The Alaska BAR RAG

ASIDE

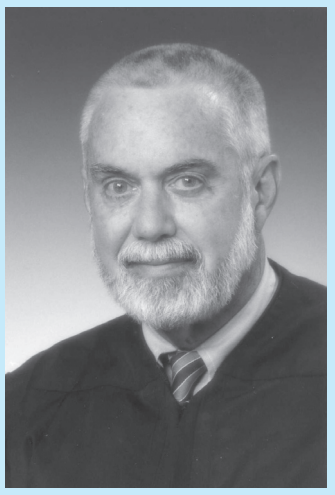
THE COMMON LAW ORIGINS OF THE INFIELD FLY RULE

Pages 8-9

VOLUME 32, NO. 4 | *Dignitas, semper dignitas* | $3.00 OCTOBER - DECEMBER, 2008

Justice Compton passes at 70

Former chief justice of the Alaska Supreme Court Allen T. Compton died Oct. 11, 2008, at his home in Anchorage. He was 70.



Justice Allen T. Compton

Born Feb. 25, 1938 in Kansas City, Mo., to Allen Trimble Compton and Helen McCormick, he graduated from the Pembroke-Country Day school in Kansas City in 1956, and earned a bachelor of arts degree from the University of Kansas at Lawrence in 1960. He graduated from the University of Colorado School of Law at Boulder in 1963.

He also served in the Marine Corps Reserve for six years. He began his career as a Legal Services attorney in Colorado Springs, then moved to Alaska to work for Legal Services in Juneau.

He was appointed to the Superior Court in Juneau in 1976 and was elevated to the Alaska Supreme Court in 1981, where he worked until 1998, serving as chief justice from 1994 to 1997.

CLE Director Will Stevens passes suddenly in December
—See page 8

Justice Compton dedicated his career to applying the principles of justice equally to all members of society. He was a mentor to generations of lawyers, known for his passion, common sense and razor-sharp wit. An extremely humble and genuine man, he had a good sense of style and humor. A curious and committed student of life, he was an endless source of information and wisdom. He was also an avid outdoorsman and never stopped appreciating the many natural wonders of Alaska.

He is survived by his son, John Travis Compton and wife, Keely Henderson, of New York City, whose recent wedding was a highlight for Allen; daughter, Amanda Compton, of Anchorage; son, Andrew Compton, of Reno, Nev.; and sister, JoAnn Jones, and her daughters, Penny Selle and Liz Ferron, of Kansas City, Mo.

In accordance with his wishes, no formal services were held. Contributions in his memory can be made to the Allen T. Compton Memorial Fund, Alaska Legal Services Corporation, 9170 Jewel Lake Road, Suite 100, Anchorage, AK 99502.

Justice Compton's colleagues remember him at page 10

THEY'RE ARRESTING SANTA! -- PG. 3

Federal bar reactivated (in Alaska)

By Gregory S. Fisher

Alaska Chapter Federal Bar Association

The Alaska Chapter of the Federal Bar Association has been reactivated. All members of the Bar are invited to attend scheduled lunch meetings. The Federal Bar Association is a national organization dedicated to improving practice and procedure. The Alaska Chapter includes members from the Bench and Bar. The Chapter meets at the federal courthouse over the lunch hour once or twice a quarter (usually on the second Tuesday of the month). The lunch meetings are well-attended by local federal judges and civil and criminal practitioners. Meetings conclude by 1 p.m. so as not to disrupt court business. Each lunch meeting includes a featured speaker who addresses a legal, ethical, or professional topic. Past speakers have included Chief Judge Alex Kozinski, Judge Dorothy Nelson, Judge Holland, Federal Defender Rich Curtner, United States Attorney Nelson Cohen, and Leonard Feldman (the 9th Circuit pro bono appellate coordinator for the District of

Continued on page 14

FEATURED IN THIS ISSUE

Alaska Bar Association
P.O. Box 100279
Anchorage, Alaska 99510

Non-Profit Organization
U.S. Postage Paid
Permit No. 401
Anchorage, Alaska

PRESIDENT'S COLUMN

Happy 1959

By Mitch Seaver

Dirt? No. Dinosaurs? Doubtful. But I am older than the State of Alaska. I was five when Alaska became a state on January 3, 1959. That same year Johnny Horton's "When It's Springtime in Alaska (It's Forty Below)" reached No. 1 on the country charts. A coincidence? I think not.

James Michener's "Hawaii" was published in 1959. On March 18 of that year Hawaii was approved for statehood, just in time for spring break, although it wasn't officially admitted to the union until August.

Alaska and Hawaii were not the only statehood issues facing the nation then. The Bullwinkle Show which debuted in 1959 concerned Boris and Natasha's scheme to make Moosesylvania the 51st state by disguising Butte, Montana to look like Washington D.C.

Nineteen fifty-nine is also significant to Alaskans because Bullwinkle's fellow Canadian Joseph-Armand Bombardier patented the Ski Doo. Originally named the Ski Dog, it was re-named due to a typographical error the inventor let stand.

"We should find some time over the holidays to follow Judge Kozinski's advice to the Barbie litigants and just chill. "

March 1959 saw the debut of Barbara Millicent Roberts (aka "Barbie"), daughter of George and Margaret Roberts of Willows, Wisconsin, which brings us to the legal point of this column. In 2002, New York Judge Lance Taylor Swain refused to enjoin the production of a Dungeon Barbie writing "To the court's knowledge, there is no Mattel line of S&M Barbie."

The case of *Mattel, Inc. v. MCA Records Inc.* was also decided in 2002. Mattel claimed that the song "Barbie Girl" by the Danish group Aqua constituted trademark infringement. Judge Alex Kozinski ruled that the song was protected under the First Amendment, concluding his opinion with "The parties are advised to chill." *Mattel, Inc. v MCA Records Inc.,* 296 F.3d 894, 908 (9th Cir. 2002).

It might be interesting to speculate what the next 50 years will bring to our State, Moosesylvania, snow machines and Barbie. But I will doubtless be with the dinosaurs by then, so what is the point? Instead, we should also find some time over the holidays to follow Judge Kozinski's advice to the Barbie litigants and just chill.

EDITOR'S COLUMN

And the winner is: The best Alaska firm websites

By Thomas Van Flein

It is time for the 2008 list of Alaska's best law firm websites. My firm's website was essentially nonexistent until about a year ago, then we created a "draft" website that was not supposed to be publicly available but really was. This abandoned little domain was left to languish for awhile. Supposedly everyone was to contribute something to finish it but nobody did. Something about actually doing work for clients or some such non-sense that interfered. Then we got busy around August/September and it seemed a lot of people, some very pushy people, really wanted to know who we were and what we did. Go figure. So we rushed to complete something and it pretty much bites, but it stopped the phone calls. Needless to say, my firm's website got last place in the rankings. And that was favor.

Here are the good ones:

(1) Feldman, Orlansky and Sanders at www.frozenlaw.com. This is the best Alaska law firm website for 2008. It has professional photography, excellent graphics, and well written descriptions. It is easy to navigate. It touts its accomplishments but is not offensive. Good work.

(2) Hughes Pfiffner at www.hbplaw.net. You have to admire the nice pictures of the building in which they are located. Who cares about the firm when you have such a nice office building? Clients probably invent problems just to visit and check out the view. Then there is the snappy logo "The Alaska Law Firm." If Hughes Pfiffner is "THE" Alaska law firm, the rest of us are poseurs, at best. The attorney profile page is excellent. Just click on a picture and you get that person's complete resume.

(3) Holmes Weddle at www.hwb-law.com. Its home page is well laid out. I think it has some claim to fame for being able to trace its roots to 1914. Is there any law firm in Alaska that has deeper roots?

(4) Patton Boggs. I know, I said Alaska law firms, and this is a branch of a national firm, but it counts. The Patton Boggs home page barely discloses it is a law firm. Its opening line: "With an unparalleled presence in the public policy arena and a deep understanding of business and financial markets, Patton Boggs stands at the crossroads of Main Street, Wall Street, and Pennsylvania Avenue." Most of us never even knew these streets intersected, but apparently they do, and Patton Boggs is standing right there. It is a good web site. If you like politics and policy, mixed in with an appropriate amount of braggadocio, this is the site for you.

"Now that everyone knows the criteria, we will randomly review websites in 2009 and see who comes out on top."

(4) K & L Gates is similarly situated, with an excellent web site and ties for fourth. You can search for lawyers by specialty, by location, and by language proficiency: "You can find a lawyer quickly and easily by name, office, areas of experience, school, bar admission, or keyword." That is pretty handy. I was unable to search for a lawyer based on their hourly rate, marital status, or blood alcohol level. That defect will probably be remedied next year.

(5) In Nome, Lewis & Conner have an appropriate web site at www.nomelaw.com. Though manned by two attorneys, it lists a practice area that includes 21 areas of the law. It might be better simply to list the areas it doesn't practice in. As far as I can tell, that would be UCC secured transactions, unless that falls within "business and commercial law" in which case this two man firm does it all.

(6) In Fairbanks, Cook Schumann & Groseclose has the best website. I like that it lists its paralegals and you can click on a paralegal resume. The firm posts several articles, modified from briefing it appears, that I think a lot of potential clients may find useful. To me, substantive content makes for the best website, and Cook Schumann does a good job with this. In that vein, it posts several useful links.

(7) Guess & Rudd has a good website. It is clear, straightforward and understated. If anything, this firm's website could pat itself on the back a little more (check out Feldman Orlansky's site for the proper technique). Guess and Rudd lawyers have contributed much to the state, and participated in many important cases over the years. All of which could be mentioned.

(8) Dillon & Findley created a good website. Its trial work and competence comes through well. For a small firm, it does big work. Its web site brings that out.

(9) Richmond & Quinn. This firm did a great job displaying its attributes, providing substance with its litigation overview, and throwing in a few pictures that humanize the firm.

(10) Farley and Graves. I like this website because of its content. It is missing graphics however. How about a picture of someone? Or your office building? Or a gavel? We will look for these improvements next year.

Now that everyone knows the criteria, we will randomly review websites in 2009 and see who comes out on top.

The Alaska BAR RAG

The *Alaska Bar Rag* is published bimonthly by the Alaska Bar Association, 550 West 7th Avenue, Suite 1900, Anchorage, Alaska 99501 (272-7469).

President: Mitch A. Seaver
President Elect: Sidney K. Billingslea
Vice President: Don McLean
Secretary: Christopher R. Cooke
Treasurer: Jason A. Weiner
Members:
Carl Ekstrom
Bill Granger
Allison Mendel
Hanna Sebold
Krista S. Stearns
John J. Tiemessen

New Lawyer Liaison: Nevhiz Calik

Executive Director:
Deborah O'Regan

Editor in Chief: Thomas Van Flein

Managing Editor: Sally J. Suddock

Editor Emeritus: Harry Branson

Contributing Writers:
Dan Branch
Joe Kashi
Kenneth Kirk
Catherine Lemann
Steven T. O'Hara
Steve Pradell
Vance Sanders
William Satterberg

Contributing Photographers
Barbara Hood

Contributing Cartoonist
Bud Root

Design & Production:
Sue Bybee

Advertising Agent:
Details, Inc.
PO Box 11-2331
Anchorage, Alaska 99511
(907) 276-0353

Publication Dates	Editorial Deadlines
January-March	Feb. 10
April - June	May 10
July - September	Aug. 10
October - December	Nov. 10

Board of Governors meeting dates
Sept. 11-12, 2008
Oct. 30-31, 2008
Jan. 29-30, 2009
May 4-5, 2009
May 6-8 (Annual Convention -Juneau)

THE KIRK FILES

I saw mommy suing Santa Claus

By Kenneth Kirk

Comes now the Plaintiff, by and through counsel Aloysius Peabody, Esq. of the firm of Law Offices of A. Peabody LLC, and OPPOSES the Motion for Summary Judgment filed by the defendant Claus.

This opposition is fully and conclusively supported by documents and records readily available to both parties in other cases, the public records, and through discovery.

First and foremost the egregious legal error committed by the defendant is based upon the assumption that he is not liable for the damages caused by the dangerous implements of potential death and destruction which he, uninvited, inserted into this family's home. Specifically as shown by several cases in the Southern District of New York, federal court therefor, these so-called "toys" could have been potentially harmful, causing thereby egregious and even irrevocable injury to the children on behalf of whom this lawsuit is by their parents brought. The inexcusability of this action of child endangerment is the basis not only of the claim for compensatory damages for the potential harm to the minor children, but the secondary harm mercilessly inflicted upon their unsuspecting parents, but also for punitive damages to coerce this dangerous tortfeasor from doing this ever again! Any number of readily anticipatable harms could have leapt out as a result of the reckless, irresponsible, and unforgivable actions of defendant Claus.

Claus attempts, *ab initio*, to divert attention from his tortious actions by claiming that his acts had a charitable basis, and therefore it would be contrary to public policy and common law and sense to allow suits based upon his supposed "gifts". However, research readily available to defendant as much as to plaintiff clearly shows that these repeated efforts by Claus are not charitable or even eleemosynary at all, but are in fact **religious**. Historical documents indicate Claus has used any number of aliases over the years, beginning with St. Nicholas, Germanized during what was no doubt a sojourn related to immigration issues to Santa (i.e. Saint) Claus (short, obviously, for Nicholas). The designation "saint" according to all known religious sources indicates a religious affiliation and proclivity. Therefore defendant Claus was attempting, not to provide a charitable benefit to the plaintiff family, but no doubt to proselytize them into a cult. There is thus no charitable intent at all!

Claus claims that no harm was done. No harm was done? It is to laugh.

This tortfeasor defendant then attempts to point the finger by blaming the victim by claiming that he was an invitee into the plaintiff's home, thus blaming the victim.

This tortfeasor defendant then attempts to point the finger by blaming the victim by claiming that he was an invitee into the plaintiff's home, thus blaming the victim. He supports this with an affidavit, sworn or affied before a notary whose license is shortly to *expire*, claiming that the plaintiff family sent letters, left cookies and milk for him, and attached stockings before the fireplace in some bizarre ritual of invitement. These arguments are easily reduced to nothing by showing that the letters in question were written by minors who were therefore not competent under Civil Rule 17 to represent themselves, that the cookies and milk could have been left for anyone and also could not possibly have been seen by him from outside of the house, specifically from the rooftop, and that there was no specific communication between Claus and the family to establish that the stockings were intended for any particular inviting purpose! Legal or otherwise!

Fourth and foremost: Claus has no basis to complain, as he does at length and ad nauseum, that the plaintiffs have not sued the manufacturers, initial distributors, or other potentially liable individuals or evil corporations. The reason they have not been sued, is that these are large corporations with legions of lawyers at their disposal, who would quickly render the suit non-feasible. Thus there is a tactical purpose and not including them as defendants, which it is well established, by a long line of cases which need not be repeated here, that in cases involving inadequacy of counsel, it is an absolute defense that there was a tactical or strategic purpose in the attorney's action. Therefore Claus has no cause to complain, no pun intended. But in all seriousness as this case deserves, it is the responsibility of Claus, not the plaintiffs, to use the rules of third-party practice to involve these other potential parties of whom he wishes to blame. And the fact that the plaintiffs have not divulged the names of the specific dangerous toys is not specifically listed as an affirmative defense under Civil Rule 8, so again there is no basis for this and it is merely whining.

Claus claims that no harm was done. No harm was done? It is to laugh. These young and innocent children were playing with, placing their hands upon, and even potentially putting in their mouths items which, if sliced open and cut into pieces as easily could have happened had the children access to the proper surgical tools, caused choking and **death!** The fact that, as luck would have it, they narrowly escaped this horrendous and shocking end to their childlike and idyllic existences, just because none of the above things actually happened, is immaterial and a red herring designed to distract the court from the real issues in this case, namely how much money Claus, whose vast resources are hardly a matter of dispute, should have to pay to settle this case.

Finally the guilty defendant tortfeasor Claus tries to claim that he cannot possibly be held responsible for every one of the items he delivers! And yet the same guilty defendant is allegedly capable, if the news media is to be believed, of delivering an extraordinary number of gifts throughout the entirety of the world within a 24-hour period, using only height-challenged personnel and a small number of trained animals (who are doubtless pushed beyond any reasonable limits into the realm of animal cruelty, as will soon be investigated by PETA and other concerned organizations which the plaintiffs intend to contact). If he can make those sorts of deliveries in that sort of timeframe, he can certainly not only be held responsible for the items he delivers, but can be expected to pay a reasonable settlement, for instance along the lines of the offer of judgment recently submitted to him by the undersigned counsel, to resolve this case.

Conclusion: the court should not only deny the motion for summary judgment in its entirety, but should likewise deny the accompanying motion to quash the subpoena for deposition on December 24 upcoming. And order a judicial settlement conference.

Dated and signed on this day aforesaid, your humble servant, Aloysius Peabody, Esq. ABA #1011294.

Native law scholarships top $100k

The Northwest Indian Bar Association (NIBA) recently gifted $16,000 in scholarships to several Native law students as part of an ongoing effort to support aspiring Pacific Northwest Indian lawyers. NIBA and its sister group, the Washington State Bar Association Indian Law Section ("Section"), thereby eclipsed $100,000 in scholarship monies gifted to Native law students from Washington, Oregon, Idaho and Alaska – in only 5 years, said the organization.

NIBA said it has seen an immediate return on their investment, specifically a dramatic rise in Indian lawyers practicing in the Northwest. Four past scholarship recipients now serve as officers of NIBA: President Lael Echo-Hawk (Pawnee), a reservation attorney for the Tulalip Tribes near Marysville, Washington; President-elect Michael Douglas (Haida), an associate with the law firm Sonosky, Chambers, Sachse, Miller & Munson LLP, in Anchorage; Treasurer- Brooke Pinkham (Nez Perce), an attorney with the Northwest Justice Project in Seattle; and At-Large Member – Marvin Beauvais (Navajo/Crow), a reservation attorney with the Quinault Nation in Taholah, Washington.

Although Indian lawyers remain the most under-represented ethnic demographic in the U.S. legal profession (2000 Census), such new tribal bar leaders represent an unprecedented insurgence of Indian lawyers and professionals into the middle class, as the seeds of tribal notions of self-determination that Indian leaders have planted since the early 20th Century now blossom in the new millennium, said NIBA.

"I greatly benefitted from NIBA's support throughout law school and during the first few years of my legal career," said Douglas. "In addition to scholarship assistance, I am grateful to have received strong mentorship from NIBA's network of Native attorneys. NIBA's financial help and mentorship has provided me an excellent foundation on which to build my career working for Indian people."

The scholarship monies are raised and distributed through a NIBA/Section joint venture -- the Indian Legal Scholars Program. The following Native law students are the Program's latest scholarship recipients. Each were honored with $1,200 to $1,500 in recognition of their commitment to academic excellence and advancing the rights of Pacific Northwest Indian people:

Peter C. Boome (Upper Skagit), Saza Osawa (Makah), Amber Vision-Seeker Penn-Roco (Chehalis) and Aurora Lehr (Native Hawaiian), of the University of Washington School of Law;

Tara Dowd (Inupiaq) and Jason Campbell (Gros Ventre), of Gonzaga University School of Law;

Malcolm Begay (Navajo), Maiya LaMar (Tule River/Yokut) and Michelle Watchman (Tlingit/Navajo), of Lewis & Clark Law School;

Dylan Hedden-Nicely (Cherokee) of University of Idaho College of Law; and

Khia Grinnell (Jamestown S'Klallam/Lummi) and Suzanne C. Trujillo (Laguna Pueblo), of Arizona State University College of Law, and Anthony Jones (Port Gamble S'Klallam), of Washington University Law School, all of whom have Pacific Northwest ties.

The NIBA program also gifts bar preparation stipends to graduating Indian law students each summer since 2006. In 2004, the American Bar Association awarded the Program with the prestigious "Solo and Small Firm Project Award," in recognition of its positive impact on the legal profession.

Founded in 1991, NIBA is a non-profit organization with more than 250 Native American and Indian law attorneys, judges, spokesperson and students from Washington, Oregon, Idaho and Alaska. NIBA's primary mission is to increase the number of Indian attorneys in the Pacific Northwest. The Indian Law Section, established in 1988, seeks to further develop Indian law within the Washington state bar. In the summer of 2007, Washington became the second state to test aspiring lawyers' understanding of federal Indian jurisdiction on its bar exam.

More information about the organization is at www.nwiba.org, and WSBA Indian Law Section information is available at www.wsba.org/lawyers/groups/indianlaw/default1.htm.

ESTATE PLANNING CORNER

The (high) cost of a Simple Will in 2009

By Steven T. O'Hara

Effective January 1, 2009, the U.S. government is increasing the cost of a simple Will. Here "cost" means a lost opportunity to save taxes and "simple Will" means a Will giving property *outright* to an individual who then has exposure to taxes.

The amount that may pass free of federal estate tax is known generally as the unified credit amount or, more recently, the applicable exclusion amount. For 2002 and 2003, this amount was $1,000,000. For 2004 and 2005, the amount was $1,500,000 *for estate tax purposes only*.

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

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

Effective January 1, 2009, the applicable exclusion amount increases to $3,500,000 *for estate-tax purposes only*. This $3,500,000 amount will generally create the opportunity for two taxpayers, each with at least $3,500,000 in assets, to save $1,575,000 in estate taxes.

Unfortunately, the applicable exclusion amount for estate-tax purposes is scheduled to decrease to $1,000,000 in 2011. It remains to be seen whether our new President and Congress will allow this huge decrease to occur. If no action is taken, the decrease will occur automatically on January 1, 2011.

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

Noteworthy at present is that the 2009 increase results in a greater opportunity to save estate taxes, *provided taxpayers structure their asset ownership, Wills and trusts properly*.

Consider a husband and wife domiciled in Alaska. Both are U.S. citizens. They have no assets outside Alaska and no material debt. Neither has ever made a taxable gift. In their estate planning, they believed they did not need to consider anything beyond simple Wills because they had heard they each may pass, at death, as much as $3,500,000 in 2009 to their descendants without estate taxes. They figured with combined assets of no more than $7,000,000, or $3,500,000 each, their estates would never be subject to estate taxes. So they signed simple Wills, giving all assets to the surviving spouse outright and to their descendants outright when there is no surviving spouse.

Noteworthy at present is that the 2009 increase results in a greater opportunity to save estate taxes, *provided taxpayers structure their asset ownership, Wills and trusts properly.*

Husband has recently died. His surviving spouse now realizes that with assets of $7,000,000 (i.e., her assets plus the assets to which she is entitled under her husband's Will), her estate would owe $1,575,000 in estate taxes if she died in 2009 (IRC Sec. 2001(c) and AS 43.31.011).

Thus the cost of husband's simple Will could be $1,575,000 in estate taxes.

