

Federal act proposed to protect Denali wolves

By Steven T. O'Hara

Third in a Series

My father, Jim O'Hara, was head of the Boxing Commission in Minnesota for 25 years (1976-2001). He knew a fighter could get killed in the ring. So he worked hard to nix mismatches and when he saw a sanctioned fight turn one-sided, he stopped it.

He was called every name in the book for prohibiting bouts and for stopping others. In professional boxing Jim O'Hara called the argument that something positive could happen for the underdog in a mismatch, like the movie *Rocky* itself, "fantasyland." See Round 1 at www.60yearsofboxing.org.

When you're an Alaskan and you propose a federal statute that would restrict activity on non-federal land in order to protect the Denali wolf, you have to realize you've entered a part of fantasyland. Here I am proposing a federal statute, which I call the Denali Wolf Protection Act, and I have no illusions about the proposal ever becoming law. The proposed statute has as much chance of becoming law as the government has of reducing the national debt.

The national debt stands at over \$21.3 trillion. See www.usdebtclock.org where you can calculate the amount the national debt increased in the time it took to read this sentence.

"By default" appears to be the government's middle name when it comes to managing the national debt. You also could call it crisis management, where decisions are forced on government.

The U.S. could be forced to sell Denali National Park and Preserve someday in an attempt to reduce debt. But selling Denali will never happen, right? Denali is a national treasure.

If Denali National Park and Preserve is a national treasure, what is the Denali wolf? I believe permanent law needs to be enacted to protect this keystone species.

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Bud Root

Fairbanks attorney retires after a lifetime of Alaska law and adventure

By Roseann Simko Wall

They call him Legend, for his steadfast public service in law. After 47 years of service with the U.S.

Attorney's Office, and a total of 53 years of legal work, Stephen Cooper has other things he wants to pursue.

Steve, or Mr. Cooper as so many know him, was born in New Jersey. Like his father, Frederick Cooper, he has no middle name. When Steve was very young, his father and mother Katherine moved the family to Penn Valley, Pa. Steve, with his three brothers and two sisters, grew up in Penn Valley on a dairy farm. His father was a metallurgist who studied and engineered alloys of various metals. The only lawyer in Steve's family before him was a grandfather he never knew, Abbott Morton Cooper, who died in the Spanish flu epidemic in 1920. Morton was the youngest attorney then admitted to the Philadelphia bar, at about the age of 25.

In 1958, while in college, Steve heard on the news that the Territory of Alaska was soon to become a state. He thought it would be an interesting adventure to experience the great land. He transferred all his college credits from Temple University in Philadelphia to the University of Alaska on its original campus at College (Fairbanks). In the summer of 1958, Steve hitchhiked across the country to Seattle. From there, he took what was



Fairbanks DAs pictured above: Jay Hodges, 1966-1968; Kathy Chandler-Stevens, 1973-1976; Harry Davis, 1976-several decades; Stephen Cooper, 1969-71; Monroe Clayton, 1971- 1973; and Gerald Van Hoomissen, 1968-1969.

known as "The Alaska Flag Line," Pacific Northern Airlines, to Anchorage and soon found his way to Fairbanks. He graduated from the U of A in 1959 and worked as a BLM firefighter for the summer.

Instead of waiting to be drafted into the Army, Steve enlisted in 1959 for a three-year hitch. He became a German language interrogator of refugees in Berlin. Before shipping to Germany, he learned fluent German in an intensive six-month

course at the Army Language School in California. All the teachers there were native-born speakers of their respective languages. Most of the German teachers had been soldiers in the German army in World War II, and they shared stories about their experiences — always in German. After the students learned enough German to be conversational, one of the teachers — a for-

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Finding a way to be thankful on a tour of Northwest Alaska

By Brent Bennett

As the leaves begin to turn from green to yellow, we are entering that season where many of us stop to reflect on the things that we are thankful for. Reflecting on my time with the Board of Governors and as bar president, I am thankful for the opportunity to meet so many dedicated and wonderful Alaska attorneys. I feel fortunate that my own practice experience has occurred in a very collegial legal community. And I'm learning that that tight-knit legal community feel really does seem to stretch throughout our entire state.



Sign points to four corners of the world from Front Street in Nome.

In August, I had the pleasure of traveling with Krista Scully to conduct the first of our bar outreach trips for this year. Each year the bar president and the pro bono director travel to different areas of the state to meet with local attorneys. We let the members in these areas know what's been going on with the bar, what's on the horizon, and talk about their community's needs. We shared information about a program called "Licensed Lawyer" that is an online lawyer-referral service that the bar association will soon begin providing to members. We drew attorneys' attention to the newly completed Youth Law Guide that can be accessed on the bar's website. We also provided information on Alaska's online legal clinic: alaska.freelegalanswers.org, and we encouraged attorneys to get the word out about the Seventh Annual Elizabeth Peratrovich pop-up style legal clinic occurring in Anchorage during the AFN convention on Oct. 19, 2018.

Our latest trip began in Kotzebue. This was my first time. The local Bar treated us with amazing hospitality. We took a tour of the city and seemed to see the tundra change from green to yellow right before our eyes. Judge Paul Roetman, presiding judge of the Second Judicial District, also gave us a demonstration of the PolyCom high definition video program that the court system uses to conduct hearings via video. By using PolyCom the court system has seen huge savings due to



"I am thankful for the opportunity to meet so many dedicated and wonderful Alaska attorneys. I feel fortunate that my own practice experience has occurred in a very collegial legal community."

reduced transport costs, but more importantly, the video capability makes a wide spread region smaller, allowing parties who can't be physically present to be much more a part of their proceedings than if they were on the telephone alone.

On the second day of our travels, we visited Nome, which we found to really be a beach town. There, we were able to tour the beautiful, new community library. We shared information about legal clinics and services provided by the Bar Association with the librarian to pass along to the community. We also had an opportunity to provide this information to the KNOM radio station so that they could disperse it through their programming.

What I was most impressed with about both the Kotzebue and Nome legal communities was the feeling that all of their members were working together toward a common goal — providing the best legal services possible to their region. Many of the attorneys in these areas are unable to provide pro bono services in the traditional sense because of their particular job responsibilities. However, it should be recognized that these attorneys are working tirelessly as community leaders and are involved in community-based efforts to solve local problems. Through their efforts, they are showing their communities the best of what the legal profession has to offer.

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Tundra flats: Judge Roetman and Brent Bennett walk the flats on the road out of Nome to Council.



Judge Paul Roetman and Brent Bennett observe a musk ox on the "loop" overlooking Kotzebue.

The Alaska BAR RAG

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EDITOR'S COLUMN

Lonely and depressed? There are solutions in Alaska

By Ralph R. Beistline

Just a glance at some of the articles featured in the ABA Journal the last several months is interesting. Apparently the lawyer population is 15 percent higher than 10 years ago, but lawyers rank highest among other professionals on the loneliness scale and there is a depression epidemic in the legal profession. There is even a Lawyers with Depression website (www.lawyerswithdepression.com). In Alaska, the lawyer population is 11 percent higher than 10 years ago, so we are pretty much in line in that regard but, hopefully, we are not as lonely and depressed as our Lower 48 counterparts.

Tina Willis, founder of Tina Willis Law, a personal injury law firm in Orlando, Florida, explains that lawyers "have the perfect storm of both personality traits and career circumstances which are generally known to cause depression. Most lawyers are type-A people who put way too much pressure on themselves, even when they are doing great financially and professionally. They always want to do better

and rarely think that they have done enough to deserve a break. As a result, many work longer and longer hours, even when they have enough money and success to justify decreasing their hours. Also, in our profession, we are always being attacked, literally, from opposing counsel and other players in litigation. Other than professional boxing, I can't think of any other profession where the job requires constant fighting."

Others familiar with the subject of lawyer depression have attributed it to the computer age and the inability to get away from work, while some attribute it to the nature of the work itself and the fact that lawyers must deal with all of society's problems. In any event, it apparently is real and a growing concern.

So, what do we do about this? I hate to think that my friends and colleagues in Alaska are lonely and depressed. Everyone seems to agree that this is a problem, but no one really has suggested any solutions.



"I can't think of any other profession where the job requires constant fighting."

Perhaps Samantha Slenders could help. While I know that we cannot measurably change the profession, I suspect the answer lies in changing ourselves, in stepping out of our box. This would involve smelling the roses as we march along, and appreciating the beautiful place we have to work and all the positive things about the Bar and about our colleagues. And, of course, we can carefully read the Bar Rag and then become a contributor. That way, there will always be something positive to look forward to and friendly and creative people to associate with.

Beyond this, we look forward to any suggestions you might have. We do live in a beautiful state. We have a great Bar Association with a lot of friendly people anxious to engage. So, let's engage. What else do we need?

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



Samantha Slanders *Advice from the Heart*

Dear Samantha,

I am a longtime reader of the *Miss Manners* column. When answering a query she always refers to herself in the third person. Your recent query responses have been somewhat judgmental. Referring to yourself in the third person might give you necessary distance from the subject matter.

Signed,

Just Trying to Be Helpful

Dear Trying,

Samantha Slanders thinks it is rude and narcissistic to refer to herself in the third person. She is not alone. Elsa Ronningstam in *Identifying and Understanding the Narcissistic Personality* writes that the use of the third person is often used by persons with an exaggerated view of their greatness to make themselves feel even greater. Samantha Slanders knows her value. She doesn't need to refer to herself in the third person to confirm it. But she is also magnanimous. If you need a little ego boost, allow yourself a little third person referencing. But keep it down to two hours a day.

You are no Miss Manners.

Sincerely,

Samantha Slanders

Dear Samantha,

My wife and I are never alone. Her Samsung is always with us. She never puts the phone down. Thanks to all her texting, her thumbs are now larger than those of Sissy Hankshaw. (*Even Cowgirls Get the Blues*). Even though she is only 30, she has the stooped posture of a 101-year-old-scholar. She ignores me when I try to speak to her during dinner. I have to text her requests to pass the peas or salt. I love her. Help me stop her transformation into a smart phone monster.

Sincerely,

Desperate in North Pole

Dear D,

I have received many recent requests for help from people who see themselves or their family members addicted to their fancy phones. Some have gone so far as to move to somewhere without good Internet service. They call themselves "relation-

ship pioneers." If you chose to follow them, there are many fine Internet-free spots on the Yukon River where you take up residence. Neither the bottom of the Grand Canyon nor American Samoa offer high-speed connections. But you don't have to take such drastic steps to save your marriage. Just dunk your wife's phone in beer. If she never lets it out of her sight, move the family to Yakutat. According to *Forbes*, it is one of the best places in America to get off the grid.

Sincerely,

Samantha Slanders

Dear Samantha,

I hope you can help with a dispute I am having with my neighbor. It's about his pesky cat. The little tabby likes to piddle in our carport. When asked to do something about it, the cat's owner just smiles and says that cats can't be corralled. They need their freedom to roam, hunt and relieve themselves whenever and wherever they please. In

other words, for a cat, the world is one big cat box. Should I order a have-a-heart trap, call animal control, or just live with the smell?

Sincerely,

Watering Eyes

Dear Watery,

If you have bald eagles flying over your neighborhood, you could wait for one of them to solve your problem. Otherwise, take to the Internet. There are over 75 YouTube videos dispensing advice on how to stop a cat from using your yard as a toilet. Most are narrated by Brits. This could explain Brexit. They advise adding cat-repellant plants to your garden, spraying pepper solution or an alcohol/lemon juice cocktail in your carport, or hiring Daniel Boone to trap away your problem. If you find a method that works, please let me know. My neighbor's minx is starting to sniff around my carrot bed.

Sincerely,

Samantha Slanders



Finding a way to be thankful



Bar President Brent Brennett sports a button promoting the Elizabeth Peratrovich Legal Clinic while posting a magnet for Alaska Free Legal Answers at the Kotzebue post office.

Continued from page 2

Those are just some of the reasons that I am thankful to be a part of the Alaska bar. What are you thankful for this season?

Brent Brennett is president of the Alaska Bar Association. He lives in Fairbanks where he works for the Office of Public Advocacy.

Photos by Brent Brennett and Krista Scully

Letter to the Editor

Seeking stories about Judge Henry "Hank" Taylor

Thank you for mentioning my father in your column in the Bar Rag. My girlfriend Kim never bothers to grab the Bar Rag but for some reason she grabbed this one and there was you mentioning my pop.

I'd love to see you republish the original story. I've heard his version many times and seen the Alaska Bear Tales version he told Larry Kaniut but yours would be closer to the original event.

Also since I didn't follow in my father's footsteps I didn't even know about your paper. If you have any other old articles about or by my dad I'd love to see them and share them with my son Hank.

George Taylor



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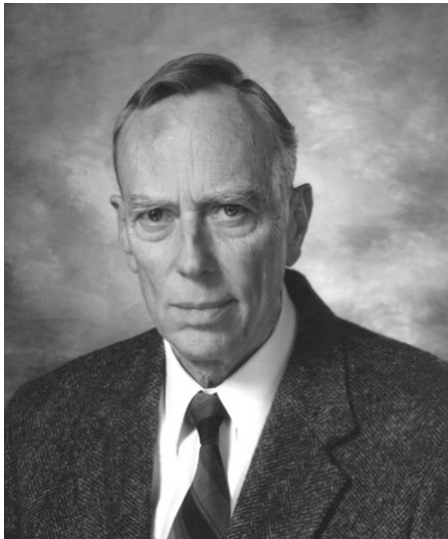
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Casemaker

Fairbanks attorney retires after a lifetime of Alaska law and adventure

Continued from page 1

mer artillery officer on the Eastern Front — would sometimes approach a student and ask in German, “Do you know why you’re wearing that uniform?” While the student was trying to think of an answer, the teacher earnestly and with insistent tone provided it: “Because you’re fighting for the Free World!” Some of the German veterans recalled that if they had a choice where to surrender near the end of the war, they much preferred to surrender to the British. Their second choice was the Americans and last the Russians.



Steve Cooper

Steve left the military in August 1962 and attended Boalt Hall School of Law in Berkeley. He thought the legal profession was the best way he could continue to serve the public interest. He wasn’t fond of going back to school, but he found law studies a refreshing change from other academic studies for one specific reason. He observed that the law courts utilize the discipline and methods of the academy, not just for academic purposes, but to serve a worthy and practical objective, the just resolution of disputes. He had the privilege of learning torts from the recognized leading author on tort law, Professor William Prosser. Steve worked his way through law school, so that even without a scholarship, he graduated debt-free. He graduated with the standard LL.B. degree in 1965 and never did trade it in for the later-created “J.D.” degree.

Steve’s first job in the legal field was as a deputy attorney general in California from 1965-1969. This was his first introduction to criminal law. But he was eager to return to Alaska, so when he heard that the Attorney General’s Office in Juneau was hiring, he promptly signed on.

Alaska’s Attorney General, Kent Edwards, hired Steve in 1969 to work in Juneau, mostly on civil cases. Within a few months, Steve found himself temporarily assigned to prosecute criminal cases in Nome, truly a frontier town with unpaved streets and wooden-plank sidewalks. The defense in these cases usually fell to Nome’s one and only

lawyer, Neil Kennelly, who knew the limitations of applying traditional criminal laws in the remote parts of Alaska. Neil reached reasonable settlements in nearly all his cases. He was known for his assertive courtroom manner that could sometimes befuddle even an experienced judge. Steve remembers living in the house that served as the district attorney’s office in Nome while he prosecuted cases, studied for the Alaska bar, and listened on radio station KICY to reports of the lunar landing that happened that summer.

From 1969-1971, Steve worked as the district attorney in Fairbanks. His colleagues at the DA’s office included Lyle Carlson, Jim Hackett, Bob Downes, Mary Nordale and Hal Horton among others.

The Superior Court had only two judges, Everett Hepp, presiding, and Warren William Taylor. Judge Taylor’s father, Warren A. Taylor, was often seen in state court with his dog. The dog, always well-behaved, rested quietly under counsel table while the Superior Court was in session. Downstairs in the misdemeanor court, it was a different story. One day, just as Steve came into the courtroom, Warren A. Taylor emerged from the door to the judge’s chambers. As he came out, he called back over his shoulder, “I’ve been kicked out of better places than this!” It seems one of the judges there had viewed the dog’s presence as beneath the dignity of that court. “It was ironic,” said Steve, “that the dog, having already been ‘admitted to the bar’ of the Superior Court, should be denied admission to the lower court.”

During summer leave from the DA’s office, Steve fished commercially in Bristol Bay. The year was 1970 and the fish were bountiful. He and his partner fished by drift gillnet, primarily for red salmon, in the areas near the mouths of the Naknek and Kvichak Rivers and reaching southwestward as far as Egegik and Ugashik, including the waters near Dillingham. They hired a local Aleut fisherman, “Johnny,” to keep up with the good fishing. Johnny was an experienced old-timer who had fished in the “sailboat days” and knew the best places to fish.

Of course, every fisherman has his fish stories: Early one notable day, while Steve’s partner was asleep below deck, Steve and Johnny waited at low tide at Johnny’s recommended spot with one shackle of gear, a 50-fathom (300-foot) length of gillnet, in the water. At the first hint that slack water was turning to flood, the net came alive. The cork line shook and began to sink while fish heads and tails appeared along the line. They pulled that shackle aboard and laid out another shackle. Before they could pick the fish out of the first shackle, the one in the water shook with hits from more salmon, and it began to sink. They pulled it aboard and laid out another shackle, which reacted the same as the

first two. This went on until shortly before noon, when the fish hold was filled to the gunwales. “Good thing it was a calm day,” observed Steve, “or the 27-foot craft with its certified 7-ton burden and only a foot or less of freeboard would have swamped.” The local canneries in Naknek were already “plugged” with too many fish, but a freezer ship from Seattle was anchored in the bay and buying fish. The catch fetched over \$2,600, a good return for a morning’s work in those days. That day was “the best fishing ever. It was unrepeatable.” Steve said.

