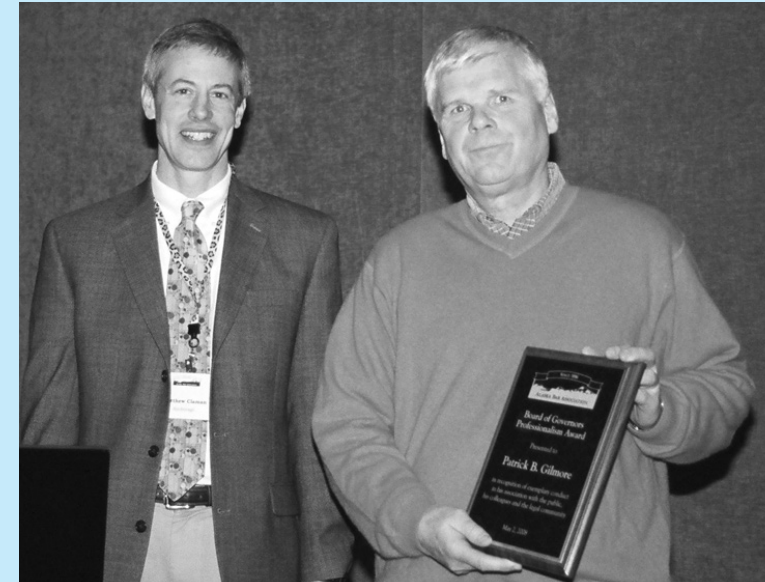
- Alaska Association of Legal Administrators
- Alaska Association of Paralegals
- Alaska Telecom Inc.
- Alaska USA Trust Company
- ALPS – Attorneys Liability Protection Society
- Bureau of National Affairs
- Hagen Insurance
- Professional Legal Copy, LLC
- Thomson West
- Pro Bono Organizations:
- Alaska Court System Family Law Self-Help Center
- Alaska Immigration Justice Project
- Alaska Innocence Project
- Alaska Legal Services Corporation
- Alaska Network on Domestic Violence and Sexual Assault
- Alaska Pro Bono Program
- Alaska Office of Victims' Rights

ATTORNEYS RECEIVE BAR AWARDS



Bar President Matt Claman presents the Distinguished Service award to Mary Gilson in recognition of her work on the Bar Examiners Committee.

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



Bar President Matt Claman presents the Professionalism award to Patrick Gilmore.

The **Professionalism Award** recognizes an attorney who exemplifies the attributes of the true professional, whose conduct is always consistent with the highest standards of practice, and who displays appropriate courtesy and respect for clients and fellow attorneys. The Professionalism award has traditionally been presented to an attorney in the judicial district where the convention is being held.



Rick Friedman receives the Robert Hickerson Public Service award from Bar President Matt Claman.

The **Robert K. Hickerson Public Service Award** recognizes lifetime achievement for outstanding dedication and service to the citizens of the State of Alaska in the provision of Pro Bono legal services.



Myrna Maynard accepts the Layperson Service award on behalf of her daughter, Vivien Noll, for her long-standing work on the Fee Arbitration Committee.

The **Layperson Service Award** honors a public committee or Board member for distinguished service to the membership of the Alaska Bar Association.



Judge Michael Jeffery receives the Judge Nora Guinn award from Bar President Matt Claman.

The **Judge Nora Guinn Award** will be presented to a person who has made an extraordinary or sustained effort to assist Alaska's Bush residents, especially its Native population, overcome language and cultural barriers to obtaining justice through the legal system.



Retired Judge Seaborn Buckalew (center) is surrounded by former law clerks and friends for the Rabinowitz Award. Annie Rabinowitz is at his left side.

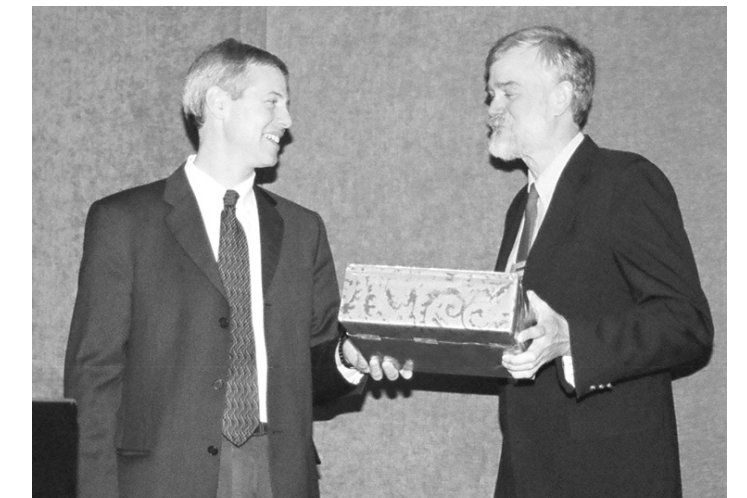
The **Alaska Bar Foundation Jay Rabinowitz Public Service Award** is given to an individual whose life work has demonstrated a commitment to public service to the State of Alaska.



Chief Justice Dana Fabe and Governor Sarah Palin pose with Justice Ruth Bader Ginsburg at the banquet.



Justice Dan Winfree, Deborah O'Regan and Ken Eggers chat at the banquet reception.



Bar Counsel Steve Van Goor celebrates 25 years of service with the Bar Association and receives a GPS from the Board of Governors to help navigate the choppy ethics waters.



President Matt Claman (right) accepts an original oil titled "Bootlegger's Cove Alley" by Carol Crump Bryner from incoming president Mitch Seaver.

Planning a law office system:

Short term hardware, long term software

By Joe Kashi

I believe that the computing technology market is in a "maturing phase," in other words, in a static funk. This is mostly due to the limitations that are still built into most application software and, to a somewhat lesser extent, all current Windows operating systems.

Here's just one example: Although almost all processors now sold are natively 64 bit CPUs with at least two and often as many as four separate CPU cores, and although both Windows XP and Vista can use up to four CPU cores right out of the box, very few application programs are written to take advantage of either 64 bit operation or more than one CPU. That means that at least 75% of the processing power of almost any modern CPU is utterly wasted. On the bright side, powerful computing hardware is less expensive than ever.

I also would note that both current versions of Windows do not introduce significant new functionality. The changes are mostly cosmetic ones that are of little real benefit to most business users. The Apple OS X operating system theoretically is much better, being based upon a UNIX core that has been honed by decades of academic computer scientists. Unfortunately, most specialized legal software, the sort that can make a real difference in our effectiveness, is native only to the Windows PC.

This month, I'm going to examine both hardware and software of interest to the technically savvy lawyer and also suggest a short term technology strategy.

DON'T BUY MORE HARDWARE THAN YOU NEED RIGHT NOW

The subject of law office computer hardware has been beaten to death, and in any case, decent computers are generally pretty inexpensive. That said, I'll briefly comment on a short-term strategy to consider.

Avoid advertising-driven computer consumerism. You are buying a business tool, not a hobby whose main purpose is entertainment or emotional satisfaction.

Historically, system performance increases rapidly while prices simultaneously plummet. There's no immediate end in sight to either trend although the rate of useful improvement has been diminishing lately as the technology matures. Make your hardware purchasing decisions based upon current needs rather than upon perceptions of what you might need in a year or two. Cutting edge technology is typically over-priced, immature and unreliable while it's new and hot. Many manufacturers try to sell

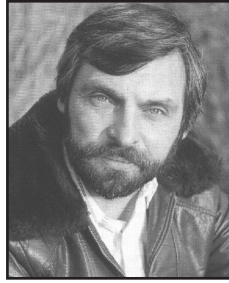
you their higher margin, top of the line systems and fastest components with the premise that more computing power avoids the need to upgrade hardware as often. That's false economy at best, and it's probably not true either.

I believe that it's most sensible to buy good quality, mature technology that's about a half-generation behind the latest, top of the line--saving you a lot of money for more reliable technology. These cost savings alone should allow you to regularly upgrade selective critical computer system components--the CPU, DRAM and hard disk--or to replace the system more often. I usually recommend a three year hardware replacement cycle, with partial upgrades more frequently as necessary. It's false economy to retain a too-slow or outdated system until it's been fully amortized over an artificially long depreciation schedule.

Given that we all need to buy desktop computers for the staff, the proliferation of models can seem bewildering. Buying an instantly recognizable brand name like Dell or HP may be a good idea, and you can customize your system rather extensively. At this time, Intel's Core 2 Duo dual core and quad core CPUs seem to have the best performance, particularly for processing video, but AMD's dual core Athlon64 and quad core Phenom series also perform extremely well at a lower cost.

As with your officewide file server, you'll want a very fast hard disk as your boot drive, at least a 7200 RPM SATA drive. For file servers, the new Western Digital 300MB Raptors are probably the fastest available but may be overkill for most desktop systems that are not used for video processing. Hitachi and Western Digital drives are excellent and generally quite reliable. You'll need at least two, and preferably four, gigabytes of RAM.

Recent studies suggest that the productivity gains from providing each user with a large, high quality LCD monitor are very high compared to the slightly increased purchase cost. Get a nice 20" or larger widescreen monitor. I recently bought a 24" Viewsonic Q241WB for \$379 from Newegg.com and a monitor that large makes working with two documents side by side very easy. The wide screen allows you to have two windows simultaneously visible, which allows you to view a PDF file at the same time that you are drafting a letter or pleading pertaining to the PDF file. A smaller widescreen



"Make your hardware purchasing decisions based upon current needs rather than upon perceptions of what you might need in a year or two."

monitor, on the order of 20" to 22", costs only \$200 to \$300 for a name brand like Viewsonic when bought over the Internet.

FOR SOFTWARE, BUSINESS NEEDS ARE PARAMOUNT

All technology exists to support a business's core function, in this case practicing law effectively and efficiently, and technology must be chosen and implemented with those core business functions in mind. Law firms, particularly litigation firms, are somewhat different than other businesses:

ultimately, we must be effective above all else. Efficiency is important to the bottom line but is secondary to winning those cases that, on their facts and law, we should not lose for lack of effectiveness. Where feasible, choose software that is flexible and able to meet evolving substantive needs and that is based upon "open" software and file format standards.

CHOOSE SOFTWARE SYSTEMS WITH GREAT CARE

Major software changes, particularly accounting, billing, and practice management systems, are actually much more complex than hardware changes, so you should choose very carefully before making any decisions. Software manages all of your data, probably going back many years. Most legal-specific software programs use proprietary data file formats that often can't be converted to another vendor's format easily. Making a major change in software can be wrenching, expensive, and disruptive. Hence, be sure that you choose programs that use open file formats, or that can export data to open file formats to avoid this disruption in the future.

Be sure that your vendors have the commitment and the resources to be around and actively developing their products in 10 years. Choosing products from software start-ups that use unique data file formats runs a substantial risk of being orphaned. I've had that happen and it wasn't pretty but it was expensive.

As a practical matter, choosing a major software system is part of your overall strategic planning for your law firm. Before making any commitments, try to ascertain where your firm anticipates positioning itself in the market 10 years from now and the types of practice that your firm envisions pursuing. A firm specializing in real estate documentation will have very different needs than a litigation-oriented firm and the most appropriate software systems will be very different. First and foremost, any new software system should clearly provide a major increase in your firm's effectiveness within its primary practice areas, and it should do so with minimal disruption and drain on staff time.

Purchase costs are probably the smallest portion of overall system cost -- setup, staff training, disruption, maintenance and upgrade are ultimately higher than initial purchase costs but are not obvious in the software purchase. Thus, ease of use without extensive setup and training, overall reliability and easy maintenance will be critical. These factors should be evaluated by your users, both staff and lawyers. Using a respected staff sub-group will ease acceptance by firm

members (some of whom will probably be championing their own favorite practice software.)

REDUCE STAFFING REQUIREMENTS WITH "ENABLING TECHNOLOGY"

You should consider both your overall level of automation and the extent to which you are willing to personally perform tasks formerly done by support staff. Rather than spending a lot of time and money on frills, toys or bleeding-edge technology, it's important to focus on solid, substantive ways to automate basic day-to-day law office functions in a way that both increases each person's effectiveness and reduces unnecessary effort by skilled staff.

My nominations for most useful and productive law office "enabling" technology are pervasive networking; voice dictation directly into your word processor; digital imaging of your documents; legal-specific litigation support and case management software; and digital photography.

