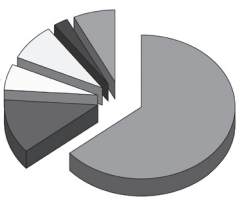




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# Board of Governors reduces 2008 bar dues

By Sid Billingslea

At its October meeting, the Board of Governors approved the first bar dues reduction in the history of the Alaska Bar Association. To make the reduction, the Board voted to change a twenty-five year old budget policy that utilized a large capital reserve. Now, instead of building up a capital reserve and then drawing the reserve down over the course of a dues cycle, the Board will budget on a “pay as you go” basis. The approved draw down of the \$1.2 million capital reserve by a projected \$524,531 for 2008 means that active members of the bar will see their dues decrease to \$410. Inactive members will pay \$135.

Since 1981, the unappropriated capital reserve approach has been used to provide stable and predictable dues for the membership. Since that time, dues have been increased only twice: from \$310 to \$450 in 1993 and from \$450 to \$550 in 2005. These long intervals between increases were possible because the capital reserve would grow in the early years of a dues increase and be slowly drawn down in the later years. Favorable interest rates contributed as well.

The budget reserve policy also reflected a conservative philosophy of budgeting for all possible annual expenses, including predicted losses on CLE and the annual convention, litigation, and travel. Since 2004, however, the annual Bar convention and CLEs have broken even or made money-- a trend we hope continues.

Long time Board public member Joe Faulhaber, consistent supporter of this “pay as you go” approach, explained, “Let today’s attorneys pay for today’s costs.” The new policy will reflect a more modern, real world budget. Bar dues will now fluctuate on the “pay as you go policy” to reflect the annual costs of running the Bar Association. (A summary of how members’ dues are spent and the Bar budget for 2008 is on page 17.)

Like other aspects of financial life in the 21st Century, dues will probably increase once the surplus has been spent down to a maintenance level (just under half of the surplus will be spent in 2008) and the operating costs of the Bar Association will increase. But for now, enjoy!

*The author is Treasurer of the Board of Governors*



# Supreme Court passes MCLE, effective Jan. 1

By Matt Claman

The debate over whether Alaska should have mandatory continuing legal education concluded on December 7, 2007, when the Alaska Supreme Court amended the Alaska Bar Rules to require continuing legal education for all active attorneys in our bar association.

Joining the substantial majority of states in the union, Alaska’s manda-

tory continuing legal education (MCLE) rule will take effect on January 1, 2008. Attorneys must first report their compliance with amended Bar Rule 65 when they pay their 2009 bar dues, which will be due by February 1, 2009.

Amended Rule 65 requires active attorneys to (a) complete and report 3 hours of Mandatory Ethics Continuing Legal Education (MECLE) and

See Rule  
Page 3

(b) report whether they have completed 9 additional hours of Voluntary Continuing Legal Education (VCLE). In addition, if an attorney has completed fewer than 9 hours of VCLE, the attorney must also estimate and report how many hours of VCLE he or she has taken. Members may carry forward up to 12 hours of CLE from the prior year to meet the requirements for the current year. Attorneys

who take more than 3 hours of ethics CLE in a given year may apply the additional ethics hours toward the 9 VCLE hours. Bar members must maintain records of approved MECLE hours for the two most recent reporting periods.

After several years of discussion within our bar association and with the court, the amended rule

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EDITOR'S COLUMN

The anonymous pen

By Thomas Van Flein

In this edition, Wayne Anthony Ross raises the issue of the propriety of anonymous comments submitted to the Judicial Council relative to judicial applicants. (See page 12.) Presumably the same would apply to judicial review and retention. His point is worth considering.

There are probably few things more cowardly than writing obnoxious, otherwise libelous, or simply untrue comments under the cloak of anonymity. Yes, we have free speech, but not free anonymous speech. Even our State Constitution provides that “[e]very person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.” Anonymity, of course, prevents any responsibility for the comments, beyond legal liability, but simply factual accountability.

Alaska has a long history, however, in accepting anonymous complaints about its judiciary. Judge Wickersham writes, in his autobiography “Old Yukon,” about the anonymous complaints made

against him in 1904, almost all scurrilous and untrue, and the secret trial held in his absence. Judge Wickersham starts his chapter by disabusing “the reader” from any notion that “a judge in pioneer Alaska was honored and respected.” He discusses the frustrations of the losing litigants whose feelings then turn to “malice towards the judge. Then no slander is too vile, no means of revenge too base . . . .” (Old Yukon, p. 433).

Judge Wickersham pointed out that the aggrieved party, particularly if not satisfied with the appellate outcome as well, often turned to filing “charges against the trial judge” that “were too often confidential.” He further notes that “most of our early Alaska judges were removed from office upon secret charges without notice or a hearing; all of them were maliciously assailed . . . without an opportunity to de-



Although there are references that anonymous comments are not given much weight by the Judicial Council, the fact that they are solicited indicates that weight is given.

fend their judicial acts or character from the secret malice of the disappointed litigants.” (Old Yukon p. 434). Though ultimately cleared, he was subjected to a secret hearing where he was not given notice of the charges or notice of the hearing or asked to attend or testify. Further, “no copy of the charges . . . nor a list of my accusers or their witnesses” were provided. (Old Yukon p. 437).

Fast forward 100 years, and for better or worse, anonymous commentaries about the judiciary remain, and have flourished. Want anonymous gossip about judges? Then log onto <http://underneaththeirrobes.blogs.com>. Want to anonymously “rate” a judge. Then head to [www.therobingroom.com](http://www.therobingroom.com). This site, to its credit, however, apparently attempts to weed out comments that are “libelous or not submitted in good faith.” Judges are not the only ones subject to anonymous com-

PRESIDENT'S COLUMN

MCLE Rule adopted by Court

Continued from page 1

represents a consensus approach to MCLE. The rule also reflects a hybrid approach to MCLE because it combines mandatory annual ethics education, voluntary education in other fields, and mandatory reporting of an attorney’s continuing education efforts. The increased concern with ethics, both within the bar and in the public, led to the requirement that each attorney must take ethics courses every year. Ethics classes are broadly defined in the Rule 65(a) to include “professional responsibility, workplace ethics, law office management, attention to cases and clients, time management, malpractice prevention, collegiality, general attorney wellness, and professionalism.” To address member concerns with the cost for MECLE, particularly for out-of-Anchorage members, the bar association will provide a 3-hour ethics program each year at no charge to members. The bar will record the 3-hour program and make the program available to members at no charge.

The VCLE component of the amended rule reflects differing perspectives within the bar and the judiciary. While some view mandatory CLE as an unnecessary burden because a significant majority of Alaska attorneys participate in CLE, others view mandatory CLE as important to maintaining high standards of practice in Alaska, enhancing the service we provide to our clients, and improving the public perception of our profession. The prior rule provided for voluntary CLE and allowed members who completed 12 hours of CLE to receive a discount on their bar dues. The prior VCLE rule did not provide the bar association with meaningful information about attorneys’ efforts to continue their legal education. Because the amended rule provides for mandatory reporting of completed CLE hours in addition to

MECLE, the bar association expects to receive meaningful information about CLE participation within our diverse membership. Both the bar leadership and the judiciary are optimistic that the records will show that a substantial majority of active Alaska attorneys complete 12 or more hours of continuing education courses every year.

Completing 9 hours of VCLE is an “aspirational” goal and the rule provides specific incentives to encourage members to reach that goal. First, only attorneys who complete the 9 hours of VCLE can participate in the bar association’s Lawyer Referral Service. Second, in disciplinary matters, the bar may consider whether a member has completed 9 hours of VCLE. Third, the bar will provide a member’s record of compliance with the VCLE goal to the Judicial Council for its consideration in connection with screening and nominating candidates for judicial and other positions. Fourth, the bar association will identify attorneys who complete both MECLE and VCLE in a list published annually in the Bar Rag and on-line. The bar retains the option of providing additional incentives for attorneys to complete the recommended 9 hours of VCLE.

The Alaska Supreme Court also adopted new Bar Rule 66 as part of the same order. Rule 66 provides for suspension of attorneys who fail to comply with the mandatory ethics continuing education and mandatory reporting requirements. If an attorney does not report their CLE by the deadline, the bar association shall provide a notice of noncompliance to that member, allowing 30 days to remedy the problem. Following the notice of noncompliance and prior to suspension, a member who has not



...this MCLE rule will serve our profession by helping each attorney maintain high ethical standards and serve the public interest by demonstrating our commitment to continuing education in the law.

completed MECLE and not reported his or her MECLE and VCLE hours will receive notice from the Executive Director that a petition for suspension will be filed with the Alaska Supreme Court in 15 days.

In addition to the free 3-hour ethics program, the bar will make sure that at least three hours of MECLE course are available at the annual convention. Thus, at the annual convention, the bar will continue to offer enough CLE courses so that each member can satisfy both the MECLE requirements and the VCLE recommendations.

In recent months, two major changes have occurred in managing your bar association and practicing law in Alaska. First, as further reported by Treasurer Sidney Billingslea, the Board of Governors lowered bar dues for the first time in history. This dues reduction reflects a substantial policy change in how we manage the bar association’s finances. With adoption of this pay-as-you-go approach, members’ bar dues will reflect the actual cost of operating the bar association.

Second, the Alaska Supreme Court adopted the mandatory continuing legal education rule. As the only profession supervised by the courts, the third branch of government, this MCLE rule will serve our profession by helping each attorney maintain high ethical standards and serve the public interest by demonstrating our commitment to continuing education in the law.

The Board of Governors, the Executive Director, and the bar staff continue to welcome and appreciate your comments, support, and suggestions as we move forward with these important changes.

plaints. There are a variety of web sites designed to “rate” physicians, but in reality, all too often serve as a platform for unhappy people. See [www.ratemds.com](http://www.ratemds.com).

This brings us back to judicial selection and retention. Why should the council seek, accept or consider anonymous comments? Should Mr. Ross have to defend himself from anonymous comments for which the writer, for whatever reason, did not want to take credit? Although there are references that anonymous comments are not given much weight by the Judicial Council, the fact that they are solicited indicates that weight is given. In a perfect world people would have the fortitude to sign their names to whatever statement they believe in. It is not a perfect world, and the solicitation of anonymous comments about judges or judicial applicants will likely continue, like a marriage, for better or worse.

The Alaska BAR RAG

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# Full text of MCLE Rule adopted Dec. 6

## IN THE SUPREME COURT OF THE STATE OF ALASKA ORDER NO. 1640

Amending Alaska Bar Rule 65 to provide for mandatory continuing legal education and voluntary continuing legal education, and

Adding new Bar Rule 66 regarding noncompliance with mandatory continuing legal education and reporting requirements.

### IT IS ORDERED:

1. Alaska Bar Rule 65 is amended to read as follows:

#### **Rule 65. Continuing Legal Education.**

(a) *Mandatory Continuing Legal Education.* In order to promote competence and professionalism in members of the Association, the Alaska Supreme Court and the Association require all members to engage in Mandatory Ethics Continuing Legal Education (MECLE). Every active member of the Alaska Bar Association shall complete at least three credit hours per year of approved MECLE. Qualifying educational topics may include professional responsibility, workplace ethics, law office management, attention to cases and clients, time management, malpractice prevention, collegiality, general attorney wellness, and professionalism.

(b) *Voluntary Continuing Legal Education.* In addition to MECLE, the Alaska Supreme Court and the Association encourage all members to engage in Voluntary Continuing Legal Education (VCLE). Every active member of the Alaska Bar Association should complete at least nine credit hours per year of approved VCLE.

**Commentary.** - *The Alaska Supreme Court and the Association are convinced that CLE contributes to lawyer competence and benefits the public and the profession by assuring that attorneys remain current regarding the law, the obligations and standards of the profession, and the management of their practices. To protect the public, ensure that lawyers remain mindful of their obligations to their clients, and to address the area about which the Association receives the majority of questions from and complaints about lawyers, the Supreme Court is imposing a mandatory requirement for ethics CLE on all active Bar members. The ethics topics that qualify for MECLE are intended to be comprehensive, as conveyed by the examples in subsection (a) of this rule. Moreover, to help ensure that lawyers can easily and readily meet the MECLE requirements, the Association has agreed to provide at least three hours per year of approved MECLE at no cost to members. The Supreme Court has also concluded that Voluntary Continuing Education on additional subject areas is valuable to lawyers and should be encouraged. This rule uses incentives to encourage lawyers to participate in VCLE.*

*The Supreme Court's goal in*

*imposing MECLE and mandatory reporting of all CLE is to encourage a substantial increase in attendance at CLE courses and participation in activities that earn MECLE and VCLE credit, with resulting enhancement of lawyer services to clients. This rule refines the former VCLE rule, and continues the pilot project begun in 1999. At the end of three years, the Supreme Court will again assess the project's results, including recommendations and statistics provided by the Association, and will determine whether an expanded mandatory CLE program is necessary.*

(c) *Carryforward of Credit Hours.* An active Bar member may carry forward from the previous reporting period a maximum of 12 credits (3 MECLE credits and 9 VCLE credits). To be carried forward, the credit hours must have been earned during the calendar year immediately preceding the current reporting period.

(d) *Mandatory Reporting.* By February 1 of each year, each member must certify on a form prescribed by the Association whether the member has completed the required minimum of three hours of approved MECLE during the preceding year or carried over from the prior year as provided in subsection (c) of this rule. The member must also certify whether the member has completed nine hours of approved VCLE during the preceding year or carried over from the prior year as provided in subsection (c). If the member has completed fewer than nine hours of VCLE, the member must also estimate and report the estimated number of VCLE hours completed. A member shall maintain records of approved MECLE hours for the two most recent reporting periods, and these records shall be subject to audit by the Association on request.

**Commentary.** - *The Supreme Court has adopted this mandatory reporting requirement to ensure that Bar members report CLE activities to the Association. This will ensure that the Association and the Court can assess the effectiveness of the rule by determining what percentage of lawyers are earning CLE credit hours in excess of the minimum, and what percentage are earning VCLE credit hours, even if the hours are less than the nine hours that this rule encourages.*

*The record of approved MECLE hours that members are required to maintain under subsection (d) may be any documentation, including contemporaneous journal entries or timekeeping entries, whether paper or electronic, that serves to establish that the member earned the credit hours.*

(e) *Incentives for VCLE.* Only members who complete at least nine hours of VCLE are eligible to participate in the Alaska Bar Association's Lawyer Referral Service. If a member does not complete at least nine hours of VCLE, that fact may be taken into account in any Bar disciplinary matter relating to the requirements of Alaska Rule of Professional Conduct 1.1. The Association shall make a member's record of compliance with VCLE available to the Alaska Judicial Council for its consideration in connection with a member's candidacy for any judicial office or other position for which the Council screens and nominates candidates. The Association shall publish annually, and make

available to members of the public, a list of attorneys who have complied with this rule's MECLE requirements and satisfied this rule's minimum recommendations for VCLE. The Association may adopt other incentives to encourage compliance with the VCLE recommendations.

(f) *Time Extensions.* A member may file a written request for an extension of time for compliance with this rule. A request for extension shall be reviewed and determined by the Association.

(g) *CLE Activities.* The MECLE and VCLE standards of this rule may be met either by attending approved courses or completing any other continuing legal education activity approved for credit under these rules. If the approved course or activity or any portion of it relates to ethics as described in (a) of this rule, the member may claim MECLE credit for the course or activity or for the ethics-related portion of it. Any course or continuing legal education activity approved for credit by a jurisdiction, other than Alaska, that requires continuing legal education is approved for credit in Alaska under this rule. The following activities may be considered for credit when they meet the conditions set forth in this rule:

(1) preparing for and teaching approved MECLE and VCLE courses and participating in public service broadcasts on legal topics; credit will be granted for up to two hours of preparation time for every one hour of time spent teaching;

(2) studying audio or video tapes or other technology-delivered approved MECLE and VCLE courses;

(3) writing published legal articles in any publication or articles in law reviews or specialized professional journals;

(4) attending substantive Section or Inn of Court meetings;

(5) participating as a faculty member in Youth Court;

(6) attending approved in-house continuing legal education courses;

(7) attending approved continuing judicial education courses;

(8) attending approved continuing legal education courses including local bar association programs and meetings of professional legal associations;

(9) participating as a mentor in a relationship with another member of the Alaska Bar Association for the purpose of training that other member in providing effective pro bono legal services; and

(10) participating as a member of the Alaska Bar Association Law Examiners Committee, the Alaska Bar Association Ethics Committee, the Alaska Rules of Professional Conduct Committee, or any standing rules committees appointed by the Alaska Bar Association or the Alaska Supreme Court.

(h) *Approval of CLE Programs.* The Association shall approve or disapprove all education activities for credit. CLE activities sponsored by the Association are deemed approved. Forms for approval may be submitted electronically.

(1) An entity or association must apply to the Board for accreditation as a CLE provider. Accreditation shall constitute prior approval of MECLE and VCLE courses offered by the provider, subject to amendment,

suspension, or revocation of such accreditation by the Board.

(2) The Board shall establish by regulation the procedures, minimum standards, and any fees for accreditation of providers, in-house continuing legal education courses, and publication of legal texts or journal articles, and for revocation of accreditation when necessary.

(i) *Effective Date; Reporting Period; Inapplicability to New Admittees.*

(1) This rule will be effective January 1, 2008. The reporting period will be the calendar year, from January 1st to December 31st, and the first calendar year to be reported will be the year 2008. Any ethics or other CLE credits earned from January 1, 2007 to December 31, 2007 may be held over and applied to the reporting period for the year 2008.

(2) This rule does not apply to a new member of the Alaska Bar Association during the calendar year in which the member is first admitted to the practice of law in Alaska.

2. New Alaska Bar Rule 66 is added to read as follows:

#### **Rule 66. Noncompliance with Continuing Legal Education Requirements; Suspension.**

(a) *Notice of Noncompliance.* Within 30 days after the deadline for filing the certification form described in Rule 65(d), the Association shall send a notice of noncompliance to each member whose certificate shows that the MECLE requirement has not been met, or who has failed to file the completed certification form. Within 30 days after receiving a notice of noncompliance, the member shall either remedy the noncompliance, demonstrate that the notice of noncompliance was issued erroneously, or submit an affidavit of compliance, if the member asserts that the information on the certification form contained an error.

(b) *Suspension for Noncompliance with Mandatory Ethics Continuing Legal Education Requirement or Noncompliance with Requirement to Report MECLE and VCLE.*

(1) Any member who has not complied with the MECLE requirement in Rule 65(a) or with the mandatory reporting of MECLE and VCLE requirement in Rule 65(d), and who has not remedied the noncompliance as provided in subsection (a) of this rule, shall be notified in writing by certified or registered mail that the Executive Director shall, after 15 days from the date of the notice, petition the Supreme Court of Alaska for an order suspending the member for noncompliance.

(2) A member suspended under this subsection shall not be reinstated until (A) the member has complied with the MECLE requirement and the mandatory reporting requirement; (B) the member has paid a reinstatement fee in an amount set by the Board; (C) the member has paid any dues accruing during suspension; and (D) the Executive Director has certified the member's compliance to the Alaska Supreme Court.

DATED: December 6, 2007

EFFECTIVE DATE: January 1, 2008

/s/ Chief Justice Fabe

/s/ Justice Matthews

/s/ Justice Eastaugh

/s/ Justice Carpeneti



## The coffee break on the road to Emmaus

By Kenneth Kirk

"Idiots!"

I slammed the papers down hard on my desk, my hands trembling with frustration. Were they too stupid to understand my point, or too cynical to admit it? This is why I hated practicing law these days....

The intercom buzzer interrupted.. I jammed the button down and snapped "What?" to my startled receptionist.

"Your eleven o'clock just rescheduled," she said timidly. "You don't have anything until two."

Perfect. I grabbed my jacket and swept out the door, not even bothering to tell her when I'd be back. I needed a break, or I was gonna explode on somebody.

I walked to a corner coffee stand and got an Americano. They always made it too hot for me, so I found a park bench and sat down, waiting for it to cool. It was a nice fall day, and this would give me time to clear my head. Or so I thought.

A bum sat down next to me. Oh, sorry, not politically correct. A homeless person, whatever. He had long, straggly hair and a beard, and was actually wearing sandals. He looked like one of those hippies in the old cartoons who'd be carrying a sign saying "The End is Near".

"I'm not giving you money," I said firmly. "I gave 20 bucks to Bean's Café last year, go there if you wanna eat."

"Did I ask you for money?" He

queried. No, but I knew he would. I saw him looking at me.

"Look, pal," I said, "I don't want to talk to anyone. I don't want your company. I just want to be left alone here, okay?"

He just smiled at me. It was really annoying. Finally he spoke. "The other lawyers are getting to you, aren't they?" He'd obviously pegged me by my suit.

"I can handle the lawyers," I grumbled. I don't know why I was talking to this freak, anyway.

"Yeah, but when the judges make things worse, it really sends you over the top."

I looked at him suspiciously; he was obviously more experienced than I gave him credit for. Some old, retired lawyer maybe? Naw, he was younger than me, maybe early 30s. So I asked, "Just who are you, anyway?"

"I'm Jesus," he said, as matter-of-fact as you please. He didn't say it like the Spanish name, either, but like the Bible dude. Great, a hobo isn't bad enough, now I have to deal with a schizophrenic.

"Yeah, and I'm Abraham Lincoln," I shot back, and then remembered that you aren't supposed to feed into their delusions. "Hey look, dude, you need help. Go find a psychiatrist."

"I had the same problem in my day," he said, ignoring my kind sug-



"I had the same problem in my day," . . . "lawyers who read the law out of context, ignoring the spirit of the law completely."

gestion, "lawyers who read the law out of context, ignoring the spirit of the law completely. Biased judges. Hypocrites. Pretty much everything you're having to put up with."

I snorted in sympathy, then kicked myself, mentally, remembering I was talking to a fruit-loop. But I couldn't resist taking his bait. "Yeah, maybe," I said, "but you didn't have the kind of crap we have, with judges reading stuff into the constitution or the statutes that isn't there, just to push some hidden

agenda."

He laughed. "You must be kidding. They used to read all kinds of things into the law. I remember, for instance, we had laws requiring you to honor your parents. But the lawyers let people declare that anything they would have given to their parents, was dedicated to God instead. So they'd walk away from their parents, and then they didn't have to actually give it to God, they just said it was dedicated, and that was enough. I think today you call that a 'legal fiction'."

"I take it you didn't approve?"

"It was one of my major complaints," he agreed, "lawyers adding things into the law. The law came from God, but they'd add man-made junk to it, and still treat it as coming directly from God. Adding interpretations and then acting like the interpretations were written into the law? Nothing new under the sun there."

I knew I shouldn't, but I kept up the conversation. "I'll bet you didn't have 'independent' judges who could pretty much do whatever they wanted without any controls."

"We had judges who 'feared not God nor man.' And that wasn't considered a good thing then."

"Well surely you didn't have lawyers who were willing to make things impossible for everybody, including their own clients, by making rules that were so complicated that nobody could get anything done without consulting a lawyer, just so they could make a buck," I pointed out.

"We did indeed," he said. "I used to say 'woe to you, experts in the law, for you load the people down with burdens they can hardly carry, but you will not lift one finger to help them'. Sound familiar?" Then he added "And don't call me Shirley."