To avoid this tax exposure, the couple could have equalized their estates by separating assets so each owns $3,500,000 separately without any right of survivorship. Asset equalization could have been accomplished through an Alaska community property agreement, as long as "survivorship community property" is avoided (AS 34.77.030(c) and 34.77.110(e)). Then husband could have signed a Will or living trust giving the applicable exclusion amount to a trust that would be available to his surviving spouse, but would not be included in her gross estate on her subsequent death.

In general, husband could have named his surviving spouse trustee of the trust without adverse tax consequences. See Adams and Abendroth, *The Unexpected Consequences of Powers of Withdrawal, 129 Trusts & Estates* 41 (August 1990), which provides an excellent discussion of distribution powers held by a trustee who is also a beneficiary or related to one; cf. AS 13.36.153 and AS 34.40.110(g).

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

Consider a 90-year-old client with net assets of $3,500,000. He is not married and has never made a taxable gift. He has a 65 year-old daughter with her own net assets of $3,500,000. Both the client and his daughter are domiciled in Alaska, and their respective assets are all in Alaska. The client has a simple Will, giving all to his daughter outright.

Suppose the client dies in 2009. His daughter would then learn that with assets of $7,000,000 (i.e., her assets plus the assets to which she is entitled under her father's Will), her estate would owe $1,575,000 in estate taxes if she then died (IRC Sec. 2001(c) and AS 43.31.011).

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

40 pass July Bar exam

Chandler, Claire B.
Cicotte, Matthias R.
Davis, Christina
Dillon, Jessica R.
Dougherty, Erin C.
Edwards, Philip
Flack, Joseph H.
Flanders, Chad
Harrison, Lael
Hastings, Timothy A.
Hattan, Rebecca E.
Hill, Wyvonne M.
Hoffer, Stefan T.
Houston, Angela M.
Kalmbach, Justin J.
Kemp, Angela D.
Kocsis, Amber S.
Mariotti, Lisa A.
May, Jeffrey
McGee, David
Morgan, Shannon T.
Morse, Debra
Olson, Carl
Peabody, Matthew
Perry, Allison
Petropulos, August J.
Pohland, Erin A.
Ristroph, Elizabeth B.
Romack, Taylor
Sandone, Aaron
Schorr, Jennifer
Seidel, Rowan C.
Shanklin, Stephanie
Theriault, David
Torres, Jonathon
Vanderjack, Andrew
Walker, Christopher J.
Williams, Amy
Wininger-Howard, Melissa J.
Withers, John R.

ATTORNEY DISCIPLINE

Lawyer reprimanded for law office mismanagement

At its meeting on September 12, 2008 the Disciplinary Board of the Bar imposed a private reprimand on Attorney X for a pattern of mismanagement in the lawyer's office. The misconduct involved six clients and included careless errors in pleadings, failure to respond to client requests for information, tardy delivery of client files to substitute counsel, and failure to timely account for unearned fees. The misconduct caused little or no permanent harm, but did cause delay, frustration, and inconvenience to clients. Attorney X and Bar Counsel entered a stipulation for discipline that recognized a variety of mitigating factors. The Board agreed that the lawyer's conduct amounted to a violation of Alaska Rule of Professional Conduct 1.3, which requires diligence, and a violation of ARPC 1.4, which requires lawyers to maintain reasonable communication with clients. With the reprimand, the Board also imposed conditions on the lawyer's practice. The lawyer must take continuing legal education courses on law office management, billing and accounting practices, and communication skills. The lawyer must provide training in these things to staff. The lawyer must maintain a mentoring relationship with a senior member of the Alaska Bar, and the mentor is required to report to the Bar if the lawyer develops new problems.

Lawyer Jay Durych Suspended for Neglect

The Alaska Supreme Court on August 1, 2008 ordered Anchorage lawyer Jay D. Durych to serve a 90-day suspension for neglect and failure to communicate with clients.

In one case, Mr. Durych did not file a civil complaint for his client, did not timely secure an appraisal of subject real estate, did not complete a settlement agreed to by the parties, did not respond to numerous attempts by the client to contact him, did not deliver the client's file to substitute counsel, and did not provide an accounting of fees. Ultimately he apologized to the client and returned nearly all of the client's fee.

In a second case, Mr. Durych did not respond to a dispositive motion and did not notify his clients about dismissal and sanction orders. He also did not respond to client requests for information and did not deliver the clients' file as requested. A fee arbitration committee ordered him to refund $6,500 of his $7,000 fee, which he did. He also assisted his clients in a malpractice claim that they filed against him, which resulted in a recovery that substantially remedied the harm he caused.

Mr. Durych and the Alaska Bar Association entered a stipulation for discipline that recognized, among other mitigating factors, medical problems affecting his ability to comply with professional duties. The Supreme Court's discipline order requires, as a condition of reinstatement to practice, that he continue treatment and submit medical evidence of his fitness to practice. After reinstatement, for two years he will be on probation. Among the conditions of his probation, he will be required to meet with a mentor lawyer. Public documents containing the complete discipline stipulation may be reviewed at the Bar Association office in Anchorage.

Written private admonition issued to Anchorage attorney

Anchorage Attorney X accepted a written private admonition from Bar Counsel for making a living expense loan to her client in breach of a conflict of interest rule, ARPC 1.8(e).

The complaint arose when complainant-client alleged his attorney went behind his back to take a deal with the insurance company rather than to follow his instructions to sue the company. Attorney X explained that her client sued for injuries sustained in an automobile accident and she advised him to make a policy limits offer. Instead the client wanted to sue the insurance company directly. Attorney X arranged for her client to consult with another attorney who confirmed that Attorney X was appropriately advising her client to make a policy limits offer against the defendant driver and who also confirmed that there was no basis to proceed directly against the driver's insurance company. The client still disagreed that this was the way to proceed based on his Internet research. At this standstill, Attorney X withdrew her representation without any legal prejudice to her client. In response he filed a complaint.

In a narrative of events submitted with his complaint, complainant stated that Attorney X advanced him a month's rent. Invoices provided by the attorney showed that Attorney X paid her client's rent for a month, a fact that Attorney X confirmed, stating that her client had limited financial resources following the accident.

ARPC 1.8(e) prohibits a lawyer from providing financial assistance to a client in connection with pending or contemplated litigation unless it is related to court costs and expenses of litigation. The Alaska Supreme Court in The Matter of Minor Child K.A.H., 967 P.2d 91 (Alaska 1998) concluded that the language of Rule 1.8(e) unambiguously prevents lawyers from advancing living expenses such as rent.

Bar counsel determined that Attorney X did not act intentionally, but negligently. An Area Division member reviewed Bar Counsel's file and approved the issuance of a written private admonition from Bar Counsel which Attorney X accepted for the Rule 1.8(e) violation.

Quote of the Month

"Natural abilities are like natural plants; they need pruning by study."

-- Sir Francis Bacon
English author, courtier, & philosopher (1561 - 1626)

Additions to HeinOnline subscription in the Law Library now available

By Catherine Lemann

HeinOnline is a subscription service available in five law libraries. It is an example of how law libraries are not limited by what is contained within our physical space.

HOL is a web-based subscription service that provides access to images of law reviews, U.S. government information, and other legal resources. What differentiates HeinOnline from a Westlaw or Lexis research is the breadth of coverage. Westlaw and Lexis coverage generally begins in the 1980s. HeinOnline provides easy access to older legal materials.

HeinOnline has the entire run of many law reviews, beginning with Volume 1. Titles also include law reviews that are no longer being published. Historical research is not something people do everyday, but when you need an article from an early law review it is a fabulous resource. The database also includes law reviews from England, Scotland, Australia, Canada, and more. Users can browse law reviews or use the search feature. You can search for law review articles with certain words in the title, by author, or with a full-text search.

HeinOnline's Federal Register coverage is comprehensive and begins from inception (1936). Multiple browsing and searching features are available, as well as additional content such as the CFR from inception (1938) as well as the United States Government Manual from inception (1935) and the Weekly Compilation of Presidential Documents from inception (1965). Documents are scans of the original paper.

The United States Statutes at Large are searchable from 1789 – 2006. This can be useful when looking for pre-statehood information. The Congressional Record and the Congressional Record Daily are available. There are also U.S. Federal Agency decisions, including Immigration, NLRB, EPA, FCC, and the FTC.

The law library recently added a subscription to Subject Compilations of State Laws. Looking for 50 state comparisons is difficult. This is a comprehensive source for identifying thousands of articles, books, government documents, loose-leaf services, court opinions and Internet sites that compare state laws on hundreds of subjects. There are live links to law review articles and U.S. Reports on HeinOnline, as well as to Internet sites with publicly available information.

HeinOnline Content includes:
1,185 Law Journals
Code of Federal Regulations from 1938
Federal Register Vol. 1 (1936) – Vol. 71 (August 2008)
U.S. Reports 1754 - date
Legislative Histories of Selected Federal Laws
U.S. Statutes at Large 1789 – 2006 (searchable)
1,063 titles in the Legal Classics Library

While this service is only available in the larger law libraries, content can be sent elsewhere by email, mail, or fax. Please check out HeinOnline the next time you're in the library in Anchorage, Juneau, Fairbanks, Ketchikan, or Kenai. Or, call us on the toll free number (888-282-2082) or email library@courts.state.ak.us for more information.

Bolger to be installed Jan. 9

You are invited to attend the Installation of the Honorable Joel H. Bolger as Judge of the Court of Appeals. Friday, January 9, 2009 at 3:30 p.m. in the Supreme Court Courtroom. A reception will follow at the Hotel Captain Cook, Club Room 2

Call for nominations for the 2009 Jay Rabinowitz Public Service Award

JUDGE SEABORN J. BUCKALEW, JR.
2008 Recipient

BRUCE BOTELHO
2007 Recipient

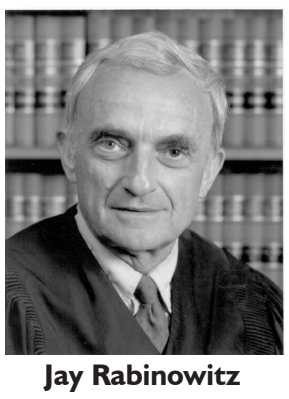
LANIE FLEISCHER
2006 Recipient

JUDGE THOMAS B. STEWART
2005 Recipient

Photo courtesy of the Juneau Empire.

ART PETERSON
2004 Recipient

MARK REGAN
2003 Recipient



Jay Rabinowitz

The Board of Trustees of the Alaska Bar Foundation is accepting nominations for the 2009 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. Completed nominations must be returned to the office of the Alaska Bar Association by March 2, 2009. The award will be presented at the Annual Convention of the Alaska Bar Association in May 2009.

Since 1896
ALASKA BAR ASSOCIATION

ALASKA BAR FOUNDATION

THE UN-COMFORT ZONE

What's pushing your buttons?

By Robert Wilson

What motivates you? Are you motivated by fame, fortune or fear. Or is it something deeper that fans the flames inside of you. Perhaps you are like Jeanne Louise Calment whose burning desire enabled her to do something that no other human being has done before. A feat so spectacular that it generated headlines around the globe, got her a role in a motion picture, and landed her in the Guinness Book of World Records. A record that has yet to be beaten.

Jeanne Louise, however, did not initially motivate herself. It was someone else who drew the line in the sand. But, it became a line she was determined to cross.

In motivation we talk about getting outside of one's comfort zone. It is only when we are uncomfortable that we begin to get motivated. Usually to get back into our comfort zone as quickly as possible.

Born into the family of a middle-class store owner, Calment was firmly entrenched in her comfort zone. At age 21 she married a wealthy store owner and lived a life of leisure. She pursued her hobbies of tennis, the opera, and sampling France's famous wines. Over the years she met Impressionist painter Van Gogh; watched the erection of the Eiffel Tower; and attended the funeral of Hunchback of Notre Dame, author, Victor Hugo.

Twenty years after her husband passed away, she had reached a stage in life where she had pretty much achieved everything that she was going to achieve. Then along came a lawyer. The lawyer made Jeanne Louise a proposition. She accepted it. He thought he was simply making a smart business deal. Inadvertently he gave her a goal. It took her 30 years to achieve it, but achieve it she did.

Are you willing to keep your goals alive for 30 years? At what point do you give up? Thomas Edison never gave up, instead he said, "I have not failed. I've just found 10,000 ways that won't work." Winston Churchill during the bleakest hours of World War II kept an entire country motivated with this die-hard conviction: "We shall defend our Island, whatever the cost may be, we shall fight on the beaches... in the fields and in the streets... we shall never surrender."

Many of us give up too soon because we set limits on our goals. Achieving a goal begins with determination. Then it's just a matter of our giving them attention and energy.

When Jeanne Louise was 92 years old, attorney François Raffray, age 47, offered to pay her $500 per month (a fortune in 1967) for the rest of her life, if she would leave her house to him in her will. According to the actuarial tables it was a great deal. Here was an heirless woman who had survived her husband, children, and grandchildren. A woman who was just biding her time with nothing to live for. That is until Raffray came along and offered up the "sucker- bet" that she would soon die. It was motivation enough for Jeanne, who was determined to beat the lawyer. Thirty years later, Raffray became the "sucker" when he passed away first at age 77.

When asked about this by the press, Calment simply said, "In life, one sometimes make bad deals." Having met her goal, Jeanne passed away five months later. But on her way to this end, she achieved something else: at 122 years old, she became the oldest person to have ever lived.

The author is a motivational speaker and humorist. He works with companies that want to be more competitive and with people who want to think like innovators. For more information, see www.jumpstartyourmeeting.com or e-mail robert@jumpstartyourmeeting.com

Bar People

Birch Horton Bittner & Cherot is pleased to announce that the firm has achieved the top ranking in Chambers USA 2008 Alaska. The firm received a Band 1 rank in Corporate/M&A and a Band 2 ranking in Litigation: General Commercial.

Additionally, five attorneys at Birch Horton Bittner & Cherot were also ranked in Band 1 in their respective practice areas: **Kathryn Black** in Corporate/M&A; **Stephen Hutchings** in Litigation: Construction; **Michael Parise** in Corporate M&A: Bankruptcy; **Timothy Petumenos** in Litigation: General Commercial and **Suzanne Cherot** in Real Estate.

In addition to his Band 1 ranking, Hutchings was also ranked in Band 3 in Litigation: General Commercial. Two other attorneys were ranked in Band 3 in their practices: **Tina Grovier** was ranked in Band 3 in Environment, Natural Resources and Regulated Industries and **Jennifer Alexander** was Ranked 3 in Labor & Employment.....

The Law Office of **Rhonda F. Butterfield** and The Law Office of **Mitchell K. Wyatt** have relocated to the Norway Office Suites in the Signature Building at 745 W. 4th Ave., Suite 200, Anchorage, AK 99501. Ms. Butterfield's new phone number is (907) 771-8394, and her fax number is (907) 771-8381. Mr. Wyatt's new phone number is (907) 771-8393, and his fax number is: (888) 455-1236. Both attorneys practice family law.

Sonosky, Chambers, Sachse, Miller & Munson, LLP, is pleased to announce that **Lloyd Miller** has been selected for inclusion in the 2009 edition of The Best Lawyers in America in the specialty of Native American Law.

Nicholas Bajwa joined the Anchorage law firm of Manley & Brautigam as an associate attorney. His focus is in the field of estate planning, business transactions as well as oil and gas taxation. Bajwa holds a bachelor's degree from the University of Michigan and a law degree from the University of Minnesota.

Nicholas Bajwa

4 listed as 'Best Lawyers'

Peter B. Brautigam, F. Steven Mahoney, Robert L. Manley and Jane E. Sauer of Manley & Brautigam, P.C. have been selected by their peers for inclusion in The Best Lawyers in American 2009 Edition.

Best Lawyers is based on a peer-review survey in which more than 25,000 leading attorneys cast almost two million votes on the legal abilities of other lawyers in their specialties, and because lawyers are not required or allowed to pay a fee to be listed, inclusion in Best Lawyers is considered a singular honor. Corporate Counsel magazine has called Best Lawyers "the most respected referral list of attorneys in practice."

Peter B. Brautigam and Robert l. Manley are included in the practice areas of Taxation as well as Trusts & Estates. Jane E. Sauer is included in the practice area of Corporate Law. F. Steven Mahoney is recognized in the practice areas of Natural Resource Law, Non-Profit/Charities Law, Oil & Gas Law and Tax Law.

In addition Manley and Brautigam have been named as Alaska Super Lawyers by Washington Law and Politics Magazine.

Jane E. Sauer

Peter B. Brautigam

Robert L. Manley

F. Steven Mahoney

Mahoney honored for 30

A Board of Governors Lifetime Achievement Award was presented to Robert J. Mahoney, right, at the November 6, 2009 meeting of the Ethics Committee. The Award honors Bob's 30 plus years of service to the Bar Association as chairman and member of the Bar's Ethics Committee.

--Photo by Marla Greenstein

Last call for entries: American Bar gender diversity competition

The deadline for submissions to the American Bar Association Commission on Women in the Profession 20th anniversary video/essay contest is Dec. 31, noon, Central Standard Time. Entries must be based on the theme "Gender Diversity: Have We Solved the Problem? If Not, Where Do We Go From Here?"

YouTube video submissions must be no longer than three minutes; essays are limited to six pages.

The contest is open to young lawyers under 36 years old and all law students attending ABA-accredited law schools.

For more details go to www.abanet.org/women/competition.html.

Created in August 1987 to assess the status of women in the legal profession, identify barriers to advancement, and recommend to the ABA actions to address problems identified, the ABA Commission on Women in the Profession is the national voice for women lawyers. Hillary Rodham Clinton served as the first chair of the commission. Today the commission is forging a new and better profession, ensuring that women have equal opportunities for professional growth and advancement commensurate with their male counterparts.

With more than 400,000 members, the American Bar Association is the largest voluntary professional membership organization in the world. As the national voice of the legal profession, the ABA works to improve the administration of justice, promotes programs that assist lawyers and judges in their work, accredits law schools, provides continuing legal education, and works to build public understanding around the world of the importance of the rule of law.

Alaska Bar Association CLE Calendar

Date	Time	Title	Location
December 17 Live & Live Webcast	8:30 a.m. – 10:00 a.m. (Breakfast CLE)	Off the Record with the Alaska Appellate Courts CLE#2008-037 1.5 general CLE credits	Anchorage Hotel Captain Cook
January 27 Live & Webcast	8:30 – 10:00 a.m.	Off the Record – 3rd Judicial District CLE Number 2009 –002 CLE Credits	Anchorage Hotel Captain Cook
February 11 Live & Webcast	8:30 a.m. – 12:30 p.m.	AK Constitutional Law Update CLE Number 2009-001 CLE Credits	Anchorage Hotel Captain Cook
March 24 Live & Webcast	8:30 – 11:00 a.m.	Ethics with Nancy Rapaport, UNLV School of Law CLE Number 2009-016 CLE Credits	Anchorage Hotel Captain Cook
March 20	8:30 a.m. – 12:30 p.m.	Family Law Update – Breakfast CLE CLE Number 2009-012 CLE Credits	Anchorage Hotel Captain Cook
April 1	8:30 a.m. -12:30 p.m. Sent email to Judge Card 10/3	Evidence Refresher with Judge Card CLE Number 2009 –015 CLE Credits	Anchorage Hotel Captain Cook

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

ASIDE

THE COMMON LAW ORIGINS OF THE INFIELD FLY RULE

The[1] Infield Fly Rule [2] is neither a rule of law nor one of equity; it is a rule of baseball.[3] Since the[4] 1890's it has been a part of the body of the official rules of baseball.[5] In its inquiry into the common law origins[6] of the rule, this Aside does not seek to find a predecessor to the rule in seventeenth-century England. The purpose of the Aside is rather to examine whether the same types of forces that shaped the development of the common law[7] also generated the Infield Fly Rule.

As a preliminary matter, it is necessary to emphasize that baseball is a game of English origin, rooted in the same soil from which grew Anglo-American law and justice.[8] In this respect it is like American football and unlike basketball, a game that sprang fully developed from the mind of James Naismith.[9] The story of Abner Doubleday, Cooperstown, and 1839, a pleasant tribute to American ingenuity enshrined in baseball's Hall of Fame, is not true.[10] The myth reflects a combination of economic opportunism,[11] old friendship,[12] and not a small element of anti-British feeling.[13] The true birthplace of the game is England; thence it was carried to the western hemisphere, to develop as an American form.[14]

The original attitude toward baseball developed from distinctly English origins as well. The first "organized" games were played in 1845 by the Knickerbocker Base Ball Club of New York City,[15] and the rules which governed their contests clearly indicate that the game was to be played by gentlemen. Winning was not the objective; exercise was. [16] "The New York club players were 'gentlemen in the highest social sense'--that is, they were rich .... The earliest clubs were really trying to transfer to our unwilling soil a few of the seeds of the British cricket spirit."[17] This spirit, which has been variously described as the attitude of the amateur, of the gentleman, and of the sportsman,1[8] would have kept the rules simple and allowed moral force to govern the game.[19] Such an attitude, however, was unable to prevail.

As baseball grew, so did the influence of values that saw winning, rather than exercise, as the purpose of the game.[20] Victory was to be pursued by any means possible within the language of the rules, regardless of whether the tactic violated the spirit of the rules.[21] The written rules had to be made more and more specific, in order to preserve the spirit of the game.[22]

The Infield Fly Rule is obviously not a core principle of baseball. Unlike the diamond itself or the concepts of "out" and "safe," the Infield Fly Rule is not necessary to the game. Without the Infield Fly Rule, baseball does not degenerate into bladderbal [23] the way the collective bargaining process degenerates into economic warfare when good faith is absent.[24] It is a technical rule, a legislative response to actions that were previously permissible, though contrary to the spirit of the sport.

