

# Alaskans help Afghans through asylum process

By Susan Buchanan



The Alaska Institute for Justice (AIJ) Pro Bono Asylum Project began in 1998 to ensure that people fleeing persecution and torture in their countries of origin have legal representation as they navigate the complex and byzantine U.S. asylum process. Through this initiative, hundreds of people from all over the world, including Cameroon, The Gambia, El Salvador, Ethiopia, Venezuela and North Korea, have received pro bono legal representation to gain asylum in the United States.

In 2021, AIJ implemented the Afghan Asylum Project to help save lives and ensure meaningful access to justice for those Alaskans who need legal representation but cannot afford it. AIJ has nine active Afghan asylum cases. In one case, Shandana and Mohammed (not their real names) sit in their Anchorage apartment after December's heavy snow, with an even heavier weight on their shoulders. Their journey out of Afghanistan in 2021 took them to Qatar; Frankfurt, Germany; Washington, D.C.; and then Alaska where they have settled.

Their journey to attain asylum status has also been arduous and requires them to relive difficult moments when their lives were in danger due to their aid to the former Afghan govern-



Image of the Afghan evacuation operation courtesy of the Alaska Institute for Justice.

ment during the time the United States occupied their home country.

Through a phone call with an interpreter, there are no Dari interpreters in Alaska, the couple tell their pro bono attorney, Amy McKenzie, of their harrowing escape after the fall of Kabul.

It's a difficult and time-consuming process, but necessary to solidify their asylum application and allow them an opportunity to make permanent the safe harbor that the United States has

*Continued on back page*

# Nome training focuses on children in need of aid

From the Alaska Court System

The Court Improvement Program (CIP) and Nome Eskimo Community (NEC) in March delivered a three-day training session titled

“Child in Need of Aid (CINA) Laws, Roles and Responsibilities, Practices and Procedures” at Trigg Hall in Nome.

The training was provided by experienced CINA practitioners including: Emma Haddix, assistant attorney general, Child Protection Section; Elizabeth Brennan, assistant public defender; Anita Alves, supervising attorney Anchorage Civil Section of the Office of Public Advocacy; Tandra Donahue, Office of Children’s Services; Chad Holt, Alaska Native Justice Center; and Ali Wykis with Kawerak, Inc. There were approximately 30 participants

including judges, court staff, assistant attorneys general, Office of Children’s Services (OCS) case workers and staff, Guardians ad Litem (GALs), ICWA workers, tribal attorneys, and parents’ attorneys.

More information about the CIP program is available at <https://bit.ly/3mKaRmh> including links to eLearning courses with pre-approved CLE credits (including ethics credits) on CINA Laws at <https://bit.ly/3UUIApa> and ICWA at <https://bit.ly/43SvhtO> is available through the court system’s website.

The court system has also created a new self-help page on

Child in Need of Aid, available at <https://bit.ly/3N0NjEd> with videos explaining CINA processes and other short educational videos and general information.



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The 30-some trainers and participants in the training sessions gathered for a photo.



# Board proposes mandatory CLE requirements

By Diana Wildland

Over the last several years, our board has been weighing whether to amend our rules to increase the number of mandatory continuing legal education (MCLE) credits our membership must complete annually. This rule change was recommended by the Legislature in fall 2020, after our routine legislative audit, and it has remained a consistent recommendation for over a decade; this was the third audit in a row which called for an increase in MCLEs.

The Legislature perceives this as a consumer protection issue and has told us that if we don't agree to increase MCLEs by rule change, they will forcibly change our CLE requirements via statute. At our May 2023 meeting of the Board of Governors, the board voted to publish a rule amendment (See page 14 of the *Bar Rag*) increasing the number of MCLEs to 12 credits, three of which will be ethics. Understanding this change to be controversial among our membership, the board also voted to ask that I write to our membership to explain why this decision was made.

The Board of Governors is dedicated to protecting the agency and independence of the Alaska Bar Association in regulating the practice of law in our state. Among mandatory bars across the country, our bar association is one of only eight that handle both admissions and discipline. We also regularly provide free CLEs to our membership. Last year, for instance, the Bar provided 20.5 free CLE credits (nine general and 11.5 ethics credits).

The board is also dedicated to representing the will of its membership. This is why the board polled our membership in 2011 after the Legislature asked us to increase MCLEs. At that time, over 90% of Bar members were opposed to the increase. As a result, the board de-

clined to take action to increase MCLEs. Based on the previous will of the Bar, the board defended its current CLE requirements. Legislative auditors recommended an increase again in 2020. We cited a study published in the *Georgetown Journal of Legal Ethics, Spring 2020*, that concluded that MCLE has no impact on the number of attorneys who have been disciplined by their state bars, and that MCLE has no impact on reducing malpractice claims. The Legislature remained unconvinced.

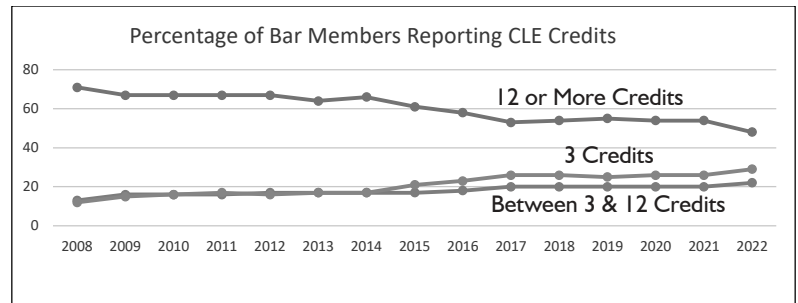
Because of the continued recommendations from the Legislature, we have continued to conduct outreach on this issue. In the March 2022 edition of the *Bar Rag*, we published opinion pieces both for and against increasing MCLEs. Former board member Rob Stone also sent a letter to section members asking for their perspectives on whether the Bar should increase MCLEs. We considered and appreciated the 91 responses that we received during that inquiry. Since 2020, MCLEs have also been discussed at nine meetings which were open to public comment.

Through this outreach, we have learned that although the Alaska Bar membership remains opposed to the increasing MCLEs, the membership is becoming somewhat more supportive of this change. In 2011, over 90% of Bar members were opposed to any increase in MCLE. In 2022, out of the 91 individuals who responded with comments to the *Bar Rag* or the letter to the sections, only 70% were against increasing CLEs.

The Board also considered CLE reporting since it became required in 2008.



"The Board of Governors is dedicated to protecting the agency and independence of the Alaska Bar Association in regulating the practice of law in our state."



As the graph illustrates, Bar members who reported earning 12 or more CLE credits has dropped from 71% of Bar members in 2008 to 48% in 2022. Likewise, Bar members reporting completing only the mandatory three hours of CLE credits has increased from 12% in 2008 to 29% in 2022.

Some of our members have communicated to us why they think MCLEs are important. MCLEs force attorneys to prioritize staying updated with legal developments; it helps them gain awareness of new topics and legal advancements; and, when done together, CLEs can increase a sense of community. It is for these reasons that one of the purposes of the Alaska Bar is to "encourage continuing legal education for the membership."

The board has yet to see proof that CLEs (1) improve lawyering skills, (2) impact the number of attorneys who have been disciplined by their state bars, or (3) reduce malpractice claims. The board has also presented the Legislature with that information. Despite all of this, the Alaska Legislature has made it clear that if the Alaska Bar Association does not increase its MCLE requirements, they will do it for us.

So now the time has come to decide what we should do. Ultimately, the board believes that it is best to

make the change and increase our MCLEs to 12 credits, three of which will continue to be ethics. We do so with the following goals:

- 1) We want to be able to allow as much flexibility in the kinds of CLEs that attorneys take so that attorneys can focus on CLEs relevant to their practice areas.
- 2) We want to continue to make our CLE reporting less burdensome than other jurisdictions and allow self-certification.
- 3) We want to continue to allow free and low cost CLEs to our

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## The Alaska BAR RAG

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

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 • September 19 & 20, 2023  
 • October 26 & 27, 2023

Publication Dates	Editorial Deadlines
March	Feb. 10
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December	Nov. 10

[Editor's Disclaimer: As with all *Bar Rag* articles, advertisements and letters, we do not vouch for, stand by, or support most of what we publish. Nor have we cleared any of this with either the FDA or the Department of Homeland Security (aka Interior Ministry). We sure as hell won't be responsible for your hurt feelings or misguided reliance on anything we publish or not.] TVF2000

## EDITOR'S COLUMN

# Despite our experience, life always has lessons for us

By Ralph R. Beistline



"And I was once again reminded how important it is to keep going even when things get tough. Probably applicable to most situations."

As we move from one season to the next, and the snow begins to finally disappear, we can focus on lessons learned, whether personally or professionally, and consider how best to face the challenges ahead. One thing that stands out for me is the importance of preparation and the trouble we find ourselves in, again personally or professionally, when we aren't adequately prepared for the unexpected, or motivated to keep going when things turn sour.

I was reminded of this recently when I took a snowshoe trip by myself to my cabin outside of Fairbanks to check on the snow load. I still had a column to write for the paper, but I was worried that with all the snow, the aged roof on the

cabin would give in, so I ventured forth.

It was a beautiful sunny afternoon when I grabbed an old set of snowshoes, very old, and headed off. The trip in, mostly downhill, was fun, but a little tiring for an old man. The cabin looked great as evidenced by a photograph I took of myself in the mirror to prove I had reached it alive. (The smile reflects that the picture was taken before things went south.) As it turned out, the roof was fine. I shoveled the porch and then headed back. That is when the trouble began.

As I was latching up the straps on my snowshoes for the return trek, the strap on the left shoe broke, rendering the snowshoe unusable. That left me with one workable snowshoe

to make the trip back to the car. The other one worked only as a ski pole, a poor one. And the snow was deep, at least 40 inches. I had never considered the possibility of having to travel in deep snow with only one snowshoe. Like remembering how to use paper exhibits at a trial when the overhead projector goes down. Not easy when you hadn't done it that way in over a decade. (I frequently remind counsel in this situation that if Abe Lincoln could do it, they could.)

Anyway, I started off. My left foot would drop into the snow up to my thigh and then I would try to propel myself forward a few inches pushing along the good snowshoe. At one point I was practically crawling. About halfway up the trail I actually thought that this might be where I would meet my maker, so I got a picture of the trail ahead that I had broken so smoothly coming in.

Continued on page 8



# 64 high school students introduced to the legal field

## From the Alaska Native Justice Center

Sixty-four Anchorage high school students saw the future April 6 and 7 — at least one version of it. Thanks to the Color of Justice program, hosted by the Alaska Native Justice Center and its partners, students had an opportunity to imagine themselves in the legal field.

One student who hadn't previously considered a legal career before the event reported, after participating in a mock trial at the Color of Justice event, he wanted to become an attorney working for the defense.

Hosted in partnership with the State of Alaska Court System and the Anchorage School District, the Color of Justice event aims to inspire and encourage historically underrepresented populations in the legal field — mainly women and ethnic minorities — to consider careers as attorneys, judges and other positions in the legal system.

This year, five Alaska Native students were among the participants at the Color of Justice event.

"We hope that the knowledge and connections formed here will



The 2023 Color of Justice participants gathered for a group photo.

inspire students to consider a career in the legal profession and judiciary," said ANJC Senior Legal and Policy Director Alex Cleghorn. "We are proud that this event supports Alaska Native youth and inspires them to make change in their tribal communities."

The event allowed students to meet in small groups with Alaska Native attorneys, law fellows, and state court judges to talk about their career journeys. Alaska Supreme Court Justices also worked directly with the students.

Students also had the chance to

experience aspects of working in the legal field and learn more through activities like a mock trial, Constitutional Cranium, and "You Be the Judge," where participants debated and decided the outcomes of real cases. With "Mentor Jet," they experienced speed mentoring with legal professionals.

