



## My Parents Met at the Bar

By Lauren Johansen, Esq.

Just hours after graduating from Texas Tech Law School in June 1978, Chris Johansen walked to the parking lot where his 1969 Biscayne was loaded with all his belongings and pointed his car north to Alaska. He often reminisces fondly about seeing Texas in his rear view mirror. After 45 years of practicing law in Anchorage, Chris will retire this year.

Chris first arrived in Alaska in 1963 when his father, an Army officer, was stationed at Ft. Richardson for four years. Despite experiencing the devastating 1964 earthquake, he had the time of his young life. He learned to ski at Dyea Ski Hill on Ft. Rich, then at the military side of Arctic Valley and occasionally at Alyeska, where the hamburgers were \$5 and no military dependent

could afford them. When his family moved from Alaska to his father's next station they stopped for photos at the "Welcome to Alaska" sign. According to his mother, it was there Chris announced, "I am going to live in Alaska when I grow up!" Chris's father's military career took them to many exciting places in the United States, and he continued to hone his skills as a skier in preparation for returning to Alaska someday.

In January 1970, Chris was in a serious ski accident in Pennsylvania that left him in a coma at Walter Reed Army Hospital. He was unable to walk for several months and had great difficulty with his fine motor skills. This would have been a serious setback for most, but Chris was determined to get back up on his skis, so after graduating high school, he chose Utah State for

Continued on page 24

## Sitka High Wins Mock Trial Competition

By Ryan Fortson

Sitka High School prevailed over West Anchorage High School in the finals of the 2024 Alaska High School Mock Trial Competition, held April 5-6 at the Boney Courthouse in Anchorage. This was the third year in a row in which a team from Sitka High School emerged victorious. The finals were held in the Alaska Supreme Court Courtroom in front of a panel of three Alaska Court System judges.

The competition brings together teams of six to nine students from around the state to play the roles of attorneys and witnesses in a simulated trial in front of attorneys and paralegals who volunteer their time to score the students' performances. In addition to three teams from Sitka High School and two teams from West Anchorage High School, two teams participated from Dimond High School, one team from West Valley High School, and a combined team from South Anchorage High School and Steller Secondary School.

Students in the competition not only learn about trial procedures and strategies, they also gain valuable experience in legal reasoning, critical thinking and public speaking. This year's case materials, drafted by Professors Amy Doogan and Ryan Fortson of the UAA Justice Center, centered on a defamation suit between two former best friends, when accusations of cheat-

ing on an algebra midterm cost one of them a potential college scholarship. Teams had fun arguing each side of the case twice.

In the problem materials, Riley Reynolds is an 18-year-old high school senior at North Alaskopolis High School. Riley is suing his/her former best friend, Bailey Crawford, for defamation after Bailey told Riley's math teacher, Peyton Shepherd, that Riley had cheated on an algebra midterm. This led to Riley being pulled from the high school state swim championships, and losing out on a potential college scholarship worth hundreds of thousands of dollars. Riley, who experiences dyscalculia (a learning disability associated with math) denies having cheated and claims to have benefited from the math tutoring of Frankie Alexie, who happens to be Peyton's roommate and who may or may not have stolen a copy of the midterm. After receiving a 97% on the midterm, Riley bragged about it

to Bailey. The contents of what Riley said to Bailey are in dispute, both by them and by others who heard the conversation. Did Riley cheat on the midterm? Is Bailey liable for defamation? It was up to students to litigate the answer.

The Alaska High School Mock Trial Competition takes place annually in late March or early April and is sponsored by the Anchorage Bar Association. Attorneys who are interested in forming or coaching a team are encouraged to visit the website <https://anchoragebarassociation.org/mock-trial/>, where they can find coaching materials and prior problems. Contact information for the competition organizers can also be found on the website.

Ryan Fortson is a Professor at the University of Alaska Anchorage Justice Center, where he teaches Legal Studies and is Program Coordinator. He has been an organizer of the Alaska High School Mock Trial Championship for over 20 years.

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

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



The winning Sitka High School team poses with the final round judges. Left to right: Ben Hendrick, Enzo Germano, Francis Myers, Isabelle Schmetzer, Judge Laura Hartz, Judge Yvonne Lamoureux, Justice Dario Borghesan, Felix Myers and Zoe Trafton.

# Alaska Bar Road Show

By Jeffrey Robinson

On May 15 and 16, 2024 I was fortunate to travel with a small delegation from the Alaska Bar Association to meet with members of the Bar in Sitka and Juneau, Alaska.

We touched down in Sitka early on the 15<sup>th</sup> and made our way to the Sitka Courthouse where the Sitka Bar Association co-sponsored an Ethics with Bar Counsel CLE. Bar Counsel Phil Shanahan covered the use of Artificial Intelligence in our profession and summarized in Chemerinsky like fashion the most recent (or frequently discussed) Alaska Ethics Opinions. Members

of our delegation traveled to Sitka High School with local legend Justice Jude Pate to meet with the State Championship mock trial team. Our group then met with leaders of the Sitka Tribe of Alaska to discuss potential CLE and pro bono activities of interest to the Tribe and to learn about the judicial services offered through the Tribe's Tribal Court. Special thanks to Brent Edwards, Christine Pate, Justice Pate, Judge Amanda Browning and the numerous members



**"The Board believes it is critical for Bar staff and leaders to continue to connect with members of the Bar in our communities off the road system."**

of the Sitka legal community who made us feel at home during our brief stay.

We arrived in Juneau on the night of the 15<sup>th</sup> as the 33<sup>rd</sup> Alaska State Legislature was approaching adjournment. Vice President of the Board of Governors Ben Hofmeister and Assistant Attorney General Kevin Higgins met us at the airport and graciously provided local insight and logistics throughout our whirlwind visit. After touring the Juneau Court house on the morning of the 16<sup>th</sup>, Phil presented a CLE to a well-populated and lively room of Juneau lawyers. Madeline Soboleff Levy, General Counsel of the Central Council of Tlingit and Haida Indian Tribes of Alaska, met with our group later in the afternoon for a roundtable discussion on issues affecting the Council.

Our visit to Southeast occurred on the heels of our May Board of Governors Meeting in Anchorage. The Board believes it is critical for Bar staff and leaders to continue to connect with members of the Bar in our communities off the road

system. We are mindful that these visits put into practice our efforts to better serve our lawyers and share the three-year strategic plan the Board adopted in October 2022.

The plan has three main goals: (1) Reduce the access to justice gap and build the attorney pipeline; (2) Ensure that the Bar is more reflective of the people it serves; and (3) Increase the public service and efficiency of the Bar. In order to implement these goals, it is imperative for our Board to engage, understand and communicate with Bar members.

There are several reasons why access to justice is important. Here are a few:

- A recent national justice gap study showed that low-income Americans do not get any or enough legal help for 92% of their substantial civil legal problems.
- 74% of low-income households experienced one or more civil legal problems in the past year.

Continued on page 3



Justice Pate, Meredith Montgomery, Phil Shanahan, Judge Amanda Browning, Brent Edwards and Danielle Bailey talk to a group of Sitka High School students about how to pursue careers in law. Photo by Kara Bridge.

## INTERIM EDITOR'S COLUMN

# Reflecting on Constants

By Danielle Bailey

It is easy to take for granted the constants in life. The Alaska Bar Association is one of those, and its first iterations date all the way back to 1896. Operations within the Alaska Bar also tend to maintain many constants. My predecessor, Deborah O'Regan, was the Executive Director for 35 years and I am thankful she is still a constant presence as she has volunteered to proctor each Bar Exam since her retirement.

We have also had luck over the years to receive constant help in producing our Bar Rag. Tim Jones, our former managing editor, was dutifully correcting the typos of lawyer submissions from September 2014 to September 2023. Similarly, former editor Ralph Beistline was our editor not just during his reign from December 2016 to March 2024 but also from September 1988 to December 1992. When I was jumping in to fill Deborah's shoes, it was great that I could rely on Ralph and Tim's expertise to keep the Rag going. Thanks to you both for sticking with this and helping me get up to speed.

We managed to fill Tim's shoes when Elizabeth Ellis agreed to step up to the plate. Not only is she an admirable Alaskan, having built her own house in the foothills of the Chugach and hiked more miles in the Alaskan mountains than some people rack up in the car, she is also an accomplished technical writer. We are very lucky to have her con-



**"I will be filling in with interim-editor columns and highlighting some of the constants and changes at the Bar."**

tinue Tim's legacy of correcting attorney typos.

Now we just need to find someone to step up and fill Ralph's shoes as editor. Along with writing this quarterly column, the editor helps decide which articles should be printed and weighs in on where some stories are laid out. Please reach out to me at bailey@alaskabar.org if you are interested in taking the reins and volunteering as editor.

Don't be afraid to volunteer if you are worried you won't be able to fill in for decades like some of our predecessors. We have had people take over for a year or even had co-editors in the past. Until we find someone to take over, I will be filling in with interim-editor columns and highlighting some of the constants and changes at the Bar.

While the Bar has been able to depend on a lot of constants over the years, it is heartening to work on the Board of Governors' three-year strategic plan to make sure we continue to advance and don't become stagnant. Along with the rural outreach and access to justice steps that Jeffrey Robinson mentioned in his President's column, I also want to highlight other accomplishments the Bar has made since the adoption of the Board's strategic plan.

As part of the Board's goal to reduce the access to justice gap, the Board wanted to create admission solutions that would expand the attorney pipeline. The Board has already advanced two proposals that have been adopted by the Supreme

Court. They created a new practice waiver for non-lawyers who are trained and supervised by Alaska Legal Services Corporation to engage in the limited practice of law. They also lowered the cut score from 280 to 270 to be in line with national standards. In this issue of the Bar Rag, the Board is seeking comment from all of you on another rule proposal that would take a huge step in advancing the attorney pipeline to Alaska. Give it a read and tell us what you think! Finally, in order to bolster this attorney pipeline growth, the Alaska Bar will also be hosting a legal career fair on July 25, 2024, in Anchorage. We hope to see you and a lot of new attorneys there.

The Board's second goal is to be more reflective of the people it serves. To that end, the Board formed a Diversity Commission which was tasked with looking into barriers and potential solutions to the diversity in our Bar. They finalized their report to the Bar in June 2023. A task force has been appointed, which is prioritizing and implementing those recommendations. In addition, to further advance its diversity efforts, the Bar's employment board now requires salary ranges because it has been shown that not including the salary range in a job posting reinforces the salary gaps in our society based on gender, race and other factors. Maybe this is a step other legal entities can take to increase diversity efforts.

The Board's third goal covers a variety of factors but is generally focused on increasing the public service and efficiency of the Bar. This

Continued on page 3

## 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).

**President:** Jeffrey Robinson

**President-elect:** Rebecca Patterson

**Vice President:** Ben Hofmeister

**Secretary:** Aimee Oravec

**Treasurer:** Bill Granger

**Members:**

Jed Cox  
Rachel Espejo  
Grace Lee  
Nicholas Ostrovsky  
Rebecca Patterson  
Meghan "Sig" Tapqaq  
Diana Wildland

**New Lawyer Liaison:**

Ambriel Sandone

**Executive Director:** Danielle Bailey

**Interim-Editor in Chief:** Danielle Bailey

**Managing Editor:** Elizabeth Ellis

**Editor Emeritus:** Ralph R. Beistline

**Contributing Writers:**

Susan Falk  
Savannah Fletcher  
Steven T. O'Hara  
William Satterberg

**Contributing Photographers:**

Mara Rabinowitz  
Lynn Whittingham

**Contributing Cartoonist:**

Bud Root

**Design & Production:**

Sue Bybee

**Advertising Agent:**

Alaska Bar Association  
840 K St., Suite 100,  
Anchorage, Alaska 99501  
(272-7469)

**Board of Governors meeting dates:**

- August 22 & 23, 2024
- October 24 & 25, 2024
- January 30 & 31, 2025
- April 22 & 23, 2025

**Convention and Annual Meeting**

**dates:**

- April 23-25, 2025 in Anchorage, AK

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

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



Juneau Bar members listen to Phil Shanahan's free ethics CLE presentation. Photo by Kara Bridge.

# Alaska Bar Road Show

Continued from page 2

- 53% of individuals do not know if they could find and afford a lawyer if they needed one.
- Legal Service Corporation-funded organizations are unable to provide any or enough legal help for an estimated 1.4 million civil legal problems (or 71% of problems) that are brought to their doors in a year.

Pro Bono Director Krista Scully is the Bar's biggest asset in pro bono outreach, and through our trip I was able to see first-hand the remarkable number of lawyers who have worked with Krista in various programs to meet Alaska's civil legal needs. Krista has worked as a point of contact for a wide swath of legal services providers in Alaska, including the Alaska Legal Services Corporation, Alaska Network on Domestic Violence and Sexual Assault, Alaska Institute for Justice, Alaska Native Justice Center, ACLU of Alaska, Northern Justice Project, and the Disability Law Center. The Bar's mission to encourage pro bono professional engagement aligns with the Alaska Supreme Court's adoption of ARPC 6.1, which strongly encourages attorneys in Alaska to give 50 hours of pro bono services to low-income citizens per year. In the past year alone the Alaska Bar has hosted legal clinics in five locations, which allowed 101 volunteers to provide 313 hours of free civil legal services to 218 clients. The Bar

has also provided assistance to 258 low-income Alaskans through a free web based legal clinic called Alaska Free Legal Answers. The Bar continues to promote available online material, including the Senior Law Guide and the Alaska Youth Law Guide which are both available on our website.

Pro bono efforts alone cannot be relied on to reduce the access to justice gap. It is imperative that we recruit more lawyers to our state. I spoke with several young lawyers on the trip who stayed in Alaska after their clerkships and who intend to

make Alaska their long-term home. On a clear (or even rainy) day in Sitka or Juneau, one feels the same amount of affection for Alaska as John McPhee did when he authored "Coming into the Country" almost five decades ago. Yet without a law school in Alaska, its geographic location and an aging Bar, amongst other factors, the number of attorneys residing in Alaska are in sharp decline. The Bar is attempting to rectify these issues by working with our committees to develop the attorney pipeline and offer scholarships to law students with demonstrable

ties to Alaska who have indicated an intent to return. The Bar is also reaching out to community members, including Native Tribes, who are more acutely aware of how lawyers may better advocate for, and serve, the people of Alaska.

Bar Staff, including Krista, Phil, Executive Director Danielle Bailey, CLE Director Kara Bridge and President Elect Becca Patterson will make similar visits to Kodiak and Kenai in May and June. The Board hopes that our outreach efforts will continue to foster membership engagement across Alaska.



Members of the Sitka High School's Mock Trial Team show off their team sweatshirts after their championship season. Photo by Kara Bridge.



Bar President Jeffrey Robinson getting interviewed on Sitka's radio station KCAW Raven Radio. Photo by Krista Scully.