Great. I'm stuck talking to a

schizophrenic bum, and he's a comedian too. And yet somehow I felt compelled to keep talking to the psycho. "You can't possibly have had arrogant judges like we have now?"

He sighed. "Boy, you should have seen the ones we had, strutting around. I tried so hard to get the idea of 'servant leadership' into people. I even did this big foot-washing demonstration to get the point across. Doesn't seem to have worked, does it?"

I had to smile at that one. "At least I'm not like that myself," I mused.

"Oh yeah," he retorted, "what have you done for the widows and orphans lately?"

I bristled. "I'll have you know I donate my time to pro bono cases regularly."

"And you get your name on a list in the *Bar Rag* for doing it. Do you ever donate time or money without making sure people know about it?"

"Hey, it's marketing," I said, a little defensively. "I'm in private practice, I've gotta make sure people know I'm a good guy. And why shouldn't I get credit?"

"When you give alms, do not let your right hand know what your left hand is doing," he said, obviously quoting from somewhere, "so that your alms may be in secret, and your Father who sees in secret will reward you."

"Look, buddy," I said, annoyed now that he was needling me instead of someone else, "does your little reverie have a point?"

"*Plus ça change, plus c'est la même chose*," he said. Or something like that. I don't speak Italian so I'm really not sure what he said, but at this point I wasn't interested.

"Whatever," I said dismissively. I took a sip of my coffee, then spit it out. "What the... this isn't even coffee! What the heck did they do to it?"

He smiled again. "Tastes like, maybe, a nice Burgundy?"

I threw the rest of it in the trash. "I don't know what exactly it tastes like, but it sure wasn't what I ordered!" And I stomped off.

So the point of my story, is that they really need to do something about this homeless problem downtown. I don't have anything against them personally, but when you can't even sit down on a public bench without being harassed, the police need to do something.

I headed back to my office, even more torqued off than I'd been when I left. I'll just have to do something else to let off steam. Maybe a really scathing letter to that opposing lawyer who's late with the discovery....

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## ECLECTIC BLUES

# Risk management is part of our American experience

By Dan Branch

Lawyers leave their fingerprints on most of the American experience. Think about last night when you reclined on the couch to watch a favorite TV show. Every 10 minutes actors appeared to sell you prescription drugs designed, they say, to bring you happiness, stronger marital ties, or freedom from hay fever. Toward commercial's end, while the actors smile, the happy voice of another actor politely informs you that anyone taking this marvelous pill assumes an increase risk of stroke, internal bleeding or death. These are lawyer words.

My daughter's university, also known as "the place where we send our money," must be spending some of it on lawyers. Recently this institution sent my wife and me a risk notification letter.

It began with a recognition that we as parents of a first semester freshman must be looking forward to the child's return home for the holidays. That is certainly true in our house. At this point in the letter the lawyers entered with a caution that first year freshmen are currently experiencing the most significant challenges of their young lives. As a result they are now forging a new identity away from family and their home town. While most frosh take this in stride, they may use the holiday period as an opportunity to recalibrate their identity. After reaching this second portion of the letter, I started registering some real concern now, but read on in hopes of finding some reassurances in the lines ahead.

Instead of delivering the hoped-for silver lining, the letter writer took me into the Heart of Darkness with a warning that some freshmen will not take their identity crisis in stride.

The writer then cautioned that with all the changes in our child's life she will be re-evaluating all aspects of her life during her holiday visit. "It is normal for your son or daughter to want to change majors." (No problem I think). "They may have gotten a new haircut, (Ok by me) gotten a piercing, (yikes) or tattoo (oh no, permanent scarring) or may be challenging their faith." (sigh). "All these things are

very common... "Transitions take time and it is best to devote a full year to work through them."

The letter writer can assume that we and the other parents of first semester freshmen have been warned. We were now on notice that the sweet child we delivered to the university last fall could show up at the Juneau airport questioning her identity and her faith while sporting body piercings, tattoos, and examples of a new, and probably questionable, fashion sense. Think of the shock we could have experienced if we hadn't read this letter.

Imagine my wife and I at the airport, waiting for our sweet child to exit



**My daughter's university, also known as "the place where we send our money," must be spending some of it on lawyers.**

the security area, without tattoo or nose ring, her face beaming nothing but happiness at the prospect of being home for Christmas. Suddenly a young woman of our daughter's height approaches and says, "Yo, dudes." Dressed all in black except for the silver spikes on her collar, she turns a cheek to reveal the image of Beelzebub tattooed on in red and black ink. We would be forced to sue the University to recover the

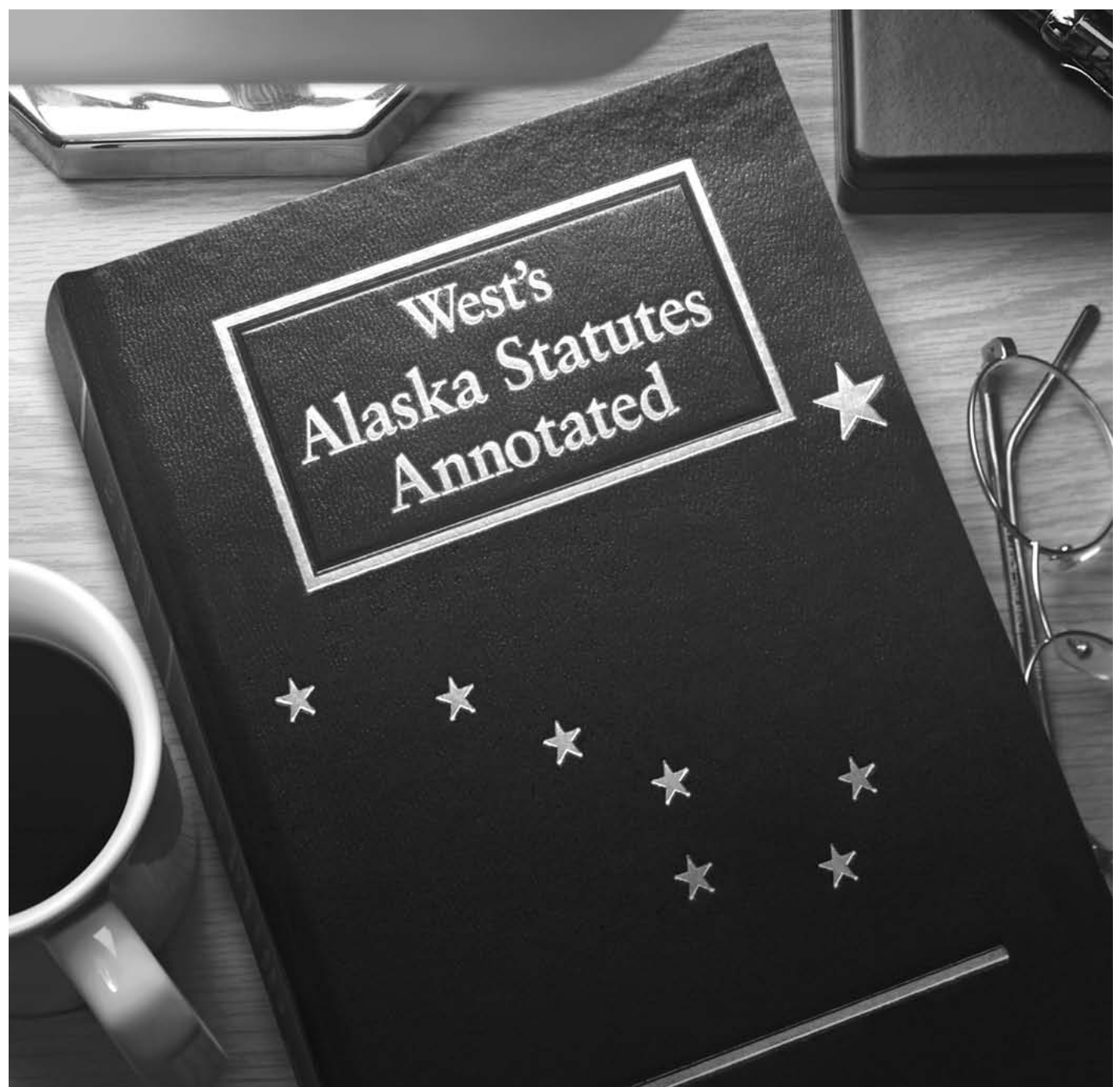
medical costs incurred for treatment of simultaneous heart attacks.

Without the benefit of legal training I might have immediately called my daughter and requested her to e-mail up a full length photo.

I might have started wondering why we had not insisted that Juneau Douglas High School hold her back for a decade. But I was armed with knowledge from an old Gilbert's outline on Torts and from having recently signed a series of software licensing agreements.

Instead of succumbing to panic I re-read the letter and figured out why it contained all the scary warnings. We were being put on notice just in case our daughter was one of the small number of first semester freshmen to return home with Soulja Boy tattooed to her forehead.

It's a warped world we legal types are creating. Makes you want to move to New Zealand --- the land free of personal injury suits. Of course, you'd have to learn a new skill before emigrating. They don't have much use for lawyers.



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# The Road to Pogrebische recalls family ancestral histories

By Jonathon A. Katcher

This summer our family took a remarkable trip to Ukraine to search for our roots. I recommend such a journey to everyone. Visiting the lands of your ancestors will enhance your understanding of your family history. More importantly, you will appreciate their arduous migrations to America which have allowed you and your children to reap the blessings of liberty and abundance so often absent from many of our ancestral homelands.

We were four on this journey — my wife, Kate Michaels, my daughter Michelle Katcher age 14, and my cousin Jackie Efrusy Henderson, a psychologist from Westlake, California. Jackie is quite the world traveler — Tibet, India, China, Cuba, Africa. We had discussed making this trip for years. She finally recently declared that at age 67, we had better get going or the trip would never happen.

Jackie and I share several common ancestors — her father Jack Efrusy and my mother Molly Efrusy Katcher were siblings, so we have two grandparents in common — Sam Efrusy and Pauline Katcher Efrusy. The Katcher-Efrusy family includes inbreeding common in insular societies like the Jews of Eastern Europe. The short version of "I'm My Own Grandpa" is that my parents were first cousins because their mothers, my grandmothers, were sisters. My father Archie Katcher's mother's maiden name was Rebecca Katcher. She married my paternal grandfather Lewis Katcher, probably her cousin, to become Rebecca Katcher Katcher. Rebecca's sister Pauline Katcher, grandmother to Jackie and me, married Sam Efrusy, probably her cousin, and had among other children Jack Efrusy and my mother Molly Efrusy Katcher.

Our grandparents were among the millions East European Jews who emigrated to America in the late 1800s and early 1900s. The Katchers and Efrusys were farmers from Vinnitsa Oblast (province) in the area known as Podolia, a fertile region south and west of Kiev, the capital of Ukraine. This area had been fought over by Cossacks, Ukrainians, Russians, Poles, Lithuanians, Austrians, Turks, and Germans for centuries, with Jews, Gypsies and other nationalities and religions often caught in the cross fire. This was and is a land of rich Jewish heritage, home of great rabbinical dynasties and a vibrant secular culture. Artists from the region included Sholom Aleichem, writer of the Tevye the Milkman stories that became the basis for "Fiddler on the Roof."

Before we started our journey we knew little of our grandparents' life in Ukraine. Our grandmothers were born in Kazyatyn, a major railroad transit point southwest of Kiev founded in 1874, now with a population of about 25,000. They had come to America from Pogrebische, a village of about 12,000 founded in 1230 about 25 miles from Kazyatyn. Both communities had once been home to substantial Jewish populations that were depleted by pre and post WWI pogroms, a severe famine in 1932-35 brought on by ruthless Soviet collectivization, the Holocaust, and the emigrations of the 1970s and 1980s to Israel and the West. We had little expectation of finding living relatives, but faintly hoped that we might encounter people who looked like Jackie, Michelle or me, or knew the names Katcher and Efrusy.

We started by spending a week in Moscow and St. Petersburg. Both are beautiful and vibrant modern cities, with well preserved 18th and 19th

century architecture, and charms that rival the great capitals of Western Europe. English, dollars and credit cards are readily negotiated with very friendly people in these cosmopolitan environments. Both cities have museums, churches, palaces, monuments, parks, hotels, restaurants, metro systems, music and theater offerings of the highest order.



Kate, Michelle, Jon and Jackie at the Bolshoi Ballet production of Swan Lake.

We were able to maintain Michelle's wavering adolescent interest by attending ballets, including a spectacular performance of Swan Lake at the Bolshoi in Moscow (I had never seen so many tutus), with the Queen of Thailand in the Royal Box. This rates as among the best live performances I have ever seen — right up there with the legendary James Brown Band of the early 1970s and "The Producers" on Broadway with Nathan Lane and Matthew Broderick. We also saw a very exciting avant garde ballet production of Romeo and Juliet in St. Petersburg.

We visited several Czarist palaces, including one in St. Petersburg that rivaled Versailles, which on the day of our visit was being lavishly set up for the wedding of a prima ballerina. Elton John, who was performing outdoors in downtown St. Petersburg during our visit, had wanted to get married in this grand palace, but the Russians, not yet ready for same sex nuptials, told him it was "not available." These palaces are all the more remarkable because they had been utterly destroyed by the Germans as part of their three year siege of then Leningrad. The Russians had been able to remove

much of the Czars' art and personal effects, but the Germans completely devastated the buildings. In a remarkable testament to national pride, the Russians, using photographic records, were able to fully restore these priceless relics of a lost world. Guided tours of these palaces include mind numbing chronologies of the czars and czarinas and their mafia like intra-family intrigues including homicides, adulteries, bastard children, imprisonments and banishments. Visits to these palaces are enhanced by the presence of brides and grooms making the rounds of these and other sites on their wedding days. Walking these spectacular grounds one encounters many brides in their wedding finest followed by friends and family with bottles of champagne. That the Queen of Thailand was on the grounds (she seemed to be following us around Russia) along with these many queens for a day, added to the poetry of the occasion.

An incident on the streets of St. Petersburg reflected the tremendous disparity of wealth, and the prevalence of corruption, that have accompanied Russia's less than perfect transition from Communism to Capitalism. One sees in Moscow and St. Petersburg expensive luxury cars of all types and origins. At the same time Russian streets and roads have ever present traffic police who need only point their white tipped batons in order to compel drivers to pull over. One bright evening we were walking back to our hotel down the Nevsky Prospect, St. Petersburg's main drag. Suddenly we heard and then saw a group of about twenty luxury cars (Porsches, BMWs, Lexus, Mercedes, Audis) with young people honking their horns, playing loud rap music, hanging out windows and sun roofs, waving cell phones and camcorders, shouting boisterously. Suddenly a Mercedes sedan pulled into the area of the street that was empty due to the red light. The Mercedes began doing 360 degree donuts, spinning its tires, burning rubber, and almost colliding with a bus. When the light changed the raucous drivers noisily continued down the street in formation. There must have been one hundred witnesses to this circus, but not a traffic cop in sight, even when only several minutes later the same unruly motorists came back down the same street in the opposite direction in the same manner. One surmises that the police find it unwise to confront these scofflaw children of the powerful oligarches.

Where Moscow is like New York and St. Petersburg is like Washington, Kiev is like Omaha, and Ukraine is like Nebraska. Kiev has a provincial feel, lacking the intense energy, bustle and prosperity of the great Russian cities. Highlights of Kiev included street musicians who offered to play Nirvana and Metallica for spare change, and a waiter in traditional Ukrainian attire who's demeanor and mangled English perfectly channeled Steve Martin as a wild and crazy guy.

We headed from Kiev for our villages in a comfortable Mercedes van, driven by Boris, with Alla as our guide and interpreter. Boris did not speak English, and the two of them argued in Ukrainian like an old couple, especially when we got lost several times trying to find the villages. Alla had done her homework and was very familiar with the history of Jews in Ukraine as well as our specific villages. As we got further away from Kiev and the main roads we started to enter "deep Ukraine" — mile after mile of enormous fields of corn, soybeans, sugar beets and buckwheat. An endless plain of black chernozem soil so fertile that the Nazis dug it up to export back to Germany. The terrain was limitless like the Great Plains of North America. Tales from World War II include German soldiers going mad as they approached crest after crest of flat lands, only to find but another crest with an endless expanse beyond. Every once in a while we came across a village with run down housing and public buildings, domestic animals in the streets, horse drawn wagons, and peasant looking people. Many roads had cobblestone surfaces that you could not drive more than 15 mph. Most villages had a Great Patriotic War (World War II) memorial and a statue of Lenin.

We finally found the very funky village Pogrebische. Even the main street was full of potholes. Jackie at first wondered where the town was — we were already there. Pogrebische looks like a modern version of Tevye's Anitevka. The economy is agriculture with a sugar beet refinery on a railroad spur. There is also a medical college. The only tourists are Jews looking for their heritage. The town administration building was a modest two story structure from the 1970s with astonishingly basic facilities in the back yard — literally a shack with a hole in the ground, no seat.



Jackie, Michelle, Kate and Jon at the Pogrebische village limits.

We were invited into the office of the mayor, a very nice man of about 45 — Anatoli "Toli" Michaeleovic. He had a well decorated office with old furniture and a FAX. With Alla's help we told him our names and our grandparents' histories. He has lived here thirty years and never heard the names Efrusy or Katcher. There are now no Jews in Pogrebische. The last, a female teacher, left three years ago for Israel with her children and grandchildren. Most of the Jews left in the 1970s for Israel and America to avoid persecution and seek a better life.

*Continued on page 7*



# The Road to Pogrebische

Continued from page 6



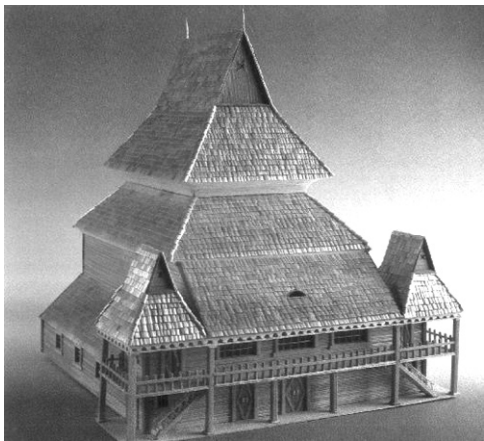
Jon, Pogrebische Mayor Michael Leovic, Kate, Michelle and Jackie.

Toli offered us schnapps, pork, sardines, mushrooms, bread, tea and coffee. We toasted and shared very warm feelings. He told us the very sad story of his twelve year old son being hit by a car driven by the local prosecutor. The village has an annual soccer tournament in honor of the boy. We thanked Toli for his openness and expressed that we really had no idea what to expect on this quest for our roots, but this encounter and experience vastly exceeded anything we could have imagined or hoped.

He was moved by our efforts to search for our roots. We were moved by his generosity and hospitality. Jackie and I felt as if we had come home. A very special moment of connection and profound sentimentality.

Before WWII Pogrebische had a thriving Jewish community with a remarkable 17th century oriental style wooden synagogue that was burned by the Nazis. (For an interesting illustrated note on this very beautiful synagogue see [www.zchor.org/verbin/verbin.htm](http://www.zchor.org/verbin/verbin.htm).)

In September 1941, the Germans took the entire village to the stadium, separated the Jews, told them to take their most precious belongings for "relocation," marched them to several mass grave sites and shot them all. This atrocity, which the Nazis repeated in hundreds of cities, towns and villages throughout Eastern Europe, is impossible to comprehend. The mass production nature of the gas chambers, and the ability of the Nazis to delude millions of people into cattle car trains to concentration camps, is easier to fathom than hundreds of people walking to their executions at a mass grave. One imagines that when you shoot one thousand people, victims number twenty and thereafter have a pretty good idea what awaits them and their families. Yet the Germans were able to repeatedly pull off these abominations with alacrity. Unfortunately this type of conduct has been going on in Europe for centuries, and continues to the present. The Russians executed thousands of Polish and German officers during World War II, and as recently as 1993, when Serbian forces executed 7,000 Bosnian Muslim men and boys in a single day at Srebrenica while nearby U.N. troops did nothing.



The synagogue at Pogrebische, recreated in miniature.



Pogrebische's Black Ravine mass grave.

We were shown a mass grave at Black Ravine about a mile from the Pogrebische village center. A concrete slab 40 meters by 8 meters covered a pit holding 1,000 people. A stone monument placed in the 1970s recounted the event. The executions lasted over several days. Each May 9th, when Ukrainians and Russians celebrate the victory over the Nazis, people place flowers at the mass grave.



Pogrebische Jewish Cemetery.



Rabbis' Shrine.

We were taken to a run-down Jewish cemetery near the village. The upkeep of rural Jewish cemeteries is a problem in Ukraine because all the Jews have left and, therefore, there is nobody to care for them. A woman of fifty, who looked sixty-five, showed us the way. We found overgrown graves and fallen headstones. There were many ancient graves and a few from the 1970s. There was one modern shrine to two rabbis and their wives in a metal building.

A remarkable coincidence connects these enshrined rabbis to Anchorage, Alaska. Rabbi Joseph Greenberg, of the Anchorage Lubavitch Center, and the Alaska Jewish Historical Museum, was born in Odessa, Ukraine. Prior to our trip he advised he knew nothing about our villages. Upon our return I sent him a draft of this article and some photos of the shrine specifically to see if he knew anything about the enshrined rabbis.

He immediately called me to advise that he had only known Pogrebische by its Hebrew name and did not recognize its Ukrainian name. But when he saw the photos of the rabbis' shrine and its interior he recognized it as that of his 13th great grandfather - Rabbi Sholom Shachner, 1769-1802. Rabbi Shachner was the son of Rabbi Dov Ber of Mezritsch, 1704-1772. Rabbi Dov Ber was the successor to the Bal Shem Tov, 1698-1760, the founder of Hasidic Judaism. The Baal Shem Tov, whose name means "Master of the Divine Name," is revered by Hasidic Jews around the world. This is a VERY BIG DEAL in the dynastic world of Hasidic rabbis. By very rough analogy, if the Bal Shem Tov was Jesus, and Rabbi Dov Ber was Saint Peter, then Rabbi Shachner would be Saint Peter's son, and Rabbi Greenberg of Anchorage would be Saint Peter's 13th great grandson. (For some lighter insights into Hasidic Judaism check out Michael Chabon's "The Yiddish Policeman's Union," Chaim Potok's "The Chosen," made into a movie starring Rod Steiger and Robbie Benson, or Barbara Streisand's "Yentl.")

The next day we visited Kazyatyn, birthplace of three and perhaps four of the Katcher and Efrusy grandparents. Kazyatyn is a city of 25,000, quite modern when compared to Pogrebische, with more sophisticated and diverse looking people. There is a chicken factory that supplies McNuggets to all the McDonalds of Ukraine. A major railway junction, the station has a famous restaurant, with a beautiful rotunda interior, an ornate dome and a huge chandelier that a wealthy businessman wants to buy to put in his home. Unfortunately, the water main was broken so we could not eat there.