ANJC's participation in the event was made possible by a generous grant from The CIRI Foundation, which helped cover staff time, giveaways for the students and transportation. The program re-

ceived additional support from partners including the American Civil Liberties Union, Alaska Bar Association, Kawerak Inc., the Bristol Bay Regional Career and Technical Education Program, and University of Alaska Anchorage.

ANJC, the Alaska Court System, and Anchorage School District look forward to hosting more successful events in the future, continuing to empower and inspire the next generation of legal professionals. For more information on ANJC and its programs, visit [anjc.org](http://anjc.org).



High school students participate in a mock trial. They also met with attorneys and judges and learned about legal issues important to Alaska Native tribes.



Students listen intently to one of the event's speakers.



## COLOR OF JUSTICE 2023

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## Alaska Bar Association Statement on Commitment to Diversity

The purposes of the Alaska Bar are to: (1) regulate the practice of law; (2) promote reform in the law and in judicial procedure; (3) facilitate the administration of justice; (4) encourage continuing legal education for the membership; and (5) increase the public service and efficiency of the Bar.

Diversity, equity, and inclusion are vital to the administration of justice. With this in mind, the Alaska Bar Association strives to ensure the Bar is reflective of all Alaskans. While Alaska's population represents a rich diversity of backgrounds, this is not always proportionately represented among the Bar's membership demographics.

The Board of Governors has initiated steps to encourage racial and ethnic diversity in the Bar. The Board voted in May of 2021 to create

a [Diversity Commission](#) with a goal of creating a more equitable, inclusive, and diverse organization and to increase the membership of Black, Indigenous, and People of Color (BIPOC) in the Alaska Bar Association. The Board remains dedicated to addressing the Commission's recommendations, following the Board evaluation of the Commission's final report.

The Board also recognizes that race and ethnicity is one aspect of diversity, equity, and inclusion, and principles of equality and fairness extend much further. The Board is committed to fostering inclusivity of all perspectives, ideas, and experiences in the practice of law and the administration of justice. In line with this, the Board of Governors' 2022 [strategic plan](#) aims to "advance efforts to ensure the Bar is more reflective of the people it serves."

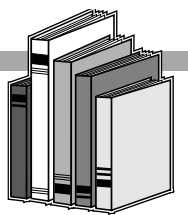
The Board also recognizes that Alaska faces a critical statewide justice gap, with countless Alaskans having unmet legal needs each year. Closing the access to justice gap and meeting Alaskans' legal needs necessarily includes fostering a Bar membership that is inclusive and more representative of our community, all of which is critical to facilitate the administration of justice in our state.

Through these ongoing efforts, the Board of Governors is committed to ensuring the fair and just application of the law, strengthening the public trust in the administration of justice, and better meeting the needs of all Alaskans.

*Adopted by the Board of Governors on May 4, 2023.*

## Law Library

### Law library offers remote and rural services



By Susan Falk

The main branch of the Alaska State Court Law Library is located in Anchorage. Here we house the bulk of our print collection, as well as the majority of our staff. We have additional staffed branches in Juneau and Fairbanks. Most of you probably know about these three library branches, which offer human, print and electronic resources to assist lawyers and self-represented litigants with their legal research needs.

But did you know that you can access the law library from other places around Alaska? Our library portal, which provides access to every electronic database we subscribe to, is now available on public kiosks in every court location, statewide. Yes, you read that right — every court location, statewide. Public computers at all court locations now include both the law library portal and the customer service portal. This means that at every courthouse, throughout Alaska, legal research is no more than a click away.

While it's true that some research tasks are still best conducted in print, our electronic subscriptions have ballooned in recent years. Databases available — again, statewide — include:

- Westlaw
- HeinOnline

- The Lexis Digital Library, now including the entire ABA library
- The entire NOLO library (self-help ebooks on a variety of subjects)
- The entire National Consumer Law Center library
- The entire West Academic library of nutshells and hornbooks
- AnswerConnect (formerly the CCH Tax Research Network)
- VitalLaw (formerly Cheetah, offering ebooks and other resources from Wolters Kluwer and Aspen)

Think you might need help using these resources in a rural location? The library's Helpline is staffed Monday through Thursday, 8 a.m. to 6 p.m.; 8 a.m. to 4:30 p.m. Fridays, and noon to 5 p.m. Sundays. Call us at (907) 264-0856 or email us at [library@akcourts.gov](mailto:library@akcourts.gov).

Pretty sure you still need print material, or located somewhere far from a courthouse? We may be able to send you what you need. We are happy to scan and email sections, chapters, articles and other page-limited segments of our print resources to remote locations. Depending on the title and its format, we may be able to mail you books. If you need something we don't have in our collection, we can try to obtain it for you through interlibrary loan.

No matter where you are in Alaska, the Law Library is here to serve you. And if you have a need are we not meeting, please let us know.

*Susan Falk is the Alaska law librarian.*

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# Law Review editors meet Alaskans in Juneau

By Adam Beyer

Over their spring break, three members of the Alaska Law Review visited Juneau. Sloane Bessey, Adam Beyer and Melissa Gustafson, all executive editors on the journal, had the opportunity to meet with attorneys, elected officials and community members to learn more about current legal issues in the state.

The group visited the Legislature and met with several legislators and legislative staff, including Sen. Matt Claman and Representatives Andy Josephson and Andi Story. They also met with other attorneys, including Juneau District Attorney Jessalyn Gillum and her staff; former Attorney General and Juneau Mayor Bruce Botelho;

former Administrative Law Judge Andy Hemenway; and attorneys with NOAA, EarthJustice and the Ocean Conservancy.

The Alaska Law Review would like to thank the Alaska Bar Association, Duke Law School, Alaska Law Review faculty advisor Professor Tom Metzloff for making the trip possible. The students would also like to thank Juneau resident Joyanne Bloom for hosting them during their visit, as well as the amazing people who took the time to meet with them throughout the week. It was an honor to be your guests.

The Alaska Law Review is a scholarly publication that examines legal issues affecting the state of Alaska. Members of the Alaska legal community recognize a need for a publication devoted specifically to issues affecting Alaska. However,

since Alaska does not have a law school, the Alaska Bar Association selected Duke University School of Law to publish the Alaska Law Review. The journal staff is composed of second- and third-year law students from Duke University School of Law and is governed by a faculty advisory committee. A new edition

is published every June and December. The journal's semiannual visits to Alaska are an opportunity for the law students to meet Alaska residents and discuss legal issues affecting the state.

Adam Beyer is an executive editor of the Alaska Law Review 2022-23.



Sloane Bessey, Adam Beyer and Melissa Gustafson enjoy a trip to Mendenhall Glacier.



Law Review editors from left, Sloane Bessey, Adam Beyer and Melissa Gustafson share a moment with their host Joyanne Bloom's dog, Kenai.



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## Call for Submissions

The Alaska Law Review is requesting articles for its December 2023 issue.

The only law journal for the state of Alaska is seeking unique and interesting scholarship from Alaska's legal community. Issue areas can cover any aspects of Alaska law.

Submissions for the December 2023 issue are **due by August 1, 2023**.

For any additional questions, please feel free to reach out to [alr@law.duke.edu](mailto:alr@law.duke.edu) or contact us on our social media:

-  <https://www.facebook.com/AlaskaLawReview/>
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For more information, please visit the Alaska Law Review articles submissions page at

<https://alr.law.duke.edu/current-issue/submissions/>



## The other side – what they don't teach you in law school

By William R. Satterberg, Jr.

### Part I of III

During my 47 years as a wannabe litigator, I have been in countless trials — mainly because I don't count very well. In fact, more than one person has told me that I don't count.

I began practicing law in 1976. A legal rookie, I worked for the State of Alaska's prestigious Attorney General's Office in Fairbanks. I was assigned to the exciting Department of Law eminent domain section. I would have rather been an assistant district attorney. In my opinion, they had all the fun and were the fighter pilots of the division. Eminent domain, on the other hand, was like watching grass grow. The only really good thing about our section was that we received copious federal funding where other sections did not. Our legal secretary, Phyllis, was an expert in locating budget dollars for the installation of office accoutrements paid for by federal tax dollars. Because of Phyllis, our office was always tastefully furnished and looked like a real law office, where the competing state offices had gray metal desks with obnoxious property stickers, giving rise to certain bureaucratic resentment.

My supervisor at the time was

a pipe-smoking Vietnam veteran, Gary Vancil. Gary regularly wore three-piece suits and was the consummate professionally appearing counselor of law. I, on the other hand, was a chubby nerd (some things never change) and looked like the fat kid in *Goonies*, who was later destined to become a lawyer, himself. During my early years, Gary did much to mentor me in my practice of law. Gary was *laissez-faire*.

He generally preferred to spend his time in his office smoking his pipe and whatever was in it while I did much of the heavy lifting as part of my apprenticeship. Gary always said that a lazy attorney was a good attorney because they found shortcuts like delegating work to their subordinates.

My first assignment after decorating my office with my Black's Law Dictionary, and library of green Hornbooks and expensive Gilbert's reference manuals was to argue a motion the following morning to continue a complex case. Wanting to do my best before Judge James R. Blair, I took the entire armload of files home that evening. I pored over pleadings into the late hours. By the time the morning dawned,



"I miss those days when the judges took a genuine interest in constructively mentoring young counsel."

I was bleary eyed, but quite prepared for the forthcoming argument.

The next day, I trudged to court with my volumes of files, joining several other attorneys in the gallery. Eventually, my case was called. When the court asked the status of the case, I launched into my well-prepared argument. Judge Blair immediately interrupted me. He then asked opposing counsel if there was any objection to a continuance. To my surprise there was none. I suddenly realized that there was much more to learn in the practice of law than staying up all night studying for something that was uncontested. Rather, the better approach would have been to contact the opposing counsel to see if the matter was in dispute. And thus began one of my first cases with the Department of Law.

In another case, Gary tasked me with having an advertising sign removed in Tok, Alaska. It was encroaching the sacred Alaska Highway right-of-way. Judge Gerald VanHoomissen (Judge Jerry) was the judge. Rather than driving, Judge Jerry had flown his Cessna 180 to Tok. I, on the other hand, had to drive the three-hour trip. I arrived in Tok the day before my hearing in order to get properly prepared. That evening, I went to the Parker House Lodge, the local watering hole. The lodge was obviously in the midst of a large party. An earlier prosecution case had been dismissed mid-trial by the assistant district attorney. The case involved two Tok residents who had been charged with stealing appliances from Alyeska Pipeline Service Company and then selling them to the locals at bargain rates — modern day Robin Hoods. When it finally became apparent that the prosecution could not possibly win the case in a hometown courtroom, the prosecutor wisely dropped the action. In reaction to the announcement, the entire courtroom, including the jurors, had broken into applause. The party which followed was just a continuation of that celebration.

When I entered the lodge, I saw Jerry slumped in a chair at a table.

He had a half-finished drink before him. But he was not alone. A local lady was leaning over him telling him that he was the "Besch Judge in da whole wide world." Meanwhile, Judge Jerry was politely trying to escape his admirer, saying, "You think so now, but you might not like how I may be ruling on tomorrow's case." Discretion being the better part of valor, I chose to leave the vicinity, rather than risk a recusal.


The next day, the removal hearing commenced. The defendant's counsel was from Juneau. He had driven in from Anchorage after his flight and had not had the benefit of the previous day's proceedings or the resultant celebration. Nor did he likely appreciate the quality of the court's hangover.

The hearing promised to be a battle royale. I was a naïve, young attorney pitted against an experienced hot shot barrister from Juneau. At one point during my presentation of my contentious case-in-chief, the attorney made a relevancy objection. Argument followed. Following approximately five minutes of give and take, Judge Jerry announced, "That's enough gentlemen. I'm ready to rule." I figured that we would get a ruling on the objection and proceed with my questioning. After all, wasn't that how things worked? But I was wrong.