Whether because the men who oversaw the rules of baseball during the 1890's were unwilling to make a more radical change than was necessary to remedy a perceived problem in the game, or because they were unable to perceive the need for a broader change than was actually made, three changes in the substantive rules, stretching over a seven-year period, were required to put the Infield Fly Rule in its present form. In each legislative response to playing field conduct, however, the fundamental motive for action remained the same: "To prevent the defense from making a double play by subterfuge, at a time when the offense is helpless to prevent it, rather than by skill and speed."[25]

The need to enforce this policy with legislation first became apparent in the summer of 1893. In a game between New York and Baltimore, with a fast runner on first, a batter with the "speed of an ice wagon"[26] hit a pop fly. The runner stayed on first, expecting the ball to be caught. The fielder, however, let the ball drop to the ground, and made the force out at second.[27] The particular occurrence did not result in a double play, but that possibility was apparent; it would require only that the ball not be hit as high. Although even the Baltimore Sun credited the New York Giant with "excellent judgment,"[28] the incident suggested that something should be done, because by the play the defense obtained an advantage that it did not deserve and that the offense could not have prevented. Umpires could handle the situation by calling the batter out,[29] but this was not a satisfactory solution; it could create as many problems as it solved.[30] The 1894 winter meeting responded with adoption of the "trap ball" rule, putting the batter out if he hit a ball that could be handled by an infielder while first base was occupied with one out.[31]

The trap ball rule of 1894, however, did not solve all problems. First, although the rule declared the batter out, there was no way to know that the rule was in effect for a particular play. The umpire was not required to make his decision until after the play, and, consequently, unnecessary disputes ensued.[32] Second, it became apparent that the feared unjust double play was not one involving the batter and one runner, but one that, when two men were on base, would see two baserunners declared out.[33] The 1895 league meeting ironed out these difficulties through changes in the rules.[34] The third problem with the trap ball rule of 1894, one not perceived until later, was that it applied only when one man was out. The danger of an unfair double play, however, also exists when there are no men out. This situation was corrected in 1901, and the rule has remained relatively unchanged since that time.[35]

The Infield Fly Rule, then, emerged from the interplay of four factors, each of which closely resembles a major force in the development of the common law. First is the sporting approach to baseball. A gentleman, when playing a game, does not act in a manner so unexpected as to constitute trickery;[36] in particular he does not attempt to profit by his own unethical conduct.[37] The gentleman's code

Continued on page 9

In Memoriam

Will Stevens

Will Stevens

Alaska Bar Association CLE Director William Stanley Stevens passed away suddenly of a heart attack in Anchorage Dec. 3. He was 60.

Recently retired from the American Law Institute - American Bar Association (ALI-ABA), Will had driven the ALCAN Highway to take the position as Acting CLE Director Oct. 6. He was to fill in for a year while CLE Director Barbara Armstrong is on sabbatical. "This Alaska Bar position opening up at this time is for me a wonderful example of serendipity," he said of his new position.

Universally loved and respected, he will be deeply missed by his family, friends and colleagues.

Will grew up in Millburn-Short Hills, NJ. For the past 30 years he had lived in Narberth, PA. He graduated from the Pingry School in 1966 and from Yale University in 1970 with a B.A. in American studies. He served as an officer in the U.S. Navy from 1970-1972.

Will received his J.D. from the University of Pennsylvania in 1975, graduating cum laude. He received the Order of the Coif and was editor of the *University of Pennsylvania Law Review*. His 1975 law review article, "ASIDE: The Common Law Origins of the Infield Fly Rule," has garnered cult status. (See, a reprint of the article starting on page 8) Originally written anonymously, the article continues to be cited and is memorialized in the Baseball Hall of Fame. He had worked with ALI-ABA since 1990, most recently as Assistant Director of Continuing Professional Education. Prior to his position there he had been in private practice. Stevens also served on the editorial board of *The Philadelphia Lawyer*, the magazine of the Philadelphia Bar Association.

Will had many interests and an encyclopedic knowledge of baseball and the Civil War, among numerous other subjects. He was also an avid hockey player and downhill skier and saw his Philadelphia Phillies win the World Series this year. He had a wry sense of humor and enjoyed celebrating "Broderick Crawford Day," the hero of the 1950's TV series, "Highway Patrol."

He was also a keen photographer and the unofficial visual chronicler of his many friends' children as they grew up, said his family. He kept a catalog with thousands of photographs of his family, friends and neighbors and the places he visited during his travels across the U.S.

But it was the Aside on the infield fly rule that brought him notoriety. *The New York Times* in an obituary Dec. 11 said his "slyly humorous law-review note on the relationship between baseball's infield fly rule and Anglo-American common law became one of the most celebrated and imitated analyses in American legal history." Added the *Times*, "Nothing like it had ever appeared in a major law review, in part because of its concise, elegant reasoning. It continues to be cited by courts and legal commentators. It is taught in law schools. It is credited with giving birth to the law and baseball movement, a thriving branch of legal studies devoted to the law and its social context. It made lawyers think about the law in a different way."

"It encouraged a whole generation of law students, some of whom became law-review editors, to look at subjects previously beyond the pale," the Times quoted Robert M. Jarvis, a law professor at the Nova Southeastern University in Ft. Lauderdale, Fla., and the author, with Phyllis Coleman, of "The Uncommon Origins of 'The Common Law Origins of the Infield Fly Rule'," a 2002 article in the journal Entertainment and Sports Lawyer. "After Stevens, law reviews were never the same," Jarvis said. "It was a cultural revolution. It cannot be overstated."

Jarvis commented in the *Times* that Stevens once told him that "(The law review Aside) has given me far more than the 15 minutes of fame Andy Warhol said I should get. With recent flurries of interest in the piece, I am probably up to 21 minutes and 15 seconds... My ego is simultaneously flattered and bruised by the notion that something I cranked out more than 25 years ago would prove to be the highlight of my professional and academic careers."

Will was predeceased by his mother, Virginia Stanley Stevens, and is survived by his father, Harry J. Stevens, Jr. of Summit, NJ, his brother, Jay Stevens of San Francisco, his sisters, Joan Carroll Stevens of Ringoes, NJ and Susan S. Sullivan and her husband T. Dennis Sullivan, of Brooklyn, NY, his nephews, David M. Sullivan of Washington, DC and Steven A. Sullivan of Brooklyn NY, his niece, Tara Condon and her husband Matthew Condon, of San Rafael, CA and many friends.

The family requests that in lieu of flowers a memorial donation be made to a charity of one's choice. A memorial service to celebrate Will's life will be held at a later date.

Photo courtesy of ALI-ABA

ASIDE: The common law origins of the infield fly rule

Continued from page 8

provides the moral basis for the rule; it is the focal point of the rule, just as the more general precept of fair play provides a unifying force to the conduct of the game. The principle of Anglo-American law analogous to this gentleman's concept of fair play is the equally amorphous concept of due process, or justice[38] itself.

Baseball's society, like general human society, includes more than gentlemen, and the forces of competitiveness and professionalism required that the moral principle of fair play be codified so that those who did not subscribe to the principle would nonetheless be required to abide by it.[39] Thus the second factor in the development of the Infield Fly Rule--a formal and legalistic code of rules ensuring proper conduct--was created. [40] In the common law, this development manifested itself in the formalism of the writ system.[41] Conduct was governed by general principles; but to enforce a rule of conduct, it was necessary to find a remedy in a specific writ.[42] The common law plaintiff had no remedy if the existing writs did not encompass the wrong complained of; and the baseball player who had been the victim of a "cute" play could not prevail until the umpire could be shown a rule of baseball squarely on point.

To the generalization set forth in the preceding sentence there is an exception, both at common law and at baseball. At common law, the exception was equity, which was able to aid the plaintiff who could not find a form of action at law.[43] At baseball, the exception was the power of the umpire to make a call that did not fit within a particular rule.[44] The powers of equity and of the umpire, however, were not unlimited. The law courts circumscribed the power of the chancellor to the greatest extent possible, and this process of limitation has been defended.[45] Likewise, the discretionary power of the umpire has been limited: Additions to the written rules have reduced the area within which the umpire has discretion to act. Strong policy reasons favor this limitation upon the umpire's discretionary power. Because finality of decision is as important as correctness of decision, an action that invites appeal, as broad discretion in the umpire does, is not valued. The umpire must have the status of an unchallengeable finder of fact.[46] Allowing challenges to his authority on matters of rules admits the possibility that he may be wrong, and encourages a new generation of challenges to findings of fact.

The fourth element in the development of the Infield Fly Rule is demonstrated by the piecemeal approach that rules committees took to the problem. They responded to problems as they arose; the process of creating the Infield Fly Rule was incremental, with each step in the development of the rule merely a refinement of the previous step. Formalism was altered to the extent necessary to achieve justice in the particular case; it was not abandoned and replaced with a new formalism. Anglo-American law has two analogies to this process. The first is the way in which common law precedents are employed to mold existing remedies to new situations. Although the rigid structure of the common law was slow to change, it did change. The substantive change took place not only as a result of judicial decision; it was also caused by legislation, which is the second analogy. The legislation, however, was to a great extent directed at specific defects perceived to exist in the system.[47] Adjustment of the law, not its reform, was the goal of the legislative process. The rules of baseball and of Anglo-American jurisprudence are thus to be contrasted with the continental system of complete codes designed to remedy society's ills with a single stroke of the legislative brush.[48]

The dynamics of the common law and the development of one of the most important technical rules of baseball, although on the surface completely different in outlook and philosophy, share significant elements. Both have been essentially conservative, changing only as often as a need for change is perceived, and then only to the extent necessary to remove the need for further change. Although problems are solved very slowly when this attitude prevails, the solutions that are adopted do not create many new difficulties. If the process reaps few rewards, it also runs few risks.

Footnotes

[1] 11 Oxford English Dictionary 257-60 (1961).

[2] Off. R. Baseball 2.00 & 6.05(e). Rule 2.00 is definitional in nature and provides that:

> An INFIELD FLY is a fair fly ball (not including a line drive nor an attempted bunt) which can be caught by an infielder with ordinary effort, when first and second, or first, second and third bases are occupied, before two are out. The pitcher, catcher, and any outfielder who stations himself in the infield on the play shall be considered infielders for the purpose of this rule.
>
> When it seems apparent that a batted ball will be an Infield Fly, the umpire shall immediately declare "Infield Fly" for the benefit of the runners. If the ball is near the baselines, the umpire shall declare "Infield Fly, if Fair."
>
> The ball is alive and runners may advance at the risk of the ball being caught, or retouch and advance after the ball is touched, the same as on any fly ball. If the hit becomes a foul ball, it is treated the same as any foul.
>
> NOTE: If a declared Infield Fly is allowed to fall untouched to the ground, and bounces foul before passing first or third base, it is a foul ball. If a declared Infield Fly falls untouched to the ground outside the baseline, and bounces fair before passing first or third base, it is an Infield Fly.

Rule 6.05(e) gives operational effect to the definition, by providing that the batter is out when an Infield Fly is declared.

Depending upon the circumstances, other rules which may or may not apply to a particular situation include, *inter alia*, FED. R. Civ. P., Rule Against Perpetuities, and Rule of *Matthew* 7:12 & *Luke* 6:31 (Golden).

[3] Although referred to as "Rules" both officially and in common parlance, if the analogy between the conduct-governing strictures of baseball and a jurisprudential entity on the order of a nation-state is to be maintained, the "rules" of baseball should be considered to have the force, effect, and legitimacy of the statutes of a nation-state. The analogy would continue to this end by giving the "ground rules" of a particular baseball park the same status as the judge-made rules of procedure of a particular court.

[4] Note 1 *supra*.

[5] It is only with the greatest hesitation that one hazards a guess as to the year of origin of the Infield Fly Rule. Seymour considers it to have been 1893. 1 H. Seymour, Baseball 275 (1960). Richter, on the other hand, in an opinion *which The Baseball Encyclopedia* joins, considers the rule to have entered the game in 1895. F. Richter, Richter's History And Records Of Baseball 256 (1914); The Baseball Encyclopedia 1526-27 (1974). Finally, Voigt considers 1894 the correct year. 1 D. Voigt, American Baseball 288 (1966).

Although independent investigation of primary sources has led to the belief that the rule first developed in 1894 and 1895, notes 25-35 *infra* & accompanying text, a certain sense of justice would be satisfied if the rule developed as a result of play during the 1894 season. For that season was the first of the championship seasons of the Baltimore Orioles, the team that developed what is now known as "inside baseball," including such plays as the Baltimore chop and the hit-and-run. The Orioles not only played smart baseball; they played dirty baseball. "Although they may not have originated dirty baseball they perfected it to a high degree. In a National League filled with dirty players they were undoubtedly the dirtiest of their time and may have been the dirtiest the game has ever known." D. Wallop, Baseball: An Informal History 88 (1969); *accord*, L. Allen, The National League Story 68 (1961); *see* R. Smith, Baseball 136-46 (1947). Even if the Infield Fly Rule was not developed as a result of the event of the 1894 season, perhaps it should have been.

[6] For a discussion of origins, *see generally* Scopes v. State, 154 Tenn. 105, 289 S.W. 363 (1927); *Genesis* 1:1-2:9. *But see even more generally* Epperson v. Arkansas, 393 U.S. 97 (1968); R. Ardrey, African Genesis (1961); C. Darwin, The Descent Of Man (1871); C. Darwin, The Origin Of Species (1859).

[7] For a discussion of common law in a non-baseball context, *see* W. Holdsworth, A History Of English Law (1903-1938); O.W. Holmes, The Common Law (1881).

[8] *Cf.* Palko v. Connecticut, 302 U.S. 319, 325 (1937).

[9] R. Brasch, How Did Sports Begin? 41 (1970).

[10] R. henderson, bat, ball and bishop 170-94 (1947). The Doubleday theory of origin is outlined in 84 CONG. REC. 1087-89 (1939) (remarks of Congressman Shanley) (*semble*). Congressional approval of the theory, however, was never forthcoming. H.R.J. Res. 148, 76th Cong., 1st Sess. (1939), seeking to designate June 12, 1939, National Baseball Day, was referred to the Committee on the Judiciary, never again to be heard from. 84 CONG. REC. 1096 (1939). Nor did the Supreme Court formally adopt the Doubleday theory. Flood v. Kuhn, 407 U.S. 258, 260-61 (1972) (opinion of Blackmun, J.) (not explicitly rejecting the theory either). An interesting, if unlikely, explanation, offerable as an alternative to both the Doubleday and English theories of origin, is found in J. Hart, Hey! B.C. 26 from the back (unpaginated, abridged & undated ed.).

[11] R. Brasch, *supra* note 9, at 31-32.

[12] R. Henderson, *supra* note 10, at 179. The chairman of the commission suggested by A.G. Spalding to investigate the origins of the game was A.G. Mills, who had belonged to the same military post as Abner Doubleday.

[13] R. Smith, *supra* note 5, at 31.

[14] *See generally* H. Seymour, *supra* note 5; D. VOIGT, *supra* note 5. The American qualities of the game are also revealed in other than historical or legal contexts. *Cf.* M. Gardner, The Annotated Casey At The Bat (1967); B. Malamud, The Natural (1952).

[15] R. smith, *supra* note 5, at 32-35.

[16] Knickerbocker Base Ball Club R. 1 (1845), *reprinted* in R. Henderson, *supra* note 10, at 163-64, *and in* F. Richter, *supra* note 5, at 227.

[17] R. Smith, *supra* note 5, at 37.

[18] Keating, *Sportsmanship as a Moral Category*, 75 Ethics 25, 33 (1964).

[19] R. Smith, *supra* note 5, at 68-69.

[20] 1 D. Voight, *supra* note 5, at xvii; *cf. Hearings on S. 3445, Federal Sports Act of 1972, Before the Senate Committee on Commerce*, 92d Cong., 2d Sess. 94-95 (1973) (statement of H. Cosell). *See generally* Keating, *supra* note 18, at 31-34.

[21] Perhaps the most glaring example of this attitude is contained in the career of Mike "King" Kelly. When the rules permitted substitutions on mere notice to the umpire, Kelly inserted himself into the game after the ball was hit in order to catch a ball out of reach of any of his teammates. R. Smith, *supra* note 5, at 89-90.

[22] *Cf. id.* 68-69; 1 D. Voight, *supra* note 5, at 204-05.

[23] *See* Yale Daily News, Oct. 29, 1966, at 1, col. 1.

[24] NLRB v. Insurance Agents Int'l Union, 361 U.S. 477, 488-90 (1960).

[25] 1 H. Seymour, *supra* note 5, at 276.

[26] Baltimore Sun, May 24, 1893, at 6, col. 2. Raised by this statement is the issue of the speed of an ice wagon in both relative and absolute terms. Such inquiry is beyond the scope of this Aside.

[27] *Id.* The fielder who made the play was Giant shortstop and captain John Montgomery Ward, who became a successful attorney after his playing days ended. D. Voight, *supra* note 5, at 285.

[28] Baltimore Sun, May 24, 1893, at 6, col. 2.

[29] *e.g.*, the Chicago-Baltimore game of June 8, 1893. "In the second inning . . . Kelley hit a pop fly to short-stop. Dahlen caught the ball, then dropped it and threw to second base, a runner being on first. The muff was so plain that Umpire McLaughlin refused to allow the play and simply called the batsman out." Baltimore Sun, June 9, 1893, at 6, col. 2.

[30] Text accompanying notes 45-46 *infra*.

[31] Baltimore Sun, Feb. 27, 1894, at 6, col. 3. The rule stated that "the batsman is out if he hits a fly ball that can be handled by an infielder while first base is occupied and with only one out." *Id.* Apr. 26, 1894, at 6, col. 2.

[32] Baltimore Sun, Apr. 26, 1894, at 6n col. 2.

[33] 1 H. Seymour, *supra* note 5, at 275-76. Seymour developed yet another reason for the change in the rule: that "teams got around it by having outfielders come in fast and handle the pop fly." *Id.* 276. This does not appear to be a valid thesis because, from the beginning, the rule referred not to whether an infielder, as opposed to an outfielder, did handle the chance, but to whether an infielder could handle it. Note 31 *supra*.

[34] Baltimore Sun, Feb. 18, 1895, at 6, col. 4. *Id.* Feb. 28, 1895, at 6, col. 5.

[35] The Baseball Encyclopedia 1527 (1974). The current rule is set forth in note 2 *supra*.

[36] *See, e.g.*, Pluck (the wonder chicken).

[37] In the law, this belief is reflected in the clean hands doctrine, which "is rooted in the historical concept of [the] court of equity as a vehicle for affirmatively enforcing the requirements of conscience and good faith." Precision Instrument Mfg. Co. v. Automotive Maintenance Mach. Co., 324 U.S. 806, 814 (1945). For a statutory codification of the clean hands rule, *see* Cal. Health & Safety Code § 28548, 2 (West 1967) (requiring food service employees to "clean hands" before leaving restroom). *See generally* Z. Chafee, Some Problems Of Equity, chs. 1-3 (1950).

To be contrasted with the doctrine of "clean hands" is the "sticky fingers" doctrine. The latter embodies the reaction of the baseball world to the excitement caused by the emergence of the home run as a major aspect of the game. Applying to the ball a foreign substance, such as saliva, made the big hit a difficult feat to achieve. As a result, in 1920, the spitball was outlawed. L. Allen, *supra* note 5, at 167. The banning of the spitball was not, however, absolute. Seventeen pitchers were given lifetime waivers of the ban, *id.*. possibly because the spitball had become an essential element of their stock-in-trade, and depriving them of the pitch would in effect deny them the right to earn a living. *See* Adams v. Tanner, 244 U.S. 590 (1917); McDermott v. City of Seattle, 4 F. Supp. 855, 857 (W.D. Wash. 1933); Winther v. Village of Weippe, 91 Idaho 798, 803-04, 430 P.2d 689, 694-95 (1967); *cf.* Restatement (Second) Of Contracts § 90 (Tent. Drafts Nos. 1-7, 1973). *But see* Ferguson v. Skrupa, 372 U.S. 726, 730-31 (1963).

[38] *See generally*, *e.g.*, U.S. Const. amends. V & XIV and cases citing thereto; Poe v. Ullman, 367 U.S. 497, 539-55 (1961) (Harlan, J., dissenting); J. Rawls, A Theory Of Justice (1971); Bentley, *John Rawls: A Theory of Justice*, 121 U. PA. L. REV. 1070 (1973); Michelman, *In Pursuit of Constitutional Welfare Rights: One View of Rawls' Theory of Justice*, 121 U. PA. L. REV. 962 (1973); Scanlon, *Rawls' Theory of Justice*, 121 U. PA. L. REV. 1020 (1973); *cf, e.g.*, Byron R. "Whizzer" White (1962-), Hugo L. Black (1937-71), & Horace Gray (1881-1902) (Justices). *But cf., e.g.*, Roger B. Taney (1836-64) (Chief Justice).

[39] Keating, *supra* note 18, at 30. *See also* R. Smith, *supra* note 5, at 68-69.

[40] Text accompanying notes 25-35 *supra*.

[41] 2 F. Maitland, Collected Papers 477-83 (1911).

[42] F. Pollock, The Genius Of The Common Law 13 (1912); 2 F. Pollock, & F. Maitland, History Of English Law 558-65 (2d ed. 1952).

[43] F. Maitland, Equity 4-5 (1909).

[44] Note 29 *supra*.

[45] 2 F. Maitland, *supra* note 41, at 491-94.

[46] Off. R. Baseball 4.19.

[47] F. Pollock, *supra* note 42, at 72.

[48] *Cf.* H. Gutteridge, Comparative Law 77-78 (2d ed. 1949).

The Bar Rag also thanks state law librarian Catherine Lemann for assistance in obtaining this reprint.

In Memoriam: Allen T. Compton

Compton remembered for "making order of disorder"

Not long ago, Allen moved to Anchorage from his home in the trees of Girdwood. Here, he had a view. He delighted in finding order out of the fugue that was daily life as it played out below. "I love the sound of the trains," he'd say. Or "Look at that ship making port with Little Su in the background" and "What a sunset!" He was adept at picking out the anomalies, like the bikers and walkers weaving through the industrial maze that is Ship Creek.

Allen was precise about his new place in Anchorage. He spent a lot of time ordering and re-ordering it until he felt it was perfect. Carefully chosen furniture placed in symmetry with the view, the fireplace and the ten beautiful Roberto Matta prints he finally had mounted and hung. What joy those pictures brought him! A blast of color and shapes, with an impression of order in the tangle.

"Let's hang this plate here – see how the light strikes it?" "Nope, not that way. It works better like this, don't you see?" He'd say this gently, or sometimes with a bite, if the pain was particularly bad that day.

Not a high maintenance man, or boss (for I was his law clerk some time ago). Often managing to be both cutting in his observations of life and law, and compassionate without pretension. He was no more at his best than when making order of disorder.

On the occasion of Allen's retirement in 1998, several lawyers in Alaska commented on Allen's disciplined and common sense contribution to jurisprudence in Alaska. Chancy and Eric Croft noted that "the pervading impression in most of Justice Compton's opinions is of common sense and fundamental fairness" and that he brought strong principles of restraint and realism to the bench. William Cotton, who worked with Allen in a number of contexts, observed that Allen's "written opinions and discussions on court rules and administrative matters always reflected a common sense, practical approach that showed a deep understanding for the people involved."

Former Governor Jay Hammond, who appointed Allen to both the superior court and the Supreme Court, noted that Allen "brought a measure of common sense to a field that can sometimes become lost in arcane or abstract principles." (The bearded Governor Hammond, who like Allen was known for his common sense and facial hair, suggested as well that there was some connection between the two – at least for Alaska sourdoughs).

