The Alaska BAR RAG

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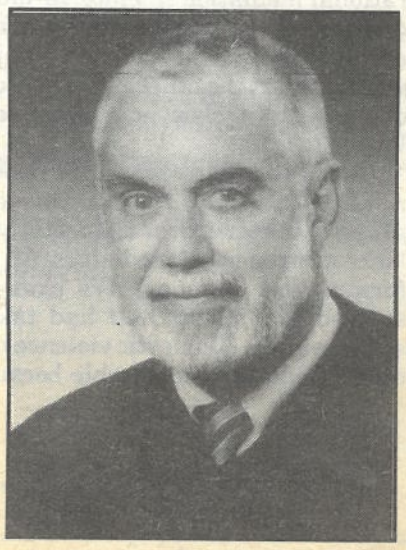
Inside:

Compton retires from the Alaska Supreme Court

By Peter Van Tuyn

After 18 years on the Alaska Supreme Court, Justice Allen T. Compton retired in November. This long tenure on Alaska's highest court marked the culmination, at least to date, of a career dedicated to the public interest. Justice Compton – or simply Allen as he is almost immediately known to most anyone who has ever met him – leaves Alaska a more just and free society due to his time on the bench. It is appropriate at times like these, when those who have given so much of themselves to the common good move on to other pursuits, that we take a few moments to reflect upon and celebrate their legacy.



Allen Compton

Governor Jay Hammond appointed Allen Compton to the Superior Court in 1976 and then to the Supreme Court in 1980. He recently remarked that "as the only bearded chief executive officer this state has ever had, it was, I think, appropriate that I appointed the only bearded Supreme Court Justice this state had ever had. In a field that is seen as artificial, what is more natural than a beard? We are all rightly concerned that our judiciary reflect Alaskan values. What is more archetypically Alaskan than a bearded sourdough?"

INTERVIEW WITH THE JUSTICE -- PAGE 16

Reflecting on Allen's pending retirement, Governor Hammond said that he "made both appointments based on Allen's demonstrated intelligence, legal training, and character. He continued to demonstrate these characteristics during his long and distinguished time on the bench. Allen Compton has brought a measure of common sense to a field that can sometimes become lost in arcane or abstract principles."

It is not necessarily appropriate to compliment Allen for characteristics that we expect in every judge or justice. To say that he is intelligent, hard working, honest, and fair, while unquestionably true, is simply to say he possesses the baseline skills we expect or even demand in our judiciary. Rather, it is better to focus on the philosophy, skills and temperament that separated him from other members of the profession, that made him exceptional.

Allen's legal opinions reflect a strong concern for the rights of the individual – following in many ways the strong emphasis in our State on individual liberty. For example, his opinion in *Valley Hospital Ass'n, Inc. v. Mat-Su Coalition for Choice*, 948 P.2d 963 (Alaska 1997), held that reproduction rights are fundamental, are encompassed within the right to privacy expressed in Article I, § 22 of the Alaska Constitution, and that this fundamental right includes the right to an abortion. This protection of individual privacy rights follows and expands upon the tradition established on the Alaska Supreme Court by Justices Rabinowitz and Boochever.

Many in the Alaska legal community consider this to be Allen's most admirable decision. "*Valley Hospital* eloquently and forcefully recognizes not only the importance of privacy in the context of abortion, but also the corresponding duty of a quasi-public institution to affirmatively accommodate its exercise," said long-time Alaska lawyer Robert Wagstaff.

Another way to examine what made Allen so different from his fellow jurists is to review his dissents, on the theory that when Justice Compton is in disagreement with the court, the qualities that differentiate him are highlighted. Although quite obviously Justice Compton brought his sense of reality to his majority and concurring opinions, it is in the dissents that we see it most vividly. From a long tenure on the bench and a tall pile of dissents, two aspects of his approach to the law are particularly noteworthy: judicial restraint and the need for realism.

Justice Compton, from his earliest time as a member of the Supreme Court, dissented on the basis that the majority, right or wrong, should not be issuing an opinion on the issue at all. *See Vest v. First Nat. Bank of Fairbanks*, 659 P.2d 1233, 1235 (Alaska 1983) ("I do not believe . . . that it is appropriate for the court to decide this issue"). Justice Compton has objected to the court unnecessarily reaching constitutional issues. *State v. Hazelwood*, 946 P.2d 875, 886 n.2 (Alaska 1997); *State v. Hazelwood*, 866 P.2d 827, 834 n.2 (Alaska 1993); *Abood v. League of*

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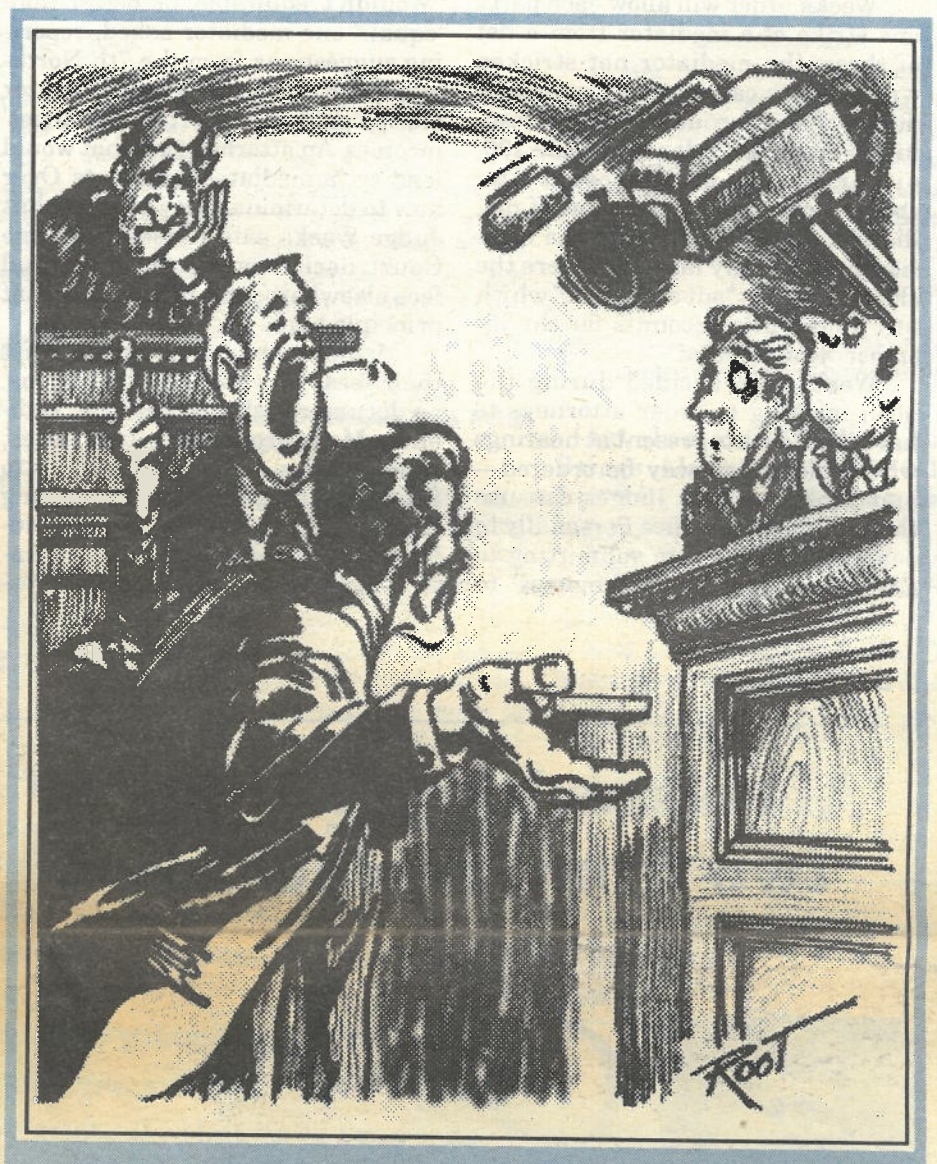

How (not) to do lawyer publicity —Page 20

Are our courts unfriendly to Alaska's Natives?

By James Vollintine

It is apparent that Alaska State Courts are unfriendly forums for Alaska Natives. Native people have many rights under tribal and federal law that state courts frown upon. State courts are creatures of the Alaska Constitution, an instrument created by white settlers containing scant mention of Native rights. Federal courts are more protective of Indian rights. Attorneys representing Natives claiming rights under federal law should consider bringing the case in federal court. Similarly, if your Native client is sued in state court on a federal cause of action, consider removing the case to federal court.[1]

This is no small matter. There are several hundred sovereign Native tribes in Alaska possessing "the immunities and privileges available to other federally acknowledged Indian tribes by virtue of their status as Indian tribes." 58 Fed. Reg. 54,364

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News from the front

On the Mediation Line in the 1st District

BY JOE SONNEMAN

About a dozen active and would-be attorney and 'civilian' mediators attended a meeting of the Juneau Bar Association's Family Law Section Jan. 14 to hear Chief Judge Larry Weeks say he planned to order mediation more frequently in divorce/dissolution cases.

Weeks' order will allow each party one strike of a mediator from a list of three; the mediator not stricken will mediate cases judged appropriate for that alternative dispute resolution method. Under Civil Rule 100, either party—or the court *sua sponte*—can order one round of mediation. Judge Weeks said the emotion-laden family law cases were the closest to being "out of control," which fact apparently accounts for the increase in mediation.

Weeks also decided during the noon meeting to order attorneys to have their clients present at hearings where mediation way be ordered—apparently, so that judges can use their authority of office Personally to persuade parties into submitting to mediation with the "willingness" to agree which that procedure requires. In so doing, the judge declined suggestions from the audience of mediators and attorneys either to permit attendance by telephone or to convey the judicial message about mediation by videotape.

Weeks' order drew little objection from this generally pro mediation audience, except for the equal split of mediator tees his order proposed. "Wouldn't 'equitable' be better than 'equal?' one mediator asked, reporting suggestions from the 7th Northwest ADR Conference that mediator fees be paid in proportion to parties' incomes. An attorney said that would lead to immediate arguments Over how to determine party incomes, but Judge Weeks said Alaska Supreme Court decisions mandating equal fees elsewhere led him to apply that principle here.

Mediators had been asked to list their fees, as well as qualifications, on documents shared with the audience. Most proposed hourly rates, ranging from a low of $45 on up to $150 "Don't expect to make a living from this, Judge Weeks warned, adding that as more clients use mediation, more people will enter the (presently unlicensed) mediator field. Indeed, at least, two attorneys in the audience announced plans to take 40-hour mediator training.

Mediators gave short presentations, describing their qualifications or philosophy, as well as stating their experience with family law cases. That experience ranged from zero to about 20 cases, With a few mediators reporting a constant trickle of 1-2 cases.

One mediator speculated that the present reluctance of parting couples to mediate resulted either from cost ("spare change" having been given to attorneys), the inappropriateness of rational mediation in emotion-laden divorces (litigation being described as more effective when one party wants to hurt the other), or "The Code of the West" (my lawyer can beat your lawyer).

An attendee from Juneau's AWARE rape/abuse shelter expressed concern over domestic violence awareness of mediators. An informal poll of mediators present showed that about half had taken such training. (Domestic violence can make mediation impossible because of the change in power relationships caused thereby; if mediation continues after DV security precautions—such as having parties arrive and leave at different times—are likely.)

Mediators present came from backgrounds of attorney, guardian *ad litem*, ombudsman assistant, etc. They trained in mediation in Colorado, Oregon, Georgia, or Washington, or at law schools such as New Hampshire or Georgetown, or came to mediation with family law experience from California, Alaska, or elsewhere. Indeed, the cost of their training might well presently exceed the amount so far earned by them in family law cases in Alaska—a result which might not change as both mediation cases and the number of mediators increase.

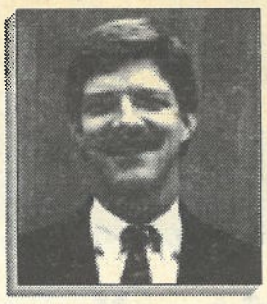
Judge Weeks gave credit for the idea of using mediation more frequently to former Superior Court Judge—now Justice—Walter Carpeneti. Carpeneti also attended this Family Law Section meeting chaired by Kathy Kolkhorst; he spoke briefly on behalf of the concept.

President Will Schendel's column will return next issue.

EDITOR'S COLUMN

Alaskans learn a thing or two from impeachment drama

☐ Peter Maassen



Our reader mail is running heavily in favor of suspending any reliance on reader mail in the formation of editorial policy. Sailing, as always, before the fricative winds of our readers' collective voice, we print the following sampling from the mailbag purely for its entertainment value.

Dear Editor:

What can we, as Alaskans, learn from the current impeachment drama in far-off Washington, D.C.?

—Looking for that Silver Lining

Dear Looking:

The first lesson is the importance of getting your words right, even in moments of the most excruciating stress. As is now notorious, President Clinton, when asked about the truthfulness of an earlier statement by his lawyer, responded, "It depends upon what the meaning of the word is is" (when he could've gotten the cheap laugh by saying, "He's a lawyer. What do you expect?) His answer, while evasive, at least used the phrase "is is" correctly, thereby bucking a disturbing trend. While most of us recognize a single "is" as the copula of simple predication, an ever-growing minority has absorbed one "is" into the nominative phrase and are obliged to tack on another to serve as the verb, as in "The thing of it is is, it depends upon what the meaning of the word is is."

My first exposure to this odd verbal hiccup came watching *The Rockford Files* maybe twenty years ago, when an up-and-coming young p.i. who made a running guest appearance as a naive counterfoil to the world-weary James Garner used the stuttering "is" phrase maybe three times a show for laughs. We've now slid so far down the chute that a constitutional scholar on *The News Hour with Jim Lehrer*, just last night, started his rumination with "The perception is is . . ." and nobody even cracked a smile. Kudos to the President for calling the nation's attention so forcefully to the "is is" issue.

The second lesson for us from the impeachment drama is that the reputation of any legislative body can be heightened by the simple expedient of forbidding its members from speaking except through the voice of the Chief Justice, on pain of imprisonment. Can you imagine an Alaska Legislature in which all statements from the floor were funneled through Chief Justice Matthews, who translated them simultaneously into Cowboy Poetry? Can you envision the Alaska Legislature as the epitome of cultured exchange and decorous debate, a model to the world, the Little Athens on the Gastineau Channel?

I can't either, but the suggestion will nonetheless be a ballot measure in the fall of 2000. A follow-up ballot measure in 2002 will require each candidate's name to be followed by the phrase "Did/did not support the ballot measure forbidding legislators from speaking on the floor except through the Chief Justice." A further follow-up ballot measure in 2004 will require the phrase "Did/did not support the ballot measure requiring that each candidate's name on the ballot be followed by the phrase 'Did/did not support the ballot measure forbidding legislators from speaking on the floor except through the Chief Justice.'" Yet another ballot measure in 2006 . . . well, you get the idea. We've got the ballot booked until 2024.

Dear Editor:

Whenever I hear the hoary contracts phrase "meeting of the minds," I can't help but envision some creepy H.G. Wellsian vivisectionist scene where two vibrating blobs of gray matter are brought into contact with one another to see what will result. Is there really some historical basis to this? Could it be that in an earlier life I witnessed a Cromwellian magistrate, in between dunking witches, order that the disputants in a contracts case be trepanned in an effort to extract their intent from their open skulls? Please tell me it never happened, and put my ghosts to rest.

—Morbidly Curious

Dear M. C.

You are letting your imagination run away with you, and I advise you to choose more sedate traveling companions in the future. The phrase "meeting of the minds" is actually of American, and specifically Appalachian, derivation. In the late 18th and early 19th centuries, mountain neighbors resolved boundary disputes and exchanged roving livestock by standing on the opposite sides of wide ravines and waving their arms at each other. When the courts of this wild region got tired of trying to enforce contracts formed by frenetic and often ambiguous gestures, they imposed a requirement that there be a so-called "meeting of the mimes," where actual spoken words could be exchanged for the sake of greater specificity. Hence our current usage.

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The Alaska BAR RAG

The *Alaska Bar Rag* is published bimonthly by the Alaska Bar Association, 510 L Street, Suite 602, Anchorage, Alaska 99501 (272-7469).

Bar Letters

Retain motto!

Who is this unneighborly, trouble-making Republican Party factotum attorney who objects to the *Bar Rag* motto, *"Dignitas, semper dignitas?"* If anyone automatically and uncharitably assumed it was me - it wasn't! However, as a Republican Party activist of the fiscally conservative type, one of the sponsors of the "English as the Official Language of Government" initiative, and one of the persons who voted for the original grant to allow the *Bar Rag* to commence publishing, I must comment on the matter.

The original grant to allow the *Bar Rag* to commence publication came from the Anchorage Bar Association. As one of the Board members at the time, I questioned the appropriateness of naming the new bar publication after the cloth used to wipe up spilled beer, but Harry Branson's sense of humor prevailed, and I voted for the grant and the name. Harry then added *"Dignitas, semper dignitas,"* an additional humorous touch or oxymoron, whatever, which I greatly appreciated.

The phrase *"Dignitas, semper dignitas"* has a cherished place in the history of the Alaska Bar Association, and should be retained as the motto of the *Alaska Bar Rag.* I also believe that the continued use of *"Dignitas, semper dignitas"* does not violate the prohibitions of Ballot Measure 6, "Requiring Government to Use English."

Time for discussion is available, as the matter does not need to be resolved by the next issue. An initiated law does not take effect until 90 days after certification of the election at which is enacted. (Article XI, Section 6, Alaska Constitution) Accordingly, it will not apply to the January-February, 1999, issue of the *Bar Rag.*

Even if it did apply, however, the use of *"Dignitas, semper dignitas"* as the motto of the *Bar Rag* is not prohibited. The basic purpose of the initiative is to insure that government conducts its official business in English. Underlying this purpose were two major concerns - first, that government should not taken any actions which would have the effect of discouraging or preventing persons who did not speak English from learning English, and, second, that government should not waste the taxpayers' money providing services and forms in non-English languages where this is not necessary. The use of *"Dignitas, semper dignitas"* as a motto on the masthead of the *Bar Rag* is not an example of the government conducting official business, nor is it something which will discourage people from learning English, nor will it result in a waste of the taxpayers' money by creating unneeded foreign language programs or official forms. In fact, its use will cost the taxpayers nothing. It is my opinion that it is entirely appropriate, under the language and purpose of the initiative, that the *Bar Rag* continue to use *"Dignitas, semper dignitas"* as its motto.

Also, the phrase is probably an appropriate use of language which has already been brought within the English language, especially when used by attorneys. Attorneys have a long history of using Latin phrases in legal matters. (Otherwise, how could we charge our high fees??) If Latin must be removed from use by attorneys, the State attorneys would no longer be able to refer to *res ipsa loquitur, mens rea*, or even to *pro se* litigants, in briefs and letters. Opposing attorneys and the court system would be *in pari delicto* if they allowed such references.

If the Alaska Bar Association interprets the initiative to prohibit the use of *"Dignitas, semper dignitas"* as the motto of the *Bar Rag*, then it must also stop collecting Bar dues from us because the phrases *"E Pluribus Unum," "Annuit Coeptis,"* and *"Novus Ordo Seclorum,"* as well as "MDCCLXXVI," appear on the dollar bill, and one cannot discriminate between those members who want to pay their dues with dollar bills from those who pay in a more conventional manner. On second thought, this might actually be a good idea.

Retain *"Dignitas, semper dignitas!"*

—Kenneth P. Jacobus, P.C

New motto

Following your unfortunate discovery that the *Bar Rag's* current motto does not technically comply with Proposition 6 and your urgent call for aid, people gathered from all corners of the state to participate in a conference devoted to finding a new motto that truly captures the spirit of the English-only mandate. We are pleased to announce the conference was a resounding success.

The conference delegates (at least those who submitted their votes in English — we felt obliged to disregard votes for "Nix Six" submitted in alien tongues) unanimously approved the perfect replacement for the *Bar Rag's* illegal motto:

RESISTANCE IS FUTILE

We believe this appropriately reflects the brave new commitment to honesty, however tasteless, as well as the extraordinary devotion of our current majority faction to impose a more ambitious manifest destiny on others during the new millennium.

We anticipate some initial discomfort with this particular motto because it is associated with the Borg, one of *Star Trek's* alien species. Notwithstanding the producer's irresponsible and slanderous attempts to associate the Borg with communist imperialists, it is clear that the Borg are a very efficient, tightly knit community of aliens who have something of a collective consciousness. They travel through the universe and merge with all other species they encounter. They are the very epitome of the melting pot.

Unfortunately, they are portrayed as a threat to freedom and democracy. Rather than acknowledging the generosity of the Borg, the producers portray them as ruthless enslavers merely because they transform humans and other species into Borg by implanting various devices that effectively replace their thoughts with those of the Borg collective consciousness. Obviously the humans should be grateful to the Borg for sharing their superior traits (and, not incidentally, sparing them from millions of years of writhing in their own thoughts until they can evolve), but the humans oppose the transformation. Refreshingly, the Borg do not mince words. They explain; "We will combine your uniqueness with our own. You will be assimilated. Resistance is futile." In the grossly distorted context created by the *Star Trek* producers, this can easily be misinterpreted as a threat, rather than an invitation to join the larger community and a gentle reminder that more highly evolved forms of social organization are destined to replace others.

Those who smell of the library might object to the motto on another basis. Strangely, the current structure of our government is designed to discourage effective action by majority factions. The motto arguably suggests that a majority faction should and will prevail irrespective of what others might do. But we should not shrink from adopting the perfect new motto merely because it is inconsistent with the philosophy of the founding fathers. It is clear from recent Supreme Court opinions that protecting the rights of minority groups is an outdated fad and we no longer need tolerate the extraordinary inefficiencies in the very structure of our government that catered to this fad. Indeed, it is our profound hope that this motto will spark a new awareness so that these outdated inefficiencies can be eliminated altogether. Then our very own majority faction can slash state spending by half despite the drop in oil prices without undue clamoring by English speaking special interest groups. (Of course, with the approval of Proposition 6, non-English petitions for redress must be disregarded until Senator Stevens makes us amend our Constitution).

Thank you for your consideration of this proposal. We look forward to the glorious day when we no longer need to be embarrassed by a *Bar Rag* motto in a heathen language.

—Nacole Heslep
Delegate to the "Save the Bar Rag" Conference

Brief style changes

In older opinions (before the mid-1970s) the Supreme Court put citations in the footnotes of its opinions. Since then, citations have always been in the body of the opinion. In the middle of 1998, the court went back to its old practice of putting citations in the footnotes. What does this mean? And more important, do they now start taking off points if the briefs don't follow this style? Also, am I the only one who finds this new practice harder to read because I have to keep looking at the bottom of the page to see what they are citing?

—Unsigned

EDITOR'S COLUMN

Alaskans learn a thing or two from impeachment drama

Continued from page 2

Dear Editor:

Do you have a winner in the contest for a new *Bar Rag* motto? Will there be t-shirts and coffee mugs? Can I purchase the new run of *Bar Rag* paraphernalia from your web page?

