

## INSIDE

How to get paid, new fed appeals rules, communication styles, insurance traps & convention follow-up.

## THE LIGHTER SIDE

Bear tales, Russian law....and a final farewell to the TVBA's Miss Ewe.



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*The*  
*Alaska*

**BAR RAG**

*Dignitas, semper dignitas*

# Legislature ignores commercial code reform

BY ARTHUR H. PETERSON

The second regular session of the 17th Alaska Legislature adjourned May 12. All pending bills died.

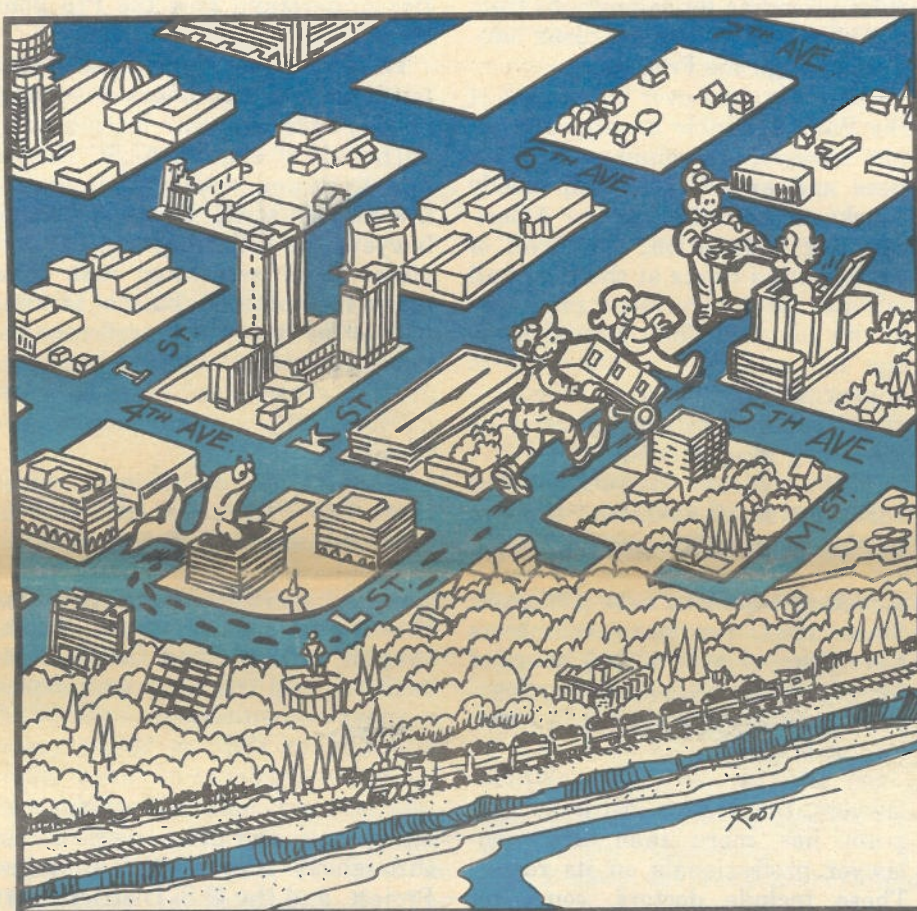
In the two regular sessions of this legislature, 11 proposals for new Uniform Acts or amendment of existing ones were presented. One passed. The remainder suffered more from lack of spice ("sex appeal," in political parlance) rather than presence of opposition.

Of the 11 proposals, eight made it into bills, one replacing another in one of the seven bills. Of the bills, three made it to the second house.

Having taken the plunge to enact the Uniform Commercial Code and the Uniform Probate Code, for example, Alaska cannot now recede into the legal backwater. Those Acts need amendment. Other proposals need attention, too.

Active, vocal support from members of the bar and their clients might stir legislative interest — maybe even enthusiasm — and help assure enactment.

The National Conference of Commissioners on Uniform State Laws, in conjunction with the



American Law Institute and the American Bar Association and various scholars and advisers, does the research and drafting. The NCCUSL's promulgation of an Act or a set of amendments culminates a minimum of two, and often several, years' work. It's then up to the states.

Here is a synopsis of Alaska's batch:

### Limited Partnership

First, the one that passed: the 1985 (well, almost) version of the Uniform Limited Partnership Act. Alaska's present version was enacted in 1917, with an amendment in 1990 regarding derivative actions. SB 193 was introduced in

1991 by Sen. Pat Rodey to include most of the rest of the modern Act.

The general purpose of the 1985 NCCUSL Act is to provide a more flexible and stable basis for the organization of limited partnerships, and help states stimulate new limited partnership business ventures. Convinced by a law professor to omit the 1985 changes in the sec-

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## These bills die, too

BY DEBRA GRAVO,  
RUSS WINNER,  
AND MIKE SCHNEIDER

Attacks on victim's rights and the civil justice system continue. Because many members of the Legislature have taken the time and effort to become educated on these issues, bills with superficial appeal but minimal substance often suffer death in committee. The following is a brief wrap-up of what happened during the last legislative session.

**HB 171:** This bill would have restricted court orders promoting secrecy and secret settlement agreements relating to the concealment of public hazards. This bill sat in the House State affairs Committee for a year and a half. It moved out of that committee and out of the House Judiciary Committee during the last legislative session. It arrived in House Finance near the end of the session. By then there was little or no time for that committee to act on the bill. Because the bill had the effect of changing several Alaska Rules of Civil Procedure, a two-thirds majority vote was needed to move it out of the House. Representative Donley, a

member of the Bar and prime sponsor of the Bill, did not feel that the votes were there for passage on the House floor. However, he has indicated that he will write a letter as Chair of House Judiciary asking Alaska Court Rules Committee to adopt a court rule prohibiting secrecy agreements. The Senate version of this bill, SB 411, was introduced by Senator Rodey. It was never scheduled for hearing in the Senate.

There were a number of "tort reform" bills introduced during this legislature. They all died in House committees. These bills included: HB 464, civil liability immunity for volunteers; HB 479, civil liability immunity for equine activities; and HB 491, civil liability immunity for ski operators.

Each of these House bills had Senate companion bills that likewise died in various Senate committees.

**HB 109:** This bill would have shortened the statute of repose in construction design cases to 10 years. HB 109 died in House Labor and Commerce.

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## BAR MOVES

The Alaska Bar Association offices have moved to 510 "L" Street, Suite 602. Our mailing address of P.O. Box 100279, Anchorage, 99510 and phone number of 272-7469 will remain the same.

The Bar Association had been subleasing office space for discipline staff in an adjacent law firm office for a couple of years. We would have been forced to move at the end of the year because our

sublease was expiring, and there was no possibility of renewal because the law firm was downsizing.

We were fortunate enough to negotiate a sublease arrangement with a law firm in the Peterson Towers. We now have about 20 percent more space at NO ADDITIONAL COST to Bar Association members. The new office space is

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## PRESIDENT'S COLUMN

By Barbara J. Blasco

Greetings from Sunny Southeast Alaska.

As I write this article, our familiar grey clouds are beginning to settle in on the mountains replacing the unfamiliar blue skies under which we in Southeast have been basking for the past 12 days. The streets of Juneau and Douglas, like those of other cities and towns in Alaska, are being swept clean having survived another frenzied Fourth of July.

The Fourth of July — a day when we stop and take stock of our freedoms, our heritage, and our future. As lawyers, our contributions and obligations to this nation and its underlying principle of "justice for all" cannot be underestimated. Just as we pause to celebrate our nation's accomplishments, I would like to take a moment to celebrate the accomplishments of Alaska lawyers in their ongoing efforts to make equal access to justice a reality for all Alaskans.

"The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged." *Code of Professional Responsibility, Ethical Consideration 2-25.*

Alaskan lawyers have taken this call to public service to heart. I would like to take this opportunity to personally congratulate this year's winners of the Pro Bono Awards. The awards went to Kathy L. Atkinson, Esq., Anchorage; the law firm of Preston, Thorgrimson, Shidler, Gates & Ellis, Anchorage; M. June Zenge, Court Reporter, Ketchikan; and David Rudolph, M.D., Palmer.

The Alaska Pro Bono Program was initiated through a joint effort of the Alaska Bar Association and the Alaska Legal Services Corpora-

tion in February 1983. Since the beginning, the two organizations have worked in close cooperation to create and develop the Pro Bono Program.

In October 1988, the Board of Governors of the Alaska Bar Association adopted a resolution recognizing and supporting the professional obligation of all lawyers to devote a reasonable amount of time to pro bono and other public service activities that serve those in need, or improve the law, the legal system, or the legal profession. The Alaska Court System has been a long-time supporter of the Pro Bono Program and has adopted special rules providing for exemptions from the payment of fees for cases handled through the Program.

Currently, just over 60 percent of the Bar's available membership, or 925 lawyers, are volunteering their time and expertise to help needy Alaskans. According to the American Bar Association, this level of participation ranks at the top of all private bar involvement programs in the country. The national average for volunteer involvement is approximately 23 percent. The level of participation by Alaskan lawyers is nothing short of remarkable.

In 1991, Alaska lawyers donated 7,200 hours of volunteer time to serving over 1,250 people throughout the state. This donation had a monetary value of over \$863,590. Since 1983, pro bono volunteers have donated over 43,000 hours of their time and have given free legal assistance to more than 9,750 low-income people.

In addition to the volunteer lawyers, the Alaska Pro Bono Program has more than 200 non-lawyer professionals on its roster. These include doctors, court reporters, certified public accountants, private investigators, paralegals, translators, engineers, and an industrial hygienist. These individuals have generously agreed to assist in the delivery of legal services to poor people.

Based on these statistics, it can clearly be said that the Alaska Pro

Bono Program is a success that we can be immensely proud of. But we must not let this success make us complacent, and I can assure you that our seemingly tireless Pro Bono Coordinator Seth Eames will not let any of us become complacent.

The demand for legal services for low-income people continues to grow, while at the same time the Alaska Legal Services Corporation has, over the past several years, experienced severe cutbacks. The need for a strong partnership between the Bar and ALSC is greater now than ever. With that in mind, it is important that members of the Bar understand how the Pro Bono Program works.

The Pro Bono Program asks that lawyers donate 20 hours or services on one case per year in civil cases on behalf of eligible ALSC clients. The Program, with the support of the ALSC staff, offers pro bono lawyers the following support services: client screening; case summary memoranda; liaison services with other volunteer professionals, bar associations, and pro bono programs; reasonable expense reimbursement; and legal malpractice coverage.

Through its non-lawyer volunteers, the Program is also able to offer computerized research; medical evaluations in disability cases; process service; translators for clients who speak Spanish, Yupik, Inupiat, Russian and German; depositions and transcriptions; expert witness consultations, and CLE training. In addition to the representation of clients in cases, volunteer lawyers can also participate in advice-only and pro se legal clinics throughout Alaska, the Elderlaw Project, and the U.S. District Court appointments project.

The variety of legal services a volunteer lawyer can choose to provide and the well-coordinated and comprehensive support system provided to these lawyers makes participation in the Alaska Pro Bono Program a personally rewarding and relatively painless ex-

perience. The history of the Program demonstrates that Alaska lawyers take very seriously their responsibility to assure that the poor are afforded access to our legal system. Through the continuing efforts and dedication of the members of the Bar, ALSC, and the Bar Association, we can meet the challenges of the future and maintain our blue skies: the dark cloud of mandatory pro bono being discussed and considered in several states, including Florida, New York and Kentucky, as well as by the ABA Standing Committee on Lawyers' Public Service Responsibility, need not darken our horizons. But the Alaska Pro Bono Program only works because you are willing to be involved. So the next time Seth Eames calls, be sure to talk to him. If you haven't already volunteered for the Pro Bono Program, please consider joining the hundreds of us who have made a habit of contributing our time and talents and to ensuring equal access to justice for all Alaskans.

Speaking of weather, there is positively no place on earth, much less Alaska, as spectacular as Juneau on a sunny day. According to the National Weather Service records for Juneau dating from the 1950's, the month of June is significantly more likely than any other month to have sun, or at least less rain. The 1993 Alaska Bar Convention is scheduled for the June 10-12 weather window in Juneau and blue skies, waterfalls, delightful shops, smoked salmon, and fun times are guaranteed for all. And by the way, the sun is back out again!

## The Alaska BAR RAG

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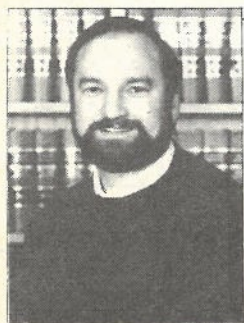
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## EDITOR'S COLUMN

By Ralph Beistline

The most frequent question I have been asked recently is, "What's it like to run for a federal judgeship?" The less discreet have asked, "What's it like to lose?" or "Whad'ya do wrong?" The philosophical have asked, "What did you learn?"

I addressed a number of these questions when I spoke in Anchorage at the awards banquet during the June Bar Convention (no, I did not receive an award). Space constraints, though, allow me only to address one of these questions here. I have chosen the "whad'ya do

wrong" question.

First, let me say that I blame my lack of success on seven little words expressed just prior to my interview with the Justice Department.

The five "finalist" candidates for this position were asked to fly, at their own expense, to Washington, D.C., for an interview with representatives of the Justice Department. It really was an enjoyable experience and intellectually I was primed. I had studied Gilberts on *Constitutional Law* and read in detail Vice President Dan Quayle's report on civil justice reform. The

problem, though, was these seven little words.

Immediately after entering the Justice building and clearing security, I was escorted to the reception area for the Attorney General. I could see Justice Sandra Day O'Connor in the adjoining room taking part in a birthday luncheon. The whole environment was impressive. However, standing outside the Attorney General's reception area was a stuffed Alaskan grizzly enclosed in a glass case. It

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# Is it time to amend our Constitution?

