

1st Native-American woman federal judge's journey

By *Monica Elkinton*

Judge Diane Humetewa gave the keynote address at the Alaska Bar Convention Sept. 14, 2021. Judge Humetewa is the first Native-American woman to serve as U.S. District Court judge. She was appointed to the Court for the District of Arizona by President Barack Obama in 2014. Humetewa is an enrolled member of the Hopi Nation. Her address detailed her background and her journey to the bench.

She grew up on the lands of the Hopi Nation, entirely surrounded by the lands of the Navajo Nation in the American Southwest. Both of her parents attended Indian boarding schools, and both had positive experiences there.

Humetewa's mother attended Haskell Indian College which is

now known as Haskell Indian Nations University in Lawrence, Kansas. In the Hopi matrilineal tradition, the oldest daughter was expected to return to the Hopi nation, have her own children, and care for aging parents. Humetewa's grandmother was confused as to why her daughter, Humetewa's mother, wanted to go to college instead of returning home.

Humetewa's father served in the Navy, and she had uncles in the Army and Marines. Her father served in Hawaii and Japan. After his service, he worked for the Bureau of Indian Affairs, building roads on the Hualapie Reservation, and that is where Humetewa was born. This is the land that today includes the Grand Canyon Skywalk.

Humetewa's parents disagreed



Judge Diane Humetewa

on whether she should grow up learning Hopi and Hopi traditions, or whether she should learn English. Her mother was a school secretary in Phoenix, but every summer the family would return to Hopi lands, where her family's village had no running water or electricity. Her relationship with her grandparents kept her close to Hopi traditions, language and religion. In the summer, the children helped with hauling water and planting crops. All the village's children were away at boarding school during the year, but in the summer, the village came alive with children.

The Hopi people are known for their adobe multi-story apartment-style houses. They are also known for kachina carvings, made from cottonwood root. Kachinas depict

ancestor spirits that teach cultural skills. They are given to unmarried young women and hung on the wall inside homes as a reminder of culture and values. Hopi are also known for "dry farming" which requires lots of prayer for rain due to the dry beach-like soil. Corn is harvested and ground by hand. Young women especially learned how to grind the corn as a skill that would be important to raising a family.

Humetewa participated in the ceremonies as a teenager, which helped her and her sister learn the language. When the rest of the village teenagers came home for the summer, they would want to hitchhike to neighboring villages to see other ceremonies or listen to loud music. Many parents would say, "I can't wait until September." This was an impact of boarding school life; the cultural disconnect between parents and their teenagers.

Everyone in Humetewa's extended family went to boarding schools

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Zero-G flight helps loosen an attorney's burden

By *William R. Satterberg, Jr.*

When I was young, very young, I had a weight problem. I was incredibly skinny. I remember my pediatrician, Dr. McKibben, told my mom who was a second-generation Romanian that I needed to be fat. Fat people were healthy, happy people. Mom was a true believer who always took Dr. McKibben's advice

religiously. So, between the ages of 5 and 8, Mom succeeded in completely reversing the process, much to Dr. McKibben's approval. Not that Mom did not have help. It was not long before I also became actively involved in the conversion.

By 8 years old, my size had appreciably grown. I was wearing size-16 Levi Huskies pants. I was regularly being passed over for baseball teams. Track team was out. To the admiration of many, however, I could produce a memorable cannonball in the local swimming pool. But my weight problem persisted. From that point on, I fought a continuous battle with weight, trying to lose what I had previously worked so diligently to gain.

True, there were times when I was in apparent control. For example, in college, I was a firefighter and medic at the University of Alaska Fire Department. Remarkably, I had trimmed down to fighting weight. I was lean and mean. When I look at pictures of myself at that time in life, I am amazed at just how fit I was. More recently, some people have accused me of photoshopping. But again, by the time of my wedding in 1980 to Brenda, I had regained my girth. In fact, I reached my highest level ever. Round is a shape. I was very much in shape.

During our first year of marriage, Brenda and I moved to the tropical island of Saipan for an extended honeymoon. Once again, I lost weight at a remarkable rate.



Flashing the mandatory smile, the author floats in Zero-G air.

Perhaps it was the humid weather. Perhaps it was the quality of the local food, consisting primarily of canned goods. It may also have been the large jungle located in our backyard that I unilaterally took upon myself over several weeks to slash down with a machete. I wanted to develop a view of the beautiful, azure lagoon below our island home. Once again, I became lean and mean. I also became quite proficient with a machete, except for the time that I almost cut my big toe off, which would have added to my weight loss.

