



## A sneeze isn't the only danger as Covid-19 spreads across US

By Dan Branch

I'm in the coffee aisle at Carrs, trying to distance myself from a guy with more cut scars on his face than a middle-weight boxer. I had just asked him to give me my 6 feet. Moving toward me, shifting his weight from one foot to the other, he sneers, "Walk away from me if you want your 6 feet." He assumes that I fear the right fist he just made. I am too scared of his breath to notice him clinching it.

Clutching a bag of ground Italian coffee in one hand as I readjust a mask over my nose and mouth with the other, I walk away. He starts to follow until his friend, also maskless, grabs his shoulder and steers him past a wall of Starbuck's coffee and over to the snacks section. Welcome to Covid time in Alaska.

My near pummeling took place at the beginning of the summer, when many of the manly considered mask wearing to be "politically correct" (their quotation marks, not mine) and therefore unpatriotic. Entering Home Depot felt like swimming in a

shark-filled lagoon. You never knew when a bare-faced, great white contractor would slide by you. When one of them approached, I formed a stop sign with my extended right hand and said, "Please give me my 6 feet."

Looking like guys that wished they hadn't left their sidearm at home, the targets of my hand signal usually rolled their eyes, moaned and moved out of infection range. One slipped close behind me as I carried a bucket of cement patch to the checkout line. If I hadn't needed to plug a hole in the basement wall before it started raining again, I would have split to the car. Instead, I pointed to the "please keep six feet of separation" sticker on the floor behind him and asked for him to stand on it.

**Covid crisis complicated by excuses**  
 — William Satterberg  
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## Reflection on special immigrant juvenile status during a pandemic

By Jean Meaux Ballanco

I volunteered with the Immigration Clinic at Loyola Law School in New Orleans because, in a world of escalating hostility toward immi-

grants, I thought I might be able to help. In truth, I've learned the state of immigration law on the whole is pretty scary — ever-changing, inconsistent, and — fed by a national disdain for immigrants on the part of some in society and government — fairly hard-hearted. Despite this, I discovered the people I worked

with — the immigrants themselves and those trying to help them — were inspirational. In spite of the odds, they soldier on.

One of the cases I worked on was a Special Immigrant Juvenile Status (also known as SIJS) matter, a situation in which custody of an abandoned minor is granted to an

adult already settled in the U.S. My lead attorney and mentor on the case was a young woman who has gained street smarts from her years as an immigration lawyer. She is smart, refuses to tolerate shoddy work and can smell a rat a mile away. Once upon a time, she took into her home a client who had nowhere else to turn. She said I'd like my client. She was so right.

That young man was a nice-looking adolescent: shy, introverted, reluctant to smile, his face lighting up entirely when he did. It was impossible not to like him. He was abandoned by both parents at an early age and received no physical, financial or emotional support from either of them. He went to live with a relative when he was a baby and only saw his mother when she passed him on the street. He was still young when the relative caring for him died, so he quit school and went to work in the fields in order to eat. An armed drunk began visiting him in the night, making threats. His relatives, who lived in the same village, rarely called to check on him or give him a meal. Having large families of their own, no one offered to support or take him in.

When my client left his Latin American home, he was alone and relieved to escape the drunken



"...[mankind] is immortal, not because he alone among creatures has an inexhaustible voice, but because he has a soul, a spirit capable of compassion and sacrifice and endurance."

—William Faulkner

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# Pandemic safeguards complicate bar exam preparations

By Rob Stone

As I look out the window of my remote cabin, observing the colors of fall bringing an end to the summer, I contemplate what to write in my final President's Column. To say that a lot has happened during my year and a half as president of the Bar would be a gross understatement. It would be challenging to discuss the many issues addressed since May of 2019. During the past and upcoming month, for example, the Bar briefed the Supreme Court on the issue of diploma privilege, is set to hold the September bar examination with social distancing and face masks, interviewed potential candidates for the executive director position, and is ready to close on the purchase of a building that will provide a permanent home for the Alaska Bar Association. The past year and a half has been an exciting and rewarding experience. I have enjoyed helping lead the Bar on important issues that directly and indirectly impact the legal profession and members of the public. The world is changing, and the Bar will continue to adapt as it administers its core functions: admission, discipline and the administration of justice.

As I write this article, we are on the eve of the September 2020 bar examination. Many of the applicants graduated from law school this May, finishing their third year of law school online. They struggled through the unknown and changing summer, studying for the dreaded

bar examination. They worried about employment and student loan debt. Soon, the bar examination will be finished and new a group of lawyers will enter the Alaska workforce.

With respect to safety, the Bar set in place several procedures designed to keep the applicants safe. Forty-eight applicants are scheduled to take the examination in Anchorage, plus three in Fairbanks and one in Juneau. The Bar set up staggered sign-in times. The seating arrangement allows for separation greater than the mandated

six feet, with the applicants utilizing multiple ballrooms at the Sheraton Hotel. No more than 12 applicants will be in any test-taking area/room. Masks are required.

Despite these measures, some still worried about safety. One group

petitioned the Alaska Supreme Court for certain remedies, including diploma privilege. The Alaska Bar Association opposed the request. The Bar opined that it could safely administer the examination, pointing to the many safety measures. At the time of the briefing, 12 states had addressed and denied requests for diploma privilege, while three others (Utah, Washington, Oregon) granted some form of the privilege. The Alaska Supreme Court agreed with the Bar, denying the request. As such, the bar exami-



**"It has been a pleasure serving as president of the Alaska Bar Association. I am honored to have had the opportunity to serve."**

nation will be held, with social distancing and the wearing of masks.

As stated above, some applicants worried about employment and student loan debt; especially when the exam was postponed six weeks, from July 27-28 to Sept. 9-10. Partially in response to the concerns associated with delayed entry into the legal field, Bar Rule 44 was expanded. Now, law school graduates may practice under the supervision of a licensed attorney for 12 months. This should help satisfy the financial concerns of bar applicants.

As we finish addressing the 2020 applicants, we will undoubtedly need to consider the impact 2020 will have on incoming law students (Class of 2023), and those in between. The fall term has started. Most law schools have modified the learning environment and substituted online classes in place of the traditional in person classes. Can you imagine taking your 1L classes online? I still recall my civil procedure professor (who loved the Socratic method of teaching) calling on me to brief *Pennoyer v. Neff*. I recall being grilled for what seemed like an eternity, answering his personal jurisdiction questions. During the fall of 2020, the Socratic method might look a little different *via Zoom*. It will be a few years before we realize the impact the pandemic and related social distancing issues will have on current law students, and the incoming class. Time

**It will be a few years before we realize the impact the pandemic and related social distancing issues will have on current law students, and the incoming class. Time will tell.**

**I have enjoyed helping lead the Bar on important issues that directly and indirectly impact the legal profession and members of the public. The world is changing, and the Bar will continue to adapt as it administers its core functions: admission, discipline and the administration of justice.**

will tell.

It has been a pleasure serving as president of the Alaska Bar Association. I am honored to have had the opportunity to serve. I will pass the gavel to Ben Hofmeister at the end of October and serve the two remaining years of my term under his leadership. For those of you who practice with me, you will find that I will have more time to devote to my practice. Or perhaps I will utilize the extra time to fly my plane, hunt and fish.

As I have previously written, if you have any comments or concerns you would like addressed by the Board of Governors, please do not hesitate to reach out to me. We represent all members of the Alaska Bar Association.

*Rob Stone is president of the Alaska Bar Association and a solo practitioner practicing in the area of personal injury on the plaintiff side.*

*He was raised in Alaska and has two children. He also flies airplanes, hunts, and fishes as much as possible.*

## EDITOR'S COLUMN

# Throwing a baseball isn't necessarily a driving skill

By Ralph R. Beistline

I am writing today on the power of words, written or spoken, and how far-reaching their impact can be. This particularly is relevant to the legal profession, where words are our stock in trade.

I attended a funeral some time ago of a well-loved and prominent lady who had lived a long and very productive life. But, she never drove a car. Either her husband would drive, or a friend would drive, or she would walk. And she seemed to be everywhere, raised a family, and was a respected community leader. For years there was a silent curiosity as to why she didn't drive — even when the family car was in the driveway. We learned the answer at her funeral. When asked by a friend, late in life, why she never drove, this lady explained that it was because she couldn't throw a baseball. Her father had told her, as a very young girl, that if she couldn't throw a baseball, she would never learn to drive a car. So, she never tried. Her father's intent was to encourage her to throw a baseball straight, not to discourage her from driving a car, but that is not what he said. Our

words often have impacts that we never intend. And this can be just as true for lawyers and judges.

When I left my first law related job as a law clerk, decades ago, for Fairbanks Superior Court Judge Everette Hepp, I was advised by the judge to make sure that whatever I wrote or filed with the court and signed my name to was well done, was meaningful, and was professional, because, the judge assured me, my reputation soon would be based on the words I used. Make sure, he said, that you define yourself as you wish to be seen, not by the emotion of the moment. This makes sense in theory, but is a challenge when, in the heat of battle, you are confronted with a bully and accused in a court filing of being ignorant, or corrupt, or worse. That sets the trap for a not-too-civil war of words that takes the parties far from the issue at hand.

Over the years, both as a lawyer and later as a judge, I asked various judges how they felt about these verbal spats, and was advised — in



**"Our words often have impacts that we never intend. And this can be just as true for lawyers and judges."**

every case — that they were not at all appreciated, and tended to detract from the argument. As a judge, I know this to be true and have noted that it frequently is the written word that gets us in trouble when not face-to-face with our opponent. In fact, I once dealt with an attorney who was an absolute professional in court and during oral argument, but whose written work showed him to be angry and unpleasant. It was, therefore, difficult to know who this person really was.

As a result of these experiences, I have learned to be careful with what I write and the words that I use, and not to hit "send" until I have considered what I am saying and how it will be interpreted by others today and in the years to come. All this, because I know some excellent drivers who never could throw a baseball.

*Ralph R. Beistline is editor of the Bar Rag and a senior U.S. District Court judge.*

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 Bud Root

**Design & Production:**

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**Advertising Agent:**  
 Alaska Bar Association  
 840 K St., Suite 100,  
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*In Memoriam.*

# Son recounts the life journey of Lucy Groh

By Cliff Groh

Lucy Groh was a tough woman whose long life tells much of the story of post-World War II Alaska.

## Origins in the Lower 48

Lucy was born July 28, 1926, in New Haven, CT. She was the youngest of three children — all girls — born to Lewis Harlow Woodruff and Lucy Sophia Woodruff (formerly McKemie). Lucy's ancestors had mostly lived along the Atlantic Seaboard since colonial times, she was related to no fewer than five U.S. presidents and was in the non-inheriting line of the people who made Coca-Cola a powerhouse. (It's this kind of background that encourages you to become an amateur genealogist, like Lucy did.)

Lucy's father had a fascinating life as a minor executive/bookkeeper for Ringling Bros. and Barnum & Bailey Circus in the heyday of that Greatest Show on Earth in the 1930s and 1940s. That circus traveled around the country, so Lucy's father was gone nine months out of the year.

This absence helped make Lucy's mother a bigger influence in the household. Starting in 1929, that family home moved from Connecticut to the extremely rural South. Following a setback in her husband's fortunes that threw him into a temporary tailspin, Lucy's mother drove her three little girls in a Model-T Ford to Clermont, FL, in the heart of citrus country. Lucy's mother started the Woodruff Pecan Co. She grew oranges. She borrowed money to build cottages for travelers, running a little resort that presaged the great tourism boom in Central Florida.

Lucy worked hard in the family business and started driving at age 12 to make that possible. (This experience at driving came in handy a decade later after four black men were accused of raping a white woman in Groveland, the next town over from Clermont. A mob of white folks burned and shot up homes in a black neighborhood, and Lucy — then a few days short of 23 years old — risked the mob to drive African-Americans to safety.)

## World War II upends her life

World War II brought big change to Lucy's life, as it did for millions of Americans. The entry of the United States into the war led the 15-year-old Lucy to stand watch at the local airport in Florida for long shifts to keep a lookout for enemy planes.

The German paratroopers never arrived, but many military men did when the U.S. Navy put an installation near her home. This influx led Lucy's mother to send her to a boarding school out of state for her senior year in high school, and she graduated in 1944 from St. Mary's School in Raleigh, NC, an all-girls' institution affiliated with the Episcopal Church. (Lucy had previously gone to a Methodist church, as there was no Episcopal congregation near her tiny hometown of Clermont, FL.)

Lucy then proceeded to Cornell University, where she majored

in drama and English and pledged as a member of the Alpha Phi sorority. Lucy was a successful actress in both high school and college and thought of moving to New York City upon graduation to pursue a career on the stage, but her mother talked her out of that plan. (Unusually for that time — and almost certainly uniquely in Clermont — Lucy's mother made sure that each of her three daughters got bachelor's degrees.)

While reading Plato outdoors at Cornell, Lucy was introduced by a friend to a young man in a Naval officer's training program. He was then known as Cliff Grohoski. The two started to date with careful chaperoning, but the relationship stalled after Lucy refused Cliff's marriage proposal on the grounds that she needed to graduate from college first. Cliff went off to active duty and service during the occupation of Japan after World War II ended, and the two lost touch for years.

