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Christen appointed to Alaska Supreme Court

Gov. Sarah Palin on Mar. 4 appointed Anchorage Superior Court Judge Morgan Christen to the Alaska Supreme Court. Christen is the 20th justice appointed to the Court.



"Alaska's Supreme Court bears the awesome responsibility of ensuring that our court system administers justice in firm accordance with the principles laid down in our state Constitution," said Gov. Palin. "I have every confidence that Judge Christen has the experience, intellect, wisdom and character to be an outstanding Supreme Court justice."

Christen, 47, was born in Chehalis, Washington. After attending colleges in England, Switzerland, and the People's Republic of China, she received a bachelor's degree in international studies from the University of Washington in 1983, and a law degree from Golden Gate University School of Law in San Francisco, California, in 1986.

Christen worked as a law clerk to Anchorage Superior Court Justice Brian Shortell from 1986-87, then joined Preston, Gates & Ellis in 1987, becoming a partner in 1992. She was appointed as an Anchorage Superior Court justice in 2002, and has been presiding judge since 2005.

Christen currently serves on the boards of the Alaska Community Foundation and the Rasmuson Foundation, and previously served on the boards of the United Way of Anchorage, and of Big Brothers/Big Sisters. A past president of Anchorage Association of Women Lawyers, she has also won the Anchorage Chamber's Light of Hope award for helping Alaska children in 2004, and won the Anchorage Chamber's Athena Society Award

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'UN-RETIRING' IN A BLEAK ECONOMY PG. 6



ABA Board: Make MLK holiday a day for good works

By Russ Winner

Never before have I seen so many smiling faces in one place at one time: 1.2 million, 2.0 million, it doesn't matter.

The National Mall, from the Capitol to the Washington Monument, was absolutely filled with people, all happy, many holding American flags, some in tears, as they patiently waited in the cold for Barack Obama to be sworn in as the next President

of the United States.

As inspirational as the inauguration was, I was more impressed by what happened the day before, in Washington, D.C., and in many other cities across the country.

On that day -- Martin Luther King Day -- tens of thousands of Americans made it "a day on, not a day off" by volunteering to deliver meals, refurbish schools, read to children, sign up as mentors, clean up neighborhoods, work at free legal aid clinics, and much

more. Obama was famously photographed, in jeans and with his sleeves rolled up, helping paint a shelter for homeless teens. More than 13,000 service projects took place around the country on MLK Day. In Philadelphia alone, 65,000 people volunteered their time on that day.

What was going on here? I knew that MLK Day had been approved by Congress as a national holiday in the 1980s. What I learned was that in 1994 Congress declared MLK

Day to be a national day of voluntary service. On January 14, 2009, the U.S. House of Representatives passed a unanimous resolution urging all Americans to participate in community service projects on MLK Day. Although Anchorage is just starting to get off the ground in responding to this call, other cities are well under way in this effort. I came back from D.C. wondering what volunteer work

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Remembering Feb. 12: My mother and Abraham Lincoln

By Mitch Seaver

This year Law Day celebrates A Legacy of Liberty, the bicentennial of the birth of Abraham Lincoln – president, pioneer, politician and lawyer. The myth of Lincoln, who went from a log cabin to the White House with only a year of formal education, touches on the many parts of his life – rail splitter, shopkeeper, soldier and lawyer. Often overlooked in these stories, however, is the fact that Lincoln was a very successful lawyer. He was prosperous and popular, practicing law more than a quarter of a century.

In notes for a 1850 lecture on the law found after his death, Lincoln acknowledged that he had been moderately successful, pointing out

that the “leading rule for the lawyer as for the man of every other calling is diligence. Leave nothing for tomorrow which can be done today. Never let your correspondence fall behind. When you bring a common-law suit, if you have the facts for doing it, write the declaration at once.”

He urged his colleagues to practice public speaking. “However able and faithful he may be in other respects, people are slow to bring him business if he cannot make a speech.” At the same time he cautioned young lawyers not to use speech-making as an excuse not to handle the drudgery [his word]



"Discourage litigation. Persuade your neighbors to compromise whenever you can."

-- Lincoln

of the law.

Lincoln also encouraged lawyers to be peacemakers. “Discourage litigation. Persuade your neighbors to compromise whenever you can. Point out to them how the nominal winner is often a real loser in fees, expenses and waste of time. As a peacemaker, the lawyer has a superior opportunity of being a good man. There will still be business enough.”

As apt as these words were, nearly 150 years later, they still ring true. Today, Lincoln is most recognized for holding the Union together and freeing the slaves. But his background for his presidential

decisions was formed in frontier courtrooms where he worked hard to do his best for his clients.

I have always had an interest in Lincoln, partly because he shares a birthday with my mother (different years, she was quick to add). Growing up, the only new car our family ever bought was a 1963 Corvair. So I was surprised when I came home from college one spring to find a new white Cadillac in the driveway with a red leather interior. I asked my Dad about it and he sheepishly explained, “Well, I forgot your mother’s birthday ... and Valentine’s Day.”

Lincoln represents the best of the legal profession. It’s an honor to recognize the bicentennial of his birth with this year’s Law Day, but someone will need to remind my Dad.

EDITOR'S COLUMN

End of the road

By Thomas Van Flein

Many of you knew or worked with Randy Clapp. In his time he was one of the best civil defense attorneys in the state. His long string of defense trial verdicts caused many to admire him and probably just as many to resent him. A gifted athlete, he played Division I baseball for Arizona State. He came to Alaska after clerking for the Arizona Court of Appeals. After a few years in Anchorage he moved to Fairbanks to start the Fairbanks Office of Hughes Thorsness.

In a town known for casual attire, and where putting on “the clean Carhartts” qualified as dressing up, Randy stood out for his dapper clothes and coiffed hair. John Edwards had nothing on Randy Clapp when it comes to pretty hair.

Randy grew up impoverished and was raised by his mother along with his siblings. His mother worked several jobs in order to put Randy in private schools. Randy had no choice but to excel academically and athletically, as he needed the scholarships. By today’s standards, Randy was poor and at-risk for failure. His formative years--which included never getting new clothes but only hand-me-downs from an older brother and living in

a run-down house in the bad part of town--led, in my opinion to his subsequent penchant for nice clothes, and ultimately one of the nicest houses in Fairbanks.

In his early 40’s, Randy was diagnosed with Parkinson’s disease. Randy’s struggle to overcome poverty prepped him to fight it. In response to this diagnosis Randy upped his work-out regimen, playing regular basketball games, lifting weights and using a boxing body bag. His physical therapy worked for many years, but the inevitable decline in physical control and mental fatigue gradually advanced.

I worked closely with Randy for many years. He believed older members of the bar had a duty to mentor younger members. He spent many hours mentoring me and others.

In his last few years of practice Randy wanted to plaintiff a few cases. He did so, and I think he gained a completely new perspective and admiration for the plaintiffs’ bar. Like extreme



"He believed older members of the bar had a duty to mentor younger members."

snowboarding, it’s not as easy as it looks to do well and safely.

Today Randy is approaching the end of the road. His neurological synapses are all but destroyed by Parkinson’s. He likely won’t live to see 2010. I write about him in the past tense having just seen him and knowing what is likely to come. Randy describes being taught by the mean-

est nuns a Catholic school could lawfully employ. Deep within Randy is a Catholic school-boy wondering about god. Wonder no more, friend, and God speed on the next part of your journey.



Tom and John visit Randy in Florida in March.

My mentor & guide

I first met Randy Clapp almost 20 years ago. He was a force of nature. At that time he was in charge of the largest law firm in Fairbanks and was part of the management committee of the largest firm in the state. Randy was prone to absolute statements like “if you can’t do this you have no business being a lawyer,” or “my grandmother could try this case.” Hearing such statements from my boss (at a time when I couldn’t try my way out of a wet paper bag) made me more than a little afraid of him and my future prospects.

I soon learned that once Randy figured you were worth the trouble, he was happy to mentor and guide you. As our relationship matured from associate to partner to friend, I realized I learned much of what I know about trial practice, law firm management, wine, food, women, clothes, and personnel supervision and training from Randy.

It has pained me to see Randy physically decline. I always made a point to stop by Florida once or twice a year and see him. He always loved to talk about files or the firm or anything else. The ultimate cruel irony was that a man who always prided his physical appearance was unable to move unassisted; a man whose wit and intelligence was his enduring quality had trouble remembering those closest to him.

I will choose to remember Randy as he was when we tried our last case together in the mid-90’s. Gladitorial in his excitement--not in the victory, but of merely being in the fight; happy to see me try the case without much help and afterward telling me not to just drink whatever is on tap.

—John J. Tiemessen

The Alaska BAR RAG

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Commission offers 7 new Uniform Commercial Code acts

By Terry L. Thurbon

At its 117th Annual Meeting in Big Sky, Montana in 2008, the Uniform Law Commissioners (ULC) approved seven new acts dealing with issues ranging from an update of the law on family support to new revisions to a uniform act that provides rules on condominiums and other types of planned communities. Several of Alaska's uniform law commissioners attended the meeting along with more than 200 lawyers, judges, law professors, legislators and government attorneys appointed in their respective jurisdictions to serve as uniform law commissioners.

During the 2008 meeting, uniform law commissioners gathered for a full week to discuss – and debate line by line, word by word – legislative proposals drafted by their colleagues during the year.

The seven acts approved by the ULC and now available for state enactment include:

The Uniform Interstate Family Support Act (UIFSA) was amended to modify the current version of UIFSA's international provisions to comport with the obligations of the United States under the 2000 Hague Convention on the International Recovery of Child Support and Other Forms of Family Maintenance, which was signed by the President in 2008. The Convention contains numerous procedures for the processing of international child support cases. The 2008 UIFSA amendments give greater enforcement of U.S. orders abroad and will help ensure that children residing in the United States will receive the financial support due from parents. Also, foreign orders will be recognized and enforced like orders of other American states.

The Uniform Common Interest Ownership Act (UCIOA) was amended to update the 1994 UCIOA, which provides provisions for creating, managing, and terminating condominium, planned community and other types of real estate cooperatives. The 2008 UCIOA Amendments seek to address critical aspects of association governance, with particular focus on the relationship between the association and its individual members, foreclosures, election and recall of officers, and treatment of records. UCIOA 2008 gives greater flexibility to association governing boards with regard to enforcement of the declaration, bylaws, and rules of association. The 2008 Amendments also modernize UCIOA with respect to electronic commerce and practice. A Uniform Common Interest Owners Bill of Rights Act was also drafted as a separate act. This second act is drawn from the provisions of the 2008 UCIOA, and supplements existing state law with many of the most important updates and protections of the 2008 act.

The Revised Uniform Unincorporated Nonprofit Association Act (RUUNAA) is the product of a joint project between the ULC, the Uniform Law Conference of Canada and the Mexican Center on Uniform Laws. The RUUNAA, a revision of the UUNAA of 1996, governs all unincorporated nonprofit associations (UNAs) that are formed or operate in a state that adopts the act. There are hundreds of thousands of UNAs in the United States, including educational, scientific and literary clubs, sporting organizations, political organizations, neighborhood associations and the like. The RUUNAA provides a basic legal framework for the operation of

UNAs. The 1996 UUNAA reformed the common law in three basic areas: authority to acquire, hold, and transfer property, especially real property; authority to sue and be sued as an entity; and contract and tort liability of officers and members of the association. The 2008 RUUNAA incorporates a number of modern practices and eliminates potential conflicts with other bodies of law. The RUUNAA extends the nature of UNAs as distinct entities by allowing qualified associations to exist in perpetuity when necessary or convenient to carry out its purposes.

The Uniform Unsworn Foreign Declarations Act permits use of unsworn declarations under penalty of perjury to be executed by witnesses located outside the United States in lieu of affidavits, verifications, or other sworn court filings for state court proceedings. Obtaining an affidavit abroad can be a costly and time-consuming process, making a uniform state law on this subject extremely useful in transnational litigation. Under the Act, unsworn declarations cannot be used for depositions, oaths of office, oaths related to self-proved wills, declarations recorded under certain real estate statutes, and oaths required to be given before specified officials rather than a notary.

New Amendments to the Uniform Probate Code were approved. The Uniform Probate Code (UPC), which is fully adopted in 18 states (and partially adopted in many others) provides an integrated statutory system for all sorts of probate and estate law matters. The UPC has been frequently updated since its inception in 1969. The 2008 amendments to the UPC are designed to address four key issues. First, several sections having to do with cost-of-living adjustments have been updated for the first time since 1990. Second, definitions have been added to make the UPC consistent with the use of electronic signatures and records, and to allow for the option of notarized wills. Third, Article II of the UPC dealing with intestate succession has been expanded to extend intestate inheritance rights to a broader group of potential heirs based on the existence of a "parent-child relationship." This last change modernizes the UPC's treatment of non-marital children, adoptive children, and children of assisted reproduction. Finally, the process and standards under which a will can be reformed or corrected are clarified to be consistent with the Restatement (Third) of Property: Wills and other Transfers, and the Uniform Trust Code.

The 2008 Amendments to the Uniform Principal and Income Act (UPIA) update the act to reflect current policy of the Internal Revenue Service (IRS) and clarify technical language regarding withholdings. The 2008 amendments include a change to Section 505, which addresses the amount of money which must be withheld from a distribution to pay the tax on the undistributed income.

Information on all of these acts, including the approved text of each act, can be found at the ULC website at www.nccusl.org, or you can contact one of Alaska's members of the ULC. The members of Alaska's ULC delegation are Commissioners Deborah Behr (Department of Law representative and chair of the delegation), Justice Walter Carpe-

neti (Court System representative), and Lynn Levensgood (Fairbanks), Michael Geraghty (Anchorage) and Terry Thurbon (Juneau), all public members; Grant Callow and Art Peterson, Life Members; and Tamara Cook (Legislative Affairs Agency), Associate Member.