BY SCOTT A. BRANDT-ERICHSEN

Article XII, Section 3 of the Alaska Constitution provides that, if during any ten-year period a constitutional convention has not been held, the voters shall have the opportunity to decide whether a constitutional convention should be convened. Alaskans have never voted to call a convention, but perhaps the time has arrived.

Arguments in favor of a convention are numerous. They range from the virtual meltdown of our legislative process when it comes to addressing budget issues; to the state's loss of control over management of fish and wildlife within its borders; to the shift and shaft interplay between the state and local governments over who will pay for basic services such as police, schools, and jails; to the lack of overall attention to emerging needs in areas such as reduction of health care costs.

On the other side, a convention gives no guarantee that what comes out would be any better than what goes in. Further it is not clear whether constitutional change is necessary to address these issues. Some, such as subsistence, apparently do require constitutional change. Many other issues don't require a constitutional amendment, but are not garnering sufficient legislative attention for resolution under the current constitutional format.

Legislative shenanigans are a very visible cause for concern. I watched incredulously in the early 1980's when State Troopers were sent to round up legislators to bring them to a special session. But it wasn't until the waning hours of the 1992 session that I began to seriously question the system rather than the individual personalities.

Such a consistent inability to suc-

cessfully address major issues such as subsistence, budgeting, taxing, health care, and provision of basic services, makes the "lack of leadership" excuse ring hollow.

A systemic defect is the next likely cause. If lack of leadership is truly the cause, then the lack of leadership in the state is so pervasive and persistent an obstacle that we should address that shortage by structuring a legislative system that is easier to lead.

The legislature could call a constitutional convention, but the inertia appears too great for that to happen. There is an inherent resistance to change from those who benefit the most from a lack of change. This is why the decennial referendum on our Constitution is so important, and at this time, so appealing.

Just what does this have to do with the *Bar Rag*? Attorneys have a precarious relationship with any

potential change to the Constitution. If any group is the object of more collective distrust than politicians, that group is attorneys. At the same time attorneys are trained to understand the potential flaws and benefits of various changes which might be offered if a constitutional convention is called.

Due to the distrust factor, the wisdom of attorneys advocating a constitutional convention is questionable. However, members of the bar would do well to examine the issue in their own mind, and assist the people of Alaska in approaching their decennial duty in a well informed manner.

## Collect 97% of your fees with these tips

By Eric F. Fagan

My first month in practice I billed more than \$1,000, expecting \$1,000 in checks soon to flow into my coffers. Over the next four years I wrote off more than \$300,000. Collecting fees was among the myriad of particulars my law school mentors had not addressed.

My paycheck now closely tracks my billing. I consistently collect 97 percent of what I bill. Anyone can do it by following six steps:

1. Screen out the albatrosses;
2. Establish control and introduce your client to reality;
3. Get something up front;
4. Watch for "red flag" characters;
5. Bill regularly, with particularity, and fairly; and
6. Follow up to make sure your statements are paid.

### SCREENING

**a. Screen on the phone.** Don't waste time on unprofitable matters. Ask the client to give you a

summary of his problem in two minutes. The minutiae can come when you are officially on the clock. Move him along in his narrative,

**b. Get to the point.** Find out what the case is about and who the parties and conceivable opponents might be. Promote your own abilities ("All I practice is real estate law," e.g.).

**c. How much will it cost?** Don't estimate fees. If this question comes up, explain that you need to hear the whole story and read the documents.

**d. Can the caller afford you?** Make sure the client can pay your fees if you take the case. Listen for the telltale signs: "We don't have much money...," "This is going to be a class-action suit with 84 other owners...," "My husband can't get off work during the day...," and the like. If the caller asks, tell him your billing rate.

**e. Get rid of the case?** If the case is properly one for small claims court, tell him. If you don't want the case for *any* reason, refer it out or direct the caller to the bar association.

**f. Tell the caller what to bring.** Documents, names and addresses of the parties and witnesses, and the like. If he wants you to review a case which another attorney is handling, have him bring the file from the other attorney's office.

If he wants you to substitute in, be wary. Again, get the entire file. Call the allegedly non-performing attorney. Get his input. Be sure to ask if the client pays.

### CONTROL AND REALITY

Control of the client is crucial. At every step. The clients you don't control will most likely show up in the "90 days past due" column.

Have your prospective client fill out a sheet with basic information in the waiting room; name, address, telephone, etc.

**a. Have your desk completely clear.** Don't give the impression that you will simply drop your new client's case into the mound on your desk. Hold your calls for the same reason.

**b. Go to the client.** Control starts with, "Follow me." Go out to meet the client in the waiting room. Check pronunciation if you are not sure. Shake hands, man or woman. Lead the client to your office, and invite him to have a seat.

**c. Get set up.** Stop the small talk for a moment while you write his name and client number on a blank legal pad. If the client begins to talk to you about his matter before you are ready, "Wait, let me finish my paperwork first. What you are going to tell me is important, and I don't want to miss anything." With this you accomplish three goals:

1. You have made the client aware that *you* will determine the progress of the interview.

2. You have confirmed his conviction that what he is about to disclose is the most fascinating news item you will hear that day.

3. You want to devote your full attention to his remarks.

**d. Get the story.** Don't try to take notes about everything. Let the client tell the story in his own words at his pace. If something is important enough for amplification, make a note in the margin. Inquire

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## • Bar moves

Continued from page 1

much more functional with more usable space than our old office.

The Board of Governors was very concerned that the move not have an increased fiscal impact. Since we are now paying less per square foot than we had been paying, our total monthly rent payment for the new office is the same as we were pay-

ing for the old space, even though we have a larger office. Moving costs were covered by the waiver of the first two months rent.

At the risk of sounding like a cliché, we believe the new space will allow the staff to serve the members more productively and efficiently.

## • Editor's bear story

Continued from page 2

stood like a boxer with paws raised and teeth flashing. It struck me, though, as small — three feet high and skinny.

I approached the receptionist and introduced myself. She was very gracious and happy to meet another Alaskan. She then set me up for the fall. "Did you see our Alaskan grizzly at the door?" she asked.

That's when I uttered the words that changed history. "Yes," I responded, but *it looks like a cub to me.* Heads jerked, smiles disappeared, and the room was filled

with an ominous darkness. I had clearly insulted the ferocious Alaskan grizzly standing guard at the halls of justice. Despite enjoyable and stimulating interviews, I was never able to make up for this lost ground.

I have relived that single moment a hundred times. I should have said, "What a monster!" "How'd they stop it?" "Must have taken a cannon!" But words once spoken can never be retrieved and history was forever changed that day . . . I think.

## LETTERS

### Dwarf tossing

This letter is written in response to a comment in the Tanana Valley Bar section of the May-June issue wherein Dan Cooper requested a Foreign Relations Committee investigation into reports that France has "reinstated dwarf tossing". While I am not a member of the TVB, I am somewhat closer to the problem which has been covered here by the international press.

Several months ago, a French court overturned a local prohibition on dwarf tossing in area cafes/pubs. The court reasoned that under the circumstances the individual dwarf's right to work outweighed the possible risk which the "tossee" voluntarily undertook. Apparently the dwarf or dwarves involved wear

protective gear similar to that used when skateboarding.

It is still a mystery to me how one scores points in dwarf tossing, whether distance, velocity, accuracy or free-style technique is the key. I would, however, be willing to consider doing further research. The Dutch press now reports that the trend has spread to Holland as well. If the TVB is willing to contribute to the payment of my inactive membership dues maybe we can talk. Until that time I think the potential travel advisory can be put on hold.

Robin Jager Gabbert  
Hallekensstraat9  
2242 VA Wassenaar,  
The Netherlands



# • Make sure client knows fee rules

Continued from page 3

after the client has narrated his adventure.

**e. Make some phone calls right then.** Remember, you don't want a dog of a case. Call a friendly witness for corroboration. Call the opposing party to get his angle. Phone the opposing attorney to ask how he arrived at the damages he states in his letter.

**The Star Witness.** Call to check case-winning testimony this witness will supposedly deliver upon command.

**Check facts.** Call to verify facts which may be suspect. Be tactful.

**f. Introduce your client to reality.** A seller once backed out of a sale. I got the buyer's attorney on the speakerphone. The attorney told me that my client's son (who was sitting in my office with the client) had agreed to cancel escrow if the seller would return the deposit. Was this a valid defense for the buyer? Who knows? The son admitted the conversation, but with a different twist. The important fact is that the son neglected to mention such a conversation until my opponent brought it up.

Make sure your client understands certain basics: litigation is long, expensive, and a mental stress. There is always that 15-20 percent chance of losing. Collection may be difficult or impossible. You should embark upon litigation with the same trepidation one ordinarily reserves for skydiving. Anyone can file a lawsuit; it takes a skilled attorney to negotiate a settlement without one.

Don't be gloomy about your client's prospects. Develop the equivalent of a doctor's bedside manner. Be positive, but honest as well. Don't raise a plaintiff's hope to unrealistic levels. Don't try to use fear as a lever for your services.

Whether plaintiff or defendant, be sure to discuss collecting attorneys' fees from the other side if you win at trial. Many clients feel that is a given. Enlighten your client, even if he doesn't ask.

Decide what you are going to do for the client. Write it down and repeat it to him to make sure you are in accord.

Explain your fees and how you keep track of your time. Estimate what it will cost. Either get a re-

tainer or get paid for the day, depending on whether you will do further work.

Occasionally your client starts to leave before you explain fees. "Before you go, let me explain my fees and how I will be charging you." If he gets away without this, the odds are high he will be a past due receivable from the start.

## GET SOMETHING UP FRONT

If the client is to pay for the consultation, "My hourly rate is \_\_\_\_\_ dollars and today you owe me \_\_\_\_\_ dollars. You can leave a check with the receptionist payable to \_\_\_\_\_." A frequent response; "Do you want that today?" Tell him. If the client asks if you will send him a bill, "Yes, we'll send you a statement showing the time and receipt of your check."

If you are to do more work in an adversarial matter, estimate three figures for the client.

(1) to do the work if litigation is either unnecessary or can be avoided;

(2) if you begin litigation but then settle the matter in the first couple of months; and

(3) if the matter should go to

trial. Give wide ranges on the trial end. Explain that you can never tell what an opposing attorney may do to increase the cost of litigation.

I handle this part right at the end of the interview:

"Let me explain how I charge and give you an estimate of what it will cost." The computer keeps track of my time with a superb program by AOA Group, 4071 Fremont Hub, Fremont, California, 94538. I explain how it works in about 15 seconds, then:

"It's simply a matter of how much time I put in, times my hourly rate of \$200. If we can get this matter resolved without having to get into a suit, the cost *including today* will run somewhere between \$ \_\_\_\_\_ and \$ \_\_\_\_\_, etc."

I cover also the range of costs which could be expected through the course of litigation. Then, because memory is fallible; "Let me spell out for you what I've just said about money." I fill out a two-part printed NCR form entitled, "Fee Estimate." There are blanks for the figures I have quoted. In fairly con-

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# • More bills die in Juneau

Continued from page 1

**SB 285:** This bill would have provided civil liability immunity to hospitals for non-employees (e.g., radiologists, pathologists, emergency room doctors in some cases . . .). This bill sailed through the Senate but died in House Labor and Commerce.

**SB 462 and 463:** Two medical malpractice bills were introduced as a result of recommendations by the Alaska Health Resources and Access Task Force, created by HCR 5 to examine health care access and costs in Alaska. They were: SB 462, which would have shortened the statute of limitations in medical malpractice cases of minors to 8 years and SB 463, which would have changed the standard of proof in OB/GYN medical malpractice cases to "clear and convincing" evi-

dence. The Task Force made a number of broad-based recommendations addressing the delivery and pricing of health care in Alaska. Many of these proposals were very unpopular with the medical profession. The medical members of the Task Force demanded that recommendations consistent with SB 462 and SB 463 be included in the Task Force's interim recommendations.

Both SB 462 and 463 were introduced late in the session, were never scheduled for a hearing, and died in Senate Judiciary. It is expected that these bills will be resurrected and that an effort will be made during the next legislative session to push them through the Senate.

The Health Resources and Access Task Force lives on for another

year. Its last meeting was in June. At that meeting a work plan was developed for the life of the Task Force and subcommittees on medical malpractice issues as well as public health and service delivery issues were appointed. The Task Force will begin refining its interim recommendations (which include SB 462 and 463 above) with the goal of making final recommendations to the 18th Legislature by February 1, 1993.

*Debra Gravo is executive director of the Alaska Action Trust. Russ Winner was Chairman of the Trust for the 1991-92 year. Mike Schneider will succeed him for the 1992-93 year. The Alaska Action Trust is a political action committee whose agenda includes the promotion of victim's rights.*

## EXPERT MEDICAL TESTIMONY

- |                          |                           |                                    |                                 |                                 |
|--------------------------|---------------------------|------------------------------------|---------------------------------|---------------------------------|
| • Addiction Medicine     | • Family Practice         | • Neuropathology                   | • Pediatric Critical Care       | • Plastic Surgery               |
| • Aero Medicine          | • Forensic Odontology     | • Neuropsychology                  | • Pediatric Dermatology         | • Podiatric Surgery             |
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# • Watch for "red flags"

Continued from page 4

cise language, it tells the client that (a) there is a charge for phone calls, (b) I expect him to pay statements within 10 days after he receives them, (c) my hourly rate, the rate of my legal assistant, and the fact that these may change with written notice. This is not a substitute for a fee agreement. If you must become involved in litigation, have your client sign a separate fee agreement.