Instead of heading for Broadway, Lucy moved to Cincinnati following her graduation from Cornell in 1948 to work for Procter & Gamble in market research. While living in Cincinnati, Lucy had to make an emergency flight back to Florida in early 1949 and was forced to overfly her destination. She ended up in Miami. She knew that Cliff was living in that city with his childhood friend Roger Cremo and other housemates

while the two attended the University of Miami Law School. She took a taxi from the Miami airport to that house at night and had to wait because Cliff would not come to the door on the belief that her alleged arrival was just a prank being played by his housemates.

Lucy and Cliff started dating again, and they married in Florida August 22, 1949. (It shows her leap of faith — and the mixing effect that World War II had on American life — that this woman who came from many generations of higher education would wed a man with an illiterate immigrant father.) The wedding presents included a huge Packard sedan with jump seats along with a 16-foot-long house trailer that the big car could tow.

## Lucy and her husband go west

The couple used those gifts — along with the G.I. Bill of Rights — to head west to seek opportunity and move out of the state in which Lucy's mother resided. Their journey went straight to Albuquerque, where Cliff had read in the newspaper that a new law school had opened. Lucy recalled that her new husband simply knocked on the door of the dean with his grades and resume and was accepted to start immediately as a transfer entering his second year of law school.

Lucy and Cliff lived in that house trailer in a mobile home park in



Lucy W. Groh with husband Cliff Groh Sr. 1945 in San Diego after he had been recalled into the service for the Korean conflict.

Albuquerque. Lucy got a job writing advertising copy for a local radio station, some of which plugged the exciting possibilities of watching two hours of test programs for the new medium of television. She also entered law school herself, but dropped out after about a week of classes due to a conflict with her job and her perception that becoming a lawyer would make her husband uncomfortable.

*Continued on page 16*

**THE 2020 ANNUAL BAR CONVENTION SCHEDULED FOR OCTOBER 28-30 HAS BEEN CANCELLED DUE TO THE COVID-19 PANDEMIC.**





# Name that lawyer



This one's a real head scratcher.

These two photos were unearthed in the Alaska State Courts' Law Library.

Attached was a single scribbled note with some barely understandable writing on it. Below is the best a librarian could interpret. The question marks are hers where she couldn't figure out exactly what the note said. We're not even sure which note is about which photo. We have a copy of the original if anyone cares to examine it. (As always there's a prize for whomever can "Name That Lawyer," although since we have no way of fact checking any answer would probably win. Accept it as a "participation" trophy.)

- "No law school
- Educated in Detroit
- Admitted in June 12, '29
- Proponent of statehood
- Taught school in Aleutians – Unmah [?] Atka [?]
- Practiced till '68
- Other Seward lawyer -
  - L.V. ray – associated in [?] way w. Leopold Davis
  - Doesn't remember "Bill"
- Also practiced in Juneau for about 2 years (slept on [?])
- Remembers Clyde Ellis – examined by Dimond – Warren Cuddy, then U.S. attny. – [?] by [?]
- Never charged for consultation
- Dad once [?] & granted Doris McFa[?] – "the Spanish Queen" – a [?] in [?] – held court once at night as a convenience because train late."



## Samantha Slanders

*Advice from the Heart*

**Dear Samantha,**

I broke up with my boy friend after he gave me vacuum cleaner replacement bags for Christmas. Never date a man who expresses love with cleaning supplies. Since I telecommute all week, Zoom fatigue sets in by date night. I need person-to-person contact with a bare-faced cute boy, not a pen pal. How can I salsa without ending up in quarantine?

**Sincerely,  
Lonely Dancer**

**Dear LD,**

Search Bumble for someone with HEPA-filtered air in his home, an extensive library of salsa music and proof of a recent negative Covid test.

**Sincerely,  
Samantha Slanders**

**Dear Samantha,**

With the court once again postponing the restart date for jury trials, I am worried that moths will destroy my trial suits before I get to use them again. Too bad I didn't secure a polyester one when it was still safe to enter men's stores. Don't get me wrong. I enjoy the casual nature of online hearings. Judges can only see what you have on from the waist up. I wish that I had stocked up on flannel pajamas before the great shut down. Do you think the

pandemic will change lawyer fashions forever?

**Sincerely,  
I am Not Wearing Any Pants**

**Dear No Pants,**

You can never go wrong with a Harris tweed sport coat and gray flannel slacks for in person evidentiary hearings and a pinstriped suit for trials. Covid 19 is not going to change that. The days of oral arguing in your PJ's will die with the virus.

**Sincerely,  
Samantha Slanders**

**Dear Samantha,**

Smoke from a lit Pic mosquito coil will keep an outdoor BBQ free of flying pests. Why won't it also work on the Covid bug? Inhaling too much Pic smoke makes me forget my name but I am willing to put up with that if it will purge my blood of infectious disease. You aren't part of the deep state so I trust you. Should I spend a night streaming Stallone videos while breathing in tendrils of mosquito repellent?

**Sincerely,  
Smokey**

**Dear Mr. Bear,**

Are you out of your mind?  
**Sincerely,  
Samantha Slanders**



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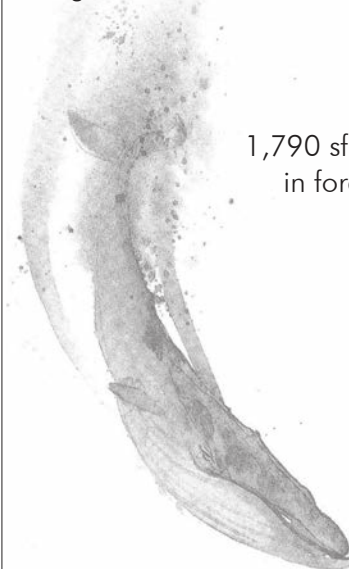
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## Reflection on special immigrant juvenile status during a pandemic

*Continued from page 1*

neighbor. His mother, who he had no relationship with, never said good-bye. One of his aunts wished him good luck. Aspects of his story could have been told by Charles Dickens. As he travelled, he picked up trash to eat and did yard work in exchange for a place to sleep. He was twice robbed of the money he'd saved. He refused to carry drugs for someone in Mexico who offered, in exchange, to help him cross the border. Instead, he crossed the river and turned himself in to U.S. immigration.

He now lives in the United States with a relative who previously immigrated. He pays this person for lodging and food. His education stopped in grammar school and the only work he can get (because he will not be able to obtain a green card for some unknown period of time in the future) is with a landscaper. He takes adult education classes two days a week, and it's not enough. He speaks little English. He can read and acknowledges that writing is hard. He dreams

of helping people, of becoming a doctor, a lawyer, a policeman. He came with us, to Immigration Court, to ask that his relative be granted custody of him — he was asking, quite simply, to stay. He has no idea how brave he is.

The world is getting scarier for many of us right now. The questions we face, the state of our nation, and choices we are asked to make seem overwhelming. At times, our own health, that of our families, even the health and future of the country seem uncertain. But we stand on this precipice, for good or ill, together. Whether we survive and what we become may be determined by whether we are able to care sufficiently for and about each other.

Franklin Roosevelt once said that in this United States we are all immigrants. To that we might add, that if we are not Native Americans or haven't recently immigrated ourselves, we are still descended from immigrants. In truth, as Roosevelt said, almost all of us, are immigrants ourselves.

In this challenging time, our fellow human beings who are still immigrating can teach us. Many of them have lived hard, hard lives and set out, like my young client, on a long, bitter trail to get here. Their experiences exceed our ability to comprehend. They have lived through difficulties and felt pain far beyond anything we may ever know. They arrive here only to be confronted with a confusing and uncertain future. Yet, they persevere. They endure. They buckle on their courage and step into court in blue jeans and tennis shoes. They stand before a judge who doesn't speak their language. They tell their stories, pour out their lives as they wipe tears away. They, like my client, hope for not much: only a chance to be allowed to stay.

It could be said that the quality of what is known of us in the future, of our immortality, if you will, of what survives us when we

are gone, will be determined by the actions we take today. We must be willing, in this challenging time of global pandemic, to reinvent ourselves. We must do what

Americans know how to do best. We can hope to become again that nation that knows not only what it is to endure but to sacrifice. Can we offer compassion to those who have so little, who want only a chance, who seek our help in that quest?

In the face of the courage shown by the newcomers who appear each day on our doorstep, it is a moral imperative that we extend our hands with compassion and care. After all, we just might save ourselves and a child.

*Jean Meaux Ballanco, lived in Anchorage from 1971 until 1985 when she returned outside to attend Tulane Law School. She practiced law in Louisiana for 26 years and was admitted to the Alaska Bar in 2018. She lived in Haines from 2014-2019 and, until beginning Coronavirus self-isolation, assisted with pro bono cases through the Immigration Clinic at Loyola Law School in New Orleans and worked with Southeast Louisiana Legal Services' Access to Justice program. While in Haines, she volunteered with Alaska Legal Services.*

**In the face of the courage shown by the newcomers who appear each day on our doorstep, it is a moral imperative that we extend our hands with compassion and care.**



## Board of Governors solicits New Lawyer Liaison

The Alaska Bar is now accepting applications for the New Lawyer Liaison position. All eligible new lawyers are welcome to apply.

The New Lawyer Liaison is appointed by the Board of Governors and sits on the Board as a non-voting member. The position is open to attorneys who have graduated from law school not more than five years prior to the date the term begins. Terms are two years. Board members that live outside of Anchorage are reimbursed for travel to meetings.

The Board of Governors meets about four times a year. The Board deliberates on issues including admissions; dues; the bar's budget; CLEs and pro bono; sections; bar rules and rules of professional conduct; Lawyer's Fund for Client Protection claims; and attorney discipline proceedings. Past meeting agendas and action items are available on the Bar's website [www.alaskabar.org](http://www.alaskabar.org) under For Lawyers/Board of Governors, and they can give a feel for the content of the board meetings.

The Board will make the appointment at its meeting on October 26 & 27, 2020. Interested applicants should send a resume and a letter of interest by October 9, 2020, to the Alaska Bar's executive director Deborah O'Regan at [oregan@alaskabar.org](mailto:oregan@alaskabar.org).

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# How lifetime gifts figure into the estate tax

By Steven T. O'Hara

Lawyers with a general appreciation of tax law often ask their tax attorney friends, "What is the current federal estate tax exclusion amount?" Hearing the answer, the non-tax lawyer may then feel comfortable providing estate planning advice to a client with assets less than the current exclusion amount.

A potential issue is that the client could have made lifetime gifts.

Information about the client's lifetime gifts matters a great deal in this area. The reason is the federal estate tax computation includes certain lifetime gifts. IRC Sec. 2001(b)(1)(B). In other words, prior gifts plus the client's current assets could equal the fact that federal estate tax will be payable in the event of the client's death.

Suppose a lawyer is preparing a basic will. The lawyer has received

from the client a representation about the value of the client's current assets. The lawyer, being generally familiar with tax law, does some research confirming that the current federal estate tax exclusion amount is in excess of the value of the client's current assets. The lawyer is unaware that, in 2002, the client made a gift of \$1 million to a trust for his children, a trust that terminated many years previously. (Under the 2001 Tax Act, the federal estate tax exclusion amount increased to \$1 million. See IRC Sec. 2010.) The lawyer may be as surprised as anyone to learn that, if the client died that very day, substantial federal estate tax could be payable by reason of a gift made many years previously.

IRC Section 2001 is the law that



"With certain lifetime gifts included in the estate tax computation, the value of those gifts is key."

provides the federal estate tax computation. Here we see two parts in computing the estate tax. The first part, which is no surprise, is the taxable estate. IRC Sec. 2001(b)(1)(A). The term "taxable estate" means, in general, assets included in the gross estate less deductions, such as for funeral expenses, administration expenses, debts, losses, charitable devises, and marital devises. See IRC Sec. 2051. The term "gross estate" is generally all-inclusive, not unlike the term "gross income" under the federal income tax system. IRC Sec. 2031; cf. IRC Sec. 61.

The second part in computing federal estate tax is the amount of "adjusted taxable gifts." IRC Sec. 2001(b)(1)(B). The term "adjusted taxable gifts" means, in general,

lifetime transfers made after 1976 that are reportable on a federal gift tax return and for which there is no

**The lawyer may be as surprised as anyone to learn that, if the client died that very day, substantial federal estate tax could be payable by reason of a gift made many years previously.**

offsetting reduction. See IRC Sec. 2001(b).

Thus when a client dies, the client's taxable estate and the client's adjusted taxable gifts are added together and federal estate tax is imposed on that total sum. Where gift tax was or is payable on the client's lifetime gifts, there is generally a credit available to offset federal estate tax. IRC Sec. 2001(b)(2). Then, ultimately, the unified credit is applied to determine the amount of federal estate tax payable. IRC Sec. 2010. Cf. IRC Sec. 2001(g)(2) (dealing with lifetime gifts and the increased unified credit under IRC Sec. 2010(c)(3)(C) enacted as part of the 2017 Tax Act). Also cf. Treas. Reg. Sec. 20.2010-1(c)(2)(i)(Example 1) (illustrating the possible availability of a larger unified credit at death in circumstances where unified credit at the decedent's death is less than unified credit available when certain lifetime gifts were made).