The Uniform Law Commission (ULC) has worked for the uniformity of state laws since 1892. It was originally created by state governments to consider state law, determine in which areas of the law uniformity is important, and then draft uniform and model acts for consideration by the states. For well over a century, the ULC's work has brought consistency, clarity and stability to state statutory law.

Uniform Law Commissioners are appointed by every state, the District of Columbia, Puerto Rico and the U.S. Virgin Islands. The commissioners draft proposals for uniform laws on issues where disparity between the states is a problem. The ULC usually spends a minimum of two years on each draft. Sometimes, the drafting work extends much longer. No single state has the resources necessary to duplicate this meticulous, careful, non-partisan effort.

Once an act is approved by the ULC, it is officially promulgated for consideration by the states, and the legislatures are urged to adopt it. Since its inception, the ULC has been responsible for more than 200 acts. Alaska has enacted more than 50 uniform or model acts, including provisions of the Uniform Commercial Code (UCC).

The UCC is one of the hallmark acts developed, and revised from time to time, by the ULC. Uniformity in the laws governing commercial transactions is crucial to individuals and entities doing business across state lines. During the 2009 legislative session, through House Bill 102, Alaska is considering enactment of revisions to the general provisions (Article 1) and the Warehouse Receipts, Bills of Lading and Other Documents of Title provisions (Article 7). These revisions, which were adopted by the ULC, respectively, in 2001 and 2003, would update and modernize several provisions of Alaska's UCC, in part to bring the laws in line with the electronic age as it pertains to documents of title for goods in interstate commerce.

The author is an Alaska Uniform Law Commissioner

Make MLK holiday a day for good works

Continued from page 1

I should do in Anchorage on the next MLK Day of Service.

Well, I'm a lawyer. And I kept thinking about how other cities had established free legal clinics on that day. I could do that. I could work in a free legal clinic. But one lawyer does not a legal clinic make. Would other lawyers want to do that, too? I kicked the idea around with some friends, and everyone said, "What a good idea!" I was invited to a meeting of the Alaska Bar's Board of Governors and suggested the idea there. I envisioned a clinic on MLK Day in a convenient location in downtown Anchorage with booths manned by

lawyers offering free legal services in areas like domestic relations, immigration, landlord-tenant, and social services law.

The response was rapid. The Board drafted and unanimously approved the following resolution on the spot:

To adopt Martin Luther King Day as a day of service and to encourage Bar members to engage in public service and pro bono projects on that day within their community in accordance with the purposes of the Alaska Bar Association to increase public service.

The Board of Directors of Alaska Legal Services Corporation will hold its quarterly meeting on Saturday, March 21, 2009. The meeting will begin at 9:00 a.m.

Members of the public who wish to participate may do so from the Fairbanks office of Alaska Legal Services Corporation, 1648 Cushman, Ste. 300, Fairbanks, Alaska 99701.

A portion of the meeting may be closed for executive session.

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Christen appointed to Alaska Supreme Court

Continued from page 1

in 2006. She has been a member of the Downtown Anchorage Rotary Club since 1992.

Christen will replace Justice Warren Matthews, who has served on the Supreme Court for 32 years, including six years as chief justice, from 1987-1990 and again from 1997-2000. State law bars judges from serving past 70, and Matthews will turn 70 on April 5.

"I am grateful to Justice Matthews for his long years of service to the people of Alaska on the high court," Palin said.

Under current judicial selection procedures, the Alaska Judicial Council received applications from six Alaska attorneys, winnowed the list to two names, and forwarded them to the governor for selection.

Cole appointed in Kodiak

Gov. Sarah Palin on Mar. 4 also appointed Steve W. Cole of Kodiak to the Kodiak Superior Court.

It is a pleasure to appoint a Superior Court judge who not only has an exceptional record as an attorney and magistrate in Kodiak's legal community, but who also has such close ties with and obvious respect from the people of the community at large," Gov. Palin said. "Steve Cole knows the law and understands Kodiak, and I have every confidence he will be an outstanding judge."

Cole, 56, has been a magistrate and standing master in Kodiak since 2005. He was an attorney and partner in private law firms in Kodiak from 1990-2005. He was a supervising attorney for the Kodiak Public Defender Agency from 1983-90, and a staff attorney for Alaska Legal Services office in Kodiak from 1981-83.

Cole received a bachelor's degree in business administration from the University of California Berkeley in 1974, and a law degree from the University of Colorado's School of Law at Boulder in 1981.

Cole has been an active member of the Kodiak community, serving as a little league coach, high school varsity girls' softball coach, and foster parent. Since 1995 he has been founder, board member and longtime benefactor of the Kodiak Teen Court, a program in which youthful criminal offenders can elect to be tried by their peers under the legal training and guidance of adults. Cole is also a past member of the board for the Alaska Legal Services Corporation and the Alaska Pro Bono Corporation, and has taught evening law courses at the University of Alaska's Kodiak College.

Cole fills a vacancy on the Kodiak Superior Court left when Judge Joel H. Bolger was appointed to the Alaska Court of Appeals in 2008. Cole was one of two candidates presented to the governor by the Alaska Judicial Council.



Young Lawyers host Covenant House holiday party

By Bill Pearson

Once again the Young Lawyers Section of the Anchorage Bar Association hosted the Covenant House Holiday Party. With generous donations from the Anchorage Bar Association; such law firms as Mendel and Associates, Jonathan Katcher, and Farley & Graves; and local companies including Arctic IT and Target, the Young Lawyers Section was able to give movie tickets and MP3 music players to those staying at the shelter this holiday season.

In addition to opening MP3 players, Covenant House's youth enjoyed playing games, creating ornaments, making ice cream sundaes, and trimming a tree with members of the Young Lawyer Section. Spearheaded by the energy of numerous young lawyers from a multitude of Anchorage law firms, the legal community was able to give some holiday cheer in a time of need.

In conjunction with the Covenant House Holiday Party, the Young Lawyers Section sponsored a professional clothing drive. With the goal of providing Covenant House youth with professional clothing to help with job interviews, boxes were placed at law firms, agencies, and courthouses throughout Anchorage. The legal community again showed overwhelming generosity in its voluminous donations towards this effort.

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The future of the Estate Tax -- 2009 edition

By Steven T. O'Hara

Following the 2001 Tax Act it appeared possible that Congress would permanently repeal the federal estate tax. But delay occurred and Hurricanes Katrina, Rita and Wilma hit. Then in 2008 economic disaster struck. Now in 2009 the only thing certain in this area is that permanent repeal of the federal estate tax is politically impossible.

Recall that the law is scheduled to repeal temporarily federal estate and generation-skipping taxes beginning in 2010. This law contains a "sunset" provision that provides, in effect, that the repeal will last one year only (*Economic Growth & Tax Relief Reconciliation Act of 2001* at Section 901).

In other words, unless the law is changed we will witness in 2010 a one year moratorium on federal estate and generation-skipping taxes.

During the year 2010, however, clients could owe substantial tax if they gift any of their property because the law does not repeal the federal gift tax.

By way of further background, the amount that may pass free of federal estate or gift tax is generally known as the unified credit equivalent amount or, more recently, the applicable exclusion amount. Here we will call it the "exclusion."

Federal practice and procedure: Lawyer reps solicit your feedback

The lawyer representatives for the District of Alaska are soliciting comments, observations, and recommendations from all members of the Alaska Bar as to anything related to federal practice and procedure (District of Alaska or Ninth Circuit). Any comments may be directed to any of the lawyer representatives, who are:

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From 1987 through 1998, the exclusion was \$600,000. Beginning January 1, 2000, the exclusion increased to \$675,000. The exclusion was scheduled to increase to \$1 million in 2006.

Under the 2001 Tax Act, the exclusion increased to \$1 million in 2002, four years earlier than the pre-existing schedule. Beginning January 1, 2004, the exclusion increased to \$1.5 million but only under the estate tax. The exclusion remains at \$1 million under the gift tax.

The exclusion increased to \$2 million for 2006, 2007 and 2008 but only under the estate tax. The exclusion remains at \$1 million under the gift tax.

Now in 2009 the exclusion has increased to \$3.5 million but again only under the estate tax. The exclusion remains at \$1 million under the gift tax.



"...unless the law is changed we will witness in 2010 a one year moratorium on federal estate and generation-skipping taxes."

In addition, the 2001 Tax Act reduced the top estate and gift tax rate from 55 percent to 50 percent in 2002, 49 percent in 2003, 48 percent in 2004, 47 percent in 2005, 46 percent in 2006, and 45 percent in 2007, 2008 and 2009.

Under the sunset provision, the 2001 Tax Act is scheduled to go out of existence in 2011 as if it had never been enacted. The effect of this sunset provision is that, in 2011, the top estate and gift tax rate will increase back to 55 percent and the exclusion will decrease back to \$1 million.

Thus if the President and Congress do nothing in this area, we will have to figure a large percentage of every dollar over \$1 million being payable in estate taxes for deaths occurring after 2010.

While Barack Obama was running

for President, his economic advisor said that Senator Obama "believes we should eliminate the estate tax for 99.7% of families . . ." (*On Death and Taxes... and the Candidates*, Wall St. J., Oct. 15, 2008, at D2, col. 3). It was reported that Senator Obama wanted to keep the estate-tax exclusion at \$3.5 million and the top estate-tax rate at 45% (Id).

Look for compromise on the federal estate tax to be worked out by the end of 2009 or early 2010. Reports are that legislation in this area will develop quickly because 2010 and the one year repeal are so close. The *Wall Street Journal's* lead story on January 12, 2009 was entitled *Obama Plans to Keep Estate Tax: Democrats Want to Freeze Levy at Current Levels Instead of Letting It Expire Next Year* (Wall St. J., Jan. 12, 2009, at A1, col. 3).

The rest of 2009 and perhaps 2010 should prove to be very interesting in this area of the law.

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Bleak expectations (or an old curiosity twist)

By Kenneth Kirk

Bespangled with totems and other trappings of the majesty of law, the Anchorage courthouse thrusts its chest forward to almost the edge of the city street.

Not far away, though, and hidden back from the street, another courthouse drably sits. This rabbit-warren of chambers and clerks is known as the "Boney Building". Lawyers throughout the state sally through its cavernous lobby, typically taking the lift directly to the top floors, where sit the appellate courts. Those lawyers, with the nice suits and silken ties, go directly to the top, never getting out along the way.

More's the shame, for on the second floor of that sad edifice, the lumpen classes drag through their sorry legal matters, coming before the masters for such mundane fare as domestic writs, child protection cases, appointment of guardians, and administration of estates of the dear departed. Those lawyers who ply their trade in these less-prestigious areas of practice know the lobby of this floor well, and indeed, a trip across it yields a fair chance of meeting a colleague with whom one has fought past battles.

"Tulkinghorn!" I exclaimed. "I haven't seen you in ages. What the dickens brings you here?"

"Good to see you, young Kirke," said the old solicitor, who still looked much as he had in past times, down to the ribbons tying off his pant legs. "I have a hearing on some objections to a final accounting in probate court".

"No, what I meant," I started, gathering myself despite my surprise, "is that I thought you were retired. After the great case of *Jarndyce and Jarndyce*, in which the attorney fees ate up the entire massive estate, I wouldn't have thought you still needed to work."

The old man smiled. "Most people tell me they thought I was dead, not retired. But surely you know me better. Retire? With so much good probate work to be had? You know my dedication to the profession. Fie on retirement!"

Somehow it didn't ring true. "But I would have thought," I said, "with so many of the great estates of the past gone, there would be so much less truly interesting work, that continuing to practice law would not have held your interest."

He sighed. "Ah, young man, you have caught me in my own lie. Yes, things were pretty bleak for my practice, what with the confiscatory taxes over in England, and then this recent stock market crash hit my IRA pretty hard... truth, I had to come out of retirement just recently, to make ends meet."

"I am sorry to hear it," I said, not actually feeling that, "but you must be having difficulty adjusting to this day and age. Back in your time, the solicitors had no compunctions about dragging out an estate until the attorney fees ran it down. After all, most solicitors came from the middle classes, whereas the great estates belonged to the landed gentry. Class envy would have bound you all together in the conspiracy. But today, especially here in Alaska, the larger estates are mostly from people who pulled themselves up by their bootstraps, and the lawyers tend to be more sympathetic to them. Surely you can't get away with the same kind of greedy practice?"

"No, indeed, not exactly," he admitted, "but there are always opportunities if one knows whence to



"Retire? With so much good probate work to be had? You know my dedication to the profession. Fie on retire-

ment." factually. One then threatens years of expensive litigation, depositing everyone but the gardener and demanding reams of paperwork, if the estate doesn't settle. And thus, the non-meritorious case still has 'merit' from a settlement standpoint."

"But surely not all of them settle," I rejoined. "Some must fight you out, on principle if nothing else. And that means no fees for you." I expected this latter possibility to be wholly unacceptable to my mercenary friend.

Tulkinghorn just chuckled. "I do try to get what I can as a retainer from my clients," he said, "but aside from that you forget the wonderful Alaska laws in this area, young man. If certain conditions are met, the most important being that my client was, at some past time, to have been named as executor, and if the judge is unwilling to declare my suit 'frivolous', then my fees must be paid by the estate. Even if I lose! So the estate is faced with paying for both attorneys. Little wonder they almost always settle."

"But still," I argued, "there are those which don't settle, and in which the judge won't award the fees. And if you have gone to trial, surely the

look. For instance, most of you locals won't take strike suits, so there are many quite lucrative ones available."

"Strike suits?" I queried, searching my memory.

"A strike suit is a case against an estate, which has no real merit," the old solicitor explained, "but is just strong enough to avoid being thrown out immediately. Which of course, in this state, means merely that it must have some potentially disputed

client's paltry retainer cannot cover all the time you will have spent."

The great keeper of family secrets smiled again, knowingly. "That is a remote possibility which is already factored into my generous billing rate."

That stuck in my craw, and I had to hold my tongue for a moment. "You know, Tulkinghorn," I finally said, "I can't say I think much of your attitude. If you really cared about your clients, like I do, you wouldn't be taking such advantage of them. I try to keep my clients out of probate entirely, and thence away from your clutches!"