We went to the mayor's office and were hosted to coffee and candy. Mayor Visotsky summoned Svetlana, the head of the local Jewish cultural organization, and her father Vladimir. There are now about 400 Jews in Kazyatyn but no synagogue — the former synagogue located downtown, had been converted to a girls school and stripped of all Judaica. Kazyatyn has a Jewish culture school for about 100 children. The school and other social programs receive assistance from charities in America and Israel for the promotion of Jewish identity and emigration to Israel. Neither the mayor nor Svetlana recognized the names Katcher or Efrusy. The deputy mayor had a registry of Jews killed in the Holocaust — no Katchers or Efrusys. The deputy mayor made copies of our family documents and photos for the local museum.

While we did not find any living relatives in Ukraine, we certainly connected with our geographical origins. It was very valuable to see and feel the land where our grandparents lived and from which they departed. The overarching feeling for me was one of thanks for their having left. This is a tough place. Things are improving, and the 550,000 Jews of Ukraine are doing fairly well. Indeed, one third of the Ukrainian parliament is of Jewish national origin. But the 20th century has been a very difficult time for all Ukrainians, especially the Jews. Pogroms, wars, collectivization, famine, genocide, and persecution. The odds were not good for those Jews who stayed. Given that my parents were first cousins the probability is high that I would have been "me" in Ukraine. But the probability is even higher that

Continued on page 8



# Mind Games trivia contest winners raise money



"Mind Games," the annual trivia challenge that tests the wits of Anchorage's finest legal minds, took place October 25, 2007, at Snow City Café. Ten teams vied for top honors in the fundraiser for the Alaska Immigration Justice Project. Members of the winning team-the Pubic Defenders-included, L-R: Rich Curtner; Jenny & Steve Neff; Kevin McCoy (back); Mary Geddes (front); Connor McCoy (back); Valerie Cortez (front); and Bruce Johnson."



Members of the Mind Games runner-up team, The Wide Stance, from the law firm of Ashburn & Mason and Friends.

# The Road to Pogrebische

Continued from page 7

my parents would not have survived to give birth to "me" in 1954. My gratitude to my grandparents for their having come to America arises from more than the relief of biological survival. Returning home I had a profound awareness of how lucky we are that all of our ancestors came here and worked so hard to create what is 21st Century America: The liberties we enjoy; our freedom from fear due to our enviable rule of law; our comforts and abundant goods and services. Such is not the norm in most of the world, and indeed too many Americans have not yet achieved these standards. My gratitude is not some flag-pin-wearing chauvinism that America is better than the rest of the world and, therefore, has the right to imperially dictate its will upon weaker nations. Rather, it is a recognition that with

these gifts come responsibilities: to raise healthy families; to work hard and be the best we can at whatever we do; to be active in our communities in order to improve life for all people wherever possible. It is through the pursuit of our better selves that we best honor those who struggled mightily to come here and make our wonderful lives possible.



Kazyatyn Mayor Visotsky, Jon, Michelle, Kate, Svetlana, Vladimir and Jackie.



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The Big Read is a nationwide project funded by the National Endowment for the Arts. The Alaska Bar Association is working with numerous community groups lead by the Anchorage Municipal Library to encourage the reading and analysis of this great work of literature that is near and dear to the hearts of all lawyers. Stay tuned for notices of statewide opportunities for members of the Bar to participate.

If you're interested in learning more, contact Krista Scully at [scullyk@alaskabar.org](mailto:scullyk@alaskabar.org) or Jon Katcher at [jkatcher@alaska.net](mailto:jkatcher@alaska.net).



# Did You Know: A Casemaker field guide

## 1 Thesaurus Function

**Did you know** that Casemaker incorporates a **Thesaurus** function in its search engine?

Casemaker's little-known Thesaurus function can provide users with expanded search capabilities. By placing a tildé (~) immediately before a word (*no spaces allowed*), users can find synonyms for keywords. Because the thesaurus allows for the expansion of the number of searchable cases with similar dialogue, this greatly increases the chance of finding case law that is most applicable to your challenges. For example, entering ~**alcohol** into the Full Document Search Query box will yield the case law containing the words, "**liquor**," "**whiskey**," "**intoxicant**," "**spirits**," and more.

Entering the word ~**car** will yield the words "**car**," "**automobile**," "**auto**," "**vehicle**," "**train**," and others. But users need to be careful. Because the word, "**vehicle**" can also mean, "**conveyance**," this word may also appear in the search. When searching for ~**animal** the surnames "**Hare**" and "**Hunter**" may appear.

The **Thesaurus** function can also be used in conjunction with other search parameters such as **AND**, **OR**, **NOT**, **PHRASE**, and **SUFFIX EXPANSION** searches.

## 2 SuperCODE Feature

**Did you know** that Casemaker utilizes **SuperCODE** to identify changes to statutes and codes?

**SuperCODE** is the exclusive Casemaker feature that identifies session laws which may affect the documents that users view. **SuperCODE** appears on the right-hand side of the screen and displays hyperlinks to session laws that reference the document currently being viewed. By clicking on the hyperlink (if present) the user is immediately transported to the segment of the legislation that deals with the current document. Users can then quickly determine if the new law will apply to the salient portion of code of interest.

This is just another way that Casemaker keeps our members current and ahead of users of other services.

## 3 Suffix Expansion

**Did you know** that you can perform a more inclusive search by using the **Suffix Expansion** feature?

Because our search engine is so precise, Casemaker finds only the exact search terms entered into the Full Document Search Query box. However, users may find all word forms of a single word by attaching an asterisk (\*) to the end of the word (*no spaces allowed*). By doing so, users activate the **Suffix Expansion** feature. If the term **stalk**\* is typed into the Search box, present tense (**stalk**), plurals (**stalks**), past tense (**stalked**), nouns (**stalker**), and progressive tense verbs (**stalking**) can all be found in a single search.

Casemaker is currently available through 28 state bar associations with more on the way!

## 4 Casecheck Feature

**Did you know** that the **casecheck** function allows Casemaker users to determine validity of case law?

Casemaker's exclusive casecheck feature allows legal professionals the opportunity to determine if the case they may wish to cite has been challenged by a later court. To access **casecheck**, simply look on the right-hand side of the screen of the case you are viewing. If there are no hyperlinks underneath the **casecheck** logo, it means that no action has been taken on the case by a later court. If there are hyperlinks, that does not necessarily mean that there have been any rulings against

the case in question. However, it will require the user to click on the link to find out.

By clicking the hyperlink, the user is taken directly to the portion of the later case where the older case is cited. By reading the text surrounding the case citation, the user can quickly determine later treatment of the cited case.

Citators can be good, but they may or may not address the finer point that a user would need to have in order to accurately determine the status of a case. Further, there is no guarantee that the citator determination was actually written by a lawyer. In some instances, non-graduate law students may have been assigned to write the citator determination. By allowing Casemaker users to view the specific area of the later case, legal professionals can read the decision for themselves and make their own determination of the value of the case in question. We feel that, although it may be slightly more time-consuming, Casemaker users are the best judge of the applicability of a ruling to their case.

Casemaker is in the business of providing legal professionals with what they need to win!

## 5 Exclusion Function

**Did you know** that Casemaker allows users to exclude search terms in order to narrow searches?

Casemaker's **Exclusion Function** can be used to prohibit undesired cases from being offered to the user. By placing a hyphen (–) immediately before (*no spaces allowed between the hyphen and the word to be excluded*) the term to be eliminated from the search, Casemaker will display only those cases which have desired search terms.

For example, **property –commercial** would most likely yield strictly private property cases. Users are able to insert multiple combinations. Entering the words **gross sexual imposition –rape** would eliminate all rape cases. **Drown –swimming –pool** would yield cases in which the word **drown** would appear, but **swimming** and **pool** would not.

This useful feature and other search tools allow Casemaker users the flexibility to quickly discover the cases that accurately put them on point.

## 6 Browse Feature

The ability to **Browse** through content is one of Casemaker's more popular features. Users have the ability to view a list of hyperlinks to statutes, codes, rules, and other materials. By being able to view the titles users can determine which item would be of most interest to them. This feature allows attorneys the freedom to search for a desired document without knowing the citation number or even the official document name. And it is completely free to Casemaker members.

Why is this remarkable? **Did you know** that other websites actually *charge their customers* for this service? The Cincinnati Bar Association Report recently did a comparison of a few of the legal research providers. They reported that as of January 2007, one of our competitors began charging \$4.00 per hit in their "Documents in Sequence" feature (A.K.A. **Browse**).

Casemaker wants its members to be able to **Browse** its materials free of charge.

## 7 Currency of materials

Casemaker is diligent about updating legal research materials in accordance with requirements of individual state bar associations. **Did you know** that a link to the state or federal **Currency Page** is located on each individual library's main page?

By clicking on the link, users are directed to information that clearly delineates the currency

of all material available in that library. Not all of Casemaker's states' case law begin in the same year. The level of document history and currency has been determined by individual state bar associations. If you have any questions regarding the release date or currency of any materials, please check the **Currency Page**.

Casemaker wants you to know that you have the most current materials available.

## 8 Proximity Search

The ability to search for words that are within a defined "distance" to another word can provide valuable assistance. **Did you know** that by using Casemaker's **Proximity Function**, users can choose how closely multiple search terms appear within a document?

By going to the drop-down menu at the bottom of the Search page, the user can readily select how close in **Proximity** they would like the search terms to be. This feature allows users to rapidly narrow their searches thereby reducing search times.

## 9 Multiple Function Searches

Most Casemaker users regularly use the **AND** function to narrow searches. This function is activated by simply leaving a space between the two or more search terms. But did you know that virtually all of Casemaker's Search Functions can also be used in conjunction with each other?

Casemaker search parameters for the Full Document Search Query box include: **AND**, **OR**, **NOT**, **PHRASE**, **THESAURUS**, and **SUFFIX EXPANSION** searches. Here are a few examples to show how Casemaker's Search Functions work.

**AND**—leaving a space between the search terms will require *ALL* of the words to appear in the document.

**Example: knife gun**—»will yield documents containing both **knife** and **gun**. Additional terms may be added to further narrow search results.

**OR**—put the search terms in parentheses with only a comma between them (*no space*) and **EITHER** search term will appear in the document.

**Example: (knife,gun)**—»(*parentheses required*) identifies documents which contain either **knife** or **gun**.

**NOT (Exclusion Search)** —inserting a hyphen (–) immediately in front of the word will ensure that the search term ***DOES NOT*** appear in the document. Make sure there is a ***space*** between all of the search terms.

**Example: knife –gun**—»will find documents that contain the word **knife**, but not the word **gun**.

**PHRASE**—putting the exact phrase in quotation marks yields documents which contain the phrase.

**Example: "next of kin"**—»will locate documents with the phrase **next of kin**.

**THESAURUS**—by placing a tildé (~) just in front of a word (*no space*), documents that have the word, as well as synonyms will be found.

**Example: ~liquor**—»will produce documents that have the words, **liquor**, **spirits**, **whiskey**, **drink**, **intoxicant**, etc.

**SUFFIX EXPANSION**—placing an asterisk just behind the word (*no space*), will produce documents with the word appearing in any amended form (i.e. plurals, past and progressive verb tenses, nouns, etc.).

**Example: stalk\*** —»displays documents with the words **stalk**, **stalks**, **stalked**, **stalker**, **stalking**.

And virtually all of the above functions will work together in the same search. With just a little experimentation, users can incorporate **Multiple Function** searches into their everyday searches.



# Winfree becomes 19th appointee to Supreme Court

Gov. Sarah Palin on Nov. 16 selected Fairbanks attorney Daniel E. Winfree to succeed Alexander O. Bryner as an associate justice on the Alaska Supreme Court. Winfree is the 19th justice appointed to the court, and Gov. Palin’s first appointment to the Court.

“In his life and his legal career, Daniel Winfree has demonstrated an impressive intellect, a generous heart and a profound respect for the legal system and Constitution it relies on to guide civil life in Alaska,” Governor Palin said. “I am gratified at the opportunity to place this fine man and outstanding attorney on the Alaska Supreme Court, and am confident he will serve the people of the state with wisdom and integrity.”

Winfree, 54, was born in Fairbanks. He received a bachelor’s degree from the University of Oregon in 1977 and both a law degree and a master’s degree in business administration from the University of California in 1981.

He worked for the Perkins, Coie law office in Anchorage from 1982-85, then opened his own law office in Valdez, practicing there from 1985-90. Winfree returned to Fairbanks to open a legal partnership, Winfree and Hompesch, until 1996, when he opened the Winfree Law office.

In 2006, Winfree was hired as general counsel

and executive director for the Greater Fairbanks Community Hospital Foundation. He has worked tirelessly to provide free legal services to Alaskans in need, and was a driving force in a four-year, 200-case effort to recover federal funds lost to physically and mentally disabled Alaskans in the bankruptcy of a Fairbanks service organization.

Winfree has been actively involved in the state’s legal community, serving as a member, secretary, treasurer, president-elect and president of the Alaska Bar Association Board of Governors from 1990-96. He was also a member and president of the Western States Bar Conference; and member of the American Bar Association, the Alaska Academy of Trial Lawyers, and the Association of Trial Lawyers of America. Winfree has served on the University of Alaska, Fairbanks’ College of Fellows from 1992-96 and on the university’s Museum of the North advisory council since 2006. He has been a Rotary Club member and officer since 1992, and a member of the Greater Fairbanks Chamber of Commerce from 1987-2006. Winfree has also served as an adjunct faculty member at the Prince William Sound Community College, and at the University of Alaska’s Tanana Valley Campus.

Winfree and his wife Cathy, a registered nurse, have a daughter, 21, and a son, 15.



Gov. Palin congratulates her new appointee.  
*(State of Alaska photo)*

The Alaska Supreme Court serves as the ultimate court of appeals for the state’s District and Superior courts. The chief justice and four associate justices hear cases in Anchorage on a monthly basis and in Fairbanks and Juneau on a quarterly basis. The court also administers the state’s judicial system.

Winfree replaces Associate Justice Alexander O. Bryner, who retired Oct. 31, 2007 after 10 years service of years on the Court, including three years as chief justice, from 2003-06.

“I would like to thank Justice Bryner for his decade of service to the people of Alaska on the Supreme Court,” Governor Palin said.

Upon receiving the Council’s four recommendations, Governor Palin conducted her own background reviews and conducted interviews with all four candidates before making her selection.

“Choosing one of these candidates was very difficult because all four are highly qualified, and each has such an obvious dedication to this great State,” she said. “I came away from this selection process with a tremendous admiration for these nominees.”

All Alaska Supreme Court justices face public retention elections, and must step down from the bench upon reaching the age of 70.

*--Governor’s press release*

## Alaska Bar Association 2008 CLE Calendar

Date	Time	Title	Location
January 24	TBA	Off the Record: 3 <sup>rd</sup> Judicial District CLE# 2008-005	Anchorage Hotel Captain Cook
February 7	8:30 – 10:30 a.m.	Non-Profit Bylaws CLE# 2008-014	Anchorage Hotel Captain Cook
February 20	TBA	Negotiation CLE CLE# 2008-016	Anchorage TBA
March 6	Lunch CLE	Prime Time Torture CLE# 2008-001	Anchorage TBA
March 18	8:30 a.m. – 12:30 p.m	What To Do When the Media Calls CLE# 2008-003	Anchorage Hotel Captain Cook

THANK YOU! THANK YOU!

Friday, November 30, 2007

BREAKING NEWS!

# BRYNER RETIREMENT SILENT AUCTION BRINGS IN FUNDS FOR LEGAL SERVICES PROVIDERS!



Judge Keith Levy purchased auction item “Swift Justice” in honor of Justice Bryner.

After nearly 30 years of service to Alaskans, Justice Alex Bryner left the Alaska Supreme Court bench with just one request: honor the importance of equal justice. His simple request resulted in the creation of a silent auction held at his retirement party on October 26, 2007.

Many thanks to the shoppers who lightened their wallets for a good cause; with your help we raised over \$7,000 for Alaska’s legal services providers.

The proceeds were split evenly between Alaska Legal Services Corporation, Alaska Pro Bono Program, Alaska Network on Domestic Violence and Sexual Assault, and Alaska Immigration Justice Project to help support their important justice work in communities throughout Alaska.

Special thanks to our organizing committee: Barbara Hood, Jonathan Katcher, Krista Scully, and Cammy Taylor.

And we couldn’t have done it without the generosity of the following businesses and individuals:

- Diane Frank

Cabin Fever

Portfolio

Classic Woman

Kim Marcucci

Mike Doogan

Ellen Toll

Rogers Shaw

Marcia Davis

Barbara Hood

Bob Bundy

The Sport Shop

Don McClintock

Beth Adams
- Colleen Ray

Great Harvest Bread Co.

Monica Jenicek

Nan Thompson

Mark Osterman

Nancy Groszek

M. Currey Cook

Dohn Wood

Cammy Taylor

Joyce Bamberger

Mauri Long/Phillip Volland

Jim Parker/Jane Yokoyama

Anonymous donors

Susan Orlansky
- Carol Crump Bryner

Lisa Rieger/Matt Claman

Marilyn May

Metro Cooks

Metro Books

Chain Reaction Bikes

Ethan Berkowitz/Mara Kimmel

The Alaska Club

Ray Brown

Alaska Mountaineering and Hiking

Skinny Raven Sports

Cyrano’s

Modern Dwellers Chocolate Lounge

Ryan Fortson



# Friends, family & colleagues mark Bryner retirement

Justice Alex Bryner retired from the Alaska Supreme Court on October 31, 2007, after 10 years on the state's highest court and 30 years of service as a jurist. On October 26, 2007, over 250 friends, family members, colleagues, and members of the legal community gathered in his honor at the Anchorage Museum at Rasmuson Center for a celebration co-sponsored by the Alaska Court System, the Alaska Bar Association, and the Anchorage Bar Association.

Justice Robert Eastaugh served as Master of Ceremonies for a program that highlighted not only Justice Bryner's legal accomplishments, but his many years of athletic achievement. Justice Warren Matthews reflected on the judicial skills, intellect and humor of his long-time colleague, and especially noted his eloquence as a writer. Fellow bike racers Tim Lamb and Matt Claman offered congratulatory remarks and demonstrated how Justice Bryner had once completed a race with his helmet on backwards.

Marilyn May, Clerk of the Appellate Courts, presented Justice Bryner with a special collection of court opinions he had authored, indicating that the collection was so vast and the task of deciding which to include so tough that it took past and present law clerks many weeks to complete the project.



The surprise of the Justice Bryner's retirement evening came when Justice Bryner's colleagues on the supreme court gathered around to unveil a special William Spear pin designed in his honor, showing a robed justice riding a bike over the caption "The Wheels of Justice." Justice Bryner received the original artwork for the pin signed by the artist and members of the court, and a bike jersey emblazoned with the same design. Everyone in attendance received a pin to commemorate both a fun and memorable evening and Justice Bryner's long and distinguished career.



Susan and Tony Knowles joined the celebration. Governor Knowles appointed Alex Bryner to the state's high court in 1997.

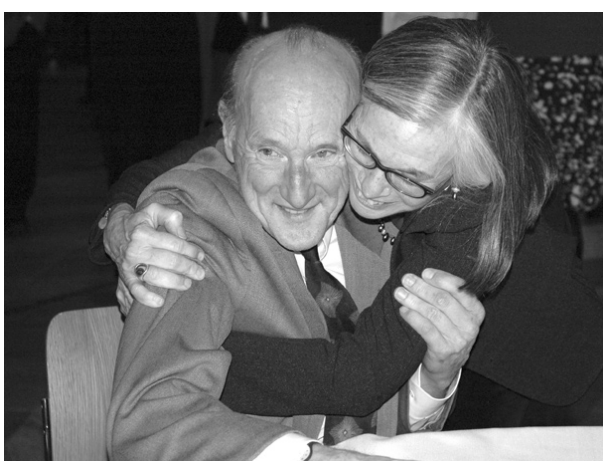


Justice Bryner visits with Debra Fitzgerald and Tom Amodio.



Bryner family members attending the retirement celebration included (back row, L-R) his son Paul Bryner, daughter Mara Bryner and grandson Henry, and (front row, L-R) his wife Carol Crump Bryner, mother Zoya, and Justice Bryner.

*Photos by Barb Hood*



Justice Bryner receives a congratulatory hug from his wife, Carol.



Tim Lamb, L, and Matt Claman, R, shared stories about biking adventures with Alex Bryner.

## Call for nominations for the 2008 Jay Rabinowitz Public Service Award



BRUCE BOTELHO  
2007 Recipient



LANIE FLEISCHER  
2006 Recipient



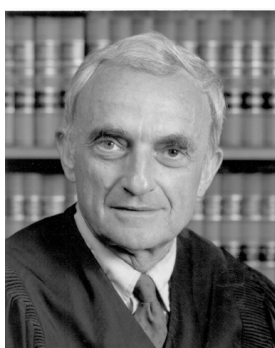
JUDGE THOMAS B.  
STEWART  
2005 Recipient



ART PETERSON  
2004 Recipient



MARK REGAN  
2003 Recipient



Jay Rabinowitz

The Board of Trustees of the Alaska Bar Foundation is accepting nominations for the 2008 Award. A nominee should be an individual whose life work has demonstrated a commitment to public service in the State of Alaska. The Award is funded through generous gifts from family, friends and the public in honor of the late Alaska Supreme Court Justice Jay Rabinowitz.

Nominations for the award are presently being solicited. Nominations forms are available from the Alaska Bar Association, 550 West Seventh Avenue, Ste. 1900, P. O. Box 100279, Anchorage, AK 99510 or at [www.alaskabar.org](http://www.alaskabar.org). Completed nominations must be returned to the office of the Alaska Bar Association by March 1, 2008. The award will be presented at the Annual Convention of the Alaska Bar Association in April 2008.



ALASKA BAR  
FOUNDATION





Judicial selection:

# Anonymous hate mail should not be permitted

By Wayne Anthony Ross

I recently underwent the experience of applying for the vacant position on the Alaska Supreme Court caused by Justice Bryner's retirement.

The Application for Judicial Appointment consists of a 20-page questionnaire which asks for complete information about the applicant. The only thing I noticed missing was a question about my shoe size. It took several days to get together all the information requested by that questionnaire.

The Alaska Judicial Council is the state board charged with reviewing the applicants for judicial positions, and then recommending and forwarding several names to the Governor who then fills the vacancy from the recommended list. As part of its review, the Judicial Council surveys the members of the Alaska Bar Association.

Once the Bar survey is completed, the applicant receives a copy of the draft results of that survey. Included in those results are comments made about the applicant by members of the Bar, without attribution. I got my copy several weeks ago. I found it very interesting.

Initially, while deciding whether or not to apply, two matters concerned me and caused me to think long and hard before submitting my application: the Bar survey and the Judicial Council itself. Having practiced law in this state in one capacity or another for almost four decades, I anticipated that there would be a number of fellow members of the Alaska Bar who would relish the opportunity to, perhaps, settle old scores by trashing me in the survey. One cannot practice in our system of justice in the private sector without creating hard feelings from time to time because that system is generally geared to someone winning and someone losing.

Unfortunately, over the years, when I took a position that differed from another attorney's position, sometimes that other attorney took offense. While I try not to make enemies, the often harsh realities of litigation are not designed to readily create long-standing friendships between adversaries.