## Reflecting on Constants

Continued from page 2

includes the rural outreach that Jeffrey Robinson mentioned in his column, but the Bar has done a lot more to advance this goal. We have completely revamped our website, we have a more active Facebook page, and this summer we will be doing a survey of our members to determine if there are ways we can serve you all better.

Amongst all this change, maybe it is comforting to settle on one last constant. I am happy to report that the Alaska Bar Association has not increased its dues in over a decade which means we no longer have the highest bar dues in the nation. Proving yet again, there are some good constants we can rely upon at the Alaska Bar.

*Danielle Bailey is the Executive Director of the Alaska Bar Association and hopes to find a new Bar Rag editor to spare our readers from her interim columns.*



Sitka Bar members listen to Phil Shanahan's free ethics CLE presentation. Photo by Kara Bridge.



## New Bar Rag Editor Needed

Ralph Beistline has resigned as editor of the Bar Rag, and a new editor will need to be appointed. The editor writes a quarterly column, helps decide which articles should be printed, and discusses what should be on the front page. The editor reviews articles prior to publication and meets quarterly with the managing editor and production managers (non-lawyers who are paid to edit and layout the paper) and the Executive Director.

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

**If you are interested, send a letter and your resume to Danielle Bailey at [bailey@alaskabar.org](mailto:bailey@alaskabar.org)**

# Standing Up for an Independent Judiciary

*Editor's Note: The views expressed in this opinion piece are the writers' and are not necessarily endorsed by the Alaska Bar Association or the Bar Rag, which welcomes a broad range of viewpoints. To submit an opinion piece or other article for consideration, email [info@alaskabar.org](mailto:info@alaskabar.org).*

For 60 years the judicial selection and retention process established by Alaska's Constitution has provided a balance in our judicial system and prevented partisan politics from defining judicial decision-making. The independence of this process has assured Alaskans that partisan politics will not affect the decisions made by our judiciary. It is a system that has prevented corruption and undue influence in our justice system. For these, and many other reasons, our system is widely admired across the United States.

However, the judicial independence we have come to rely upon in our courts is growing more vulnerable. A close look at data from recent retention elections shows a steady decline in the percentage of Alaskan voters who chose to retain judges over the past decade.

In 2022, support for all judges in the 3<sup>rd</sup> Judicial District fell below the 60% threshold for the first time

in our state's history. In five state house districts, Alaskans voted *not* to retain most judges.

Should the trend continue, it's a matter of when – *not if* – we're faced with a situation in which every election cycle creates significant disruption to our judiciary.

Why is this happening? We are engaging in a rigorous process to understand why more Alaskans are voting "No" on retention, and what it will take to build back trust in our judicial system.

Alaskans for Fair Courts formed four years ago to defend members of Alaska's judiciary who were facing unmerited political attacks. We now recognize that our job is much bigger. We need to shore up public trust in our judicial selection and retention processes.

Last year, we conducted an analysis of recent election data and other data made available after the 2022 election. Our analysis affirmed that the problem we're facing is concentrated in the Third Judicial District. "No" votes happen across the political spectrum, though moderate

and independent voters tend to vote to retain judges and justices at the highest levels.

This year, we're working with Justice Not Politics Alaska and a polling firm to conduct research on attitudes about our judicial system. Preliminary results are hopeful: when Alaskans understand how our system works, they support it.

We also know that erosion of trust in our judicial system is not organic. There is a systematic effort across the country to politicize our judicial system, and Alaska is not immune from these outside forces. For the first time that we are aware of, out-of-state partisan groups have invested tens of thousands of dollars to test their campaign in a coordinated effort with local partisan entities to encourage a "No" vote on judges in the 3<sup>rd</sup> Judicial District. These efforts to replace well-respected, nonpartisan judges with partisan ideologues have been successful in other states.

We have reason to believe partisan groups will continue to pour money into Alaska's judicial reten-

tion elections. If the trend continues, **19 Alaska state judges, including two Supreme Court justices, are vulnerable in 2024, and twenty-seven judges in 2026.** At this rate, Alaska's judiciary is at risk of upheaval, threatening the legal stability that Alaskans and Alaska businesses rely upon.

Recently, American Bar Association President Mary Smith issued a statement calling on all lawyers nationwide to "rededicate themselves to preserving our nation's impartial system of justice. Every one of us must stand up for our judges and their staff and engage in the civic education needed to help the public understand how our courts work, the crucial role of independent judges in a functioning democracy... These are extraordinary times and we, as lawyers, have a unique duty to lead our nation in the protection of ... the rule of law."

We are ready to meet this momentous challenge. We hope you'll join us.

*Submitted by Alaskans for Fair Courts Board of Directors Tom Amodio, Bruce Botelho, Michael C. Geraghty, Donna Goldsmith, Barb Hood, Joelle Hall, Debra O'Gara, Erin Jackson-Hill and Paul Seaton.*

**Alaskans for Fair Courts formed four years ago to defend members of Alaska's judiciary who were facing unmerited political attacks.**

## Caroline Wanamaker Departs Anchorage Bar Board

*Text and photo by Dena Boughton*

The Board of Directors and members of the Anchorage Bar Association would like to express our gratitude to Caroline Wanamaker for her 18 years of dedicated service on the Board of Directors and wishes Caroline continued success and happiness.

Caroline earned her B.A. from Seattle University and her J.D. from Seattle University School of Law. She has supported the Anchorage legal community with integrity and enthusiasm for over 30 years. Caroline chaired the Estate Planning Section of the Alaska Bar in 2003-2004 and was an Assistant Professor at Alaska Pacific University from 2003-2006. She is a former member of the Board of Directors of Hospice of Anchorage.

Caroline was elected to the Anchorage Bar Association Board of Directors in 2006, serving as President in 2008. Under her leadership, the Anchorage Bar Association worked together to formulate a Mission Statement that proudly stands to this day: "Promoting Collegiality, Professionalism and Good Works."

Caroline was in solo practice in Seattle for a decade before returning



Caroline Wanamaker

home to Anchorage. She currently maintains a solo practice in Anchorage. Caroline's experience as a solo practitioner and her interest in technology lead her to spearhead and host an Anchorage Bar Association CLE series entitled "Supporting the Solo Practitioner and Small Firm." The CLEs have ranged from law firm technology, artificial intelligence, and solo/small firm best practices. These programs have been well attended, both in-person and virtually.

Caroline enjoys regular attendance at the Anchorage Bar Association events and is always willing to welcome our members, taking an interest in their practices and activities. Although Caroline will be missed at the Anchorage Bar Board meetings, we look forward to her continued contributions professionally and personally as an active member of the Anchorage Bar Association. Thank you, Caroline.

Reach 4,000+ attorneys.

*The Alaska* **BAR RAG**

Advertise in the official publication of the Alaska Bar Association

Call 907-272-7469

E-mail: [suebybee@gmail.com](mailto:suebybee@gmail.com) or [bailey@alaskabar.org](mailto:bailey@alaskabar.org)

## SERVING ALASKA

Anchorage • Cordova  
Fairbanks • Mat-Su Valley  
Kenai Peninsula  
and  
all surrounding areas

~remote travel  
upon request~



Serving since 1987

## MELISSA FOUSE APPRAISALS

APPRAISALS OF

FINE ARTS ▲ ALASKA NATIVE ARTS

HOUSEHOLD CONTENTS ▲ WINE

FOR: INSURANCE, ESTATES, EQUITABLE DISTRIBUTION

907-744-5100

[MELISSAFOUSE@MAC.COM](mailto:MELISSAFOUSE@MAC.COM)

[WWW.MELISSAFOUSEAPPRAISALS.COM](http://WWW.MELISSAFOUSEAPPRAISALS.COM)

# Beans in Memory Donation

Dear Mr. Lingle:

On behalf of the Anchorage Bar Association, I am pleased to present this \$1,000.00 donation to Bean's Café in memory of the following attorneys who have passed away during the year 2023.



**Anchorage**  
Bar Association, Inc.

Leroy Barker	9/4/2023	Donna Pegues	1/22/2023
Charles Brasington	11/15/2023	Steven Pradell	6/12/2023
Murphy Clark	10/24/2023	Stephen Rose	2/3/2023
William Cummings	6/9/2023	Daniel Saluri	5/30/2023
Mary Gilson	6/20/2023	Douglas Serdahely	5/13/2023
Suzanne Lombardi	12/4/2023	Joseph Slusser	3/2/2023
Dwayne McConnell	3/28/2023	Marlin Smith	1/11/2023
Timothy Middleton	6/12/2023	Warren Taylor	1/15/2023

Very Truly Yours,

*Joseph Levesque, President*  
Anchorage Bar Association, Inc.



Anchorage Bar President Joe Levesque presents a \$1K donation check to Brian Fassnidge, COO (middle), and Scott Lingle, CEO (right) of Bean's Café on behalf of the Anchorage attorneys who passed away in 2023. Photo by Dena Boughton.

## ATTORNEY DISCIPLINE

### Criminal Defense Attorney Receives Written Private Admonition

Bar Counsel issued a written private admonition to Attorney X for his neglect, including failure to communicate with his client.

Defendant hired Attorney X with a flat fee to appeal his conviction for first degree sexual assault and fourth degree assault. Defendant raised three issues on appeal in the opening brief. Defendant argued juror misbehavior, a failure to suppress evidence and misuse of a photo array to identify the defendant. After the State filed the appellee's brief, Attorney X failed to file a reply brief. Without consultation with his client, Attorney X decided that a reply to the State's arguments would not increase the likelihood of success. The Court of Appeals rejected the defendant's three claims of error and affirmed the conviction.

Defendant asked Attorney X to file a petition for rehearing. Attorney X filed a late motion to extend time to file a petition for hearing, but did so in the wrong forum and without a motion to accept the late filed motion. Then Attorney X filed a motion to withdraw.

The Court of Appeals remanded the matter to the trial court to determine whether the defendant would be entitled to appointed counsel. New counsel was appointed and Attorney X withdrew. Both a petition for rehearing in the Court of Appeals and a petition for hearing in the Supreme Court were subsequently denied.

Attorney X's failure to file a reply brief and timely petition for rehearing were evidence of a lack of diligence that violated ARPC 1.3. Attorney X had limited conversations with defendant and failed to discuss with defendant his reasoning behind his decision not to file a reply brief. Attorney

X violated ARPC 1.4 for failure to keep his client reasonably informed. Under the ABA Standards for Imposing Lawyer Sanctions, an admonition is offered when the "lawyer is negligent and does not act with reasonable diligence in representing a client, and causes little or no actual or potential injury to a client." An Area Division Member approved the issuance of an admonition after reviewing the file. Bar Counsel issued a written private admonition to Attorney X. Soon after, Attorney X resigned from the Alaska Bar Association.

## Call for Submissions

Alaska Law Review is now accepting submissions for the Fall 2024 Symposium issue on **Access to Justice**.

For consideration, submit to [alr@law.duke.edu](mailto:alr@law.duke.edu) or at <https://alr.law.duke.edu/> by August 1.



## A MATCH MADE IN LEGAL

The Alaska Bar and ALPS have teamed up to offer AK Bar members FREE CLE! Talk about a match made in legal.

Scan the QR code or visit the AK Bar CLE calendar to sign up. Use Code: **ALPSCLEforAKBAR**



Proudly endorsed by the  
Alaska Bar Association



# Tax Apportionment Clauses

By Steve O'Hara

## Part I of a series

Every Will governed by Alaska law has tax apportionment. Alaska Statute 13.16.610(a), which is titled "Apportionment of Estate Taxes," begins with these five words: "Unless the will provides otherwise...."

When preparing or reviewing a Will or Revocable Living Trust, visualize what the document states or does not state in terms of estate and inheritance taxes, whether the taxes are real or theoretical in the particular case at hand.

Consider that withdrawing funds to pay estate and inheritance taxes from a share deductible on a federal estate tax return is a taxable event in that the withdrawal reduces the deduction. Less deduction means more tax.

Whether or not such a withdrawal occurs with resulting tax is determined by the tax apportionment clause in the decedent's Will and, as applicable, in the decedent's Revocable Living Trust.

Federal estate tax is not deductible on a federal estate tax return. The result is tax on tax. Tax apportionment clauses in Wills and Revocable Living Trusts can exacerbate tax on tax. Indeed, tax apportionment clauses can make the effective rate of estate and inheritance taxes 100% and even greater.

But how can an effective tax rate be 100% or more?

For you, the effective tax rate is 100% if the decedent directs that

your share is burdened with estate and inheritance taxes not only generated by your share, but also generated by the shares of other people and, as a consequence, your share is wiped out.

The effective tax rate is greater than 100% to you and others if after wiping out your share, estate and inheritance taxes reach into one or more other shares.

Tax apportionment clauses can cause interrelated computations. As an introduction to this area, consider the following income tax example.

For ease of math, imagine an individual taxpayer who pays income tax equal to one-third of every dollar she brings into income. Suppose she is retired and her sole source of income is a traditional Individual Retirement Account ("IRA"), all of which is subject to income tax. Suppose she withdraws \$500,000 to pay cash for a home.

Under our facts, the \$500,000 withdrawal from the IRA generates an income tax liability of \$166,667. So the taxpayer withdraws \$166,667 to pay the tax.

Now the \$166,667 withdrawal from the IRA generates an income tax liability of \$55,556. So the taxpayer withdraws \$55,556 to pay the tax.

The \$55,556 withdrawal from the IRA generates an income tax



**"Indeed, tax apportionment clauses can make the effective rate of estate and inheritance taxes 100% and even greater."**

liability of \$18,519. So the taxpayer withdraws \$18,519 to pay the tax.

Now the \$18,519 withdrawal from the IRA generates an income tax liability of \$6,173. So the taxpayer withdraws \$6,173 to pay the tax.

The \$6,173 withdrawal from the IRA generates an income tax liability of \$2,058. So the taxpayer withdraws \$2,058 to pay the tax.

Now the \$2,058 withdrawal from the IRA generates an income tax liability of \$686. So the taxpayer withdraws \$686

to pay the tax.

The \$686 withdrawal from the IRA generates an income tax liability of \$229. So the taxpayer withdraws \$229 to pay the tax.

The \$229 withdrawal from the IRA generates an income tax liability of \$76. So the taxpayer withdraws \$76 to pay the tax.

The \$76 withdrawal from the IRA generates an income tax liability of \$25. So the taxpayer withdraws \$25 to pay the tax.

The \$25 withdrawal from the IRA generates an income tax liability of \$8. So the taxpayer withdraws \$8 to pay the tax.

The \$8 withdrawal from the IRA generates an income tax liability of \$3. So the taxpayer withdraws \$3 to pay the tax.

The \$3 withdrawal from the IRA generates an income tax liability of \$1. So the taxpayer withdraws \$1 to pay the tax.

In the end, the taxpayer withdraws \$750,001 from her IRA in order to keep \$500,000. The taxpayer pays \$250,001 in income tax to keep \$500,000. Try telling the taxpayer her effective tax rate is not 50%.