DIGITAL DICTATION

First and foremost among automation initiatives to reduce overhead should be the maximum use, of voice recognition and dictation programs. Although accurate voice recognition has seemingly been just around the corner for years, I believe that this technology is finally mature enough for efficient everyday use.

I have found that Nuance's (Dragon) Naturally Speaking Legal version is quite effective and accurate. I also found that accuracy considerably improved when I used

a high-end Plantronics DSP 500 USB headset, with a digital recorder optimized for voice recognition. Sony and Olympus make compatible

recorders that use either the WMA or WAV formats recognized by Dragon, at \$100 - \$300 retail. The new Naturally Speaking Legal version's single best feature is its voice macro capabilities, which preserve fonts, rich text and other formatting when standardized text is converted into voice macros. That makes it useful for easy access to calling up pleading captions or pre-formatted letterhead to the appropriate party and in devising standard boilerplate language that can be assembled into a complete document with a few voice commands.

There is another, complementary approach. Simply save almost all of your word processing documents, even routine letters, in separate client directories and then just edit them, or block-copy portions, as needed. An attorney with even modest keyboard skills can take an existing letter or pleading and directly edit it on the keyboard as needed in the same or less time than it took to dictate the letter or pleading, give instructions to a secretary, and then review and sign it. Eliminating manual dictation transcription saved me about 20 staff hours per week.

DIGITAL IMAGING AND FILING

Imaging every pertinent document in your office, in essence becoming a "paperless" practice, is now highly mature and practical. Reducing the cost of filing and retrieving paper documents is another major advantage to reducing unnecessary staff overhead, allowing highly trained paraprofessional staff to focus on the skilled tasks for which they are best suited.

Over the years, I have worked with

Major software changes, particularly accounting, billing, and practice management systems, are actually much more complex than hardware changes,

63 years in Alaska Knowledgeable staff
Alaska's only full service photo store • Your digital camera source

Olympus E300

Stewart's Photo Shop
531 West 4th Ave., Anchorage, AK 99501
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www.stewartphoto.com stewartphoto@gci.net

Continued on page 19

Short term hardware, long term software

Continued from page 18

many "paperless office" concepts, scanners, and programs, but was ultimately content to rely upon experienced professional staff. That approach is no longer cost-effective. Adobe Acrobat Professional, of which Version 9 will ship in August, is clearly the most flexible and useful approach to document imaging. Acrobat PDF is the de facto standard for most government documents and the official standard for the federal courts and federal government and the mandatory means of filing pleadings with most federal courts. Transitioning to an office where every document is imaged and stored as a PDF file has been by far the single most productive step that I have taken in the past 15 years.

Finding the data contained in imaged documents is much easier. If you run the OCR function in Acrobat Standard or Professional, then the entire contents of each document will be directly searchable, enabling you to find that vaguely remembered material. There are some excellent indexed search programs available for a modest charge. I prefer Copernic Desktop Search because it's very fast and can search the content of files stored on network drives as well as the drives on your desktop computer.

LITIGATION SUPPORT

First and foremost, Adobe Acrobat, itself, can be a very powerful litigation tool. Beyond Acrobat, there are many powerful litigation-specific programs available but I believe that the CaseSoft products, recently acquired by Lexis-Nexis, stand out for the small to medium law firm. CaseSoft products also are used extensively by the SEC, Department of Justice, and other federal agencies involved in major litigation. Four separate CaseSoft programs

that I find particularly useful are:

CaseMap, which is essentially like a spreadsheet or database for litigation facts, issues, persons, and dates, which links seamlessly with Acrobat.

NoteMap, a highly flexible outlining program. Outlining is one of the best ways to flexibly think through and organize a case.

TimeMap, which can take a range of dates and facts, whether directly input or transferred from CaseMap, and construct a sophisticated graphic timeline suitable for use in pleadings or as an exhibit.

TextMap, a sophisticated transcript handling program.

OFFICE SUITES

It's not even a race anymore. Although I prefer WordPerfect for document formatting, Microsoft Office 2007 is well organized and the de facto standard--mostly because Excel is such a good spreadsheet and PowerPoint is an excellent tool for legal presentations.

CASE MANAGEMENT SOFTWARE

You really need good case management software and your malpractice carrier is going to insist upon it. There are several useful integrated case management and accounting packages specifically designed for law offices. This is one area where the legal-specific programs are more useful and effective than customizing a general purpose program. Time Matters, Amicus, and ProLaw have been the market leaders, and all of them perform basically the same functions. Each will require a substantial amount of setup and customization; and you should probably use a specialized vendor to install and customize any of these programs. Am-

icus has often been thought of as better adapted to smaller firms, with Time Matters occupying the middle ground and ProLaw being better suited to larger firms. I personally found Amicus to be frustrating.

AVOID DATA OBSOLESCENCE AND LOSS

Law office automation focuses upon the immediate retrieval and use of data during the daily course of business. There's one potential drawback to converting to an automated, digital law practice--"data obsolescence," the inability to physically access electronic archives. An important aspect of long term digital law practice infrastructure will be ensuring that data can be retrieved and used well into the future.

Because of the rapid advance in hardware and software, programs and data that we use today will likely not be readily usable in 15 years. Even NASA has experienced difficulties in this regard: 15-year-old computer tapes from planetary exploration missions cannot be used readily on currently available mainframe tape drives. NASA has been forced to spend millions of dollars converting these tapes to modern formats and cataloging their contents.

Long term data usage provides an excellent example of why strategic business planning has become so important in the digital age. Suppose that you have moved your case files and other records away from legacy paper or microfilm to document imaging. One obvious reason to make this move is to do away with costly, hard to research, bulky paper records. However, a paper record has one crucial "backward compatibility"

advantage: it lasts many decades without special treatment and anyone can examine that record simply by holding the page.

Given the rate at which technology advances and file formats change, and given the inevitable failure of heavily used devices like the hard disks in your computers, there are only a few things of which we can be sure. In 10-15 years, it will be essentially impossible to find new drives which can read 3.5" floppies, CDs or perhaps even DVD formats or backup tapes made today.

Because of the rapid advance in hardware and software, programs and data that we use today will likely not be readily usable in 15 years.

Accessibility involves several factors. First, data must remain usable by both current and future software. You

should standardize your entire firm upon well-known and broadly popular programs made by a company that's likely to be continuing development of their products many years hence. At the moment, this is another reason to adopt the Adobe Acrobat standard. Adobe has recently implemented an archival version of its standard PDF document format, and that appears to be the best bet at this time.

Future data usability also implies the desirability of using programs that either store or export data in a standardized format that is most likely to be in universal or common use by evolving software companies. Standardized data formats include RTF and ASCII text files, SQL databases, and Acrobat PDF imaging formats, in addition to the JPEG, DNG and TIFF photo/graphics formats. I've opted for the universally accessible PDF format for virtually all digital files. PDF files are not readily

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Ater Wynne: Handling energy issues that matter to Alaskans

Bringing Alaska's energy projects to completion takes more than bright ideas. For more than 20 years Ater Wynne's Energy Group has kept our northern clients plugged in. Whether it's the work of energizing the Railbelt or transporting resources throughout the state, Ater Wynne handles what matters to Alaskans.

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Ethan Falatko advises clients on matters involving regulatory compliance, oil pipeline, energy and environmental issues. As a former Assistant Attorney General for the State of Alaska, he has extensive experience in the state with oil, gas and mining initiatives as well as expertise in Alaska's regulatory and legislative arenas.



Joel Paisner counsels utilities and electric cooperatives on issues related to the development, financing and operation of energy projects in Alaska, Washington, and on tribal lands. His practice focuses on project development, planning, land use permitting, and assisting clients operating in complex regulatory environments. Joel is licensed in Washington.



Bill Prentice has nearly 20 years' experience providing counsel to major Northwest power companies. He advises energy clients on complex transactions involving wind, solar, geothermal, natural gas, coal, and hydro power projects. Bill is licensed in Oregon and applying for licensure in Washington and Alaska.



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Ode to Big Blue

By William Satterberg

Most Alaskans are either hunters or gatherers. It seems to be the nature of the State. Over the years, a dichotomy has developed between those who pick and those who plunder.

Traditionally, I am a hunter. My wife, Brenda, is a gatherer. Each fall, I launch off into the Alaskan wilds in search of meat to fill the freezer, and adventure. Ordinarily, that meat takes one of three types: fish, fowl, or wild game. Adventure, on the other hand, always occurs and is most unpredictable. When not hunting, I lounge around the house, pretending to be occupied.

Conversely, Brenda crawls around the yard on her hands and knees all summer—something I did a lot of when in college, but for different reasons. At the beginning of the summer, Brenda labors lovingly over our garden, planting zucchini, potatoes which have been in the family since the days of my homesteading experiences near Anchorage, and her raspberries. Delightful berries. Juicy berries. Luscious berries. In fact, Brenda's garden has literally been invaded and taken over by wild raspberries.

As the Interior Alaska summer draws on, Brenda begins her harvest in earnest. The initial victims of her rapacious gathering are the raspberries which fill the garden. Clothed in a thorn-resistant sweatshirt, Brenda spends hours on her knees in the garden, persistently plucking raspberries from the branches, in order to make jams and jellies for which she has become rather well known. During the process, she wages an incessant battle with the swarms of flies and mosquitoes which attack her. Occasionally, a mother moose will stop by to show off her new kids. Fortunately, the girls all seem to get along well. It is apparently a woman thing. Personally, I would prefer to kill them all (the moose, that is) if I won a permit.

The summer continues. Brenda's attentions next focus from raspberries to blueberries. Blueberries are the cream of the crop. The proverbial Holy Grail for the dedicated pickers. When the blueberries disappear, highbush cranberries are gathered. Personally, I do not care for highbush cranberries. They smell like dirty socks when cooked down to make

highbush ketchup. Highbush cranberries only had value when, as a kid, I used to squeeze them to squirt indelible red berry juice on my sister, Julie's white clothes.

When the "blue" and "high" bush cranberries are depleted, lowbush cranberries are gathered to make lowbush cranberry jelly and to freeze for use in baked goods. The product also is responsible for a very potent lowbush cranberry liqueur, which I feed to unsuspecting future DUI clients.

Brenda and I have an unspoken competition. At the end of each summer, we compare the respective biomass which we have acquired for the family. Although, traditionally, I argue that I have been far more successful in acquiring prolific poundage of salmon, moose, and other Alaskan wild game products, Brenda always insists that, on a quality basis, her berry stash far outdistances my bloody animal stash. Besides, my animal stash has been known to have some preservatives, mainly small amounts of copper and lead. Brenda's berry stash, conversely, is allegedly pure, if one ignores the sticks and leaves that need to be separated out.

As part of our competition, Brenda regularly tries to entice me to the wilderness, claiming it is good for me. To accomplish this task, the many virtues of berry picking are preached incessantly by Brenda, lauding the benefits of walking and bending exercises, breathing fresh air, and absorbing the beauty of the Alaskan outdoors. In response, I try to counter Brenda's arguments by proclaiming the therapeutic efforts of watching a Rambo movie on a big screen television from the safe comfort of a reclining chair while she brings me blueberry cobbler. It is then that Brenda reminds me, as well, that the blueberry cobbler is directly dependent upon the existence of the blueberry raw material. In the



"...baskets of commercial berries can be bought at almost any local grocery store. But, like vacations, it is the journey, and not the destination, which produces the spiritual rewards, I am regularly told."

end, my stomach wins out and I leave it to my VCR to record Rambo, while I try to play the Alaskan Rambo.

Years ago, it became apparent to me that the secret to a healthy marriage was to spend time with one's spouse doing what one's spouse enjoyed. In a weak moment, I agreed to go blueberry picking. Brenda said it fostered our quality time together. Besides, there would be collateral benefits in it for me after we returned home, I was promised. I was horny, so I accepted the offer.

Initially, I would accompany Brenda on her berry exploits by carrying an intimidating shotgun. Being the traditional male protector, I would sit idly on the hill attempting to read a novel while swatting at mosquitoes, my unloaded shotgun nearby, continually assuring Brenda that no bear would ever eat her. Personally, I wasn't scared of the bears. Rather, I was concerned for the bears, since I knew that none of them would stand a chance if they invaded Brenda's berry bucket. The shotgun was an unnecessary extra, but at least it had Brenda fooled. Eventually, Brenda became wise to my antics, and real-

Over the years, Brenda has treasured her various berry patches. Similar to a fisherman, who will never divulge a good fishing hole, Brenda never allows me to give away her secret locations.

ized that all I was doing was lying around paying little attention to her berry gathering. Moreover, as a guard, I was a miserable failure. Brenda reached this conclusion when I was once found sleeping while on guard duty on a hillside amid a patch of luscious unpicked berries. After that, I was ordered to pick berries as my penance.