After I have filled it out: "Read that to make sure it says what I have said, sign it, and I'll give you a copy." After he signs it, I sign it. I give him his copy with, "Now I'm going to ask you for a retainer of \$ \_\_\_\_\_ toward the work I'm going to do for you." Look the client right in the eye when you ask. Sound as if you would be absolutely stunned if the client did anything other than take out his checkbook and start writing in your name.

If you are not sure whether litigation will be necessary, get a retainer which is at least what you have quoted in (a) above. If you are reviewing a case to see whether you want to substitute in, get something to cover your time to review and report.

If the client offers cash, take it. Ask your secretary to make out a receipt for the amount, for obvious reasons. He may have a flawed estimation of lawyers to start with. Don't confirm a misimpression.

**Don't capitalize on your client's fears.** Your advice may be to just wait to see if anything further happens. Whatever, leave the client with a good feeling about what you are going to do. Don't try to capitalize on his natural anxiety.

It's important to get something before trial as well; this is discussed further below.

## WATCH FOR "RED FLAG" CHARACTERS

**a. The individual who doesn't bring his checkbook.** Ask, "When can you get me a check." If he volunteers to bring it back that afternoon, don't dissuade him. If he is going to mail it, or will bring it in some other day, that's wonderful. Tell him in an amiable fashion that as soon as you get his check you will proceed to do whatever you told him you would do. **BE SURE TO WAIT FOR THE CHECK.** A fair amount of the time you will have seen the client, and his alleged money, for the last time. At least you will have cut your losses.

**b. The individual who stays more than an hour initially.** Most of the time, the initial client consultation lasts an hour or less. Some run much longer. A disproportionate percentage of the latter come without checkbooks.

**c. The individual with an emergency.** A complaint must be answered tomorrow. A foreclosure is taking place in a couple of days. The trial is next month. The client

is frequently in *pro per*, often because his first attorney "didn't know what he was doing." (Except that the attorney had enough sense to substitute out when he didn't get paid.) These are typical scenarios. This individual will turn out to be a deadbeat if he doesn't have his checkbook with him. Have him sign a fee agreement. You sign and mail his copy only after you have called his bank to see if the check is good.

**a. The papers dropper.** The individual wants to "drop off some papers" that he wants you to look over. Make an appointment. Get a look at him and let him size you up as well. If instead he still drops something off, have your secretary call and ask for a check which will cover your review and report to him.

A variation is the client who lives at a distance and wants to fax something which will explain his predicament. As you are generally not going to have the time to look over immediately what he is sending, tell him that mail will be fine — express if he insists — along with the check.

In either instance, take pains to explain that the amount you are requesting is not a flat fee.

## BILLING

**a. Bill regularly.** Get your statements *in the mail* by the 25th or 26th of the month. You at least want to get your name in the hat for the first of the month.

**b. Bill with particularity.** Put down everything you do, even if there is no charge for something. List phone calls which only ring,

those where your party is unavailable, and inquiries by your client about his statement as no-charge calls.

Your client's statement should identify the attorney if there is more than one in the case.

**a. Bill fairly.** If you don't impose your own code of morality on your billing practices, usually nobody will. If you file a complaint and a demurrer is upheld, eat the cost. If your surgeon has to redo an operation because he used the wrong pin, do you expect to pay twice for his mistake?

If you blunder and have to make revisions to a document because of a mistake by you, your secretary, paralegal, etc., bear the cost yourself. If you have to do research because you are not familiar with the area of the law in question, is it fair to ask your client to underwrite your education?

A corollary is getting money in advance of trial. A good place to bring up the subject is at a settlement conference. Estimate how much time it will take to prepare for and try the case. Enlighten your client: "If we can't get this settled, we're looking at \$10-15,000 to go to trial. Of course you will have to put that up in advance."

Which he will have to do. If you don't settle, ask for the money. "John, I'm going to ask you for an additional \$15,000 by the 15th." Be neither apologetic nor aggressive. This is business. If you lose at trial, some of your clients are going to be

Continued page 20

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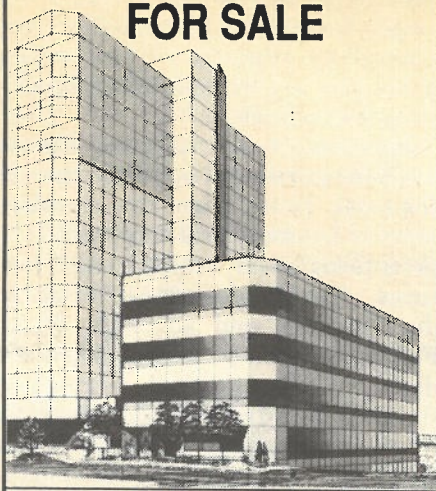
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# Visiting lawyer discusses Russian practice

"One of the biggest problems facing Russia is one that Alaska also faces — the export of raw rather than processed natural resources," according to Dr. Nikolai G. Shcherbina, a prominent Russian attorney and expert on international law, fisheries, and ocean resource development.

Shcherbina, who recently spent three months in Alaska under the sponsorship of the law firm of Hughes, Thorsness Gantz Powell & Brundin, went to Seattle in March to lecture at the University of Washington's School of Marine Affairs on "Trade Possibilities between the United States and Russia," and lectured in Anchorage to members of the World Trade Center, on "Russian Free Trade Zone Legislation: Concept and Reality" and to the Alaska Support Industry Alliance in March at the Petroleum Club.

Shcherbina was in Alaska to promote private business ties with his country and to prepare the foundations for more international trade and tourism through his hometown of Vladivostok, as well as the entire Far Eastern region of Russia.

Vladivostok, a coastal city with a population of about 750,000, is located near the northern border of North Korea facing the Japanese Islands. It is the eastern terminus of the Trans-Siberian Railroad and strategically positioned for international commerce with Pacific Rim countries. Shcherbina finds ties between Alaska and Vladivostok particularly attractive for a number of reasons, one of which is natural resources.

"Alaska and Russia have many of the same natural resources, which could make us competitive. But I believe there are more areas for us to cooperate in, than to compete in," said Shcherbina. "Because of our proximity, it makes great sense to share in problem solving, explore new opportunities, and create joint ventures.

"Take as an example the export of raw resources. When this is done, the exporter gains only a small part of the resource dollar. Our far eastern region is working to establish the means to add value to our exports by processing or at least partly processing them before they leave the country. American companies on our territory or in joint ventures may participate in this process.

"We have inexpensive labor and transportation to our advantage. Alaska has less population, but more technology and capital, and a geographical location that could make it a land bridge or stop-over for transporting goods and tourists to and from the Far East, Siberia, and China and markets in Canada, the Lower 48, and Western Europe."

Shcherbina said that in addition to geographic proximity, Alaska also has historic, language, and cultural ties with the Russian Far East. He said all of this puts Alaska in an excellent position for participation in the economic development of the former Soviet Union, and the time to act is now.

"Many successful joint ventures are already underway in Russia for oil research and development," Shcherbina noted. "Also, there are already many joint ventures with foreign capital to establish processing and manufacturing plants. And there have been many Russian/Japanese fishery joint ventures, some going back five years, in salmon, sea cucumber, and seaweed farming, as well as fish processing. But these are not exhaustible resources. There are still many opportunities for further projects."

When asked what a business in Alaska should do to take advantage of the opportunities in Russia, Shcherbina replied: "I am of the same opinion as the U.S. Ambassador to Moscow, Robert Strauss. He was quoted in a recent issue of Forbes Magazine as saying that if he were 40 years old and had \$100,000 that he wanted to run into \$10 million, he would invest it in the Soviet Union because 'it is going to be a booming economy one of these days.'

"Yes, there are some risks, but if businesses do their homework and seek qualified legal counsel and economic advice, lots of money can be made.

"For example, I tasted Alaskan Amber Beer. It is very similar to European beers, and our market is huge and empty. The owner of that brewery could become a millionaire by establishing his business in the Soviet Far East. That is, if his good beer has not already made him a millionaire."

Shcherbina had an opportunity to view Alaska's legislative process during a trip to Juneau. "Russian districts now have the same sys-

tem, but the legislative process is lengthy, and we need decisions now," he emphasized. "We also need public input. Not necessarily in the form of voting, because there is not enough time. But through newspapers, radios, TV, lobbyists, and demonstrations — many of the things that are used so effectively in the United States."

In a presentation in Juneau to the Alaska State House Committee on International Trade and Tourism, Shcherbina discussed the reforms his country is going through and what those reforms mean to Russians, as well as Alaskans. He proposed that the committee address four areas of common interest: One, that they be supportive of individual proposals to do business with Russia and that they provide legislative support for investment, expansion, and development into the Far East by private enterprise. Two, that they establish state agencies in the Far East, with at least one representative in Vladivostok, to provide information on Alaska and advice on trade and tourism. Three, that they pave the way for the Far East districts to do the same here. And four, that they assist Russia's Far East in the development of free trade zones.

When asked how the Russian people are coping with their new country from a business sense, he replied: "We have been examining opportunities for reforms since 1985. So psychologically, we are well prepared for a new market system. For the past two years, we have been legislating and orchestrating opportunities for independent businesses, and there are many entrepreneurs in Russia. However, though free market conditions exist, it has not yet made its impact on the market shelves. There have not yet been tangible changes for the Russian consumer. Yet, there cannot be a choice between developing products for store shelves as opposed to first establishing an environment and connections for businesses."

According to Shcherbina, Russia needs to pursue all opportunities at the same time, from the development of business and corporate law, to international trade, joint ventures, free trade zones, resource development, and so forth. Many Far Eastern cities are opening their doors to international trade and there is plenty of potential, not only in oil, fisheries, and other natural resources, but also in transportation, communication, tourism, and scientific projects.

As an authority on international fisheries law and problems of ocean resource development, Shcherbina has been involved in solving the problems confronting Russia in managing resources previously under Soviet control. He was in the research group making recommendations to governing bodies at all levels of society, from villages to the central government.

Since 1989, Shcherbina has been part of a blue ribbon commission advising Russia's local and regional governments in the process of cre-

ating regulations to govern independent businesses and establishing free economic trade zones. One of Shcherbina's research associates and a member of that same commission, Vladimir S. Kuznetsov has since been appointed Governor of the Primorsky Region, which encompasses Vladivostok and is a political unit roughly equivalent to one of our states.

"These are all new problems for us," said Shcherbina. "One of the most important tasks is to make legislation and by-laws for free economic trade zones to promote integration with the free market system. The Far Eastern territories, including the Primorsky Region, have much in common to decide — how we are going to divide or unite resources and power. These matters are of primary importance to us just to survive."

This was Shcherbina's second trip to the United States. Three years ago, he was in Seattle and Honolulu as an associate professor under the International Researchers Exchange Program between the US and USSR Academies of Science.

Shcherbina was invited to Alaska by Ronald Noel, a partner in the Fairbanks office of Hughes Thorsness Gantz Powell & Brundin. Noel, who is fluent in Russian, met Shcherbina while touring the USSR with the 1991 Alaska-Soviet Far East Trade Mission sponsored by Alaska's State Chamber of Commerce and the US-USSR Trade and Economic Council. He was among the Mission delegates that departed Anchorage on the historic inaugural flight of Alaska Airlines to the Far East.

"During his stay, Shcherbina acquainted himself with various aspects of the practice of law in the United States on both the state and federal levels, and doing research and writing," said Noel. "On our end, we are learning more about the conduct of business in Russia, and we are exploring the possibility of some type of long-term relationship between our two firms for doing business in the new Russian Commonwealth on behalf of our clients."

Shcherbina is founder and director of Sovietnik, Ltd., a private legal consulting firm. He is also a member of the Institute of Economic and International Studies of Ocean Development, Vladivostok.

He is a graduate of the Merchant Marine School; the Far Eastern State University, where he studied international law; and the Moscow Institute of State and Law, where he earned his Ph.D. in International Law of the Sea. He has been a lawyer since 1977 and in 1987 published a book titled "The Contemporary International Law of the Fisheries Problem."

Shcherbina was born in 1951 in the Krasnodarski Region, also known as the Territory of the Cosacks, in a village on the eastern coast of the Black Sea. He is married. His wife, Eugenia, and his eight-year-old daughter, Valeria, remain in Vladivostok.

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# • Code reform fares ill in Juneau

Continued from page 1

tions on the certificate of limited partnership and liability to third parties, Sen. Rodey did so.

In the certificate section, the bill retained the "long form" requirements, rather than going to the "notice certificate" or "short form" provision recommended by the NCCUSL. In the liability section, the bill did not include the expansion of the "safe harbor" — the list of activities that a limited partner could engage in (such as bringing a derivative action) without losing the status of *limited* partner.

Last year, the Senate Judiciary Committee produced a committee substitute that picked up the safe-harbor amendments, but stuck with the original bill's provisions on the certificate of limited partnership. And that is the form of the final bill — CSSB 193 (Fin) — released from House Judiciary May 6, and House Finance May 9, of this year. It passed May 11.

Sixteen commercial attorneys met in Anchorage early this spring and strongly recommended enacting the complete 1985 version, including the certificate section. They (and the NCCUSL and American Bar Association) regard the older form of certificate as infeasible in this era of limited partnerships with hundreds or thousands of members, changing regularly. Perhaps the modernization of our Act can be completed next year.

## Funds Transfers

Probably the most important proposal for change in the Uniform Commercial Code is the addition of Article 4A, on electronic funds transfers. Essentially, the proposal answers the numerous legal questions that arise in the use of modern electronic technology by financial institutions. Billions of dollars are transferred daily by this means.