To both attorneys' surprise, the court ordered the sign be removed within 30 days or a contempt sanction would enter. The city slicker defense attorney was dumbfounded and tried to protest. The attempt was futile. Not only had I not completed my own case-in-chief, but the defense had not even started its case yet, but had already clearly lost. Judge Jerry then quickly left the bench to rush out to his airplane parked on the side of the highway in the courthouse parking lot. Taking off from the highway during a break in tourist traffic, he barely left Tok before a storm closed in. Although appeal was a theoretical option, it was not practical. The net effect was that the sign was removed. The case was over. Bush justice served.

That was not the only time that I had an experience before Judge Jerry. In another condemnation case, the defense attorney was an

*Continued on page 7*



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# My Five



For each edition of the Bar Rag we invite three members of the legal community to tell us their five favorite musical pieces.

**Rebecca Patterson**, Sonosky Chambers et al: Five favorite songs for listening and dancing with family/kids.

1. "Skinny Love"— Bon Iver.
2. "Let It Go"—Idina Menzel/Frozen soundtrack.
3. "Good as Hell"— Lizzo.
4. "Get By"— Talib Kweli.
5. "Waterfalls"— TLC.

**Jackie Sheperd**, ACLU of Alaska: Five favorite songs that remind me of each of my five favorite children.

1. "Living Proof"— Bruce Springsteen, from "MTV Plugged" album. For Solomon, my real-life living proof of G-d.
2. "Dear Theodosia"— The Hamilton Soundtrack. For Bella, who will one day sing "Hamilton" songs to me from a Broadway stage. And I will cry.
3. "Fix You"— Coldplay. For Moshe, who said at 8 years old, "Mom, 'When you try your best, but you don't succeed; When you get what you want, but not what you need,' might be the saddest lyrics I've ever heard."
4. "Steal My Girl"— One Direction. For Mya, who forced me to love One Direction and who stole my heart in the process.

5. "Careless Whisper"— George Michael. For my giant baby Abraham, who has the most unexpected music taste of anyone I have ever known, which always reminds me that stereotypes are simply that.

**Melody Vidmar**, ACLU of Alaska: Five songs that remind me of my parents who Live 4,000 miles away.

1. (My Dad) "Gimme Shelter"— The Rolling Stones. Bob raised me on the Stones, my only tattoo is the tongue logo, and he took me to see them live for the first time when I was in sixth grade.
2. (My Mom) "Fireball"— Pitbull. I could have picked anything by Pitbull for this. Bethann is always the life of the party, and nothing gets her party mode faster than Mr. 305.
3. (My Dad) "My Little Buttercup"— Cast of "The Three Amigos." The whole family knows every word to this song (and most of the choreography), but only Bob rewrote the lyrics to sing as his audition for a local musical ... that Bethann was directing.
4. (My Mom) "If You're Happy and You Know It"— Various artists. Bethann not only sings this song with her preschool music classes, but she's also just the happiest person I know. I did not inherit that trait.
5. (My Mom & Dad) "I Wanna Know What Love Is"— Foreigner. This is my parents' "song." More importantly, they have modeled what love is my entire life and just celebrated their 37th wedding anniversary. Goals.

## The other side – what they don't teach you in law school

Continued from page 6

other Juneau counsel struggling to have evidence admitted which had been ruled inadmissible in prior motion practice. On several occasions, Judge Jerry sustained my objection to the attorney's persistent attempts to steamroll the ruling and have the evidence placed before the jury.

Eventually, Judge Jerry succumbed to the relentless attacks and allowed the testimony. The proverbial bell had been rung. And there was nothing I could do to un-ring it. I sat dejected at counsel table. We were no longer arguing about a thirteen-hundred-dollar taking in eminent domain. Rather, the defendant's appraiser had testified that the damages sustained were in excess of \$1.3 million. After a few minutes, Judge Jerry *sua sponte* summoned counsel to the bench. He then directed us into the anteroom. Something was clearly troubling him. After the door closed, the judge unzipped his robe, jammed his hands into his pants pockets and then declared, "Gentleman, I have really f\*\*cked up." In seconds, there was a loud knock on the door from the in-court clerk, Thelma, who stuck her head into the room, "Judge!" Thelma cautioned, "We are still on the record!"

Non-plussed, Judge Jerry politely thanked Thelma for her reminder. After Thelma closed the door, Judge Jerry next declared that his comment was, "inaudible." The defense attorney countered that the comment was clear. I chose to remain silent. An additional brief but pointed exchange took place between the judge and the defense attorney, who reluctantly conceded on reconsideration that the comment possibly was inaudible. When the transcript was produced by the court clerk for the later appeal, the term "inaudible" appeared at that portion of the transcript.

In yet another Judge Jerry case, I was arguing a summary judgment case against a well-respected Seattle attorney, Bruce Rinker. The case involved a construction dispute in Shungnak, Alaska. The plaintiff contractor had moved for summary judgment against my State of Alaska client on liability. I had submitted affidavits setting forth genuine issues of material fact. The likelihood of summary judgment being granted was minimal. I was confident we would prevail, and the court would deny the motion outright from the bench and refer the case to trial. Instead, to my surprise, Judge

Jerry granted the motion and then continued on to make several findings of fact, to include a damages determination. When I protested his factual findings, I was advised that I could always appeal. On balance, however, Bruce and I both concluded that the court likely had arrived at the ultimate outcome for the case. Settlement followed — bush justice once again served.

My final remarkable experience before Judge Jerry was after I had successfully won a hotly contested eminent domain trial.

Wanting to debrief the jury panel, I queried the exiting jurors as to how they had arrived at their verdict, politely asking, "Did you flip a coin?" It was an innocent comment, used by a naive state's attorney as an opener and not as an insult or challenge. But I was mistaken. In short order, one of the jurors complained to Judge Jerry that I had accused the panel of resorting to an impermissible quotient verdict.

That afternoon, I received a call at my office. Judge Jerry wanted me in his chambers *post-haste*. I reported as ordered and stood obediently before his desk, effectively in the lawyer's equivalent to being at military attention. I then received

a firm dressing down, "Satterberg, just what in the hell did you think you were doing?" It got more pointed from there, rivaling R. Lee Erney in *Full Metal Jacket*. The lecture about courtroom decorum continued for about three minutes. When he had finished, Judge Jerry stated that he hoped I had learned my lesson and would not repeat such a stupid mistake again and summarily dismissed me. Suitably chastised, as I turned to leave, Judge Jerry had one final comment, "Satterberg? Good trial!"

I miss those days when the judges took a genuine interest in constructively mentoring young counsel. During my early years of practice, I learned a lot from Judge Jerry, who, in my opinion, did much to shape the practice of law in the old frontier town of Fairbanks.

But there is more, dear readers. Stay tuned for Part II. (And I even have a Judge Ralph Beistline story coming up one of these days.)

To be continued . . .

Admitted to the Alaska Bar in 1976, William R. Satterberg Jr. has a private, mixed civil/criminal litigation practice in Fairbanks. He has been contributing to the Bar Rag for so long he can't remember.

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# Despite our experience, life always has lessons for us

*Continued from page 2*

I thought that the picture might be useful at my funeral; maybe something about the road not taken. But I still had a column to write, so I persevered and kept going, despite how challenging the task now was.

The good news is that I made it and learned a valuable lesson about snowshoes, and life in general. Although the trip in took only about 20 minutes, the trip back was over two hours but, in retrospect, I think it was worth it. I learned to check my gear before I started out. I learned

that two snowshoes worked better than one. And I was once again reminded how important it is to keep going even when things get tough. Probably applicable to most situations.

And, best of all, I got my column to the managing editor on time.

Post Script: The day after the trip, I bought two new sets of snowshoes—one to keep at the cabin and the other to keep with me.

*Ralph R. Beistline is editor of the Bar Rag and a senior U.S. District Court judge.*



A smile proves success but hides what's to come.



The trail ahead, oh so easy going in but oh so long on the return.



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### DO YOU KNOW SOMEONE WHO NEEDS HELP?



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

Contact the Alaska Bar Association or one of the following coordinators when you learn of a tragedy occurring to someone in your local legal community:  
Fairbanks: Aimee Oravec,  
[aoravec@doyonutilities.com](mailto:aoravec@doyonutilities.com)  
Mat-Su: Greg Parvin, [gparvin@gparvinlaw.com](mailto:gparvin@gparvinlaw.com)  
Anchorage: Stephanie Joannides,  
[joannidesdisputeresolution@gmail.com](mailto:joannidesdisputeresolution@gmail.com)

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



# Delaware Tax Trap clauses can aid trust planning

By Steven T. O'Hara

## Part I of a series

Imagining clauses related to the Delaware Tax Trap may help to demystify this affirmative planning tool. For illustration and discussion purposes only, I offer some language below, including what I call a heads-up clause.

First, a quick review: The Delaware Tax Trap is about imputed, not actual, ownership. It can impute ownership of property to you for federal gift tax, estate tax, and generation-skipping transfer ("GST") tax purposes. Its elements are (1) someone has given you a non-general power of appointment known as the First Power (if it were a general power, ownership under tax law would already be imputed to you); (2) you exercise the First Power by creating one or more new powers of appointment; and (3) the applicable state law permits the new power of appointment to be validly exercised without reference to the date of the creation of the First Power. IRC Sec. 2041(a)(3) and 2514(d).

Trust law has become a centerpiece in some states, including Alaska. In these states, an issue for legislators is what to do with the famous limitation on the duration of trusts known as the Rule Against Perpetuities. Instead of abolishing it, Alaska has extended the Rule to 1,000 years. AS 34.27.051. Noteworthy is that the start date under the Rule can intersect with the Delaware Tax Trap.

The start date of the 1,000 years under the Alaska Rule Against Perpetuities is, under the Delaware Tax Trap, the date the First Power was created. See AS 34.27.051(a) and (c); IRC Sec. 2041(a)(3) and 2514(d). If a new power created by the First Power is validly exercisable without reference to the creation date of the First Power, such as would be the case if there were no Rule Against Perpetuities, this fact triggers the Delaware Tax Trap. However, Alaska limits this result to circumstances where the new power is a presently exercisable general power of appointment. AS 34.27.051(b). In states where the Rule Against Perpetuities has been abolished, I understand lawyers insert clauses into governing documents to serve the same function as Alaska Statute 34.27.051.

A presently exercisable general power of appointment is discussed in the Blattmachr/Pennell article titled "Using 'Delaware Tax Trap' to Avoid Generation-Skipping Taxes," which appeared in the April 1988 issue of the *Journal of Taxation*. This article is discussed in my blog post at [www.oharatax.lawyer](http://www.oharatax.lawyer) titled "Demystifying the Delaware Tax Trap."

A presently exercisable general power of appointment is a defined term under Alaska law and includes "a power to revoke or invade the principal of a trust" for yourself, your estate, or the creditors of either. See AS 13.12.201(b)(5). Cf. IRC Sec. 2041(b)(1) (defining a general power of appointment for federal estate tax purposes) and IRC Sec. 2514(c) (defining a general power of appointment for federal gift tax purposes).