Over the years, Brenda has treasured her various berry patches. Similar to a fisherman, who will never divulge a good fishing hole, Brenda never allows me to give away her secret locations. Not that she is above stealing other people's secret locations, of course. But, that is different. All is fair in berry picking. On the other hand, my life expectancy would be quite limited if I were to ever reveal one of Brenda's patches to anyone. Such prohibitions include even the dearest of our friends.

Years ago, I provided legal services to a famous, or not so famous, now convicted murderer known as Freddy West. Freddy is well known in the correctional system as "Cartoon Fred." At the time of my being retained, Freddy had been a major suspect in the death of Joe Vogler. In fact, he was the only suspect. Freddy had yet to be charged at the time, but was incarcerated for other reasons as an apparent pretext, Freddy had just been arrested for arson, having allegedly burned down a cabin that he was occupying on Farmer's Loop Road in a well-publicized standoff with the Alaska State Troopers. Freddy was famous for having unsuccessfully tried to kill himself by burning down the cabin. After the fire was extinguished, Freddy was found shivering in a crawlspace, suffering

from a serious case of hypothermia. Apparently, the local fire department had not pre-heated its water tanks.

I met with Freddy at the jail. I did my standard intake. During the course of the meeting, I asked Freddy how he intended to pay for my most valuable services. Freddy was quick to point out that his cartoons would someday be famous. Freddy offered to provide me with various paintings for compensation. Not wanting to insult Freddy, I still politely pointed out to him that I was not necessarily a lover of jailhouse graffiti. Although I would certainly take some of his paintings for prosperity, or posterity, as the case may be, Freddy's paintings would not really do the trick. Instead, my desire was for more basic economic return in the form of a substantial cash retainer.

Alas, Freddy could not provide the necessary economic incentive to continue his case. Try as he might, Freddy simply did not have such liquid resources available. This might have explained why Freddy was also considered by many to have been involved in a lifetime of purloining goods.

Fortunately, Freddy did have one item which was of value. During one of our meetings, I remarked to Freddy that my wife was out blueberry picking that evening. I told Freddy that this was why I had come to visit with him during the evening hours. Either I could visit clients, or pick berries. I joked about Brenda's distant hillside patch, and how I would do almost anything to avoid berry picking. Freddy pointed out to me, in response, that he, too, was an avid blueberry picker. I was surprised over such a politically sensitive revelation coming from a suspected killer. Freddy had a sensitive side. With tears in his eyes, Freddy confessed that he longed to be free to pick blueberries once again in the Alaskan wilds. Sadly, it was apparently not to be. (Later, Freddy confessed to other, less sensitive things, also.) Still, Freddy had already accepted his fate as most likely being a long-term resident of the Alaska correctional system. Perhaps, that is why Freddy shared one of his greatest secrets with me, far more intimate than the details surrounding Joe Vogler's death.

In a moment of weakness, Freddy told me that he would allow me to tell my wife about his most favorite super blueberry patch. According to Freddy, it was located quite near to the scene of the alleged arson. It was a most stupendous and well-producing blueberry patch, yielding blueberries of marvelous girth and devastatingly delightful juiciness from tenderly cared-for plants. I agreed with Freddy that, this information would be a most valuable reward. I promised that, in exchange for such, I would continue to provide legal consultation until such time as Freddy was actually charged with the death of Joe Vogler.

The deal struck, Freddy did provide the map to the blueberry patch. The only other map that Freddy ever produced while in jail led to Joe Vogler's body. Bidding farewell to my client, I promptly informed Brenda of the patch location. Scarcely saying goodbye, Brenda jumped in her car and drove to the spot. To my surprise, the site was located directly

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Ode to Big Blue

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behind Freddy's burned out cabin on Farmer's Loop Road.

At this juncture, one might ask: "Why does Bill reveal this most secret location at this point in time? Is he an idiot?" Hardly. It is just that I am immune for this act of treason. As they say in Fairbanks hockey, "No harm. No foul." For several years, Brenda avidly picked blueberries at her secret location. I personally loved the spot. It was less than 2 ½ miles away from our house, was a safe location, and had cell phone coverage. Moreover, I liked the place because it was devoid of bears.

Eventually, all good things come to an end. The property was ultimately purchased by a local excavation contractor. Less than one year later, the contractor had leveled the entire blueberry patch to make room for his ultralights. To Brenda's anger, the contractor had covered the field with tons of dirt. Brenda was devastated. She entered almost into a clinical depression. For a time, I feared that she might actually become a contractor killer (as opposed to a contract killer). It took me quite some effort to explain to Brenda that there was no known legal cause of action for suing the contractor for destroying the berry patch, especially recognizing that he had purchased the ground at fair market value and in good faith. Then again, Brenda countered, it all depended upon who was the judge. "Were they hunters or gatherers?" she queried. Brenda obviously was going to be difficult.

Eventually, Brenda instructed me to immediately find another berry patch. If I did, she would forego litigation, and our marriage would survive.

Fortunately, Freddy's berry patch was not the first berry patch that I had located. We had a default location. Years previously, I had found a berry patch on the Elliott Highway several miles outside of Fairbanks. Again, it involved client confidences, but the client, as well, was willing to let me talk. The patch was located in a vast burned out area. It had what I termed "Boone and Crockett" blueberries. For years, Brenda enjoyed picking the patch. One day, we decided to take our two children, Marianne and Kathryn, who had finally grown up from being toddlers, to enjoy a day in the sun. Per Brenda, we would all happily pick berries.

Parking the family car at a wayside, we left the Elliott Highway and hiked toward the patch. A burned out area from a previous forest fire, the land was replete with blueberries and mushrooms in one of the first stages of reclamation. We hiked up the hill several hundred yards into the target area and began picking in earnest. For the next several hours, the family delighted in plucking scads of ripe blueberries from bushes. Brenda soon had buckets of bounty to show for her efforts, while the girls and I had bloated bellies, but little else to show for our efforts. Brenda was proud of my efforts. Even I became active in the process, which, in retrospect, was likely a mistake.

As luck would have it, when it came time to leave, I stood up to get my bearings. I suddenly recognized that we had turned around several times. I was disoriented. As I looked

around, I also recognized that the one thing that burned out areas have in common is that they look absolutely totally alike. Every burned tree looks like the other, and grass is grass, (except during college). In short, there

"No Trespassing" signs, my only other option was to look elsewhere.

Eventually, I located a still-producing patch that yielded a massive quantity of blueberries. Although the patch was not as close as the Freddy

In a moment of weakness, Freddy told me that he would allow me to tell my wife about his most favorite super blueberry patch. According to Freddy, it was located quite near to the scene of the alleged arson. It was a most stupendous and well-producing blueberry patch, yielding blueberries of marvelous girth and devastatingly delightful juiciness from tenderly cared-for plants. I agreed with Freddy that, this information would be a most valuable reward. I promised that, in exchange for such, I would continue to provide legal consultation until such time as Freddy was actually charged with the death of Joe Vogler.

was no such thing as a gauge by which one could judge direction. Moreover, during our picking process, the sun had set. It was now rapidly becoming twilight.

Wanting to appear every bit the capable father and husband, I confidently told the family that the highway was "off that direction." Our trajectory set, we began the thousand mile march out of the burn area.

For almost an hour we trudged in a very large circle. Eventually, even my two young daughters, the oldest of whom was scarcely 7 years old, began to realize that they were in trouble. Tears began to flow. Cries of anguish abounded, indicating that we were lost forever. Brenda, as well, was not pleased with my sense of direction, but actually seemed to be more upset with how I was acting out my fears, given my tears, cries of anguish and all. The kids seemed to handle it rather well, however. It was only after we stopped for a while and I quieted down, and listened for sounds, that I heard highway noise in the far distance. Not that highways make sounds. But, cars do. The noise clearly represented civilization.

We then followed our ears for another one-half hour, arriving eventually at the Elliott Highway, quite some distance from where we had parked the car. We then hiked up the highway for over two miles, located the car, and safely returned home. For me, I secretly hoped that I had cured Brenda of her desire to venture into the wilds.

The following year, it took quite some coaxing by Brenda to get the family to go berry picking. Despite my attempts to remind the girls of the trauma of the previous year, their memories seemed to be pleasant. Still, Brenda did have some concerns about my woodcraft. It was only after Brenda purchased several rolls of florescent orange surveyor's tape that we embarked on the expedition. In the end, it was a well-marked path. Surveyor's tape was tied around burnt trees approximately every 10 feet leading from the car to the berry patch. No one, including ourselves, ever became lost in that area again. The secrecy of the patch, however, was seriously compromised in the process.

After the loss of the Freddy West patch, I once again began a search for the ultimate "Blueberry Heaven." Unfortunately, due to the fact that the Elliott Highway patch had since been purchased by a private landowner who had posted the area liberally with

West Patch, nor as far as the Elliott Highway Patch, it was certainly an extremely productive patch. It has been so over the years. In fact, at the time of this article, it is still producing prolifically, and is Brenda's favorite haunt.

Friendship is a treasured thing. It takes years to develop close friends. Brenda and I are lucky to have a number of friends. Some are younger and some older. One of those older friends, Wally, lost his wife a number of years ago. Brenda and I have taken a special liking to Wally. In many respects, we have effectively adopted Wally into our family.

One day, following dinner at our house, Wally confided to Brenda that

one of his greatest loves is picking blueberries. I stared at Wally suspiciously. He certainly didn't look like the killer type, but, then again, neither did Freddy. I silently questioned if Wally was trying to put the make on my wife. Whether Wally uses his berry fetish as a come-on to meet women or not it still in question. What I will say, however, is that Wally's revelation to Brenda was the key to her heart. For once, Brenda had found someone who liked picking berries as much as she, and that person was not in custody.

The following day, Brenda and I drove through the Goldstream Valley. As we entered the bottom of the valley, we decided to pick some blueberries. We drove to a proven picking location. It is a peat bog. In fact, it is so well known as a berry patch that it even has a conspicuous, artsy sign announcing "Blueberry Patch" posted near it. The patch is at the bottom of Ballaine Road, in case anybody has missed it. Fortunately, I can release this information because Brenda abhors picking in swamps. She tends to get bogged down.

We parked our vehicle on the edge of the road and began to pick blueberries in earnest. Soon, we heard the rustle of brush. As we looked up, Abby, a Springer Spaniel belonging to Wally, came exuberantly bounding out of the nearby woods. Abby's tongue was whipping wildly left and right.

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Ode to Big Blue

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She began barking happily at our presence. We let out a yell for Wally and were immediately answered in return by a hearty hale. Wally was in the area picking blueberries, as well. Either that, or his dog was.

We joined Wally and picked blueberries for over an hour. Still the pickings were slim. The end yield, unfortunately, was not encouraging. This failure prompted both Brenda and I to tell Wally that we knew of a better location up the Steese Highway which was far more productive. Breaking all rules, we invited Wally to go picking with us. But first, two critical conditions had to be met.

The first condition was that Wally could never disclose the location of the blueberry patch to anyone. Abby was the only exception, but Abby was a dog. After all, we were bringing Wally into Brenda's inner sanctum sanctorum. In sealing the deal, Brenda made it quite clear that, to disclose the blueberry patch to anyone would be punished by excommunication, even if Wally were not Catholic.

The second condition was that Wally could not use any of those modern blueberry picker devices. All picking was to be done solely by hand, thus preserving the biologic integrity of the patch. Blueberry picker devices are handheld baskets with wire teeth which strips the blueberries rapidly from the bushes.

According to Brenda, the use of such baskets not only ends up making berries harder to clean, but Brenda also strongly believes that the blueberry picking devices destroy the foliage and renders them less productive for the following year. Still, it is not a scientific conclusion. Regardless, it does not matter to Brenda that the Cooperative Extension Service for the University of Alaska disagrees. After all, Brenda, a self-ordained yet revered local expert on blueberries, has certain inviolate rules, which must be strictly followed. No exceptions.

Wally, desperate to pick blueberries, and perhaps, in retrospect, under duress, agreed to both of Brenda's conditions. The agreement was not taken lightly. It was the same as swearing a blood oath to Brenda.