The summer of 1971, Steve was between jobs (DA and assistant U.S. attorney). He went fishing again, but the fishing wasn’t nearly as good as the year before. There were periodic closings of fishing times, and short openings. During times on the beach he acquired experience as a criminal defense attorney. He represented a number of Bristol Bay fishermen

Steve repeated the well-known slogan of Joe Vogler’s Alaska Independence Party: “Don’t blame me, I voted for Joe Vogler!” Today he adds: “And that was the truth, too.” The protest fizzled and the crowd melted away.

Between trials, Steve was usually either fishing or flying his classic 1942 Beechcraft biplane, universally dubbed the “Staggerwing Beech,” which he took on many flights both in Alaska and Outside. This aircraft won a “best of class” prize at the Oshkosh air show in 1998. He acquired it in January 1972 at Palwaukee, IL, and flew it to Fairbanks, landing there at temperature of 40 below zero.

Jim Lowe, retired wildlife trooper and for a time operations officer of the Civil Air Patrol squadron at Fairbanks, recalled the time when Steve was the subject of a search-and-rescue mission. Steve was reported missing. After unsuccessful

When asked about his legal work, Steve described it as an endless stream of adventures, sorrows as well as joys. He is grateful to all the defense attorneys he encountered in Alaska.



Steve Cooper’s “Staggerwing Beech.”

charged with fishing after a closure, or fishing beyond the district line at Johnson Hill, “in weather and poor visibility of course,” Steve recalled, and added, “I gave them the best possible defense. I settled most of the cases and took a couple of them to trial before the Honorable Red Harrop, the state magistrate in Naknek, who was himself a former gillnet fisherman. He was sure my clients were guilty, but we gave it our best effort.”

In August 1971, he was appointed under the Nixon presidency assistant U.S. attorney in Fairbanks. He was pleasantly surprised by the federal courts’ adherence to precedent in contrast to the unpredictability of state court proceedings, evidently due to a shortage of case precedent in the young state’s brief legal history. While working as AUSA, Steve had some interesting experiences. Once a crowd of Joe Vogler followers packed the courtroom to demonstrate their anti-government sentiment in a controversial case. One of the participants refused to remove his hat at the request of the U.S. marshal and was arrested. Immediately the demonstrators thronged Steve’s office, shouting their objections to the arrest. The fact that Steve had already decided not to prosecute apparently didn’t matter to the crowd. They came to protest and would not be silenced. Finally,

search efforts, the Rescue Coordination Center called in the big guns: a Blackhawk helicopter. They found Steve and his ski-equipped plane (not the Beechcraft) stuck in overflow on a lake in the northern Interior. Steve was able to fly the airplane home after the rescue crew helped him get the skis jacked up and clear of the overflow.

When asked about his legal work, Steve described it as an endless stream of adventures, sorrows as well as joys. He is grateful to all the defense attorneys he encountered in Alaska. “They all had something to teach me.” At his retirement luncheon on July 13, he emphasized, “You are constantly devoted to the good cause of making a difference between right and wrong. You have all my admiration, well-wishes and support for all your efforts, with sincere thanks and appreciation, I bid you farewell.”

And what will Steve be doing in retirement? He says he wants to fly and fish more, and to continue enjoying Alaska. He will continue in public service through Christian ministry, including continuing to serve as a pastor at his church.

His legal presence will be missed in the community, but he will always remain a legend.

Roseann Simko Wall has *The Wall Firm, LLC* in Fairbanks.

Nyquist, Covenant House receive grant to help troubled youth

By Kaitlin Bowers

Last year alone, 675 homeless, trafficked and runaway youth stayed in Covenant House Alaska's shelter or transitional living programs. At the shelter, the average daily census was 49 youth, who had an average length of stay of 26 days and these homeless, runaway and disadvantaged teenagers are at extremely high risk of exploitation, trafficking and victimization. In order to combat these dangerous threats, Executive Director of Covenant House Alaska (CHA), Alison E. Kear, and founder of Nyquist Law Group (NLG), Kara Nyquist, have partnered to transform the lives of Anchorage youth. They have recently been awarded a \$60,000 grant by the Alaska Bar Foundation in the name of igniting community redevelopment to assist these at-risk minors through the two goals of providing legal services and pursuing advocacy. However, this redevelopment has not only begun this year, for these two inspiring organizations have been influential activists in Anchorage for decades.

During its nearly 28 years of existence, Covenant House Alaska has grown from an emergency shelter for youth in crisis to an organization that provides an array of services which help Alaska's youth attain self-sufficiency. In 1988, Covenant House Alaska became the first shelter for homeless teenagers in Anchorage — and it is still the only such shelter in the city. More than 28,000 young people (ages 13 to 20) have walked through Covenant House Alaska's doors. Some come for just a bed at night, but many also receive medical care, help getting back into school, or counseling to reunite with their families, or services that lead to independence through education and employment. Services are provided on a continuum, beginning with street outreach as our first point of engagement, to emergency shelter, and when youth are stable enough, participation in transitional housing programs and aftercare. Additionally, all services are delivered through a trauma-informed, positive youth development framework.

Covenant House Alaska's partner in this project is Kara Nyquist who, along with her law firm, Ny-

quist Law Group, has a long history of advocating for disadvantaged people in Anchorage. She was inspired to go to law school after her brother was murdered in the New York prison system and attended law school at Seattle University School of Law. Nyquist started her legal career as a law clerk for the Alaska District Court and was licensed to practice law in the State of Alaska in 2000. She then joined a respected national law firm in Anchorage, doing litigation as an associate attorney and worked as the director of Legal Advocacy for Covenant House Alaska, and as the executive director of the Alaska Pro Bono Program. She opened her own practice in 2005 and now owns Nyquist Law Group; a multi-attorney law firm that focuses on helping people through the divorce process, child custody, adoption and domestic violence matters. NLG and CHA are two bodies that are making this community a bet-

ter place through different fronts, but this grant will allow the two to merge in their efforts, creating comprehensive redevelopment for homeless, runaway and disadvantaged youth.

The first element of change both organizations plan to expand and offer is new legal services, which will be provided directly to disadvantaged youth. Under this grant partnership, the NLG will provide legal assistance. Additionally, they will provide services to homeless youth on a myriad of legal issues through presentations or clinics with youth or one-on-one legal counseling. These services would address numerous legal issues, including labor and employment, housing and eviction, and child custody and support.

CHA will utilize these grant funds for specific programs related to improving and maintaining housing and employment. The organization will provide direct support to youth with services focused on housing, rental readiness, employability, and advocacy leadership training for youth. For example, one service that will be re-introduced is, *The Legal Street Education Program*, which will provide youth with necessary resources to help them in resolving their legal issues, which are often a barrier to employment and economic stability. Also, this orga-

nization will provide the resource of the CHA youth engagement specialist, who will help in identifying legal resources in the community, while providing basic legal education. Finally, this organization will also provide one-on-one assistance to youth resolve specific barriers to securing housing and employment.

Funds from this program will help youth pay for identification and documents that will help them secure jobs and rental units; funds will be used for bus passes to help youth get to job interviews and housing appointments; and support from this program will increase the capacity of CHA to deliver one-on-one case management to disadvantaged youth to assist them in finding job training, employment and affordable housing.

The second plan in using the grant to promote both organizations' advancements for community redevelopment will be to create systematic change through advocacy and policy work with an array of partners in the community. This will be specifically for policy initiatives related to benefiting homelessness, low-income, and disadvantaged youth in our community. CHA is in a prime position to advocate for this systematic change, particularly on the issues of human trafficking and the child welfare system.

In addition, under this partnership, NLG will work with the local Youth Homeless Demonstration Project Leadership Team and the Office of Children's Services to provide advice on policy issues that can create systematic change within our child welfare and juvenile justice systems. NLG also will provide legal counsel for human trafficking, since there is a high incidence of youth who are exploited by human traffickers in Anchorage.

The grant from the Alaska Bar Foundation will also support the work of CHA staff and the NLG to guide the work of these community efforts, including, necessary legal navigation. This will put trafficked youth, or those at-risk of trafficking, into service paths that lead to stable housing. Lastly, a key part of advocacy efforts is training disadvantaged community members on how to advocate on behalf of their



community. Under this proposal, CHA will provide advocacy training to youth on the Youth Task Force and other youth who stay at Covenant House Alaska in issues such as, affordable housing development, transit development, and employment opportunities. Through these advocacy opportunities and programs, homeless, trafficked, or disadvantaged Anchorage youth, will receive the services they need to thrive, completely redeveloping this community.

Covenant House Alaska and Nyquist Law Group are uniting through legal services and advocacy to represent and defend those who need it most in our city. Through the \$60,000 grant provided by the Alaska Bar Foundation, the two organizations will be able to expand their efforts and abilities to represent the homeless, trafficked, and disadvantaged minors aged 13 to 20 who are the most vulnerable. These children are the future generation of this community, and efforts made by CHA, NLG, and the Alaska Bar Foundation value needed redevelopment in this community. In just one year, this transformative change in Anchorage will positively affect our future Anchorage leaders.

If you are a practicing attorney and would like to assist with *The Legal Street Education Program*, please contact Kara Nyquist at kara@nyquistlaw.com.

If you wish to find more information on current efforts for change of the two organizations, please visit: <https://ak.covenanthouse.org/> and <http://www.nyquistlaw.com/>.

Kaitlin Bowers is an intern at Nyquist Law Group in Anchorage.

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Historical note

First murder trial in new court system — surprise result

By Robert Erwin

Alaska had no Territorial court system or prosecutors before statehood; with all criminal matters being handled by the United States District Court for the Territory of Alaska in each district. The prosecution of these matters was handled by a United States attorney, also in each of the four Judicial Districts. The First District in Juneau, the Second District in Nome, the Third District in Anchorage, and the Fourth District in Fairbanks.

The new State of Alaska thought that such a process could continue after statehood until the new state could financially support its own court system. However, the Ninth Circuit Court of Appeals in *Parker v. McCarrey*, 268 F2d 907 (9th Cir 1959) immediately put an end to such hopes; holding that the federal courts could not hear cases arising in the new state.

Such a ruling caused the state to immediately appoint new state judges and prosecutors for the First, Second, Third, and Fourth Districts to handle the pending cases from the Territorial Courts, and all new cases from the state. The first trials in the new system were scheduled by Judge Hugh Gilbert in Nome for April and May 1960. I was appointed district attorney for the Second District, in Nome, in March 1960. With the impending cases set for trial, I left Juneau for Nome in late March to prepare for those cases. There was only one problem: I had never tried a jury trial before my appointment as prosecutor.

The cases pending for trial in the order of trial were as follows:

1. Grand Larceny
2. Assault with a Deadly Weapon
3. Murder
4. Forgery
5. Sexual Assault and Rape

I managed to present the first two cases to the jury without serious mishap (one “not guilty” and one “guilty”), but the murder trial was a scary prospect. However, my boss George Hayes came to my rescue by promising to come to Nome, from Juneau, to present the case and I could be “second chair.”

When I reviewed the case previously investigated and charged by the United States Marshalls Office, I found what I considered to be insurmountable problems:

The murder had taken place near a small village near the mouth of the Yukon River at a fish camp. The deceased was the step-father of the defendant and the witnesses were the grandmother, the mother, the sister, and various witnesses from villages within 50 or 60 miles who knew the family. However, a number of these people did not speak the same dialect, this language barrier meant that witnesses were left un-interviewed and statements left un-taken. Thus, investigation was less than complete.

There was a far bigger problem, however. The body had been buried without any medical examination by a doctor. Therefore, the cause of death was open to question.

The circumstances surrounding the death were unique. The defen-

dant was a physically handicapped man, who spoke little English. He stood barely 5 feet tall with both a hunchback and “Belgian Breast.” He was the same height standing up or sitting down. His face, however, was similar to that of an angel depicted in the paintings of the Middle Ages. He had been kept under the wooden floor of the tent structure, chained with the dogs, and fed mush and fish by his step-father.

The step-father was described as a mean-spirited man who was responsible for beating all members of the family, and who spent a great share of his time making “home brew”. At least two witnesses testified that they had never seen his wife without a bruise or some sort of mark on her.

George Hayes came to Nome the week before the trial, and was tasked with solving these problems. George was able to charter a plane and convince two people to go to the burial site to obtain the body and bring it back to Nome. (The remains had been buried for almost a year, which presented a transportation problem.)

The autopsy was performed by a local doctor under unique conditions. The doctor did find a bullet inside the skull, and was willing to testify that it would have caused death. George was then able to find the location of the various witnesses. He then transported them to Nome with two sets of interpreters to give the jury the benefit of their testimony.

The testimony at trial revealed the defendant had been physically abused by the step-father for years. (He was in his mid 20s.) and for two or three days before the murder, the step-father, had been in a drunken state. The grandmother, removed his chains just before the shooting (murder?). She handed him two bullets and said “Go take care of your step-father.” The defendant opened the tent door, picked up the rifle, inserted the bullets, and shot his step-father while he was sleeping. (The bullet found by the doctor matched the caliber of the gun used.) The condition of the body prevented the finding of any evidence of a second shot.

The defense attorney, Fred

Crane, was appointed by the court, and had spent 70 years in Alaska, both as a miner and a lawyer. He strongly argued that the deceased deserved what he got, and the defendant deserved a medal for what he did. He argued that “NOT GUILTY” was the only verdict that could be reached.

George Hayes argued for conviction on the grounds that the law prohibited such conduct, no matter how much it was deserved. I was privately rooting for the defendant.

However, the jury in Nome, consisting of 10 people of Native heritage and two Caucasians, found the defendant guilty of second degree murder. (A charge with a mandatory sentence of 20 years under the old Alaska Criminal Code.) I felt bad about the outcome and the fate of the defendant, to spend the best part of his life in prison far away from his family and his traditional way of life.

I felt bad about the outcome and the fate of the defendant, to spend the best part of his life in prison far away from his family and his traditional way of life.

I got a great surprise at Christmas time when I received two Christmas cards, one from the defendant and one from his family, both thanking me

for the wonderful thing I had done for the defendant. The “wonderful thing” being convicting him of murder and sending him to jail, in the Lower 48. Both parties claimed that the defendant had found a true home in prison. He now got medical attention, meals and schooling. He was being taught to be a jeweler, and he traveled to various prisons on programs as a model prisoner, who had a good attitude and a future upon release. He was a prisoner with a life, a future and would never again be cold, hungry or afraid.

I continued to get such cards until I left the District Attorney’s Office some five years later. This perspective never left me during that time and of course helped shape my legal career. This case was as unique as Alaska is, and may it always be so.

Robert Erwin was admitted to practice in 1961 and had done over 200 appeals. He served on the Alaska Supreme Court from 1970 - 1977. Bob is the only lawyer in the state who has appeared before just about every Supreme Court justice appointed since statehood.

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Historical note

First discovery of oil and gas in Cook Inlet came in 1962

By Robert Erwin

The original discovery of commercial amount of oil and gas, in Alaska, took place in the Kenai area in the early 1950s; with the oil wells in the Swanson River area.

In 1961, Pan American requested the State of Alaska to put up for competitive bid, very substantial portions of the upper Cook Inlet for a lease sale to be conducted by the state on Dec. 19, 1961. As of Oct. 1, 1961, the state had only offered for lease a few small water areas bordering the shoreline. This was notwithstanding the fact that 11 petroleum companies, including Shell Oil Company, Standard Oil Company and Richfield Oil Company, had conducted seismic surveys in the waters of the upper Cook Inlet in 1959. Among the many nominations made by Pan American was one lease on geologic structure commonly referred to as Middle Ground Shoal, lying south and east of Anchorage.

At the Dec. 19 lease sale, Pan American was the highest bidder on and acquired, along with other acreage in the Cook Inlet, the only lease up for sale on the crest of the Middle Ground Shoal geologic structure. For this lease acreage, Pan American paid \$2.554 million to the State of Alaska. The per acre cost being \$500.19.

Pan American Oil Company was the only lessee who acquired acreage on the Middle Ground Shoal geologic structure in the 1961 lease sale. They commenced drilling their No. 1 well on May 15, 1962, at the highest point on the structure. Expenditures for the drilling contractor alone were in excess of \$1.8 million.

Hydrocarbons were first encountered in Pan Americans NO. 1 well on May 22, 1962, when a gas blow occurred while drilling at 1,132 feet. In view of the short time spent in remedial action and the limited material used to bring the well under control, the volume of gas at the 1,132 feet was considered to be of

no great magnitude. The well was twice opened to the atmosphere at this depth, and has a large volume of gas been blowing from the 1,132 feet a crater could have formed and the platform and derrick would have fallen into the crater.

After reaching a total depth of 5,261 feet, gas was again encountered when the well blew out on June 10, 1962. Gas started bubbling up in the Inlet the following day, and on June 12, 1962, the well erupted into Cook Inlet some 750 feet from the platform to a height of some 25 feet.

After Pan America Middle Ground Shoal No. 1 blew out, gas flowed from the well into Cook Inlet for a period of 45 days before the well was successfully plugged and subsequently abandoned.

This blowout led Shell Oil to commence drilling on an adjoining lease and they completed their producing well before Pan American was able to complete a new producing well on the structure after drilling a second well which did not find gas because it was outside the geologic structure.

Pan American was awarded a discovery royalty for its Well No. 1, which resulted in the gas blowing out into Cook Inlet. Shell Oil contested the award, and applied for a discovery royalty for its well on the grounds that they had the first well that was completed and capable of production. A law suit resulted from the denial of Shell's request by the State Division of Lands, which subsequently reached the Alaska Supreme Court in *Pan American Petroleum v. Shell Oil Company*, 455 P2d 212 (Alaska 1969). The case affirmed the decision in favor in Pan American.

The discovery royalty was extremely valuable because it reduced the discoverer's royalty payments, to the State of Alaska, on all production, to 5 percent (from 12.5 percent) for a period of 10 years from the date of discovery. It also heralded the view that there was gas and oil in Cook Inlet as well as on land.

THE ENCLOSED PICTURES SHOW THE STRENGTH OF THE BLOW OUT.