—Rag Groupie

Dear R.G.:

Thanks for asking. The winner of the contest for a new *Bar Rag* motto, now that our Latin one is arguably unlawful (but arguably not - see the defense, opposite, from an unexpected quarter), is Nacole Heslep. The basis for her proposal, "Resistance is futile," also is explained on the opposite page. Unaffected by prior commitments to change, however, the *Bar Rag* has resolved to hold onto *Dignitas, semper dignitas* until they pry it from our cold, dead masthead. The thing of it is is, we've become awfully attached to it.

Articles Welcome: *Guidelines*

- Ideal manuscript length: No more than 5 double-spaced pages, non-justified.
- E-mail and .txt: Use variable-width text with NO carriage returns (except between paragraphs).
- E-mail attachments & disks: Use 8.3 descriptive filenames (such as author's name). May be in Word Perfect or Word.
- Fax: 14-point type preferred, followed by hard copy or disk.
- Photos: B&W and color photos encouraged. Faxed photos are unacceptable. If on disk, save photo in .tif format
- Editors reserve the option to edit copy for length, clarity, taste and libel.
- Deadlines: Friday closest to Feb. 20, April 20, June 20, Aug. 20, Oct. 20, Dec. 20.

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The firm of Holmes Weddle & Barcott, P.C., is seeking applications in its Anchorage office for attorneys with two to four years of civil litigation experience who have strong writing and research skills. The successful applicant will be responsible for the defense of workers compensation claims and will assist in handling general civil litigation. Salary DOE. Send applications to attention of Randall Weddle, 701 West Eighth Ave, Suite 700, Anchorage, AK 99501-3408

Use 'client reps' to your advantage

By Terry A. Venneberg

An issue that often arises in employment cases concerns identification of "client representatives" for purposes of claiming attorney-client privilege between corporate counsel and employees.

The standard practice of counsel representing employers is to assert an attorney-client relationship with virtually every person who works for the employer, regardless of rank, duties or responsibilities. This maneuver enables defense counsel to prevent communications between those employees designated as "client representatives" and counsel for the plaintiff employee. It also enables defense counsel to conduct meetings and take statements from those employees, and claim attorney-client privilege concerning those conversations. This results in a tactical advantage to defense counsel in employment cases, as they attempt to present a unified position concerning the conduct of the company and its employees towards the plaintiff employee.

Unfortunately, many trial courts and counsel in Alaska who consider whether particular employees should be designated as "client representatives" fail to apply the correct test in making those determinations. Mere employment by the defendant employer, or even participation in mid-level management of the employer, is not sufficient in Alaska to justify designation as a "client representative." The Commentary to Alaska Evidence Rule 503, which concerns the attorney-client privilege, specifically notes that Alaska has rejected a "case-by-case analysis" concerning whether an employee is to be considered a "client representative" in favor of a uniform application of the "control group" test, as set out in *City of Philadelphia v. Westinghouse Electric Corp.*, 210 F.Supp. 483, 485 (E.D.Pa. 1962). In *Langdon v. Champion*, 752 P.2d 999 (Alaska 1988), the Alaska Supreme Court noted that the commentary indicated "that the definition of a client's representative was included in the Rules solely as a means to adopt the 'control group' test governing assertion of the attorney-client privilege by corporate clients." The "control group" test requires that, in order for an employee to be considered "client representative," that employee must be "in a position to control or to take substantial part in a decision about any action which the corporation may take upon the advice of the attorney, ... then, in effect, he is (or personifies) the corporation when he makes his disclosure to the lawyer and the privilege would apply."

The "control group" approach to deciding who constitutes a "client representative" differs significantly from that adopted by the U.S. Supreme Court in *Upjohn Co. v. United States*, 449 U.S. 383 (1981). In that case, the Court rejected the "control group" test, finding that the test "frustrates the very purpose of the (attorney-client) privilege by discouraging the communication of relevant information by employees of the client to attorneys seeking to render legal advice to the client corporation." The Court held that communications by employees of the corporation to corporate counsel would be covered by the attorney-client privilege, regardless of the duties and responsibilities of those employees.

As the Commentary to Alaska Rule of Evidence 503 has made clear, *Upjohn* does not set out the test to be applied for determining "client representatives" in Alaska. Only those officers and managers who have the authority to *bind* the company by their statements and testimony may be considered "clients" for purposes of the attorney-client privilege. The application of this rule can have a significant benefit to the plaintiff employment lawyer, or for that matter any lawyer involved in litigation with a corporation as the opposing party. If corporate counsel designates an employee of the corporation as a "client" in the Rule 26 initial disclosures of the corporation, the statements made by that employee should be considered statements of the corporation for purposes of the litigation. A deposition taken of such an employee should be considered a deposition of the corporation under Civil Rule 32(a)(2). Admissions by such an employee should be considered binding upon the corporation.

When faced with an overly broad designation of "client representatives" by a corporate defendant, several different approaches are available to opposing counsel. If it appears that one of the "clients" designated will be offering favorable testimony, counsel for the opposing party may wish simply to take the deposition of the "client," and attempt to use that testimony as an admission against the corporate defendant. Another strategy available is to undertake discovery to find out the extent to which the "client representative" either has or lacks management authority within the company, and then move the court to strike the designation of that person as a "client representative" for failing to fall within the "control group" of the corporation. If the court decides to strike the designation, then opposing counsel can contact the person directly, and obtain a statement outside of the presence of the attorney for the company, which could be helpful where a corporation is applying pressure, either explicitly or implicitly, on its employees to "tow the party line" concerning events surrounding a particular case.

When litigating against a corporate defendant, it is important not to simply accept designation of "client representatives" at face value, given the restrictive approach applied to such designations in Alaska. If a low-level employee has been designated as a "client" by corporate counsel, that designation should either be challenged or used in the most effective manner possible by opposing counsel.

Rare and special book auction

The friends of the Library are holding their second auction of unique and rare books donated from private collections throughout Alaska. Many of the books are signed, first editions; some are of particular Alaskan interest. A small collection of limited edition prints is also included. Minimum bids range from $10 to $150.

The auction will be held Saturday, February 6, 1999 in the Ann Stevens Room on Level 3 of the Z.J. Loussac Public Library at 7:00 p.m. A fine selection of wines, appetizers and desserts will be served. Last year's event was thrilling - and sometimes flustering - for book-lovers with their eyes on particular volumes.

Tickets are $25, and may be purchased in the Library Gift Shop or by mail. (The complete auction catalogue will be mailed as soon as payment is received.) By mail, the address is: F.O.L./Auction, 3843 Wesleyan Drive, Anchorage, AK 99508. Credit card purchases may be made over the telephone by calling 343-2952.

This event benefits Anchorage Municipal Libraries and its collection.

ALASKA JUNIOR THEATER PRESENTS

"Comedy Tonight"

Dinner/Theater BENEFIT

A Fun Way to Support a Worthy Cause

On Saturday, February 27th at 6:00 pm at the Fourth Avenue Theater, Alaska Junior Theater will be presenting its annual Dinner-Theater Benefit. Beginning with a champagne reception and silent auction, the evening also includes a complete dinner and a special performance of **"Health Class"**— the Roseneath Theater Company's hilarious play about two very' different high school teachers, who are assigned to teach a class of teenaged boys about "love and intimacy." What can they say that will be useful, truthful–*and* won't get them fired?

Following dinner and this delightful performance, there will be a live auction to determine who will go home with one of several luxury items, including a flightseeing trip, fine art prints, and airline tickets. Sound like fun?

Tickets to this exciting event are $50 per person, with all proceeds to benefit Alaska Junior Theater. Alaska Junior Theater has been presenting high quality professional theater experiences to Alaska's young audiences for over 15 years, primarily through field trip performances for schools in the Anchorage area.

Canada's renowned Roseneath Theater Company will remain in town for a week of field-trip performances of another production– "The Heroes of Haven" –which is more suited to its school-age audience However, AJT's Dinner-Theater Benefit will be the only opportunity to see their "adults only" performance of **"Health Class"** here in Anchorage. To purchase tickets or yet further information, call Alaska Junior Theater at 272-7546.

ESTATE PLANNING CORNER

Exceptions to step-up in tax basis at death

☐ Steven T. O'Hara

When a property owner dies, the person then entitled to the property generally may sell the property free of any income tax. But this general rule is full of exceptions.

Recall that the concept of "basis" is used in determining gain or loss from the sale or other disposition of property (IRC Sec. 1001 & 1011). If a client purchases stock for $100,000, her basis in that stock is $100,000 (IRC Sec. 1012). If she then sells the stock for $500,000, her taxable gain is $400,000, which is the consideration received in excess of her basis.

As a general rule, when a property owner dies the person entitled to the property obtains a basis in the property that is "stepped-up" to the fair market value of the property (IRC Sec. 1014). So, using our above example, if the client dies when the fair market value of her stock is $500,000, her estate or beneficiary will obtain a fully stepped-up basis of $500,000 in the stock. Her estate or beneficiary could then sell the stock for as much as $500,000 at absolutely no income-tax cost.

Significantly, there are various types of property to which this general rule does not apply. These exceptions to the rule are based on the notion that if an individual realizes income during her lifetime, but that income is not recognized on any income tax return, then on her death no step-up in tax basis should be available for the property to which that income relates.

Consider our first example. The client has a tax basis of $100,000 in her stock. Suppose she sells the stock not for cash but for a promissory note in the principal amount of $500,000 payable over several years. Here the client would be able to defer recognition of her gain by spreading the gain over the tax years in which payments on the promissory note are received (IRC Sec. 453). But if the client dies after the stock sale and before payment of the promissory note, no step-up in tax basis would be available with respect to the promissory note (IRC Sec. 1014(c) and 691(a)(4)). So after the client's death, gain will continue to be recognized each year in which payments on the promissory note are received.

Another example of property that receives no step-up in tax basis is a tax-deferred annuity acquired after October 20, 1979. Certain annuities acquired prior to October 21, 1979 may be eligible for a step-up in tax basis (Rev. Rul. 79-335, 1979-2 CB 292).

Consider a client who contributes $100,000 to a tax-deferred annuity issued by an insurance company. Suppose this contribution is made after October 20, 1979. Suppose the client never takes any cash out of the annuity and, over the years, all earnings in the annuity accumulate. Then suppose the client dies when the value of the annuity is $200,000. Here no step-up in tax basis would be available with respect to the annuity (IRC Sec. 1014(b)(9)(A)). So as the client's estate or beneficiary makes withdrawals from the annuity, the earnings in the annuity will be subject to income tax (IRC Sec 72(e)).

Clients are often surprised when they learn that the accumulated earnings in their tax-deferred annuities will not receive a step-up in tax basis or otherwise become tax-free. They often believe that because an insurance company issued the annuity, the accumulated earnings of the annuity at death, like the proceeds of life insurance, will be income-tax free. But the accumulated earnings of a tax-deferred annuity are just that — tax-deferred, not tax-free.

There are numerous other examples of property that receives no step-up in tax basis. These include traditional Individual Retirement Accounts, profit sharing plans, pension plans, deferred compensation plans, executory contracts (such as a sale pending at death), accrued but unpaid interest on certificates of deposit, bonds or other loans, and certain payments (relating to income) under partnership agreements (Treas. Reg. Sec. 1.691(a)-1(b) and 1-753-1).

The step-up-in-basis rule, and its exceptions, may suggest planning options. In order to preserve an opportunity for a step-up in tax basis, clients may want to avoid transferring low-basis assets before death. If the assets are ineligible for a step-up in tax basis, and if the clients have charitable interests, the clients may want to give those assets at death to a tax-exempt organization. Then all taxes (including death taxes, as well as income taxes) could be avoided with respect to those assets, resulting in an efficient way for the clients to accomplish their charitable objectives.

Alaska Natives: Feds more favorable?

Continued from page 1

(Oct. 21, 1993). Many other native organizations such as village and regional corporations, non-profit associations, regional housing authorities, etc., have special rights under tribal and federal law. Thousands of Alaska Natives own restricted allotments and townsite land governed by federal law.

There is no question that federal courts are more favorable forums for Alaska Natives than state courts. For example, in *Native Village of Stevens v. A.M.P*, 757 P.2d 32, 35 n.4 (Alaska 1988), a majority of the Alaska Supreme Court disregarded a federal district court decision in holding that a village tribe was not entitled to sovereign immunity from suit. In *Totemoff v. State*, 905 P.2d 954, 963 (Alaska 1995), the court rejected a subsistence hunter's claim by disregarding a Ninth Circuit decision on a controlling question of federal law. In *Hanson v. Kake Tribal Corp.*, 939 P.2d 1320 (Alaska 1997), the state court rejected a village corporation's plan to provide special benefits for its elderly shareholders, while in *Broad v. Sealaska Corporation*, 85 F.3d 422 (9th Cir. 1996), the federal court upheld a similar plan. In *Jones v. State*, 936 P.2d 1263 (Alaska App. 1997), the court held that "Native allotments" are not "Indian allotments" that constitute "Indian country" under 18 U.S.C. 1151 because Congress did not "amend Title 25" when it passed the Allotment Act. This analysis is plainly erroneous, and totally unnecessary because 18 U.S.C. 1162(a) expressly gives state courts criminal jurisdiction in Indian country in Alaska.[2]

Several state court cases interpreting the Alaska Native Claims Settlement Act (ANCSA) should have been brought in federal court. Under section 11 of ANCSA all state-selected lands around Native villages were withdrawn, "subject to valid existing rights," for conveyance to Native corporations. The withdrawal of state lands is an obvious denial of a valid existing right in the State. Yet in *Tetlin Native Corp. v. State*, 759 P.2d 528 (Alaska 1988), the court found that the State, which had failed to exhaust federal administrative remedies, had valid existing rights to valuable mineral sites, and that the title-holder, Tetlin Native Corp., was estopped from contesting the State's rights. Similarly, in *Capener v. Tanadgusix Corp.*, 884 P.2d 1060 (Alaska 1994), the court misconstrued ANCSA in holding that a transferee of a permitee of a temporary, revocable permit was an "occupant" entitled to a deed from the Native village corporation. Compare these cases with *Minchumina Natives, Inc. v. United States*, 60 F.3d 1363 (9th Cir. 1994) (reversing Interior Department's standard that differed from ANCSA's regulations), and *City of Ketchikan v. Cape Fox Corp.*, 85 F.3d 1381 (9th Cir. 1996) (business may have only one primary place of business under section 14(c) of ANCSA).

In the forty years since Statehood the Alaska Supreme Court has rarely, if ever, cited the Supremacy Clause of Article VI of the United States Constitution in a case involving Alaska Natives.[3] Indeed, Natives might be foreclosed in state court even when they have federal case authority on their side. The Alaska Supreme Court is clear that it is not bound by federal district and appellate court decisions, only definitive rulings of the United States Supreme Court, on questions of federal law. *Hakala v. Atxam Corp.*, 753 P.2d 1144, 1149 (Alaska 1988). Considering that the United States Supreme Court reviews only a small number of appeals, the Alaska Supreme Court is thus free to disregard a huge body of federal Indian law.

Hakala is a prime example of the Alaska Supreme Court's disregard of Native rights. The court said it was not bound by *Alaska Public Easement Defense Fund v. Andrus*, 635 F. Supp. 664 (D. Alaska 1977), which seriously curtailed the Secretary of Interior's authority to reserve public easements on lands conveyed to Natives under the Alaska Native Claims Settlement Act. 753 P.2d at 1149 n. 9. The court failed to point out that, pursuant to the federal court's decision, the Secretary adopted extensive public easement regulations at 43 C.F.R. 2650.4-7. *See* 43 Fed. Reg. 55326 (Nov. 27, 1978). Instead of conceding that it is bound by the federal regulations, the Supreme Court clouded Native land titles by suggesting that it could differ with the federal court's decision and set aside decisions of federal officials under ANCSA.

Another advantage of federal court is that attorney fees generally are not assessed against the losing party in cases based on "federal-question" juristiction. *Alyeska Pipeline Service Co. v. Wilderness Society*, 421 U.S. 240 (1975). Exceptions are where statutes expressly authorize them, *Venetie v. Alaska*, 155 F.3d 1150 (9th Cir. 1998) (civil rights case), or in "common fund" cases, *City of Klawock v. Gustafson*, 585 F.2d 428 (9th Cir. 1978), and possibly other cases. Also, under 28 U.S.C. 1447 the federal court may assess attorney fees against the defendant if it decides that the case was improperly removed from state court.

The complaint in federal court, whether an original action or one seeking judicial review of federal administrative action, must include a jurisdictional statement citing the statute that gives the court jurisdiction over the action. FRCP 8. Federal courts have original jurisdiction "of all civil actions arising under the Constitution, laws, or treaties of the United States." The jurisdictional statement should include a citation to the federal statute or regulation in dispute plus a citation to 28 U.S.C. 1331 (federal question), and might include a citation to 28 U.S.C. 1362 (actions by Indian tribes), 28 U.S.C. 1343 (civil rights claims), 28 U.S.C.1353 (Indian allotments and townsites), etc. The bases of federal court jurisdiction are clearly set out in Chapter 85 preceding 28 U.S.C. 1330.

When your Native client is sued in state court on a federal cause of action, consider removing the case to the federal district court under 28 U.S.C. 1446. (State criminal prosecutions may also be removed under this provision.) Under 28 U.S.C. 1441 any civil action brought in state court of which the federal district courts have original jurisdiction may be removed by the defendant to federal court. A case may not be removed simply because the defendant has a federal defense; the complaint itself must contain an express or implied federal cause of action. Even though the complaint may include state law claims, the district court may decide them under the doctrine of pendant jurisdiction, or, in its discretion, remand them to State court. Obviously a state claim should not be remanded if it violates federal law or is preempted by the same.

Follow the procedures in FRCP 81(c) and 28 U.S.C. 1441-50 in removing a case to federal court. *See* Index to *West's Federal Forms*, "Removal of Causes" (1998). The procedure is simple, but the time period is short. The notice of removal must be filed within 30 days after the defendant receives the initial pleading or within 30 days after service of the summons, whichever is shorter. The petition must contain a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon the defendant. The complaint must be answered. All defendants may be required to join in removal. The removing party has the burden to show that removal was properly accomplished.

1 You may be required to exhaust tribal remedies before resorting to federal court. *State v. A-1 Contractors*, 117 S.Ct. 1404 (1997).

2 The Alaska Court of Appeals clearly erred in *Jones v. State* in distinguishing between Native and Indian allotments because Native allotments *are* Indian allotments under 18 U.S.C. 1151. The term "Indian" in federal law generally includes Alaska Natives who are subject to many provisions of the General Allotment Act of 1887 and its progeny. *See, e.g., Aleknagik Natives Ltd. v. United States*, 886 F.2d 237 (9th Cir. 1989). The 1906 Native Allotment Act was but one of many allotments acts that Congress adopted for Indians after the 1880's. The term "all Indian allotments" in section 1151 simply means all allotments issued to Native Americans that are held in trust by the United States or subject to restrictions imposed by the United States. Further, there is no distinction between trust and restricted allotments. The United States remains the trustee for allottees whether the allotments are trust or restricted. *See, e.g., Aguilar v. United States*, 474 F. Supp. 840 (D. Alaska 1979); *United States v. Bowling*, 256 U.S. 484 (1921); 34 Stat. 197; 43 U.S.C. 1617(a), 1634(a)(1); 72 Stat. 340; 28 U.S.C. 1360(b). Such cases as *United States v. Clarke*, 445 U.S. 253 (1980), *Heffle v. State*, 633 P.2d 264 (Alaska 1981), and *Pence v. Kleppe*, 529 F.2d 135 (9th Cir. 1976), show that Native allotments are the equivalent of Indian allotments under 18 U.S.C. 1151.

3 *Kopanuk v. AVCP Regional Housing Authority*, 902 P.2d 813 (Alaska 1995), illustrates this point. Detailed federal regulations in 24 CFR Parts 905 and 950 (repealed 1998) governed HUD's Mutual Help housing program for Native Americans. The comprehensive regulations, and the contracts themselves, expressly defined the contracts between Native housing authorities and homebuyers as "a lease with an option to purchase." 24 CFR 950.440. The regulations provided that the housing authority could terminate the contract after ample notice and hearing for the homebuyer, enforced by landlord-tenant eviction procedures in State court. 24 CFR 950.446. But when a housing authority sought to evict a homebuyer, the Alaska Supreme Court characterized the agreement as "an installment contract for the sale of real property." The court said: "The HUD regulations are irrelevant, as we hold under state law that equitable interests may exist and the district court therefore lacks jurisdiction." 902 P.2d at 817 n.4. As a result, housing authorities must now bring burdensome ejectment proceedings in superior court. The Alaska Supreme Court failed to acknowledge that federal law, not state law, governed the contract between the housing authority and homebuyer. Federal law preempted state law on the legal relationship between the parties. The federal regulation's characterization of the contract as a lease, and its procedures for terminating the contract, were clear, conclusive, and binding on the state courts. In adjudicating the eviction the court was required to uphold the federal regulations and contract between the parties. It was not free to apply state property law concepts. The Supremacy Clause requires state courts to apply federal law notwithstanding anything to the contrary in state law. By ignoring federal law, and imposing state notions of equitable ownership of property, *Kopanuk* violated the Supremacy Clause.

Joint federal-state ADR training program held for all judges in Alaska

In late October, the U.S. District Court and Bankruptcy Court for the District of Alaska and the Alaska Court System conducted a joint federal-state ADR training program for all judges in Alaska. The U.S. district and bankruptcy courts asked the Federal Judicial Center to assist in this effort. Center staff provided the federal and state courts with advice on program design, faculty, and implementation. The Center also provided "local program" training funds to cover the cost of the three principal faculty. This funding was a supplement to funds provided by the Alaska Court System, the US. federal courts in Alaska, arid the State Justice Institute. Critical to the success of the program were the vision and planning support provided by Justice Dana Fabe of the Alaska Supreme Court, Chief District Court Judge James K. Singleton, Chief Bankruptcy Court Judge Donald MacDonald, Chief Deputy Clerk of the Bankruptcy Court Jamilia George, and Nancy Shaw and Bobbie Heym of the Alaska State Court Administrator's Office.

The program had two purposes. The first was to train the judges in mediation techniques so they could make better-informed decisions on referrals to ADR and learn how mediation skills might be used in judicial settlement conferences. J. Michael Keating, Jr. of Providence, Rhode Island was the faculty for that portion, assisted by Jack Esher of Boston; Sam Imperati of Portland, Oregon; Bob Niemic and Donna Stienstra of the Federal Judicial Center; and Charles B. Wiggins of the University of San Diego School of Law.

The program's second purpose was to introduce the judges to some of the issues that arise in managing cases with respect to ADR. Topics ranged from selecting cases for ADR referral to handling ethical problems. The faculty for this portion were the Honorable Wayne D. Brazil, U.S. Magistrate Judge from the Northern District of California, and Stephanie E. Smith of Stanford and Hastings law schools.