The following evening, we took Wally and Abby to Brenda's secret blueberry patch. Initially, we thought about blindfolding both of them, but declined otherwise out of respect for Wally's age and Abby's inability to speak English. When we arrived at the patch, it was almost too much for the older gentleman to handle. Wally was ecstatic. Bubbling over with glee, Wally unabashedly announced that it was the best blueberry patch that he had seen in years. He could readily understand why Brenda guarded it so jealously. Abby liked the patch also because it had lots of sticks waiting to be thrown and bushes to hide behind. For the next two hours, Wally picked to his heart's delight. When the sun finally set, all three of us left the blueberry area, stomachs satiated, buckets full, and pants adorned with the ubiquitous purple patches symptomatic of ardent pickers.

The following day, we attempted to contact Wally to see if he would like to go blueberry picking again. Despite valiant attempts to reach Wally both

at home and at work, as well as on his cell phone, we were unable to reach him. We did not know at the time that Wally had lost his cell phone while blueberry picking, only to have it found a week later by somebody who had stumbled into the patch. So much for secrecy. Perhaps, the cell phone's ringing had given it away.

Not being able to locate Wally, Brenda and I decided to go picking by ourselves. We were somewhat saddened, because Wally had actually been fun to have along. Still, time and berries wait for no one.

After parking our car, Brenda and I hiked to the patch. As we neared our destination, we heard the unexpected rustle of brush. Fearing an ever-present bear, Brenda and I were both startled when we looked up to see Abby come bounding happily out of the brush. As usual, Abby's tail was wagging and her tongue was flapping. Abby was barking uncontrollably, announcing our presence to the world.

Abby's presence did not bother us. In fact, Brenda and I were actually rather pleased that Wally had found our patch to be so attractive. Still, we questioned why Wally had decided to come and pick on his own, rather than inviting us. Either that, or someone had forgotten to take Abby home from the prior evening. Our answer was not long in coming.

In short order, from behind a patch of brush, Wally stood up, waving at us and yelling out a jovial "Hi Bill, Brenda!". Relieved that Abby had not been abandoned after all, we returned Wally's greeting, waving and smiling in return.

Less than ten seconds later, about 50 to 60 feet distant from Wally, another individual also stood up, timidly announcing, "Hi Bill, Brenda!". This person was a female and clearly a newcomer to the patch. She also appeared to know us from the sounds of her less than confident greeting.

The air close to me suddenly chilled. Brenda's smile had vanished. Personally, I thought that we had entered an early frost. Lowbush cranberries began to drop from the bushes, which were not even scheduled to ripen until after the first frost. Brenda was not particularly communicative at that point, although I did return the greeting. Following the initial surprise, I recognized the woman who was picking blueberries with Wally as a mutual friend. Meanwhile, the air around Brenda changed from chilled to downright super-frozen. Alaska had found the cure for global warming. But, it was not just that Wally had brought an outsider to the patch. To add to the drama, each individual had in their hand one of the flatly prohibited berry pickers.

Try as I might to explain to Brenda that it was obviously an innocent mistake, Brenda would have none of it. Clearly, Wally had broken both of Brenda's most sacred rules. It was not going to be pretty. Even Abby, who lacked opposable toes, and thus was not a threat to the berries, quieted down a bit.

Although, due to our long friendship, we were cordial with Wally, it took over a year before Brenda was fully able to bury the hatchet, and not in Wally's back as I first expected. Eventually, forgiveness bore out, and Wally is once again authorized and

allowed to accompany us on our berry picking expeditions, albeit he must wear a blindfold. But, Brenda and I still tease Wally about his transgression whenever the opportunity permits, which is often and every time we see him. After all, ridicule is a price that Wally must forever pay. Forgiveness is not free when it comes to blueberry burglarizing.

Blueberry picking is not without other costs. The economic return from blueberry picking is actually insignificant. After all, baskets of commercial berries can be bought at almost any local grocery store. But, like vacations, it is the journey, and not the destination, which produces the spiritual rewards, I am regularly told. Still, financially speaking, berry picking is a total loser. Setting aside general overhead items such as an attorney's billable hourly rates, the cost of gas, and vehicular wear and tear, one invariably finds that various personal articles of clothing become super-saturated with indelible blueberry juice, human knees are ripped into shreds, and there is always the

told her that I had the same problem, and that maybe we should both retire earlier the next evening after a candlelit dinner. Brenda quickly admonished that she was only visualizing blueberries and nothing more.

There are some things in a family relationship that one simply does not mess with. Brenda's blueberry patches are one of those. Several years ago, during a family argument, I made a threat in anger to Brenda which should have never been made. Wanting to score a point, I realized that one way of getting even with Brenda for an issue that had arisen was to reveal her secret patches to the world. Armed with this knowledge, I threatened to take out an advertisement in the local newspaper to disclose two of Brenda's most favorite patches, complete with directions and a map. Brenda's reaction was one of unmistakable "extreme prejudice." Quickly, I realized that, if anything were to jeopardize the marriage, such an act on my part would have brought swift and unacceptable retaliation. Eventually, cooler heads prevailed. To

Recognizing the trend which is now occurring in Alaska with respect to domestic violence allegations, it will not be long, I suspect, before revealing a spouse's favorite fishing hole or blueberry patch will be added to the reason to enter a domestic violence restraining order. And, perhaps, it should be.

battle with the ever-present mosquitoes and no-see-ems. And, woe be to the hapless person who trips over a stick and spills the plunder! Although I have yet to see any predators other than myself while picking berries, I am told that such do exist in the wilds. As such, one is usually well advised to carry a can of bear spray. If nothing else, the bear spray can be used on other people who stumble into the blueberry patch, if necessary. But, remember that the bear spray is to be applied to the bear, and not to oneself, but vice versa when it comes to using mosquito spray.

Similar to fishing or hunting, the work in blueberry picking is not over once the berries are picked. Rather, following a bountiful blueberry picking episode, Brenda will stay up until the wee hours of the morning individually sorting the berries. Each berry must be just the right circumference, and cannot be squished. At the end of each session, Brenda, ever the consummate teacher, grades my production for both quality and quantity.

In addition, there are the inevitable stomachaches which occur once somebody has picked blueberries. Every season, quite a few of the morsels will usually make their way into the stomach, as opposed to into the bucket. Then, there is always the trip to the doctor the following day, when one fears that they are suffering from some strange gastrointestinal disease which has drastically changed the color of their effluent to suggest a bleeding ulcer.

Then there are the psychological imprints. Years ago, after a particularly invasive encounter with Alaska blues, I remarked to Brenda that I had experienced some rather weird dreams. In response, Brenda said that she had gone to bed quite tired and that she had dreamed of little blue balls all night long. I concurred and

ensure my survival, I unequivocally agreed to never release the locations in anger. After all, it could be one of my last acts on earth.

Recognizing the trend which is now occurring in Alaska with respect to domestic violence allegations, it will not be long, I suspect, before revealing a spouse's favorite fishing hole or blueberry patch will be added to the reason to enter a domestic violence restraining order. And, perhaps, it should be. For, if one chooses to reveal such a secret location in an act of retaliation, it can be expected that, in short order, serious violence will follow. It is better to curb such outbreaks in advance.

Finally, in closing, I have learned from some that it is actually unusual for many people to read my articles completely in one sitting, if they choose to read them at all. As such, for those that have endured this misadventure, I can only accept that they must be truly dedicated blueberry pickers. Given such devotion, I believe a suitable gift is in order, for it is rare to see such interest. Let it be clear that I am bestowing this as a gift of gratitude, and not out of any sense of anger or retaliation against anyone.

Brenda and I are obviously getting older. With time, memories fade. Also, with age comes the desire to pass on one's heritage and experience. As such, I would unilaterally like to reveal the location of our most favorite patch on the Steese Highway, as a reward to all, and for our posterity for generations to come. Again, it is not out of any retaliation against Brenda. That would be cruel. Rather, I prefer to think of it as our mutual, eternal gift to the world! (And, besides, it will let me stay home this fall to pursue more enjoyable things, like readying my rifles for the moose season and watching Rambo remakes.) So here it goes, folks!

It is at . . .



Anchorage defense attorney John Murtaugh makes a point during OPEN COURT while fellow defense attorney Leslie Hiebert listens.



Anchorage OPEN COURT participants gather in the Snowden Training Center.

Courts continue community meetings in May

Chief Justice Dana Fabe hosted the second Anchorage OPEN COURT on May 8, 2008 shortly after the Alaska Judicial Conference. More than 40 attorneys, judges, and members of the criminal justice community attended the program, which focused on the theme Avoiding Delay in Criminal Felony Cases: New Initiatives for Timely Disposition. OPEN COURT is a community outreach initiative that seeks to address practical problems in justice delivery by bringing members of the professional community together for informal exchange and problem-solving, then sharing outcomes with the public. The next OPEN COURT session will take place in Kotzebue on May 29, where the theme will be Keeping Kids in School: Responding to Truancy in Our Community. The Nome Open Court will be held on the following day, May 30, where the topic of focus will be Underage Drinking: Ensuring an Effective Community Response.



Chief Justice Fabe meets with Commissioner of Public Safety Walt Monegan, L, and Commissioner of Corrections Joe Schmidt, R, during a break in the Anchorage session.

Photos by Barb Hood

In Memoriam

Harland W. Davis

Former Anchorage resident Harland Walker Davis died April 7, 2008, on Interstate 75 near his home in Apollo Beach, Florida.

A memorial was given on April 19, 2008 at Sun City Center Funeral Home in Sun City Center; Fl. Harland's ashes will be spread later in Florida.

Mr. Davis was born May 26, 1924, in Highland Park, Michigan, to Harry and Cecil (Harland) Davis. He graduated from Lincoln High School in 1941.

Harland enlisted in the USMC on Dec. 15, 1941 and fought in the Carlson's raiders unit in the Asiatic Pacific theater, Honorably discharged in Dec. 1945. He enlisted in the U.S. Army Corps of Engineers in 1948, which brought him to Alaska as a surveyor, and discharged honorably in 1952.

Mr. Davis entered the University of San Francisco in 1955 and graduated from their law school in 1959. In 1960, Harland took a job as the city Attorney's aide for the City of Anchorage and applied to the Alaska Bar Association. Harland was admitted to membership in the Alaska Bar Association on February, 10, 1961. He later became the city Attorney and acted in that capacity during the 1964 Earthquake. He later went into private practice. In 1982, Harland retired and moved to the home he built in Apollo Beach, Florida.

Harland was a life member of the Anchorage Ski Club and National Rifle Association, an Elks member for 37 years, and was active in the Alaska chapter of the American Heart



Harland Davis

Association.

"I remember Harland well during the Earthquake as my father was a member of the City Council at that time. He was strong, resourceful, and a commanding figure. He was always a good man and a patriot who loved his city and country. May he find peace in his eternal rest. May his family know that he is remembered for his service to his community and nation," said Perry Green, of Anchorage.

He is survived by his son and daughter-in-law, David H. and Candace L. Davis, grandchildren, David, jr. and Chandra of Peters Creek, Alaska.

Leland Ben Hancock

Leland Ben Hancock, 69, died April 23, 2008, at Providence Alaska Medical Center.

Ben was born Sept. 4, 1938, in Anchorage. He graduated from Anchorage High School, earned a degree from the University of Washington, was in the National Guard, and later graduated from the University of Washington Law School.

A lifelong Alaskan, Ben practiced law in Anchorage in the early 1970s and moved with his family to Kodiak Island, where he lived and practiced law until his retirement in 2002. He was president of the Kodiak Bar Association during his practice there. After leaving Kodiak, he traveled extensively and settled again in Anchorage.

Ben was active in the Elks, Lions, Pioneers of Alaska, Moose, Kodiak Bar Association, American Legion and the Salvation Army. He enjoyed river rafting, fishing, entertaining and cooking. Kodiak residents remember Ben as the guy always selling raffle tickets for one cause or another.

He was preceded in death by his parents, Lee Hancock and Mary Alice

Jones, and cousin, Larry Hancock. He is survived by his brother, John and his family. He leaves behind his wife, Suzanne; sons, Thomas and Joseph; and grandchildren, James and Denise, and their mother, Claudia Hansen. Other family members are stepmother Laura Hancock and step-siblings, Ramona, Calvin and Wilson Justin; and his half-brother, Roy Hancock.

A reception was held in his honor at the American Legion Post 28, 7001 Brayton Drive.