The federal government has threatened to intervene if the states do not promptly enact UCC Article 4A. At least 37 states have already done so. The House Labor and Commerce Committee's HB 294(L&C), reported out April 10, 1992, recommended it, converting the governor's HB 294 on UCC Article 2A (personal property leasing). House Judiciary also recommended it, reporting out its committee substitute May 6, 1992. The bill did not get to the floor of the House.

## Personal Property Leasing

The governor introduced HB 294 April 22, 1991. It proposed the new UCC Article 2A, personal property leasing. It, too, is another significant step by the NCCUSL to keep the commercial Code abreast of current commercial practices. Personal property leasing, from horses and cars to commercial kitchen equipment to oil rigs, has become a major industry, with a 1989 dollar volume of \$150 billion. Current UCC provisions on sales (Article 2) and secured transactions (Article 9) do not appropriately address leasing questions. This proposal died when House Labor and Commerce Committee decided that it was not feasible to deal with all four UCC proposals this session, and it chose to move only the most important one (funds transfers).

## Negotiable Instruments

Again trying to recognize the demands of the electronics age in the commercial world, the NCCUSL has promulgated a set of amendments to UCC Article 3, commer-

cial paper. The proposal includes compatibility amendments of Article 1 (general provisions) and Article 4 (bank deposits and collections). This one was proposed for introduction, but never got into a bill in this legislature. It could be consolidated with the other UCC amendments, or it could stand alone. Seventeen states, with the likelihood of five more by the end of this year, have already enacted it.

## Bulk Sales

Not necessarily through science and technology, but just changing times, the concerns that prompted, and the concepts included in, the old UCC Article 6 (bulk transfers) no longer obtain. The NCCUSL promulgated alternative approaches to updating this article: a set of amendments and a repealer.

Most states that have taken action so far have chosen the repealer (10 out of 14, as of 1991). The group of Anchorage commercial attorneys mentioned above has endorsed *repeal* of Article 6 (AS 45.06). The revision was originally proposed, but neither version was included in any bill in this legislature.

Alaska needs to get moving to keep its Commercial Code up to date.

## Rule Against Perpetuities

This can be a fun one. Most attorneys would rather not think about it. Most non-attorneys never have.

The governor introduced HB 334 May 16, 1991, proposing the Uniform Statutory Rule Against Perpetuities. The bill got out of House Judiciary April 27, 1992, and passed the House May 1. The Senate did not take action on it, and it died in Senate Judiciary.

Believe it or not, this version of the rule, while longer, is simpler and easier to administer. And it avoids problems created by Alaska's current statutory modification of the common law rule (AS 34.27.010). The Alaska Chapter of the American Association of Retired Persons (AARP) supports it.

Two main features: (1) the bill retains the "wait and see" approach, blessed by our Supreme Court in *Hansen v. Stroecker*, 699 P.2d 871 (Alaska 1985), to avoid some of the harshness of the invalidating side of the common law rule; and (2) it sets a maximum time (90 years) for the waiting.

This "third generation" of statutory modification of the common law rule should result in greater certainty of realizing the intent of the creator of the future interest and in greater ease of administration for those future interest holders. It should be cheaper and should avoid litigation.

## Wills and Intestate Succession

In 1990, the NCCUSL promulgated a major revision of Article II of the Uniform Probate Code, dealing with wills and intestate succession. The project included a systematic study by the Joint Editorial Board for the Uniform Probate Code and a special Drafting Committee to Revise Article II.

The revision responded to three basic themes that emerged in the 21 years since the UPC was promulgated: (1) the decline of formalism in favor of intent-serving policies; (2) the recognition that will-substitutes and other inter vivos transfers have so proliferated that they now form a major (if not

the major) form of assets transmission; (3) the advent of the multiple-marriage society, resulting in a significant portion of the population being married more than once and having stepchildren and children by previous marriages and in the acceptance of a partnership or marital-sharing theory of marriage. Trends developed in case law, statutory law, and the scholarly literature.

The sheer bulk of this proposal worked against its introduction during this legislature. (But compare the speed of enactment of our entire UPC back in 1972: introduced January 10, 1972, and the Senate concurred in House amendments May 5, 1972.)

These amendments include the Uniform Statutory Rule Against Perpetuities, discussed above, but the rule can stand alone (as it does now in our Title 34 rather than with the Probate Code in Title 13). They also include the following separable packages:

- Uniform Simultaneous Death Act,

- Uniform Testamentary Transfer to Trusts Act,

- Uniform International Wills Act, and

- Uniform Act on Intestacy, Wills, and Donative Transfers.

## Nonprobate Transfers

Representative Fran Ulmer introduced HB 392, dealing with nonprobate transfers, on January 10, 1992. It was favorably reported out of House Labor and Commerce Committee, but died in House Judiciary despite AARP support.

For those states that have enacted the Uniform Probate code, as Alaska has, this proposal is a set of amendments of UPC Article VI (replacing AS 13.31 with AS 13.33). Other states can enact individual parts of it.

The three basic parts of this proposal are the Uniform Nonprobate Transfers on Death Act, the Uniform Multiple-person Accounts Act, and the Uniform TOD Security Registration Act. Essentially, the first two simply expand Alaska's provisions on nonprobate transfers (AS 13.31.070) and multiple-party accounts (AS 13.31.005 — 13.31.065). The latter adds a new category of property (securities) for similar nonprobate treatment. Again, successors should realize a savings by avoiding the cost and delay of probate and litigation.

## Common Trust Fund

Rep. Max Gruenberg introduced HB 469 on February 12, 1992 to amend AS 06.35.010 in Alaska's Uniform Common Trust Fund Act. The bill adds references to bank and trust company "affiliates" in the provisions authorizing establishment of common trust funds and investment of those funds, tying the definition of "affiliate" to the Internal Revenue Code. The bill was reported out of House Judiciary May 4, and died in the House Rules Committee.

## Custodial Trusts

Rep. Gruenberg also introduced, on February 18, 1992, the Uniform Custodial Trust Act — HB 509. This Act, in the words of the NCCUSL's prefatory note, is "designed to provide a statutory inter vivos trust for individuals who typically are not very affluent or sophisticated, and [are] possibly represented by attorneys engaged in

general rather than specialized estate practice. The most frequent use of this trust would be in response to the commonly occurring need of elderly individuals to provide for the future management of assets in the event of incapacity." The bill passed the House April 8 and died in Senate Judiciary.

## Premarital Agreements

The governor introduced HB 346, the Uniform Premarital Agreement Act, May 19, 1991. This Act, adopted in at least 15 states by 1991, expressly recognizes enforceable premarital agreements. It permits people who are contemplating marriage to arrange for their property and certain other rights, and sets standards for enforceability of such agreements — especially critical in interstate situations. The bill died in the House Health, Education, and Social Services Committee — the first committee of referral.

## NCCUSL Centennial

The governor's legislative resolution (HJR 43), commending the NCCUSL on its centennial, passed (as did similar resolutions by the Alaska, Anchorage, and Juneau Bar Associations last year). Upon the governor's signature, it became Legislative Resolve No. 54.

## More Detail

This synopsis does not do justice to any of the uniform Acts proposed — neither the ones that actually got introduced nor the others. And, of course, the 1991/1992 proposals in Alaska are just a small percentage of the product of the NCCUSL.

Anyone wanting to read any of the Alaska bills should contact the nearest Legislative Information Office. Those wanting to see the official NCCUSL version could look it up in *Uniform Laws Annotated*. Those wanting their very own pamphlet copy of a Uniform Act, or an information packet, should contact

John M. McCabe, Legal Counsel & Legislative Director NCCUSL 676 N. St. Clair Street, Suite 1700, Chicago, Illinois 60611.

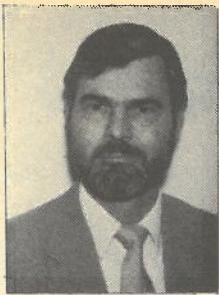
Art Peterson is an Alaska Uniform Law Commissioner, retired from the Alaska Department of Law in October 1990, currently in private practice.

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## BANKRUPTCY BRIEFS

By Thomas Yerbich

### A modernized bankruptcy code

Pending before Congress is a proposed revision of the Bankruptcy Code. Included in the bill are such items as doubling Federal exemptions, increasing chapter 13 eligibility debt limit to \$1 million and a small business reorganization, chapter 10. Before submitting my comments and suggested further amendments to modernize and streamline case administration, I thought I might float them by my readers (your input is welcome and will, of course, receive all due consideration that it deserves). I propose that Congress consider the additional amendments to the Bankruptcy Code.

- Amend § 303(h) relating to grounds for involuntary petitions by adding the following paragraphs: "(3) Departing the state with the intent of defrauding creditors or to evade the payment of just debts; (4) secreting oneself in an attempt to avoid creditors; (5) procuring or suffering oneself willingly to be arrested or imprisoned, without just and lawful cause, which is deemed an attempt to defraud one's creditors; (6) procuring one's money, property and assets to be attached, seized or sequestered by any legal process; (7) making any fraudulent conveyance to a friend or relative of one's property or assets; (8) endeavoring by any petition, complaint, cross-complaint, counterclaim or answer in a court of competent jurisdiction against any creditors to compel creditors to take less than their just debts or for the purpose of procrastinating the time of payment originally contracted for."

[Revisor's Note: Removal of "acts of bankruptcy" by the 1978 Code has tended to make involuntary cases more difficult to initiate and permitted debtors to "fritter away" assets. By restoring the six acts

enumerated above, creditors can more easily bring a debtor before the bankruptcy court at an earlier stage to prevent dissipation of assets.]

- Add a new § 308 reading: "In case the debtor absconds, or is likely to run away, between the time the petition is filed and the last day for the debtor to surrender to the trustee for examination, debtor may by warrant issued by the bankruptcy court be committed to the local gaol in order to be forthcoming to examination; and a warrant may also issue for seizure of the debtor's property and papers."

[Revisor's Note: This provision will permit the court to "lock the barn door" before the horse gets away.]

- Amend § 343 relating to appearance and examination of the debtor at the § 341 creditors' meeting by designating the current language regarding examination of the debtor as subsection (a) and adding a new subsection (b) reading: "The debtor, upon this examination, is bound upon pain of death to make full discovery of all of debtor's estate and effects, as well in expectancy as possession, and how debtor has disposed of the same; together with all books and writings related thereto; and is to deliver all in debtor's power to the trustee (except the necessary apparel of the debtor, debtor's spouse and dependent children)."

- Amend § 521 relating to duties of the debtor by adding thereto a new subsection (6) reading: "In the event that debtor shall default in compliance with the requirements of this section or any other provision of the Code, debtor shall be guilty of a felony without benefit of clergy and shall suffer death, and debtor's property and assets distributed among debtor's creditors."

[Revisor's Note: For some debtors the current remedies barring discharge and possible imprisonment is simply not enough to get them to make a clean breast of it and pay

attention to the rules of the game. Maybe these amendments will serve as the proverbial two by four that gets the mule's attention. However, while we may want debtors to bare their souls, we do not want them to bare their bodies.]

- Amend § 502 relating to creditors' claims by adding a new subsection (k) reading: "Any person who shall file a false and fictitious claim shall forfeit to the estate the sum of \$5,000 plus an amount equal to twice the amount of the fictitious claim."

- Amend § 542 relating to the turnover of property of the estate to the trustee by adding thereto a new subsection (f) reading: "Any person willfully concealing any property of the estate shall, after the expiration of 42 days of the date the petition is filed without having voluntarily surrendered such property to the trustee, forfeit to the estate the sum of \$5,000 plus double the value of the property of the estate concealed."

[Revisor's Note: The current threat of criminal prosecution is not only too remote a prospect (after all, Federal prosecutors have more important things to do), but fines and imprisonment do not provide restitution to the injured creditors while a civil penalty will. Punishing persons who attempt to defraud the estate to the detriment of legitimate creditors by hitting them where greed starts, their bank balances, will disabuse those who inflate claims against the estate because they believe no one will challenge the claims.]

- Amend § 522 relating to exemptions by repealing the entire section and substituting the following: "The debtor shall be allowed out of debtor's property, assets and effects a reasonable allowance for the future support of the debtor, debtor's spouse and dependent children, and to put debtor in a way of honest industry, as follows: (1) if the creditors do not receive at least fifty cents (\$0.50) on each dollar of debt, an amount not to exceed three percent; (2) if the creditors receive at least fifty cents (\$0.50), an amount not to exceed five per cent; (3) if the creditors receive at least sixty-five cents (\$0.65), an amount not to exceed seven and one-half per cent; and (4) if the creditors receive seventy-five cents (\$0.75), or more, an amount not to exceed ten per cent; provided that such allowance shall not exceed \$5,000 in the first case, \$10,000 in the second case, \$15,000 in the third case and \$20,000 in the fourth case."

[Revisor's Note: By tying exemptions to creditor recovery, debtors will tend to discover and admit their decline earlier thereby giving the creditors a larger dividend. Trustees will also love this provision because it should reduce the percentage of "no-asset" cases.]

- Amend Rule 2004, FRBP by adding thereto a new subsection (d) reading: "Any person, other than the debtor, who shall refuse to answer, or shall not answer fully, any lawful question, or who shall refuse to subscribe such examination, shall be committed to imprison-

ment without bail, until such time as such person shall make and sign a full answer. Any gaoler permitting such person to escape or go out of jail, shall forfeit \$5,000 to the estate."

[Revisor's Note: Intended to discourage people from cooperating with recalcitrant debtors or in aiding and abetting debtors' well known propensities to play "hide the ball" or engage in the "pea in the pod" scam. I further suggest making the U.S. Trustee the gaoler; after all we should get some semblance of service in return for the exorbitant fees extorted from poor chapter 11 debtors!]

