

The Alaska BAR RAG

In Memoriam

- Mac Gibson
- Mark Merdes
- Ron Smith
- Stu Hall
- Hal Tobey

VOLUME 29, NO. 4

Dignitas, semper dignitas

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OCTOBER - DECEMBER, 2005

Historical record

Arend ousted by Bar revolt

By Randy M. Olsen

Harry O. Arend was acclaimed as an unusually kind and gentle man, but who through an accident of timing lost his seat on the Alaska Supreme Court. The drama of his non-retention arises from the heady days of the transition of government from territorial status to Alaska statehood, with uncertain and developing administrative frameworks for the state court and bar, and the usual mix of strong Alaska personalities.

On July 16, 1959, newly-elected Governor Bill Egan appointed the first members to the newly-formed Alaska Supreme Court: John Dimond, Walter Hodge and Buell Nesbett.¹ Hodge was convinced the Supreme Court would have its primary place of business at the state capital in Juneau, so he moved to Juneau and bought a home.² Nesbett, however, was selected as the first Chief Justice, and the two conflicted over where the court would sit. Nesbett decreed that the court would sit primarily in Anchorage.³ Hodge responded by resigning, with some bad feelings, and was soon appointed to a vacancy in the federal district court.⁴ On March 12, 1960, eight months after the Supreme Court was first organized, Arend was appointed to fill the position vacated by Hodge's resignation.⁵

By operation of the state Constitution, after three years of service Alaska Supreme Court justices are required to have their names placed on the next statewide general election ballot for retention.⁶ If retained, the justice is not considered for retention again until 10 years have passed.⁷ The general elections were scheduled every two years.

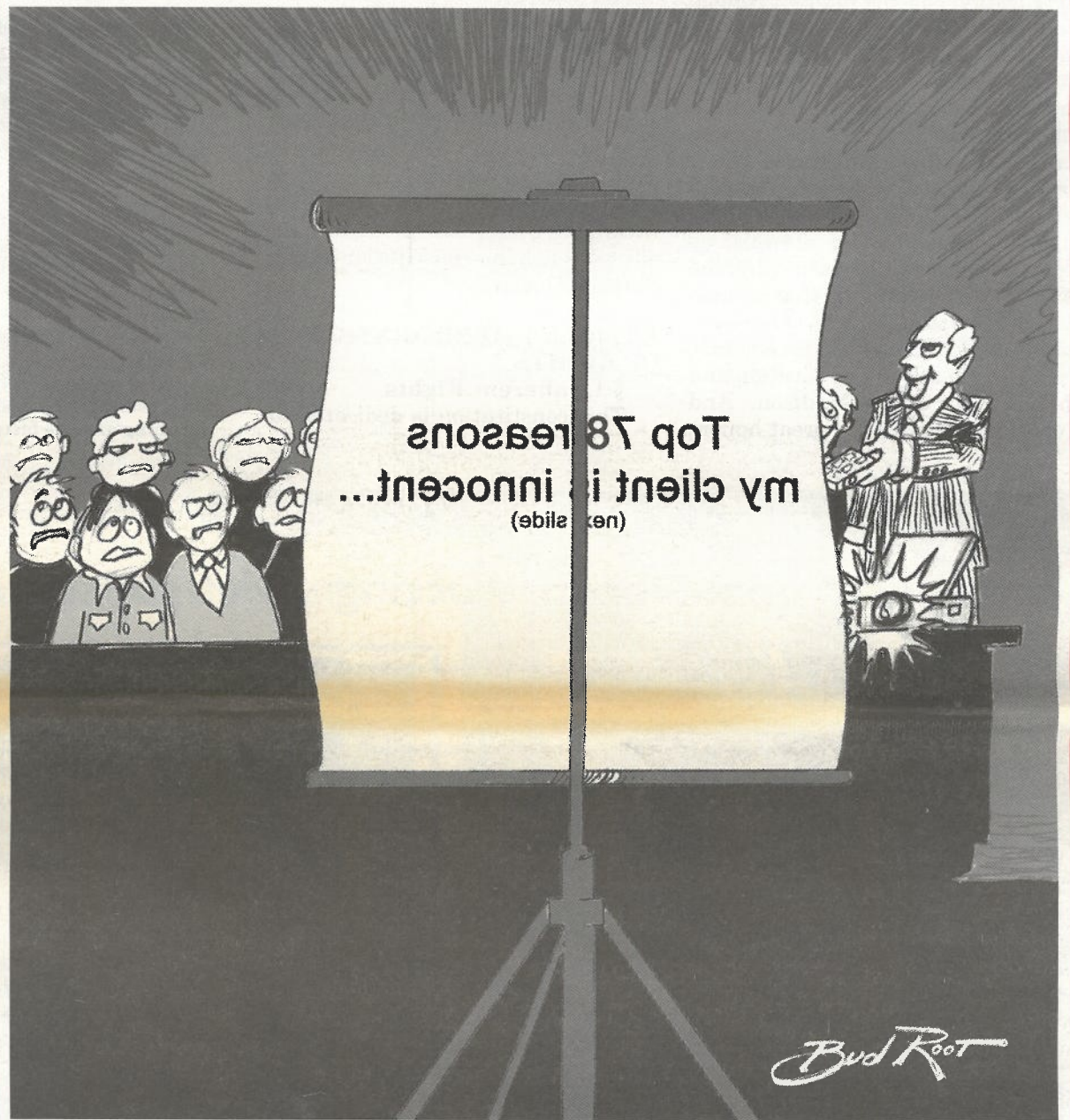
Dimond and Nesbett were retained without incident when their names appeared on the ballot in 1962. Because Arend was appointed eight months later, however, his name would not be placed on the ballot until 1964.

First bench-bar controversy erupts

Following the retention of Nesbett and Dimond, a controversy arose regarding the process for disciplining of attorneys in the state. Disciplining of attorneys had been the province of the Alaska State Bar Association. Many complaints against attorneys were apparently taking what Chief Justice Nesbett

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So, YOU THINK POWERPOINT IS GREAT? PG. 11



New bankruptcy law raises family law issues

By Steven Pradell

The Bankruptcy Abuse Prevention And Consumer Protection Act Of 2005 enacted April 20, 2005 contains significant changes in the law. Some of those changes directly impact the family law practitioner. The following is a brief overview of some of these changes, from the perspective of a family law lawyer.

In the past, prior to the enactment of the new law, lawyers would advise their clients of a distinc-

tion between alimony and property division. Alimony awards were generally non-dischargeable, but property division awards could be subject to discharge. The new law changes 11 U.S.C. § 523 (a)(15). The new amendment eliminates the prior distinction between orders providing for division of property and orders providing for spousal support or child support. As a result, almost all debts owing to a spouse, former spouse or a child of a

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Two conventions merit our attention

By Jonathon Katcher

Greetings from Comrade Katcher,
President and Chief Nomenklatura
of the Alaska Bar Association,
a/k/a The Marxist-Leninist Soviet Collective
Brotherhood of Attorneys



The 50th Anniversary of the Alaska Constitutional Convention

Fifty years ago, 55 citizens of Alaska gathered for 75 very cold days in Fairbanks at a Convention to craft what became one of the finest constitutions on the planet. Among their most shining achievements was the judiciary article, including the judicial selection process based upon merit. Several of these Convention delegates and staff still walk among us, though perhaps a little more slowly given their advanced ages. It is like having Jefferson and Franklin in our midst. Judge Thomas Stewart, as Convention Secretary, did much of the pre-convention research that became the basis for the structure of the Constitution. This makes Judge Stewart the architect of our Constitution and therefore our James Madison. And I consider it one of the great honors

of my legal career to have practiced before convention delegate Superior Court Judge Seaborn J. Buckalew.

The Convention delegates did truly outstanding work. Several sections of the Constitution are very compelling and merit repeating here:

PREAMBLE:

"We the people of Alaska, grateful to God and to those who founded our nation and pioneered this great land, in order to secure and transmit to succeeding generations our heritage of political, civil, and religious liberty within the Union of States, do ordain and establish this constitution for the State of Alaska."

ARTICLE 1 - DECLARATION OF RIGHTS

§ 1. Inherent Rights

This constitution is dedicated to

the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry; that all persons are equal and entitled to equal rights, opportunities, and protection under the law; and that all persons have corresponding obligations to the people and to the State.

§ 2. Source of Government

All political power is inherent in the people. All government originates with the people, is founded upon their will only, and is instituted solely for the good of the people as a whole.

On February 5, 1956 the delegates also passed the following resolution:

"You are Alaska's children. We bequeath to you a state that will be glorious in her achievements, a homeland filled with opportunities for living, a land where you can worship and pray, a country where ambitions will be bright and real, an Alaska that will grow with you as you grow. We trust you; you are our future. We ask you to take tomorrow and dream; we know that you will see visions we do not see. We are certain that in capturing today for you, you can plan and build. Take our constitution and study it, work with it in your classrooms, understand its meaning and the facts within it. Help

others to love and appreciate it. You are Alaska's children. We bequeath to you the land, the mountains, the lakes, the skies. This is your land and we ask you to possess it."

This is most inspiring. If you see a Convention veteran thank them for their outstanding public service. In this Constitution they have left us a great legacy that we as members of the Bar have taken an oath to support and defend.

Who/Where are the KGB When You Really Need Them?

I have been sued. This is not the first time I've been a defendant in litigation, and it probably won't be the last time, but it certainly is the most bizarre case I have ever encountered. Daniel DeNardo, non-attorney legal gadfly, and generally nice guy, is unhappy about the outcome of a recent case involving the judicial retention process. Mr. DeNardo has

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The BAR RAG

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EDITOR'S COLUMN

An army of one: Deconstructing strict construction

By Thomas Van Flein

Well, it's that time of year again. Not Christmas, but Congressional hearings on Supreme Court nominations. The time when a nominee gets to say, in response to almost every question, one of two mantras: "I will only apply the law, not write the law" or "I can't comment on that, it could be an issue before the Court one day."

Let's talk about the first response, which some consider to be a statement suggesting the philosophy of "Strict Construction." Strict Construction, of course, is short-hand for "If James Madison didn't think about it, neither should we." Literal textualism is an appealing guideline because of its simplicity. If all constitutional cases could be classified within the existing text of the Constitution, life would be easier.

Let's take a hypothetical. Suppose someone (not a real American, mind you, but someone nevertheless), challenges the constitutionality of our Air Force. I like our Air Force, with its fast planes, precision bombs, and in-flight refueling. These all combine to the inevitable conclusion that our jobs as attorneys are boring.

But putting our admiration of this institution aside for the moment, and replacing our flying helmet with our jaunty lawyer's beret, are we not compelled to answer the question whether our Air Force is constitutional? Of course we are. This is one of many burning (or after-burning?) constitutional issues that must be resolved.

Article I, sec. 8, provides that Congress can "raise and support armies" and can "provide and maintain a navy." Congress can also "make rules for the government and regulation of the land and naval forces." Notably absent is any constitutional authority

to raise, support and maintain an air force.

For those who maintain a "strict constructionist" or textual interpretation of the Constitution (Justice Scalia comes to mind), the glaring absence of any congressional power to create and maintain an air force ought to be troubling. For those who see the Constitution as more of an organic document, able to change with the times (after all, airplanes did not come about until 115 years after the Constitution was ratified), then an air force can be seen as an emanation from a penumbra of the naval and army clauses.

I realize this is a touch-and-go situation. But for our constitutional doctrine to take flight, we have to air this issue, and focus our sights on the constitutional target: stabilizing our otherwise inconsistent positions.

Justice Douglas once reasoned in a dissent that "the Army, Navy, and Air Force are comprehended in the constitutional term 'armies.'" *Laird v. Tatum*, 92 S.Ct. 2318 (1972). Not if you read the text. The document clearly and separately refers to navies and armies, and omits the Air Force. Had the drafters meant "army" to include everything, they would have said so. Justice Douglas' type of broad interpretation can get you a reputation as some type of judicial activist.

So let's turn to the military courts for guidance on this. Surely these courts are no hot-bed of judicial activism. In *U.S. v. Naar*, 2 CMR 739 (AFCMR 1951), a defendant (who was a member of the Air Force), argued that he was entitled to be indicted by a grand jury instead of simply charged with a crime since the Fifth Amend-



Strict Construction, of course, is short-hand for "If James Madison didn't think about it, neither should we."

ment mandated a grand jury "except in cases arising in the land or naval forces." He argued that the "Air Force is neither the land force nor the naval force" and therefore as a member of the Air Force he could not be charged unless there was first a grand jury indictment. Hey, he was just reading the text that James Madison helped write.

Surely the military courts would not go off on some tangent about how the Constitution is a flexible document that must be evaluated in light of changing circumstances, etc. Because that would be unbridled judicial activism and that type of free-wheelin'-good timin'-anything-goes decision making is frowned upon . . . sort of. But take a look at what these "bleeding heart" colonels and majors came up with:

"It must be remembered that the Constitution was not adopted as 'a temporary expedient, designed to meet only the problems of that time, but was adopted with the patent purpose of providing also for new conditions and circumstances as they should arise.'" (Citations) . . . Obviously, the Air Force could not have been expressly included in the Constitution since it was unknown at the time of its adoption. . . . Any construction of these words which would limit them to their strict and literal meaning would be unrealistic and contrary to the broad purpose of the Constitution." *U.S. v. Naar*, 2 CMR 739 (AFCMR 1951).

There you have it. Judicial activism at its worst...or best, reading things into the Constitution that are not in the text. And from our military

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PRESIDENT'S COLUMN

Two conventions

Continued from page 2

now filed a separate suit against, among others, the lawyers involved in that case, including me. DeNardo alleges, among other things, that we made fraudulent and deceptive arguments which infringed upon his rights. Denardo seeks \$5 million compensatory damages and \$5 million punitive damages.

The following is from DeNardo's complaint:

Defendants' acts overthrew the constitutional government of Alaska in the interests of the private Brotherhood of Attorneys acting by and through Marxists-Leninist Soviet Collectivism wherein all judicial officers are appointed from the ranks of the Party's Nomenklatura.

Defendants conspired to violate the Republican [sic] principles of constitutional government in favor of the private Law Merchant in equity for the appointment of chancellors in place of the election of judges at Law.

I did not make this up. "Brotherhood of Attorneys," "Marxists-Leninist Soviet Collectivism," and "Nomenklatura" is pretty strong stuff. I have been called many things in the context of my profession. I have heard disdain for the Bar expressed in many ways. But never quite like this. My lawyers actually had to look up the "Law Merchant" in Black's to remind us of what that meant.

Much has been said about the wisdom of Alaska's judicial selection and retention process. The critics often assert that ours is a judicial selection system of, by and for the lawyers. They assert (incorrectly) that judicial appointments are essentially lifetime, and (incorrectly) that judges are never voted out. They assert (incorrectly) that the Judicial Council is controlled by the Bar, and (incorrectly) that the public members have little power or influence. Their arguments are as frivolous, shrill and ridiculous as those of Mr. DeNardo's.

Long live the Nomenklatura of the Marxists-Leninist Soviet Collective Brotherhood of Attorneys. You may collect your secret decoder rings upon payment of your bar dues.

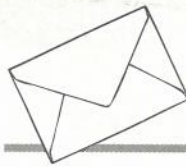
April 2006 Annual Convention In Anchorage

The annual convention is shaping up to be, well, rather unconventional. Our keynote speaker at the annual banquet on Thursday April 27th will be Michael Carey, former editor of the

Anchorage Daily News, and current moderator for Anchorage Edition on Alaska public television and radio. Michael is very interested in Alaska legal history, about which he has done much research and writing. Michael's keynote speech is entitled "Alfred Kinsey, Sex, and Alaska Territorial Law" wherein he will discuss how the Last Frontier's boom-town-anything-goes reputation played a role in the fight for Statehood.

In addition to what will be some excellent CLE presentations throughout the convention, we will devote the entire afternoon of Friday April 28th to the controversy of teaching Intelligent Design (I.D.) in the public schools. The first part of the presentation will be from Dr. Hugh Ross, a pro-I.D. astrophysicist, past post-doctoral fellow at the California Institute of Technology, and Founder/President of Reasons to Believe, and Dr. Jerry Coyne, Professor of Ecology and Evolution, an evolutionary biologist from the University of Chicago. These two esteemed scientists will separately discuss what is science and whether I.D. is science. The second part will be a debate, moderated by Michael Carey, between lawyers Kelly Shackelford of the Liberty Legal Institute and Jeremy Gunn of the A.C.L.U. Shackelford and Gunn are nationally renowned experts on the separation of church and state. They have debated before, and their encounter should be lively, informative and entertaining. The public, including students from the universities and the public and parochial high schools, will be encouraged to attend.

Some may question why the Bar would tackle such an issue. Yes there has been the recent Dover, Pennsylvania federal court case that may have been decided by the time you read this. But what does this have to do with Alaska law or what your typical Alaska practitioner will encounter? Well, in case you missed it, the Anchorage Press recently reported that at least one member of the Matanuska-Susitna Borough School Board is considering having I.D. taught as part of the high school biology curriculum. More importantly, the scientists' presentations and the lawyers' debate will demonstrate how the legal system helps society tackle passionately divisive subjects in an orderly and civilized manner.



Letters to the Editor

Silence is no virtue

The advice of Mr. Ross--"If something offends you, lighten up, get a life, and move on"--puzzles me. I thought that silence as a response to perceived injustice was failure to meet one of our most important obligations. Should Rosa Parks not have remained seated? Should Patrick Henry have declined both liberty and death? Should Ted Williams have chosen not to play both games of the season ending doubleheader in 1941? Should Achilles have accepted Agamemnon's stealing his property?

You get the idea.

— Jim Kentch

Thanks to the Anchorage legal community

I experienced a very enjoyable Spring semester teaching Family Law at UAA for the first time. Most class evenings were energized by a "topical" speaker. What an amazing lineup! I want to publicly acknowledge and thank them. These people were intelligent, intelligible and entertaining and gave freely of their expertise and personal time.

Janet Platt led off, speaking about prenuptials, "marriage-like" arrangements and her practice, in general. Jay Brause spoke about what it is like, personally, to be a litigant and his several same-sex marriage cases. Allison Mendel spoke about the variety of definitions people give to "family" and led a discussion about a perplexing case scenario. Katherine Altoned spoke about getting the Family Law Self Help Center up and running and went over the Center's website, in detail.

Pam Montgomery and Elizabeth Still talked about child custody and their many experiences as investigators trying to do the best job they can, in very difficult situations. Master Andrew Brown talked about child

support, particularly, and shared with the class, generally, what it is like being the Divorce Master. Nina Lopez, from the Alaska Native Justice Center, told us about her experiences with family law in the community, how things sometimes work in the Bush and about how the Indian Child Welfare Act affects what she does.

Mary Ellen Ashton had a lot to share about adoptions – that is what she does in private practice and she was the probate Master a few years ago. Kara Nyquist is the director of youth advocacy at Covenant House and was our speaker the evening the class topic was "The Rights of Parents and Children." Kathleen Wilson has been doing guardian ad Litem work for many years and she spoke the night our class topic was "Child Abuse and Neglect and the Child Welfare System."

Lynda Limon spoke about how technology can assist family lawyers, specifically, and how technology is changing the legal world, in general. Judge Morgan Christen came the full 2 hours and 45 minutes to listen to the students' individual projects and give feedback. She spoke very personally about trying to be a good judge, not only by making good decisions, but by listening courteously to the people in her courtroom and trying to make the basis for her decisions understandable to them. Finally, Master Suzanne Cole spoke about how our legal system is trying to deal with the problem of domestic violence and what goes on in her courtroom when she does DV hearings. She shared her personal story about how and why she became a lawyer and master.

Again, I want to publicly thank these amazing people. When you see them, please thank them. Their community contribution is a credit to us all.

Joan Clover

An army of one

Continued from page 2

courts at that. Hopefully the upcoming Congressional hearings will ferret out any nominee who has the temerity to stretch the Constitution so blatantly.

As for me, I am with James Madi-

son: he didn't think Congress should authorize an Air Force, so I can't either. Time to park those planes until we can convene a constitutional convention and get the Air Force written into the text. And maybe a few other things while we are at it.

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The carrying strength of wind

By Dan Branch

Once, while my child was young, I sat in a tidal meadow at sunrise watching thousands of spiders climb stalks of beach grass. They were small---born last spring. As each youngling reached the top of a stalk it would jump off, trailing a short line of silk that caught the wind and carried the spider away from home.

It was a stiff wind, strong enough to carry some of the spiders across George Inlet to a healing clear-cut forest beyond. The journey of others would end when their silk caught on branches in a nearby spruce grove. Many spiders would fall to their deaths in the inlet's salty water.

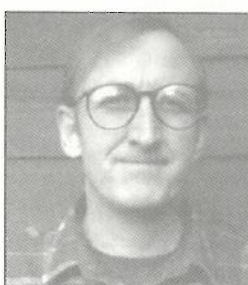
At the time I saw no connection between the breeze carrying these faith-filled spiders and my daughter, asleep then in a nearby tent. Now that she is a junior in high school, I have new respect for the carrying strength of wind.

Recently our small family toured some California universities hoping to find one that would be a good fit for the child. The wind blew hard around

the Juneau Airport while we waited to board. It was cold and carried a heavy load of rain, not unlike the winds that blew through Bethel where I first met her mother.

In Bethel I made strong friendships, but the distance from parents and home strained my relationship with those I left behind in California. My life in Western Alaska was too different for my California friends to understand. With few exceptions they all filled in whatever hole I left in their lives with new friendships and experiences. Soon I was reduced to a memory.

We learned to expect change in Bethel. The population rose and fell with flights between the river city and the villages or Anchorage. Flocks of geese and ducks arrived in the spring and left enriched with new young in the fall. Summer storms carried away huge chunks of



"They leave as babies and come back at Christmas break with the confidence of 40-year-olds. What magic is there in the wind that swirls through a college campus to turn awkwardness into grace?"

the Kuskokwim River's banks along Mission Road and the north wind lifted clouds of silt fill off Bethel streets. Only the kind nature of its inhabitants endured without change.

We left Bethel for Aniak--an upriver journey of 13 hours in a skiff loaded high with bicycles and a wheelbarrow. Our 25-horse Evinrude outboard struggled against current, moving us toward a place of little change. Then it was on to Ketchikan, where we were fortunate to live at a time that the pulp mill still operated and rafts of fishing boats tied up along Front Street. The mill is gone now and

tourist boats have chased the fishing fleet to Craig.

Now we grow roots in Juneau, a place that made me claustrophobic when visiting from Bethel. Time moves faster than the wind. Each

fall a new crop of high school seniors takes planes or ferries to college. Some go north to Anchorage or Fairbanks. Most travel to schools in the Lower 48.

I watch this fall outward migration now with interest. They leave as babies and come back at Christmas break with the confidence of 40-year-olds. What magic is there in the wind that swirls through a college campus to turn awkwardness into grace?

The magic continues its work all four years of college. The students become creatures of two worlds and then have to choose one. Some return to Alaska and find a way to apply new knowledge to their old lives. Others stay South and succeed.

These little Alaskans in hiding will survive Los Angeles or New York or Tokyo. No one will know they came from a northern land until the subject arises at a party or job interview. Then they will have no more success conveying a sense of life in Alaska than one of those baby spiders attempting to return on the wind to their natal home.

Judicial conference supports citing unpublished opinions; takes no position on splitting 9th Circuit

The policy-making body of the federal judiciary in September endorsed a rule change that will allow lawyers to cite unpublished opinions in federal appeals courts nationwide beginning in 2007.

The Judicial Conference also voted

not to take a position on the question of whether the sprawling 9th U.S. Circuit Court of Appeals should be split in two. Members did, however, agree that they would oppose any circuit-splitting bill that does not provide adequate funding for the

costs involved. The issue has been debated by Congress for years without resolution.

The citation rule change, if ratified by the Supreme Court and untouched by Congress, would end a practice that brought charges of a hidden, unaccountable system of justice against some of the nation's largest and most important appellate courts. The 2nd, 7th, 9th and federal circuits ban citation of unpublished opinions outright, while six other circuits discourage it.

Passage of the resolution by voice vote followed "a great deal of debate," said Judge Carolyn Dineen King, chair of the executive committee, at a post-meeting news conference.

She said passage was eased by an amendment introduced at the meeting that would make the change prospective only, meaning that lawyers will be able to cite only those unpublished opinions issued after Jan. 1, 2007. King also stressed that individual circuit courts will be able to set their own rules about the precedential value unpublished opinions can be given.

Michael Schmier of the California-based Committee for the Rule of Law said: "We have worked for 10 years to see this day. We are gratified that the mechanism by which the rule of law is imposed upon the judiciary is restored." Schmier said that the federal rule change could have a ripple effect on California and other states that have their own non-citation rules.

The meeting of the Judicial Conference was presided over by Justice John Paul Stevens in the wake of the death Sept. 3 of Chief Justice William Rehnquist.