Ken Jensen

Longtime Alaska resident and attorney Ken Jensen, 72, died Jan. 11, at Providence Alaska Medical Center. He was surrounded by a circle of his loving family and friends, hand in hand.

Born Oct. 6, 1935, in Evanston, Ill., Ken was aware at just 3 years old that he wanted to practice law.

He came to Alaska in 1948 and was an alumnus of the last graduating class of Anchorage High School in 1953. He then attended the University of Alaska Fairbanks, where in 1955 he met Nancy, the love of his life. They celebrated their 51st anniversary this past July.

Ken graduated from UAF in 1957. He completed his law degree at Catholic University of America in 1962 while also working as an assistant to Alaska U.S. Sen. E.L. "Bob" Bartlett.

He began his law practice in Anchorage in 1963 and later formed the private law firm Jensen, Harris and Roth. Ken and his partners built Resolution Plaza, a corporate building located at the bluff of Third Avenue and L Street, in 1986.

Ken represented hundreds of Alaskans throughout his 45-year legal career, with an emphasis on personal injury, litigation and construction

law. Over the years his clients included the City of Cordova, the town of Crown Point, the Bristol Bay Salmon Fisheries and countless construction and electrical contractors. He also served as a past vice chair of the Alaska Police Standards Council and past chair of the Alaska State Local Boundary Commission. He was the current treasurer of the board for Cooper Landing Emergency Services and Volunteer Fire Department.

Ken's personal passions included boating on Kenai Lake, gardening and woodworking, reading and watching the sun set with Nancy from their deck overlooking the Kenai River. He was a lifelong optimist who believed that anything was possible, even perhaps his dream that the Chicago Cubs might someday win the World Series.

His family remembers him for his unconditional love, fairness, advice and comfort, his sharp wit and candor, and his sense of humor. He was a great storyteller, especially about his experiences and his knowledge of Alaska history and law.

He is survived by his wife, Nancy; son and daughter-in-law, David and Carol Jensen; son and daughter-in-law, Paul and Laurie Jensen; daughter and son-in-law, Laura and Phil Castleman; nine grandchildren; and three great-grandchildren (and two more on the way).

A celebration of his life was held this spring in Cooper Landing. The family requests that any donations, in lieu of flowers, be sent to Cooper Landing Emergency Services Inc. at P.O. Box 510, Cooper Landing 99572.



Ken Jensen

Judge Stewart honored as Constitutional hero

Historical Bar



Thomas B. Stewart was memorialized at gatherings in Juneau & Anchorage during April

By Bruce Botelho

In 1999, reflecting on those who came of age during the Depression and World War II, Tom Brokaw first wrote of America's Greatest Generation. He describes it as a generation "of towering achievement and modest demeanor." Not coincidentally, these words describe Alaska's "greatest generation" and the man who best personifies it: Tom Stewart. Tom passed away in December, days short of his 89th birthday.

Tom Stewart was a man of many and varied accomplishments, a war hero who fought in both the Aleutian and Italian campaigns, a private practitioner and assistant attorney general, Alaska's first state court administrator, and presiding judge of the superior court for the first judicial district. But his legacy—the role he played in the formation of Alaska's state constitution—is what bears retelling today. It is the story of his generation in Alaska.

All stories have a beginning. This one could start at several places, but I begin in 1945, ten years before the Alaska Constitutional Convention.

Ernest Gruening, Alaska's territorial governor at the time, was a rabble-rouser of the worst sort because he was fearless in taking on all comers on issues he felt passionate about. Alaska self governance was at the top of his list. Which put him at the top of the enemies lists maintained by the Seattle-based canned salmon industry and other Outside mining and transportation interests. In 1945 he requested that the territorial legislature call for a referendum on statehood. He also successfully worked his boss, the Secretary of Interior to express support for Alaska statehood. And, in turn, in his first state of the union message in 1946, President Truman called for statehood for both Hawaii and Alaska. The 1946 referendum passed 3-2. A similar 1948 referendum passed overwhelmingly. That election also brought a decidedly pro-statehood legislature into office. When it convened in 1949, it immediately established a bi-partisan organization, the Alaska Statehood Committee, to promote statehood. Among the committee's charges was to prepare for a constitutional convention. However, during the ensuing five years, the Alaska Statehood Committee primarily focused on mobilizing action at the federal level where the debate over admission was taking place.

In 1950 a bill to secure statehood for Alaska passed the U.S. House of Representatives, but died in the Senate. Next year, it was the Senate's turn to take the initiative, but it failed. Then Eisenhower, elected President in 1952, endorsed Hawaii's admission, but failed to include Alaska—largely,



Caleb Stewart addresses the crowd on behalf of the Stewart family at a celebration of his life in Juneau April 5.

it was assumed, on the basis that Hawaii would elect two Republican senators—thus furthering Republican's tenuous control of the Senate.

In early 1953, Wendell Kay, a Democrat from Anchorage proposed legislation calling for a constitutional convention during the 1953 legislature, but was rebuffed. Even the Alaska Statehood Committee opposed the idea, believing that it should first await an enabling act by Congress, though Hawaii had undertaken the very approach advocated by Kay in 1950.

Senate field hearings were held in Alaska in August 1953 so that, as Nebraska Senator Hugh Butler, a statehood opponent, put it, they could hear from the "little people—not just a few aspiring politicians." [Vic Fischer was one of the organizers of "Little Men for Statehood", when hundreds of ordinary Alaskans met the senate delegation at the railroad station. That effort led to the formation of "Operation Statehood", a grassroots effort that Vic led as vice president.] When a Hawaii bill passed the House in 1953, the Senate merged it with an Alaska statehood bill and passed it back to the House where it died in committee.

Thus Alaska's aspirations for statehood had simmered in a caldron of territorial and national politics, but in 1954 the pot boiled over. Here's a brief summary of events:

- There's another defeat in moving a statehood admission bill in Congress
- Governor Frank Heintzleman, appointed by Eisenhower, calls for partition of the territory
- Rep. "Doc" Miller of Nebraska, chair of the house interior and insular affairs committee—and an opponent of statehood—suggests that Alaska might make more progress on statehood, if it first convened a constitutional convention
- Gruening publishes his work *The State of Alaska*
- A visit to Anchorage by then-Secretary of Interior Douglas McKay who declares that he's sick and tired about being kicked around by Alaskans

and that it was high time that Alaskans started acting "like ladies and gentlemen".

• A visit from the 1952 Democratic presidential candidate Adlai Stevenson, who strongly endorsed statehood for Alaska.

In the October 1954 Territorial elections, almost every candidate for legislative office supported statehood, but the Democrats capitalized on the Republican territorial and national administrations, declaring: Vote Democratic if you want statehood for ALL Alaska, NOT partition of Alaska. The result? It's summarized in the October 14, 1954 headlines in both the Juneau Independent and Alaska Daily Empire: Democrats Win Landslide Victory in Legislature.

Democratic legislators-elect gathered in Fairbanks at the home of Alex Miller, the Democratic national committeeman for Alaska. They decided that a state constitutional convention would be their top legislative priority for the session. They turned to one of their freshmen representatives to organize the effort: Thomas B. Stewart, then an assistant attorney general for the territory.

Tom took on the task with zeal. Resigning his position as assistant attorney general, he left Juneau on November 2 and for the next six weeks, met with scholars and politicians alike around the country to learn about how to go about organizing a constitutional convention, issues that in some small measure organizers for this convention had to resolve:

- What sort of research should be assembled?
- What sort of staff should there be and how should they be organized?
- Where should the convention take place (in the state capital or elsewhere)?
- How should delegates be selected? Should it be partisan or non-partisan?
- How should convention committees be organized?

Continued on page 25



Susan Condon, Wilson Condon, and Justice Walter Carpeneti, Master of Ceremonies, honor Stewart in Juneau.



Jack Roderick; Presiding Judge Patricia Collins, First Judicial District at Juneau; and Ann Rabinowitz attended the Juneau event.

Judge Stewart honored as Constitutional hero

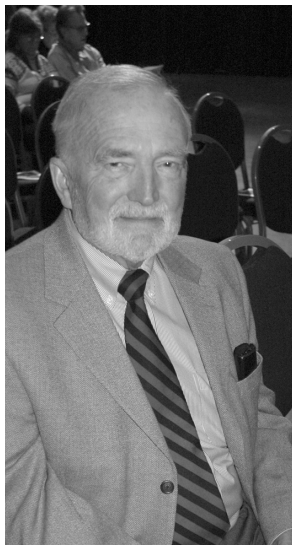
Historical Bar

Continued from page 24

When the 1955 legislature convened, Stewart was designated chair of the committee on statehood and federal relations; Bill Egan was his counterpart in the Senate. The committees then functioned as a joint committee which Stewart chaired. Under his leadership, CS for HB 1, which called for the holding of a constitutional convention and a vote of the people for ratification or rejection, became Chapter 46, of the Session Laws of Alaska 1955. Among its features:

- It called for territorial elections to be held that September
- The elections were to be non-partisan and based on election districts designed to make sure that communities large and small around the territory were represented
- It set a November 8 date for convening the convention in College, rather than in the capital city
- It gave the convention a 75 day time limit in which to act, and
- It appropriated \$300,000 for the purpose of developing the constitution and any necessary ordinances.

Many honor Stewart in Juneau



Judge Victor Carlson (Ret.) offered reflections on Judge Stewart's years in the judiciary. Stewart served as Administrative Director of the Alaska Court System in the early 1960's, before he was appointed to the Juneau superior court bench by former Governor William Egan in 1966. Stewart retired from the court in 1981, but remained active in the legal and judicial communities throughout his life and was often called upon to explain the Alaska Constitution's Judiciary Article and the importance of judicial independence.



Susan Burke, long time Juneau attorney and member of the Juneau Symphony, spoke about Tom Stewart's many contributions to the arts. Her remarks included a surprise video of Stewart singing the part of "Captain Willis" in a 1980's Juneau production of the musical Iolanthe.



Justice Robert Eastaugh and his sister Alison Browne attend the Celebration of Life for Judge Thomas Stewart in Juneau

The \$300,000 for convention was an incredible sum to appropriate. It came with an unwritten understanding from the house finance committee chair and other legislators that Stewart would assume the executive directorship of the Statehood Committee and be responsible for all pre-convention studies and expenditures.

Stewart began work immediately following the conclusion of a legislative special session and, over the course of the next seven months, coordinated efforts to inform Alaskans and learn from them what their aspirations were for a state constitution. Research for the delegates were prepared; articles were written for general circulation in order to inform the public about modern trends in government. Then there was the convention logistics and management issues: housing, space for the plenary and committee sessions, support staff and consultants.

When the convention convened at College in November 1955, Stewart was selected to be the convention secretary, in essence the chief administrative officer of the convention, responsible for all the record keeping, journals, the daily calendar, tracking of all proposals, and supervision of the consultants. Katie Hurley was his chief assistant.

You have all studied the work accomplished by the convention in its allotted time. The Alaska

State Constitution was ratified in April 1956. It took two more years for admission legislation to triumph in Congress. Alaska became a state with the statehood proclamation signed by Eisenhower on January 3, 1959.

Let me conclude with two observations:

First, the convention was both a vehicle and an end in itself. It was a vehicle to apply more pressure on Congress to act on statehood. But the convention's explicit achievement, the constitution, has served Alaska well in its first fifty years.

Second, there are other heroes in and of the convention, chief among them the convention's

president, Bill Egan. And, in the larger picture, other heroes of the statehood movement, like Ernest Gruening and Bob Bartlett—I urge you as students and citizens, to learn more about them and their struggles on behalf of Alaska. But Tom Stewart's painstaking efforts over many months truly created the framework for our constitution, still regarded as a model of clarity and modern governance. Let it be said of him that he was the finest of Alaska's greatest generation, a man of towering accomplishment and modest demeanor.

—UAA Student State Constitutional Convention, Anchorage, April 11

Tom Stewart's painstaking efforts over many months truly created the framework for our constitution, still regarded as a model of clarity and modern governance. Let it be said of him that he was the finest of Alaska's greatest generation, a man of towering accomplishment and modest demeanor.

Why Not?