Intuitively and logically, you know a shorthand way to estimate the tax in this case is to divide what you know, which I call the Sum Known (i.e., \$500,000 purchase price), by a percentage. And then you take the resulting number and subtract the Sum Known. The percentage is 1.00 minus the highest nominal tax rate under the facts. So 1.00 minus .33 equals .67 and \$500,000 divided by .67 equals \$746,269 and \$746,269 minus \$500,000 equals \$246,269 of estimated tax. You know \$246,269 is a ballpark figure. To nail things down, I would recommend using a longhand method such as first illustrated above.

In the preceding paragraph, I use the term "nominal tax rate." My meaning depends on your perspective. I would say the nominal-tax-rate calculation includes tax in the denominator when comparing tax of \$250,001 with \$500,000. So \$250,001 divided by \$750,001 is 33%. But consider what you might call the "effective tax rate," which you determine by excluding tax in the denominator. Here, \$250,001 divided by \$500,000 is 50%, reflecting the relative shares of the IRS and the taxpayer. The IRS gets \$50 for every \$100 taxpayer keeps.

This income tax example serves as an introduction to the estate tax example I plan on providing in the next issue of this column.

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

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

*Copyright 2024 by Steven T. O'Hara. All rights reserved.*

## The Perfect Location no matter what size office space you need!

In downtown Anchorage, in the heart of the legal district and across the street from the courthouse, the Carr Gottstein Building provides office space to many professional tenants, including the State of Alaska District Attorney's office.



1,515 to 13,600+ rsf available on the 2nd - 5th floors, starting at \$1.70/rsf

Parking is available for tenants & their clients, and a fitness center, showers and yoga room are available for exclusive tenant use.

Virtual Tours available at [DenaliCommercial.com](https://DenaliCommercial.com)!

**FOR LEASING INFORMATION CONTACT:**  
Cycelia Gumennik  
(907) 564-2496 • [Cycelia@DenaliCommercial.com](mailto:Cycelia@DenaliCommercial.com)



## MCLE FAQs



On January 17, 2024, the Alaska Supreme Court signed SCO No. 2016 amending Bar Rules 65 and 66 to increase mandatory continuing legal education for active bar members to twelve CLE credit hours per year.

Three of those twelve CLE credits must be Ethics credits.

### --- When does the CLE increase go into effect? ---

Jan. 1, 2025 with the first reporting deadline is Feb. 1, 2026

### --- What is the annual CLE credit requirement? ---

12 CLE credits of which 3 must be Ethics credits

### --- What are ways to earn CLE credits? ---

There are many ways to earn CLE credits outside of the traditional attending CLE courses. Visit <https://alaskabar.org/cle-mcle/mcle-faqs/> for the complete list.

### --- Can unused CLE credits be carried forward? ---

A member may carry forward from the previous reporting period a maximum of 12 credits. To be carried forward, the credit hours must have been earned but not claimed for credit during the calendar year immediately preceding the current reporting period.

More information @  
<https://alaskabar.org/cle-mcle/mcle-faqs/>

# George Washington's Rules of Civility

4 "In the Presence of Others Sing not to yourself with a humming Noise, nor Drum with your Fingers or Feet."

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



Library of Congress

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.

# REACH Beyond

Power your law practice with industry-leading legal research. Fastcase is a free member benefit of the Alaska Bar Association.

LEARN MORE AT [WWW.FASTCASE.COM](http://WWW.FASTCASE.COM)

DOWNLOAD TODAY



# Great Minds Run in the Same Gutter

By William R. Satterberg

In my Alaska Bar Rag article for January-March of 2024, I discussed a case which I had tried years ago before Judge Crutchfield, *State vs. David Lambert*. The case dealt with the now infamous Ny-Quil defense which disclosed that the State's highly touted independent breath test sample capturing device did not work for the Intoximeter 3000. As a result of the disclosures which came forward in the Lambert case, police agencies elected to no longer utilize the potassium perchloride tube as an independent breath capturing device due to leaking "O" ring seals. In effect, the Intoximeter 3000 had the same type of defect that brought down the space shuttle Columbia. After the failure of the Intoximeter 3000's "O" rings, the decision was made by the prosecution to offer defendants a right to a blood test at the government's expense, or a chemical test at their own expense.

On first impression, although subtle, there is a fundamental difference between a blood test at the government's expense and an independent chemical test at the defendant's expense. The blood test is normally conducted at a medical

care facility by a licensed phlebotomist or medic. The legal blood draw utilizes a specific evidentiary test kit which is later seized by the trooper and held for independent testing by either the defendant or the prosecution. The independent chemical test at the defendant's expense, on the other hand, can be a blood test or some other test of the defendant's choosing. As such, that other independent test could presumably be another breath test, a DNA test, or some other unspecified test. And that is where the prosecution made

**On first impression, although subtle, there is a fundamental difference between a blood test at the government's expense and an independent chemical test at the defendant's expense.**

its mistake with respect to offering the independent chemical test of the defendant's own choosing.

For years, when a person has been arrested for a DUI and subsequently elects the blood test at government expense, they are taken to a medical care provider which under apparent standing orders has a technician draw blood into four gray-topped test tubes. The samples are then preserved for later testing. If the arrestee elects to have an independent blood test at their own expense, it is usually very difficult to accomplish. Especially after working hours, which is when most DUI arrests occur, unless the defendant is an airline pilot. Although, for some reason, law enforcement apparently has a doctor's standing

orders to have blood draws taken at local medical care facilities, virtually all medical care facilities will not provide an independent blood test at the defendant's own request unless that test is authorized by a physician. There are also evidentiary questions, of course, in preserving a blood sample which is taken by the defendant at their own expense. In addition, as far as independent breath tests go, the police agencies have a monopoly on breath testing equipment. In fact, to my knowledge, there has never been a circumstance in Alaska where defendants have been able to obtain an independent breath test from an outside provider. Plus, the equipment is expensive. So, like the independent blood test, the independent breath test is effectively a nullity. As for DNA tests, a DNA test has no relevance until nine months after the DUI and the college party where the defendant got drunk, and then only for paternity issues.

Not so, however, with respect to another option. Namely, the non-invasive urine test!

Several years ago, I had a client who had been arrested for DUI. When asked what independent test he would select, he stated (based upon advice that I'd given to him) that he wanted a urine test. In response, the officer refused to provide him with a urine test, indicating that the only test which the client could receive would be a blood test, either at his expense or at the government's expense. The only decision remaining would be where the test was performed and who would pay.

In defense of the case, I brought a motion arguing that my client had a right to a urine test at his own expense and at any location in the Fairbanks area. The initial justification by the trooper to my client during the arrest had been that there was nobody qualified to collect a urine sample. This was why the urine test was not allowed. Yet, at the time, the test form clearly indicated that the defendant would be transported anywhere within the Fairbanks North Star Borough by the arresting officer for the independent test.

In my Motion to Suppress the breath test results, I eloquently argued that the defendant could have even been transported to my house for the urine sample. More-

over, I would have even allowed the sample to have been taken in my garage. At the time, I lived well within the Fairbanks North Star Borough. In response, the district attorney at the time, Jeff O'Bryant, agreed that I would have been qualified to proctor the sampling process. Jeff, in fact compellingly argued in the State's opposition brief that he actually knew of no man better qualified to watch another man urinate than myself. Ultimately, the State compromised the case and it never saw appellate review. More water under the bridge. At the same time, law enforcement officers became aware, at least in Fairbanks, that there was another option to a blood draw known as the urine sample. A non-invasive, user-friendly alternative for those who hate needles or faint at the sight of blood. I fully expected that the word got out to the various police agencies to be cognizant of this option. After all, when it rains, it pours.

I decided to wait several years before tackling the issue again. In fact, I always felt that I would keep it simply as a secret weapon in reserve for either myself or a very close friend in the event that a DUI case happened to come down. I did not disclose my secret weapon to anyone.

Approximately two years ago a close buddy of mine got arrested for a DUI. I shall call him "Grek" in this article to protect his identity. It was at that time, out of our bond of friendship, that I decided to activate my secret plan and sacrifice it on his behalf.

When it came time for Grek to be offered the blood test or independent chemical test following the Data Master test results, he called me from the police station. It was well after midnight. I advised Grek to select the independent chemical test and state that he wanted to be taken to the hospital for a urine sample for later testing. At first, the experienced Fairbanks City police officer resisted the request. Such tests simply were not protocol. I asked to be placed on speaker phone. I pointed out to the officer that my client had a right to an independent chemical test and that the test he was selecting was a urine test. Eventually, the officer relented. He said that he would take my client to the hospital, but that we would not be able to re-

*Continued on page 9*

**CLE ALASKA BAR ASSOCIATION**

REGISTER @ [www.alaskabar.org](http://www.alaskabar.org)

**Wednesday, June 12 | CLE SharedED: Adobe Acrobat Pro: Exploring New 2024 Features, Including Artificial Intelligence and More**

11:00 a.m. – 12:00 p.m. | Webinar | 1.0 General Credit

**Tuesday, June 18 | Clio: How to Maximize Scalability as a New Law Firm**

9:00 – 10:30 a.m. | Webinar | 1.5 General CLE Credit

**Thursday, June 20 | CLE SharedED: Change Your Outlook**

9:00 – 10:00 a.m. | Webinar | 1.0 General Credit

**Tuesday, June 25 | CLE SharedED: Learning Legal Ethics From the Lincoln Lawyer**

9:00 – 10:00 a.m. | Webinar | 1.0 Ethics Credit

**Wednesday, July 10 | Handle with Care: Client File Best Practices for Law Firms**

9:30 – 10:30 a.m. | ALPS – Webinar | 1.0 Ethics Credit

**Thursday, July 18 | CLE SharedED: Ethics, Juror Misconduct, and Jury Tampering: The Murdaugh Motion For New Trial**

9:00 – 11:00 a.m. | Webinar | 2.0 Ethics Credit

**Friday, August 9 | Military Divorce**

1:00-4:00 p.m. | Snowden Center | CLE credits TBD

**Thursday, August 29 | Federal Bar Association – Alaska Chapter District Conference 2024**

TIME TBA | Hotel Captain Cook | CLE Credit TBD

**Thursday, September 5 | Probate for the Generalist**

12:00 – 1:00 p.m. | Zoom | 1.0 General CLE Credit



**Borealis**  
BENEFITS LAW

**Disability insurance denied?  
We'll handle it.**

Serving ERISA disability claimants in  
Alaska, Oregon, and Washington

[info@erisaborealis.com](mailto:info@erisaborealis.com) + 907-600-1711

[www.ERISABorealis.com](http://www.ERISABorealis.com)



# Great Minds Run in the Same Gutter

*Continued from page 8*

ceive any doctor's orders for taking a urine sample at such a late hour. What the officer did not know, however, was that Grek had a physician who was married to his sister.

Anticipating the argument, I had already contacted Grek's brother-in-law and woke him up. I explained that I immediately needed doctor's orders for a urine sample to be taken at the local hospital. Following several minutes of arguing with the doctor, who was attempting to tell me how the legal requirements would work, I finally got him to capitulate and to contact the on-call physician at the hospital and ask for a urine sample to be ordered. After all, we were both doctors, even if in different areas of study. As such, when the arresting officer finally did arrive with Grek, he was surprised to learn that, in fact, a urine sample would be taken. The emergency room physician had already authorized the taking of the sample. Not that the test, itself, would be analyzed at the time. Of course not. That would occur later.

Reluctantly, the officer handed Grek a urine cup and told him to go to the restroom and take his own sample. The officer declined to watch the process, further substantiating Jeff O'Bryant's postulate from several years previously. Personally, I was surprised that the officer did not observe the taking of the sample, since there were other forms of liquid available in the restroom as well, and not simply Grek's urine. In fact, in retrospect, I suspect that, if the urine sample had ever been analyzed, it might have potentially contained a fair amount of chlorine, a chemical ordinarily not present in human urine, but quite plentiful in Fairbanks city water supplies and a subject of an ongoing debate by the local rednecks.

After Grek had produced a copious urine sample, he then returned out of the restroom with a cup in hand. At least the sampling process was over. But there was more yet to come.

The officer told Grek that he could keep the urine sample. Grek called me again. He asked what to do next. So, I again had him put me on speaker phone. I explained to the officer that Grek had just produced critical evidence which the officer had a duty to seize and preserve for later analysis. The cup needed a tight lid and had to be kept by the

police for future testing at the defendant's option. Needless to say, confusion set in. Maybe even a certain degree of professional police panic. Unable to determine what to do at that late hour of night, and apparently not wanting to disturb the local district attorney from his slumbers, the officer ultimately took custody of Grek's generous urine sample. The officer then delivered Grek to jail where Grek was subsequently released a second time in less than an hour (the first release having occurred in the hospital restroom). To my own relief, when I reviewed the police report, the urine sample was listed as seized evidence.

The process still was not over. Due to the press of other cases, I waited several months before requesting the urine sample to be chemically analyzed. To accomplish this analysis, I told the evidence custodian that arrangements had finally been made for an independent chemical analysis after confirming that the sample still existed. I was told that I could come over and pick up the sample myself. I could take it to the testing facility of my choice. I explained that I could not do that. We needed to maintain a clear chain of custody and could not cloud the issue at this late stage of the case. I could not afford to be inserted into that chain of custody and thus become a witness. No, just like a blood sample testing process, it was up to the evidence custodian to deliver the chosen testing facility for chemical analysis. Once again, law enforcement conceded to my logic.

I learned later that the evidence custodian apparently selected some other unfortunate person to deliver the urine sample to the local testing lab. There were actually two testing labs in Fairbanks at the time, but, in so many words, the first one told us to piss off. Within a week of the delivery of the urine sample to be tested to the remaining lab, I received a call from the lab advising it could not validly test the urine sample. Not only had the sample not been properly stored as required by scientific testing protocol, but the bulk of the sample had been spilled on its way to delivery to the lab. When the technician opened the envelope containing the sample, a flood of urine cascaded out of it, clearly compro-

promising and contaminating the sample as well as apparently the technician. The lid had popped off the urine cup. I personally questioned why the experienced officer chose to put the sample in an evidence envelope and why the lid had not been tightly taped in place. To store the sample in the police department refrigerator, moreover, had risked having it consumed by a thirsty cop even if that did not occur—a distasteful thought, in retrospect.

There was nothing more that I could do. Grek's very valuable urine sample had gone down the

drain. Even the second testing lab in Fairbanks was unwilling to test a contaminated sample. Any reading which would have been unreliable and any reports would not have met stringent evidentiary standards.

In the end, recognizing that its case had gone into the gutter, the prosecution offered a compromise which was graciously accepted. As for myself, I saw my one secret defense evaporate. But, in the end, I also was able to assist Grek in his moment of crisis.