As many as 80 percent of all appeals court opinions are designated "unpublished," though most are available on electronic databases or from the courts themselves. The practice of issuing uncitable, unpublished

opinions -- many of them brief dispositions drafted by law clerks or staff attorneys -- developed over the past 30 years as a time-saving device for overburdened appeals judges. Critics say the practice produced a body of often conflicting opinions that did not need to be harmonized and could not be cited or reversed.

A significant faction of appeals judges, led by 9th Circuit Judge Alex Kozinski, resisted the rule change, complaining that it would exponentially increase their workload by forcing them to polish and beef up the unpublished opinions.

After Tuesday's vote, Kozinski said, "I don't have any comment. I think it's a bad idea, but that's what it is. Maybe the Supreme Court will overrule it."

Kozinski, who encouraged other 9th Circuit judges and practitioners to write letters in opposition to the rule change, also asserted the change would increase litigation costs by expanding the universe of cases lawyers must search on behalf of clients. But a study by the Federal Judicial Center, issued in April, found that in circuits that had decided in recent years to allow unpublished opinions to be cited, neither problem had materialized to a significant degree.

But another leading opponent of the rule change said that survey was misleading because it takes a long time for lawyers and judges to change their practices. "In years to come, you are going to see briefs loaded up with this junk law," said Sanford Svetcov of Lerach Coughlin Stoa Geller Rudman & Robbins in San Francisco, who voted against the move in the advisory committee. But Svetcov acknowledged that the momentum was strongly in favor of the rule change. "There was a freight train running downhill, with only me and Judge Kozinski standing in the way."

Excerpts from *Legal Times* and *The Recorder*.

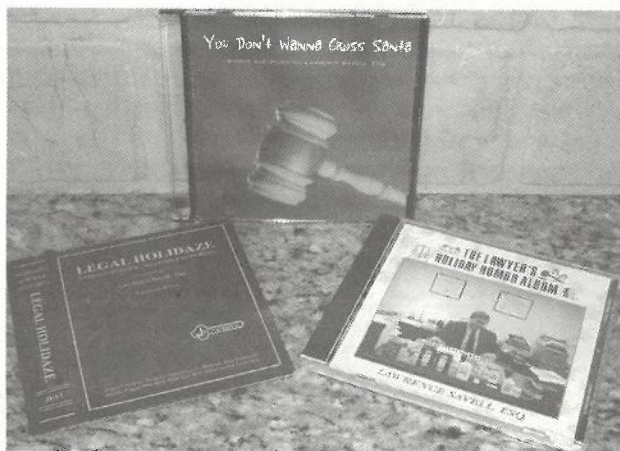
LawTunes releases "You Don't Wanna Cross Santa"

LawTunes (www.lawtunes.com) has released "You Don't Wanna Cross Santa," a new CD of humorous original lawyer holiday rock-and-roll songs, composed, performed, and produced by practicing litigation attorney Lawrence Savell.

The title track, "You Don't Wanna Cross Santa" (cross, as in cross-exam), details the potential pitfalls of an aggressive litigation strategy against St. Nick come December 25. Another cut, "Billin' on Christmas Eve," is a ballad with which all people who make sacrifices for their careers can identify. The new CD is available separately, or as part of the new "LawTunes Holiday Trio" set, which includes Savell's other offerings, "Legal Holiday" and "The Lawyer's Holiday Humor Album."

LawTunes songs take on a broad range of subjects regarding lawyers, the law, the legal system, and related matters. These include life (and strife) as a lawyer generally, including the commitments and sacrifices that are required, as well as the rewards; lawyer marketing/business development; continuing legal education; document

review and production; expert witness identification and development; and bar exams.



A trio of trivial tunes.

Savell's musical take on the legal world started with performances at the University of Michigan Law School's "Law Revue" (alleged) talent show in the early 1980s.

Savell says that, "LawTunes' CDs are 'the perfect gifts for the apparently-limitless population of lawyers, law students, law professors, and the people who work with, live with, know and/or love them. They're also a great choice for law firm, corporate legal department, or other office or law school holiday party giveaways and client or staff holiday gifts.'"

Russians visit Anchorage & Juneau through 'Open World'

One regional court judge, a defense attorney and two law professors from Alaska's "sister state" of Khabarovsk in the Russian Far East spent a week in Anchorage and Juneau during September, examining Family Violence and Juvenile Justice issues through the Open World Program.

Open World is the only exchange program in the U.S. legislative branch; Sen. Ted Stevens of Alaska serves as honorary chair of its board of trustees.

The visiting Khabarovsk jurists took part in Open World's specialized rule of law program, the largest U.S.-Russia judicial exchange. Through the rule of law program, Russian jurists get a first-hand look at the U.S. judicial system and develop long-term working relationships with the U.S. judges who plan and conduct their local visits.

Retired Superior Court Judge Elaine Andrews, Alaska Superior Court Judge Patricia Collins and Marla Greenstein, Executive Director of the Alaska Commission on Judicial Conduct hosted the Khabarovsk delegates for Open World. The visit was part of the Khabarovsk-Alaska Rule of Law Partnership, a four-year-old project linking the legal communities of Alaska and the Khabarovsk region.

During their stay in Alaska, the Open World delegates worked with their U.S. counterparts on ways to strengthen how the justice system in the Russian Far East handles the heartbreaking reality of violence within families and children in the justice system as both victims and offenders.

Highlights of the Russians' Anchorage schedule included observing a domestic violence hearing, attending briefings at the Alaska Court System Training Center, and visiting Covenant House as one example of non-governmental responses to larger social issues.

In Juneau, delegates visited a residential treatment center and a women's and children shelter; participated in roundtables on Human Trafficking and Immigration Issues; and attended a Juneau Bar Association lunch. The Russian guests and their U.S. hosts also worked on plans for a follow-up conference on family violence issues and public accountability of the courts to be held in Russia next spring for attendees from Alaska.

The Open World delegates traveling to Alaska were Judge Margarita Kalinina, of the Khabarovsk Regional Commercial Court; attorney Larisa Khimich; and professors Tatyana Novikova (of Tikhookeansky State University) and Larisa Zbarskaya (of Khabarovsk State Academy of Economics and Law).

Managed by the Open World Leadership Center at the Library of Congress, Open World enables emerging political and civic leaders from Russia and other participating countries to work with their U.S. counterparts and to experience American-style democracy in action. Nearly 9,500 participants from all 89 Russian regions have stayed in all 50 U.S. states since Open World began in 1999. Open World has also initiated pilot exchanges with Lithuania, Ukraine, and Uzbekistan.

Open World delegates include members of parliament to mayors, innovative nonprofit directors, experienced journalists, political party activists, and regional administrators. Their intensive, short-term professional visits focus on such topics as economic development, women's leadership, and youth issues.

The program's administering agency, the Open World Leadership Center, is an independent legislative branch entity that works cooperatively with the U.S. Department of State and other U.S. executive and judicial branch agencies.

Open World has awarded a grant to the Russian American Rule of Law Consortium (RAROLC) to administer the up-

coming Alaska visit and similar exchanges in 2005. RAROLC serves as an umbrella organization for volunteer-based rule of law partnerships pairing the legal communities of a number of Russian regions and U.S. states. The Khabarovsk-Alaska Rule



Justice Warren W. Matthews of the Alaska Supreme Court, L, visits with members of the Open World Program Delegation from Russia that visited Alaska September 17-24, 2005.

of Law Partnership is sponsored by RAROLC. The September family violence and juvenile law delegation marks the fourth time that Open World has hosted Khabarovsk jurists in Alaska; the three previous exchanges focused on building the Partnership, assisting with Khabarovsk's

introduction of trial by jury, and commercial law issues.

For more information on the Alaska visit, contact Marla Greenstein at 907-272-1033. For more background on Open World, contact George Felcyn at 202-466-6210 or visit <http://www.openworld.gov>.

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Cost of a simple will to increase in 2006

By Steven T. O'Hara

Effective January 1, 2006, the U.S. government is increasing the cost of a simple Will. Here "cost" means a lost opportunity to save taxes and "simple Will" means a Will giving property *outright* to an individual who then has exposure to taxes.

The amount that may pass free of federal estate tax is known generally as the unified credit amount or, more recently, the applicable exclusion amount. For 2002 and 2003, this amount was \$1,000,000.

Effective January 1, 2004, the applicable exclusion amount increased to \$1,500,000 for estate-tax purposes only. This \$1,500,000 amount generally created the opportunity for two taxpayers, each with at least \$1,500,000 in assets, to save roughly \$700,000 in estate taxes.

Significantly, the applicable exclusion amount remains at \$1,000,000 for gift-tax purposes. See the September-October 2001 issue of this column entitled "The Gift Tax Is Here To Stay."

Effective January 1, 2006, the applicable exclusion amount increases to \$2,000,000 for estate-tax purposes only. This \$2,000,000 amount will generally create the opportunity for two taxpayers, each with at least \$2,000,000 in assets, to save \$920,000 in estate taxes.

For estate-tax purposes only, the applicable exclusion amount is scheduled to increase to \$3,500,000 in 2009. It is also scheduled to decrease to \$1,000,000 in 2011.

Each increase results in a greater opportunity to save estate taxes, *provided taxpayers structure their asset ownership, Wills and trusts properly.*

Consider a husband and wife domiciled in Alaska. Both are U.S. citizens. They have no assets outside Alaska and no material debt. Neither has ever made a taxable gift. In their estate planning, they believed they did not need to consider anything beyond simple Wills because they had heard they each may pass, at death, as much as \$2,000,000 in 2006 to their descendants without estate taxes. They figured with combined assets of no more than \$4,000,000, or \$2,000,000 each, their estates would never be subject to estate taxes. So they signed simple Wills, giving all assets to the surviving spouse outright and to their descendants outright when there is no surviving spouse.

Husband has recently died. His surviving spouse now realizes that with assets of \$4,000,000 (i.e., her assets plus the assets to which she is



"Clients requesting simple Wills need to consider that the simple Will could ultimately cost their families a fortune."

entitled under her husband's Will), her estate would owe \$920,000 in estate taxes if she died in 2006 (IRC Sec. 2001(c) and AS 43.31.011).

Thus the cost of husband's simple Will could be \$920,000 in estate taxes.

To avoid this tax exposure, the couple could have equalized their estates by separating assets so each owns \$2,000,000 separately without any right of survivorship. Asset equalization could have been accomplished through an Alaska community property agreement, as long as "survivorship

community property" is avoided (AS 34.77.030(c) and 34.77.110(e)). Then husband could have signed a Will or living trust giving the applicable exclusion amount to a trust that would be available to his surviving spouse, but would not be included in her gross estate on her subsequent death.

In general, husband could have named his surviving spouse trustee of the trust without adverse tax consequences. See Adams and Abendroth, *The Unexpected Consequences of Powers of Withdrawal*, 129 *Trusts & Estates* 41 (August 1990), which

provides an excellent discussion of distribution powers held by a trustee who is also a beneficiary or related to one.

The opportunity to eliminate or reduce taxes by giving property in trust, rather than outright, is not limited to the married couple. In other words, a simple Will signed by a single individual can also be costly.

Consider a 90-year-old client with net assets of \$2,000,000. He is not married and has never made a taxable gift. He has a 65-year-old daughter with her own net assets of \$2,000,000. Both the client and his daughter are domiciled in Alaska, and their respective assets are all

in Alaska. The client has a simple Will, giving all to his daughter outright.

Suppose the client dies in 2006. His daughter

would then learn that with assets of \$4,000,000 (i.e., her assets plus the assets to which she is entitled under her father's Will), her estate would owe \$920,000 in estate taxes if she then died (IRC Sec. 2001(c) and AS 43.31.011).

Clients requesting simple Wills need to consider that the simple Will could ultimately cost their families a fortune.

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To avoid this tax exposure, the couple could have equalized their estates by separating assets . . .

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THE KIRK FILES

Neanderthal man gumshoes the Bench

By Kenneth Kirk

The dame sashayed into my office like she owned the place. Right after she filled in the client consultation information sheet, the conflict check questionnaire, and three disclaimers. She paid cash and she looked like a tall, cool drink of water, if drinks of water wore sheer dresses slit up the side. I was liking this story already.

"Steve, I came to you on behalf of some people," she said as I gazed at her long, slender neck, "who are concerned about the number of women on the bench."

I roused myself briefly from a reverie involving her and a hot tub. "Yeah, I'm not wild about 'em either, but they don't seem to do much harm."

Her lip curled in a flash of pure disgust. "They told me you were like that. That's why we wanted to hire you. You can give us a different perspective than the other 99 percent of the bar. We need opposition research."

"You see" she went on, crossing her silken legs as she spoke, "the number of women on the bench seems to be going down. The number of women judges peaked about ten years ago. With Murkowski in the governor's chair, we're concerned that the numbers will keep declining, so that by 2007 we won't even have as many women on the bench as we had twenty years ago. So we're planning a big public relations push, and we want to have our ducks in a row in case we get hit with any organized opposition."

I admit I was surprised she was coming to me about this. I'm not exactly a feminist; I'm not even entirely happy we gave them the right to vote. But hey, I hadn't gotten much work lately, and I'm always game for a challenge. "So, you want me to prove there oughta be more lady..." I caught myself before sliding completely off the ledge, "women judges. Figure you need a man to bring some cold hard logic to the question?"

Her mouth curled again in that same expression of contempt. "No, you misogynistic jackass, we need you to try to prove the opposite. We need to see what the opposition arguments might be, so we can be ready for them. We need you to try to prove that there are enough of them already. Or that no further action need be taken. Anything they might come up with in response. We've had a tendency to underestimate our opponents in the past; we don't want to make that mistake again."

"Yeah," I chortled, "your last underestimation is in the White House. But why me? You know I'm not very sympathetic. Aren't you afraid I'll sell you out or undermine you?"

"Steve," she said as she re-crossed her legs, leaned back, and ran a hand through her thick, auburn hair, "you have a reputation with the women attorneys in this town. Not only are you short of work, but you're such a neanderthal with your brains in your pants that you'll probably let me walk out of here without paying a retainer. My people told me if I dressed like this you'd do anything we wanted you to. As much as you dislike women in authority, you'll do a good job on this because you

can't stop thinking about how good I look, so you want to please me like you were a panting dog. You're weak and pathetic, but we want your perspective, and you'll sell out everything you believe for a nice pair of legs."

At least I think she said something like that. I wasn't really paying much attention.

"I'll be back next Tuesday" she said, and my gaze followed her out the door and down the hall. Well, partway down the hall, which is where my secretary caught up to her with the mandatory retainer agreement. I may be a chauvinistic atavism, but I'm not unethical.

My heart sank the next time I saw her. I had decided against the soft music and candlelight—too obvious in a law office—but I had spritzed on some extra Old Spice, and I actually ironed my shirt for once. Yet here she was, in a formless pantsuit, her hair pulled back in a severe bun, and not a trace of makeup on her. She was all business this time, and I realized I'd been had.

"Well," she said, "am I right? Hasn't the number of women on the bench gone down in the last ten years? What did you come up with?"

"True enough," I sighed, "the number is down. Twenty years ago there were eight Alaska state judges of the feminine gender." I decided not to use that term again as she arched her brow disapprovingly. "Ten years ago it was all the way up to 13, including one on the Supremes. That's 24% of the total judges and justices. Now it's down to 11, which is just 18%. Of course, women are slightly over-represented among masters and magistrates, at almost exactly half...."

She cut me off. "Forget the masters and magistrates. We're interested in the big-shot, role model positions here, and you're telling me the numbers show a clear pattern of discrimination."

"Whoa, hold on sister, I didn't say that. First of all, remember most law-



"...the number of women on the bench seems to be going down. The number of women judges peaked about 10 years ago. With Murkowski in the governor's chair, we're concerned that the numbers will keep declining..."

yers are men. Two thirds of the active lawyers in Alaska, according to the Bar Association website. There's twice as many men to pick from."

She looked a little sullen. "Still, that means there should be 33% women judges. You're telling me there's only 18%. How do you account for that?"

"Start with the fact that judges are usually chosen from more experienced attorneys." I said, able to concentrate better now that her gams and her cleavage were covered. "Half the new bar admittees this year were young gals... uh, young women. It's obviously a lot less than 33% female if you just look at the experienced attorneys. And that doesn't even ac-

count for the women lawyers who take time off to have babies, or who choose relatively low-status areas of practice like family law, which will cost them if they ever face a bar poll."

She didn't like that, I could tell. "But that doesn't explain how we've dropped, during a time when more and more women have been moving into law practice, from 24% ten years ago, to only 18% now. That proves discrimination right there."

"The numbers prove discrimination, but not the way you think. Almost every judge of the male persuasion in Alaska had more than ten years' experience as a lawyer in this state before being raised to the bench. But for women, it has been routine, in the past, to appoint them to judgeships with as little as two years' experience. Especially in the 1980's, when inexperienced women lawyers were routinely appointed. Ten years ago, since you mentioned that benchmark before, only 4 of the 13 women judges had more than ten years at the bar before being elevated."

She drew in her breath. "But some of those women turned out to be outstanding judges!"

"Not saying they didn't, some of them were quite good" I said, in part to keep her from a full-blown hormonal explosion, and in part because, like I

said before, they mostly hadn't done much harm, which is all I ask from a judge anyway. "I'm just saying, it proves discrimination. Reverse discrimination. Women were getting on the bench much easier than men were, for quite a while there."

Her gaze hardened again. "So what would you, Steve, conclude from these figures?"

I chuckled. "Not what you think. Time is on your side, for one thing. Look at one more stat. In 1985, of the 8 women judges, there was only one who had more than ten years' experience before ascending to the bench. Ten years later, there were four. Today, five of the 13 judges had more than ten years in the trenches before getting the big black dress. So while the number of women judges peaked after the reverse discrimination years of the 80's, the number of judges coming in with experience is still climbing. And with the increase in women lawyers, in ten more years you girls should be in pretty good shape."

"But of course," she finally ventured after she got her teeth unclenched, "you won't mention this to anyone because you know a lot of those inexperienced lawyers turned into outstanding judges. And because you still have to practice in front of them."

"I won't say anything because you retained me to do this research in the first place, and I have an obligation to protect my client's secrets" I said. "You and your 'people' can relax."

"We won't relax, and we don't intend to wait another 20 years" she said as she got up and headed toward the door. I still liked the way she walked, even in that pantsuit. I also liked that she dropped a handful of C notes on my secretary's desk as she left.

"Feel free to call again" I called to her disappearing form.

"Not bloody likely" her voice floated back, as my secretary ran to give her a receipt.

Footnotes

1. ARCP 1.5(b).

2. Cobbled together from the Todd Alaska Directory of Attorneys, Pacific Reporter, and Alaska Court System website. Figures are approximate.

3. ARCP 1.6.

In the Supreme Court of the State of Alaska

In the Disability Matter Involving) Supreme Court No. S-12023

TIMOTHY JANNOTT,

Respondent

Order

Date of Order: 10/21/05

ABA File No. 2005B001

Before: Matthews, Eastaugh, Fabe, and Carpeneti, Justices. (Bryner, Chief Justice, not participating.)

On consideration of the joint motion by bar counsel and the respondent for the respondent's transfer to disability inactive status under Alaska Bar Rule 30 dated July 29, 2005,

IT IS ORDERED:

1. The joint motion for transfer to disability inactive status under Alaska Bar Rule 30 is GRANTED. Respondent Timothy Jannott is immediately transferred to disability inactive status until further order of this court. A disability hearing under Rule 30(b) is not required.

2. The Bar Association shall provide the notices required in Rule 30(c) and (f). The respondent may not practice law until reinstated by order of this court under Rule 30(g).

Entered at the direction of the court.

Clerk of the Appellate Courts

/s/Marilyn May



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Marketing your practice is a crucial skill

By Steven Pradell

One course not taught while I was in law school was how to market a law practice, obtain and maintain good clients who pay their bills and ultimately refer others to the firm. Large firms have partners who are adept at this skill. Associates sometimes stay in big firms in fear that they won't be able to maintain a clientele sufficient to meet overhead demands.

For the family law lawyer, who more than likely will be a sole practitioner, the need for good marketing skills is crucial. Investing in obtaining future clients is often something we put off while caught up in the daily emergencies brought on by clients, clerks and computer crashes. Yet, it is important to continually set aside and devote time to marketing. This ongoing process will ensure that there will be new client retainers when those old cases either end or existing clients run out of funds to pay your own office bills, which must be paid regardless of whether your collection efforts are fruitful.

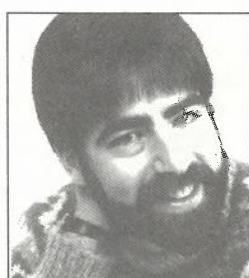
While this article cannot address the entire spectrum of marketing, it can offer some thoughts in this area. First, we often forget that our own past and present clients are probably our best source of revenue. Keeping in touch with them on some level may reap benefits in the future. Spending all of our marketing time and funds trying to get new clients may not be the most productive use of our efforts.

Those who already have experienced our services can recommend others to us, and call us again when other legal problems arise. So, trying to end our relationships on good terms with former clients and keeping in touch with them periodically may be a good investment.

Second, there is an issue as to how and where to market our services. And to do this, it may be important to pause for a moment and ask yourself some long term, goal oriented questions. In Anchorage, we all know who of our colleagues regularly appear on

television, radio ads, full-page yellow pages and even trashcans around town. Which of these, if any, is an appropriate method for you to market your services?

Part of the answer to this question is; how do you want to be seen by your clients and peers? Also, you must ask yourself, what is your goal? Are you seeking quantities of clients with short-term issues or fewer clients with more complex cases who have the means to pay you over time? Do you have or are you planning to have a specific specialty practice where you prefer to have clients who have unique problems that you can address? Can you target your marketing and your approach to attempt to set yourself apart from the hordes of other attorneys who compete for your clients?



"The need for good marketing skills is crucial."

Investing in obtaining future clients is often something we put off while caught up in the daily emergencies brought on by clients, clerks and computer crashes.

Finally, it is my experience that good marketing begins the moment your secretary answers the office phone. You are giving a potential client a taste of your services, your professionalism and your personality.

Third, the internet has recently changed the landscape and now many savvy clients are finding lawyers online. Do you have a website? If so, what is the goal of your site? Are you simply showing off your accomplishments in a slick, preformatted manner, or will a potential client repeatedly come back to your web address for information? By thinking how your website can help your client, you can change the entire focus of having an internet presence.

Finally, it is my experience that good marketing begins the moment your secretary answers the office phone. You are giving a potential client a taste of your services, your professionalism and your personality.

income in your own pocket at the end of the day.

©2005 by Steven Pradell. Steve's book, *The Alaska Family Law Handbook*, (1998) is available for family law attorneys to assist their clients in understanding domestic law issues. Steve's website is located at www.alaskanlawyers.com.

New bankruptcy law raises family law issues

Continued from page 1

debtor who files bankruptcy which are incurred in connection with a divorce, separation agreement or other similar order are not discharged under any of the bankruptcy code chapters, except under chapter 13 where a debtor has made all payments required under the plan.

In the past, there needed to be a finding as to the dischargeability of divorce related debts. At present no such adversary proceeding is required. A new defined term, "domestic support obligation" is contained in the new laws, and, given its broad implications, this label replaces the prior method of determining whether family law related obligations are or are not dischargeable. Under 11 U.S.C. § 101 (14A),

The term "domestic support obligation" means a debt that accrues before, on, or after the date of the order for relief in a case under this title, including interest that accrues on that debt as provided under applicable nonbankruptcy law notwithstanding any other provision of this title, that is--

(A) owed to or recoverable by--

(i) a spouse, former spouse, or child of the debtor or such child's parent, legal guardian, or responsible relative; or

(ii) a governmental unit;

(B) in the nature of alimony, maintenance, or support (including assistance provided by a governmental unit) of such spouse, former spouse, or child of the debtor or such child's parent, without regard to whether such debt is expressly so designated;

(C) established or subject to establishment before, on, or after the date of the order for relief in a case under this title, by reason of applicable provisions of--

(i) a separation agreement, divorce decree, or property settlement agreement;

(ii) an order of a court of record; or

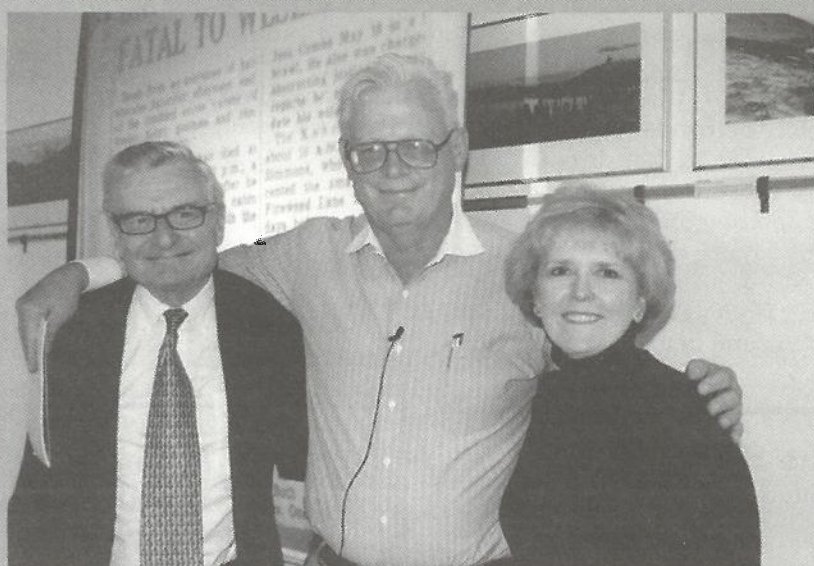
(iii) a determination made in accordance with applicable non-bankruptcy law by a governmental unit; and

(D) not assigned to a nongovernmental entity, unless that obligation is assigned voluntarily by the spouse, former spouse, child of the debtor, or such child's parent, legal guardian, or responsible relative for the purpose of collecting the debt.