Color of Justice

Encouraging Diversity in the Judiciary

Thursday-Friday, June 19-20, 2008

University of Alaska Anchorage & the Alaska Court System

Workshops on Law & Legal Careers Taught by Northwest Law School Professors and Alaskan Judges and Attorneys

Presented in Three Tracks:

ADVISORS TRACK, for Educators, Youth Program Leaders or Career Counselors:

June 19 from 9:00 AM – 5:30 PM; June 20 from 8:30 AM - 7:30 PM

HIGH SCHOOL TRACK, for Students in Grades 9-12:

June 19 from 10:00 AM – 5:30 PM; June 20 from 8:30 AM – 4:30 PM

CAREER TRACK, for College Students or other Interested Adults:

June 20 from 3:00 PM – 7:30 PM

Registration (including meals) is FREE!

For more information, to obtain a registration form, or to apply for travel assistance, please see our website: <http://www.state.ak.us/courts/outreach.htm>, or contact Margaret Newman, mnewman@appellate.courts.state.ak.us, 907-264-0864.

Made possible through generous financial support from:
The Council on Legal Educational Opportunity [CLEO], a program of the Thurgood Marshall Legal Educational Opportunity Program, U.S. Department of Education and **The Law School Admission Council [LSAC]**

With additional support from:



Race Judicata

Over 140 participants took part in the Young Lawyers Section of the Anchorage Bar Association's fourth annual running of Race Judicata. The law firm sponsors included the Durrell Law Group, P.C., Feldman, Orlansky & Sanders, Foley & Foley P.C. and Pope & Katcher. Allen Clendaniel of Dorsey & Whitney LLP ran away with the fastest attorney licensed in Alaska award while the Law Firm Participation award was dominated by Clapp, Peterson, Van Flein, Tiemessen & Thorsness, LLC—distant but honorable mentions going to Dorsey & Whitney and Christianson & Spraker.



Christina Rankin with Guess & Rudd and Joshua Ahsok of DeLisio Moran Geraghty & Zobel, PC



Fastest Alaska Licensed Attorney—Allen F. Clendaniel of Dorsey & Whitney LLP



Anchorage Youth Court and Young Lawyer Volunteers



Luch sisters in victory



Sharon Leon with AYC



The Law Firm Participation Award went to Clapp, Peterson, Van Flein, Tiemessen & Thorsness, LLC shown here with Tom Van Flein (and daughter Heidi).

Photos by Katie Potton

Top 50 Race Judicata finishers

1 John Moe	16:51	26 Jeff Barber.....	22:42
2 John Collins.....	17:42	27 Eric Lawless.....	22:46
3 Todd List.....	18:24	28 Brandon King.....	22:58
4 Brent Luch.....	18:25	29 Ty Hampton.....	23:03
5 Tyler Maxwell.....	18:52	30 Michelle Bittner.....	23:13
6 William Beveridge.....	19:31	31 Tiimoth Minnickle.....	23:14
7 Gordon Pospili.....	19:42	32 Stephanie Lentfer.....	23:31
8 Daniel Torgerson.....	19:52	33 Brian Dean.....	23:39
9 Thomas Burton.....	19:53	34 Angela Torgerson.....	23:46
10 Bob Davis.....	20:10	35 James Ferguson.....	24:04
11 Chad Fiulgre.....	20:41	36 Michael Grisham.....	24:11
12 Letitia Luch.....	20:47	37 Victoria Clarke.....	24:17
13 Hendrick Van Hemert.....	20:53	38 Brian Hudson.....	24:21
14 Delia Luch.....	20:59	39 Tucker Minnick.....	24:22
15 Allen Clendaniel.....	21:00	40 Cori Schleich.....	24:26
16 Marce Lyn Luch.....	21:01	41 Valerie Schleich.....	24:30
17 Steve Scoidino.....	21:52	42 Scott Hahn.....	24:39
18 Erin Johnson.....	21:55	43 Doug Torgerson.....	24:44
19 Andrea Neeser.....	21:58	44 Chris Lutgs.....	24:53
20 Douglas Johnstone.....	22:06	45 Don Edwards.....	24:57
21 Jody Oybn.....	22:10	46 Lloyd Miller.....	25:03
22 Andrew Stoltz.....	22:12	47 Kegan Williams.....	25:10
23 Thomas Mack.....	22:26	48 Corrie Smith.....	25:13
24 Mark Fineman.....	22:32	49 James Gutsch.....	25:22
25 Kirk Fischer.....	22:34	50 Bill Falsey.....	25:24

ATTORNEY DISCIPLINE

Amy Simpson suspended

The Alaska Supreme Court on February 5, 2008 suspended Anchorage lawyer Amy T. Simpson effective March 5, 2008 for one year with all but 120 days stayed and conditions for reinstatement. Ms. Simpson was disciplined for neglecting and failing to communicate with several clients. In a stipulation with the Bar Association, Ms. Simpson agreed that she variously failed to timely complete work for clients, failed to respond to client requests for information, failed to submit documents to court, and failed to appear at hearings. This conduct eventually required the intervention of trustee counsel appointed by the superior court. Ms. Simpson initially failed to respond to the ethics charges against her, and her suspension is partly based on the violation of her duty to cooperate with disciplinary authorities. Later she fully cooperated and explained the personal circumstances that caused her to become overwhelmed when she went into solo practice. The stipulation approved by the Disciplinary Board and the Supreme Court requires that as a condition of reinstatement to practice Ms. Simpson must take continuing legal education courses in law office management, and must pay trustee counsel expenses, along with attorney fees and costs to the Bar Association.

After reinstatement she will be on probation for two years. A public file is available for inspection at the Bar Association office in Anchorage.

Mark Avery disbarred following criminal conviction

The Alaska Supreme Court on February 8, 2008 disbarred lawyer Mark J. Avery. The action followed Mr. Avery's guilty plea in federal district court to fifteen felony charges arising from the abuse of his position as a trustee for an elderly woman. He took out dubious loans, totaling over 52 million dollars, from the woman's trust. He used the money to finance personal business transactions. In his plea agreement he admitted to wire fraud and money laundering. In a stipulation with the Bar Association Mr. Avery agreed that he acted with a mental state of intent to fraudulently deprive the trust of honest services, and that he used money criminally derived from the breach of his fiduciary duty. This violated Alaska Rule of Professional Conduct 8.4(b), which forbids any criminal act that reflects adversely on a lawyer's honesty, trustworthiness, or fitness to practice law. The Board of Governors of the Bar approved the stipulation before submitting it to the Supreme Court. A public file is available for inspection at the Bar Association office in Anchorage.



Race Judicata

The race began as a mass start at Westchester Lagoon in Anchorage.



Tom VanFlein, Linda Johnson and Donna VanFlein get their race numbers.



Gary Spraker does his best "Rocky" impression on the trail, closely followed by his daughter Samantha.

Due to a late spring, and late spring snowfall, this year's racers faced a path partially covered in ice. Most racers were able to finish, and there were two minor accidents due to ice.



A runner-up for last place ("Most Deliberate Speed") prize in 2008 was 2-year-old Heidi Van Flein, who won the award last year.

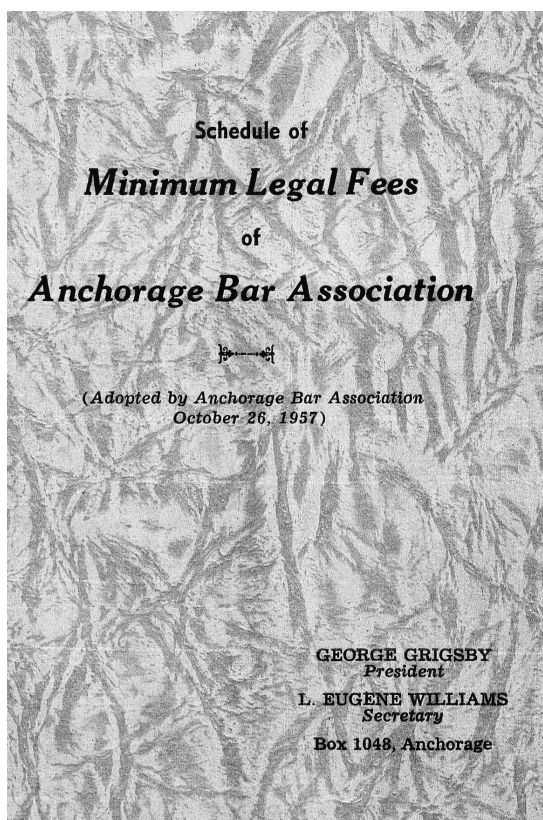


Keith Johnson (left), joined by his daughter Linda Johnson at the awards ceremony, receives the "Most Deliberate Speed" award for last place from Bill Pearson of Foley & Foley.



Racing for the title is 2007 Race Judicata Women's Winner Andrea Neeser, who finished 4th in 2008.

THE HISTORICAL BAR — A LOOK BACK AT FEES IN THE "OLD DAYS"



Schedule of Minimum Legal Fees of Anchorage Bar Association
(Costs are not included in this schedule and are to be added)

DISTRICT COURT

Criminal Cases

Misdemeanor	\$ 250.00
Felony	500.00
Capital	1000.00

Civil Cases

Appearance only	150.00
Divorce (uncontested)	300.00
Divorce (contested)	300.00
(Plus \$125.00 per day or portion of day in court)	
Attorney of record, commencing suit	200.00
Change of Name	125.00
Quiet Title Suit	500.00

COMMISSIONER'S COURT

Criminal Cases

Appearance and Pleas	100.00
Misdemeanor (trial before court without jury)	125.00
Conducting jury trial first day	150.00
Each additional day	100.00

Civil Cases

Appearance only	100.00
Conducting trials	Contract

PROBATE COURT

Estates (Formula - apply each step)

250. Minimum	250.00
450. Second Step	2,500- 10,000 6%
Third Step	10,000- 100,000 5%
Fourth Step	100,000- 400,000 4%
Fifth Step	500,000-1,000,000 2%
Sixth Step	1,000,000-upwards 1%
Guardianship cases (same as estates for decedents)	

Adoption—:

Uncontested	150.00
Contested	300.00

CITY MAGISTRATE'S COURT

Criminal cases 75.00

OTHER SERVICES

1. Written opinion	50.00
2. Bill of Sale	15.00
3. Deed	15.00
4. Real Estate Contract - Mortgage - Trust deed - transactions with escrow and necessary documents - minimum (Above \$7500.00 contract based approximately on a fee of 1% gross sales price)	75.00
5. Chattel Mortgage	40.00
6. Lease	50.00
7. Labor or Materialmen's Lien	30.00
8. Conditional Sales Contract	40.00
9. Organizing corporation, preparing & filing through first meeting of incorporators	500.00
10. Dissolving corporation	300.00
11. Partnership	100.00
12. Will	50.00
13. Bankruptcy	500.00
14. Power of Attorney	15.00
15. Assignment of lease or contract	25.00
16. Promissory note	10.00
17. Appearance before Board or Council	100.00
18. Recommended attorney's minimum hourly rate	25.00

COLLECTIONS

On first \$500 collected 30%
Plus 25% of \$ 500.00-\$1000.00
Plus 10% of 1000.00- 2500.00
Over \$2500.00 by contract

L. EUGENE WILLIAMS
Secretary

Thanks to LaRue Hellenthal for her donations of numerous bits of history (like this one) to the Bar archives over the years.