The positive comments made about my candidacy were gratifying and much appreciated. The negative comments were not.

The negative comments ranged from perceptive through vicious, from fallacious to outrageous.

A sample of these negative comments include the following:

**One cannot practice in our system of justice in the private sector without creating hard feelings from time to time because that system is generally geared to someone winning and someone losing.**

"...(A) likeable man who probably should not be on the Supreme Court."

"...(He has) deluded himself into believing (that he is Teddy Roos-

evelt)."

"...(M)yopic in his approach to the law... A terrible candidate."

"...(T)akes positions that aren't just unpopular, they are irresponsible."

"...(I)rrational and ...extremely arrogant..."

"...Briefs of his were borderline incompetent... (I have heard he once try {sic} to break up a rowdy party near his house by firing a shotgun in the air...).

"...(U)nreasonable, unnecessarily flamboyant, misrepresents and distorts the law on issues...(Would make the Supreme Court) a laughing stock..."

"...(He) purchased an automatic weapon for his five year old daughter or granddaughter for Christmas..."

"He doesn't understand the rules of evidence."

"Gun nut; loose cannon."

"...(H)e is basically a boor."

"An arrogant, obnoxious, unscrupulous buffoon..."

"A relic with respect to gender..."

**All of the people I have spoken to, who have submitted judicial applications in the past, have reported receiving similar anonymous nasty comments...**

If it is possible to enjoy negative comments about oneself, the best negative comment was "If there is a God she would not let this happen." Now, at least the person who wrote that comment had a sense of humor that I can understand. Most of the negative comments were, however, simply mean-spirited and scurrilous.

All of the people I have spoken to, who have submitted judicial applications in the past, have reported receiving similar anonymous nasty comments to varying degrees from some fellow members of the Bar. So, as I said, I felt concern about applying and going through a process simply to allow myself to be trashed in a Bar survey.

The second concern that I had was the Judicial Council itself. The Council is currently perceived by a large portion of the public as unwilling to forward to the Governor the name of any conservative candidate for consideration to a judicial appointment.

Having now gone through the process, I can say that, in my opinion, both of my concerns were justified.

The Bar survey proved to me that I have a lot of friends, for which I am grateful. It also proved that there are a number of attorneys with a vicious streak that causes them to attack someone by anonymously striking from the shadows. I won't call these folks enemies because I don't believe in having enemies. I'll just call them people who don't like me as much as I would want them to. But strike they did, and I wanted the *Bar Rag* readers to know how nasty and fallacious some of the comments were.

And as for my concern that the Judicial Council simply does not submit the name of conservatives for appointment to the judiciary, in view of the names submitted to the Governor, that concern continues to be apparently viable.

The best part of the process was the interview I had with members of the Judicial Council. The Council members were charming, the interview was enjoyable and I had fun with the give and take that took place.

All in all, however, the current process we have for picking our judges in Alaska lacks civility, at least from some members of our Bar and such members need to look deep in their heart about whether they are really helping, or actually hurting, our process of judicial selection.

## IT'S TIME TO PLAY THE BAR HISTORIAN'S

# HISTORY MYSTERY!

**IDENTIFY THE PHOTOGRAPHS BELOW CORRECTLY AND YOU'LL BE ENTERED TO WIN A BIG PRIZE!**



PHOTO 1, L-R: \_\_\_\_\_

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PHOTO 2, L-R: \_\_\_\_\_

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**NOTE: INCOMPLETE ENTRIES ARE ACCEPTABLE-- YOU MAY KNOW MORE THAN ANYONE ELSE!**

**LOCATION OF PHOTO:** \_\_\_\_\_

**DATE OF PHOTO:** \_\_\_\_\_ **OCCASION:** \_\_\_\_\_

SEND YOUR ENTRY BY JANUARY 15, 2008, TO:

**HISTORY MYSTERY!** Alaska Bar Historians Committee P.O. Box 100279 Anchorage, AK 99510

Correct entries will be entered in a Prize Drawing and the winner will receive coupons for a Dozen Loaves of Bread from Great Harvest Bread Co.

The names of all entrants submitting correct answers will be published in the next edition of **HISTORY MYSTERY!**

Got a photo for **HISTORY MYSTERY!**? Call Leroy Barker at 907-345-3329 or Barbara Hood at 907-264-0879.

Special thanks to Jonathan Katcher for contributing this issue's photos.



# Pro Bono Corner

## Atkinson Conway and Gagnon protect victims of domestic violence through pro bono project

By Krista Scully

This is the first in a series of articles focused on the signature pro bono projects that Alaska's law firms are participating in to support legal services providers and low-income Alaskans needing civil legal assistance.

An idea was borne in 2005 that a protective order project for the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) would be of great benefit to its clients and an excellent discrete niche project for an Anchorage law firm. A lunch was hosted and attended by the managing partners of several area law firms; the idea was pitched by Christine Pate of ANDVSA. She explained that "for domestic violence victims, separation is the most dangerous time because the abuser realized that they are losing control over their victim. The protection order proceeding is the most effective legal means that we have so far for protecting victims during this lethal time."

And after nearly 30 years of existence without any type of family law practice in their law firm, Pat Gilmore of Atkinson Conway and Gagnon said that his firm would take on the project. He was joined by fellow attorney Chris Slottee and they have since provided service in 11 cases—one taken by fellow Atkinson Conway and Gagnon attorney Neil O'Donnell—and accrued nearly 150 hours of pro bono service to domestic violence victims in two years.



Chris Slottee

Pat and Chris have worked closely with Marjorie Thayer, a legal advocate for AWAIC. At a recent event honoring the work of Pat and Chris, Marjorie said, "When I tell clients that they have an attorney, a look of great relief washes over their face. They are so relieved to know that they don't have to face their abuser and the court process alone." Pat and Chris have kept these people from facing the court process alone: a sexual assault victim who was being terrorized by her assailant to get a protection order; a young mom from rural Alaska who was able to obtain a temporary custody order and a no contact from her abuser who had assaulted her many times; a young woman being stalked by an acquaintance regain her peace of mind through gaining a stalking protection order; a woman

whose husband had been arrested for assaulting and threatening to kill her obtain custody of her children and a protection order. It was at this same event that Christine Pate shared with the attendees, "Pat and Chris have helped so many women remain safe during a critical time, giving them the breathing space to plan a permanent separation. By getting temporary custody and/or spousal support, and effective and enforceable no contact orders for their clients, Pat and Chris have helped these women achieve a permanent end to the violence in their lives."

It's time you met the attorneys who inspired this project and article: Pat Gilmore and Chris Slottee.

If you're not running into them in the courtroom in Anchorage, you may find them grabbing a hot dog at MA's on Fourth Avenue during the summer. Both gamely played along with this writer by answering questions about their lives that included what they've been reading, a name for a boat, favorite vacation spot, and which famous person—dead or alive—they'd choose to have dinner with. So you understand that they're not all work and no play, you should know that Chris Slottee recently read *The Expectant Father* as the expectant father of twins due to arrive in April; Pat just finished *Banner Under Heaven*. If you were to find them sail-

ing the high seas, look for their boats titled "The Billygoat Curse" (for you Chicago Cub fans), the "War Canoe" and/or "The Harbor Cruiser". And their preferred favorite dinner guests would be Wilt Chamberlain and Abraham Lincoln. Who wouldn't want to be part of that dinner conversation? Lastly, given all their good work, let's hope they have vacations coming soon to Las Vegas or anywhere in the Southwest; they both tend to flee to warmth when leaving Alaska.

### Why did you decide to do this project?

**Pat Gilmore:** My prior volunteer experiences were sporadic with a lot of variety; I wanted something that was a focused and important way to give back to the community. Our firm also wanted to find a way for Chris to gain courtroom experience. Additionally we were looking for a narrow area of the law that would allow better and more efficient service to our clients.

### What are three things you've learned as a lawyer practicing in this field?

**Chris Slottee:** It has been helpful to have direct experience with clients where I can be pivotal in easing their fears about the court system, allay negative and scary emotions about the process, and use my skills as an attorney to move people through what can be a really intimidating process. It's been a really important reminder for me as an attorney to remember that to outsiders, the law can be imposing and daunting. It also occurred to me early on in this project that many of the clients we've served would not have gotten the help they needed without the assistance of ANDVSA and AWAIC because people have such a fear of the court system.

This project has provided me with a lot of my "firsts" as an attorney doing trial work: direct exam, witness interviews, etc. This kind of practical experience in civil litigation doesn't happen that often in a civil litigation based firm.

**Pat Gilmore:** I've learned that the people who are served by these programs really do need help; ANDVSA and AWAIC do a great job in screening clients who come to us, so we've seen a lot of different types of victims. It's been surprising to me at the variety of the types of groups that are involved in domestic violence because they run the gamut of professions and socioeconomic status.

### Why do you continue to do it?

**Pat Gilmore:** The work is satisfying and the clients we serve are genuinely in need; it's an area of the law that needs the most help in pro bono service. We have an excellent working relationship with Christine Pate at ANDVSA and it works well for our office. The time commitment isn't overwhelming at all.

**Chris Slottee:** All the cases are meritorious and well-screened. I would echo what Pat said about the time commitment: it doesn't take as much time as you would think it would.

### How would you encourage others to do this type of volunteer work?

**Chris Slottee:** This work in the pro bono arena is so important; the clients desperately need help and attorneys are in a position to offer it in a way that makes such a profound impact on their lives. This isn't the kind of work that will take over your life. In fact, it's such a small amount time and effort that really does achieve a greater good.

If your firm is interested in developing its own signature pro bono project, please contact Krista Scully, Pro Bono Director, at [scullyk@alaskabar.org](mailto:scullyk@alaskabar.org) or by phone at 907-272-7469.



Chris Slottee and Pat Gilmore



Krista Scully, Pro Bono Director at the Alaska Bar Association leads the staff of Atkinson Conway and Gagnon in toasting volunteer attorneys Pat Gilmore and Chris Slottee for their work on behalf of the Alaska Network on Domestic Violence and Sexual Assault and AWAIC.



# Preparing digital photographs for the courtroom

By Joe Kashi

Without belaboring the point, everyone in the business of persuasion, which assuredly includes all lawyers, has heard the cliché “A picture is worth a thousand words” and knows that this really is true on a very deep level. As a result of recent research in neuropsychology and human cognition, we now know that the human brain is particularly adept at recognizing and processing visual images and patterns rather than words. Indeed, some of the best advice given to beginning litigators is to learn how to “paint a picture with words”. Even better than painting a picture with words alone is to show the picture while filling in the details verbally.

Over the past two years or so, I have gradually come to the conclusion that a digital camera/video recorder has become an essential and easy to use tool for every lawyer and that regular use of digital photographic and video technology, even in the most routine matters, will become a pillar of legal practice over the next several years, especially for litigators. My consistent experience has been that using projected video clips and very large prints of accident or crime scenes, real property, etcetera, are highly useful and persuasive, whether used in briefs, in direct examination or in cross examination, even in bench trials.

In this third ab initio article, I will discuss recent digital imaging software and concepts that can enable you to fill the courtroom with amply sized easily authenticated photographic exhibits without breaking your bank account. In a companion article, I will discuss and recommend some recent digital cameras that are capable of the exceptionally good image quality and sharpness required to make high quality, large exhibits. All recommendations and discussions are based upon my own recent personal experience and testing.

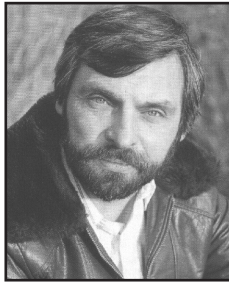
## Authenticating Photos:

There is one point that any photographically inclined litigator should bear in mind: the need to authenticate photographs in the courtroom. Being able to track how a photograph was changed between the time that it was taken on scene and the time

that it is presented to the trier of fact can have some important litigation implications. Some years ago, I was trying a personal injury case to a jury and the other side presented some photographs taken at the time of the accident. Having personally examined the site myself on several occasions under similar conditions, I knew that the paving was light grey when dry and nearly black when wet. The other side's photographs showed a pavement that was brownish, a definitely inaccurate color to anyone who had personally examined the accident scene and was apparently merely the result of inaccurate automated printing of their color negatives. The appearance of the exhibits initially caused a problem because, when depicted as brownish in color, the admittedly wet pavement looked dry in the photographs and there was no view of the accident scene by the jury. Moral: we'll always really need to know and document everything that was done to a photograph before it's shown to a trier of fact and that has become even more important now that its trivial to markedly alter a photograph digitally. Photographs shot in a RAW format are substantially easier to authenticate because, which the right software, you can typically document any corrections to a photograph's initial state right out of the camera and back out any later changes so that later changes are easy to track and review. However, JPEG photographs can likewise be authenticated but with less certainty and precision about how they looked right out of the camera. I have now altered my own litigation to generally take all litigation-related still photographs in a camera's RAW format and then provide a CD to the Court containing all of the original RAW image files for photographs that I intend to present as exhibits.

## Which Photo Software?

I strongly prefer to use RAW photographic images for both legal and fine art purposes, although JPEG images from a good quality camera are usually more than adequate for



**Even better than painting a picture with words alone is to show the picture while filling in the details verbally.**

family and casual use. However, effectively using a RAW photo file format requires more sophisticated photo software. I have found that, from both a legal authentication perspective and a fine arts perspective, Adobe's Lightroom 1.2 is an ideal way to initially organize and correct photographic images. I have been working with Lightroom since its first public beta about a year ago and it is the first photo program that I turn to. I particularly

like Lightroom from an evidentiary authentication perspective because it keeps an audit trail of all changes that you might make to a file and allows you to back them out to the original image as it came out of the camera.

Lightroom is something of a revolution in Windows photographic software and is unique among Windows photo software. It works with almost all JPEG, TIFF and RAW image formats, allowing a very wide level of fast, easy, sophisticated corrections of the sort that would have been done legitimately and routinely in film darkrooms years ago. All corrections made with Lightroom are reversible and made non-destructively. Lightroom's database approach includes very good image organization, keyword labelling, and cataloging features that makes reviewing your photos and finding a particular image very quick and easy. Corrections are fast and easy with Lightroom, with the results immediately visible on your screen.

Lightroom is pretty easy to use so long as you have some grounding in photographic fundamentals. Indeed, my 13 year old has figured out the basics of Lightroom without resorting either to the printed manual or to her “mental manual”, i.e., me. Adobe designed Lightroom's interface and functionality through an unusual public beta testing program in which a usable and fairly stable beta version was made freely available to the public, which was invited to critique and suggest functional and interface changes to Lightroom's initial version. The result is software that was essentially designed by photographers for photographers and replicating what you could do in a traditional darkroom. You can even lighten, darken, and intensify individual colors without affecting the overall photograph. Lightroom does not include the extensive image editing functions of Photoshop and other image editing programs. Lightroom is particularly useful to the litigator who needs to authenticate photographs precisely because it is not a photo editing program like PhotoShop. You can't use it to paste a gun into someone's hand nor can you erase significant details nor alter overall perspective. What you can do is make terrific looking digital photographs complete with an XMP file audit trail.

I believe that Lightroom is the perfect complement to any higher end digital camera that's capable of using both JPEG and RAW image formats, I use it as my primary photographic

software, and I highly recommend it. Adobe is very good about frequently updating Lightroom and Photoshop to work with new RAW formats.

Lightroom's sole major flaw, in my opinion, is its imperfect printing module. In the end, you'll need to print your exhibits and Lightroom still has problems matching what you see on the screen to what comes out of your printer, which brings us to Adobe's Photoshop CS3.

Adobe Photoshop CS3 and Lightroom are complementary. I believe that you would do well to acquire and use both programs even though the initial purchase of each is expensive. However, Adobe regularly provides free intermediate upgrades and automatically installs them to your software. The cost of a major upgrade every few years to a wholly new version is pretty reasonable.

Lightroom is basically a “developing” program that's intended to mimic the traditional corrections that a good color printing lab used to perform routinely when making custom photo prints. In turn, a photograph whose initial corrections were made with Lightroom can be automatically transferred to Photoshop CS3 for further, more specialized work and ultimate printing. CS3 is the gold standard for professional grade imaging software and it has numerous capabilities that you did not even know that you needed, such as the ability to stitch a series of photos together into a single panoramic image, which can be very useful in personal injury and real property litigation. CS3 also has several modes that can automatically correct multiple image problems with one or two mouse clicks. Photoshop ships in several versions, with more expensive versions such as CS3 “Extended” including more features. However, the basic functionality is the same. I always resize and print my photographic exhibits using Photoshop, regardless of how I initially processed and corrected them. Photoshop can provide extremely consistent printed results once you've calibrated your monitor and printer so that whatever you see on your screen is the same as your final printed exhibit or photograph, which saves a lot of time and wasted materials. In a sidebar to this article, I'll describe how I combine the different strengths of Lightroom and Photoshop to produce very large high quality prints using an HP DesignJet 130 printer, which I consider to be the most economical high quality wide format printer on the market today when used with the optional HP roll paper feed.

Noise reduction and sharpening are critical photo processing functions that greatly affect the quality of your final output. Although Lightroom, Photoshop and other general purpose photo programs typically include noise reduction and sharpening functions, my experience is that specialized third party programs seem to do the best job. After much experimentation with various third party noise reduction programs, I found that Noiseware Professional from Imagenomic ([www.imagenomic.com](http://www.imagenomic.com)) seems to do the best job. In

*Continued on page 15*

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## HI-TECH IN THE LAW OFFICE

## Digital photo techniques

*Continued from page 14*

fact, I felt that Noiseware's gain in sharpness and noise reduction was sometimes so dramatic for photos taken with several 6 MP to 9 MP cameras that the resultant improvements were equivalent to buying next generation cameras. Noiseware is available as a purchased Internet download. The standalone program is \$44.95 while the version that "plugs in" to Photoshop CS3 and Photoshop Elements and works within those programs costs \$69.95. I prefer the plug-in version for Photoshop. It allows a finer level of control.

**Exhibit Printers, Media, and Mounting:**

Because some of my prior articles discussed large format photo printers suitable for making big exhibits for use in court and because printer models do not change very quickly, there's no need to again review various large format photo grade printers. However, as a bonus, if you are so inclined, you can do some serious, high quality personal and fine art photo printing with the same exhibit printers that I recommended in my last article, the 13"x19" Canon Pixma 9000 (\$400 average Internet price) and the \$1,800 HP DesignJet 130 with 24" roll feed. If you choose to buy a wide-format DesignJet 130, which makes sense because it is ultimately the most economical approach to making 13x19 and larger exhibits and photographs, then I strongly recommend that you purchase the printer, roll feeder and network connection at a competent local HP professional dealer and have the dealer's personnel

set up and calibrate the printer and teach you how to use it.

As to print media, Canon's Photo Paper Professional (high gloss finish) is wonderful but I have also found that Ilford's Galerie and Printasia glossy finish papers work very well with the Canon dye printers at about half the price. I have not been comparably satisfied when using non-HP photographic paper with the HP DesignJet 130. However, HP has a wide range of excellent roll papers intended for the DesignJet series. I prefer HP's Premium Plus Photo Satin paper, HP product number Q5491A, which has a tough semi-gloss finish that's both very resilient and capable of quite beautiful prints when used with HP's maximum detail print driver. I prefer HP Photo Satin for both legal and fine art photographic projects when I need to make big prints. In 24"x50" rolls, HP's Photo Satin Plus costs about \$1.60 per lineal foot of 24" wide roll paper, and my best estimate of the corresponding ink cost is about a dollar per lineal foot. Hence, a high quality, full color 24" x 36" photographic exhibit would cost about ten dollars, excluding staff and equipment purchase expenditures. In times past, when silver-based photography was still king, I expected to spend ten times that amount for a commercial lab to make a comparably big exhibit. HP also makes some very nice heavyweight coated papers that are quite adequate for exhibits consisting mostly of text or other monochrome images. These are less expensive, costing about \$.90 per lineal foot in 24" rolls, but are quite adequate for exhibits that do not require the highest level of photographic quality, such as blow-ups of contract

language, letters, plats, etc. Your cost to print a 24"x36" text exhibit would likely be under five dollars each. With the advent of digital photography, you can easily afford to use large, high quality photographic exhibits in any case, even a small claims action.

Remember to mount your large exhibits so that they will be easy to handle at trial. Fumbling with a large exhibit that's trying to curl is probably one of the most effective ways of losing both your own train of thought and the attention of your audience. I suggest buying a large box of 32"x40" artist's foam backing board with a self-adhesive face. 1/8" thickness is probably adequate but 3/16" is stronger and stiffer, an advantage with very large prints. This method is the fastest and most effective way to prepare your big exhibits for trial. Ideally, you would use a framer's mat board cutter (a good one such as the Logan 750 Simplex costs about \$250) to ensure a neat, professional-looking cut. When bought in case quantities, self-adhesive foam core mounting board costs about twelve to fifteen dollars per 32"x40" full sheet. If you make smaller 20"x24" exhibits, which are fine for bench trials but probably too small for presentation to a jury, then you can cut a full sheet in half and mount two smaller 20"x24" exhibits.

**Digital Presentation in the Courtroom:**

I believe that it's most effective and facile to combine printed exhibits with digital projection. Properly mounted large still photographs may be easier to handle, especially during presentation of evidence, and may be

generally preferred by some judges and jurors. In any event, judges and jurors will need a marked and admitted exhibit during deliberations or in chambers and you will need to ensure that the record is complete in the event of appellate review. However, simultaneously digitally projecting a very large, highly detailed still photographic image often has more impact when viewed at a distance by the trier of fact, also allows you to zoom in and enlarge critical points such as construction details, and is particularly suited to fast-paced trial aspects such as opening statements, cross-examination and closing arguments.

Digital projection is unavoidable when you're using video, such as clips from a video deposition or from an inherently moving subject such as driving through an accident scene and digital video can be readily embedded in Acrobat format pleadings using Adobe's Acrobat Professional 8. I have found video clips embedded in Acrobat pleadings to be a surprisingly powerful means of illustrating important points in a case.

When using video, you will likely need to make it part of the record. I usually provide a CD or DVD containing the video clips or the Acrobat file that includes embedded video clips. Be sure that any CD or DVD that you make uses a standard video format that's compatible with Acrobat and with the Court's own computer equipment. After some trial and error, I have settled upon the Windows Media video and audio file formats. Using them may require conversion

*Continued on page 16*

## Which Photo File Format: RAW or JPEG?

For many years, the standard digital still photographic format has been the highly processed and compressed "JPEG" (or JPG) photo file format. Almost all casual cameras are limited to taking photographs only in JPEG format. JPEG's great advantages are that it is a universal ISO standard format usable by almost all photo and word processing software and that its compressed nature allows more images to be stored on a memory card.

JPEG's great advantage, file compression, is also its greatest disadvantage. That same compression usually degrades sharpness, image quality and the ability to later correct an image, at least to some extent. Every time that you work with a photo file and save it in JPEG format, you continue to again compress it and permanently lose more overall image quality and also any information about earlier changes to the photo file. This can affect your ability to authenticate a photo during later phases of litigation and, if you are also interested in fine art photography, using JPEG really undercuts your ability to correct and enhance your photographs. Because each JPEG image file is smaller than images taken in a RAW format, JPEG images are saved more quickly. JPEG is accordingly better suited for taking casual pictures of general non-evidentiary subjects and of quick action such as sports.