Allen was concerned with ensuring that the law applied to small and large alike. Oops, that won't do. Allen disliked comparisons that lauded one at the expense of another.

Humility was also a hallmark of Allen the man and the jurist. Anyone ever see him walk through a door first? If so, please let me know, for I never did (okay, I exaggerate, for there was a pre-ordained order to his walks from chambers to the bench for oral argument). Even in his last, weakened, days he would hold the door for us as we gathered for Monday Night Football.

In a social context, anyone ever call him Justice or Mr. Compton more than once? As his friend Collin Middleton has said, Allen "in his work at the court and in his life has been and continues to be one of the great populists of Alaska. On the court, he insured the law applied to people, ordinary people. In his life, he is egalitarian. Everyone, including those who mow the grass, know him as Allen."

Allen was concerned with ensuring that the law applied to small and large alike. Oops, that won't do. Allen disliked comparisons that lauded one at the expense of another. He thus ensured that the law applied to the poor and rich alike. A judge was not "elevated to a higher bench," he or she was "appointed to the Supreme Court, having served on the superior court."

Allen was also a champion of the courts as protectors of individual privacy rights. As Mark Rindner observed, in this respect Allen's opinions followed and expanded upon "the tradition established on the Alaska Supreme Court by Justices Rabinowitz and Boochever."

Indeed, his career strongly reflected his values. Service to his country through the Marine Corps. Service to the less fortunate in our society through his legal services work in Colorado and Alaska. Service to Alaska and the general public through his time as a superior court judge and Supreme Court justice.

In his legal pursuits, "Allen not only voiced the belief that first-class legal representation of indigent people was a moral imperative, he practiced it," wrote Margi Mock in a tribute at his retirement. "If, as I believe," she continued, "a good judge is one who sees the gap between what is law and what is just and tried to create a bridge between the two, Allen was among the best."

I am reminded of working with Allen on written opinions. I would draft the bench memo. After argument and conference, we would sit down and he would give me my directions. "We are writing for the majority on this one Peter. Here is how it should go." And the words would flow in organized form. When I thought I had it right, I would pass it to him … and get it back with more red than black

Continued on page 11

'He was just a nice guy'

I first met Allen in 1972 or 1973 when I was a member of the Alaska Legal Services board and Allen worked in the Legal Services office in Juneau.

We had a lot in common even then. We both graduated from the University of Colorado Law School and we both had beards, even then.

When I was the president of the ABA in 1974, Allen had just hung out a shingle in Juneau. I hired him to be the bar lobbyist since the legislature was threatening to sunset the Bar Association (are they still doing that?). He once told me that it was one of the hardest things he ever had to do, trying to convince legislators that lawyers were people, too and deserved consideration. As always, he did an excellent job.

The next year Governor Hammond appointed me to the Superior Court in Fairbanks and shortly after that he appointed Allen to the Superior Court in Juneau. When Allen had a heart attack in Juneau back then, I went down to try a few of his cases while he was recovering. I stayed with him at his place on the ocean. He had a boardwalk leading from the road to the house, maybe 200 yards long. It snowed several feet while I was there and I had to shovel the walk numerous times (Allen being unable to shovel because of his heart attack.) With his wonderful, dry sense of humor he let me know that it was a hell of a way to get somebody to shovel his walkway.

Whenever I would travel to Anchorage after Allen ascended to the Supreme Court I would stay at his house and when he came to Fairbanks he would stay at mine.

My kids all enjoyed Allen a lot because he was so easygoing and had such a great way with young people. One of my sons told me once that he liked Allen because he was just a nice guy. He said that he did not know anybody could be a Supreme Court Justice and still be a nice guy. I told Allen that would not be a bad epitaph. He agreed.

So be it.

--Jim Blair

6th Annual Bar Historian's Luncheon

Bar Historian's Luncheon speakers included, L-R: Dermot Cole, historian, author, and columnist for the Fairbanks Daily News Miner; Michael Carey, Anchorage journalist, author and historian; and Terrence Cole, Professor of History and Director of the Office of Public History at the University of Alaska Fairbanks.

Over 100 people attended the 6th annual Alaska Bar Historian's Luncheon, which was held October 15, 2008, at the new Dena'ina Convention Center in Anchorage. The program featured a lively presentation on the legendary Judge James Wickersham, who served on the bench in Eagle, Nome, and Fairbanks during the early 1900's before beginning a long career as Alaska's territorial representative in the U.S. Congress.

Bar Historian's luncheon speakers visit after the program with members of Anchorage Youth Court and Vic Fischer (center), one of the original delegates to Alaska's Constitutional Convention in 1955-56.

In Memoriam

Making order of disorder

Continued from page 10

ink. Never a harsh word though, and taking care to provide me constructive input, as he sought to instruct as well as perfect. Allen's opinions are models of clarity.

He was a great mentor. Judge Stephanie Rhoades was also a law clerk to Allen, and upon his retirement pointed to the year she worked for him "as the most gratifying legal education and mentorship experience in my life to date." Former clerk Helena Hall noted that he was "concerned both with honing his clerk's legal writing analysis and with ensuring they develop into good, ethical and well-rounded individuals," as well as with imparting to them some of his passion for Alaska.

As with so many others clerks, my relationship with Allen lasted long after my year in his chambers. We would get together with a few other friends for Monday Night Football, and inevitably engage in vigorous debates on law, politics and the general state of the world. I vividly recall once being slapped with an ex parte TRO by a federal judge. Outrageous! I had been in touch with the complaining party for ten days. I was in the office every day of the week. No one made any attempt to contact me, much less serve us with the complaint, the request for TRO, or given us an opportunity to be heard. Whatever happened to due process!?

Allen's wry read: "Peter, you have run into the doctrine of comparative constituencies. Small caps – for you won't find that one in the law books." "What is that!? I said. "Well, the party with the greater political clout generally wins." Left unspoken, but heard nonetheless: Best work on that client list, for it is not always enough to be right.

Acerbic and judgmental maybe (what judge is not judgmental?). Fatalistic? No way. It is a privilege and a mandate to engage in the tough issues of the times. There is honor in pursuing justice through a system that, despite its flaws, is the best system of justice in the world. These were among his tenets.

I am now convinced that Allen moved to Anchorage and built his meticulous and lovely nest knowing that he would soon die. As he put the apartment together, he was putting his things in order, piece by deliberate piece. He understood that we cannot always control the world around us, and that we are well-advised to pay attention to how we react to that world. When doing so, we come closer to true dignity, peace, and repose.

"Enough already. I lived. I loved my kids. I died. So be it." Not so, my friend.

Allen Travis Compton. 1938-2008. He left the world a better place for his living.

-- Peter Van Tuyn

William "Bill" Boggess

Long time Alaska resident and Pioneers of Alaska member, William "Bill" Boggess, age 87, passed away at FMH on September 13, 2008, after a brief illness. Bill was born June 30, 1921, at Wolfe Lake, Indiana to John and Viola Boggess. He graduated in 1939 from Huntington High School.

While attending Ball State College, the bombing of Pearl Harbor occurred. Bill dropped out of college the next day and enlisted in the US Army Air Corps and became a navigator. He proudly served this country from 1942 through 1945 and received the Distinguished Flying Cross, Silver and Bronze Stars, an Air Medal with 3 Oak Leaf Clusters, a Campaign Service Medal, and an Asiatic-Pacific Service Medal.

After discharge from the service, he attended the University of Indiana, where he received his law degree in 1948, and where he met his wife-to-be, Gloria Wilson.

Bill headed to Alaska in June 1949 to pursue fishing and the practice of law, precisely in that order! He wrote Gloria and asked her to marry him. She traveled from Fort Wayne, Indiana and they were married January 7, 1950, in Fairbanks. Exactly ten months later their daughter, Barbara, was born.

Bill practiced law in Fairbanks for 36 years and was given the respected and affectionate title, "Dean of the Fairbanks Bar." He also served a term as the Fairbanks City Attorney during his early legal career, but was primarily a sole practitioner.

He was active in the following State and local organizations: the first

School Board for the State; Judge Advocate for the Alaska American

Legion; the Alaska Judicial Council; the Board of Governors of the ABA, President of the ABA (1962-63) and the Home Rule Charter Commission.

Bill was known for his intelligence, subtle sense of humor, and quick wit. He was a formidable force to be reckoned with, both inside and outside the courtroom. And, you always had to look out for those ingenious one-liners. He loved to write, and though his works are yet to be published, they may still find their way into print.

Bill's favorite avocation was fishing and he was known far and wide as one of the best fly fishermen in Alaska. His favorite pastime was cheering on the Chicago Cubs, having been an avid "Cubbie" fan since childhood. He reveled in the Cubs' success this season, and we are certain he'll be cheering them on from the best seat in Heaven!

Bill was predeceased by his wife (Gloria); his brother (Jack) and by his parents.

He is survived by his son-in-law and daughter, Perry and Barbara Schneider and Indiana family, nieces Sharon Diffendarfer and Diane Geiger, and nephew John Boggess.

ALASKA IS FIFTY!!

HELP US CELEBRATE THE ANNIVERSARY OF STATEHOOD
DONATE TO THE BAR HISTORIAN'S ARCHIVES

CONTRIBUTE TODAY!

Alaska became the 49th state on January 3, 1959. To commemorate our legal system's first 50 years and to help preserve our history, the Alaska Bar Association invites all members of the legal community--past and present-- to contribute items to the Bar Historian's Archives. Personal or professional materials related to experiences in the justice system are welcome, including originals or copies of the following:

PHOTOGRAPHS
CORRESPONDENCE
JOURNALS & PERSONAL STORIES
ORAL HISTORIES
NEWS CLIPPINGS
DECISIONS OF HISTORIC INTEREST
ARTICLES & RESUMES
DIPLOMAS & OTHER MEMORABILIA

Items may be scanned and sent electronically to Kristi Powell at the Alaska Bar Association, powellk@alaskabar.org
In the alternative, they may be sent by mail to:

50TH ANNIVERSARY ARCHIVE
Alaska Bar Association
P.O. Box 100279, Anchorage 99510
(907-272-7469)

Items from the archives will be used throughout the year in commemorative displays and events, including a special display at the 2009 Bar Convention. They will also be included in the Bar Historian's permanent archive collection, which is currently housed at the state law library in Anchorage.

THANK YOU

The Alaska Chapter of the Federal Bar Association

The Alaska Chapter of the Federal Bar Association invites all members of the Alaska State Bar Association to join it at a future lunch meeting. Information can be found at the Chapter's web page, http://www.fedbar.org/alaska.html.

The Federal Bar Association is a national organization dedicated to improving the administration of justice in federal courts. Members include justices, judges, court personnel, and lawyers in private and public practice.

The Alaska Chapter meets for quarterly lunches that feature a presentation or program of interest to the Bench and Bar. We are frequently joined by one or more of our local federal judges, and the lunches offer members and guests an opportunity to meet on an informal basis to share information and discuss trends and developments.

The Alaska Chapter meets for quarterly lunches that feature a presentation or program of interest to the Bench and Bar.

Recent speakers have included Senior United States District Judge H. Russel Holland, who discussed "do's and don'ts" of federal practice and procedure, Ninth Circuit Judge Alex Kozinski, who addressed issues related to the proposed Ninth Circuit split, Leonard Feldman, the District of Alaska's Ninth Circuit Pro Bono Appellate Coordinator, who explained how the pro bono appellate program benefits the courts and lawyers, Federal Defender Rich Curtner, who discussed CJA panel issues, and United States Attorney Nelson Cohen. The Alaska Chapter is an accredited CLE provider.

In addition to its quarterly lunches, the Alaska Chapter has actively partnered with the Alaska Bar Association to present CLEs of interest to judges and lawyers. Recent CLEs have included a July 2006 Appellate Practice and Procedure CLE in Anchorage, a May 2007 Electronic Discovery CLE in Fairbanks, and the recently conducted Ninth Circuit Bench/Bar "Off the Record" session that was videotaped and streamed statewide via webcast.

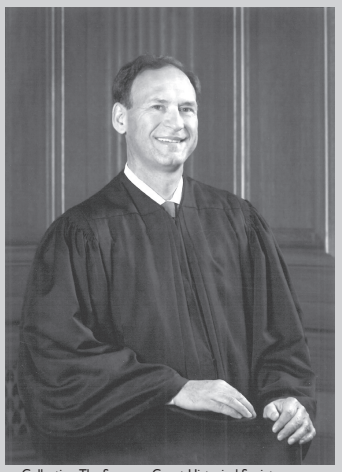
For more information, please visit our web page or feel free to contact current Board members Gregory Fisher (276-1550), Lloyd Miller (258-6377), Paul Eaglin (374-4744), Leslie Longenbaugh (321-3402), Mike Moberly (339-7200), or Melanie Osborne (258-6377).

2009 Alaska Bar Convention & Alaska Judicial Conference in Juneau

May 6, 7, & 8

Centennial Hall, Baranof Hotel, Dimond Courthouse

Awards Banquet Keynote Speaker



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

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

May 6 Luncheon Speaker

Talis J. Colberg Attorney General of Alaska

CLEs

Wednesday, May 6

Trial Advocacy – Part II
With Jeffery Robinson and Colette Tvedt

Ethics — Conflicts of Interest, Supersized Edition!
With Professor John Strait and Bar Counsel Steve Van Goor

Thursday, May 7

U.S. Supreme Court Opinions
With Professors Erwin Chemerinsky and Laurie Levenson

Alaska Appellate Update
With Professor Chemerinsky

Alaska Native Law Update
Presented by the Alaska Native Law Section

Federal Criminal Law in a Nutshell
U.S. Magistrate Judge Deborah Smith, Planning Chair

Friday, May 8

Evidence Cranium
Superior Court Presiding Judge Patricia Collins, Planning Chair

Estate Planning: The Five Most Commonly Administered Trusts in Alaska
Presented by the Estate Planning & Probate Law Section, Tonja Woelber, Section and Planning Chair

Federal and State Appellate Issues
A Panel Discussion Featuring Justice Alito

Social Events

Opening Reception at Eaglecrest
May 6

Hospitality Suite at the Baranoff Hotel Sponsored by the Juneau Bar Association

25, 50, and 60 Year Pin Lunch
May 7

Fun Run – May 7

Awards Reception and Banquet
May 7

Annual Business Meeting Lunch
May 8

Special Closing Event – Whale Watching Cruise Sponsored by the Juneau Bar Association
May 8

The Alaska BAR RAG

SUBMITTING A PHOTO FOR THE ALASKA BAR RAG?

DO

- Ensure it is in high resolution (aka, "fine," "superfine," "high res" or "best") setting on your digital camera, scanner, or photo-processing software.
- Rename all digital photo filenames with the subject or individual's name!!! (Example: lawfirmparty.jpg or joe_smith.jpg)
- Include caption information or companion article with it in a separate Word or text file with the same filename as the photo. (Example: lawfirmparty.doc or joe_smith.doc or joe_smith.txt)
- If the photo is a simple mug shot, include the name of the individual on the rear of the photo if a hard copy, or in the body of your e-mail.

DON'T

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

NEWS FROM THE BAR

Palin Appoints Carey to Ketchikan Superior Court

Gov. Sarah Palin on Dec. 8 appointed William B. Carey of Anchorage to fill a vacancy on the Ketchikan Superior Court created by the retirement of Judge Michael A. Thompson.

Carey, 54, is an attorney in private practice in Anchorage, with an emphasis on criminal defense in Southeast Alaska. Before entering solo practice in 1990, he worked as a partner in two Anchorage law firms from 1982-90. He moved to Alaska in 1980 to work as a legal intern with Cook Inlet Native Association, then as a clerk with two Anchorage law firms. Carey earned a bachelor's degree in political science from Brown University in 1976, and a law degree from the University of Denver's College of Law in 1980.

Comments invited on proposed Court Rules changes

The Alaska Supreme Court invites comments on several proposed changes to the Alaska Rules of Court. The proposed changes to civil, criminal, appellate and other rules are posted at the Courts website at http://www.state.ak.us/courts/rules.htm#5.

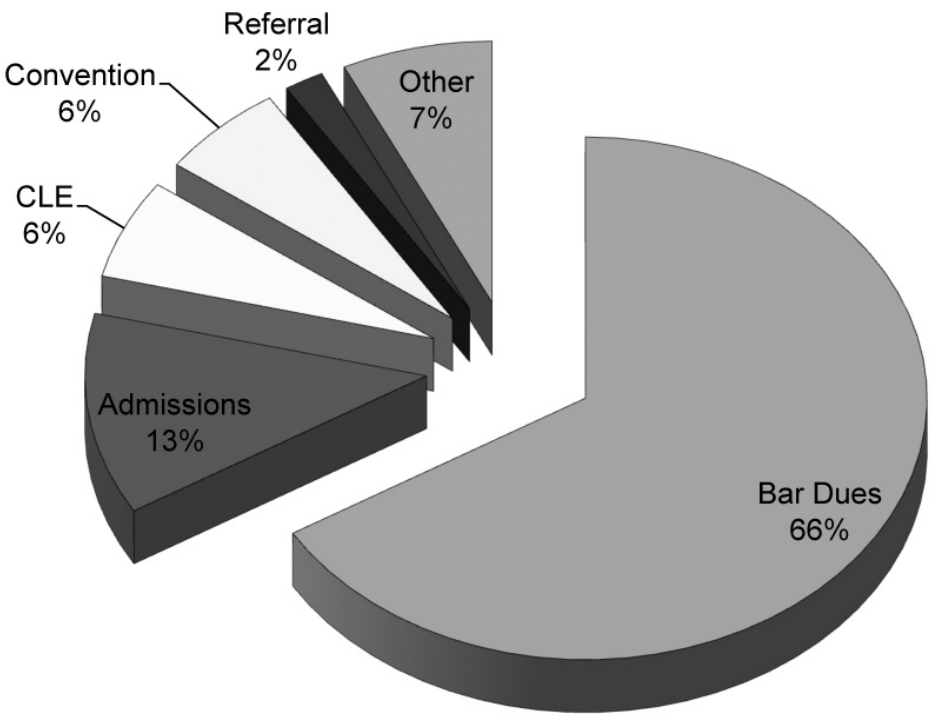
The deadline for comments is Wednesday, December 31, 2008. Contact Annie Ellis at 264-0573 for more information.

Approved Budget 2009

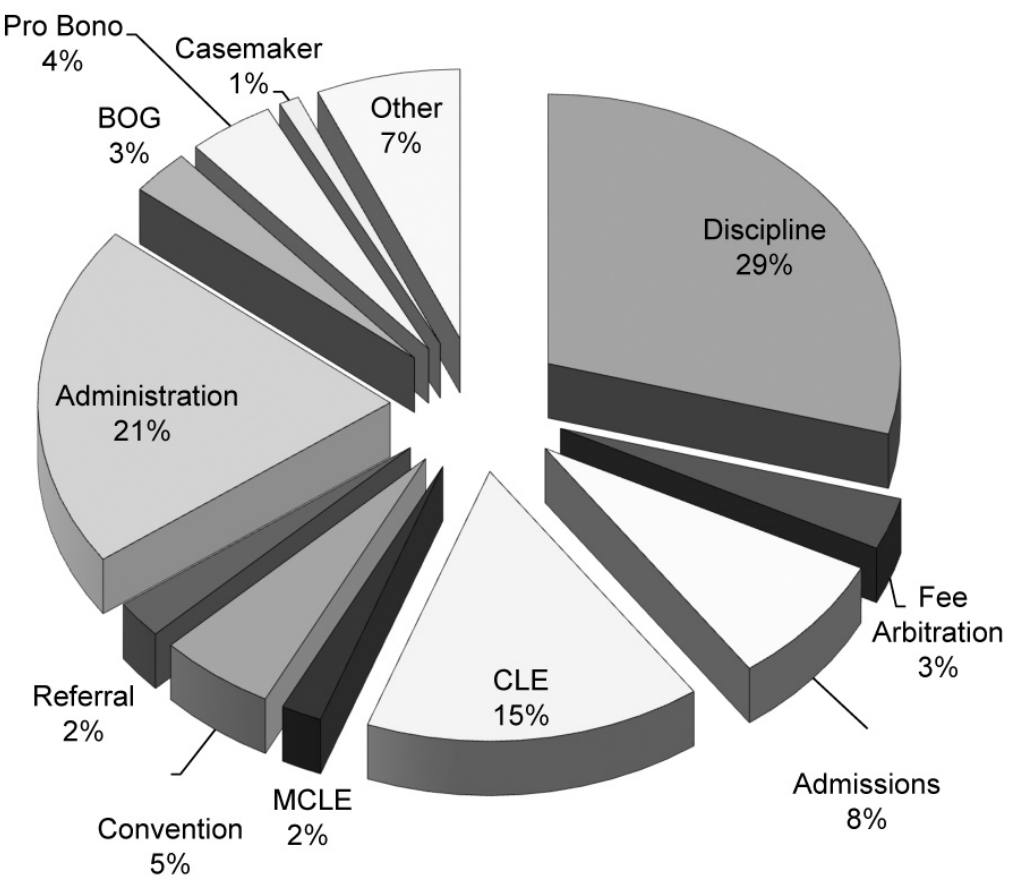
REVENUE	
AdmissionFees-Bar Exams	94,900
AdmissionFees-MotionAdmit	45,000
AdmissionFees-Exam Soft	5,600
AdmissionFees-Rule 81s	111,150
CLE Seminars	121,897
Lawyer Referral Fees	37,000
Alaska Bar Rag - Ads,Subscriptions	9,793
Annual Convention	118,000
Substantive Law Sections	20,145
ManagementSvc LawLibrary	195
AccountingSvc Foundation	12,775
Membership Dues	1,443,825
Dues Installment Fees	8,700
Penalties on Late Dues	18,560
Disc Fee & Cost Awards	0
Labels & Copying	2,436
Investment Interest	95,000
Miscellaneous Income	500
SUBTOTAL REVENUE	**2,145,475**

EXPENSE	
BOG Travel	50,833
Committee Travel	15,380
Staff Travel	50,468
New Lawyer Travel	3,000
CLE Seminars	108,336
VCLE Discount	0
Alaska Bar Rag	37,678
Bar Exam	70,676
Other Direct Expenses	85,991
Annual Convention	131,230
Substantive Law Sections	8,946
Management Svc Law Library	4,641
Accounting Svc Foundation	12,775
Law Related Education Grants	10,000
Casemaker	23,172
Committees	9,091
Duke/Alaska Law Review	22,500
Miscellaneous Litigation	10,000
Internet/Web Page	15,080
Lobbyist/BOG, Staff Travel	13,550
Credit Card Fees	30,498
Miscellaneous	11,800
Staff Salaries	1,006,606
Staff Payroll Taxes	83,815
Staff Pension Plan	46,105
Staff Insurance	307,368
Postage/Freight	26,130
Supplies	34,755
Telephone	2,387
Copying	10,606
Office Rent	95,217
Depreciation/Amortization	36,593
Leased Equipment	37,749
Equipment Maintenance	17,007
Property/GLA/WC Insurance	18,115
Programming/Database	26,100
Temp Support Staff	4,961
SUBTOTAL EXPENSE	**2,486,172**
NET GAIN/LOSS	**-340,697**

2009 Revenue Budget



2009 Expense Budget



Other:

Bar Rag	Foundation	Committees
Sections	Web Page	Credit Card Fees
Law Library	LRE Grants	Alaska Law Review

Federal practice & procedure: News, trends, & developments

Continued from page 1

Alaska)(to name but a few). Current officers are Gregory Fisher (276-1550), John Erickson (269-5100), Ruth Hamilton Heese (465-3600), and Kim Sayers-Fay (271-5071). For more information, please contact any of the current officers or visit the Chapter's website: http://www.fedbar.org/alaska.html. Please feel free to join us for a future meeting.