His eyebrows arched. "Kirke, you are indeed a young hypocrite. I've seen your advertising. Get a living trust and avoid probate, eh? And I expect that you charge a nice flat fee for those trusts, do you not? More than you would receive on an hourly basis for the same work? Your greed is at least equal to mine. You take less than I do, certainly, but you take it all up front. I have the patience to wait a few years, until the client is gone and I can get it from the heirs. You young lawyers always want to make a fast buck. In our day we planned for a whole career."

I flushed red. "But, it doesn't even... even compare," I sputtered. "Even given the time value of money, what they spend on me for a trust is much less than what they'd spend on you later!"

Tulkinghorn smiled. "Ah, but no matter. There's plenty of work on both ends. If they're willing to pay for one of your living trusts, you can take your money up front. We both know that, for all your advertising, and seminars, and pumping the idea, the vast majority will do no planning at all. What percentage of the populace has a trust, or for that matter even a will? No, boy, there will always be good work for my kind, from the Olde English Courts of Chancery to the modern Alaska Probate Court. The only things inevitable are death, taxes, and probate litigation."

I had no answer to that. My business on the second floor already concluded, I took my leave of Tulkinghorn. On the way out of the courthouse, I stopped a moment to look through the glass doors of the law library, resplendent with its high-minded tomes, written by law professors and judges, expounding on legal theory, but with little knowledge of legal reality.

I opened the door to the courthouse to make my way back to the office, and noticed a cold wind coming from the east.

Alaska Bar Association Spring - Summer CLE Calendar

Date	Time	Title	Location
March 20	8:30 a.m. - 11:45 p.m.	<u>Ethics with Professor Nancy Rapoport</u> CLE Number 2009-016 3 ethics CLE Credits	Anchorage Hotel Captain Cook
March 24	8:30 - 11:00 a.m.	<u>Family Law Update - Breakfast CLE</u> CLE Number 2009-012 2.25 general CLE Credits	Anchorage Hotel Captain Cook
April 1	8:30 a.m. - 12:30 p.m.	<u>Don't Let Evidence Make A Fool of You On April Fool's Day</u> CLE Number 2009 -015 3.75 general CLE Credits	Anchorage Hotel Captain Cook
June 9	8:30 a.m. - 1:30 p.m.	<u>Business Planning and Tax Issues for Tax & Non-Tax Lawyers:</u> Choice of Entity, Tax Provisions in Partnership Agreements, Tax Aspects of Debt Workouts CLE Number 2009-017 CLE Credits TBD	Anchorage Hotel Captain Cook
June 17	8:30 - 10:30 a.m.	<u>Deferred Justice: The Birmingham 16th Street Baptist Church Bombing Case with Former Alabama U.S. Attorney Doug Jones</u> CLE Number 2009-020 2 general CLE Credits	Anchorage TBA
June 18	11:30 a.m. - 1:30 p.m.	<u>Ethics Lunch with Seattle University</u> CLE #2009-007 1.0 Ethics Credit	Anchorage Hotel Captain Cook
June 23	8:30 a.m. - 12:30 p.m.	<u>Military Pensions/Retirement Benefits with Marshal Willick</u> CLE Number 2009-013 3.75 CLE Credits	Anchorage Hotel Captain Cook
August 5	4:00 - 5:00 p.m. Reception: 5:00 - 6:00 p.m.	<u>14th Annual Informal Discussion with the U.S. Court of Appeals for the 9th Circuit</u> CLE Number 2009-022 1 general CLE Credits	Anchorage Downtown Marriott
August 26 FREE	8:30 - 11:45 a.m.	<u>Ethics at the 11th Hour with Bar Counsel</u> CLE Number 2009-006 CLE Credits	Anchorage Hotel Captain Cook

Go to www.alaskabar.org for more CLE info.

Quote of the Month

“ It is a mistake to try to look too far ahead. The chain of destiny can only be grasped one link at a time. ”

Sir Winston Churchill
British politician
(1874 - 1965)

Bar People

Danielle M. Ryman has become a member of the law firm of DeLisio Moran Geraghty & Zobel, P.C. Ms. Ryman's civil trial practice focuses on the areas of employment law, tort defense, and commercial matters. In addition to her trial practice, Ms. Ryman also provides general counsel and advice on issues related to these practice areas.....**Stephanie M. Shanklin** also joins the firm as an associate attorney. Ms. Shanklin is a graduate of the University of Oregon School of Law and a life-long Alaskan. She practices in the firm's civil litigation, commercial and business groups.



Jaeleen Kookesh Araujo has moved back to Alaska and is VP and General Counsel for Sealaska Corporation.....**Josh Ahssoak**, formerly with DeLisio, Moran, et.al., is now Corporate Counsel for ASRC Service Center.....**Elizabeth Apostola**, formerly with DeLisio, Moran, et.al., is now with Farley & Graves.....**Brad Ambarian**, formerly Counsel to the firm Lane Powell, is now with Alutiiq, LLC.

Shannon Bodolay, formerly with Oles Morrison et.al., is now an Assistant Borough Attorney with the Matanuska-Susitna Borough.....**Molly Brown**, formerly with Guess & Rudd, is now with Wilkerson Hozubin.....**Nicholas Bajwa**, formerly with Routh Crabtree, is now with Manley & Brautigam.....**Devinder Brar** is now with the Office of Public Advocacy in Anchorage.....**Matt Block**, formerly with Patton Boggs, has opened his own law office in Anchorage.

Doug Bailey has relocated to

Oregon.....

William Evans, formerly with Dorsey & Whitney, is now with Sedor, Wendlandt, Evan & Filippi.....**Nevhiz Calik**, formerly with the Alaska State Commission for Human Rights, is now with the Attorney General's Office in Anchorage.....**Dawn Carmen**, formerly with the Alaska Native Tribal Health Consortium, is now with the Denali Compliance Group, LLC.....**Joe Cooper**, formerly with the Attorney General's Office, is now with Russell, Wagg, et.al.

Patrick Coughlin, formerly with BP Alaska, is now with Denali – the Alaska Gas Pipeline.....**Natalie Cale** is now with Turner & Mede.....**Jay Durych** is now with the State of Alaska Office of Hearings & Appeals.....**Amy Doogan**, formerly an Anchorage Assistant Municipal Prosecutor, is now with the Attorney General's Office, Commercial & Fair Business Section.....**Jody Davis**, formerly with ALSC, is now with the Municipality of Anchorage, Criminal Division.

Brent Edwards, formerly with Boyd, Chandler & Falconer, has relocated to Sitka.....**Svend Brandt-Erichsen**, formerly with Heller Ehrman, is now with Marten Law Group.....**Jill Farrell** is now with the State Division of Banking & Securities.....**Bill Falsey** has relocated to Washington DC.

Mark Fineman, formerly with Birch Horton, is now with Cook Inlet Housing Authority as a Senior Manager, Project Management.....**Deirdre Ford**, formerly with DeLisio Moran, et.al., is now with the State of Alaska, Dept. of Labor.....**Mary Guss** has relocated from Ketchikan to Arizona and will be going to school to get an LLM.

Trena Heikes says that after 18 years of 'flying solo,' she closed her office and is now the Director of the Division of Workers' Compensation

for the State of Alaska.....**Eric Jenkins**, formerly with Davis Wright, Tremaine, is now with BP Exploration (Alaska).....**Clayton Jernigan**, formerly with Earthjustice, is now with NOAA, Office of General Counsel in Juneau.....**Angela Jamieson**, formerly with the Kenai DA's office has transferred to the Kotzebue DA's office.

Doug Johnson & Janelia Combs have opened the office of Johnson & Combs, PC and Andrew Ott is in their Kodiak office.....**Olivia Kester**, formerly with Calista Corporation, has opened her own law office in Anchorage.....**Gregory King**, Arctic Slope World Services, is now with Chugach Alaska Corporation.....**Laurence Keyes**, formerly with Hughes Pfiffner, et.al., is now with James B. Wright & Associates.

Merrill Lowden has relocated from Juneau and is now with the North Slope Borough Law Department in Barrow.....**S.J. Lee**, formerly with Ken Kirk & Associates, is now with Mendel & Associates.....**Jake Metcalfe**, formerly with IBEW, is now with OSPA in Anchorage.

Rebecca Noblin is staff attorney for the Center for Biological Diversity in Anchorage.....**Mary Pinkel**, formerly with the Anchorage Municipal Attorney's Office, is now with the Office of the U.S. Attorney, Civil Division.....**Joe Perkins**, formerly with Guess & Rudd, is now with Stoel

Rives.....**Curtis Patteson**, formerly with Ross & Miner, has opened the Law Office of Curtis W. Patteson, LLC in Anchorage.

Mark Regan, formerly with ALSC in Bethel, is now Senior Staff Attorney with the Disability Law Center of Alaska, in Fairbanks.....**Norm Resnick**, formerly with Turner & Mede, is now with Calista Corporation.....**Peter Sandberg**, formerly with Jermain, Dunnagan & Owens, is now with Sandberg, Wuestenfeld & Corey.....**Deitra Ennis** is now with the Municipality of Anchorage.

Todd Sherwood, former Special Counsel to the North Slope Borough Mayor's Office, is now with Hartig Rhodes, et.al.....**Fred Valdez** has closed his law office and is now employed with the Anchorage Municipal Prosecutor's Office.....**Jonathan Woodman**, formerly with Guess & Rudd, is now with the Attorney General's Office, Torts & Workers' Compensation Section.....**Thomas Wang**, formerly with Sedor, Wendlandt & Wang, is now with Ashburn & Mason.

Jill Wittenbrader has opened the Law Office of Jill Wittenbrader in Kodiak.....**Susan West**, formerly with Guess & Rudd, is now with the Attorney General's Office, Torts & Workers' Compensation Section.....**Barton Wachsteter** is now with Alutiiq LLC.

In the Supreme Court of the State of Alaska

In the Reinstatement Matter)
Involving:)
)
Michael A. Stepovich,)
)
Petitioner.)

Supreme Court No. S-13308

Order

Date of Order: 12/10/08

ABA Membership No. 8406051
ABA File No. 2008R003

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

On consideration of the 10/16/08 petition and 11/24/08 affidavit of Michael A. Stepovich for reinstatement to the practice of law, and the Bar Association's 11/13/08 non-opposition to reinstatement and 12/3/08 renewed non-opposition to reinstatement,

IT IS ORDERED:

1. Michael A. Stepovich is REINSTATED to the practice of law, effective immediately.
2. Paragraph 5 of Order No. 56 issued 9/15/06 applies to the year of stayed suspension.

Entered at the direction of the court.

Clerk of the Appellate Courts

Marilyn May
Marilyn May

cc: Supreme Court Justices
Trial Court Clerk of Courts
Cheryl Jones
Distribution: (via fax and mail)

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Justice Warren Matthews

By Dan Branch

This is the last year that the Alaska Supreme Court will publish a decision by Justice Warren Matthews. He retires in April, after serving on our highest court for 32 of the 50 years of Alaska Statehood.

Serving on the Alaska Supreme Court involves more hard work than glory. In a speech honoring a then-retiring Justice Jay Rabinowitz, Justice Matthews gave this description of the life of an Alaska Supreme Court justice:

"Being a justice on the Alaska Supreme Court is an interesting job, it's the job that lots of people, lots of very highly qualified people seek. But it is not a glamorous job. To do it right, all of the briefs in every case must be read, and read with understanding. And hundreds of pages of record and transcript also have to be absorbed with understanding. We have 600 new cases a year. Each one requires

individualized attention. Opinions must be drafted, the opinions of other justices have to be voted on and critiqued. Dissents have to be written... During our most intensive period of work, which is when we hold oral argument, we commonly have to read more than 300 pages of briefs every day. And it's hard, time consuming work, it's work that you take home, and it's work you stay with for long hours in the evening." (15 Alaska L. Rev. 201, 1997).

Justice Matthews carried this load for 32 years.

Like most lawyers in this state, I only know Justice Matthews from his writings and an occasional question directed at me during oral argument. His body of work reflects a man with strong opinions, the courage to



"Serving on the Alaska Supreme Court involves more hard work than glory."

express them, and a fine mind.

Early in his career Justice Matthews joined with Senior Justice Dimond's dissenting opinion in *Williams v. Zobel*. (619 P2d 448, Alaska 1980). The majority in that case had found the original Alaska Permanent Fund Dividend Program constitutional, even though the dividend amount an applicant would receive increased with the number of years he or she had lived in the state. That year Justice Matthews was the target of a campaign not to retain him based, in part, on his dissent in *Zobel*. Two years later the U.S. Supreme Court declared the program unconstitutional, ratifying the concerns expressed by Justices Matthews and Dimond in their dissent.

In 1989 Justice Matthews' authored decision in *McDowell v. State* denied Alaska a solution to the subsistence debate. The court, in *McDowell*, found that a statute that would have given preference to rural residents to take fish and game for subsistence purposes violated a provision of the Alaska Constitution that prohibited granting exclusive access to the state's fish and game resources. Eventually Alaskans would surrender management of fish and game on federal lands in Alaska to the U.S. government, rather than amend their constitution to allow a subsistence preference.

Ten years after *McDowell*, Justice Matthews published a scholarly dissent in *John v. Baker*. The majority found that Alaska Native tribes had the inherent authority to resolve domestic relations disputes among their members. Justice Matthews' 39-page dissent applied complicated

Indian law issues to Alaska's unique legal landscape to support his opposing conclusion. Before presenting his legal analysis, Justice Matthews expressed his concern that, "Today's opinion changes Alaska society. Alaska law no longer applies to every Alaskan. The doors of Alaska's courts will no longer be open to all Alaskans... Because today's opinion takes a long step away from the Alaska constitutional goal of equal rights under the law and is contrary to federal law, I dissent."

During his career on the bench Justice Matthews showed consistent loyalty to the constitutional principles he was sworn and paid to defend. Whether we Alaskan attorneys agreed with the outcome of all the cases he decided, we should all respect the integrity of the process he followed in reaching his decisions.