Lest people think that another debtors' counsel has gone the way of burned-out public defenders, let me hasten to acknowledge that little of the foregoing is original (there are those who claim I seldom have an original thought and on the rare occasions that I do it is invariably

wrong). What you have just read is an adaptation taken from Blackstone, *Commentaries on the Laws of England*, Book II, Chapter 31 (1766).

Only too frequently we tend to forget that America sprang not from "taxation without representation" but from the tyranny of the harsh laws regarding debts and debtors' prisons and religious intolerance. [Since religion is beyond the scope of the author's limited expertise, I will leave that subject to Dr. Prevo, Bishop Hurley and Rabbi Rosenfeld.]

Harsh as they were, the bankruptcy laws of England were restricted to persons engaged in a trade or commerce and did not apply to the "commoner." The so-called "commoner" who could not pay his (or her) debts was relegated to prison or sold into indentured servitude [a situation that, while not as lengthy as slavery and theoretically maintaining a "free" person status, lacked the "benign benevolence" that marked the lot of many slaves and frequently involved living conditions that made slavery look like paradise]. While bankruptcy for those engaged in commerce has been recognized since at least the days of the Roman Empire; bankruptcy for the "commoner" and the concept of protecting debtors as well as creditors is uniquely of American origin. To paraphrase a well known ad: "We have come a long ways in 200 years baby."

We should also not forget that one of the few noncontroversial provisions of the U.S. Constitution was the clause providing for a national bankruptcy act. "The power of establishing uniform laws of bankruptcy, is so intimately connected with the regulation of commerce, and will prevent so many frauds where the parties or their property may lie or be removed into States, that the expediency of it seems not likely to be drawn into question." [Madison, *The Federalist*, No. 42 (1788)]

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**Y**our participation in the Alaska Bar Foundation's IOLTA program requires so little. Just a few minutes at your bank signing some forms. Then you can forget it. Maybe forever. At least for years.

In the meantime, the nickels, dimes, and dollars generated as interest on those small or short-term trust accounts—combined with hundreds of other IOLTA contributions—will add up quickly. Last year, with only 48% of Alaska's law firms participating, \$260,000 were contributed to seven important projects.

With so little effort, so much good was done. Think what we could do if every law firm participated. That's something none of us would forget.

## Alaska Pro Bono Program

is jointly sponsored by Alaska Legal Services Corporation and the Alaska Bar Association. It is a statewide, nonprofit, direct service program involving private and public sector attorneys in the delivery of free legal services to low income Alaskans.

In 1991, \$130,000 were provided for free legal services for the economically disadvantaged; for the Elderlaw project, which serves Alaskans 60 years old or older; for the Tuesday Night Bar Advice-Only and Pro Se Clinics, which provide classes on various legal needs, such as wills, power of attorney, uncontested divorces, custody and support orders, and Chapter Seven bankruptcy; and for appointments for low income *pro se* plaintiffs filing U.S. District Court civil cases.

## Catholic Social Services

operates an Immigration/Refuge Program which is the only program available in Anchorage to aid immigrants with the immigration laws. In 1991, \$18,000 in IOLTA funds were given to meet the increased demand for legal services and to create a part-time staff position to deal with the numerous requests for legalization and asylum.

## Alaskan Aids Assistance Association

is committed to providing legal help for those infected with the HIV virus and those suffering from the AIDS disease, many of whom fear discrimination and of which 81% are below the poverty line. The IOLTA program provided \$7000 to assist this important organization with legal case management.

## Participating Law Firms as of January 1, 1992

Joyce M. Abraham-Simmerman  
Alaska Legal Services Corporation, P.C.  
Artus, Choquette & Williams  
Ashton & Dewey  
Atkinson, Conway & Gagnon, Inc.  
Joyce E. Bamberger  
Bankston & McCollum, P.C.  
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Batchelor, Murphy & Brinkman, P.C.  
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Rex Lamont Butler, Esq.  
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Davis & Goerig, P.C.  
Davis Wright Tremaine  
Jill Dean  
Delaney, Wiles, Hayes, Reitman & Brubaker, P.C.  
Dan E. Dennis, Attorney at Law  
William F. Dewey, Atty.  
Dillon & Findley  
Loren Domke, P.C.  
Ely & Havelock  
Farleigh & Shamburek  
Faulkner, Banfield, Doogan & Holmes  
Thomas E. Fenton  
Franklin D. Flecks  
Foley & Foley  
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David E. Grashin & Associates  
Gray, McLean, Cole & Razo P.C.  
Brian Mark Gray, P.C.  
Groh, Eggers & Price  
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Stan Halferman  
Hagans, Brown, Gibbs & Moran  
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## Anchorage Youth Court

is a program in which youths are tried by their peers without receiving a criminal record. Through membership in the Anchorage Youth Court (AYC) Bar Association and participation in AYC trials, the program offers young people an understanding and awareness of their legal responsibilities to society. Those who have committed crimes are given a chance for redress and erasing their criminal record by participating in community service projects. Students in junior and senior high schools receive training in representing and judging their peers. The IOLTA program provided a donation to this organization in 1991 in the amount of \$55,000.

## Rural Alaska Outreach Project

is an outgrowth of the Alaska Law-Related Education Program and is tailored to pilot law-related education in rural Alaska. The goal is to help secondary students develop an understanding of the United States legal system and the skills necessary to be responsible citizens. The program also helps students gain practical experience and one-on-one contact with law enforcement personnel. In 1991, \$22,000 were given to the project.

## Women's Education & Leadership Forum

received \$3000 for legal brochures distributed at the Forum's annual conference in March 1991, which was co-hosted by Senator Ted Stevens. The conference was non-political in nature and provided networking opportunities and educational information on topics of universal concern to women, as well as information on resources and options available to women.

## Alaska Legal Services Corporation

received an emergency grant of \$25,250, half in 1990 and half in 1991, which allowed the Fairbanks office to remain at then-current staffing levels.

For more information on the IOLTA program and how you can participate, call the Alaska Bar Foundation at 272-7469.



**Alaska Bar  
Foundation**

# THINK WHAT WE COULD DO WITH 100%.



# Convention



Pat Kennedy, outgoing president, passes the gavel to Barbara Blasco, incoming president.



Ralph Beistline enlightens the crowd at the Awards Banquet with impromptu insights on the judicial selection process.



McLeod, a folk/bluegrass band, ended the Awards Banquet on a bright note. Left to right, Goodwin Trent, Marianne See, Judge David Mannheimer, and attorney Chuck Dunnagan entertain convention-goers.



Former Bar President Jeff Feldman accepts a plaque from President Kennedy at the awards banquet, for his six years' service to the Board.

The Alaska Bar Association wishes to thank the following individuals and organizations for their support of the 1992 Annual Convention:

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Alaska Court System  
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## ALASKA BAR CLE

*Don't Miss This One!*

**American Bar Association  
Interstate Child Support Remedies Training**

Friday, August 7, 1992  
9:00 a.m. - 4:30 p.m.  
Hotel Captain Cook, Anchorage

### Faculty:

**ELEANOR LANDSTREET**, Assistant Staff Director,  
ABA Child Support Project, Washington, D.C.

**ARDITH LYNCH**, Fairbanks North Star Borough Attorney, formerly  
Deputy Director, Child Support Enforcement Division, State of Alaska

A one-day hands-on training designed to improve understanding and performance in interstate child support remedies, this program will be of interest to family law practitioners, court personnel, CSED staff, and anyone actively involved in interstate child support cases.

Registration Fee: \$85. This reduced fee for a full day program is possible because of partial ABA Child Support Funding.

CLE Credits: 6.6 CLE credits

To register, call 907-272-7469 or fax 907-272-2932.

*Education by the Bar for the Bar*



# Convention



John Franich, Ken Eggers, and Mike Thompson ordered out for pizza at the President's Reception. The appetizers were great, but didn't satisfy the trio's craving for pepperoni.



Bob Owens (left), President of the Anchorage Bar Association, presents a special "No Name" Award to Ken Jacobus for his service to the Anchorage Bar.

## New officers elected

Barbara J. Blasco was elected President of the Alaska Bar Association at the Association's annual meeting held June 6, 1992. Blasco was Juneau City-Borough Attorney for the past six years, and will be starting a new position as Supervising Attorney for the Governmental Affairs Section of the Attorney General's Office in Juneau. She has been a member of the Bar Association since 1977.

Other officers include president-elect Philip R. Volland, Anchorage attorney with the firm of Rice, Volland & Gleason; vice-president Patricia Browner, a public member and MBA student at Alaska Pacific University; secretary Elizabeth Kertulla, an assistant attorney general in Juneau; and treasurer Daniel E. Winfree, an attorney with the Fairbanks firm of Winfree & Hompesch.

## Board proposes dues change

### Proposed Bylaw Amendments DUES

The Board of Governors is proposing the following amendment to the Alaska Bar Association bylaws, pursuant to the vote of the membership present at the Annual Business Meeting on June 6, 1992:

Article III. Membership Fees and Penalties.

#### Section 1. Annual Dues.

(a) Active Members. The annual membership fee for an active member is \$450.00 (\$310.00), \$10.00 of which is allocated to the Lawyers' Fund for Client Protection (CLIENT SECURITY FUND).

#### DUES WAIVER

The Board of Governors is proposing the following amendment to the bylaws. The amendment details the information required by the Board when they consider a request to waive payment of bar dues due to hardship.

#### ARTICLE III

#### Membership Fees and Penalties Section 1. ANNUAL DUES.

• • •

(e) Waiver. The Board of Governors may waive the payment of a

member's annual membership fee upon a sufficient showing of hardship, as defined in paragraph (f).

(f) Hardship. For the purposes of this section, "hardship" means an economic inability to pay dues as the result of a medical condition, mental condition, or an involuntary change in economic status.

(g) Proof of Hardship. Unless waived by the Board, a member requesting a waiver of dues must submit the following information to the Board:

(1) an affidavit by the member detailing the nature of the hardship and the reasons the member is unable to pay membership dues,

(2) a copy of the member's last two federal tax returns with supporting schedules, and

(3) a detailed listing, including estimated values, of all real property and personal property of the member and a detailed listing of all outstanding debts.

Please send comments by August 31, 1992 to Deborah O'Regan, Executive Director, P.O. Box 100279, Anchorage, AK 99510.

## Branson honored for Distinguished Service



Pat Kennedy presents Harry Branson with the Board of Governors Distinguished Service Award.

Harry Branson was the recipient of the Alaska Bar Association Board of Governors Distinguished Service Award. This award, presented at the 1992 Alaska Bar Association annual convention on June 6, 1992 in Anchorage, annually honors an attorney for outstanding service to the membership of the Alaska Bar Association.

Mr. Branson served on the Bar

Association Board of Governors, serving as president his final year on the Board for two terms, in 1985/86. Branson was the founder of the Bar Association publication *The Alaska Bar Rag* and served as editor for seven years.

Branson has been a member of the Bar Association since 1972 and is currently a U.S. Magistrate Judge for the U.S. District Court.

## Young receives Professionalism Award



President Pat Kennedy presents Joe Young with the Board of Governors Professionalism Award.

Joseph L. Young, a partner in the Anchorage firm of Young, Sanders & Feldman, received the Board of Governors Professionalism Award. The annual award recognizes an attorney who exemplifies the attributes of the true professional;

whose conduct is always consistent with the highest standards of practice and who displays appropriate courtesy and respect for clients and fellow attorneys.

Young has been a member of the Bar since 1965.

## ALASKA BAR CLE

### POWERFUL LEGAL WRITING

#### LIVE in 2 CITIES!

#### Anchorage

Tuesday, August 18, 1992

9:00 a.m. - 4:00 p.m.

Hotel Captain Cook

#### Fairbanks

Thursday, August 20, 1992

9:00 a.m. - 4:00 p.m.

Westmark Fairbanks Hotel

#### This program will:

- demonstrate the four principles of clear, precise, persuasive and coherent legal writing,
- outline methods for applying these principles,
- provide participants the opportunity to revise writing individually and in groups and receive feedback from the instructor.

Both new and experienced practitioners will find this program of interest.

**Faculty:** Dr. Elizabeth A. Francis has served as Faculty Coordinator of Judicial Writing at the National Judicial College in Reno, Nevada since 1982. She teaches legal and judicial writing throughout the United States and serves as a consultant to major law firms. Dr. Francis received her M.A. and her Ph.D. from Yale University.

Registration Fee: \$120 includes materials and coffee services.

CLE Credits: 5.8 CLE credits

For more information, please call

907-272-7469 or fax 907-272-2932.