Another way of looking at the fact that certain lifetime gifts are part of the federal estate tax computation is to look at the law requir-

**Another way of looking at the fact that certain lifetime gifts are part of the federal estate tax computation is to look at the law requiring a federal estate tax return.**

ing a federal estate tax return. IRC Sec. 6018 is that law. Here we see that for citizens and residents of the United States, a federal estate tax return must be filed even where the decedent's gross estate is less than the federal estate tax exclusion amount if the decedent's adjusted taxable gifts plus the gross estate exceed the exclusion amount. IRC Sec. 6018(a)(3)(A).

With certain lifetime gifts included in the estate tax computation, the value of those gifts is key. In order to preclude the Internal Revenue Service from raising any valuation or other issue in later years, clients who make reportable gifts must file with the IRS a federal gift tax return which includes adequate disclosure about how value was determined. Treas. Reg. Sec. 25.2504-2(b) and 301.6501(c)-1(f)(2).

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

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

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# To text or not to text, that is the question

By Mark Bassingthwaight

At times it's hard to believe. Not only have all of our kids reached adulthood, but every one of them is financially independent. Trust me, I checked that "raise the kids" item off my life's "to do" list with a tear in my eye! Now, although they are all living on their own, this doesn't mean my wife and I don't ever want to talk with them. We're still family, after all. To my surprise, however, trying to get hold of any one of them during these adult years has turned out to be a bit more of a challenge than I thought it would be. While part of me actually likes that, because I can play the game as well, there are times when I can get a little irritated.

It seems like our kids' generation prefers to eschew email and voicemail. In fact, several of our kids at various times during their new-found independence went so far as to allow their voice mailbox to fill up so no one could ever leave a message. That one used to drive me crazy. Better yet, to this day if my wife or I send an email to any one of them, it may be read within several weeks of receipt; but I assure you that any response, let alone a timely response, is quite the rarity.

Don't get me wrong, it's all good in terms of our relationships with our kids. They just prefer to communicate in different ways than we older folks do. Yes, it took a few years; but we've come to learn that if we really need to talk with one of them, texting is the way to go. Most of our texts are answered quickly and sometimes they'll even accept a call in response to a text. We've been trained well.

Now, as I sit here writing about our kids, I also hear in my head my wife saying, "Mark, what's your point?" Well, my point is this. As tech continues to change our world at a seemingly ever-increasing pace, communication practices and preferences have been changing as well. I suspect our experiences with our own kids are not unique. Their generation's use of texting is just one example of the change in how people prefer to communicate as a result of tech advances.

Change has consequences, however, and that's what I really want to discuss. Texting is ubiquitous in our culture, which makes it too easy. Instead of taking the time to compose an email or pick up a phone, it takes far less time to send a quick text at any time, day or night, and regardless of the setting just like everyone else does. But, is texting a good thing, particularly for a lawyer? Think about Comment 8 to ABA Model Rule 1.1 Competency, which reminds lawyers that they are to "keep abreast of changes in the law and its practice to include the benefits and risks associated with relevant technology." If you are communicating with clients via text messaging, have you thought

about the ramifications of doing so? Please understand that I'm not trying to suggest when your lawyer hat is on you should never send a text message. I just want to make sure you've thought about the associated benefits and risks before doing so.

Speaking personally, I think a decision to hand out your cell number to clients is a bad idea absent establishing some healthy boundaries upfront. It's a work/life balance issue for me. I'm not a fan of 24/7 availability because we all need downtime. But think about it, when people send a text, they are generally expecting an immediate response, even if it's after you've gone home for the day. Are you prepared and able to manage that expectation?

I also get concerned about the informality of text messaging and the fact that it's often communication on the fly. Texts

are typically short and succinct and that's problematic if texts are being used in furtherance of advising a client or as part of the client's decision-making process. Compounding the problem is the failure of so many to capture and preserve such exchanges as part of the client file. As I so often remind attorneys, in the context of a malpractice claim or disciplinary matter, if it wasn't documented, it wasn't said, or it didn't happen. Are you able to capture and preserve any and all substantive exchanges and are you willing to make the commitment to actually do so? If not, I'd seriously limit the use of texting.

Do you charge for your time texting clients? I would assume you do. Do your clients know that? Text messaging is a very inefficient way to communicate, again in terms of trying to have some sort of substantive exchange. Allowing clients that option is an inefficient use of your time and can needlessly result in a larger

bill than the client might be expecting. Why? It's simply due to the need to send multiple texts to make sure you have all the information you need as well as to confirm the client has correctly understood the exchange. Is this truly the way you want to communicate with your clientele?

Finally, how do you know if the texts you're sending will be received by the correct party? We often don't think about who might have access to the client's cell phone or even the family computer where text messages can show up. Making matters worse, how would you know that a client has texted you an urgent message when your phone is off because you're in court? They will assume you received it and may rely on that belief in some fashion. Could this be a problem for an attorney? It already has been.

Look, I have no problem using text messaging to pass along that there's been a delay, the courtroom where you were to meet your client has changed, that a voicemail has



**As tech continues to change our world at a seemingly ever-increasing pace, communication practices and preferences have been changing as well.**

**Just because we can do something, doesn't mean it's a good idea. Texting has its place. I'm just hoping to help you define what that place might look like in your own practice, so you don't get caught unaware.**

been left that needs the client's attention, or that you are now available. Those types of texts seem appropriate for the method of communication. And let's be honest, while I might choose not to give out my cell number, many of you already have or will. If you count yourself among the group that has or will, keep the above issues in mind and remember this. Just because we can do something, doesn't mean it's a good idea. Texting has its place. I'm just hoping to help you define what that place might look like in your own practice, so you don't get caught unaware.

Since 1998, Mark Bassingth-

waighte has been a risk manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, he has conducted more than 1,200 law firm risk management assessment visits, presented over 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics and technology. Bassingthwaighte is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He received his J.D. from Drake University Law School.

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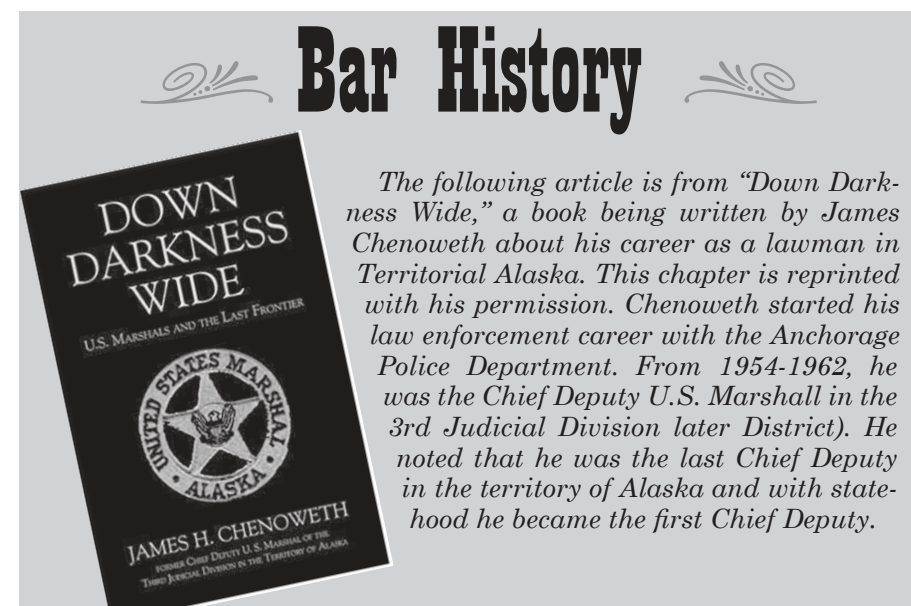
# The last voyage of the floating court

By James Chenoweth

*Editor's Note: In the process of putting together a Web page, the Alaska Bar Association's Historians Committee came across this article that first appeared in the Bar Rag in 1998. The book mentioned has since been published and is available on Amazon.*

Justice isn't rooted to any single location. She may wear a blind fold (as she is traditionally depicted) but she has always been able to travel. Monarchs took their own brand of justice with them as they moved from castle to castle. Our own circuit judges lugged their lawbooks from town to town. The usual practice of deputy marshals in the southwest was for four or five to go out "on the scout" together, accompanied by a portable jail-wagon. Paid six cents for every mile and two dollars for every arrest, they hunted for men on the run, suspicious travelers, stolen horses or cattle, contraband and whiskey.

Alaska put its own spin on the way justice traveled around. In 1900 James Wickersham was appointed to one of two new judgeships in Alaska. His new post was at Eagle, near the Canadian border, a small settlement that had grown up around a new army post; Fort Egbert. The power of Territorial Judges actually exceeded those of Territorial Governors. In addition to handling court cases, Alaskan judges issued liquor licenses, supervised elections and the formation of town governments,



## Bar History

The following article is from "Down Darkness Wide," a book being written by James Chenoweth about his career as a lawman in Territorial Alaska. This chapter is reprinted with his permission. Chenoweth started his law enforcement career with the Anchorage Police Department. From 1954-1962, he was the Chief Deputy U.S. Marshall in the 3rd Judicial Division later District). He noted that he was the last Chief Deputy in the territory of Alaska and with statehood he became the first Chief Deputy.

approved bond issues for schools, appointed U.S. Commissioners and performed a variety of administrative duties, including passing judgment on the qualifications of persons who wanted to practice law.

(One circuit judge in Alaska—I think it was Judge Dimond—instructed the two attorneys traveling with him out in the bush to test an applicant's knowledge of the law. Amid much conviviality in the applicant's cabin, their mission was forgotten until late in the evening at which time they asked the applicant what he knew about the law. His reply was, "Nothing". Puzzled, they asked why he wanted to become a lawyer. He replied that he thought it would be nice just to say he was one. They left his cabin. The next

day the attorneys reported to the judge that when they questioned the applicant about his knowledge of the law, he had answered every question truthfully and accurately. The judge granted the application and the miner became a lawyer.)

Back to Judge Wickersham, who felt there wasn't much to keep him busy in Eagle. Within the 300,000 square miles of his district, there were only 1,500 whites and 4,000 natives. The routine business was small and not likely to increase. Wickersham suggested to Washington that he could assist judges in other Alaskan divisions that were overburdened with litigation. He was instructed to hold a term of court at Unalaska if the judge for that area had no objection. He started his trip on Aug. 3, 1901.

Unalaska is an island near the outer tip of the Alaska Peninsula. The judge's travel route took him first to Nome where he learned that one of the cases awaiting him at Unalaska involved the murder of several miners, and that some witnesses were officers and sailors on U.S. Revenue Cutters stationed at Unalaska who could not be called away from their vessels. The Court would have to go to them.

Judge Wickersham also learned at Nome that there were only "a few competent jurors at Unalaska;" it would be impossible to get enough qualified persons there to act as grand jurors and trial jurors.

Already comfortable with the need for practical solutions in Alaska, Judge Wickersham decided to select both juries from the people in Nome. He instructed the United States marshal to gather in 16 men as grand jurors and another 18 to serve as trial jurors. The court party now included himself, the deputy clerk of the court, the U. S. marshal and two deputies, an assistant U.S. attorney, and 34 jurors. Judge Wickersham herded everyone aboard the steamer *St. Paul*. They sailed at midnight for Unalaska, 750 miles away. It was Alaska's first "floating court".

Judge Wickersham had set a precedent. Using the U.S. Revenue Marine for transportation in the early years, court personnel heard litigation

and exercised judicial powers in many villages which had previously been beyond reach. Later, the U. S. Coast Guard replaced the Revenue Marines and began a periodic Bering Sea Patrol to bring medical and dental help to coastal villages. Included in its operational mission was a high priority for law enforcement. Occasionally, court personnel traveled along as guests, continuing the "floating court" tradition of handling judicial matters in remote coastal villages.

With statehood starting to brighten the horizon, U.S. Marshall Fred Williamson (3rd Judicial Division) thought the summer of 1957 might be the last time a federal "floating court" would put to sea. He discussed the possibility with Bill Plummer, who agreed to go along. In the orders for the Bering Sea Patrol, cut by the Coast Guard on May 24th, the captain of the Coast Guard Cutter *Wachusett* had been appointed U.S. Commissioner, but arrangements were made for Bill and Fred, as U. S. Attorney and U. S. Marshal, to travel with the *Wachusett* on its scheduled patrol during July and August. Their presence made it a "court cruise".

Fred, bless him, had a conscience. While I was hard at work testifying in a courtmartial taking place at a military post in Washington, he had been busy recovering stolen property aboard a ship at sea. It was pretty exciting stuff. Someone had boarded a temporarily beached boat at Whittier and stolen a propeller shaft, lifeboat, and expensive electronic equipment. We identified the suspect vessel as the *Barwell*, which was operating out of Amchitka Island west of Adak.

Fred and Deputy Ed Dolan were aboard the Coast Guard Cutter *Clover* for four days, hunting the *Barwell*. Located at last, there followed a "hot pursuit" chase during which a shot had to be fired across the fleeing vessel's bow before it could be boarded near Adak, the occupants arrested, and the stolen property recovered. "Heave to, and prepare to be boarded!" It was a sea chase worth remembering and Fred had been part of it. Possibly he felt he was hogging the excitement by immediately following up that nautical adventure with a "floating court" voyage.