Where clients follow the Blattmachr/Pennell idea, giving a beneficiary a non-general power of ap-

pointment over a trust with GST tax exposure, a heads-up clause in the applicable trust or Will may be of assistance, such as the following:

***Heads-Up on Exercise of Powers, Delaware Tax Trap, Imputed Additions to Trusts. It is my wish, but not my binding direction, that any individual signing a Will that refers to a testamentary power of appointment hereunder shall consider IRC Section 2041(a)(3) and any GST tax issues (cf. Treas. Reg. Sec. 26.2601-1(b)(1)(v)(A) and (B)) with his or her tax counsel before signing such Will. Any trust principal or net income as to which a power of appointment is exercised shall be distributed to the appointee or appointees (whether living at the time of exercise or thereafter born) upon such conditions and estates, in such manner (in trust or otherwise) with such powers, in such amounts or proportions, and at such time or times (but not beyond the period permitted by any applicable rule relating to perpetuities) as the holder of the power may specify in the instrument exercising the power.***

Treasury Regulation Section 26.2601-1(b)(1)(v)(A) and (B) deals with imputed additions to trusts that were irrevocable on Sept. 25, 1985. By way of background, the GST tax applies to generation-skipping transfers made after Oct. 22, 1986. However, there is an exception to this date in that the GST tax system does not apply to trusts that are grandfathered ("Grandfathered Trusts"). These are trusts that were irrevocable on Sept. 25, 1985, and to which no additions have been made after that date. See Treas. Reg. Sec. 26.2601-1(a)(1) and (b)(1).

In addition to Grandfathered Trusts (which automatically sidestep any GST tax payment obligation), there are younger trusts that have zero inclusion ratios. Here, under the vocabulary of the GST tax system, the inclusion ratio is either one, zero, or something in between. IRC Sec. 2642(a)(1) and (2) and (c). An inclusion ratio of one, for example, means the GST tax, which is currently 40%, is payable on the entire applicable transfer. IRC Sec. 2641. And an inclusion ratio is always one, except with respect to certain nontaxable gifts and transfers sheltered by GST exemption. IRC Sec. 2642(a)(2)(A) and (c).

In order for the GST tax system to work, every dollar of value in a trust is assigned to an individual as the transferor of that dollar of value. See Treas. Reg. Sec. 26.2652-1(a)(1) and 26.2654-1(a)(2)(i) ("If there is more than one transferor with respect to a trust, the portions of the trust attributable to the different transferors are treated as separate trusts"). Under the GST tax system, everything begins with the identification of the transferor. See IRC Sec. 2652(a).

When a power of appointment is granted, even a non-general power of appointment, the donee of the power may become the transferor of the part of the trust relating to the power. Indeed, the donee of the pow-



"The Delaware Tax Trap is about imputed, not actual, ownership."

er may become the imputed transferor of property for income tax, gift tax, estate tax, and GST tax purposes. IRC Sec. 678(a); 2511; 2514(b), (d), and (e); 2033; 2041(a)(2), (a)(3), and (b)(2); and 2652(a). For me, Treasury Regulation Section 26.2601-1(b)(1)(v)(A) is a reminder that the Delaware Tax Trap is not the only imputation of ownership under tax law and that imputation from applicable code sections can result in the loss of a trust's grandfathered status. By extension, this regulation is a reminder that non-grandfathered trusts with zero inclusion ratios can lose their zero inclusion ratios from imputation of ownership under tax law.

The next regulation in the heads-up clause, Treasury Regulation Section 26.2601-1(b)(1)(v)(B), is a reminder of the IRS conclusion that if you have a non-general power of appointment over a Grandfathered Trust, and if you exercise that power and step outside what I call the IRS 90-Year Safe Harbor, you lose the grandfathered status of the trust. For me, this regulation suggests that if you have a non-general power of appointment over a trust with a zero inclusion ratio, and if you exercise that power and step outside the IRS 90-Year Safe Harbor, the IRS would say you lose the zero inclusion ratio of the trust.

What is this thing I call the IRS 90-Year Safe Harbor? It is a limited period identified by the IRS as the "perpetuities period" beyond which the IRS apparently figures there is a change in the trust's transferor under the GST tax system. Treasury Regulation Section 26.2601-1(b)(1)(v)(B) explains:

***The ... exercise ... of a power of appointment (other than a general power of appointment as defined in section 2041(b)) is not treated as an addition to a trust if ... the power of appointment is not exercised in a manner***

***that may postpone or suspend the vesting, absolute ownership or power of alienation of an interest in property for a period, measured from the date of the creation of the trust, extending beyond any life in being at the date of the creation of the trust plus a period of 21 years ... (the perpetuities period). For purposes of this paragraph (b)(1)(v)(B) (2), the exercise of a power of appointment that validly postpones or suspends the vesting, absolute ownership or power of alienation of an interest in property for a term that will not exceed 90 years (measured from the date of the creation of the trust) will not be considered an exercise that postpones or suspends vesting, absolute ownership or the power of alienation beyond the perpetuities period. If a power is exercised by creating another power, it is deemed to be exercised to whatever extent the second power may be exercised.***

In the next issue of this column, I will provide an illustration of how IRC Section 2041(a)(3) and Treasury Regulation Section 26.2601-1(b)(1)(v)(A) and (B) might, hypothetically, be reflected in governing documents.

To sum up, powers of appointment, like trusts in which they are found, are like waterfalls; they descend and allow for the creation of other powers. Tax issues surround the substance of what is happening, including tax issues over "downstream" powers. Flexibility is key, including the flexibility that can come from the positive use of the Delaware Tax Trap.

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

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

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# New Superior Court judge installed in Anchorage

## From the Alaska Court System

Judge Laura Hartz was installed May 5, 2023, with a ceremony in the Supreme Court courtroom in Anchorage.

Justice Jennifer S. Henderson, Alaska Supreme Court welcomed everyone and administered the oath of office. Addresses and remarks were also provided by Judge Tracey Wollenberg, Alaska Court of Appeals; Judge Andrew Guidi, Anchorage Superior Court; Judge Leslie Dickson, Anchorage District Court; Kelly Jantunen, friend; Jeffrey W. Robinson, Alaska Bar Association; and H. Ryan Fortson, board member Anchorage Bar Association.

A large group of family, friends, and current and former co-workers were in attendance.

Judge Hartz was appointed to the Anchorage Superior Court Jan. 6, 2023, by Gov. Mike Dunleavy.

She and her sister, Adrienne, were raised in Oregon by their parents, Joseph and Gervaise Sadowski. She attended Gonzaga University in Spo-

kane, WA, where she graduated with a bachelor's degree in journalism in 2001. In 2005, Judge Hartz graduated from the University of Oregon School of Law. She remained in Eugene after law school and clerked for Kip W. Leonard on the Lane County Circuit Court.

Judge Hartz moved to Alaska in 2006 with her husband, Jason, a lifelong Alaskan. Jason clerked for Alexander Bryner, Chief Justice of the Alaska Supreme Court. Judge Hartz took a position in Anchorage with the Attorney General's Office as a trial attorney handling child protection cases. After two years living and working in Washington, D.C., Jason and Laura returned to Alaska in 2010 and made it their home. Judge Hartz returned to the Attorney General's Office where she worked for a decade prosecuting children-in-need-of-aid cases.

In 2020, Laura joined the Office of Public Advocacy where she remained until her appointment in January 2023. At OPA, Laura wrote appeals in children-in-need-of-aid cases on behalf of guardians ad litem. Laura was also appointed as a guardian ad litem to children in foster care and in civil custody and criminal matters.

Judge Hartz lives in Anchorage with her husband, Jason Hartz, their two children, Maxwell and James, and their husky, Huck.



Gathered for the ceremony are (from left): Judge Leslie Dickson, Anchorage District Court; Judge Tracey Wollenberg, Alaska Court of Appeals; Judge Laura Hartz, Anchorage Superior Court; Justice Jennifer S. Henderson, Alaska Supreme Court; and Judge Andrew Guidi, Anchorage Superior Court.



Judge Hartz is sworn in by Justice Henderson with Judge Guidi observing from the bench.

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### George Washington's Rules of Civility

The first U.S. President wrote a copy of the 110 Rules of Civility in his school book when he was 14. The rules appeared in late 16th Century France and were popular in Washington's time. Some have application today.



*Every action done in company ought to be with some sign of respect, to those that are present.*

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The Bar Rag doesn't intend to print them all but will offer one now and then.

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Zoe Wise

## 14 students awarded Bar Association scholarships

In the 1980s, the Alaska Bar Association offered a scholarship program for Alaskans who were first- and second-year law students and intended to return to Alaska after law school graduation. Alaska has no law schools, so the cost of a legal education for Alaskans is even more expensive than for students in the Lower 48 because of travel, housing and out-of-state tuition costs. Law students today face a much larger financial burden than most seasoned practitioners did when they were in law school 30 years ago. Unfortunately, the Bar's scholarship program was discontinued long ago. In 2018, however, the Board of Governors voted to implement a new scholarship program.

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

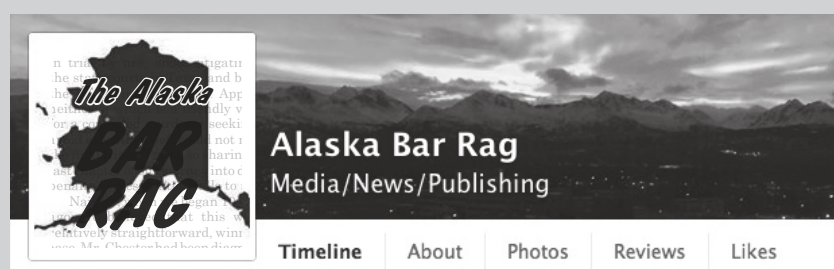
The Scholarship Committee met April 10 to review applications and announce the scholarship recipients. The Bar received a total of \$9,800 in generous donations. All funds received were applied to this year's scholarship program. After reviewing all applicants' ties to Alaska, their intent to return to Alaska, and their reason for applying for the scholarship, the Scholarship Committee decided to award \$700 scholarships to the following 14 individuals:

### \$700 Scholarship awarded to:

- Nicole Bagg
- F. Colleen Bailey
- Kathrine Coonjohn
- Erin Curran-Tileston
- Megan Holland
- Gloria Jacobsen
- Breanna Jingco
- Edith Leghorn
- Isabel MacCay
- Samantha Osborne
- Elizabeth Randall
- Natalia Spengler
- Sophia Tidler
- Zoe Wise

### The bar would like to thank all of the 2022 scholarship donors:

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

Please send your tax-deductible check, payable to the Alaska Bar Scholarship Fund, to the Bar office, or log on to the Bar's website at [www.alaskabar.org](http://www.alaskabar.org) and pay online. Please contact Bar staff if you have any question. Thank you for your consideration and support.



ATTORNEY DISCIPLINE

## Bar counsel admonishes attorney

Bar counsel issued a written private admonition, the lowest level of discipline, to Attorney X for lack of competency in handling an appeal from a criminal conviction. The trial attorney filed a notice of appeal and designation of record prior to Attorney X's appearance as counsel. Attorney X identified a new issue on appeal, but did not seek to amend the designation of record to request transcription of post-trial hearings. Attorney X filed the opening brief with an incomplete record.

The state contended defendant's claim was inadequately briefed because the lack of transcripts deprived defendant the ability to cite to the record in support of his claims. Attorney X filed defendant's reply brief without citations to the hearing transcript or audio.

The Court of Appeals ordered Attorney X to show cause to show why the designation of record was not enlarged as some relevant hearings occurred

after the filing of the notice of appeal. Attorney X explained that after reviewing the Alaska Appellate Rules, the attorney concluded that an appellant is not permitted to designate additional transcripts once the notice of appeal is filed and the record is designated. In fact, attorneys routinely file requests to designate additional transcripts.

The court found the failure to designate for transcription all of the relevant hearings amounted to ineffective assistance of counsel because it risked waiver or abandonment of defendant's claims. The court concluded that Attorney X violated a professional duty of competency under ARPC 1.1.

An area division member reviewed the file and agreed with Bar counsel that a written private admonition adequately met the discipline system's goal of public protection. Attorney X agreed to refresh appellate advocacy skills by attending an approved three-hour CLE that focused on appellate advocacy.