In the past, because they were treated differently, there were certain advantages concerning whether property was labeled "alimony" or "property division" in a divorce if the other spouse later filed bankruptcy. Alimony has certain tax consequences, namely that a payor may deduct alimony to offset taxes while a payee may be taxed on the alimony as income. Since neither property division nor alimony awards will be dischargeable in the future, practitioners may desire to consider the labels for awards in structuring settlements more for tax purposes and less due to bankruptcy concerns. Attorneys should review the laws themselves in more detail and consider having their clients seek both the advice of bankruptcy and/or tax professionals as to the issues involved. Since the laws are relatively new, it is likely that the courts will interpret the recent legislation and carve out exceptions, exclusions and address ambiguities as they arise.

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The slavery trial of 1954



L-R: Leroy Barker, Chair, Bar Historian's Committee; Michael Carey; and Karen Erickson, Fairbanks Legal Historian.

Alaskan writer and historian Michael Carey presented his second program on Alaska legal history to Bar members on September 13, 2005, in Anchorage.

The presentation, "The Great White Slavery Trial," explored the history of a famous 1954 prostitution case in Fairbanks. A young Ted Stevens served as prosecutor and well-known Fairbanks defense attorney Warren Taylor, Sr., represented the defendants.

Carey's recitations of the dramatic exchanges between the two strong personalities, along with many photos, clippings and other documents from the case, brought to life a colorful time in Fairbanks history. Over 75 people attended the brown-bag lunch session in the Training Center of the court system's Snowden Building.

Carey later flew to Fairbanks to repeat the presentation at a Tanana Valley Bar luncheon.

Alaska Court System hosts summit

On September 9th, 2005, the Alaska Court System hosted the Oral Language Interpreter Summit II. Participants included representatives from state and local government, nonprofits, businesses and the municipality. Participants reviewed the findings of the statewide Oral Language Interpreter Survey, which were presented by survey coordinators Yvonne Chase, ACSW, and Dr. Karen Ferguson. Participants also formed a working group to develop strategies for development of an Oral Language Interpreter Center. Participating in the summit were:



Interpreter Summit participants pause for a break. L-R: Diane DiSanto, Office of Mayor Mark Begich; Robin Bronen, Executive Director, Alaska Immigration Justice Project; Judge (Ret.) Rene J. Gonzalez; and John McConaughy, Anchorage Municipal Prosecutor.



L-R: Susanne DiPietro, Judicial Education Coordinator, Alaska Court System; Brenda Aiken, Resource Development Officer, Alaska Court System; Yvonne Chase, ACSW; Stephanie Cole, Administrative Director, Alaska Court System; and Dr. Karen Ferguson conclude a second summit to address the shortage of court interpreters.

Women judges gather in Anchorage




The American Judges Association met in Anchorage September 18-23, 2005, for its 45th Annual Education Conference, and participants included several members of the National Association of Women Judges. Justice Dana Fabe of the Alaska Supreme Court, NAWJ District 13 Director, hosted a reception in her home on September 21st in honor of the leaders of both organizations and Alaska's women judges. Pictured at the reception are, L-R: Hon. Dana Fabe; Hon. Gayle Nachtigal, President, American Judges Association; Hon. Sandra Thompson, President, National Association of Women Judges; Marilyn Marquardt-Sanchez, President, National Court Reporters Association; and B.J. Horak, Secretary, American Judges Foundation.



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Electronic revolution will pervade the future

By Jordan Lind & Jack Nichols

If you have not thought about electronic records management as part of your law firm technology environment you will likely begin talking about it soon. But from the paperless office concept to records policies and from best practices to the evolving demands of file retention legislation, where does a firm start?

To begin thinking about records management it is helpful to review the history of paper and consider how the electronic revolution will pervade the future. Further, and as a central premise to developing a records management system, enforcing a documents evidential influence is directly related to your firm's ability to define the processes and best practices used in file retention.

Records represent the history, present, and future of any organization. They are the evidence of past events, the mechanism of current business processes, and are the basis for future actions. Today, businesses expect the following to occur electronically:

- documents or records creation
- transactions, and
- storage.

Electronic records, while vastly superior to paper records on the

fronts of physical storage, retrieval, transmittal, backup, and security, lack the comfort level that physical pieces of paper offer many people. For the most part, electronic records are a relatively new medium when compared to the 5,000 year old acceptance of paper. Because of this, paper documents are more readily taken at face value. However, as the electronic revolution continues to evolve it is easy to imagine a time when most, if not all, transactions will only exist in electronic form. In other words, there will never be a paper copy of the document or record.

Given this undeniable future, it becomes apparent and necessary for firms to develop a Records and Information Management Policy. This policy should define how your firm manages and controls the creation, maintenance, use, and disposal of records, files and forms.

Consider the following questions when getting started on the creation of your firm's records and information management policy:

- What types of records does the firm create?
- Are there state or federal regulatory requirements we should consider?
- What is the life-cycle of the various types of records?
- Where should the firm store

records?

- Do our employees recognize the importance of records management?

- What processes / business practices do we currently have in place to ensure consistency in creating, retrieving and managing records?

As you venture into the world of electronic file retention remember the following:

The ability to clearly define and demonstrate your information man-

agement processes, which includes both operational and systems management, will determine the evidential weight given to any particular document.

The authors work for ALPS Corporation in the IT Solutions division. For questions about the following topic, please feel free to contact either at jlind@alpsnet.com or jnichols@alpsnet.com.

Thoughts about handling mail

By Mark Bassingthwaighte

Calendar and docket control begins with the way you handle incoming mail. Handling mail improperly can result in disciplinary complaints and malpractice claims alleging a lack of diligence or competence. Improper mail handling also can cause you to miss calendar deadlines and fail to timely respond to clients' questions or needs. On the other hand, appropriate mail handling gives your firm a reputation for professionalism, and convinces clients, colleagues and judges that your office is well run and the lawyers involved are competent and diligent.

Your firm should open its mail as soon as it is received, and should do so in a centralized fashion with one or more people responsible for opening mail, entering calendar data, and delivering the mail to the appropriate recipient. Each piece of mail should be date-stamped and reviewed for deadlines. The mail handler(s) should enter deadlines and reminders on the firm's calendar, then verify the calendar entry's accuracy by comparing it to the original mail document. After the mail handler has completed these steps, he or she can deliver the mail to the respective attorneys for their review and related substantive work.

When the recipient attorney receives her mail, she should review it to ensure that the firm's mail handlers caught the important dates and entered them on the firm's calendar. Then she should attend to each letter's recited questions or requests for information. If the firm keeps duplicate calendars (which are essential for litigation attorneys), the attorney should ensure that her duplicate calendar contains the same entries.

The double-check function—where the attorney reviews the mail handler's data entries—is most beneficial, because each attorney then is certain to know about every calendar entry. Calendar entry errors are a common reason for missing statute of limitation deadlines. The double-check helps your firm meet all statutory deadlines. After a few days of practice, the suggested mail handling procedure should not take more than fifteen to twenty minutes, even in firms with fifteen or more attorneys.

Attorneys should not be reluctant to let support staff handle their mail. The main reason for using support staff to open mail, enter calendar data and route mail is to double-check calendar entries to avoid calendar errors. The second reason is to avoid losing mail. If the firm centralizes its mail opening and immediately makes relevant calendar entries, it avoids placing that burden on attorneys.

When mail arrives, attorneys commonly have ongoing distractions like active files on their desks, a telephone conversation, or responding to e-mail. In these circumstances, if the attorney is solely responsible for her mail handling, her other distractions can cause misfiled documents or forgotten calendar entries.

Finally, please remember that attorneys are not immune from personal stress, substance abuse, depression and other all too prevalent maladies. If an attorney is troubled and her client service is starting to slip, you do not want her opening her own mail, because no one else in the office would be able to ensure that she is meeting deadlines, complying with discovery sanctions ordered, etc. When the firm's support staff is responsible for mail opening, calendar entries and mail routing, they are able to inform the managing partner or office administrator when the mail indicates persistent signs of trouble. This can be a significant issue for larger firms where every attorney is responsible for the actions of the others.

Occasionally an attorney will insist on opening and handling his own mail. He may have a number of reasons for doing so. A typical reason is a desire to work on a weekend day, when support staff members are not available to obtain and open the mail, enter the calendar data, and route it to the appropriate recipient. Regardless of the reason for handling mail before support staff have processed it, you should consider copying mail you wish to take and leave the original for staff to process. Alternatively, you can reverse the roles—you can date stamp the mail yourself and make calendar entries just as your staff would do, and then leave the original marked as "calendared" for your staff to review the calendar entries when they return to the office. This ensures that you perform the all-important double-check function.

Perhaps it is because we are so busy, but attorneys are notorious for mishandling mail. Often we don't realize that our work habits can lead us to make calendar errors. We should delegate initial mail handling to our support staff, while holding them responsible for the accuracy of our calendars. You will hinder their attempts to fulfill this task if you interfere with the firm's mail handling procedures. What's worse, you may leave them feeling frustrated and unappreciated. Remember, it's hard to replace the top-notch staff person who helps you keep your practice running smoothly.

Mark Bassingthwaighte is the Risk Management Coordinator for ALPS Corporation. For questions on the following topic, please feel free to contact him at mbass@alpsnet.com.

Legal Technology: Survey Says...

By Laura Ikens

A new American Bar Association Legal Technology Survey has been released to track tech use in law practice.

Each year, the Legal Technology Resource Center surveys lawyers in private practice to analyze the use of technology in law offices. This year, more than 1,500 member lawyers responded to the surveys, and we again produced five volumes: Law Office Technology, Litigation and Courtroom Technology, Web and Communication Technology, Online Research and Mobile Lawyers.

Among the highlights

Respondents: Average respondent: 51 years old and male; 57 percent work in solo practices or small firms (2-9 attorneys). Primary practice areas: litigation, estates, wills and trusts, real estate.

Disconnect: There is a marked disconnect between availability and use of legal-specific software:

- 41 percent have case management software available, but only 18 percent personally use it.
- Time-and-billing software was available at 82 percent of firms, but used by only 42 percent.
- Half of the firms had document assembly software available, but only 30 percent of respondents use it.
- 32 percent had document management software available to them, but only one-fifth use that software.

E-Filing: In the 2002 survey, 81 percent of participants said they had never filed court documents electroni-

cally; that figure is down to 54 percent. While there is much hype about electronic discovery, most respondents (73 percent) have never received an EDD request and three-quarters had never made an EDD request.

Web sites: All firms with 50 or more attorneys have Web sites; the overall response was 68 percent.

E-mail: Most attorneys rely on a confidentiality statement accompanying transmission of confidential or privileged communications or documents to clients; only 13 percent use any type of encryption as a security precaution.

CLE: 42 percent have taken online CLE; generally preferring to take them from their own offices (55 percent).

Connectivity: Use of dial-up is spiraling down, from 20 percent of respondents in 2002 to 6 percent now. Only 15 percent of solo practitioners are still using dial-up, preferring DSL (44 percent) or cable modems (26 percent).

The survey volumes are available as a set or individually. New this year are "Trend Reports" for each volume providing focused analysis at the beginning of each volume and also available via download. Also available via download is the 2004-2005 "Executive Summary," which provides an at-a-glance look at the five-volume survey set.

Get more details and purchasing information on the survey.

The author is senior research specialist at the American Bar Association's Legal Technology Research Center.

Merry Christmas! Happy Hanukkah!
Happy Holidays! Happy New Year

Pondering Powerpoint: Not in my trial toolbox

By Rick Friedman

President Abraham Lincoln
Powerpoint Presentation
Gettysburg, Pennsylvania
November 19, 1863

"Good morning. Just a second while I get this connection to work. Do I press this button here? Function-F7? No, that's not right. Hmmm. Maybe I'll have to reboot. Hold on a minute. Um, my name is Abe Lincoln and I'm your president. While we're waiting, I want to thank Judge David Wills, chairman of the committee supervising the dedication of the Gettysburg cemetery. It's great to be here, Dave, and you and the committee are doing a great job. Gee, sometimes this new technology does have glitches, but we couldn't live without it, could we? Oh - is it ready? OK, here we go..."

Abraham Lincoln, quoted in
"The Gettysburg Powerpoint
Presentation"
www.Novig.com/Gettysburg

In my short career as a legal writer, I have written many things I thought might bring a heated response from readers. The topics ranged from criticism of the Supreme Court, to bestiality, to law practice in Bethel. Mostly, there was silence.

Recently, I circulated a draft manuscript to 10 lawyers, and received a response I didn't expect—but should have. Out of 200 pages of manuscript, here is what provoked reactions ranging from delight, to consternation to outrage:

"There are stories about Big Foot sightings; some very convincing, offered by credible, rational-appearing people. There have even been photos to back up some of these stories. Still, no one has ever proven the existence of Big Foot to my satisfaction. Similarly, there are stories about lawyers effectively using Powerpoint in trial. Some come from credible, respectable sources. Still, I have never seen anyone use Powerpoint effectively in the courtroom. Never. The Powerpoint performances I have seen range from the tedious to the comical.

Lest you think I am a total Luddite, let me add a few comments. I have seen Powerpoint demonstrations by criminal lawyers and products liability lawyers that have caused me to conclude that in the right criminal or products case, I might very well use Powerpoint. It is clearly highly effective in illustrating aspects of the physical world, like crime scenes or how machinery works. In medical malpractice cases it can illustrate things that would be otherwise difficult to communicate.

Powerpoint is offered as particularly helpful in document-intensive cases. In my experience, this is where Powerpoint is at its worst. As document after document gets flashed on the screen, they become a meaningless blur, and the story gets lost.

There are also still many logistical and technical problems with computers and Powerpoint in the courtroom. I have seen these problems torpedo what would otherwise

have been impressive presentations.

I could go on and on about this topic, but I won't. Let me just say that someone may eventually find Big Foot, and someone probably will eventually use Powerpoint effectively in the courtroom, but that someone is unlikely to be you or me."



"Let me just say that someone may eventually find Big Foot, and someone probably will eventually use Powerpoint effectively in the courtroom, but that someone is unlikely to be you or me."

These five short (unpublished) paragraphs managed to upset and offend some very good lawyers. The question is, why? The answer, I believe, can be found in my upcoming book: "Everything Bad I Ever Experienced, I Experienced First in Junior High."

As a former president of the Bay Trail Junior High AV (Audio-Visual) Club, I can claim some expertise in attitudes toward technology. At bottom, all relationships with technology are based on one question: "What can this technology get for me?"

Some joined the AV Club because they got a rush of pleasure playing with filmstrip projectors and ditto machines (Younger readers should consult someone over 40 for an explanation of these long-gone technological marvels.) They would sit in the AV room for hours, delighted with their good fortune in having these fascinating machines all to themselves. These people we can refer to as "technonerds." What they "got" from technology was a hormonal hit not unlike that experienced by compulsive gamblers or bungee jumpers.

Some joined AV Club because it would allow them to skip classes and leave study hall. Wheeling an unwieldy overhead projector through the empty halls or sitting in the AV room with no teacher around was infinitely more interesting than any of the alternatives. What these people got from technology was a socially acceptable way to slack off. We refer to these people as "slackers."

Now we come to the final, and truly pathetic, category of people who joined AV Club. These misguided souls actually thought they looked cool wheeling the filmstrip projector into Mrs. Barnard's 7th grade Science class at precisely 10:25 a.m., as requested. They would stand in the darkened room, alongside the projector, waiting for the "beep" that would tell them it was time to move the strip to the next riveting illustration of a tectonic plate. They knew no one was looking at the screen to see the tectonic plate. They knew everyone was really looking at them—marveling at their elevated position in the seventh grade social hierarchy. What these people got from technology was imagined social status. We can call them "hipsters."

These ways of relating to technology continue to the present day, and

So, Rick Friedman Doesn't Like PowerPoint

Isn't this the same guy who, in 1984, said:
"Microsoft is a flash in the pan. Anyone who would invest in that company would probably give away good vinyl records for those newfangled CD's."

Ed. Note: T. VanFlein

Yeah, well...

Very funny. You should all know that I was the first lawyer in Sitka to get a personal computer for the office (An Apple II). Probably one of the first in the state. But, if you are on the cutting edge, there is a good chance you are going to bleed...

--R. Friedman

are readily apparent among Powerpoint users. When we understand the three ways people relate to technology, we can understand the various emotions a critique of Powerpoint creates.

Technonerds love Powerpoint because they are hard-wired to love Powerpoint. This is a genetic mutation. It is biological, chemical. They will use Powerpoint whether or not it wins trials for them. If we have a fight-to-the-finish war with space aliens, they will attempt to use Powerpoint in battle.

The jury is still out on whether the technonerds' compulsion to use Powerpoint is an evolutionary advantage or disadvantage. For now, the point is simply that criticizing Powerpoint to a technonerd is like criticizing the way he breathes. (How can you criticize breathing for heaven's sake?) The criticism will be incomprehensible and very upsetting to him. I say "him," by the way, because there are very few female technonerds—further evidence that this condition is genetic.

Hipsters love Powerpoint. It is the latest thing. Everybody is using it. Actually, not everybody. It takes money and media savvy to use Powerpoint. Only successful and media-savvy lawyers use Powerpoint. Standing in the courtroom with the remote-control in hand, everyone can see who is in

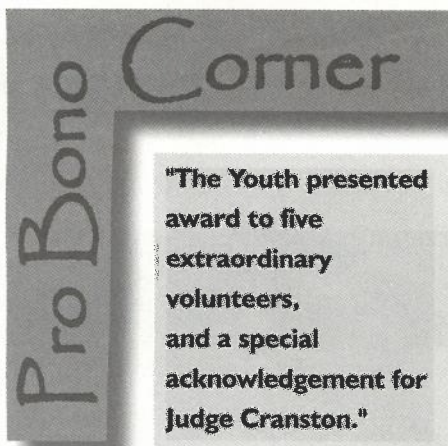
control. The lights go on and off when you say so. Images flash on the screen with the twitch of your finger. At least that is how it is supposed to work. And if it doesn't work that way, everyone will know you have minions—one of whom probably screwed this all up. But they will know you have minions.

A hipster relies upon Powerpoint for status and prestige. He or she hears criticism of Powerpoint as an attack on self. You might as well attack his or her Rolex or Mercedes.

Slackers don't like Powerpoint. Unlike the filmstrip projector of old, the Powerpoint program actually takes a little study and work to operate. Slackers don't like study or work. They are looking for excuses to get out of study and work. Every time a Powerpoint crashes, it provides slackers with another excuse to avoid learning Powerpoint. Of course, criticism of Powerpoint delights slackers.

How will this all end? Technonerds and hipsters will keep using Powerpoint. They will continue to have occasional successes and many spectacular failures. When they get all the bugs out, when Powerpoint is as safe, reliable and boring as a filmstrip projector, slackers will start using it. Of course, by then, Powerpoint will be obsolete.

When they get all the bugs out, when Powerpoint is as safe, reliable and boring as a filmstrip projector, slackers will start using it. Of course, by then, Powerpoint will be obsolete.



Youth Court recognizes '05 attorney volunteer "All-Stars"

The Alaska Bar Association presented the second annual Youth Court All-Star Awards to five extraordinary volunteers. A special acknowledgement was made to Judge Charles Cranston for his years of hard work and dedication to the Kenai Peninsula Youth Court.

Please join us in congratulating the 2005 All-Stars:

Laurel Bennett – Mat-Su Youth Court. Laurel has volunteered with the Youth Court for nine years now and still gets teased that she looks like one of the student members.

Amanda Skiles – Ketchikan Youth Court. Amanda was recently elected Board President and is known for not being afraid to get her hands

dirty to get the job done.

Wilson Condon – Anchorage Youth Court. Wilson is the former Attorney General of Alaska and a devoted volunteer. He currently serves on the Youth Court Board of Directors.

Andy Sorensen – Valdez Youth Court. Andy is a legal advisor and legal trainer who has been involved with the Valdez Youth Court since its inception in 1999. He has provided

more than 300 hours of community service and has twice been named Valdez's All-Star.

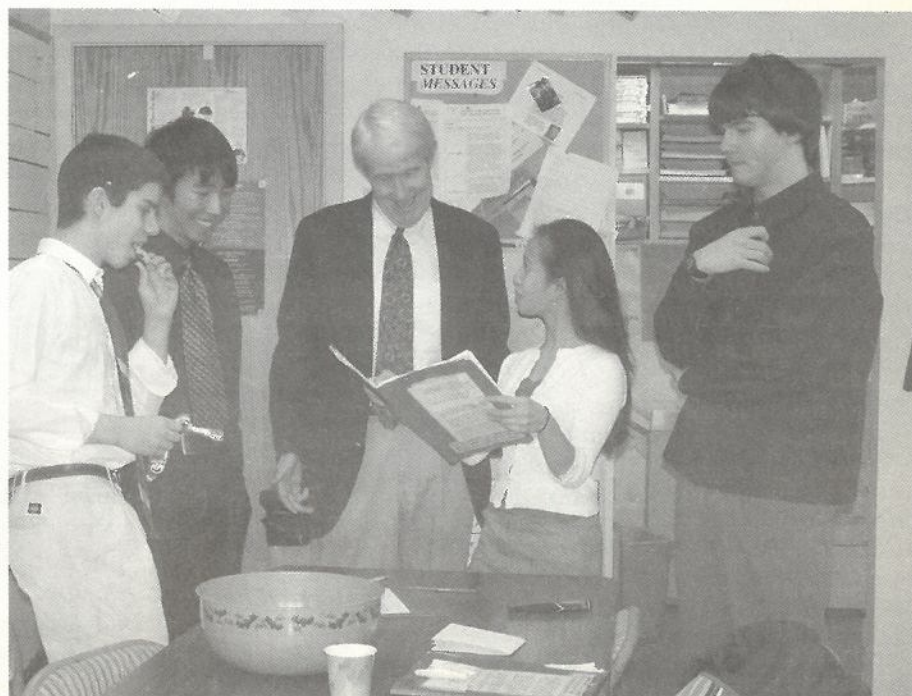
John Hagey – North Star Youth Court. John has been a legal advisor for four years. He is a long-time volunteer of the NSYC and an avid supporter of the Green Bay Packers!

To learn more about providing volunteer service to youth courts, contact Krista Scully, Pro Bono Director at scullyk@alaskabar.org.

The United Youth Courts of Alaska (UYCA) celebrated its ninth annual statewide youth court conference hosted by the North Star Youth Court in Fairbanks in November. In honor of the outstanding attorney and judicial volunteers, the UYCA and



Amanda Skiles (back row, second from left) and members of the Ketchikan Youth Court on a community clean-up day. Photo by Bob Coombs



Wilson Condon (center, standing) with youth attorneys from Anchorage Youth Court.

Sanchez grateful to those who supported his freedom

The September edition of the Bar Rag featured an article focused on the pro bono efforts on behalf of Felipe Arreaga. He has since written this letter as thanks and acknowledgement of the tremendous commitment and courage by his attorneys and as a call to action for others to give of their time. (The accompanying photo features Felipe and his grand-daughter upon his release from prison.)

To all the people and organizations who fought for my freedom (Petatlán, Gro. September 21, 2005)

I would like to use this means of communication to quickly and directly get in touch with all the people and organizations who believed in my innocence and fought for my freedom. I want to thank you for your support and solidarity.

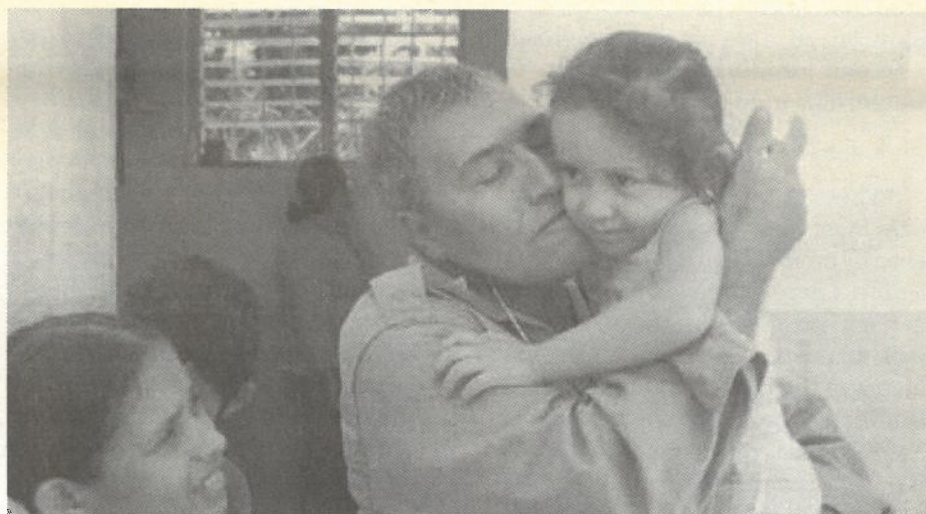
I want to tell you that during the long time I was in prison I never felt completely alone because you never stopped demonstrating your support. I suffered a lot in prison, so much that I would never want anybody to experience what I went through.