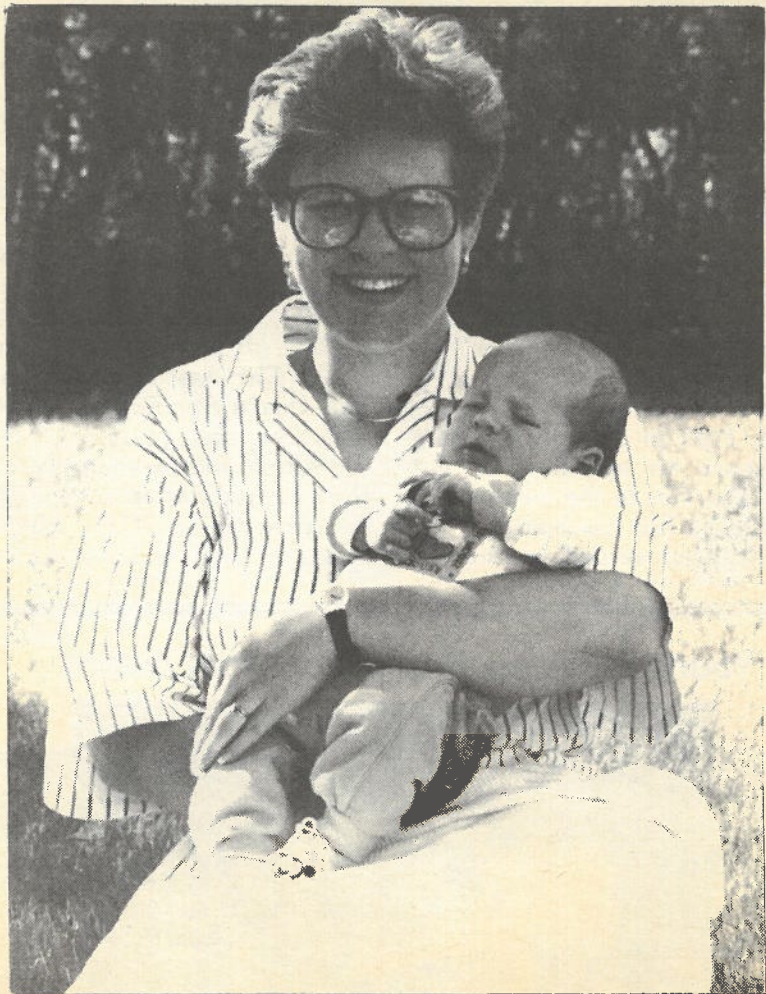
Education by the Bar for the Bar





## PEOPLE

## This lawyer really delivers



Jo Kuchle and new son Justin

No one can say that Jo Kuchle of Staley, DeLisio, Cook & Sherry doesn't deliver. In April, she delivered both a defense verdict for her client and a baby: both within less than 24 hours.

On Friday, April 10, 1992, Jo arrived at court to deliver her closing argument at the end of a nine day jury trial. While Judge Meg Greene read the jury instructions, Jo began feeling a bit uncomfortable. Although she was nine months pregnant, Jo wasn't due until April 16. For Jo, that meant that she still had six days to prepare for the birth of her first baby. After all, every good attorney knows that if something is due on a given date, that is the date it will be delivered.

After reading the instructions to the jury, Judge Greene dismissed the panel to begin deliberations. As the attorneys were leaving the courtroom, Judge Greene instructed that they should be available to return to court that afternoon if the jury completed its delib-

erations. Still not thinking that she was in labor, Jo jokingly asked if she were in the hospital delivering her baby, could her co-counsel, Charlie Silvey take the verdict? Judge Greene retorted "Only if you have a note from your doctor."

During lunch, Jo's pains became more persistent and her office staff convinced her that she should go to the hospital. Since her husband, Gene Therriault, was working in Juneau, she called her back-up coach, attorney Cynthia Klepaski from Hughes Thorsness Gantz Powell & Brundin to drive her to the hospital. Sure enough, the delivery room nurses confirmed that Jo was indeed in labor.

Several hours later, while in the throes of a contraction, Jo received a call from Skip Cook at her office to tell her that the jury returned a verdict in her client's favor. Eight hours after that, at 12:31 a.m. on April 11, Jo delivered an 8 pound, 14 ounce baby boy, Justin Kuchle Therriault. Baby, mother and clients are all doing well and very happy Kuchle delivered.

Stephanie Galbraith was incorrectly reported in the May-June *Bar Rag* as the new municipal ombudsman for the Municipality of Anchorage. She actually was appointed assistant municipal attorney. (Rosa Garner is municipal ombudsman).

From California, where he's employed by a law firm, Millard Ingraham reports he passed his first bar exam in 30 years, the California Bar. (He passed the Alaska Bar in January, 1962). Elizabeth Ingraham recently had her master's

show en route to a Master of Fine Arts degree from the University of California, Santa Barbara.

Lloyd B. Ericsson and Lisa Brett Egan announce the formation of Ericsson & Egan, a professional corporation with offices in Oregon, Washington, and Alaska.

Monte Engel, formerly Acting District Court Judge in Homer and Magistrate in Barrow with the Alaska Court system, has taken the position of Managing Attorney of the Devils Lake (N.D.) regional office of Legal Assistance of North Dakota, Inc.

## IN MEMORIAM

## Fairbanks honors Taylor

BY RALPH R. BEISTLINE

On July 1, 1992, a memorial service was held for Scott Lawrence Taylor, a lifetime Alaskan and respected Fairbanks attorney.

Scott died June 28, 1992, at age 33 after a short illness. Taylor was a third generation Alaskan lawyer and part of a distinguished Alaskan family. His grandfather, Warren A. Taylor, was a Fairbanks attorney and long-time Territorial and State Legislator. His father, Warren William Taylor, was a well-respected superior court judge. Scott's sister, Karla-Taylor Welch, is an assistant district attorney in Fairbanks and his brother, Warren A. Taylor II, is an attorney in private practice. Scott is also survived by his mother, Gloria Taylor; brother Randy Dickey; sister Sibyl Johnson; wife Bridget; and son Colin.

The mass, held at Sacred Heart Cathedral, was attended by a large number of Fairbanks attorneys, as well as many of Scott's family, friends, and associates. Speakers included Fairbanks attorneys Joe Paskvan and Lloyd Hoppner, who were law partners with Scott at the time of his death. Scott's lifelong friend David Norum also spoke. Warren A. Taylor II was the concluding speaker.

Those in attendance were moved by the proceedings and inspired by recollections of Scott's life and his many accomplishments.

Scott suffered from ill health



Scott Lawrence Taylor

during much of his adult life but seldom complained and always exhibited a positive attitude. He was known as a determined, tenacious and effective advocate and a dedicated family man who took special pride in his wife Bridget and young son Colin.

While memorial services are seldom pleasant occasions, this one was unique. Scott's lifetime successes as athlete, as husband, brother and son, and as attorney, despite physical hardship, served as an example and an inspiration to all. Scott Taylor clearly set a standard toward which we can all aspire.

## Hickel appoints 2 to bench

Gov. Walter J. Hickel on June 29 appointed Sigurd Murphy and Stephanie Rhoades, both of Anchorage, as district court judges for the Third Judicial District.

"The demands on the courts in today's society will continue to grow," Hickel said. "This requires that we appoint the best judges we can find. I'm confident the two we've chosen have shown they will make good judges. And they've demonstrated this through their education, their experiences, and a willingness to be involved in their communities."

Sigurd Murphy, 46, has practiced law in Alaska for 20 years. He received his law degree from University of Southern California Law School in 1972, and is a partner in the law firm of Hughes, Thorsness, Gantz, Powell and Brundin. Murphy has served in the Alaska National Guard since 1979, where he is currently a colonel.

Murphy is involved in a wide va-

riety of civic activities and organizations, including Rotary, Boy Scouts, Armed Services YMCA, the American Red Cross, Brother Francis Shelter and Commonwealth North, among others. He is married with two children.

Stephanie Rhoades, 33, received her law degree from Northeastern University School of Law in Boston in 1986. She has worked in all three branches of government, as well as in private practice. Most recently, she has been in charge of the Sexual Assault Unit of the Anchorage District Attorney's Office, a position to which the Governor appointed her last year.

Rhoades is an active member of the Alaska Women's Political Caucus, and has worked with Big Brothers/Big Sisters in the past. She also serves on the Anchorage Domestic Violence Committee, a group committed to reducing domestic violence.

--Office of the Governor, June 29, 1992

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## MOVIE MOUTHPIECE

By Ed Reasor

For over 10 years now, my wife and I have left our law office early, usually between 2 and 3 p.m. on Friday afternoon to attend a film matinee and then dinner. This whether in Honolulu or Anchorage.

Our "Film Fridays" have the advantage of allowing her to see at least 52 feature films a year (to my 300) as well as dining at a new eatery. True, Honolulu has more, varied restaurants, but still there are well over 52 different restaurants in Anchorage, and new ones replace old ones weekly.

We recommend it to you as well as our at-dinner formula for discussing the film just seen. Who was the best actor? Did the story have a beginning, middle, and logical ending? Was it slow in parts? Did the music add or distract? She always sees something I hadn't noticed, and I'm happy to answer some of her more thought-provoking "how did they shoot that?" inquiries. It beats a discussion on the Rule of Perpetuities or even statewide politics. Here is a pot-pourri look at three films we saw together here in June.

### FAR AND AWAY

Director Ron Howard combined the talents of real life married folks Tom Cruise and Nicole Kidman in an epic film that really says nothing that you haven't heard before. A mismatched Irish couple (she's rich, he's not) comes to America and takes part in the great Oklahoma land rush. She's had property but lost it. His one and only dream, besides her, has been to acquire land.

Cruise is not totally convincing as a bare-knuckle fighter in tough Boston, but he portrays a stubborn, simple, dedication to getting ahead, and Nicole is inventive enough to find the comic side of the whole

concept, acting rather rigidly as his sister in a whorehouse where they find cheap lodging.

The film is a bit long at 2 hours and 20 minutes, but overall it's worth the price of admission as the cinematography for this \$50 million extravaganza is exceptional.

The format is 65 MM (most movies are 35 MM and almost all college and fraternity showings are 16 MM). What the viewer experiences is a widescreen panorama, with precise blocking of shots because of the shallow depth of field. On the other hand, the clarity and definition of the illusion shown on the screen tends to make the viewer a more intimate spectator. More hand-held and steadicam shots are used in *Far And Away* than most films seen in Alaska.

If I had my choice for an Alaskan story shot amidst our huge mountain meadows and glacier fjords, I'd choose 65 MM too, although this necessarily increases the cost of production.

### ALIEN

Sigourney Weaver as Ripley continues her battle with the Alien. This time she crash-lands on a prison space station where there are no weapons and the inmates have found religion. They have all either killed or raped (or both) a woman.

Weaver's presence could upset all of the colony's rehabilitation efforts. So she gets a military crew cut.

Critics are divided on this reportedly last adventure (almost everyone does die). It is filmed darkly and gloom prevails, but isn't prison less than a homey place? Without doubt, the filmmakers on this third attempt have increased the mobility of the Alien.

Almagamated Dynamics created

six rubber suits, three articulated heads, two close-up heads and one striking head for the Alien in this endeavor (see photograph). The android Bishop has an animatronic head and the improved Alien snarls, drools, wags his tail. The feature is replete with motion-control techniques, and composites of miniatures with matte paintings and shadows for the Alien that had to be digitally composed.

If you want to do dinosaur monsters or scary creature films, buy a copy of *Alien 3* when it comes out in video. They don't teach this format in film school (it's a special branch learned on the job or through seminars) and the special effects here do scare most theatre patrons.

### HOUSESITTER

Combine Steve Martin and Goldie Hawn as an unappreciated architect and a woman who has never received a decent break, add fine direction by Frank Oz (although the first 20 minutes of moodsetting could have been shortened to eight) and the wonderful photography of John Alonzo and what you have is belly laughs. (Do see this with a member of the opposite sex).

This is a 1930s screwball type of film whose message is that opposites attract. I noticed that my male audience laughed at different parts of *Housesitter* than did the females, although at times everyone howled.

Martin builds a dream house for his student love (played with a lost look by Dana Delaney). In fact just after the opening credits, she is blindfolded in the front seat of a red convertible and driven to this won-



der 50 miles from Boston. The house is tied with a red ribbon (signifying the matrimonial planning of Martin) but the girl says no — she's afraid he won't amount to much.

Crestfallen, the lonely Martin has a one-night stand with Hawn; almost in tears, he describes the house, its idyllic pond, the small quiet village, the church steeple, and the down-home people and living. Hawn's response is: "You're interesting. You're so average."

But there's nothing wrong with an average good man when all you have had are deadbeats. So Hawn, unannounced and uninvited, moves into the vacant home and tells everyone (including Martin's parents and boss) that they are married.

As every trial lawyer knows, people who lie should have a good memory. Martin does not and Hawn has been lying so long to so

many people that it is second nature to her. The situations resulting from this dichotomy are hilarious. Why does he go along with it? Because the girl who said no is suddenly interested and he thinks he still cares, so Hawn can stay (with free room and board) but she has to help him conquer the girl who refused his hand.

If you haven't figured out how this film ends while reading these few notes, you need that Friday afternoon movie sojourn desperately. This is the one: comedy, romance, even uplifting thoughts, and not once does anyone knock lawyers.

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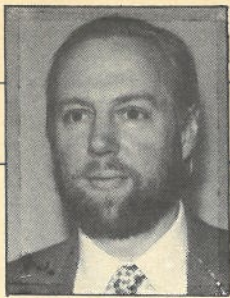
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## GETTING TOGETHER

By Drew Peterson

**Cross-Cultural Communications.** Why is it that we have such a hard time communicating with one another? Sometimes it seems that the harder we try to get our message across, the harder it is to accomplish. When we try to say something they hear something else. This is often true in our business dealings and even with our friends and loved ones. What is it that makes communications so difficult? And what can we do to improve the situation?

Part of the answer can be found in the works of Deborah Tannen, Ph.D. Tannen's most recent book about miscommunications between men and women has been a best-seller, with the author prominent on the talk show circuit. I prefer her earlier more general book, however, with the catchy title of *That's Not What I Meant - How Conversational Style Makes or Breaks Relationships* (Ballentine Books, 1986).

Often missed behind the catchy titles to Tannen's books is the serious academic nature of her field. Deborah Tannen is a cultural linguist, a professor at Georgetown University. The fascination of her work comes from its consideration of the conversational foibles that we are all familiar with, from the perspective of a professionally trained linguist.

The essential message of *You Just Don't Understand* is that we all have different cultural styles of communication. These styles are neither right nor wrong. We get in trouble because our own ways of communicating seem self evidently natural to us. We forget that others don't necessarily communicate in the same ways, nor mean the same things that we do. Therein lie many difficulties. What seems honest to some seems rude to others. What seems open and caring to some seems nosy and manipulative to others.