The advanced but less common alternative to JPEG is a "RAW" photo file format, which directly saves the raw data from the image sensor without any alteration by your camera. Photos taken in a RAW format are usually later processed by specific software on a personal computer. Most RAW formats are proprietary to a particular manufacturer and a specific product line although Adobe has published a public universal "DNG" RAW format whose availability and intent is similar to Adobe's universal PDF document format. A few top manufacturers, such as Leica and Pentax, now use Adobe's DNG photo file format in their higher end products. Adobe also publishes a free DNG conversion program that will translate and save all supported proprietary RAW format files into separate universal format DNG files for archival preservation. Here is a link to an interesting video demonstration showing why shooting in RAW format can improve your quality. This article focuses mostly upon color correction but shooting RAW format usually results in higher resolution and lower noise in the final print as well. <http://www.poppphoto.com/popularphotographyfeatures/4681/digital-toolbox-why-raw-works.html>

There is one other ISO-standard uncompressed file format, TIFF, which is now used mostly as a high quality ultimate output for JPEG and RAW photo files after they have been processed and converted on your computer. Earlier versions of TIFF formerly were used to store imaged document files, a role now largely subsumed by the much more versatile and efficient PDF format. TIFF images are very large, in fact about three times larger than the corresponding RAW file. Although TIFF is much too slow to use when taking pictures and too large for direct use when preparing insertions into the body of a pleading or other written document, TIFF is ideal for standardized high-quality storage of images already processed on your computer, is a usable format for most photo processing programs, and is even readable by the fax viewer built into Windows XP. For best quality, always save any processed RAW images in 16-bit TIFF format. If you intend to insert any photographic images into your pleadings, then you'll need to convert TIFF or RAW files to a compact JPEG format, something that's easily done with better photographic software such as Adobe's Photoshop CS3, Photoshop Elements or Lightroom. I save both JPEG and RAW images as 16 bit color TIFF after I have made any corrections to a copy of the original photo file. As with RAW files, corrections later made to TIFF files by Lightroom can usually be documented, reviewed, and if necessary backed out.

Most consumer-oriented cameras are limited solely to JPEG format. However, all modern interchangeable lens digital SLR cameras such as those made by Pentax, Nikon and Canon, and a few advanced compact and super-zoom cameras such as the Canon G9, the Panasonic LX2, FZ8 and FZ50, and the Fujifilm S6500, S9100, and E900, allow you to choose between RAW and JPEG formats. The semi-pro Pentax K10D digital SLR goes further, also allowing you to choose between Pentax's normal proprietary RAW photo format and Adobe's DNG RAW format. I personally use the DNG format with a Pentax K10D dSLR.

I recommend using an uncompressed RAW photo file format wherever possible both because of its potentially higher quality and because it is easier to authenticate the final exhibit for litigation purposes. However, in order to use RAW file formats properly, you'll need some more specialized software, for which I recommend Adobe Lightroom, although Photoshop CS3 and Photoshop Elements 6 allow the same degree of ultimate control over a RAW file although not quite as facily as Lightroom.



## Digital photos

*Continued from page 15*

from whatever format is used by the digital camera or video recorder with which the image or video was taken. It's likely that you'll need to process and/or convert your video in order to make clips to embed in an Acrobat-based pleading or to project in court. I have found that Pinnacle Studio Plus works well, although learning how to use it correctly requires some time and effort.

Most consumer digital cameras include some form of video clip format but the file format, video image quality and allowable video clip length vary greatly from model to model. Digital SLR cameras are inherently incapable of making video clips, which is a strong argument for choosing a semi-pro grade compact camera over a digital SLR for daily legal use. Although some camera manufacturers like Kodak use Apple's flexible, compact QuickTime video format (which I prefer), others use the old AVI, which I find much too bulky and unreliable.

Because of recent electronic advances by Texas Instruments, high quality digital projectors are now quite inexpensive and available from a variety of vendors for about \$800. Choose a top tier brand such as View-Sonic or Epson and be sure that the digital projector has a light output of at least 2000 lumens, that it has at least 1024x768 XGA resolution, and that it synchs with your notebook computer.

Because digital projectors are so versatile and inexpensive, I no longer bother with the extra clutter and hassle of a document camera in court except for highly specific real-time needs such as magnifying a physical object. It's usually easier, more efficient, and more versatile to just directly project a PDF image of a document rather than putting a piece of paper under a document camera.

Technology is a wonderful aid to courtroom presentation, being faster, more efficient, and more effective. However, there will be times when your in-court technology may fail or simply be cumbersome under the circumstances. As a fail-safe backup, I still take a trial notebook and complete sets of printed exhibits with me to Court, just in case. And, I've needed them on occasion.

## A quick how-to approach to exceptional quality large photo exhibits

Although this procedure may sound somewhat complex, it's actually faster to do it than to read about it once you've done it a few times and have calibrated your monitor and printer.

- 1 Shoot photo exhibits in high resolution RAW format wherever possible. Always work with a copy of the original file.
- 2 Periodically calibrate your monitor's display to ensure correct color and other display parameters. I have found that the inexpensive Pantone Color Plus hardware/software combination works well. Although initial calibration may take some time to figure out, it quickly repays your effort and cost because your large prints will be correct the first time rather than making more and more aimless "corrections" that result in wasted time and materials.
- 3 Calibrate your printer by using the specific paper and ink combinations recommended by the manufacturer and for which the manufacturer supplies calibrated profiles. When you print from Adobe Photoshop, choose the vendor-supplied profile for that specific printer and paper combination. Surprisingly, different papers and inks may produce prints that differ radically from what you saw on your computer screen. I prefer using HP's Premium Plus Photo Satin (Q5491A) in 24" rolls with HP's maximum detail driver for that paper and printer.
- 4 Set Adobe Lightroom to track any changes that are made to a RAW photo file with an XMP sidecar file. The XMP sidecar file is your audit trail.
- 5 Set both your camera's and Lightroom's noise reduction, contrast and sharpening defaults to a low setting. Although the photos won't look as sharp or snappy if printed right out of the camera, you can make these corrections much more effectively with post-processing just before you make your full-size final print.
- 6 Import and open new photos in Adobe Lightroom, make any corrections using the right side panel's slider bars, and export the corrected file as a 16-bit TIFF format file to an appropriate case subdirectory. Set the Lightroom export function to automatically open the exported TIFF file in Adobe Photoshop CS3.
- 7 In Photoshop CS3, run the third party Noiseware Photoshop plug-in using the "Filter", "Image-nomic", "Noiseware Professional" menu items. Defaults usually work fine but be careful not to over-sharpen by running a sharpening function too many times. You'll know that you've over-sharpened if you start losing detail after sharpening and instead end up with a lot of hard edges and blank surfaces. If this happens, then just undo the sharpening by selecting the "edit" "Undo" menu item immediately and do not save the "corrected" file. If you do so by mistake, just go back to Lightroom and re-export the TIFF file again.
- 8 Then, in Photoshop CS3, first use the "Image", "Image Size" menu item to resize your photo exhibit to the desired width and height dimensions while retaining a 300 dpi or higher resolution. Although this does not actually add additional data or details that were not previously present, the resultant image looks a lot better when made into a really big print.
- 9 Upon resizing, you can run the Noiseware filter one more time in Photoshop CS3 but check immediately afterwards to ensure that you did not over-sharpen.
- 10 Now, proceed to setting up the printed page. In Photoshop CS3, choose "File" "Page Setup", and then choose the printer, paper size and output quality. For my DesignJet 130, I use the following functions for large 18"x24" or "24"x36" output on to roll paper. Paper size Super C /A2 is used for 18"x24" prints while Super D/A1 is used for 24"x36" prints. These settings provide the best possible print but printing at best quality and maximum detail is definitely slower than printing to a normal level of quality.
- 11 After you've set up the page, go to Photoshop's print function, set for maximum detail and application controlled color management. The select the print function and check that you are printing to the correct printer and using the right paper-printer profile.
- 12 Print the exhibit or photo, allow to dry thoroughly without touching the surface, and then decide whether to accept this print or try again with other corrections.
- 13 Close the file without saving the larger re-sized file. The re-sized file does not contain any more information than the original TIFF file exported from Lightroom.
- 14 Many of the same Photoshop CS3 functions described here can also be accomplished with the less expensive "lite" version of Photoshop, Photoshop Elements 6, which also works with the Noiseware Professional plug-in that I like so much. Costco sells Photoshop Elements 6 for about \$80.

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NEWS FROM THE BAR

# An overview of Alaska Bar’s Casemaker service

By Catherine Lemann

Casemaker is a new member benefit provided by the Bar Association. Casemaker content includes statutes and cases from all 50 states, plus federal. Alaska information includes cases, statutes, attorney general opinions, ordinances, jury instructions, and court rules. Expect to see additional content, particularly more Federal cases, in the future.

When you select the Alaska library, check the Current Contents Information link at the bottom of

the page. It shows the currency of the information on the site. A helpful feature is the Last Week’s Case List link which lists, but does not link to, the most recent decisions.

A nice feature of Casemaker is that query help is shown underneath the Basic search box. The search strategies for the basic search and advanced search are the same. However, with the advanced search, you have fields and other ways to narrow your search. You can search by citation, for opinions on a topic written by a particular judge, or limit by date. Search results

can be displayed in ascending or descending date order or by relevance. Decisions include page numbers from the West reporters.

Each legal research search engine employs slightly different strategies. It is important to pay attention to the examples. For instance, “assault weapon” retrieves cases with that term, (assault, weapon) retrieves cases with either assault or weapon, and assault weapon retrieves cases with both terms in the same case. In Advanced Search it is possible to vary proximity.

For state cases, Casemaker displays a list of all cases that cite to the case you are viewing. There is no analysis available. If you choose the print document button, the case will be displayed without the menu bar. Dual column printing is not available.

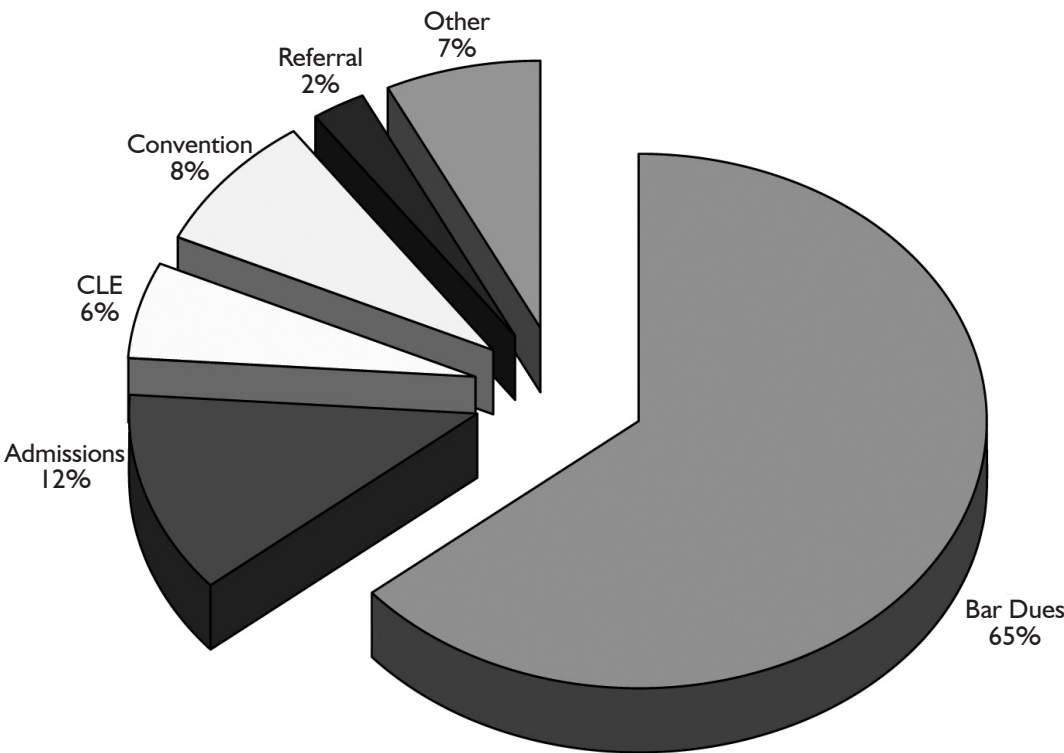
Users of more expensive computer assisted legal research tools will need to adjust their expectations when using Casemaker. It will be a useful tool for Alaska attorneys who are willing to learn its search strategies.

(See a selection of user tips on page 9)

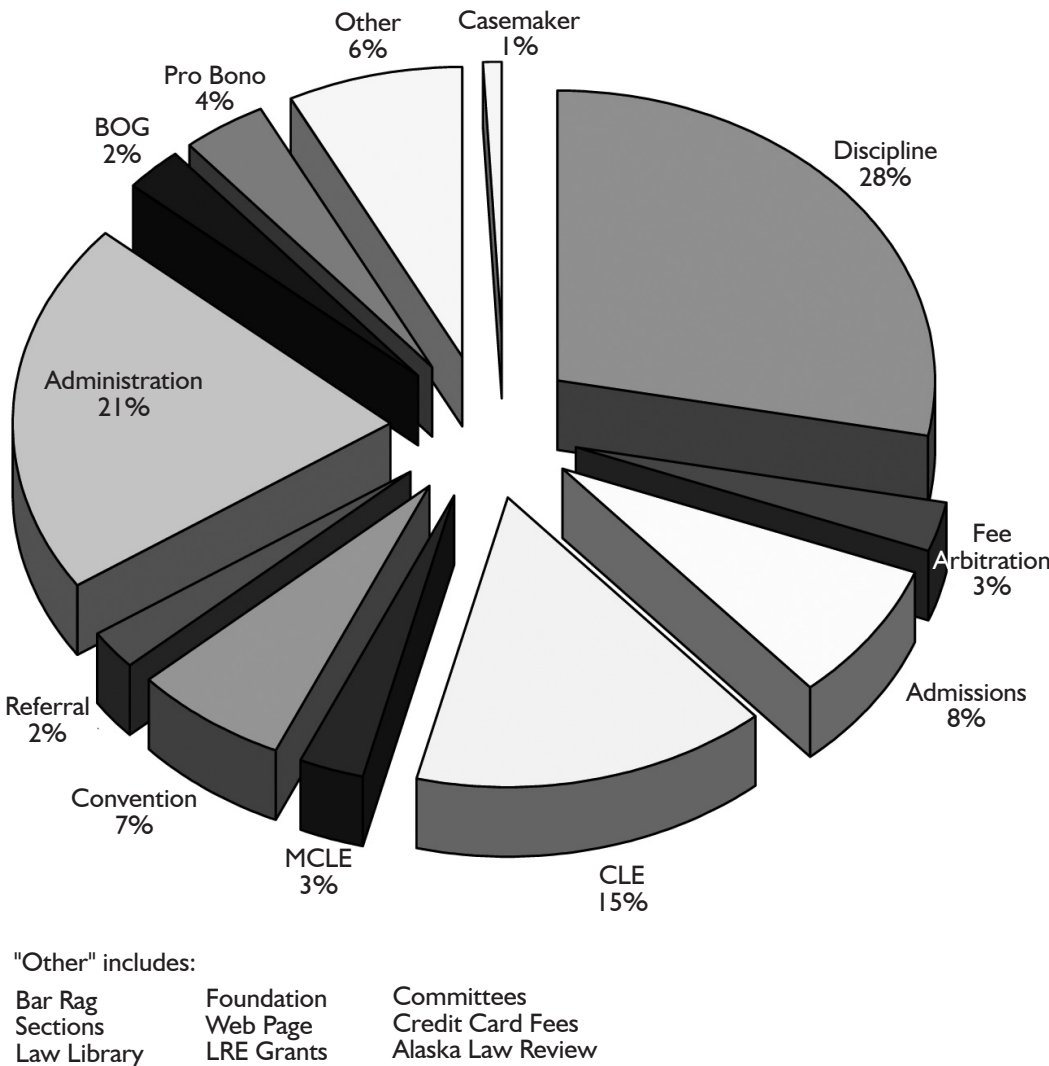
## 2008 Budget

REVENUE	
Admission Fees - All	241,000
ContinuingLegalEducation	116,266
Lawyer Referral Fees	46,500
The Alaska Bar Rag	15,689
Annual Convention	168,325
Substantive Law Sections	16,745
ManagementSvc LawLibrary	518
AccountingSvc Foundation	13,064
Special Projects	
Membership Dues	1,235,665
Dues Installment Fees	11,030
Penalties on Late Dues	21,100
Disc Fee & Cost Awards	
Labels & Copying	2,335
Investment Interest	95,000
State of Alaska	
Miscellaneous Income	500
<b>SUBTOTAL REVENUE</b>	<b>1,983,737</b>
EXPENSE	
Admissions	195,867
ContinuingLegalEducation	383,837
VCLE/MandatoryContinuingLegalEducation	66,584
Lawyer Referral Service	55,625
The Alaska Bar Rag	40,484
Board of Governors	59,764
Discipline	700,328
Fee Arbitration	73,269
Administration	525,301
Pro Bono	94,868
Annual Convention	167,839
Substantive Law Sections	8,597
ManagementSvc LawLibrary	4,858
AccountingSvc Foundation	13,064
Special Projects	
Law Related Education Grants	10,000
ADA Member Services	1,000
Casemaker	22,644
New Lawyers Travel	3,000
Committees	8,610
Duke/Alaska Law Review	22,500
Miscellaneous Litigation	
Internet / Web Page	13,328
Loan Interest/Loan Fees	
Computer System Training	
Lobbyist	7,206
Credit Card and Bank Fees	27,195
Moving Expenses	
Computer Training / Other / Misc.	2,500
<b>SUBTOTAL EXPENSE</b>	<b>2,508,268</b>
<b>YEAR TO DATE EARNINGS</b>	<b>-524,531</b>

## 2008 Revenue Budget



## 2008 Expense Budget





# Ghost town: 4 dipnetters test their luck in Chitina

By William Satterberg

“Where the hell is Chitina?”

The quotation about Chitina was once a famous bumper sticker in Alaska. The quip came out during the 1980s. It was a publicity stunt. It was one of the better plays, possibly concocted by the artsy/craftsy crowd that has chosen to inhabit Chitina. Either that, or some drunk who was lost at a highway roadhouse. In retrospect, probably the latter of the two.

For those who don’t know, Chitina is on the road to McCarthy. McCarthy is also a haven for artsy folks. And drunks. Over the years, McCarthy has attracted people the likes of John Denver, Kelly LeBrock, and Steven Seagal, as well as other famous and not so famous personalities, like the Brain brothers. The legends of executive jets flying into Gulkana, to be met by helicopters or aircraft to then whisk these famous personages into the Alaskan wilds, are well known. Serial killers and ne’er-do-wells have also inhabited McCarthy. During

to be Fords. Secondly, Chitina has probably the largest dry standing spruce forest in Alaska, a dead testament to the voraciousness of the spruce bark beetle. And, finally, Chitina is well known among diehard Alaskans as the dipnetting capital of the State.

But, alas, even the dipnetting frenzy has caught on and expanded. Many people who previously would have dipnetted only at Chitina now find themselves pursuing their quest for the elusive red salmon in streams closer to the large metropolis of Anchorage in the Matanuska Valley, or on the Kenai Peninsula.

As such, Chitina is once again becoming known as the ghost town, a reputation which it deserves once



The entire dipnetting process is tiring. Fortunately, eventually, the desperate dipnetter eventually gets the hang of the process, usually at the end of the trip, and can actually develop a “feel” for the bottom of the river bed.

the fine, silty sand which cascades in clouds across various open areas. Yet, as the fish wheels ply their trade, plopping juicy red salmon from the rich Copper River into waiting baskets, another species of creature, the subsistence fisherman, find themselves either chest deep in the flowing waters of the very swift Copper River, or sometimes drifting down the river in various rafts and riverboats, dragging the well known “dip net” behind them, or simply drifting down the river alone hoping frantically their life jackets will continue to work.

When I first heard of dipnetting in Chitina, I had visions of simply climbing in my car, driving down to the town in a 5 hour epic crusade similar to Disneyland’s Mr. Toad’s Wild Ride and quickly scooping my quota of red salmon out of the river as fast as my chubby little arms could work. My coffers full, I would then return to Fairbanks. Sadly, I was quite mistaken.

First of all, I learned that the drive to Chitina is, at best, a 5 ½ hour drive, assuming one chooses to follow the law. Fortunately, however, there is a straight stretch of highway near Donnelly Dome south of Delta, populated only by suicidal rabbits and Delta-based Trooper Nasruk Nay, who seems to favor the area. The rabbits can be run over. Trooper Nay, however, must be treated with more respect. Experience has shown that, despite the straight stretch, the trip takes longer than it looks on the map, especially if one has to stop and exchange pleasantries with Trooper Nay. To add to the delay, when I first traveled to Chitina, the Edgerton Road, which is the road which departs from the Richardson Highway south of Copper Center, was, at best a very bumpy, dusty gravel road that took almost a full hour to negotiate even while sober.

Once I arrived in Chitina, I next learned that the dipnetting process was actually a very labor intensive activity. Not only did one have to find a precarious perch above the swift waters of the Copper River, but the net had to be continually swung to and fro along the river bank, scooping up the occasional red salmon that would find its way into captivity. Fortunately, or unfortunately, I was not alone on my first trip to Chitina.

My first trip to the Copper River was a classic initiation into the rigors of Chitina. I was destined to join the company of attorney, Mike Brain, and his little brother, Joe, a/k/a “The Brain Brothers.” During the stay, a somewhat submerged stretch of sandbar was staked out that would later become the salmon ambush site known as “Blood Beach.” Many innocent salmon lost their life on Blood Beach that weekend, only to be fought over later as the spoiling spoils were divided. It was at Blood Beach that I learned about the need to count salmon. Since then, I have become much more proficient at dipping.

The entire dipnetting process is tiring. Fortunately, eventually, the desperate dipnetter eventually gets

the hang of the process, usually at the end of the trip, and can actually develop a “feel” for the bottom of the river bed. As the salmon force their way upstream, usually in schools, the lucky dipnetters begin to cash in on their catch. Lucky netters eventually should “limit out.”

“Limiting out” is a term which is unique to fishermen. For dipnetters, it means that a person has scored far better than they would with a hook, line, and sinker. The usual legal limit for a single dipnetter is 15 fish per household. If a person is of the married variety, depending on how Alaska now defines marriage, the household can claim as many as 30 fish. Supplemental fishing is also being allowed in the event that a certain number of fish go past the sonar unit located somewhere downstream. These limits, moreover, do not account for the regular oversights that occur in impromptu fish counting in the field.

The perils of Chitina are not unknown. Dipnetting can be quite dangerous. Every year, it seems that some unlucky fisherman dies in the raging waters, trading their life against the possibility of recovering a lost dipnet, or bringing the last available fish to shore.