I always said that I could die for the cause I believe in and that I would not back down in the clean, legal and unselfish fight that motivates me. I do not believe in violence and I think that the work of education

and consciousness-raising is easier done in peace than in war.

This idea has been guiding me throughout the years of my life, and because of this I fled from the military and had to leave my family behind when the persecution became too cruel. I have always believed in the law, and my fight has been for a government that respects the law, but my disillusionment has been great during these months in prison because I can see that the interests of the powerful are greater than the respect for the law. I suffered a ten month nightmare. The prison I had to endure is a torture whose wounds cannot be healed.

My wife noticed with concern that when I left prison I kept on walking and walking without wanting to stop in spite of the fact that the reporters were trying to interview me. Instinctively, I wanted to get away from the prison as soon as possible. Today I am still confused; I feel that nothing will ever be like it was before, and I cannot find the right words to explain myself. But no, I do not want those who accused me wrongly to live through what I went through. I also do not want the government to pay me for my damages. I would much prefer to see the law reformed so that in cases like mine, there will not



Felipe Arreaga and granddaughter just after receiving the Sierra Club's "Chico Mendes Award" in jail August 10, 2005.

have to pass so many days, so many months before the judge announces his verdict.

Everyone is born with a right to freedom, and I do not see any reason why the justice system has to be so slow and costly. Both the accusers and the accused pay. Who wins? Society does not believe nor trust in the justice system, and civil society is not set up to watch over and know about each case like mine in order to stop these injustices. This is part of what I would like to share with you in addition to my thanks and

gratefulness.

You can be sure that my fight will not stop and that you can count on me. I will continue to walk through the "sierra" and talk about human rights and everyone's right to a healthy environment. I will work arm in arm with my wife watching over the forests and planting trees, which is like planting water. I am thinking of all of you with gratitude. I am indebted to you and will try to remain true to my cause, which is the cause of everybody.

Sincerely,
FELIPE ARREAGA SANCHEZ
A free man, as I was born.

Guess & Rudd issues challenge to Alaskan law firms

The law firm of Guess & Rudd P.C. has issued a fundraising challenge to benefit Alaska Legal Services Corporation. Guess & Rudd P.C. has pledged to donate \$10,000 to ALSC's Robert Hickerson Partners in Justice campaign if eight other Alaska law firms or individuals will each make a matching \$10,000 donation. This opportunity to raise a total of \$90,000 for ALSC comes at a crucial time, as

the recent unexpected loss of ALSC's Rural Domestic Violence funding has resulted in downsizing, staffing cutbacks, and a looming budget shortfall for calendar year 2006.

ALSC's annual fundraising campaign is dedicated to the late Robert Hickerson, who served as Executive Director from 1984 to 2001. Robert's twenty-year career with Alaska Legal Services was dedicated to the

attainable goal of ensuring equal access to the civil justice system for all Alaskans. The Guess & Rudd challenge honors Robert's vision and life's work by motivating, as Robert did, members of the legal community to provide vital financial support through private and law firm donations to the campaign.

The deadline for meeting the challenge is December 31, 2005. Law

firms or individual donors who are interested in helping to meet this generous challenge are encouraged to contact ALSC Executive Director Andy Harrington at 907-452-5181 (aharrington@alsc-law.org) or Director of Community Services and Volunteer Support Erick Cordero at 907-222-4521 (ecordero@alsc-law.org).

Educational, legal communities celebrate “Constitution Day” at UAA

In 2004, the U.S. Congress enacted legislation requiring all educational institutions receiving federal funding to observe Constitution Day, celebrating the September 17, 1787, signing of the U.S. Constitution. In Anchorage, the Alaska Teaching Justice Network sponsored a “civics quiz” in the UAA Campus Center as part of its ongoing Alaska Civic Learning Assessment Project. Over 175 students and faculty members took the quiz, and the results will be included in a research report on the state of civic knowledge of Alaska’s youth due in 2006. Also at UAA, Justice Dana Fabe participated in a panel discussion on “Perspectives on Citizenship and the Constitution” at the UAA Consortium Library, which was moderated by Professor Steve Haycox of the UAA History Department. Justice Fabe spoke on the topic “Separation of Powers and Independence of the Judiciary” to a crowd of over 175 students and faculty. Also participating in the panel were Anchorage attorney Jeff Feldman, who addressed the issue of privacy in the constitution; Sen. Hollis French, who spoke on the topic “Money and Politics;” and UAA History Professor Becky James, who addressed “Citizenship in American History.” The panel was sponsored by UAA as part of the Teaching American History project, which is coordinated by UAA Education Professor Letitia Fickel under a grant from the U.S. Department of Education.



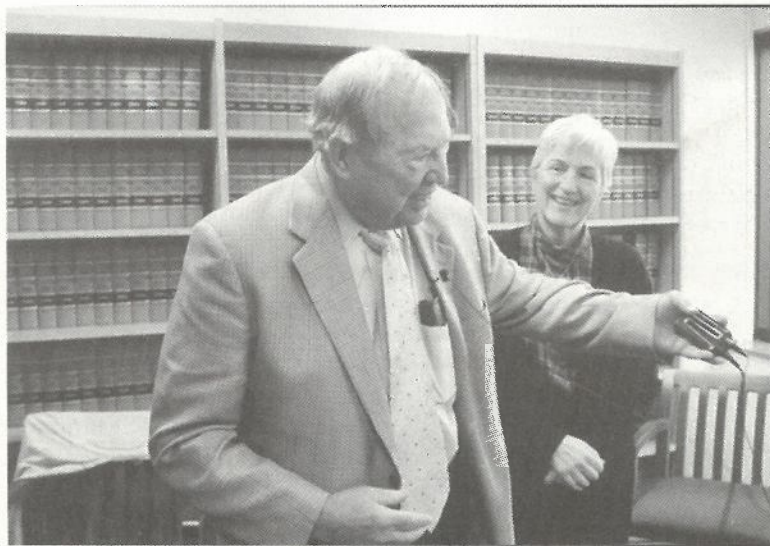
Participants in the Constitution Day panel discussion at UAA included, L-R: Senator Hollis French; Justice Dana Fabe; Professor Steve Haycox, Moderator; Professor Becky James; and Professor Letitia Fickel.



Participants in the Alaska Civic Learning Assessment Project administer “How Civic Are You?” quizzes to UAA students and faculty at UAA Campus Center as part of Constitution Day festivities. L-R: Lexi Hill, ACLAP Research Co-Director, UAA Institute of Social and Economic Research [ISER]; Rosyland Frazier, Research Associate, ISER; and Professor Letitia Fickel, ACLAP Co-Director.

Judge Fitzgerald contributes to court history

The Alaska Court System and the Alaska Bar Association Historian’s Committee recently completed a series of videotaped interviews with two of Alaska’s first judges: Judge James Fitzgerald and Judge James von der Heydt. The interviews occurred in the Boney Courthouse during the summer and fall, and were conducted by members of the Bar Historian’s Committee. Margaret Russell of Burr, Pease and Kurtz interviewed Judge Fitzgerald, and Bob Richmond and Dan Quinn of Richmond & Quinn interviewed Judge von der Heydt. Judge Fitzgerald, and Margaret Russell, are pictured here at the close of an interview session. Anyone interested in helping record early court history is encouraged to contact Barbara Hood of the Alaska Court System, 264-8230, or Leroy Barker of the Bar Historians Committee, 345-3329.



Anchorage Youth Court thanks 2005 volunteers

For 16 years Anchorage attorneys have volunteered time and skills training over 2,000 local middle school and high school students to prosecute and defend juvenile misdemeanor criminal cases in Anchorage Youth Court. They have also served as legal advisors for youth court and helped with fundraising projects.

Also during this time the Alaska Court System has provided courtrooms and office space, affording juvenile defendants the opportunity to learn accountability in a formal court before their peers. Additionally, Anchorage judges and Alaska Supreme Court have presided over each AYC swearing in since inception, and led numerous advanced training sessions.

In recognition of this integral support, Anchorage Youth Court thanks each of the following attorneys and Anchorage judges who volunteered this year, the Alaska Supreme Court and the Alaska Court System.

Attorneys who volunteer may receive CLE credit toward Alaska Bar Rule 65(f)(5), and volunteering in youth court is also considered a pro bono contribution by the Alaska Pro Bono Program. Attorneys who would like to volunteer may call 274-5915.

2005 Attorney Volunteers

John Bandle State of Alaska, Dept. of Law	Nicholas J. Kittleson Kittleson Law Office
Greg Bidwell State of Alaska, Dept. of Revenue	Douglas H. Kossler State of Alaska, OSPA
Matt Block Patton Boggs LLP	Jonathon H. Lack Tindall Bennett & Shoup
Jon Bolton Law Clerk to Justice Eastaugh	Yvonne Lamoureux Law Clerk to Judge Christen
Blake H. Call Hughes Bauman Pfiffner Gorski & Seedorf, LLC	Adriaan Lanni Law Clerk to Justice Fabe
Carly Chan Law Clerk to Judge Mannheimer	Zachary Manzella Law Offices of Steve Sims
Holly Chari State of Alaska, Dept. of Law	Michael Martin First National Bank
Blair Christensen Jermain, Dunnagan & Owens, PC.	Michael R. Mills Bankston, Gronning, O'Hara, Sedor,
Judge Brian K. Clark Anchorage District Court	Mills, Givens & Heaphey PC
Paul Clark Law Clerk to Justice Eastaugh	David Miner Appellate Court Law Clerk
Joan M. Clover Gruenberg Clover & Holland	Colleen J. Moore Marston & Cole
Wilson L. Condon Preston Gates & Ellis, LLP	Heather Nobrega Legislative Affairs
Laurie H. Constantino Anchorage Youth Court	Karmyn Olmstead Davis Wright Tremaine LLP
Christopher R. Cooke Hedland et. al	Douglas S. Parker Preston Gates & Ellis, LLP
Marcia R. Davis Era Aviation, Inc.	Daniel T. Quinn Richmond & Quinn
Jennifer Kibbe Day District Court Law Clerk	Kendra Quinn Trial Court Law Clerk
Louise R. Driscoll Alaska Bar Association	Ben Roesch Law Clerk to Justice Eastaugh
Marie Evans Manley & Brautigan, PC	Susan Rohol Law Clerk to Justice Fabe
Justice Dana Fabe Alaska Supreme Court	Aaron Schutt Sonosky Chambers Sachse Miller & Munson
James J. Fayette State of Alaska, OSPA	Pamela D. Scott-Washington Law Offices of Gorton and Logue
Hugh W. Fleischer Law Offices of Hugh W. Fleischer	Craig Sieverding Law Clerk to Judge Mannheimer
Jeffrey A. Friedman Friedman, Rubin & White	John Skidmore District Attorney's Office
Andrew Giddings Law Clerk to Justice Bryner	Cynthia L. Strout Law Office of Cynthia L. Strout
Jason Gist Law Clerk to Justice Bryner	Ryan Stuart Trial Court Law Clerk
Serena Green Trial Court Law Clerk	Danika Swanson Law Clerk to Judge Wolverton
Shane Hauschild District Court Law Clerk	Judge Sen Tan Anchorage Superior Court
Selena Hopkins-Kendall Law Clerk to Judge Morse	Christina Terenzi Jermain Dunnagan & Owens, PC
Jamie Hughes Law Clerk to Justice Eastaugh	Jennifer Thomas Law Clerk to Justice Bryner
Monica Jenicek Stone & Jenicek	Jim Torgerson Heller Ehrman White & McAuliffe
Judge Stephanie E. Joannides Anchorage Superior Court	Jonas Walker Law Clerk to Judge Michalski
Linda J. Johnson Clapp, Peterson, Van Flein, Tiemessen & Thorsness, LLC	William Warnock Law Clerk to Judge Stewart
Carl H. Johnson Burr, Pease & Kurtz	Emily Willits Law Clerk to Justice Fabe
James H. Juliusen Davis Wright Tremaine, LLP	Mark Worcester ConocoPhillips Alaska, Inc.
Wesley Kelman Law Clerk to Justice Matthews	Julie Binder Wrigley Durrell Law Group, PC
Zeshan Khan Law Clerk to Judge Tan	Adolf Zeman Law Clerk to Judge Joannides

ALSC's Board faces several challenges over the next few months

By Vance Sanders

Over the past few months several new members have joined Alaska Legal Services Corporation's (ALSC) board of directors. This formally welcomes new non-attorney directors Pauline Cleveland of Noorvik (appointed by Maniilaq Association), Margie Nelson of Koliganek (appointed by Bristol Bay Native Association), Peter Tuluk of Chevak (appointed by the Association of Village Council Presidents), and returning member Victoria Cascio of Anchorage, who was recently appointed by Cook Inlet Tribal Council to serve a second term on ALSC's board. We also have a slate of new alternates, who serve as voting members if a regular member cannot attend. Dan Winkelman of Bethel, General Counsel for the Yukon-Kuskokwim Health Corporation, was recently appointed by the Alaska Bar Association to serve as an attorney alternate from the 4th Judicial District. Our new non-attorney alternates are Jeanette Iya of Savoonga (appointed by Kawerak), Violet Gronn of Kodiak (who is a former long-term Board member, re-appointed as an alternate by Kodiak Area Native Association), and Zenia Borenin of Akutan (appointed by Aleutian/Pribilof Islands Association).

These new and alternate members must hit the ground running.

Funding loss

ALSC's Board faces several major challenges over the next few months. The first, and most daunting, is to overcome the inexplicable loss of ALSC's Rural Domestic Violence funding. In early September 2005, ALSC received the shocking -- and quite unexpected -- news that the Federal Department of Justice Office of Violence Against Women declined

to renew the substantial grant supporting three full-time ALSC attorneys who provided invaluable legal assistance to battered and abused women throughout Alaska.

(The "unofficial" explanation for this non-renewal is that since ALSC represented grant-funded victims of domestic violence in divorce and custody cases, we promoted the breakup of families.)

In response to this funding cut-back, ALSC's board of directors cut the three Rural DV attorney positions. While for the moment no ALSC staff members have been "pink slipped," the Juneau office is now operating on a four-day-per-week schedule, with all three staff members reduced to part-time. The Bethel office, which normally is staffed by two attorneys, is down to one attorney. The Nome office, which we hoped could be staffed by an attorney had we received the Rural DV funding, is completely unstaffed, with the Fairbanks office picking up client service responsibility for the entire Bering Straits region. And in Fairbanks, the work schedule for ALSC's office manager (who happens to be ALSC's second-longest-tenured staff member), has been reduced to part-time.

Clients pay price

In my 20-plus years with ALSC, first as a staff attorney, then as a supervising attorney, and as a member and chair of the board of directors, I have stomachached more than enough budget cuts and funding losses for our invaluable program. While over the

years ALSC has managed to weather most financial storms, our clients and rural communities throughout Alaska have paid a very dear price for federal and state budget shortfalls and funding cutbacks.

It is difficult to process, much less understand, what national and state "priorities" could lead to the loss of funding for a program that advocates the legal rights of the poorest and most vulnerable members of our society.

Our board, which understands this is literally class warfare, is individually and collectively committed to action in the face of this unacceptable situation.

ALSC's strategic planning process, which spanned many months, culminated in a long-term goal: "ALSC shall achieve and sustain financial security providing all clients the vital legal assistance

they seek by establishing and maintaining a sustainable office in every region [of Alaska] served by a resident superior court." ALSC's board must — and will — recommit to seeking dependable, sustainable revenue sources to enable ALSC to meet that goal by the target year of 2020.

A building plan?

Against this backdrop, ALSC's board is investigating the possibility of purchasing a building in Anchorage to house ALSC and other advocacy and justice community partner organizations.

While the advantages of a "one stop shopping" legal center to the client community should be obvious, the advantage to ALSC and other non-profit partners serving low-income Alaskans is also obvious — savings in the cost of office space, the opportunity to build equity, and a potential positive cash flow that could be used to offset other general operating expenses.

This project is very much in the planning and conceptualizing stages, but this is also the best time for us to be entertaining any and all suggestions and ideas from members of the legal community who might happen to know of (or be willing to consider donating an interest in) suitable real property that may be coming on the market in the next few years.

Revive SB 19

We also hope to revive SB 19, which proposed providing the portion of punitive damages the state would otherwise receive to qualified civil service organizations. Long-term, this could be a source of regular (albeit unpredictable) income to ALSC. We appreciate any help members of the Alaska Bar may provide in securing passage of this legislation in the upcoming session.

Donate in '06!

The board's fundraising responsibility extends to its 2005-06 Robert Hickerson Partners in Justice fundraising campaign, which got underway on October 12, and was formally kicked off at a Dillon & Findley-hosted Halloween party. (Thanks much,

Paul and Tom.)

ALSC's general solicitation mailing, which was sent to all in-state members of the Bar Association, will soon be followed by a mailing to out-of-state bar members. I know you receive many requests for contributions and donations from worthy causes, but folks ... ALSC is hurting this year. There's no other way to put it. Those of you in Juneau know how important it is to have a fully-staffed office that is open five days a week. Those of you in Southcentral know that ALSC's Anchorage office can take only a fraction of the worthy cases that come in through the door. Those of you in Fairbanks know that three attorneys are handling cases throughout the Interior, the urban Fairbanks area, the North Slope, and now the Nome area. And while those of you who know our Bethel supervising attorney may not be surprised by his willingness to serve as the solo attorney in that office on a temporary basis, you must know that one attorney cannot possibly meet the demand for legal assistance in one of the state's most under-served regions.

So please get out your checkbook or credit card and send in that pledge envelope. You can make an online donation at www.partnersinjustice.org. You can use check off a bar dues contribution to ALSC. Or you can do all three. Help us to reach and surpass our goal of \$125,000 in this year's campaign.

Bright spots

One bright spot in ALSC's financial future is the recent award of a \$50,000 Compassion Capital Funding grant from the U.S. Department of Health and Human Services. This grant funding will be used as "seed money" for the hiring of an ALSC fundraising specialist. ALSC's grant is one of 310 awarded to faith-

based and community organizations throughout the nation to enhance their ability to provide a wide range of social services to those in need including the homeless, at-risk youth, rural communities, the elderly, and families transitioning from welfare to work. As Executive Director Andy Harrington noted, "While this one-time grant award cannot be used to restore the three attorney positions eliminated as a result of the loss of our rural domestic violence grant from the Department of Justice's Office of Violence Against Women, it does provide an opportunity to make a long-term investment in our ability to accelerate ALSC's private sector fundraising and to seek other funding opportunities for our firm."

Another bit of very good news for ALSC was the selection of Erick Cordero, ALSC's Director of Volunteer Services and Community Support, as one of the Alaska Journal of Commerce and Anchorage Chamber of Commerce "Top 40 Under 40" award winners. Honored at an October 10 luncheon at the Hotel Captain Cook, Erick joined a prestigious group of high-achieving Alaskans who were recognized for their contributions to their respective professions and to Alaska. Congratulations, Erick, on being recognized for your many accomplishments, not the least of which is coordinating ALSC's private attorney involvement program.

Remember...

January 1 is the deadline for notifying the bar association of your change in status:

- from Active to Inactive
- from Inactive to Active (after being inactive less than one year)
- from Inactive to Active (after being inactive more than one year)
- to Retired
- to Resigned

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ALASKA BAR ASSOCIATION 2006 BUDGET

2006 BUDGET

REVENUE

Admission Fees - All	251,700
Continuing Legal Education	144,620
Lawyer Referral Fees	55,500
The Alaska Bar Rag	23,679
Annual Convention	120,000
Substantive Law Sections	10,300
Pattern Jury Instructions	0
Management Svc. Law Library	1,225
Accounting Svc. Foundation	12,049
Membership Dues	1,659,725
Dues Installment Fees	12,625
Penalties on Late Dues	17,770
Labels & Copying	5,154
Investment Interest	71,001
Miscellaneous Income	500
SUBTOTAL REVENUE	2,385,848

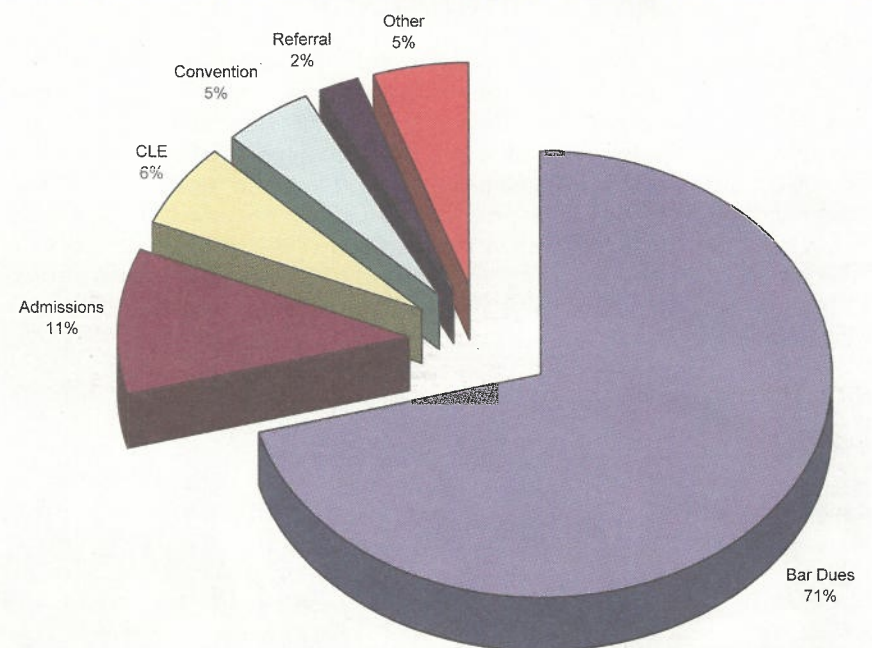
EXPENSE

Admissions	184,295
Continuing Legal Education	366,302
Voluntary Continuing Legal Education	20,960
Lawyer Referral Service	50,047
The Alaska Bar Rag	45,851
Board of Governors	58,603
Discipline	652,887
Fee Arbitration	63,300
Administration	465,285
Pro Bono	93,949
Annual Convention	130,000
Substantive Law Sections	15,559
Management Svc Law Library	4,506
Accounting Svc Foundation	12,048
Law Related Education Grants	10,000
Committees	12,643
Duke/Alaska Law Review	22,500
Miscellaneous Litigation	10,000
Internet / Web Page	16,908
Lobbyist	5,000
Credit Card and Bank Fees	21,063
Computer Training / Other / Misc.	1,000
SUBTOTAL EXPENSE	2,262,706

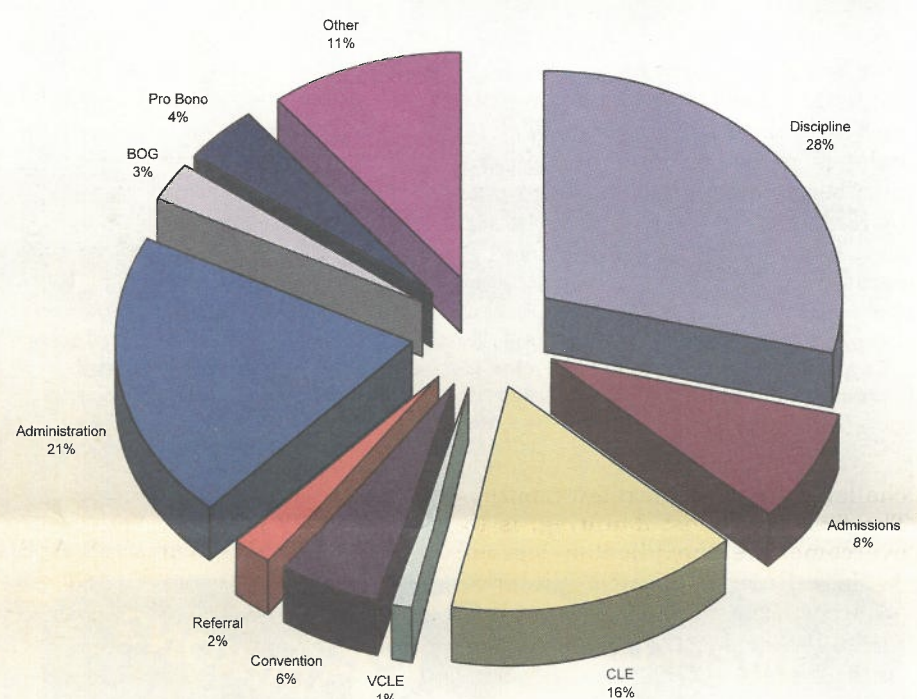
YEAR TO DATE EARNINGS 123,142

For a complete copy of the budget, contact oregan@alaskabar.org

2006 REVENUE



2006 EXPENSE



2006 Bar Convention in Anchorage

Circle these dates!