District of Alaska news

Chief Judge Sedwick has established a committee to plan for the District's 50th Anniversary (February 2010). Clerk of Court Ida Romack and Leroy Barker are co-chairs of the committee. Leslie Longenbaugh has been appointed as a new part-time Magistrate Judge in Juneau. Jan Ostrovsky is now the Clerk of Court for the Bankruptcy Court. Amendments to the Local Rules are taking place in December. For more information visit the District's website at http://www.akd.uscourts.gov or call Tom Yerbich the District's Rules Attorney (677-6136). Ken Diemer and Peter Partnow completed their three year terms as lawyer representatives for the District, and will be missed. The District's current lawyer representatives to the Ninth Circuit are Gregory Fisher (276-1550), Ruth Hamilton Heese (465-3600), Frank Pfiffner (263-8241), and Sara Gray (753-2532). In addition, Lloyd Miller (258-6377) is currently on the Ninth Circuit Conference's Executive Committee.

Appellate news

For appellate practitioners, the Ninth Circuit's opinions, unpublished memoranda, and audio files are available on the court's website. http://www.ca9.uscourts.gov. In addition, the court posts petitions for rehearing en banc on its en banc status page. The Ninth Circuit will be adopting CM/ECF in the near future, with voluntary e-filing beginning this fall. Gregory Fisher, Ken Diemer, and Peter Partnow hosted a Flat Top hike for visiting judges and law clerks from the Ninth Circuit in August.

Report on the Ninth Circuit Judicial Conference

The Ninth Circuit's annual Judicial Conference was held the week of July 28-31, 2008 in Sun Valley, Idaho. Conference attendees included judges, lawyers, and court personnel from all districts in the Circuit. Chief Judge Alex Kozinski presided, assisted by Circuit Judge Richard Clifton. The Ninth Circuit is near capacity with 27 regular active judges (one short of its allotted 28). There are currently 22 senior judges.

The conference's central theme concerned trial process in federal court. One workshop addressed the impact CSI type shows have had on juries. Another examined e-discovery issues. A special session examined presidential powers and the use of signing statements. This session was presented by several former Solicitor Generals including Seth Waxman, Paul Clement, Ken Starr (who was also a former Circuit Judge), and Walter Dellinger. Dean Kathleen Sullivan also participated. The conference's Bench/Bar session discussed the phenomenon of the "vanishing trial" and addressed whether lawyers are getting sufficient opportunities to try cases in federal court. Lloyd Miller moderated a Basic Indian Law seminar presented by Judge Canby and Dean Getches from the University of Colorado. Lloyd also helped organize the presidential powers seminar as well as a ceremonial opening by two Idaho Tribes. Judges, lawyers, and court personnel heard debate on a resolution that would encourage all districts in the Ninth Circuit to adopt rules allowing lawyers to discuss cases with jurors after verdicts are delivered. Judge Holland spoke in opposition to the resolution. The resolution overwhelmingly passed. It is important to note that this does not change District of Alaska Local Rule 83.1(h) that prohibits contact with jurors without prior court approval.

Judge Bybee and Professor Vik Amar presented a summary of recent voting trends in the United States Supreme Court, and also reviewed the Ninth Circuit's performance before the Court in the recently concluded 2007-08 Term. There was also a session on globalization of business, with particular emphasis on the impact of the Internet. The panel included general counsel of both Intel and Google.

For more information

If you have a question or concern related to the recently concluded conference in particular, or federal practice and procedure in general, please contact any of the lawyer representatives: Gregory Fisher (276-1550), Ruth Hamilton Heese (465-3600), Frank Pfiffner (263-8241), or Sara Gray (753-2532). These attorneys represent and advocate the concerns of all federal practitioners in Alaska while also assisting the District Court and the Ninth Circuit on projects as requested. Federal practitioners are encouraged to contact these attorneys on any issues of concern involving federal practice.

ABOVE THE LAW,

By Marc Jacobs

Marc R. Jacobs, 14438 Greenleaf Street
Sherman Oaks, California, 91423
(818) 907-9870

FAMILY LAW

To be or not to be a solo practitioner: Opening your own office

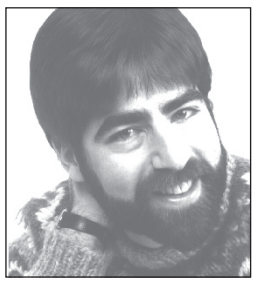
By Steven Pradell

Family law practitioners tend to work, by and large, in small firms. Although there are some exceptions, many matrimonial lawyers are solo practitioners who hang their shingles and make their livings without the safety net that those who work in large law firms or governmental agencies enjoy. This article explores the decision making process of attorneys who are contemplating opening up their own practices and going it alone.

Although some courageous counselors opt to immediately open their own practices upon passing the bar examination, others prefer to develop their skills under the tutelage of a more experienced practitioner. Because family law lawyers will ultimately spend a great deal of time in court, it may be wise to develop some trial practice skills before beginning your own firm. The National Institute of Trial Advocacy (NITA) has offered programs which teach basic courtroom skills. Some lawyers in larger firms end up assisting others such that they rarely enter a courtroom. An associate attorney may wish to consider ways to maximize trial experience at the larger law firm. Options may include taking pro bono referrals, initially handling smaller matters for long term clients such as relatively minor matters, i.e. traffic tickets, probate court approvals, uncontested settlement hearings, etc. A partner who is asked by a court to handle a matter at a reduced rate may be delighted to pass off this burden to a younger interested attorney. Sitting as co-counsel in litigation one a way to learn the ropes without having to make all of the strategy decisions in a case. Walk the halls and make your interests in getting trial time known. Spending down time watching lawyers litigate in a courtroom is an excellent way to observe the nuances and the different techniques attorneys employ, especially if you are watching a potential adversary.

Before taking the plunge, ask yourself if you have the entrepreneurial spirit and personality such that you might enjoy the challenge of working on your own

Before deciding whether to go out on your own, you should carefully review the seminal classic, Jay G. Foonberg's *How to Start and Build A Law Practice,* now in it's 5th edition, available at www.foonberglaw.com. Mr. Foonberg is both a CPA and an attorney, and he offers insights into both the day-to-day practice of law as well as the bookkeeping and accounting aspects. His book is the American Bar Association's best seller since 1977. Other books put out by the ABA which may be of interest include *Theda Snyder's Running a Law Practice on a Shoestring*, Editor Joel Bennett's *Flying Sole, A Survival Guide for the Solo Lawyer,* Hollis Weishar's *Marketing Success Stories; Personal Interviews With 66 Rainmakers,* and Gregg Herman's *101+Practical Solutions for the Family Lawyer.*



"Before deciding whether to go out on your own, you should carefully review the seminal classic, Jay G. Foonberg's How to Start and Build A Law Practice..."

Even with some experience at another firm, an attorney on his or her own often starts at the beginning, learning the ropes as things occur. As a small business owner, one must learn marketing skills, purchase or lease equipment such as computers, fax and copy machines, business cards and letterhead, determine an advertising strategy, run word processing applications, billable time management software, conflict of interest data base, office calendaring formats, locate office space, decide whether or not to hire support staff, obtain personal health, office and liability insurance, etc. You will also need to create important documents such as retainer letters, pleading paper, Complaints, discovery and other routine paperwork. At some point, you may desire to discuss with your current supervisor if and how you can take your work product with you once you depart. And, unless you have an inheritance or a great deal of savings, in this difficult economic time, one may need to obtain a credit line in the event that cash is needed to carry you through the rough patches.

One way to assist in making these important decisions and having your questions answered is to take a solo practitioner to lunch and pick their brain. Hang out at their office and look around at how the lawyer has managed to balance work and life issues, organize systems of filing, storage of closed files, client control, planning for retirement etc. Before taking the plunge, ask yourself if you have the entrepreneurial spirit and personality such that you might enjoy the challenge of working on your own, being your own boss, and having more of the ability to leave and do other things on your timeline, rather than at the mercy of partners or others.

Although my first year as a solo practitioner was difficult, and I felt that I had worked twice as hard and earned half as much, after that, things worked themselves out and I have not regretted my decision 15 years ago to start my own firm. Good luck in making your own choice.

Consultation fee for Lawyer Referral Service increased; ADR panel added

Lawyers receiving referrals from the Alaska Bar Association Lawyer Referral Service may now charge up to $125 for the first half hour of consultation. This is an increase from the $50 consultation fee which had been in place since 1994.

The Board of Governors also voted to add an ADR panel to the Lawyer Referral Service. Lawyers on this panel will not have to pay a fee to get on the panel, or for any referrals.

For more information about the Lawyer Referral Service, contact the Alaska Bar Association at info@alaskabar.org or 272-7469.

Voluntary Continuing Legal Education (VCLE) Rule – Bar Rule 65
8th Reporting Period January 1 - December 31, 2007

The following is a list of active Alaska Bar members who voluntarily complied with the Alaska Supreme Court recommended guidelines of 12 hours (including 1 hour of ethics) of approved continuing legal education the 2007 reporting period.

We regret any omissions or errors. If your name has been omitted from this list, please contact the Bar Office at 907-272-7469 or e-mail cle@alaskabar.org. We will publish a revised list as needed.

Aarseth, Eric A.
Acharya, Surasree
Adams, Benjaman T.
Aguero, Dorothea G.
Ahsoak, Joshua
Alexander, Jennifer C.
Allan, Daniel W.
Allard, Marjorie K.
Allee, Rita T.
Allen, Amy M.
Allen, David K.
Allen, Kimberly
Allen, Richard K.
Allingham, Lynn
Allison, Megan
Alves, Anita L.
Anderson, Leonard R.
Anderson, Mary P.
Anderson, Robert T.
Andrews, Mark
Andrus, Beth M.
Angius, Christopher W.
Apostola, Elizabeth E.
Ascott, Ivan L.
Asper, Linn H.
Athens, Marika
Atkinson, Kathy L.
Bachand, Joseph R.
Bachand, Rachel R.
Bachelder, Katherine R.
Bachman, Adrienne P.
Bailar, Susan L.Z.
Bailey, Allen M.
Bair, Daniel S.
Baird, Ronald L.
Bales, Candice Marie
Ballou, Gail M.
Banker, Anthony N.
Bannister, Theresa L.
Barber, Jeffrey J.
Barice, Carole J.
Barkeley, James N.
Barkis, AJ
Barlow, Nora G
Barnes, Mark J.
Barr, Sharon
Barrack, Martin J.
Barrett, James M.
Barry, Elizabeth J.
Bartlett, Peter
Basi, Rajpreet S.
Bassett, Robert A.
Bauer, Leigh Ann
Bauman, Carl J. D.
Baumetz, Jason
Baxter, Colleen Rae
Beardsley, Jennifer
Beardsley, Mary Ellen
Beckwith, Martha
Beecher, Linda R.
Behr, Deborah E.
Behrend, Andrew F.
Beistline, Ralph R.
Beiswenger, Allan D.
Bell, Keith W.
Bell, Steven S.
Belman, Roger P.J.
Beltzer, Christopher A.
Bendler, Karen E.
Bennett, Brent E.
Bennett, Laurel Carter
Benson, Ann E.
Benson, Phillip E.
Berck, Margaret W.
Berdow, Lauren A.
Bernitz, John A.
Bervar, Birney B.
Bessenyey, Ilona M.
Bey, Kirsten J.
Billingslea, Everett H.
Billingslea, Sidney K.
Bishop, Sheila Doody
Biskowski, Lawrence
Bixby, William D.
Black, Kathryn A.
Blackburn, Joanne T.
Blattmachr, Jonathan G.
Bledsoe, Mark S.
Blumstein, Philip
Bockmon, Julia B.
Bocko, Robert J.
Bodwell, Lori M.
Bohms, Ruth Bauer
Bolger, Joel H.
Bolvin, Janet L.
Bomengen, Kristen F.
Bond, Marc D.
Bookman, Bruce A.
Boothby, Nelleene A.
Borgeson, Cory R.
Borson, Heidi H.
Botelho, Bruce M.
Boutin, Michelle L.
Bowen, Laura
Bozkaya, Terri D.
Bradley, Jeffrey A.
Brand, Chrystal Sommers
Brandeis, Jason
Brandt-Erichsen, Svend A.
Brandwein, Debra J.
Bratton, Paul H.
Brautigam, Peter B.
Bray, Aisha Tinker
Brecht, Christopher M.
Brecht, Julius J.
Breck, William H.
Breckberg, Robert L.
Brenckle, Carol A.
Brennan, Elizabeth D.
Bressers, Jacqueline R.
Brice, Monte L.
Bridges, Raymond Scott
Brink, Barbara K.
Brink, Robert C.
Briseno, Andrew
Brislawn, C. Dennis
Broker, Ann R.
Brooking, Cheryl Rawls
Brower, David L.
Brown, Audrey A.
Brown, Benjamin
Brown, Eric J.
Brown, Fred G.
Brown, Gayle J.
Brown, Glenn H.
Brown, Harold M.
Brown, Molly C.
Brown, Valerie L.
Brown, Zachary K.
Bruce, Daniel G.
Bruner, Ann M.
Brunner, Roger L.
Bryner, Alexander O.
Buettner, David
Bundy, David H.
Bundy, Robert C.
Burbank, Winston S.
Burke, Michael J.
Burke, Michael T.
Burley, Patty
Burling, James S.
Burns, John J.
Butterfield, Rhonda F.
Byrnes, Timothy R.
Cadra, Daniel N.
Cahill, H. Frank
Calik, Nevhiz E.
Canterbury, Christopher C.
Cantor, James E.
Card, Larry D.
Carey, William B.
Carlson, Craig A.
Carman, Dawn M.
Carney, Steven J.
Carney, Susan M.
Carpeneti, Anne D.
Carpeneti, Walter L.
Carter, David S.
Carter, Mickale C.
Cartledge, Cynthia L.
Case, David S.
Cashion, John P.
Cason, Samuel W.
Cavaliere, Michael
Cella, Rachel E.
Chaffin, Shelley K.
Chandler, Brooks W.
Chapman, BethAnn B
Chari, Holly S.
Cheyette, Daniel L.
Childress, Carol L.
Chleborad, Terisia K.
Choate, Scott M.
Choquette, William L.
Christen, Morgan B.
Christensen, Blair
Christensen, Mark D.
Christian, Matthew C.
Christie, Reginald J.
Claman, Matthew W.
Clark, Brian K.
Clark, Patricia A.
Clark, Victoria
Clemens, Tara L.
Clocksin, Donald E.
Clover, Joan M.
Coats, Robert G.
Coe, Charles W.
Cohen, Nelson P.
Cohn, Larry S.
Colberg, Talis J.
Colbert, Lori Ann
Colbert, William H.
Colbo, Kimberlee
Colburn, William R.
Cole, Steve W.
Cole, Suzanne
Coleman, Terri-Lynn
Collins, Alison B.
Collins, Patricia A.
Collins, Robert J.
Collins, Stephan A.
Condie, Craig S.
Connors, John J.
Conte, Judith Ann
Conway, Maribeth
Cook, Craig A.
Cook, Dennis E.
Cook, Tim O.
Cook, William D.
Cooke, Christopher R.
Cooper, Daniel R.
Cooper, Elizabeth A.
Cooper, Joseph M
Cooper, Matthew
Corbisier, Robert
Corey, David J.
Coughlin, Patrick J.
Coulter, James A.
Covell, Kenneth L.
Cox, Susan D.
Crabtree, Richard L.
Crail, Elizabeth F.
Cravez, Glenn Edward
Crawford, S. Jason
Crenna, Caroline B.
Crepps, Janet L.
Crittenden, Benjamin R.
Croft, Leland Chancy
Crowell, Judith A.
Cucci, Mark
Cummings, Dennis P.
Currie, Jennifer
Curtin, Richard A.
Curtner, F. Richard
Cushman, Benjamin D.
Cutler, Beverly W.
Cyphers, Christopher D.
Dale, Pamela
Dallaire, Joseph B.
Daniel, Thomas M.
Daniels, Susan L.
Darnall, John M.
Dattan, D. Scott
Davenport, George B.
Davis, Gerald T.
Davis, Jody L.
Davis, Marcia R.
Davis, Mark R.
Davis, Trigg T.
Davison, Bruce E.
de Lucia, Tamara Eve
Dean, Jill K.
DeGrazia, Lee Ann
Dennis, Elliott T.
Deuser, Richard F.
Devaney, Leonard R.
DeVeaux, LeRoy Gene E.
Devine, David A.
DeWitt, James D.
DeYoung, Jan Hart
Di Napoli, Vincent
Dichter, Fredric R.
Dick, Carol
Dickens, James R.
Dickson, Leslie N.
Dieni, Michael D.
Dillard, Miriam Dawn
DiPietro, Susanne D.
DiPietro-Wilson, Diane
Ditus, R. Stanley
Doehl, Robert A.K.
Dolan, Jill S.
Dolleris, Meagan B.
Domke, Jenel
Domke, Loren C.
Donley, Kevin L.
Donnelley, Lisa H.
Donovan, John
Dooley, Timothy D.
Douglass, Patricia P.
Downes, Robert B.
Drinkwater, Cynthia C.
Driscoll, Louise R.
Dronkert, Elizabeth M.
Ducey, Cynthia L.
Dudukgian, Goriune
Duffy, Brian
Duffy, David W.
Dukes, John P.
Dunlop, Brittany L.
Dunnagan, Charles A.
Durrell, Brian W.
Eaglin, Paul B.
Ealy, Jonathan B.
Earthman, John A.
East, Windy
Eastaugh, Robert L.
Easter, Catherine M.
Ebell, C. Walter
Ebenal, Shelley D.
Eberhart, John Michael
Eberlein, Renner Jo
Eddy, Shannon
Edwards, B. Richard
Edwards, Bruce N.
Eggers, Kenneth P.
Eklund, Amanda
Elkinton, Monica
Ellis, Donald C.
Ellis, Peter R.
English, William D.
Ensminger, D. Randall
Erickson, Heidi K.
Erickson, John W.
Ericsson, Robert J.
Erlich, Richard H.
Erwin, Robert C.
Erwin, Roberta C.
Esch, Ben J.
Estelle, William L.
Etpison, Suzanne C.
Evans, Charles G.
Evans, Gordon E.
Evans, Joseph W.
Evans, Susan L.
Ewers, Paul J.
Fabe, Dana
Faith, Joseph R.
Falatko, Ethan
Farleigh, Randall E.
Fayette, James J.
Fehlen-Westover, Rhonda
Feldis, Kevin R.
Felix, Sarah Jane
Fenerty, Dennis G.
Fink, Joshua P.
Fisher, Gregory S.
Fitzgerald, Joshua D.
Fitzgerald, Kathleen
Fitzpatrick, Lisa M.
Fleischer, Hugh W.
Fletcher, Ginger L.
Flint, Robert B.
Florence, Kenneth
Floyd, Francis S.
Foley, Maryann E.
Foley, Richard H.
Foley, Susan Behlke
Foote, Alexis G.
Foote-Jones, Alexandra G.
Fosler, James E.
Foster, Danielle S.
Foster, Diane L.
Foster, Teresa L.
Franciosi, Michael J.
Freidel, Martin E.
Friedman, Richard H.
Friedman, Robert
Fucile, Mark J.
Fullmer, Mark W.
Funk, Raymond M.
Fury, C. Steven
Gagnon, Bruce E.
Galahad, Giles
Galbraith, Peter A.
Gallagher, Sheila
Gamache, Peter C.
Gandbhir, Una Sonia
Ganopole, Deidre S.
Gardner, Danielle
Gardner, Douglas D.
Gardner, Heather L.
Garton, Josie W.
Gater, Bradley N.
Gatti, Michael R.
Gazaway, Hal P.
Gazaway, Hal P.
Geddes, Mary C.
George, Jamilia A.
Geraghty, Michael C.
Germain, Dawn C.
Gernat, Rachel K.
Gershel, Michael A.
Giannini, Peter W.
Gibbons, Johnny O.
Gibson, Kirk H.
Gifford, Allan H.
Gifford, Ann
Gillilan-Gibson, Kelly E.
Gilson, Mary A.
Ginder, Peter C.
Girolamo-Welp, Andrea E.
Gist, Jason
Gleason, Sharon L.
Glogowski, Katrina
Glover, Whitney Gwynne
Goad, Raymond E.
Goerig, George E.
Goering, Stuart W.
Goldman, Kenneth J.
Goltz, Jon K.
Goodwin, James A.
Gordon, Nancy R.
Graham, David A.
Graham, Jessica Carey
Grannik, Andrew V.
Grant, Paul H.
Graves, Cary R.
Gray, J. Michael
Grebe, Gregory J.
Green Jr, Harold W.
Green, Serena S.
Green-Armstrong, Joy C.
Greene, Angela M.
Greene, Mary E.
Greenough, Marc
Greenstein, Marla N.
Greenwald, Mark L.
Greer, Stephen E.
Griffin, Robert L.
Gronning, Chris D.
Groseclose, Robert B.
Guidi, Andrew
Gustafson, Gene L.
Guy, Andrew J.
Hackett, James M.
Haffner, David
Haffner, R. Poke
Hagen, Paulette B.
Haines, Nathan R.
Hale, Stephen L.
Hall, Terrance W.
Halloran, Sean
Hamby, Lisa C.
Hamilton, Marvin C.
Hammers, Patrick S.
Handler, Hollis
Hanley, James Patrick
Harbison, Bethany S.
Harrington, Andrew R.
Harris, Bonnie E.
Harris, Daniel P.
Hartig, Lawrence L.
Hartle, John W.
Hartnell, Pamela A.
Hatch, Mary Leone
Haviland, Aileen
Hawkins, Karen L.
Hawley, William H.
Hawn, Wayne D.
Hawxhurst, Dorne
Heath, Gregory
Heese, Ruth Hamilton
Hegyi, Karen R.
Helm, Richard A.
Henderson, David N.
Henderson, Robert E.
Henri, Joseph R.
Herz, Robert M.
Hickey, Daniel W.
Hickmon, Helen T.
Higuchi, Michelle D.
Hildebrand, Alexander
Hill, Devoron K.
Hill, Holly Roberson
Hillhouse, Theresa
Hisamatsu, Mikio
Hite, Jennifer
Hoag, John E
Hoge, Andrew E.
Holbrook, Deborah A.
Holen, M. Lee
Holl, Roger E.
Holland, Jennifer L.
Holmes, Lindsey S.
Holmes, Roger F.
Holt, Chad Wynn
Hompesch, Richard W.
Hookland, Douglas
Hopper, James L.
Hopwood, Donald D.
Horetski, Gayle A.
Horton, Bruce E.
Hosie, Spencer
Hostina, Michael P.
Hotchkin, Michael G.
Hough, C. Michael
Hovanec, Lorie L.
Hudson, Roger L.
Hughes, Mary K.
Huguelet, Charles T.
Hume, Robert H.
Humm, Marguerite
Huna-Jines, Patricia
Hunt, Gerald W.
Hunt, Karen L.
Hunter, David T.
Hunter, Grant W.
Huntington, Karla F.
Hutchison, Chad
Hyatt, Chris Foote
Icardi, Patrice A.
Ince, Karen Williams
Ingram, David A.
Isbell, Shawn Mathis
Iversen, Jonathan
Jacobus, Kenneth P.
Jamgochian, Thomas V.
Jamin, Matthew D.
Jefferson, Jeffrey D.
Jeffery, Michael I.
Jenicek, Monica
Jensen, Eric M.
Jensen, Michael J.
Joanis, Jennifer
Joanis, Lance
Joannides, Stephanie E.
John, Robert
Johnson, Carl H.
Johnson, Carol A.
Johnson, Douglas G.
Johnson, Garold E.
Johnson, Joyce Weaver
Johnson, Robert M.
Jones, Barbara Ann
Jones, David T.
Jones, Paul B.
Jones, Walter S.
Jordan, Charles S.
Josephson, Joseph P.
Josephson, Sarah E.
Joyner, J. Mitchell
June, Marc W.
Jungreis, Michael
Kahill, Erika S.
Kallis, M. Jeffery
Kamm, Marilyn J.
Kammermeyer, Jacob
Kane, Brad S
Kantola, William W.
Karnavas, Michael G.
Karstetter, Rebecca
Kashi, Joseph L.
Katcher, Jonathon A.
Kauffman, William R.
Kauvar, Jane F.
Kay, Brian Phillip
Keck, Kathy J.
Kelley, Leonard T.
Kelley, Michaela
Kendall, Heather
Kenworthy, Mary Anne
Kerr, Sonja D.
Kerry, Glenda J.
Kester, Olivia L.
Keyes, Christopher M.
Khalsa, Amrit Kaur
King, Gregory A.
King, Jennifer L.
King, Terry J.
Kirk, Kenneth C.
Kitchen, Donald R.
Kittleson, Nicholas J.
Klasen, James F.
Kleedehn, G. Rodney
Kleinsmith, Philip M.
Klepaski, Cynthia M.
Knack, Mary R.