The program took place on October 22 and 23, 1998 near Anchorage. Approximately 70 judges attended, including all Alaska Supreme Court justices, nearly all Alaska state court judges, and nearly all federal judges sitting in Alaska.

The program, which attending judges heralded as a great success, was the first of its kind to include nearly equal emphasis on mediation skills and the management of cases referred to ADR. The program may also have been the first training program exclusively devoted to ADR and jointly sponsored and attended by the federal and state judges within a state.

It's not too late

Partners in justice: Winding up and winding down

By Bryan P. Timbers

Alaska Legal Services Corporation's first annual "Partner's In Justice" fund raising campaign is winding up its efforts for the 1998 year. On January 29, 1999, ALSC will close the books on the current campaign. As this issue of the Bar Rag goes to press, preliminary results are in and "thank yous" are certainly in order for the many people, firms and organizations whose donations and fund raising efforts have contributed to the success of the campaign.

So far, the campaign has raised more than $132,000 for ALSC and donations are still coming in. This exceeds last year's (1997) attorney and law firm donations by about $100,000. More than 360 attorneys contributed to this campaign, triple the number from 1997. Importantly, nearly 70% of these donors are first time contributors to ALSC.

The Anchorage Bar Association jump-started the campaign with a pledge to contribute fifty cents for each dollar given by attorneys and law firms in the Third Judicial District, up to a total pledge of $30,000. So far more than $75,000 has been contributed from that District, more than necessary to earn the full ABA pledge.

John McKay, the president of Legal Services Corporation, did a whirlwind tour of Alaska in October to help rally support for the "Partners in Justice" campaign. LSC is the national organization through which congressional funding is granted to state and local legal services programs, including ALSC. In Anchorage, Mr. McKay met with the editorial board of the *Anchorage Daily News* and gave numerous media interviews. Chancy Croft hosted a reception at his home at which Mr. McKay received pro-campaign proclamations from Anchorage Mayor Rick Mystrom and Lt. Governor Fran Ulmer. Mr. McKay flew to Northwest Alaska and spent a day at Gambell on St. Lawrence Island, followed in the evening by dinner with members of the Northwest Alaska Bar Association at the Ft. Davis Roadhouse near Nome. Then he flew to Fairbanks, where Grace Schaible hosted a reception at the offices of Cook, Schuhmann & Groseclose, Inc. At each stop Mr. McKay met and broke bread with ALSC staff members.

I would like to thank all of the people who contributed time and money to make the "Partners in Justice" campaign successful. Special recognition is due the campaign chairmen, Douglas B. Baily, Lloyd Benton Miller and Douglas J. Serdahely in Southcentral Alaska, Daniel E. Winfree in Northern Alaska and Ronald W. Lorensen and Vance H. Sanders in Southeastern Alaska. Statewide, nearly 80 attorneys served on working committees that raised the money. Their names appear with an asterisk on the list of contributors at page 9 of this paper. Steve Ward, owner of The Graphics Department, donated all the design and layout work for campaign materials. Alyeska Pipeline Service Company paid all printing costs for campaign materials thanks to the influence of Lawrence Trotter, Alyeska VP and General Counsel. Jim Minnery, the ALSC Development Director, had primary responsibility for coordinating and organizing the campaign.

One of the goals of the Partners in Justice campaign was to make ASLC a primary focus for charitable giving in the Alaska legal community. Another goal was to create a vehicle which would help insulate ALSC from the vicissitudes of governmental funding. In part, these goals are furthered by creation of the ALSC Endowment Fund. All of the ABA contribution and approximately $50,000 in total from the campaign will go into a permanent endowment to support the provision of legal services to low-income Alaskans through ALSC. The principal of the endowment will never be spent. Income and gains will be banked until the endowment has a net value of $1 million, unless the ALSC Board by a 2/3 majority vote decides that expenditures are necessary to achieve the goals and objectives of ALSC. I am hopeful that creation of this endowment will encourage Alaskan attorneys and other potential donors to consider ALSC as a major beneficiary of their charitable giving. The endowment gives donors access to the full range of charitable gifting vehicles, enabling them to creatively address their financial and estate-planning objectives while supporting the cause of equal access to justice. What better gift could an attorney make than a legacy which provides legal services to low-income Alaskans?

Although this campaign will officially end on January 29, some work remains to be done. Throughout 1999, ALSC will keep contributors informed of the good work it is doing to reassure them that their investment with ALSC was a good one. To keep the momentum generated by this initial campaign, ALSC must continue to demonstrate that it is an effective, valued and necessary community asset. The results of this campaign will be evaluated in a 1998 Annual Report which should be completed in February. We'll be back in the Fall with a new, and hopefully improved, 1999 "Partners in Justice" campaign.

Finally, although ALSC is winding down the current campaign, there are a number of previous donors who have yet to contribute. If, for some reason, you have not been given an opportunity to contribute, please consider this my invitation to become a Partner In Justice. Supporting ALSC directly helps victims of domestic violence, senior citizens exposed to fraud, abuse and neglect, families unjustly evicted from their homes, low income people facing unemployment and possible homelessness, and many others who should not be denied access to our system of justice. Donations can be mailed to Alaska Legal Services at 1016 West Sixth Avenue, Suite 200, Anchorage, Alaska 99501-1963.

Bryan P. Timbers is President, Alaska Legal Services Corporation

The US District Court's website is up and running. Please visit it at www.akd.uscourts.gov

As attorneys, we have only one obligation beyond the pursuit of justice – and that is the support of **equal justice**. We accepted that obligation when we were admitted to the bar. How we divide our charitable dollar is a matter of personal choice. Meeting our professional responsibility should not be.

Nearly 80 attorneys, across traditional lines of politics and practice, have honored this commitment by organizing the first annual **Partners In Justice** campaign to raise funds for, and awareness of, Alaska Legal Services Corporation. To date, **361** people, three times as many as in 1997, have contributed more than **$130,000!** Alaska Legal Services gratefully acknowledges those who generously supported the effort.

The collective time and talent
spent
on this campaign has
enabled
Alaska Legal Services
to stretch
its budget
in the
face of continued reductions
in public dollars.

In 1998, more than **4,000**
low-income
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assistance on cases
involving
domestic violence,
illegal evictions,
disability benefits,
and obtaining basics
for survival
including
food,
shelter,
and health care.

Through this campaign,
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side of justice
in unprecedented numbers.
If you haven't already
done so,
please consider
becoming a
Partner In Justice
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Anchorage Bar Association Board members present Alaska Legal Services Corporation (ALSC) Executive Director, Robert Hickerson, far right, a check for $30,000 for the Partners In Justice statewide fundraising campaign. ALSC received 50 cents for every dollar raised in the 3rd Judicial District from attorneys and law firms. Pictured from left to right are Ken Legacki, Ben Walters, Bob Owens, Mike Wright, Ken Jacobus, Doug Baily, Diane Vallentine, Judge Wanamaker, Eugenia Richardson, and Krissell Crandall.

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GETTING TOGETHER

Community justice circles - New Age justice hits the courts ☐ Drew Peterson

Judge Steven Ruble of the Milaca, Minnesota, District Court is an old college friend of mine. Our lives also turn out to be on a related course, for Steve Ruble was one of the initial innovators of the use of, and is now a primary proponent for, the "circle sentencing" approach to community justice.

During a recent visit to my home in Anchorage, Judge Ruble confessed that perhaps five percent of his colleagues on the bench get excited when they hear about the possibilities of circle sentencing. Another 35% are mildly interested in the process. The remainder of his judicial colleagues basically just think that he is nuts.

According to Steve, the circle sentencing concept is most exciting for its effect on that certain group of recidivist offenders whose inability to move beyond a life of criminal behavior is a waste of their own potential. Judges and lawyers familiar with the criminal justice system are all aware of the type. These are the "incorrigibles" or "social misfits" who commit crimes repeatedly, and on whom the threat of jail has no appreciable effect. Too often the only lessons learned by such individuals in jail are increased skills in manipulating the system and how to keep from being caught when they commit their next crime.

THE PROCESS IS ALSO A FORUM BY WHICH THE COMMUNITY CAN EXAMINE AND ADDRESS THE DIFFICULT ISSUES UNDERLYING CRIMINAL BEHAVIOR.

The circle sentencing concept was first described by Judge Barry Stuart of the Yukon Territorial Court, who has used community circles in the Yukon and other Canadian communities to address recidivistic offenders. The circles are an inclusive process drawing upon a broad base of the community. Through the circles the community is empowered to both sentence the offender and monitor the sentence.

The process is also a forum by which the community can examine and address the difficult issues underlying criminal behavior. According to Judge Stuart, who made a recent presentation to the Alaska Judicial Conference, the decline in recidivist conduct among offenders involved in these circles was most impressive. (Steve gave me a number of copies of Judge Stuart's book on the subject, *Building Community Justice Partnerships: Community Peacemaking Circles,* Department of Justice of Canada, 1997, which I will happily distribute to anyone interested in the subject for as long as the supply holds out.)

Judge Ruble was skeptical, himself, when he first heard about the process. Over his years on the bench, he had seen many "flavor of the month" approaches to dealing with criminal behavior. Nevertheless, he agreed to give it a try when the Mille Lacs Ojibwe community, which was within his jurisdiction, became interested in organizing a circle modeled on the Yukon experience.

His experiences since working with the circle sentencing concept have replaced Judge Ruble's skepticism with a strong belief that the approach offers a viable and in many cases a preferable option for many recidivistic offenders. Since beginning with the Mille Lacs reservation, Steve has seen the concept expanded to Princeton, a traditional small town Minnesota community, as well as to other locations, including some in the city.

Judge Ruble cautions that a critical part of the circle approach is that each circle grows from within its own individual community. Thus not all circles are the same, and some things that work in one area might not work in others. Nevertheless, there are certain generalizations that can be made, and insights that can come from a description of how the process has developed in different communities.

NOT ALL CIRCLES ARE THE SAME, AND SOME THINGS THAT WORK IN ONE AREA MIGHT NOT WORK IN OTHERS.

The initial challenge in Minnesota was determining how to develop a circle process which was compatible with the requirements and responsibilities imposed by the formal justice system. This included not only the procedural rules of court, but also the rights of defendants and the responsibilities imposed upon public officials by state law.

THE USE OF CONSENSUS

A key to the circle process was the use of true consensus, which is normally unheard of in court procedure. Consensus may not necessarily mean total agreement, but it does mean that "I can live with this decision and will support. it." If even one person refuses to join the consensus, the decision cannot be adopted. And all of the players in the normal court process can be, and often must be, a part of the consensus decision. That is to say that the prosecutor, the defense attorney, the judge, the defendant, the victim, the victim's rights advocates, the police, and anyone else from the community who so desires must be a part of the consensus decision. As daunting a task as it might at first seem to develop a consensus requiring the agreement of such adverse interests, Judge Ruble says that he has yet to see a circle fail because the members have failed to reach consensus.

THE REQUIREMENT OF COMPLETE CONSENSUS BY ALL INVOLVED PARTIES IS WHAT MAKES IT PALATABLE TO THE TRADITIONAL SYSTEM.

The general approach among Minnesota communities has been to have the community gather in four types of circles:

•Community Justice Committee Meeting. This is a regularly scheduled meeting on a set night, and anyone present at the meeting is the committee for that evening, including the offender. The purpose is to review and accept application to the circle, adopt and amend agreements designed to stabilize behavior until sentencing, monitor compliance with previous agreements and sentences, and oversee the general operation of the circle within the community.

•Victim's Circle. The purpose of this circle is to share with the victim the pain of victimization. Attendance is mutually agreed upon by the victim and the Community Justice Committee, and offenders do not normally attend.

•Offender's Circle. This circle is open to any members of the community, the offender, and people the offender identifies as being supportive or whom the offender desires to be present. It may also include people from the court system, such as lawyers, probation agents, police officers, and judges. The purpose of the Offender's Circle is to understand who the offender is and the world in which the offender lives, including how their criminal behavior has impacted those with whom the offender has relationships.

•Sentencing Circle. This circle is open to all interested members of the community, and often includes community members who have experiences as a victim and community members who themselves have criminal records. It is held on a regularly scheduled night, and "drop-ins" are common. Also present are people from the court system, the offender, the victim, and support people for both the victim and the offender. If a victim does not desire to attend in person, it is advisable to have other people present who can share a victim's perspective. The purpose of this circle is to sentence the offenders in a way which will hold them accountable to all of those who are impacted by their behavior. The process involves both a thorough understanding of the impact of the criminal behavior and what amends the offender needs to make to those impacted.

CONDUCTING A CIRCLE MEETING

As the name suggests, meetings are conducted in a circle, with just enough chairs present to accommodate everyone present. Rules for conducting the meeting are agreed upon at the outset, and vary greatly from circle to circle. Typically, an object will be passed around the circle and people may speak only when they hold the object; e.g. a feather or "talking stick." No one is allowed to leave or join the circle until the meeting is finished. People are urged to "speak from the heart," which means to speak with total honesty as to what they believe to be true and to express with respect to their true feelings. People are encouraged to avoid "speaking from the mind" by way of formalistic responses which might not be what they truly believe inside, but are instead generated by concern over the reaction of others. People are also encouraged to "speak from their personal humanity" which to Judge Ruble means that except for rare occasions when the circle seeks his input as a judge, he speaks not as a judge but rather as a man with 52 years of life experiences, including that of being a judge.

TOUCHY-FEELY MEETS THE LEGAL SYSTEM

While circle sentencing seems about as new age a concept as is imaginable, the requirement of complete consensus by all involved parties is what makes it palatable to the traditional system. Thus the prosecutor, a police officer, a victim's right advocate, or literally anyone else concerned about the process had the right to join the sentencing circle and to veto any decision that they feel is inappropriate or insufficient, even though the other members of the circle feel otherwise. How can anyone complain about a decision made, when all they need to do is to participate and refuse to join in the consensus?

There are many more details to the circle sentencing process, which are outlined in Judge Stuart's book, and in articles by Judge Ruble. Sentences are generally progressive, through a series of compacts between the offender and the community, and the community monitors the sentences on a regular basis, keeping the offender involved in the process.

In concluding his thoughts on the subject, Judge Ruble states that he has been convinced that the use of the process is a viable option for certain recidivistic offenders, because the offenders take personal responsibility for their sentences (as members of the circle, they actually sentence themselves), the needs of victims and of others in the community affected by the offender's acts are addressed, discussion of behavior centers on values rather that on abstract criminal statutes, and the circle process instills within the offender a sense of being part of the community. The entire process is one of incorporation into rather than exclusion and rejection by the community.

Circle sentencing is one of the new ideas of transformative justice whose time has come. It urges people involved with the criminal justice system to get beyond their stodgy reactions to such concepts as "touchy feely" and "new age" and consider whether there might not indeed be new and better ways to resolve criminal behavior and its effects upon our communities.

You are Invited to a
Welcoming Reception for

Justice Walter L. Carpeneti
of the Alaska Supreme Court

Thursday, February 18, 1999
4:30 p.m.
Captain Cook Hotel

No Host Cocktails

Refreshments Courtesy of the
Anchorage Bar Association
and the
Alaska Bar Association

Free Data

Free Access to Internet Databases for all Alaska Residents

From now through the end of February, 1999, Alaska residents have a unique opportunity to access over 40 commercial, for-profit Internet databases for free. These databases contain copyrighted information and are usually available only to subscribers.

The Alaska Statewide Database Licensing Initiative is a statewide trial of the databases provided by six commercial vendors. The Alaska State Library, the coordinator for this project, and librarians throughout the state will evaluate and then select specific databases for long-term licensing. The public is invited to participate by trying them out and filling out online evaluation forms.

Access to commercial databases differs from merely "searching the Internet" in that the information contained in them is copyrighted and is reviewed and screened for value and quality. This information is usually closed to regular Internet users. Database resources include: full-text copies of entire newspapers (*New York Times, Wall St. Journal*, etc.), magazine and journal articles, book chapters: and special business, medical, academic, or children's resources.

To access the databases and participate in the trial, you may enter from your computer or from designated terminals at any Anchorage Municipal Library:

•Through SLED: http://sled.alaska.edu (click on Alaska Statewide Database Trials)

•Through the Anchorage Municipal Libraries' home page: http://lib-rary.ci.anchorage.ak.us (click on Alaska Statewide Database Trials)

Access to these commercial resources is limited to Alaska residents. Most residents can go directly into each database. If you do need a user name or password, you may call, toll-free. i-800-440-2919.

SUMMARY OF SUPREME COURT MCLE QUESTIONS

Deborah O'Regan, Steve Van Goor, and Barbara Armstrong met with the Supreme Court on November 12, 1998 at their administrative conference to answer questions about the proposed MCLE rule. Justices Matthews, Eastaugh, Fabe and Bryner were present. The conference was taped for Justice Carpeneti. Here are the questions they raised:

- What articles make the best case for MCLE and were there any good pro/con articles.
- Are there were any empirical studies on the effectiveness of continuing education from other professions.
- What about members having multiple Bar memberships and the Alaska Bar having consistency for reporting requirements with states such as Oregon and Washington? (Washington has a three-year reporting requirement.)
- What is the budget impact; will MCLE cause an increase in Bar dues, and what would be the average cost to Bar members to meet their MCLE requirements?
- Are there any demographics on participation by bar members?
- Is 12 hours/year more hours than an enthusiastic CLE attendee is now doing?
- What purposes has the Board identified for MCLE, and are there any findings that certain purposes would be fulfilled.
- What is the availability of video and audiotapes?
- What does it take to be an accredited course; should every course have a professional responsibility component; why are two separate hours of ethics required; and are there other ethics courses beyond the basic course for new admittees?
- Since one of the comments said that MCLE was an opportunity for private providers to "rake in cash," will the cost of materials be high? Is there a commitment to low costs for the members?
- What is the authority for the Board to adopt regulations?
- What is the tax deductibility of CLE vs. MCLE? How much study was given to the alternative credit given to certain activities? Some seem not equivalent, e.g., self-study vs. preparing to teach a course.
- It was noted that there is some perception of two sides: the "masses" on the outside, and an elite group on the inside. The alternative means of getting credits, e.g., grading bar exams or serving on committees, benefits the "elite" group. (In California, for example, members could get credit for reading particular Bar Journal articles and taking a test. Some comments indicated that it was a hassle for attorneys to get in-house programs certified.)
- The board was asked to come up with an article or two giving the case, pro and con, on MCLE; and those who have had actual experience with MCLE elsewhere. After those articles were read, (the Court) would then have another conference with just the court present to decide whether to go forward.
- It was asked why there was no bar poll of the membership on MCLE.
- Do we know the top states with which our members overlap in membership? (Washington, Oregon and California noted)
- Are there any inventive enforcement mechanisms elsewhere other than suspending an attorney's license, i.e., something less heavy-handed?

Complied by David T. Walker dtwalker@ptialaska.net.

Alaska Bar Association Internet Committee

The Alaska Bar Association's Internet Committee has been asked to prepare recommendations to the Board of Governors on how to best make use of its web site. The Committee wants to hear your ideas.

If you have suggestions for Bar services that could be made available online via the Bar web site, please forward those suggestions to Barbara Armstrong or Rachel Tobin at the Alaska Bar Association, (907) 272-7469, or via email at armstrongb@alaskabar.org or tobinr@alaskabar.org.

Excerpts from the JBA Minutes

November 13, 1998

Guests: Steve Van Goor, our friendly Bar Counsel; Julia Moudy, departing public defender; Colby Smith, personal friend of the likes of Miss America, Kenny G, and Jay Leno. (Ask to see the pictures!)

Speaker: Steve Van Goor discussed his job and new rule changes. Two of the most notable are the mandatory malpractice insurance disclosure (must disclose to clients if less than $100,000 per claim/$300,000 aggregate) and mandatory written fee agreements (for cases where total fees will be over $500).

November 20, 1998

Guests: Elizabeth Lee, Justice Carpeneti's new clerk; Donna Goldsmith, Judge Carpeneti's clerk in 1986-87. (Donna has been busy in Oregon most recently as a tribal judge and has a great deal of experience in child welfare and native law issues. Donna is thinking of relocating to Juneau, so if anyone has any job leads for her, please call her at (503) 223-4169.); Michelle Massey, a longtime Juneauite (and high school peer of mine) who is Judge Weeks's new clerk. Welcome to the new clerks!

Announcements: Vice-President Hazeltine, presiding over the meeting in President Zemp's absence, passed around a letter from Justice Carpeneti thanking us for our announcement on his appointment in the Juneau Empire. At today's meeting, he repeated that he was very touched and that his kids were impressed.

Judge Weeks announced that Justice Carpeneti presided over his first proceedings yesterday as a Justice of the Supreme Court. Justice Carpeneti, accompanied by Judge Weeks and Federal Magistrate Judge Walker, swore Jaylene Kookesh-Araujo into the Alaska Bar Association. Jaylene grew up in Angoon, is presently working for a law firm in Washington, D.C., and hopes to return to Alaska in a few years. Justice Carpeneti commented that his first proceeding as a Justice felt pretty good—people were happy with him and he wasn't worried about being reversed.

Justice Carpeneti and Judge Weeks filled us in on court transitions and reassignments. Justice Carpeneti has already been assigned Justice Compton's cases, will continue sitting on the Superior Court bench through this month, and will try to finish up the cases he has under advisement. For now, Judge Weeks is being assigned all criminal cases.

We should not expect to have a new judge appointed before May. Several cases have been reassigned to Judges Zervos, Thompson, and Jahnke. Justice Rabinowitz, Justice Compton, Judge Hopwood (Kodiak), and Judge David Stewart (Court of Appeals) have also agreed to help out.

Judge Weeks announced that the Court has adopted a policy that domestic cases should be referred to mediation whenever possible. Michelle Massey will be coordinating this effort.

Vice-President Hazeltine just returned from the National Judicial College. If anyone is intersted in learning more about the classes or what she learned, please call her. Also, she the newly formed Alaska Assocation of Administrative Law Judges. Again, please call her for more information.

The bar meeting was particularly enjoyable, though sparsely attended (only about 10 of us). We got to hear the story of the evening Justice Carpeneti was informed of his appointment. We shared rumors about who's applying to be his replacement. We groused about getting another dues notice from the Anchorage Bar Association. We discussed the construction on the 7th floor of the Courthouse. You can't get this kind of entertainment just anywhere. Please join us!

Board of Governors: Rather than providing his usual notes, Board member Bruce Weyhrauch thought that local bar members would be more interested in the questions the Supreme Court Justices asked about the proposed MCLE Rule during a recent meeting with Alaska Bar staff. (Those questions follow). The highlights of the Board meeting included the adoption of the budget for 1999. There will be no increase in bar dues and bar members will be able to pay dues by credit card. In fact, members may pay any bar-related expenses by credit card (MasterCard or Visa).