April 26, 27, and 28, 2006

Hotel Captain Cook and the Egan Convention Center

Watch for the brochure
in late January/early February.
Check the Bar website in January
for more information
(www.alaskabar.org)

WEDNESDAY, APRIL 26

Trust Accounts, Part 1 – Steve Van Goor,
Bar Counsel and Robert Reis, former Risk
Manager, President & COO of ALPS

- US Supreme Court Opinions Update
– Professors Erwin Chemerinsky and Laurie Levenson
- State of the Judiciaries Address
- Intro to Evidence: Getting the Edge on Evidence
Cranium – Larry Cohen, Cohen Law Firm,
Phoenix
- Opening Reception at the 4th Avenue Theatre
– Alaska Premier of “12 Days in Dayton: The
Scopes Monkey Trial”

THURSDAY, APRIL 27

Trust Accounts, Part 2 – Steve Van Goor,
Bar Counsel and Robert Reis, former Risk
Manager, President & COO of ALPS

- Pro Bono Makes Cents: The Business Case for
Pro Bono – Roy Ginsburg, J.D., Minnesota
- Satisfying Your Clients Ethically & Professionally
– Roy Ginsburg
- Cybersleuthing: A Guide to the Essentials of
Computer Discovery – Joan Feldman, Navigant
Consulting Discovery Services, Seattle
- 25 and 50 Year Pin Presentation and Lunch
- Picking Your Battles: Client Management Tips
and Strategies
– John Reese, former Superior Court Judge,
Reese Mediation Services, Moderator

- Update on Alaska Native Law Issues for All
Practitioners – Robert Anderson, Director,
Native American Law Center, University of
Washington School of Law; co-author/co-
editor, Felix Cohen's Handbook of Federal
Indian Law, 2005 edition
- How to Do It Right in Federal Court: The
Jungle's a Friend to Those Who Know It
– Presented in cooperation with the US District
Court and the Federal Bar Association
- Rural Alaska Needs You! The Need for Pro
Bono Rural Legal Services – How You Can
Help
– Presented in cooperation with the Gender
Equality Section
- Race Judicial Anchorage Bar Young Lawyers'
Event – Fun Run and Walk
- Awards Reception and Banquet
– Keynote: Michael Carey, Journalist and
Author – “Alfred Kinsey, Sex, and Alaska
Territorial Law”

FRIDAY, APRIL 28

- Evidence Cranium Revisited! 3rd Judicial District
Superior Court Presiding Judge Morgan Christen
and Deputy Presiding Judge Philip Volland,
Planning Chairs
- Alaska Bar Association Annual Meeting and
Lunch
- Intelligent Design and Evolution in Perspective:
Two Scientists' Views – Dr. Jerry Coyne,
Professor of Ecology & Evolution, University
of Chicago and Dr. Hugh Ross, past post-
doctoral fellow, California Institute of Technology;
President, Reasons to Believe
- Science, Belief, and the Law: Intelligent Design
and the Separation of Church and State in Public
Schools – Dr. Jeremy Gunn, Director, Program
on Freedom of Religion and Belief, ACLU and
Kelly Shackelford, Chief Counsel, Liberty Legal
Institute
- Closing Event: Salmon and Halibut Bake at
Kincaid Park

Make your hotel reservations by March 23.

The Hotel Captain Cook is the convention hotel for the 2006 convention. Located at 939 W. 5th Avenue in Anchorage, the phone is 907-276-6000/fax 907-343-2298.

A block of rooms has been reserved for the Alaska Bar. Rates are \$105 plus 12% tax single or double.

Please make your reservations by March 23. Book your reservations now!

To make a reservation, please call the hotel at 907-276-6000 or toll free in Alaska at 800-478-3100 or toll free nationwide at 800-843-1950. Be sure to state that you are with the Alaska Bar Association.

Or make a reservation online: go to www.cptaincook.com, click on “Make a reservation,” click on “Groups” at bottom of page, type in password akbar06.

**Bar historian's luncheon commemorates
50th anniversary
of Alaska's Constitutional Convention**

Delegates and officers from Alaska's Constitutional Convention in 1955-56 gathered in Anchorage on November 8, 2005, to celebrate the 50th Anniversary of the convention. Six of the original convention participants were honored at a luncheon co-sponsored by the Alaska Bar Association Historians Committee and the University of Alaska's Creating Alaska project. The program, featured a presentation by Alaska Supreme Court Justice Warren W. Matthews entitled, "A Judiciary for Alaska: Celebrating the 50th Anniversary of Alaska's Constitutional Convention," followed by reflections by participants on the constitution's Judiciary Article.



Front Row, L-R: Judge Seaborn J. Buckalew, Anchorage Delegate; Jack Coghill, Nenana Delegate; Victor Fischer, Anchorage Delegate; and George Sundborg, Juneau Delegate. Back Row, L-R: Justice Warren W. Matthews, Alaska Supreme Court; Katherine Alexander (Hurley), Convention Chief Clerk; Judge Thomas Stewart, Convention Secretary; and Leroy Barker, Chair, Alaska Bar Historians Committee. Photo by Barbara Hood, Alaska Court System.

NLADA establishes Helping Hands

NLADA is pleased to announce the establishment of "Helping Hands: The Equal Justice Colleagues' Support Fund" to provide financial assistance to staff in legal aid and public defender offices who have suffered direct and significant personal loss as a result of Hurricane Katrina.

The NLADA Insurance Program, continuing its mission of investing in the equal justice community, is making an initial contribution of \$10,000 to the fund, which is intended to aid the staff members whose lives have been most impacted.

"Many of the people who have suffered tragedies beyond comprehension are low-income clients whose needs for legal assistance have only escalated in the wake of Katrina," said Jo-Ann Wallace, NLADA president and CEO. "NLADA is actively engaged in supporting the much needed client relief efforts taking place. Yet, a large number of civil legal aid and public defender colleagues have suffered difficult personal losses as well." Many homes in Louisiana, Mississippi and Alabama were destroyed or remain without electricity, gas or phone service. For example, seventy-five percent of the legal aid staff and public defenders in New Orleans are currently homeless. "So many of our colleagues in the affected areas have resiliently responded to the immense needs of their clients, yet they themselves face vast challenges in their own lives as a result of this tragedy," Wallace said. "We must do all we can to help provide them with a firm foundation at home so that they can continue to nobly face the daunting tasks ahead of them."

This fund is modeled after the "Helping Hands Fund" established by the Legal Aid Bureau of Maryland, which collects and distributes funds for Legal Aid Bureau staff in need. To support "Helping Hands: The Equal Justice Colleagues' Support Fund," please visit http://www.nlada.org/About/About_Donate to contribute online or to fill out the pledge form. You may also send your contributions directly to NLADA Helping Hands at 1140 Connecticut Ave., NW, Ste. 900, Washington, DC 20036. Please write "Helping Hands" in the memo line of your check or money order. For more information, please visit www.nlada.org/About/About_Donate or contact Sara Fusco, assistant director of development at (202) 452-0620 ext. 232

The National Legal Aid & Defender Association (NLADA), founded in 1911, is the oldest and largest national, nonprofit membership organization devoting all of its resources to advocating equal access to justice for all Americans. NLADA champions effective legal assistance for people who cannot afford counsel, serves as a collective voice for both civil legal services and public defense services throughout the nation and provides a wide range of services and benefits to its individual and organizational members.

Mark Your Calendar

2006 ALASKA BAR CONVENTION

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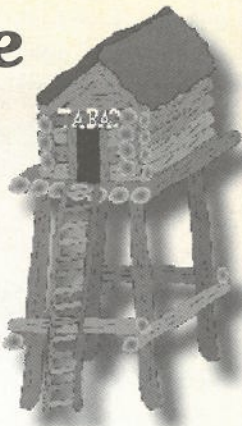
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Bar People

Michelle Boutin, formerly with Christianson, Boutin & Spraker, is now with Jermain, Dunnagan & Owens.....**Lori Bodwell** and **Bob Noreen** are now with the office of Conflict Counsel, Fairbanks Section, Office of Public Advocacy.....**Stephen Branchflower**, former Director of the Alaska Office of Victim's Rights, has relocated to Salem, SC.....**Blair Marlowe Christensen**, formerly with Jermain, Dunnagan & Owens, is now with the Attorney General's Office, Human Services Section.

Reginald Christie III is with Gorton, Logue & Graper.....**Carmen Clark** is now with Ingaldson, Maassen, Fitzgerald.....**Steve Cole** has left his position as attorney/partner in the law office of Cole and Razo, to become the new magistrate in Kodiak.....**Paul Cossman** is now with the Law Offices of Dennis M. Mestas.....**Robert Corbisier**, formerly with the Attorney General's Office, is now with the Office of the Governor.

Constance Cates Ringstad has joined McConahy, Zimmerman & Wallace as an Associate.....**Sherry Clark**, formerly with Mendel & Associates, is now with Alan Doyan & Associates.....**Vincent Curry**, formerly with Ross & Miner, is now CEO, Valley Hospital Association in Wasilla.....**Robert Collins**, formerly with the District Attorney's office in Palmer, is now with the Nome District Attorney's Office.

Carmen Gutierrez is now with Dillon & Findley in Anchorage.....The firm of **Davis & Davis**, has changed its name to Davis, Randall, Anderson

& Mathis.....**Dan Coffey & Sherman Ernouf** have formed the Law Offices of Ernouf & Coffey.....**Windy East** and **Marcelle McDannel**, both formerly with the District Attorney's Office in Anchorage, are now with the Office of Public Advocacy in Palmer.

Donald Edwards, formerly General Counsel to Chugach Electric Association, is now Of Counsel to Dorsey & Whitney.....**Gregory Fisher** has relocated from Phoenix, and is now with Birch Horton et.al., in Anchorage.....**Michael Grisham**, formerly with Patton Boggs, is now with Dorsey & Whitney.....**Darin Goff** is now with the Attorney General's Office, Child Protection Section.....**Jamalia George** is now with the Denali Commission.

Theresa Hillhouse, formerly an Assistant Municipal Attorney in Anchorage, is now the Municipal Attorney with the City & Borough of Sitka.....**Marvin Hamilton** has relocated from the Public Defender Agency in Bethel to the PD Agency in Ketchikan.....**Lisa Hamby**, formerly with Hughes Bauman, et.al., is now providing contract attorney services and owns and operates LC Legal Research Services.....**Mark Kroloff**, formerly with CIRI, is now COO of Arctic Slope Regional Corp.....**Jeff Killip** has relocated to Olympia WA where he is with the WA Attorney General's Office.....**Pamela Keeler**, formerly with Bankston Gronning O'Hara, is now Compliance & Risk Analyst for Alutiiq.

Conni Livsey, formerly with Holmes, Weddle & Barcott, now has

an in-house litigation position with Liberty Northwest Insurance Corporation.....**Leslie Longenbaugh**, formerly with Simpson, Tillinghast, Sorensen & Longenbaugh, now has her own law office.....**Susan Wright Mason** has relocated from Anchorage to Washington.....**Stewart Merrill**, formerly with Fidelity Title Agency of Alaska, is now with Lynch & Blum.

Sarah Moyer, formerly with DeLisio Moran et.al., is now with the Sisson Law Group.....**Ruth O'Rourke** has relocated from Washington, D.C. to Barrow.....**Robert Owens** is now with the Law Department of the Municipality of Anchorage.....**Sean Parnell**, formerly with the Alaska Dept. of Natural Resources, is now with Patton Boggs.....**Albert G. Parrish** is now with the Fairbanks North Star Borough Dept. of Law as an Assistant Borough Attorney.

Michele Power and **Sean Brown** have formed the law firm of Power and Brown in Bethel.....**Janet Platt** has been selected by her peers to be included in the 2006 edition of The Best Lawyers in America under the specialty of Family Law.....**Barbara Ritchie**, formerly with the Attorney General's Office, is now an Assistant City Attorney with the City & Borough of Juneau.....**Jon Rubini**, formerly with Foster Pepper, et.al., is now JL Properties, Inc.

The Law Offices of **Rupright & Foster, LLC**, is now the Law Office of Verne E. Rupright & Associates, LLC.....**Cris Rogers**, formerly with Houston & Houston, has opened the Law Office of Cris W. Rogers.....**Greg**

Razo, formerly of Kodiak, has relocated to Anchorage and is now with CIRI.....**Patrick Reilly** has relocated from Cambridge, MA to Seward.....**Roger Rom**, formerly with Davis & Davis, is now with OSPA in Anchorage.....**Danielle Ryman** is now with Delisio, Moran, Geraghty & Zobel.

Jane Sauer, formerly with Perkins Coie, is now with Manley & Brautigam.....**Abigail Sheldon**, formerly with the Public Defender Agency, has opened the Law Office of Abigail E. Sheldon.....**Phyllis Shepherd** is now an associate attorney with the Law Office of Dan Allan & Associates.....**Julia Tucker**, formerly with the Attorney General's Office, is now the Assembly Counsel in Anchorage.....**Ken Vassar**, formerly with Wohlforth, Johnson, et.al., is now with Birch Horton, et.al.....**Caroline Wanamaker**, formerly with the Law Offices of David Shaftel, is now with Jermain, Dunnagan & Owens.....**Paula Williams**, formerly with the Municipality of Anchorage, is now with the University of Alaska.....**Joan Wilson** has relocated from the Fairbanks Attorney General's Office to the Anchorage Attorney General's Office.....**Greg Youngmun**, formerly with DeLisio Moran, et.al., is now with Delaney, Wiles, et.al.

Schadt Law Office, P.C. is pleased to announce that Kim Quale has joined the firm as an associate, practicing at 2909 Arctic Boulevard, Suite 103, Anchorage, Alaska. The firm will continue to concentrate on Real Estate and Business Law.

Distinguished honors

Law school recognizes Bryner, Case, and Winner

Lewis & Clark Law School has recognized as honorary alumni the chief justice of the Alaska Supreme Court and two Alaska attorneys who advocate on behalf of Alaska's Native tribes. Justice Alexander O. Bryner, David S. Case and Russell L. Winner were honored during a special awards banquet on Oct. 22.

"We are pleased to honor Justice Bryner, Russ Winner and David Case for their long standing support of our law school through service on our Board of Visitors and through their interest in building links between Lewis & Clark and the Alaska Bar," said James L. Huffman, law school dean and Erskine Wood Sr. Professor of Law. "Their efforts reflect what Lewis & Clark Law School values."

Alexander O. Bryner became chief justice of the Alaska Supreme Court in 2003, after serving on the court for eight years. His career has spanned more than 30 years. He served as a law clerk to Alaska Supreme Court Chief Justice George F. Boney from 1969 to 1971. Bryner moved to San Francisco in 1971 and worked as a legal editor for the Bancroft Whitney Company. He returned to Alaska in 1972 and worked for the Public Defender Agency in Anchorage before entering private practice in 1973 as a partner in the firm of Bookman, Bryner and Shortell. In 1975, Bryner was appointed to the

district court bench in Anchorage, where he served until 1977. In 1977 he was appointed U.S. Attorney for Alaska and held that position until his appointment to the Alaska Court of Appeals in 1980. He was appointed to the Alaska Supreme Court in 1997. Bryner is married to Anchorage artist Carol Crump Bryner and has two children. He earned his bachelor's

and juris doctorate degrees from Stanford University and Stanford University Law School.

David S. Case is an expert on Native American law and policy. His wide-ranging career has taken him from the classroom to the courtroom. After earning his bachelor's degree from Whitman College, he spent time in the Peace Corps and the Army, and later earned his juris doctorate from the University of Washington. His treatise titled "Alaska Natives and American Laws" is widely recognized as the authoritative analysis on the subject. Case has taught Alaska Native studies and political science at the University of Alaska at Fairbanks. Between 1978 and 1982, he represented agencies of the United States Department of the Interior in the Alaska Regional Solicitor's office. He joined the firm of Landye Bennett Blumstein in 1989 where he focuses his practice on Native American law and policy, rural business law and policy, and rural municipal law and policy. He a frequent speaker for con-

tinuing legal education seminars and other forums dealing with Alaska land law and Native issues Case has served on Lewis & Clark Law School's Board of Visitors since 1994. He and his wife, Dorothy, live in Anchorage.

Russell L. Winner is an experienced civil trial lawyer. He founded the firm of Winner & Associates in Anchorage in 1986. Winner is active in Native law, natural resources and environmental law, and intellectual property law. He is past chair of the Alaska Action Trust. Prior to founding his own firm, he worked for the Alaska Regional Solicitor's Office in the U.S. Department of the Interior and for Graham & James, a San

Francisco-based law firm. Winner also taught environmental law, federal courts, remedies, and ocean law at Lewis & Clark Law School, where he remains an active participant on the school's Board of Visitors. He is a member of the Downtown Anchorage Rotary Club. He earned his bachelor's degree from Stanford University and his juris doctorate from the University of Chicago Law School.

The law school presents the Honorary Alumnus Award to individuals who are not graduates of the law school but whose generosity, support, commitment, and leadership play a profound role in enhancing the institution.

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Arend ousted by Bar revolt

Continued from page 1

considered too long to resolve, or perhaps he disagreed with the decisions of the bar association in some individual cases.

Whatever the reason, by the Supreme Court's power to administer all courts, including the power to decide who practices before the state courts, Nesbitt determined that all disciplinary matters would be considered in the first instance by the Supreme Court. He took this action in the face of counsel that the procedure was unwise.⁸ Nesbitt also required the bar association to surrender its files of attorney complaints, as well as money being held in an Anchorage bank to fund its administrative operations.

The bar association was upset, and did not convey the funds. Nesbitt issued a writ for the seizure of the bank account. Thomas Stewart, then serving as the statewide court administrative director, counseled Nesbitt against the action, but in fulfillment of his duties accompanied a peace officer to the bank to serve the writ. At the service of the writ the bank officer asked for an additional day to decide how it would respond. Stewart counseled the officer to grant the extension, and Stewart and the peace officer withdrew.⁹

On the following day at the appointed time, Stewart and the peace officer appeared, and the bank teller, receiving instructions from the bank's attorney by telephone, first asked the officer if he were armed. The officer pulled back his coat to reveal a handgun in a holster. The teller spoke into the phone with the attorney, and then asked the officer, "May I see your gun?" The officer shrugged, brought out the weapon, showed it for a moment, and put it back beneath his coat. The teller then surrendered the bar association funds.

Within hours, Anchorage newspaper headlines boldly announced that the Alaska Supreme Court had seized the Bar Association bank account at gunpoint.¹⁰

The Bar Association filed suit against the Alaska Supreme Court in United States District Court. The controversy was ultimately resolved when Chief Justice Nesbitt adopted the State of Washington scheme whereby attorney discipline is initially considered by the bar association, with formal recommendations, and additional opportunities to object and respond, to the Alaska Supreme Court.

Arend pays the price

Before the dust had settled, however, Justice Arend's name had come up for retention on the 1964 ballot. Many members of the state bar, in the midst of the conflict with the Supreme Court, campaigned against Arend's retention. Opposition to his retention was especially strong in Anchorage, where he was not as well known as in Fairbanks, and also where the largest block of voters resided.

Retention elections were still a new phenomenon in the new state, and Arend resisted campaigning on his own behalf. He felt it would be undignified and unseemly for a judicial

officer to promote his own retention. There were some individual attorneys who devoted their own funds and efforts at opposing what they considered unfair attacks, but Arend did not campaign. It was generally held that the opposition to his retention was a show of force by the bar membership in its on-going controversy with the Supreme Court.¹¹ Because of the "highly organized attack"¹² and his own silence, Arend was not retained in 1964.

Because of Hodge's resignation and Arend's appointment eight months after the first appointments, Arend had the poor timing of not being on the first retention ballot when Nesbitt and Dimond were retained, and then to be on the ballot when the state bar was in an active conflict with the Alaska Supreme Court. A vote either before or after the controversy had resolved may have produced a different result. Justices Nesbitt and Dimond retired from the court before they were required to stand for retention again.

History sets it right

When touring the new Fairbanks Courthouse in 2003, retired District Court Judge Hugh Connelly, who had worked with Justice Arend in Fairbanks before and after statehood, paused at Justice Arend's photograph in the Superior Court chambers area. He shook his head, saying, "What happened to him was unfair and outrageous. He was a kind and decent man, and did not deserve what happened to him. He was a tremendous individual, a terrific guy, and never had a bad word to say about anyone."¹³ Justice Jay Rabinowitz, who succeeded Arend on the Alaska Supreme Court, later stated, "Judge Arend was an incredibly fine person. The man was completely honest; very humble; very gentle. He was helpful to everyone who associated with him."¹⁴

Arend stated after the election that he bore no ill will towards those who opposed his retention. He said, "I can only hope that much good will come out of the contest and that there will develop greater understanding and cooperation between the bench



Harry Arend (front, right) joins fellow judges aboard in 1959.

and bar in the best interest of all our citizens. . . . Alaska has dealt kindly with my family and me through the past 31 years. We shall continue to do all in our power to serve the state and

its people whether in public office or private life."¹⁵

Arend remained on the court until Jay Rabinowitz was appointed in January, 1965. Several decisions of the Court were issued with his name as a participant as late as March, 1965. Those cases had already been briefed and argued before he left the court. Upon his leaving the court Nesbitt paid tribute to Arend, calling him a man of courage and high moral convictions. Senator Bob Bartlett identified him as a personal friend, and a leading citizen of the state.¹⁶

A post-script to this story involves Arend's death 18 months after leav-

ing the Supreme Court. Following his non-retention he was retained as Regional Solicitor for the federal Department of Interior in Anchorage.¹⁷

On the morning of June 28, 1966, he collapsed on an Anchorage street on his way to his office. He was only 62 years old. Perhaps the controversy and retention campaign were fatal not merely to the judicial career of this gentle, kind, courageous jurist. Certainly the retention election was not merely a professional curiosity to Arend, but was a stressful experience that carried with it a huge personal cost.

A second post-script involves Hodge and Nesbitt. It will be remembered that after butting heads with Nesbitt and resigning from the Alaska Supreme Court soon after his appointment, Hodge had been appointed to the federal trial bench.

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Hon. Harry Arend was one of the first eight judges appointed to serve the Alaska Court System, just after Statehood. He is pictured here in 1959 with his fellow Superior Court Judges and the first three justices of the Alaska Supreme Court, L-R (Front): Justice Walter Hodge, Chief Justice Buell Nesbitt, and Justice John Dimond; L-R (Back): Judge Walter Walsh, Judge Arend, Judge J. Earl Cooper, Judge Everett Hepp, Judge Hubert Gilbert, Judge James von der Heydt, Judge Edward Davis, and Judge James Fitzgerald. Soon after this gathering, Judge Arend was appointed to the Alaska Supreme Court to fill the vacancy created when Justice Hodge was appointed to the federal bench. Photo courtesy of the Alaska Court System.

Paradise on the Kuskokwim: A new image for Bethel?

By Ethan Windahl

The Alaska Court System has an opening in Bethel for a Superior Court Judge. What you are about to read is a blatant and obvious attempt on my part to upgrade the reputation of Bethel, otherwise known as Paris on the Kuskokwim or, as I prefer, Paradise on the Kuskokwim.

Ed. Update:
Dennis Cummings was selected for the Bethel judgeship in November.

First I am going to tell a story about Bethel's lousy reputation. I am going to blame it on Chris Cooke, and then I am going to use Chris as an example to show that Bethel can be a fine place to live and to raise a family. In order to do so I have to go back in time.

The late Nora Guinn, who presided in Bethel, was the first Native District Court Judge in Alaska. When she retired in 1976, the Court System asked me, as a District Court Judge in Nome, to travel to Bethel to fill in for two weeks. When I told people in Nome that I was going to Bethel the reaction was unanimous. "Bethel is the lower colon of Alaska, if not the world!" Talk about a case of the pot calling the kettle black.

I went to Bethel and ran into Chris Cooke. We knew each other because we had worked for Alaska Legal Services in the early 70's. I told Chris what everyone in Nome was saying and he laughed. "Ethan, I have lived in Kotzebue, I have lived in Nome, and now I live in Bethel. They are all the same. Every so often someone comes to town who is a real jerk—someone who may not be a criminal, but who takes advantage of everyone. I say to myself, they ought to send that S.O.B. somewhere, and then, in my more lucid moments, I realize they have!"

The flip side of that flippant story is that Chris married Margaret Nick, from Nunapitchuk, a village close to Bethel, and they raised their family in Bethel. Chris spent most of 10 years on the Superior Court bench and then practiced law here for many years after that. He and his partners maintain an office here, he has a lovely summer place on the river, and he returns frequently on business and to babysit his grandkids. He agrees with me that Bethel has been very good to him and his family.

Retiring Superior Court Judge Dale Curda and his wife came out to

Bethel in the 70's, raised a family, and are also strong advocates of Bethel as a great place to live.