Justice Matthews joined the Alaska Supreme Court in 1977, the same year I joined the Alaska Bar Association. Sixteen years later he wrote a dissent in *Haynes v. State*, a case I lost. The majority in the case rejected my defense of the method used by the state to suspend the driver's license of a person who failed an alcohol breath test. In order to rule in the state's favor, the court would have had to overturn legal precedent that I thought was poorly reasoned. Justice Matthews, joined by Justice Rabinowitz in dissent, called for affirming of the license suspension and for the precedent case to be overruled. Being in such company softened my loss.

When he was in his 69th year, Justice Rabinowitz expressed frustration with a provision in the Alaska Constitution that required him to retire when he turned 70. He had lots more to give to the job and the people of Alaska. The same could be said of Justice Matthews.

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The Alaska BAR RAG

SUBMITTING A PHOTO FOR THE ALASKA BAR RAG? DO

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- Send photos with numbers for file-names, such as IMG-1027, DSC-2321, IMG08-19-08, etc.

PRO BONO CORNER



(L to R) Jennifer King, ANDVSA; Jimmy White, Kimberlee Colbo, and Steven Tervooren of Hughes Pfiffner Gorski Seedorf & Odsen, LLC pose in the "new" office. Photo by Krista Scully.

Anchorage firm donates space

The law firm of Hughes Pfiffner Gorski Seedorf & Odsen, LLC has responded yet again to a need in our legal community to assist a legal services provider. You may remember the creation of the Alaska Immigration Justice Project in 2006. At that time, the law firm donated an entire office suite of furniture that included reception area, several offices, and general equipment needed for an office to function at full speed. It was through their generous donation that AIJP was able to open their doors with chairs ready to be filled by immigrant clients.

Three years later, the law firm has answered the call for help again. The Alaska Network on Domestic Violence and Sexual Assault has two staff attorneys, one of which had relocated to Anchorage, and needed a place to call home. Through his work with the Alaska Bar's Pro Bono Services Committee, Jimmy White of the law firm was approached about providing donated office space to Jennifer King, ANDVSA's newly relocated attorney. After a brief deliberation between managing partners, the firm agreed to donate not only office space but access to other office implements like the conference room, a phone/fax line, waiting area, etc. And the donation came just on the heels of bad news to ANDVSA upon learning that they lost a grant that was critical to their program's survival. It was hard to imagine ramping up a donor campaign for even more operating costs. Thus, the donation by the law firm has proved to be invaluable to ANDVSA's bottom line and ability to serve clients in Anchorage.

Thank you so much to our friends at Hughes Pfiffner Gorski Seedorf & Odsen, LLC!

Race Judicata

5K Run/Walk

May 2, 2009

10:00 AM



The 5th Annual Running of Race Judicata sponsored by the Young Lawyers Section of the Anchorage Bar Association will be held on Saturday May 2 at 10:00 a.m. at Westchester Lagoon. The annual 5 K run/walk raises funds and awareness for Anchorage Youth Court. Registration is \$15 and \$20 on race day. Included with the fun filled race are accolades such as the esteemed law firm participation award, last year was awarded to Clapp Peterson Van Flein Tiemessen Thorsness and the Wheels of Justice award to the fastest lawyer. So come out, race your fellow lawyers to something other than the courthouse and enjoy spring in Anchorage.

Lessmeier

admitted to ACTL

Michael L. Lessmeier of Juneau has become a Fellow of the American College of Trial Lawyers, one of the premier legal associations in America.

Founded in 1950, the 5,721-member College is composed of the "best of the trial bar" from the United States and Canada. Fellowship in the College is extended by invitation only and only after careful investigation, to those experienced trial lawyers who have mastered the art of advocacy and whose professional careers have been marked by the highest standards of ethical conduct, professionalism, civility and collegiality. Lawyers must have a minimum of 15 years trial experience before they can be considered for Fellowship.

Membership in the College cannot exceed one percent of the total lawyer population of any state or province.

Mr. Lessmeier is a partner with his brother, Gregory Lessmeier, and Sheldon Winters in the firm of Lessmeier & Winters, LLC in Juneau.

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Comments invited on housekeeping, 'emergency' meetings

The Board of Governors invites member comments concerning the following proposed amendments to the Alaska Bar Association By-laws in four areas. Additions have underscores while deletions have strikethroughs.

(1)

Article II, Section 4(a)(1) and Article III, Section 3(c) refer to character and fitness requirements in Bar Rule 2, Section 2(d). However, the citation should be Bar Rule 2, Section 1(d).

ARTICLE II, SECTION 4(a)(1) AMENDMENT CORRECTING REFERENCE TO BAR RULE 2, SECTION 1(d).

(Additions are underscored; deletions have strikethroughs)

ARTICLE II. MEMBERSHIP

...

Section 4. Transfer from Inactive or Retired Membership to Active Status.

(a) **Transfer if Inactive or Retired for One Year or More.** Upon written request to the Board, a member who has been inactive or retired for one year or more may be transferred to active status if

(1) the Board finds the requesting member possesses character and fitness to practice law as provided in Alaska Bar Rule 2, Section 21(d), pursuant to procedures set forth in the Board's Standing Policies; and

(2) full, annual active membership fees are paid for the current year, less any inactive fees previously remitted for that year.

...

ARTICLE III, SECTION 3(c) AMENDMENT CORRECTING REFERENCE TO BAR RULE 2, SECTION 1(d).

(Additions are underscored; deletions have strikethroughs)

ARTICLE III. MEMBERSHIP FEES AND PENALTIES

...

Section 3. Delinquent and Suspended Members.

...

(c) Reinstatement. Any suspended member whose suspension for non-payment has been in effect for less than one year, upon payment of all accrued fees and late payment penalties, shall be reinstated as a member of the Alaska Bar upon certification by the Executive Director to the Alaska Supreme Court and the clerks of court that the fees and penalties have been paid. Any member who has been suspended for one year or more, upon a determination of character and fitness to practice law as provided in Alaska Bar Rule 2, Section 21(d) by the Board, in accordance with Board Policy, and upon payment of all accrued membership fees, in addition to a penalty of \$160.00, shall be reinstated as a member of the Alaska Bar upon certification by the Executive Director to the Alaska Supreme Court and the clerks of court that the member has the character and fitness to practice law as provided in Alaska Bar Rule 2, Section 21(d) and that the requisite dues and penalties have been paid.

(2)

Article VII, Sections 1(a)(9)-(12) contain punctuation errors that weren't caught when new sections were added. These amendments

make the necessary corrections.

Article VII, Sections 1(a)(9)-(12) AMENDMENT CORRECTING PUNCTUATION

(Additions are underscored; deletions have strikethroughs)

ARTICLE VII. COMMITTEES AND SECTIONS

Section 1. Committees.

(a) Standing Committees. ...

...

(9) the Alaska Rules of Professional Conduct, a 9 member committee responsible for reviewing suggested amendments to the ARPC and making recommendations for amendments to the Board of Governors; and

(10) the Lawyers' Assistance Committee whose members provide services to members of the bar, their families or business associates when it appears a Bar member is suffering from substance abuse;:

(11) the Judicial Independence Committee, a Committee responsible for recommendations to the Board for activities that the Bar can undertake to explain and promote the concept of judicial independence, and to undertake to educate the public about and promote the concept of judicial independence;:

(12) the Committee on the Practice of Law, a Committee responsible for gathering information concerning the unauthorized practice of law, educating the public and the membership about what is the unauthorized practice of law, and recommending to the Board of Governors policy and rules changes concerning the protection of the public from the unauthorized practice of law;: and

(13) the Committee on Diversity, a Committee responsible for researching, developing and executing plans for increasing the diversity of race, ethnicity, gender, and sexual orientation within the Bar and of the Bar members who participate in activities of the Bar Association and of the profession. Increased diversity in the Bar will improve access to justice for the community of Alaskans, especially for Alaska Native and rural populations that have traditionally been underrepresented. The committee shall consist of no fewer than nine members, and the membership shall as diverse as possible.

(3)

The Board of Governors meets four times a year, but, a conference call is sometimes necessary to address Association issues sooner than the 30 days routinely required for regular meetings. This amendment specifies that emergency meetings may be held, either by physical assembly of the Board or by electronic conference, and that notice shall be given as soon as reasonably practicable.

Article IV, Section 8(b) AMENDMENT DEFINING "EMERGENCY" MEETINGS.

(Additions are underscored; deletions have strikethroughs)

ARTICLE IV. BOARD OF GOVERNORS

...

Section 8. Meetings.

(a) **Regular Meetings.** The regular meetings of the Board whether by physical assembly of the Board or by electronic conference shall be held within the State at the times and places designated by the President. Upon assumption of office, the President shall promptly schedule at

least four regular meetings during the year of his or her term. These meeting dates may be changed as circumstances require. The schedule of the Board's regular meetings shall be published electronically on the State of Alaska's Online Public Notice system and on the Alaska Bar's website at least 30 days prior to each regularly scheduled meeting. Timely notice and the tentative agenda of each Board meeting shall be sent electronically to the officers of the Alaska Bar Association, to the members of the Board of Governors, and to the presidents of all local bar associations.

(b) Emergency Meetings.

Emergency meetings are defined as those meetings held at times other than regular meetings whether by physical assembly of the Board or by electronic conference. The President, ~~may, or upon the written request of or three governors may filed with the Secretary shall;~~ call emergency meetings of the Board of Governors. ~~If the President, for any reason, fails or refuses to call an emergency meeting for a period of five days after receipt of the request for the emergency meeting, the Secretary, or some other person designated by the three governors joining in the request, may call the emergency meeting. The date fixed for that meeting shall not be less than five three days nor more than ten days from the date of the call. Notice of an emergency meeting shall be signed by the Secretary or by the person designated by the three governors in their call. The notice shall set forth the day and hour of the emergency meeting, the place within the State where the meeting shall be held, and the purpose for holding it.~~ Emergency meetings may consider only those matters that are specifically set forth in the call of the meeting. Electronic notice of the emergency meeting call shall be given to each governor, unless waived by him or her, at least three days as soon as reasonably practicable before the date fixed for the emergency meeting. Public notice of the emergency meeting shall be published electronically on the State of Alaska's Online Public Notice system and on the Alaska Bar's website at least three days as soon as reasonably practicable prior to the

date of the emergency meeting.

(4)

In light of the changes proposed to Article IV, Section 8(b), these amendments change the references from "special" to "emergency" meetings.

Article VIII, Section 2 AMENDMENT CHANGING "SPECIAL" MEETINGS TO "EMERGENCY" MEETINGS.

(Additions are underscored; deletions have strikethroughs)

ARTICLE VIII. ASSOCIATION MEETINGS

Section 1. Annual Business Meeting.

The annual business meeting of the Alaska Bar Association shall be held within the State at the time and at the place that is selected by the Board of Governors. Notice of the annual business meeting shall state the time and place scheduled for holding the meeting, and shall be provided to the members of the Alaska Bar Association at least six months before the meeting.

Section 2. Special Emergency Meetings.

Special Emergency meetings of the Alaska Bar Association shall be called by the Secretary upon a majority vote of the Board of Governors, or upon the receipt of a written application signed by not less than 25 percent of the active members of the Alaska Bar Association. The secretary shall issue the call for the meeting to be held not more than 20 days following the receipt of the written application. Special Emergency meetings may consider only those matters that are specifically set forth in the call of the meeting. Notice of an Special emergency meeting shall state the time and the place within the State where the meeting will be held and shall be given to the public press at least five days prior to that meeting. Each notice shall state specifically the matters to be considered at the special emergency meeting and shall be issued over the name of the Secretary, or in case of his or her failure or refusal to act, the President of the Alaska Bar Association.

Please send comments to: Executive Director, Alaska Bar Association, PO Box 100279, Anchorage, AK 99510 or e-mail to info@alaskabar.org by April 20, 2009.

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NEWS FROM THE BAR

Board of Governors acts on 23 matters

January 30, 2009

- Voted to set the Working Capital Reserve at six months' expenses.
- Voted to contribute \$3,500 for Justice Matthews' retirement event.
- Voted to add a new panel to the Lawyer Referral Service, "Debt Collections/Judgment Enforcement."
- Voted to recommend four reciprocity applicants for admission.
- Voted to approve the Rule 43 (ALSC) waivers for Lila Holman and Emily Scott.
- Approved the pro bono dues discount for Ruth Bauer Bohms.
- Voted to recommit to the goal of Board members providing 50 hours of pro bono service in 2009.
- Voted to adopt the Martin Luther King Holiday as a day of service and encourages its members to engage in public service and pro bono projects on that day within their community in accordance with the purposes of the Alaska Bar to increase public service.
- Appointed a subcommittee (Billingslea, Granger, Mendel) to handle a character and fitness matter on a reciprocity applicant.
- Appointed a subcommittee (Granger, McClintock, Sebold, Tiemessen) to make recommendations for the Board of Governors awards at the convention.
- Met with *Bar Rag* editor Tom Van Flein.
- Voted to publish housekeeping rule

changes to the Bylaws, Article II, section 4(a)(1) and Article VII, section 1(a)(9) – (12).

- Voted to accept the Findings, Conclusions of Law and Recommendations of the Area Hearing Committee, and to recommend the reinstatement of an attorney from disability inactive status to active status.
- Voted to accept the Lawyers' Fund for Client Protection Committee's recommendation in three LFCP matters involving two attorneys and voted to reimburse the clients from the fund \$4,000, \$1,400 and \$1,000 respectively.
- Voted to publish a proposed amendment to Bar Rule 44 (Legal Interns) which would allow legal interns to participate in the appellate courts as allowed by the judge.
- Voted to publish amendments to the Bylaws Article IV, Section 8, defining emergency meetings of the Board of Governors, and to Article VIII, section 2 and Article XII, section 1-2, changing the reference from "special" to "emergency" meetings of the Board or Association.

October 30, 2008

- Voted to approve the admission of 40 applicants who passed the July 2008 bar exam.
- Voted to set 2009 active bar dues at \$460 and inactive bar dues at \$150.