*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.*

**In the end, recognizing that its case had gone into the gutter, the prosecution offered a compromise which was graciously accepted.**

## Bar People

### BSNC Promotes Jenna Krohn to Associate General Counsel & Chief Compliance Officer

Bering Straits Native Corporation (BSNC) is pleased to announce the promotion of shareholder Jenna Krohn to Associate General Counsel & Chief Compliance Officer (CCO). In this role, Krohn will lead compliance strategy for BSNC and its subsidiaries to manage and mitigate legal and regulatory risk across all business lines. As CCO, she will have a direct line of reporting to the Board Audit & Finance Committee which is responsible for oversight of BSNC's compliance program.

"The Chief Compliance Officer is instrumental in reinforcing BSNC's integrity and ethical standards," said Debbie Atuk, Chair of the Audit and Finance Committee. "We are confident that Jenna's skills and experience make her well-suited to take on this role, and we are delighted to have a shareholder serve this important function for our corporation"

Krohn joined BSNC as corporate counsel in 2021. She graduated in 2013 from the University of Alaska with a Bachelor of Arts degree in justice and a minor in English. Krohn earned her law degree from Mitchell Hamline School of Law in St. Paul, Minnesota, graduating in 2018. While completing her education, she worked in human resources at the Alaska Native Tribal Health Consortium and later at North Star Behavioral Health. Krohn first began practicing law at private firms in Anchorage, focusing primarily on family law, insurance defense and employment law. She received the National Center for American Indian Enterprise Development 2023 Top 40 Under 40 Award.

Krohn grew up in Anchorage and is the proud daughter of the late Kenneth Dewey Jr. of Koyuk, AK and Karen Alatalo of Bay City, MI. She has extended family in Koyuk, Nome and Kivalina, as well as in other areas of the state and in Michigan. She is an enrolled tribal member of the Native Village of Koyuk.



Jenna Krohn

**Medically-Trained Paralegal serving your injury claim needs**

- Litigation support for medical cases/issues
- Medical records chronology/summary
- Medical/billing records analysis
- Deposition summary
- Comprehensive medical records/imaging discovery
- Work samples and references available — CALL 907-688-1328

**med discovery llc**

Joaquita B. Martin, BS, ACP  
NALA Advanced Certified Paralegal  
907-688-1328 • www.meddiscoveryplus.com

HAVE A SAFE AND HAPPY

**4<sup>TH</sup> OF JULY**

INDEPENDENCE DAY

# The Alaska Law Review Visits Juneau

By Connor Sakati

Over Spring Break, five editors from the Alaska Law Review—Alex Bartlow, Sarah Couillard, Flora Lipsky, Sam MacDuffie and Jake Sherman—journeyed from North Carolina to Juneau, Alaska. Student editors make the trek to Alaska once per semester, meeting with local attorneys and other community members to learn about the legal issues facing Alaska.

This visit coincided with the legislative session and the students were able to meet with state legislators as well as members of the state's judiciary. Outside of government officials, they also had the opportunity to meet with nonprofit

leaders and other community advocates. Many of these discussions, especially those on the cost of living in Juneau and the cruise industry's impacts on the city, stuck with our editors and will influence the law review's future scholarship.

Outside meetings, the students visited local highlights like Mendenhall Glacier, the National Shrine of St. Thérèse and Eagle Beach State Park, taking in the region's varied geography.

The Alaska Law Review thanks the attorneys who opened their homes to them, the many local officials and community members who took time to speak with them and the Juneau community for its hospitality.



The ALR editors were able to explore some of Juneau's natural beauty, including a low-tide walk along the Boy Scout Beach Trail. Pictured: From left to right (front row): Sam MacDuffie, Flora Lipsky, Sarah Couillard. From left to right (back row): Jake Sherman and Alex Bartlow. Selfie taken by Sam MacDuffie



The students took a tour of the capitol meeting and had the opportunity to meet with several legislators, including Sen. Matt Claman, chair of the Judiciary Committee. Pictured: From left to right: Sam MacDuffie, Flora Lipsky, Sarah Couillard, Alex Bartlow. Photo by Joyanne Bloom



The editors hiked alongside Mendenhall Lake and got to see the glacier up close. Flora Lipsky has written on the legal fights between the state of Alaska and the federal government over title to submerged lands under the Submerged Lands Act, including the bed of Mendenhall Lake. Pictured: Flora Lipsky. Photo by Sam MacDuffie

## Check Out the Alaska Law Review's Year-in-Review Series

By Connor Sakati

As part of our Year-in-Review series, the Alaska Law Review publishes short summaries of recent, major state and federal court cases in Alaska.

This last semester we covered cases from a number of practice areas. Our Year-in-Review content spans over twenty-four practice areas, including important cases on the separation of powers in Alaska. For example, we covered *Taylor v. Alaska Legislative Affairs Council*, 529 P.3d 1146 (Alaska 2023). In that case, the Alaska Supreme Court held that, because the state attorney general is the head of a principal executive department and under the supervision of the governor, a lawsuit the attorney general

filed was essentially a suit by the governor in the name of the state. As a result, the attorney general's common law powers did not allow a suit against the legislature.

In the criminal procedure domain, we covered *Fletcher v. State*, 32 P.3d 286 (Alaska 2023). In that case, the Alaska Supreme Court held that that article I, section 12 of the Alaska Constitution requires a sentencing court to affirmatively consider a juvenile offender's youth before sentencing a juvenile to the functional equivalent of a life sentence without the possibility of parole.

We also cover major federal cases that impact Alaska, including *In re Clean Water Act Rulemaking*, 60 F.4th 583 (9th Cir. 2023). In that case, the Ninth Circuit held that courts may not vacate agency actions in conjunction with granting requests for voluntary remands without first holding the agency actions unlawful.

To access more Year-in-Review content, please check out our blog, with case summaries sortable by practice area: <https://alr.law.duke.edu/yir-blog/>.

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

### FOR SALE LEGAL SERVICES FIRM

Two companies under one roof with over 60 years of reputable Alaska experience. Clients nationwide, including federal and state contracts. Projects calendar already set up through December 2024 and beyond.

Sale includes all furniture, electronics, phone system, IT platforms. Office condo also for sale or can rent. Owner retiring.

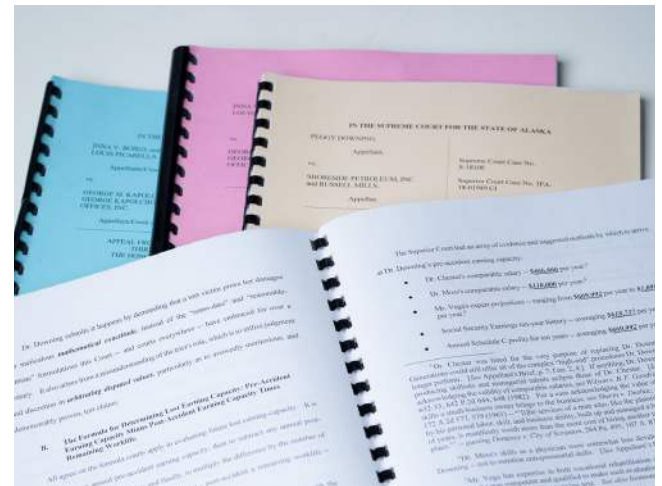
Call (907) 349-1910 mornings to discuss details.

# Need help?



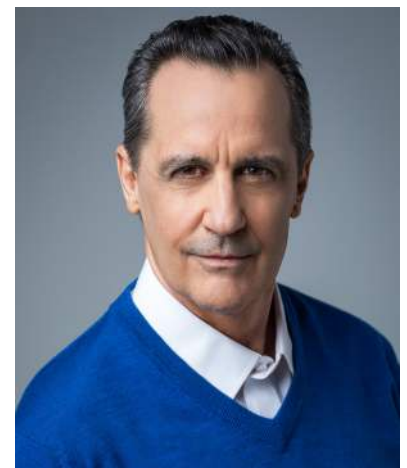
## Help is what I do:

- Research and Writing ●
- Civil and Criminal ●
- Motions and Oppositions ●
- Discovery ●
- Pleadings ●
- Appeals ●
- ... the Full 'Range' ●



**“Excellent work . . . plenty of Alaska experience . . . writes beautifully on any topic . . . gets good results.” — Mike Schneider, ‘24.**

- 35 years working with Alaskan attorneys ●
- Admitted in AK (active), CA and OR (inactive) ●
- Helped win and protect seven- and eight- figure verdicts ●
- Former Assistant Attorney General (AK) ●
- Top 10%, Cum Laude (Gonzaga Law) ●
- Valedictorian (Masters, George Wash. U.) ●



# Give me a call and let's win some cases.

**Joel DiGangi**   
Legal Research & Writing

**joeldd@centurylink.net • (480) 951-2626**



## New lawyers take the Oath of Attorney

*Text and photo by Jane Lovelace*

The Alaska Court System and the Alaska Bar Association hosted a swearing-in ceremony for new members of the Alaska Bar Association on May 14, 2024 in the Supreme Court Courtroom of the Boney Courthouse in Anchorage. Justice Dario Borghesan presided over the swearing-in of nine new lawyers. Family, friends and colleagues appeared in person or viewed the live stream of the event through the court system’s website. The new attorneys can be seen in the picture raising

their right hands as they take the Oath of Attorney, which was administered by Meredith Montgomery, clerk of the Appellate Court.

**New Lawyers sworn-in include:**

- |                   |                          |
|-------------------|--------------------------|
| Samantha Campbell | Zachary Schwartz*        |
| Natalie Cauley*   | Jennifer Teitell*        |
| Megan Dister      | Jean Christian Tshibaka* |
| Dylan Jarvis*     |                          |
| Helen Mendolia    | *Denotes United States   |
| Zachary Pavlik*   | District Court Admission |



Maggie Humm

## ALSC Welcomes New Executive Director

*By Laci Michaud*

Alaska Legal Services Corporation (ALSC) welcomes Maggie Humm as Executive Director. Maggie began her tenure as executive director with ALSC on April 22.

“After an extensive, six-month national search, the Board of Directors unanimously determined Maggie was the best and most qualified candidate to serve as our new ED. We are excited about the future of ALSC under her leadership, and to continue ALSC’s tradition of cultivating leadership development within the organization” said ALSC Board Chair, Joe Nelson.

Maggie Humm has provided dedicated service to ALSC for nearly 21 years, including in the roles of intern, Staff Attorney, Supervising Attorney, Deputy Director and, most recently, interim Executive Director. During this time, she has proven herself as a tireless advocate for victims of violence and sexual assault and underserved families and youth, as well as a collaborative leader who has worked alongside Alaska’s indigenous tribes and nonprofit organizations in major cases and negotiations to increase access to justice across the state.

“ALSC has an incredibly dedicated staff that provides critical civil legal services to thousands of Alaskans each year,” Humm said. “I’m honored to be chosen as the next person to lead this wonderful organization and I look forward to working with our staff, board of directors and community partners to deliver high-quality and innovative legal services to communities throughout Alaska. Alaska faces an enormous justice gap with low-income individuals and families facing countless civil legal problems that they are not able to get assistance with; ALSC plays a key role in resolving this issue and I am excited to work with so many talented individuals who are working hard to address this crisis.”

*ALSC is a private, nonprofit law firm that provides free civil legal aid to those who cannot afford it. Through our work, we empower people and communities throughout Alaska to protect their safety, their health and to promote family stability.*

Some lawyers work documents, others know the docks.

We don’t just settle on knowing your industry. We live it.

Spotting trends and navigating turbulent waters can’t happen from behind a desk.

The insights come when we put on our hard hats and meet our clients where they are.

Experience what we know about your industry and what it’s like to be represented by Schwabe.

REPRESENTED BY  
**Schwabe**

Schwabe, Williamson & Wyatt P.C  
420 L Street, Suite 400 | Anchorage, AK 99501  
(907) 339-7125

[schwabe.com](http://schwabe.com)



**Azlynn  
Brandenburg**



**Solveig Henry  
Clifford**



**Cindy Colbert**



**Megan Davey**



**Jackson Gould**



**Megan Holland**



**Whitley Holthaus**



**Breanna Jingco**



**Ty Kiatathikom**



**Maria Kling**



**Courtney Kuhlmann**



**Edith Leghorn**



**Isabel MacCay**



**Katey McMurrugh**



**Samantha Osborne**



**Emma Potter**



**Kristina Smith**



**Bradley Wilding**

# Alaska Bar Association Awards Scholarships

*By Danielle Bailey*

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

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

The Scholarship Committee met in April to review applications and announce the scholarship recipients. The Bar received a total of \$28,825 in generous donations. All funds received were applied to this year's scholarship program. After reviewing all applicants' ties to Alaska, their intent to return to Alaska, and their reason for applying for the scholarship, the Scholarship Committee decided to award the following scholarships:

**\$5,000 Scholarship**

**awarded to:**

- Solveig Henry Clifford
- Edith Leghorn
- Isabel MacCay

**\$465 Scholarships**

**awarded to:**

- Azlynn Brandenburg
- Megan Davey
- Whitley Holthaus
- Ty Kiatathikom
- Kristina Smith

**\$1,150 Scholarships**

**awarded to:**

- Cindy Colbert
- Jackson Gould
- Megan Holland
- Breanna Jingco
- Maria Kling
- Courtney Kuhlmann
- Katey McMurrugh
- Samantha Osborne
- Emma Potter
- Bradley Wilding

**The bar would like to thank all of the  
2024 scholarship donors:**

**\$2,000 and over**

- Groh Memorial Fund
- Landye Bennett Blumstein LLP
- Board of Governors/Bar Foundation Matching Funds

**\$1,000-\$1,999**

- Calista Corporation
- Cook Inlet Region Inc
- Jermain Dunnagan & Owens PC

**\$300-\$999**

- AK Assoc Criminal Defense
- AK Chapter Federal Bar Assoc
- Dorsey & Whitney, LLP
- Gross, David
- Paver Family Foundation
- Stoel Rives LLP
- Torgerson, James

**\$1-\$299**

- Andrews, Mark
- Bailey, Danielle
- Bendler, Karen
- Brand, Chrystal

- Brown, Ashley
- Carlson Law Group, LLC
- Carpeneti, Marianna
- Cook, Adam
- Delves, Lucy
- Evans, Susan
- Featherly, Walter
- Gardner, Darrel
- Gleason, Sharon
- Horowitz, Michael
- McCullum, James
- Nave, Thomas
- O'Hara Tax Lawyer LLC
- O'Regan, Deborah
- Osborne, Melanie Baca
- Rasmuson Foundation
- Saldanha, Stefan
- Sears, Trina
- Simpson Tillinghast Sheehan PC
- Urig, Susan
- Weaver, Steven
- White, Morgan
- Wike, Denise
- Winfree, Sr. Justice (Ret.) Daniel

The Bar is now accepting donations for the next round of scholarships. Any contribution will be greatly appreciated.

This is a great opportunity to help struggling Alaska law students make the most of their legal education. These students will return to Alaska to become our next generation of lawyers and judges.

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 questions. Thank you for your consideration and support.