Moreover, simply scaling up and down the steep cliffs of the rock canyon on the Copper River can be a feat in itself. Yet, as people motor down the canyon in their unreliable riverboats, one regularly sees dipnetters tied off of rocks, leaning out over the fast, silty current, and doing their best to snag slimy fish, totally oblivious to the quick death which could occur should the rope snap, or they lose their footing.

Still, despite the treacherous nature of the Copper River at Chitina, there is something fascinating about red salmon from the river’s cold waters. Not only is it the fact that one is providing sustenance for the family, but the mad dash that most dipnetters made to Chitina is often well worth it. For myself, over the years since my first encounter with the Brain Brothers, I have done many a 24 hour turnaround to Chitina. Usually, I fill my coffers with more fish than I need. I then return to town exhausted and smelling like salmon, only to have to preserve the fish for the following year. Invariably, many of my victims ultimately end up freezer burned. Thankfully, food sealing machines have done away with a lot of the risk of unused fish. Besides, the leftovers from the previous year can often be smoked, or given to unsuspecting friends and tourists. Smoking fish can be hard on your lungs, however. It is best to give them away.

The summer of 2007 was another repeat performance of my Chitina dash. Yet, for some unknown reason, the summer of 2007 was also destined to be a spiritual battle of good and evil of the highest proportions. In that epic encounter, I was to be but an unsuspecting pawn. During the process, I was to learn first-hand that Chitina was, indeed, truly a ghost town, inhabited by aggressively competing kind and not-so-kind spirits.

The trip took place on a Sunday. We planned our traditional early morning departure, and left Fairbanks for Chitina at approximately



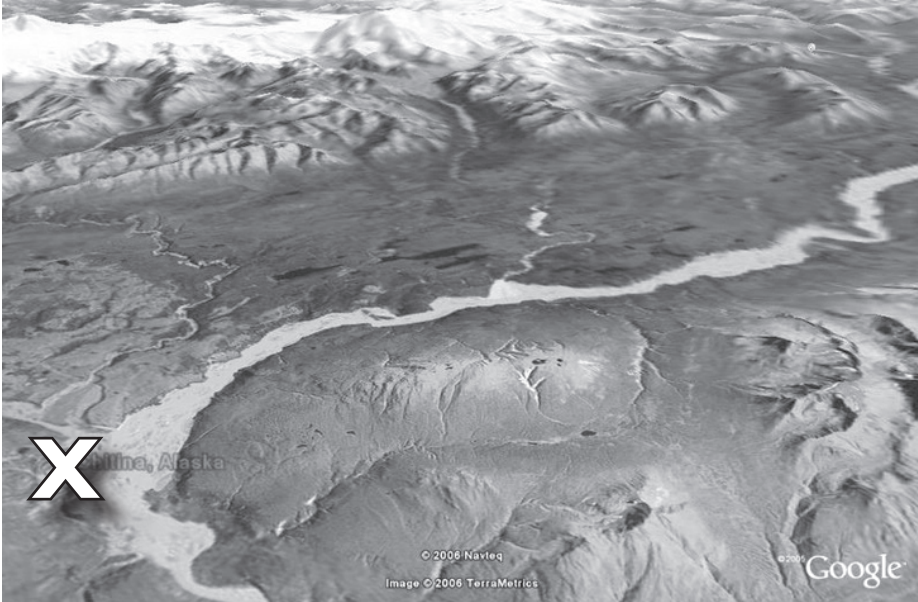
A peaceful look at Chitina prior to the arrival of the dips dipnetters.
--Chitina Chamber of Commerce

the process, although McCarthy has gained a substantial degree of what can best be termed “international fame,” Chitina, on the other hand, has been largely bypassed, relegated, instead, to what Chitina, itself, calls a ghost town.

Not that Chitina does not have its own attractions. First of all, Chitina hosts a veritable junkyard of old automobiles, boasting rusting remnants of various rigs that did not have the fortitude to make it all the way to McCarthy. Most vehicles appear

the doomed fish wind their way up the Copper River to their eventual demise as seagull food. (Not to be confused with Seagal food, which is in McCarthy.)

Chitina has spawned and retained, however, a whole following of dedicated dippers who still annually make a pilgrimage to the banks of the Copper River as it winds past Chitina. Traditionally, Chitina is a very windy location where vehicles and dilapidated camp trailers find themselves regularly sandblasted by



Somewhere down on this Google map (where X marks the spot) is where Bill & his buddies ran into trouble.

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## TALES FROM THE INTERIOR

## Ghost town: Cursed upon arrival

*Continued from page 18*

1:00 in the afternoon. I was in the company of three other friends, Rick, Greg and Tony. Rick had generously donated his riverboat in exchange for an ample supply of expense money to cover gas, food, and other libations. Because I was the second oldest in the group, I had the honor of riding shotgun in the right front seat.

The drive to Chitina was as expected. It was essentially a non-stop affair, with the exception of one gas stop in Glennallen, and a couple of tinkle stops on the roadside in between. Because my friends were from North Pole, country-western music abounded. We were serenaded by the delightful classic tunes of Merle Haggard, Tom T. Hall, and Willie Nelson. So much for the classics.

The expedition promised to be productive, and we were hopeful. We had already been told that the dipnetting in Chitina had been excellent. People were regularly limiting out. In addition, we had good equipment. Or so we thought.

It was approximately 6:00 p.m. when we stopped in Chitina. Surprisingly, we seemed to have set a land speed record for truck and riverboat. It was time to fish. So much for dinner. Fortunately, my urges to consume had been satiated by a two-foot long subway sandwich which I had bought at the Fairbanks Fred Meyers delicatessen. At least I was set, even if my friends had forgotten to bring food for themselves.

Sensing the pungent smell of victory in the air, which smelled a lot like rotten salmon drifting up from the riverbanks in the valley below, we pulled into the local store to acquire some crushed bags of ice. Rumor has it that fish that are kept cold tend to last longer than ones that are left laying in the sun for a period of time, unless you plan to give the fish away to friends and tourists, of course.

As we climbed out of the vehicle, Tony commented that the right tire on the boat trailer looked “just a little bit cockeyed.” This was an understatement. In fact, the fender was literally rubbing on the top of the tire. This unique suspension seemed to be rather strange from even my own rudimentary knowledge of mechanics. Clearly, further investigation was warranted.

Like the blind men examining the elephant, the four of us peered into the trailer’s wheel well. In short order, we simultaneously noticed that the trailer wheel was no longer connected to the axle. Even I understood the problem. In layman’s terms, we were screwed. The wheel bearing had totally burned out. We considered ourselves to be quite lucky that the wheel had literally not flown off of the trailer enroute to the location. Such a catastrophe would have undoubtedly dumped the boat and all of its contents into the middle of the Richardson Highway. Given the fact, furthermore, that our driver was in a hurry to get to Chitina, and the minimum speed limit, at least in his mind, allowed for at least 65 mph travel, if not more, the fact of the

matter is that the boat would have probably been thoroughly destroyed when the wheel disengaged from the trailer.

It appeared at that juncture that the trip was doomed. After all, we were still in the township of Chitina. We had at least three miles of additional travel down a steep, rocky road before we would even reach the boat launch. Given the trailer’s condition, launching the boat was out of the question. The wheel undoubtedly would have floated downstream along with the boat had we been lucky enough to arrive at the launching ramp.

Prolific discussion was had with respect to the solution. Tony generously volunteered his girlfriend to drive a wheel bearing down from Fairbanks. Trying vainly to interject some humor, I suggested that she use a car, instead. To my surprise, no one seemed to find any humor at all in my creative comment. I wisely shut up. Tony continued that, with any luck, his girlfriend with wheel bearing in tow would be in Chitina in approximately 6 hours if she drove all night. I thought twice about commenting on the wisdom of towing such a small wheel bearing, and kept quiet. According to Tony, we could repair the boat trailer quickly and then go fishing once the bearing arrived. Tony’s girl could go home. After all, priorities and bearings had to be set. It was at that moment that I was truly impressed with Tony’s bravado. He clearly was risking certain death at the hands of his ex-girlfriend for the good of the group.

While we were debating the options, a crusty, somewhat suspiciously intoxicated tourist in a soiled leather hat drove up in a panel van. Joining our group, he suggested that we wrap a well-oiled leather band around the wheel. He claimed that he had once used this repair on one of his own vehicles sometime in the past. A different approach was suggested by him, however, when we began to greedily eye the man’s leather head covering. In the end, we decided to locate the local mechanic which the tourist quickly volunteered that he had located previously when his own wheel bearing went out after his impromptu repair had later failed. So much for well-oiled leather bands. And, so much for well-oiled tourists.

While the three of us stood guard over the boat, bemoaning the fact that we likely were not going to be going fishing, Rick took off in the tourist’s panel van, complete with a matted, smelly Golden Retriever, in search of the elusive hometown mechanic.

In short order, the panel van returned. This time, it was followed closely behind by a rattle-trap flatbed truck. The truck stopped, and a grizzled older man climbed out of the cab. From all appearances, the old-timer looked very much like he should have had a job guarding the Chitina bridge from below the bulwarks and eating all of those who did not have the correct password. Either that, or he could have doubled as a crusty billy goat challenging all comers. Still, from the looks of his grubby

garb, he had all of the appearances of a mechanic, even if he did not have the obligatory name tag on his greasy coveralls.

Following a little bit of chin-rubbing, head-scratching evaluation, the mechanic announced that he had the solution to the problem. He would return to his house and be back shortly. Personally, I figured it would be the last time that we saw this individual. After all, it was Miller time in Chitina on a Sunday evening.

I was wrong. In five minutes, the mechanic returned. This time, he carried with him a brand new hub and axle assembly for the boat trailer. Even more surprisingly, within 20 minutes, the trailer was expertly repaired. But, perhaps the greatest surprise of all was that the total bill came to less than what the wheel hub, alone, would have cost at a trailer store in Fairbanks, not counting labor.

I began to think that the evil spirit which damaged the boat trailer had been outwitted by the good spirit which had brought us this kindly gentleman who repaired the trailer so quickly at a remarkably inexpensive price, and did so without complaining. Only after our mechanic had completed the repair job did I announce to him that I was a lawyer, not wanting to scare him off unnecessarily. And, only then, did he look at me like I was evil incarnate.

Collectively breathing a sigh of relief, we bid a fond farewell to the mechanic. Time was wasting, and there were fish to fillet. We quickly drove through town and down to the boat launch. We were all eagerly looking forward to getting our nets wet.

After the boat was backed into the river, Rick started the engine. He then proficiently backed the vessel off of the trailer and into the swift current. In scarcely 20 seconds, Rick yelled in a panic that he had lost reverse to his boat. His steering was also gone. Evil spirits again, I reasoned. Fortunately, Rick was close to shore and we were able to drag him to the bank before he drifted to Cordova. Good spirits prevailed once again. Rick’s future secure, we loaded the boat back on the trailer to analyze our latest problem.

The committee met. It became quite apparent that the problem was quite major, indeed. Once again, even I concurred. The entire outdrive reverse and steering unit of the jet drive on the riverboat had broken clear off. The aluminum holding the unit had suffered a fatal crack in the housing, causing the unit to dangle limply from two control linkages. In layman’s terms, we were screwed.

Once again, I voted to cancel the trip. Using my superb, respected attorney’s skills of deductive reasoning, I cogently argued that, without reverse, we were down, or up, the creek without a paddle. Besides, I was rapidly becoming superstitious. Little did I realize that esoteric logic was lost on this group. After all, I was the only one who did not live in North Pole.

Undaunted, Rick defiantly de-

clared that he was yet to quit. Telling us to dip from shore, Rick left the boat landing, trailer in tow loaded with broken boat, to once again locate our trusty Chitina mechanic who, hopefully, was still somewhat sober.

After Rick left, the three remaining crewmembers debated on what course of action to follow. Ultimately, the decision was reached to try to find somebody with whom we could go out to do some dipping in the event that the outdrive could not be repaired. After all, dipping from shore looked too much like work. Having proven myself to be well qualified in the subtle art of persuasion, I was elected to be the person who would scour the beach in search of a willing boat. This was a relatively simple task, since there was only one boat at the beach, several hundred yards distant. Wanting desperately to prove my abilities to my mates, I secretly hoped that the owner was not based in North Pole. If so, all logic would be lost. I would have to pay money.

As I approached the boat, it began to cast off. Undaunted, I continued my quest. Perhaps, I would get lucky. All of a sudden, the boat pulled back into the beach. I next heard somebody yell out my name in a very familiar, non-challenging tone.

Surprised, I returned the greeting and continued my approach. As I neared the vessel, I saw that the owner was a former client of mine. Hopefully, he had not been entirely dissatisfied with my services. Apparently, he was not. I also was enlightened to see that he was apparently off of probation. Either that, or he had been given a travel permit. To boot, one of his “deckhands” was young man who I had known when his mother was my legal secretary years ago. Following some discussion about our plight, my former client offered to take two of us out in his boat to do some local dipnetting. He also made it quite clear that gas money would be appreciated, and that he was sober. So much for gratitude for my legal services. Either that, or he still remembered my bill.

Of the three people remaining on shore, two of us went out for a brief period of dipnetting. We were remarkably unsuccessful in our endeavor. We caught no fish whatsoever in approximately a 20 minute span of time. In the meantime, a State Trooper appeared on scene. I became understandably nervous, figuring that there must be something else scheduled to go wrong. After all, the trip was not taking any particularly good turns. In my mind, the evil spirit had brought the State Trooper. The evil spirit, as well, had denied us our catch of fish as we drifted the river which, in retrospect, was probably really the good spirit’s work, since I had lingering questions regarding the legality of the system that our boat operator was employing. Attorney/client confidences, however, preclude me from discussing it any further.

Rather than push the issue, I

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Merry Christmas 🎁 Happy Holidays 🎁 Good will to all



## Ghost town: A high price for fish

*Continued from page 19*

announced to our boat driver that I would prefer to be brought back to shore. I stated that I had to join up with my friend, Rick, who had gone up to see the mechanic in Chitina. The boat driver was skeptical. He obviously felt safer with a lawyer on the crew. I next feigned that I was seasick, which did little to get his attention. Apparently it was a common occurrence for him. I even considered feigning a massive coronary. Fortunately, it was at that time that I spied Rick's truck, with boat and trailer attached, recrossing the bridge and entering the campground. I then whined that we were either going to be leaving shortly to go back to Fairbanks, or that our own boat had been repaired. Repair, however, was exceptionally unlikely. Ultimately, the boat operator relented and agreed to take us to the safety of shore.

Once again, the good spirits had smiled upon us. During the delay, the Trooper had driven down into the campground and had begun randomly checking licenses. Apparently, I was not the object of his attentions, after all. Once the Trooper disappeared into the trees, my former client quickly dropped the two of us off on a nearby fish wheel. We were then able to walk back towards the camp undetected. Another crisis had been averted.

As we neared the camp, I was once again surprised to see that my friend's riverboat was in the water. This time, it was plowing its way upstream, apparently in operating condition, with our other fishing partner aboard. Leaping wildly in the air, the two unnamed shorebound fishermen were able to flag it down. As the vessel approached shore, both myself and the other fishing partner who had been dipping with me off of the former client's boat, joined up with Rick and the other fisherman on Rick's boat. Reunited once again, we made a quick u-turn and headed downstream, soon traveling far out of the sight of the eyes of any curious law enforcement authorities.

Not, of course, that I do not like law enforcement authorities. In fact, they are one of my greatest sources of referrals, prompting me to deliver glazed donuts to the local police departments every Christmas Eve, with the exception of the drug unit, which always gets brownies or powdered sugar donuts. After all, police are a necessary evil. It was just that I had had way too much evil already on this particular date, given the nature of the events which were taking place and did not need any more. The clear competition between the good and bad spirits of Chitina was becoming all too apparent. I said a silent prayer of gratitude.

We headed downstream. About two miles later, we entered the dreaded Chitina canyon. The canyon is a rugged stretch of the river well known for having taken the lives of many fishermen. Swift water crashes through jagged rocks. Wild whirlpools rage and boil in ravenous cauldrons. Trapped in these maelstroms, full grown logs have been known to stand on end, swirling endlessly in search of a futile escape. And, encasing this wet

Dante's Inferno are the ever-present steep canyon cliffs, from which dipnetters dangle on thin ropes in their unending quest of the red salmon.

Much to our surprise on this evening, however, the canyon was virtually empty. This lack of fishermen was probably due to the fact that it was a Sunday evening and late at night. Either that, or the river had been closed to fishing. We later learned that our first conclusion was the correct deduction. Apparently only fools went out on the river at such obscure times. After all, no dipnetters meant no rescuers.

We soon found a little bay where the water was actually calm. With some effort, we were able to pull the boat into the bay and tie it up to a solitary tree embedded in a crevice. Despite the dangers of the canyon, the spirits were once again smiling upon us. Our boat secure, we were able to start our dipping. Soon, we would know if the fish rumors were true or not.

My net jiggled. My net wiggled. And, I giggled as my net jiggled and wiggled. And, my friends strangely moved away.

I was elated. So were my friends. I had caught the first fish. I then became dejected when, in helping Greg get a fish out of his net, my own dipnet slipped quietly over the side of the boat. It was quickly swept away. My dipnet was lost forever. At least, I had an excuse for not catching any more fish. Poor fishing is a curse of the Satterberg family. Past experience has shown that it is always best to try to conjure up an excuse in order to be invited along again.

Not wanting me to feel left out, Rick gave me his dipnet and ordered me to begin dipping in earnest. Personally, although I would have rather dipped into the water, I followed Rick's directions to the letter and asked Rick where I could find someone named Ernest. Rick became upset, apparently sensing I was somehow trying to delay matters. I then focused my attention on the river like my other two boatmates. I was hurt that my attempted humor again was not appreciated. Still, rather than being set adrift as a castaway, uncharacteristically I decided to be a team player. Over the next five hours, we were all able to amply fill our coolers with a beautiful bounty of red salmon, topped off by one unlucky king salmon, as well, which actually turned about to be a queen salmon.

Somewhere during the process, despite the fact that it was a beautiful, calm, and warm summer night in Chitina, Alaska, it became very dark outside. Time and the earth's rotation has a way of doing that. Eventually, Rick, who had been busily stacking fish in coolers, since someone had taken his net, unilaterally declared that it was time to leave. Something was obviously troubling him.

Just as we left the secure eddy in which we were docked, Rick announced that he had just lost



**What it looks like heading into treacherous Chitina Canyon (if you are a bird.)**

--National Park Service

all steering to his boat. This certainly was not an encouraging sign. We were over two-thirds of the way down the canyon and I, for one, did not particularly look forward to being dashed to our doom on the unforgiving rocks like those unfortunate sailors on the Rhine who succumbed to the sirens of the beautiful maidens of the Lorelei. The only steering which remained with the boat was nominal, at best. In layman's terms, we were screwed. This time, I elected to pray out loud.

As we began to work our way upstream, I began to roll from side to side on the boat, searching for sandbars and other pitfalls. The last thing that we wanted to do was to have the boat beached in the middle of the river, although that was unlikely given the speed of the water and its depth. More likely, we would simply swamp and die after the engine quit.

Each time that I would change position in the boat, Rick would grumble, claiming that the boat was increasingly harder to steer. Once again, employing my respected training in advanced logic and reason, I soon deduced that the problem which was occurring was not necessarily a steering problem. Rather, as I shifted my weight, the boat simply would turn to the heavy side. So much for my weight loss program. This time, being heavy was happy.

I yelled that I had found a way to steer the boat simply by running from side to side. Once again, the others did not like my humor. But, this time, I insisted on being heard, even if I was not from North Pole. Eventually, all agreed that the lawyer made sense, after all, after I demonstrated my hypothesis. In short order, we arrived at a formula where steep turns would require four people to be on one side of the boat, and, as the turns needed to be progressively less shallow, fewer people would lean over the edge. As Rick called out directions, we were actually able to navigate our way up the river in good form using this blubber-shifting technique. The good spirits were back.

That was not all of it. Somewhere along the way, the boat began to give off an extremely frightening vibration. We all noticed it. Uneducated in the ways of mechanics, I personally had visions of the crankshaft failing in the motor, causing the vessel to lose power completely with the engine maybe even exploding through the hull as if we had been torpedoed by an errant German U-boat. If that happened, without doubt, we would careen down the canyon to our inevitable demise. In layman's terms, we were really screwed, for our screw was failing.

I became even more religious, if such were available. I faced east, and thought about strapping on an explosive beet. After all, why not?

Something must have been good, and someone must have been good, too, because the boat continued to plow its way, fully loaded, up the

swift waters of the Copper River. Eventually, having run probably a mile from side to side in the boat, the vibrating vessel and its careening crew were deposited unceremoniously at the launch at the Chitina boat landing.

Glancing about quickly for a sign of our local Alaska State Trooper, we were relieved to find that he was a dedicated state worker. There was no sign of him. Like all good state workers, he must have gone home for the evening at the end of his shift. Nevertheless, we complied with the law, making sure that the fish fins were appropriately cut off to indicate that the salmon were subsistence fish. We also actually marked our fish tags accurately. Both of these procedures were new experiences to me. In the old days, these seemed to be only minor technicalities. Then again, given the luck that we had been having on this particular date, there was no sense leaving anything else up to chance. Besides, who eats fish fins, anyway?

It was 2:00 in the morning before we finally loaded the boat and began our trip back to Fairbanks. As the truck with boat and trailer attached made its way across the bridge, we once again breathed a collective sigh of relief. The end was finally in sight. We were only 5 ½ hours from home, warm showers, hearty meals, and a full afternoon of de-sliming and processing fish. Or so we thought...

As we drove through the sleeping ghost town of Chitina, we saw a large bull moose standing in the middle of the town munching happily on people's flowers. The animal seemed quite complacent, and we passed within ten feet of it. Given our experiences that day, I figured that this being must be some sort of spirit of Chitina. It certainly seemed quite at home. In fact, it was not at all fazed by our presence.

We rolled down the windows and all challenged the moose to find a better place to live. We warned the creature that the hunting season was rapidly approaching. We told him that, with any luck, he would soon be on our dinner table. In retrospect, perhaps it was something we said.

We had scarcely driven ten more feet after yelling at the moose when we heard a clanging racket coming from behind us. Once again, the moose did not seem to be concerned. It was almost as if he knew something that we did not. As we pulled over to the side of the road, we quickly noticed that one of the cross members on the boat frame had totally disconnected. This catastrophic failure had correspondingly dropped the boat through the trailer frame and almost to the pavement. In short, and in layman's terms, we were screwed. But, I no longer cared. I would gladly take a taxi home, if necessary.

And, as if that were not enough, it was now 2:30 in the morning. We were parked directly below the windows of the Chitina Hotel with its sleeping tourists. Sensing that our luck had run out, none of us felt particularly inclined to go wake up the friendly town mechanic, who had previously regaled us with stories of his violent life of crime before he had

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## ESTATE PLANNING CORNER

## Estate planning letters -- part 3

By Steven T. O'Hara

At Will and Trust signings, we often give the client a folder with letters on certain subjects that we had previously discussed. Then the client will have written reminders of certain matters to which to refer from time to time, and additional time will not be used at the signing to review previously discussed items.

Following are sample letters. Feel free to incorporate them into your practice. Previous issues of this column had other sample letters. For a copy of those articles, please call Karen Burgess at Bankston Gronning O'Hara, P.C. (907-276-1711). Subsequent issues of this column will have more sample letters.