I could offer many other examples of professional folks who have moved out here and have fallen in love with the area and its people. In spite of these positive examples, when I told people this spring that I was coming out to the Bethel Court to help out, I got the same reaction as I did 29 years ago. Let me give you some reasons why these negative reactions are dead wrong.

Bethel is located on the banks of the Kuskokwim River, one of the major river systems of Alaska. This river and its tributaries give access to millions of acres of untouched wilderness for fishing, hiking, kayaking, hunting, birding (this is a birders' paradise), berry picking, gardening, and yes, even swimming. That is only the summer. Inevitably winter comes to Bethel and the river becomes a highway. The mostly treeless tundra is wide open for snowmachining, dog mushing, cross country skiing, ice fishing and even snowboarding in the mountains not too far away.

What about Bethel the town? When I came out here on the first of June this year I was delighted to discover that housing has improved dramatically. Gone is the honeybucket.

Grocery stores have kept up with the times. Produce is flown in and rivals anything available in Anchorage. There are craft shops, hobby shops, barber shops and most every other kind of shop. Don't get me wrong—you won't find the variety of Anchorage, but you can find most of what you need. When you cannot find something here, Anchorage is only an hour away on one of several flights per day, or through mail order. The occasional business trip to Anchorage gives everyone the opportunity to "stock up." There is a branch of the University of Alaska and cable television and internet access. You do not need to deprive yourself anymore living in "Bush" Alaska.

The Bethel area has activities for most everyone. The Kuskokwim 300 sled dog race is one of the major races in Alaska and attracts people from all over Alaska and features many related events. Almost every weekend during the winter there are

sled dog races for children and adults at all levels of skill and experience.

In summer there is Little League baseball and adult softball, a bike "rodeo" for kids and a 4th of July parade.

Nationally known performers come to Bethel on a regular basis. John Gorka was here this Sunday (Monday I read a favorable review in the Daily News of his Anchorage concert). There is an Arts Council that sponsors workshops and plays. The Camai Dancers perform at a native dance festival each year. The list goes on and on.

I have been here for five months now and have had a delightful time working with Superior Court Judges Leonard Devaney and Dale Curda, and Magistrate Craig McMahon. The staff is pleasant and efficient. Bethel is a busy court location, and construction will start soon on plans to expand the facilities to make the working conditions even more comfortable.

Why would any successful lawyer want to be a Superior Court Judge in Bethel? The real challenge here is in the future development of Therapeutic Courts. Alcohol abuse is what keeps most judges busy, and most of us judges have been painfully ineffective in dealing with those individuals whose lives are controlled and ruined

by alcohol. Judge Devaney heads up the Therapeutic Court here and he and other members of the staff have good reason to be optimistic about the long term success of people who make it through the 18

month program. I have substituted for Judge Devaney on occasion and share that optimism. There is talk now about expanding the program to families where Children Are In Need of Aid (CINA) and to other areas. There is an opportunity here to make a real difference in the lives of people who appear in court, but successful programs like Therapeutic Court have a much wider influence in the community as well. Native leaders are eager to participate in programs that will help to maintain traditional values and make possible a subsistence life style. Therapeutic courts are in the early stages of development and an opportunity exists out here for an imaginative and creative person to move beyond the limits of traditional jurisprudence.

I cannot tell a lie, or at least I

must be honest. There is one serious drawback to living in Bethel and that is the cost of living. I do not have official figures, but I believe that the cost of living must be in the neighborhood of 40 to 50% higher than Anchorage. Here is the rub. I discovered after I got out here that the judges in the remote areas of the Second and Fourth Judicial Districts receive only a 17.5% cost of living adjustment. What's more, that adjustment applies only to the first \$40,000 of a judge's salary, effectively reducing the COLA to about 5%. The Court System is aware of this discrepancy, the Judicial Council has recently been made aware, and I have enough faith in our Legislators to believe this situation will be corrected as soon as it is pointed out to the powers that be.

When the Judicial Council was here on the 13th of October, I argued that they would have received more applications for the Superior Court position if the salary were commensurate with the cost of living. I am hoping that some of you who read this will fit into that category and prove me right. You are a brilliant, experienced, compassionate, humble, relatively young, adventuresome, outdoorsy person who might have applied but for the financial disadvantage that exists in the current salary structure. The deadline for applications has been extended to December 9, 2005. Take a leap of faith about future increases in the cost of living adjustment to the salary, apply for the job and good luck!

I suppose I should add that I am a retired District Court Judge and Magistrate and have nothing to gain by this "chamber of commerce" appeal. I lived in Nome for 7 years in the 70's and those were some of the very best years of my life. The friends I made then are still my best friends. If anyone would like to talk about this appeal of mine, you can reach me at 907 543 1119 or at 907 543 5770. My e-mail address is ewindahl@gci.net. The views I have expressed are mine and mine alone.

And, a P.S. from Dan Branch:
Bethel is a place for people who like to lean into the wind. You shouldn't go there unless you can find beauty in the small things like delicate tundra flowers and the late afternoon sun shining on river ice. Those who do move to Bethel will be warmly welcomed by a people blessed with the patience and understanding that can only come from a long connection with a stark but surprising productive land.

There is an opportunity here to make a real difference in the lives of people who appear in court, but successful programs like Therapeutic Court have a much wider influence in the community as well.

Arend ousted

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The later law suit filed by the Bar Association against the Supreme Court in the federal trial court was made subject to the unusual practice of appointing a panel of three trial judges to hear the controversy at the trial level. Hodge was assigned to sit on the panel.¹⁸ But for the stipulated resolution of the bar controversy, the appearance of Justice Nesbett as a litigant before Judge Hodge may have been very interesting.

(Footnotes)

1 See Judicial Council website, Historical Selection Log, at www.ajc.state.ak.us/ "Selection."

2 Breakfast Conversation with retired Superior Court Thomas B. Stewart, hereafter merely cited as "Stewart." Senior Judge Stewart had served the state as Secretary of the state Constitutional Convention, as one of

the first statewide court administrative directors, and later as Superior Court judge. He had a personal relationship with the persons discussed in this article, and participated in many of the events.

3 Stewart.

4 Stewart.

5 Judicial Council Historical Selection Log.

6 Constitution of Alaska Art. IV Sec. 6.

7 Id.

8 Stewart.

9 Stewart.

10 Stewart.

11 Stewart; Fairbanks Daily News-Miner, June 28, 1966, p. 1.

12 Fairbanks Daily News-Miner, June 28, 1966, p. 1.

13 Conversation with Hugh H. Connelly.

14 Fairbanks Daily News-Miner, June 28, 1966, p. 7.

15 Fairbanks Daily News-Miner, June 28, 1966, p. 1.

16 Fairbanks Daily News-Miner, June 28, 1966, p. 1.

17 Id.

18 Stewart.

NOTICE OF MOVE:

Gruenstein & Hickey

will be moving on December 12, 2005,
to the following location:

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Anchorage, AK 99501

Office: (907) 258-4338

Fax: (907) 258-4350

E-Mail: ghlaw@gci.net (Peter Gruenstein)
ghlaw3@gci.net (Dan Hickey)

The firm will have space to sublease to a sole practitioner.
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Contact Peter Gruenstein at 258-4338.

In search of the family grail

By William Satterberg

It started innocently enough. A polite dinnertime conversation among friends. The kind of conversation where the topics run for hours, touching upon the unique pursuits and hobbies of professionals, comparing exotic experiences enjoyed, and declaring lifetime desires remaining.

As the night grew long, tale of mystery emerged. One of the friends shared that, several years earlier, his house had been burglarized by a Fairbanks n'er-do-well. Valuable items had been taken, including weapons, cash, and a small, silver box. The weapons and cash were replaceable, for the victim had since become most affluent. The silver box, however, held contents far beyond those imaginable. Not gold or diamonds, but precious, aged memories of a family now grown and gone. The memories included priceless photographs, rare deeds to property, items of family heritage and secret, long since, but unfortunately expired insurance policies. The box was intriguing in itself. After all, it was of silver, wasn't it? Upon further inquiry, however, it was confessed that the box was actually silver only in color. To my dismay, its metallic composition was but a cheap tin alloy. Still, its sentimental value was immeasurable. Predictably, the value grew even greater as the evening progressed and the red wine copiously flowed.

The box must be found

As the story unfolded, my friend lamented that of all things stolen, it was the box and its contents that he missed most. This small, silver-colored box had, for over twenty five years, consumed his secret, innermost thoughts. Clearly, it was not simply a lost, silver colored box. Rather,

it had become a driving obsession. It was soon apparent that the box had to be found in order to make a critical chapter of his life complete.

Uncharacteristically moved, I inquired whether or not my legendary talents, as legal counsel, could possibly assist. My wealthy, newfound friend immediately brightened. In many respects, the box was more of a Pandora's Box. When I was just about to indicate that I did not have the silver bullet for the silver box, my friend, who I shall call Barney to protect his anonymity, remarked that he had been contacted by one of my ex-clients, Freddy West (who I shall call Freddy West because I am not protecting his anonymity), shortly after the box had been stolen several years earlier.

In a telephone conversation, Freddy had shared with Barney that Freddy had, in fact, actually seen the box. As corroboration, Freddy knew of the box's contents, and described them quite accurately. Freddy also claimed that he knew the thief and that he, Freddy, might, for a proper financial incentive, disclose the box's location. Alas, however, the conversations never continued. Freddy soon had other problems which consumed his attention, such as the death of Alaskan Patriot, Joe Vogler. After a few years, the location of the box become even more obscure when its thief, a gentleman carrying the street name of "Pineapple", passed away allegedly of multiple, unnatural causes.

But, I digress. So, let me return to our late evening dinnertime conversation and my rambling ruminations.



"The silver box, however, held contents far beyond those imaginable. Not gold or diamonds, but precious, aged memories of a family now grown and gone."

Reward promised

It was during the long-awaited dessert that Barney finally succumbed and shared that he was willing to pay a just reward for the return of the box. My interest was again piqued. Needless to say, being an accomplished attorney, the concept of earning money for information immediately appealed to me. Friendship is one incentive. Cash is another. And, where friendships come and go, cash earns interest.

I recognized immediately that this was no longer an idle, dinnertime conversation. Rather, it was a rare opportunity to justify a retainer. As such, I reluctantly immediately volunteered to Barney, now becoming a client, that I would see what I could do to recover the silver box. Unfortunately, we were interrupted by other, well-meaning friends before I could address the all-important issue of fees.

The quest begins

My quest began easily enough. I set out to find Freddy. Fortunately, for me and unfortunately for Freddy, Freddy was easy enough to find. This is because Freddy is a long-term guest of the State of Alaska. Freddy West, who was also known among inmates as "Cartoon Fred", the self-confessed killer of the self-professed Alaskan Patriot, Joe Vogler. In fact, Freddy had become somewhat famous. Unlike most locals, Freddy had actually appeared on a national television show, City Confidential, where he loquaciously discussed his complicity in Joe Vogler's death. As such, Freddy had become a local celebrity. In addition to his national prominence, Freddy is also a rather nice, amiable fellow who also fancies himself as an artist. Hence, the nickname, "Cartoon Fred."

I sent Freddy a letter, asking him to contact me. In short order, Freddy telephoned. Rather than playing games, I told Freddy about my dinnertime conversation. I asked Freddy if he could locate the box. Freddy told me that I should ask Pineapple, but then remembered that Pineapple was planted. Freddy was the only link to the past.

After hearing of Barney's plight, Freddy sympathetically volunteered that he still might be able to locate the box, but that it would take a certain amount of effort on his part. Although Freddy would have liked to have personally taken me to the box, he was still under significant travel restrictions. Clearly, the process would need to be done remotely. It would also entail some discrete inquiries. Still, Freddy recognized that, as part of his own quest to rehabilitation, the return of the box would certainly do much to advance his recovery and possible future release on parole.

Three weeks later, I received another call from Freddy. I was encouraged. Freddy told me that he may have located the box. Following a long recitation of Freddy's return to the depths of his earlier depravity, Freddy told me that the box was possibly located in an attic in a house off of a street in South Fairbanks. It had been hidden in the attic by

Pineapple. With luck, it would still be in the secret location.

Despite my pressuring him, Freddy could not be certain of the exact address of the building. Freddy could only tell me that it was located "off of 26th Avenue," in Fairbanks. Freddy said he could recognize the house if he saw it. After some discussion, we agreed that a personal visit was not in the cards. We were stalemated. Still, it was a lead.

Mystery house found?

Over the next several days, I did further inquiry into the history of Pineapple. As corroboration, I learned that Pineapple had once lived in a trailer off of 26th Avenue at about the same period of time when the theft took place.

Additional inquiry into public tax records and some other obscure court records led me to a decrepit, dilapidated, and largely dismantled house fronting on a recently-constructed major thoroughfare. Despite the passage of time, in many respects, the house still met Freddy's vague description. Wanting to be thorough, I conducted additional investigation.

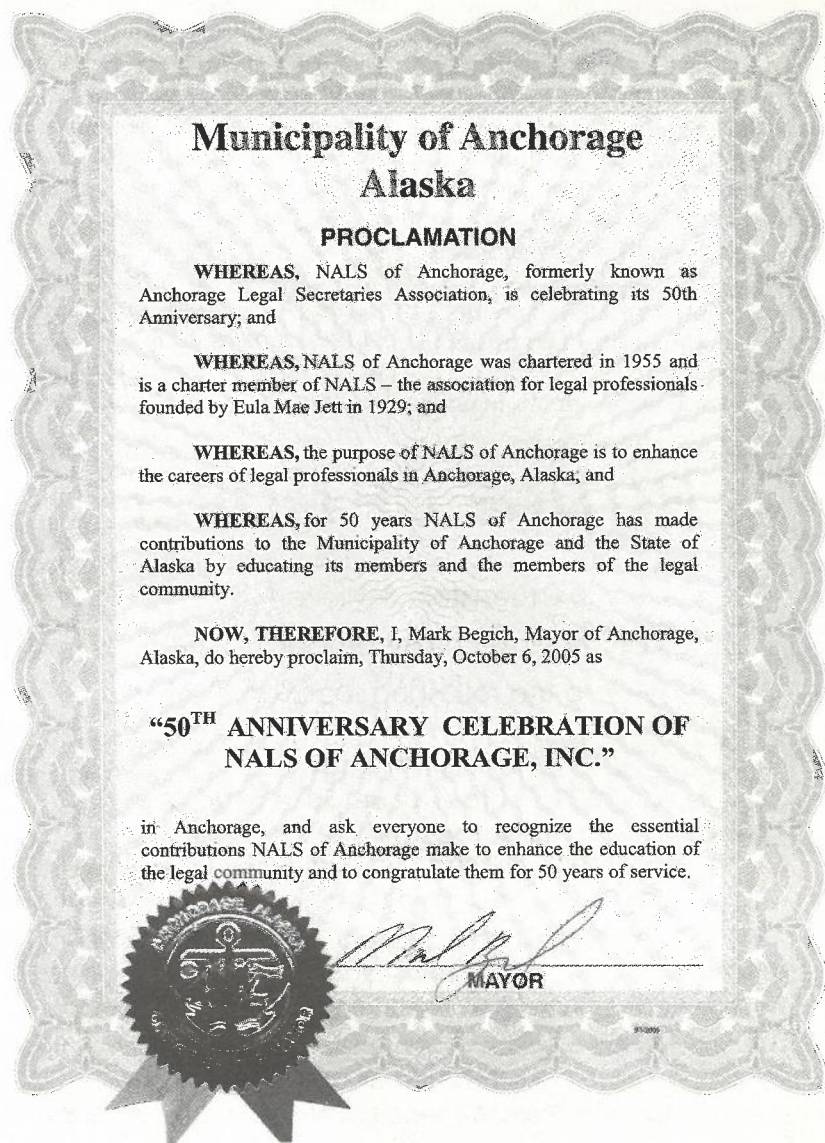
One afternoon, I drove to the house in order to contact its owner. The owner did not appear to be particularly sociable. A plethora of "No Trespassing" warnings decorated the premises. Fortunately, before I actually entered the property, I saw that the owner had some items for sale posted with a telephone number. I conceived of a less direct approach. I left the area and elected, instead, to telephone first, under the guise of having interest in some of the junk that was being advertised for sale.

To my surprise, the owner was quite pleasant and actually tried to be helpful. I told him of the quest for the missing box. He invited me to come over anytime I wanted. Intrigued by my story, he promised that he would help me look for the box. Moreover, and most importantly, he confirmed that Pineapple had once lived there.

Sensing financial opportunity, he also suggested that I might be interested in renting his building for an office. In his opinion, it would be an excellent location for an urban law office. Besides, much of my client base also lived in the neighborhood. Personally, I resented his offer to make money off of my clients' misfortune. The concept was reprehensible, especially since I wasn't being paid anywhere near enough to ever consider sharing. Besides, isn't that why fee-splitting is ethically prohibited, to avoid having to share?

Two days later, I summoned my courage and once again returned to the site. This time, I actually entered the property. As I approached the door, I noticed that it appeared to be locked from the outside. Perhaps the occupant had left, but something told me that he was likely still inside the house. Maybe the rusted padlock was the hint.

The angry voice talking loudly on the phone inside also helped. I knocked and simultaneously announced my presence. The talking stopped abruptly and footsteps approached. Much to my surprise, the door did not open. Instead, it simply was lifted completely out of the way,



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TALES FROM THE INTERIOR

In search of the family grail

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hinges and all.

Standing behind the door was a disheveled and unwashed individual who looked every bit like the Russian monk, Rasputin. I was confused, since Halloween was still months away. The occupant was intimidating in appearance, possessing slightly less than a full complement of front teeth. Apologizing for his house, he explained that he needed to get the door fixed because "somebody had kicked it in." It did not take much imagination for me to suspect who the "somebody" most likely was. Probably not the usual gang of trick or treaters. Without doubt, the "somebody" was probably one of the largest active referral networks in Fairbanks for criminal defense attorneys. Goblins.

Following a brief exchange of pleasantries, we walked to a deteriorated building located next door, unoccupied structure which the person again tried to rent to me for law office space. Admittedly, first impressions can be misleading. As such, I tried to keep an open mind. In its own way, the building had character. To say that the building reeked of mildew and stale urine would have been an understatement. Only half of the windows were present.

The threadbare carpeting was soaked. Tattered pink fiberglass insulation hung from large holes in the ceiling. Still, as a south Fairbanks branch law office, I had to admit, it had distinct potential, especially if I wanted my clients to be comfortable.

If I squinted and used my imagination, I could visualize the options. I could easily tell that it had recently been occupied, despite its obvious lack of weatherproofing. Various personal belongings lay scattered about, signifying the owners that had left quickly. Too quickly, in fact.

It soon dawned on me that I was standing in the middle of a semi-active crack house. The old, college day paranoia began to set in. With my luck, the police would pay a surprise visit before I left, drawing inappropriate conclusions, especially given my past background. I chose to hasten my visit, rather than unduly risk an extended encounter session with local law enforcement. Admittedly, it was the first time that I had ever visited a crack house. New to such a scene, I was careful to make sure I did not stub my toes on any leftover needles.

The wrong house!

After a rudimentary search period of approximately 10 minutes, it became apparent that this location did not contain the elusive treasure box. In retrospect, the deduction was simple.

During one of the earlier discussions with Freddy, I had been told that the box had been hidden under insulation in an attic. Since this place clearly had no attic and was actually only a daylight basement, it did not take rocket science for me to put two and two together and realize that, locationally, there was no benefit to tearing the place apart, let alone my renting it for a law office. Besides, it already was torn apart. Still, the price was attractive, especially for a sole practitioner.

Always wanting to be helpful, I suggested the man call John Franich,

who had only recently re-entered the private sector after a long period of public service. Larry Reger was another prospect. Local law office land baron Ted Hoppner was also a viable option. Trying next to contrive a plausible excuse to flee the area, I bid a fond farewell to my still-insistent host and accelerated my retreat, apologizing for my sudden unexplained lack of business cards.

For the next several weeks, all was quiet. Although I had extracted a begrudging promise from the local state trooper investigators that they would try to help me locate Pineapple's prior residence, true to bureaucratic form and the claimed press of more important cases such as a bunch of killings, no information was ever forthcoming. Conversely, Freddy, much to his credit, was still trying to solve the riddle. Whether motivated out of true compassion or prison boredom, Freddy continued with his incarcerated investigation.

Stalking location #2

Just as I was about to abandon the effort, Freddy called. This time, Freddy thought that he had definitely located "the house".

To prove his point, Freddy gave me an exact address. He also volunteered a very accurate description of the location, as well as detailed instructions on how to access the attic. It appeared that I had, in fact, struck paydirt. Certainly, the corroborative evidence was present. Moreover, it was the best lead I had. Actually, it was now the only lead that I had. It was time to close in for the kill. Figuratively speaking, of course. Pineapple looked like he would soon bear fruit.

I reported to my client that another location existed which might potentially hold the treasure box. He was initially skeptical. To allay his suspicions, I also related that, this time, Freddy had been quite specific. I explained that Freddy had also told me what could be found in the location, including two old, soft-sided rifle bags and, of course, the box, itself. In response, my client quickly confirmed that two rifles in rifle cases had also been stolen, a previously withheld piece of information.

Recognizing that this was now more than just a futile snipe hunt, my client became as excited as a three-year old child at Christmas. Even though the plunder had been missing for more than 15 years, time became of the essence. Not wanting to subject my client to the filth and squalor of my last expedition, I told him that I would again check the story out and report back to him.

To my surprise, he insisted on joining me for the search. I cautioned him that the latest location could again be another crack house. I became concerned because this information excited him even more. For some reason, he wanted to experience the evil side of Fairbanks. To my distress, I was to be his trusted guide in this unprecedented dive into the depths of depravity. Despite my best efforts, he could not be dissuaded. It was to be a team effort.

The next step was to contact the owner of the building and ask whether it would be possible to once again invade a tenant's privacy. Moreover, whereas the last location was only what could be best termed a "crack house", I learned that the current

venue was actually an outwardly reputable apartment dwelling. It even had all of its windows.

Fortunately, the building's owner, who I later learned knew me by reputation from my roles in other local cases, was quite "user friendly." Furthermore, upon inquiry, he graciously volunteered that he would arrange for our entry into the tenant's apartment to search for the box.

According to Freddy's latest intelligence, the box was stowed underneath some blown-in, cellulose insulation in the attic of the three-story building. Reportedly, access could only be gained through a small hatchway in a broom closet. Freddy cautioned me that the insulation was of such vintage that it might also contain various carcinogens. Not that I really cared. I figured that, if carcinogens were involved, it would be something my client would have to deal with, and not myself. Hopefully, he knew something about carcinogens.

Personally, I had no intention of unnecessarily exposing myself to danger, especially after the last scandal involving my "pink thing". Nor did I have any overriding desire to fall through the ceiling of the apartment, landing injured in the living room, and surrounded by broken plasterboard, poisonous insulation, and rabid squirrel droppings. Although I had been told that the only items that were in the attic were the two soft-sided gun cases and a tin box, I still wasn't so sure that we might not find a couple bodies left over by Pineapple, as well. My fear was justified. Fairbanks has developed a reputation over the years for dismembered bodies. Permafrost has a way of making people innovative.

Suitable arrangements were made for our surreptitious visit. In short order, I was notified by the landlord that we had the "all clear" to enter the premises. The landlord would escort us, of course, probably to make sure that we did not purloin any of the tenant's personal belongings. Something told me that the landlord had his suspicions about attorneys being involved in the process.

Night-time rendezvous

The rendezvous time was to be on a summer Friday, in mid-June, after local sunset. Four highly untrained people would effect the entry. It would be quick and purposeful. The landlord, my client, a good friend of both of ours, and myself would all meet at

the designated destination. There was no need to rehearse the operation. Instead, we would simply innovate. At precisely the agreed-upon hour, all four parties arrived at the location within 15 minutes of each other, parking on different streets together. The raid was on.

As we climbed the stairs to the third floor apartment, the landlord confided that he had already concluded that the focus of our search was probably the attic. Although I had not disclosed this vital piece of intelligence, since it was a "need to know" operation, in retrospect, it seemed to make an abundant degree of sense, especially recognizing that it had been well over 15 years since the crime had taken place. The likelihood of the items being stored anywhere else in the apartment without prior discovery was quite low. I decided that this landlord was clearly a smart one. Anticipating our search, the landlord had already brought along a stepladder, yet another hint that he was aware of our plan. I began to worry about leaks in our organization.

Shortly after entering the apartment, we located the hatchway. The stepladder was set carefully in place. The landlord next opened up the attic's hatch. A musty smell quickly filled the air. Ignoring the odor, my client dashed up the ladder, wearing a pair of blue jeans especially for the purpose, but also unwisely wearing his professional white office dress shirt. I thought about loaning him my stocking mask, but changed my mind. After all, this was to be a cloak-and-dagger operation, and I needed the full face mask for stealth reasons, especially if television crews appeared on scene.