December 4, 1998

Guests: Jeff Bush, President of the School Board; "The Faulkner Banfield Three," Keitha Kolvig, Lorissa Stokes, and Debbie Pusich.; Jeff Sauer, Interim Assistant Public Defender

Announcements: I have been appointed to a Bar Committee regarding the Internet and Bar website. The committee was created by the Board of Governors to identify internet capabilities that may be useful to the Bar and its members; evaluate the costs and benefits of using those capabilities; prioritize the kinds of uses and requests, and; make recommendations for implementing those requests and uses. If you have any questions, suggestions, etc., please contact me.

December 11, 1998

Guests: Andy Hemingway, from the Department of Administration and new member; Barbara Walker, wife of David Walker.

New Business/Announcements: In the past, a large percentage of our budget has been donated to ALSC. Given that we have not to make a direct monetary donation in 1999, instead making a commitment to assist in community fundraising, we have recently discussed reducing the annual dues. To that end, Mark Regan moved that we reduce the annual dues for 1999 from $45 to $35. Judge Weeks seconded the motion. We will vote on the motion at the December 18 meeting.

Friday, February 12 is not only Lincoln's birthday, but is also Justice Carpeneti's swearing in ceremony. The ceremony is tentatively scheduled to be at Centennial Hall. A reception committee is looking into sites for a reception. We may be calling upon the bar to make contributions to the costs of the reception. Please stay tuned and feel free to pay your 1999 dues early!!

Four candidates have applied for the Superior Court vacancy-Patricia Collins, Ron Lorenson, Doug Mertz, and Phil Pallenberg. The Judicial Council will interview candidates on February 12 and make their recommendations to the Governor on that same day. A public hearing is scheduled for Feb. 11.

Tom Meyer asked about the confidentiality of letters to the Judicial Council regarding candidates (and whether they are all published on the internet). Several people batted around their beliefs, but no one knew for sure. I called William Cotton, executive director of the Judicial Council, to ask the question. The Judicial Council policy is that any letters solicited by the Council are kept confidential. The only exception to this is that the Council will send the letter to the governor if the author specifically requests it. If someone sends an unsolicited letter, it will be kept confidential only if the author specifically requests that it be kept confidential. Otherwise, the letter is considered to be a public document. The Council does not plan to publish any letters regarding judicial candidates on the internet. For future reference, keep in mind that this is the Council's policy on letters regarding candidates for judicial office. There is a slightly different policy for letters regarding retention...but I'll save that for a later time.

December 18, 1998

Guests: James Zahradka; Josh Fink; Julie Willoughby. These three fine individuals are Justice Carpeneti's new law clerks.

Old Business: By unanimous consent, we passed Mark Regan's motion to reduce our annual JBA dues from $45 to $35. Please feel free to pay your 1999 dues starting now!

--Dawn Collingsworth, Secretary

The millennium experience for lawyers

Early registration open for the ABA's return to London

As 2000 approaches, people around the world are asking, "How should we celebrate the millennium?"

For U.S. lawyers, the American Bar Association has a suggestion that can be summed up in the names of two great cities: New York and London.

In July 2000, the association will renew its tradition of holding an extended annual meeting every 15 years or so that includes a session in London. The ABA has held London sessions as part of its annual meetings in 1957, 1971 and 1985.

In 2000, the New York annual meeting will be held on July 6-12, with the London session held on July 15-20.

Throughout the session, plenary programs will focus on substantive matters of worldwide interest to lawyers. Many will be taking a hard look into the 21st Century.

It has not been hard to find issues of shared interest among lawyers in the United Kingdom and the United States, as evidenced by the meeting's descriptive theme, "Common Law, Common Bond."

When concentrating on the demands of their clients and cases, lawyers can lose sight of the fact that their work is part of a magnificent independent legal system that is rooted in Magna Carta, the seminal document in the development of constitutional democracy.

Recognizing that heritage, and its close bond with the English legal profession, the ABA is the sponsor of a monument at the site of the signing of Magna Carta at Runnymede along the Thames River west of London. The association also played a crucial role in supporting the reconstruction of one of London's Inns of Court after it was severely damaged by bombs during World War II.

Many lawyers around the country have said their previous trips to London sessions of ABA meetings in 1985 or 1971 were highlights of their legal careers that revitalized them.

To accommodate early interest among lawyers planning to attend the 2000 meeting, the ABA has introduced a pre-registration process that will give participants priority in making reservations for hotels and additional travel programs.

By paying a $150 pre-registration fee that covers both the New York and London sessions, (applied to the total registration fee), ABA members will receive a priority number to reserve rooms at the hotels of their choice from the association's reserved blocks

The ABA has already received 3,000 early registrations for the 2000 annual meeting. Pre-registration is only available for those who register for both the New York and London sessions in 2000. Registration must be limited to 11,000.

Some key events in London already have been set, including an opening assembly at Royal Albert Hall, receptions at the Tower of London and the Inns of Court, a ceremony at Westminster Hall, and an afternoon tea at the residence of the American ambassador. For information, contact the ABA Meetings and Travel Department at 312/988-5871.

Information on the 2000 Annual meeting also is posted on the ABA web site, www.abanet.org/annual2000/home.html.

ALASKA BAR ASSOCIATION WINTER 1999 CLE CALENDAR

(NV) denotes No Video

Program #, Date & CLE Credits	Program Title	Program Location	In Cooperation With	Section
#12 January 13 1.5 CLE Credits	Off the Record -- Anchorage (NV)	Hotel Captain Cook Anchorage	Anchorage Bar Association	
#13 January 25 1.0 CLE Credits Evening	Anchorage Inn of Court - Topic TBA (NV)	Boney Courthouse Third Floor Anchorage	Anchorage Inns of Court	
#06 January 29 2.0 CLE Credits	An Open House in the Courtroom of the Future (NV)	US Courthouse Courtroom One Anchorage	US District Court and Alaska Court System	
#07 February 17 3.0 CLE Credits	Business Valuations	Hotel Captain Cook Anchorage		Estate Planning & Probate, Bankruptcy, Family & Tax
#14 February 22 1.0 CLE Credits Evening	Anchorage Inn of Court - Topic TBA (NV)	Boney Courthouse Third Floor Anchorage	Anchorage Inns of Court	
#05 March 2 3.5 CLE Credits	Representing Aliens Affected by the Nicaraguan Adjustment & Central American Relief Act (NACARA)	Hotel Captain Cook Anchorage		Immigration Law
#88 March 9 3.0 CLE Credits Afternoon	Mandatory Ethics: Professionalism in Alaska	Anchorage Hotel Captain Cook		
#09 March 12 5.5 CLE Credits	The Do's & Don'ts of Complex Deposition Practice (NV)	Juneau Centennial Hall		
#15 March 15 1.0 CLE Credits Evening	Anchorage Inn of Court - Topic TBA (NV)	Boney Courthouse Third Floor Anchorage	Anchorage Inns of Court	
#08 March 25-26 CLE Credits TBA	The Impact of Domestic Violence on Your Practice (NV)	Anchorage Hilton Hotel	ANDVSA Legal Advocacy Project	
#88 March 26 3.0 CLE Credits Morning	Mandatory Ethics: Professionalism in Alaska (NV)	Fairbanks Westmark Hotel		
#03 March 26 CLE Credits TBA	Commercial Real Estate Leasing and Leases	Anchorage Hotel Captain Cook	Real Estate Commission	Real Estate Law

Libraries, the Internet, and the First Amendment

Workshop
Saturday, January 16
9 a.m. to 4 p.m.
Wilda Marston Theatre,
Z.J. Loussac
Public Library

ORDER FORM

The Law of the Land: A History of the Office of the Attorney General and the Department of Law in Alaska

Stephen Haycox

published 1998, Alaska Department of Law

Please send me _____ copies of *The Law of the Land*, at $10/copy, including postage and handling.

I have enclosed a check for _____, made payable to "Alaska Bar Foundation - DOL Publication Account."

Name _____

Mailing Address _____

_____

Daytime phone _____

Mail order form and payment to:

Chrystal S. Smith
Office of the Attorney General
P.O. Box 110300
Juneau, AK 99811-0300

Questions? Call 907-465-2132 or e-mail Chrystal_Smith@law.state.ak.us

NOMINATION FORM

Ninth Annual Margaret Brent Women Lawyers of Achievement Award

Name of Nominee _____

Title/Position _____

Firm/Organization _____

Address _____

City, State, Zip _____

Telephone
(day) _____ (evening) _____

E-mail _____

CATEGORIES (Please indicate one category that most closely describes nominee's present position or activity):

_____ private practice

_____ judiciary

_____ prosecutor/public defender

_____ non-profit

_____ government

_____ state, local or women's bar leader

_____ academia

_____ legal author/journalist

_____ corporate/business sector

_____ other(please explain)

_____

_____

_____

_____

• • •

Your Name _____

Title _____

Firm/Organization _____

Address _____

City, State, Zip _____

Telephone
(day) _____ (evening) _____

E-mail _____

WOMEN IN THE BAR

Entries due for women's achievement award

AWARD PURPOSE

The American Bar Association (ABA) Commission on Women in the Profession established the Margaret Brent Women Lawyers of Achievement Award in 1991 to recognize and celebrate the accomplishments of women lawyers. This award honors outstanding women lawyers who have achieved professional excellence within their area of specialty and have actively paved the way to success for other women lawyers. The award will be presented to five women lawyers who excel in a variety of professional settings and who personify excellence on either the national, regional or local level. Please see inside for detailed Award Criteria.

NOMINATION FORMS MUST BE RECEIVED ON OR BEFORE FEBRUARY 1, 1999 by the ABA Commission on Women in the Profession. The Commission will select award recipients by March 30, 1999. The awards will be presented at the ABA Annual Meeting in ATLANTA on Sunday, August 8, 1999. Current Commission members are not eligible. (See below for list.)

WHO WAS MARGARET BRENT?

Margaret Brent was the first woman lawyer in America. She arrived in the Colonies in 1638 and was involved in 124 court cases over the course of eight years. In 1648, she formally demanded a "vote and voyce" in the Maryland Assembly, which the governor denied. Over 250 years later, Harper's magazine noted:

"By this action, Margaret Brent undoubtedly placed herself on record as the first woman in America to make a stand for the rights of her sex."

ABA COMMISSION ON WOMEN IN THE PROFESSION

The ABA Commission on Women in the Profession was created in 1987 to secure the full and equal participation of women in the ABA, the legal profession, and the justice system.

The 12-member Commission comprises lawyers and judges from around the country and includes representatives from private practice, the judiciary, academia and corporations. The Commission develops programs, policies and publications to advance and assist women lawyers. In addition, the Commission educates the profession about work/family issues that affect all lawyers.

Mahala Ashley Dickerson, Partner, Dickerson & Gibbons, Anchorage, Alaska was selected as a 1995 Honoree.

APPLICATION REQUIREMENTS

Send the following materials using the guidelines below, by FEBRUARY 1, 1999.

A. Nomination Form. The cover page of your nomination materials should be the following completed nomination form that follows.

B. Nominee's Resume. The second document should be the nominee's resume or biography, describing her background and contributions.

C. Award Criteria Narrative and Supporting Material.
In no more than two typed pages, answer the following questions, providing specific, concrete examples for number 1 and at least one of the criteria in numbers 2-4:

1. The individual achieved professional excellence in her field

AND

2. Influenced other women to pursue legal careers, OR

3. Opened doors for women lawyers in a variety of job settingsthat historically were closed to them, OR

4. Advanced opportunities for women within a practice area orsegment of the profession.

In addition, news or magazine articles written by or aboutthe candidate may be included and no more five letters of support from individuals or organizations.

D.Procedural Guidelines.

The nomination form and your attachments form the SOLE basis for the nomination. Since over 75 nominations are received each year, materials will not be returned. The Commission prefers to accept nominations submitted electronically. Please e-mail your completed nominations, including the nomination form and accompanying materials, to: abacwp@abanet.org. If submitting hard copies, send the original and one copy. All materials must be on 81/2x11-inch paper. Use paper or binder clips. No staples or binding.

MAIL TO: ABA Commission on Women in the Profession, Margaret Brent Women Lawyers of Achievement Award, 750 North Lake Shore Drive, Chicago, IL 60611
Phone: 312/988-5668 FAX: 312/988-5688
E-mail: abacwp@abanet.org

The Anchorage Association of Women Lawyers,
The Alaska Bar Association,
&
The Alaska Joint State-Federal Courts Gender Equality Task Force

Invite you to the 1st Annual

International Women's Day Luncheon

Monday, March 8, 1999
International Women's Day
11:45 AM - 1:30 PM
Anchorage Hilton Hotel, 500 W. 3rd Ave.
Chart Room (15th Floor, West Tower)

Featuring:

- **A Panel Presentation by Early Women Lawyers in Alaska**
- **Presentation of the "1998 Women In Alaska Law" Archive**

LUNCHEON: **$25.00**/PERSON
Please RSVP to AAWL at **566-6257** by
Wednesday, March 3, 1999
Proceeds Benefit the Gender Equality Task force

Don't Miss This Wonderful Event!
Seating is limited.

Compton retires from the Alaska Supreme Court

Continued from page 1

(Alaska 1993); *Abood v. League of Women Voters of Alaska*, 743 P.2d 333, 345 n.3 (Alaska 1987) ("I do not believe that the constitutional issue addressed in Part IV of the court's opinion need be decided"). Most recently, he reminded his fellow justices and us that the opinion of an evenly divided court has no precedential value. *Ward v. Lutheran Hospitals & Homes Society of America, Inc.*, — P.2d — (August 21, 1998). He has consistently held the position that affirmance without opinion is the proper procedure for an evenly divided court. *See Taylor Construction Services, Inc. v. URS Co.*, 758 P.2d 99, 103 (Alaska 1988); *City of Kenai v. Burnett*, 860 P.2d 1233, 1246 (Compton, J., concurring) (Alaska 1993).

By far the most common reason for Justice Compton to urge the court not to decide an issue is simply that the parties did not raise it. *Matter of C.A.S.*, 882 P.2d 1266, 1269 (Alaska 1994) ("I continue to disagree with the court's *ad hoc* approach to the doctrine of judicial abstention. I firmly believe that we should abstain from addressing constitutional issues when resolution of those issues will not change the result of the case. In a similar vein, I do not agree that this court should resolve a case on any issue neither raised nor briefed. [T]he court does not even deign to solicit the parties' views on either the applicability of the statute or its constitutionality. The inconsistency of the court again presents the specter of arbitrariness and favoritism"); *CHI of Alaska, Inc. v. Employers Reinsurance Corp.*, 844 P.2d 1113, 1130 n.1 (Alaska 1993) ("Interestingly the court affords CHI a right which it did not believe it had, and which it claimed not to be asserting if it did"); *Principal Mutual Life Ins. Co. v. State*, 780 P.2d 1023, 1031 (Alaska 1989) ("The court concludes [issues] which I observe are not raised in either the briefs or the arguments of the parties. In order to reach this result, the court interprets . . . a statute neither party cites and then gratuitously overrules a portion of . . . a case neither party cites").

"This exercise of judicial restraint is more than a procedural nicety," said Eric Croft, current Alaska legislator and former law clerk to Justice Compton. "It recognizes that the parties have the right and the responsibility to raise and frame the issues for the court. It is a form of judicial hubris for the court to reach an issue that parties have elected not to bring before the court. When the court decides an issue not raised by a party without asking for any briefing or argument, it carries this judicial hubris to dangerous levels. No member of the judiciary has done more to restrain this excess than Allen Compton."

When a dissent is based on substance rather than procedure, the dissenting opinion of necessity must express a different view of the interplay between facts and law at issue. Justice Compton brought a refreshing sense of reality or common sense to these substantive disagreements. Over and over, he took complex law or complex facts or both and provided a more practical and more concise and more realistic summary. Over and over, he took a majority to task for hanging on to a legalistic formulation rather than a practical solution. See *State v. Beard*, 960 P.2d 1, 14 (Alaska 1998) ("Had Beard but known to invoke the magic words 'constructive discharge' following his resignation, he would not be faced with this appeal"); *Kilmer v. Dillingham City School District*, 932 P.2d 757, 777 (Alaska 1997) ("It seems equally clear that the Board, faced with public disapproval of its conduct, and a possible lawsuit against its members individually, sacrificed Kilmer to save itself"); *Berger v. State*, 910 P.2d 581, 589 (Alaska 1996) ("I conclude that the transactions at issue were disguised loans); *Myers v. Robertson*, 891 P.2d 199, 214 (Alaska 1995) ("This court claims that the Estate has no standing to 'assert the Robertsons' rights' regarding Allstate's shell game, which left Allstate with one attorney at bar and another behind the door, and yet it cites not one jot or tittle of authority for the proposition"); *Capener v. Tanadgusix Corp.*, 884 P.2d 1060, 1076 (Alaska 1994) ("A tenant by any other name will still be a tenant"); *Rydwell v. Anchorage School District*, 864 P.2d 526, 532 (Alaska 1993) ("In this case the court . . . acknowledges that Darlene Rydwell is physically unable to return to her pre-injury job; nonetheless, it denies her rehabilitation benefits[.] Regardless of the court's word games, this is an anomalous and undesirable result").

Justice Compton's many dissents do not mean that he did not take great pains to try and convince others to share his views. Helena Hall, a former law clerk for Justice Compton, recalls working for months with him on a dissent. "Allen was convinced that if the majority affirmed the lower court, as it did, the summary judgment standard would be permanently changed. It was clear from a review of the record there were questions of fact that should be decided by a jury. Although Allen meticulously reviewed and summarized the record, he could not convince the majority that there was an issue of fact. Allen's conviction regarding the impact that this case would have on the law has been borne out. I have seen that same opinion used again and again to argue for summary judgment in situations the court never intended it to be used."

Without taking away from the intellectual rigor of his written work, the pervading impression in most of Justice Compton's opinions is of common sense and fundamental fairness. "Justice Compton's intelligence, integrity, fairness and judicial temperament were exceptional. He scrupulously followed statutory, constitutional and case law precedent. But his written opinions and discussions on court rules and administrative matters always reflected a common sense, practical approach that showed a deep understanding for the people involved," noted William Cotton, director of the Alaska Judicial Council and former Court Rules Attorney. Chancy Croft, long time Alaska lawyer and politician, reiterated these thoughts: "With all the legal subtleties and factual complexities of any lawsuit, a judge must have the ability to see what is really at issue. No one has done this better or longer than Allen Compton."

Moreover, and this probably follows from his compassion, when Allen wrote an opinion he wrote about real people with real problems and with an awareness that his decision would have a real impact on those people and their problems. Allen's opinions reflected practical concerns and everyday experience. "His is the jurisprudence of Solomon, not Holmes," said Alaska lawyer Mark Rindner, who is also good friend and admirer of Justice Compton. "Those whom he leaves behind on the bench and those who follow him will do well to emulate Justice Compton by remembering that law involves more than abstract issues and that the impact of their decisions is not just theoretical."

The attributes that make Justice Compton's jurisprudence and legal career so impressive also make him a great mentor and friend.

Allen's direct and caring manner is evident in many aspects of his life. Indeed, one need not know Allen for long before he will regale you with stories of his kids' latest achievements. Whether talking about Andrew's latest exploits on the soccer field or Amanda's journey to college, the joy he takes in his children is self-evident.

Ego also had no place in dealings with Allen. Bill Cotton, speaking about his interview with the Court for a law clerk position (he ended up clerking for Justice Warren Matthews) reflected that "this Allen Compton was just a regular guy—a bit rumpled with a beard at that. He obviously wasn't a *Justice of the Supreme Court*. He wasn't wearing a stuffed shirt; he clearly wasn't pretentious enough to be a *Justice*, and he didn't even have tassels on his shoes."

Helena Hall recalls, "Allen is the type of man who would call a clerk in Chicago and remind her that she could always return to Alaska; the kind of man who always kept his former clerks informed about job opportunities in Alaska even years after they had left; a man who had the foresight to inquire into whether his future clerks liked winter sports, knowing that if they did not they would be unhappy during Alaska's long winters. Many of us who came here with no intention of staying learned from Allen how much this state has to offer, and now find ourselves living here years after our clerkships ended."

Another of his prior law clerks is now a District Court Judge in Anchorage. As with many of his prior clerks, Stephanie Rhoades considers her clerkship a watershed year in her legal career. "In my view, Justice Compton's most positive contribution to his law clerks was his commitment to providing the kind of mentorship relationship that legal clerkships were initiated to promote. Mentorship of this type was especially important for me. I grew up in a single female-headed household and in poverty. While capable of obtaining work and loans to pay for an education, and capable of becoming educated, I had little social or cultural experience with any of the professions. Justice Compton's mentorship shortened my learning curve of skill development and certainly placed me in the fast track for attaining a leadership role in a professional environment. Justice Compton's greatest contribution to his law clerks has been to model and promote the fact that the greatest professional success is attainable even to those who begin with modest means and experience, so long as they are willing and capable."

Allen's great many friends are equally compassionate about him. "Unlike many lawyers who were practicing 30 years ago, Allen not only voiced the belief that first-class legal representation of indigent people was a moral imperative, he practiced it," recalls Margi Mock, who first met Allen in Juneau in the early '70's. "To all of us who came of age during the era of social change in the '60's Allen was a lawyer we could identify with. Allen also has a wry wit and a self-effacing manner that immediately puts people at ease. There is nothing elitist about Allen. He counts fishermen, firemen, carpenters, secretaries, waitresses, and even some lawyers and judges among his friends."

"I have the great good fortune neither to be a law clerk of Allen Compton's nor a litigant before him," said Collin Middleton, an Anchorage lawyer and Compton friend. "You see, Allen and I, in some manic bout of middle aged fitness, walked together each weekday morning for seven years. Four miles a day, five days a week, for seven years we walked. Basically we walked from Anchorage to Mexico City. Of course, it wasn't all at once as I've said, and, frankly, the Park Strip to Mexico suffers an unenviable comparison during certain seasons of the year. But, you get to know a guy during some 6500 miles of walking. It also means he doesn't sit on your cases. It also means you're too old to be a law clerk."

"Because I'm not a law clerk, I can't call attention to the wisdom shown by Justice Compton in opinions I researched, and as a litigant I can't comment on his insight in deciding for me on cases I brilliantly argued. I can, therefore, say without those distractions, that Allen Compton in his work at the court and in his life has been and continues to be one of the great populists of Alaska. On the court, he has insured the law applied to people, ordinary people. In his life, he is egalitarian. Everyone, including those who mow the grass, know him as Allen. And, on the court, there is sadly no other populist voice. His voice will, therefore, be greatly missed. As for the fellow mowing the grass, of course, Allen is still Allen and he always will be. That's a comfort. I'm always ready to walk to Mexico City again."

(The author gratefully acknowledges the assistance of all the people quoted in the article.)

Justice Compton reminisces about his career

BY COLLIN MIDDLETON

The following is a transcript excerpted from an interview Jan. 12, 1999 with retiring Justice Allen Compton.

MR. MIDDLETON: *Let me begin. You went to school in Colorado?*

JUSTICE COMPTON: I went to law school at the University of Colorado.

MR. MIDDLETON: *And where did you practice after that?*

JUSTICE COMPTON: I moved to Colorado Springs and practiced there from 1963 to 1968 in private practice and then 1968 until early 1971 in public practice with the legal services program that was then functioning in Colorado Springs, called the Legal Services Office of El Paso County, Colorado.