At any rate, when I got back to Anchorage, Fred told me he had changed his mind about going on the *Wachusett*, and had arranged for me to take his place. I told (my wife) Dennie of my unexpected assignment. She said she'd struggle valiantly to manage without me for awhile and suggested that in spite of my well-established reputation for avoiding hazardous situations, I should attempt to keep a life jacket somewhere within reach. Because this would be a once-in-a-lifetime

**Using the U.S. Revenue Marine for transportation in the early years, court personnel heard litigation and exercised judicial powers in many villages which had previously been beyond reach. Later, the U. S. Coast Guard replaced the Revenue Marines and began a periodic Bering Sea Patrol to bring medical and dental help to coastal villages.**

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# The last voyage of the floating court

Continued from page 8

opportunity, I borrowed a 16mm movie camera from attorney Stan McCutcheon, bought all the film available, changed my socks, and was ready to go!

On the 4th of July, Deputy Pat Wellington drove me down to Seward, his post-of duty. The *Wachusett* was already tied up at the Standard Oil dock, having traveled up the Alaskan coast from Seattle. Its ultimate destination was Barrow, the northernmost community in the United States, but our route between Seward and Barrow would depend on whatever duties arose during the patrol.

I boarded about 5:30 p.m. and was greeted by Lt. Liverance who had already arranged for me to berth with the Chief Petty Officers. After settling in, I went ashore to prowl around Seward. Heard rumbles of a big gambling game, which Pat later found in the Flamingo Club. Alley B

was working.

Returning to the ship around 8:00 p.m., I met the Executive Officer, David Haislip, who introduced me in turn to Captain G. T. Applegate, the Commanding Officer. They welcomed me warmly, extended wardroom privileges (whatever that meant), and gave me the freedom of the ship. The next day, overcast and windy, I spent some time ashore with Pat, checking on the theft of 200 tons of scrap metal. Returned aboard the *Wachusett* around 2:00 p.m. Shortly afterward, we got underway for Kodiak. Without the U.S. Attorney aboard.

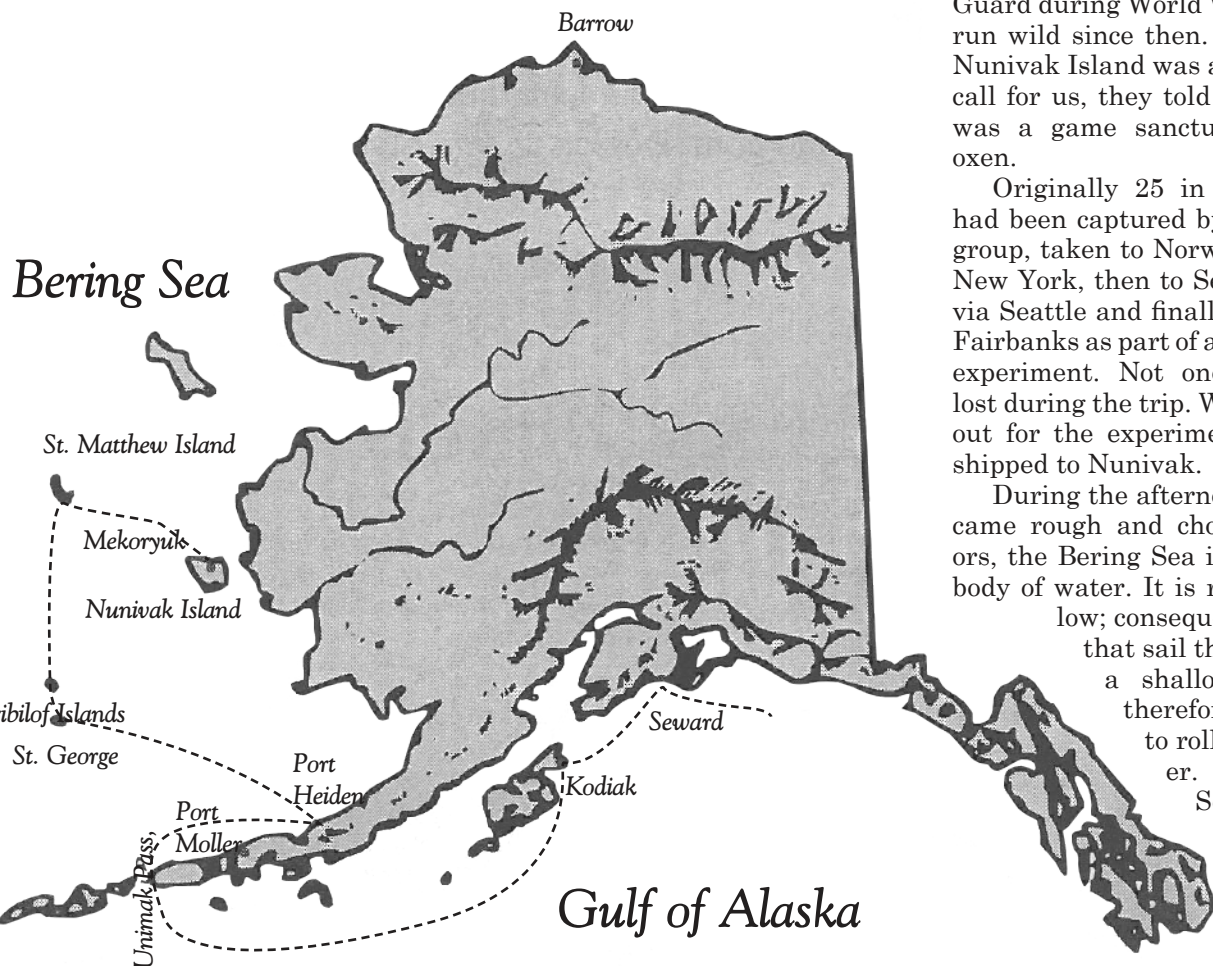
The name of our ship was not unknown in Alaskan history. In 1882 the Navy ordered the steam warship, the U.S.S. *Wachusett*, to the Gulf of Alaska, believing that its extreme mobility would allow it to reach any riotous area. The Navy's real goal was to justify withdrawing marines and seamen

who had been policing the Juneau mining area. After a miner's court in Juneau sentenced two Indians to death, the too-late arrival of the *Wachusett* supported Alaska's plea for the need to establish a system of courts and law enforcement officers in Alaska. That plea to Washington went unanswered for many years.

The name might be the same, but the ship undoubtedly looked different. The current version was a bit shorter than a football field. Painted white, it lacked the rakish red stripe on the hull that Coast Guard vessels now sport. The top of the tail mast bristled with electronic gear and surf boats were lashed snugly to davits on both sides. There were about 160 members in the ship's crew.

We docked in Kodiak the next morning where I was met by Vern

## THE ROUTE OF THE U.S.S. WACHUSETT



Carnahan of the Office of Naval Intelligence. The Navy had a busy port in Kodiak, generating the usual problems surrounding any military installation. Vern and I had coordinated on several matters involving both naval and civilian personnel. He gave me a lift into town and since we had no deputy stationed there at the time, I opened up our office for business. It was Saturday, but I reached Bill Plummer by phone. "Be there Tuesday for sure, Jim," and that's the word I passed on to the Executive Officer, David Haislip.

On Monday, I had to tell him that Bill cancelled his travel plans. Now Haislip, apparently the legal officer aboard, would have to prosecute any crimes I brought to his attention and Captain Applegate would be the presiding magistrate. Which left me as the sole surviving civilian of the floating court during its final voyage!

Due to leave on Wednesday, I spent the intervening time talking with Lt. Commander "Robbie" Robinson at the naval base, lunching with Vern Carnahan, chatting with pro-gambling advocate Frank Irick (who was unhappy to learn I had been in town since Friday without him having known it), and discussing with Commissioner Mabel Fenner the jurisdictional problems at new White Alice communication sites. I suggested she take the position that White Alice sites are military reservations and crimes on those sites are federal crimes. I passed on to Treasury Agent Dave Carpenter information about marijuana parties being set up in Kodiak. All just routine stuff.

Tradition was upheld the next morning as a naval band braved fog and an overcast sky to play us

away from the dock. I got a guided tour of the ship and watched the gun drill after lunch. A storm warning predicted weather "rough to very rough."

Two civilians also had joined us, Fish and Wildlife agents en route to St. Matthews Island to estimate the size of a reindeer herd there and evaluate the range necessary to sup-

port it. The herd was imported there as emergency rations by the Coast Guard during World War II and had run wild since then. Learning that Nunivak Island was a future port-of call for us, they told me the island was a game sanctuary for musk oxen.

Originally 25 in number, they had been captured by a Norwegian group, taken to Norway, shipped to New York, then to Seward, Alaska, via Seattle and finally wound up in Fairbanks as part of a domestication experiment. Not one animal was lost during the trip. When funds ran out for the experiment, they were shipped to Nunivak.

During the afternoon the sea became rough and choppy. For sailors, the Bering Sea is a very tough body of water. It is relatively shallow; consequently the ships that sail there must have a shallow draft and, therefore, a tendency to roll in bad weather. In the Bering Sea, a cold current from the Arctic collides with a warm current from the Pacific. The

clash results in heavy fogs and violent storms. During storms, waves may reach over 40 feet in height. Ice is a constant menace and ships generally entered the sea only from May to October.

That night the storm grew, moving (as they told me) into a "class

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## DO YOU KNOW SOMEONE WHO NEEDS HELP?



If you are aware of anyone within the Alaska legal community (lawyers, law office personnel, judges or courthouse employees) who suffers a sudden catastrophic loss due to an unexpected event, illness or injury, the Alaska Bar Association's SOLACE Program can likely assist that person in some meaningful way.

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Through working with you and close friends of the family, the coordinator will help determine what would be the most appropriate expression of support. We do not solicit cash, but can assist with contributions of clothing, transportation, medical community contacts and referrals, and other possible solutions through the contacts of the Alaska Bar Association and its membership.



# The last voyage of the floating court

Continued from page 9

5 status". Salt spray everywhere! That didn't seem to bother anyone but me. Everything not lashed down went flying. It was casually suggested that I wouldn't be in anyone's way if I decided to pass the time braced in my bunk. I did, and with some difficulty avoided being pitched out. Dawn brought no improvement, but by noon the wind had dwindled to eight knots. According to my log, the Captain had been seasick so I decided I wouldn't feel too embarrassed if I succumbed. The Chiefs encouraged me to eat. I reluctantly took their advice and began to think I might live.

With my optimistic outlook somewhat restored; Chief DeShaw opened radio contacts with villages.

Chignik had no self government, no schoolteacher, no postmaster, no town ordinances, and no landing strip. With a population of 250 Natives, 10 whites, and two canneries, the tribal chief consulted cannery officials and then made whatever decisions were necessary.

Perryville was even smaller, with a total population of 120 Natives. Shifted here by the U.S. government from where they had lived in the Katmai area, they hung on to their earlier culture and retained their Native government, headed by a tribal chief. No way in or out except by boat.

With a population of about 200, Sand Point had a husband-and-wife team of schoolteachers, as well as a postmistress. A landing strip was being built. Apparently there were no formal ordinances or any governing body, but Sand Point was "in the loop" as the relay village for radio contact with the surrounding area.

Our sociological research ended abruptly. The radio was needed on a stand-by basis. A fishing vessel called *Sharasan* had left Port Moller but had not been heard from since then. We began to sweep for any kind of distress call.

By the next morning the storm had eased down but a dense fog swirled in all around us. I hadn't seen a speck of land since we left

Kodiak. We were moving north through at the eastern end of the Aleutian Islands and right next door to where Judge Wickersham had taken his first floating court.

Leaving the Gulf of Alaska behind us, we were entering the Bering Sea. Around the corner and just to the right, we had intended to land at Sarichef, but groundswells made that impossible. Just before noon, we swung northeast and at four in the morning, anchored outside of Port Heiden. We had joined the search for the *Sharasan*.

By breakfast, the sea was smooth. The sky was a brilliant blue with patches of fog still hugging the water. Mid-morning, a Coast Guard plane radioed it had located the *Sharasan* about 45 miles away from us. We up-anchored and headed out.

Two hours later, we gently coasted up to where the *Sharasan* drifted slowly in a fog bank. Fishing nets still hung limply over the stern. Our surf boat was lowered and its crew boarded the *Sharasan*. I watched as a body was moved into the surf boat and brought back to the *Wachusett*. It turned out that the "body" was Fred Sundean, the sole occupant of the *Sharasan*, was still alive. Hoisted aboard the cutter in a basket stretcher, he was treated for food poisoning. His radio had conked out and whatever he had eaten made

**Chignik had no self government, no schoolteacher, no postmaster, no town ordinances, and no landing strip. With a population of 250 Natives, 10 whites, and two canneries, the tribal chief consulted cannery officials and then made whatever decisions were necessary.**

**Mekoryuk was a small but fairly prosperous village with about 200 residents, and since most of them were Natives, it was governed by a tribal council, under a constitution and bylaws.**

him too sick to repair the radio. Towing his boat toward Port Moller, we were met by another fishing vessel, the *Fare Well*. Sundean and his boat were both handed over to the *Fare Well*. (In the process I learned from the *Fare Well* crew that fishing had been terrible. They had been out two months and had just barely made their expenses. Might be slim pickings in the coastal villages.)

By 8:00 p.m., we were headed for St. George Island in the Pribilofs. The fog closed in around us again.