25 years of Bar Membership



Carter S. Ames



Marilyn S. Ames



Martin R. Anderson



Walter R. Arden



Peter G. Ashman



James N. Barkeley



Robert A. Bassett



Daniel W. Beardsley



Mary Ellen Beardsley



Alexander Bortnick



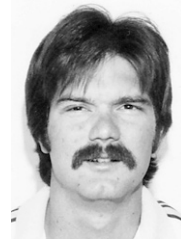
Brian C. Boyd



Chrystal Sommers Brand



Debra J. Brandwein



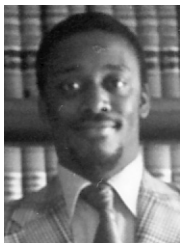
Daniel G. Bruce



Donald M. Bullock



Judith K. Bush



Rex L. Butler



Robert J. Byron



Barbara A. Caulfield



Brooks W. Chandler



David D. Clark



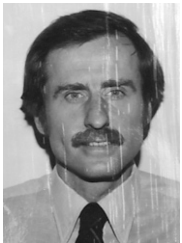
Craig A. Cook



Donald E. Cortis



Susan D. Cox



Dale O. Curda



Ralph B. Cushman



Susan L. Daniels



Joseph D. Darnell



William A. Davies



Jay P. Derr



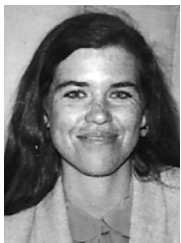
Jeanne H. Dickey



Thomas A. DiGrazia



Timothy D. Dooley



Cynthia L. Ducey



Brian W. Durrell



Donald C. Ellis



Robert J. Ericsson



Ernest D. Faitos



Dennis G. Fenerty



Carl E. Forsberg



Kirsten T. Friedman



Darrel J. Gardner



Ann Gifford



Robert R. Gillanders



Cary R. Graves



Steven P. Gray



Chris D. Gronning



Andrew Guidi



Alfred Mark Gumaer



Alan R. Hartig



Lawrence L. Hartig



Trena L. Heikes



Karl E. Heimbuch



Jaime P. Hidalgo



Shawn J. Holliday



Barbara J. Hood



Spencer Hosie



Lynette I. Hotchkiss



David T. Hunter



William R. Hupprich



Richard M. Johannsen



Ann M. Johnson



John S. Kaufman



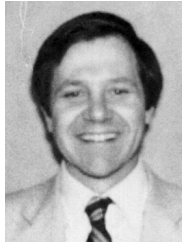
Ira D. Kharasch



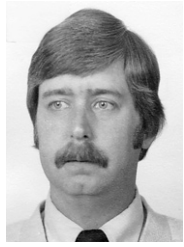
25 years of Bar Membership



Margot O. Knuth



Michael E. Kreger



Lawson N. Lair



Nancy M. Lashnits



Michael P. Ledden



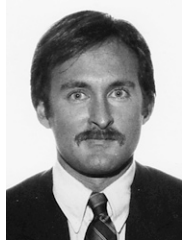
Kenneth W. Legacki



Averil Lerman



Erik LeRoy



Eben T. Lewis



Toni B. London



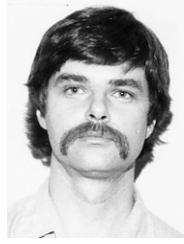
Ardith Lynch



John E.
McConaughy



Joseph H. McKinnon



Robert J. McLaughlin



William F. Mede



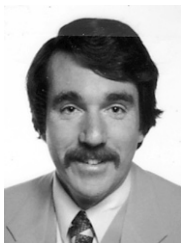
Allison E. Mendel



Thomas J. Meyer



Mikel R. Miller



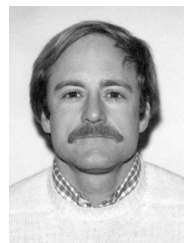
Daniel F. Mullin



Lance B. Nelson



Robert S. Noreen



Neil T. O'Donnell



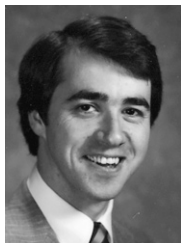
Elizabeth S. O'Leary



Lawrence Z.
Ostrovsky



Shelley K. Owens



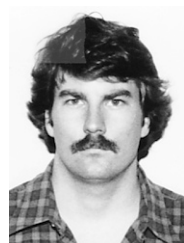
Douglas S. Parker



Geoffrey Y. Parker



James H. Parker



Albert Parrish



Denton J. Pearson



Lawrence A.
Pederson



Kristi Nelson
Pennington



James B. Pentlorge



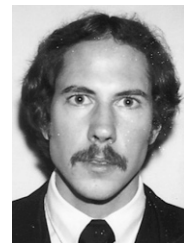
Joseph T. Plesha



Keenan R. Powell



Virginia B. Ragle



Philip A. Reeves



Robert K. Reiman



Janet L. Rice



Bonnie Robson



Kenneth S. Roosa



Jan A. Rutherford



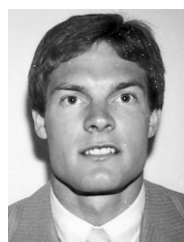
Roger G. Saberson



Kenneth G.
Schoolcraft



Phyllis A. Shepherd



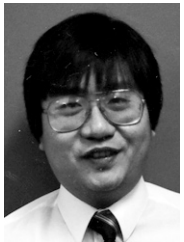
Frederick T. Slone



Mary Southard



Janna Lee Stewart



Sen K. Tan



Janet K. Tempel



Margaret A. Thomas



G. Nanette
Thompson



Nelson Traverso



Marsha V. Trump



Sarah J. Tugman



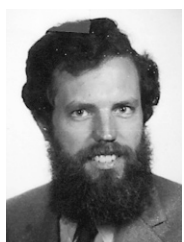
Kimberley A.
Underwood



Leon T. Vance



Robert L. Vasquez



Venable Vermont



Timothy C. Verrett



Chip Wagoner



Donna P. Walker



William M. Walker



Byron D. Walther



Kathleen A. Weeks



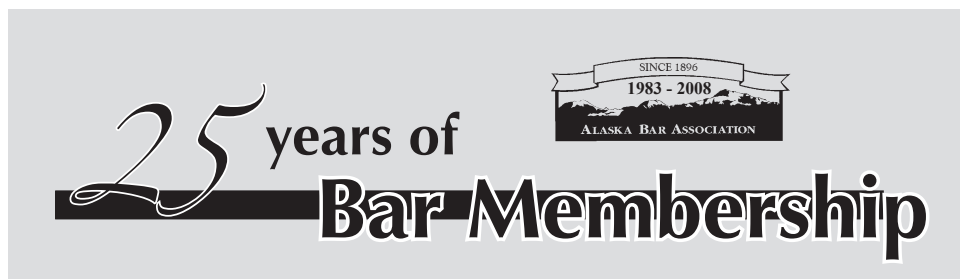
Mark E. Wilkerson



Daniel M. Wold



Willard Woodell



James B. Wright



John G. Young



Gregory L. Youngmun

Not pictured
Michael R. Gatti
Marvin L. Gray
Pamela A. Hartnell
Edward H. Hein
Karl F. Lehr



25 Year Members Today
Bar members who received their 25 year pins at the Bar convention gather for a picture.

Bar Convention Awards Reception



Carol and Tom Daniel pose with Vance Sanders before the banquet.



Fairbanks members L to R Barbara Schuhmann, Craig Partyka, Bob Groseclose, and newly appointed Fairbanks Superior Court Judge Paul Lyle.



Professor Martin Ginsburg visits with Lisa Rieger at the Bar Convention banquet.

Historical Bar

Hornaday officially considered a 'Pioneer' of Alaska

Retired attorney (and Homer mayor) James C. Hornaday was recently invited to submit his personal history to the *Pioneers of Alaska's* second volume of Lower Kenai Peninsula Pioneers. The volume, "In Those Days," was published by the Men's Igloo 32 and Women's Igloo 14, of Homer.

"It was somewhat of a shock to be advised that I am now an old timer and be asked to write up something for the Pioneer book. Guess the years have come and gone," Hornaday wrote to the Bar.

The following is his pioneering memoir

I arrived March 28, 1939, the middle child of Bob and Wilma Hornaday, at Methodist Hospital in Des Moines, Iowa. Dad was a traveling salesman and my mother was a teacher. I joined an older brother, Bob, and we had a younger sister, Susan. My grandparents could have been the couple in the painting "American Gothic." I was raised in a loving family, a safe neighborhood, went to good schools, and was active in sports, music, YMCA, Scouts, and church (like Richie Cunningham in the TV sitcom "Happy Days").

I graduated from Theodore Roosevelt High School. At Monmouth College, I met and married my sweetheart, Karen. We met singing in the college chorale. I worked my way through college and Iowa Law School, and Karen won her "Putting Hubby Through" degree the last two years, teaching in a Mennonite Amish area. Over the years most of our efforts were concentrated on our four kids, Mary, Dan, Josh and Matt, and now on six grandkids, to date.

I started working early, running a paper route, mowing lawns, working on a farm, at an ice cream factory, and at a YMCA camp. I bought a spray-painting business for barns and houses, then sold the paint business for a one-way ticket to Alaska the summer of my junior year. I worked at a sawmill, served as Game Warden and Stream Guard in the Tongass National Forest the summers of 1960-61, and lived with the bears, whales, and seals.

I persuaded Karen to come to Alaska, and we headed back up the Alcan in 1964. We just had Mary, who was less than a year old. Karen had never been camping so it was an interesting trip!

In Anchorage, I clerked for four Democrat judges. Everything was Demo-

crat back then and I was the only Republican in the courthouse. I practiced law with Jim Fisher in Kenai for 10 years, with branch offices in Homer and Seldovia. In 1966 we were the only full-time lawyers on the Kenai. We worked to get local Superior and District Court judges and helped to build courthouses in Kenai and Homer.

I was appointed to the District bench in Homer by Gov. Jay Hammond in 1976, with help from Clem Tillion. (I saw Jay shortly before he died and he apologized for doing that to me.)

Many fish and game cases came before me. I trained magistrates in the Aleutian and Pribilof Islands. I successfully sued the court system when they tried to move me to Anchorage. I worked with Carol Swartz to set up the first counseling program through Women's Services for victims of domestic violence, and I worked with Brother Asaiah Bates to set up the first work program for short-term sentences. (I was Little League president and Mike Daugherty was Police Chief, and we needed to get the fields ready and the guys wanted to work outside anyway.)

Karen and I were active in the usual small town activities. She was on the Kenai Peninsula School Board, the Parks and Recreation Commission, taught Suzuki violin to the little kids in town, and participated in fine arts and other activities. Hornaday Park is named in her honor. When not judging or lawyering, I kept active with Little League, as mayor, the Homer City Council, the Kenai Peninsula Borough Assembly, Homer Chamber of Commerce, Scouts, Rotary, college teaching, etc. And I was named "Sexiest Mayor" when Homer was named one of the "Sexiest Cities in the US!"

We lost Karen in 1987 and still miss her terribly. I left the bench in 1989 and taught two years at Iowa Wesleyan College near our farm. A second marriage failed and I returned to Homer in 1991 and started a new law practice and the *Homer Tribune* newspaper. In 1998 I served as counsel for House Rules Committee. I served as a hearing appeals officer for the National Marine Fisheries Service. In 2006 I closed my law office after 42 years.

To date I have traveled to six continents. I am enjoying my grandchildren and traveling, writing, music, and currently serving as Mayor of "Beautiful Homer by the Sea, Where the Land Ends and the Sea Begins."

Short term hardware, long term software

Continued from page 19

altered and are extremely compact compared to bit-mapped image-file formats such as TIFF.

There are several lessons to be drawn from the foregoing. First, you'll need to carefully choose the hardware and software which you implement with an eye toward future upgradability. Second, you should expect to implement a comprehensive data conversion and hardware upgrade procedure every three or four years while backward compatible software and hardware remains available and conversion is relatively straightforward. Plan for smooth data and hardware migration and you're less likely to be orphaned.

At this time, the most reliable, easiest and least expensive method of preserving and protecting law office data are large 500MB to 1,000 MB (1GigaByte) external hard disks that simply plug in to a USB or Firewire port. Portable USB or Firewire hard disks are greatly superior to tape backup drives, which are essentially. Mass storage device costs are falling rapidly; a 1 terabyte drive (1,000 GB) can be found in the \$200 range.

OTHER DEVICES FOR YOUR PRODUCTIVITY

The well-planned and equipped digital law office also will need ancillary accessory devices that efficiently process data and output it for effective presentation.

SCANNERS

It makes a lot of sense to put a scanner on everyone's desk rather than run down the hall to use a faster centralized scanner. Unfortunately, there's no perfect solution and this area of technology does not appear to be advancing very rapidly.

For centralized office use, the most affordable, reliable, and flexible high speed document scanner I've found so far is the Canon DR-2580 series, at 25 sheets per minute. The DR-2580 can scan 11x17 sheets in a folded scanning mode, a useful feature not available on any other scanner in the \$630-\$750 street price range. The Xerox 252/262/272 series (\$750-\$1,100), which is made by Visioneer, has nearly bullet-proof paper handling and 25 sheet to 33 sheet per minute scanning speeds.

The most cost-effective desktop document scanners are those in the Xerox ScanSnap series, at about \$400. These scanners are shipped with a full-featured copy of Adobe Acrobat Standard version 8. The scanning interface software provided by Fujitsu, even with their less expensive ScanSnap scanners (\$420 Internet price), is much more sophisticated than the software provided by Xerox. Fujitsu's software includes automatic color and paper size detection, automatic re-orientation of upside down documents, and automatic blank page deletion when used in duplex scanning mode. The Fujitsu's 18 sheet per minute (single or double sided) scanning speed is more than adequate for most desktop uses.