The attic was clearly full of cellulose insulation as Freddy had cautioned. Gobs of the fluff immediately came tumbling out upon the floor and upon all of us standing below. When the dust settled, it looked as if we had all been effectively been tarred and feathered.

Oblivious to the risk, my client continued with his quest. In seconds, he had deftly entered the crawlspace. The landlord soon followed. In contrast, our mutual friend and I remained safely on the main floor of the apartment, acting as self-appointed lookouts while casually perusing the tenant's family scrapbook.

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In search of the family grail

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We listened blindly to the two searchers as they clumped and bumped around the attic calling out to each other in the darkness, guided only by their dim flashlights.

Just as I was about to conclude that the visit was another lost cause, my client loudly announced, "I found something!" Unfortunately, he was not too quick with any further explanation. Our collective expectations rose in anticipation of what the "something" was to be. In short order, two mouse-eaten soft-sided rifle cases dropped out of the hatch and onto the floor. It was obvious that we were at the correct location. The discovery of rifle cases was certainly encouraging, even if the rifles were gone. Still, the purloined box had yet to be found.

To his credit, my client did not quit easily. The overhead clumping and bumping resumed. For several minutes, it appeared that the likelihood of locating the tin box was lost. I began to privately empathize with my client's loss. To be so close, yet so far away at the same time. I began to question the fairness of life. I even said an uncharacteristic-for-an-attorney quiet prayer of support. After

all, my fees were at stake.

Fortunately, the suspense was broken when, just as everything was about to be forsaken, my client loudly announced, once again, that he had "found something!" True to form, no further explanation followed. I began to wish that he could be more specific about his announcements. This "I found something" mantra was already becoming old.

Nevertheless, I had to accept that he was in control of the event. The bumping and clumping increased in intensity. Someone was nearing the open hatchway. Maybe even two people instead of just one. I waited in anxious expectation below. After some hacking and wheezing, a dirty hand extending from a filthy white shirt appeared.

Then, much to my joy, a small, metal box was handed gingerly down through the hole. It was a tin box, silver in color. My client could scarcely contain himself. Contrary to his usual, reserved self, he was talking excitedly about his find. From that point forward, our biggest risk was that someone not tumble through the ceiling amid the excitement of the moment.

Our search concluded, we gathered

up the ladder and tools and strove to vacate the apartment. Unfortunately, the two searchers had created quite a mess as they scuffled through the old attic. It took a full 20 minutes to clean up all of the insulation and other evidence which had been scattered about the floor. Our task was assisted by our unauthorized exploitation of the tenant's vacuum cleaner. Happy, trophy photographs were next taken of all present to document the occasion.

The way I analyzed things, by the time the tenant got around to emptying the vacuum bag, we would be long gone. Besides, we could always blame the landlord, if caught. Our stealthy intrusion covered up, and the evidence secured, we then collectively adjourned to my client's house, in order to celebrate our find with a champagne toast and a long-awaited stroll down memory lane as my client and his wife inventoried the contents of the box.

As expected, there was nothing particularly valuable left in the box that a self-respecting thief would have wanted. Anything remotely of value had long since disappeared, mainly consisting of a child's silver charm bracelet and a tourist's deed

to one unremarkable square inch of rugged Canadian wilderness. The rest of the contents were family momentos, including photographs, original certificates of birth and other documentation of old family history. Although the documents were clearly valueless to any outsider, the emotional value to the family was quickly apparent. As a lawyer, I also had an uncharacteristic moment of emotion, as did our lookout.

But, we were not the only people to savor the intangible joys of the find. In the process, someone else also experienced a personal, but well-deserved triumph.

For years, Freddy West had been a person who, by his own honest admissions, has not done well in society. Although still known best as the convict who killed Joe Vogler, Freddy does, in fact, have a compassionate side. It is a side that Freddy has been attempting ever since to redeem as one of his overriding goals in life.

And, through the unique assistance that only Freddy could provide in locating a most precious family heirloom, Freddy West did, in fact, come one meaningful step closer to finding his own personal lost treasure.

Nominations sought for Robert Hickerson Public Service Award



The Board of Governors is soliciting nominations for its **Robert K. Hickerson Public Service Award**.

This award recognizes lifetime achievement for outstanding dedication and service to the citizens of the State of Alaska in the provision of Pro Bono legal services.

Nominations should be made by April 1.

Please send your letter stating your nomination and why this person should receive the award to the Alaska Bar Association, attn. Deborah O'Regan, Executive Director, P.O. Box 100279, Anchorage, AK 99510 or via e-mail to oregan@alaskabar.org.

Reminder:VCLE Reporting Period Ends December 31, 2005

- * 12 approved CLE credits, including 1 credit in Ethics is recommended.
- * Check the Bar website for upcoming CLEs on the Calendar <<http://www.alaskabar.org/index.cfm?id=5125>> or go to the CLE Catalog for videos to rent/purchase.
- * Remember to keep a record of any CLE you attend for reference in computing your CLE credits completed.
- * You verify completing approved CLE credits by signing an affidavit on your Bar Dues notice. Dues forms will be mailed out in December.

ATTORNEY DISCIPLINE

Anchorage lawyer censured for mismanagement of trust account

The Alaska Supreme Court on July 25, 2005 issued a written censure to Anchorage lawyer George M. Kapolchok for mismanaging his trust account. After a client complained about delay in the delivery of funds from a 1997 settlement, the Alaska Bar Association conducted an audit of Mr. Kapolchok's client trust account. It showed that he negligently mismanaged the account by failing to adequately supervise staff to whom he had delegated bookkeeping duties. Money incorrectly transferred to his office account resulted in the underfunding of the trust account, by as much as \$33,000 at one point. Ultimately all funds were restored to trust and properly accounted for, no client lost money, and on disclosure of the problem Mr. Kapolchok promptly hired new, qualified staff and took other remedial measures to ensure future compliance with Alaska Rule of Professional Conduct 1.15, the trust accounting rule.

The Disciplinary Board approved a stipulation between Mr. Kapolchok and the Bar Association. He appeared before the Supreme Court on September 30, 2005 to accept his censure in person. A public file may be reviewed at the Bar Association office in Anchorage.

Melinda D. Miles publicly censured

The Alaska Supreme Court publicly censured attorney Melinda D. Miles on September 30, 2005, for misconduct involving neglect and failure to cooperate with bar disciplinary proceedings. Ms. Miles breached duties to two clients when she neglected their cases and failed to account for fees despite frequent requests from her clients to do so. Ms. Miles also knowingly failed to respond to the charges against her in the disciplinary proceedings in violation of Alaska Bar Rule 15(a)(4).

In addition to the public censure, the court imposed a 90-day suspension which was stayed pending the successful completion of a two-year probation period that started on June 16, 2005.

NOTICE OF PUBLIC DISCIPLINE

By order of the Alaska Bar Association
Disciplinary Board
dated October 27, 2005

RICHARD L. MUSICK

Member No. 8903009
Mt. Pleasant, Utah

is **Publicly Reprimanded**
effective October 27, 2005
for lack of diligence, failure to communicate, and failing to properly withdraw from representing his client, based on the public reprimand imposed by the Ethics and Discipline Committee of the Utah Supreme Court.

Published by the Alaska Bar Association,
P. O. Box 100279, Anchorage, Alaska 99510-0279
Pursuant to the Alaska Bar Rules.

NOTICE OF PUBLIC DISCIPLINE

By order of the Alaska Supreme Court,
entered November 14, 2005

DAVID S. TESKE

Member No. 8510128
State of Washington

is **disbarred** from the practice of law
effective November 14, 2005
for misconduct relating to settlement of client claims and theft of client funds, based on his disbarment by the Supreme Court of Washington.

Published by the Alaska Bar Association,
P. O. Box 100279, Anchorage, Alaska 99510-0279
Pursuant to the Alaska Bar Rules.

In Memoriam

Charles M. Gibson

Alaska lost a friend when Charles M. "Mac" Gibson died of cancer October 13, 2005 in Charleston, S.C.

Mac was born in 1932 and was 73 at the time of his death. In this wonderfully diverse community, Mac was one of our most eclectic and interesting members.

Mac was raised on Yonges Island, near Charleston. His formative years were heavily influenced by his nanny, "Gallie." Gallie was a descendant of slaves of the area, and spoke Gullah, the dialect of her ancestors unique to the coastal islands of South Carolina. As a result Mac will always be remembered for his rich and melodious accent which he said was distinguishable from other Charlestonians due to Gallie's early influence. He always said he was the only person in Fairbanks whose voice was so recognizable that he couldn't make an anonymous phone call.

Mac obtained his undergraduate degree from the University of Virginia and his law degree from the University of South Carolina. He was an officer in the United States Army from 1954 to 1956.

After law school Mac entered private practice in Charleston. He felt privileged to practice among such luminaries as (later U.S. Senator) Fritz Hollings and renowned trial lawyer Gedney Howe, Jr. In fact, Mac is mentioned frequently in the late Howe's biography.

While practicing law in Charleston, Mac served as a judge, a member of the state House of Representatives and the state Senate. He is remembered for his courtly charm and his championing of educational and environmental issues, which were not popular causes at the time. Regarding Mac's defense of education his fellow legislator Joseph McGee said: "The contest was acrimonious and at times mean spirited. And in the end it devastated my friend Mac Gibson, both physically and emotionally."

In 1979 Mac was looking for a new start, in new surroundings. His friend, Sen. Hollings, suggested a position in Helsinki, Finland. On the cusp of committing to Helsinki Mac learned that the far off and remote City of Fairbanks was looking for a City Attorney. He put the Helsinki job on hold and interviewed with Fairbanks Mayor Harold Gillam. They developed an instant rapport and became lifelong friends. In fact, Mac never mentioned Harold's name without preceding it with the words "my dear friend. . ."

Mac accepted the offered job and arrived in Fairbanks in 1980. He quickly became an enthusiastic Alaskan. From his flower bedecked home atop Chena Ridge with his dog Charley, Mac cherished his view of the Alaska Range and could name every major peak. His home belied his love of quality art and furniture and fine shotguns.

While in Fairbanks Mac served as City Attorney, Deputy City Manager, and Area Court Administrator for the Alaska Court System. After retiring from the Court System, Mac maintained a small private practice from his home.

Having grown up in the South Carolina "low country" Mac loved to hunt ducks. He often relished that part of his youth in the September chill in the Minto Flats. He also loved to fish, but was notoriously unsuccessful at it. He often boasted that his mere

presence would jinx an entire fishing party, a phenomenon he laughingly called "The Gibson Curse."

In failing health Mac left Fairbanks in 2002 to return to South Carolina. He loved Alaska and to his final days he planned to return. In keeping with his wishes, his ashes will be scattered here. May he rest in peace.

--Paul Barrett

Stuart Hall

Stuart Campen Hall, 70, died Nov. 9, 2005, at his home on Government Hill in Anchorage. He was very involved with community and Alaska affairs until his death.

A fifth-generation native of San Jose, Calif., Mr. Hall was born June 18, 1935. He received a bachelor's degree with honors from the University of California, Berkeley, in 1957, a master's degree in political science from Stanford University in 1961 and a law degree from Harvard University in 1964.

In 1971, Mr. Hall came to Alaska and worked as legislative counsel before serving seven years on the Alaska Public Utilities Commission. In 1984, he opened a private practice and subsequently served as ombudsman for the state of Alaska from 1994 to 1997. Thereafter, he devoted himself to Anchorage through a variety of community activities.

His most active affiliations included the Alaska Bar Association, American Philatelic Society, Anchorage East Rotary Club, Anchorage Museum Association, Alaska Antique Automashers, Cal Club, the Episcopal Church, Government Hill Community Council, Harvard Club, Stanford Club and U.S. Air Force Reserve (lieutenant colonel retired).

Mr. Hall loved vintage automobiles and owned several, including a 1941 Buick Ltd. convertible. He was also an avid stamp collector and enthusiastic promoter of the state Marine Highway and Alaska Railroad. In pursuit of his interest in ferry travel, he opened Viva Alaska! Travel and Viva Alaska! Enterprises.

His family wrote: "Stu probably invented the motto 'high on Government Hill,' and during his 29 years on Colwell Street, he was indeed that: never missing his daily rounds of the neighborhood with his dog Pal and always willing to stop and chat. Pal has been given a good home on the Kenai Peninsula. Stu's energy and friendship will be missed by all who knew him."

He is survived by his brothers, Marshall Randall Hall of Saratoga, Calif., and Clayton Hall of San Luis Obispo, Calif.; and numerous cousins, nieces and nephews.

William R. Smith

William Ron Smith died in a traffic accident on the Parks Highway south of Fairbanks Oct. 15. He had recently retired as a Fairbanks magistrate, serving for 15 years. He was 62.

Magistrate Patrick Hammers, who worked with Smith since 1999, said Smith had been the happiest he'd ever seen him in recent months and described his death as deeply sad. "He just glowed," with the prospect of traveling and enjoying his retirement, Hammers told the Fairbanks Daily News-Miner.

The crash happened about 8 a.m. at 275 Mile Parks Highway about a mile south of the Tatlanika Trading

Co., a trooper statement said. Truck driver Kenneth Lincoln, 62, of Anchorage was unhurt.

Smith had been substitute teaching elementary school students in Healy, where his wife worked, Steinkruger said. The newlyweds planned to take cruises together this winter, according to friends.

Born in Elk City, Okla., Smith later earned his law degree from the University of Oklahoma. He served as assistant staff judge advocate in the U.S. Air Force for several years before he became the staff judge advocate at Eielson Air Force Base in 1974.

Upon retiring from the Air Force in 1979, Smith entered private practice with the law firm Staley, DeLisio, Cook and Sherry in Fairbanks. In 1981, Smith became deputy city attorney for Fairbanks. He was appointed magistrate for the 4th Judicial District of Alaska in 1990.

Smith maintained an active social schedule, regularly attending stage plays and concerts, friends said. He belonged to the Alaska Bar Association and the local running community, meshing the two by organizing an Tanana Valley Bar Association run that lead off with an ambulance, with attorneys giving chase.

Presiding Judge Niesje Steinkruger described Smith as an "unsung hero of the criminal justice system."

"He worked weekends," she said. "He worked holidays. He got up in the middle of the night and drove to the courthouse hundreds of times. He felt like he was a public servant."

Hal Tobey

Former Alaska resident Harold Wayne "Hal" Tobey, 73, died Nov. 20, 2005, in Springfield, Colo., with his family at his side. A service was Nov. 23 at First Baptist Church in Springfield.

He was born Aug. 11, 1932, in Springfield to Orvil and Pauline Tobey. After high school, Mr. Tobey joined the Air Force and married E. Maxine "Max" Williams on May 3, 1952. After his discharge, he attended the University of Denver, where he received his bachelor's degree and a juris doctorate in law.

In 1968, he moved his family to Juneau and served as a district attorney for the State of Alaska and in 1971 as city attorney in Anchorage. He attended First Presbyterian Church in Anchorage.

Mr. Tobey retired from private practice in 1998 and moved with his wife to Loveland, Colo. He was involved in the local Rotary Club and enjoyed fly-fishing and his beloved quarter horses, Rocket and Little Red.

"Hal was a dedicated and loving husband. He enjoyed his friends and had a passion for music and learning," his family said. "Our dad always had a smile on his face and worked hard to provide a great life for our family. We always looked up to him and felt blessed to have had such a wonderful father," said his children.

He is survived by his son, Gregory Tobey; wife, Marcia; grandchildren, Evin and Cara of Seattle; daughter, Elizabeth Butcher, and her husband, Bryan; and grandchildren, Alison and Lucas of Anchorage. He was preceded in death by his wife, Maxine, in October 2004, and son, Geoffrey Tobey, in November 1964.

Contributions may be made to the American Diabetes Association.

Mark E. Merdes

Mark Edward Merdes, of Fairbanks, passed away suddenly on Nov. 15, 2005 among friends. He was born in Pennsylvania on Dec. 16, 1951, to Edward and Norma Merdes. His family moved to Juneau in 1952, and to Fairbanks in 1957. Mark was a partner in the law firm of Merdes & Merdes PC with his brother Ward.

Mark has joyfully affected the lives of many, said his family. He honored Joan, his wife of 30 years, with deep love, respect and laughter. He was a good man who raised his children in kindness, love and by good example. He was respected by his friends as a man of integrity. Mark has left a lasting impression upon the people he has had the privilege to know. He was greatly loved and admired by those who knew him.

Mark always made himself available to his family and friends to talk with them and be there for support. His genuine interest and concern helped him reach out to others. Mark took joy on the accomplishments of others and shared their sorrows.

An athlete throughout life, Mark was a Fairbanks Goldpanners "all-time first everyday local player," and, said the team in memoriam, "a large contributor to the great 1971 National Baseball Congress Nationals runner-up club (hitting .352 in 122 at-bats)."

He continued his love for baseball as coach for the Lathrop High School Girl's Fast Pitch Softball team and as coach for the Interior Girls Softball Association (IGSA). Mark's great love of the sport and his "girls" was apparent every day on the field. His youthful enthusiasm and love for the game and his girls came out nearly every minute on the practice and game field. He loved working with the girls, teaching them to play a game they all loved. He hope was for each girl who dreamed of playing college ball to do so, and he helped them accomplish it in any way he could.

Mark obtained a BA (finance) at Santa Clara University, magna cum laude; his JD at California Western School of Law; and his LL.M degree (taxation) at the University of San Diego Law School. He was a member of the Alaska Bar Association, American Bar Association, Association of Trial Lawyers of America, and Alaska Academy of Trial Lawyers and was licensed to practice in the federal courts.

He was preceded in death by his father Edward and mother Norma; brother Robert; and brother-in-law Brendan Sandiford.

Mark will be remembered by his wife Joan; their son and daughter-in-law Matthew and Francesca and their children, Alex and Katie; his son Brian; his daughter Nicki; and mother-in-law Sarah Gavelis. He also leaves behind his brother Ward and his wife Lori; sister and brother-in-law Theresa and Peter Menard and their daughter Danielle; sisters Beth Sandiford and Marlene Merdes; and sister-in-law Sherrie Merdes, as well as many nieces and nephews.

Mark's life was celebrated Nov. 22 at the Dog Musher's Hall in Fairbanks. Contributions in his memory may be made to the Mark Merdes Scholarship Fund at Credit Union 1, to aid his "girls" in following their dreams of college ball.

The Chilkoot Trail: Family conquers it at last

By S.J. Lee

The Chilkoot Trail defeated myself, my husband and our dog three years ago when we attempted to tackle it. It did so before we'd even begun.

The night before our planned start on our trek, the side of a hill fell into the lake below it, causing all water below it to in turn overflow, and so on and so forth which eventually caused the trail head to flood out on the Skagway side. They closed it for just long enough to totally befoul our carefully laid plans. Unable to accept this defeat, we swore vengeance on the flood gods and that we would be back to conquer the trail...sooner or later.

This summer the three of us did just that in early August. When you sign up to do the 33-mile Chilkoot trail, you do so mainly at the direction and under the rules of the Canadian government. Of course, the trail runs down the American side too, but Canadians seem a lot more diligent about their rules and having them followed than do the Americans. Wise thing. A hiker registers well in advance, picks from the list of campgrounds you want to stay at along the way, thus predetermining the distance you'll hike each day and how long you'll take to get done. You stay at the official campgrounds, period. There'll be no lollygagging around, pitching a tent wherever you please in your stroll down the trail, thank you very much.

We chose 4 campgrounds and 5 or so days of actual hiking. Before you leave, you pick up your permits and get briefed in Skagway at the trail center. They told of us of MUCH bear activity, and of the huge importance of caching all that bears might find delicious up the "bear poles", including soap, toothpaste, lotion, you name it.

Bonding on the first day

Our first day was about 8 miles. We set out with backpacks, carefully rationed and minimal food supplies, and Blue's saddlebag fastened firmly around him, much to his angst and disgust. Being a blue eyed, and gorgeous Siberian husky, he was quite striking carrying his red saddlebag packed with his gear. He made a number of huge fans all along the way. The first day was a relatively standard trail, with relatively standard spectacular Alaskan scenery, which stuck close to the river that paralleled the trail the first 2 days.

The weather was partly sunny and OK. We were grateful for simply having no rain. When we got to camp we found out about bear poles. We'd cached our food in trees before, but never had anything so handy. You stashed all bear edibles in your packs, and pulled them up over the very tall U-shaped poles with a rope. Very effective. When we were done, I realized that one of the best things about the hike was the total lack of pesty and begging squirrels, jays, etcetera. The ones you usually think are cute until they get annoying and pesky. On that trail, they remain wild as they should, a fact I really grew to appreciate.

That night, we began to get acquainted with the social dynamic of the hike which we soon realized was a natural result of the structured way the trail gets hiked. We basically found ourselves each night with whomever else happened to start

down the trail the same day of the week we had. This would not have happened though had the rules not included a communal cooking/eating area at each camp, as no food or eating was allowed outside around tents or such due to bears. This meant everyone usually ended up eating around the same time nearby each other, which also meant getting to know each other. It turned out to be one of the most interesting and memorable aspects of the hike. There was a group of 3 German men, one of whom was an absolute machine, marching down the trail each day at a blazing pace. There was a group of 8-10 Canadian men made up of fathers and adult sons who were the nicest bunch and cooked up elaborate and gourmet meals at every breakfast and dinner. We marveled everyday at the confections they pulled out of their backpacks. There was a very quiet and sweet European gentleman whose hiking partner had to cancel who chose to go alone. There was a Father and his teenage daughter, son, and foreign exchange student out for an adventure and a challenge. They ended up adopting the single hiker and hiking together every day. Each day every group would leapfrog down the trail past each other, saying Hi and catching up. A loose and unexpected bond developed where everyone kind of generally looked out for everyone else.

A short 2nd day

The second day was a shorter hike that put us in the camp closest to the American side of the summit. It was unremarkable but for the Ranger stationed there who delivered a nightly briefing to each group on what to expect the next day or "summit day" as it is called. That day, the weather had broken cloudless, warm and sunny and much more of the same was forecast. This, in and of itself, made our group very special he claimed, simply due to the rain that had otherwise been present all summer. He gave us much useful and sobering information. Over the summit and to the next campground was a 9-mile day and he advised starting VERY early, no later than 6 a.m.

It was 3 miles to the bottom of "the scales" which is the beginning of the serious and arduous ascent to the summit which consists of nothing but huge boulders going up, up, up. He said we'd all want to be well onto the scales before the sun hit them or not long after as they warm up fast. He said that average time from camp to summiting (about 3.5 miles) was 6-8 hours and those who started late could expect to take 12. There is no trail of course in the scales, but simply tall red poles telling you the general way to go.

Although we were ourselves delighted with the fabulous weather, we had real concerns about summit day for Blue. He is 10 years old and although a very experienced and confident dog, we knew we had to be wary about his vulnerabilities with his thick coat, the heat and sun, and his age. This motivated us to get up well before 5 a.m. the next day. After breakfast in the dark, we were one of the first groups to leave. Our ranger neglected to tell us that the 3 miles just getting to the bottom of the scales involved a great deal of boulders and was all going upward too. For a good part of this section, the only indicator of a trail were the cairns. We reached the bottom of the scales around 9 a.m.



Lee's family embarks on the trail.

and were quite tired in spite of the breaks we took along the way. We took a long break at the foot of the scales as others came in behind us to do the same, while contemplating what was left to do before we even reached the summit. The ranger told us to beware of the 3 "false summits" and not charge up the scales thinking the first peak was Canada. Good thing.

From our break point, the boulders of the scales looked quite small. That illusion faded quickly when we finally started to approach them and started picking our way up, over, and around. At first, Blue was fine. We had relieved him of his pack to increase his freedom of movement and that helped. But, as the climb wore on he began to encounter more obstacles, wider spaces to jump over, and he just generally became unnerved. Whimpering started him, not us. He finally just turned and started going down with the single minded determination only a dog can have.

If it had not been for another hiker about 50 feet behind us who stopped him, we would have had to go a lot further down to rein him in! We had been told he might have an easier time on the scales off the leash, but that didn't prove true for him. Once we got him back, my husband clipped him to the leash, and we put him in the middle of us so he knew he had to push on. His confidence level visibly increased from that point on—he seemed relieved that we'd made the decision for him. We continued the slog upward.

The trip heats up

The sun had just hit the scales as we began up them, and they took a long time to warm. When they did, Blue started to overheat fast. We finally knew we had to stop so he could cool down, so we headed to the far side of the scales where we found a tiny nook of shade for him where he could rest and get some water. He curled right up, hoping we were done. As we waited, other hikers came onto and up the scales. The German had passed us an hour or 2 before, having long ago summited the first time, dropping his pack, then heading back down to his friends. We saw him at least 2 more times on the scales, going up or down. We later learned that he'd carried several other hiker's backpacks up for them who were having trouble. We and everyone else marveled at him. The Dad with his 2 kids and the exchange student came on, and encouraged his daughter who was very stressed and uncertain she could do it. She kept going and so did we.