EXHIBIT H-3

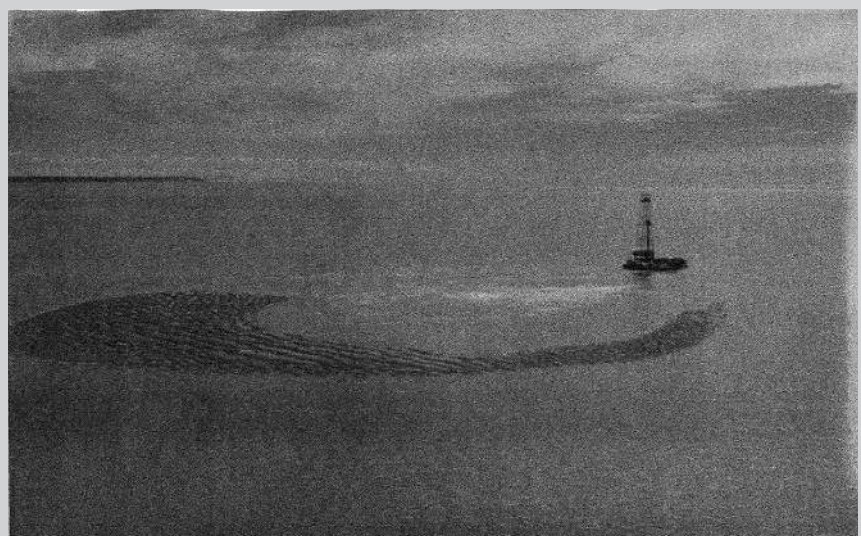


EXHIBIT H-4

The race was on for oil drilling in Upper Cook Inlet from platforms to directional drilling from the shore. This accounts for the number of oil platforms in Cook Inlet today, and brought the major oil companies to Alaska, in order to search for more oil. It was certainly the forerunner of the discoveries in northern Alaska.

Robert Erwin was admitted to practice in 1961 and had done over 200 appeals. He served on the Alaska Supreme Court from 1970 - 1977. Bob is the only lawyer in the state who has appeared before just about every Supreme Court justice appointed since statehood.



Celebrants gather for a semi-formal group portrait.



Alaska Bar Rag Editor and Judge Ralph Beistline prepares to start the childrens' sack race.

Tanana Valley Bar celebrates Christmas in July

Thank you to all the legal community and their families who attended and participated in TVBA's Annual Christmas in July Celebration July 13. The smell of grilled steaks, other meats and treats filled

the bright blue skies. A huge thanks goes to Judge Ralph Beistline who donated all the prizes for the children during his and Peggy's annual game bonanza. We are thankful to be able to continue this tradition.

Supreme Court decision hinders defense in health-care cases

By **Howard A. Lazar**

The Alaska Supreme Court on June 22, 2018, published an opinion on a Petition for Review revoking the ability of defense counsel to have ex-parte contact with a plaintiff's treating healthcare providers as set forth in *Langdon v. Champion*, 745 Pacific 2nd 1371, 1375 (Alaska 1987). While holding that federal HIPPA protections did not preempt Alaska law allowing such ex-parte contacts, the Court concluded that the basis for the original *Langdon* decision had been superseded by changing societal norms involving the privacy of healthcare information. Before I outline why I believe the Court's decision is both misguided and unfair, I will note a couple of things.

First, I am not an unbiased observer. I have spent the last 32 years largely defending physicians and hospitals in medical malpractice lawsuits. In many of those suits, I have informally spoken with treating physicians, nurses, therapists, etc., who were not my clients. I also note that the *Jones* case was argued by my partner, Donna Meyers, on behalf of the defense. With that said, I believe my comments will be completely logical and objective.

The Court's ruling will significantly increase the cost of litigation. The only financial beneficiary will be the various Court Reporters who will be transcribing the large number of treating physician depositions that will now be required to properly evaluate a case. No longer will I be able to pick up the telephone and speak to a doctor for 15 minutes or go over for an informal discussion after the completion of a surgery. Now I will have to go through the hassle of working with the schedule of what are often many attorneys to arrange a deposition that might otherwise

be completely unnecessary. Part of the informal process is determining whether the treating physician has information pertinent to the issues and whether that physician should be required to testify in Court at trial. The Court's privacy concerns with the process are misguided. If I speak with a physician in that physician's office and the physician's testimony does not add anything to the case, that information will likely never get past me. Now I will have to take the deposition of the physician, creating a public record of that physician's interactions with the patient, to potentially find out the same useless information.

The new process is totally unfair. It creates a dramatic imbalance in favor of a plaintiff in what is supposed to be a level playing field. There is virtually nothing that prevents a plaintiff's attorney from speaking with a treating physician to determine if that physician's testimony will be favorable or unfavorable to his or her position. The plaintiff's attorney is free to impart whatever tidbits of information about the case he or she wishes to impart to the physician, potentially influencing the position the witness may take at trial. The same argument has been made to prevent defense attorneys from speaking with treating physicians. In large part, those concerns have been unjustified as most attorneys are going to try and honestly get the physician's thoughts about the patient's condition or care, but clearly there have always been exceptions. Those exceptions are now going to be completely one-sided for the plaintiff.

The unfairness with the new process is exacerbated at the trial level. The Court's new rule will present several ludicrous scenarios. First, I may decide to call a treating physician as a witness at trial and I will

not be allowed to prepare that witness for either direct or cross-examination, or outline how the process will work, almost certainly leading to lengthier testimony. Any trial attorney knows that to present cogent and logical testimony in front of a jury, some degree of organization is necessary. Furthermore, while I cannot talk to the witness I intend to call at trial, the plaintiff's attorney can now call that witness and interview that witness before trial even though I cannot. I would like to know in what way that resembles a level playing field.

Anyone who defends personal injury matters in civil litigation knows that when a witness list is initially published, it usually contains almost all of a plaintiff's treating physicians. For various reasons, we may choose not to either speak to or depose many of those physicians. However, occasionally when we get a final witness list from a plaintiff identifying those individuals the plaintiff intends to call at trial, there will be a treating provider who has not been deposed. We are now precluded from calling up that physician to find out what that physician may have to say that

is salient to our case. In the meantime, plaintiff has been able to fully prepare that witness and speak to that witness at will. It will be too late for a deposition. The unfairness increases when you put that in light of prior decisions from our Supreme Court that allow subsequent treating physicians to provide standard of care opinions without prior Expert Disclosure Statements.

Finally, I fall back on the old maxim, "If it ain't broke, don't fix it." The system we had in place prior to June 22 worked just fine. I have not heard of even one "abuse" about anyone who would contact other treating physicians.

There is a trickle down effect. More depositions mean more costly litigation. More costly litigation means higher insurance premiums. Higher insurance premiums mean greater cost to the consumer, meaning all of us.

This was an unnecessary decision and perhaps the State Legislature will someday get around to fixing it once it figures out what to do with the rest of the state's problems.

Howard A. Lazar is an attorney with Delaney Wiles Inc.



Attending the robing from left are: Justice Craig Stowers, Judge Jude Pate, Judge Kirsten Swanson, Judge Tracey Wollenberg, Retired Judge David George, and Judge Trevor Stephens



Family surrounds Judge Jude Pate after the ceremony. From left are: Judge Pate; William Pate, Pate's oldest son; Nancy Balogh, Judge Pate's grandmother; and Joseph Pate, Judge Pate's younger son. Photos by Neil Nesheim, area court administrator First Judicial District

Sitka lawyer sworn to Superior Court bench

Jude Pate was sworn in as a Superior Court judge June 1 in Sitka. He was appointed to the Superior Court Feb. 12, 2018, by Gov. Bill Walker.

Pate was born in Germany, where his father was stationed in the Army, and moved to Sitka in 1993 after completing a B.S. in Journalism from the University of Kansas and a J.D. from Lewis and Clark Northwestern School of Law. He served as legal counsel for the Sitka Tribe of Alaska, operated a private practice, and advocated as an assistant public defender. He received the Alaska Public Defender Agency's litigator of the year award in 2011 and the Alaska Bar Association's professionalism award in 2017. Sitka has been his home since 1993.



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Federal act proposed to protect Denali wolves

Continued from page 1

The State of Alaska has put in effect an emergency ban on hunting and trapping in an area frequented by the Denali wolf. But the ban is only temporary. See Zaz Hollander, *State halts wolf hunting, trapping near Denali*, *Alaska Dispatch News*, April 3, 2018, at A1.

If Congress were to create a permanent no-kill-zone for the Denali wolf, would such an act be constitutional? I believe the following proposed federal statute is an example of a constitutional application of the extraterritorial reach of the U.S. Constitution's Property Clause.

In a future issue of this column, I will explore judicial review under the Property Clause and propose what I call the *Alford-Camfield Nexus Rule*, which courts might apply when faced with a challenge to an extraterritorial provision in a statute or regulation.

The Denali Wolf Protection Act could read as follows:

Section 1. Congressional Findings and Declaration of Policy.

- a. Congress finds and declares that wolves that make their home in Denali National Park and Preserve are a national symbol of inestimable value; that they are a keystone species of Denali National Park and Preserve; that they contribute to the diversity of life forms within and constitute an essential attribute of the value of the park;
- b. Congress finds and declares that the wolves of Denali enrich the lives of the American people; that it is in the national interest to preserve the wolves of Denali; that it is in the national interest to preserve opportunities for the maximum number of Americans to view wolves in Denali National Park and Preserve; that nearly 600,000 visitors to the park in 2016 translates into a high probability that millions of Americans will visit the park over the coming five years alone, yet the likelihood that these millions of Americans will see a wolf in the park may have become insignificant; that in 2010 visitors to the park had a 45% chance of spotting a wolf, whereas in 2015 the percentage was a mere five percent;
- c. Congress finds and declares that the intentional killing of the wolves of Denali both on and off federal land interferes with the purpose of Denali National Park and Preserve; that the interference is unreasonable especially given that the park is home to the First Family of American wolves; that it is in the national interest that henceforth no Denali wolf, let alone a member of the First Family of American wolves, shall be shot by a hunter or left to die in a trap;
- d. Congress finds and declares that state regulation insufficiently protects the wolves of Denali.
- e. Now, therefore, it is the policy of Congress that the wolves of Denali National Park and Preserve shall be protected from harassment, capture, and death; and to accomplish this policy the wolves of Denali National Park and Preserve are to be considered an integral part of the natural system of the public lands known as Denali Na-



"The proposed statute has as much chance of becoming law as the government has of reducing the national debt."

tional Park and Preserve.

Section 2. Definitions. As used in this chapter:

- a. "Secretary" means the Secretary of the Interior;
- b. "Wolves of Denali National Park and Preserve" means all wolves within the Denali Wolf Protection Area;
- c. "Denali Wolf Protection Area" means Denali National Park and Preserve, all non-federal lands within Denali National Park and Preserve, and the area outside the boundaries of Denali National Park and Preserve but not beyond the Scientifically Based Geographical Area; and
- d. "Scientifically Based Geographical Area" means the area hereinafter specified that is outside the boundaries of Denali National Park and Preserve and which is necessary (i) for the preservation of the Wolves of Denali National Park and Preserve and (ii) for the preservation of opportunities for the American people to view such wolves in Denali National Park and Preserve. Such area is specifically identified as follows: [to be identified by Congress].

Section 3. Sanctuary; actions by agent of Secretary. Denali National Park and Preserve is designated as a wolf sanctuary, and within the Denali Wolf Protection Area no wolf shall be harassed and in no event shall a wolf be captured or destroyed except by an agent of the Secretary as determined necessary by the Secretary.

Section 4. Cooperative Agreements; regulations. The Secretary is authorized to enter into cooperative agreements with other landowners and with the State of Alaska and local governmental agencies and may issue such regulations as the Secretary deems necessary for the furtherance of the purposes of this chapter.

Section 5. Criminal Provisions – Violation; penalties. Any person who:

- a. willfully removes or attempts to remove a wolf from the Denali Wolf Protection Area without authority of the Secretary,
- b. converts a wolf of Denali National Park and Preserve to private use without authority of the Secretary,
- c. maliciously causes the death or harassment of a wolf within the Denali Wolf Protection Area,
- d. processes or permits to be processed into commercial products the remains of a wolf of Denali National Park and Preserve,
- e. sells, directly or indirectly, a wolf of Denali National Park and Preserve, or the remains thereof, or
- f. willfully violates a regulation issued pursuant to this chapter,

shall be subject to a fine of not more than [to be identified by Congress] or imprisonment for not more than [to be identified by Congress] or both. In private practice in Anchorage, Steven T. O'Hara has written a column for every issue of *The Alaska Bar Rag* since August 1989. Copyright 2018 by Steven T. O'Hara. All rights reserved.

Grant propels oral history of Alaska law project forward

By Mike Schwaiger

The Alaska Bar Historians Committee recently completed over three years of work, funded in part by a \$4,400 grant from the Alaska Humanities Forum, on its ongoing oral history project to collect and make available to the public the oral histories of retired judges and attorneys.

The primary goals of this ongoing project are the collection and preservation of primary source material from important figures in the Alaska legal community — judges who have made significant decisions and leading attorneys who have participated in important cases and controversies — who are now in a position to reflect on their careers, Alaska, and the legal community here. This primary source material can then be accessed by scholars of today and tomorrow to better understand Alaska legal history and inform the public on matters of historical significance. Sometimes, members of the committee conduct and record the oral history interviews and sometimes the committee receives recorded interviews from independent historians. But, due to transcription costs, the committee had accrued over the years a large backlog of untranscribed oral histories.

To attempt to clear this backlog, the committee applied for and secured a grant from the Alaska Humanities Forum. Grants from the Alaska Humanities Forum require matching donations in the form of time or money, so the committee accepted the grant expecting to raise or contribute \$4,400 from other sources. Because of the generosity of individual and institutional volunteers, we were able to raise or contribute for more — more than \$6,200. About half of the contribution came from the Alaska Court System's decision to transcribe the oral histories of judges and justices from the state court system. But committee members and volunteers also contributed hundreds of hours of work and cash. Several of the professional transcription contractors offered discounted rates and one even donated professional services. The contributions of Marilyn May, Nancy Tileston, Kathleen Amand and Joan O'Leary were especially important.

During the grant period, the committee significantly increased collection and preservation of oral histories. Committee members and volunteers obtained 26 oral histories from judges and prominent lawyers. This was a large increase from

six oral histories that committee members and volunteers obtained during the same length of time before the inception of the grant period. Featured among the many oral histories taken during the grant period were luminaries of the Alaska legal community, including Alaska Supreme Court Justices Dana Fabe, Bud Carpeneti, and Ed Burke; federal Circuit Court Judge Andrew Kleinfeld; Alaska Court of Appeals Chief Judge Bob Coats; and attorneys general John Havelock and Bruce Botelho. During the grant period, the committee was able to secure transcription of almost all of the backlog of untranscribed oral histories.

Just as importantly, the committee greatly increased the collection and preservation of oral histories of important figures in Alaska legal history while emphasizing quality and consistency in the collection of the oral histories. Committee members used a standard set of questions to collect data from the subjects of oral histories as well as to obtain information that the subjects of the oral histories believe to be significant. This permits comparison of oral histories and consideration of broader patterns in Alaska legal

history. And it makes the oral histories fun to listen to. In addition, the quality of the audio and video recording of the subjects has been good. The project has also been able to modernize some older recordings to allow for transcription of material that otherwise could have been lost due to technological obsolescence.

The Alaska Bar Historians Committee is dedicated to continuing its ongoing oral history project beyond the grant period. There are oral history interviews already set up beyond the grant period and the committee has established a list of other prominent judges and lawyers to interview as they retire or reach an appropriate time in their lives to reflect. In addition to giving the ongoing project a big shot in the arm, the grant period has also connected the committee with a stable of transcribers that we can use in the future to transcribe oral histories. The oral history recordings and transcripts will be made available to the public through the Joint Bench/Bar Archives at the Alaska Law Library and through the University of Alaska Fairbanks.

Mike Schwaiger is chairman of the Alaska Bar Association's Historians Committee.

Fairbanks attorney who worked on Native claims issues dies

Fairbanks attorney Barry Wendell Jackson died July 31, 2018. He was born Jan. 27, 1930, in Long Branch, NJ, the first born son of Rodney H. and Marion Jackson.

At around age 6, he enjoyed a treat: doodling on President Franklin D. Roosevelt's desk notepad from the president's chair in the Oval Office, thanks to a visit with his cousin, then-House Minority Whip Harry Lane Englebright.

Jackson attended public schools in New York, Florida and California. His civilian pilot father supported the war effort, successfully completing 13 missions between the United States and Australia. The family eventually settled in Del Mar, CA. Barry graduated from San Dieguito High School in Encinitas. As an eagle scout in his teens, Barry was challenged by his scout leader to strive to be more and to help others in a big way. Barry later recalled this as a turning point in his life and credits the challenge with guiding him into choosing legal specialties he felt would best serve the less fortunate.

Jackson received his degree in political science from Stanford University and a commission in the U.S. Marines in 1952. He served in Korea and Japan during the Korean War. His off-handed comment supporting feminism during the McCarthy era resulted in a loyalty investigation and his removal from active duty, a great disappointment to him. He continued to serve in the Marine Reserves until no longer eligible for recall at age 70. He retired as a major.

While still working on his law degree from Stanford in 1957, Barry traveled to Alaska and obtained a clerkship with Territorial Judge Vernon Forbes. He brought his wife, Susan, and baby girl, Stacy, to the state upon graduation in 1958.

After being admitted to the Alaska bar in 1959, he was hired as the city attorney for Fairbanks and later opened his own practice, handling a wide variety of issues.

Jackson served in the Alaska



Barry Wendell Jackson

House of Representatives from 1965 to 1966 and 1968 to 1970. By then his family included four girls and a boy. Ted Stevens became his son's godfather.

Perhaps his most significant career accomplishment — and certainly the one in which he took the most pride — was his work with Alaska tribes. Much of his legal career was spent on Alaska Native social and justice causes.