- Voted to approve the 2009 budget as amended.
- Voted to approve two applicants for admission on reciprocity.
- Voted to approve three attorneys for Rule 43 (ALSC) waivers.
- Reviewed the Legislative Auditors' report and the Bar's response.
- Voted to approve a housekeeping change to Bar Rule 2, section 3(b).
- Considered a motion to require Bar members to provide an e-mail address to the Bar. The motion failed.
- Reviewed the Hearing Master's report and heard from the applicant in an admissions matter. The Board

took the matter under advisement and will issue a written decision.

- Reviewed a reciprocity application and voted to recommend a reciprocity applicant for admission.
- Voted to table consideration of a special Bar Counsel conflict policy.
- Voted to adopt MCLE regulations as amended by the CLE Committee.
- Voted to approve 9 Lawyers' Fund for Client Protection claims as recommended by the LFCP Committee.
- Voted to approve the minutes of the September 11 & 12, 2008 board meeting.

Candidates for the Alaska Bar Association Board of Governors. Ballots are due in the Bar office April 3.

1st Judicial District

Mitch Seaver is unopposed

3rd Judicial District

- Peter J. Maassen
- Marcy McDannel
- Krista Stearns
- Robert D. Stone

2nd & 4th Judicial Districts

- Mark Andrews
- Terri-Lynn Coleman
- Joe Miller
- Jim Valcarce

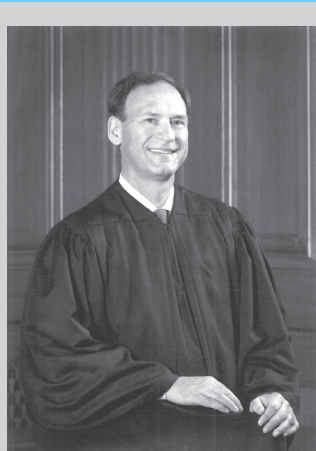
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Watch for details in the convention brochure!



Awards Banquet Keynote Speaker



Collection, The Supreme Court Historical Society. Photo by Steve Pestaway, Supreme Court

Justice
Samuel A. Alito, Jr.
Supreme Court of
the United States

WEDNESDAY, MAY 6

- **Trial Advocacy: Part 2 -- What You Need To Know To Win At Trial In Today's Courtroom!**
Colette Tvedt and Jeff Robinson, Schroeter Goldmark & Bender, Seattle
- **Bar Lunch**
Keynote: TBA
- **Conflicts of Interest: The "Super-sized Edition"**
This session highlights conflicts of interest for both private and public sector attorneys.
John Strait, Professor of Law, Seattle University Law School and Steve Van Goor, Bar Counsel
- **A Zipline Tour!**
Take a tour through the treetops with Alaska Zipline Adventures.
Watch for a separate flyer to sign up for the Zipline!
- **Bar Opening Reception at Eaglecrest Ski Area**
Appetizers and fun atop the mountain!

THURSDAY, MAY 7

- **U.S. Supreme Court Opinions Update**
Erwin Chemerinsky, Founding Dean, University of California, Irvine School of Law
Laurie Levenson, Professor of Law, William M. Rains Fellow and Director, LLS Center for Ethical Advocacy, Loyola Law School, Los Angeles
- **Bench and Bar Lunch**
Recognition of 25 and 50-Year Bar members
- **Alaska Appellate Update**
Erwin Chemerinsky, Founding Dean, University of California, Irvine School of Law
- **Federal Criminal Law in a Nutshell**
Sponsored by the U.S. District Court and the Federal Bar Association
- **Annual Alaska Native Law Update**
Sponsored by the Alaska Native Law Section
- **Fun Run/Walk**
Race or stroll on Basin Street and the historic Perseverance Trail!
- **Awards Banquet**
Keynote: Justice Samuel A. Alito, Jr., Supreme Court of the United States

FRIDAY, MAY 8

- **Evidence Cranium is Back!**
Sponsored by the Alaska Court System in cooperation with the New Lawyers Section
 - **Five Easy Pieces: The Five Most Common Trusts in Alaska**
Sponsored by the Estate Planning & Probate Law Section
 - **Alaska Bar Association Annual Meeting and Lunch**
 - **Federal and State Appellate Court Update**
Join Justice Samuel A. Alito, Jr. of the Supreme Court of the United States and a panel of judicial representatives from Alaska as they discuss recent developments in the federal and state courts.
 - **Whale Watching Boat Tour**
Sponsored by the Juneau Bar Association
- Questions/More Information
Check out the convention page on the Alaska Bar website:
www.alaskabar.org
Call the Alaska Bar office
907-272-7469
E-mail: info@alaskabar.org

In Memoriam

Roger Cremo

By Russ Arnett

Roger was born in Long Island, New York, July 4, 1926. He attended high school with Cliff Groh. Roger's father worked for a major oil company in New York and Roger mentioned that on the way to work his father would run from the train to his office.

Roger set up a law practice in Anchorage in 1950. For those of us who arrived after Roger, he was an example of someone who could make it on his own. His first office was a third floor walk-up. He maintained that one could survive if he had three clients. Years later I questioned him about this. He paused and then said that they would have to be pretty good clients.

Not long after arrival in Anchorage, Roger and several other lawyers homesteaded in the foothills above Anchorage. He spent his first winter in a tent. An old timer who was concerned about Roger's wellbeing visited him one morning. Roger was frying bacon and invited the old timer to breakfast. Roger noticed that the old timer did not remove his gloves during breakfast. As the old timer was leaving, he remarked, "You sure keep it cold in here".

The area of the homestead had two names. One was "Basher" which was named after the cat operator who built and maintained the road and described his technique. The other name was "Stuckagain Heights". The homestead was a wise and far seeing investment for Roger. He did a valuable public service in developing this area.

Rose Walsh was U.S. Commissioner in Anchorage. As such she tried misdemeanors. She was a kindly person who appeared grandmotherly. Roger argued to her that the testimony of an F.B.I. agent should not be given greater weight than that of other witnesses. Rose answered "Why not? He's on our side, isn't he?"

The Federal rules had been adopted but the older lawyers had been trained under common law pleading. Roger practiced notice pleading as authorized by the Rules. The District Judge dismissed one of Roger's complaints because "It was too short". Roger's briefs were also relatively short. Still, he clearly put forth his positions and the support for them. He did not try to wear down the judge with a bunch of bla, bla, bla. This was unusual at that time. It was as though when Einstein first stated the relationship between energy and matter that the critics responded, "That's very good professor,



Roger Cremo fishes with grandson Tor.

but couldn't you use more words".

One of Roger's big disappointments was that his plan for Alaska's spending did not become public policy. As I understand it, the Cremo Plan would view the state's current income and its savings, including the Permanent Fund, as a unit. The Legislature would decide what percentage of the unit would be spent each year and that would limit the total appropriation. This would be a sound approach for a prudent individual.

Roger always took great pleasure in rational thought. What a gift!

A 'simple' solution to a chronic fiscal dilemma

For well over a decade, attorney Roger Cremo persisted in proposing an alternative state fiscal management process that could well spare Alaskans the annual (and often rancorous) debate over revenue and spending in the state budget.

For Cremo over the years, the so-called "Cremo Plan" was a work in progress—a progression of refinement in an environment of disruptive fluctuations in the price of oil. His concept was simple: to create an endowment of all mineral income via the Permanent Fund (in the plan's early years, Cremo would have dedicated all resources revenue—both renewable and non-renewable—to this endowment.) Thanks to the birth of the Internet, the Cremo Plan is still alive at <http://cremoplan.org>. Here is a brief summary excerpt of his vision in his words (notes, updated budget calculations, and other writings can be found on the web site.)

Introduction

A great gift came along with the grant of statehood to Alaska... Congress made Alaska wealthy by providing it with land that contains oil and gas.

"Money is with propriety considered as the vital principle of the body politic; as that which sustains its life and motion, and enables it to perform its most essential functions." Those are the words of Alexander Hamilton in that classic treatise on government, "The Federalist". He went on to warn us that unless a government's supply of money is both "regular and adequate" [emphasis added] it will "sink into a fatal atrophy, and in a short course of time perish".

Our government's supply of money is anything but regular and adequate. A major component of it, the money that derives from the sale of oil and gas to oil companies and from taxes on production of that oil and gas, is received in installments that fluctuate uncontrollably and in some years are inadequate. What's more, they eventually will end.

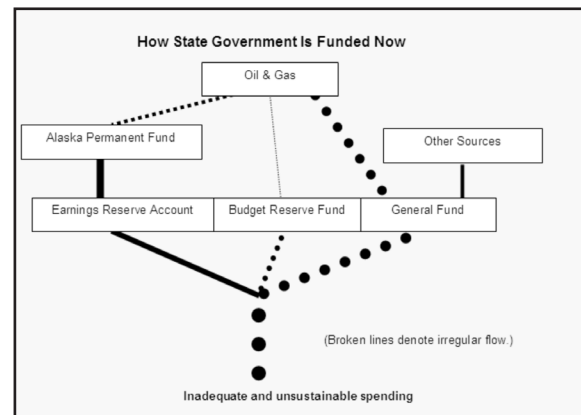
Proposal

The state's present fiscal system

- Most of the money derived by the state from the sale and related taxation of its oil and gas is treated as revenue available for general purpose spending.
- Since that money, which is a major part of the state's revenue, fluctuates uncontrollably, revenue available for spending can vary considerably from

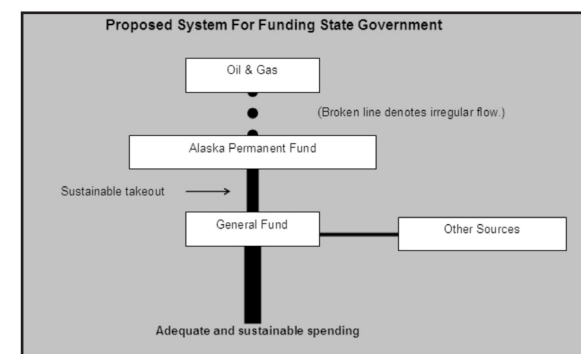
one period to the next.

- During a period in which revenue is inadequate, the state faces a "fiscal gap", the difference between a prevailing spending level and anticipated revenue.
- Unless there are sufficient reserves for bridging it, the gap must be closed either by increasing revenue or decreasing spending.



A proposed fiscal system

- *Designed to make oil and gas money sustainable*
- All of the states oil and gas royalties and production taxes would go into the Alaska Permanent Fund.
- Remaining reserves would be transferred to the Alaska Permanent Fund.
- The fund would be invested, with emphasis on preservation of capital.
- Sustainable revenue would be withdrawn from the fund each year.
- *But not designed to make revenue adequate*
- No practical system can be designed to make revenue adequate.



The effect of the proposed system: With revenue that is adequate and sustainable, the state would be fiscally viable.

An incidental advantage: When creating a budget for the upcoming fiscal year, the Legislature would know exactly how much investment revenue would be available in that year.

Method of adoption: The proposed system requires constitutional changes.

Obstacle: The temptation to keep on spending the state's wealth at an unsustainable rate.

You Be the Judge!



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For the winning team (holding the trophies): “Members of the winning team, ‘The Underfunded Volcano Monitors,’ display their first place trophies, which featured mind-bending Picasso portraits and walking brains. The team won in a tie-breaker by guessing the right year the Beatles came to America—1964.”

MIND GAMES

“The Alaska Immigration Justice Project hosted its annual fundraiser, Mind Games, on February 26 at Snow City Café in Anchorage. Seven teams from the legal community vied for top honors in a trivia contest featuring topics that ran the gamut from sports and current events to history and immigration law. AIJP is the only non-profit in Alaska dedicated to serving the legal needs of immigrants and refugees.



“The ‘Guess We Can!’ team finished in second place.”



“Pubic Defender” team.



The National Association of Women Judges would like to thank the following individuals & organizations for their invaluable contributions to the success of

Color of Justice 2008

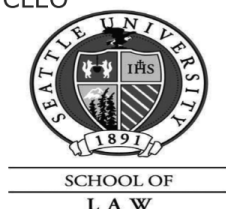
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 Ella Anagick, Law Office of Ella Anagick
 Kevin Anderson, Anderson Law Group
 Denise Anthony, Alaska Court System
 Prof. Lorraine Bannai, Seattle U. SOL
 Maude Blair, NANA Development Corp.
 Michael Bunton, UAA TRIO Programs
 Rex Lamont Butler, RLB & Associates
 Judge Larry Card (Ret.)
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Tales of Thailand's legal processes

By Mark Andrews

(Part 1)

In the fall of 2008 I volunteered through the International Senior Lawyers Program to work with the not-for-profit organization Bridges Across Borders Southeast Asia (BABSEA). BABSEA is located in Chiang Mai, Thailand. I have some stories to tell.

The Constitution story: the King and Religion.

In the Thai constitution, the Preamble opens: "May there be virtue."

The King is at the peak of Thai society, and in that position he promotes religion. Some sample sections of the constitution:

Section 8. The King shall be enthroned in a position of revered worship and shall not be violated. No person shall expose the King to any sort of accusation or action. [This is followed in practice. Thai law and culture respects the King. The Thai royal family is not treated like the British royal family.]

Section 9. The King is a Buddhist and Upholder of all religions.

Section 79. The State shall provide patronage and protection to Buddhism... and other religions and shall promote good understanding and harmony amongst followers of all religions and encourage the application of religious precepts...

[But the Buddhist clergy can't vote.] Section 100. A person under any of the following prohibitions on the election day is disfranchised: (1) being a Buddhist priest, novice, monk or clergy;... [I did not find a similar disability for non-Buddhist clergy.]

Another Constitution story: arrest, search, and investigation

Thai law restricts the rank that the police officer must have to conduct an arrest, search, or investigation.

Warrantless searches. As in the US, there are a variety of situations where the police can enter a building without a warrant and conduct

a search. But in Thailand there's a catch: the officer doing the search has to have the rank of inspector or higher.