# LAWPAY<sup>®</sup>

AN AFFINIPAY SOLUTION



Member  
Benefit  
Provider

“I love LawPay! I’m not sure why I waited so long to get it set up. – Law Firm in Ohio

Trusted by 50,000 law firms, LawPay is a simple, secure solution that allows you to easily accept credit and eCheck payments online, in person, or through your favorite practice management tools.



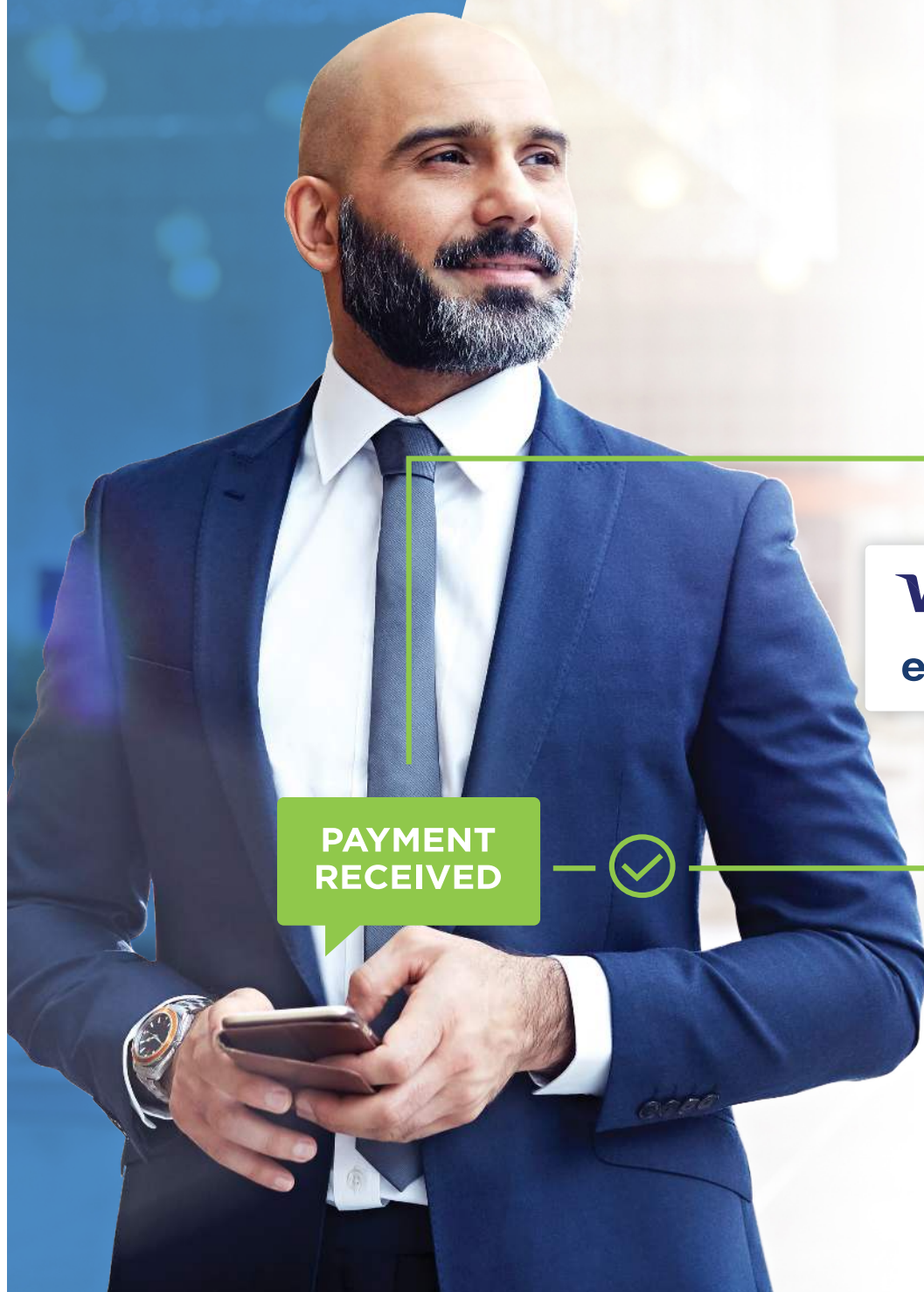
22% increase in cash flow with online payments



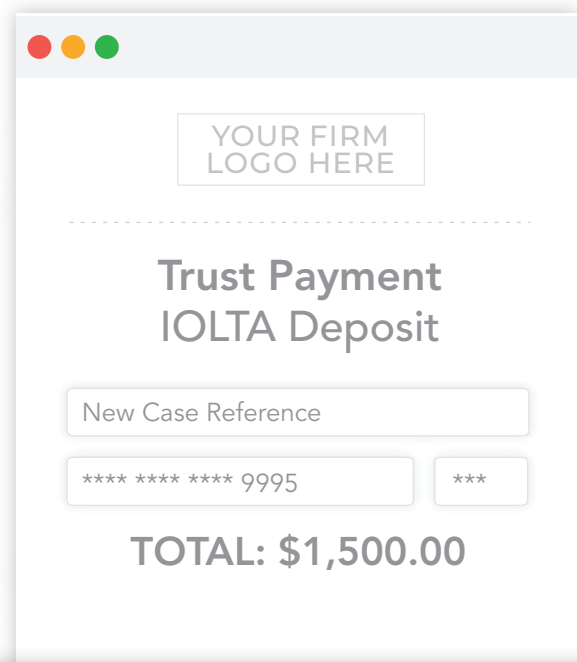
Vetted and approved by all 50 state bars, 70+ local and specialty bars, the ABA, and the ALA



62% of bills sent online are paid in 24 hours



PAYMENT RECEIVED



Get started at [lawpay.com/alaskabar](http://lawpay.com/alaskabar)  
866-730-4140

Data based on an average of firm accounts receivables increases using online billing solutions.

LawPay is a registered agent of Synovus Bank, Columbus, GA., Fifth Third Bank, N.A., Cincinnati, OH, and Wells Fargo Bank, N.A., Canadian Branch, Toronto, ON, Canada.

## TALES FROM THE INTERIOR

## The Other Side – What They Don't Teach You In Law School

By William R. Satterberg

## Part IV

Sadly, Judge Mary Greene and I never really got along. It was quite obvious, too. Not only to me, but to many others as well. Two different pieces of cloth. I didn't like her, and she didn't like me. Admittedly, Judge Greene was an intelligent jurist. For some reason, however, our social and political perceptions clashed. An oil and water thing. Maybe it was because she used to live upwind directly across the street from me. An acknowledged environmentalist, Judge Greene had an incinerating toilet for which I did not particularly care, especially when the wind was blowing in my direction, which was usually the case.

During one jury selection in a criminal case, we were in the anteroom exercising preemptory challenges. Contrary to my expectations, the prosecutor preempted one of my planned strikes. I asked Judge Greene if I could briefly consult with my client about whom to preempt next. Her curt, impatient response was, "Mr. Satterberg either use it or lose it!" I politely countered that I had a need and a right to consult with my client and, respectfully, such an order would likely be a mistake. In response, Judge Greene angrily stated, "Mr. Satterberg, I don't make mistakes!" My somewhat not-so-thought-out reply was, "The Supreme Court disagrees." In retrospect, Judge Greene actually did a rather remarkable job maintaining her composure. Fortunately, she relented. I was allowed to consult with my client. Still, the air remained tense. Fairbanks attorney, Michelle McComb, later once told me that, whenever I appeared before Judge Greene, no one wanted to follow me. Sort of like the toreador teasing the bull for the matador in a Spanish bull fight.

I did a trial in Homer, Alaska one time with a good friend of mine, Timothy Dooley as co-counsel. Tim was later to become a superior court judge in Nome. Our client had been accused of sexual abuse of a minor. The presiding judge was Judge John Link, formerly of Fairbanks. It was common knowledge that Judge Link was a chain smoker. After a certain period of time, usually an hour, Judge Link clearly needed a cigarette break. The addiction was non-negotiable. When the time came, the court would abruptly take its needed recess. I never opposed those recesses, recognizing that Judge Link always had a much kinder attitude after his high speed nicotine infusion.

As we were nearing the end of one of the hour-long presentations, I made an objection. Judge Link ruled against me. I attempted to reargue the issue, claiming that he likely had committed error. Judge Link's snappy response to me was that I did not have to tell him how to do his job. My response was that I was just making sure. Judge Link's next response was that I would have a free place to stay in Homer and wouldn't need a hotel if I continued my argument. I relented, discretion once again being the better part of valor.

Then there was a case before Judge Steinkruger where I represented a client on a lawsuit over a

recycling yard against a large Canadian company. Day one of trial was set to commence. Everyone had already taken their seats in the courtroom. Joe Sheehan, who later would represent my same client on various future matters, (so much for my quality of work) represented the Canadian corporate defendant. Just as we went on record, the court was interrupted by banging and loud voices coming through the entry doors to the courtroom. Unbeknownst to the court and even to myself at the time, my client had three brothers who had muscular dystrophy. He had asked them to attend the trial. They all were confined to motorized wheelchairs. As members of the public, they were attempting to maneuver into the courtroom. It rivaled the start of a demolition derby. We later called the team "The Flying Wedge."

Trial was in the old Fairbanks courthouse. The courtroom was not set up to accommodate these disabled members of the public, let alone their bulky, motorized wheelchairs. In fact, the Americans with Disabilities Act was not yet even in existence. Not enough handicapped parking space in the courthouse parking lot, let alone in Judge Steinkruger's courtroom on the fourth floor. But the court required accommodation. Recognizing that the case was rapidly turning into a serious logistical problem and that the pews risked serious cosmetic damage, Judge Steinkruger bluntly commanded the parties to, "Settle this!" and quickly left the bench. And, remarkably, the case did settle after two hours of negotiations. The final upshot was that an agreement was reached for my client to pay the corporate defendant



"Judge Link's snappy response to me was that I did not have to tell him how to do his job."

several tens of thousands of dollars in exchange for a land transfer. But the Canadians made a tactical error. Not trusting my client, they insisted that payment be only in cash. The Canadians would not accept a company check from my client. Not even a cashier's check. Cash only. American and not Canadian dollars. After a recess was taken, my client went to all of the banks in Fairbanks to find seventy

thousand dollars in assorted cash. The only problem was that the cash was in a variety of small bills which were intermingled in a black garbage bag.

Returning to the courtroom after lunch, my client dumped the funds on the company's counsel table. Wanting not to cheat the large corporation, we requested that the funds be counted to verify that full payment had been made. In point of fact, there were forty dollars extra in the bag just as an insurance policy. During the off-record counting process, which lasted close to an hour, my client and I talked loudly about a number of things, mainly about numbers. We never heard about the extra forty dollars, but decided against asking for a recount.

Once, I represented a local "massage therapist" before Judge Patrick Hammers. My client was a Chinese lady. She had been accused of engaging in prostitution and providing sexual favors for her clients. The Fairbanks Police Department had aggressively investigated the case, sending in numerous officers to gather evidence of solicitation of sexual favors.

Initially, the case was charged as a serious sexual assault case. An unclassified felony. In the end, however, it was reduced to a Class B misde-

meanor-Disorderly Conduct. Much of that incentive to reduce the case likely had to do with the scrupulous records my client had kept of unscrupulous customers who had sore backs during the early morning hours. Many of these customers were well known, respectable, Fairbanks businesspeople. I was planning to subpoena them for trial. After all, I fully expected them to be supportive witnesses who would testify that nothing untoward had ever occurred, even at 3am when they needed a "massage."

In the end, the state wisely decided to compromise the case. At sentencing, we had a telephone interpreter who purported to speak Mandarin. My client's understanding of English was actually quite good, but I felt that it would be best to have an interpreter so there could never be any questions whatsoever of the process. Halfway through the sentencing, my client leaned over to me and whispered, "Mr. Satterberg, your interpreter is piece of s\*\*t." When it came time for my client's allocution, I explained to Judge Hammers that my client wanted me to speak for her. I then offered that she knew that she had been facing some, "Stiff time." I also complimented the Fairbanks Police Department for "Putting a lot of good men on top of this one." However, the one statement that I did not make while watching Judge Hammers attempt to stifle his laughter was that some of the evidence was "Too hard to swallow."

Even I thought that would have gone a little bit too far. And who says I have no filter?

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.*



2025

AK Bar Convention

Let's Come Together

April 23-25, 2025

Sheraton Anchorage Hotel



# In Memoriam

## Virgil Dean Vochoska Passes Away

Longtime Alaska resident, Virgil Dean “Judge” Vochoska, 91, died December 20, 2023. He passed peacefully, surrounded by family and friends.

A service will be held at 1 p.m., Saturday, June 15, at First Presbyterian Church of Anchorage, 616 W. 10<sup>th</sup> St. The Rev. Matthew Schultz will officiate, and a reception will follow. A graveside service will be at 3 p.m. at Anchorage Memorial Park Cemetery.

Virgil was born August 19, 1932, on a farm near Oxford Junction, Iowa. His father, Otto, was the Middleweight Wrestling Champion of Iowa; the “Strong Man” in the circus; and later, ran a tavern-restaurant in Blairstown, Iowa. After high school, where he was a rambunctiously entertaining class president, he attended Cornell College of Iowa, then continued to the University of Iowa Law School. A visiting lecturer heard that Virgil intended to practice in Denver, and recommended he complete his degree there.

He transferred to the University of Denver Law School, where a classmate told him about the exciting employment opportunities in Alaska. Upon graduation, Virgil bought a one-way ticket to Alaska. Since Alaska was not yet a state when he arrived in 1958, Virgil obtained the title of “Territorial Lawyer.” On his way to Anchorage he stopped in Juneau, where he was offered a job at the Attorney General’s Office. He tried to politely decline by stating that the salary wasn’t enough...but when they increased the offer, so he made more than anyone in his law school class, he accepted.

Several years later, someone suggested he move to Nome to take over Judge von der Heydt’s former practice. He replied, “Nome! Are you nuts?” Yet after speaking by telephone with Judge von der Heydt, he took the opportunity and enjoyed private practice in Nome.

In 1964, Virgil became an Alaska State District Court Judge in Anchorage. He was a judge for 15 years. After that, he became a real estate agent. He was so honest, he wouldn’t sell a property if he thought a new development would lose value over time. He was so happy as a realtor; he would express his enthusiasm nearly every day for the first year. It was a new



Virgil Vochoska

career, and he did well at it.

Virgil met his wife, Lois, in 1964, at a party for singles. There, he spotted a beautiful blond, talking to a tall man. Virgil approached her from behind and tapped her on her hip to get her attention. As Lois told it; “I turned around, looked down...and never looked back!” While driving her home that night, they discovered they lived in the same apartment complex. They were married two years later. In the following three years they had two children, Bill and Patty.