Continued on page 13

Voluntary Continuing Legal Education (VCLE) Rule – Bar Rule 65
8th Reporting Period January 1 - December 31, 2007

Continued from page 12

Knoll, James L.
Kobayashi, Tina
Koch, Kevin D.
Kolbe, Thomas
Koponen, Alex
Korver, Joshua W.
Kossler, Douglas H.
Koutchak, Robin L.
Kovac, Joseph W.
Kraft, Barbara S.
Kraly, Stacie L.
Kranenburg, Marna L.
Kristiansen, Kari C.
Kuchle, Jo A.
Kucko, Sally J.
Kueffner, Eric A
Kurtz, Kathryn L.
Lamb, Timothy J.
Lamoureux, Yvonne
Landau, Robert W.
Landreth, Natalie
Latta, Leroy K.
LaVonne, Jeanne M.
Lawrence, David
Lawrence, Leslie Droubay
Lawson, Kelly J.
Layman, Gabriel D.
Lazar, Howard A.
Leaders, Scot Henry
Ledden, Michael P.
Lee, S.J.
Lee, Wei-Drin
Legacki, Kenneth W.
Leik, James N.
Leman, John
Lempriere, Philip R.
Lenhart, Thomas E.
Leonard, Cameron M.
Leonard, David F.
Lepore, John
Leque, John A.
LeRoy, Erik
Lessmeier, Michael L.
Leuning, Scott J. Hendricks
Levesque, Joseph N.
Levitt, Rachel E.
Levy, Keith B.
Lewis, Robert D.
Libbey, Colleen A.
Libbey, Daniel
Liburd, Ann C.
Limeres, Amy W.
Limon, Lynda A
Lindemann, Cole
Lintott, Robert W.
Linxwiler, James D.
Liska, Joyce
Loeffler, Karen L.
Logan, Donald F.
Lohff, John R.
Long, Mauri E.
Longacre, Roy L.
Longenbaugh, Leslie
Lord, Daniel B.
Lowery, Daniel L.
Lowndes, John
Luckhaupt, Gerald P.
Lundquist, Mary Ann
Luther, Frederick C.
Lyle, George R.
Lynch, Ardith
Lynch, Timothy M.
MacDonald, Michael A.
Maciolek, Krista
MacKinnon, Dawn
Magid, Jeffrey
Maguire, Robert J.
Mahlen, Jeffrey D.
Malchick, Barbara L.
Malin, Paul E.
Maloney, Philip D.
Mandala, Cheryl
Manley, Robert L.
Mannheimer, David
Manning, Mark C.
Manzella, Zachary T.
Marcey, Jerald L.
Marchand, Scott
Marsh, Michael S.
Marshall, Sharon
Marx, Brandon
Mason, Walter W.
Massey, Justin
Mathis, C. James
Mattern, Scott L.
Matthews, Thomas A.
Maxey, Rebecca L.
May, Marilyn
Mayhook, J. Jeffrey
McCabe, J. Trevor
McCann, Kelly
McCarrey, James L.
McClure, Maurice R.
McComas, James H.
McComb, Michelle L.
McConnell, Dwayne W.
McCord, Elizabeth Anne
McCoy, Kevin F.
McDannel, Marcelle
McDermid, Lea S.
McDonough, Michael
McFarland, Renee
McFarlane, Amy A.
McGee, Terence K.
McGrady, Chadwick P.
McGrady, Jamie
McGrady, Philip
McKay, Cheryl L.
McKay, Patrick J.
McLaughlin, Michael S.
McLaughlin, Michael Sean
McLaughlin, Robert J.
McLean, Susan S.
McLeod, Jill
McNamara, Cara
McQuerry, Samuel A.
McVicker, Suzanne
McVittie, Eric R.
Meacham, Thomas E
Meachum, Robert F.
Meade, Nancy B.
Meddleton, Mary-Ellen
Menard, Amy R.
Mendel, Allison E.
Merriner, Charles M.
Mersereau, David H.
Mertz, Douglas K.
Messenger, John R.
Metcalfe, James K.
Metras, Lisa
Metzger, Yale H.
Meyen, Bradley E.
Meyer, Thomas J.
Meyers, Donna M.
Michaelson, Peter L.
Michalski, Peter A.
Milks, William E.
Miller, A. Fred
Miller, Douglas S.
Miller, Gregory A.
Miller, Joseph W.
Miller, Kevin G.
Minor, Michelle V.
Mitchell, P. Susan
Mitton, Andrew C.
Moberly, Philip J.
Mock, Marjorie A.
Molloy, Robert J.
Monkman, Richard D.
Monkton, Sarah R.
Montgomery, Greg
Montgomery, Meredith L.
Moody, Douglas O.
Moore, Bruce A.
Moore, Christine
Moran, Anna M.
Moran, Joseph M.
Morrison, Douglas S.
Morse, William F.
Moudy, Julia D.
Mulder, Steven E.
Mullin, Daniel F
Mulvaney, Molly (aka Mary E.)
Murphree, Billie D.
Murphy, Kathleen A.
Murphy, Margaret L.
Murphy, Michele
Murphy, Sigurd E.
Murphy, William Brendan
Murtagh, John M.
Musgrove, Sheryl L.
Musselman, Charles D.
Nash, Phil N.
Nault, Barbra Zan
Nedderman, Thomas
Neeleman, John R.
Nelson, Jeanie A.
Nelson, Nikole M.
Nemecek, Vennie E.
Nesbett, Raymond A.
Newman, Amy S.
Niewiadomski, Paul J
Nist, Jacob
Nogg, Russell A.
Nolan, Nancy J.
Norris, Natasha Marie
Norville, Michael
Novak, John J.
Nyquist, Kara A.
O'Bannon, Linda M.
Oberly, William B.
O'Brien, Mike
Oczkus, M. Gregory
Odsen, Frederick J.
Ogg, R. Danforth
O'Hara, Steven T.
O'Kelley, Judith R. T.
Olsen, Dianne E.
Olsen, Randy M.
Olson, Greggory M.
Olson, Gustaf
O'Phelan, Daniel J.
Oravec, Scott A.
O'Regan, Deborah
Osborne, Melanie Baca
Osowski, Shane J.
O'Tierney, Daniel Patrick
Ott, Andrew
Otterson, J. Stefan
Owen, Lauri J.
Owens, Bradley D.
Owens, Robert P.
Owens, Thomas P.
Owens, Thomas P.
Page, Brenda B.
Page, Nelson G.
Pallenberg, Philip M.
Palmer, Lance E.
Palmier, Joseph P.
Parise, Michael J.
Parker, Douglas S.
Parrish, Albert
Partyka, Craig B.
Parvin, Gregory S.
Paslay, Paul W.
Passard, Christina M.
Patch, T.W.
Patterson, Michael J.
Paul, Thomas F.
Pauli, Rebecca L. Cohen
Pawlowski, Stephanie B.
Payne, Richard K.
Pearson, William
Peck, George
Pederson, Elizabeth A.
Pederson, Lawrence A.
Periman, Deborah K.
Perkins, Carolyn A.
Perkins, Douglas C.
Perkins, Joseph J.
Perry, William M.
Peters, Gregory L.
Peters, Timothy P.
Petersen, Duane A.
Petersen, Jon-Marc
Peterson, Alfred A.
Peterson, Drew
Peterson, Matthew K.
Pfiffner, Frank A.
Pickrell, Kristian B.
Pike, David A.
Pillick, Aleta
Pinkel, Mary B.
Pirog, John B.
Platt, Janet D.
Plummer, Raymond E.
Polasky, Nicholas A.
Pomeroy, Richard L.
Pontious, Danee L.
Poorman, Gary Lee
Porter, Alicia D.
Postma, Richard W.
Poulson, Jack G.
Powell, Suzanne
Pradell, Steven
Preston, Anne M.
Pribila, Bethany
Price, J. David
Provost, Chris
Pryzmont, Erica R.J.
Quinnan, Gabriel M.
Rabe, Cynthia K.
Rabinowitz, Mara
Racette, Justin
Ragen, Gail M.
Ragen, James J.
Ralston, Richard S.
Ramgren, Peter R.
Randall, Deborah H.
Rankin, Christina
Rapoza, Suzanne
Rasley, Alicemary L.
Ray, Charles W.
Ray, Colleen A.
Raymond, Carla M.
Razo, Gregory P.
Redmond, Sonja
Reep, Janine J.
Reese, John E.
Reges, Mala J
Reineke, David D.
Renfro, Zachary N.
Reynolds, Lisa
Richard, John M.
Richards, Angelique R.
Richardson, Ann Marie
Rickey, Douglas K.
Rindner, Mark
Ringsmuth, Eric
Ritchie, Barbara J.
Robbins, J. Michael
Robertson, Heather N.
Robinson, Arthur S.
Roetman, Paul A.
Rogers, Catherine
Rogers, Margaret O'Toole
Rohweder, Roxanne
Roley, Ryan R.
Roosa, Kenneth S.
Rosano, Lisa
Rose, Erin
Rosen, Joshua
Rosenstein, Kenneth M.
Ross, Herbert A.
Ross, Patrick G.
Ross, Steven G.
Roumagoux, Bhree
Rozell, William B
Runnels, Katholyn A.
Russell, Andrea K.
Russell, Margaret R.
Russo, Elizabeth M.
Rutherdale, Jan A.
Ryman, Danielle M.
Sachtjen, Eric J.
Sandberg, Annette M.
Sandberg, Peter
Sato, Jean W.
Satterberg, William R.
Sauer, Jane E.
Sauer, Jeffrey F.
Scanlon, Kathleen M.
Schadt, Gordon F.
Schally, Daniel J. M.
Schendel, William B.
Scherger, Judy M.
Schick, Nikole
Schickli, Scott
Schillinger, Scott A.
Schindler, Cathy
Schlereth, Ernest M.
Schmidt, Jack
Schmidt, Kristine A.
Schmidt, Robert H.
Schneider, Michael J.
Schoeggl, David M.
Schroder, Bryan
Schuetze, Charles F.
Schuhmann, Barbara L.
Schultz, Barrett
Schultz, Martin T.
Schulz, Thomas E.
Schwaiger, Michael T.
Schwarting, Krista M.
Schweppe, Steven H.
Scott, James T.
Scuderi, Joseph
Sears, Trina
Seaton, Jean E.
Seaver, Mitchell A.
Sebens, Jane E.
Sebold, Hanna
Seedorf, James M.
Seekins, Benjamin A.
Seid, David M.
Severin, Samuel C.
Seymour, S. Jay
Shaffer, Michael D.
Shaftel, David G.
Shamburek, Steven J.
Shanahan, Philip E.
Sheehan, James
Shoemaker, David B.
Shorey, Daniel K
Shortell, Caitlin
Shoup, David H.
Siemers, John C.
Sigmon, Sharon DeLana
Silver, Steven W.
Silverberg, Elizabeth A.
Silvey, Gregory G.
Simel, Nancy R.
Simpson, Randall G.
Simpson, Sara E.
Sites, Timna A.
Sivertsen, John W.
Skala, Jason
Skidmore, John B.
Skladal, George Wayne
Skrocki, Steven E.
Slagle, Thomas J.
Sleater, Regina L.
Sleeper, Gary
Slone, Frederick T.
Smith, Diane A.
Smith, Elizabeth-Ann
Smith, Eric B.
Smith, Hanley R.
Smith, Jack W.
Smith, Kevin B.
Smith, Kyle R.
Smith, Michael R.
Sniffen, Clyde E.
Soberay, Gary
Sorensen, Stephen F.
Soule, William J.
Soutiere, Theresa Y.
Spaan, Michael R.
Sparks, Robert A.
Spaulding, Franklin Eleazar
Speck, Brita L.
Sperbeck, Aaron D.
Spiers, Mary
Spiers, William A.
Spikes, M.R.
Spiropoulos, Nicholas
Spivak, Svetlana P.
St. John, Matthew
Staack, Anselm C. H.
Stahl, Michael R.
Stanage, Todd A.
Stanton, Loren K.
Stapp, Gary L.
Stearns, Krista S.
Steeves, Michael
Stein, June
Steinberg, Leonard A.
Steinberg, Stacy K.
Steiner, John L.
Steiner, Quinlan G.
Steinkruger, Niesje J.
Stemp, Donald R.
Stephens, Trevor N.
Stevens, Rebecca Wright
Steward, Andrea
Stewart, David
Stohler, Lyle
Stone, Jack R.
Stone, Robert D.
Stone, Timothy M.
Stowers, Craig F.
Strout, Cynthia L.
Stryszak, Michal
Suddock, John
Summit, Natasha M.
Sutherland, Earl M.
Sutherland, Jody W.
Sutliff, Mary Jane
Sutliff, Richard N.
Svobodny, Richard A.
Swanson, Danika
Swiderski, Alex
Swinton, Richard B.
Syren, Lester K.
Talbot, James W.
Tan, Sen K.
Tangen, J.P.
Tatsuda, Laurel K.
Tatter, Sue Ellen
Taylor, Christopher J.
Taylor, Kneeland L.
Taylor, Tregarrick R.
Taylor-Welch, Karla
Teaford, Matthew
Teal, Gilbert Earle
Tempel, Janet K.
Theiler, Shana L.
Therrien, Valerie M.
Thibodeau, Nicole
Thomas, Donald C.
Thomas, Lisa N.
Thompson, Darryl L.
Thompson, David
Thompson, G. Nanette
Thompson, Michael A.
Thorsness, John B.
Thurbon, Terry L.
Thwaites, Richard S.
Tiemessen, John J.
Tillery, Craig J.
Tilly, Cassandra J.
Timmermans, Todd J.
Tindall, John H.
Tipp, Bryan C.
Tomlinson, John R.
Torgerson, James E.
Torgerson, Mark R.
Torrisi, Frederick
Tostevin, Breck C.
Travostino, Joan
Treiber, Mary P.
Triem, Frederick W.
Trimmer, Beth G.L.
Truitt, G. Ken
Trumble, Jay W.
Tschumper, Michelle
Tuberg, Judd E.
Tucker, Julia S.
Tulin, Charles E.
Ubaldi, David J.
Urig, Susan L.
Ustasiewski, James J.
Valdez, Fred H.
Valenta, Lisa
Vallentine, Diane F.
Van Flein, Thomas
Van Goor, Stephen J.
Van Meter, Heather J.
Vance, Jeffrey H.
Vance, Leon T
Vandor, Marjorie L.
Varela, M. Elizabeth
Vasauskas, Alexander K.M.
Vazquez, Elizabeth
Veerman, Louis R.
Vermaat, Maarten
Vermilyea, Jeremy T.
Verrett, Timothy C.
Viccellio, Megan-Brady
Viergutz, Herbert A.
Voigtlander, Gail T.
Voluck, David
Vondersaar, Frank J.
Vorenkamp, Corinne M.
Wagner, Jennifer
Walker, Herman G.
Walker, Stacy L.
Walsh, Diane Busch
Walton, William B.
Wan, Andrea V.W.
Wanamaker, Caroline P.
Ward, Timothy C.
Warren, Robert J.
Wasche, Kenneth M.
Watson, Roland D.
Watts, Darren R.
Wayne, Daniel C.
Weber, David R.
Weed, W. David
Weeks, Kathleen A.
Weeks, Mandy
Weigel, Douglas K.
Weiner, Jason A.
Weiner, R. Leonard
Weiss, Pamela
Wells, Jennifer K.
Wells, Steven M.
Wendlandt, Diane L.
West, Stephen R.
West, Susan M.
Westbrook, Randall W.
Whipple, Benjamin I.
White, Erin E.
White, Marshall T.
White, Michael N.
White, Morgan
White, Vanessa H.
Wicks, Sandra J.
Wielechowski, William P.
Wilcox, Paul S.
Wilder, Patricia C.
Wilkerson, Daniel
Wilkerson, Joan M.
Wilkson, Jim C.
Willard, Donna C.
Williams, Andrew
Williams, D. Kevin
Williams, DeWayne A.
Williams, Regan L.
Williams, Teresa Ann
Willoughby, Julie
Wilson, Joan M.
Wilson, Linda K.
Wilson, Lisa M. F.
Wilson, Zane D.
Winchell, Cory
Windes, Robert N.
Winegarden, Charles A.
Winfree, Daniel E.
Winner, Russell L.
Winston, Taylor Elizabeth
Wittow, Mark H.
Witty, Rachel L.
Woelber, Mark
Woelber, Tonja J.
Wohlforth, Eric E.
Wojcik, Matthew R.
Wolfe, John W.
Wollenberg, Tracey
Wolter, Lindsay
Wood, John P.
Wood, Mark I.
Woodell, Michael H.
Woodman, Jonathan A.
Woods, Fronda C.
Woodworth, Glen E.
Woolford, Larry R.
Wright, Janel L.
Wyatt, Mitchell K.
Yim, Chong M.
Young, Clay A.
Young, David
Young, Min H.
Youngmun, Gregory L.
Zeman, Adolf V.
Zerby, David A.
Ziegler, Elizabeth A.
Zimmerman, Christopher E.
Zipkin, Gary A.
Zobel, Patricia
Zuanich, Robert P.
Zwink, David L.

Success inside and out

The third annual Success Inside & Out conference was held Saturday, November 1, 2008, at Hiland Mountain Correctional Center in Eagle River. This year, over 95 women inmates participated in the conference, and many 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 traånsition 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 System, the Alaska Native Justice Center, and Hiland Mountain Correctional Center. For more information about Success Inside & Out, please contact coordinator Brenda Aiken, 907-264-8266, baiken@courts.state.ak.us.

Anchorage School District Superintendent Carol Comeau presents a workshop on educational opportunities during the 2008 SIO program.

Anchorage District Court Judge Catherine Easter, second from left, enjoys SIO program events with HMCC inmates.

Ellen Cole, L, Professor of Psychology at Alaska Pacific University, leads a workshop on journaling and the keys to happiness.

Chief Justice Dana Fabe, founder of the Success Inside & Out program at Hiland Mountain Correctional Center, visits with corrections officials after the opening ceremony of this year's event. L-R: Chief Justice Fabe, Department of Corrections Commissioner Joe Schmidt; HMCC Deputy Superintendent Amy Rabeau; and HMCC Superintendent Dean Marshall.

Anchorage businesswoman Eleanor Andrews reacts to her unruly interview subjects during a plenary session on preparing for a job interview.

Shirley Mae Springer Staten, inspirational speaker and singer, closes the 2008 SIO program.

EclecticBlues

Riding with the Bubbalonians

By Dan Branch

After a wet Juneau summer and damp fall it became difficult to see the beauty of Southeast Alaska through our rain-streaked windows. With months to go before the clear skies of winter, I turned for relief to the iMac and found Bubba.

There, on a Google results page, sat a teaser for Bubbafest — one week of bike riding in the Florida Keys. On his website Bubba promised easy riding, warm weather, snorkeling, and good companionship — all for $600. He didn't mention that riders would be transformed into Bubbaonians who wear shell pink tee shirts festooned with flamingoes and palm trees. He didn't say that only those donning screaming red, blue and yellow parrot hats would be served dinner when the tour rolled into Key West.

It is important now to establish that I was ignorant about the Bubbaonian lifestyle before I asked Captain Jim Baldwin if he wanted to join the ride. The Captain, one most comfortable in earth tones, doesn't wear pink.