MR. MIDDLETON: *How did you get to come up to Alaska?*

JUSTICE COMPTON: I was looking for a job in a location other than Colorado Springs. I saw an advertisement in the National Legal Services publication about a job with Alaska Legal Services Corporation. There were two openings at the time, I think one in Juneau and one in Anchorage. I applied for the job and interviewed then-executive director Phil Byrne in Denver where he was passing through on his way to or from the East Coast, as I recall. And shortly after the interview, he offered me the job as the supervising attorney for the Juneau office of the Alaska Legal Services Corporation. And I accepted the job and moved to Juneau in January of 1971.

MR. MIDDLETON: *Had you ever been to Juneau before?*

JUSTICE COMPTON: I had never been to Juneau before. And I didn't get there the day I tried to. We overheaded Juneau and I first set foot in Alaska in Anchorage.

MR. MIDDLETON: *I see. And you obviously didn't take the Anchorage job, but took the Juneau assignment.*

JUSTICE COMPTON: No. The Anchorage job was not offered to me. It was offered to Hugh Fleischer, who took the job. So Hugh Fleischer and I both joined—both went to work for Alaska Legal Services at about the same time. And having overheaded Juneau and ending up in Anchorage, I decided I might as well go down to the office, to the Anchorage office. So I did. And the first person I met there was a tall, thin, mustachioed man who was even then balding, by the name of John Reese.

MR. MIDDLETON: *What was John in those days?*

JUSTICE COMPTON: John was a staff attorney with the Anchorage office of Legal Services.

MR. MIDDLETON: *How long did you stay with the Legal Services? And what happened next?*

JUSTICE COMPTON: I was with the Legal Services program from January of 1971 to July of 1973, about two and a half years. I then went into private practice. I was sharing office space with Tom Schulz and the late Bob Annis. And Mr. Annis died. And so I moved into, I think, space he had. And then Judge—and then Tom Schulz was appointed to the bench in Ketchikan so I took over Tom's space and had an office there along with sharing space with another person until early 1976.

MR. MIDDLETON: *What happened in '76?*

JUSTICE COMPTON: I was appointed to the Superior Court in Juneau by Gov. Jay Hammond.

MR. MIDDLETON: *And how did he come to know of you or what was the connection? You applied. But what gave you hope that your application would be so successful?*

JUSTICE COMPTON: Several people in the Juneau bar had approached me and had asked me to apply for the position. They were well respected and successful and competent attorneys. That was a favorable indication to me. I did not know Governor Hammond, though I came to know him a little bit in the process. Several local groups were very supportive, including the local chapter of the Alaska Peace Officers Association. And Alaska Legal Services Corporation board members individually who were acquainted with the governor were supportive. Just like anybody else, I entered the process with no expectation that I had any advantage over anyone else. I had no idea whether it would be successful or not. But it was.

MR. MIDDLETON: Do you remember who you ran against?

JUSTICE COMPTON: *The three finalists were District Attorney Joe Balfe, Roger DuBrock, who had been a District Judge in Sitka and had moved to Anchorage, and yours truly.*

MR. MIDDLETON: *So stiff competition.*

JUSTICE COMPTON: Yes, indeed.

MR. MIDDLETON: *How long on the Superior Court bench?*

JUSTICE COMPTON: Five years.

MR. MIDDLETON: *And you were not the only judge in Juneau.*

JUSTICE COMPTON: No. Tom—Thomas B. Stewart—was the other Superior Court judge in Juneau. He was the presiding judge for the First Judicial District.

MR. MIDDLETON: *Any memorable cases, ones that I might recall, that you had as Superior Court judge?*

JUSTICE COMPTON: Well, there were some cases of great local concern at the time. I remember the unionization of the Juneau police force was one of the cases that caused a great deal of community concern. There were several elections cases. One was the disqualification of Sen. George Silides from Fairbanks who failed to file one of his application documents timely. And there was a contested election involving Nels Andersen and his challenger, an election that was set aside. There was a new election. And I think Mr. Andersen won the new election. There was a case involving the Governor's authority to line item veto bond issues as distinguished from General Fund issues.

MR. MIDDLETON: *And then you got appointed to the Supreme Court.*

JUSTICE COMPTON: Yes.

MR. MIDDLETON: *When was that?*

JUSTICE COMPTON: I think the actual announcement was made in December of 1980. And I took office in early 1981.

MR. MIDDLETON: *Same governor?*

JUSTICE COMPTON: Yes, same governor. Appointed to the Supreme Court by Governor Jay Hammond.

MR. MIDDLETON: Now, tell me, the Supreme Court justice that you were replacing was?

JUSTICE COMPTON: Justice Robert Boochever who had been appointed to the United States Court of Appeals for the Ninth Circuit.

MR. MIDDLETON: *I guess the question I have is that it was sort of regarded as a Juneau seat, but you subsequently moved to Anchorage. Tell me the circumstances of what caused you to do it. How did you overcome the seat-ness? And is that a viable concept, as you see it?*

JUSTICE COMPTON: It is difficult today to picture communication in 1981 and I'm sure far more difficult to picture it in the decades immediately preceding. But we did not have faxes. We did not have e-mail. We did not have video teleconferencing. We had limited teleconferencing of any kind. We were in two different time zones, Anchorage and Juneau. It was an extremely inefficient, cumbersome and economically wasteful division of offices.

At the time I was appointed to the Supreme Court, the court clerk's office was located in Juneau. Eventually, that office moved to Anchorage because most of the business of the court is in Anchorage. I was traveling to Anchorage essentially one week a month for oral arguments. And then the other three weeks, I would probably be in Anchorage one day of each week. Special sessions of the court required me to come to Anchorage.

There were multiple records in each case because we had three justices in Anchorage, one in Juneau and one in Fairbanks. So records were in triplicate. It was just a wasteful, burdensome system. And there was no special benefit to being in a location other than Anchorage. Cases are assigned on a random basis. Motions are assigned on a random basis. The days when attorneys used to make appointments with justices and go to their offices to get orders signed for temporary restraining orders, for instance, similar appellate orders, were long gone.

MR. MIDDLETON: *I miss those.*

JUSTICE COMPTON: A lot of lawyers do. Some lawyers still say 'why can't I just go see a justice anymore?' But I discussed it with John Dimond and several other people who were of the view that the court should have been put under one roof many years before.

And the court rules actually had been amended prior to my appointment to the bench, though subsequent to Justice Boochever's appointment, to provide that a justice shall live in Anchorage unless the Chief Justice or the court approves of the justice living elsewhere. So I think it was at the time the right move. And it was one that was, I know, greeted with enthusiasm by then Administrative Director Art Snowden, who has for years believed that the court should be under one roof.

So that's how I got to Anchorage. I mean, I felt like I was not a resident of either place because I spent a significant amount of time in Anchorage and yet I lived in Juneau. And I think perhaps today with communication becoming much more accessible, video communication, telecommunication, electronic communication, it's less of a problem. But still when you have only a question or two to ask one of your colleagues or you want to sit down and talk about an administrative matter, for instance, that doesn't involve the whole court at the time, you either are forced to play phone tag or you can just walk down the hall and say, you know, is so and so in, yes or no, and walk away or walk into his or her office.

MR. MIDDLETON: *Give me some of the cases that you worked on, perhaps wrote opinions for or authored opinions that you particularly like. You had suggested Valley Hospital, I know, at one point earlier on.*

JUSTICE COMPTON: It's easier to remember cases that you've been involved in more recently than those that

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Justice Compton reminisces about his career

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might have been as important to you years ago, but the names don't come up in the mental computer.

But the *Valley Hospital* case was a case that I think in some ways is a paradigm for the process. First, I think the result is correct, although I would never deny that there is not a sincerely held responsible view to the contrary. But I believe the result is correct. I believe its reaffirmation of individual private rights is very important. And so I think that the result is correct. I think it's a well-crafted opinion. And I think the process by which it was crafted was one in which the court really acted as we would like to believe courts act in all cases, in that it was a collegial product.

Much of the language of the opinion, I'm sure, could be traced to the pens of others, whether it be my colleagues on the bench, whether it be law clerks who added comments here and there. It was truly, though, a process in which the members of the court were very involved. And the product is what, as I say, I think we like to think of as the product should come from a collegial process. So I think it's an important case from several different standpoints, some of which are not readily apparent to the reader.

Going back, other cases which just pop into my mind that have had a significant impact on the state would include *State v. Weiss*, the first Mental Health Trust Lands case. That ended up spawning over a decade, I guess, litigation which was certainly not, I don't think, an anticipated or desirable result, but maybe a necessary one to thrash out the issues that the case required to be handled at the trial level. But I think the case is important from the standpoint of assuring that the state faithfully carried out its trust responsibilities under the laws by which we became a state. And certainly, for the class of people to be benefitted, it's of great benefit to them.

State v. Neakok established the responsibility of the state to private parties when the state has information regarding, in that case, a parolee that would cause people to be in fear of the parolee, specific people, not just people in general, but where the state had knowledge that this particular parolee was a definite threat to certain identifiable people. And the state did not warn them of that potential. And the trial court held the state liable under a number of different theories. We reviewed the case and affirmed the trial court. It was not a unanimous decision.

MR. MIDDLETON: *Three to two, I think.*

JUSTICE COMPTON: I believe that's correct. But the case has not been challenged. And I think it's an important case because I think the state has to acknowledge that it is responsible to its citizens in some particular areas that may be painful from the standpoint of the state's pocketbook, but it can't simply hide the ball and avoid its own responsibility. There were a number of other cases in which I participated that have been significant, *McDowell.*

MR. MIDDLETON: *Tell me of McDowell.*

JUSTICE COMPTON: Involving natural resources. And *Madison v. the State* or *State v. Madison*, which again involved the state's limitation on disposition of fish and game. The *McDowell* case has led to a great deal of controversy that now goes on and has gone on in the state over such issues as subsistence preferences. I think natural resources cases, whether they involved those resources such as timber and land or whether they involve fish and game, have been significant in the landscape of appellate jurisprudence in this state for the past 10, 15 years, 20 years. Also, the court has been involved in cases that have attempted to define the relationship between the state and Alaska Natives to the extent that these are state issues and to the extent that they are federal issues being adjudicated in state court.

MR. MIDDLETON: *You mentioned a while back that from time to time, you would conference on rules. Were the rules also a significant part of your life on the court? Did they actually accomplish something other than reams of paper?*

JUSTICE COMPTON: They are—or I should say they have been a significant part of being a Supreme Court justice during these many years. And I'm sure they will continue to be. I'd like to think that at some point, we would get where we could say enough is enough. Everything is fixed. We can't do it any better. But regularly, we seem to find the rules fall short. And we tend to think that we can fix the shortfall by changing the rule, by adding to it, by amending it.

Yet I think over the period that I have observed the court, it has done a lot through its rules to try to make the courts of the state more accessible for people. We have been a pioneer in such things as telephonic proceedings. There are some states, I believe, that still do not allow telephonic proceedings of any kind. Our allowance, our sanction, our approval of telephonic proceedings is very comprehensive. Video conferencing, video arraignments, for instance, seem like a small matter until you realize the cost and the inherent danger in transporting prisoners from locked facilities to courtrooms and back. The kinds of innovations that the Alaska Supreme Court has allowed in those areas through its court rule-making power are significant and I think have been of great assistance to those who use our courts, whether it be law enforcement officers, lawyers to private citizens.

We've done some things—just having a web page, for instance, the Alaska Court System web page—using modern technology to our purposes in that way, having an 800 number so people can call up and get certain information. When you consider the vastness of this state and difficulties in traveling, transportation, you want to make it as easy on people as you possibly can to use the courts. And I think the court system through its rules and through the innovations suggested by the administrative staff have been important and very beneficial.

MR. MIDDLETON: *Now, mind you, I no longer seem able to go to the Supreme Court justice of my choice and obtain a stay, which I always felt was an extraordinarily important right. But nonetheless, do you think that the court system is more accessible generally today than it was before?*

JUSTICE COMPTON: Yes. I think the court system generally is more accessible to people. And a conscious effort is made by court system administration with the blessing of the Supreme Court and the trial courts to assure that to the maximum extent possible, those people who work for the court system, who come into direct contact with the public, with the lawyers, with pro per litigants or with the public generally, which includes people who are just inquiring, are trained so that they can assist people in the simple ways that people often need and not shunt them off to lawyers or to some agency that isn't going to help them. I think the court's been very receptive to meeting those needs. Because a person shouldn't have to come in and be intimidated by a rather monolithic, closed-mouthed and stubborn institution.

MR. MIDDLETON: *And actually, the courthouse in Anchorage, the current courthouse looks to me to be more inviting, more open than perhaps the older former building. Intentional?*

JUSTICE COMPTON: Oh, very intentional, yes. Just because a facility is a public facility doesn't mean that it has to be gray and ugly. It can be a pleasant environment without becoming an ostentatious theater or convention center. I mean, you can design it so that it is both functional and attractive so the people who have to be there or the people who choose to be there feel like they are in a place that isn't threatening. And courts are threatening to most people, anyway, by their very nature. But you can minimize that. And I think that those who designed the new Nesbett Courthouse, for instance, and who are designing the courthouse to be built in Fairbanks, have a good eye for trying to make the court as open and attractive and unthreatening a place as possible.

MR. MIDDLETON: *Tell me, did you have anything to do with the selection of some of the art for the Nesbett Courthouse?*

JUSTICE COMPTON: Oh, yes. I was a member of the art selection committee at the time that that building was built. A certain percentage of the funding from each public project was set aside for art. And we had a committee. Several people, several other judges, court system personnel and people outside the court system who are involved in the art community selected the works that you see in that building today.

MR. MIDDLETON: *And are part of those selected for the openness, the invitation, if you will, to the building?*

JUSTICE COMPTON: Yes. The invitation to the building, to make it look more human, to soften it. Part of it is theme. Part of it is Alaska history. Part of it is simply easy on the eye art that takes the natural setting of the building, the way it faces, the way it's built and weaves into that artwork that is both pleasing to the eye and well done.

MR. MIDDLETON: *Let me ask you about law clerks. Do you keep in touch with your law clerks?*

JUSTICE COMPTON: With many of them, yes. I do keep in touch with those here in Anchorage, many of whom I see regularly. Those who are outside, I communicate with by card, by phone, by e-mail. And if I happen to be in the community in which they live, why, we usually get together. I have several in the Bay Area who I see whenever I go there. And others are sprinkled around the country.

MR. MIDDLETON: *What is next for you?*

JUSTICE COMPTON: I am working *pro tem* finishing up cases that started before I retired. I have also been asked to sit *pro tem* on the superior court in the first and fourth judicial districts, which I will be happy to do, as they need assistance. And I am available for private dispute resolution such as mediation, arbitration, settlement, trial and related matters.

MR. MIDDLETON: *Good luck, and I'm sure I speak for the entire Alaska Bar when I say thank you for your many years of service..*

Perkins Coie adds four new attorneys

Perkins Coie LLP announced the addition of four new attorneys to its Anchorage office. "Expanding our office in Anchorage strengthens our resources and gives us a broader base from which to serve our clients," said James N. Leik, managing partner of Perkins Coie's Anchorage office.

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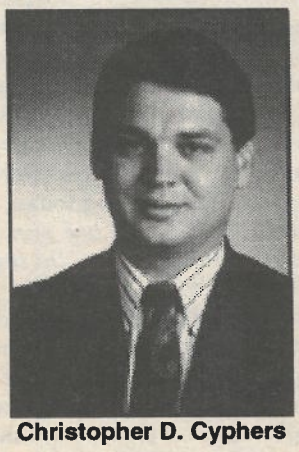
Christopher D. Cyphers

Christopher D. Cyphers, who will head the firm's business and technology practice in Anchorage, joins the firm as Of Counsel. Cyphers focuses his practice on corporate law, debt and equity securities, intellectual property transactions and general business transactions. His background includes practice with Wilson Sonsini Goodrich & Rosati, P.C. in Palo Alto, California, and with Akin, Gump, Strauss, Hauer & Feld, LLP in Houston, Texas. Prior to joining the firm he was CEO and General Counsel for CyTex Laser Media Solutions, Inc., in Austin, Texas. Cyphers received his B.B.A., with honors, from the University of Texas at Austin, College of Business Administration in 1989 and his J.D. from the University of Texas School of Law in 1991.

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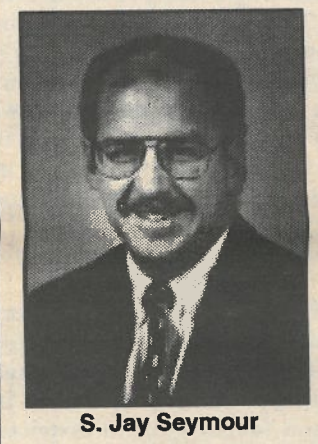
S. Jay Seymour

S. Jay Seymour joins the firm as Of Counsel in the firm's labor and employment practice. Seymour has represented and advised a broad range of Alaska employers for over a decade. He also speaks frequently on topics of interest to employers. Prior to joining Perkins Coie, he practiced with Foster Pepper & Shefelman, Lane Powell Spears Lubersky, and Bogle & Gates, all in Anchorage. Seymour received a B.A. in psychology from the University of California at Santa Cruz in 1977 and his J.D. in 1986 from Willamette University College of Law, where he was associate editor of the Willamette University Law Review.

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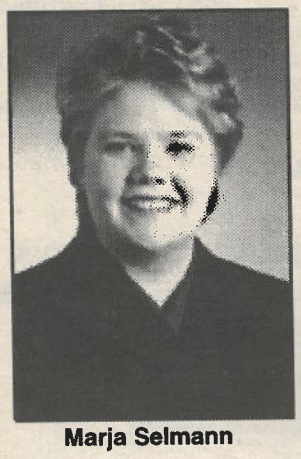
Marja Selmann

Marja Selmann joined the firm as an associate following completion of her terms as Law Clerk to the Hon. Karen L. Hunt, Anchorage Superior Court, and to the Hon. Robert G. Coats, Alaska Court of Appeals. Selmann received her B.A., magna cum laude, from Pacific Lutheran University in Tacoma, Washington, in 1992. In 1995 she received her J.D. from the University of Washington School of Law, where she was a member of Order of the Coif and a member of the Washington Law Review.

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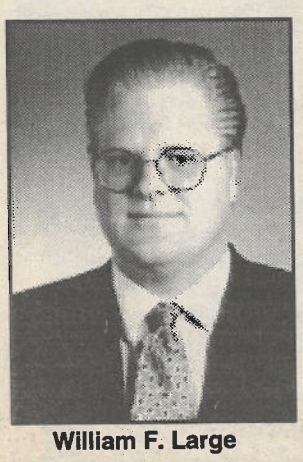
William F. Large

William F. Large joins the firm as an associate in the firm's litigation practice. He received his B.A. from Massachusetts Institute of Technology in 1992 and his J.D. from Harvard Law School in 1995. He was a Law Clerk to the Hon. Andrew J. Kleinfeld of the Ninth Circuit Court of Appeals.

Bar People

The law office of **James Allen Wendt** has moved to 425 G Street, Suite 600, Anchorage, AK 99501.....Trevor Stephens is leaving the D.A.'s office and returning to private practice.

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Attorney completes course

Sheri Hazeltine, Attorney of the Alaska Department of Revenue in Juneau, Alaska, has completed the *Administrative Law: Fair Hearing* course held November 1-13, 1998 at The National Judicial College, in Reno, Nevada.

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Saville named "Best Lawyer"

"The Best Lawyers in America," a publication regarded as the legal profession's definitive referral guide, has selected **Sandra K. Saville**, a Family Law attorney at Foster Pepper Rubini & Reeves LLC

in Anchorage, for inclusion in its 1999-2000 edition. Lawyers are selected by their peers for inclusion in the publication based on experience and competence.

Copeland, Landye, Bennett and Wolfe, LLP hires new associate

Copeland, Landye, Bennett and Wolf, LLP recently hired **David A. Voluck** as an associate in the Anchorage office of the firm.

Voluck served as the director of the department of law and trust resources for the Sitka Tribe of Alaska before joining Copeland, Landye, Bennett and Wolf, LLP. He will focus his law practice on issues affecting Native American tribes, Alaska municipal corporations, and Alaska Native corporations. Voluck graduated from the Northwestern School of Law and received a Certificate in Environmental and Natural Resources Law.


David A. Voluck

Inaugural balls benefit children

Governor Knowles and Lt. Governor Ulmer have invited the Friends of the Alaska Children's Trust to sponsor their upcoming Inaugural balls. During January, we will host three inaugural celebrations around the state – with all proceeds donated directly to the Alaska Children's Trust Fund.

The Alaska Children's Trust serves as a funding source for hands-on, community based child abuse prevention projects. The interest earnings of the Fund are invested, in the form of grants, in proven child prevention projects in local communities.

Sponsorships range from $5,000 - $25,000, with tickets to each of three inaugural balls and luncheon:

January 23, Juneau Ball, Centennial Hall, 8 pm.

January 29, Anchorage Ball Sheraton Hotel, 8 pm

January 29, Anchorage, Sponsor Appreciation Lunch Location TBA

January 30, Fairbanks Ball, Westmark Hotel, 8 pm.

For more information, call (907) 248-7676.

— All items submitted as press releases —

You are cordially invited to attend

an informal reception in honor of the

retirement of Anchorage District Court Judge

William H. Fuld

on Friday, the twenty-sixth day of February

nineteen hundred and ninety-nine

two o'clock through five o'clock

in Courtroom 302

Nesbett Courthouse

Reception hosted by the Anchorage Bar Association

Judge Fuld is retiring after sixteen years of service.
If you wish to contribute towards a retirement gift
please forward your contribution to
Gwendolyn Lyford, Area Court Administrator
825 West 4th Avenue, Anchorage, Alaska 99501
(please make checks payable to Gwendolyn Lyford)

Attorney Discipline

LAWYER ADMONISHED FOR WRITING SELF INTO CLIENT'S WILL

Client was a married man who wanted to divorce Wife before he died of cancer so that he could leave his estate to his girlfriend. Attorney X represented the client in the preparation of his will; Attorney Y represented the client in his divorce.

Wife's grievance alleged several acts of misconduct by the attorneys. Bar Counsel declined to open investigation or found insufficient evidence of misconduct as to most of these allegations. But several days before he died Client signed a will codicil giving $10,000 each to Attorneys X and Y. Under Alaska Rules of Professional Conduct 1.8(c) it is a conflict of interest for a lawyer to prepare an instrument, including a will, giving the lawyer a substantial gift.

When the codicil was signed neither Attorney X nor Attorney Y had been paid and Client had no cash or present ability to pay them. It appeared that the testamentary gift was an attempt to reimburse the attorneys for professional services. There was no evidence that Attorney Y, the divorce lawyer, knew about the bequest at the time; Bar Counsel dismissed the grievance against him. Attorney X should have advised Client to consult another lawyer about the gift to him. By drafting the bequest himself, he violated Rule 1.8. But he renounced the gift when Wife complained about it.