The Pribilofs are a small group of islands about 180 miles north of the Aleutians. They are also called the Fur Seal Islands because they are the world's largest fur seal sanctuary and the breeding grounds for northern fur seals from April to November.

The indiscriminate slaughtering of seals had earlier made the Pribilofs a focal point of international controversy. In the 1880s, overkill by several nations severely depleted the seal herds so the United States Bureau of Fisheries began direct supervision of sealing in 1910. During the year of our patrol, the United States, Canada, Japan, and Russia created the North Pacific Fur Seal Commission to further protect the depleted seal herds which have since grown from about 125 thousand to 1,500 thousand. The two major islands in the Pribilofs are St. George and St. Paul.

We anchored at St. George about 7:30 on the evening of July 14th. I went ashore with Dave Haislip and spent a couple of hours talking with the Superintendent, Dan Benson, who was also the U.S. Commissioner at St. George. With a population of 200 Natives and 25 whites, St. George boasted of having a doctor, nurse, hospital, and a modern school with a teacher. Mail was transferred from St. Paul and distributed by Benson.

Local problems were neither numerous nor difficult. He and I renewed our earlier agreements that the most effective way to resolve problems is on a local level. In fog, mist, and a light rain, Haislip and I returned to the *Wachusett* around midnight, a wet ride. We left immediately for St. Matthew Island, roughly 275 miles north of the Pribilofs.

We sighted St. Matthew around mid-afternoon the next day. We didn't stay long, but while we were there, we were busy. F&WS gear was laid out on the deck. When we

stopped at the lower end of the island, one motor launch and a small boat were lowered. The range gear was stowed and both boats started for shore. Part of the way across to the beach, the small boat had to be hoisted athwart the gunwales of the larger launch. Then we moved up island and landed the F & W S agents ashore, along with two boatloads of gear. The agents would remain on the island until the *Wachusett* picked them up later. Since the island was uninhabited, during that period the agents would have to fend for themselves. No McDonalds!

While they were digging in, we headed for Mekoryuk on Nunivak Island which is east of St. Matthew and fairly close to the Alaskan mainland. Mekoryuk lies on the north side of the island. (Just in case you're interested, the village on the extreme southern side is Ingloothloogramiut.) Mekoryuk was our first major stop and the Coast Guard's first real opportunity since leaving Seward to do what they came to do: provide medical and dental help to coastal villages. So we stayed a couple of days.

Mekoryuk was a small but fairly prosperous village with about 200 residents, and since most of them were Natives, it was governed by a tribal council, under a constitution and bylaws. Fifty-eight children attended the local school, (grades 1-8), taught by Paul Estle and his wife. Though he had no formal medical training, Paul also handled the town's first-aid problems. People lived largely on reindeer meat and fish; their income was derived mostly by selling reindeer meat in Nome and Bethel at 40 cents a pound.

A landing strip was being built on the bed of a dried-up lake about four miles from the village. Many high powered outboard motor boats scooted around, driven as though they were floating hot-rods. Crime was minimal with nothing pending at the time. Most offenses were sex violations, which the tribal council handled by admonition. The presence of a National Guard unit, led by the local minister, may have helped to keep things on an even keel.

I inquired about the musk oxen herd, mentioned earlier by the Fish and Wildlife agents. The herd roamed the south part of the island and had grown to about 125 by now, but I never got a chance to see them.

(Next issue: the *Wachusett* continues her journey)

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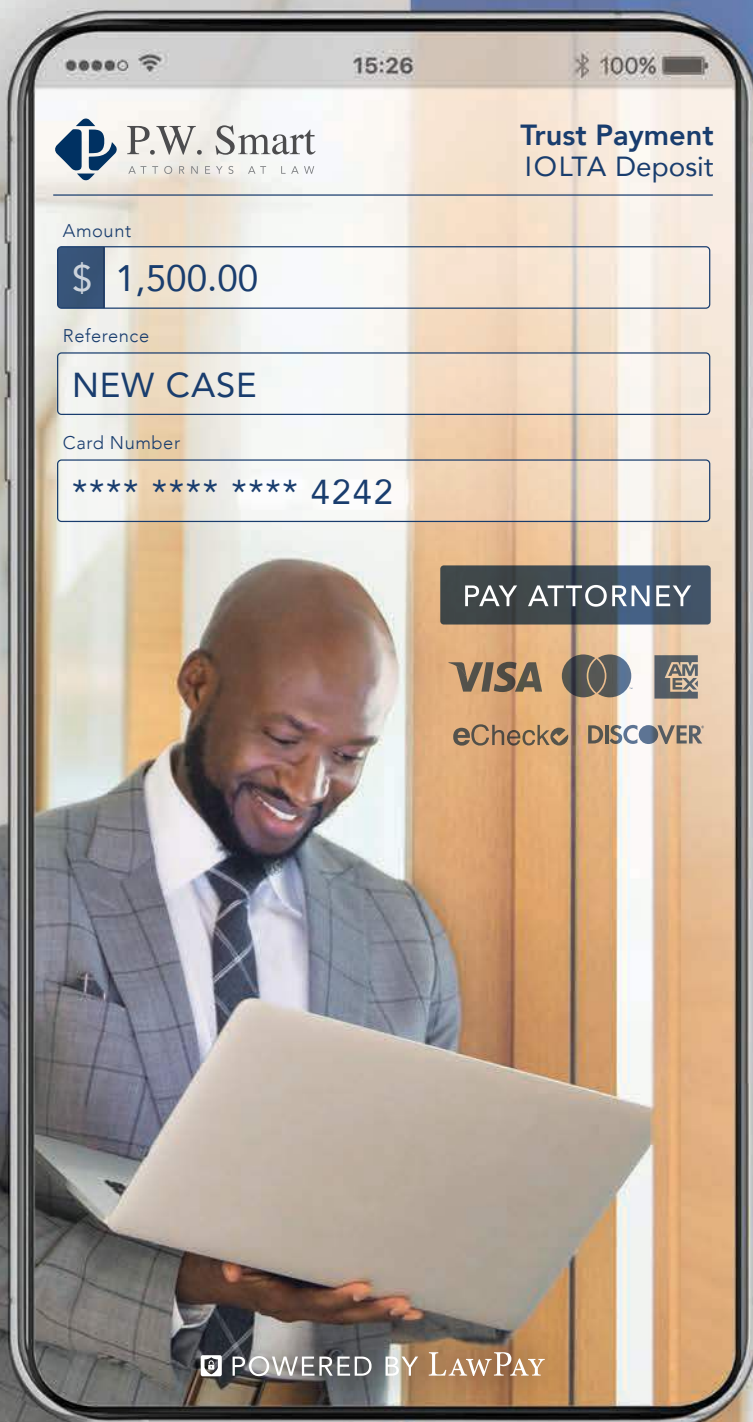
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# The great COVID crisis — excuses, excuses, excuses

By William R. Satterberg Jr.

As a year 2020 has been remarkable. The concept of 2020 hindsight has taken on a new meaning. What was previously touted as the Wuhan Virus and later the China Virus has now been trumped into a more politically correct name, Covid-19, or more commonly known simply as COVID. But, in January, COVID was basically a remote concept. Like Ebola, SARS and the BYRD flu (which I figured was named after a famous explorer). Approximately two days before Brenda and I were scheduled to fly to Saipan on our yearly sojourn and then onward for some business in China, we had an epiphany. (I still do not know what an epiphany is, but it is certainly not a newborn animal.) We made the prophetic decision at the last minute to pass on our trip to the Far East and to travel instead to Costa Rica. It was a wise decision, given 2020 hindsight, even if it did cost us several hundred dollars in cancellation fees. And besides, we got to go zip lining, rafting and running after scampering tree leaping sloths in a new country, all while earning valuable Alaska Airline miles toward some swell prizes.

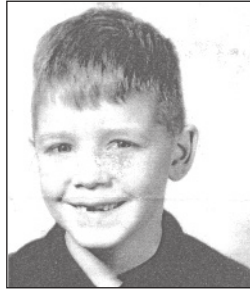
Costa Rica was an exciting time and new experience for both Brenda and myself. We explored luxurious hot springs and trudged through rain forests and along ocean beaches. Besides chasing the stealthy sloths through the trees, we occasionally got pummeled with

questionable objects by capuchin monkeys, and serenaded by howler monkeys. To my surprise, Brenda was quite up to the challenge of whitewater rafting and zip lining over canyons, but drew the line at the Tarzan swing over the cliff. In time, we both grew weary of Costa Rica's traditional dish of rice and beans served on every tour we took, as well as the effects of such. As an added extra, I acquired the habit of putting used toilet paper in the nearest trashcan. It is a habit which I am still finding hard to break. I also began to carry a pack of my own toilet paper after having to improvise with an empty toilet paper tube one time at the Jaco, Costa Rica, Walmart store — the last spot

I expected to run out of toilet paper before COVID.

Shortly after our return from Costa Rica in late February, the United States fell into the clutches of COVID. Even as

we passed through customs in Los Angeles, the signs were apparent. Face masks were plentiful. Hand sanitizer had yet to become scarce, and conspicuous health alerts were copiously posted. But February only heralded things to come. The full United States shutdown occurred later in mid-March. For many, the shutdown was an economic tragedy, sending the stock market into a plunge and large and small businesses, alike, into shutdown. For



"Perhaps the first silver lining was that my jury duty scheduled for the month of May was canceled."

those businesses which were not in a total shutdown, significant operating restrictions were imposed, to include protective apparel, screening and social distancing. Some Alaska communities observed the governmental mandates closely. Others, not so much. And, like in Delta Junction and Salcha, Alaska, some not at all.

Fairbanks was in the middle, allowing "essential businesses" to operate under restrictions. Essential businesses, in the end, were basically any business that called itself essential, to include grocery shopping stores, pharmacies, medical facilities, tire shops, sporting goods stores, liquor stores, cannabis stores and, my favorite, Castle Megastore, which seemed to have an expanding clientele. Fortunately, our law office had seen the mandates coming a week in advance, and we wisely set up for it. Telecommuting became the norm. On balance, our planning worked well. Dress codes were relaxed with some employees even appearing for our daily zoom meetings in bathrobes while others simply kept their video on blackout.

Fortunately, every dark cloud has a silver lining. For me, there were many silver linings. Perhaps the first silver lining was that my jury duty scheduled for the month of May was canceled. Not that I necessarily expected to be selected for a jury, but there was always hope. Still, it became apparent by the end of March that 2020 May jury duty would be a thing of the past, although the presiding judge in Fairbanks, Judge Michael MacDonald, initially announced that the court might still draw upon the May slate of jurors to serve in June on double shifts. However, shortly after the announcement, June jury trials were also canceled. Fat chance that I would ever serve. Besides, I am classified as one of the extremely vulnerable at age 69, bald and slightly obese. (Actually, slightly is a relative term. In fact, Rep. Nancy Pelosi might call me morbidly obese.)

Another silver lining to the dark cloud was that I began to experience first-hand the retirement which I have been promising for so many years.

Although I am not a divorce attorney and have only done three divorces in my entire professional career (which turned out to be three too many), I learned that divorce counsel, as well, became quite active. Another somewhat inactive area in Alaska, bankruptcy law, also took a turn to the positive. It is still too early to see if COVID will give rise to workers compensation claims, but creative legal minds are still at work. I suspect it won't be long before we see national law firms chasing down work-related COVID claims.

To fill my time, one of my friends suggested that I play the stock market. In the past, virtually every time that I invested in the stock market, my chosen stock plummeted. In fact, it is well-known that the smartest thing for someone to do is to find out where I invest and then immediately sell the stock if they have an ownership position. But, this time, my fortunes turned out to be good. I invested in two unknown biotech stocks—both professing to have miracle cures for COVID. Remarkably, these stocks quickly turned a healthy profit before I prematurely dumped them. They performed so well that I would secretly monitor the returns during a jury trial I was in. The trial was the last Fairbanks jury trial before the state mandated COVID trial closure. Not satisfied

it it still provided comic relief in desperate times. An advantage of the lockdown was that the office did find that our assault case intakes went up.