Virgil valued all people equally, having deep compassion for those in need. He directly helped many people throughout his life, a living example of kindness and generosity. Here are just three examples:

- While living in Nome, a woman who provided laundry services to the local community, sewed a button on his shirt. This was above and beyond the services required of her, and he appreciated her kindness. After she moved to Anchorage, one of the Vochoska Christmas traditions was for the family of four to bring a Christmas goose to her, every year, for the rest of her life.
- Virgil personally filled the refrigerator of a gentleman who was new to the country, until he was able to provide for himself.
- Another acquaintance needed to have some tattoos removed before he could be hired by the police department. Virgil provided the tattoo removal, and the man got the job.

Having lost his own father too young, Virgil decided he would do everything in his power to stay healthy throughout his life. He believed in staying active, and enjoyed downhill skiing well into his 80s. He focused on good nutrition, regularly topping his oatmeal with raw garlic, because “it’s good for you”. Excited about what he learned during his ongoing self-led education on longevity, he would enthusiastically share this info with anyone who would listen.

For over 50 years, Virgil was a member of the Downtown Anchorage Rotary Club. He had over 35 years of perfect attendance. Virgil also enjoyed being a Director of Crime Stoppers, continuing as a member of the board for years.

Virgil attended First Presbyterian Church of Anchorage for over 50 years. He exemplified the Biblical directive to love others, as God loves all. He had an abiding knowledge of Jesus as his Savior.

Virgil enjoyed his role as a devoted husband until Lois’ untimely death in 2007. He continued to be a delightful father, then grandfather of six, until his very last breath. He is survived by his son and daughter-in-law, Bill and Aurie Vochoska of Laguna Hills, CA.; his daughter, Patty Dean of Centralia, WA; grandchildren Mandy, Nadia, Bill, Tom, Aidan and Maverick; beloved niece and nephews, and many loved ones.

In lieu of flowers, please consider helping someone in need. This would truly honor the memory of Virgil.



### 840 K Street Suite 203, Anchorage, Alaska

- 2,131 sq. ft.
- Great Downtown location
- Garage parking available
- Close to hotels, restaurants, Performing Arts Center, State Court House, Dena’ina Center and the Coastal Trail
- Fully upgraded video security system with in-app access.
- Upgraded HVAC including state of the art UVGA filtration
- **\$1.90 sq./ft.**



MLS #20-15474



Contact Wade Bradison or Erik Frampton  
907-276-1007 - [www.officeak.com](http://www.officeak.com)

## Substance Abuse Help

We will

- Provide advice and support; discuss treatment options, if appropriate; and protect the confidentiality of your communications.

In fact, you need not even identify yourself when you call. Contact any member of the Lawyers Assistance Committee for confidential, one-on-one help with any substance use or abuse problem. We will not identify the caller, or the person about whom the caller has concerns, to anyone else.

<b>Anchorage</b>	<b>Juneau</b>	<b>Arizona</b>
<b>Serena Green</b> (907) 777-7258	<b>John E. Reese</b> (907) 227-8688	<b>Lauren Johansen</b> (907) 465-8583
<b>Emma Haddix</b> (907) 269-5100	<b>Zingre Veenstra</b> (907) 222-7932	<b>Yvette Soutiere</b> (907) 586-4000
<b>Nacole Heslep</b> (907) 764-1569	<b>Jeff Gould</b> (520) 808-4435	<b>Mike Lindeman</b> (760) 831-8291
<b>David Houston</b> (907) 250-2687	<b>Valerie Therrien</b> (907) 452-6195	<b>Greggory M. Olson</b> (907) 830-9792
<b>Michael S. McLaughlin</b> (907) 793-2200	<b>Nicholas Ostrovsky</b> (907) 868-8265	<b>Sitka</b>
<b>Collin Middleton</b> (907) 222-0506	<b>James Ferguson</b> (808) 937-4045	

Lawyers' Assistance Committee  
Alaska Bar Association



# Thinking Ethically About AI

By Kevin Cuddy

In the legal profession, artificial intelligence (AI) holds the promise of streamlining tasks and improving outcomes. However, its adoption also raises serious concerns. From data privacy issues to biases in decision-making, the risks of relying solely on AI are significant. As lawyers and policymakers navigate this technological landscape, understanding these risks becomes crucial.

You have likely heard about how AI is going to be a game-changer for law practices and many other fields. Rumors abound about what AI is capable of doing that was once thought to be the exclusive province of lawyers. Reviewing document productions for relevance? AI can expedite that through something called technology-assisted review. Preparing a draft employment contract? AI can spit one out in a fraction of the time that a mere mortal would ordinarily take.

Why aren't I using this already, you may be thinking, if AI has such magical qualities? Well, you probably already inadvertently are. AI is becoming ubiquitous in our society. Maybe you own one of Amazon's "smart speakers," Alexa, and you use it to give you a weather report or to set an alarm for later in the day. That's a form of AI called natural language processing. While I was typing out this article, the word processor was constantly trying to guess what I was in the process of writing, offering to complete a phrase that I had begun composing (or correcting perceived typographical errors in real-time). This is a form of AI called machine learning, where the system uses data from the user and from larger databases to predict what text should follow certain inputs.

AI can also perform substantive law-related tasks through something called generative AI (e.g., ChatGPT). Basically, you enter a text prompt and the application generates an output for you based on that request. In fact, the opening paragraph of this article was written by ChatGPT. I asked the application to draft an opening paragraph for an article about the risks of using artificial intelligence for lawyers. ChatGPT prepared a draft within seconds. The original result was a little stilted and wordy, so I asked for the application to simplify what it had written. Voila! The opening paragraph of this article was written.

The same type of generative AI can be used for writing letters, briefs and contracts. Different software providers are sprinting to harness this technology so that it can be used efficiently and effectively in the legal arena. However, there are always ethical pitfalls that accompany new technology, and AI is no exception. This is especially true for a technology that is constantly evolving and may not be particularly well understood by many practitioners.

A comprehensive review of all of the various AI tools is far, far beyond the scope of this article, which dovetails nicely with perhaps the most important take-away message: If you don't understand the technology well enough to evaluate

its benefits *and* risks, then you're not ready to incorporate the technology into your legal practice. The commentary to the very first rule of Alaska's Rules of Professional Conduct explains that, when providing competent representation to a client, "a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology[.]" The "benefits" of AI are fairly clear: AI may allow you to do legal work much more quickly, and it may help you to brainstorm theories and concepts that can help get your client a better result. Some of the key risks—especially from the perspective of the Model Rules of Professional Conduct ("Rules")—are addressed below.

**Rule 1.6:** Is the confidentiality of your client's information protected? Let's say that you ask a generative AI service like ChatGPT to help brainstorm legal theories regarding Client X's medical malpractice claim, and you input various secret facts about Client X's medical condition in order to make the analysis as specific as possible. Is that confidential information secure? Generally speaking, no. For example, ChatGPT's Terms of Use confirm that ChatGPT may use your inputted data to help develop its services unless you affirmatively opt out. ChatGPT states: "Don't share sensitive info. Chats may be reviewed and used to train our models." The commentary to Rule 1.6 states that lawyers are obliged to act competently to safeguard client confidences and secrets against unauthorized access by third parties. As described above, ChatGPT does not appear to afford any reasonable expectation of privacy for the user. Other services (usually for a fee) may provide greater privacy. For example, "CoCounsel" from Thomson Reuters states that its service does not use customers' data to train the model, thereby preserving the confidentiality of client information. It is up to the lawyer to take reasonable steps to ensure that the client's confidential information is being protected.

**Rule 3.3(a)(1):** Lawyers have a duty not to knowingly make a false statement of fact or law to a tribunal. AI does not "know" whether statements of fact or law are true or false, so it has no compunctions about providing false statements to the user. At the risk of gross oversimplification, AI is using an algorithm to string together words that are typically used by other users in a similar context. Some of the statements generated by the algorithm will be objectively false, but they can look very convincing to the naked eye. This is perhaps why ChatGPT contains a small disclaimer at the bottom of the page: "ChatGPT can make mistakes. Consider checking important information." Sometimes an AI service (using something called large language models) will "hallucinate" and produce content that deviates from actual facts or legal authority. A recent Stanford study contains some chilling statistics. Researchers found that "hallucination rates" from state-of-the-art AI language models were "alarmingly high"—from 69% to 88%—in response to specific legal queries. (<https://hai.stanford.edu/news/hallucinating-law-legal-mistakes-large-language-models-are-perva->

*sive*) This problem was especially pervasive with respect to complex legal tasks and issues requiring some localized legal knowledge. AI also tended to exhibit overconfidence in a particular result, irrespective of accuracy, which can prompt lawyers to make poorly informed strategic decisions. An over-reliance on AI has led some lawyers to submit briefs citing non-existent cases that the AI service made up out of thin air. *See, e.g., United States v. Cohen*, 2024 WL 1193604, at \*2 (S.D.N.Y. March 20, 2024) (noting that Mr. Cohen had relied on Google Bard, a generative AI text service, that "could show citations and descriptions that looked real but actually were not"); *Mata v. Avianca, Inc.*, 2023 WL 4114965 (S.D.N.Y. June 22, 2023) (awarding sanctions against law firms for citations to AI-generated fictional judicial opinions). While one can debate whether the lawyer "knowingly" makes a false statement of law when she or he fails to confirm whether cases cited in a brief actually exist, no lawyer wants to be in the position of trying to defend an abject failure to perform legal research. To the extent that a lawyer is sharing AI-generated false statements of material fact with third parties, that would violate Rule 4.1(a) as well. Some providers that cater to legal consumers have implemented various safeguards to reduce or eliminate the risk of these "hallucinations." Nevertheless, the ultimate responsibility for ensuring the accuracy of one's filings always rests with the lawyer.

**Rule 5.3:** One can also view the use of AI through the lens of an attorney's oversight responsibilities. Under Rule 5.3, attorneys having direct supervisory authority over a nonlawyer shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of the lawyer. Put differently, if you hired a law student intern to perform some legal research and draft a brief, you would have an ethical obligation to check her or his work to make sure that what was submitted to the court was valid. That work product is being submitted under your signature, so it's your responsibility to ensure its accuracy. The same holds true if you rely on a "nonlawyer" like AI to provide assistance on your legal work product. Similarly, if you are

supervising a junior lawyer who is using AI, you have an obligation under Rule 5.1 to understand enough about AI to provide appropriate supervision. You cannot simply delegate the work without appropriate oversight.

By design, this is not an exhaustive list of all of the ethics rules that are or may be implicated when lawyers try to leverage AI as part of their practice. The technology is changing rapidly, and there is some risk that much of what I have written above may be outdated by the time you read this. As the technology changes, and as lawyers think up new clever ways to use that technology as part of their practice, the ethical implications will also evolve.

It is conceivable, if not likely, that AI will eventually become so pervasive that a lawyer would be expected to use AI in some form in order to provide competent representation under Rule 1.1. Until that time, however, lawyers should exercise caution when considering if or how to use AI as part of their legal practice. Know what you're getting into. There are many available resources that describe both how AI works in the legal arena as well as the accompanying ethics issues, including implications for billing. *See, e.g., D.C. Legal Ethics Opinion 388 (2024)* <https://www.dcbar.org/for-lawyers/legal-ethics/ethics-opinions-210-present/ethics-opinion-388>.

The Alaska Bar Association puts on numerous continuing legal education presentations every year, and AI is going to be a frequent topic in the years to come (including at a Federal Bar Association conference on August 29, 2024). It is your obligation to understand the technology, its benefits, and its risks before you start incorporating it into your legal work. AI has enormous and transformative promise for the legal industry. No matter how good or revolutionary the newest technology may be, however, it remains the lawyer's responsibility to ensure that all ethical obligations are being satisfied.

*Kevin is the chair of the Alaska Bar Association's Ethics Committee. This is an educational article from the Ethics Committee to members of the Bar. This is not a formal Ethics Opinion and has not been approved by the Board of Governors.*

## NOTICE TO THE PUBLIC

By order of the Alaska Supreme Court,  
Dated 3/26/2024

**JOHN L. STEINERHAIN**

Member No. 8711108  
Anchorage, Alaska

is transferred to  
disability inactive status  
effective March 26, 2024.

Published by the Alaska Bar Association,  
840 K Street, Anchorage, Alaska 99501  
[www.alaskabar.org](http://www.alaskabar.org)  
Pursuant to the Alaska Bar Rules

# 25 YEARS OF BAR MEMBERSHIP

ALASKA BAR ASSOCIATION 1999 - 2024



Erik Anderson



Jennifer App



Laurie Ault-Sayan



Lauren Berdow



Jason Bergevin



Ruth Botstein



Robert Bredesen



Karen Bretz



Dawn Carman



Andrew Crow



Valerie Davidson



Erik Davies



Tamara Eve De Lucia



John Earthman



Kathleen Tobin Erb



John Parker Erkmann



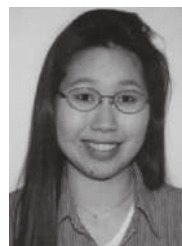
Kathleen Frederick



Stuart Goering



Jessica Graham



Michelle Higuchi



Robert Kay



Pamela Keeler



Rosamund Lockwood



Rita Lovett



Thomas McDermott



Samuel McQuerry



Margaret McWilliams



Michelle Meshke



Molly (aka Mary E.) Mulvaney



Antone Nelson



Nikole Nelson



Aimee Oravec



Melanie Baca Osborne



Craig Partyka



Lynne Perkins-Brown



Jeffrey Pickett



Robert Polley



Steven Priddle



Thomas Quinn



Alice Rahoi



Kristen Richmond



Jason Ruedy



Danielle Ryman



Jean Sato



Robert Schmidt



Ethan Schutt



Larissa Shamraj



Matthew Singer



Colby Smith



Joseph Strines



Joseph Sullivan



Cassandra Tilly



Diane Townsend-Anderson



J. Gary Trichter



Jason Weiner



Erin White



Julie Willoughby



David Winston



Julie Ann Binder Wrigley



NOT PICTURED:  
Margaret Simonian

## Lawyer joke ...



*Q: How many lawyer jokes are there?*

*A: Only three. The rest are true stories.*

# 50 YEARS OF BAR MEMBERSHIP

ALASKA BAR ASSOCIATION 1974 - 2024



Glen Anderson



Myron Angstman



Peter Argetsinger



William Artus



Allen Bailey



Charles Baldwin



James Barnett



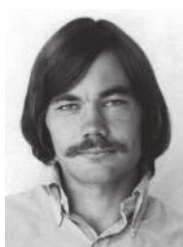
Keith Bell



Frederick Boness



Stephen Branchflower



Rodney Carman



William Choquette



Rand Dawson



Phillip Eide



Gary Eschbacher



Randall Farleigh



Brian Farney



Michael Frank



Edward Garnett



Hal Gazaway



James Gould



James Hanley



George Harrington



Paul Hoffman



Roger Holl



Michael Hough



Dennis James



Matthew Jamin



Robert Johnson



Michael Keenan



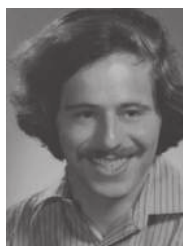
Roger Kemppl



Karen Kirby



Ross Kopperud



David Mannheimer



Dennis McCarty



Lawrence Mills



James Parrish



Max Peabody



Stephen Pearson



Frederick Pettyjohn



John Rate



Douglas Riggs



Arthur Robinson



Barbara Schuhmann



Gerald Sharp



Michael Stark



John Sund



Richard Thwaites



Jonathan Tillinghast



Frederick Torrisi



Gary Tucker



Terrance Turner



Jerry Wertzbaugher



Alan Wilken



Thomas Williams



Donn Wonnell



Richard Yospin



Clay Young

NOT PICTURED: George Edwards

**FOLLOW US ON FACEBOOK**

**Alaska Bar Association**  
990 followers • 25 following

*The Alaska Bar Association is dedicated to promoting professionalism and quality attorneys in Alaska.*

# 60 YEARS OF BAR MEMBERSHIP

ALASKA BAR ASSOCIATION 1964 - 2024



Alex Brindle



Robert Flint



Joseph Henri



Robert Libbey



Edward Niewohner



John Strachan

NOT  
PICTURED:  
Allan Engstrom

## Unusual New Homeless Project

By Sue Ellen Tatter

Homelessness affects all of us. Some of us avoid downtown restaurants because we don't want to step over bodies in doorways. Some can't use nearby parks or trails because of camps and litter. Others fear allowing their children to walk to school. Compassionate people worry about a society where hundreds of people stumble around sick, intoxicated, homeless and hungry. The Municipality's attempts to deal with the problem raise our property taxes. If homelessness is criminalized, we will all bear the high costs of incarceration.