Bar Counsel determined that the violation was negligent and harmless. An Area Discipline Division Member approved Bar Counsel's request to impose a written private admonition, and Attorney X accepted the discipline.

OUT-OF-STATE LAWYER ADMONISHED FOR SECRETLY TAPE-RECORDING CLIENT

Attorney X is a lawyer from another state who appeared pro hac vice (under Civil Rule 81) in an Alaska case. As the case progressed there was a breakdown in communication between the attorney and the client. According to Attorney X, the client kept changing his mind about the objectives of the litigation, gave confusing instructions, lied to Attorney X, and threatened him with legal action, making it difficult for the lawyer to meet commitments or to satisfy the client. The lawyer began to tape record and transcribe his telephone conversations with the client because, according to the lawyer, he needed an accurate record of conversations to work from and because he wanted to protect himself from a charge of malpractice. When, indeed, the client sued Attorney X, he provided the transcripts in discovery.

According to Attorney X, in his state it is not illegal for one person to tape record a conversation with another, and it is not unethical for a lawyer to do so. In Alaska it is not illegal for one layperson to tape record another, but under Ethics Opinions 78-1 and 91-4 it is deemed deceptive, thus unethical, for a lawyer to do so. As a Civil Rule 81 lawyer, Attorney X was obliged to comply with the Alaska ethics rules and opinions, and under Bar Rule 9(c) he was within the jurisdiction of the Alaska disciplinary enforcement system.

Bar Counsel determined that Attorney X's violation was isolated, technical and relatively harmless. Bar Counsel received approval from an Area Discipline Division Member to impose a written private admonition, the lowest level of discipline available. Attorney X accepted the admonition.

Libraries, the Internet, and the First Amendment: Strategies for the future

The Internet is now a necessary resource for libraries of all types and sizes. In addition to providing access to information never before available in most libraries, it also brings a unique set of problems -explicit sexual material, hate speech, and information that is just plain wrong.

June Pinnell-Stephens, former president of the Freedom to Read Foundation and member of ALA's (American Library Association's) Intellectual Freedom Committee, will explore the nature of the Internet in a free day-long workshop on issues of Intellectual Freedom. She will cover:

- legal aspects of providing access to the Internet in the library
- software filters and ratings systems
- how to plan and present the Internet to the community.

The goal is to give librarians, trustees, administrators, school board or assembly members, and the general public the information they need to make decisions about providing Internet access to their communities. The public is invited to attend. For more information, call Pat Pauley at 343-2830.

CIRCLE MAY 12, 13 & 14, 1999 ON YOUR CALENDAR

Mark Your Calendars Now!

The 1999 Annual Bar Convention is May 12, 13 & 14 in Fairbanks!

Don't miss the events below during the Alaska Bar Association Annual Convention in Fairbanks on May 12, 13 and 14, 1999! We will meet jointly with the Federal and State Bench! The Fairbanks Princess Hotel is the official convention site.

CLE SEMINARS

Trial Advocacy Skills, Part III: Bridging the Cultural Gap: Interviewing Alaska Native Clients & Witnesses (May 12)
Presented in cooperation with the Alaska Trial Lawyers Association, the Federal Defender's Office and the Alaska Public Defender Agency. This program is part of an ongoing series that began with "Voir Dire" in Juneau and "44 Winning Tactics to Use Before Trial" at the Girdwood Convention in 1998.

Scientific Evidence: Daubert & the Admissibility of Expert and Non-Expert Testimony (May 12)
This program from Harvard Law School, part of The Fred Friendly Seminars, will feature panelists on all sides of this issue.

US Supreme Court Opinions Update (May 13)
with Professors Arenella & Chemerinsky -- An Encore Presentation!

Domestic Relations Alaska Appellate Update (May 13)
with Professor Milton Regan from Georgetown University Law Center

Legal Research -- in cooperation with West Group (May 13 & 14)
An interactive, hands-on legal research program that will start with the "nuts and bolts" and walk you through to more advanced searches.

Advanced Legal Writing & Editing with Bryan Garner -- Back By Popular Demand! (May 14)

State of the Judiciaries Address (May 14)
with Chief Justice Matthews and Chief Judge Singleton

Alaska Bar Association Luncheon & Annual Meeting (May 13)

SPECIAL EVENTS

Awards Banquet, Thursday, May 13th
The Ever-Popular Poetry Reading, Thursday, May 13th
5K Fun Run, Thursday, May 13th
President's Reception, Friday, May 14th
A Tanana Valley Bar Association Special Event is in the works!

Keep an eye out for your convention brochure. It will be mailed in March.

TALES FROM THE INTERIOR

Publicity ☐ William Satterberg

Until recently, for lawyers, advertising was conducted primarily by word of mouth. Larger law firms, with their sterling reputations, oak banisters, and real gray wool suits could attract the institutional clients, which were usually inherited from some long dead "of counsel" practitioner. The more boutique practices (such as mine), on the other hand, had to forage through the remains much like the remoras who follow the sharks.

True, every so often, a big case lost in the shuffle would stagger through the door. Unfortunately, those arrivals were scarce. When they would materialize, even the hungry practitioner would still be suspicious. The syndrome of "I'd hate to be seen with a girl who would go out with a guy like me" was alive and well, which meant that the case would be sent out the door due to its likely nonmarketability. After all, why would such a great case merit such a new attorney?

Once law schools started requiring mandatory ethics classes, things changed. Advertising became chic. The practice grew. Although some austere law firms were initially reluctant, in time, virtually everyone joined the feeding frenzy.

Every year, I now enjoy reading the telephone book to determine which lawyer has the biggest ad. The only thing that is virtually certain next to taxes is that local attorney Rita Allee will appear on the back cover of the Fairbanks MUS directory. But Rita is not to be lightly outdone, however. Another equally handsome pair of visages adorn the back cover of the alternate telephone directory in Fairbanks—brothers Ward and Mark Merdes. Together, these ambitious counsel have garnered 100 percent of the telephone book market. Plastic telephone book cover sales have been encouraging, I'm told.

The telephone directory legal section provides a wealth of artistic delights and proclamations of ability which ethically indicate "with emphasis on" as opposed to "specializing" (which apparently is still improper). To add spice, there is now a batch of logos available for added cost with scales of justice, people weeping over car wrecks, and hapless drunks being hauled to jail in handcuffs. In addition, we are able to select from various airbrushed photographs of local attorneys. Psychologically, it apparently makes clients think that they are going to visit some sort of famous movie star. (*Practice Pointer:* When using a photograph of yourself, such as with your byline in a regular publication, always make sure it captures your true essence. After all, first impressions count.)

Advertising doesn't simply stop in the telephone book. Some enterprising law firms have even taken to billboards. Fortunately, a constitutional amendment recently passed in Alaska prohibits billboards. But that amendment doesn't say anything about blimps or other aerial displays.

Nothing prohibits television advertisements, either. My favorite television shows are now interrupted by the screech of tires, the sound of a terrible "crash," and resulting sirens, to be quickly followed by a professional announcer's voice extolling the virtues of (usually) an Anchorage attorney. Personally, I feel that this is deceptive advertising. This is because I believe, as a fellow professional, that my initial excitement over screeching tires, crunching glass, rending metal, and sirens should not be ruined by the announcement of some lawyer claiming that he can do the job better than I. Besides, why should we have to watch Anchorage lawyers invading our Fairbanks territory? I wish I had thought of the ad first.

Stated simply, advertising has definitely become the norm.

But it wasn't always that way. In fact, until advertising became vogue, the only methods which were recommended for getting lawyers' names out to the public were either to offer classes in subjects of genuine public interest and then attempt to hook the unsuspecting audience, or to engage in cases which attracted trial publicity. Because I have never been much of an instructor (since I slept through most of my classes and never really learned how to teach), I chose the publicity approach. Even then, it took me a long time to realize the benefits of publicity, since, ordinarily, only the public defenders and the district attorney's office reap the benefits of those forums, neither of whom still truly appreciate referrals.

With time, however, I was to learn that trial publicity is, by far, the best form of advertising. Not only do you sometimes make the front page, but it generally is free, except for the obligatory Christmas gifts. There are some tricks, however, which need to be learned prior to engaging in such an approach.

First of all, one reason that trial publicity exists is because you have taken on a cause which no one else wants. In this regard, there are two basic types of matters which readily lend themselves to such publicity.

In some cases, you are representing a heinous (alleged) criminal. The criminal has most likely done some dastardly deed, has already sworn a blood curse that he will never pay you, and has also declared that, if he loses the case, he will reward you in other respects. Invariably, this promise usually gives you justification to beg the court for a very long sentence if a conviction enters. Still, these types of pathological criminals make for great media coverage. This is because, at trial, television cameras and photographers go crazy over the gruesome snarling face, gutteral growls, wild bloodshot and watery eyes, and other theatrics. Not that you should do all of these yourself, of course. Instead, try to leave something for your client to do as well. Criminal cases are also very good because, as we all know, your client is always guilty, regardless. As such, this makes for great press when an unexpected acquittal enters, and the camera zooms in on your astonished face. (*Practice pointer*: When an acquittal results, take your victory modestly. In short, brag lavishly. Moreover, don't limit yourself just to acquittals, or you'll never see yourself on TV. Being a good defense attorney, one should never hesitate loudly to declare an 11 to one mistrial a resounding victory for the defense, regardless of cause. But always remember! If the case is lost, the client, and not yourself, always lost it. The lawyer wins cases – the client loses them.)

The second type of case which usually garners substantial press exposure is that civil case which is popularly known as the "lost cause." It is what I prefer to call the "Mikey will eat anything" referral, or the "it couldn't be done" case.

The nice thing about the "Mikey will eat anything" case is that, even if it obviously can't be done, nobody is particularly disappointed in you, regardless. This is because everyone said it couldn't be done and, predictably, you proved these people to be correct. With the exception of your client, they appreciate the fact that you have not turned them into liars. They actually like you for it, even if they will never use you, themselves. Depending upon how long you've spent vainly developing the case, even your opposing counsel may send you a stale fruitcake at Christmas.

On the other hand, if you are successful in these long shot cases, you can give all sorts of interviews and seminars throughout Alaska, until such time as the Supreme Court decides to reverse the case on some grounds previously unargued before the trial court, not raised as a point on appeal, and decided upon *sua sponte* by the Court exercising its ineluctible duty. But don't despair. Recognizing that appeals can easily take over four years to be decided even after oral argument, you can still have your time in the limelight in the interim.

Now for some additional practice pointers with respect to how to treat the news media.

CULTIVATE REPORTERS

Always cultivate the news media, but not in the same way that one of my clients cultivated his victim. Spend time speaking to news reporters and getting them sympathetic with the difficulty of your case. If worse comes to worst, disclose the meager amount of fees which you are being paid. In short, do anything to gain sympathy. Most of all, make sure the reporters know how to spell your name. Finally, if the relationship looks like it will be ongoing, generously send them a fruitcake at Christmas, even if it is the same one that the lawyer sent you the previous year for your "Mikey" case.

PHOTO OPPORTUNITIES

Always be aware of photo opportunities, i.e., the proverbial "Kodak moment." I missed one of these once, when a good friend and co-counsel of mine escorted my well-dressed client to the bathroom while I was arguing law in a rare moment before the court. During the break, a news reporter photographed the two. Remarkably, the picture made the front page the next day. A framed copy of the photo now hangs proudly in my co-counsel's office. I lined the office lizard's cage with my copy. (Our office has a live-in iguana.) In addition, when your picture is taken, be sure that the lawyer is clearly identified. The only trouble with the above-discussed picture was that many people later indicated to me that they initially had a hard time deciding which person was which. Put a suit on a client, and he looks like a lawyer. Put a suit on a lawyer, and he looks like a criminal. Maybe I was lucky I didn't make the front page after all.

As an additional practice pointer, when your photograph is taken, be sure to give that "I know more than I am telling you" smug look to the camera. My co-counsel did just that in that particular case, with a knowing little smile which was actually the result of acute gastric upset over something I had said in court. Still, the public thought he was smart.

THE INTERVIEW

Sometimes, newspaper reporters will even consent to interview you. Usually, this is after you have lost a case. On the other hand, sometimes a reporter will contact you prior to that outcome. Certain district attorneys have even had public interest stories done about them. Defense attorneys are never so lucky.

In doing your interviews, always be careful that you are not misquoted. On the other hand, always leave enough guessing room available, so that, if things do not come out the way you predicted, you can indignantly claim that you were misquoted, if anyone will listen. Accept in advance that the reporters are going to write down whatever they choose, paying particular attention to creative misspellings, misquotes, and with the full realization that *New York Times v. Sullivan* provides a tremendous degree of protection to the press.

The best rule to follow in the event that you are interviewing with a newspaper reporter and are worried about what you will later read in the article is to practice the policy I use. I simply don't buy the paper the following day. Then I don't have to care, even if the lizard's cage does need the newsprint.

TV INTERVIEWS

Television interviews are something different. Invariably, the television news reporter will ask for an interview at a most impromptu time. You have worn your best J.C. Penney polyester suit to the office—the one that shines in the dark, with the fly that always seems to drop or get jammed at the worse possible moment. You have spilled spaghetti sauce on your only white shirt. At that moment the reporter shows up, floodlights blazing, and begins to film you in front of a backdrop which will lend credibility to the case. Nine times out of ten, it is in front of your home, the location of which you have tried to keep secret from your clients for years.

During television interviews, always resist the urge to check your fly. Cameras are great on zooming in on this particular thing. It always seems to be the one thing the viewers remember. And, if possible, try to choose your attire tastefully. An experienced attorney told me many years ago that if I were worried about what to wear when conducting an interview, simply take a look at how our President dresses. After all, he is on television almost daily. The advice is sensible, but try to wear an unstained suit, and definitely leave any cigars at home, even if you are celebrating a

Continued on page 21

TALES FROM THE INTERIOR

Continued from page 20

victory. The mere appearance of a cigar nowadays could impair, if not impeach you.

As for poise, when speaking to the reporter, look straight into the camera, even if you have to stand on a chair. All too often, we forget ourselves and begin looking around, smiling, or making wisecracks. For whatever reason, these are always the antics that show up on television. Avoid the urge to cut up. Instead, look directly into the lens and pretend that you are talking to yourself. In so doing, you have the added benefit of putting yourself to sleep. Even though none of your friends will believe you, those viewers who don't know you will say that you looked quite credible.

NATIONAL ATTENTION

I no longer confine myself simply to local television media in Fairbanks and Alaska. Rather, I have now expanded to the national scene.

Recently, I filed a lawsuit against the State of Alaska seeking damages for the now famous Raejean Bonham Ponzi scheme. Raejean Bonham has done for lawyers in Fairbanks what the *Exxon Valdez* did for lawyers in Kenai. Not wanting to be left in the dust, even though I was eventually disqualified from further representation in the case for other reasons, I nevertheless did enjoy a period of time in the limelight. I even made the *Wall Street Journal*, as did some other Alaska counsel. For those of you who are interested, the issue was the August 13, 1998, edition.

For my part, I spent over two hours interviewing with the *Wall Street Journal* special reporter on the case. My valuable time and trouble earned only one column inch of fame in the second section of that cheap rag. If historians truly say that everyone is entitled to 15 minutes of fame, I am entitled to a replay. Accordingly, I have reproduced the entire excerpt of my 15 minutes of fame for the readers' review below. If you read and re-read extremely slowly, you might be able to make the full 15 minutes:

Meanwhile, World Plus has triggered a flurry of investigations. The Securities and Exchange Commission, the Internal Revenue Service and Alaska's division of banking and securities are all looking into it. Fairbanks attorney William Satterberg has filed a class action suit against the state on behalf of 500 investors charging state regulators ignored early warnings about the scheme. Mr. Satterberg, who keeps a two-foot-long iguana in his basement office, hints darkly that top state officials are involved.

What was particularly distressing about the article was that my iguana, who has been the office mascot for several years, received even greater exposure than myself. What was even more distressing, but predictable, was that the length of my iguana was under-reported as being only two feet. In point of fact, my iguana is closer to four feet long. And if you doubt me and ever want to come to Fairbanks and see my iguana, I will be happy to show it to you.

After my bout with the *Wall Street Journal*, my depression was lifted when I received a phone call from *Dateline*. Essentially, it went like this:

"Hello, Mr. Satterberg? I'm calling from *Dateline*."

I responded, incredulously, whispering into the mouthpiece, "Dateline! You're that 900 number? I paid that bill! I thought I told you folks never to call me at the office about a bill again!"

Eventually, the reporter realized that I was pulling her leg. Although *Dateline* ultimately did not produce its story, I like to think that it didn't have anything to do with what I might have said.

My final episode with the big time occurred in October of 1998, when I was contacted by the marijuana aficionados' magazine which was mandatory reading during my college years, *High Times*. Apparently, the senior editor had learned of my exploits. Not letting any grass grow under his feet, he contacted me to do an interview about a case which is currently heading up to the Alaska Supreme Court for review with respect to the constitutionality of the State's marijuana initiative, *Walker v. State*.

Once again, the reporter and I spent an inordinate period of time on the phone. Most of the time, however, seemed to be redundant. In the end, I suspect that I answered many questions more than once. Then again, perhaps the reporter wanted to get things right. Sort of a "Cheech and Chong" thing. But I am hopeful. If all goes well, the interview came out in the February, 1999, issue of *High Times*, just in time to again change the lining in the iguana's cage. Who knows, I may still get my 15 minutes of fame, even if the readership probably will not remember for long. In fact, given the readership, I might even get as much as an hour or two out of a column inch. ("What?" You say. "No comment," is my standard reply.)

Increase commitments slowly to build trust

BY TREY RYDER

Getting your prospect to write that first check, or sign your fee agreement, can be an obstacle. For some prospects, a major barrier. The size of the barrier is based on...

1. How familiar your prospect is with hiring lawyers. Some people don't hesitate to buy a $40,000 car because they have bought many cars before. But if they have never hired a lawyer, their lack of familiarity can be a stumbling block.

2. Your prospect's previous experiences with other lawyers. If your prospect has been burned by one or more lawyers, he will be much more skeptical and cautious when the time comes to hire another.

3. What your prospect has at risk. If your prospect faces a speeding ticket, he might risk a fine of $150. But if he is on trial for murder, he could risk going to prison for life. As your prospect's risk increases, the importance of making the right decision also increases.

4. How easily your prospect can cancel his commitment. Everyone feels better when they have an escape clause. Lawyers can relate to being faced with a long-term commitment when they face an agreement to buy a 12-month ad in the yellow pages.

You make your prospects more comfortable with the process of hiring your services by easing them in slowly, and increasing their commitment little by little. To increase trust and win a new client, follow these six steps:

Step #1: Offer free materials your prospects can request by mail. The commitment (calling your office) is next to nothing. When they read your materials, they give you a commitment of their time. This begins the process of making them familiar with you and your services, and starts increasing their commitment to you, even though they haven't hired your services.

Step #2: Invite prospects to free seminars. Attending your program is a larger commitment of your prospects' time and requires more effort. This dramatically increases their familiarity with you, which is one reason seminars are powerful marketing tools and give you a significant edge over competitors.

Step #3: Send a monthly newsletter. Reading your bulletin or alert requires a commitment of their time and continues to raise your credibility and familiarity.

Step #4: Invite prospects to seminars and charge tuition. This is more common for lawyers and law firms that seek business and corporate clients. The most beneficial seminars for gaining corporate clients are those where the tuition is not based on the value of the information but, instead, on covering the cost of the written materials given to attendees.

Step #5: Offer your services in a way that minimizes your prospects' risk. One of my clients went as far as offering a money-back guarantee for legal services if his clients weren't satisfied. As far as I know, no one ever asked for a refund. Other lawyers guarantee to reduce their fees if clients are not pleased.

Another way to make prospects feel comfortable is to provide them with a detailed written description of what they will receive for services and the fees involved. When prospects have service descriptions and fees in writing, they feel more comfortable and better protected.

Step #6: Offer an introductory period. If you have ongoing monthly arrangements with clients, you might consider offering a 60- or 90-day trial period. After this time, your prospect could cancel without penalty, or perhaps you could offer a 30-day cancellation provision, which lets them off the hook. The fact is, your prospect might be able to cancel your agreement even without the "trial period." But when you label it a trial or introductory offer, you create the appearance of a lesser commitment, which prospects often find inviting.

I suggest you do two things regarding prospects' commitments:

First, reduce the appearance of a commitment for prospects who are not yet ready to take what they perceive to be a major step.

Second, start with small commitments. Then increase the number and degree of commitments until the prospect hires your services or takes whatever action you want him to take. Or until you give up and remove his name from your mailing list.

Trey Ryder specializes in Education-Based Marketing for lawyers. He offers a free fact kit that includes "7 Secrets of Dignified Marketing" and "17 Fatal Marketing Mistakes Lawyers Make". To request a fact kit by mail, call 1-800-876-5783 or e-mail trey@treyryder .com.

MCLE Rule update

STATUS

The MCLE Rule is still under review by the Alaska Supreme Court.

"BANKING" PERIOD FOR CLE CREDITS

We have received many calls about this.

The proposed Rule allows members to "bank" approved CLE credit hours earned in the 12 months prior to the beginning of their first reporting period. These credits would apply toward satisfying the requirement for the first reporting period.

If the Rule is approved, the Bar office can not predict when the 12-month "banking" period would begin. The dates for the 12-month "banking" period will depend on

1. the effective date of the Rule — it could be January or July

2. the actual reporting period for each member. The proposed regulation calls for Bar membership to be divided into 3 groups each reporting in a different month: April, August OR November.

Your "banking" period could begin by counting back from April, August **OR** November.

Until the Supreme Court acts on this proposed Rule, it is not possible to predict when your 12-month "banking" period would end or begin.

Bar members should keep a record of all non-Alaska Bar CLE attendance. We automatically keep records of your attendance at an Alaska Bar CLE.

If you want to request that a non-Alaska Bar CLE activity be considered for CLE credit, call Barbara Armstrong, CLE Director or Rachel Tobin, CLE Assistant, at the Bar office: 907-272-7469/fax 907-272-2932/e-mail armstrongb@alaskabar.org OR tobinr@alaskabar.org

1-800-478-7878
Call the number above to access the Alaska Bar Association Information Line.
You can call anytime. 24 hours a day.

Book is not just another treatise you can't afford

BY FREDERICK H. BONESS

Book Review

"Business and Commercial Litigation in Federal Courts"

Because few practitioners in Alaska likely tout themselves as full time litigators of business and commercial disputes in the federal courts, the six volume, 80 chapter treatise "Business and Commercial Litigation in Federal Courts" edited by Robert L. Haig and published jointly by the West Group and the Section of Litigation of the American Bar Association might easily be overlooked by members of the Alaska bar.[1]

This would be unfortunate because the treatise contains a thorough and detailed discussion of many procedural and substantive law issues which should prove helpful to attorneys litigating a wide range of matters in both the state and federal courts of Alaska.