We finally made it to what I thought was only the first of the 3 false

summits which was plenty far. I was thrilled to find out it was actually the second one. Each one was far shorter than the next, although steeper. In between were small patches of snow Blue rolled around and cooled off in. We had to lift him half a dozen times over spaces too far or too steep for him to jump. He was fine with that, hanging quietly in our arms instead of wriggling and knocking us off balance. Finally, we looked up and there was a huge, red Canadian flag flapping above us in the sun above their Ranger station at the summit... Oh, Canada!!! Our huge sense of accomplishment, relief and exhilaration was tempered with bone weariness and the knowledge that there were still 4 or so miles to go.

The terrain below opened up wide into a huge and deeply blue lake after a trek down long stretches of left over summer snowpack. Several people dived in as hot as it was. The weather stayed the same the rest of the week. We pushed on and tried to focus on the gorgeous scenery and the fact that we were done with the summit. It was hard for all 3 of us, and although the trail was back, the terrain was a lot of rocky up and down.

Never have I been happier than I was to finally see our home for that evening, aptly named "Happy Camp". We were drained, exhausted and famished. Everyone was so elated as they got there that dinner was a rather festive affair that night. Our tent, sleeping bags, and thin sleeping pads felt like a luxury hotel that night when we turned in about 8 p.m.!! The cloudless nights throughout the hike meant black skies and thousands of bright stars in the wilderness that were truly memorable.

The next day was another longer hike of about 8.5 miles to Bare Loon Lake. It had mixed sections of easier and harder trail, but there were two other well spaced campgrounds in between that made for great break spots. After our second break, it got really hot with little shade. The effects of the day before were still catching up with us. We later learned that the temperatures ranged from 85-95 during our hike. The conditions got very tough mentally and physically. Blue started to pant awfully fast and acting a little dinghy. He was uninterested in water, a sure sign in those conditions that he was getting over heated.

At least three times, we stopped only to cool him down. It was a little scary to see him like that and know how close he was. We reached the oasis of Bare Loon Lake about 3:30 that day, and immediately jumped into the lake to bathe and cool down.

Continued on page 25

A Report to the Governor: Free and unfree speech for judges

By Peter Aschenbrenner

Dear Governor Murkowski: Thanks for appointing me to the Judicial Conduct Commission last year; I've completed over a full year. This is an informal report that reflects no one's views but my own. I don't know of any precedent for this free lance effort, but I can't think of any impediment to such a report. Enter the self-designated critic.

The service missions for the three constitutional bodies, the Alaska Court System, the Judicial Council and the Judicial Conduct Commission, are not particularly well understood by these bodies; they're not the only players on the stage. The typical judge is also a figure of constitutional proportion, as are the body of judges, who are both employees of the Alaska Court System and the repository of talent for getting the service missions of the court system accomplished.

Turn to the Judicial Conduct Commission which mostly conceives of its work, in the day to day sense, as cops who cite judges for misconduct, usually by handing out warnings and "have a nice day" greetings at the drive-off. (Exception noted below.) Lessons can be learned from being cited but the body of how-to rules can't be taught with a stick. What I'm looking for is the body that is constitu-

tionally tasked to deploy and develop the talent of judges. The Alaska Court System's mission statement says that the system decides "all cases" which they do by "provid[ing] an accessible and impartial forum for the just resolution of [those] cases". This is done (at least in part) by taking new judges dispatched through the hiring hall (Judicial Council and Governor) and nurturing the talent that the judges must bring to their work resolving their assigned cases.

(There's a messy problem with turning new judges loose on litigants to get their training-on-the-job at the parties' expense; that's the school of "hard knocks" that garners a mention in investiture ceremonies.)

So who owns this talent? The public. Who trustees the talent? The court system. What are the limits on judges putting their talent to work? Judges can't moonlight; judges can't put themselves in the position where lobbyists can get at them. (These are two sides of the same coin, advocacy-unleashed in the wrong venue.) Judges are supposed to be persuaded by ones, threes or fives (depending on the court) in public, with both sides having access to the judicial ear. The court system says that it knows something about "accessible and impartial" forums, so if a judge learns something in such

a forum she ought to be able to talk about it, if she's not a lobby victim. When judges got tired of umpiring discovery wars, they complained to anyone who would stand still about the abuse of the justice system. The rules were changed (over the last two decades) and perhaps a significant change in the quality of the product came about. But nobody said (as far as I recall) that judges couldn't speak out on what the law (here, court rules) ought to be. The judge's experience came from the courtroom, but the thoughtful expression of that experience belonged to and was paid for by the public. Hence, the judge has a duty to speak out on matters that affect her performance. Back to my point in the very beginning: the court system is training and nurturing judges who deliver just resolutions and who have (spoken or unspoken) thoughtful insights as to the operation of the court system (specifically) and the constitutional bodies listed above (generally).

So a judge who speaks out in public (and we'll leave the definition of the venue to the misconduct cops for the moment), outside of a situation in which he is aggressed-upon, has the right (and, I argue, the duty) to use his freedom of speech to criticize the law-as-it-is. Take a matter of state constitutional import: the public has to accept the fact-of-life that a pitch for a change of constitutional direction will almost always mean that the judge has to stand by the precedents and vote against the change which she finds desirable, but that is also because the people have to find their voice and get the state constitution changed, as their right and responsibility.

Stare decisis yields the floor to vox populi; but what should slap people up alongside the head is an occasional, thoughtful, well-reasoned out-of-court statement by a judge on issues where the judge has something to say (excepting the situations in which the judge is speaking when lobbied at, or firing off counter-spam, or while being buttonholed). True, the public has to accept that judges might say the law should be so-and-so, and the judge then doesn't change the law; true, a judge who continually whines that the law isn't up to her standards should probably get another job; ditto, judges who want to recuse themselves from deciding cases that are distasteful to them.

And yes, the public has to get used to hearing a single solitary voice of a judge arguing for better law, and

reading the transcribed decision that affects both parties and non-parties. They're not the same effort but the public has the right and duty to hear each opinion in its own context. And resignation is an honorable, often courageous act and is, as I argue, one of the ultimate acts of civil obedience.

I don't think it's going to be an everyday occurrence that judges — in a public forum — tell us that the law we're responsible for (keeping to my state constitutional example) needs improvement and therefore the citizenry should stop being lazy and change it, which is where Article XIII, Sec. 1 plays its role. But a judge shouldn't be cashiered because he raises his voice to tell us what he thinks and, presumably, how being a judge supports his insights.

Now to the pay-off. I have heard it said that you were dissatisfied with the Judicial Council's role in nominating judges. How do judges feel about the merit selection and retention systems? Do retention elections chill judges from expressing their views as to what the law regarding selection and retention should be? If those inside the system were given a free voice, would they provide as much support for merit selection and retention as its supporters claim? Why not do a mandatory exit interview at retirement, to find out what a judge really thinks of the system he served, when he does not risk the pension and gold watch? Isn't that what the people earned by training their judges?

(I omit the obvious, which is that a body such as the Judicial Conduct Commission should poll judges and find out how well it's doing.)

As for what forums are permissible for judicial free speech, that's where the commission you appointed me to can play a role in defining permissible conduct. The Judicial Conduct Commission already vets the wording of invitations at fundraisers, poses the judges in the photographic record of these shindigs, prescribes the tab-and-blather aside published pictures. But a constitutional commission that can steer a judge through a hotel ballroom (with Canon 4 as its guide) can tell a judge the how's and where's involved in sounding off and still doing her job right. It might surprise people to know what judges think; but it might surprise people more to know what laws are being enforced in their name and, perhaps more importantly, that judges are rarely in a position to save people from their own misjudgments. For which, thank 1776, 1787 and all that.

The Chilkoot Trail

Continued from page 24

It was heaven. Along the way that day we passed an elderly couple who had summited two days before, only reaching the summit itself after 13 hours. They must have looked awfully haggard as the Canadian ranger actually invited them to sleep at the station that night, which probably saved their lives.

The next day was a lark after the previous two. We inhaled the very last of our food, and did the four easy miles to Bennet where the backpacker's train of the Yukon and White Pass railroad picked us up for the ride back down to Skagway. Coming out of the wilderness at the top of a little hill to see that gleaming choo-choo waiting to carry us back had to be the happiest sight one could have after five days in the sticks. We got to Bennett early where I immediately rested by head on my backpack and passed out until we left. That evening in Skagway included a lot of unhealthy but delicious food and a fair amount of beer!

We flew an early bush plane out the next morning to Juneau and then a jet on home from there.

There, we did it, we conquered that trail. We met a bunch of interesting people from all over the world and bonded with them in a unique way that would not have happened were it not for the way the hike is organized and done. We were careful and responsible, leaving little to no impact anywhere we went—we saw no animals sniffing around looking for hand outs to make them sick or get them killed. We saw it could really be done with some strong government encouragement and oversight. The scenery was unendingly stunning and vast beyond comprehension. We had one of those experiences you never forget and make you realize what you can do, physically and mentally. Though not as difficult or dangerous as the Goat Trail out of McCarthy, it was plenty hard. After you've done it, you have permission to think you are tough for a week or two. Then, you look around for the next challenge!


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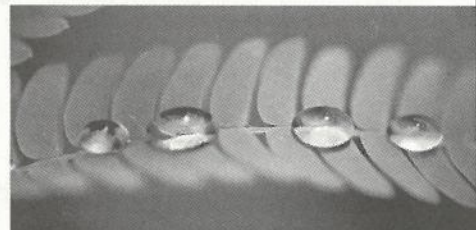




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Law library survey shows legal research changes

Cynthia Fellows

A July survey conducted by the Anchorage law library has reflected a predictable shift in legal research habits of the Alaska attorney population over the past ten years.

More research is done online directly from office or home computers, and many of you expect — either with hope or fear — that all legal resources will eventually be digital. Nonetheless, we found out that many of you are not familiar with the free online databases available on library computers and that you need assistance using them.

Despite the increasing use of electronic resources, print resources have not lost their popularity and many of you expressed dismay at the shrinking print resources collections, especially in locations outside of Anchorage where the library space has been reduced due to the need for more courtrooms and court offices. And finally, some of you are concerned that the general public does not have adequate access to Alaska law.

In this article I will share some of the highlights of the survey, address your concerns, and look to the future.

412 Responses

The survey was emailed to attorneys on the Alaska Bar Association email list and there were 412 respondents. Of these, 42.7% were attorneys who have practiced law in Alaska for more than twenty years. The survey shows that 10 years ago, 35.8% of all respondents were using the law library a few times a week and 34.1% used the library a few times a month. Now, 29.2% visit the library a few times a month and 43.1% visit the library a few times a year. The drop in library visits is primarily due to the fact that, on a daily basis, most of you do not need to visit the library to reach the resources you need.

Online research data

Nearly everyone reported doing most of their (routine) research online; 84% estimate they do 50% or more online and 43% reported that they do 90-100% online. In answer to questions about what online legal resources lawyers are using, Westlaw is by far the prevailing database. Other databases frequently mentioned include: Lexis; Touch 'n' Go; FindLaw; government websites (e.g. THOMAS) and the Alaska Legislature Infobases & BASIS. Less frequently mentioned were: VersusLaw; Cornell LII, and specific practice area services such as BNA tax.

What about print resources?

One respondent pleaded "Please don't ever underestimate the value of treatises in print" — and we certainly will not! A common fallacy is that everything is online, or will be in the near future, and this is simply not true. The value of our print collection was well articulated by respondents to the survey — many of you specifically mentioned legislative history materials, treatises, superseded statutes and regulations, form books, legal reference sets and law reviews.

We will continue to update the treatise collections to the best of our ability and we welcome specific suggestions for additions to the print collections — thanks to those who mentioned specific titles in the survey response. We will continue to maintain historical collections of superseded Alaska and federal statutes and administrative regulations, and our collection of Alaska pre-statehood codes, Alaska constitutional history documents, and other Alaska legal history materials.

What services does the library staff offer?

Reference questions can be asked and answered many ways — in person, or:

Email: library@courts.state.ak.us
Telephone: 1-907-264-0585
Fax: 1-907-264-0733

Document and Book Delivery Services:

We will send you (by fax, email or post) any cited documents or books, whether or not we have them in our collection — fax or email the interlibrary loan form on our website — or telephone us.

Instruction

We are preparing a small classroom in the library and will be offering short legal research lectures and hands-on computer classes in the near future. We will offer instruction in Westlaw searching, KeyCite, legislative history and how to do legal research on the Internet.

Databases accessible on the Internet (via the law library webpage):

Library Online Catalog:

You can search statewide holdings using keyword, author, title and subject. We will loan books to you from any of our libraries if you cannot find what you need in your local court library. The catalog also links to legal materials on authoritative web sites.

Links to Alaska Legal Research Resources (full text and searchable):

AG opinions — Constitutional Convention Minutes — Court Rules — Ethics Opinions — Executive Orders — Jury Instructions — Legislative History — Municipal Codes — Slip Opinions — Statutes — Supreme Court Orders

Coming soon: All Alaska Supreme Court and Court of Appeals Opinions!

By the time this article is published, we expect to have a link to Alaska's case law — free and keyword searchable. Watch for announcements in the Alaska Bar weekly e-news

Fee-based services available FREE on the Library Computers

Free Westlaw — all Westlaw databases are full text and keyword searchable.

Databases include all National Reporter System case law; all federal and state statutes and regulations; law reviews and journals; ALR; CJS; Restatements; KeyCite; and — new this fall — all of the Am Jur form books and trial preparation materials.

HeinOnline — Legal Periodicals that are full text and searchable with extensive coverage — many titles begin with volume one! Also included are: Legal Classics, US Reports, Federal Register (1936-2005), Treaties and more.

What access does the public have to Alaska and US law?

All 17 of our library locations have Westlaw computers available to attorneys and the public free of charge, providing access to all state and federal primary law and to legal forms. All locations have print subscriptions to the Alaska Statutes, Rules, Digest and Administrative Code, accessible to the public. The reference desks in Anchorage, Juneau, and Fairbanks have full time library staff to help the public. The court's Family Law Self Help Center assists self-represented litigants statewide and is expanding services to include assistance with probate, landlord/tenant and appellate matters.

What does the future hold?

No crystal ball will answer this, but it is interesting to read your predictions, hopes and wishes. Here is a sampling of your comments and our responses.

- Comfortable chairs, full internet access and wi-fi (We are considering this.)
- Ability to download from Westlaw (We are working on this.)
- To pay for printing from Westlaw instead of having to copy cases from Reporters. (We are considering this.)
- The library should be the place

to go to get, for example, the Cleary settlement (We have it in five locations — check our online catalog.)

- I would like to see a searchable database for the Alaska Constitutional Convention minutes (It's available — see link "Alaska Legal Resources" link on our website www.state.ak.us/courts/library.htm)

- More electronic databases — ALR, Am Jur, Annotated Statutes (We already have these free on Westlaw!)

- Access to the law library's computer databases from my office (We can't do this for Westlaw, but we are considering remote access for HeinOnline and other databases.)

- All appellate decisions (1960-present) available via web with full indexing (Coming soon via our website!)

- Form books with access online (We've got it — AmJur form books via Westlaw on library computers.)

- Greater Alaska legislative history and regulatory history availability — getting legislative history materials available online back to Statehood. Can the legislative history that is on microfiche be placed online? (We are currently working on a digitization project for pre-statehood Alaska codes and Session Laws up to mid-1980's. We may expand the project to include more legislative history materials — and yes, microfiche can be digitized and placed online.)

- Cataloging/making available online all superior court decisions (Interest noted and passed along.)

- Library monitored BLOG for discussion of research questions/problems (Interesting idea.)

- Be able to call in with questions (You can! Call the Anchorage Reference Desk at 907 264-0585.)

- Relaxed, quiet rooms for writing or research... an espresso stand... encourage at least part of the library as a place to hang out with other lawyers... sell drinks after hours. More computers, email access without guilt, telephone conference room, beer/wine Bar with a select group of niche beverages plus gelatos and lattes (hmm...)

Survey results comment from the Editor

Ok. If the library will provide "Relaxed, quiet rooms for writing or research, . . . an espresso stand . . . encourage at least part of the library as a place to hang out with other lawyers, . . . sell drinks after hours," then we are just one step away from a day spa with mud baths, cucumber facials, and massages.

I suspect this would be the most popular law library in the world. And, if we name it "The Ted Stevens Law Library, Espresso and Day Spa Resort" it will be sure to get federal funding.

got process?

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We will do our best to make our libraries more inviting and technologically up-to-date and we aim to make as much information available electronically and via remote access as we can. We invite your continued comments and suggestions. Thanks to all of you who expressed appreciation for library resources and services over the years. We look forward to continuing to serve your needs in this new era of virtual libraries.

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Clayton Jones, Library Assistant (Ketchikan) cjones@courts.state.ak.us

Alaska Bar Association
Spring 2005 CLE Calendar

Date	Time	Title	Location
January 13	1:30 - 3:30 p.m.	4 th Judicial District Off the Record: An Annual Informal Bench/Bar Exchange – CLE #2006-004 2.0 General CLE Credits	Fairbanks Westmark Fairbanks Hotel
January 19	8:45 a.m. – 12:30 p.m.	Family Law Practice Management CLE #2006-002 3.5 General CLE Credits	Anchorage Hotel Captain Cook
February 1	3:30 – 5:30 p.m.	3 rd Judicial District Off the Record: Part 1 (3:30-4:30): Appellate Court Update Part 2 (4:30-5:30): Trial Court Update CLE #2006-003 2.0 General CLE Credits	Anchorage Hotel Captain Cook
February 24	9:00 a.m. – 12:30 p.m.	Real Estate Commission License Enforcement and Surety Fund Claims: What You Need to Know CLE #2006-001 3.25 General CLE Credits	Anchorage Downtown Marriott Hotel
March 3	9:00 a.m. – 12:15 p.m.	Family Law Update: New Servicemembers Civil Relief Act CLE #2006-007 3.0 General CLE Credits	Anchorage Snowden Building Training Center
March 10	9:00 a.m. – 4:30 p.m.	Wilderness Recreation and Tourism in Alaska: Managing Operations and Legal Risks – Part 2 CLE #2006-005 CLE Credits TBA	Anchorage Hotel Captain Cook
March 14	Time TBA (Full Day Program)	Nonprofits Law Update CLE #2006-008 CLE Credits TBA	Anchorage Hotel Captain Cook

General Secretary of Nigerian
Bar Association visits Anchorage

The Honorable Nimi Walson-Jack, General Secretary of the Nigerian Bar Association, visited Anchorage in November on behalf of CIVITAS, the international law-related education program, and the Alaska World Affairs Council.

Walson-Jack is a lawyer; criminologist; pro-democracy, human rights and civil society activist; and civic educator.

During his stay in Anchorage, Walson-Jack made public presentations on the state of democracy and civil society in Nigeria, met with teachers and members of the legal community involved in law-related education, and visited Anchorage classrooms to speak with young people about the legal profession in his country.

Early in his legal career, he established the first legal practice in Bori, the heartland of the Ogoni region, where he provided public legal education and legal aid services to the indigent under the auspices of the Legal Aid Council.

In 1988, he was appointed by the Nigerian government to represent youth and student interests in the Constituent Assembly when they were writing a new constitution, then served in several governmental capacities until a military coup d'etat in 1993.

After Nigeria's return to civil democratic rule in 1998 after a period of dictatorship, Walson-Jack became an influential member of the Transition Monitoring Group, a coalition of 170 civil society and human rights groups committed to civic education, democratic norms and election monitoring.

He coordinates the election observation activities in the six states of the Niger Delta area of Nigeria. He is also Vice President of CIVITAS International, a consortium of civic educators, and the founder and Executive Director of the Center for Responsive Politics.

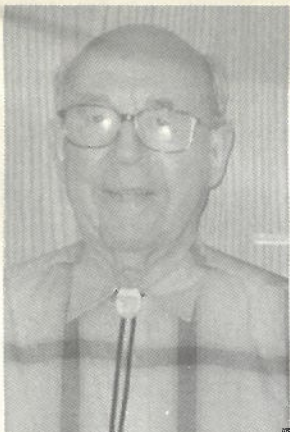


Nimi Walson-Jack met with Justice Dana Fabe, Co-Chair of the Alaska Teaching Justice Network, during his Anchorage visit, to discuss law-related education and the new CIVITAS partnership between Alaska and Nigeria. Joining them were Alaskan educators with the CIVITAS program. L-R: Phyllis Bowie, Teacher, SAVE High School, Anchorage; Walson-Jack; Justice Fabe; and Mary Bristol, CIVITAS Alaska Coordinator.



Nimi Walson-Jack attended a session of oral arguments before the Alaska Supreme Court during his Anchorage visit, and met during a break with members of the court, L-R: Justice Dana Fabe, Justice Robert Eastaugh, Justice Warren Matthews, Walson-Jack, Justice Walter Carpeneti, and Chief Justice Alexander Bryner.

Call for nominations for the
2006 Jay Rabinowitz Public Service Award



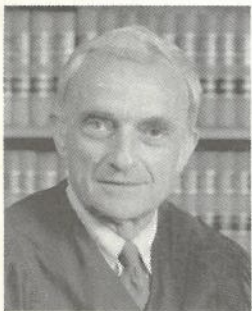
JUDGE THOMAS B.
STEWART
2005 Recipient



ART PETERSON
2004 Recipient



MARK REGAN
2003 Recipient



Jay Rabinowitz

The Board of Trustees of the Alaska Bar Foundation is accepting nominations for the 2006 Award. A nominee should be an individual whose life work has demonstrated a commitment to public service in the State of Alaska. The Award, established in 2003, is funded through generous gifts from family, friends and the public in honor of the late Alaska Supreme Court Justice Jay Rabinowitz.

Nominations for the award are presently being solicited. Nominations forms are available from the Alaska Bar Association, 550 West Seventh Avenue, Ste. 1900, Anchorage, AK 99501 or at www.alaskabar.org. Completed nominations must be returned to the office of the Alaska Bar Association by March 1, 2006. The award will be presented at the Annual Convention of the Alaska Bar Association in April 2006.



ALASKA BAR
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Reporting Form?
Avoid A Possible Ethics Violation

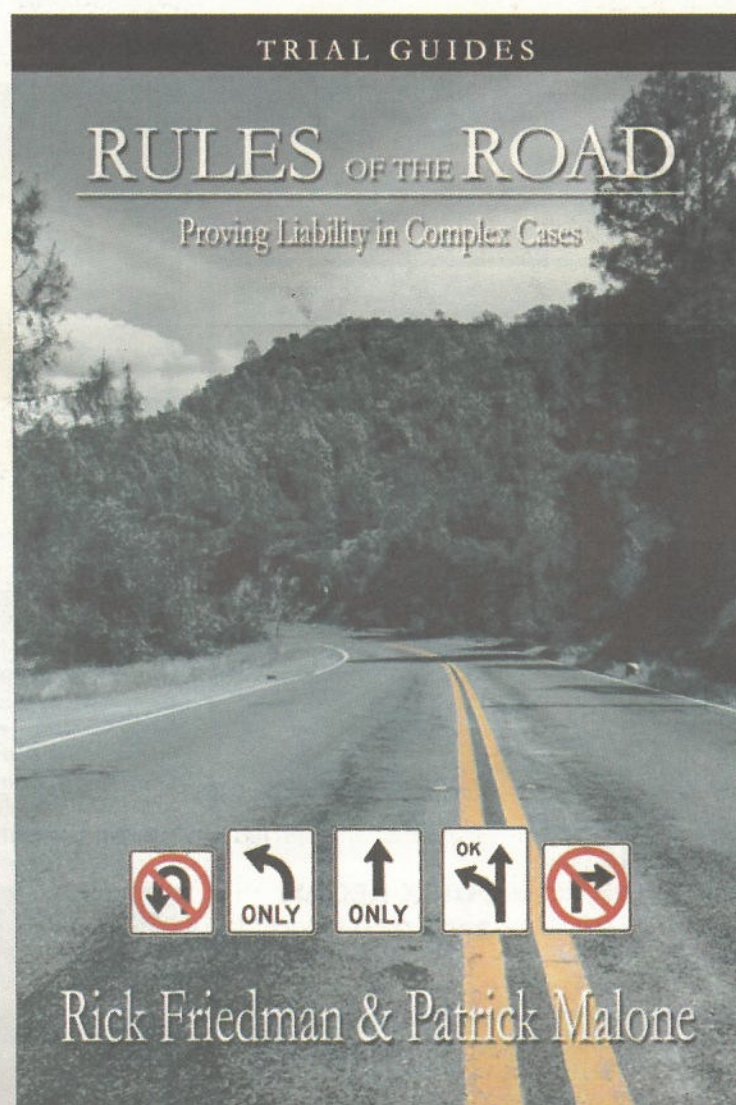
A reminder that civil case resolution forms must be filed with the Alaska Judicial Council as required by the Alaska Statutes and the Alaska Court Rules. The failure of an attorney to follow a court rule raises an ethics issue under Alaska Rule of Professional Conduct 3.4(c) which essentially provides that a lawyer shall not knowingly violate or disobey the rules of a tribunal. Members are highly encouraged to file the required reports since compliance avoids the possibility of a disciplinary complaint.

Alaska Lawyer Rick Friedman reveals his secrets to trying complex cases

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