It's a hard problem, perhaps insoluble, and it's one of the biggest problems of our time. A potential mitigator could be the construction of small, inexpensive shelters on land owned by nonprofits such as churches and hospitals.

One organization, In Our Backyard, is working on this idea. This new organization is an IRS 501(c)(3) nonprofit. It originated at Central Lutheran Church but has reached out and includes other churches, charitable organizations and public groups. The current plan involves five independent pallet structures, each about 70 square feet, located on church property. The structures would each have two cots with mattresses and a heater, but no plumbing. They are commercially available for about \$17,000 apiece. A stand-alone bathroom could be constructed, or there are bathroom/shower trailers available for about \$60,000. The area around the shelters would be fenced, accessible through a digital lock. The shelter plan envisions a paid security service and maintenance workers.

To start, the occupants would be elderly homeless persons screened

by Anchorage Coalition to End Homelessness (ACEH). ACEH's data indicates that 27% of homeless people are 45 to 64 years old. Occupants must be able to live independently and not possess alcohol or drugs. The anticipated stay would be six to nine months while an assigned case worker helps the person seek more permanent housing.

nance exempting such projects.

Critics may disparage a limited plan like In Our Backyard as a band aid. Some homeless advocates think that small, short-term projects detract from more comprehensive, long-term solutions. However, In Our Backyard can serve as a pilot project. If it goes well, other organizations with available land may



Proposed pallet dwelling by In Our Backyard.

Central Lutheran Church voted to permit the use of its property for this project. The location at 15<sup>th</sup> and Cordova is near the Senior Center and the 3<sup>rd</sup> Avenue Navigation Center. Bus stops are close by.

In Our Backyard has a governing board and is actively applying for grants and seeking donations. It is likely that no zoning variance is needed, but a building permit will be required unless the Municipal Assembly passes a proposed ordi-

follow its example. Even if the plan only serves 10 people at a time, that's 10 people who are not in the cold, in doorways, or in jail.

Volunteers and contributors can access the group by emailing [info@inourbackyard-ak.org](mailto:info@inourbackyard-ak.org). The website is: [inourbackyard-ak.org](http://inourbackyard-ak.org).

Sue Ellen Tatter is a retired Federal Public Defender, volunteer immigration lawyer and member of Central Lutheran Church.

## Best in Every Case. NORTHERN LIGHTS REALTIME & REPORTING

*Our experienced and highly skilled reporters utilize the latest technology to provide the ultimate in instant transcription from voice to text, along with a wealth of additional reporting and access services, including:*

- ✦ Depositions
- ✦ Arbitrations
- ✦ Court Trials
- ✦ Meetings
- ✦ Voice to Text...Instantly!
- ✦ Digital Video
- ✦ Webcasting
- ✦ Captioning
- ✦ LiveNote
- ✦ C.A.R.T.

Sandra M. Mierop, President ✦ Certified Realtime Reporter  
545 E. 12th Ave. ✦ Anchorage, AK 99501 ✦ [info@nlrr.com](mailto:info@nlrr.com)  
Tel 907.337.2221 ✦ Fax 907.337.2231 ✦ [WWW.NLRR.COM](http://WWW.NLRR.COM)

### Two Conference Rooms Available!

## RENT THE IDEAL CONFERENCE ROOMS!

We have rooms perfect for:

- Mediations
- Depositions (the rooms are free for clients booking depositions in our space).
- Meetings
- Free onsite parking

## Pacific Rim Reporting

711 M Street, Suite 4 • Anchorage, AK 99501  
907-272-4383 • [www.courtreportersalaska.com](http://www.courtreportersalaska.com)

# Board Proposes Intent to Adopt the Next Generation Bar Exam

At its meeting on May 2 and 3, 2024, the Board of Governors voted to publish an intent to adopt the Next Generation bar examination. The Board intends to accept score transfers from other jurisdictions beginning July 2026 and to administer the exam in July 2028. Information on the Next Generation bar exam is available below. If the Board chooses to advance the adoption of Next Generation bar examination the Board proposes that a subcommittee of the Supreme Court, Board and Law Examiners be established to draft Bar Rule changes needed to facilitate the adoption. This serves as notice for the anticipated Bar Rule changes. Please send comments to Executive Director Danielle Bailey at [bailey@alaskabar.org](mailto:bailey@alaskabar.org) by July 15, 2024.

**National Conference of Bar Examiners' NextGen Bar Exam Fact Sheet**  
Public Contact: [nextgenbarexam@ncbex.org](mailto:nextgenbarexam@ncbex.org)

## About the NextGen Bar Exam

- Set to debut in July 2026, the NextGen bar exam will test a broad range of foundational lawyering skills, utilizing a focused set of clearly identified fundamental legal concepts and principles needed in today's practice of law.
  - « Fundamental concepts and principles: civil procedure, contract law, evidence, torts, business associations, constitutional law, criminal law, real property. Family law will be added to this list starting with the July 2028 bar exam.
  - « Foundational lawyering skills: legal research, legal writing, issue spotting and analysis, investigation and evaluation, client counseling and advising, negotiation and dispute resolution, client relationship and management.
- See <https://nextgenbarexam.ncbex.org/reports/content-scope/> for detailed outlines of the legal doctrine and skills that will be tested on the NextGen bar exam and <https://nextgenbarexam.ncbex.org/nextgen-sample-questions/> for sample questions.
- The skills and concepts to be tested were developed through a multi-year, nationwide legal practice analysis, focused on the most important knowledge and skills for newly licensed lawyers (defined as lawyers within their first three years in practice). The practice analysis surveyed over 14,000 attorneys, focusing on both seasoned attorneys supervising newly licensed attorneys and newly licensed attorneys themselves.
- In considering the breadth of topics to be covered within each concept and skill area, a 21-member content scope committee comprised of law professors and deans, practicing attorneys, and judges primarily considered the following three factors:
  - « Frequency: How often is a newly licensed lawyer likely to encounter the topic in general entry-level practice (loosely defined as solo practice or working at a full-ser-

vice law firm)?

- « Universality: How likely is a newly licensed lawyer to encounter the topic in more specialized types of entry-level practice?
  - « Risk: How likely is it that there will be serious consequences if a newly licensed lawyer does not have any knowledge of the topic when it arises?
- In addition to the factors listed above, for the subject of constitutional law the content scope committee also considered lawyers' roles as custodians of the US Constitution.
  - Designed to balance the skills and knowledge needed in litigation and transactional legal practice, the exam will reflect many of the key changes that law schools are making today, building on the successes of clinical legal education programs, alternative dispute resolution programs, and legal writing and analysis programs.
  - The NextGen bar exam will be administered over one and a half days, with two, three-hour sessions on day one and one, three-hour session on day two. Jurisdictions that administer their own local law components may elect to extend day two for that purpose.
  - The NextGen bar exam is currently under development utilizing a rigorous process that includes multiple phases of pilot, field, and prototype testing and statistical analysis. The development process is being conducted in accordance with the same best practices in licensure exam development utilized by a broad range of exams, including those for medicine, dentistry, pharmacy, engineering, accounting, and other licensed professions.
  - Questions for the NextGen bar exam are written by diverse teams of law professors and deans, practicing attorneys, and judges drawn from jurisdictions throughout the US.
  - Like the current bar exam, the NextGen bar exam will be administered, and the written portions graded, by the individual US jurisdictions. In partnership with Surpass Assessment ([www.surpass.com](http://www.surpass.com)), NCBE will provide the technology platform to deliver the exam and conduct the grading, taking advantage of the latest advances in testing best practices and technology.
  - The exam will be taken on examinees' own laptops at in-person, proctored testing locations. A secure, online assessment platform will be used to present the exam and to collect examinees' responses. The platform will offer a range of assistive technologies and custom-created formats for examinees who require testing accommodations.
  - The NextGen bar exam will be equated to ensure comparability across administrations and between jurisdictions and can be paired with additional bar exam components developed independently by the administering jurisdictions. The NextGen bar exam may be used by indi-

vidual jurisdictions as the basis for scaling their own bar exam components.

- The NextGen bar exam will take the place of the current Uniform Bar Examination (UBE) components for purposes of inter-jurisdictional score portability.
- For a list of jurisdictions that have already announced their intention to administer and more information on the NextGen bar exam, visit <https://nextgenbarexam.ncbex.org/>.

## About the Current Bar Exam

- All 56 US jurisdictions (all US states, the District of Columbia, Guam, Northern Mariana Islands, Palau, Puerto Rico, and the US Virgin Islands) administer a bar exam as part of their requirements for licensure to practice law. 54 of those jurisdictions use one or more of the bar exam components developed by NCBE.
- The bar exam components developed by NCBE are the Multistate Essay Examination (MEE), which consists of six 30-minute essay questions; the Multistate Performance Test (MPT), which consists of two 90-minute items; and the MBE, a six-hour, 200-question multiple-choice exam.
- Some jurisdictions include jurisdiction-specific components in their bar exams (e.g., locally authored essay questions or performance tests).
- The MEE, MPT, and MBE are developed by NCBE in collaboration with teams of law professors and deans, practicing attorneys, and judges drawn from jurisdictions throughout the US. Each of these components is subjected to external expert review, bias review, and statistical analysis to ensure that all test takers have a fair opportunity to demonstrate their knowledge and skills. The content of the NCBE-developed exam components is regularly reviewed for currency and relevance to bar admissions and early practice; the most recent study of bar exam content was conducted in 2018 and 2019 and also forms the basis for the NextGen bar exam.
- Effective with the July 2026 bar exam, the following subjects will no longer be tested on the MEE: Conflict of Laws, Family Law, Trusts and Estates, and Secured Transactions. Family Law and Trusts and Estates will instead be tested on the MPT. This change will align MEE subjects with the subject matter for

the NextGen bar exam.

- The MEE, MPT, and MBE will no longer be available for administration after the February 2028 bar exam.

## About the Uniform Bar Examination

- The UBE is coordinated by NCBE and comprised of the MEE, the MPT, and the MBE. It is uniformly administered, graded, and scored and results in a portable score that can be transferred between participating UBE jurisdictions.
- The UBE was first administered in 2011. As of February 2023, 41 jurisdictions participate in the UBE program. For a list of all UBE jurisdictions, visit <https://www.ncbex.org/exams/ube/>.
- Over 45,000 candidates took the UBE in 2023. Through December 31, 2023, nearly 280,000 UBE scores have been earned and over 54,500 UBE scores have been transferred, obviating the need for candidates to re-take the bar exam in one or more additional jurisdictions.
- The NextGen bar exam will take the place of the current UBE components for purposes of inter-jurisdictional score portability.

## About the National Conference of Bar Examiners

- The National Conference of Bar Examiners (NCBE), headquartered in Madison, Wisconsin, is a not-for-profit corporation founded in 1931.
- NCBE promotes fairness, integrity, and best practices in bar admissions for the benefit and protection of the public, in pursuit of its vision of a competent, ethical, and diverse legal profession.
- Best known for developing bar exam content used by 54 US jurisdictions, NCBE serves admission authorities, courts, the legal education community, and candidates by providing high-quality assessment products, services, and research; character investigations; and informational and educational resources and programs.
- In 2026, NCBE will launch the next generation of the bar examination, ensuring that the exam continues to test the knowledge, skills, and abilities required for competent entry-level legal practice in a changing profession.
- Public contact information: [www.ncbex.org](http://www.ncbex.org), [contact@ncbex.org](mailto:contact@ncbex.org), 608-280-8550

Reach 4,000+ attorneys.

The Alaska

BAR RAG

Advertise in the official publication of the  
Alaska Bar Association

Call 907-272-7469

E-mail: [suebybee@gmail.com](mailto:suebybee@gmail.com) or [bailey@alaskabar.org](mailto:bailey@alaskabar.org)

## Board Proposes Bar Rule Amending Admission on Motion (Reciprocity) and Practice Waivers

At its meeting on May 2 and 3, 2024, the Board of Governors voted to publish the below rule for member comment. The rule proposal would amend admission requirements to: (1) eliminate the requirement of a written bar exam passage from admission on motion, (2) reduce the years of practice required for admission on motion from five of the seven years to three of the five years immediately preceding the application date, (3) eliminate reciprocity requirement for admission on motion and allow admission on motion from any state, territory or the District of Columbia, (4) eliminate the failure of a bar exam as a reason to deny admission on motion or revoke a practice waiver, and (5) correct some minor technical fixes. Please send comments to Executive Director Danielle Bailey at [bailey@alaskabar.org](mailto:bailey@alaskabar.org) by July 15, 2024.