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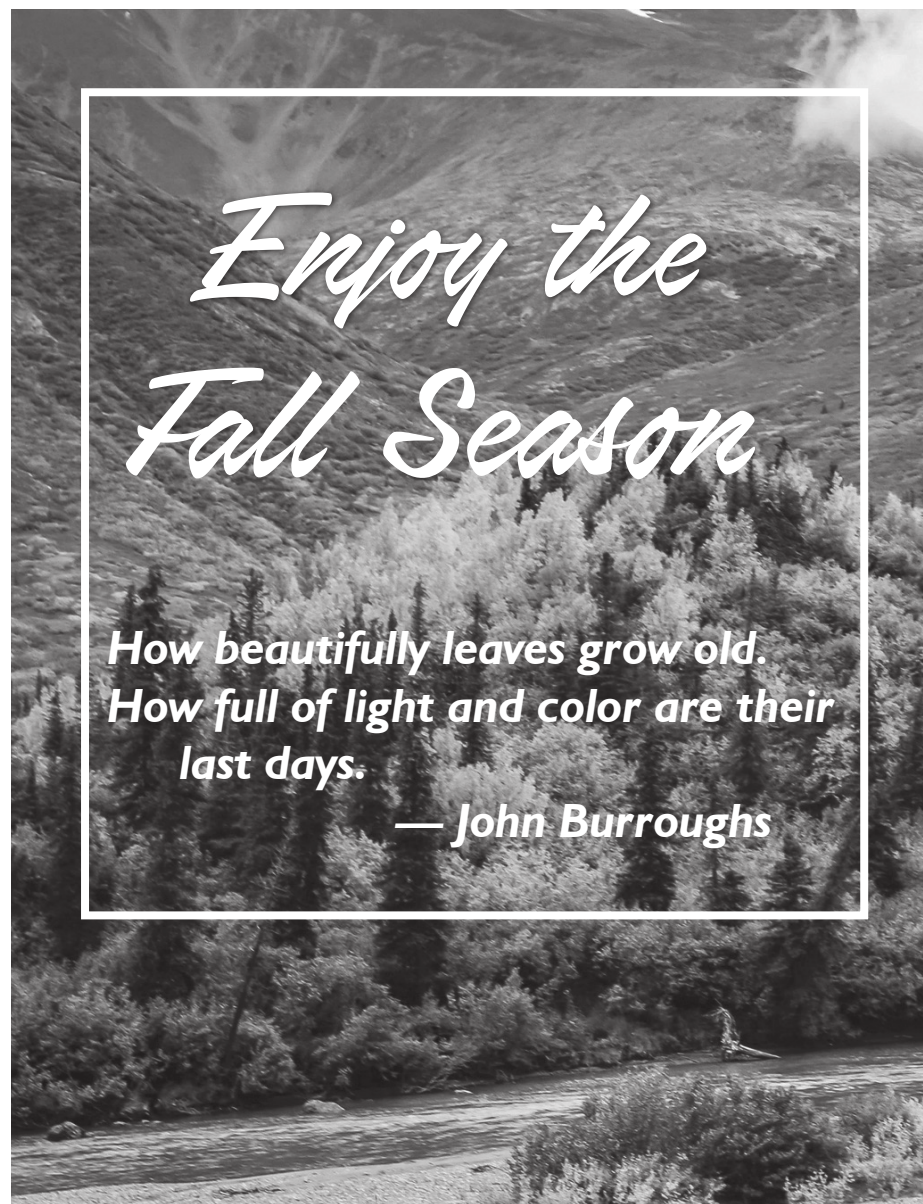
attaching files, and other remarkable advancements in the electronic world. Once again, retirement beckoned. I could read the writing on the wall.

Given the fact that much of the work that we normally would do at the office was curtailed, since the local bars were closed, our DUI practice dropped substantially. Instead, I found myself doing a significant duty in cleaning up my golden retriever's land mines which had been left in the yard for the past several months and were beginning to poke their way through the melting snow. With time, I actually came to look forward to my daily doggie Easter egg hunts. I felt rewarded every time I located a hidden doggie turdlet. I needed exercise, so I also began spending more time doing outside chores, such as raking, picking up dog poop, picking up sticks, searching for dog poop, organizing my shed, picking up dog poop, and just generally, doing dog poop patrol. One advantage to dog poop I began to learn, was that, if I discarded my bags of dog poop in the local dumpster, I could then watch from a distance safely in my vehicle as the COVID-immune dumpster divers leapt in to see what treasures awaited them. Brenda said I had a gross sense of humor. Nevertheless,

**A sneeze isn't the only danger — Dan Branch Page 1**

**Shortly after our return from Costa Rica in late February, the United States fell into the clutches of COVID. Even as we passed through customs in Los Angeles, the signs were apparent. Face masks were plentiful.**

**Another silver lining to the dark cloud was that I began to experience first-hand the retirement which I have been promising for so many years.**



Continued on page 13



TALES FROM THE INTERIOR

# The great COVID crisis — excuses, excuses, excuses

Continued from page 12

in staying with biotech stocks, I also looked at other esoteric stocks such as Charmin and Bounty. Although my position first went down, ultimately, I cleaned up with these stocks also.

Another unpredicted silver lining was that my 8-year old golden retriever, Teddy, named after a now deceased Alaska United States senator, and I entered into a new relationship. Teddy (the dog) previously had regarded me as a threat and routinely would piddle on the family room carpet simply when I entered

**I also have now accepted Zoom. Each day, our office did a meeting on Zoom, similar to a check in at a 12-step therapy group.**

the house. Yet, during the mandate, Teddy actually grew to like me. In fact, Teddy and I bonded like brothers. We now spend lots of time going outdoors. True, Teddy still has problems controlling his urinary urges, but at least it is not on the carpet. And, with old age, I am now beginning to empathize with him.

Otherwise, much of my mandate-driven day was consumed by reviewing COVID reports. Each day, I would contact my clients in Europe and in the Far East to get updates. Nobody was an expert on the subject, even though we all claimed to be. Still, it was interesting to compare notes with much of our conclusions directly related to which “unbiased” news channel we favored.

I also have now accepted Zoom. Each day, our office did a meeting on Zoom, similar to a check in at a 12-step therapy group. Eventually, I learned that Zoom was, in fact, a good system for communication

**Probably the greatest cultural development from the pandemic was the COVID excuse, which became a workplace mantra. If something went wrong — blame COVID.**

even if it is reported on Fox News that Zoom is monitored by foreign countries, mainly China. Not that our office has anything to share of any strategic value. In fact, it is flattering to think that foreign spy agencies would actually want to know what the office is talking about.

Then, there was the teleconferencing to court and the now memory embedded toll-free call-in number, 1-800-768-2983, followed by the seven-digit required access code and schmaltzy music better suited for a J.C. Penny store. The number became a daily part of life as well as the associated humor when the local magistrate judge would walk into an empty courtroom and the in-court clerk would dutifully announce “All rise!” I suspect I could

have earned several contempt sanctions for my responses to that age-old directive to honor the court.

Probably the greatest cultural development from the pandemic was the COVID excuse, which became a workplace mantra. If something went wrong — blame COVID. If one forgot an appointment or court hearing — blame COVID. If one forgot to pay for a service — blame COVID. If one got pregnant — blame COVID. If one got arrested — blame COVID. The list went on *ad infinitum*. Whatever it was, the key was to simply blame COVID. When the sacred mantra “COVID” was intoned, absolution was unquestionably expected.

Hopefully, we all made it

through COVID safely and did not get sick, but with stories to tell. On the other hand, if the virus did get some of us, which was always a possibility depending on which news channel a person watches, I would hope that we still had a good outcome and learned something. It would not be the first time that a virus has had an impact on society. It likely will not be the last. To the same degree, if lessons are to be learned, one lesson which I have learned is that I am not sure if I am yet ready for retirement. After nine weeks, the staying

at home thing was beginning to seriously wear out my family’s patience, even if the dog did grow to like me. In fact, I ultimately came to the conclusion that sometimes it is safer to

face the dangers of the real world than those that lie closer to home, even if the family carpet may once again pay the price.

*Admitted to the Alaska Bar in 1976, Bill Satterberg Jr. has a private, mixed civil/criminal litigation practice in Fairbanks. He has been contributing to the Bar Rag for so long he can’t remember.*

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# Supreme Court disbars Anchorage attorney

The Alaska Supreme Court, in an order on June 5, 2020, disbarred Anchorage attorney Erin Gonzalez-Powell. The disbarment order followed formal disciplinary proceedings before an Area Hearing Committee and the Disciplinary Board of the Bar, and Gonzalez-Powell's appeal to the Supreme Court. The Court adopted the legal analysis in the committee's report and attached the report as an appendix to its disbarment order.

Multiple clients filed complaints with the Bar Association against Ms. Gonzalez-Powell. Because of the seriousness of the complaints, the Bar asked the Supreme Court to issue an order placing Gonzalez-Powell on interim suspension from the practice of law. On April 10, 2018, the Court granted the order pending final resolution of the complaints.

At hearing, the committee found that Ms. Gonzalez-Powell repeatedly breached duties to her clients, including the duties of diligence and prompt and candid communication. She failed to avoid conflict that impaired her independent professional judgment, and she used her client trust account as her general business account and overdrew it. She breached duties to the legal system by failing to comply with court orders and deadlines and failing to appear for court proceedings. She breached professional duties by failing to transfer client files as requested, attempting to mislead Bar Counsel during its investigation, and failing to answer timely the Bar Association's Petition for Formal Hearing.

The committee enumerated several factors that served to aggravate Gonzalez-Powell's conduct including

dishonest or selfish motive, a pattern of misconduct, multiple offenses, failing to comply with discipline rules, employing deceptive practices during the disciplinary process, refusing to acknowledge the wrongful nature of her conduct, and vulnerability of the victim.

The committee found in mitigation that Ms. Gonzalez-Powell had no prior disciplinary record, but accorded it little significance because she had only practiced for two years at the time of the first complaint. The committee agreed that her involvement as a party in a child custody case caused stress and depression. Additionally Ms. Gonzalez-Powell testified to being a victim of crimes by two boyfriends, former clients and an office assistant. She experienced financial pressure and

chronic and sporadic illnesses.

In recommending disbarment, the committee noted the severity of harm to victims and Ms. Gonzalez-Powell's inability to recognize the harm she caused her clients and the court system. Moreover, her conduct showed no improvement from the filing of the first complaint through the date of the committee hearing. With its disbarment recommendation, the committee set out conditions to be met if Ms. Gonzalez-Powell seeks readmission to the Bar. Those conditions include a period of supervision by a mentor attorney for a period to be established by the Disciplinary Board at time of readmission (with the committee recommending that it be for at least a two-year period) and trust account oversight for a two-year period.

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## Vouchers to attend religious, private schools prohibited in the State of Alaska

*Editor's note: Former Alaska Supreme Court Justice Robert Erwin who died earlier this year was a consistent contributor to the Alaska Bar Rag. He recently submitted two articles that we had yet to publish. This is the second of those, used by permission from his family.*

**By Robert C. Erwin**

In the discussions of the appropriation of public funds for education set forth by proponents to cut the funds to public education there has been the suggestion that the state should use the voucher system for each student to permit students to use the vouchers to support the growth of private school and thus take away part of the burden of the cost of public education caused by increased population in public schools.

Such suggestions ignore the provisions of Alaska's Constitution which prohibit the use of public funds for the direct benefit to religious or private educational institutions.

Article VII, Section I of the Alaska Constitution states:

The legislature shall by general law establish and maintain a system of public schools open to all children of the State and may provide for other public educational institutions. Schools and institutions so established shall be free from sectarian control. No money shall be paid from public funds for the direct benefit of any religious or other private educational institution. (emphasis added)

In the case of *Sheldon Jackson College v. State of Alaska*, 599 P.2d 127, 131 (Alaska 1979) Justice Matthews examined the use of public funds for private education throughout the United States in holding an Alaska statute giving funds to Sheldon Jackson College was a direct benefit which was prohibited under Alaska's constitution:

Second, the public funds expended under AS 14.40.776 constitute nothing less than a subsidy of the education received by the student at his or her private col-

lege, and thus implicate fully the core concern of the direct benefit provision. While the program may be motivated, as was stated in the preface to the statute as it was originally passed, by the desire to "help retain qualified students in Alaska," such a laudable purpose cannot escape article VII's mandate that Alaska pursue its educational objectives through public educational institutions.

Interesting enough the decision of the court specifically did not rely on the previous decision of the court which found a statute enabling private school children living far from

their schools to ride public school buses at public expense violated the direct benefit prohibition *Matthews v. Quinton*, 362 P.2d 932 (Alaska 1961), cert denied, 368 U.S. 917 (1962). *Id.* at 130 n.20 See supra note 10. In *Matthews*

*v. Quinton*, 362 P.2d 932 (Alaska 1961); cert. denied, 368 U.S. 517, 82 S.Ct. 530, 7 L.Ed.2d 522 (1962), a statute enabling private school children living far from their schools to ride public school buses at public expense, was held violate of the direct benefit prohibition. We do not rely on *Matthews* in reaching today's decision, and thus have no occasion to overrule or re-affirm it. A substantial question, however, can be raised as to its continuing vitality in light of the analysis which we employ in the present opinion.

Vic Fischer was correct in his recent article "In Defense of Alaska" as to religious or private schools. The use of public funds for a voucher program appears clearly prohibited without a constitutional amendment in Alaska.

*Robert C. Erwin was admitted in Washington in 1960 and Alaska in 1961. He served as DA at Nome, Fairbanks and Anchorage. He was a member of the Alaska Supreme Court from 1970 - 1977. He presented more than 220 appeals to the Alaska Appellate Courts. He died Jan. 24, 2020.*

**Vic Fischer was correct in his recent article "In Defense of Alaska" as to religious or private schools. The use of public funds for a voucher program appears clearly prohibited without a constitutional amendment in Alaska.**

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## In Memoriam

# Son recounts the life of Lucy Groh

*Continued from page 3*

Upon advice of his dean and other faculty that first year at the University of New Mexico Law School, Cliff shortened his last name from “Grohoski” to “Groh”— meaning that his bride had to learn how to sign checks differently twice in 12 months.

Lucy had to adjust to another big change when her husband was recalled into the Navy in the fall of 1950 after the Korean War started, leading her to move to his home port of San Diego. Lucy and Cliff rented half of a house near Balboa Park, where they slept in a single bed in the hall of the utility room.