**Cover Letter**

Dear Client:

Enclosed in this folder are numerous reminder letters relating to your estate planning.

As time permits, please study each of these letters and let us know if you have any questions or directions.

Thank you for giving us the privilege of assisting you in your estate planning.

**Funding Revocable Living Trust**

Dear Client:

This is a reminder of the need to review your Revocable Living Trust from time to time. This reminder summarizes our discussion concerning funding your trust.

Currently your Revocable Living Trust is funded with \$10. To our knowledge, it owns no other asset at this time.

Your spouse should not make any transfer whatsoever to your Revocable Living Trust. By the same token, you should not make any transfer whatsoever to your spouse's Revocable Living Trust. If your spouse were to make a contribution to your trust, for example, then she would

be the creator of that trust as to that asset contributed, creating at least potential adverse tax consequences.

Upon your death, your assets will be subject to probate unless they were previously transferred to your Revocable Living Trust. Probate is a title-transfer process, changing the title on property from the decedent to his beneficiaries. In Alaska probate is not burdensome. By contrast, probate in California and Hawaii, as examples, is worth avoiding.

If you ever acquire property outside Alaska, please consult counsel where the property is located on whether that property should be placed in trust in order to avoid probate.

Also, if you ever consider funding your Revocable Living Trust with substantial assets, please consult us. There may be pitfalls to changing the title on certain assets. For example, you should never transfer, during your lifetime, any retirement accounts you own to your Revocable Living Trust. Changing title on retirement accounts would constitute a withdrawal and be a taxable event.

Please remember to obtain a "name endorsement" on all insurance policies relating to trust property. These insurance policies would include fire insurance and other casualty loss insurance, title insurance, and liability insurance. A "name endorsement" would add the trust and you as Trustee as insureds under the applicable policy.

If, after reviewing your documents and asset ownership, you feel that changes may be in order, or if you would like to discuss your estate plan further, please call.

Thank you and personal regards.



**Also, if you ever consider funding your Revocable Living Trust with substantial assets, please consult us. There may be pitfalls to changing the title on certain assets.**

**Community Property for Married Clients**

Dear Client:

Alaska has community property as an alternative form of ownership. In order to create Alaska community property, you must enter into an agreement or create a trust.

From a tax standpoint, community property can be advantageous. It is possible the surviving spouse could obtain a 100% step-up in tax basis on appreciated property on the death of the first spouse to die.

On the other hand, community property is not without risk. For example, a 100% "step-down" in tax basis could

occur if values are depressed at the time of death. As another example, if one spouse is determined to owe a liability, there is a risk that at least half of the community property would be subject to that liability.

Please call if you would like our assistance in considering your asset ownership in light of Alaska law, including the Alaska Community Property Act. Thank you.

**Asset Equalization**

Dear Clients:

This is to remind you to consider equalizing the ownership of your assets. By "equalize," we mean to arrange your assets so each of you separately owns approximately the same amount of property. One way to "equalize" a particular asset (such as your home) is to separate ownership so each of you owns half separately, with no right of survivorship over the whole.

Without equalizing, the tax minimization planned under your Wills and Revocable Living Trusts will not

be achieved.

We recommend you have your equalization plans reviewed, to assure use of all available advantages and avoidance of disadvantages.

Careful attention must be given to the fact that one of you has liability exposure by reason of . . . Careful attention must also be given to how your retirement plans fit into this planning.

Regarding your various businesses, we recommend you consult the tax accountant for your businesses and determine whether there are any adverse tax consequences to equalizing. For example, if one of you has so-called suspended losses in his stock (i.e., losses in excess of basis), your transfer of stock could render you unable to use those losses.

The same concerns apply to any partnership or limited liability company interests that may be equalized.

This reminder is general in nature. We encourage you to consult us or other counsel of your choice with your specific questions. If you need any assistance, would like us to refer you to other professionals, or have any questions, please call.

**Follow-up Meeting**

Dear Clients:

At the signing of your Wills and Revocable Living Trusts, we discussed that you need to "equalize" the ownership of certain assets in order to minimize estate tax at your death.

We would like to invite you to meet with me on or about . . . to discuss with you how your asset-ownership plans are going. Such date will be . . . after you signed your Wills and Revocable Living Trusts.

Please call to make an appointment if you would like to meet on or about . . . or any other time.

As always, my very best.

## TALES FROM THE INTERIOR

## Ghost town

Continued from page 20

"gone straight." There was no sense tempting fate. Nor, as self-respecting Alaskans, did we particularly want to disturb the tourists. After all, it is bad for the State's image.

By then, Rick had already proven that he was not particularly farsighted with respect to wilderness boat trips. Not only had Rick not brought along the necessary repair parts for the boat, but the tool kit that he finally did produce looked like something which came off the lower bargain shelf at a defunct K-Mart store. Virtually every socket which existed was the wrong size, and the wrenches appeared to be made out of genuine plastic. In short, it was clear that we did not even have the necessary tools to be able to begin the repair job that lay before us. In layman's terms...

Innovation and intuition kicked in at that point. Eventually, among the four people present, we were able to jack the boat up, and somehow reattach the cross member to the frame.

By now, we were no strangers to the unexpected. There were no longer problems in life, but just challenges.

To accomplish our daunting repair task, we utilized a combination of nuts and bolts robbed from other less essential places on the trailer, straps, a nearby sledgehammer, and our loud, collective creative profanity. In less than 30 minutes, the job was complete. The boat was once again in a condition to travel. Without doubt, the several tourists which had awakened had to be impressed with our efforts, if not with our Alaskan vocabulary.

To my surprise, Rick wisely decided not to tempt fate with any more



Bill and his buddies attempt trailer repairs outside of the Chitina Hotel.

--University of Alaska archives

risks, so he held our speed down to 65 mph for the remainder of the trip home. Although I had certain questions in my mind regarding the wisdom of traveling even at such a reduced speed, Rick seemed to be a fatalist in that regard. On balance, I even think that Rick secretly hoped

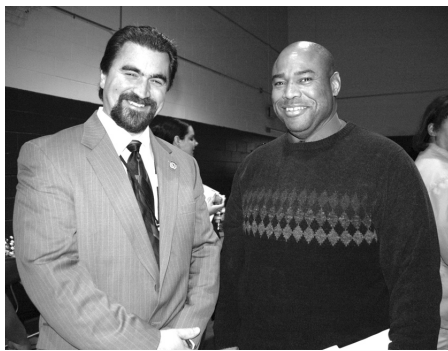
that something would happen to the trailer hitch, tossing the boat and its contents all over the highway behind us.

Yet, as we departed the ghost town of Chitina, I breathed a silent prayer that the evil spirit would leave us behind, and the good spirit would follow us all the way back to Fairbanks. My prayers were heard. At only one time during the return journey did I begin to suspect that the evil spirit had returned to haunt us. I again held my breath. Fortunately, before I passed out, Greg finally confessed that it was not an evil spirit after all. Rather, it was the jalapeno moose sausage he had secretly eaten for lunch. I once again breathed a bit more easily, but not much, since some things had a way of happening again.

At day's end, which was actually shortly after dawn, we all arrived home, safe and sound, with exciting stories to tell. Never again, however, will I, for one, tempt the spirits of Chitina. It is much cheaper and safer to shop at Fred Meyer.



# SUCCESS INSIDE & OUT



Alaska Commissioner of Corrections Joe Schmidt, L, and Hiland Mountain Correctional Center Superintendent Dean Marshall, R, both spoke at Success Inside & Out.

The 2007 Success Inside & Out conference was held Saturday, October 26, 2007, at Hiland Mountain Correctional Center in Eagle River. This year, over 90 women inmates participated in the conference, and over 20 community volunteers presented workshops and other activities. Success Inside & Out was initiated in November 2006 to help women inmates nearing their release date prepare for the transition to life outside prison. The goals of the program are (1) to provide mentorship and support for women in prison who are within one year of release by women judges and women professionals; (2) to provide women prisoners with information about resources available to them upon re-entry; and (3) to allow women judges and other women professionals the opportunity to participate in a program within the prison, observe the prison environment, and become acquainted with correction officials. The event is sponsored by the National Association of Women Judges, the Alaska Court



Shirley Mae Springer Staten, who performed several songs and offered motivational remarks throughout the day, receives a standing ovation at the close of the conference. Staten shared her struggle to overcome an inability to read until she was well into adulthood, urging participants to try small incremental steps to overcome their own obstacles.

System, the Alaska Native Justice Center, and Hiland Mountain Correctional Center. An outgrowth of the 2006 SIO conference is Bridge to Success, a new program at the Alaska Native Justice Center that offers community services and support to women who have been released. The Success Inside & Out and Bridge to Success programs are currently collaborating on a photo-text exhibit featuring women in reentry, "INSIDE/OUT: FACES OF CHANGE...Women Leaving Prison," which will be on display at Side Street Espresso in

Anchorage throughout December and will travel to other locations in the new year. For more information about Success Inside & Out, please contact coordinator Brenda Aiken,

907-264-8266, [baiken@courts.state.ak.us](mailto:baiken@courts.state.ak.us). For more information about Bridge to Success, please contact coordinator Janice Weiss, 907-793-3550; [jweiss@anjc.net](mailto:jweiss@anjc.net).



Stacy Marrs of the court system's Family Law Self-Help Center, L, listens to a question during the SIO workshop on child protection cases. In the background, Nancy Groszek, former Public Defender; Judge Vanessa White; and Barbara Malchick, Office of Public Advocacy, also participated in the workshop.



Chief Justice Dana Fabe, R, Chair of the Success Inside & Out Steering Committee, greets conference participants at the registration table with Steering Committee Members Mary Hughes, L, and Linda Duck, C.



The conference included a panel presentation by three women who served time at Hiland Mountain but are now living successfully in their communities. L-R, Janice Weiss, Coordinator, Bridge to Success; Margi Mock, Public Defender, Panel Moderator; Elizabeth Halberg; Kim Guerin; and Linda Smith.

*Photos by Barbara Hood*



## Free PACER access at all Alaska Court System Law Libraries

The United States Administrative Office of the Courts and the Government Printing Office have launched a two year trial of providing free PACER access in libraries that participate in the Federal Depository Library program. The Alaska Court System Law Libraries were chosen as one of only sixteen test sites.

PACER is an electronic public access service that allows users to obtain case and docket information from Federal Appellate, District and Bankruptcy courts, and the U.S. Party/Case Index via the Internet. The goal of the project is to determine if Federal depository library no-fee access expands usage to those who currently do not have access or would be inhibited by going to a courthouse to use the service. The library's application for inclusion in the test stressed the difficulty that many Alaskans have traveling to the Federal court offices. With seventeen libraries throughout Alaska, the Court System libraries provide easier access to PACER.

Users will be asked to complete a short survey after using the service. The library will be reporting usage to GPO every two months. We hope that the trial will be successful so that free PACER access will be available in all FDLP libraries in the future.

— Catherine Lemann



Fairbanks rock-star wannabee Bill Satterberg performed incognito as Elvis in December. Court colleagues requested his appearance at Beverly Brees' birthday party, suffering through 3 Elvis renditions. Satterberg commented, "I don't recommend Spandex." Here, he's crooning "Love Me Tender."

*Nice try:*

## Cleaner wins \$54 million pants lawsuit

The owners of a Washington, D.C. dry cleaner who were sued for \$54 million over a missing pair of pants have closed and sold the shop involved in the U.S. dispute, their attorney said in October.

The South Korean immigrants are citing a loss of revenue and the emotional strain of defending the lawsuit. They will focus their energy on another dry-cleaning shop they still own, said their attorney, Chris Manning.

"This is a truly tragic example of how devastating frivolous litigation can be to the American people and to small businesses," Manning said in a statement.

Soo Chung and her husband, Jin Nam Chung, faced more than two years of litigation after a former customer at Custom Cleaners alleged they had lost a pair of his pants, then sued for \$67 million under the city's strict consumer protection act.

Plaintiff Roy L. Pearson, a local

administrative law judge, later lowered his demand to \$54 million. He said the "Satisfaction Guaranteed" and "Same Day Service" signs that once hung in the shop were misleading and fraudulent.

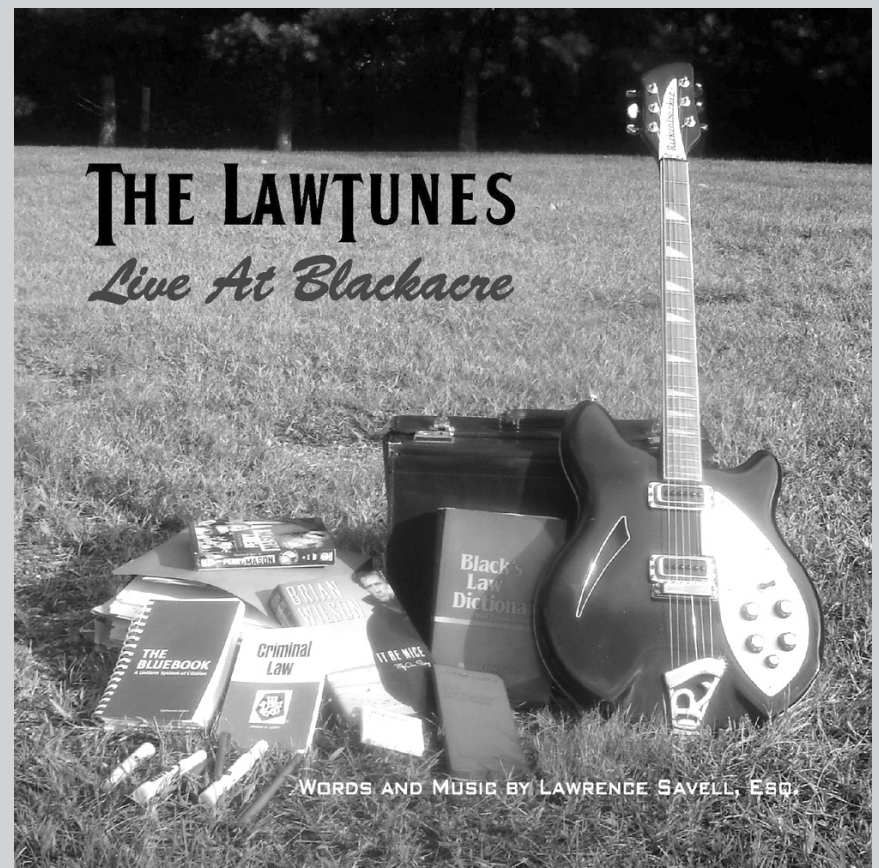
The case went to trial in June and a D.C. Superior Court judge ruled in favor of the Chungs, awarding Pearson nothing. Pearson is pursuing an appeal.

The Chungs incurred more than \$100,000 in legal expenses, which were eventually paid with help from fundraisers and donations.

Even after the trial ended favorably, Manning said, the Chungs lost customers and revenue. They have now closed two of their three businesses since the lawsuit began, he said.

Pearson did not respond to an e-mail from The Associated Press seeking comment.

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## Stocking-stuffer

New York lawyer Lawrence Savell has published another in his series of "allegedly-humorous, lawyer-created, law-related music CDs."

The new release, "The Lawtunes: Live At Blackacre" (\$14.95) features 10 original rock-and-roll tunes for no particular season, including a few love songs expressed in the language of an attorney, says Savell.

Savell says, "I'm breaking a bit from my prior albums," ("Merry Lexmas From The Lawtunes," 2006; "Legal Holiday," 2004; and "The Lawyer's Holiday Humor Album," 1998). "The new CD is a broader take on the law, lawyers, and legal practice."

Preview and/or buy the new CD at [www.LawTunes.com](http://www.LawTunes.com), or e-mail Larry at [savell@LawTunes.com](mailto:savell@LawTunes.com).

## Nominations sought

### ... for Robert Hickerson Public Service Award

The Board of Governors is soliciting nominations for its Robert K. Hickerson Public Service Award. This award recognizes lifetime achievement for outstanding dedication and service in the State of Alaska in the provision of pro bono legal services and/or legal services to low income and/or indigent persons. Please send your letter stating your nomination and why this person should receive the award to the Alaska Bar Association, attn. Deborah O'Regan, Executive Director, P.O. Box 100279, Anchorage, AK 99510 or via e-mail to [oregan@alaskabar.org](mailto:oregan@alaskabar.org). Deadline: March 3, 2008.



### ... for Judge Nora Guinn Award

The Board of Governors is soliciting nominations for an Alaska Bar Association award honoring Alaska District Court Judge Nora Guinn of Bethel, who died July 6, 2005. The award will be presented to a person who has made an extraordinary or sustained effort to assist Alaska's rural residents, especially its Native population, overcome language and cultural barriers to obtaining justice through the legal system, a goal to which Judge Guinn was firmly committed throughout her long career as a judge and community activist. Nominations should include a detailed description of the nominee's contributions to Natives and other rural community residents.

Please send your letter stating your nomination and why this person should receive the award to the Alaska Bar Association, attn. Deborah O'Regan, Executive Director, P.O. Box 100279, Anchorage, AK 99510 or via e-mail to [oregan@alaskabar.org](mailto:oregan@alaskabar.org). Deadline: March 3, 2008.



# Bar People

## Sullivan becomes shareholder

Z. Kent Sullivan has become a shareholder of Baxter Bruce & Sullivan P.C. Baxter Bruce & Sullivan P.C. is a nine-attorney firm located in Juneau, Alaska. Mr. Sullivan's practice emphasizes civil litigation, including all matters relating to real property, business, and collections. He has been with the firm since 2001.

Mr. Sullivan was previously a shareholder and an associate with Sullivan, Tabaracci & Rhoades in Missoula, Montana. He is admitted to practice in Montana and Alaska, and graduated with honors from the University of Montana in 1996. Mr. Sullivan may be contacted at (907) 789-3166 or zsullivan@baxterbrucelaw.com.



Z. Kent Sullivan

## Perkins Coie Anchorage attorneys named super lawyers

Perkins Coie is pleased to announce that three partners in its Anchorage office have been named to the "Alaska Super Lawyers" list. Tom Daniel, Eric Fjelstad and Jim Leik were recognized by a panel comprised of their peers for their achievements in Labor & Employment, Energy & Natural Resources and Litigation, respectively. This is the first year

that Super Lawyers has published the list of Alaska attorneys.

"Tom, Jim and I are deeply appreciative of being selected by our peers for this honor," said Fjelstad, Anchorage managing partner. "We are committed to providing exceptional service to our clients, who continue to bring us interesting and challenging work."

## Attorney's photos win award, on exhibit

Both Joe Kashi and his 13 year old step-daughter Rachel were accepted into this year's statewide juried fine arts photography show, Rarified Light, with the Keani-Soldotna attorney receiving one of the honorable mentions.

Under the auspices of the Alaska Photographic Center, which also put on the Rarified Light showm, Joe and Rachel are doing a father and daughter photo show in Anchorage during the month of December at the Cafe del Mundo next to the Fred Meyer Store on Abbott Road & Lake Otis Boulevard.

Kashi said the show will include 14 big prints of their work. "We plan the opening for 6:30 p.m. Dec. 7, to coincide with the Anchorage First Friday art exhibits and we will have refreshments. The theme of the show will be landscape and fine art photo 18"x24" enlargements, all of which were taken with consumer-oriented Kodak 6MP and 8MP cameras, and that show just how much you really can do with a decent quality non-professional camera." As an aside, the articles that I am submitting for this issue of the Bar Rag will in fact discuss the same topic and make product recommendations and technical suggestions."

Interestingly, the person currently exhibiting in the same space this month is John Reeder, a former active member of the Alaska Bar.



Jan Ostrovsky (left) and Wayne Wolfe share a handshake at Ostrovsky's swearing-in as clerk designate of the U.S. Bankruptcy Court.

## Wolfe retires, Ostrovsky appointed

U.S. Bankruptcy Court Clerk Wayne W. Wolfe has announced his retirement effective December 31. He leaves with 23.5 years of service to the court.

Prior to his appointment to the U.S. court in Alaska, Wolfe served in Wisconsin and Alaska for 20 years. He served Wisconsin courts for a total of 11 years, including a two-year term as the elected Clerk of Court and two years with the State Court Administrators staff.

Wolfe also served 9 years with the State of Alaska Trial Courts in both Anchorage and Fairbanks as the Clerk of the Court and Assistant Area Court Administrator. He accepted the appointment as Clerk of the U. S. Bankruptcy Court, District of Alaska in August, 1985.

He has held the office of president of the Wisconsin Clerk of Court Association and recently president of the National Conference of Bankruptcy Clerks, an organization he also served as board member and treasurer.

After a national recruitment process, Jan S. Ostrovsky has been chosen to fill the Clerk's position. Ostrovsky is currently a practicing attorney in the State of Washington and has practiced extensively in Alaska. He has previously held the position of United States Trustee, Region 18 with the Department of Justice overseeing bankruptcy cases in Alaska, Washington, Oregon, Idaho and Montana. Ostrovsky joined the court as Clerk Designate as of December 3, and will assume the Clerk's position as of January 1, 2008.

The U.S. Bankruptcy court has invited the bar to join the celebration of the retirement of its Clerk, Wayne W. Wolfe, on Friday, Dec. 21 from 2 - 5 p.m. in the Old Federal Building, Historic Courtroom. Business Attire/ Food & Beverages provided. RSVP: 907-271-2655 ext. 2634.

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J.D., Northwestern University 2007  
Admitted in Alaska 2007

#### JOHN C. SMITH

B.A., University of Washington 1998  
J.D., Arizona State University 2003  
Admitted in Alaska 2003 and Arizona 2004

#### D. KEVIN WILLIAMS

B.A., Michigan State University 1980  
J.D., Willamette University College of Law 1987  
Admitted in Oregon 1987 and Alaska 1990

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### Sonosky, Chambers, Sachae, Miller & Munson announces new staff

The law firm of Sonosky, Chambers, Sachse, Miller & Munson, LLP is pleased to announce that Hilary Martin, former law clerk to Alaska Supreme Court Chief Justice Dana Fabe, and 2004 magna cum laude graduate of Arizona State University College of Law, has joined our firm as an associate in our Anchorage Office.

The firm is also pleased to announce that Peter G. Ashman, retired Alaska District Court Judge, is now of counsel to our firm.

The firm also announces that Lloyd Miller was recently elected as the first Alaskan to serve on the Conference Executive Committee to the U.S. Court of Appeals for the Ninth Circuit, and was also recently elected Board President for Trustees for Alaska, an environmental protection non-profit law firm.



## BAR RULES

## Board proposes new practice committee; e-mail rule

The Board of Governors invites member comments concerning the following proposals regarding the Alaska Bar Rules and Bylaws. Additions have underscores while deletions have strikethroughs.

### Article VII, Section 1(a)(12).

During a discussion at the September 6-7, 2007 meeting regarding the proposed amendment to Bar Rule 63 (which defines the unauthorized practice of law for the purposes of the misdemeanor statute in AS 08.08.230), a request was made for the formation of a standing committee to address unauthorized practice of law issues.