In 1967, he was legal counsel to the state-sponsored Alaska Land Claims Task Force. Among the task force's findings was a recommendation that legislation be introduced in Congress that would convey land to Native villages, pay a monetary settlement, form corporations organized by villages and regions and form a statewide corporation.

Lack of attorney funding and

racial prejudice against Alaska Natives were among the biggest challenges faced by Jackson and others supporting the ideas in the settlement. He overcame the funding issue by working pro bono on the project beginning in 1969, relying on fees that might be awarded federally if the cause succeeded.

After ANCSA's passage, Jackson continued to work with Alaska Natives. Fred Paul and Don Craig Mitchell credit him with the creation of the North Slope Borough. Following his retirement from private practice decades later, he began researching the inside story of ANCSA. His goal was to publicize its success, and the proven ability of Alaska Natives to manage the billion-dollar corporations it birthed.

Jackson was an avid skier and only stopped in his late 70s after damaging his knee.

Jackson is survived by his former wife, Susan Jackson of San Diego; five children, Stacy, Sydney, Leslie, Morgan and Bruce; 17 grandchildren; 12 great-grandchildren; siblings Bruce, Gail, Linda and Larry; many more extended family relatives.

Services were to be held Aug. 23 at Bible Baptist Church in Fairbanks, and were to be recorded and available online. Jackson's interment was scheduled at Miramar National Cemetery in San Diego.

An Alaska lawyer since statehood, Jerry Kurtz dies

Longtime Anchorage resident Lloyd S. (Jerry) Kurtz Jr., died Aug. 29, 2018, at Alaska Regional Hospital after a brief illness. He was 84.

Jerry was born Feb. 23, 1934 to Lloyd and Mildred Kurtz in Toledo, Ohio. The family later moved to Ames, Iowa, where he attended Ames High School. After graduating from Princeton in 1956, he went on to law school at Stanford, where he served as managing editor of the *Stanford Law Review*.

He moved to Alaska in 1959, the first year of statehood, and became the first law clerk for the newly created Alaska Supreme Court. In the early 1960s he joined the Anchorage law firm Burr, Boney, and Pease, now known as Burr, Pease and Kurtz, and practiced law there until his retirement in 1991. Over the years, Jerry served as a member of the board of governors and president of the Alaska Bar Association. He was also a member of the Alaska Code Revision Commission and the Uniform Law Commission. In his later years he taught classes



Lloyd S. (Jerry) Kurtz Jr.

at UAA, and did significant pro bono work for Alaska Legal Services Corporation.

An accomplished musician, Jerry played trumpet for the Ames High School marching band and the Princeton Triangle Club. In Alaska he played with many local groups, notably the Alaska Blaskapelle, the Anchorage Jazz Ensemble, and a brass quintet, as well as various community bands and pit orchestras. Other favored activities included flying his beloved airplane, which he facetiously claimed enhanced his effectiveness in law practice, and enjoying Alaska's beautiful mountains, forests and waterways.

Jerry greatly enjoyed his children and grandchildren and will be missed by his wife, Gretchen Ganz; his son Lloyd S. Kurtz III and daughter-in-law Lillian, along with their sons Jay and Lowell of Palo Alto, California; his daughter Kathryn Kurtz of Juneau; his sister Barbara Bunning and her husband, Jim, of Sturgeon Bay, WI; and nephews Steven Bunning of Plymouth, MN, David Bunning of Lake Forest, IL, and Michael Bunning of Vernon Hills, IL. He was preceded in death by his first wife, Patricia Jean Kurtz.

The family asked that in lieu of flowers donations be made in his memory to non-profit organizations such as the National Music Museum in Vermillion, South Dakota, the Alaska Aviation Museum, Alaska Public Media, and Alaska Legal Services Corporation.

Former Anchorage attorney dies at 87

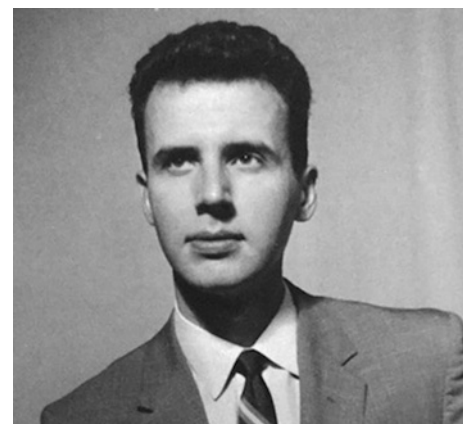
Allen Lee Jewell died May 29, 2018, in The Villages, FL.

He was born July 31, 1929, in Kansas City, MO., where he grew up. In the summers in high school and college he played his trombone at Rockaway Beach resort in the Ozarks. When his father was transferred to Nashville, Allen finished college at Vanderbilt. After college he was drafted into the army during the Korean War and was stationed in Salzburg, Austria, playing his trombone in the Army band.

After two years in the military he returned to Nashville and went to Vanderbilt law school. After graduation he worked for three years in a Chattanooga law firm. In Chattanooga he met his future wife Sandra Deck. In 1959 Allen and Sandra drove from Chattanooga to Anchorage where they lived for more than 30 years.

In Anchorage Jewell's first job was in the District Attorney's Office followed by the Alaska State Housing Authority. In 1964 he and Bob Hahn opened their private law practice in Anchorage. They also had offices in Homer and Kenai.

Jewell played his trombone in the Anchorage Symphony and served on the symphony board. He also held board positions in the Boy Scouts and World Affairs Council. He played tennis, skied and golfed. The Jewells had three chil-



Allen Lee Jewell

dren: Troy, Kiehl and Liana who survive.

After Allen and Sandra divorced, Jewell married Margaret Greer. In 1991 he retired. Allen and Margaret moved to Bellingham, WA. In retirement Allen served on the Whatcom Symphony Board and played tennis and golf.

In 2007 Allen moved to The Villages and once again shared his life with Sandra and enjoyed tennis, golf, and billiards with friends in this retirement community.

Allen is survived by Sandra and their three children Troy, Kiehl, and Liana; his brother Stephen; and grandchildren Parker and Collin of Oregon and Tarrin and Tiffany of Tennessee. He is predeceased by his grandson Tarryl and his second wife Margaret.

Son seeks stories of father, Marshall Coryell

My father Marshall K. Coryell, an attorney who practiced for many years in Alaska, passed away in September 2017. I would appreciate hearing any stories, good or bad, from people who knew him personally or professionally. Please email me at bryce.coryell@gmail.com. Thank you.



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Superior Court Judge Kauvar retires after 37 years on the bench

By Roseann S. Wall

Judge Jane Kauvar has retired as the longest serving judicial officer for the State of Alaska. Her former boss and mentor, the late Chief Justice Jay Rabinowitz, also served on the bench for 37 years. While he was a few months older than Jane when he started, Jane considers the fact he did not take a sabbatical, to make them equal.



Judge Jane Kauvar. Photo by Eric Engman, courtesy of the Fairbanks Daily News-Miner

Judge Kauvar is originally from Denver, Colorado. Her parents had three boys Ken, Larry, and David, but she was the only girl. In 1970, she attended Boalt Hall Law School, University of California, Berkeley. She spent her two law school summers in Denver interning first for Colorado Legal Services in 1971 and the law offices of Holland and Hart in 1972. Holland and Hart offered her an associate position following graduation, but she could not say no to Justice Rabinowitz's call in December 1972 for a clerkship with the Supreme Court of Alaska.

Kauvar came to Alaska in June 1973. She took the ferry to Skagway, the train to Whitehorse, and airplane to Fairbanks for a one-year clerkship with Justice Rabinowitz, but she never left. When asked about her venture north, she recalled stepping off the ferry in Skagway with its picturesque scenery and friendly people unlike anything she encoun-

tered in the Lower 48. She noticed people left their bikes unlocked on door steps and houses were left open without fear of theft — the atmosphere was pleasant. "My parents just gave me a new 35mm camera, and as I was walking along checking out Skagway, a truck drove past me, slowed down and began to reverse, the person leaned out the window and said, oh, I saw your camera and wanted you to know you could go up on the bluff to take a really beautiful picture, I was pleasantly surprised at this kindness." Berkeley did not offer this sort of feeling of safety, and Kauvar was excited to experience it.

Kauvar met her husband, John Athens in Alaska. John later retired as an assistant attorney general for Alaska. Justice Rabinowitz officiated at their wedding on the deck of his private residence with Rabinowitz's daughters as flower girls. Justice Rabinowitz had a goal of keeping clerks in Alaska to practice law, "whenever it was a beautiful day outside, he'd take us outside to ski in the winter and he'd say: 'life is rough in the sub-arctic.'"

Following her clerkship, she worked in Fairbanks as an assistant borough attorney in 1974 and 1975, an assistant district attorney in 1975 and 1976, and an assistant public defender 1976-1981. She juggled work and raising a family: her first daughter, Marika was born in 1978; second daughter Allison in 1981; and son Noah in 1986. She applied for the judiciary to have more of a flexible schedule to raise her children. In March 1981, Gov. Jay Hammond appointed her to the District Court - Fourth Judicial District. Kauvar was 32 and only eight years out of law school at the time.

While in District Court Kauvar pioneered the tradition of appointing District Court judges to act as Pro Tem Superior Court judges. In 1986, she volunteered to travel to Bethel and handle a trial acting as a Superior Court judge. It was unusual for District Court judges to sit as Superior Court judges at that time. Kauvar regularly offered her judicial assistance when there

was a need in Superior Court. District Court judges sitting as Superior Court judges is now commonplace. She accepted an interim appointment to the Superior Court when Judge Beistline moved to the federal bench.

In 2001, Judge Kauvar took a sabbatical. She spent a year in Australia and earned her LLM at the University of Queensland, Brisbane, Australia. Her thesis reviewed the control of the judiciaries in Germany, the U.S. and Australia.

In March 2013, Gov. Sean Parnell appointed Kauvar to the Superior Court in the Fourth Judicial District. Her caseload focused on family law and CINA matters. She served on the Committee to Revise Judicial Code of Conduct; served four years on the Judicial Conduct Commission; served on the Criminal Pattern Jury Instruction Committee; served as a magistrate training judge; and engaged in judicial settlement work which she thoroughly enjoyed.

When asked what she liked best about being a judicial officer, Kauvar said she liked working in District Court and being able to make a positive impact on a person's life. She saw fewer repeat offenders in District Court than Superior Court, and appreciated the opportunity to make a difference in someone's life by giving them a second chance. In Supe-



Judge Jane Kauvar during a working trip to Utqiagvik.

rior Court, she enjoyed working with families and juveniles, and being able to preside over the Fairbanks Juvenile Treatment Court.

Through the course of her judicial career, Judge Kauvar always made it a priority to stay involved and volunteer in her community. She volunteered for her children's schooling, and extracurricular activities such as soccer, swimming and

the PTA. She actively participated in speaking at schools about the economic impact in violating the law. Kauvar said it is often the economics that matter the most to people, not the crime itself. It is the monetary impact the crime will have on them that is a persuasive deterrent to many individuals.

When asked about retiring, Kauvar said she believes in the constitution, but if it wasn't for the Alaska Constitution, she'd still be working. Article 4, Section 11 of Alaska's Constitution specifies "Justices and judges shall be retired at the age of seventy." Judge Kauvar turned 70 on July 21, 2018. She'd like to find another way to contribute, as her father did not retire until age 86. She considers herself very fortunate having come to Alaska on Justice Rabinowitz's encouragement, and engaged in a judicial career with such great people and community.

Former Anchorage lawyer dies in Florida

Former Anchorage attorney, John W. Abbott, 82, died June 14, 2018, at Covenant Care Hospice, Sacred Heart Hospital, in Pensacola, FL, after a 12-year battle with cancer and complications for radiation treatment.

Abbott was born in Los Angeles; graduated from Long Beach State College; and received his law degree from the University of California Los Angeles. He drove to Alaska in his trademark Chevrolet hearse in November 1969 to serve as law clerk for Alaska Supreme Court Justice Roger Connor.

Abbott was the first Alaska Court System (ACS) deputy director and served under then Chief Justice George Boney. He served as a defense lawyer in the Alaska Public Defenders Office, and was in private practice as sole practitioner, and later as senior partner of the Law Firm of Abbott, Lynch, and Farney. He served as member of the Alaska Criminal Code Sub-Commission, and from 1976 to 1990, was appointed by the governor as chair of the Alaska Law Review and Revision Commission that revised and rewrote Alaska's Business Code, Corporations Code, Rule Against Perpetuities, among other laws, and adopted the Unified Probate Code for Alaska. He returned to sole practice in 1983, and departed Anchorage for Pensacola in 2006 for health reasons.

Abbott is survived by his wife of 36 years, Jennifer Abbott of Pensacola, the first CLE coordinator for the Alaska Bar Association; son, Douglas Abbott of Portland, OR; and was preceded in death by his daughter Erica Johnson of Odessa, FL.

In lieu of flowers or cards, the family asks that donations be made to Covenant Care Hospice, at <https://choosecovenant.org/donors/>



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Child in Need of Aid group delivers legal training program

From the Alaska Court System

The Child in Need of Aid Curriculum Project Workgroup held a three-day training in Fairbanks at the Morris Thompson Cultural Center and the Fairbanks Courthouse. The topic of the training was “Child in Need of Aid Laws, Roles & Responsibilities, Practices and Procedures.” The training was provided by experienced CINA practitioners. Approximately 30 participants came from interior Alaska including Aniak, Fairbanks, Bethel, Barrow, Golovin, Kotzebue and Unalakleet. Participants included judges, assistant attorney generals, Office of Children’s Services social workers, Guardians ad Litem (GALs), ICWA workers, tribal attorneys, and parents’ attorneys.

The Child in Need of Aid Curriculum is a project of the Alaska Court Improvement Program. The CIP monitors and improves the way the court system handles child in need of aid cases, and enhances coordination between the court system and other agencies and tribes involved in CINA cases. Members of the CIP Committee include judges, tribal representatives, and state agency representatives involved in child welfare from around the state.

The CIP’s Education Subcommittee formed a work group to develop a multi-disciplinary core training curriculum for CINA attorneys, tribal and child advocates, caseworkers and judges. The philosophy of the work group was that, in order to understand the child welfare process as a whole, CINA case participants should have a foundation of core knowledge in a

broad array of legal and other subject areas relevant to CINA cases.

Alaska’s CINA Curriculum consists of 10 training modules. The Base Camp legal modules (CINA Laws, Roles & Responsibilities, Practices & Procedures) are a three-day training; the other modules ascending Denali (the Indian Child Welfare Act, Community & Culture, Family Well-Being, Services & Resources, Creative Advocacy, Information-sharing and Education Law and Advocacy) are each one-day trainings. The idea behind our Denali logo is that participants who reach the summit by completing all the modules will have a bird’s-eye view of the child welfare process and will be at the peak of their performance.

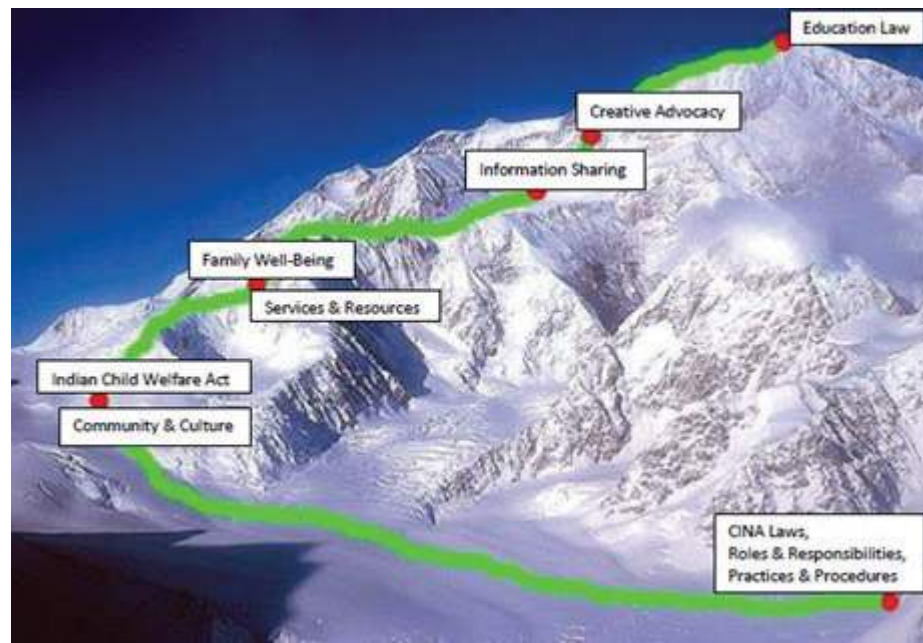
The training modules are a combination of lecture and interactive discussions. A case about a hypothetical family runs through all of the modules so that participants can apply their knowledge to practical case situations. The opportunity for meaningful discussions with CINA participants from different disciplines and from different areas of the state have proved to be one of the most important benefits of this training format.

For more information about the CIP generally, please to go to: <http://courts.alaska.gov/cip/index.htm>

For questions about the CINA Curriculum or how to organize a training in your region, please contact Mara Rabinowitz (mrabinowitz@akcourts.us or 907-264-0879) or Hanley Robinson (hrobinson@akcourts.us or 907-264-8232).



Judicial officers, trainers, OCS social workers, Guardians ad Litem (GALs), CASAs, ICWA workers, tribal attorneys and parent attorneys, gather under an arch of antlers outside the Morris Thompson Cultural Center after a busy three days of training and learning. (Photo by Hanley Robinson)



An ascent of Denali marks the steps in the CINA training process.

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My Five



This edition of My Five comes from our friends in western Alaska: Erin Lillie of Nome Law, Inc., Judge Paul Roetman of Kotzebue and Meghan “Sigvanna” Topkok of Kawerak, Inc.