The new Lt. Cliff Groh served off the Korean coast as the operations officer on a destroyer escort (which Lucy described as “like a destroyer, only dinkier”). He survived the shelling the North Korean military aimed at his ship and was honorably discharged in late October 1952.

### The couple heads North

The young couple had options in that fall of 1952, particularly since Cliff had received his law degree despite missing much of the last year of law school. (He had found a statute that allowed this for those students leaving law school to enter — or re-enter — the armed forces.)

Let’s look at that array of choices:

- Cliff and Lucy could have gone back to New Mexico, where Cliff was already a lawyer given that he had passed the bar examination in early 1952 while on leave from the Navy. The two could have stayed in San Diego, a place Lucy enjoyed.
- They could have gone back to their roots on the East Coast and headed for New York or Florida.

But all those potential destinations went by the wayside as the young couple went to Alaska instead. Cliff told Lucy they would go visit his old school friend Roger Cremo, who had gone up to the frontier town of Anchorage to home-stead with a young bride and practice law as the general counsel of a bank. The trip was all Cliff’s idea, and he sold it to his wife as just a “visit” — a vacation, really. So Cliff and Lucy became perhaps the first people in the history of the world to leave San Diego in November to vacation in Alaska.

Lucy frequently recounted that Roger picked up Cliff and her in a battered Alaska-style truck at Elmendorf Air Force Base, as the Anchorage International Airport was being worked on and was closed.



Lucy Groh with (from left to right) her grandson Bennett Ptak, her daughter Betsy Groh Ptak, her grandson Carter Ptak, and her son-in-law David Ptak. Betsy is holding the picture of Lucy’s husband, Clifford J. Groh Sr. that hangs in the Groh Gallery of the Alaska State Senate.

She thought the date was Nov. 14, 1952.

Despite the talk of visit or vacation, Cliff went to work right away for his friend Roger — just to help his old friend out, he told Lucy.

Lucy said her first inkling that it wasn’t really a vacation was when she got to know the laundryman by his first name. She also said, however, that it was only clear to her that they had in fact moved to Anchorage when she and Cliff were looking for a house to buy. It was only then that she sent for their belongings left in storage back in Albuquerque.

In 1952, Anchorage seemed like a small town that felt smaller. The area within the present boundaries of the Municipality of Anchorage had less than 50,000 souls, including — according to the 1950 census — those living in the “villages” of Spenard, Mountain View, and Eastchester. There were two paved streets in this frontier outpost a world away from the Lower 48.

Go-getter Lucy got a job with the U.S. Bureau of Land Management (BLM) and moved with her husband to a series of residences in the wild and woolly Anchorage of the 1950s. One had an outhouse, and another had a well that didn’t always work without going down and digging a little deeper every other week or so. A third residence — the one they ultimately raised three children in — had a partial dirt floor when Lucy and Cliff first moved in.

A common goal pursued in all these residences was expanding the Groh family. Those efforts produced nine pregnancies that ended up as five children (with two—the twins Daniel and Donald—dying within hours of their premature birth) and five miscarriages. The surviving children were born between 1954 and 1962, and they were Clifford (first called “Ford,” then “Cliff”) J. Groh, II; Paul W. Groh; and Lucy (“Betsy”) Ptak (formerly Groh).

In between working at the BLM (and later managing some family real estate investments), performing a slew of household chores, and navigating multiple pregnancies,

Lucy was volunteering up a storm. Anchorage’s status as a relatively new and growing community left it with a flat social structure and open doors for people who wanted to do things, including in civic life. A charter member of the League of Women Voters while in college, in her new home Lucy was also a charter member of Anchorage League of Women Voters and the Anchorage American Association of University Women. She worked for years as a volunteer for several causes and charities in the community, including the chairing of the first annual Salvation Army Doll Show and Tea. She was an active member of PEO’s Chapter C in Anchorage and the Anchorage Republican Women’s Club. She served for several years on the Anchorage Parks and Recreation Commission and several Alaska state commissions.

To be able to sit on commissions of the State of Alaska, of course, you first have to get a State of Alaska, and Lucy Groh spent many, many hours in the 1950s as a volunteer in the successful drive to achieve statehood on the Last Frontier. Lucy and Cliff were in a wave of war veterans and their spouses who moved north in the decade after World War II and were stunned—and even outraged—that in the Territory of Alaska you couldn’t vote for President or for a Member of Congress who had a vote on the floor. The couple joined friends in getting together to write letters—to newspapers around the country, to friends in the Lower 48, to anybody who might be able to help. They rallied crowds to demand statehood.

Those efforts all paid off June 30, 1958, when a U.S. Senate vote ensured that Alaska would get statehood. This news triggered wild celebrations, including a huge bonfire on the Park Strip on the south side of downtown Anchorage estimated to have burned 50 tons of material. Lucy and her family were there. With his oldest son (then four years old) on his shoulders, Cliff threw

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**Alaska Bar Association**

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*In Memoriam*

# Son recounts the life of Lucy Groh

*Continued from page 16*

federal statute books in the bonfire to represent the U.S. laws that were believed to no longer apply to Alaska when it left territorial status to become a state.

## The 1964 Earthquake Hits, and Lucy Saves Her Children

March 27, 1964 shaped up as a fairly standard day for Lucy and her family, even if it was the Good Friday holiday. She was doing household chores in the late afternoon before dinner while her two older children—Clifford and Paul—worked under the carport in front of the house on a structure they aimed to nail up in a tree (a “treefort,” in their words). Lucy happened to look outside and see one of her boys raise a hammer threateningly to the other. She ordered both her sons to go to bed in their rooms as punishment. For good measure, she picked up her one-year-old daughter (then called “Bitsy”) from the living room floor and put the tiny girl in a crib while Lucy laid down in bed as well.

Then came the earthquake. It was four and a half minutes of the most violent shaking ever recorded in North America (and the second most powerful recorded in the history of the world). The quake was so fierce and so long that Lucy thought it was the Second Coming. The carport fell down, which probably would have killed her sons if she hadn’t ordered them to bed. The piano crashed its way across the living room, which likely would have killed her daughter if Lucy hadn’t moved her to what turned out to be safety.

All the Grohs survived, although nine people died in Anchorage from the quake itself. The earthquake killed more than 100 people in Alaska and down the Pacific coast by triggering tsunamis, a fate that Anchorage escaped by being near the end of a long inlet with multiple bends.

## Separation and Reconciliation

The earthquake increased pressures on Lucy given that the need to reconstruct the severely damaged Anchorage dumped a lot of work on Cliff, a member of the City Council. As her husband got increasingly active in public service and politics as well as his law practice and real estate investments, Lucy treasured more and more the family’s time at cabins at Alyeska and Kenai Lake. It wasn’t just the nice views of the Alaska woods she found attractive—it was that there was no telephone at either place.

The attempts to use weekend getaways as a road to togetherness as a couple unraveled in the summer of 1976, when Lucy and her husband separated. Lucy left Alaska to move to live near Lake Tahoe in Nevada with 13-year-old Betsy, as her sons Cliff and Paul had already left for college. Lucy threw herself into her new community as a dedicated mother, a volunteer, and a social columnist for the local newspaper.

Very much against the odds,

Lucy and her husband Cliff reconciled in 1982 after six years of separation, with Lucy moving back to her home in Anchorage.

## Life after the children

Her return meant that Lucy had a whole new real estate investment to manage, as during the separa-

A classic snowbird by the early 2000s, Lucy divided her time between Anchorage and Palm Desert, CA (a community near Palm Springs). Just like she had throughout her life, she made friends in the desert. She enjoyed the sun, played bridge, entertained family and friends, and went to casinos, favor-

end. One doctor suggested that she donate her body to medicine to see if it contained some clues for longevity. Her resilience was demonstrated by her medical history as well as by the arc of her life from a childhood in rural Florida to an adulthood spent mostly on the Last Frontier.



Lucy Groh, seated at far right in the front row, sat with guests at one of several Territorial Lawyer Dinners she helped organize.

tion her husband had bought into Ellamar, a rural residential subdivision on Prince William Sound.

Reunited and with an empty nest, Lucy and Cliff had more time to travel, including on cruises. They enjoyed themselves in all kinds of ways, including socializing. Memorably, Lucy was shocked when her husband pulled off a surprise birthday gala for her 70th that included an appearance by her daughter Betsy on a sneak visit from Betsy’s home in California.

Cancer was the dark spot in this happy picture. Always functionally blind in one eye, Cliff got cancer in his good eye. He survived that, but died of lung cancer in 1998, less than a year after it was discovered.

## Lucy battles cancer

Lucy’s own much longer cancer journey had started before her husband passed away. She had skin cancer relatively early in her life, but considered it so minor that she didn’t even count it. She considered her first serious bout to be the colon cancer that required surgery roughly two months prior to her husband’s death.

Lucy beat that colon cancer, although it took two surgeries in less than six months. True to her adventurous nature and strong constitution, she quickly recovered and created a vibrant life for herself as a widow. Lucy went on multiple visits to Europe and a tour around the southern tip of South America.

From the late 1990s on, Lucy also got heavily involved in organizing the annual gatherings of the Territorial Lawyers (later called the Legal Trailblazers). These yearly get-togethers attracted attorneys from the often-colorful early days of the Alaska Bar Association.

ing the slot machines and the good food deals available at the casino restaurants.

Lucy doted on her grandsons Kevin (her son Cliff’s son), Carter and Bennett, the children of her daughter Betsy. She very much enjoyed hanging out with them, and she treasured her time with them on cruises along Mexico’s west coast and the Caribbean. She shared a lifetime of wisdom and old-school manners, but mostly just doted on her grandsons and made sure that they knew how much they were loved.

Lucy’s life in retirement was interrupted frequently by battles with cancer. After that early victory over skin cancer, after she turned 70 she beat—in order—colon cancer and breast cancer (twice). She then held off uterine cancer for almost two years past the time she gave up on treatment. Additionally, she also suffered from severe lung disease unrelated to the four kinds of cancer she faced during her life.

Her survival in the face of such terrible disease was the stuff of leg-

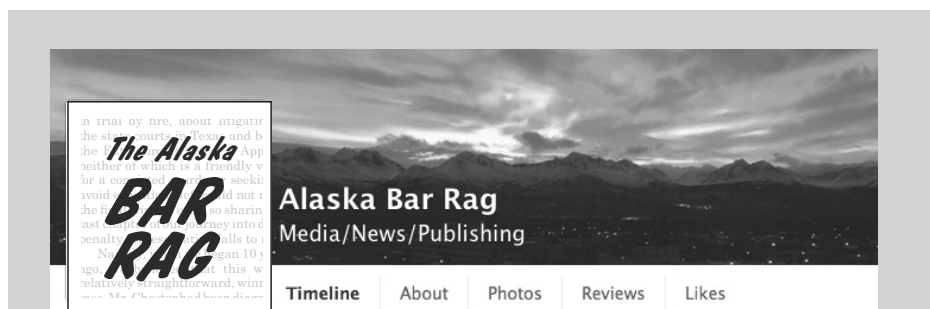
## Lucy’s Journey Ends

She moved into the Anchorage Pioneer Home in 2018 as her health failed. She mingled easily in the new environment, delivering balloons on birthdays and organizing people to petition against rate increases for residents. She passed away May 29, 2020, in her room at the Pioneer Home.

Her survivors include her son Cliff and his wife Theresa Philbrick; her son Paul; and her daughter Betsy Ptak and her husband David along with grandsons Kevin Groh, Carter Ptak, and Bennett Ptak.

Memorials can be sent to either Bean’s Café, an Anchorage homeless restaurant and social center, or the Salvation Army. Due to the coronavirus pandemic, no church service was held. A private family graveside service placed Lucy next to her husband in the Pioneer Tract of the Anchorage Memorial Park Cemetery.

Cliff Groh wrote this account of his mother’s life with the aid of editorial suggestions from Betsy Groh Ptak, David Ptak, Theresa Philbrick, Kevin Groh, Roger Marks, and Cliff Landesman.



Known for its often-irreverent and always-topical content, the *Alaska Bar Rag* is the official newspaper of the Alaska Bar Association.

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



## In Memoriam

# Attorney spent more than 40 years in Alaska practice

Submitted by Leroy Barker

Larry Barry died at age 79 on June 12, 2020, with his wife of 51 years beside him.

A business trip around July 4, 1974, first brought Larry to Alaska. He went fishing and caught a big king salmon; the rest is history. He returned with his wife Helga in February 1975 and lived in Anchorage until his death.

Larry was born and raised in Huntington, WV. He received an undergraduate degree in chemistry from Marshall University and his legal degree from West Virginia University. Upon graduation he was employed by the U.S. Army of Corps of Engineers, in Huntington, primarily involved in the administration of government contracts and land acquisitions.

In September 1966 he was called to active duty. His first assignment was in Korea, where he prosecuted and defended cases involving murder, rape, larceny and other offenses. In 1968 he was reassigned to the Staff Judge Advocate HQ, USCOMZEUR in Worms, Germany, where he met his wife Helga on the day of his arrival. He served exclu-



Barry

sively as prosecutor of general courts martial cases throughout Germany and England. He was subsequently assigned as Chief, Criminal Law Section, HQ, USTASCOMEUR located in Munich, Germany. In this capacity he provided criminal law advice to 32 special court-martial commanders. He completed his tour in Europe as the military judge for nine USTASCOMEUR jurisdictions in Germany and Italy. He left this position as a major in the Army.