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# Anchorage Bar makes annual donation to Bean's Cafe

The Anchorage Bar Association in March donated \$1,000 to Bean's Café in memory of attorneys who died in 2022.

**Remembered:**

- Ronald Birch
- Daniel Branch
- Ronald Bussey
- Evan Chyun
- Leland Chancy Croft
- Paul Eaglin
- Robert Ely
- William Erwin
- Bruce Falconer
- Harold Green
- R. Everett Harris
- John Noel Kulas
- Daniel Moore
- James Ottinger
- David Rosendin
- Gordon Schadt
- Justice Craig Stowers
- Warren Tucker
- Roy Williams
- Juliana Wilson
- Chris Zimmerman



Above: Anchorage Bar President Matt Widmer hands the annual Anchorage Bar donation to Lisa Sauder, Bean's chief executive officer, who is standing next to Diana Arthur, development and communication director.



Right: A memorial to Bernie Washington, who died in 2021 after serving on the Bean's Board of Directors for more than 25 years.



For the sake of nostalgia, the old Bean's Cafe sign.

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## Board proposes amendments to Bar Rule 65 and 66 increasing the mandatory Continuing Legal Education requirement

At its meeting on May 5, 2023, the Board of Governors voted to invite member comments to the proposed amendments to Bar Rule 65 and 66 which would increase the MCLE requirement to 12 CLEs (at least three of which must be ethics CLEs). For an explanation on the change please refer to the President's Column on page 2. Please send comments to Executive Director Danielle Bailey at [bailey@alaskabar.org](mailto:bailey@alaskabar.org) by July 15, 2023.

### Rule 65. Continuing Legal Education.

(a) *Mandatory Continuing Legal Education.* In order to promote competence and professionalism in members of the Association, the Alaska Supreme Court and the Association require all members to engage in Mandatory Ethics Continuing Legal Education (MECLE). Every active member of the Alaska Bar Association shall complete at least three twelve credit hours per year of approved MCLE. Three of those twelve MCLE credit hours must be in approved ethics CLE (MECLE). Qualifying ethics educational topics may include professional responsibility, workplace ethics, law office management, attention to cases and clients, time management, malpractice prevention, collegiality, general attorney wellness, and professionalism.

(b) *Voluntary Continuing Legal Education.* In addition to MECLE, the Alaska Supreme Court and the Association encourage all members to engage in Voluntary Continuing Legal Education (VCLE). Every active member of the Alaska Bar Association should complete at least nine credit hours per year of approved VCLE.

*Commentary.*—The Alaska Supreme Court and the Association are convinced that CLE contributes to lawyer competence and benefits the public and the profession by assuring that attorneys remain current regarding the law, the obligations and standards of the profession, and the management of their practices. To protect the public, ensure that lawyers remain mindful of their obligations to their clients, and to address the area about which the Association receives the majority of questions from and complaints about lawyers, the Supreme Court is imposing a mandatory requirement for ethics CLE on all active Bar members. The ethics topics that qualify for MECLE are intended to be comprehensive, as conveyed by the examples in subsection (a) of this rule. Moreover, to help ensure that lawyers can easily and readily meet the MECLE requirements, the Association has agreed to provide at least three hours per year of approved MECLE at no cost to members. The Supreme Court has also concluded that Voluntary Continuing Education CLE on additional subject areas is valuable to lawyers and should be encouraged required. This rule uses incentives to encourage lawyers to participate in VCLE.

The Supreme Court's goal in imposing MECLE and mandatory reporting of all CLE is to encourage a substantial increase in attendance at CLE courses and participation in activities that earn MECLE and VCLE

credit, with resulting enhancement of lawyer services to clients. This rule refines the former VCLE rule, and continues the pilot project begun in 1999. At the end of three years, the Supreme Court will again assess the project's results, including recommendations and statistics provided by the Association, and will determine whether an expanded mandatory CLE program is necessary.

(c) *Carryforward of Credit Hours.* An active Bar member may carry forward from the previous reporting period a maximum of 12 credits (3 MECLE credits and 9 CLE credits). To be carried forward, the credit hours must have been earned during the calendar year immediately preceding the current reporting period.

(d) *Mandatory Reporting.* By February 1 of each year, each member must certify on a form prescribed by the Association whether the member has completed the required minimum of three hours of approved MECLE during the preceding year or carried over from the prior year as provided in subsection (c) of this rule. The member must also certify whether the member has completed nine hours of approved V other approved CLE during the preceding year or carried over from the prior year as provided in subsection (c). If the member has completed fewer than nine hours of VCLE, the member must also estimate and report the estimated number of VCLE hours completed. A member shall maintain records of approved MECLE hours for the two most recent reporting periods, and these records shall be subject to audit by the Association on request.

*Commentary.*—The Supreme Court has adopted this mandatory reporting requirement to ensure that Bar members report CLE activities to the Association. This will ensure that the Association and the Court can assess the effectiveness of the rule by determining what percentage of lawyers are earning CLE credit hours in excess of the minimum, and what percentage are earning VCLE credit hours, even if the hours are less than the nine hours that this rule encourages. The record of approved MECLE hours that members are required to maintain under subsection (d) may be any documentation, including contemporaneous journal entries or timekeeping entries, whether paper or electronic, that serves to establish that the member earned the credit hours.

(e) *Incentives for VCLE.* Only members who complete at least nine hours of VCLE are eligible to participate in the Alaska Bar Association's Lawyer Referral Service. If a member does not complete at least nine hours of VCLE, that fact may be taken into account in any Bar disciplinary matter relating to the requirements of Alaska Rule of Professional Conduct 1.1. The Association shall make a member's record of compliance with VCLE available to the Alaska Judicial Council for its consideration in connection with a member's candidacy for any judicial office or other position for which the Council screens and nominates candidates. The Association shall publish annually, and make available to members of the public, a list of attorneys who have complied with this rule's MECLE requirements and satisfied this rule's minimum recommendations for VCLE. The Association may adopt other incentives to encourage compliance with the VCLE recommendations.

(f) *Time Extensions.* A member may file a written request for an extension of time for compliance with this rule. A request for extension shall be reviewed and determined by the Association.

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

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

(2) studying audio or video tapes or other technology-delivered approved MECLE and VCLE courses;

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

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

(5) participating as a faculty member in Youth Court;

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

(7) attending approved continuing judicial education courses;

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

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

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

(11) participating as a member of an Area Discipline Division or an Area Fee Resolution Division.

(h) *Approval of CLE Programs.* The Association shall approve or disapprove all education activities for credit. CLE activities sponsored by the Association are deemed approved. Forms for approval may be submitted electronically.

### Board of Governors Action Items April 4, 2023

- Approved 5 reciprocity and 21 UBE applicants for admission.

### Board of Governors Action Items May 4 & 5, 2023

- Approved the February and April 2023 minutes.
- Approved 12 reciprocity applicants and 11 UBE score transfer applicants for admission.
- Approved the application of one bar exam applicant who had previously been deferred pending the completion of a character and fitness investigation.
- Voted to approve two Rule 43 (ALSC) waivers for Steven Jesse Thompson and Peter Utz.
- Approved the results of the February 2023 bar exam.
- Voted that one applicant who had been reviewed by a character and fitness subcommittee had met the character and fitness requirements of Alaska Bar Rule 2. Voted to defer another applicant pending additional information.
- Formed a subcommittee to look into attorney access to state courts and jails: Espejo, Cox, and Tapqaq.
- Voted to send a letter regarding the U.S. District Court Judge vacancy to Senators Lisa Murkowski and Dan Sullivan.
- Adopted the Resolution of the Board of Governors of the Alaska Bar Association regarding

the Disposition of Bar Health Plan Surplus Assets.

- Adopted the Resolution of the Board of Governors of the Alaska Bar Association regarding Requirement to File Federal Tax Forms.
- Adopted the Alaska Bar Association Statement on Commitment to Diversity.
- Appointed an awards subcommittee: Hafner, Oravec, and Tapqaq.
- Appointed a keynote speaker subcommittee: Robinson, Cox, and Zach Manzella.
- Appointed an executive director and bar counsel evaluation subcommittee: Wildland, Robinson, Granger, and Hofmeister.
- Voted to publish Amendment to Bar Rule 65 and 66 increasing the mandatory continuing legal education (MCLE) requirement to 12 MCLEs in the *Bar Rag* for comment. Rule amendment will be published with an explanatory statement from the President.
- Voted to extend the Alaska Bar Association's ability to opt-out of their contract with Fastcase for one year.
- Voted to cancel the 2024 Annual Convention and hold the 2024 annual meeting as a separate event. Voted to move the Annual Convention to the spring of 2025.
- Voted to hold a meeting in June to hear the following items: non-standard testing requests and Diversity Commission Report.



# Board considers mandatory CLE requirements

*Continued from page 2*

- members.
- 4) We want to continue to allow a variety of activities to count for CLE credit, such as: writing published legal articles in law reviews, participating as a faculty member of youth court, attending substantive section meetings, participating as a member of qualifying committees, teaching approved CLEs, etc.

- 5) We want to continue to allow carryover credits so if you received extra CLE credits one year, you apply them to the next year.

The board's decision to publish the rule change acknowledges that, if the Legislature decides to make changes to our CLE requirements of their own accord, there is no guarantee that we will be able to meet these goals. They may require us to follow suit with Arizona and require 15 credits a year. They may, as Delaware, Maine, Montana, New

Mexico and Virginia do, require that a certain number of CLEs must be live CLEs and not be recorded webinars. They may even require all CLEs be in person. They may, like Florida, not allow any carryover credits. They may do what Oregon has done, and require CLEs on child and elder abuse reporting, access to justice, and substance abuse and mental health, in addition to ethics. They may force us to require certificates of completion with every CLE and require audits of every reported CLE credit each year.

We make this decision knowing it is unpopular with our membership, but with the intention of prioritizing our ability to serve our membership as effectively and with as much autonomy as possible in the long term. Should the board refuse to take action to bring our Bar more in line with other mandatory bars,

we may sacrifice our ability to self-regulate — as well as our credibility with the Legislature that controls us. As attorneys, we know that we must sometimes make concessions in order to preserve our broader goals. Here, the board looks forward to continuing to serve its membership by using our increased MCLEs as an opportunity to continue to support the excellent quality of legal advocacy already available in Alaska.

*Diana Wildland is president of the Alaska Bar Association. She was born and raised in Fairbanks. She has been a member of the board since 2020, and previously served as the Board New Lawyer Liaison from 2018-2020. She graduated from University of Oregon School of Law in 2017. She is currently a supervising attorney in Fairbanks with the Alaska Public Defender Agency.*

## Board proposes amendments to Bar Rule 65 and 66

*Continued from page 14*

(1) An entity or association must apply to the Board for accreditation as a CLE provider. Accreditation shall constitute prior approval of MECLE and VCLE courses offered by the provider, subject to amendment, suspension, or revocation of such accreditation by the Board.

(2) The Board shall establish by regulation the procedures, minimum standards, and any fees for accreditation of providers, in-house continuing legal education courses, and publication of legal texts or journal articles, and for revocation of accreditation when necessary.

(ig) *Effective Date; Reporting Period; Inapplicability to New Admittees.*

(1) This rule will be effective January 1, 2008~~25~~. The reporting period will be the calendar year, from January 1st to December 31st, ~~and the first calendar year to be reported will be the year 2008~~. Any ethics or other CLE credits earned from January 1, 2008~~24~~ to December 31, 2008~~24~~ may be held over and applied to the reporting period for the year 2008~~25~~.

(2) This rule does not apply to a new member of the Alaska Bar Association during the calendar year in which the member is first admitted to the practice of law in Alaska.