Erin Lillie

Top five rock songs to which I correctly remember all the lyrics (usually)

- “Touch of Grey” — Grateful Dead. Like many second-generation Dead fans, this was my gateway song.
- “My Sister”— Juliana Hatfield Trio. This song is so catchy, I’ll have it in my head the rest of the day now.
- “Comfortably Numb” — Pink Floyd. I never remember all the lyrics to “Stairway to Heaven” or “Bohemian Rhapsody.”
- “Angel From Montgomery” — John Prine. The duet with Bonnie Raitt is my favorite.
- “Slip Slidin’ Away” —Paul Simon. This is, of course, the greatest song ever.

Meghan “Sigvanna” Topkok

- “Sedna” — Kelly Fraser
- “Imiqtaq” — Riit
- “Perfect Mistake” — Silver Jackson
- “Nel Blue Dipinto Di Blue” — Domenico Modugno
- “Seqinitta Qinngorpaatit” — Nanook

Judge Paul Roetman

Songs from my “anytime” playlist that currently leans heavy toward guitar.

- “Dirty Pool” — Stevie Ray Vaughan and Double Trouble from the album Texas Flood. A favorite guitar player/singer of my father’s, who enjoyed playing albums loud in the house when I was growing up — a practice I have happily, with my wife’s consent, continued with our boys.
- “I Was Wrong” — Chris Stapleton from the album From a Room: Volume 1. Singer/songwriter with an amazing voice to perform them.
- “Thief” — Third Day, from their self-titled album. Distinct vocals, slightly haunting, interesting lyrical perspective, a thinker.
- “Shape Of My Heart” — Sting, from Ten Summoner’s Tales. Not quite a riddle wrapped in a mystery inside an enigma, but almost. Also closing music to the movie, “The Professional.”
- “Sonata No. 3 in D Minor: II. Canzone (Andante)” — Andres Segovia. An uncomplicated classical guitar song (for the accomplished player) that stuck in the ear first time I heard it, performed by one of the greatest guitarists.



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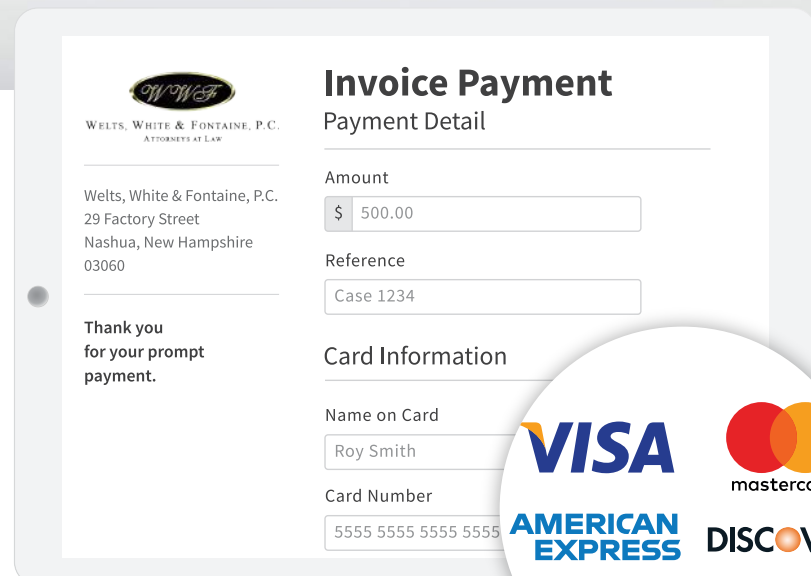
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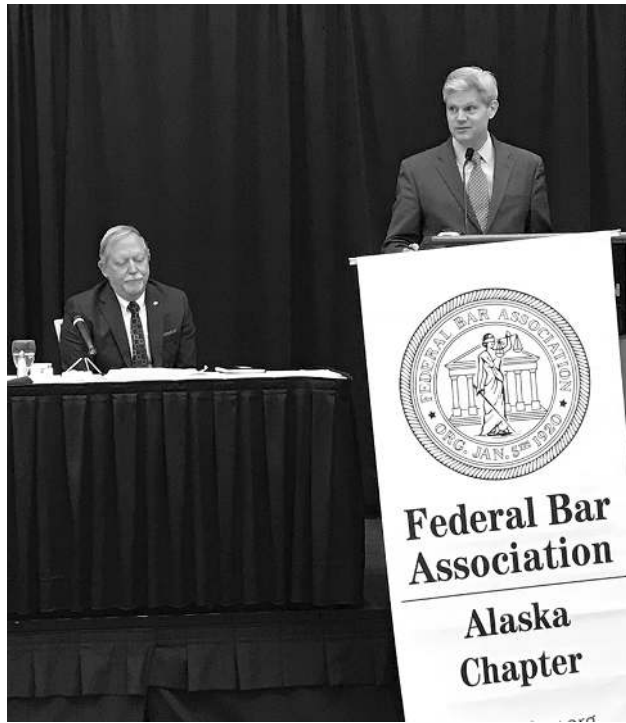


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FBA welcomes national bar association leaders at conference

By Darrel J. Gardner

The Alaska Chapter of the Federal Bar Association welcomes new chapter president Mary Pinkel. Mary is replacing assistant U.S. attorney Andrea Hattan, and she will assume her FBA chapter presidency on Oct. 1, 2018, at the conclusion of Andrea's term as president. Mary is an assistant attorney general in Anchorage working in the Torts and Workers' Compensation Section. She often represents Alaska state employees and agencies in federal court, including the defense of civil actions under U.S. Code Section 1983, for alleged civil rights violations by state actors. Mary previously worked as an attorney advisor for the U.S. Army. Before working for the Army, she served in the U.S. Attorney's Office for the District of Alaska. She also served in the Anchorage Municipal Attorney's Office. Mary attained her undergraduate degree at Amherst College, and her J.D. from the University of Wisconsin at Madison.



ABA President Bob Carlson and FBA President Kip Bollin.

The Fifth Annual Alaska District Federal Bar Conference was held on Aug. 14 at the Dena'ina Center in Anchorage. Two special guests attended the conference: Kip Bollin from Cleveland, Ohio, who is the current national president of the Federal Bar Association, and Bob Carlson, from Butte, MT. Exactly one week earlier, Bob had been installed as the national president of the American Bar Association. It was a unique honor to have two bar presidents, representing more than 430,000 attorney members, present at our small Alaska conference. President Bollin was the fourth FBA president in the past five years to attend the conference.

Featured speakers at the conference included Marcia Coyle, a writ-

er for the PBS News Hour and the National Law Journal, who presented a comprehensive summary of the 2017-2018 term of the U.S. Supreme Court. Marcia followed up with a talk titled "Reflections on 30 years of Covering the Supreme Court." During lunch, the following presentations took place:

Ninth Circuit Court of Appeals – Hon. Morgan Christen, U.S.C.J.

United States District Court – Hon. Sharon Gleason, U.S.D.J.

United States Bankruptcy Court – Hon. Gary Spraker, U.S.B.J.

Federal Pro Bono Project – Hon. Deborah Smith, U.S.M.J.

Lawyer Representatives – Mary Pinkel and Darrel Gardner

Remarks from FBA National President Kip Bollin

Remarks from incoming ABA President Bob Carlson

As the afternoon program commenced, the attendees

heard local high school student Olivia Colleen Tafs read her essay, "The ugly abyss of racism: lessons of Japanese internment." Olivia was the first place winner in the 2017 Ninth Circuit Judicial Conference's essay contest. Olivia is the daughter of Anchorage attorney Christina Weidner Tafs, and the granddaughter of Philip Weidner, another well-known Anchorage lawyer.

Following the essay, former Bar President Donald McClintock (Ashburn & Mason) moderated a panel discussion, "Personal perspectives of Japanese Alaskan internees," with Alaskans Mary Abo and Marie Matsuno Nash, both of whom were children during and personally witnessed the incarceration of Japanese Americans following the 1941 outbreak of war with Japan. Special guest Karen Korematsu then spoke about her father's famous case, *Korematsu v. United States*, 323 U.S. 214 (1944), and her perspective following the Supreme Court's 2018 decision in *Trump v. Hawaii*, which expressly overruled the *Korematsu* case. Following the panel, Jeff Feldman, Summit Law Group & affiliate professor, University of Washington, and Joshua Decker, executive director, ACLU of Alaska, continued the discussion with another presentation titled

"Korematsu v. United States & its Relevance to Issues Being Raised Today in the Federal Courts."



Darrel J. Gardner

The day conference closed out with remarks and an informal discussion with a visiting Ninth Circuit Court of Appeals panel that was in Anchorage for several days of oral arguments. Alaska's resident Circuit Judge, Morgan Christen, moderated the discussion. The panel included Senior Judge Michael Daly Hawkins, Arizona-Phoenix, Judge M. Margaret McKeown, CAS – San Diego, and Judge John B. Owens, CAS – San Diego. The judges discussed their backgrounds and their paths to the bench, followed by a question-and-answer session with the enthusiastic audience. The conference concluded with a reception, where the judges and attendees mingled and conversed. Thank you to everyone who attended the conference, and particularly to the circuit judges and our Alaska district judges for their support and participation.

The Annual Ninth Circuit Judicial Conference took place in Anaheim this year in mid-July. The theme of this year's conference was "From block chain to free speech: At the intersection of independence and leadership." The conference included several varied programs surrounding block chain, an emerging technology that could shape the law for years to come. Speakers discussed possible benefits such as cryptocurrencies, as well as dangers associated with the dark web, including the sudden availability and distribution of the synthetic opioid fentanyl. The conference also examined the tensions involved in the

in Alaska; he appeared at the annual "All*Stars" criminal defense conference presented by the Alaska Association of Criminal Defense Lawyers in 2016.

The conference opened with welcoming remarks from Chief Circuit Judge Sidney Thomas, Montana-Billings; District Judge Edward Davila, CAN-San Jose), who served as this year's conference chair replacing our own Chief Judge Timothy Burgess, who was last year's conference chair in San Francisco; and Magistrate Judge Autumn Spaeth, CAC-Santa Ana, this year's program chair. The opening ceremony also featured a video salute to now-Senior Associate Justice Anthony M. Kennedy, who also happened to be celebrating his birthday. The crowd sang a very lively "Happy Birthday" to the justice.

Alaska was well represented at the conference; attendees included:

Circuit Judge Morgan Christen
Chief District Judge Timothy Burgess

District Judge Sharon Gleason
Senior Judge Ralph Beistline
Senior Judge H. Russel Holland
Magistrate Judge Deborah Smith

Bankruptcy Judge Gary Spraker
Federal Public Defender Rich Curtner

U.S. Attorney Bryan Schroder
Lawyer Representatives Coordinating Committee (LRCC)
Chair Darrel Gardner

LRCC Alaska Representative
Mary Pinkel

Lawyer Representative Jamie McGrady

Lawyer Representative Dick Monkman

Chief Probation Officer Rhonda Langford

Clerk of Court Lesley Allen
Special guests at the Alaska Dis-



From left the Conference Chair U.S. District Judge Ed Davila, Justice Kennedy, Magistrate Judge Autumn Spaeth, and Darrel Gardner.

district Dinner included Kip Bollin, Cleveland, Ohio, the current national president of the FBA, and Barry Pollack, Washington, D.C., a conference speaker and former president of the National Association of Criminal Defense Lawyers. This year, Alaska teamed up with attendees from Idaho and Montana for a joint event, an evening at Angel Stadium to watch the Los Angeles Angels play the Chicago White Sox. This delightful event was held at several adjacent suites at the ballpark, and was planned by Mary Pinkel, along with lawyer representatives

decline of free speech protections in Europe, and the influence of similar developments in the United States. The featured speaker, Professor Jonathan Turley of the George Washington University Law School, opened the conference with his presentation, "The rise and fall of free speech in the west." Turley is a nationally recognized legal scholar and litigator who has written extensively in areas ranging from constitutional law to legal theory to tort law. He frequently appears in the national media as a commentator, and in 2013, his popular legal blog was inducted into the ABA's Hall of Fame. Turley has previously spoken

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Continued on page 15

FBA welcomes national bar association leaders at conference

Continued from page 14

from the two other districts. Mary has spent the last year working as Alaska's delegate on the LRCC, which helps plan many of the CLE programs presented at the Ninth Circuit Conference. Mary was also responsible for writing the Alaska District Report, which summarized all of the important federal court news in Alaska from the past year. All of the district reports are available on the Ninth Circuit's website. AUSA Andrea Hattan takes over as Alaska's delegate on the LRCC for the upcoming year. In October, Andrea will participate at a meeting in San Francisco to start planning the 2019 conference, which will be held next July in Spokane, WA.

Lawyer Representatives Dick Monkman's and Mary Pinkel's terms expire at the end of September, and the court will be soliciting applications from Alaska lawyers seeking to serve new three-year terms as lawyer representatives. Serving as a Ninth Circuit lawyer representative is possibly one of the most enjoyable professional experiences that a federal practitioner will ever

have. The time spent collaborating with some of the most respected attorneys throughout the West is rewarding in and of itself. I believe that the real highlight, though, is the uncommon opportunity to work closely with federal judges of all types to improve the administration of justice in our great circuit. There is a place for lawyer representatives from all practice areas and from firms of every size, whether you are a sole practitioner, part of a large office, practice criminal defense or bankruptcy, or focus on civil cases or appellate advocacy. The breadth of our experience mirrors the tremendous diversity of practice across the circuit itself. Those individuals who energetically embrace the role of lawyer representative will get the most out of their service. The opportunities are limited only by your own willingness to participate. This is a once-in-a-career opportunity to see the circuit's inner workings from the unique perspective of the LRCC, and to make a positive difference as a lawyer representative. Had I not become a lawyer rep six years ago, I would not have been elected to office in the LRCC, and I would



Judges Morgan Christen, M. Margaret McKeown, Michael Daly Hawkins and John B. Owens.

never have had the opportunity to share a two-hour lunch with Justice Kennedy. The experience has been amazing.

For more information, or to join the Federal Bar Association, please contact Andrea Hattan (andrea.w.hattan@usdoj.gov), Mary Pinkel (mary.pinkel@alaska.gov), or Darrel Gardner (darrel_gard-

ner@fd.org), or visit the Alaska Chapter website at www.fedbar.org. Like us on Facebook at "Fba Alaska Chapter," and follow us on Twitter "@bar_fed."

Darrel Gardner is a past president of the Alaska Chapter of the FBA, and current national FBA vice president for the Ninth Circuit.

Bar People

Landye Bennett Blumstein welcomes new attorneys

The law firm of Landye Bennett Blumstein LLP is pleased to announce that attorney **Kirsten Kinegak-Friday** has joined the firm's Anchorage office.

Kinogak-Friday focuses her practice on Alaska Native and corporate law and civil litigation. She received her Bachelor of Arts in Philosophy from Stanford University in 2005 and her Juris Doctor from UCLA School of Law and is admitted to practice in the Alaska State Bar and Federal District Court, District of Alaska.

Kinogak-Friday is a member of the Alaska Bar Association and co-chairs the Alaska Native Law Section. She is a member of the Anchorage Association of Women Lawyers and previously served on the Board of the Anchorage Bar Association Young Lawyers Section.

Benjamin Spiess has joined the firm's real estate practice in its Anchorage office. Spiess draws on his background in corporate law to assist clients across the Pacific Northwest in all aspects of real estate transactions and related matters of securities law. He earned his Bachelor of Arts from Middlebury College and his Juris Doctor from Boston College Law School. Currently, he is admitted to practice in the Alaska and Washington states Bar. Ben practiced law in Boston for four years before returning to Alaska in 2010.

Outside of his legal practice, Spiess is active in Arctic law and policy. He is a member of the board of advisors for the Chewonki Foundation, an environmental education organization. He also serves as a member of the board of advisors on Design That Matters, which partners with social entrepreneurs to design products that address the basic needs of people in developing countries.



Benjamin Spiess



Kirsten Kinogak-Friday



From left are John Tiemessen, Matthew Peterson, John Thorsness and Linda Johnson.

Clapp Peterson et al attorneys named 2018 Super Lawyers

Clapp Peterson Tiemessen Thorsness & Johnson LLC is honored to have four of their attorneys selected for the 2018 Super Lawyers List. This is a recognition of excellence and respect by fellow practitioners. **John Tiemessen** as a medical malpractice lawyer; **Matthew Peterson** in the field of mediation and arbitration; **John Thorsness** for product liability; and **Linda Johnson** in Employment and Labor Law.

Hughes White et al attorneys named 2018 Alaska Super Lawyers



Hughes White super lawyers include Steven Tervooren, Kimberlee Colbo and Jimmy White.

Former governor Parnell joins Holland & Hart

Holland & Hart has announced the addition of **Sean Parnell**, former governor of Alaska, to the firm's Anchorage office. Parnell brings more than 30 years of combined public service and legal expertise serving the business, government, and infrastructure development needs of the people and companies that drive Alaska's economy.

Parnell's distinguished public service career includes serving from 2009-2014 as Alaska's governor. Parnell also served as lieutenant governor and is a former Alaska state senator and representative. As an attorney, Parnell's decades-long experience in commercial transactions, natural resources, and litigation was developed in private practice, as in-house counsel, as director of state government relations for a major oil company, and in government service. At **Holland & Hart**, Parnell will continue serving his existing Alaska business clients, as well as new clients in energy and infrastructure development.



Sean Parnell

Hughes White Colbo Wilcox & Tervooren, LLC is pleased to announce that three attorneys have been selected to the 2018 Alaska Super Lawyers list, an honor reserved for those lawyers who exhibit excellence in practice: **Kimberlee Colbo** in the practice area of Personal Injury – General: Defense, **Steven Tervooren** in the area of Personal Injury – Products: Defense, and **Jimmy White** in the area of Civil Litigation: Defense.

Super Lawyers is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high-degree of peer recognition and professional achievement. The selection process includes independent research, peer nominations and peer evaluations. Selections are made on an annual, state-by-state basis. The objective of the annual listing is to create a credible, comprehensive and diverse listing of outstanding attorneys that can be used as a resource for attorneys and consumers searching for legal counsel. Only 5% of attorneys evaluated are selected to *Super Lawyers*.

Alaska Bar Association CLE

Register at alaskabar.org

Programs with low attendance 14 days out may be cancelled. Those who are pre-registered will be notified.