Warrants. Thailand has warrants as the US does, and the criminal procedure code requires support under oath. But when the search is based on a warrant, the police officer who conducts the search must have the rank of first police lieutenant or higher.

Summoning witnesses. The police can obtain a summons to cause witnesses to appear at the police station for questioning about a crime. This procedure seems to substitute for a grand jury in the US. I did not find any references to either grand juries.

The Thai Constitution includes a protection against self-incrimination, and the protection extends to witnesses. I do not know how the summons procedure works in practice when the witness is uncooperative and takes the 40th. (The relevant part of the Thai Constitution is Section 40.)

The witness oath story.

I visited three trial court hearings. Between Thai and US hearings there are many smaller differences, but the contrast that stood out was taking testimony.

Start with the oath. What is notable is its length and content: the oath takes about 15 seconds to recite. The witness stands at a speaker's podium facing the judge. The witness stands in the wai position (hands in front with palms together, held about chest high). The oath is printed on a page on the podium and the witness reads the oath out loud. This is a paraphrase:

"I swear to the emerald Buddha that I will tell the truth. If I do not tell the truth, I ask for calamity to fall upon me immediately. If I tell the truth, I ask for happiness and prosperity."

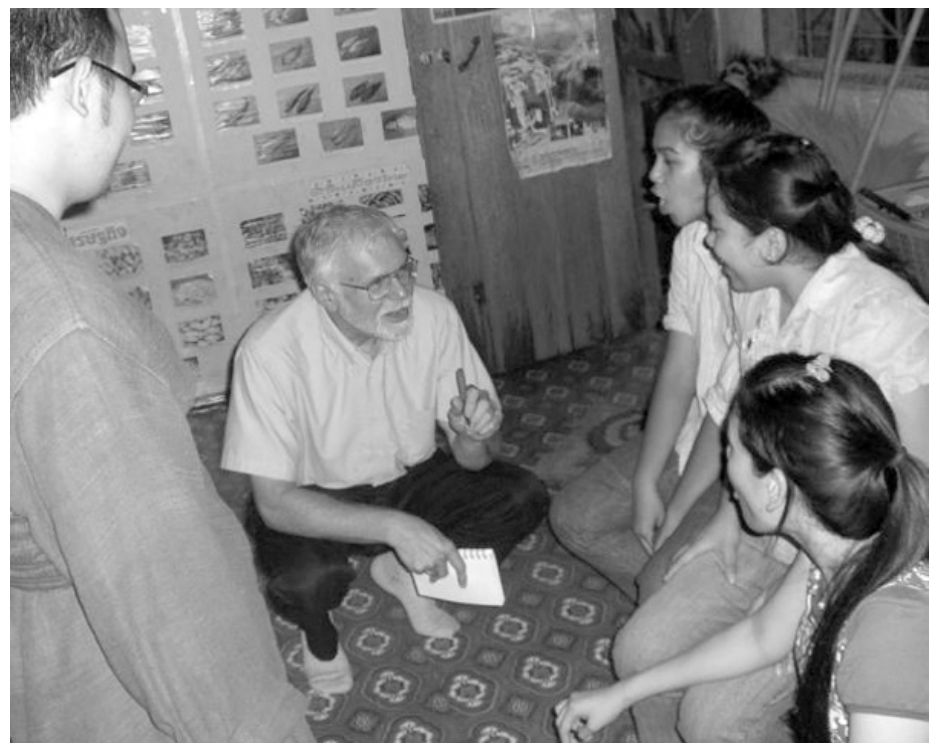
A Thai law student did the translation. When I gave him the brief American version of "the truth, the whole truth, and nothing but the truth" he was surprised.

And getting to know more—

The International Senior Lawyers Program finds lawyers who will volunteer their time with not-for-profit organizations overseas. ISLP is a sort of broker between the lawyers who



Monument to Prince Than-Rapee, the father of the modern Thai legal system. Than-Rapee founded the first law school in Thailand in 1897, selecting and teaching the students himself.



Mark Andrews learning Thai pronunciation from a group of Thai law students.

want to volunteer and the organization which needs the legal work.

In a typical case, the lawyer travels to the organization for a period of four to eight weeks. However, the ISLP registration page includes

options from one week to one year. Mentoring from a distance is also a possibility.

For persons interested in the work ISLP is doing the link to their site is here: <http://islp.org/> Interested lawyers can register online.



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The trial court building in Chiang Mai.



Thai law, and the Thai people, revere the King and the royal family. This arch, spanning a Chiang Mai street, is one of many in the country. This particular example honors the King's younger sister.

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Everything you need to know about buying digital cameras

By Joe Kashi

Now that Christmas is past, consumer electronic bargains abound, particularly that digital camera that you really "need" for your law practice but didn't get. Given the economics of the times, getting the most for your money is now more important than ever.

Many new and improved digital camera models will be announced in January and February 2009 in time for the annual PMA photo equipment show, so the models that I've mentioned here may change. I suggest that you check the web sites that I've listed below before making any purchases at this time.

There are some basic concepts and misconceptions about buying digital cameras that I'd like to address first because understanding them should result in more informed purchases and usage. These basic principles for choosing and using digital cameras remain fairly constant over the years.

1. The basic technical knowledge required for highest quality digital photography is the same as with traditional film cameras - correct exposure, good focus and depth of field, proper contrast and tonal quality, good color balance, avoiding blurring due to camera shake, using an optically sharp lens and all the rest. Even a high end digital camera will not turn an indifferent film photographer into the next Ansel Adams although it can help a knowledgeable photographer avoid some pitfalls.

2. A digital camera's sensor acts very similar to traditional film, particularly high contrast slide film. Except when using very large sensor professional cameras, using higher ISO sensitivity ratings usually results in poor color and tone separation in shadows and highlight details and in higher image noise that looks and acts just like film grain. As ISO settings increase, these problems gradually degrade image quality until it becomes unusable. This happens very quickly with small consumer camera sensors that pack too many pixels into too small a space, causing serious electronic interference between adjacent pixels on the sensor.

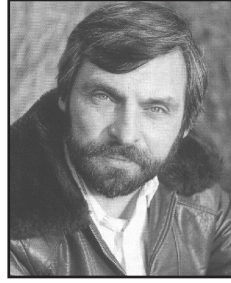
3. A higher number of megapixels (MP) advertised for a particular camera does not guarantee higher sharpness and image quality despite attempts by marketing departments to convince consumers otherwise. The megapixel race basically dupes consumers into buying this year's model. Pros

know that a good 10MP camera, used properly, can produce high grade professional images. Given the current state of the art in digital sensors and electronics, there is an optimum megapixel level for each type of digital sensor.

4. Just as film cameras that used larger negatives usually produced better quality photographs, digital cameras that house larger sensors will usually produce better quality images than those with smaller sensors, particularly at the higher ISO sensitivities needed in dim light, when using high magnification telephoto lenses, and when you're taking high speed action shots. Remember that unlike film a digital sensor cannot be changed for something better - you're stuck with it for the life of the camera.

5. The smallest sensors are usually termed 1/2.3" or 1/2.5". These usually have the lowest image quality and are primarily useful for very compact casual cameras and compact cameras that mount high magnification zoom lenses. Eight to ten megapixels is usually about as much as can be rationally fit on these small sensors - any more and you're typically losing image quality rather than gaining it. It's not even worth discussing trade-offs - small sensor cameras are not really suitable for most serious work.

6. Mid-range sensors are usually listed as 2/3", 1/1.6", 1/1.7" or 1/1.8". These sizes once were also used in higher quality consumer cameras but are now mostly found in high end compact cameras intended for serious use. When used in good light at their lowest ISO settings (about ISO 50-200), high end compact cameras using mid-range sensors can take professional quality photographs. Ten to twelve megapixels is about the useful limit for top grade cameras using mid-size sensors. Some of the more expensive compact cameras claim to squash fourteen to fifteen megapixels on to a small or mid-range sensor and I'm sure that even higher numbers are on the way. In such cases, image quality is often worse than in earlier models with fewer megapixels. Remember that the effective area of even a mid-range sensor such as a 1/1.8" sensor is only about 1/20th the size of a traditional 35mm negative, which itself was considered to be rather marginal for making large prints. Optical tech-



"Given the economics of the times, getting the most for your money is now more important than ever."

nology has improved over the past ten years but not by that much. When used in good light, a serious compact camera using a mid-sized sensor can approach digital SLR quality. Compared to a digital SLR, what you're trading off when using a mid-sized sensor camera are the ability to take a series of fast action shots, low light capabilities, and inherently higher image noise.

7. Most digital Single Lens Reflex (dSLR) cameras use what's termed an APS-C size sensor that's slightly less than half the size of traditional 35mm film but still several times larger than a mid-range sensor. An APS-C sensor is capable of providing excellent quality photographs under a much wider variety of lighting conditions and high speed photography compared to a high end compact camera. A dSLR camera usually has a faster operating speed, often taking three to six frames a second when needed. Fifteen to sixteen megapixels seems to be the reasonable upper limit for large APS-C sensors at the moment.

8. At the upper end of price and performance are the so-called "full frame" professional grade cameras whose 35mm film-sized frame sensor operates well even in low light and at faster shutter speeds. However, even when comparing these mega-thousand dollar cameras with relatively big sensors, lower megapixel sensors using larger pixels still produce better quality images

9. Zoom lenses with long zoom ratios such as 15X are more expensive and seem to appeal to less knowledgeable buyers. However, it's truly difficult to wring good optical quality across a wide zoom range. Stick with zoom lenses whose zoom ratio is 6X or less, preferably in the 3X to 4X range. You'll get a lot more optical quality for less money. "Kit" lenses bundled with entry level digital SLR cameras are often less sharp than high end compact cameras like the Canon G10. Do your homework and check the review sites listed below before making a purchase. Some reasonably priced lenses by long-established independent lens makers Sigma, Tamron, and Tokina are often optically superior to much more expensive name brand lenses.

10. Lens sharpness remains the most critical single indicator of photographic quality but can be impossible to gauge by looking at a camera or reading ads. You should research potential purchases by checking some serious digital camera review sites. I've found that the best overall comparative camera reviews are found at www.imaging-resource.com, www.dresource.com, www.steves-digicams.com, (US sites), www.dpreview.com (British) and www.cameralabs.com (New Zealand). The best interchangeable lens reviews are at www.photozone.de (German), www.dpreview.com and www.imaging-resource.com. By far the best comparison of the digital sensors found in high end cameras is at www.dxomark.com (French). The best site specializing in high end compact cameras suitable for occasional enthusiast and semi-pro use is www.seriouscompacts.com. All of these resources are English language sites.

11. Although all current digital cameras can save pictures in a compressed, ready to use JPEG file format, using JPEG compromises your ability to later correct and enhance

photos and usually reduces overall quality and resolution. A camera that allows you to optionally use an uncompressed "RAW" file format is much more flexible and can capture the highest quality images. However, you will need RAW-capable software, of which Adobe Photoshop Elements 7 is the least expensive, usually about \$80 at Costco. Adobe Photoshop Lightroom (\$299 list price) is a very modern, wonderfully intuitive and high quality program that really shines with RAW images. Lightroom is fast becoming the choice of professional photographers while still sufficiently easy to use and inexpensive that it's well-suited for any photographer who wants to get the most out of a higher end camera. All digital SLR cameras, and a few higher end compact cameras, have optional RAW file format capability.

12. It's very useful to have the ability to make video clips as needed, especially in a litigation practice. Almost all compact cameras include some form of video mode although capabilities vary, with many newer models including a high resolution video mode. Only a very few digital SLR cameras, such as Nikon's new D90 and Canon's new 50D, include any sort of video mode at all. Cameras that use QuickTime or H.264 video compression and processing are usually more convenient than older uncompressed video standards such as AVI and MPEG, both of which produce relatively large video files.

Useful features include:

13. Anti-shake stabilization goes by several proprietary names and is probably the single most useful optical innovation in the past 25 years and is very useful when using slow shutter speeds in low light. Only mechanical-optical anti-shake technology is worthwhile. "Digital anti-shake" or its verbal equivalent is a scam - it simply raises the sensor's ISO sensitivity and uses a faster shutter speed, leaving you with very noisy, potentially unusable images. In contrast, true mechanical-optical anti-shake technology moves the sensor or a lens element to truly compensate for the kind of slow shutter speed camera shake that is the leading cause of blurred images. I would not buy a digital camera without this feature. Anti-shake technology built into individual lenses is reputedly more effective but each lens requires its own anti-shake mechanism, raising costs. Anti-shake technology built directly into the body of interchangeable lens dSLR cameras made by Pentax and Sony is reputedly slightly less expensive but much more economical, providing anti-shake capabilities with any lens that mechanically fits the camera body.

14. Your camera ideally should include excellent automatic color balance along with manual color balance options.

15. A live "histogram", a type of display that shows the distribution of bright and dark areas and that can help you optimize your exposure. Properly used, a live histogram is one of the best ways to optimally adjust exposure to a particular situation. A live histogram is found most often on good quality compact cameras and newer digital SLR cameras that include a "live view" capability.

16. I prefer both an optical viewfinder and along with the usual large, bright LCD display on the back. An optical viewfinder is often handier when you need to shoot quickly or under low light conditions. A lot of people who

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Everything you need to know about buying digital cameras

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first learned using 35 mm film cameras will find an optical viewfinder more natural and comfortable. Look for one with diopter correction to compensate for your own eyesight.

17. Bracketing causes the camera to take three or more shots at different exposures and in rapid succession. This is handy when you are not sure about the correct exposure because of unusual or difficult lighting conditions that may fool a camera's automatic exposure. Professional photographers traditionally shot a lot of film to be sure that they had at least one good exposure. It's a lot less expensive and a lot easier to take this precaution with a digital camera.

18. I prefer cameras with both reliable automatic operation and also easily operated manual override exposure options. You really need programmable compensation (P) and manual exposure (M) modes as your abilities progress, particularly if you run into situations that can fool purely automatic exposure modes.