Editor Haig is clearly impressed with the credentials and pedigree of the 152 contributing authors and seems to accept as a given that the "best and the brightest" commercial litigators reside largely, if not exclusively, in very large law firms in very big cities, a proposition to which we in the hinterland might not so quickly subscribe. The treatise nonetheless benefits from this selection process since it is evident from the comprehensive treatment of each subject matter that the authors who volunteered to write chapters, committed not only their own time but that of a number of associates, paralegals and support staff to research, draft, and cite check their work.[2]

The title notwithstanding, I believe many general practitioners and certainly most practitioners who are regularly engaged in litigation either in state or federal court will find this treatise a useful compendium. Its organization is easy to follow with the first 52 chapters covering procedural and tactical matters and the remaining 28 chapters addressing substantive law in areas ranging from antitrust and securities to letters of credit, products liability and energy, among others. Volume one starts with chapters on such topics as subject matter jurisdiction, personal jurisdiction and venue, and in a more or less chronological fashion for a typical case, moves on to discuss every procedural topic that might arise in the course of litigation as well as some that occur rarely, at least in Alaskan courts. (The 150 pages on litigating international disputes in federal courts was skipped by this reviewer). Many of these topics are discussed so comprehensively that it is unlikely other secondary sources would ever be needed. For example, Judge Roger Vinson's chapter on "Removal to Federal Court" contains a well organized and concise discussion of the general topic of removal as well as treatment of issues which would never even have occurred to this reviewer.

Editor Haig asserts that the treatise is "unique" because it contains a "pervasive emphasis on the strategic issues and options that determine success or failure" and discusses "litigation tactics and techniques." Extensive knowledge of many litigation treatises would be required to affirm or deny the claim of "uniqueness," but readers will appreciate the unmistakable emphasis throughout the treatise on the practical, day-to-day information and strategic ideas that are important to the litigation practitioner. This emphasis on the needs of the practitioner is implemented in a number of ways including the sections found in each chapter entitled "Practice Checklist" and "Forms." While the textual discussion in most chapters is consistently detailed, readers will find that the helpfulness of the checklists and forms sections varies. One surmises that these sections were mandatory for all authors and that some subjects were more amenable to checklists and forms than others. For example, the chapter on "Document Discovery" contains a quite generic sample of a Plaintiffs' Request for Documents, and a Response to Document Request as the only two forms. These forms might have some value to a recent law school graduate on his or her own, but certainly most users of this treatise will have developed their own forms for making document requests and standard responses to such requests. Rather than impose a uniform requirement upon all authors to include forms, Editor Haig should have decided which forms the average user of this treatise might reasonably be lacking and which forms such users almost certainly already have in their forms file. The savings would not greatly have reduced the length of the treatise, but a little ink and paper could have been spared without any damage to the usefulness of the treatise.[3] Like the forms, the usefulness of the checklists is more variable than the substantive text, but as a frequent user and fan of checklists, I would not advocate their elimination anywhere. For those authors who treated the inclusion of the checklist as an obligatory part of their job, rather than as a serious part of the service they were providing their readers, Editor Haig should have instructed them to try again.

Those practitioners looking for a compact yet comprehensive and concise treatise focused on the practical, nuts and bolts aspects of civil litigation should give this treatise serious consideration.

The chapters discussing substantive law will not replace the need for specialized treatises on particular subjects, nor were they intended to do so. Nonetheless, I believe the practitioner who is not a specialist in the particular subject area will find the substantive law discussions helpful particularly in the early stages of a case. Like the procedural chapters of this treatise, the substantive law chapters are written with an eye towards the practical considerations that a litigator must focus upon, especially in the early pleadings. Each chapter contains a discussion of strategy considerations, usually presented from both the plaintiff's and defendant's perspective.[4] Often the discussion includes specific ideas about what to include or exclude from the Complaint or Answer and why. Additionally, each chapter includes sections entitled "Checklist of Essential Allegations and Defenses," "Checklist of Sources of Proof of Essential Allegations and Defenses," and a section with "Jury Instructions." Most practitioners should find it helpful to refer to these sections during the initial pleading stage, again when formulating discovery and of course, in the final preparation for trial. They can be used as a tool for organizing one's case and checking in from time to time to make sure that it is still organized and all essential elements have been covered. Unless one is already a specialist on the subject, the litigator will find the general discussions of the substantive law a useful and informative starting point for identifying issues and conducting further research and the numerous citations both to cases and other treatises point the way to additional source materials.

Although this treatise focuses on federal litigation practice in the business and commercial areas, this treatise should not be overlooked by practitioners whose practice is principally in the state courts or by those whose primary focus may be torts litigation or narrowly focussed in one or a few areas of business or non-business litigation. As we know, Alaska's rules of civil procedure are far more similar to the federal rules than they are different and Alaskan state courts frequently look to federal precedent when addressing both procedural and substantive law questions. *Caucus Distributors v. State of Alaska, Department of Commerce and Economic Development, Division of Banking, Securities and Corporations*, 793 P.2d 1048, 1053 (Alaska 1990); *Farmer v. State*, 788 P.2d 43, 47 (Alaska 1990). The advice on organizing the Complaint, preparing the Answer, initiating third party practice, issue preclusion as well as many, many more subjects covered in the 52 chapters on procedural matters should prove helpful to most litigators.

In sum, although this treatise is not inexpensive, those practitioners looking for a compact yet comprehensive and concise treatise focused on the practical, nuts and bolts aspects of civil litigation should give this treatise serious consideration. It will not replace specialized treatises when it comes time to write the definitive brief in your case, but it will likely save many trips to the library (or logging on to the on-line services) in search of an idea on how to handle any number of strategic and tactical questions.

1 The 6690 page treatise and 2 diskettes of forms and jury instruction sells for $480, with a 15% discount to ABA members and can be ordered from 1-800-328-9352. Royalties go the ABA Section of Litigation.

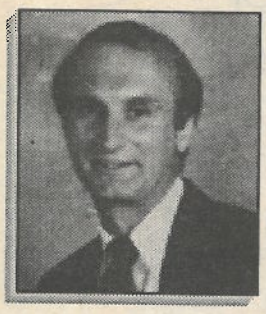
2 In the interest of full disclosure, it should be noted that the authors of the chapter on "Judgments" are partners of this reviewer.

3 With the money and space saved, perhaps a slightly heavier paper could have been used in the printing. While not a criticism of the substantive text, the thin paper permits the printing on the back of every page to show through. This is most distracting.

4 Of course, most often the authors of the chapter are specialists in representing only one side of the argument, and despite efforts to present a balanced view, the depth of their insights naturally enough is better when discussing the side which they routinely represent. For example, the authors of the chapter on Punitive Damages declare that although they have attempted to provide advice for both plaintiff's and defendant's counsel, "our perspective remains that of defense lawyers who feel that punitive damages are awarded too often and in amounts that are frequently excessive." I believe most plaintiff's counsel who have litigated punitive damages claims would agree with the authors that their defense perspective remained intact.

You can't cheat an honest man: Everything you want to know about Ponzi schemes

☐ Cabot Christianson



In Alaska, the words Ponzi scheme immediately conjure up Raejean Bonham and her World Plus investment scam. Since it is Alaska's only Ponzi scheme in anyone's memory, it sometimes conveys a sense of being a one-of-a-kind phenomenon.

But nationwide, Ponzi schemes are numerous. A recent book, *You Can't Cheat an Honest Man,* by James Walsh (Silver Lake Publishing), provides an entertaining and informative overview of Ponzi schemes that helps put the World Plus scheme in perspective. It's a book well worth the read.

Ponzi schemes have a strong - almost addictive - grasp on the people who perpetrate them and the people who invest in them. Ponzi schemes also hold a fascination for those who didn't invest because they offer a compelling example of the power of self-delusion and denial.

Many people learn the word "Ponzi" for the first time only after they have been stung. Basically, a Ponzi scheme is a pyramid scheme where investors are encouraged to invest in a "Great Idea" of one sort or another. Early investors invest, and are rewarded with huge profits. More investors invest, and then still more. After the bubble bursts, it turns out that investor #1 was paid off, not by the proceeds of the great idea, but by investor #2's investment. Investor #2 was actually paid off by investor #3. And so on. The early investors win big, and the later investors lose big. Then the investors realize that they had ignored huge red flags that should have warned them that the great idea was unworkable.

The original Ponzi scheme was started by one Carlo Ponzi in 1919, and remains the standard, both in style and scope, by which later schemes are measured. The magnitude of his scheme is breathtaking, and in relative terms hasn't been equaled in this country since.

In the early 1900s, a person could enclose a coupon with a letter to save a correspondent the cost of return postage. An outfit called the International Postal Union issued postal reply coupons that could be traded in for postage stamps in a number of countries around the world. Ponzi figured that the coupons could be bought cheaply in nations with weak economies and redeemed for a profit in the United States. In other words, if you were in Spain you could pay one cent for a coupon that you could then exchange for a six-cent U. S. stamp. The idea was great but didn't work in practice because of red tape among postal organizations.

But when Ponzi explained his idea to others, they liked it. So in December, 1919, he began inviting friends and relatives to invest. He initially offered 50% interest in 90 days. In practice, he sometimes actually paid early to placate investors' fears. He upped his return to 100% in 90 days.

At the peak, he was taking in $1 million a week but owned only $30 of postal coupons. His scheme crashed after some newspaper reporters asked the right questions. The scheme crashed 10 months after it started, by which time he had borrowed $10 million from 20,000 investors. The case is reported at Cunningham v. Brown, 44 S.Ct. 424 (1924).

Albania probably holds the global record for having the largest and most destructive Ponzi scheme. In 1994, a single Albanian Ponzi scheme called Caritas collapsed with more than $1 billion in debt to three million investors.

Ponzi schemes are mathematically certain to fail, and therefore mathematically certain to cause lots of people to lose lots of money. For this reason, Ponzis are illegal. The federal agency that acts as a nationwide cop of Ponzi schemes is the Securities and Exchange Commission. In 1995, the SEC investigated 24 Ponzi schemes involving losses of more than $1 million, a record for a single year. (The World Plus investors, in comparison, lost a total of about $15 million).

In fact, there are enough Ponzi schemes around that some standard patterns can be identified. The book's great strength is describing a large number of Ponzi schemes in detail without boring the reader. (The author has a lawyer's tolerance for detail but is not a lawyer himself. I called the author's residence and talked to his wife. "But he's from a family of lawyers," she groaned.)

The book is also full of armchair psychoanalysis of both the Ponzi perpetuators ("perps," Walsh calls them) and the Ponzi investors. It is this aspect of Ponzi schemes that is perhaps most compelling to most non-investors. This book is better than any other I know of in attempting to explain, or at least describe, the self-delusion and deception that exist on both sides of the Ponzi investment.

Not surprisingly, most Ponzi perps are persuasive, and have few scruples. Walsh observes that they usually aren't particularly smart. They have an insouciant smirkiness and jokey attitude that makes them convincing before the crash, and helps perpetuate investor denial after the crash. They often have a prior or subsequent involvement with fraudulent schemes. They have a fatalistic sense of inadequacy that makes stealing more natural than earning.

This profile fits Raejean Bonham. She was convicted of postal fraud (skimming the postal till while she was a postal employee) in the 1980s. And shortly after she was placed in involuntary bankruptcy, she applied to the Alaska Department of Commerce seeking to trademark the name "Ponzi's World of Travel, How High Do You Want to Fly?" for her post-petition sales of airline tickets.

Walsh also explains how investors also define the Ponzi equation. Ponzi scheme investors have a peculiar combination of greed and trust.

It's hard to avoid the conclusion that Ponzi investors are moved by greed. But Walsh observes that "the greed that leads an investor to make a foolish investment in a Ponzi scheme may not be an obvious thing. In an age when 25-year old computer software designers can become millionaires overnight and even conservative investments like stock mutual funds have given investors returns of 30 percent or more in a year, many people lose perspective on how hard it is to make money." He elaborates on this thesis over several chapters.

Investors' trust of other investors is another important aspect of the dynamics of the investment decision. Ponzi schemes thrive within groups of people that have a special, intense level of trust for each other. This includes members of the same racial or ethnic group, or the same church, or the same occupation, or the same family.

In the Bonham case, a sizeable number of investors were from the law enforcement community. Many others were firefighters. Many others were members of the same church. Others were members of Bonham's immediate or extended family. The Bonham Ponzi scheme offers many illustrations of the book's premise that people frequently decide to invest in Ponzi schemes when they see that someone else from their "own group" has invested. This knowledge helps quell the subconscious discomfort of sensing that the Ponzi investment is too good to be true.

Ponzi scheme investors are often told to keep their investments secret. Secrecy is important for a number of reasons, one of them being that secrecy reinforces the sense of trust between investors. After all, you only tell secrets to people you trust.

Ponzi schemes tend to cluster in a few industries. Walsh devotes separate chapters to the several industries that, collectively, are responsible for the vast majority of Ponzi schemes: (1) real estate; (2) new technology; (3) the travel industry; (4) tax hedges and dodges; (5) financial planning; and (6) precious metals, currency and commodities, and (7) charities and nonprofit organizations.

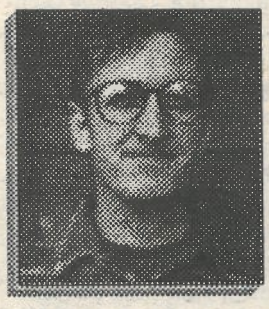
Walsh devotes an entire chapter to Ponzi schemes based on the travel industry. He observes that "the travel industry might not seem like an obvious place for Ponzi schemes to flourish - but it is. Travel has all the seductive trappings any seasoned Ponzi scam artist needs to operate." Namely passion, ease, privacy, and enthusiasm. He then describes a number of travel Ponzi schemes. He briefly mentions Bonham's Ponzi scheme on page 55.

Walsh does a good job of exploring the contours of Ponzidom and near-Ponzidom. He discusses multi-level marketing and explains how Amway, although very nearly a Ponzi scheme, has been found not to be. He describes the Internet's potential for scams and Ponzi schemes. And the last chapter of his book, titled "The Mother of all Ponzi Schemes," explains how the Social Security System is basically an inter-generational Ponzi scheme.

Walsh thoroughly covers the Ponzi universe, but somehow manages to stay entertaining to the last chapter. If you are looking for "the" Ponzi book, this is it.

An Admiralty journal

☐ Dan Branch



Last summer, friends and I paddled kayaks from Juneau to Mole Harbor on Admiralty Island and then back. Most of the trip was on the waters of Seymour Canal, which floods the center of Admiralty Island. In the summer, its waters are shared by whales, crab boats, eco-cruise ships, and kayaks. There are times on the canal so quiet that a kayak paddle-stroke sounds like thunder. Other times, float plane noise or the grind of a crabbing winch will block out eagle screams.

The Forest Service map says the area is a wilderness area. When folks from the Lower 48 read that map, they must believe it is a pristine place, unmarked by the hands of man. Anyone spending a summer day there knows differently. Still, Admiralty is a place rich in animals and beauty open to someone with a kayak, tide book, and some common sense.

Admiralty is a place rich in animals and beauty open to someone with a kayak, tide book, and some common sense.

During our trip, I scribbled down first impressions in a journal which make up the bulk of this essay. Some narrative appears between the journal entries. The entries are set out in quotations.

"We left Ric's house in kayaks about 1:30 p.m. and paddled under the Douglas Bridge, past town and down Gastineau Channel to Marmion on the Southern tip of Douglas Island. It was raining but now the sun has come out, shining on Slocum Inlet across Stephens Passage. Strong evening light is striking scooters who float in front of camp. The sea birds rise up, and flash their wings nervously in the low-angled light—knowing that it places them in danger. Before dinner we watched a marmot make his way, slowly, tentatively, past us on the sand. There are no crows here, just eagles, heron and several thrush calling against each other in the old growth."

6/22/98 p.m., Marmion Island

Stephens Passage, the door to Admiralty Island, opens two times a day, with the tides. The northern portion of the passage is bordered by Douglas Island on one side and Admiralty on the other. A kayak can cross it in an hour if there is no wind and the water's calm. That's how we found Stephens Passage last summer, when we paddled from Marmion to the place on Admiralty Island where Oliver's Inlet drains.

The channel into Oliver's Inlet is a river that changes direction with each turning of the tide. Kayakers arriving at the mouth on an ebb tide must wait for the flood. Everything on Admiralty is tied to the tides. This is especially true of the first full day of a trip from Juneau.

We were able to ride a flooding tide through the narrow passage and up to the state tramway. We had to arrive at the tramway terminus a couple of hours before high tide, load our gear and kayaks on the tram, push it over 1/4 mile of track to the Seymour side, unload the tram, reload the kayaks, and paddle down a little stream, and cross over a mile-long mud bar before the tide dropped below 13 feet. Dawdling meant waiting for the next high tide. We didn't dawdle. By early afternoon we made it to our first camp about four miles into Seymour Canal.

"We had an easy crossing of Stephens Passage this morning. It was very calm. We pulled into Oliver's a little more than one hour after leaving Marmion. The tide was flooding the Inlet, then, carrying us up toward the tram. On the left side of the narrow channel, Ric saw a small male deer poking out of the trees. He called him out, bringing him slowly toward the water. I was the third boat, able to watch the deer curiously staring at Ric as he and Mark paddled toward the tram trail.

Near the head of Oliver's, a river otter slid down the beach and dropped into the water. We had no trouble making the tram crossing—used the brake on the last hill. With a 16-foot tide we were able to drop our boats into the stream at the tram terminus and easily paddle down to Seymour Canal and over the tide flat. Now we are finishing dinner on Ric's Island. A light rain is falling. Soft beauty." **Seymour Canal—Ric's Island**
6/23 dinner time

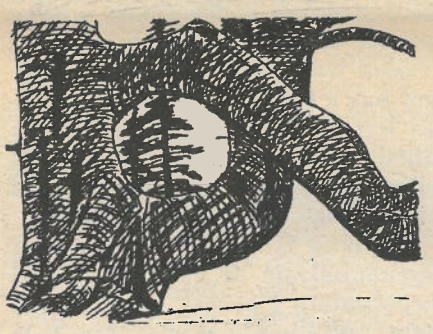
With the high density of brown bear on Admiralty, you always have to take precautions with food and eating utensils. It would be dangerous not to hang your food. It would also be unfair to the bears. We were careful not to introduce the bears to people food. After dinner, with the food safely hung a tall tree, we had time to look and listen.

"The bird noise here is profound. Ravens, eagles, gulls, song birds—all free to let it go." **6/23 evening**

The next morning, we woke to a sunny day. The tide was out, exposing the large reef that fronts camp. We had lots of time to explore before leaving on the high tide. If we left before, we would have a longer distance to carry the boats and gear down the beach and we would have to fight the current all the way to our next camp.

"Before breakfast this morning, Ric and I walked across the reef to two islands. It was a minus 4 foot tide. So much beauty was revealed. We saw many deer—most alone but one doe was with two fawns that ate rock weed on the reef. I watched a king fisher dive at full speed into the water . . . a bald eagle caught a fish with his talons from the same water. We went to sleep listening to thrush and ravens and woke to eagles. Now I hear the drone of flies. Always, here, there is the sound of birds.

The tide is flooding—covering the reef. The deer, bear and mink are gone. Ducks and Bonaparte Gulls share the water in front of camp where seals catch salmon. The seals thrash their captured fish loudly, even joyfully, reducing them to broken food. A baby seal calls for its mother. Always there are ravens, eagles and crows singing. I saw bear tracks in the gravel behind camp this morning."
Ric's Island 6/24 Early p.m.



"A great paddle from Ric's Island to today's camp. Hot and sunny with a North wind to work with the tides for a push. We passed another deer on the beach and several seals. After leaving King Salmon Cove, where we filled up the jugs with sweet water, I paddled hard. It felt good to see how fast the Necky could go. Now we are at this special place—with the tree that forms an "O" with its trunk. While sketching the tree this afternoon, I was scolded by a small bird—a spirit guarding the tree, or perhaps just a bird protecting its nest.

We sit on the point, waiting for bears to show themselves on the nearby Swan Island Reef. None do. It is sunset now, a good one, with yellows and browns in the west, pinks in the east. During dinner we watched two herons fishing the shallows on this side of the cove. They move with care, slowly. The no-see-ums are bad tonight—first time we are bothered by bugs. It is worth it. (Loon laughs just now)."
Camp, 6/24 early evening.

"This morning, Ric woke early and watched a sow and cubs work the reef. It was a minus 3.7 tide. Mark and I started talking when we woke up and, not thinking, scared the bears off. Too much noise this close to the end of the hunting season for brown bears. During breakfast, a raven near the camp chanted, *'Wahh.'* Ric said that *'Wahh'* means, 'harmony' in Japanese and is used as a Buddhist chant. We continue to listen to the Buddhist raven."
Camp, 6/25 a.m.

"It is hot and sunny but there is a promise of rain to the South. In this hard light of midday, only the blue of sky and water stands out. Rock weed dulls to brown and spruce to brown-green. Alders and grass still have something to show, but not that much.

I watched this morning, as a hummingbird tried to feed on the red bandana that Ric was wearing on his head. Ric was sun bathing at the time. The bird probed and probed, trying for pollen. After a minute he settled onto a small piece of nearby driftwood, stared at the unyielding flower, then flew off.

We will be getting a late start today—must wait for this afternoon's high tide. I took a bath in the waterfall near camp and walked the beach until dry. We ate Thai noodles for afternoon dinner."
Camp 6/25 early afternoon

"We had a good paddle—left camp at 2 p.m., near high tide, and paddled all the way to Buck Island. There was a headwind but fairly calm water. I think we made 12 miles in 6 hours or so—with a short lunch break at a little waterfall below Windfall Island. Right after that we saw a family of river otters—lots of pups—one albino. I remember hearing Ric call out and seeing a gang of otters jump half out of the water. Ric, ahead of us as usual, saw another group of otters when we pulled ashore here at Buck Island. He also saw a Minke whale show dorsal fin near Swan Island. We all watched a deer feeding on the beach just before Ric saw the whale.

There are many deer on Buck Island. The woods smell like a barnyard and the beach sand is pock-marked with hoof prints. The deer are even feeding on devil's club and they have clipped short the lamb's quarter that lines the beach. Maybe there are not enough bears. There is one near, a smallish brown bear judging by his tracks. He was heading toward the other side of the reef just before we arrived. Hope we meet at a

Continued on page 25

An Admiralty journal

Continued from page 24

distance.

Buck Island Reef 6/25

At some point in a long kayak trip, you start measuring time in terms of expired day light and the tides. Progress is measured in miles squeezed out of a favorable tide, rather than miles an hour. You surrender to winds, tides, and rain. If the wind and waves prevent you leaving on that day's tide, you turn it into an opportunity to nap on the beach or explore the woods. We reached this point on Buck Island when a strong Southeast wind delayed our trip to Mole Harbor.

"It is windy—still—with sun. The wind drives rolling waves onto the south side of the reef between Buck and Admiralty Island. If the wind doesn't drop, we will stay here another day."