SEPTEMBER 2018

The Law of the Jungle: Keeping the Beasts at bay ("In the jungle, the mighty jungle, the lion sleeps tonight...")

September 18 | Kodiak | 9:00 a.m. – 12:15 p.m.
September 21 | Juneau | 1:00 – 4:15 p.m.
September 26 | Anchorage | 9:00 a.m. – 12:15 p.m.
September 28 | Kenai | 12:00 – 3:15 p.m.

How to Draft a Contract

September 19 | 9:00 a.m. – 4:30 p.m.

Secrets of Bulletproof Contract Drafting

September 20 | 9:00 a.m. – 4:30 p.m.

OCTOBER 2018

Cyber Security and Technical Skill Training for Lawyers and Staff

October 17 | 8:30 a.m. – 4:15 p.m.

Real Property Transfers in Alaska:

Beyond the Warranty Deed and the Quitclaim Deed

October 31 | 8:30 a.m. – 12:40 p.m.

NOVEMBER 2018

A Comedic Review of the Supreme Court of the United States

November 2 | 10:30 – 11:30 a.m.

NOVEMBER 2018 (continued)

Comedic Review of Lawyers Gone Wild

November 2 | 1:00 – 4:15 p.m.

Dementia: Resources for Clinical, Legal and Financial Challenges

November 8 | 8:30 a.m. – 4:30 p.m.

Historians' Luncheon - Breaking the Liquor Curse:

When Alaska Went "Bone Dry" 1918 – 1933

November 29 | 11:30 a.m. – 1:00 p.m.

2018 Workers Compensation Review

November 30 | Time TBD

DECEMBER 2018

"Nobody Told Me There'd Be Days Like These!": Stress, Pressure and Ethical Decision-Making in the Practice of Law

December 11 | Anchorage | 9:00 a.m. – 12:15 p.m.

December 12 | Fairbanks | 1:00 – 4:15 p.m.

December 14 | Juneau | 1:00 – 4:15 p.m.

Wellness in Reel Life – Practical Guidance on Self-Care from the Movies

December 11 | 1:00 – 4:15 p.m.

CLE Tour Alaska

Fluff is for Pillows, Not Legal Writing in July • Presented by: Stuart Teicher, The CLE Performer



July 20: Kenai



July 23: Fairbanks



Evaluation comments: Excellent presenter and presentation; good content and invigorating presentation.

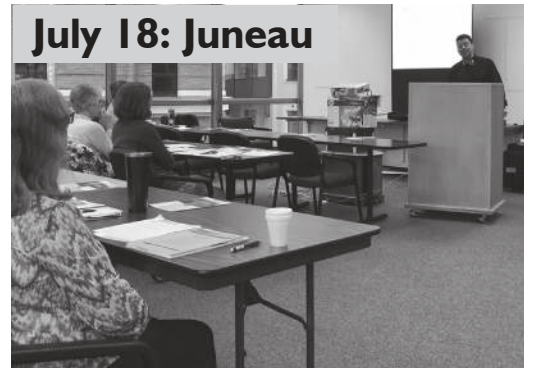
July 27: Anchorage



July 25: Utqiagvik



July 18: Juneau



Wonderful, dynamic speaker! This is a very valuable program and I thank you for bringing it to us.

Battle Lines By Cameron Leonard

We really believe
That every word matters,
Making our record.

We take turns, polite
And serious, unlike gulls
Who all squawk at once

Do we really care
What this witness has to say?
Not me. No questions.

It's probative, yes,
But this exhibit's missing
From your final list.

Hearsay? Your honor,
It was a threat. We just want
To prove he said it.

Copy? Original?
Who knows these days? And who cares?
It's his signature.

Your honor, I know
It's here somewhere. May we take
A five-minute break?

Relevance? Just give
Us a loose rein for a bit
And I'll tie it back.

Opposing counsel
Is getting under my skin.
I object to him.

Maybe this is just
Human nature: defending
Our territories.

Our final witness
Has just arrived. May we take
Another short break?

Better not to think
About the choices we've made.
This is where we are.

Concentration. When
Did I lose this aptitude?
I can't remember.

The light is fading.
The long season of low light
Awaits us again.

Sorry your honor,
I was composing haiku.
What was the question?

How does she do it,
The judge, salvaging justice
Out of confusion?

May it please the court:
Res ipsa loquitur. I
Have nothing to add.

Any more questions?
May we go off record now?
We are done. I rest.



Cameron Leonard is a Fairbanks wood-burner managing cabin fever.

Defense lawyers' group hosts eighth annual conference

By Darrel Gardner

The Alaska Association of Criminal Defense Lawyers was founded in November 2009. AKACDL has approximately 125 members in cities all around Alaska. In keeping with the goals of its mission statement, AKACDL usually presents at least three criminal defense-oriented CLE programs per year, as well as an annual two-day summer conference at the Alyeska Resort in Girdwood. This year marked AKACDL's seventh conference, held July 12-13. The goal of the aptly named "All*Stars Conference" is to bring highly experienced, nationally noted criminal defense lawyers to Alaska to speak to our criminal defense bar. Most of the presenters have also presented at the National College of Criminal Defense, the National Institute for Trial Advocacy, and the National Association of Criminal Defense Lawyers.

This year's featured presenters included: **George Bianchi**, who spoke on "Cannabis and Cars;" **Tim Curry**, who presented "Blurring the Lines Between Adolescents and Young Adults: Bringing Developmental Arguments into Criminal Court;" **Christopher Dodd**, whose topics included "Litigating and Winning Child Pornography Cases," and "Digital Evidence: The New Landscape of Criminal Defense;" and **Eric Fong**, who presented "Reenactment: Show Me, Don't Tell Me," and "Self-care and Healthy

Relationships: Finding Your Health, Soul and Spirituality in the Practice of Law."

Local speakers included **Susan Orlansky**, who gave an Alaska appellate case law update; **Josie Garton**, who spoke on "Competency, Insanity, and Guilty But Mentally Ill: Ethical and Tactical Considerations in Representing Mentally Ill Criminal Defendants in Alaska;" and **Serena Green**, who delivered "The Lawyers' Assistance Committee

The goal of the aptly named "All*Stars Conference" is to bring highly experienced, nationally noted criminal defense lawyers to Alaska to speak to our criminal defense bar.

and Attorney Well-Being: A Path to Improving the Profession."

This year's All*Stars Conference was once again very well attended, with about 100 participants. A large number of public defense attorneys attended because, for years now, the Alaska Public Defender Agency and the Office of Public Advocacy have encouraged them to participate since those offices have lacked adequate funding to provide a similar level of in-house training. AKACDL commends Public Defender Quinlan Steiner and Public Advocate Chad Holt for their unwavering support of the association in its mission to provide high-quality Continuing Legal Education to the Alaska criminal defense bar.

At a lunch event on the first day of the conference, AKACDL presented its annual "Champion of Liberty Award." The award, a large, engraved, decorative gold pan, is presented based on nominations from the membership and is given to an attorney who has demonstrated



Ben Muse and Megan Newport display their awards.

exemplary legal skills and dedication in achieving a successful case outcome in the preceding year. In 2016, the AKACDL board of directors voted to create a second "Champion of Liberty Award" that could be given to a non-AKACDL member or member of the public. This year's AKACDL member award went to Anchorage Public Defender Ben Muse. The AKACDL board also presented a non-member award to Megan Newport, who is a protective services specialist in Bethel.

Congratulations to Ben and Megan.

The Alaska Association of Crimi-

nal Defense Lawyers ("AKACDL") is a non-profit organization and the only professional association of criminal defense lawyers in Alaska. The members of AKACDL include both private attorneys and state and federal public defenders who provide criminal defense for individuals accused of crimes in all of courts of Alaska. For more information or to join AKACDL, please visit our website at www.akacd.org

Darrel Gardner is an AKACDL board member and served as president in 2014. He is a federal public defender in Anchorage.

Book Release

Former court administrator publishes second novel



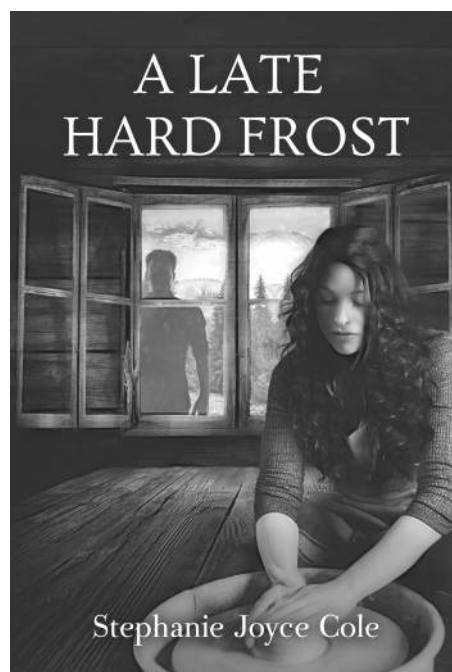
Stephanie Cole

Retired former Alaska Area Court Administrator Stephanie Cole announced the publication of her second novel, *A Late Hard Frost* in December 2017.

The book is a sequel to her first novel, *Compass North*, published in 2013. Both stories are set in Homer.

The author provided a description of her new book: Cassandra's aloof facade of a talented but isolated artist masks her deep emotional wounds. Changes ricochet through her life as a relationship blossoms, but it comes with a terrible price. And, watching her, a sinister figure lurks in hiding, waiting for his chance to claim her as his own.

Cole graduated from UCLA School of Law in 1975, and headed north for one year to clerk for Judge James Singleton, who was then a Superior Court judge in Anchorage. After the one-year commitment she took the Alaska Bar exam and stayed for several decades. She



went to work for the Alaska Court System in 1983, where she was first deputy director, 1983-1997, and then administrative director until she retired in 2009.

She has lived in Seattle since 2010 where as she says she finally found the time and has been pursuing her writing ever since.



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There's legal discrimination, persecution of Bahá'ís in Iran

By Daniel B. Lord

Part 1 of a series

EDITOR'S NOTE: Some of the URLs in this story do not work with the Apple Safari browser. They open fine in Firefox.

A remarkable gesture of solidarity occurred earlier this year. On Feb. 5, 2018, 28 prominent lawyers, judges, intellectuals, and experts in human rights law from around the world addressed in an open letter the head of Iran's High Council for Human Rights, Mohammad Javad Larjani. They asked him to acknowledge and pressed him to take action to end the "ongoing persecution and discrimination," from which the Bahá'ís in Iran have been suffering "for no other reason than belief in their Faith."

The open letter, which can be accessed online at goo.gl/QRFTUe brings to the attention of Larjani a website recently launched by the Bahá'í International Community and called "The Archives of the Persecution of the Bahá'ís in Iran." The Bahá'í International Community speaks on behalf of the Bahá'ís in Iran, because they have no voice in the government, though they number at least 300,000 there. The website provides for the first time hundreds of official documents, firsthand reports, testimonials, and audiovisual materials, laying bare before all in the world the depth and scale of the persecution. See <https://iranbahaipersecution.bic.org/>.

After citing information from the website evidencing a wide range of human rights abuses by the Iranian authorities — including arbitrary arrest and imprisonment, execu-

tion, economic oppression, denial of education, destruction of property, incitement to hatred and violence — the signatories to the open letter ask the following:

... [H]ow can the prevention of thousands of young people from access to university be considered fair? How can Islamic justice be upheld when efforts are made to exclude an entire community from participating in the economic life of their own country? How can human rights be respected when innocent individuals are arbitrarily arrested, tortured, and imprisoned for many years; or when they are legally deprived of the right to seek justice for crimes committed against them and when the perpetrators are treated with impunity?

One might think that such an appeal from this group of esteemed jurists would warrant a stepping back. But this has turned out not to be the case. Rather, as the Bahá'í International Community reported on May 25, 2018, the Bahá'ís in Iran are experiencing a new wave of arrests and raids of their homes across different cities in the country. See goo.gl/B28w2H (accessed 8/10/2018).

The situation in Iran is more than a mere cause of concern. Alarming, on March 28, 2018, Ayatollah Ali Khamenei, Iran's supreme leader, issued a *fatwa* or religious ruling, stating, "You should avoid any association and dealings with this accursed and misguided sect." See Bahá'í International Community, Statement to UN Human Rights Council — 38th Ses-

sion, June 2018, at <https://www.bic.org/statements/un-human-rights-council-38th-session-june-2018> (accessed 8/10/2018). Khamenei also issued a *fatwa* in 2013, in which he similarly stated that the Bahá'ís are part of a "deviant and misleading sect" and urged Iranians to "avoid" them. Human Rights Watch, World Report 2014: Iran, goo.gl/Vp2qEP (accessed 8/10/2018).

In Yemen, curiously only five days before the *fatwa* this year, 'Abdu'l-Malek al-Houthi, leader of the Houthis, delivered a televised speech, broadcast widely, where he vilified and denounced the Bahá'í Faith. In inflammatory language, he described the Bahá'í "movement" as "satanic" and "waging a war of doctrine against Islam." He called on Yemenis to defend their country against the Bahá'ís — who advocate for tolerance and peace — saying that "those who destroy the faith of the people are no less dangerous than those who kill with bombs." Bahá'í International Community, *op. cit.*

Houthi authorities have detained a number of Bahá'ís, among them an Iranian, and Specialized Criminal Court in Sanaa has condemned an imprisoned Bahá'í, Hamed bin Haydarato, to death on baseless charges of "communicating with Israel and other related offenses." See Human Rights Watch, Yemen: Houthi Sentence Baha'i Man to Death (Feb. 27, 2018), at goo.gl/rYB2Nt (accessed 8/10/2018).

In Iran, the groundwork laid for legal persecution of the Bahá'ís can be discerned in the Constitution of the Islamic Republic. Under Article 4, "All civil, penal, financial, economic, administrative, cultural, military, political, and other laws and regulations must be based on Islamic criteria." See goo.gl/bNQG4q. And under Article 19, "The people of Iran enjoy equal rights, regardless of the ethnic group or tribe to which they belong. Color, race, language, and other considerations shall not be grounds for special privilege." *Id.* Religion is not mentioned. "Read together, Articles 4 and 19 show that discrimination on the basis of religion, and Islamic law in particular, is acceptable." Shahin Milani, *Situation of the Bahá'í Minority in Iran and the Existing Legal Framework*, 69 J. Int'l Affairs (2016), available at Assuredly, the Iranian Constitution provides for recognition of minorities, who are afforded certain rights. Under Article 13, the recognized minorities "may exercise their religious rites and ceremonies within the limits of the law" and "are free to exercise matters of personal status and they follow their own rituals." See goo.gl/bNQG4q.

However, such protections are limited to Zoroastrians, Jews and Iranian Christians, and not extended to those holding other religious beliefs. There are no guarantees of equality of rights; discrimination on the basis of religion is institutionalized under the Iranian Constitution.

Perhaps this discrimination is nowhere more apparent for Bahá'ís in Iran than in the courts. As recently reported, "In both criminal and civil cases, judges or prosecutors often merely need to cite the fact that a defendant or plaintiff is a Bahá'í as evidence against them." Bahá'í International Community, The Bahá'í Question Revisited: Persecution and Resilience in Iran, 1, 11 (2016). In one instance, a judge

acquitted a Muslim accused of the crime of usury because the plaintiff was a Bahá'í, ruling that because of the *fatwa* "usury against members of this despicable sect is inconsequential;" and in another instance, the prosecutor's office stated that there can be no cause of action for enforcement of contract from a Bahá'í, reasoning that "signing of contracts with individuals belonging to this perverse sect is legally prohibited." *Id.*

The situation is nothing short of sinister. Under Iran's new Islamic Penal Code, premeditated murder carries the death penalty as a *qisas* (retribution) offense. Article 302 of the Penal Code, however, provides for several exceptions to this rule. One is that should an offender kill someone who committed a *hadd* (against God) crime punishable by death, the offender is subject to penalties considerably short of being put to death. See goo.gl/AVuLjB.

As explained by Milani, "A key jurisprudential concept is at play here" — that there is a category of individuals under *Shari'a* who are *mahdur al-dam* (worthless blood), and "warring infidels" as opposed to "protected infidels" have generally fallen in that category and can be accounted of those who committed a crime deserving of death. The *fatwa* issued by Mr. Khamenei and denunciations by the Houthi leader have added significance, for the not-so-subtle inference is that the Bahá'ís can be considered as "warring infidels" — indeed, "there is a body of jurisprudential texts that consider Bahá'ís to be *mahdur al-dam*." *Id.* (citing Mehrangiz Kar).

The new Islamic Penal Code provides for judges to rely on religious laws. Under Article 220, when a *hadd* crime is involved, judges must issue sentences in accordance with Article 167 of the Constitution, and that article in turn provides that judges "must try to base the verdict of each dispute on the codified laws," and if that is not possible, "he should issue the verdict on the case by referring to reputable Islamic sources or religious rulings (*fatwa*)." See goo.gl/bNQG4q.

According to Ms. Kar, the famed Iranian lawyer and human rights activist, this intertwining of *Shari'a* and the codified law has become the basis for judicial action against the Bahá'ís. Milani, *op. cit.* "Given this context," Milani observed,

it should not be surprising that vigilanti murders and assaults of Bahá'ís are inadequately investigated. In addition to the possibility that many of these attacks may be organized by groups tied to the clerical establishment, there are serious jurisprudential impediments to an adequate legal response to such attacks. . . .

Op. cit. Reminiscent of those past verdicts, where the Bahá'ís received "neither requital nor blood money" in cases of murder, "it could incite Muslims to believe that they are free to take the lives of Bahá'ís in Iran with impunity." Bahá'í International Community, The Bahá'í Question: Cultural Cleansing in Iran 1, 40 (2005).

Daniel B. Lord was Of Counsel with the law firm of Tindall Bennett & Shoup, as well as an assistant public defender and public advocate. He is a member of the International Law Section.

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The gang looks for justice across the big state

By Peter J. Aschenbrenner

“Proceedings — Spenardwise — have developed to the point that Aristotle’s appearance is eagerly anticipated,” Gov. Bill Egan intones.