Captain Jim and I, along with a coffee-swilling legal colleague had spent long hours in August and September fishing the North Pass for silver salmon. We had little but wet clothing to show for our efforts. In between re-baiting the hooks and wiping condensation from the cabin windows, the subject of a warm weather bike ride drifted innocently into the conversation. The Captain said he was open to the idea.

"It is important now to establish that I was ignorant about the Bubbaonian lifestyle before I asked Captain Jim Baldwin if he wanted to join the ride."

In late September when most salmon were playing out their fresh water end game, Juneau started a record-setting stint of rain. If not for the stock market plunge the town might have emptied out. Captain Jim and I were primed for a cheap vacation in the Keys so we mailed Bubba $600 and cashed in airline miles for round trip tickets to Miami.

After banking our checks, Bubba began sending out waves of e-mail messages. Some just provided a count-down until Bubbafest. Others solicited donations for his favorite charities in Southern Florida. With one, Bubba called for all Bubbaonians to bring clothing donations for a homeless shelter in Key West. Another message suggested that instead of bringing our own bikes, we buy one at the local K-Mart and then donate it to one of Bubba's charities at the end of the ride. Each of Bubba's messages contained the salutation, "All Good," — part of the lingua franca of Bubbaonia.

Captain Jim and I needed sun so a day before Bubbafest we ignored the discomfort caused by Bubba's e-mail barrage, boarded the redeye to Miami and staggered blindly into a sunny South Florida morning. It was in the mid-80's by the time we drove into the Key Largo campground where we would spent our first night in Lotus Land.

We set up our tent between two 40-foot RV's while an evil looking iguana skulked at the edge of our neighborhood mangrove swamp and white ibis searched the ground for human leavings. That evening we met Bubba and his Bubbaonians.

Bubba is a tall man who that day was dressed in a pink tee shirt and pink Crocs plastic slip-ons. His smooth head was perfectly tanned. The Bubbaonians were a diverse collection of baby boomers, some with very high-end bicycles. A friendly group, they willingly formed orderly food lines and drank a fair amount of alcohol.

That first night of Bubbafest, music from the school of Jimmy Buffet floated over the water as we enjoyed Cuban food and our first Florida sunset. Someone approached to identify us as the Alaska guys. Another expressed her opinion that thanks to Sarah Palin, people in the Lower 48 now know that Alaska is part of the USA. Later a 5-foot- long iguana walked through the dining area. It was All Good.

The following day Bubba's portable village rode 53 miles to Knight's Key. On the way, Captain Jim and I stumbled onto a flea market where we grazed on cold stone crabs, boiled peanuts and Florida citrus. The fisherman that supplied the crab was as opinionated as his Alaskan brethren. From there we moved on to a lake where for a fee you could swim with large, oddly shaped fish. This made me wonder whether the DIPAC hatchery in Juneau could recoup some of their costs by charging tourists a fee to swim in the fish ladder.

What followed was a blur of muggy days and nights of riding, eating, and puzzling over the behavior of the local fauna and the Bubba nation. Pelicans and osprey would float by at eye level as the Captain and I the crossed long cement bridges that connected the keys. Once I stopped to watch cormorants dry their wings in the sun as an 85-year-old Bubbaonian passed me on his recumbent bike. As is required by the Bubbaonian code, he called out an inquiry to make sure I didn't need help.

It was all good until Key West where we donned our shell pink Bubbafest tee shirts and the aforementioned red parrot hats and boarded tourist trolleys for a ride through Key West neighborhoods. The locals giggled and pointed at us. This is remarkable given the town's laizes faire attitude. One peg-legged man, dressed in pirate fashion, shouted out criticism of our parrots. After dinner and some drinks Bubbaonians walked up and down Duvall Street trying to sell their parrot hats to raise money for another Bubba charity.

We had reached the Hunter S. Thompson point in the ride when weirdness was waiting on the next block of Duvall Street. Captain Jim and I escaped in a cab with three other Bubbaonians. One of our brethren asked the Ethiopian cabbie whether he was taking the long way back to camp Bubba. A few days later this same Bubbaonian would exhibit a remarkable ability to recite random lines from Firesign Theater.

Things evened out in Key West after that. Some Bubbaonians dedicated themselves to finding the perfect Key Lime pie (frozen and dipped in chocolate was my favorite). Others went shopping or snorkeling. The Captain and I took the Fast Cat out to Dry Tortugas to see the fort, check out the frigate birds, and swim with a 3-foot barracuda.

There was more but it's time to end this epistle about the Bubbaonians. The ride ended well. Captain Jim and I spent the day after Bubbafest riding carefully around 'gators in the Everglades, ate good food in Little Havana, and flew home to the rain. It was mostly all good.

The Author & Bubba are captured for posterity.

LEGAL PROFESSIONALS MARK YOUR CALENDARS!

The Alaska Association of Paralegals is presenting a CLE on **Feb. 6, 2009** on effective communication. We'll be covering verbal and written communication within the office and with clients, and so much more. Speakers will include Beverly Dennis, MBA, as well as Deb Periman and Pamela Kelley from UAA. So mark Feb. 6, 2009 on your calendar for this fun and informative all day CLE at the Captain Cook Hotel.

Watch for event updates at www.alaskaparalegals.org.

Tech updates: An alternative to Vista and other tips

By Joe Kashi

In this issue, I'll discuss, in no particular order, some recent technology that I've tried and found useful to the litigator.

A Viable Alternative to Vista - 64-Bit Windows XP x64:

A few months ago, I discussed the wave of disenchantment with the early versions of Windows Vista, especially its 32 bit versions - slow, prone to problems, driver incompatibility, etc. At that time, I suggested that the 64-bit version of Windows XP would be a strong alternative if device driver issues were resolved. Since then, I've put my rhetoric to work and actually installed a new AMD Quad-Core computer using Windows XP Professional x64 version, in what would ordinarily be an exceptionally touchy installation: a networked photo processing computer used for producing large courtroom exhibits using Acrobat 9 Extended, Photoshop CS3, and Adobe's brand-new Lightroom 2 software, driving two different scanners and three highly diverse printers.

If any computer installation should be erratic, this would be it, yet I have had absolutely no difficulty once I dug up the software drivers for the older scanners and printers attached to x64. My point is that the 64-bit version of Windows XP works quite well with a great deal of modern hardware and software, much of which now ships with device drivers that work with both Windows XP x64 and also with Vista. These are often labeled as Vista drivers but frequently work inside Windows XP x64 as well, which establishes more or less conclusively that the 64 bit version of Windows Vista is actually a reworked version of Windows XP x64. It's really too bad that Microsoft didn't leave well enough alone with XP x64. A poll of large businesses using Windows found surprisingly high support for continuation of XP; in fact, a large percentage of initial Vista users, frustrated by poor system performance, deleted Vista and installed older XP on their new systems.

I found that 64-bit Windows XP x64 is quite a bit faster than the 32 bit version, especially with the new 64-bit version of Adobe Photoshop Lightroom 2. Photo preparation that took far too long before now moves along more smartly, even when performing complex functions on very large files. The performance tab on Windows Task Manager showed that all four CPU cores on the AMD quad-core processor were active at similar utilization levels, a result that confirms my perceptions of better efficiency and performance.

A good deal of older high end hardware is now supported by Windows XP x64 and Vista compatible hardware drivers. To my initial surprise, my older Epson Perfection 4990 high resolution photo scanner works easily and smoothly with x64, as does my new Canon DR-2580 high speed document scanner and an 11x17 Mustek large format flat bed scanner. My HP DesignJet 130, a 2005 era 24" wide large format printer, works perfectly as does the high speed Konica-Minolta 5570 color laser printer that I'm using in place of a photocopier. Similarly, the 17" Epson 3800 museum grade photo printer works well with x64.

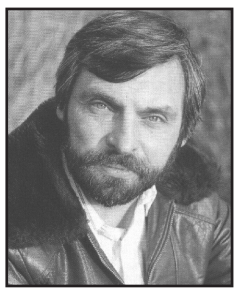
All of my standard office and litigation programs that I've tried to date on x64 install and work without incident, including MS-Office 2007, WordPerfect, Acrobat 9, and the CaseSoft suite of litigation programs, CaseMap, TimeMap, NoteMap, and TextMap. PhotoShop CS3 works stably and well on x64 and the newest shipping version of Adobe Lightroom 2 includes inherently 64-bit versions of the Lightroom program that is much faster, and quite stable, on Windows x64, although you'll need to manually select a 64 bit setup from the folder view..

Given that functional equivalence of XP x64 and 64-bit Vista hardware drivers shows that the underlying operating system code is very similar, one can only wonder why Vista stumbled. I've ordered some additional copies of Windows XP x64 to install on other computers in my office as I upgrade older desktop workstations. I've been running my file server on x64 for a few years now and have been pleased with its excellent stability and overall performance.

The performance hit exacted by Vista became painfully obvious when I recently purchased an HP 2133 mini-notebook that shipped with Vista "Business" pre-loaded. Not unexpectedly, Vista was so abysmally slow that I reformatted the HP 2133 with a new copy of 32-bit Windows XP, Service Pack 3. The HP 2133 is now acceptably fast. More on mini-notebooks below.

Fast New Hardware:

I was able to install the newest copy Windows XP x64 Service Pack 2C, very quickly and easily on a MSI Socket AM2+ system board with AMD's new quad-core Phenom 9850 processor and 4 GB memory. I might mention that AMD's Phenom 9850 and 9950 quad-core CPUs run as fast as comparable Intel processors but are a lot less expensive. The newer Phenom CPUs have been very compatible and reliable to date, and I am quite comfortable recommending AMD's current high end processors. The MSI system board used for this system included AMD's own chipsets, gigabit networking, and fast on-board video, guaranteeing good compatibility with the Phenom processor. Because hard disk performance critically affects overall computing speed, I considered using one of Western Digital's new 300 GB Raptor hard disks, currently the fastest hard disk on the market by a goodly margin, but was deterred by the nearly $300 price, about a $200 premium compared to 7200 rpm drives. However, it may be worth the price for computers that will be used frequently for high demand computing.



"I have always liked having an extremely small notebook computer for light duty computing while traveling and as a back up in case my regular Toshiba notebook fails while I'm in trial."

Intel is reportedly readying their next generation 45 nm CPU family, code-named Nehalem. By most accounts, the Nehalem processors are very fast while using little power and dissipating low heat. The performance of Intel's current and imminent CPUs are again finally competitive with, or faster than, AMD's comparable CPUs and you'll not go seriously wrong with either company's offerings at this point.

Mini-notebook Computers:

Somewhere between regular notebook computers and high end cell phones and Blackberries are a new genre of "mini-notebook" computers, that certainly provide at least Internet functionality and that can probably pinch-hit for a regular, more powerful system. In order to keep down costs, these often ship with Linux rather than Windows and with 4GB to 8GB solid state memory rather than a rotating hard disk. The ASUS EEEE (sic! - that's the name, not the sound that you make when you drop it) and base models of the Acer Aspire One typify the lower end.

They're useful devices but that's about it. But, what do you expect for a tiny device that costs about $400? By tiny, I mean an 8.9" diagonal screen, 6.5" deep, 1.5" high without battery, and 11" wide. The screens are sort of usable but I would prefer a larger screen rather than medium sized stereo speakers taking up about 2" of the screen that might otherwise be used to make these screens actually readable by normal people. All of these devices seem to use the same basic case and screen.

Higher end models include Windows, a rotating hard disk, and a 1.5 or 1.6 GHz low voltage (i.e., slower than you anticipated) CPU so that a small battery provides a few hours of power. These tend to cost between $600 and $800. The battery protrudes downward from the back, giving the machine some forward tilt that helps when typing.

I have always liked having an extremely small notebook computer for light duty computing while traveling and as a back up in case my regular Toshiba notebook fails while I'm in trial. That's happened, by the way.

Recently, I bought an HP 2133 mini-notebook computer with 2 GB RAM and a 120 GB 7200 rpm hard disk. The screen is hard to read but that was something of a given. HP's keyboard was surprisingly good for such a small computer and was actually usable. The real problem was that HP shipped this version with Windows Vista "Business" edition. It took about 5 minutes to boot on this system, which I found intolerable. However, anticipating this problem, I did buy a new copy of 32 bit Windows XP just before Microsoft officially discontinued sales of 32 bit XP on June 30, 2008. I'm told by the local computer store that some of the higher end Acer Aspire One minis ship with Windows XP and a hard disk in the mid-$400 range. These would make more economic sense than buying the HP 2133 with Vista and then another copy of Windows XP.

After deleting Vista and installing Windows XP, even the 32-bit version, boot-up time was a tolerable 45 seconds or so and the little HP 2133 mini-notebook exhibited adequate performance. Mini-notebook computers should not be considered as a substitute for a decent high performance notebook but may make a fine light duty traveling system, especially if you have 20/10 eyesight.

Mustek A3 Scan Express:

As a litigator who frequently becomes involved with real estate and construction litigation, I frequently need to scan plats, construction plans and other documents whose originals are 11"x17", the traditional "B" size engineering drawings. The maximum width of regular flat bed and sheet fed scanners is inevitably 8.5", limiting your ability to scan larger media. For the past two years, I had searched without success for a larger format, more affordable 11x17 scanner. In part because I could not find an 11x17 flat bed scanner for under $1,200, far too rich for my budget, I first acquired a Canon DR-2580, an excellent high speed document scanner that promised to scan 11x17 sheets in a special folded document mode but scanning folded documents resulted in frequent paper jams and crumpled documents. Then, an engineer friend told me about Mustek's "Scan Express A3 1200 Pro USB Large Format Scanner", which Amazon.com sells for $179.

The Mustek is technically an A3 size scanner, which works out to 16.5" long rather than 17" but this makes no difference at all in practical use. The scanner does a competent and reliable job of scanning large documents but little else. It ships with basic U-Lead imaging software from Corel and works directly with higher end imaging application programs like Adobe Acrobat 9 Pro, even with Windows XP x64. It's definitely quite a bit larger than my Epson 8.5"x11" scanner but still fits on a counter top.

AFT XM5U 26-in-1 USB 2.0 Card Reader:

Ordinarily, I would not mention anything so small and and inexpensive but this handy device fits into an unused 3.5" floppy disk drive bay, connects to a dual USB pinout on your system board, and can read nearly any type of memory card while providing another front panel USB 2.0 connection. I've tried a lot of front panel different card readers, most of which try to do much too much. This one is the simplest and the best that I've tried. Newegg.com charged $19.95 plus shipping. Installation took about ten minutes including the time spent opening the computer case.

James Madison on presidential debating styles

By Peter Aschenbrenner

They held an election recently.

So it's probably time for a metaphor. Don't worry, lawyers are going to come out looking good.

If you want to take a ride, you can (first prong) talk to the ticket agent; he's there to sell you a ticket and to answer your questions.

Then there is the conductor (second prong).

The conductor accompanies you. He points out items of interest. He personally vouches for the emotions you should have.

In short, he's a browbeater. His approach is this. You need help.

If you're rolling through a 'pro-America' part of the country, you'll get one package of emotions; if not, another will be supplied for you.

Hence, two debate styles.

One, a bit on the dry side. 'Here's my program. Here's the alternative.'

It's a list. We know that lists are incomplete because Lewis Carroll said so, even though he wasn't kidding at the time. Inevitably so. Logically so. So what the ticket agent sells (for a journey's price) omits essentials like the baggage handling or the caffeination.

Now the other style. The orator wants to vouch for the answer. It's a good answer. Ask him.

This is typically done through 'over-self-credentialing.' Don't look it up. I invented it.

The browbeater is very eager to explain why his credentials entitle him to dictate to you how you should feel. The ticket agent is more standoffish; you get to pick and choose from a list of choices. You may even care to travel without significant affect. That's your choice.

The value of this metaphor is:

Philosophers have never had much luck getting human beings into any of their systems. There is no more difficult task in philosophy than getting a human being on and off what is – inevitably – a printed page. Human beings are worse than being unpredictable. If they're predictable they're not believable, and if they're unpredictable it's hard to imagine why anybody – author, academic department, publisher, bookstore or reader – would take a chance on having a human being crash a system.

In any event, doesn't a live participant make philosophy a performance art?

Take Socrates.

Three problems.

One, he smelled. Bathing requires water. Okay, the Greeks were into getting oiled and scraped, but they didn't invent the Baths of Caracalla.

Second, Socrates was a celebrity. Having celebrities crash 'the little theater that is the printed page' hijacks philosophy because pretty soon it's all about me-ology, not theology.

Third, Socrates is a creation of Plato and Plato really dug the printed page. So the 'Socrates' we know is accompanied by a strong odour of literary jest.

Wait, you ask. Where do the lawyers come in? And isn't it obvious that only a second browbeater can successfully 'one-up' the first in a contest of 'I'm tougher than you are, and I warrant said proposition'?

There are a variety of different tactical approaches. (We're speaking of someone who is designing a train ride or presidential debate, same thing.) 'Put all the mutts in the same room,' Madison offers a rather lawyerly suggestion in *Federalist 51*, 'toss them a bone, and see what happens.'

Actually Madison put it this way. "[T]he great security against a gradual concentration of the several powers in the same department, consists in giving to those who administer each department the necessary constitutional means and personal motives to resist encroachments of the others. The provision for defense must in this, as in all other cases, be made commensurate to the danger of attack. Ambition must be made to counteract ambition. The interest of the man must be connected with the constitutional rights of the place."

So it really is all about venue.

If I have the right to argue my case against the browbeater and if I enjoy 'equal time' – lard in a few other rules of ethical discourse – then it is a fair fight, even if it's browbeater vs. listmaker.

So this makes 'me,' whether a passenger on this terrestrial railroad or viewer at this debate, a part of the solution to the 'how does a guy like Socrates fit into philosophy?' problem.

But there's more.

The more lively the debate in venue, that venue – as a place with constitutional rights – stands a better chance of defeating encroachment on its turf. Pit ambition against ambition; one personal motive against another's. Madison makes it clear he expects human beings to fight on two fronts. "If angels were to govern men," he says (and this is a bit later in No. 51), "neither external nor internal controls on government would be necessary." Your debate partner is your 'internal control' when you share venue; venue itself is the 'external control' on another's department's lustful ambitions as to your venue's turf.

Back to our recent debates. It isn't really important whether the browbeater was browbeaten in return. What's important is that "personal motives" were unleashed and that "[a]mbition [is] made to counteract ambition." And this does get us from No. 51's 'constitutional rights of the place' over to my right (and duty) to advocate, attack and defend shouldness in venue.

Johnstone appointed to Board of Fisheries

Gov. Sarah Palin appointed Karl Johnstone to the Alaska Board of Fisheries on Dec. 5..

Johnstone, of Anchorage, is a retired superior court judge who has been an active sport fisherman in Alaska since 1967. He fished commercially for salmon in Bristol Bay and herring in Prince William Sound and Southeast Alaska in the 1980s. Johnstone earned a bachelor's degree in business and a juris doctorate in law from the University of Arizona. He practiced law until 1979 when he was appointed superior court judge.

Johnstone was appointed Presiding Judge of the Third Judicial District in 1990 and served in that position until his retirement.

The Board of Fisheries' principal responsibilities include setting seasons, bag limits, methods and means for the state's subsistence, commercial, sport, guided sport, and personal use fisheries, and it also involves setting policy and direction for the management of the state's fishery resources.

Five Fee Tips

Many legal professionals do not like asking for payment or feel uncomfortable discussing fees for their work. Yet, chasing down delinquent payments is no fun! You or your office staff waste valuable time, energy and money to follow up on past due balances. To help simplify billing and reduce collections, here are 5 proven tips for collecting fees.

1. Be proactive and communicate. Set your clients expectations up front. Explain your rates, how time is tracked, your billing process, and the types of payment you accept in your firm. That way there are no surprises!

2. Accept every form of payment: cash, checks, debit and credit cards. If a client is ready to pay for your services do not turn them away! Provide them with every payment option.

3. Go one step further and explain what your actions will be if payments are late and when payment is not received. Spell out if you charge interest on late payments and explain your disengagement process. Incent your clients to pay promptly by offering a 10% discount if payments are received within 10 days.

4. Avoid late and no-pay pay clients entirely by including a credit card authorization form with your letter of engagement. State on the form that a past due balance over 90 days will be charged to the client's credit card on file.

5. Bill regularly, it is an effective form of communicating your status and value to your clients. Make sure bills are straightforward. Always, include the name of someone whom clients can contact with their questions. Plus, include a field for credit card payment. That way they can pay you immediately.

To learn more about accepting debit and credit cards in your practice, visit Bar Rag advertiser www.LawFirmMerchantAccount.com.

TALESFROMTHEINTERIOR

The Battle in Barrow

By William Satterberg

Tom Temple, a/k/a "Mini-Me," is my latest associate. Before joining the firm, Tom spent three years in Barrow. Tom's entry into the professional realm of the Satterberg law practice has been not only interesting, but has also provided unexpected impetus to our Bush law practice. Tom fits quite well into the Bush style, sporting a "wild man" look, and proudly displaying pictures of Charlton Heston on his office walls. After all, Charlton Heston is Tom's most revered hero. Although Tom's family does occupy a position in the office, as well, with respect to a family photograph of Tom's continually expanding family, Charlton Heston still occupies the mantelpiece.

Tom has completed several successful trials in Barrow. In fact, Tom's reputation in Barrow has blossomed. One can well question, therefore, why I was contacted by an individual from Barrow one time, and asked if I could represent him, as opposed to Tom. The reason, unfortunately, was because Tom had successfully previously prosecuted this individual. A potential conflict existed. Reportedly desperate for work, I accepted the challenge handily. After all, I could prove myself in Barrow. Moreover, I could ill-afford to let Tom always show up the boss.

It was a felony DUI case that took over two years to reach trial. During the interim, numerous unsuccessful motions were filed. Still, some of these motions actually succeeded in establishing persuasive precedent. Eventually, all good things came to an end, as did my efforts to postpone the trial. Motion practice exhausted, Judge Jeffrey made it quite clear to counsel in March 2007, that the case would proceed to trial.

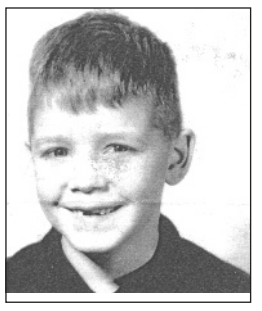
Prior to departing for Barrow on the day of my scheduled travel, I spoke with a person called "Stitzer" by some, the then Barrow district attorney, now transferred. Although Ms. Stitzer is not the attorney's legal last name, for some strange reason during the case, she inherited the last name "Stitzer." In retrospect, I may have had something to do with that moniker. Still, I was not the person who first coined the name. I just repeated it regularly. Rather, the Barrow Court Clerk first made the surname error.