Buck Island, 6/26 afternoon

"It looks like we camp here another night. The wind, which started this morning, continues to grow in strength. The sand reef between here and Admiralty is covered by breakers. We will wait until this evening to see if she will drop. If she does we can ride the outgoing tide to Mole Harbor which is only 4 miles away. If not, we stay. It is no big deal either way. While walking in the woods, Ric came face to face with a deer. He was able to watch it as it approached. This is good. He has been denied such opportunities earlier because we have been making too much noise."

Buck Island, 6/26 late afternoon

"Still here, the wind is dropping, but not enough. Ric's plan is to get up and catch the 3:40 a.m. outgoing tide to Mole Harbor. Should be quiet by then. It was a sweet, relaxing day at this beautiful place. During our dinner, we watched a heron fishing and Ric's deer, with friends. I looked for God's face in the sunset tonight.

6/26 Buck Island, 10 p.m.

"The wind was really blowing hard at 2 a.m. so we went back to bed. By early morning, it had dropped so we packed up and left for Mole Harbor. Still had to fight a headwind and waves the whole way. Lots of deer on the beaches—one spot had 8 deer on it. Watched two males fight over the right to nibble new growth.

Time, on Buck Island passed, like in a dream. It is hard to believe we stayed there two nights. Ric broke the poles for his tent the first night of our stay so we slept in Mark's tent. There is plenty of room.

This place, Mole Harbor, has been all wind in the face. Soon we will paddle over to a trailhead and hike to Lake Alexander."

Mole Harbor, 6/27 a.m.

"We paddled to the Lake Alexander trailhead in a following sea and walked 2 ½ miles to this lake. Beautiful. Lush trail. I caught a couple of small trout—too small to keep (8 inch and 10 inch)."

Lake Alexander, 6/27 afternoon

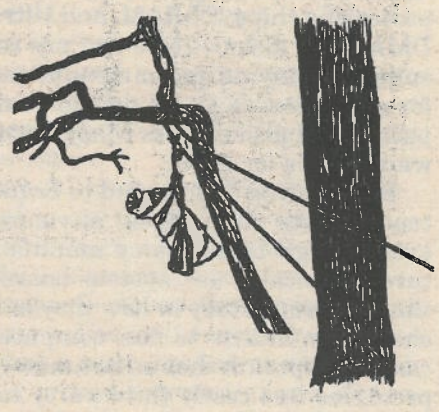
"A hummingbird came to visit while I was drawing this sketch. At the same time a seal watched from the water. Drawing keeps you sitting quietly in one place. I think it lets the animals relax a bit. It also allows the bugs free rein—not good. We had a long, tiring, but satisfying day. It started out on Buck Island, paddling on grey seas, under grey skies and ended with a sunny float from the trailhead to our camp. The walk to Lake Alexander was great. It was sunny then too. Still, no bears. Tomorrow we turn north again—starting for home." **6/27 Mole Harbor Camp, evening**

"This camp is our most peaceful. Mostly we hear thrush songs, the occasional eagle cry and a seal slapping the water. This morning Ric heard a bear walk by the tent.

It is beautiful—warm and sunny. We are waiting for the tide—the outgoing tide to carry us north. It looks like we will also have a tailwind. Should be a pleasant trip. Ric insists on separating the beer from the rest of the food. He doesn't complain about the beer we have brought but will not touch it. This is why there are two food bags, hanging side by side, every night. Next time, more apples, less beer."

6/28 Mole Harbor Camp, morning

"Today we rode north on the incoming tide and a tailwind—16 miles in 3 hours. Almost too fast. Ric saw some orcas, Mark a porpoise, me, lots of gray rocks. There are some on this beach which look like animals—seals, bears—one looks like a penitent monk. Still sunny and warm. Hardly any bugs on this beach.



The forest behind camp is full of beautiful spruce trees. Most are straight as ship masts. Others, like this one (in sketch), have great gaps where their roots leave the ground.

When I left Ric and Mark, just now, they were meditating on the gravel beach—sitting in the lotus position, legs crossed, backs straight, eyes closed—wearing polypro underwear and gym shorts. Then, I found Japan in this dry stream bed."

Tiedeman Island Camp, 6/28 p.m.

Next issue: The trail home.

Breaking the sound barrier without breaking the bank: 1999

BY JOE KASHI

I've recently tested some of the newest and fastest hardware on the market including new, high-speed processing chips, SDRAM, and Ultra DMA hard disks. Here are my results and buying recommendations for cost-effective speed demon computers. I'll also discuss likely hardware trends for 1999.

Engineering from brand to brand tends not to vary widely anymore, even though brand name manufacturers typically use system boards that are proprietary in how they mechanically attach to the computer case, an approach that unfortunately precludes less costly third party future upgrades.

Performance now is largely dictated by generic features such as the CPU, DRAM memory, video card and network cards, system board chipset and hard disk interface. As a result, careful investigation and purchasing can get you a really fast, well configured new computer for under $1,400, not including tape drive and shipping. Almost all new computers are quite fast enough to perform creditably with Windows 95/98 so long as at least 64 MB SDRAM is installed. High end pricing is no longer synonymous with high end performance.

Major manufacturers including IBM, HP, Dell and Compaq use many of the third party brand name components that we'll discuss here. Of the major manufacturers, only IBM makes some of its own Intel-compatible PC processors and hard disks, extremely good ones at that. Most of the top brand names basically assemble third party components. In fact, custom configuration and assembly using quality third party components is fast becoming the norm for brand name business computers. As a result, system purchase decisions have become mostly a matter of choosing a brand name or custom built computer system with a good warranty and that uses the best possible components in a configuration that meets your performance and budget needs.

DON'T BUY MORE HARDWARE THAN YOU NEED RIGHT NOW

When purchasing new computer systems, keep several thoughts in mind. Historically, hardware performance increases rapidly while component prices plummet. For example, in January 1999, $1,200 would buy a computer system that was 50% faster, with twice as much (and faster) DRAM memory and hard disk storage, compared to a $2,000 system purchased in March 1998. There's no immediate end in sight to either trend: in fact, this article will probably be obsolete by the time that you read it!

Cutting edge technology is typically over-priced and immature while it's still hot. Many manufacturers try to sell you their higher margin, top of the line systems by promising that purchasing marginally more computing power ostensibly avoids the need to upgrade hardware as often. That's false economy at best; it's probably not true, either.

Buying good quality hardware that's mature and about 1/2 generation behind today's top of the line system saves you a lot of money while providing reliable technology with more than enough performance. Given recent hardware price declines, I recommend a two year replacement cycle. That's just about the time that your warranty runs out and that you'll want a substantially faster system to keep up with demanding new software.

Current Intel Pentium II and AMD K6-2 processors work up to 10 times faster than early Pentium and 486-100 computers. At today's low prices, there's little reason to hold on to older computers until they reach the end of an arbitrarily assigned depreciation cycle. Declining computer system costs have radically altered the upgrade equation: now, it's often less expensive to buy a completely new, better computer system by the time that you've taken a technician's hourly charges into account.

It is sensible, though, to buy a high quality 17" or 19" monitor and to retain it as long as it works well. Monitor capabilities do not change nearly as rapidly as processor and hard disk technologies and a high quality, large screen monitor should be quite adequate for five or six years. In fact, I'm using a six year old 17" ViewSonic monitor with a really fast, high-powered NT system and the older monitor is entirely adequate.

NEW CPU PROCESSORS

Recently, we've seen a major transition in the CPU market. Intel, AMD and Cyrix are all shipping high performance successors to the original Pentium CPU and it seems that these CPU brands perform more or less equally well. Remember, though, that the performance of any computer system is dependent upon various bottlenecks, particularly DRAM main memory and hard disk performance. Actual performance does not increase linearly with increasing clock speed. Just because the CPU has a higher published core clock speed does not in itself assure you that the computer will actually work that much faster. For example, a 333MHz Pentium II has a core clock speed that's 50% faster than a 233 Mhz Pentium II; however, due to other system bottlenecks, the performance gain, all else being equal, is more like 20% or 25%.

At CPU speeds of 350 Mhz and faster, Intel Pentium II, Intel 366 MHz and 400 MHz Intel Celeron, AMD K6-2 and IBM/Cyrix M II processors are about equally fast and reliable for general purpose computing. I've neither experienced nor read about any compatibility or reliability problems with any of the current Intel, AMD or IBM/Cyrix processors. In fact, most major system manufacturers, including IBM and Compaq, use AMD K6-2 processors in their low to mid-range systems because they provide performance equivalent to a comparable Pentium II at significantly lower cost.

At first, Intel's low-end Celeron was not very popular, mostly due to major performance limitations with early versions of this Pentium II variant. However, new 366 MHz and 400 Mhz versions of the Celeron, even though aimed at the home market, are very inexpensive and just as fast as the more expensive 350 and 400 MHz Pentium II processors aimed at the "business" market. The new Celerons perform so well because the crucial on-chip L2 cache runs at the full CPU speed (i.e. at a true 366 MHz or 400 Mhz); the L2 cache on Pentium II processors works at only 1/2 the CPU's full speed (i.e., at 175 or 200 MHz). Slower L2 cache performance significantly limits the Pentium II, even when using fast 100 MHz SDRAM main memory. Currently, Celeron processors can only use slower 66 MHz SDRAM main memory, a limitation that's not likely to last. Despite the Celeron's use of slower main memory, the 366 MHz and 400 MHz Celerons are currently best buys for business computers.

AMD's 350 MHz K6-2 processor is the other current price/performance winner. This chip, which should have slightly faster 400 and 450 MHz siblings by the time that you read this article, includes complete MMX capabilities and more than enough performance for Windows 95/98 and Windows NT. AMD's new K6-3 processor should ship in the first half of 1999 and provide additional performance gains, mostly because AMD is improving internal L2 cache memory, just like the recent improvements in the newest Celeron CPUs.

Intel has announced several even faster Pentium II variants scheduled for 1999 shipment, some of which will use newly developed, extremely fast RAMBUS or DDR main memory, a potentially major improvement in performance. I expect Intel's next CPU, code-named Katmai, to run at 500 MHz or faster and to use the Celeron's new high performance on-chip L2 cache.

The welter of announced, but not yet shipping, Intel CPU variants confuses even industry insiders. Don't be too concerned about buying the very fastest processor: within six months after introduction, it will be relatively obsolete and inexpensive.

FLOATING POINT PERFORMANCE

Floating point performance refers to the processor's ability to do floating point (i.e., non-integer) math. It's particularly important for graphics, voice recognition and multimedia capabilities. Intel CPUs usually has the best floating point math performance, followed by the AMD K6 and then by IBM/Cyrix processors. Slightly slower floating point performance means a lot to an engineer or graphics designer but little or nothing to the average business user. All 350 MHz and faster processors have more than adequate floating point performance.

MMX CAPABILITIES

Intel and Cyrix use the floating point math unit in their processor to perform the MMX multimedia instructions. In that context, Cyrix's lower floating point/math performance adversely impacts its ability to render complex graphics, multimedia and voice recognition applications. AMD's MMX performance is quite good but the Pentium II has the best MMX capability. AMD has a separate MMX processing unit burned in the silicon, at least a theoretical improvement compared to the Intel and Cyrix approaches. AMD uses a licensed version of Intel's MMX instruction set, so current compatibility should not be a problem. However, Intel, AMD and Cyrix have all announced intentions to devise their own proprietary MMX extensions, so extended MMX compatibility may become a problem in a few years, particularly after Intel's 1999 Katmai Pentium II variant introduces additional MMX capabilities tailored toward voice recognition.

SYSTEM CASES

The case that protects your electronics may not seem very important but it is. Far too many systems now try to make a visual statement for consumer impact. That's not what business computing is about. You need reliability and expandability.

Modern computer systems run hot and heat is the deadly enemy of system reliability. I recommend that you look for a vertical ATX mid-tower case with plenty of internal room; these inherently run cooler than tightly packed horizontal "desktop" cases. Look for a system with extra cooling fans. Unlike older AT computer cases that used very fragile, unreliable ribbon cables to connect the computer to peripherals like a printer, mouse, USB port or serial port, modern ATX cases hard wire these external connections directly into the system board, a much more reliable method. This may seem trivial until you've spent, as have I, several hours trying to find a ribbon cable that actually works.

Because ATX computer cases are physically different and use different keyboard and mouse connectors, be sure that everything matches. You can't use ATX cases with older AT style system boards and keyboards.

DRAM MEMORY

Except for 366 MHz and faster Celeron CPUs, I would avoid computers whose CPU runs at less than 350 MHz. Slower processors either use non-standard system board speeds or use older, slower 66 MHz DRAM rather than the fast 100 MHz PC100 memory bus, a feature that actually improves performance rather than simply looking faster on paper. Slower memory performance is one of the biggest PC hardware bottlenecks; faster PC100 SDRAM and, later in 1999, RAMBUS DRAM memory are clearly the way to go.

RAMBUS DRAM, endorsed by Intel, will probably become the next de facto standard. With the adoption of RAMBUS, we'll finally see DRAM memory whose performance is explicitly tailored to modern high-speed processors. RAMBUS and comparable DDR DRAM will hit the market sometime in the second half of 1999. Within six to nine months after introduction, RAMBUS and DDR computer systems should become reasonably priced.

To take advantage of new, faster PC100 or RAMBUS DRAM, you'll need to match the CPU processor, system board and main memory. You'll see a noticeable performance improvement over earlier 66 megahertz bus systems and the difference in cost at the wholesale level is minimal for PC100 systems. Be sure that any installed memory is certified for that system board at its highest memory bus speed.

I would use at least 64 MB of PC100 SDRAM for Windows 95/98 and 128 MB for Windows NT. I'd use even more memory on network file servers and computers used primarily for database, graphics, and engineering applications. When upgrading system memory, I would use PC100 SDRAM wherever feasible, even in older 66 MHz DRAM systems. PC100's additional cost is minimal and its tighter tolerances allow it to work reliably.

Next issue: System boards, OS, drives, and cards.

What Trial Court Opinions Would You Like to See In the Alaska Bar Searchable Database?

This pilot project to develop a searchable database of Alaska trial court opinions is underway. We need Bar members' help in getting opinions into the database.

HOW TO GET AN OPINION INTO THE DATABASE

Opinions will be placed in the database by two means:

1. Through direct submission BY JUDGES to the Alaska Court System Homepage via the Alaska State Court Law Library — the opinions will then be downloaded from the Alaska Court homepage to the Bar database.

2. Through a Bar member's request in either of two ways:

a) **by contacting a judge's chambers directly** and requesting that the judge submit an opinion via the Alaska State Court Law Library for the Alaska Court homepage OR

b) **by submitting a completed Opinion Request Form to the Alaska Bar Association office.** The form will be sent to an attorney representative in that judicial district. (See a copy of the form on this page.)

Bar members are free to contact a judge's chambers directly to request that the judge submit an opinion via the Alaska State Court Law Library for the Alaska Court Homepage. However, Bar members may, in some situations, prefer not to contact a judge directly about an opinion.

The Bar has asked an attorney in each judicial district to serve as a liaison through whom the Bar office and colleagues can route requests for submission of opinions. The attorney representative in each district will contact each judge directly.

By working with judges' chambers and the Court System, the Bar hopes to obtain opinions in electronic format from the Alaska Court homepage and eliminate the need for photocopying, scanning and proofing opinions.

If a judge declines to submit the opinion to the Court System homepage, the opinion can still be entered into the Alaska Bar searchable database via request from a Bar member to the Alaska Bar office. The opinion will not appear on the Alaska Court System Homepage, but will only be in the Alaska Bar database.

WHERE TO SEND REQUESTS FOR OPINIONS

Bar members may therefore:

1. Contact a judge directly and request that an opinion be submitted to the Alaska State Law Library OR

2. Submit a completed Opinion Request Form to the Bar office. The form will be forwarded to the attorney representative for that judicial district. Fax or e-mail the form to Rachel Tobin: fax 907-272-2932 and e-mail tobinr@alaskabar.org

HOW YOU WILL ACCESS THE DATABASE

You will access the database via the Alaska Bar Association website at www.alaskabar.org. There will be a link to the database. Watch for it on the website!

HOW YOU CAN SEARCH

Key search fields will be the date, case name, and judge's name. The full text of the opinion will appear with case name, judge's name, and a dropdown menu. Opinions will be archived.

QUESTIONS?

If you have any questions about the database, please contact Barbara Armstrong or Rachel Tobin at the Bar office, 907-272-7469/fax907-272-2932. E-mail: armstrongb@alaskabar.org or tobinr@alaskabar.org

ATTORNEY REPRESENTATIVES FOR OPINION REQUESTS

1st Judicial District: Robert Briggs (Juneau), 907-586-1627/fax907-586-1066/e-mail rbriggs@pobox.alaska.net

2nd Judicial District: Bryan Timbers (Nome), 907-443-5226/fax907-443-5098

3rd Judicial District: Mike Moberly (Anchorage), 907-277-6015/fax907-277-6181/e-mail: mmoberly@pobox.alaska.net

4th Judicial District: Gail Ballou (Fairbanks), 907-456-6632/fax907-456-5049/e-mail: ballou@mosquitonet.com

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In the Supreme Court of the State of Alaska

In the Reinstatement Matter Involving)
) Supreme Court No. **S-08823**
Randall S. Cavanaugh,) **Order**
Petitioner) Date of Order: **12/23/98**

ABA Member No. 8812215
ABA File No. 1997R001

Before: Matthews, Chief Justice, and Eastaugh, Fabe, Bryner, and Carpeneti, Justices.

On consideration of the petition for reinstatement pursuant to Alaska Bar Rules 29 and 30, filed on September 18, 1998, and the Alaska Bar Association's non-opposition,

IT IS ORDERED:

The petition is **GRANTED**. Randall S. Cavanaugh is reinstated to active practice effective December 28, 1998

Entered at the direction of the court.
Clerk of the Appellate Courts
/s/Marilyn May, Clerk

In the Supreme Court of the State of Alaska

In the Disciplinary Matter Involving)
) Supreme Court No. **S-08854**
Samuel R. Peterson, Jr.,) **Order**
Respondent) Date of Order: **1/12/99**
ABA Membership No. 7402011)

Before: Fabe, Bryner, and Carpeneti, Justices. [Matthews, Chief Justice and Eastaugh, Justice, not participating.]

On consideration of the Alaska Bar Association's motion for interim suspension for threat of irreparable harm filed on November 2, 1998; the opposition of respondent Samuel R. Peterson, Jr. filed on December 9, 1998; the Alaska Bar Association's supplemental filing of January 8, 1999, and the filed notice of positive urinalysis result of January 11, 1999, **IT IS HEREBY ORDERED** that the motion for interim suspension is **GRANTED** pursuant to Alaska Bar Rule 26(e), on the ground that respondent Samuel R. Peterson presents a substantial threat of irreparable harm to his clients or prospective clients. This order is issued without further opportunity for hearing due to the exigent nature of the new information presented by the Alaska Bar in its supplemental filing and the filed notice of positive results of controlled substance test dated January 11, 1999. Because Mr. Peterson has not had an opportunity to file an additional opposition to the Alaska Bar's supplemental filings, this order is issued without prejudice to Mr. Peterson's ability to request reconsideration in light of any new information or argument that he wishes to present to this court.

IT IS SO ORDERED.

Entered at the direction of the court.
\s\Clerk of the Appellate Courts

Interim suspension ordered

The Alaska Supreme Court placed attorney Joe Michael Cox, (Bar Member No. 9011089) on interim suspension from the practice of law effective November 16, 1998, until further order of the court. Mr. Cox was convicted of the misdemeanor crimes of attempted misconduct involving a controlled substance in the 4th degree and attempted tampering with evidence. Mr. Cox is suspended pursuant to Alaska Bar Rule 26(a), pending final disposition of disciplinary proceedings.

SINCE 1896
ALASKA BAR ASSOCIATION

Alaska Trial Court Opinions Searchable Database Request for Submission of Opinion

Fax/e-mail this form to Rachel Tobin at the Bar Office: Fax to 907-272-2932 or e-mail the information to tobinr@alaskabar.org Please fill in the blanks below to submit an opinion. Omission of any of the requested information will delay submission of the opinion.

Case Name: _____

Case #: _____

Title of Decision: _____

Date of Decision: _____

Judicial District: _____

Authoring Judge: _____

Your Name (optional): _____

Your Phone # (optional) _____

CLE
ALASKA BAR ASSOCIATION

... In Appreciation Of Our Volunteers

Alaska Bar CLE happens because of the many bar and non-bar members who donate their time and expertise to planning and presenting CLE programs. We appreciate their dedication and contribution to the Alaska Bar Association and its members.

1998 CLE

(Volunteers are listed in alphabetical order.)

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Patricia Zobel

11th Annual Alaska Native Law Conference: Native Villages After Venetie: Local Governance, Tribal courts, and Update of the Law
Theodore C. Borbridge
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44 Winning Tactics Before Trial
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1997 Probate in Alaska
Beth Chapman
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ADR Civil Rules Changes: How They Will Change the Way You Litigate
Presiding Judge Elaine Andrews
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Alaska Appellate Update
Theresa A. Newman

The Changing Landscape of Property Rights Between Domestic Partners
Judge Walter Carpeneti
Judge Beverly Cutler
Allison Mendel
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Philip R. Volland

Child Sexual Abuse: What Family & Children's Lawyers Need to Know
William D. Hitchcock
Susan LaGrande
Louis Menendez
Jerry Nankervis
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Debra School

Client Trust Accounts: Protecting Their Money & Your Career
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Current Issues in Nonprofit Law: Locating and Managing the Risks
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Current Native Law Issues
Bruce Botelho
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Domestic Relations Breakfast Update: New Legislation and Rules Affecting Domestic Relations Cases
Deborah Behr
Dan Callahan
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Sharon Gleason
Andrew Harrington
Richard Hompesch
Allison Mendel
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The Do's and Don'ts of Complex Deposition Practice
Lynda Batchelor
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Hiring Foreign Workers Today: Successful Strategies in an Era of Tighter Immigration Controls
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The Most Important—and Misunderstood—Evidence Rules for a Trial Lawyer in Alaska
Judge Elaine Andrews
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BethAnn Chapman
Jonathan Blattmachr
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New Land Mines in Tort Law in Alaska
W. Grant Callow
Judge Dan A. Hensley
Matthew K. Peterson
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Off the Record: An Informal Bench & Bar Exchange and a Chance to Meet the New Court Clerk
Judge Walter L. Carpeneti
Adam Fleischman
Judge Peter B. Froehlich
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Judge David Walker
Presiding Judge Larry R. Weeks

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Off the Record with the U.S. Court of Appeals for the Ninth Circuit
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JudgeMichael D. Hawkins
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The Probate Mediation Rule: How It Will Improve Your Practice
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Tonja Woelber
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Judge Larry Weeks

The Ten (10) Most Common Causes of Malpractice Against Lawyers in Alaska—And How to Prevent Them.
Robert D. Reis
Steve Van Goor

US Supreme Court Opinions Update
Peter Arenella
Erwin Chermerinsky