### Rule 2. Eligibility for Admission.\*

**Section 2.** (a) An applicant who meets the requirements of (a) through (e) of Section 1 of this Rule and ~~(1) has passed a written bar examination required by another reciprocal state, territory, or the District of Columbia for admission to the active practice of law, and~~

~~(2) has engaged in the active practice of law in one or more states, territories or the District of Columbia for five-three of the seven five years immediately preceding the date of his or her application, may, upon motion be admitted to the Alaska Bar Association without taking the bar examination. The motion shall be served on the executive director of the Alaska Bar Association. An applicant will be excused from taking the bar examination upon compliance with the conditions above, and payment of a non-refundable fee to be set by the Board for applicants seeking admission on motion.~~

~~For the purposes of this section, "reciprocal state, territory or district" shall mean a jurisdiction which offers admission without bar examination to attorneys licensed to practice law in Alaska, upon their~~

~~compliance with specific conditions detailed by that jurisdiction, providing the conditions are not more demanding than those set forth in this Rule.~~

~~(b) An applicant is not eligible for admission under this section if~~

~~(1) the applicant was admitted to the practice of law in the reciprocal state, territory or district without taking a written bar examination;~~

~~(2) the applicant has engaged in the unauthorized practice of law in Alaska; or~~

~~(3) the applicant has taken and failed to pass an Alaska Bar examination, unless this occurred before the applicant engaged in the five years of practice required by (a)(2) of this section.~~

**Section 3.** (a) An individual who has not graduated from a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools shall be eligible to take the bar examination as a general applicant if he/she (1) has been licensed to practice law in one or more jurisdictions in the United States for ~~five~~ three of the ~~seven-five~~ years immediately preceding the date of his/her first or subsequent applications for admission to the practice of law in Alaska, (2) was engaged in the active practice of law for ~~five-three~~ three of the ~~seven-five~~ years, and (3) meets the requirements of (a), (c), (d), and (e) of Section 1 of this Rule

### Rule 3. Applications.

**Section 2.** Any person seeking admission to the practice of law shall file with the Executive Director at the office of the Alaska Bar Association an application in the form provided by the board. The application shall be made under oath and contain such information relating to the applicant's age, residence, addresses, citizenship, occupations, general education, legal education, moral character and other matters as may be required by the Board; ~~however, the application must contain the applicant's social security~~

~~number.~~ Any notice required or permitted to be given an applicant under these rules, if not personally delivered shall be delivered to the mailing address declared on the application unless notice in writing is actually received by the Board declaring a different mailing address. Any notice concerning the eligibility of the applicant sent by certified mail to the last mailing address provided shall be deemed sufficient under these rules. ~~Every applicant shall submit two 2-inch by 3-inch photographs of the applicant showing a front view of the applicant's head and shoulders.~~ The application shall be deemed filed only upon receipt of a substantially completed form with payment of all required fees. Applications received without payment of all fees or which are not substantially complete shall be promptly returned to the applicant with a notice stating the reasons for rejection and requiring payment of such additional fees as may be fixed by the Board as a condition of reapplication.

### Rule 4. Examinations.

**Section 2.** If an application is approved by the board, the applicant shall submit to a bar examination. The bar examination shall be given not less than once every 12 months, shall be written, and shall be conducted in the manner and at the time and place established by the board. The board may direct that the bar examination be administered to applicants with physical handicaps in a fair and reasonable manner other than the manner by which it is administered to other applicants. An applicant with a physical handicap who desires the bar examination to be administered in a manner other than the manner by which it is administered to other applicants shall so petition the board at the time of filing the application. Approval of an application and subsequent bar examination shall not operate to foreclose a subsequent determination by the board that the applicant is unfit or ineligible for certification to the ~~sSupreme eCourt~~ for admission to the practice of law.

**Section 4.** The board shall determine the qualifications of each applicant upon the basis of the report of the Law Examiners Committee, proof of passage of the Multistate Professional Responsibility Examination, the recommendations of the executive director, and such other matter it may consider pertinent under these rules. The board shall certify to the ~~sSupreme eCourt~~ the results of the bar examination and its recommendations as to those applicants who are determined qualified for admission to the practice of law and who have complied with the provisions of Rule 5. Notice of the board's determination shall be provided in writing to each applicant. Notice to an applicant determined not qualified shall state the reason for such determination.

### Rule 43. Waivers to Practice Law for Alaska Legal Services Corporation.

**Section 1. Eligibility.** A person not admitted to the practice of law in this state may receive permission to practice law in the state if such person meets all of the following conditions:

(a) The person is a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the person entered or graduated ~~and is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of that state, territory or the District of Columbia, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school from which he or she has graduated meets the American Bar Association Council of Legal Education Standards for approval; and~~

~~(b) Is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of that state, territory or the District of Columbia; and~~

~~(c) The person will practice law exclusively for Alaska Legal Services Corporation on a full-time or part-time basis;~~

~~(c) The person has not failed the bar exam of this state.~~

**Section 2. Application.** Application for such permission shall be made as follows:

(a) The executive director of the Alaska Legal Services Corporation shall apply to the Board of Governors on behalf of a person eligible under Section 1;

(b) Application shall be made on forms approved by the Board of Governors;

(c) Proof shall be submitted with the application that the applicant is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of the state, territory or the District of Columbia.

**Section 4. Conditions.** A person granted such permission may practice law only as required in the course of representing clients of the Alaska Legal Services Corporation, and shall be subject to the provisions of Part II of these rules to the same extent as a member of the Alaska Bar Association. ~~Such permission shall cease to be effective upon the failure of the person to pass the Alaska Bar examination.~~ (Added by Amendment No. 1 to SCO 176 effective July 1, 1974; amended by SCO 232 effective December 12, 1975; by SCO 484 effective November 2, 1981; by SCO 1153 effective July 15, 1994; by SCO 1282 effective January 15, 1998; and by SCO 1604 effective October 15, 2006)

### Rule 43.3. Waivers to Practice Law Before Alaska National Guard Courts-Martial and All Subsequent Appeals.

**Section 1. Eligibility.** A person not admitted to the practice of law in this state may receive permission to practice law before Alaska National Guard courts-martial and all subsequent appeals if such person

*Continued on page 23*

Do you have clients who have been injured as a result of receiving medical care in Washington?

*If so, we can help.*

Our four-attorney firm limits its practice to medical malpractice cases. We have represented Alaska residents in such cases and would welcome your referrals.



Medical Malpractice.  
It's All We Do.

206.443.8600  
cmglaw.com

## Board Proposes Bar Rule Amending Admission on Motion (Reciprocity) and Practice Waivers

Continued from page 22

meets all of the following conditions:

(a) The person is a graduate of a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the person entered or graduated, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school from which he or she has graduated meets the American Bar Association Council of Legal Education Standards for approval; and is

(b) Is an attorney in good standing, licensed to practice before the courts of another state, territory, or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of that state, territory, or the District of Columbia; and

(bc) The person has been certified to practice before courts-martial under Title 27 of the Uniform Code of Military Justice; and

(c) ~~The person has not failed the bar exam of this state.~~

...  
**Section 4. Conditions.** A person granted such permission may practice law only as allowed in Alaska National Guard courts-martial and all subsequent appeals and shall be subject to the provision of Part II of these rules to the same extent as a member of the Alaska Bar Association. ~~Such permission shall cease to be effective upon the failure of the person to pass the Alaska Bar examination.~~ (Added by SCO 1880 effective June 1, 2016)

...  
**Rule 43.4. Waiver to Practice Law for Attorney Spouses of Active Duty Military Personnel Stationed Within the State.**

**Section 1. Purpose.** Due to the unique mobility requirements of military families, an eligible applicant who is the spouse of a member of the United States Uniformed Services ("service member"), stationed within Alaska, may apply to obtain permission to practice law pursuant to the terms of this rule.

**Section 2. Eligibility.** A person not admitted to the practice of law in this state may receive permission to practice law in the state if such person (applicant) meets all of the following conditions:

(a) The applicant is a graduate of a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school from which he or she has graduated meets the American Bar Association Council of Legal Education Standards for approval; and is

(b) Is an attorney in good standing, licensed to practice before the courts of another state, territory, or the District of Columbia;

(bc) The applicant is not current-

ly subject to attorney discipline or the subject of a pending disciplinary matter in any jurisdiction;

(cd) The applicant possesses the character and fitness to practice law in Alaska, pursuant to Alaska Bar Rule 2(1)(d);

(de) The applicant demonstrates presence in Alaska as a spouse of a member of the United States Uniformed Services pursuant to military orders;

(ef) The applicant has passed the Multistate Professional Responsibility Examination at any time prior to admission to Alaska by obtaining a scaled score of 80; and

(fg) The applicant complies with all other requirements of Bar Rule 5.

...  
**Rule 44. Legal Interns and Supervised Practitioners.**

**Section 3. Eligibility.**

(a) Every applicant for a legal intern permit shall be a student who:

(1) Is duly enrolled in a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered, or is enrolled in a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school in which he or she is enrolled meets the American Bar Association Council of Legal Education Standards for approval;

(2) Has successfully completed at least one-half of the course work required for a law degree;

(3) Has filed with the application a certificate from the dean or other chief administrative officer of his or her law school, stating that he or she meets the requirements as set forth in subsections (a)(1) and (a)(2).

(b) Every applicant for a supervised practitioner permit shall be a law school graduate who ~~has:~~

(1) ~~Has graduated from a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school from which he or she has graduated meets the American Bar Association Council of Legal Education Standards for approval;~~

(2) ~~Has never failed the Alaska bar examination;~~

(3) ~~Has never failed a bar examination administered by any other state of the United States, or the District of Columbia, or, despite failure, has passed a bar examination administered by any state of the United States or the District of Columbia; and~~

(4) ~~Has filed with the executive director a certificate from the dean or other chief administrative officer of his or her law school which states that the supervised practitioner applicant meets the requirements set forth in subsection (b)(1), and a~~

~~personal affidavit stating that he or she (i) has never failed the Alaska bar examination, and (ii) has never failed another bar examination or, despite failure, has passed a bar examination administered by any state of the United States or the District of Columbia, as set forth in subsection (b)(3).~~

**Section 5. Act Authorized by Permit.** (a) A legal intern may appear and participate in all trial court proceedings before any district or superior court of this state, and in proceedings in the court of appeals, to the extent permitted by the judge or the presiding officer if the attorney representing the client is personally present and able to supervise the intern and has filed an entry of appearance with the court; a legal intern may also sign a brief or motion filed in the sSupreme eCourt if the supervising attorney also signs that document;

...  
**Section 6. Termination of Permit.** A permit shall cease to be effective as follows:

(a) For a law student who obtains a permit under Section 3(a) of this rule, upon the expiration of a period of twelve months in cumulative time that the intern participates in any acts authorized by the permit in any Alaska court; this cumulative time limit may be divided into two or three separate time periods if appropriate for the law student's schedule;

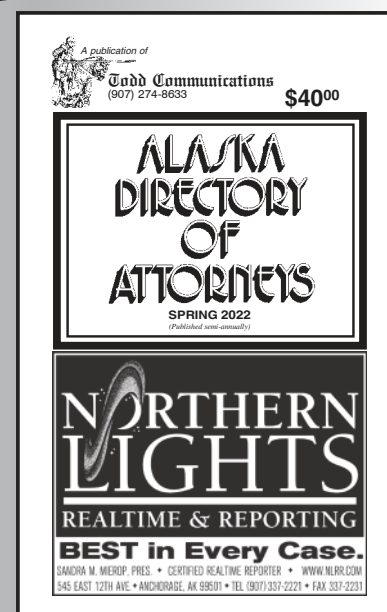
(b) For a law school graduate who obtains a supervised practitioner permit under Section 3(b) of this

rule, upon the expiration of a period of twelve months from the date of issuance, ~~or upon the failure of the supervised practitioner to pass any bar examination administered by Alaska or any other state of the United States or the District of Columbia.~~

**Section 7. Revocation of Permit.** A permit may be revoked by the Executive Director on a showing that the intern or supervised practitioner has failed to comply with the requirements of this rule or violated the Alaska Bar Rules or the Alaska Rules of Professional Conduct.

**Section 8. Practice of Law Under Statutory Authority.** To be eligible to practice law without a license under the provisions of AS 08.08.210(d), a person must meet the eligibility requirements for obtaining a supervised practitioner permit listed in Section 3(b)(1), (2), ~~and (3)~~ of this rule. Persons practicing under AS 08.08.210(d) must obtain a license to practice law in Alaska no later than 10 months following commencement of their employment. The authority for those persons to practice law terminates upon ~~the failure of that person to pass any bar examination administered by Alaska or any other state of the United States or the District of Columbia~~ the completion of practicing law for 10 months. An individual may exclude from the 10 month period time away from employment for medical or family leave, for the two days of the Alaska Bar Examination, or for unpaid leave from the individual's position.

*Can't find who you're looking for?*  
 Your directory may be out of date!  
 Order the latest edition every six months.



*Tired of sharing your directory?*  
 Order multiple copies from  
**Todd Communications at \$40.00 each!**

**ALASKA DIRECTORY OF ATTORNEYS**

**Todd Communications**  
 611 E. 12th Ave., Suite 102  
 Anchorage, Alaska 99501  
 (907) 274-TODD (8633)  
 Fax (907) 929-5550  
 law@todddcom.com

# My Parents Met at the Bar

*Continued from page 1*

its proximity to great skiing. Chris graduated from Utah State in three years without being able to take a single handwritten note. Typewriters were not allowed in classes or lectures so afterward, Chris would go to the library and type up everything he remembered. He did the same thing through law school.

After arriving in Anchorage on June 2, 1978, Chris's next step was to apply for and take the July Alaska Bar Exam. At the time, the exam was exclusively a paper and pencil test. Chris petitioned the Bar to use a typewriter as an accommodation. At the Alaska Bar Association office for the first time, Chris was referred to Michelle Smith, the young employee of the Alaska Bar who received the applications, did background checks (by hand!) and also proctored the exams. After receiving his application packet, Michelle said, "Now, it's very important that you get an Alaska Driver's License right away . . ." Chris was smitten right away and recalled thinking, "And it's very important that I think of a reason to come back here more often."

Chris did indeed find many excuses to come back and visit the Alaska Bar offices. Michelle used to say that working for the Bar was like "working in a candy shop," with all the young prospective attorneys trying to impress her, as if she had something to do with whether they passed or failed. It was different with Chris, and by August they were going to lunches at the Cauldron or to grab a sandwich from Tony Knowles at his Downtown Deli.

Then in November of that year, Chris lucked out twice. He passed the Bar, and survived a near disastrous first real date with Michelle to Alyeska, skiing in the rain then



Chris Johansen reads to his granddaughter Claire. Photo provided by Lauren Johansen.

finding out his Biscayne had no heat on the drive back to Anchorage. Michelle attended his swearing-in ceremony later that month. Chris and Michelle married in June 1980 and

**At the time, the exam was exclusively a paper and pencil test. Chris petitioned the Bar to use a typewriter as an accommodation.**

raised two girls, Christie Johansen Pinney and Lauren Johansen, also a member of the Alaska Bar.

Fast forward 45 years and meeting a prospective partner in life is a more deliberate search, mostly online, for someone with similar interests and goals. But back in the day, it was usually at a bar, or in Chris's case . . . The Alaska Bar. *Lauren Johansen is an Assistant Attorney General in Juneau who loves her parents very much.*




The author's parents at their wedding in June, 1980. Photo provided by Lauren Johansen.



Chris and Michelle Johansen celebrate Christmas, 2023. Photo provided by Lauren Johansen.





## LEGAL CAREER FAIR

**THURSDAY, JULY 25, 2024**

3:00 - 4:30 p.m.

Reception to follow

**49th State Brewery, Heritage Theater**

717 W 3rd Ave., Anchorage



Co-sponsored by the ANC Bar, AAWL and FBA - AK Chapter