A lively debate ensued regarding whether the committee would assume investigative or enforcement powers or would serve in an information-gathering and educational role. At the conclusion of the discussion, the Board asked for a draft bylaw creating the committee.

The attached draft creates the standing “Committee on the Practice of Law” and charges it with gathering information concerning unauthorized practice, educating the public and the bar membership about unauthorized practice issues, and recommending policy and rule changes to the Board.

### ARTICLE VII. COMMITTEES AND SECTIONS

#### Section 1. Committees.

##### (a) Standing Committees.

...

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

### Alaska Bar Rule 41. Service.

Bar Rule 41 currently provides for service of a petition by personal delivery or certified mail, postage paid, to a respondent attorney and, unless otherwise specified in the rules, for service of other documents by personal delivery or by first class mail, postage paid to the person on who it is to be served.

In recent cases, the Bar has experienced difficulty in obtaining service on respondent attorneys by these methods, but has discovered that these attorneys will respond to e-mail communications.

This proposal creates service by e-mail with electronic confirmation as a third method of service and provides that service by e-mail is considered complete upon electronic confirmation.

### Rule 41. Service.

Service of the petition by the Bar shall be by personal delivery, or by certified mail, postage paid, or, by e-mail with electronic confirmation to the respondent. Unless otherwise specifically stated in these rules, all other service shall be by personal delivery, or by first class mail, postage paid, addressed to the person on whom it is to be served at his or her office or home address as last given to the Bar, or by e-mail with electronic confirmation and shall include a certificate of service showing the date copies of the documents were served, to whom they were served, and the name or initials of the Bar Association employee who served them. Service by mail is complete five business days after mailing. Service by e-mail is complete upon electronic confirmation. The time for performing any act shall commence on the date after service is complete.

Please send comments to: Executive Director, Alaska Bar Association, PO Box 100279, Anchorage, AK 99510 or e-mail to info@alaskabar.org by January 18, 2008.

## ATTORNEY DISCIPLINE

## Disciplinary Board issues public reprimand to Anchorage attorney

Anchorage attorney James A. Wendt received a public reprimand from the Disciplinary Board on October 26, 2007 for neglect of a client matter and for violation of a court order in a civil case.

Mr. Wendt represented parents who had lost their son during a stay at a local hospital. As trial approached, deadlines were set regarding identification of retained experts, identification of supplemental retained experts, preliminary witness lists, exchange of expert reports, and the close of lay discovery.

The case proceeded normally until November 2004 when Mr. Wendt began missing deadlines in a pre-trial order. Mr. Wendt was out of the country on vacation just after Christmas, but had not told opposing counsel or coordinated with anyone to cover his practice prior to his return. When calls and letters from opposing counsel were not returned when Mr. Wendt returned to his practice in early January 2005, opposing counsel filed motions to preclude Mr. Wendt from calling any experts. Mr. Wendt elected not to file an opposition, but instead planned to just argue the opposition orally at a hearing scheduled by the trial judge.

Mr. Wendt miscalendared the time for the hearing and arrived late. He acknowledged that he had missed the expert disclosure deadline, that he had filed no opposition to opposing counsel's motion, that he had expected counsel to file a motion to compel, that he had expected a motion to compel and was surprised by the extreme witness preclusion remedy that was sought, that he had not returned counsel's calls or letters and that he did not have three medical expert reports although he represented that his three experts were at least on board.

The court pressed Mr. Wendt for an explanation and his answer was “overwork” and the loss of an associate and secretary. The court ruled that exclusion of critical witnesses would be contrary to Supreme Court policy and gave Mr. Wendt until the next day to identify his experts and until March to produce their reports. However, the court found the neglect to be unexcused and willful and sanctioned Mr. Wendt \$20,000. The court also referred the matter to the Bar Association.

The sanction was eventually reduced to \$13,720, the amount representing the actual fees incurred by the defendants. Prior to trial, the hospital settled, two of the doctors were dismissed, and the case proceeded against the remaining doctor. A defense verdict was returned by the jury. Eventually, the remaining doctor settled with Mr. Wendt's clients by waiving his award of fees and costs in return for dismissal of the appeal that Mr. Wendt had filed.

Bar counsel obtained permission from an area division member to impose a written private admonition, but Mr. Wendt demanded formal proceedings. The area hearing committee hearing the matter upheld the Bar's motion for partial summary judgment on the underlying facts and held a hearing on sanction. It recommended that the Disciplinary Board impose a public reprimand for a violation of Alaska Rule of Professional Conduct 1.3 (neglect of a client matter) and 3.4(c) (violation of a court order). Following a hearing on October 26, 2007, the Disciplinary Board approved the committee's report and recommendation.

## Supreme Court Censures Juneau Lawyer

The Alaska Supreme Court on August 22, 2007 issued an order publicly censuring Juneau lawyer Anthony L. Strong for his failure to respond to disciplinary charges against him. The order followed a Bar Association investigation of a client's grievance alleging that Mr. Strong neglected her case and failed to communicate with her. Despite personal service of the grievance on him, he failed to respond to the charges. He likewise failed to answer a petition for formal hearing that initiated public proceedings against him. Although under court rules Mr. Strong's failure to respond amounted to an admission of the charges against him, Bar Counsel concluded that the allegations of neglect had insufficient merit. Mr. Strong and Bar Counsel stipulated that he should be censured for violating Alaska Rule of Professional Conduct 8.1(b) and Bar Rule 15(a)(4), the rules requiring a lawyer to respond to ethics charges and requests for information from disciplinary authorities. The Board of Governors sitting as the Disciplinary Board approved the stipulation and forwarded it to the Supreme Court. Under the censure order Mr. Strong presented himself to the Court to be reprimanded in person. A public file is available for inspection at the Bar Association office in Anchorage.

### NOTICE OF PUBLIC DISCIPLINE

By order of the Alaska Supreme Court,  
entered October 22, 2007

**MITCHEL J. SCHAPIRA**

Member No. 7610127  
Anchorage, Alaska

is disbarred  
from the practice of law  
effective November 21, 2007  
based on his disbarment by the California  
Supreme Court dated November 28, 2006  
for willful failure to comply with a rule of court.

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





Over 40 students and teachers involved in law-related education programs were able to attend the Bar Historians Luncheon this year, thanks to contributions from members of the legal community. Pictured here with the luncheon presenters are members of Anchorage Youth Court and We the People. The Citizen and the Constitution teams from Bartlett High School, South Anchorage High School, and West Anchorage High School. Anchorage Youth Court is a juvenile justice program by youth and for youth, which handles hundreds of juvenile offenses each year. We the People is a program of the national Center for Civic Education in which high school students learn about the U.S. Constitution in the classroom then compete in mock congressional hearings at a statewide competition. This year's We the People competition will feature 11 teams from across Alaska on Dec. 7, at the Hotel Captain Cook in Anchorage. The winning team will travel to Washington, D.C., for the national competition next spring.

## 5th Annual Alaska Bar Historians Luncheon



Members of the Bartlett High School We the People team enjoy the Bar Historian's luncheon.

## ALI elects new members; 3 Alaskans

The Council of The American Law Institute (ALI) announced Nov. 7 the names of 47 newly elected members, raising its total active elected membership to 2,718. With another 1,380 members holding life, honorary, and ex officio status, the total ALI membership is now 4,098. The 3 new members selected from Alaska bring the total of ALI members in the 49th state to 13.

- Newly elected members from Alaska include:
- Timothy J. Petumenos, Birch Horton Bittner & Cherot, Anchorage
- Frank A. Pfiffner, Hughes Bauman Pfiffner Gorski & Seedorf, LLC, Anchorage
- E. Budd Simpson, Simpson Tillinghast & Sorensen, PC, Juneau.
- Other Alaskan attorneys previously elected to ALI include:
- Deborah Ellen Behr, Department of Law, Juneau;
- Matthew W. Claman, Mendel & Associates, Anchorage;
- The Hon. Beverly Winslow Cutler, Superior Court, Palmer
- The Hon. Dana Fabe, Supreme Court, Anchorage
- Jeffrey M. Feldman, Feldman & Orlansky, Anchorage;
- Bruce E. Gagnon, Atkinson, Conway & Gagnon, Inc., Anchorage;
- Roger F. Holmes, Biss & Holmes, Anchorage
- The Hon. Warren Matthews, Supreme Court, Anchorage;
- O. Nelson Parrish, Parrish Law Office, Fairbanks; and
- Donna C. Willard-Jones, Anchorage.

"It is a great pleasure to welcome these distinguished and influential individuals to The American Law Institute," said ALI President Michael Traynor. "Members are elected through a highly selective process that recognizes people for their significant professional achievements and a demonstrated interest in the improvement of the law. ALI's membership consists of judges, practicing lawyers, and legal scholars from all areas of the United States as well as a growing number of foreign countries. Election is considered one of the highest honors in the legal profession."

"The particular business and objectives of the American Law Institute are educational, and are to promote the clarification and simplification of the law and its better adaptation to social needs, to secure the better administration of justice, and to encourage and carry on scholarly and scientific legal work," said Traynor.



Over 120 people attended the Fifth Annual Alaska Bar Historians Luncheon held November 6, 2007, at the Anchorage Hilton Ballroom. Anchorage attorney Jeff Feldman presented the keynote, a historical overview of the right to privacy entitled "Privacy in Alaska: Who Gets It? How Much Do They Get? When Do They Get It?" Feldman's presentation was followed by a panel discussion featuring Justice Alex Bryner (Ret.), Alaska Supreme Court; Presiding Judge Morgan Christen, Superior Court, 3rd Judicial District; and Anchorage attorney Mark Ashburn, Ashburn & Mason. L-R: Mark Ashburn; Jeff Feldman; Judge Christen; Leroy Barker, Bar Historians Chair; and Justice Bryner.

*Photos by Barbara Hood*

### Voluntary Continuing Legal Education (VCLE) Rule – Bar Rule 65 7th Reporting Period January 1, 2006 - December 31, 2006

The following is an amended list of additional active Alaska Bar members who voluntarily complied with the Alaska Supreme Court recommended guidelines for 12 hours (including 1 of ethics) of approved continuing legal education in the 2006 reporting period.

Vince Curry  
Roger E. Holl  
Shirley F. Kohls  
Marie Marx  
Z. Kent Sullivan

### FRATERNITY SEEKS ALASKA TIE-IN

Phi Alpha Delta Law Fraternity International is the world's largest fraternity with over 265,000 members worldwide! Law students are an important part of the fraternity whose motto is service to the student, the school, the profession and the community.

There are many members of our fraternity who are interested in practicing in Alaska. If you have an opportunity you would like to advertise with our members please e-mail District I Justice Melody M. Crick at [melodycrick@msn.com](mailto:melodycrick@msn.com).



## Pro Bono Corner

By Krista Scully

It's only been two years since they opened their doors but the Alaska Immigration Justice Project (AIJP) has already received much deserved recognition in their home commu-

# Anchorage mayor selects legal services project as the 2007 Community Award recipient

nity of Anchorage. As part of Diversity Month, Anchorage Mayor Mark Begich selected AIJP as the 2007 Community Award recipient that is presented annually to an Anchorage group which best demonstrates its sustained commitment to inclusive programs that support diversity.

Since 2005, AIJP has been the only program in

Alaska to provide comprehensive low-cost legal services to low income immigrants throughout the state. In fiscal year 2007, AIJP's staff has already provided services to more than 700 individuals residing throughout Alaska - coming from all over the world.

A priority of this organization is to provide immigration legal services to immigrant domestic violence and sexual assault survivors and those fleeing persecution and torture.

AIJP's Pro Bono Asylum Project connects pro bono attorneys and interpreters with immigrants fleeing political persecution in their countries of origin. They are also responsible for securing Alaska's first language interpreter service in Anchorage that will bridge the language gap by providing certified language interpreters to help resolve health, safety issues, and more within our community.

Congratulations to the Alaska Immigration Justice Project staff, board members and volunteers!



Pro Bono Services Committee Chair and AIJP Board member Robert K. Stewart, Jr. of Davis Wright Tremaine and Mara Kimmel, AIJP Board President.



Anchorage Mayor Mark Begich with Mara Kimmel, AIJP Board President and Robin Bronen, AIJP Executive Director

Photos by Erick Cordero

## Death penalty archives are in New York

The University at Albany has added the official records of the National Coalition to Abolish the Death Penalty (NCADP), and the papers of long time activist November Belford to its National Death Penalty Archive (NDPA).

The National Coalition to Abolish the Death Penalty Collection records include information that documents NCADP's mission and activities such as conference materials, publications, death row and clemency case files. Washington, D.C.-based NCADP was founded in 1976 in response to the Gregg v. Georgia Supreme Court decision, which reinstated the use of the death penalty in the United States. Through the efforts of its "Stop Killing Kids" Campaign, a movement that sought to bring an end to the death penalty for offenders whose crimes were committed while they were under the age of 18, NCADP was successful in ending the death penalty as punishment for juveniles in several states. In 2006 NCADP successfully fought death penalty reinstatement efforts in Wisconsin.

November Belford is a long-time activist who married to a Texas Death Row prisoner Bobby West in 1988; about a decade later he was executed. Belford launched a newspaper with West called Endeavor and later started a second newspaper, The Gathering. Among the collection: personal correspondence with a number of death row prisoners; newsletters published by death row prisoners; memorabilia; various publications from the National Execution Alert Network dating back to the 1980s; a copy of a signed petition requesting clemency for Warren E. Bridge from former Texas Governor Ann Richards; news articles on botched electrocutions; photographs; books, including some written by prisoners and original copies of her two newspapers.

### Other items in the UAlbany archive include:

David Von Drehle Papers: notes on Justice Harry Blackmun's papers

from the Library of Congress (including copies of actual communications between the Justices) which deal with his death penalty jurisprudence; a transcript of television news coverage during the week leading up to the execution of John Spink in Florida in 1979. These documents are part of the research material gathered by Von Drehle during his writing of Among the Lowest of the Dead (1995).

Norma Herrera Collection: Norma Herrera is the sister of Leonel Herrera, who the State of Texas executed following the U.S. Supreme Court's decision in Herrera v. Collins (1993). The Supreme Court considered Leonel Herrera's claim that newly discovered evidence demonstrated that he was innocent of the crime for which he was executed, but the justices rejected the claim and allowed the execution to go forward. Herrera has written a book about the case and her brother's life and death, entitled Last Words from Death Row: The Walls Unit (Nightengale Press 2007). In addition to donating materials to NDPA, Herrera gave a lecture before the School of Criminal Justice, discussing capital punishment and issues of criminal justice, including the execution of her brother Leonel following the 1993 Supreme Court decision.

UAlbany's School of Criminal Justice established NDPA in August 2005 through the school's Capital Punishment Research Initiative (CPRI), to collect archival materials documenting the important history of capital punishment, and to provide resources for historical scholarship. The archive is at <http://library.albany.edu/speccoll/ndpa.htm>.

More information on the Capital Punishment Research Initiative / Hindelang Criminal Justice Research Center is at <http://www.albany.edu/scj/cpri.htm>.



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We will not identify the caller, or the person about whom the caller has concerns, to any other committee member, the Bar Association, or anyone else.

**Lanae R. Austin**  
Anchorage  
278-4150 (wk)

**Heather L. Gardner**  
Anchorage  
375-8776 (wk)

**Sonja D. Kerr**  
Anchorage  
222-4523 (wk)

**John E. McConaughy**  
Anchorage  
343-6445 (wk)

**Brant G. McGee**  
Anchorage  
830-5518

**Michael Sean McLaughlin**  
Anchorage  
269-6250 (wk)

**Michael S. McLaughlin**  
Anchorage  
793-2200 (wk)

**Antone Nelson**  
Anchorage  
336-3888 (wk)

**Greggory M. Olson**  
Anchorage  
830-9792 (cell)

**John E. Reese**  
Anchorage  
345-0275 (wk)  
345-0625 (hm)

**Lawrence F. Reger**  
Fairbanks  
451-5526 (wk)

**Jean S. Sagan**  
Anchorage  
263-5414 (wk)  
929-5789 (hm)  
952-1785 (cell)

**Vanessa H. White**  
Palmer  
746-8170 (wk)



# In Memoriam

## Thelma Buchholdt: Let her light shine

Pioneering Filipino-American attorney and historian Thelma Buchholdt died Nov. 5, at her home in Anchorage. She was 73.

Born in Claveria in the northern Philippines in 1934, Thelma came to the United States in 1951. She graduated from Mount St. Mary's College in Los Angeles then pursued graduate studies at the University of Nevada, Las Vegas, where she met her husband, Jon Buchholdt, and started a family. She taught elementary school in Nevada until they headed to Alaska.

The family moved to Anchorage in 1965, and Thelma was active in a number of community organizations, including the League of Women Voters and Boys and Girls Clubs. In the early 1970's, she became interested in politics, serving as George McGovern's campaign coordinator for Alaska in 1972. That year, she was also appointed to the Alaska State Advisory Committee to the U.S. Commission on Civil Rights. In 1973, Thelma was elected the first woman president of the Filipino Community of Anchorage, serving two consecutive terms. She also became a trailblazer for women.

In 1973, she was elected the first woman president of the Filipino Community of Anchorage, and in 1974 she won election to the Alaska House of Representatives, becoming the first Filipino-American woman legislator in the country. She was reelected to the legislature three times, and in 1980 served as the first Asian-American president of the National Order of Women Legislators.

During her time in the legislature, she championed funding for the Spenard Community Recreation Center, the Dempsey-Anderson Ice Arena, the Asian-Alaskan Cultural Center in Spenard, the renovation of the Filipino Community Hall in Juneau and many local roads, trails and parks.

She also sponsored and won funding for an underwater bio-acoustical survey of Alaska's bowhead population. Thelma also won funding for the Alaska Commission on the Status of Women, and was appointed director of the Alaska Office Of Equal Opportunity in 1994.

After their four children were grown, Thelma and Jon decided to attend law school together at the District of Columbia School of Law. They graduated in 1991 and returned to Alaska, where they were admitted to the Alaska Bar Association and practiced together for many years. Throughout her legal career, Thelma continued to be actively involved in community affairs, especially activities that advanced equality for women and minorities. In 1994, she was appointed director of Alaska's Office of Equal Opportunity. She also served for many years on the Advisory Board of Catholic Social Services' Immigration

& Refugee Services Program, playing a pivotal role in projects such as "Our Neighborhoods Have No Borders," a photo-text exhibit; and "Beyond Borders," an international dance and music program.

Thelma Buchholdt's devotion to Filipino history and culture was well known. In 1980, she initiated the establishment of the Asian Alaskan Cultural Center in Anchorage, and served as its first board president from 1983-1988. She was the author of the book "Filipinos in Alaska: 1788-1958," and producer of a documentary film on the same subject. She was also founder and president of the Alaska Chapter of the Filipino-American National Historical Society [FANHs], and was instrumental in bringing the group's national convention to Anchorage in 2008. Thelma also participated actively in efforts to promote understanding of our justice system, serving on the Alaska Supreme Court's Judicial Outreach Commission since 2000 and working to support law-related education events in the community. In 2002, Thelma was featured in the court system's exhibit "The US in Justice is...Everyone," and in 2003, the indigenous Filipino dance troupe she founded performed at the Law Day reception at the Boney Courthouse.

Thelma is survived by her husband, Jon; their four children, daughter Tiantania (Gary) Ray of Richmond, Calif.; sons, Chris (Julia Sadowski), Hans, and Dylan (Cara Eltion), all of Anchorage; two grandchildren, Ryan of Anchorage and Rocco of Richmond; sisters, Jeanette (John) Svihra of Anchorage, Rhoda McFadden of Las Vegas, and Nancy Evangelista of Los Angeles; and brothers, Melvyn Garcia of Los Angeles and Eloi Garcia of Claveria.

Whether dancing with her troupe at events across town, researching history, or advocating for equal justice, Thelma Buchholdt was a tireless activist whose compassion, generosity, intelligence, and dedication to her community will long be remembered.

--Barb Hood



Thelma Buchholdt, pictured in June 2007 at Color of Justice, a law-related education program to encourage young women and youth of color to pursue careers in the judiciary.

## 2008 Alaska Bar Annual Convention & Alaska Judicial Conference in Anchorage

Watch for details  
in the convention  
brochure!

April 30, May 1, & May 2

Marriott Downtown Hotel & Hotel Captain Cook

### WEDNESDAY, APRIL 30

- Trial Skills: Openings That Swing, Closings, and Theories & Themes in Trial  
Colette Tvedt, The Defender Association, Seattle  
Jeffery Robinson, Schroeter Goldmark & Bender, Seattle
- Bar Lunch  
Keynote: John Straley, Writer Laureate of Alaska, investigator, author of the Cecil Younger series and other novels, including the new historical crime novel, "The Big Both Ways" set in 1935 on a dory ride up the Inside Passage.
- Ethics Rocks! A Musical Interactive Legal Seminar  
Listen to the music as over 40 ethics issues are revealed in a medley of rock tunes.  
Jack Marshall, Attorney/Ethicist and Mike Messer, Rock Musician - ProEthics, Ltd., Alexandria, Virginia
- Mediators without Borders: Resolving International and Domestic Conflicts from Business to Human Rights  
Ken Cloke, Mediator/Arbitrator, Attorney President, Mediators without Borders  
Director, Center for Dispute Resolution, Santa Monica, CA  
Presented in cooperation with the ADR Section and the International Law Section
- Differences in Practice and Procedures Between State and Federal Court  
Presented in cooperation with the U.S. District Court and the Federal Bar Association, Alaska Chapter
- Opening Reception  
Join us for appetizers and art at the Anchorage Museum!

### THURSDAY, MAY 1

- U.S. Supreme Court Opinions Update  
Erwin Chemerinsky, Alston & Bird Professor of Law, Duke University School of Law  
Laurie Levenson, Professor of Law, William M. Rains Fellow and Director, LLS Center for Ethical Advocacy, Loyola Law School, Los Angeles
- Bench and Bar Lunch  
Presentation of 25-Year, 50-Year & 60-Year Bar Membership Pins
- Alaska Constitutional Law Update  
Erwin Chemerinsky, Alston & Bird Professor of Law, Duke University School of Law
- Tax Reform: A U.S. Oxymoron  
Martin D. Ginsburg, Professor of Law, Georgetown University Law Center; Of Counsel, Fried, Frank, Harris, Shriver & Jacobson, LLP
- Update on Alaska Native Law Issues For All Practitioners  
Presented in cooperation with the Alaska Native Law Section
- New Lawyers CLE - Nuts & Bolts of Basic Pre-Trial Practice: Discovery & Motions — Panel TBA  
Presented in cooperation with the New Lawyers Section
- Awards Reception & Banquet  
Keynote: Justice Ruth Bader Ginsburg, Supreme Court of the United States



Erwin Chemerinsky



Laurie Levenson



Martin Ginsburg

JUSTICE  
RUTH BADER GINSBURG  
U.S. SUPREME COURT  
AWARDS BANQUET  
KEYNOTE SPEAKER



### FRIDAY, MAY 2

- Advanced Legal Writing and Editing  
Bryan Garner, LawProse, Texas
- Alaska Bar Association Annual Meeting and Lunch
- A Conversation with Justice Ruth Bader Ginsburg  
Moderated by Chief Justice Dana Fabe