**Porcupines on a Cold Night.** The fundamental tension between people, responsible for most of our miscommunications, is the tension between our need for involvement

versus our need for independence. Schopenhauer gives the example of two porcupines on a cold night. They huddle together for warmth, but their sharp spines prick each other apart. Similarly we all have a desire to get close, to get a sense of community. But we also desire to keep our distance and preserve our independence.

This fundamental tension between involvement and independence puts us into a double bind. Anything we say to show that we are involved with others is in itself a threat to both our and their independence. And anything we say to show that we are keeping our distance is a threat to our need for involvement. Because of this double-bind, communication will never be perfect between us. We can never reach equilibrium. It is no wonder then that we all struggle daily in our communications with the people around us.

There are a number of linguistic practices whereby we play out this tension between involvement and independence. Such practices vary greatly depending upon our underlying cultures. Some are:

**Message vs. Metamessage.** The message to our communication is the information conveyed. The metamessage is the underlying communication about the overall relationship. It is conveyed not by the words said, but by intonation, pitch, body language, and the like. And metamessages are generally the stronger messages when we communicate. If we have ever asked someone if they were angry and they yelled "NO!" and stomped their foot, we can see how much stronger is the metamessage.

Some studies assert that 55 percent of what we communicate is conveyed non-verbally, through body language. Another 38 percent is conveyed through our tone of voice. That leaves only 7 percent of our communications that comes from the actual words that we say.

Examples abound of mixed messages across cultures. For example Americans in England are frequently enraged by close contact in public, say train compartments, where the Englishmen simply refuse to acknowledge the American's presence. To the English it is the polite thing to do, while to Americans it is rude.

Many Americans, especially men, place more emphasis on their need for independence than their need for involvement. This often entails paying less attention to the metamessage level of talk, focusing instead on the information level. This can create great problems in business in dealing with Greek, Japanese or Arab counterparts, for whom "small talk" is an essential part of all business dealings.

**Pausing and Interrupting.** One of the linguistic signals which we often do not consciously notice involves pausing during conversation. Some people expect a substantial pause before breaking into the conversation. Others expect a lesser pause, while still others expect no pause at all and are comfortable in interrupting the other speaker.

Such small differences can create great resentments between people of diverse cultural backgrounds.

**Shouting Versus Mumbling.** Differences in volume of talk can also create problems in communications. Not only are there cultural differences in the general volume of talk, but volume signals vary from culture to culture. For example getting softer in volume can show a relationship between ideas, serve as a switching signal, express emotions, or be a sign of respect. Because loudness can signal all of these different intentions (and more), confusion can easily arise as to its meaning.

**Pitch and Intonation.** Tannen tells the story of a Greek man married to an American woman who accused her of speaking in an irritating monotone. She felt terrible about this newly discovered failing, and wondered why no one had ever mentioned it to her before back home. It never occurred to either of them that he was listening for the extreme pitch shifts typical of Greek women's conversation, whereas she followed the typical American habit of muting her expression of emotion when excited.

Intonation, called the music of talk, comes from a combination of pacing, pausing, loudness, and especially changes in pitch. Pitch changes are a basic tool for signaling meaning. For example, raising the pitch at the end of a sentence can turn it into a question. But it can also show uncertainty or ask approval. And such meanings can vary with culture, as with the extreme tonal shifts of Greek women. If you expect such shifts and don't hear them, what you hear sounds like a monotone. If you don't expect such shifts and you hear them, you may conclude that the person is overdramatizing or overemotional.

Since pitch changes are often signs of emotional expression, it is no coincidence that people who use more of such shifts are often perceived as overly emotional. This includes not only certain cultural groups (e.g. hot-blooded Latins) but also women in general, who tend to use pitch shifts to a greater extent than men. Indeed, medical doctors often have a difficult task determining the extent of pain felt by patients of different cultures because of such differences in communication style.

**Listening vs. Overreacting.** Even such a seemingly simple thing as listening can reflect different cultural styles. We listen effectively by providing feedback of the fact that we are paying attention to what is being said. If we do so with comments such as "Wow!" or "Oh my god!", however, such expressions can scare the persons to whom we are listening and make them stop to find out what caused such an outburst. Attempts to show solidarity can be interpreted as skepticism, or even sarcasm, if the communicating parties have different listening styles.

**Questioning vs. Interrogating.** Another way of showing interest and appreciation is by asking questions. But questions can also seem

nosy, overbearing or hinting at something else. As attorneys we are familiar with the difference between asking questions of our clients in the privacy of our offices, and questioning witnesses in court or depositions. Questions also work on both the message and the metamessage levels. In court we are most concerned about the specific information being sought. In the privacy of our office, however, the metamessage of support and interest may well be the more important communication.

**Ritual Complaining.** Another fascinating cultural aspect of communication, one not as apparent as many of those above, is the device of ritual complaining. Tannen gives the example of Lenny teasing his office friend Rick to a third colleague, about how Rick always comes into his office to complain about being overworked but then refuses to turn down assignments when offered. Instead of smiling, Rick is hurt and tells Lenny that "I will never complain to you again," which is the opposite effect of what Lenny expected. Lenny and Rick have different notions of ritual complaining. Lenny thought of Rick's complaining as a sign of friendship, and was intending to show solidarity by himself complaining (in the form of teasing) to someone else. But to Rick, Lenny's complaining to a third party was a violation of trust. The two had different senses of when and how to use the device of complaining.

The above linguistic techniques deal with cultural differences in *how* we communicate with each other. In the next issue of *The Bar Rag* I will describe Tannen's analysis of cultural differences in *what* we communicate to others. This includes such linguistic elements as directness and indirectness, power versus solidarity, and framing, metacommunicating and reframing.

**What Can We Do About It.** The first step in dealing with different communication styles is to simply be aware of the issue. In particular it is important to be aware of your own style of communicating. After listening and getting a sense of your own communication style there are ways that you can adjust it. For example if you find yourself always waiting for a pause in the conversation before joining in, you can force yourself to jump in earlier. If you find yourself doing all the talking, you can back off and count to five after you think the other person is through talking, in case he or she is not really finished. If you are perceived as too emotional or too unemotional you can alter your tone and pitch patterns.

By being aware of cultural differences in such things as listening styles, the use of questions, and ritual complaining can greatly reduce communications problems.

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# Bears prepare to invade Deermount Street?

I like bears, at a safe distance. It's been fun to go up to the Ketchikan dump on summer evenings and watch black bears do their part to resolve our solid waste problem. The bears and dump form a modern symbiotic relationship.

Ketchikan bears usually don't come to town. There have been exceptions to this rule. A couple of years ago, a black bear cub made the AP wire by getting itself trapped between the electric doors at the International Airport. Other than isolated incidents like that, our bears pretty much keep out of trouble. The same can not be said for Juneau's bruins.

Juneau police spend a lot of time chasing garbage bears around the capitol building. When a Juneau bear loses all fear of man, someone usually shoots them. It's not a pretty picture.

The capital city incinerates its garbage but Juneau's downtown area was plagued with bears long before the town closed the landfill. There has to be another reason why Juneau bears take to the street while their Ketchikan cousins keep to the hills. At first I suspected the legislature, but that institution shuts down before bear-grazing season. I looked elsewhere for an answer.

While trying to puzzle through this question I thought about Mamma Grace. She was the cook at the Aniak Day Care when we lived in that Kuskokwim village. Mamma Grace was a sweet woman who was always willing to get to work early so that the daycare kids could have fresh baked goods for snacks.

On a particularly fine summer morning, while she was lifting a tray of baked goods out of the daycare oven, Mamma Grace heard something heavy hit the kitchen



window. Looking up she saw a black bear, with paws extended against the window glass. He seemed preoccupied with Mamma Grace's tray.

Mamma let out a scream which scared off her bear. Fred, the village police officer, responded to the call. He found the bear munching

on some fish heads at the village dump.

I am not saying that Fred talked, but somehow the publisher of the village newspaper found out about Mamma Grace's bear. He wrote up the story in the next edition of his newspaper. His lead headline told the story: "Black Bear Attracted to

Mama Grace's Hot Buns."

I liked Mama Grace and I don't want to demean her by drawing comparisons between her buns and Juneau garbage. Still, there is. The higher quality the food, the more bears won't walk across the street to eat it.

There is also the cruise ship factor. Most of the readers have seen those cruise ship ads on satellite TV showing passengers in formal dress as they pick and choose their way along banquet tables weighted down with goodies. These folks must waste a lot of good chow. In years passed, their leavings ended up in the Ketchikan Landfill. Without Juneau-quality garbage in our dumpsters, it is no wonder our bears stayed out of town.

I was willing to live with this arrangement for another season. After all I like my bears at a distance. Then I saw a startling news item on the topic in the local paper.

There in the lower corner of page one, fittingly sharing space with stories about Fish Creek Immunity, predatory killer whales, man-eating mountain lions, and the Craig Moose Lodge, was a little piece informing readers that cruise ships will no longer be allowed to unload their solid waste in Ketchikan. Due to implementation of new federal regulations, the ships will now be saving their garbage for Sitka.

The implications of this change for Ketchikan and its bears came immediately to mind. Without that cruise ship garbage to keep them fat and happy at the landfill, the Ketchikan bears will soon be cruising town looking for snacks.

Our refuse may not be as tasty as the fare in Juneau but it is fresher in the can than at the dump. I look for bears on Ketchikan's Deermount Street by July.

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## New 9th Circuit policy

Following its relocation into consolidated temporary headquarters at Two Rincon Center in San Francisco, the United States Court of Appeals for the Ninth Circuit has adopted an *Appeals Control Program*. The program is designed to improve service to the bar and to litigants through the speedier resolution of appeals. The major components of the program are as follows:

- The clerk's office will begin a sweep of the court's docket with a view to identifying appeals that are not being moved forward in a timely manner.
- To avoid delays, the Procedural

Motions Unit in the clerk's office will grant extension of time to file briefs *only* under the most compelling circumstances.

• Starting June 1, 1992, the court will *automatically dismiss* any civil case that has failed "to progress in conformity with strict time deadlines. In criminal cases, the court will issue one warning order before dismissal.

Any questions concerning the court of appeals' new delay reduction program should be directed to: Cathy A. Catterson, Clerk of Court, U.S. Court of Appeals, P.O. Box 193939, San Francisco, CA 94119-3939; telephone (415) 744-9810.

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## ESTATE PLANNING CORNER

By Steven T. O'Hara

### Disability Insurance

Experts who have run the numbers tell us that, statistically, we are substantially more likely to become disabled than to die during our working years. Thus income replacement insurance, known as disability insurance, should be closely examined.

Many of us participate in employer-sponsored group disability insurance plans. Participants under such plans should not take it for granted that they have adequate disability insurance.

Each participant should independently determine her disability insurance need and whether the group policy fills that need. In many cases, the participant will want to supplement the group coverage with an individual policy.

Indeed, the principals of a firm may find it desirable to cancel the group policy, or at least carve themselves out of it, and replace the coverage with individual policies.

Many of the disadvantages of group disability insurance are obvious. For example, benefits payable under a group disability policy are, in general, fully taxable (I.R.C. Sec.

105(a)). By contrast, benefits payable under an individual disability policy are not, in general, subject to federal income tax (I.R.C. Sec. 104(a)(3)).

As another example, group disability insurance policies may be cancelled by the employer or the insurance company and are not guaranteed renewable. Individual disability policies are noncancelable and guaranteed renewable.

This "portability" aspect of individual disability insurance has received a lot of attention recently, with the breakup of so many firms across the country. A participant under a group disability insurance policy must recognize that if she leaves the firm, or if the firm goes out of existence, the group coverage will cease. The individual may then be unable to acquire individual disability insurance, either because of an increased disability risk or an unreliable present income.

A less obvious disadvantage of group disability insurance relates to receiving a proportionate benefit for partial disability. For example, suppose immediately following (and as a consequence of) an accident or sickness you are able to work only

four hours a day. The other time you must be resting or undergoing physical therapy. Suppose this partial disability continues for over a year.

Under such circumstances, you may find that your group disability insurance policy will not pay you any benefit whatsoever. Many group policies, but not all, have a huge loophole that provides you must be first totally disabled before you can be eligible for any partial disability benefit.

A good individual disability insurance policy, on the other hand, would compensate you for your loss of earned income caused by your partial disability.

Group disability insurance policies also typically have numerous other loopholes, such as reducing your benefit by any amount you receive under workers' compensation or from other employment.

Other important clauses that should be considered, when comparing disability policies, include the following: (1) the definition of disability (your own occupation should be covered through the balance of your projected working years); (2) the waiting period before

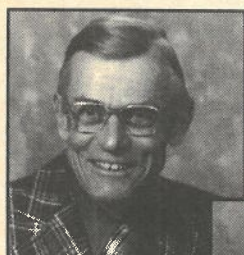
benefits are payable and whether that period must be satisfied with consecutive days of disability (the longer the waiting period, the greater the risk); (3) the period during which benefits will be payable (the shorter the benefits period, the greater the risk); and (4) whether the policy increases benefits to keep up with inflation (employers often decline this benefit, on group policies, due to the extra premium).

Indirect sources of disability insurance should also be considered. For example, when purchasing life insurance, the issue arises whether the waiver of premium in the event of disability should be purchased as an additional benefit. The answer depends on the terms of this additional benefit and, in particular, the restrictions placed on actually receiving the benefit; but, in general, it may be more cost effective to forego this additional benefit and buy instead an individual disability policy.

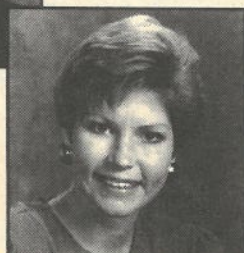
Individual disability insurance is relatively expensive, but it could be the most important insurance you own.