(Added by SCO 1366 effective September 2, 1999; by SCO 1640 Effective January 1, 2008; and by SCO 1756 effective October 14, 2011)

### Rule 66. Noncompliance with Continuing Legal Education Requirements; Suspension

(a) *Notice of Noncompliance.* Within 30 days after the deadline for filing the certification form described in Rule 65(d~~c~~), the Association shall send a notice of noncompliance to each member whose certificate shows that the MECLE requirement has not been met, or who has failed to file the completed certification form. Within 30 days after receiving a notice of noncompliance, the member shall either remedy the noncompliance, demonstrate that the notice of non-compliance was issued erroneously, or submit an affidavit of compliance, if the member asserts that the information on the certification form contained an error.

(b) *Suspension for Noncompliance with Mandatory Ethics Continuing Legal Education Requirement or Noncompliance with Requirement to Report MECLE and VCLE.*

(1) Any member who has not complied with the MECLE requirement in Rule 65(a) or with the mandatory reporting of MECLE and VCLE requirement in Rule 65(d~~c~~), and who has not remedied the noncompliance as provided in subsection (a) of this rule, shall be notified in writing by certified or registered mail that the Executive Director shall, after 15 days from the date of the notice, petition the Supreme Court of Alaska for an order suspending the member for noncompliance.

(2) A member suspended under this subsection shall not be reinstated until (A) the member has complied with the MECLE requirement and the mandatory reporting requirement; (B) the member has paid a reinstatement fee in an amount set by the Board; (C) the member has paid any dues accruing during suspension; and (D) the Executive Director has certified the member's compliance to the Alaska Supreme Court.

(Added by SCO 1640 effective January 1, 2008)

# CLE

## ALASKA BAR ASSOCIATION

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<p><b>Tuesday, June 6</b>  <b>Effective Communication and Legal Writing - The Goal of Persuasion</b>                      12:00 – 1:00 p.m.   1.0 General CLE Credit   Webinar</p>
<p><b>Tuesday, June 27</b>  <b>Privilege Issues for In-House Legal Departments</b>                      3:00 – 4:15 p.m.   1.25 Ethics CLE Credits   CIRI Fireweed Center (in-person only)</p>
<p><b>Wednesday, August 23</b>  <b>LexisNexis Digital Library Training</b>                      12:00 - 12:30 p.m.   .5 General CLE Credit   Zoom</p>
<p><b>Wednesday, September 13</b>  <b>Introducing Fastcase: A Guide to Legal Research for the Alaska Bar Association</b>                      12:00 - 1:00 p.m.   1.0 General CLE Credit   Zoom</p>
<p><b>Thursday, October 5</b>  <b>Lawyer Like an Athlete</b>                      12:00 - 1:00 p.m.   1.0 Ethics CLE Credit   Webinar</p>
<p><b>Tuesday, October 10</b>  <b>Winning Your Case with Better Memory</b>                      9:00 - 11:00 a.m.   2.0 General CLE Credits   Webinar</p>
<p><b>Tuesday, October 24</b>  <b>Guardianship and Conservatorship for the Criminal and Civil Practitioner: How these protective appointments interplay with criminal, CINA and civil matters.</b>                      12:00 - 1:00 p.m.   1.0 General CLE Credit   Webinar</p>
<p><b>Thursday, November 9</b>  <b>39th Annual Alaska Native Law Conference</b>                      Time TBA   CLE Credits TBA   Dena'ina Convention Center &amp; Webcast</p>
<p><b>Wednesday, November 15</b>  <b>How to Retain the Talent You Have</b>                      12:00 – 1:00 p.m.   1.0 General CLE Credits   Webinar</p>
<p><b>Wednesday, December 6</b>  <b>Advanced Fastcase: Legal Research for the Alaska Bar Association</b>                      12:00 - 1:00 p.m.   1.0 General CLE Credit   Zoom</p>
<p><b>Friday, December 15</b>  <b>Ethics with Stuart Teicher</b>                      TBA</p>



## ALASKA ASSOCIATION OF PARALEGALS

*Alaska's Statewide Association for the Paralegal Community*

On behalf of the Alaska Association of Paralegals (AAP), the Board of Directors expresses its thanks and gratitude to the members, prior officers and directors, guest speakers, and our sponsors for their support over the last 41 years. AAP was a reliable resource and hub for paralegals in providing educational and networking opportunities to the Alaska legal community. It is with great regret that AAP has made the difficult decision to dissolve, effective May 31, 2023.

AAP is a 501(c)(6) professional organization and is a member of the National Federation of Paralegal Associations, Inc. ("NFPA"). AAP has adopted NFPA's Model Code of Ethics and Professional Responsibility.





# New corporate reporting is just around the corner

By Julius J. Brecht

Effectiveness of new federal reporting requirements under the Corporate Transparency Act (31 U.S. Code § 5336, CTA) is just around the corner. Are you — who have formed or are about to form a business entity — ready for the new requirements?

## Stated purpose

CTA's stated purpose is creating a database of beneficial owners of reporting entities (beneficial owners). Its further stated purpose is combating money laundering and concealment of illicit income through shell companies.

## Those who must report

Under CTA (enacted by the U.S. Congress in January 2021, effective Jan. 1, 2024), existing, amended, or new business entities must each file reports with the Financial Crimes Enforcement Network within the U.S. Department of the Treasury (FinCEN) providing certain information (beneficial information). These entities include a corporation, limited liability company or other entity created by filing registration documents under laws of a state or territory of this country (collectively, state) and having one or more beneficial owners.

They also include an entity formed under tribal laws or foreign country laws (with the entity registered to do business in this country) and having such beneficial owners.

However, the balance of this article focuses on state-law-registered entities.

## Beneficial Information

Beneficial Information for the entity is as follows:

- Business name (legal and alternative (doing business as) names, if any).
- Current address of principal place of business.
- State of formation or registration.
- Taxpayer Identification number and employer identification number (as used by the Internal Revenue Service).
- As to each beneficial owner of the entity — full legal name, birth date, current address and government issued photo identification (driver's license or passport).

## Regulations

Regulations under CTA were issued in September 2022 and adopted by FinCEN, effective Jan. 1,

2024. The FinCEN release on them, including the regulations, may be found in the Federal Register at Vol. 87, No. 189, Sept. 30, 2022, (collectively, Regulations).

## Beneficial owners

CTA reporting requirements regarding beneficial owners (reporting requirements) apply to all individuals, who each exercise substantial control over, or who each owns or controls not less than 25% of the ownership interests of, an entity. Such control may be exercised through contract or other arrangement.

The regulations further clarify control may be direct or indirect through various means. Examples include where a person exercises substantial control as a senior officer or person having authority over appointment of, or removal of, any senior officer or a majority of a board of directors.

## Exemptions

Some entities are exempt from the reporting requirements. They are identified in 23 CTA exemption categories, including non-profit organizations and certain regulated entities. These regulated entities include banks or credit unions (whose deposits are insured through federal

insurance), certain broker-dealers, investment companies and insurance companies.

Also included as an exemption category is an entity with more than 20 employees on a full-time

basis in this country. Furthermore, the entity must have filed in the previous year a federal income tax return in this country demonstrating more than \$5 million in gross receipts or sales. The entity must also have an operating presence at a physical office within this country.

An entity not otherwise exempt from reporting requirements is hereafter referred to as a "reporting company."

## Added Risk Factors

Entity control, requiring compliance with reporting requirements, likely requires disclosure as a risk factor in an entity's securities offering.

The material risk is that a prospective purchaser in the offering, in subscribing to securities of the entity and becoming a Beneficial Owner of it, identifies the entity as a Reporting Company and requires that entity to file with FinCEN personal information about the Beneficial Owner. This risk factor may

also include disclosure of penalties for failure to comply with Reporting Requirements.

An entity likely must make a similar offering disclosure as to subsequent purchases of its securities. That is, should a person thereafter acquire additional securities sufficient to become a beneficial owner, the entity becomes a reporting company subject to the full rigors of CTA and the regulations.

## Reporting accuracy

Importantly, reporting requirements extend to anyone who actually files the entity's organizational documents with the state. That filer could be the reporting company's lawyer and the lawyer's paralegal or other staff person involved in the FinCEN filing. The reporting company in its FinCEN report must include information on that filer similar to that for the beneficial owner.

Reporting company change in control after an initial filing with FinCEN precipitates an additional filing with the agency, updating or otherwise correcting the initial filing.

## Timely reporting

A reporting company created before Jan. 1, 2024, must satisfy reporting requirements (file a report) before Jan. 1, 2025. Any reporting company created on or after Jan. 1, 2024, must satisfy reporting requirements (file a report) within 30 calendar days of the earlier of the following:

- Date on which it receives actual notice of effectiveness of its creation.
- Date on which the state first provides public notice of entity creation.

Regulation-required updates (changes to beneficial information previously submitted to FinCEN), must be submitted within 30 calendar days after the date the change occurred.

Any entity no longer meeting the criteria for an exemption from reporting requirements must, within 30 calendar days after such event, file a FinCEN report in accordance with those requirements.

## Penalties

CTA penalties for willfully providing Beneficial Information to FinCEN that is false or fraudulent are significant. Similarly, CTA penalties for willfully not providing complete or updated Beneficial Information to the agency are also significant.

In both cases, civil penalties for liability to the United States of not more than \$500 per day for each day of violation may be imposed, as well as fines of not more than \$10,000 or imprisonment for not more than two years, or both.

CTA also provides significant penalties for knowing, unauthorized disclosure of, or use of, beneficial information. Fines in these cases can be up to \$250,000 or imprisonment for not more than five years, or both. **Significant expansion of federal reporting requirements—**

CTA and regulations set forth significant expansion of the regulatory framework in the United States in combating illicit finances. For example, Business Know-How (a blog powered by zenbusiness on the Internet), estimated on Jan. 1, 2023, that about 30 million existing businesses and about 2 million new businesses each year are to be required to report Beneficial Infor-

mation under the Regulations.

The FinCEN form to be used by a Reporting Company in satisfying Reporting Requirements (FinCEN Form) was not included in CTA or the Regulations. It remains to be seen when the FinCEN form is provided.

## Further Challenges

FinCEN faces challenges to its ability to receive, store and maintain anticipated volume of beneficial information. Additional FinCEN challenges loom in developing a security system for maintenance of that information.

CTA provides a state must update its websites and forms relating to entity organization, alerting users to reporting requirements. Notification must include an Internet link to the FinCEN form and a statement of the purpose of the form in combating money laundering.

## Effect on entities, generally

FinCEN estimated reporting company costs for providing beneficial information to the agency as nominal (about \$85 per report). Actual cost figures remain to be seen. Also, there remain other entity challenges in understanding fully prerequisites for, and ramifications of, becoming a reporting company.

## Effect on Alaska entrepreneurs

CTA and regulation impact on small businesses in Alaska is readily apparent.

A sole proprietor Alaska entrepreneur (100% owner), in organizing a business as a corporation, limited liability company or other business entity to gain a protective shield from personal liability for the contemplated business, immediately becomes a substantial holder of the entity's outstanding securities. In so doing, the entity becomes a reporting company, and the entrepreneur becomes a beneficial owner of it.

The Alaska entrepreneur might be a small retail shop owner, physician, engineer, owner of a fishing boat or fishing lodge, or other small business owner in Alaska. Furthermore, that entrepreneur may clearly not be involved in any way with money laundering. Nevertheless, that Alaska business is stuck with trying to comply with the dictates of CTA and the regulations.

## Further prudent practitioner steps

While this article covers some provisions of CTA and the regulations in limited fashion, a prudent practitioner, in advising a client, ought to become familiar with all provisions of CTA and the regulations.

Good luck on your read of CTA and the regulations.