“We all have our plates ready,” Dolley Madison signals.

“And there’s the fireplace,” Jemmy concurs. “After all, he’s the world’s most famous Greek philosopher who’s not Plato.”

“Two things can’t be in the same place at the same time,” Gov. Sarah Palin states the issue. “To be concise,” she continues, “getting a coherent match between what the plaintiff says her case involves and the relevant court rules may be ...”

“Go on,” a shrouded figure cues The Sarah via the baton with which he is always armed.

“A conundrum wrapped up in a riddle and ...”

“That’s enigma enough for me,” Sir Edward Elgar advances and commands the attention of the assembly.

“At first I asked myself,” he declares, “how tough could it be? As *Brooks Range Petroleum Corporation v. Shearer* instructs us —

“Op. 7266,” I ahem the cite.

“Rule 3(c) provides, omitting brackets and ellipses: ‘If a defendant can be personally served within a judicial district of the State of Alaska, the action may be commenced either in: (1) the judicial district in which the claim arose; or (2) a judicial district where the defendant may be personally served.’”

“But in a really big state,” Jemmy points out and begins to launch.

“What my husband is saying is this. In Federalist No. 10 he gave permission to the nation to be really, like big. ‘Go ahead,’ in paraphrase, ‘get a big republic and may all your subdivisions likewise get biggy-sized.’”

“So Texas was annexed, da da da, the Bear Flag also-a-republic absorbed and then Alaska came on the market,” Sir Edward ticks off the events relevant. “But you have only four judicial districts for a state large enough to have its own planet. Cartographically speaking.”

“My bad,” Chief Justice Earl Warren speaks up. “When we were ‘*Baker v. Carr*’-ing away ...”

“369 U.S. 186 (1962),” I sidebar the necessary.

“We tried to line up, lemme see here,” Chief counts on his fingers: “county courthouses, cows, suburbs and *also* make sense out of sprawl

both bovine and ‘burbistic.”

“Aha!” Sir Edward batons the conclusion to which he leaps. “When Alaska was created you had *too few* counties or administrative units. And none named after Jefferson or Washington or Madison.”

“Now that’s a pity,” Jemmy shrugs, “but it does explain why I have returned to life in the ‘Big State.’”

“By making your judicial districts too big, you create your own Rule 3(c) issue, for which,” The Earl continues, “the federal rules — praises be to the law professors of America! — are of utterly no use.”

“Hence, the ruling neither the plaintiff’s ‘tort claims nor his contract-based claims arose in the Second Judicial District, and the chosen venue was therefore not proper,’” Dolley Madison intones.

“*Baker v. Carr*,” the Chief closes his eyes in reverie. “That was a controversy a judge could really sink his teeth into. Every county had one state representative. A state senator for every few counties, yadda yadda, and all we did was to add extra reps, counting humans, discounting herds, to even out the pie slices. Oh, sorry. That’s *Reynolds v. Sims*, 377 US 533 (1964). Did you know there were farms in Berkeley?” he adds.

“But the problem is,” The Sarah points out, “that the civil rules address only inter-judicial district venue issues and take no account of intra-judicial district issues. And there are some district courts in Alaska that serve a whole lot of real estate, well, that’s the real problem for which Op. 7266 leaves no real answers. But wait, there’s more.”

“Justice is hard to get in a big state,” Jemmy shrugs.

“Now you tell us,” Dolley asserts the marital privilege. “Warren Gamael Harding — the first president sporting MN of ME provenance ...”

“Abe! Don’t forget about me,” a tall frontiersman speaks up.

“Zach here, ditto,” a handsome though short-lived general joins in. “Oh,” The Taylor excuses himself, “you refer to *middle* names.”

“Harding proposed that Alaska be subdivided into five states,” Sir Edward picks up the — er — fallen baton. “Lemme see here. Five states times four judicial districts, so that’s twenty JDs. Bethel and Fairbanks wouldn’t be sharing the challenged

inter-venue Civil Rule 3(c).”

“Is it true,” The Earl asks Sir Edward, “that Bethel to Fairbanks is 524 miles, as the steamboat steams?”

“If you’re lucky,” Sir Edward ripostes, “you might cross Roald Amundsen sailing from Nome to San Francisco. I refer to the final leg of the voyage of the *Gjoa* in 1906.”

“But there must be a solution in here,” The Earl intones. “Even if it is unconstitutional. How about making the trial judge

responsible for monitoring the pro se defendant’s struggle to make her (or his) case at trial?”

“It is true that most of the intra-judicial district venue cases will present in that context,” I agree. “So the not-too-distant, but not-in-the-courtroom defendant should get the lion’s share of attention.”

“As I was saying,” The Sarah restores order to the assembly. “The Supreme Court has already solved the problem. Sort of. Through Civil Rule 3(d). ‘A trial and any precedent or antecedent hearings in an action shall be conducted in a venue district within the judicial district at a location which would best serve the convenience of the parties and witnesses.’”

“A few *additional* rules might be in order,” Sir Edward ticks them off. “If the defendant has difficulty presenting evidence, the court can

require the plaintiff to take a video deposition (at its expense) so the defendant’s position can appear in the record, with a more narrative and therefore natural explanation thereby ascertainable.”

“A plaintiff’s complaint might be deemed an offer to change the geography of court proceedings. Even if the defendant raises the issue mid-case, the court should take notice and act accordingly.”

“There’s always the appointment of a master,” I add to The Sarah’s suggestion. “For the disabled or shut-ins.”

“The point is that the arrival of the Internet and telephonic communication on the Parks Hiway have dramatically enabled a *pro se* party to make her case. But the situation does require some judicial hand-holding,” The Earl concludes.

“That would mean that Alaska would have its own Civil Rule 3(d),” Jemmy muses. “I like the sound of that. Maybe we should have our own reality TV show.”

“And don’t we already,” Dolley prods her man.

Peter J. Aschenbrenner has practiced law in Alaska since 1972, with offices in Fairbanks (until 2011) and Anchorage. From 1974-1991 he served as federal magistrate judge in Fairbanks. He also served eight years as a member of the Alaska Judicial Conduct Commission. He has self-published 16 books on Alaska law. Since 2000 the Bar Rag has published 49 of his articles.

“But there must be a solution in here,” The Earl intones. “Even if it is unconstitutional.”

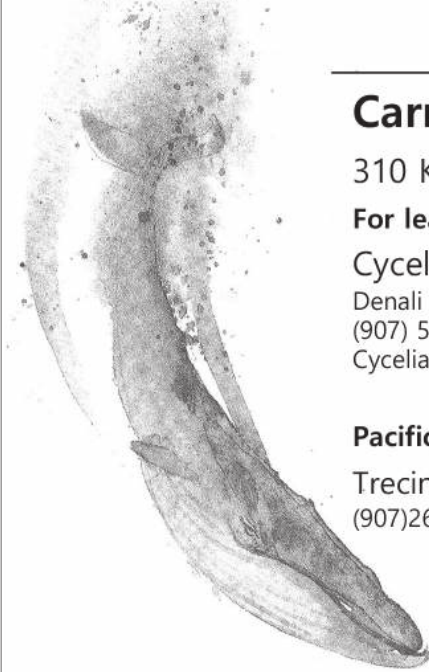
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Former clients present complications over conflicts of interest

By Nelson Page

At some point after obtaining your first client, you probably also started acquiring former clients. Ethical rules about conflicts of interest apply to both.

ARPC 1.9(a) provides that, "A lawyer who has formerly represented a client in a matter shall not thereafter represent another person in the same or substantially related matter in which that person's interests are materially adverse to the interests of the former client...." At first glance, this probably seems straightforward. It isn't. Each one of the clauses in the rule is important.

Is there a former client?

The answer always depends on the specific facts. For example, a lawyer who represents an organization may have dealings with the individuals who own and run the organization such as shareholders, members of the board of directors or the CEO. If, at a later time, the lawyer seeks to sue one of these individual "constituents" is there a former attorney client relationship that raises 1.9 issues? Maybe not, if the individual was not sharing confidences or secrets personal to the individual, or if it was clear that the attorney was not acting on behalf of the individual constituent.¹ Similarly, the lawyer who prepares documents for a group of investors to create a corporation may not be precluded from representing the corporation later on when a dispute arises with some of the shareholders. The act of preparing the documents to form the corporation does not automatically create an attorney client relationship with the shareholders.² There can be any number of factual situations in which the existence of an attorney client relationship is unclear. Assessing this is the first step in analyzing a "former client" conflict of interest.

Are the two matters "substantially related?"

Matters are "substantially re-

lated" if they involve the same transaction or legal dispute or if there is otherwise a "substantial risk that confidential factual information obtained in the prior representation would materially advance the client's position in the subsequent matter."³ Matters will be considered substantially related if the information "would predictably be used to the detriment of the earlier client by a zealous, conflict-free advocate."⁴

The comment to rule 1.9 discusses the nature of the factual inquiry:

The scope of a "matter" for purpose of this Rule depends on the facts of a particular situation or transaction. The lawyer's involvement in a matter can also be a question of degree. When a lawyer has been directly involved in a specific transaction, subsequent representation of other clients with materially adverse interest in that transaction clearly is prohibited. On the other hand, a lawyer who recurrently handled a type of problem for a former client is not precluded from representing another client in a factually distinct problem of that type even though the subsequent representation involves a position adverse to the prior client.⁵

A good illustration of this is *Gause v. Gause*, in which the Alaska Supreme Court ruled that no "substantial relationship" existed when one spouse sought to use an attorney in the later divorce, whom the couple had previously hired to pursue a small claims action against a third party.⁶

Is there "material adversity?"

When a current client sues a former client on a "substantially related matter", the material adversity requirement is almost always satisfied. But there can be circumstances in which adversity is not so clear. In *Simpson Performance Products, Inc. v. Horn P.C.*, Simpson, a manufac-



"In order to know whether to take a case it is necessary to hear a little bit about it."

turer of seat belts, hired a lawyer to investigate a possible lawsuit against NASCAR arising out of the death of driver Dale Earnhardt. When Simpson decided not to sue for business reasons, an owner of the company resigned in disgust, and hired the same lawyer to file a suit of his own against NASCAR. The Wyoming Supreme Court ruled that Simpson had failed to show any adversity, and could not

demonstrate the use of confidential information in a way that would be harmful to Simpson. Accordingly the lawyer was allowed to proceed.⁷

Does the new representation put confidences or secrets at risk?

Even when the requirements of 1.9(a) are otherwise resolved you may still be disqualified from representing a later client if the representation would involve the use of the former client's confidences or secrets. These need not be directly related to the new matter if knowledge of them would give the attorney any advantage. Even general knowledge of the "workings" of the former client may give the attorney unfair insight into how to proceed against the former client and thus be enough to create a conflict problem.⁸ Note that if the two matters are substantially related, either because of the facts or because of the clear danger of inappropriate use of confidential information, it is not necessary to prove that confidential information was actually misused. The potential for misuse is enough to require disqualification.⁹

Any conflict for one lawyer in the firm is a conflict for all. ARPC 1.9 applies to all lawyers in a firm. This principle was applied in *Aleut Corporation v. McGarvey*, where the conflict existed because of work done for a former client by one of the partners, which served to disqualify the other partner from undertaking adverse representation.¹⁰

Will the former client waive the conflict?

The restrictions contained in Rule 1.9 have a significant loophole. They can be waived if the former client "gives informed consent, confirmed in writing."¹¹ Informed consent requires that the lawyer adequately explain "the material risks of, and the reasonably available alternatives to the proposed course of action."¹²

What about when the lawyer goes to a new law firm?

The restrictions on conflicts with former clients survive a change of employment.¹³ As a result, a lawyer who transfers to a new law firm brings the conflict along: the new law firm is disqualified from representing clients with conflicting interests.¹⁴ However, if the lawyer did not work on a matter, and gained no knowledge of relevant confidential information while at the old firm, the lawyer can undertake adverse representation. Under no circumstances can the lawyer use any confidential knowledge gained while at the old firm against the former client.¹⁵

When do prospective clients become clients for purposes of this rule?

In order to know whether to take a case it is necessary to hear a little bit about it. At what point do these initial conversations become a problem? ARPC 1.18 (b) specifies that, "even when no client-lawyer relationship ensues, a lawyer who has learned information from a prospective client shall not use or reveal that information "except as Rule 1.9 would permit with respect to information of a former client." In *Marx v. Benzel*, the lawyer was asked to consult with Marx, who was in jail. The lawyer met with her and talked briefly about both her criminal matter and a related real property issue. No formal retention agreement was ever signed, but when the lawyer sued Marx on behalf of the other side in the property dispute, Marx sought to have the lawyer disqualified. The court agreed that an attorney client relationship existed that required disqualification, holding that the "relationship is established when the client believes that she is consulting a lawyer in his professional capacity and manifests her intention to seek professional legal advice."¹⁶

Like so many other ethics questions, the problem of former clients is a tangle between the facts and the guidance given by the rules. The price of being wrong can be quite high, including disqualification, repayment of fees and, in some cases, malpractice claims or discipline action. The requirements of ARPC 1.9 and its neighbors are one reason why you should be keeping careful track of all your clients, past and present as well as any initial consultation that come into your office.

Nelson Page is the Bar counsel at the Alaska Bar Association, formerly of Burr, Pease and Kurtz and former Alaska Bar president.

Footnotes

¹ See Alaska Ethics Opinion 2012-3 (2012).

² But see Ethics Opinion 84-2, where the Ethics Committee refused to condone representation of one partner by the lawyer for a partnership in a lawsuit between the two partners. "If there is the slightest doubt as to whether or not the acceptance of professional employment will involve a conflict of interest as between the two partners, or with a former partner, or may require the use of information obtained through the services rendered to the partnership, the employment should be refused."

³ ARPC 1.9 Comment.

⁴ ARPC 9.1(r).

⁵ ARPC 1.9 Comment.

⁶ *Gause v. Gause* 613 P.2d 1257 (Alaska 1980).

⁷ *Simpson Performance Products, Inc. v. Horn P.C.*, 92 P.3d 283 (Wyo. 2004).

⁸ *Aleut Corp. v. McGarvey*, 573 P.2d 473, 475 (Alaska 1978); See *Chugach Electric Assn. v. U.S. District Court for the District of Alaska*, 370 F.2d 441 (9th Cir. 1966) (Attorney's position as general counsel for organization provided knowledge of private matters gained in confidence that provided a significant advantage in future litigation).

⁹ *Aleut Corp. v. McGarvey*, supra, at 476; *Griffith v. Taylor*, 937 P.2d 297, 303 (Alaska 1997); *Marx v. Benzel*, 66 P.3d 735, 736 (Alaska 2003).

¹⁰ *Aleut Corp. v. McGarvey*, supra, at 476.

¹¹ ARPC 1.9 (a), (b).

¹² ARPC 9.1(g).

¹³ ARPC 1.9 (b) and (c).

¹⁴ See Ethics Opinion 83-5. (Law firm that hired associate who had worked substantively on opposite side of case should be disqualified).

¹⁵ Special rules apply to lawyers who have worked for the government, or who have previously represented clients against a government entity. These are set out in ARPC 1.11.

¹⁶ *Marx v. Benzel*, 66 P.3d 735, 736 (Alaska 2003) (quoting *Griffen v. East Prairie School District*, 945 F.Supp. 1251, 1254 (E.D.Mo.1996)).



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.

Contact the Alaska Bar Association or one of the following coordinators when you learn of a tragedy occurring to someone in your local legal community:

Fairbanks: Aimee Oravec, aimee@akwater.com

Mat-Su: Greg Parvin, gparvin@gparvinlaw.com

Anchorage: open (seeking volunteer)

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.

ANDVSA recognizes pro bono work of Spigelmyer, and Zervos

By Siraj Ahmed Sindhu

If you hope to use your legal skills to assist those most in need, where do you turn? The Legal Program of the Alaska Network on Domestic Violence and Sexual Assault is a nexus for attorneys who want to use their knowledge to provide justice and safety to those who have been victimized. ANDVSA connects attorneys from around the state with low-income people in need of pro bono legal assistance in civil law cases involving domestic violence or assault. Often, these applicants need help with cases involving divorce, custody, or protection orders against abusive partners. Christine Pate, director of the Legal Program, says, "Providing legal assistance is one of the most effective things we can do to ensure the safety and security of survivors, so the work these volunteers do is crucial."

ANDVSA's volunteers receive many opportunities for engaging with colleagues and building their networks. Volunteers attend ANDVSA's annual CLE Conference for free, and connect with each other as mentors and mentees. Pate arranges for volunteer attorneys who are experienced in family law to assist those less familiar with the field. "Many of our longtime volunteers not only work passionately for clients, but also provide essential support to newer volunteers. We are grateful that experienced volunteers make sure that younger attorneys who decide to take on a case aren't left to manage on their own."

For attorneys who do not normally practice in the field of family law, volunteering to take ANDVSA cases may seem difficult. However, many volunteers had never done family law before they took on their first volunteer case. ANDVSA provides many resources to attorneys who are interested in volunteering, including an extensive Family Law Manual, an online database of sample pleadings, and mentorship from more experienced volunteers. And those who cannot handle cases but would still like to volunteer in some way can staff ANDVSA's twice-a-month Information & Referral Hotline, during which victims of domestic violence call in to receive information about their legal options.

Pate estimates that on average, about half of the applicants who meet the criteria for receiving pro bono representation are not served because the volume of applicants outpaces the availability of volunteer attorneys. But some star attorneys set an example by regularly volunteering their time and energy to provide legal representation and assistance to those in need. The two attorneys profiled below are outstanding volunteers who have recently been named the ANDVSA Volunteer Attorney of the Month.

Be on the lookout in future issues

of the *Bar Rag* for more features on attorneys who are dedicated to pro bono work for victims of domestic violence and sexual assault. Remember—the next profile could be about you! If you are an attorney interested in volunteering with ANDVSA, please see www.andvsa.org/volunteer-now. You can also email Christine Pate, director of the ANDVSA Legal Program, at cpate@andvsa.org for more information.