19. Adequate "scene" modes: Some lighting conditions, such as bright sun on snow or theater lighting are inherently tricky. Good scene modes will automatically set your camera to whatever the manufacturer has found to be optimum under those specific circumstances. These are very helpful for amateurs and handy for experienced photographers as well.

20. External flash capability, either the traditional "X synch" output or a hot shoe for a programmable flash designed for that particular camera. Built-in flash is usually really anemic and can't reliably reach beyond about 10 feet or so. Sooner or later, you will want a more powerful and sophisticated external flash unit, so you'll need a camera that can work with an external electronic flash.

21. Fast startup and operation are nice but probably not crucial under most legal evidentiary circumstances. If you really need to be able to shoot photos really quickly, then you probably need to hire a professional anyway. Given the choice between better photo quality and faster operation, go for better quality every time unless you plan to shoot NBA basketball. Consumer grade and mid-range digital cameras typically exhibit relatively slow operation compared to digital SLR cameras

22. Easily transportable size: All other things being equal, it's easier to take a compact camera with you wherever you go and thus a compact camera is more likely to be used. On the other hand, compact cameras have to strike a balance between convenient small size and overall image quality. If forced to make a decision, opt for better image quality rather than style and compact size

Generally, digital cameras models are aimed at specific users, including:

Casual family snap shots that will be displayed on smaller computer monitors or digital photo frames and that will rarely be enlarged much beyond standard 4x6 or 8x10 prints.

My recommendations for compact casual cameras include the Canon A590IS, the Pentax W60, the Kodak z1085 IS, the Pentax W60, and the higher end models in Sony's W series such as the Sony W120. The best buy is the Canon A590 IS. Canon's and Panasonic's lines of casual consumer cameras have the best overall reputation. Panasonic's FX150 is a worthy high end casual camera with the bonus of optional RAW files. Best buys for high magnification long zoom ratio cameras include Kodak's z1012 IS, the Canon S10, or, if you also want a RAW file option, either the Kodak z1015 IS or the Panasonic FZ28, whose 18X Leica lens is considered unusually good. Unfortunately, lower end consumer models from Nikon and Olympus tend to get rather poor reviews;

Business users such as engineers, contractors, government agencies, and attorneys who need to document specific evidence easily and with sharp detail.

Suitable entry level dSLR cameras include the Pentax K200d (has the best kit lens), the Canon XSi (EOS 450D), the Nikon D60, and the Olympus E520. Semi-pro quality compact cameras for professional users currently are pretty much limited to the Canon G10 and the Panasonic LX3. However, new "Micro 4/3" compact cameras from Olympus and Panasonic are an exciting new concept that combine large sensors and high grade lenses in compact bodies.

Lower level but still decent quality compact cameras with good lenses and mid-range sensors include the Fuji F60fd or Fuji S100fs, the Nikon P6000, the Panasonic FX150, and the Kodak z1085IS,

Frequent travelers and vacationers who need decent quality in a very compact, versatile camera. Consider the Canon SD880 IS, the Canon SD990 IS or the Panasonic TZ-5.

"Enthusiasts", including hobbyists, serious photography students at the college and university level, and fine art photographers.

Cameras in this range are often considered "semi-pro" models. The only current semi-pro level compact cameras worth considering are the 15MP Canon G10 and the 10MP Panasonic LX-3. Both are polished models. Again, though, seriously consider new "Micro 4/3" compact cameras as professional reviews of them become available.

There are several very good digital SLR cameras in this range and so many lenses options that you really should check some rigorous reviews before making a purchase. One of the best is Nikon's new D90, whose image quality and usability seem superb, especially with Nikon's new, very sharp 16mm-85mm lens.

I also like Pentax's quite rugged, weather-sealed K20d with the older but still quite excellent DA 16mm-45mm F4 and FA 28mm-105mm F3.2 lenses. The Pentax K20d will likely be replaced by an upgraded model in the first half of 2009. Pentax lenses are often among the sharpest available in their price range, assuming that you get a properly assembled copy.

Canon's new 50D is also highly regarded but check out whichever Canon lens is sold with the body - the newer versions are fine but the older optics had a deservedly bad reputation.

The image quality of Sony's entries in this category, the A300 and A350, has been unfavorably compared to Sony's more expensive A700, to Pentax's K20d and to Canon's 50D.

The Nikon D90 and Canon 50D are

among the very few digital SLR cameras to include a high resolution video mode, a real plus for a law office that needs to document litigation data such as approaches to auto accident scenes, physical disabilities, and the like, but look for other manufacturers to include it in their 2009 models.

Professional Photographers:

Although professional photographers will sometimes use a semi-pro model like the Nikon D90, the Pentax K20d or the Canon 50D, serious working pros usually prefer an upper end APS-C like the Nikon D300 or a full frame digital SLR camera. The image quality is typically somewhat better but more importantly to pros, professional grade cameras are built to last. Higher construction quality and durability account for much of the increased cost of "professional" cameras and lenses. Not uncommonly, as with the recently released Tamron 70-200mm f/2.8 zoom lens, a "semi-pro" enthusiast grade lens made largely of high quality plastic will have optical qualities that are superior to name brand "pro" lenses costing a thousand dollars more. The difference is the extra ruggedness built into "pro" equipment.

The least expensive full frame camera bodies are the Canon 5D Mark II, the Nikon D700, and the Sony A900, which range between \$2,700 and \$3,000 without lens. These are all excellent cameras but unless you've got the proceeds of your most recent bank robbery still stuffed in your mattress, purchasing a full frame digital camera is probably beyond the needs and the means of anyone who can't legitimately deduct it.

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Everyone has a Don Logan story

By William Satterberg

Incant the name, “Logan”, and those present will begin to tell stories. After all, Don Logan is an icon to the practice of law in Fairbanks. Everyone has a Logan story. Don’s global exploits are legendary and provide much material for local gossip.

Once a year, Don returns to Fairbanks from his travels. Don’s arrival is traditionally preceded by a flurry of e-mails, much fanfare, and ample notification to those who want to be either near or away from him. People are then free to make their choices.

Historically, Don stays in town from six weeks to six months. Then, usually without any warnings, whatsoever, Don and his significant other, Maureen, known as “Mo”, loudly depart on some other insane adventure. Like Don, Mo is a lawyer. Unlike Don, she is Harvard educated.

When Don leaves town, two parties take place. One party is Don’s farewell party. Close friends normally meet with Don at the lounge closest to the airport to ensure that he gets on the jet. The second party always occurs shortly after Don leaves. Traditionally, throngs celebrate Don’s departure, even if saddened to see Mo leave with Don.

I first met Don in the early 1980’s. At the time, Don was a renegade attorney, who was already well on his way to infamy, representing local reprobates. For a long time, I would confuse Don with another colorful local counsel, Marc Grober, of Nenana, who had a somewhat similar practice. Neither lawyer enjoyed being called by the other’s name. Eventually, however, I could tell the difference. Grober liked to wear colorful clothes and relished teasing the judiciary, primarily Judge Van Hoomissen. Don’s apparel was much different and sometimes absent totally, according to some of his staff who would occasionally find Don still tied up at his office after a hard night of partying. As far as upsetting the judiciary, however, Don was a player in that game, as well.

As a lawyer, Don introduced me to the practical practice of law and gave me what actually proved to be valuable pointers in how to manage cases, and engage in client development. Unfortunately, Don later forgot most of those rules, but his lessons were well intentioned. As my dear old Dad used to say when lecturing me, “Billy, do as I say and not as I do!”

Most attorneys in Fairbanks have come to know Don over the years. Some have even traveled to various points of the world to sail on Don’s sailboat, the Scotty Ann. The Scotty Ann is the “other woman” in Don’s life. It is a boat that Don purchased several years ago when he decided once again to leave Fairbanks for good. The Scotty Ann had been blown up on the beach with other craft in the aftermath of a hurricane. At the time, the Scotty Ann was quite the worse for wear, resting in a tangled pile of storm damaged vessels. Reportedly, Don got a good deal on the boat. He then fixed it up, and actually became somewhat of a competent sailor – if one believes him.

In 2008, Don announced that he was returning to Fairbanks. By then, it was too late to evacuate the town. Don stayed in Fairbanks until the record setting cold of a vicious winter was well entrenched. His work alleg-

edly done, Don chose to depart Alaska on January 9, 2009. Before he boarded the jet, however, Don left his mark.

He may be a good sailor, but Don has never been a good driver. His reputation as a bad driver is well known. On more than one occasion, Don has been stopped by the local police, allegedly driving while intoxicated, yet far from it. Instead, Don would be wreaking his usual vehicular havoc, and drugs and alcohol were not the cause. At least, not any more. Several years ago, Don went through an extensive alcohol and drug rehabilitation program at the Schick/Shadel center in Seattle. Although the program is based upon extreme physical abuse, known as “aversion therapy,” Don actually enjoyed the sessions and went back for more. As a tribute to Schick/Shadel, Don regularly attests publicly to the success of the program. Schick/Shadel was instrumental in helping Don and many others kick numerous addictions, including cigarettes and alcohol, and harder drugs. Still, however, reputations are hard to change. Apparently, so is Don’s driving.

Two days before he was due to leave Alaska, Don, decided to attend a Continuing Legal Education class at the law firm of Cook, Schuhmann & Groseclose. Apparently, Don thought that some long awaited CLE might actually improve his practice of law. He set out to make amends. But, things had changed over the years. Don had been out of the legal circuit in Fairbanks for so long that he failed to realize that, several years earlier, the firm had moved locations. Whereas Cook, Schuhmann & Groseclose used to exist in the two-story Ken Murray building directly opposite my office, it now occupied a portion of the Jimmy Huntington Building, some one-hundred feet distant. Don did not know this. Either that, or, in his admittedly abused mind, one or more of him had forgotten.

According to Don, (who incidentally has given me a full release of all confidentiality, and the right to misrepresent whatever I want to misrepresent in this account as payment for my most valuable legal services), he drove into the parking lot of the Kenneth Murray building and parked his vehicle. Don then entered the building to determine where the CLE would be held. He soon learned that the CLE was not in the Ken Murray building, at all. Instead, Don had walked into an accounting firm. The atmosphere was even a bit hostile, I suspect, given the substantial likelihood that Don was defiantly insistent that he did not make any mistakes and probably was blaming the accounting firm for being in the wrong place. Eventually, Don accepted the fact that the CLE was in another building, entirely. Late as usual for class, Don ran out, jumped in his truck, and backed it up – directly into a brand-new Chevrolet Avalanche owned by a young accountant. Bad choice. (Don later claimed that he did not know that he had backed into the vehicle. Instead, he actually suspected that he may have driven over a piece of ice. However, Don would also confess that



"As a good Rotarian in need of make-ups, I had traveled to North Pole, Alaska, to attend a Rotary meeting. Most Rotarians are obsessive/compulsive in nature. I am no exception."

he had felt “something” that might have been more than a lump of ice, but he did not know what that “something” was. Hence, it had to be ice. I had to give Don credit for originality. It was a good wintertime argument, but obviously valueless in the summer.) Apparently, Don quickly exited his vehicle, superficially investigated the scene, and saw nothing which caused him any concern. He then pulled his truck fifty feet ahead to park it on the street directly in front of my office. Don then dashed over to the

CLE course, just in time to register for valuable CLE credits and an opportunity for reduced malpractice rates for his non-existent insurance and to qualify for other swell prizes.

Don’s transgression had not gone unnoticed. Rather, an alert office worker in the accountant’s firm saw the fender bender and had notified the co-worker who owned the vehicle that it had been struck by Don’s truck. Rather than accepting responsibility, the driver had quickly fled. The police were summoned. Since it was a slow day, they actually arrived.

It was the lunch hour on January 7, 2009. In retrospect, I was sorry that I had missed the fun. As a good Rotarian in need of make-ups, I had traveled to North Pole, Alaska, to attend a Rotary meeting. Most Rotarians are obsessive/compulsive in nature. I am no exception.

As I left the Rotary meeting, I felt my phone vibrating. Someone was trying to call me. I was grateful that the phone had not gone off during the meeting, subjecting me to an onerous fine and the ridicule of all those present. Answering the call, I learned that it was Don who tried to set me up. Just as I was about to lecture Don over interrupting a sacred rite of Rotary, Don interjected and asked me, “Bill, why are all the police cars with flashing overhead lights parked outside of your office behind my pick-up truck?”

Obviously, I did not know the answer, but I knew I was not the suspect. I had a perfect alibi of being at a distant Rotary meeting. I told Don that I would check it out. As a defense attorney, I, too, became immediately concerned with all the police cars in front of the office. After all, one has to preserve one’s reputation. Although I did not have a scheduled client meeting until hours later, flashing police lights are bad for business and discourage clients.

I called the office. I indicated that I had been told by Don Logan that there were a bunch of cop cars staged outside of my office. There was no uncertainty in the report I received back. “Bill, the person who owns the pick-up truck outside of our office was involved in a hit-and-run. The police are all looking for him.”

I called Don back and passed on the information. Because I was directly inbound from North Pole, I suggested Don remain silent and wait for my arrival. I could assist Don. Rejecting my generous offer, Don stupidly advised me that he could handle the matter, himself. Maybe it was an attorney ego thing. Personally, however, I thought that Don was simply unwilling to pay

my retainer. This concerned me, since we were good friends and I planned to give him a small discount. Still, rather than dally, I continued my drive to Fairbanks. By then, I was curious as to what matter involving Don could create such a crisis in front of my office.

When I arrived, I saw four police cars. All emergency beacons were activated and a lane of the street was blocked. It looked as if there had been a shooting. I entered my office and asked where Don was. I fully expected to find him hiding in a closet as he was sometimes known to do in the past at his own office when avoiding clients or bill collectors. Surprisingly, Don was nowhere to be located. I went on a search.