*This article was prepared solely to provide general information about the topic. Its content was not prepared as, and must not be construed as, legal, tax, investment, or other advice to anyone. Nothing in this article is intended in any way to form an attorney-client relationship or any other contract.*

*Julius J. Brecht is an attorney in private practice and Of Counsel with the law firm of Bankston Gronning Brecht P.C. with offices in Anchorage. His concentration of practice is in state and federal securities law and corporate and business law. He may be reached at jbrecht@bgbalaska.com.*

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The judges, facing the group during a discussion are from left: Judge Katherine Lybrand, Judge Amy Mead and Judge Daniel Schally. The youth seated in the back, Adu Wasillie of Bethel, later met those judges. Photos by Amanda Metivier.



Judges Mead, Lybrand and Schally (L-R) share a moment with Adu Wasillie.

## Event brings foster youth and authorities together

By Amanda Metivier

Facing Foster Care in Alaska (FFCA) has worked closely with the Court Improvement Program (CIP) in recent years to support efforts to engage youth in their Child-in-Need-of-Aid (CINA) cases.

This effort has come with opportunities to support an open dialogue among foster youth and legal parties by regularly opening forums at statewide FFCA retreats for judges to engage with youth by answering questions, sharing their perspectives, and fostering an overall opportunity for youth to learn from

judges and judges to learn from youth.

In February, FFCA hosted a statewide event in Juneau bringing together 28 foster youth from across the state. Throughout the event, youth learned about government processes and engaged with each branch of government meeting with public officials from the Department of Family and Community Services (DFCS), state lawmakers and judges. Youth participated in a strategic-sharing workshop to prepare to share their experiences with these public officials in a way that

was intentional and designed to promote change.

With support from CIP, Judge Katherine Lybrand, Judge Daniel Schally and Judge Amy Mead attended the February FFCA event to present a panel to foster youth. Judges candidly fielded questions from young people like, “*Why did you become a judge? Does this work make you sad? How do I get out of foster care? How do I get a new judge on my OCS case?*” And “*what happens if I skip jury duty?*”

The opportunity for foster youth to engage in these forums with judges has met with positive feedback

and is a rare occurrence across the country. Youth share the humanizing nature of seeing judges off the bench and understanding how and why decisions are made about their lives. Judges get to see foster youth as youth, and hopefully gain a heightened sense of awareness as to why youth should be participating in decisions about their lives.

Amanda Metivier is a former foster youth, foster/adoptive parent and the director of the Alaska Child Welfare Academy, a department at University of Alaska that houses a partnership with Facing Foster Care in Alaska.

## About Facing Foster Care in Alaska

Facing Foster Care in Alaska (FFCA) is a nonprofit dedicated to improving the foster-care system, developing leadership skills among current and former foster youth, and creating a network of peer support that is a lifeline for many foster youth and alumni.

FFCA provides foster youth and alumni opportunities to share lived-expertise about life in foster care, to raise community awareness, educate child welfare staff and government officials, and educate foster youth throughout Alaska about their rights, resources and opportunities to share their voice to promote change.

### Membership

FFCA Members include foster youth and alumni who are dedicated to improving the foster care system for others. FFCA members gain working knowledge of Alaska’s child welfare system, develop skills in public speaking, advocacy, and have a unique opportunity to connect with their peers throughout the state.

### What We Do:

- Form recommendations to better the foster care system
- Educate professionals and the public about foster care issues through training and presentations
- Advocate for local, state and national policy change
- Positively engage in a network of peer support
- Cultivate leadership and public speaking skills
- Participate in statewide leadership retreats and conferences
- Network with state and national organizations working to improve foster care
- Educate and empower foster youth and society to make change

### Membership represents current and former foster youth:

**Youth** ages 15+ currently in foster care

**Alumni** ages 15+ former foster youth

**Alumni/Elders** ages 25+ former foster youth

FFCA Members aged 15-24 have voting rights and can run for a position on the statewide Youth Leadership Board.

### Youth Leadership Board (YLB)

Youth Leadership Board members serve a two-year term, representing one of five regions of the state. They assist in planning and facilitating statewide and regional activities for youth and lead policy advocacy.

### Program

- FFCA focuses on youth-led advocacy, training, and peer support.
- **Youth Retreats:** We host four annual leadership retreats, open to foster youth and alumni ages 15-24
- **Speakers Bureau:** FFCA members share lived-expertise for youth, child welfare staff, caregivers, and legal parties.

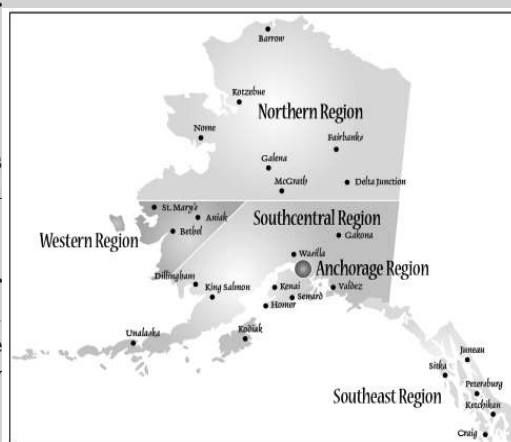
- **Laptops:** We buy and match new laptops with foster youth throughout Alaska.
- **Direct to Youth Grants:** We provide foster youth and alumni with direct support for housing, food transportation, education, and medical care.
- **The Office of Youth Empowerment (OYE):** OYE is a partnership of FFCA and the Alaska Child Welfare Academy focused on youth empowerment, advocacy, college enrichment, training, and peer mentoring programs for foster youth throughout Alaska.

### History

Founded in 2003 by a handful of foster youth and alumni, FFCA has grown to become the state’s leading organization on foster care reform and networking, and has received national recognition.

FFCA has touched the lives of hundreds of foster youth and alumni across Alaska. FFCA members have worked to improve the foster care system on both a state and national level through partnerships with state and private agencies, and youth alumni networks. FFCA members have led efforts to expand services and supports for foster youth across Alaska, including;

- [freedom of speech for foster youth](#),
- extending foster care to 21,
- foster care re-entry,
- tuition and higher education funds and access,
- mentors,
- laptops,
- discount clothing (FosterWear),
- foster parent recruitment,
- transitional living,
- medically necessary orthodontia,
- increased permanency for older youth,
- normalcy,
- sibling contact and placement,
- relative search,
- increased training and staff positions, and caseload standards for child protection,
- youth ages 14+ participation in case planning,
- loosened licensing regulations for rural communities,
- school stability,
- notice and access for foster youth of social security benefits,
- extended foster care beyond 21 for youth aging out during the COVID19 pandemic,
- published educational materials on youth engagement in court and rights,
- promoted foster care recruitment and public awareness,
- Court rules, including Youth’s Right to an Attorney and Participation in court.



Learn more at [www.ffcalaska.org](http://www.ffcalaska.org)

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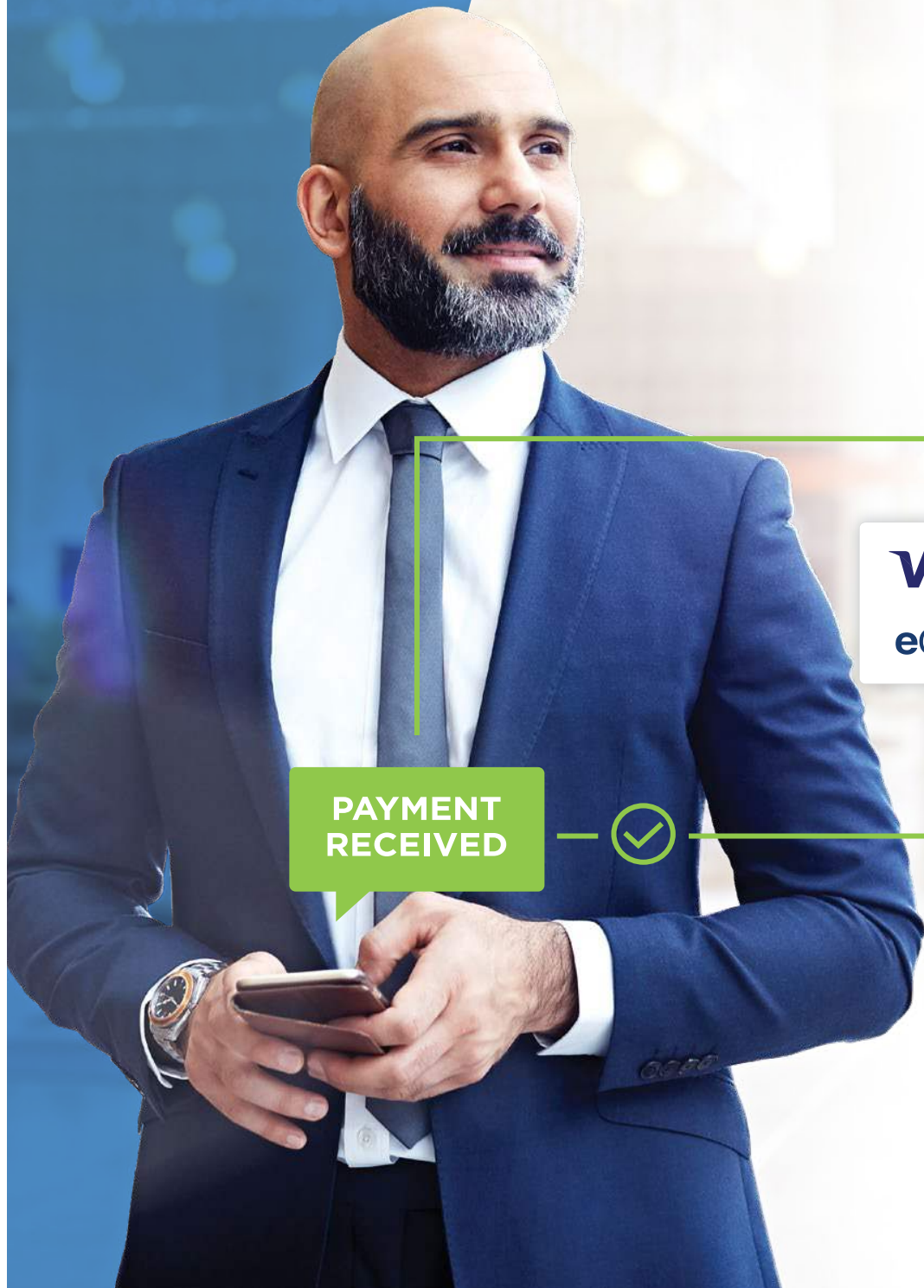
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## In Memoriam

### Long-time Alaska public official dies in California

Donna Spragg Pegues, of Juneau, and Oceano and Borrego Springs, CA, died Jan. 22, 2023, at her home in Borrego Springs after suffering a stroke. She was 94.

Born in Inglewood, CA, Jan. 4, 1929, Donna grew up during the Great Depression. She graduated from the University of Redlands cum laude in 1951, going on to earn her master's degree in government administration from the University of Denver in 1952.

In 1955, Donna moved from Los Angeles to Juneau to begin what would become a lifelong career in state government. First working as a researcher with the Territorial Legislative Council, then with the new Department of Finance and the Rural Development Agency before returning to Legislative Affairs. She later worked as a staff member to the Joint Finance Committees of the early state Legislatures and continued research work with Legislative Affairs.

She helped found The League of Women Voters in Juneau and was active with the American Association of University Women.

In 1968 Donna received her J.D. from Hastings Law School where she was editor of the Law Review and a member of the Order of the Coif. She returned to Juneau in 1969 as an assistant attorney general. In 1973 she married her long-time friend, Rodger (Rod) Pegues, and helped raise his four children. She went on to work as clerk of the Alaska Supreme Court and co-revisor of statutes for Legislative Affairs before retiring in 1982.