Wider 11"x 17" documents, so-called "B-size," are frequently used in the real estate and construction industries for plats and construction plans and you may need some means of scanning and printing such documents. Unfortunately, full-size 11" wide scanners and laser printers are inexplicably far more expensive. Your best current bet is the Canon DR-2580 scanner using its "tabloid" folded sheet option. If you use larger B size documents only rarely, it's more cost effective to use a copy shop for a paper and (reduced) digital file copy.

PRINTERS

You'll need several printers, particularly if you've designed your office around the concept of document imaging. First, you'll need some color laser printers to produce printouts of imaged documents as needed for disclosure, discovery and trial purposes. Buy a fast color laser printer for everyday use. (The speed, print quality, and cost per page vary a great deal among printers, and you'll need to do your homework before buying.)

Unfortunately, this is another area where the technology does not appear to be advancing very quickly. After a lot of trial and error, I found that the HP and Lexmark color laser printers generally are quite a bit slower than advertised. Dell and Konica Minolta now seem to offer the most effective and cost-efficient color laser printers. My own personal choice is a 37-page-per-minute Konica Minolta 5570 (from

\$750 and \$940 online).

In the digital age, it's now easy and inexpensive to make your own enlargements for use in-court exhibits, rather than using the traditional approach of sending them out to a lab, which might result in a few days delay and a few hundred dollars per print. However, you'll need an economical wide format color printer with a maximum print size of 13"x 19" as the bare minimum for making enlargements useful in court. Among the readily available 13"x 19" printers, the Canon Pixma 9000, at about \$400, is probably among the best and most economical. Canon's medium format printers have enjoyed an excellent reputation for high quality printing at a relatively low purchase price.

Larger exhibits suitable for jury trials require a really wide carriage printer, preferably at least 24" wide. The HP z2100 and z3100 have received excellent reviews but are quite expensive. I use an HP DesignJet 130, which will make excellent, highly cost-efficient 24"x 36" or wider prints. Although its single-sheet feed mode tends to jam or scratch prints, the DesignJet 130's roll feed option with HP Photo Satin paper rolls works beautifully and at a much lower cost per print. A 50 foot roll costs about \$80 and the thick paper and tough finish greatly reduce damage. HP's high capacity 84/85 series ink tanks seem to last forever, even with 24" wide prints. Overall, I found that a 24" x 36" print cost me about \$5-\$10 to produce--trivial compared to the cost using a third party lab.

Alaska Association of Paralegals reports survey results

Congratulations to Fairbanks attorney Renner Eberlein, winner of the Alaska Association of Paralegals' ("AAP") drawing prize of a Blackberry Curve 8300© from the 2008 Alaska Bar Convention! Ms. Eberlein's name was randomly selected by Kara Bridge, the Alaska Bar CLE Coordinator.

In following the national trend to establish high professional standards for paralegals, AAP is seeking to adopt a definition and establish minimum qualifications for paralegals in the Alaska legal community. AAP solicited opinions from local judges, attorneys, and paralegals via a survey conducted at the 2008 Bar Convention to gain an understanding of the legal community's opinion regarding AAP's proposed definition and paralegal qualifications.

Ninety-eight surveys were returned by legal professionals.

AAP sought opinions on the following definition and questions:

Paralegal or legal assistant is a person, qualified by education, training or work experience, who is employed or retained by a lawyer, law office, corporation, governmental agency or other entity to work under the direction of a lawyer in a capacity that involves the performance of substantive legal work, including knowledge and understanding of legal concepts, the legal system and procedural law which would be performed by the lawyer in the absence of the paralegal.

Do you agree with the pro-

posed definition of paralegal?

Agree..... 65
Neutral..... 23
Disagree..... 10

What is the minimum level of substantive legal work experience you feel a paralegal should possess?

1-3 years..... 55
4-6 years..... 29
7-9 years..... 2
Other..... 11

What is the minimum amount of education you feel a paralegal should complete? (Circle all that apply)

High School or equivalent... 13
Associates Degree..... 28
Bachelors Degree..... 26
Paralegal Certificate from an approved paralegal program..... 44

National Paralegal Certification (through National Federation of Paralegals Association Inc. or National Association of Legal Assistants)..... 19

Where do you think a definition of paralegal is most appropriate? (Circle all that apply)

Alaska Bar Rules..... 52
Rules of Professional Conduct..... 34
Rules of Civil Procedure..... 12
Alaska Statutes..... 29
Alaska Administrative Code .. 17
Other Suggestions..... 1

In response to the survey, 98 legal professionals submitted their opinions and comments.

Responses that provided suggestions or disagreed with AAP's proposed definition of a paralegal are under review and will be taken into consideration. AAP is grateful for all those that participated in the survey and is now in the process of revising its proposed definition to address comments provided in the responses.

If you would like to view the full results of the survey, please visit our website at www.alaskaparalegals.org.

If you did not participate in AAP's Paralegal Survey and would like to do so, the questionnaire may be printed from our website and mailed to the address below or you may download the survey and email it to info@alaskaparalegals.org. AAP will continue to accept responses until July 1, 2008. Submit survey responses by mail to:

Rachael Pope
Alaska Association of Paralegals
P.O. Box 101956
Anchorage, Alaska 99510

Again, AAP thanks all who participated in the survey. Your time and comments are greatly appreciated.

Alaska Bar Association Summer 2008 CLE Calendar

Date	Time	Title	Location
July 22 Live & Webcast	8:30 a.m. – 5:00 p.m. Lunch included	ANCSA Corporations - Governance, Resource Development and You! With Lewis & Clark Law School CLE#2008-013 7.0 general CLE credits	Anchorage Hotel Captain Cook
August 7 Live & Webcast	4:00 – 5:00 p.m. 5:00 – 6:00 p.m. Reception	13 th Annual Informal Discussion with 9 th Circuit CLE#2008-004 1.0 general CLE credits	Anchorage Marriott Downtown
August 20 Live & Webcast	8:30 a.m. – 12:30 p.m.	Bankruptcy Double Feature: Family Law & Bankruptcy and Exemptions and Asset Protection Trusts CLE#2008-002 3.75 general CLE credits	Anchorage Hotel Captain Cook
August 26 Live & Webcast	8:30 – 10:30 a.m.	Tort Law Update CLE # 2008-034 2 general CLE credits	Anchorage Hotel Captain Cook

What Ireland can teach us

By Dan Branch

Irish Americans seem genetically compelled to return to the island from which their ancestors were driven by famine. If they give in to the urge today they will find a thriving country whose people are finally enjoying the justice denied since Oliver Cromwell drove most of the Irish Catholics to the hard scabble ground west of the Shannon River. Many of his victims ended up on the bog land of Connemara or the limestone domes of the Burren, which one of Cromwell's generals found to lack enough water to drown a man, a tree to hang one or ground to bury him.

In 1970 I used some money left me by my Irish grandmother to visit Ireland. She had always talked about Donegal where our people are from, so I traveled over the rocky hills of that northernmost county of the Republic of Ireland. The people were generous to a traveler and the green land seemed like home. From there I hitchhiked to Derry in Northern Ireland with a dour man driving an old sedan. After a tense border crossing the man dropped me off on Rossville Road, which runs through the Bogside district of Derry. Then, it was a ghetto of Catholics living in

slum dwellings decorated with scrawled political slogans and the initials "IRA." Dirty-faced children followed my progress up the road toward the River Foyle.

The Bogside lied beneath a walled city built by London commercial interests in 1613 to protect the Protestants who were brought in by the English to occupy Northern Ireland. Canons still line the ramparts of the walls. Looking up at the walls from the Bogside in 1970 I felt that they were still maintained to keep the wild Irish of Donegal and the Bogside out of the protestant plantation.

Two years after my visit, on Bloody Sunday, British troops would shoot dead 13 Catholic protesters on the Rossville Road. Already they patrolled Derry in armored Land Rovers and maintained machine gun emplacements on the bridge I had to cross to leave the town.

The troubles in Northern Ireland ended when the Catholic and Protestant factions signed a joint rule agreement which made possible last



"This summer I returned there to confirm that in at least one place in this war-torn world there was peace following the restoration of justice."

year's removal of British troops from Derry. This summer I returned there to confirm that in at least one place in this war-torn world there was peace following the restoration of justice.

Derry today is a place of peace. The residents of the Bogside live in neat if simple housing. A series of huge murals commemorate those who died during the troubles and idealized the street violence that occurred during those times. One shows a 14-year-old girl in her school uniform, the first child to die during the troubles. Today children in the same school uniforms walk untroubled past the mural.

The Bogside murals are now marked on tourist maps and the Derry Tourist Information Center

offers a tour to educate visitors about The Troubles. Derry is no longer occupied by British troops and the local press has to make do with the bland stories of a country at peace.

One of the Bogside murals shows two of the hunger-strikers who died in the Armagh prison protesting the refusal of their British jailers to treat them as political prisoners. Songwriter Tommy Sands, whose brother was one of those strikers, performed in Juneau last year. He taught us with story how the people of Northern Ireland overcame the hate and distrust that built up over centuries of injustice. The adult leaders of each side acted so that the pain would not be passed on to their children. They learned to stop looking back, which serves only dark purposes, and built a peaceful and just place for the next generation.

For us the lesson is simple. If you want peace, work for justice.

Bender's Immigration Bulletin welcomes new member Margaret D. Stock

The Editorial Board of "Bender's Immigration Bulletin" is pleased to announce the appointment of a new member, Margaret D. Stock.

Margaret D. Stock is an attorney admitted in Alaska and a Lieutenant Colonel, Military Police Corps, US Army Reserve. Ms. Stock earned her undergraduate (A.B. 1985) degree in government at Harvard-Radcliffe, her law degree at Harvard Law School (J.D. 1992) and a master's degree (M.P.A. 2001) at the John F. Kennedy School of Government at Harvard University.

From 1993 to 2001, she practiced law in Alaska, where she was an associate at a general trial practice firm and then the managing partner at a firm that emphasized immigration and citizenship law. From June 2001 to June 2006, she was a Title 10 civilian professor in the Department of Law at the United States Military Academy, West Point, New York. In 2005, the American Immigration Lawyers Association awarded her its prestigious Advocacy Award for her work informing Congress and the public about the connection between immigration and national security.

Beginning in 2006, Ms. Stock accepted an assignment as a Drilling Individual Mobilization Augmentee (DIMA) (Associate Professor) in the Department of Social Sciences, United States Military Academy, West Point, New York, where she teaches international relations, guest lectures, and provides expertise to Army leaders on various topics relating to immigration, law, and security. Ms. Stock is also a 2006 graduate of the Army War College, which awarded her a Master of Strategic Studies degree. Ms. Stock was instrumental in the creation of AILA's Military Assistance Program (AILA MAP). This new program provides free legal assistance on U.S. immigration law matters to military members and their families. Ms. Stock currently lives in Alaska with her husband and ten-year-old child.

Panels present convention CLEs

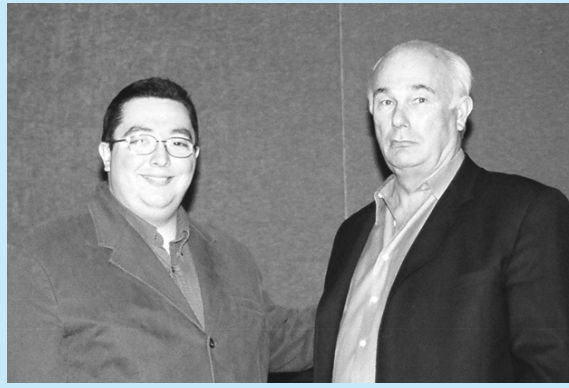


"Difference in Practices & Procedure Between State & Federal Court." Faculty: John Murtagh, Matt Jamin, Rich Curtner, Gregory Fisher, Judge Tim Burgess, and Judge Ralph Beistline, moderator.



"The New Lawyers CLE - Nuts & Bolts of Basic Pre-Trial Practice: Discovery and Motions." Faculty L to R: Gary Zipkin, Alex Bryner, Judge Larry Card (ret.), Teresa Buelow, James Fayette.

Two receive ALSC awards



Erick Cordero presents special recognition awards to Allison Mendel and John Treptow in honor of ALSC's Volunteer Attorney Support Program's 25th Anniversary.



Professor Martin Ginsburg lectures on "Tax Reform: A U.S. Oxyoron" at the Bar Convention.

Photos by Karen Schmidkofer