Always one for good preparation, I asked Ms. Stitzer for her assessment of the Barrow weather. In response, she casually announced that there was another blizzard in town and was not even certain if the jets would be landing. Ms. Stitzer was nonplussed. I thought back to my days in the early '70s when I first went to Barrow as a college kid in search of adventure. It was sort of my idea of an abandoned bus in the tundra. At the time, I returned home and dug out my musty orange expedition jacket. After all, I did not want to get lost, or eaten by a polar bear. Still, the odds of being eaten were minimal. This was because the jacket has since lost its taste, and defense lawyers can be greasy.

Predictably, the on-time Alaska Airlines jet was delayed several hours. As such, rather than arriving at 10:00 a.m. on the day before trial, I did not actually arrive until the late afternoon. Perhaps, that is why Judge Jeffrey suggested I fly to Barrow a day early.

Upon arrival, I learned that the finer hotels had all been booked. By default, I would be staying at the infamous, "Top of the World Inn."

The Top of the World Inn is a well known location. It adjoins Fran Tate's Pepe's Mexican Restaurant. The Top of the World Inn is also notorious because undisturbed sleep is a luxury. Historically, as evenings develop, various, sometimes intoxicated guests or visitors prowl the hallways, banging on any apparent door and demanding entry. As such, those "in the know" prefer to stay at other quieter locations farther from the courthouse.



"I had been forewarned that Barrow jury selection would be an arduous process."

Not that Barrow is necessarily a town that is inhabited by heavy drinkers. In fact, Barrow is a damp town, where the importation of alcohol is limited. Then again, numerous individuals, including a well-known University of Alaska professor, have been known to illegally import liquor into Barrow, thus fueling a fire which is probably best put out. On the date of the alleged offense, my client, as well, had fueled his own fire, allegedly, resulting in his fifth DUI offense, allegedly, during his lifetime, and his first alleged felony exposure, allegedly. It was a serious case with extreme penalties, and the likely loss of his career. To my client's benefit, however, he had recognized his need for recovery, and has been working diligently and successfully on the process ever since the date of his arrest.

When I checked into the hotel, I was relieved to learn that my room would be warm for my stay. In fact, the room was not just warm. Rather, it replicated a night spent in a tropical jungle on the Equator. Although there may have been a heat control someplace in the room, I could not locate it. Fortunately, during my stay, another second-floor guest solved the heating problem by leaving their window open. This act soon froze numerous pipes which broke and flooded the lobby when the ceiling caved in. Showers on that day were not to be had.

The night before trial, my client and his wife gave me the luxury tour of the city. It lasted thirty minutes.

The night before trial, my client and his wife gave me the luxury tour of the city. It lasted thirty minutes. First, we drove west where we reached the end of the road. En route I marveled at an artificial palm tree made out of whale baleen nailed to a 4x4 post at a summer fishing camp. Next, I stood awestruck below Barrow's very first flush toilet. It was mounted high upon a post outside of the local military base—obviously a subject of regular worship by the locals. I was emotionally moved by the icon. I, too, was used to worshiping toilets, especially during my college years. We then drove west past the sewage lagoon to the other end of the road, only to return home mentally exhausted from the onslaught of information.

The next day, trial commenced. Trying to look like a local, I donned my best "Bush looking" attire. The outfit consisted of a set of well-worn vibram-soled dress shoes, a pair of cheap pants, and a rather sweaty, also well-used, sports jacket. My associate, Tom Temple, had suggested that I wear Carharts. I politely declined. To me, Carharts were only for sissies. Perhaps I underestimated the local populace. To confirm this, a Barrow attorney graced the courtroom one day in her stylish Sorel bunny boots, accentuated by a genuine leather Prada purse, which drew the envy of all, men and women alike.

I had been forewarned that Barrow jury selection would be an arduous process. Apparently, Barrow has developed a reputation for calling in a telephone-book-load of jurors, only to often have less than the desired number actually respond. The jury selection process in my case was expected to take longer than the scheduled trial time. Reportedly, given the nature of the case and the advent of whaling season, we would be lucky to have a jury selected in three days. Having a Barrow felony jury selected in one day or less was considered to be a phenomenon in itself. Then again, Barrow had not yet experienced my proven technique of spontaneous jury selection.

To our amazement, well over 70 jurors appeared for the jury selection process. Still, over 160 jurors had been summoned. (Many of the local names were unpronounceable to me.) The other errant 90 jurors were later sent summonses to explain why they had not shown up for jury duty, and why they should be allowed to receive their Alaska Permanent Fund Dividend checks. The fact that the corporate dividends were mailed out the same week, however, may have had something to do with the fact that the individuals were not particularly interested in receiving their Alaska Permanent Fund Dividends.

As the jurors filed into the courtroom, I noticed that many jurors were wearing descriptive baseball hats. Contrary to my expectations, not only did the hats remain in place, but no request was ever made by the Court that the hats be removed. Different rules obviously existed. In retrospect, however, the hats were helpful. I soon learned that the choice of hats did much to disclose a juror's preferences or prejudices, especially since I could not pronounce most names.

After roll call, the court began its inquiry into cause challenges. Numerous creative excuses existed, of which I made note. I was impressed. The pluck of the Barrow crowd far exceeded anything that I had ever seen in even Tok or Delta. Valuable lessons could be learned by the jurors' urban counterparts.

The first jurors to announce a problem with the case were not those who claimed to be ill. Instead, the primary excuse was that the whaling season was rapidly approaching. Skin boats had to be sewed and harpoons sharpened. More than one candidate was excused from jury duty due to the fact that they were the skipper on a whaling boat, a necessary crew member, or simply had to be available to support the hunt.

One special excuse was that the local snowmachine mechanic was considered essential to the community. He was quickly granted judicial clemency.

Other non-employment excuses abounded. A local illness was certainly a strong consideration. Barrow was suffering from a respiratory virus epidemic. Anyone who coughed was a potential candidate.

Next came the usual prejudices. Significant opinions were expressed, both in favor of and against drinking. Presumably, all prospects on the jury were being candid with respect to their biases. Various individuals openly disclosed that they knew my client. Some jurors did not believe that they could necessarily be fair, either because they knew my client and liked him, or because they knew him and didn't like him. Their candor was uncharacteristically blunt. But, because Bush jurors have a reputation for bluntness, I expected no less. The fact that my client was also the lending officer for a local bank also factored into the equation, as well. Many of the jurors had taken out loans with my client, including even the arresting officer. In addition, my client was also the drummer in the local church, and essential to the music program. I was proud of him. He never seemed to miss a beat.

During a break, I remarked to Ms. Stitzer that I was amazed at the fact that the jurors were allowed to wear baseball caps and openly carry pocket knives. I asked if our Fairbanks courtroom rules were only optional in Barrow. Where, in Fairbanks, displaying an innocuous blunt pink thing bought in a shopping mall kiosk that could possibly be used as a weapon in the courtroom could get a defense attorney quickly arrested, in Barrow, knives seemed to be encouraged. I felt well protected.

In response to my query regarding rules, Ms. Stitzer indicated that "In Barrow courtrooms, Bill, there are no rules, except that you cannot show up drunk for jury duty, and that rule is regularly broken." Rumor had it that an intoxicated juror actually passed out once during jury selection. Although I certainly had the reputation of putting more than one juror to sleep before, I had never had any jurors pass out on me due to intoxication.

Other excuses for not serving abounded. Soon a regular parade developed between the courtroom and the anteroom. Eventually, the judge set up temporary shop in the anteroom in order to avoid the revolving courtroom door. In the anteroom, other revelations were received. One of the prospective jurors bragged that she played poker on a regular basis with Ms. Stitzer. When further questioned under oath, the poker player announced that Ms. Stitzer actually was not a very good poker player, much to Ms. Stitzer's embarrassment.

Other jurors disclosed that they had known my client for other purposes, as well. I soon became very aware that a jury of peers judging my client might not have been such a good idea. More than one juror had apparently partied with my client, even if they were now reformed.

Remarkably, we were able to select a felony jury in one day. This likely set a new record for felony jury

Continued on page 23

Barrow

Continued from page 22

selection in Barrow. At day's end, all parties left the courtroom pleased that the difficult phase was over. To the jury's credit, it was a dedicated crew which was usually on time, although one juror unilaterally opted out without explanation during one break. Moreover, if a juror did show up late, the rest would loudly clap in approval, thus removing the incentive to be the object of any delay.

Some jurors did not believe that they could necessarily be fair, either because they knew my client and liked him, or because they knew him and didn't like him.

The next day, trial testimony commenced.

The State of Alaska only called three witnesses for its case. First was the arresting officer, who, in my opinion, tried his best to accurately present the facts. Next was the alleged victim of my client's bad driving, a young man who had been struck while riding his dirt bike. Finally, was the State's proud Datamaster expert out of Anchorage.

I briefly considered the favorable aspects of my client's case. Stated simply, there were none. The case was an absolute loser. It was being tried to perfect the appeal points gathered over the previous two years. Factually, my client was accused of driving an SUV in Barrow while intoxicated. He was also accused of striking a young, local teenager who was riding a motorcycle. In contrast to the motorcycle, my client's vehicle was a large vehicle. The teenager on the motorcycle was simply riding his new dirt bike alongside the road, like many other residents before him. My client, in addition, was a non-Barrow, Caucasian. Conversely, the young man who was struck on the motorcycle was a local, lifetime Barrow villager. Both the facts and hometown advantage were against us. Things were not looking good.

To add insult to injury, my client had a Datamaster test result of .235, almost three times the legal limit. Predictably, he had miserably failed all field sobriety tests, and it was not just the arresting officer's subjective recollection. Rather, an in-station video also existed as objective proof. The video alone should have served to quickly convict my client.

But wait! There was more! Not only was my client's voice extremely slurred, (in my opinion), but his ability to understand directions, walk and turn, or stand on one leg was also severely hampered, or downright absent. Fortunately, the field sobriety tests had been performed inadvertently off of the field of view of the video camera, which was aimed in a different direction. Regardless, one could still visualize my client's performance as he could be heard stumbling into file cabinets, and making other descriptive comments while performing the tests.

One of the pretrial issues in the case addressed the Datamaster's accuracy. The issue had arisen because the machine had an inadequate cooling space. Although this issue had been successfully raised in the past in another case by the local Public Defender, the Court still denied my Motion to Suppress the Datamaster Results. To my dismay, one of my own experts actually agreed with the Court. So much for experts! That same expert, however, helpfully opined that the officer had failed to properly observe the fifteen minute observation period after having obtained an initial invalid sample from my client. For that reason, my expert concluded that the entire Datamaster reading was unreliable. So much for experts!

Despite the expert's support, I was still justifiably pessimistic. I could not imagine how a Fairbanks attorney could appear in a Barrow courtroom, before a local jury, representing an out-of-towner who had driven a car over a local youth, with the resultant reading of a .235 on a Datamaster, and argue cogently for acquittal. A hung jury would have been a miracle.

Still, as the evidence was presented, I began to recognize that the State had some significant holes in its case. One of the biggest holes was that the well-meaning officer had not watched the station videotape of the processing of my client since the date that the arrest had been made, almost two years previously. As such, the officer was quite unfamiliar with many important aspects of the case, including my client's actions on videotape, statements made, and other evidence. Although the parties had been involved in an evidentiary hearing over one year previously, when the same failure to view the videotape had been raised, the officer had not yet found time to watch the thirty minute videotape. Barrow was obviously a busy community. That lack of preparation by the officer cut substantially against him during his testimony at trial.

A critical part of the officer's testimony was that he was adamant that he had never seen my client place anything in his mouth during the observation period. On cross-examination, the officer insisted that, had my client ever placed his hands to his mouth, the officer would have quickly caught such a surreptitious move in his cat-like peripheral vision. The videotape, however, clearly showed that my client placed his hands to his mouth on at least five different occasions, and actually rubbed the top of his head twice with both hands. When confronted with the unassailable visual evidence, the officer conceded that he apparently missed the events. At that point, the jury understandably became skeptical about the rest of his testimony.

After the officer concluded his testimony, the teenager who had been struck on the motorcycle testified. In my opinion, the youth testified honestly. Still, he did have certain memory problems, especially with respect to how fast he was riding his motorbike, and where he was located on the road. (Head injuries can do that to people.) Both of these factors were important, since the problems of high speed dirt bike racing by teenagers in Barrow along public streets is well known. Evidence suggested that this teenager was riding his bike in the area of the road that would be commonly described as "a shoulder," even though the police officer was quick to point out that dirt roads in Barrow do not have shoulders, but tundra. Why my client would have struck him under normal circumstances was still an open question. Alcohol was an obvious answer.

The final State witness to testify was an expert from the State Crime Lab. This individual has testified as an expert in many DUI trials, and has advanced from a high school teacher first to a low-level criminalist to now head of the entire Datamaster section. Although I respect this individual, and enjoy her company, I must be candid in stating that she appears quite proud of her position. Moreover, this individual clearly relishes the opportunity to testify, and is obviously quite comfortable on the stand. As such, when the State's expert took the stand, several excited police officers crowded into the back of the courtroom to watch the show, and to gain valuable insights on how to testify. And, hopefully, a valuable lesson was taught.

When questioned by the State, the State's expert firmly maintained that my client's invalid sample was simply a result of his skillful manipulation of his Datamaster test, and was not due to any mouth alcohol. But, another hole existed. Like the arresting officer, this individual should have watched the videotape. If so, her opinions might have been different. At the end of re-cross-examination, the State's expert admitted that she had never watched the videotape. Once again, the jury was skeptical.

One issue that arose during this individual's testimony, which was professionally embarrassing for the State of Alaska, was that she disclosed under cross-examination that she had finally completed the compilation of her long-awaited revised Datamaster manual. Regularly in the past, this individual and I had jousted jovially about the forthcoming revised manual. Each time I would ask this individual whether or not she had completed her task. Each time, she would respond that she did not have the expenses or the time available to complete the manual. It was a work long in progress. On one occasion, I had even provided editorial input to this individual at her request, suggesting revisions which might make the missive more constitutionally valid. She graciously acknowledged my input, and added that she always welcomed the advice of private counsel in making her system work better.

Needless to say, I was shocked when the State's expert first announced from the stand before the jury, in response to my long-standing, and undoubtedly anticipated question about the revised Datamaster manual, that she had actually completed her revised manual over eight months previously. I smelled a sandbag. I asked this individual, in response, why I had not received a copy of the long-awaited manual. I reminded her that I had a standing order for the product. Her response

Continued on page 24

TALES FROM THE INTERIOR

Barrow

Continued from page 23

was an honest and courageous statement that her supervisor had ordered her not to send it to me. It clearly was not this individual's decision.

As experienced defense counsel, I fell into my classic, courtroom "broken wing" routine, imitating a roughed up punter on a professional football team. Eventually, the State's expert explained another reason that the manual had not been sent to me was because the State of Alaska did not want to spend the money to photocopy the manual. Being reputedly frugal myself, I could better accept that excuse. Still, I reminded this individual that I had paid an exorbitant sum of $100 for my last manual. I asked if there was any problem with my checks bouncing. To my relief, she assured me that my credit currently was good. She, too, felt that I should have been provided the manual, as well as all other defense firms in the State. It was apparent that the State's expert actually was welcoming the inquiry, and was relieved that the proverbial other shoe had finally dropped. Personally, I truly appreciated this individual's courtroom courage and willingness to buck the bureaucracy. Without doubt, the person has guts.

Pressing the issue, I asked the State's expert if she had the revised manual present with her. She quickly produced it from her ponderous pouch. I next asked to examine the document. Predictably, I then had the entire manual marked as Defense Exhibit "A." I next offered it into evidence. Worried looks were exchanged between Ms. Stitzer and the State's expert. The manual had now become an item of public record. Obviously, contrary to the last, expensive manual, I would be getting access to this one for free, as would everyone else.

During a break, a compromise was reached. Judge Jeffrey suggested that he return the exhibit to the State's expert, provided that I would receive a copy before the end of the day. I was even uncharacteristically willing to pay for one copy. It turned out to be on special. The actual photocopying cost of the new, improved volume actually came out to be only $35, as opposed to $100, thereby indicating that I had paid an atrocious fee for the last manual, a $65 overcharge.

As a public service, I have now circulated my copy of the newly revised Datamaster manual to the local Fairbanks Public Defender's Office, and the Office of Public Advocacy. Hopefully, those offices will distribute the manual gratis to other firms. However, as an added special, dedicated readers can order a copy from me for the special, one-time-only price of $100, plus a modest sum for shipping and handling. Two day, UPS delivery is more. (Offer is not valid where prohibited by law.)

Despite the revelations, the State's expert still had certain opinions which demanded rebuttal. As such, I had retained an expert, a highly credentialed professor at the University of Washington, who had decidedly different opinions. Where the State's expert claimed the first sample obtained from my client was invalid due to manipulation of the testing process, the defense expert testified that mouth alcohol was most likely the cause of the invalid reading. And, contrary to the State's expert, the defense expert had watched relevant portions of the videotape.

There is a statement that an expert is anyone who travels from more than fifty miles away to testify. The State's expert came from Anchorage. In contrast, the defense expert hailed from Seattle, Washington. As such, if distance were a factor, the defense expert vastly out-qualified the State's expert. It became even more clear that the defense expert was an out-of-towner when he arrived in Barrow wearing a suit and dress shoes in the middle of the Arctic winter. For the next two days, the defense expert did a modified tap dance, arms windmilling, when walking on the ice covered streets to and from the courtroom. Fortunately, the expert was generally well received by the locals, except for one cute little four-year-old boy who slugged the professor soundly in the crotch when he went to pat the little lad on the head in a token gesture of kindness. Trying to downplay the encounter, I explained that the punch was strictly an expression of culture in the north—sort of like rubbing noses. The expert did not seem to argue the issue but, then again, he wasn't saying much at all at that point in time.

My client did not testify in the case. In retrospect, this was a most wise decision. As the saying goes, "Some things are better left unsaid." Moreover, as my mentor, the late attorney Bill Bryson once told me, "Bill, anytime you have to put your client on the stand, you are acknowledging that the State has met its *prima facie* case."

Closing arguments ensued. Instructions were read. Eventually, the jury retired to deliberate. My client was quite worried, recognizing that a guilty verdict would end his career, not to mention place him in custody for a very long time. Given the nature of the evidence, we expected a mercifully quick verdict. I hoped for one, as well, since I had a flight to catch back to Fairbanks.

Surprisingly, the deliberation process was not as easy as expected. Soon, two notes were received from the jury. One note was normal, dealing with the usual administrative stuff. However, the other, more troubling, note pertained to an issue that had been disclosed in the jury room. Apparently, one of the jurors knew my client. During deliberations, he had remarked to all the jurors present that he had seen my client when my client was drunk. Moreover, he did not like to be around my client when my client was drunk. Needless to say, this is a factor that should have been disclosed during voir dire examination. The oversight and volunteered prejudicial evidence virtually guaranteed a mistrial. Unfortunately, a mistrial meant more delay, cost, and confusion.

Counsel and defendant were hastily summoned back to court. Recognizing not only the expense of a new trial, but the difficulty in obtaining a new jury, important decisions had to be made.

Obviously, the juror who had spoken his mind had to be excused. The juror was called into the courtroom. He acknowledged, quite openly, that he made the statements. After all, this was his opinion. The juror was assured by Judge Jeffrey that he was being excused, not because he was a bad person, but simply because the parties needed to have such information in advance. Upon leaving the courtroom, the juror appeared to be relieved to have been discharged from his duty, although he was obviously missing out on a free dinner.

Unfortunately, the revelation subsequently left the panel with eleven members, rather than twelve. Following additional legal research and closed door meetings, the decision was made by both the State and the defense to waive the panel to an eleven-person jury. Rather than a mistrial, deliberations would continue. Both sides apparently thought that they had a good case going. Due to the fact that the State had never shown the videotape of my client's DUI arrest to the jury, I personally felt that it was the best the case would ever get for the defense. In a retrial, the State obviously would regroup and play as much of the video as allowable, even if the sound had to be turned off during objectionable portions. After all, even in Barrow, films could be edited, given sufficient time. Fortunately, to my client's benefit, two years to edit a thirty minute video obviously was not long enough.

Eventually, a phone call was received. To my surprise, a verdict had been reached. I immediately fell into clinical depression. At best, I was hoping for a hung jury! A verdict was ominous. Without doubt, the case had been lost—by someone, just not the defense. Much to our collective amazement, the verdict was stunning: it was an acquittal on all counts! Personally, I wanted to poll the jury. Although the jury had twice watched the videotape of my client sitting at a table during the DUI processing, which was the only portion of the videotape that had ever been shown, in order to demonstrate that my client had placed his hands to his mouth and head several times, the jury still was not swayed that the State of Alaska had proven its case beyond a reasonable doubt. This late afternoon verdict especially surprised me, since most trials have demonstrated that a jury will return a guilty verdict in a DUI case after either (1) re-watching a videotape, or (2) being notified that, after 4:30, a sealed verdict will be required and that the jurors have to return the following day.

The Barrow verdicts took place after 5:00, but fortunately well in time for me to make my flight back to Fairbanks. Again, the verdicts were unexpected, not guilty verdicts on all counts, including not only the felony DUI, but the lesser included charges of Reckless Driving and Negligent Driving, and the separate misdemeanor charge of Assault in the Fourth Degree resulting from my client hitting the young man on the motorcycle. In fact, the only charge for which my client was found guilty was a charge of Driving on a Revoked License, which was resolved earlier with a plea agreement in order to keep the jury from suspecting that my client had prior DUIs.

My client was understandably ecstatic. He was also quite aware, and was reminded repeatedly by both myself, as well as the Court, that he was an exceptionally lucky person. He had gotten probably one of the biggest breaks in his life. My client, to his credit, took the advice in the constructive spirit in which it was offered, and has pledged to maintain sobriety, which, hopefully, will always be the case. Still, it is a "one day at a time" thing.

The trial concluded, and the verdict rendered, I bade my fond farewell to the town of Barrow, and managed to catch the evening flight out. Upon landing Fairbanks, I hurried home, took a well-deserved shower, changed my undergarments (a week is too long even for me), and flew on to Portland in order to celebrate my long-awaited April 1 birthday with my extended family.

In retrospect, to say that it was a difficult trial in Barrow is an understatement. On the other hand, I must compliment Barrow. I truly believe that the jurors took their duties most seriously and that the Court and District Attorney, as well, functioned in a most professional manner. The witnesses, as well, endeavored to be truthful, despite their juxtapositions, and in the State's expert's case, had to courageously face and answer some very tough questions.

But, finally and most importantly, I was able to hold myself up against Tom Temple's silent braggadocio. And, this was the real victory. After all, regardless of what those young pups may think, us old dogs still have some teeth, even if certain other things don't always seem to work.