She and Rod began adopting rescue dachshunds in their retirement years. In 1991, they also began splitting their time between Juneau and Borrego Springs, always with at least two, and sometimes three, doxies in tow. In 2015, to shorten the trips to the desert they moved from Juneau to Oceano.

She was predeceased by her husband; her parents, Donald and Nadenne Spragg; her sister Barbara Diaz; and brother-in-law Frank Diaz.

She leaves her stepchildren, Cynthia (Richard) Cherny of Cazenovia, NY; Gwen Pegues of Lummi Island, WA; Jack (Marlena) Pegues, of Manchester, VT/Borrego Springs, CA; and Matt (Kelli) Pegues of Juneau; as well as several nieces, nephews, grandchildren, and great grandchildren. Donations can be made to an animal rescue of your choice or to The League of Women Voters.



Donna Spragg Pegues

### Well-traveled Alaska attorney dies in March

Joseph Stephen Slusser, 69, North Pole, died March 2, 2023.

Joe led a life most people only dream of living. As a young child, Joe had a fascination with the outdoors and wildlife that evolved into a passion for hiking, hunting and adventure. He graduated Magna Cum Laude from the Detroit College of Law. After declining a position at a law firm, Joe packed up his old Chevy Impala and drove to Alaska to accept his first job with a law firm in Fairbanks. Joe subsequently served as a magistrate in Delta Junction and as a district attorney in Barrow, Kodiak and Bethel. Joe was respected and admired by all who knew him. His giving and hard-working spirit touched many lives. Joe had a quick wit and keen sense of humor.

He was survived by his wife Evelyn; sons Francis and Joseph; brother and sisters John Slusser, Jane Brill, Mary Gorman, Anne Barrus and Margaret Mary Snyder.

A mass was scheduled for March 18.



Joseph Slusser

### Former Anchorage lawyer, judge dies in New York

Laurel James Peterson died Sept. 15, 2022, at Westchester Trauma Center in New York one week before his 75th birthday. He suffered from a stroke and other complications while he and his wife were visiting their daughter on the East Coast.

Laurel was born Sept. 22, 1947, in Roseau, MN, to Leah and Leon Peterson. At age 6 he moved with his family to Anchorage where he spent the next 57 years. Laurel was the youngest of three children and grew up in Spenard while attending elementary, middle and high school. He graduated from West High as class president in 1965. He was an avid skier, Boy Scout, then Eagle Scout in his youth. He was accepted to Western State Colorado in Gunnison on a ski scholarship. He graduated with his BA degree in June of 1969. Upon returning to Anchorage, he worked as a night auditor at the Captain Cook Hotel, then as a junior accountant on the North Slope.

In time he applied and was accepted to Gonzaga Law School in Spokane, WA. Between the Alaska student loan program, a job at the library, and doing research work for a law firm he was able to pay his tuition and complete three years of law school. He graduated from Gonzaga in May 1973. He passed two bar exams giving him license to practice in Washington and Alaska. After a brief job as an intern in Seattle, he returned to Anchorage. His career started as a law clerk, then he was appointed to a magistrate position to serve in Whittier and the District Court in Anchorage. Increasing caseloads and a lack of judges prompted his nomination as acting District Court Judge. In September 1975, at only 28 years old, Laurel was appointed by Gov. Jay Hammond and selected by the Alaska Judicial Council to a permanent position on the Alaska District Court in the Third Judicial District.

After serving five years and one month on the bench Laurel moved into private practice which proved to be his real calling. For 47 years as a practicing plaintiff's attorney Laurel handled extensive cases involving aviation fatalities, medical malpractice, wrongful deaths, and countless other civil lawsuits. Laurel was head counsel for one of Alaska's longest-lasting cases filed against Bell Helmets initiated in 1984 and settled almost 30 years later in 2012.

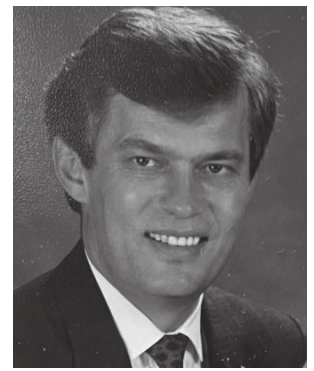
In his free time, he savored weekends at the condo in Girdwood with his wife and children, toying with a small collection of high-end cars, and playing golf on summer weekends with friends and family. He and his secretary, Jane Jones, held an annual "Peterson Open" golf tournament for many years each summer culminating at his home on Sand Lake.

In 1984, after a long courtship, Laurel married Polly, the love of his life. Together they had two children, Katie and Leland, both born and raised in Anchorage. Once the kids had grown Polly and Laurel began spending more time in Southern California where golf was plentiful. After living as snowbirds for five years they moved permanently to the Palm Springs area.

Laurel is survived by his wife, Polly; two children, Leland and Katie; brother Lee and sister-in-law Linda; niece Kristina and her family; his nephew Troy and wife Maureen; and numerous cousins living in Minnesota.

There will be a celebration of life ceremony June 23, 2023, at the Petroleum Club in Anchorage.

For further information please contact either Katie Peterson (ktp907@gmail.com), Polly Peterson (pollyp.alaska@gmail.com), or Kristina Peterson (kristina4teach@yahoo.com)



Laurel Peterson

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# Alaskans help Afghans through asylum process

*Continued from page 1*

temporarily offered Afghan allies.

McKenzie is one of eight pro bono attorneys recruited by the Alaska Institute for Justice (AIJ) to assist Afghan evacuees resettled in Anchorage with the asylum application process. AIJ offers attorney training sessions, legal resource materials, monthly office hours, one-on-one mentoring with a seasoned asylum attorney, malpractice coverage for the case, interpreters, and a review of the final immigration application materials. The attorneys volunteering their time to help these Afghan families offer legal expertise and support in navigating the path to asylum status.

In this process the fear of persecution must be documented.

“Mohammed was an intelligence officer collecting information about the Taliban and Isis. Because of his position, if the Taliban had arrested my husband, they definitely would have beheaded him as well as me,” Shandana, a former chemistry teacher, tells McKenzie. “We fled our home province on Aug. 10, 2021, and went to a camp in Kabul, from where we were eventually evacuated. We left so suddenly and unexpectedly that many of our valuables and papers had to be left behind.”

The Taliban came to her mother-in-law’s home looking for the couple the day after they left, and two subsequent times vowing to arrest and kill Mohammed.

“Since we left Afghanistan, some of Mohammed’s friends who worked for the former Afghan government, but who were not able to leave, were beheaded. The Taliban imprisoned their family members and killed them as well,” Shandana says solemnly as pro bono attorney McKenzie takes notes.

The Taliban, which the U.S. government considers a Tier 1 terrorist organization, even contacted Mohammed via a menacing WhatsApp text after his arrival in the United States wanting to know where he was hiding, Shandana says, and he was forced to delete his account.

Returning to their home country, to the culture they grew up in and the friends and family members they left behind is simply not an option. They would be killed.

“When the Taliban came, they were aware of everyone who worked for the government because they have the documents,” Mohammed says. “They will never let any of those people live.”

The United States recognizes it owes a debt of gratitude to Afghan allies. “U.S. government involvement in Afghan affairs has always relied closely on the participation of Afghan nationals aligned with the U.S. government’s goals in the region,” according to a statement on the United States Customs and Immigration Services website, the branch of government responsible for approving affirmative asylum applications. “U.S. policy and U.S. interests have depended on the brave sacrifices of ordinary Afghan citizens.”

That crucial relationship spanned two decades, and the sacrifices Afghans endured are enormous.

The United States went to war with Afghanistan in 2001 after determining that Afghanistan had sheltered members of Al-Qaeda while planning and executing the attacks on New York’s World Trade Center Sept. 11, 2001, Operation Enduring Freedom was launched. The Taliban regime, known for Sharia Law, harsh punishments including public executions, the restrictions of women’s fundamental freedoms, persecution and genocide, was quickly toppled.

Intelligence failures in recent history, it was estimated that it would take six months to a year for the Taliban to regain control of Afghanistan.

The Taliban entered into a misinformation campaign that deflated the will of the Afghan National Army to continue fighting.

In May, after the U.S. withdrew a significant number of troops, the Taliban went on the offensive, facing little resistance from Afghan military forces. By Aug. 15 they advanced on Kabul, reclaiming control of the country and evacuations ramped up exponentially.

Mohammed and Shandana were among 82,000 interpreters, embas-

cumbersome, it requires several layers of proof and vetting for security reasons.

A denial of an asylum application could mean evacuees could be placed in removal proceedings, and potentially be deported to Afghanistan. The Taliban, who upon their initial return to power portrayed themselves as a kinder gentler version of the brutal regime of old, has abandoned that facade.

In most areas women are not allowed to work outside the home, girls are denied secondary education, and the United Nations has documented persistent extrajudicial killings, arbitrary arrests and tor-



Image of the Afghan evacuation operation courtesy of the Alaska Institute for Justice.

In December 2001 an interim government was set up with Hamid Karzai at the helm, and the United Nations created the International Security Assistance Force to help rebuild and establish a permanent government in Afghanistan.

The resurgence of the Taliban began in 2006, with scattered attacks. The United States responded by increasing its counter-insurgency efforts, and U.S.

forces remained in the country to ensure safety, security and democracy until their withdrawal in August 2021.

All the while U.S. troops worked alongside Afghan citizens to build and strengthen the nascent government and ensure that a return to the dark days of Sharia Law would not occur.

A peace treaty between the Taliban and the United States was reached in 2020 in which the United States agreed to draw down troops and the Taliban agreed to not harbor terrorists.

In April 2021 President Biden announced the complete withdrawal of U.S. troops from Afghanistan by Sept. 11, 2021. NATO troops also announced their imminent withdrawal. In one of the largest intel-

ligence failures in recent history, it was estimated that it would take six months to a year for the Taliban to regain control of Afghanistan.

This was the largest airlift in history. Nearly 200 people died trying to escape the capital city, most victims of an airport suicide bomber, some falling to their deaths after clinging to the landing gear of a departing cargo plane. Approximately 122,000 people in total were evacuated.

Under President Biden’s Operation Allies Welcome program, enacted Aug. 29, 2021, the Department of Homeland Security began working with other government agencies to resettle 70,000

Afghan evacuees who were granted a two-year humanitarian parole in the United States.

Humanitarian parole allows the evacuees to receive the same benefits and services as refugees, who, unlike asylum seekers, apply for their status while outside the United States. They can work and have access to social services until their parole status expires. For most evacuees, this will occur in 2023; and could leave some without legal status in the United States.

Asylum is not guaranteed. Not only is the process complicated and

More than 160 former government officials have been executed and the population is in the grips of extreme economic depression.

For McKenzie, a former oil and gas attorney who has always tried to have pro bono work on her desk, giving back and helping people sort out complex legal issues that would be nearly impossible to attempt on their own is of primordial importance. She became aware of AIJ’s Afghan Asylum Project, attended the first AIJ training course in September, and has met with Shandana and her husband on several occasions.

The process is complex, but extremely rewarding for both attorney and clients. “I thought this would be a way to literally help save someone’s life,” McKenzie said. “The people who helped the United States in Afghanistan should be protected. They basically had to turn their backs on their lives and forge a new life here. To the extent that we can help them do that we should, and we must.”

If you want to find out more about AIJ’s work go to [www.akijp.org](http://www.akijp.org).

*Susan Buchanan (susybuchanan.com) is an award-winning journalist, researcher and producer who grew up in Anchorage.*

**The United States recognizes it owes a debt of gratitude to Afghan allies. “U.S. government involvement in Afghan affairs has always relied closely on the participation of Afghan nationals aligned with the U.S. government’s goals in the region ...”**

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