As I left the office, I noticed that Don’s pick-up truck, which later turned out to be owned by another Fairbanks lawyer, Mike Wenstrup, was parked half-on and half-off the sidewalk. This was not unusual for Don. But, to those who did not know Don, it must have been a bad sign. I immediately hoped that Don had not relapsed into one of his many addictions. Behind Don’s truck, also parked half-on and half-off the sidewalk, was the first responding police car. Behind that car was another police car, with another police car parked across the street. As if that show of force were not enough, still another police car was slowly circling the block like a vulture in search of its prey.

I then remembered that Don had an entry in his APSIN printout, which is a computerized police publication by which the police can learn juicy things about their victims. APSIN stands for Alaska Public Safety Information Network, otherwise known as a rap sheet to my clients. Every citizen has an APSIN. Usually, however, it is clean. But, bad little boys and girls have bad things recorded in their APSIN’s. Simply stated, it is a “Big Brother” thing.

For years, APSIN has indicated that Don was “very HLO”. HLO is another police term. If a person has been less than cordial with the police officers at some point in their life they receive the descriptor of HLO in their APSIN. HLO means Hostile to Law Enforcement. “Very HLO” is reserved for only a select few. What it also means is that numerous police officers will usually respond to the scene to cope with an expected anti-social attitude before it begins, always anticipating the worst. Because Don had earned his “very HLO” rating, he was obviously receiving the full meal treatment.

I initially suspected that Don was across the street at the Huntington Building, which housed a bank. Maybe Don needed money worse than I thought. Accordingly, I went to the bank, but did not find him. I next visited three other floors in search of the fugitive. In the process, I saw many people who had their faces glued fast to their windows, watching my office and speculating on why the cops were there, and asking if I were being arrested again. When I could gain their attention, I would explain that I was fine, much to their dismay. Still, in many cases, their faces remained tightly glued to the glass, which is something that can happen when a runny nose touches a window pane at forty degrees below zero. Don was

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Logan

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no where to be found.

I returned to my office. I was now wondering seriously where Don was. I was growing uncharacteristically concerned for his welfare. Wanting to set my mind at ease, one of my secretaries volunteered that "Don just walked by, Bill. He was in handcuffs".

Being in handcuffs is not unusual for Don. In fact, it is rumored that Don actually enjoys handcuffs, but he normally reserves those for his more private moments. Handcuffs at noon, however, were a different matter. I correctly reasoned that, if Don were walking by in handcuffs, there might be other issues. Upon further questioning, my secretary confirmed that Don had been escorted by a uniformed female officer. Prior to then, I had never known Don's persuasions to include women masquerading as cops during lunchtime, kinky as he was known to be.

I went to the nearest patrol car. As I suspected, Don was a prisoner in the backseat of the vehicle. This was not one of Don's hot dates. Rather, he obviously was under arrest. He even had that "just arrested" look on his face.

I knew two of the officers who had responded to the scene. The third officer was inside taking statements from somebody. The fourth officer was still circling the block. I asked why my "friend" was under arrest. The reply was that he had been charged by a citizen with "leaving the scene of an accident". I took a quick look at Don's vehicle. I did not see any evidence that the vehicle had been involved in any new accidents since the prior week. That the truck had been involved in wrecks with Don was undisputed. In fact, extensive vehicle damage at Don's hands was one reason why Don was in the process of acquiring the truck from Mike Wenstrup. Mike understandably no longer wanted to own the vehicle after it had been wrecked while in Don's care.

I asked if I could visit with "my client" having elevated Don from the category of friend to client. I was advised that I could talk to Don as long as an officer stood nearby for my safety.

When the officer opened the door, I asked Don why he was under arrest. Mustering up the best imitation of innocence that apparently he could find, Don claimed that he had "no idea" as to why he had been arrested. Apparently, he had been accused by someone of hitting a car in a parking lot and leaving the scene. Don had no recollection of having done any such thing. Still, he was now being arrested. Although I had previously attempted to advise Don to exercise his right to remain silent, like country comedian Ron White, Don obviously did not have the ability. Some things never change. Rather, before I had arrived on scene, Don had unsuccessfully attempted to plead his own case. This was most evident by his seat of honor in the backseat of the patrol vehicle. In my opinion, the fact that "very HLO" Don Logan was an outspoken lawyer had not helped, either. I also suspected that Don was still jealous over my own arrest years earlier and wanted to share some of the local limelight.

I spoke with the officers. To my surprise, they were a bit apologetic

about having to arrest Don. It was confirmed that Don had apparently backed into a car in the parking lot. Despite claimed police suggestions simply to exchange insurance information, the indignant owner of the vehicle wanted to have a citizen's arrest performed. This young owner was demanding her rights. The officer who handcuffed Don told me later that she had never arrested any person before for a simple parking lot accident. Then, again, Don has always been an exception to the rule.

The officer had to perform the arrest because a citizen was insistent. That was the end of it. Per protocol, Don was not going to be released without being first booked. Still, I tried to talk the officer out of the arrest and argued that a simple summons would be sufficient. Don probably would respond to a summons. Again, the answer was a clear "no." Don would be transported to the local jail, booked, and released on a \$500 bond. Either that, or he could spend the night with my clients. The problem, unfortunately, was that Don did not have bail money on him. I definitely did not want Don near my clients. I could ill afford the damage to my practice that Don could do with ten minutes alone in jail with my clientele. I decided that he needed to be bailed out and found the funds.

After an hour had passed, I went to rescue Don. To my surprise, the jail was still in the process of booking him. The guard could not explain the delay, but I knew full well what the problem was. Leave it to Don to try to steal my clients. Rather than letting on, however, I asked that the jailer inform Don to hurry up and smile as best as he could for his mugshot. After all, I needed hard evidence. A picture could prove quite incriminating in the future. A copy of Don's photograph showed what can only be described as a middle-aged Nerd trying to smile for the camera. In fact, if the picture that was given to me is Don's attempt to smile, he is better off posing with a frown for the next bust.

Thirty minutes later Don was bailed out. We then secured the release of Don's impounded vehicle before it froze up. Things once again returned to Don's idea of "normal", if only Don's idea.

Trying to keep Don's humiliating arrest confidential as an attorney/client privilege was a joke. It was obvious that Don had been less than secretive about his arrest when I went to the local wine bar that evening. I had planned to be the first to spread the gossip, since, for once, I had some really juicy news to share. However, Don had already beaten me to the punch. As I began my story, each attorney pulled out their cell phone, asking me if that was why Don had been calling them at approximately 1:30 that afternoon. Apparently, Don was not comfortable in just speaking to one barrister about his crisis. Rather, he had left messages on everyone's cell phones. All five attorneys at the bar had received an incoming call from Don Logan at approximately the same time. On balance, it appeared that I was the unfortunate one who was dumb enough to actually take the call, as opposed to simply letting it be logged into the caller ID with a message that could be checked later. I cursed my luck.

It was also at the wine bar that

I first learned that the truck that Don was driving was not Don's at all, but was owned by attorney Mike Wenstrup. Don had only been test-driving the vehicle. The vehicle was still legally registered to Mike. According to Mike, Don was in the process of considering buying the truck due to the major damage that it had suffered the prior year when in Don's care, custody, and control. Given the significant earlier damage, Mike saw no further value in keeping it. I saw no value in the vehicle, either, noting that it had numerous cheap Democratic Party bumper stickers slapped on it, and looked like an uninsured clunker. Maybe Mike was ready to buy Al Cheek's high mileage BMW. Young girls obviously loved Al's BMW.

Staking out my territory, I informed the attorneys that I would be representing Don. Still, I magnanimously offered to let anybody else have their chance, should they so desire. The bar suddenly became silent. The group was unanimous in refusing the tender.

The following day, I attempted to meet with the victim of Don's crime. The lady indicated to me by clear body language that she was not willing to resolve the matter as a civil compromise. Apparently, she was still insistent upon her rights, had been



Don Logan's APSIN mug shot.

wronged, and wanted to see criminal justice done. She was also a newcomer to Alaska, as evidenced by her out-of-state license plates. Apparently, she was also new to winter in small town Fairbanks. So much for the good ol' days.

Later that day, I spoke to the arresting police officer. Once again, the officer confided with me that she felt Don's arrest was inappropriate.

She was confident that the District Attorney would dismiss the charges in the near future if the damage were paid for. But, there was still work to do, since the charges were outstanding and Don's arraignment was in one day.

The next morning, I went to arraignments. Don was planning to fly to Brazil that evening in another frantic attempt to keep the Scotty Ann from sinking yet once again. Don had already made one emergency trip to South America earlier in the year, when notified by the Brazilian Government that his boat was beginning to become a local dive site. Don had repaired the boat but, apparently, there was still more work to be done. The Brazilian worms were obviously hungry.

I was late when I entered the courtroom. Rather than patiently

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Logan

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await my arrival, Don was already seated at the counsel table. He was attempting to handle his own arraignment, but predictably making a mess of it. I immediately announced that I had arrived, whereupon Magistrate Beth Harbison breathed an audible sigh of relief and invited me to sit at the table next to Don. Don promptly vacated the attorney's chair without fuss, and sat in the chair reserved for the Defendant. Remarkably, Don was actually looking like an attorney for once, wearing a suit and tie. I figured that he probably had more than one person in the rather full courtroom fooled. Either that, or he was trying to steal my clients, again.

I waived the reading of the rights and the charges, indicating that I would take longer to explain such legal concepts to the defendant than the court had available. I then entered a not guilty plea. Don's trial date was set, but there was more to do. The next issue to be addressed was bail. It was at that point that the District Attorney and I strongly disagreed.

J.B. Brainerd, the steely-eyed, no nonsense Assistant District Attorney, advised the Court that a release on Don's own recognizance would be acceptable, omitting any mention of Don's prior criminal record or Don's "very HLO" status, possibly out of respect for his elders. Don apparently had no recent criminal record, was not a danger to the public, and was not a flight risk, according to J.B.

Ethically, I could not accept J.B.'s position. I knew that Don had rather extensive police contacts, even if somewhat dated, which had gathered attention even at the United States Supreme Court level, indirectly, when Don once sought to be admitted to that auspicious Bar. Eventually, even the United States Supreme Court succumbed to a moment of uncharacteristic compassion and granted Don's application for admission. Moreover, in my opinion, Don also was clearly a danger to the traveling public given his driving history, even if he were arguably sober. The earlier years had taken their toll. Finally, Don was an admitted flight risk, having already purchased a one-way ticket to Brazil, and scheduled to leave Alaska that evening. Although I was ethically conflicted, I told the Court that I felt a substantial bail should be in

order. If bail were not required, at a minimum, strict conditions should be imposed coupled with a third-party custodian. At that point, Magistrate Harbison became somewhat confused. After all, she likely expected it to be a simple arraignment. What was in store for the Magistrate was more of an impromptu courtroom roast.

There was a solution, however. I had invited Mo to the hearing to offer as Don's third-party custodian. I figured that Mo could watch Don, if ordered. I then asked Mo if she would be willing to supervise Don. Surprisingly, Mo would not cooperate. To the contrary, Mo loudly announced to all present in the courtroom, much to Magistrate Harbison's growing frustration due to a full calendar, that "Your honor, Don is completely unable to be supervised. I refuse to try to supervise him. I am declining third-party."

By then, those in the courtroom were finding levity in the situation. After all, it was a Friday. Fridays in Fairbanks have different unwritten rules. Despite my clear professionalism and ethical concerns, Magistrate Harbison, over my better judgment, and strenuous objections, released Don on his own recognizance. Don would be allowed to depart that evening to Brazil to raise the Scotty Ann. The trial was set to take place in March and woe be to the hapless judge who forgets to recuse themselves and ends up with the case.

Later, numerous attorneys confessed why they did not show up for Don's highly advertised arraignment that morning. Mike Wenstrup, the owner of the truck Don was driving, was another victim. As such, the previous day, I had asked Mike to be in the courtroom for Don's arraignment and to make a victim's statement. Mike declined, indicating that he had unspecified "other obligations". In point of fact, recalling that Mike had been at the local attorney's watering hole the previous evening, I concluded that Mike's other "obligations" had something to do either with a hang-over or courtship. John Franich, who had been another attorney who had received an urgent phone call from Don, later confessed that he avoided the festivities because he felt, like Mo, that Don simply could not be supervised. John also agreed with me that Don would best be left in custody. The rest of the defense bar either wisely

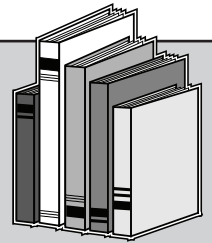
chose not to attend, or possibly went to the wrong courtroom.

In the end, the District Attorney gained substantial wisdom. To try Don's case would be tantamount to litigating the "pink thing" case which he had filed against me five years previously by an overzealous trooper. The courtroom would be packed, with numerous attorneys wanting to function as co-counsel, character witnesses, or victims of Don's past practices. Don, moreover, would love the soapbox. Judicial economy would not be good. As such, in the end, justice was served as predicted by the arresting officer. To the surprise of all, Don actually had liability insurance that day and made good on the damages. Perhaps the boy, Peter Pan attorney that has always been Don Logan, was finally becoming responsible, after all.

But there was one final chapter to the saga. The police officer who had contacted Don wrote in her police

report that Don was "an older man" who appeared to be "on something" because he was "lethargic and used the wall" in the Ken Murray building for support. Concluding eventually that Don was not intoxicated, the officer reached another conclusion, much harder to fight than criminal charges. In the officer's opinion, Don was not fit to drive. He would have to be fully evaluated, complete with a physical, and pass both written and driving examinations, as well, in a vehicle that was properly insured and road safe. In days, the DMV notice of that decision arrived. But, then again, that was not a surprise to those who know Don. Don never could drive. But, woe be to the unlucky DMV examiner who gets to accompany Don when it is time for his driving test. After all, it is well known that Don cannot be supervised, either, even if his heart is in the right place and his intentions are honorable.

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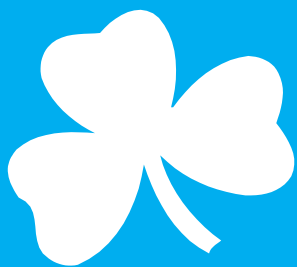


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