After a transfer to Washington, D.C., Larry served as trial attorney at the Office of the Chief Trial Attorney, Department of the Army. In that capacity he tried complex government contract disputes before the Armed Services Board of Contract Appeals. He also oversaw procurement under the SAFEGUARD program, the anti-ballistic missile defense system which was subsequently curtailed as a result of the Strategic Arms Limitation Treaty (SALT) with the Soviet Union. While in Washington, Larry also earned his LL.M degree at The George Washington University in January 1973.

In February 1975 he achieved his goal of moving to Alaska and accepted a position with the United States Attorney. In this position he

represented the United States in all phases of civil and criminal litigation before the United States District Court.

The following year he accepted a position in private practice with the Anchorage office of Robertson, Monagle, Eastaugh & Bradley. In his 32 years with the firm, Larry tried many civil cases in federal and state courts throughout Alaska. He specialized in aviation law, representing a number of air carriers and aircraft manufacturers. He also served multiple terms as managing partner or managing director of his law firm.

On a personal note, Larry was respected by his law partners, staff, clients and friends. Larry is best described in a few words: dedicated, honest, committed, hard-working, successful, polite, likeable, witty, reliable, ethical, dignified — and he

had a contagious laugh.

Larry loved flying his Cessna 170B on bluebird days and playing golf in off times. Rainy days he spent in his woodshop turning beautiful objects on several of his lathes. Earlier he also built model airplanes that he said were tougher to fly than his own plane. He also enjoyed fly tying, fly fishing and bear viewing.

Larry is survived by his wife Helga, friends and distant relatives. Our gratitude goes to

Alzheimer's Resource of Alaska, HomeInstead and Baxter Senior Living for their outstanding guidance to lead us to the end of Larry's life.

*"What you have deep in your heart cannot be lost through death."*  
Joh. Wolfgang v. Goethe.

Written by Helga Berry and edited by Carl Winner.

## Former Superior Court judge dies of cancer

Mark Rindner died at his home in Anchorage June 12, 2020, after a battle with pancreatic cancer. Mark grew up in Westfield, NJ, and was a graduate of Westfield High School. He attended the University of Pennsylvania, and in 1971 obtained an undergraduate degree in history and a Master of Science in education. He went on to earn a law degree from the University of California, Berkeley, in 1978. Mark practiced law in Anchorage for more than 40 years, rising from associate to managing partner at Lane Powell before being appointed to his dream job as a Superior Court Judge in 2001. Mark was a strong believer in justice, equality and kindness, and was especially proud of his service to the community in care and family courts. Besides his family,



Rindner

Mark's greatest loves were fishing, bridge, cooking, the New York Yankees and having his opinions affirmed on appeal.

Mark will be deeply missed by his survivors, including his children, Benjamin Rindner and Leah Brown (Zach Brown); granddaughter, Emilia Brown; sister, Nancy Iris (Tom Costello); brother, Dan Rindner (Allison Rindner); former spouse, Christine Schleuss; nephews, Jack and Jonah Rindner; and a large circle of loving friends. Mark was predeceased by his father, Jack Rindner (1971), and mother, Annette Rindner (2019).

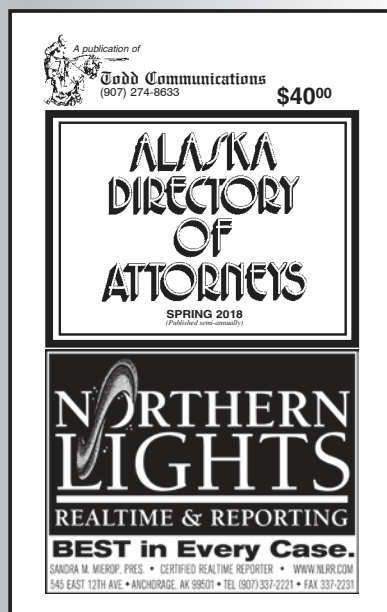
A celebration of life will be held at a future date. In lieu of flowers, the family requests that any donations in Mark's honor be made to Alaska Legal Aid Services.

## Former Alaska attorney dies in Idaho

Edward G. "Ted" Burton died Aug. 23 at the family home in Lewiston, Idaho, after a long battle with Alzheimer's. He was a member of the Alaska Bar from 1966 to 1989 and a partner in the law firm of Burr, Pease & Kurtz. He viewed his most significant accomplish-

ment as representing Eklutna, Inc. in negotiations and finalization of the North Anchorage Land Agreement. Memorial donations may be sent to the Go Fund Me account of his wife of 48 years, Karen Burton, to fund final expenses.

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ECLECTIC BLUES

# A sneeze isn't the only danger in the time of Covid-19

Continued from page 1

Sulking like a school boy, he moved to the sticker, pointed to the bare-faced checker cloistered behind a Plexiglas shield, and said, "She's not wearing a mask."



**"Just before a mask-free family approaches, I splash 10 feet off the trail to stand on a muskeg swamp while they pass."**

Mask-less hikers heighten my stress on our hiking trails. Moms tired of trying to telecommute while homebound kids photobomb their Zoom meetings, drag the kids out to the North Douglas Island trail system where I often walk the dog. Now, rather than listen for the tapping of a red-breasted sap sucker or a thrush's trill, I try to discern to direction of child chatter. Just before a mask-free family approaches, I splash 10 feet off the trail to stand on a muskeg swamp while they pass.

Before the pandemic, the battered-boxer would have been happy to give my car a jump start if my battery had died in the Carrs parking lot. I wonder if he and the mask-less guys at Home Depot understand that one person can transmit illness to another with a sneeze. They, like the rest of humankind have benefited so much from work done by scientists. We baby boomers have the polio inoculation scars to prove it. Why do they ignore the advice of experts at the National Institute of Health or the Center for Disease Control, folks who have devoted their life to battling infectious disease? Instead, they take guidance from Drs. Phil and Oz, and a president trained in real estate, not epidemiology.

Nobel Laureate William G. Kaelin, Jr. believes that many people refuse to wear face or social distance because they distrust science, a distrust "carefully sown by people

who think policy should be based on economic expediency, rather than the greater good." ("The Political Battle Over Masks is Making Us Lose the War on Covid 19," *Boston Globe*, last updated July 21, 2020.).

For an example of a sower of distrust, Dr. Kaelin points to Republican strategist Alex Castellanos, who told the *Washington Post*: "Mask-wearing has become a totem, a secular religious symbol. Christians wear crosses, Muslims wear a hijab, and members of the Church of Secular Science bow to the Gods of Data by wearing a mask as their symbol, demonstrating that they are the elite; smarter, more rational, and morally superior to everyone else." Apparently there is no room in Mr.

Castellanos' America for a mask-wearing Christian or a person with faith in God and rational science.

After my near-punch-out in Carrs and the contractor conflict in Home Depot I stopped asking the mask-less for my 6 feet. Instead, I shop early in the morning, when the macho are still asleep. In Costco I feel as secured as laundered money in a Swiss bank because the big box store enforces their mask requirement. But I refuse to honor the managers of Fred Meyers with my presence in their store until the pandemic peters out.

Dan Branch, a member of the Alaska Bar Association since 1977, lives in Juneau. He has written a column for the Bar Rag since 1987. He can be reached at [avesta@ak.net](mailto:avesta@ak.net)

**After my near-punch-out in Carrs and the contractor conflict in Home Depot I stopped asking the mask-less for my 6 feet. Instead, I shop early in the morning, when the macho are still asleep.**



## Alaska Law Review seeks submissions



The Alaska Law Review (ALR) is accepting submissions for its Spring 2021 Volume. We are accepting submissions from attorneys on any topic related to law in Alaska. Submissions may take the form of traditional law review articles or shorter essays. ALR is committed to catering to practitioners in Alaska, and we strive to publish practicing attorneys within the state.

Please send your submission to [alr@law.duke.edu](mailto:alr@law.duke.edu) by Dec. 15.

If you have any questions or have interest in writing for the Journal, please reach out to the Law Review staff at [alr@law.duke.edu](mailto:alr@law.duke.edu) for further information.

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# Bar People

## Lane Powell expands Anchorage office

Associate **Hans Huggler** and Counsel to the Firm **Miranda Strong** have joined **Lane Powell's** Anchorage office.

Huggler, who is relocating from the firm's Portland office, is a commercial litigator with a focus on transportation and insurance-related matters. After earning his J.D., *magna cum laude*, from Lewis & Clark Law School, Huggler served as a law clerk for Judge Sharon Gleason of the U.S. District Court for the District of Alaska before joining Lane Powell. Over the next few months, Huggler will complete the requirements for an LL.M. degree in Air & Space Law from McGill University's Institute of Air and Space Law in Montreal, Quebec, including a research project focusing on U.S. court jurisdiction over international air crash claims. In addition to his studies and work at the firm, Huggler serves as a Representative-at-Large on the Executive Committee of the Transportation Lawyers Association. He also holds undergraduate degrees in Economics



Hans Huggler

and Political Science from Oregon State University and a M.Sc. in Criminal Justice Policy from the London School of Economics & Political Science.

Strong focuses on compliance, litigation, government affairs and employment. She joins the firm from the Bering Straits Native Corporation, where she served as Chief Ethics and Compliance Officer and Associate General Counsel. In that role, she conducted investigations; handled administrative employment hearings; designed and directed corporate compliance, records and information management, and export compliance programs; and advised on Arctic, Alaska Native, corporate and energy public policy. Strong also spent time as an assistant attorney general for the State of Alaska, where she was a trial and appellate litigator, and a tribal liaison and special assistant advising the executive branch on emerging Alaska Native legal and policy matters.



Miranda Strong

## Schwabe strengthens natural resources, Native presence

Schwabe, Williamson & Wyatt P.C. has welcomed **Robert Misulich, Matt Singer, Christopher Slottee, Howard Trickey, Lee Baxter, and Peter Scully** to the firm's Anchorage office.

The attorneys joining Schwabe are:

### Shareholder

Misulich is a business shareholder specializing in corporate governance; corporate services; government contracts; labor, employment, and benefits; and Native American law. He regularly represents Alaska Native Corporations as outside corporate counsel in a broad range of matters, including corporate governance, shareholder meetings, proxy solicitations, and business transactions and compliance.

Singer is a litigation shareholder with an extensive trial and appellate practice. Matt has handled numerous jury and bench trials in state and federal courts and has argued more than 25 appeals to the Alaska Supreme Court and the Ninth Circuit Court of Appeals.

Slottee is a litigation shareholder with extensive experience in matters related to Alaska

Native corporations, Alaska Native corporation settlement trusts, tribal governments and government contracting. He previously served as vice president and general counsel for an ANC.

Trickey is a litigation shareholder with 40 years of experience as a trial and appellate lawyer representing a diverse group of clients across many industries and practice areas. Howard has also devoted a substantial part of his practice to employment law and traditional labor relations and represented Alaska Native Corporations, Fortune 500 companies, privately owned companies, nonprofits, and school districts.

### Of Counsel

Baxter is a litigation and dispute-resolution Of Counsel who practices in commercial litigation, real property matters, Indian and Alaska Native law, government relations, and contracting.

Scully is a litigation and dispute-resolution Of Counsel who practices commercial litigation, corporate governance, business formation, construction contracting, real estate, and Alaska Native law.



Robert Misulich



Matt Singer



Christopher Slottee



Howard Trickey



Lee Baxter



Peter Scully

## Foley & Pearson names new partner

Foley & Pearson has announced **Chelsea Ray Riekkola** as its newest partner as of May 2020. Chelsea joined Foley & Pearson as an associate in September 2014 after earning her Juris Doctorate from the University of Oregon. She focuses her practice on complex estate administration, probate, and estate planning. Outside of the office, Chelsea is involved in many community organizations, including the Anchorage Library Foundation, the Anchorage Bar Association, the Anchorage Association of Women Lawyers, and the Executive Committee of the Estate Planning and Probate Section of the Alaska Bar Association.



Chelsea Ray Riekkola

## BHBC adds two to legal team

**Birch Horton Bittner & Cherot** has added two persons to its team of professionals.

**Michelle Nesbett** has joined our team of accomplished lawyers. Michelle is a well-respected attorney, who focuses on federal white-collar criminal defense. She also handles civil cases, including professional negligence and complex litigation. She received her law degree from the University of San Francisco School of Law in 2006. After working as a prosecutor, she transitioned into private practice. In 2019, she was awarded the designation of "Super Lawyer," which recognizes those lawyers who have attained a high degree of peer recognition and professional achievement. Michelle also participates in her community, including serving as the Chair of the Board of Directors for Anchorage Neighborhood Health Center. Michelle is a valuable addition to the Firm.



Michelle Nesbett

**Ella Morozova** also has joined the Anchorage BHBC office as a paralegal. Ella received a Bachelor of Arts degree from the University of Nevada, Las Vegas; she received an Associate of Applied Science degree from the College of Southern Nevada; and she studied law at California Western School of Law in San Diego. She has worked as a paralegal in Las Vegas since 2010, but recently relocated to Alaska, and is now a valuable member of the Firm.



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