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# TANANA VALLEY BAR

Minutes for June 19, 1992

Ken Covell neither appeared nor sent minutes with Madson. In lieu of the minutes, I read the letters we were directed to draft at our last meeting to the MFBA and Ken Jacobus. I was directed to remove one greeting from the Jacobus letter since events made the draft as written too tacky even for us to send.

Dan Cooper was recuperating from surgery, where he claimed he had "tissue excess to his need removed." Judge Savell inquired if Dan was converting to Judaism, but we decided he was just bragging. So he doesn't get any flowers--real or plastic...

...We got the final word on the sheep. She has fallen in love with her abductor a la Patti Hearst and is on a grand European tour of non-sheep consuming nations. He apparently treats her better than Madson, who never took her anywhere...We bid a fond adieu to Ms. Embraceable Ewe and wish her well in her new relationship.

--Aly Closuit,  
Secretary & Dog Lady

## CORRESPONDENCE

June 15, 1992

President  
Anchorage Bar Association  
Anchorage By the Sea, Alaska 99501

Having failed miserably in recent assignments (such as ferreting out who stole the sheep and attending the Bar Presidents Breakfast), the TVBA has designated me to try and convey the within message to you. Sort of an atonement. Go figure.

Ahem.

It has come to our attention that you folks are having some trouble naming yourselves. Like you have had a committee studying this for two years. We know this to be true, as we had more members attending the banquet at the Bar Convention that you did. Anyway, we thought we would help out.

First, we recommend that each of your committee members get (a) an imagination or (b) a life.

Second, upon motion duly made, seconded and unanimously carried, the only voice of dissent being that of Ken Jacobus, who has, by separate letter, been dismembered, we have named you. And my separate motion, duly made, seconded and carried by acclamation, we shall henceforth refer to you, and defer to you, by your new name.

By now, I'm sure you've divined that your name shall be forever in our records as the Mud Flats Bar Association. That's a little long for our members to retain. So, by separate motion, duly made, etc. we shall henceforth refer to you by your abbreviated name, the M.F. Bar Association.

I didn't make this up. Don't kill the messenger.

Yr. Hmble, & Obdt. Svt.

Tanana Valley Bar Ass.

June 15, 1992

Ken Jacobus  
Turncoat  
Anchorage, Alaska 99501

My Dear Mr. Jacobus:

As you know, the TVBA is a proud organization, with a history of pride, tradition, and animal husbandry predating statehood. The membership, however, is not generally fond of reptiles, and has not, 'til now, hugged a viper to its collective breast. Well, okay, there was that one time, but the carnival was in town and everyone figured, what the heck, who'll ever know.

In any event, it has come to the attention of the TVBA that you have won, yet again, another prestigious award. A first time winner again. Go figure. But this time, it's the No Name Award from the previously No Name (now M.F.) Bar Association.

As near as we can figure, you have pimped yourself off to the MFBA and have forsaken us. We are miffed. So, upon motion duly made and seconded by David Call, among others, and upon unanimous consent, we have dismembered you.

If you can get yourself together, send \$60 (US) and we'll consider remembering you.

Have a nice life.

Tanana Valley Bar Assoc.

June 16, 1992

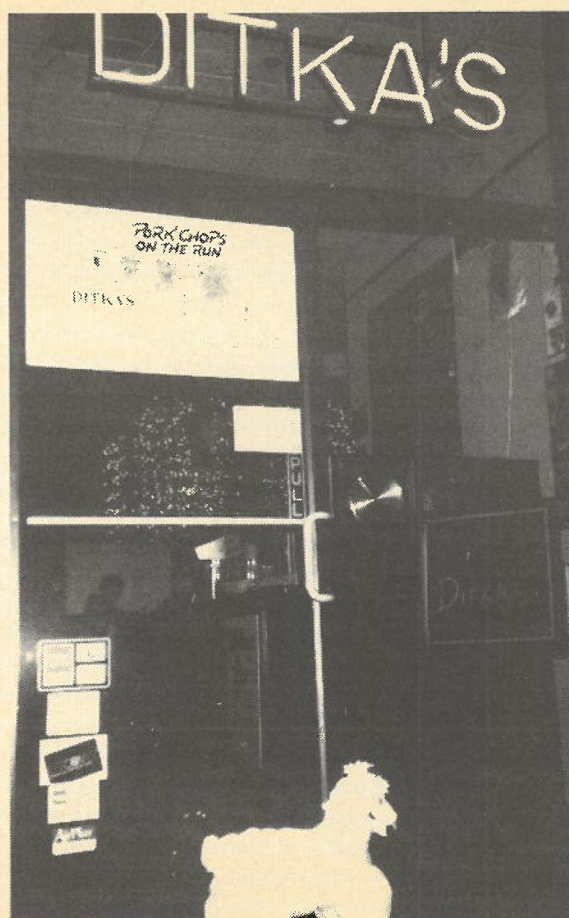
Dear TVBA  
Blockheads;

As if you would  
believe Seth Eames!!

Get REAL.

First, he's not  
a real lawyer.

Second, he only  
wears coats made  
of virgin wool.



Once ewe see the nightlife of the Windy City, you'll never come back home. The TVBA's mascot visits Chicago's most famous bar with an unknown stranger on her world tour.

Face it. After living with Dick Madson, your sheep is no virgin.

Now for the good news. Two great things have happened in my life. First, I've won the Publishers Clearing House Sweepstakes. Yup. One Quadrillion Dollars. I'm off to see the world, and I don't need Bob Noreen's accounts receivable. I've actually won more than that.

Second, I've fallen in love with your sheep. I'm going to take her with me on the grand tour. As you can see from the enclosed photo, we're on our way. I expect to show her Rome, Paris, the Nile, maybe even Khartoum. We shall roam the world, in search of pleasure, forsaking places where lamb chops are featured, such as Greece. In fact, we'll avoid grease whenever we can.

In parting, which, being all lawyers, you will know is such sweet sorrow, your sheep is in good hands. And that's no clue.

Ta Ta, for now, Ewe'r friend.



# U.S. takes judicial appointment actions

## Notice of Appointment of U.S. Magistrate Judge at Anchorage, Alaska

The Judicial Conference of the United States has authorized the appointment of a full-time United States magistrate judge for the District of Alaska at Anchorage. The duties of the position are demanding and wide-ranging and will include: (1) conduct of most preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; (3) conduct of various pretrial matters and evidentiary proceedings on delegation from the judges of the district court; and (4) trial and disposition of civil cases upon consent of the litigants.

The basic jurisdiction of the United States magistrate judge is specified in 28 U.S.C. § 636.

To be qualified for appointment an applicant must:

(1) Be a member in good standing of the bar of the highest court of Alaska at the time of appointment;

(2) Be a member in good standing of the bar of the highest court of a State, the District of Columbia, the Commonwealth of Puerto Rico, or the Virgin Islands of the United States, and have been engaged in the active practice of law for a period of at least five years (with some substitutes authorized);

(3) Be competent to perform all the duties of the office; be of good moral character; be emotionally stable and mature; be committed to equal justice under the law; be in good health; be patient and courteous; and be capable of deliberation and decisiveness;

(4) Be less than seventy years old; and

(5) Not be related to a judge of the district court.

A Merit Selection Panel composed

of attorneys and other members of the community will review all applications and recommend to the judges of the district court in confidence the five persons whom it considers best qualified. The court will make the appointment, following an FBI full-field investigation and IRS tax check of the appointee. An affirmative effort will be made to give due consideration to all qualified candidates, including women and members of minority groups. The salary of the position is \$119,140 per annum.

### PUBLIC NOTICE

#### Reappointment of Incumbent - Magistrate Judge

The current term of office of United States Magistrate Judge Matthew D. Jamin is due to expire on October 31, 1992. The United States District Court is required by law to establish a panel of citizens to consider the reappointment of

the magistrate judge to a new four-year term.

The duties of the magistrate judge position include the following: (1) conduct of preliminary proceedings in criminal cases; (2) trial and disposition of misdemeanor cases; and (3) conduct of various pretrial matters and evidentiary proceedings on delegation from the judges of the United States District Court.

Comments from the members of the Bar and the public are invited as to whether the incumbent magistrate judge should be recommended by the panel for reappointment by the court and should be directed to: Phyllis Rhodes, Clerk of Court, U.S. District Court, District of Alaska, 222 W. 7th Ave., #4, Anchorage, AK 99513-7564

Comments must be received no later than July 31, 1992.



## SOLID FOUNDATIONS

By Mary Hughes

During its April, 1992 meeting, the Trustees of the Alaska Bar Foundation discussed three items which may be of interest to members of the Alaska Bar Association. The Trustees plan to schedule a fall meeting in which the items will be discussed.

A. When considering 1991-92 IOLTA grant applications, the Trustees discussed the possibility of awarding individual attorney grants for pro bono work. It was thought that grants of a minimal nature (ie. payment of bar dues) might encourage provisioning of legal services to the economically disadvantaged. The Trustees will work with the Alaska Pro Bono Program to administer any pro-

gram, if such a concept is feasible.

B. The Trustees will also be considering alternative programs to the Alaska Bar Association Scholarship Award. Because of a lack of funding on behalf of local bar associations, scholarships for law students were not awarded in 1991 and 1992. Additionally, for some years the scholarship applications have demonstrated a lack of need on the part of the law student applicants. The Trustees are researching the possibility of funding internship positions. Depending upon the framework in which an internship is developed, funding may be available from IOLTA.


C. As a result of reviewing the Alaska Bar Association's report to

members on finances, the Trustees are reviewing ways in which continuing legal education may be brought to members less expensively. Some of the suggestions included: travel stipends for rural lawyers; scholarships for lawyers; and simultaneous telecommunication of Anchorage programs to reduce travel expense for members and seminar duplication expense for the Alaska Bar Association. The Trustees will work with the Alaska Bar Association to explore the viability of the suggestions.

D. Finally, the Trustees reviewed IOLTA participation. Only 48 percent of eligible members are IOLTA participants. It was suggested by the Trustees that firms which have

not yet elected to participate in IOLTA be contacted again, presented with IOLTA information, and visited personally by a trustee. The Trustees authorized funding a *Bar Rag* insert of participating IOLTA firms and 1991 grant recipients. An August luncheon, honoring participating IOLTA firms and banks, will feature IOLTA-funded programs.


Should any member wish to comment on the delineated discussion items, any Trustee may be contacted: In Anchorage, Sandra Saville, John Conway and Mary Hughes; in Juneau, Bart Rozell; and in Fairbanks, Winston Burbank.





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Those who claim to be victims of Mr. Brown's crime and who wish to obtain information on applying for partial repayment of their losses, should furnish their name and full mailing address to:

Ms. Mary Jane Lattie  
Victim Witness Coordinator  
United States Attorney's Office  
Hale Boggs Federal Building  
501 Magazine Street, Room 210  
New Orleans, Louisiana 70130

Responses must be *in writing* and received by the United States Attorney's Office *no later than* September 1, 1992 in order to be considered. If your response is timely, further information will be mailed to you.

HARRY ROSENBERG  
UNITED STATES ATTORNEY

APPROVED:  
MARTIN L.C. FELDMAN  
UNITED STATES DISTRICT JUDGE



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## Getting Paid

Continued from page 5

reluctant to pay you. Even if you win, a goodly number will ask you to take it out of the award when it is collected.

You will spend enough time collecting your own accounts. Minimize the number and amounts.

If the problem is cash, shoot for part cash and the rest as an interest-bearing demand note secured by a trust deed on his residence. Or the pink slip on a car that has some value, or something. Talk bluntly about substituting out of the case. You most likely won't be able to do it at this stage, but bring the subject up as if it were a real possibility. If you have been controlling your client to this point, your job will be easier.

**COLLECTING**

**a. Have a third party follow up delinquent accounts immediately.** Go through your statements before sending them out. Your client has a past balance and has not made a payment that month. Stamp "PAST DUE" in red letters at the bottom of his statement. Make no exceptions for relatives, long-standing clients, friends, and the like.

If you do not then receive a payment within 10 days after mailing, have your bookkeeper (which may translate to wife, sister, or the like) call the client. Ask congenially if he has been receiving the statements. That's all. He will get the message. The bookkeeper should then get

some commitment for payment or partial payment on a regular schedule. She should send a note confirming the arrangement. She should follow this up each month.

**b. Stay on top of the delinquent account.** If the payment doesn't arrive when promised, the bookkeeper should inquire about the problem. If a promise is broken more than once, the bookkeeper should explain that the next step will be "turning the account over for collection." She needn't explain any further, and she should always be pleasant.

**c. Next to last step.** If you get no response or successive broken promises, cut your losses. Get out if you are in a suit, or stop doing work otherwise. Send a CYA letter explaining that the client is now on his own. On the last statement I include a message which says, "Report to TRW as bad credit risk and file suit to recover fees if account is not paid in full by (tenth of the month)." The client realizes you are serious. A fair percentage will pony up.

**d. The last step.** When you get enough to make it worth while, go to small claims court. You'll win. Record an abstract and forget about it. Once in a while someone will be forced to pay off.

*Eric F. Fagan is senior partner of a firm in San Diego.*

## ALASKA BAR ASSOCIATION



### WE'RE MOVING

The Alaska Bar Association Office  
will be closed June 26 & 29, 1992 to move.

Our new street address will be:

510 "L" Street  
Suite 602  
Anchorage, AK 99501

Our mailing address and telephone numbers  
will remain the same:

P.O. Box 100279  
Anchorage, AK 99510-0279

Phone: (907) 272-7469  
FAX : (907) 272-2932