Terri Spigelmyer has been volunteering to represent and serve network clients for about 26 years. Her empathy for those who are marginalized and who suffer from injustice has motivated her throughout her career as an attorney, including her pro bono work.

Terri's practice focuses on child protection and Child In Need of Aid cases, and she believes that serving children in dangerous situations is a crucial part of achieving justice through law. "Children are among those who need attorneys most," she said. "They need somebody to believe in them, give them hope, and treat them like human beings. Similarly, survivors of domestic violence and sexual assault need and deserve support. Victims don't become victims by choice. They are forced into victimization by their life circumstances, and often by childhood events."

Terri adds that she loves to return the ability to choose to her pro bono clients. "Choice is the key! Victims know what will keep them safe better than anybody else does, so it's our responsibility to create the space for them to make decisions to restore safety and security to their lives. Then they can get out of danger and move forward with their lives in a safe way."

Terri shared a story of a particularly memorable volunteer case. "Many years ago, I had a pro bono client in Utqiagvik, and I traveled to meet with her. Many family issues in Barrow are settled outside of court because it's a small community and many people feel anxious about going to court. I still remember my client's intense fear. My presence with her as she walked into court changed her capacity to be present in court, and ANDVSA made it all possible. It's a blessing, that gratitude that comes when it's all over, that sense of relief. The clients can't find opportunities for this kind of support anywhere else."

To other attorneys considering volunteering with DV/SA survivors, Terri says: "There is great professional and personal satisfaction in making a difference for those who lack the resources and support to live without fear and trauma. It's satisfying and it's our duty as law-

yers. Plus, working with ANDVSA is just phenomenal. The trainings are great, there are so many resources available online, and there's always advice just a phone call away. Recently, I had a complicated volunteer case with a novel issue, and I called ANDVSA for advice; they put the question out to other attorneys, and everybody was excited to brainstorm with me about how to write the motion and deal with this new issue. Working with this agency is such a pleasure."

Outside of work, Terri enjoys cultural exploration with her husband. When the two of them are not living in India, Brazil, or other enriching destinations, they live and work in Homer. Thank you, Terri, for your decades of service.

Larry Zervos, a retired judge who continues to take on volunteer cases, is an exemplar of our volunteers' commitment to helping victims of domestic violence and sexual assault. He has been volunteering with the network for about 10 years, though he has worked with domestic violence situations throughout his career. He first came to Alaska in 1965, then left, came back and left again. But he returned for good in 1978 with a law degree. He has worked as an assistant district attorney, in private practice, as a judge, and with the University.

Empowering survivors of DV/SA to live safer lives, he says, is important "for the women who are di-

rectly suffering, of course, and also for the children who might suffer as a result. I'm particularly interested in the effects that domestic violence can have on children. Exposure to DV in the home is an adverse childhood experience — it plays a role in determining how a young person will be as an adult. I feel that if I can have some small role in removing a child from that kind of bad situation, then I may have done some good in the moment, for the child's future, and maybe for society, too."


"It is part of our duty as lawyers to make sure that those who can't otherwise access legal services get the services that they need," Larry adds. "We have to deal with society's cynical perception that justice depends on money and power. If we as members of the Bar provide legal services for those who cannot afford those services, I think we help undercut, at least a bit, society's jaded view of the court system."

Finally, Larry says, "In Alaska, we are facing an epidemic of domestic violence. For these victims who are without financial resources, the prospect of going to court alone can be daunting." Having an attorney there to help level the playing field brings a great sense of relief for the victims, and they are grateful for the ANDVSA program and the lawyers who participate in that program."

In his free time, Larry enjoys bicycling, skiing, baseball, and travel, and is looking forward to helping a friend take a boat around the world. He lives with his wife in Fairbanks.

Siraj Ahmed Sindhu has been an ANDVSA Legal Program fellow.

Her empathy for those who are marginalized and who suffer from injustice has motivated her throughout her career as an attorney, including her pro bono work.



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Founding member recalls history of Bar parties



Members of Legal Trailblazers gather for a photo at the 20th anniversary party July 26.

By Betty Arnett

Twenty years ago my husband, the late Russell Arnett, would often come home from work saying, "I ran into David Thorsness today and he thinks we ought to get the lawyers together who were bar members before statehood."

"And?" I replied.

"Well, we're thinking about it."

"Now, at that point we had been a state for 39 years. We got statehood in January 1959, and it was then 1998.

"Weeks and even months would go by and Russ would occasionally repeat the same message from Dave. Finally I said, "why don't you two just do it."

So we met in the Thorsness' condo with Helen and Gene Williams and I believe Ghislaine Cremo was there in Roger's absence. We wanted Gene Williams there because of the hilarious skits he and Ev Harris, who was no longer in Alaska, would create for the annual Bar Christmas parties about the exaggerated shenanigans the Anchorage lawyers had done in both their personal and professional lives in the past year. But unfortunately, Gene had not kept copies of those skits, so we decided to simply have the lawyers share stories of their own experiences in practicing law in Alaska prior to statehood.

For some of them it would just be a continuation of their old coffee sessions that originated at the Oyster Loaf an Anchorage restaurant where some of the attorneys would meet for daily coffee and keep each other informed on what was going on in somebody's law practice. A warm camaraderie developed even though these same lawyers battled each other in the courtrooms. So sharing stories with each other became the purpose of the parties.

The big question was where and when to have the party. Since we had just added a big deck to our house on the hillside, Russ offered our place. Unless it rained on that summer day, a potluck at the Arnetts would work out well. However, 30 minutes after the guests arrived, it rained on our party, but we just picked up brooms and swept the water from the deck and the party was on. Cliff Groh Sr. had such a good time at the party he insisted that we do it again the next year at his house. At the time Lucy was in the hospital and knew nothing of his invitation. Unfortunately, Cliff died that same year, so Roger and Ghislaine Cremo hosted the second party at their house in 1999.

The committee that now consisted of Lucy Groh, Dave and Priscilla Thorsness, Roger and Ghislaine Cremo, Ken Atkinson, Helen Williams and the Arnetts, asked Charles and Louise Tulin, who lived down town, if they would host our third party in the year 2000. They agreed but a few days before that party was held, Dave Thorsness suffered a heart attack. So we had a giant sheet of paper for party guests to write him get well wishes, and Russ and I took it to the hospital to his bedside. He was sitting up and so pleased to get the greetings from the party. But shortly after, he died.

Lucy had heard that a bed and breakfast on 15th Avenue called Mahogany Manor would host parties and charge \$150.00 for the use. She offered to pay the price as her contribution to the party, and we let her.

We could continue a potluck as before but there was one stipulation, no shoes could be worn inside Mahogany Manor, so you can imagine the pile up of shoes left at the front entrance. We did the party of 2001 in our socks and stockings.

In 2002 a professional photograph was made of the group that attended. I have eight extra copies. Please take one if you'd like. I have no use for them and would like to move them on to anyone interested.

For the next three years our parties were held at Mahogany Manor even though they raised the price \$50 the next year. The Cremos stepped up to help Lucy pay the fee and George Hays brought all the wine. In 2003 we received a lovely note from Jamie Fisher in Soldotna saying thank you for all of our work and, I quote from his message, "I think it should be stated in writing that these gatherings are important and historical. It is hoped the note will modestly serve to accomplish some documentation." From that year on the historian committee of the Alaska Bar became a cosponsor of our parties and sent Leroy Barker to help with the planning.



Betty Arnett offers a presentation on past parties.



Jim Powell, who began practice in Alaska in 1965, with his wife, Judy.



Rodney Kleendehn who began Alaska practice in 1975 shares a laugh with Elaine Andrews who started in 1977.

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ECLECTIC BLUES

Sidewalks and restaurants aren't the only things tourists crowd

By Dan Branch

On heavy cruiseship days Juneau's downtown library looks more like an airport transit lounge than a place to check out books. Extended families from mainland China can occupy every seat in the periodicals reading area. This may force friends from France to spread into the audio books section. In the chair at the end of the DVD aisle where a homeless guy from the Glory Hole sits all winter, you might find someone from Middlemarch, Massachusetts or Tremors, Texas.

On any given day student carrels along the library's south wall can be stuffed with Russians, Germans or Poles. Ship crew from the Philippines or Southeast Asia often find places to sit in one of the library's two conference rooms. The rest of the seats will be filled with gray-topped Americans in quick dry clothes. We tax-paying locals — the ones returning books and wearing sensible rain gear — must stand or sit on the floor.

During winter trips to the Lower 48, I often see TV ads enticing people to book berths on Alaska-bound cruise ships. They usually feature breaching humpback whales, glaciers, images of endless forests, and steep-sloped mountains. Not one

ever mentions the Juneau Library magazine selection. Why, then, do visitors jam the downtown library when they could be strolling the sea walk, watching eagles feasting on dying dog salmon near the downtown Foodland store, or spending their children's inheritance on a helicopter lift onto our shrinking ice field? Free Wi-Fi.

The operative word here is "free." The library visitors can't be impressed with the quality delivered. Slow even on quiet October days, the speed of the library's Wi-Fi drops to a near crawl on a five-cruiseship day in August.

To help reduce crowding at the Downtown library, the city now provides free Wi-Fi at the Marine Park covered shelter. There tourists and ship crew can Skype home while enjoying Filipino barbeque purchased from Carillos' or Bernadette's food carts. They could then shoot videos of the downtown ravens filching *lumpia* from their inattentive neighbors.

Wi-Fi crowding is worse in Skagway where each summer day their little library fills to the gills with



"The operative word here is 'free.'"

tourists who have walked almost a mile from their cruise ship for free Internet access. Last summer I entered the Skagway library on a day when cruiseships had disgorged more than 5,000 visitors. Some who made it to the library without oxygen put through transcontinental calls on Skagway's dime. Others just stared at their portable screens. I couldn't find a place where I could sit down and write. If I had a Skagway library card I would have checked out a book in protest.

Many of the visitors who jam into the Juneau library use expensive smart phones to check their email or get their daily dose of indoctrinating news feed. They could exploit their Internet data package to do the same in the comfort of their stateroom and have enough time to pickup a free orca charm at a Franklin Street jewelry shop. Even if they have exceeded their data limit for the month watching YouTube cat videos, they could access 15 minutes of Wi-Fi at Heritage Coffee by purchasing a small fancy coffee drink.

Those born after Lyndon Johnson became president may think

this is just another baby boomer rant against our digital age. It's true that I believe the library's main focus should be to lend out books. I even rescue literary classics from our local library's discard pile as if they were retired racing dogs. But I don't object to libraries providing digital services or helping customers to learn how to use computers or smart-phone apps. According to Pew Research, many, if not all librarians see these as key to promoting literacy. (goo.gl/QC9WZB). But the current practice of providing free Wi-Fi to tourists works against this by reducing the quality of those services to the community they are supposed to service.

Here's a thought. The Juneau library won't check out books to someone without a library card. So why not require proof of a library card for access to WiFi? That would clear the air and the seats of the downtown public library. It would also increase trade for our coffee shops and food carts and increase sales tax revenues.

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

Founding member recalls history of Bar parties



Territorial lawyer Charlie Cole who began practice in 1955 joins (from left): Ann Rabinowitz, Betty Arnett, Lucy Groh and Verona Gentry.

Continued from page 22

By 2004 the potlucks had come to an end for we learned if a member of the Petroleum Club would sponsor us, we could have our party there. Ken Eggers agreed to do so. It was time to start charging guests and the best price we could get from the club was \$36 and that would include drinks. We took a poll as to what kind of party was preferred for the future. The winner was finger food and in the afternoon.

By 2005 unfortunately, the before-statehood bar members were showing up in smaller numbers due to death, sickness or moving Outside. It was decided if we were to keep the parties going, we would need younger lawyers and their spouses to come into our group so we invited all lawyers who had practiced for 40 years in Alaska. That is also the year we included a member of the judiciary on our committee. Judge James von der Heydt and his wife, Verna worked with us.

Each year the committee had eight concerns:

1. where and when to have the party and it had to be big enough to display the large photo boards of past parties and hold 50-65 people.
2. set the price per person as low as we could.
3. find a photographer to take pictures for the bar rag.
4. find a writer to do a story on the party for the bar rag.

5. keep track of those who had died in the past year and acknowledge their passing at the party.

6. make sure microphones were available so any guests could tell a story from where he or she was sitting in the room.

7. choose an MC.

8. create an invitation. but fortunately, the bar office has always done the mail out.

By 2007 Karin Fitzgerald had joined our committee and was willing to take over my job of preparing the photo boards. She was a very creative person and I knew she would do a good job. After nine years of leadership on the committee Russ and I announced we would continue to sit on the committee but would no longer take leadership.

By 2008 it was no longer a party aimed at just before statehood lawyers but officially it became a party for any lawyer who had practiced law in Alaska for 40 years.

In 2009 there almost wasn't a party. I overheard Russ Arnett and Leroy Barker talking on the phone. They realized eight members of the committee would be unavailable and all for legitimate reasons. The two of them did not wish to tackle the job alone. When I heard that I said, "No, you can't do that." Allen Jewell down in Florida had already purchased his airline ticket and I had spent some time convincing Allen and Sandra they should come up and enjoy one of our parties. So I agreed to chair the committee if they would keep it on schedule. And yes, I would even MC. By then John and Mona Havelock had joined our committee and John was anxious for us to try Aladdin's restaurant. They would give us the same price as the Petroleum Club that by then had climbed to \$40 per person.

At the party I expressed the fact the 2009 party would be our last unless new people would step forward and serve on the committee. A sign-up sheet was placed on each table and by the end of the evening, we had a committee willing to help Jim Powell as chair of the next party. I think that was the year Wayne Ross signed up to serve on the committee too. And as we know, Wayne soon gave the planning to his office manager and the parties continued.

All I have shared here came from files Russ had kept on each party when we were active members on the committee. If I've left out anyone, let's blame it on Russ. when he died, the children and I got rid of a lot of things in his office. But some how I wasn't ready to throw out the files he kept on each of the parties he had worked to bring about.

Russ and I continued to attend the parties until his death two and a half years ago. He always looked forward to each one and always had a story to share.

Photos by Lynn Coffee

Bolger named Alaska Supreme Court chief justice

From the Alaska Court System



Chief Justice Joel Bolger

By unanimous vote, the members of the Alaska Supreme Court selected Justice Joel H. Bolger to serve as Chief Justice commencing July 1, 2018, for a three-year term. Justice Bolger followed Chief Justice Craig Stowers, whose term expired June 30.

Under Alaska's Constitution, the Chief Justice is selected from among the justices of the Supreme Court by majority vote of the justices. The Chief Justice serves as the administrative head of the judicial branch of government, presides over Supreme Court arguments and conferences, appoints presiding judges for all judicial districts, and serves as the chair of the Alaska Judicial Council. A justice may serve more than one three-year term as Chief Justice but may not serve consecutive terms in that office.

Justice Bolger was appointed to the Alaska Supreme Court in January 2013. Born and raised in Iowa, he received a B.S. in Economics from the University of Iowa in 1976 and a J.D. in 1978. He came to Alaska as a VISTA attorney with Alaska Legal Services Corporation in Dillingham and later became the supervising attorney for ALSC in Kodiak. Justice Bolger served as an assistant public defender in Barrow and then returned to Kodiak to join the firm of Jamin Ebell Bolger & Gentry. He worked as a private attorney from 1982-1997. He served on the Board of Directors for ALSC from 1984-1987.



Chief Justice Joel Bolger takes the oath of office from outgoing Chief Justice Craig Stowers as Justice Daniel Winfree observes. (Photo by Jolene Hotho, Alaska Court System)

Justice Bolger was appointed to the District Court in Valdez in 1997, to the Superior Court in Kodiak in 2003, and to the Alaska Court of Appeals in 2008. He serves as co-chair of the Criminal Justice Working Group and as a member of the Alaska Criminal Justice Commission, and he has also served on the Judicial Conference Planning Committee, the Appellate Rules Committee, the Criminal Pattern Jury Instructions Commit-

tee, the Fairness Diversity and Equality Committee, the Family Law Rules Committee, the Child Support Review Committee, the Alaska Bar Association CLE and Convention Steering Committees, as a Magistrate Training Judge, and as an alternate on the Three-Judge Sentencing Panel.

Justice Bolger is married to Cheryl Bolger; they have two children Stephanie and Jackson.



Family members surround newly sworn-in Judge Andrew Peterson. Judges on the bench from left are: J. Patrick Hanley, Marjorie K. Allard, and Justice Craig Stowers.



Attending the ceremony from left are Judge J. Patrick Hanley, Judge Marjorie K. Allard, Judge Peterson, Justice Craig Stowers, and Judge William F. Morse.

Andrew Peterson installed as Superior Court judge

Judge Andrew Peterson was sworn in May 24, 2018 to the Alaska Superior Court in Anchorage. He was appointed Feb. 12, 2018, by Gov. Bill Walker.

Judge Peterson was born and raised in Stevensville, MT. In 1987, his family moved to Cooper Landing, Alaska, where they started a family-run tackle shop. He attended the University of Alaska Anchorage, graduating in 1994 with a degree in Economics. After college, he worked seasonally in Alaska as a sport fishing guide. In the off-season, he backpacked throughout South and Central America, Europe, India and Southeast Asia with his future wife Sara. Judge Peterson later attended the University of San Diego School of Law, earning a Juris Doctor degree in 2001.

Judge Peterson began his career in private practice as a civil litigator

in San Diego with the law firms Pillsbury Winthrop Shaw Pittman and Sheppard Mullin specializing in employment law. In 2005, he moved back to Alaska to serve as an assistant district attorney in the Anchorage District Attorney's Office. In 2007, Judge Peterson began serving as the statewide fish and game prosecutor in the Office of Special Prosecutions. He was appointed to serve as the director for the Medicaid Fraud Control Unit in 2012 and was appointed to serve as the chief assistant attorney general for the Office of Special Prosecutions in 2017.

He lives in Anchorage with his wife, Sara, and their two children Darwin and Avery.

Photos by Margaret Newman, Alaska Court System