Unfortunately, upon returning to Alaska, I once again began to gain poundage. But, I digress...

When I was 10 years old, Mom

had located a new pediatrician. By then, the family had moved to Alaska, leaving Dr. McKibben, my portly old world physician, to fend for himself in Seattle. Mom had also realized that she had been too successful in fattening me up. She set out to devise a method of getting me to lose weight. So, Mom consulted pediatrician Dr. Zartman in Anchorage. Dr. Zartman recommended a new product known as "diet pills." I remember the first time I took one of those pills. I ran around the yard for several minutes like a dog on a "ripper." Little did I realize that, in future years, the ingredients in those

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Incoming president sets agenda for year's efforts

By Jessica Graham

The Bar Association Board of Governors rotates officers on an annual basis with new terms beginning in November. I became the president as of Nov. 1 and this is my first Bar Rag column. I want to use this forum to pull the curtain back on the Bar Association governance structure, both so that all members have a better sense of the role and

See the 125th Anniversary celebration on pages 26 & 27

work of the Board of Governors, and to lay the foundation with the membership for governance work that will be undertaken in the next year.

First, a refresher. The Board of Governors is the elected body that governs the Alaska Bar Association, akin to a board of directors of a non-profit organization. The Bar Association is a creature of statute, formed under AS 08.08.010, and is overseen by a 12-member board that includes nine active elected members of the Bar and three persons appointed by the governor who are not attorneys.

The composition of the board is set by statute. Nine lawyer members of the board represent different geographic constituencies. Of these nine members, four are from the Third Judicial District, two are from the First Judicial District, two represent the combined geography of the Second and the Fourth Judicial Districts, and one member is

elected as an at-large representative. These board members serve three-year terms and are elected by members of the bar in their specific judicial districts. The at-large member is elected in a state-wide vote.

The three public seats appointed by the governor also serve three-year staggered terms. These board members go through the normal boards-and-commissions appointment process that is used to fill all type of state boards and their appointments are subject to legislative confirmation.

Beginning in 1995, the board decided to include a non-voting "new-lawyer-liaison" position. The board appoints a member of the Bar who graduated from law school not more than five years prior to the start of the liaison's two-year term. This role has become a pipeline for future board service, as numerous former new lawyer liaisons have returned to serve as voting board members years later (myself included). Here's looking at you Rob Stone, Mike Moberly, Janell Hafner, Jason Weiner and Diana Wildland.

So what does the board do and why do you care? The board is responsible for hiring and managing the executive director (Danielle Bailey) and Bar counsel (Phil Shanahan). These two roles, along with Bar staff, are crucial to the Bar's



"In the coming year, the Board of Governors is going to spend some time considering how to improve our governance."

key responsibilities — admissions, licensing, discipline, the regulation of the practice of law, continuing education, member service and the facilitation of pro bono service.

The board reviews proposed changes to rules, acts as the disciplinary board in discipline proceedings, establishes admissions standards and processes for the Bar examination, and is responsible for the financial health of the organization. Just over the course of the last year, the board hired a new executive director,

directed the process for a Covid-safe bar examination, purchased a building to solidify and improve its financial standing, recommended four Bar Rule changes that were approved by the Supreme Court (with another Bar Rule proposal that is out for comment to general membership in this Bar Rag), and created a Diversity Commission to examine the impediments to the profession for people of color. In addition, the Bar Association was up for sunset before the Legislature this past year and was given the maximum extension of eight years.

Beyond the board and the beloved Bar staff, there are several other important roles that connect the membership to the community, the judiciary, and the legal community outside of Alaska. These include representatives and appointments

to the Judicial Council, the Judicial Conduct Commission, the Alaska Legal Services Corporation Board of Directors, two delegates to the American Bar Association (a regular delegate and a young-lawyer delegate), and a lawyer representative to the Ninth Circuit Judicial Conference, among others. Some of these roles have remained vacant for windows of time due to lack of interest — or, perhaps, because the availability and the application process were unknown. I encourage all members of the Bar to consider whether, when, and how you might fill one of these roles and serve your professional community.

In the coming year, the Board of Governors is going to spend some time considering how to improve our governance. For example, our internal standing policies have become outdated and are in need of an overhaul. It is also important for the board to speak clearly, thoughtfully, and with unity as we make decisions, give direction to bar counsel and the executive director, and re-

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EDITOR'S COLUMN

Woman shames jury-duty avoiders at the age of 92

By Ralph R. Beistline

November traditionally has been considered "Juror Appreciation Month." Over the years, the judiciary has expressed its sincere appreciation for those who take time from their busy lives and heed the call to serve. Anyone familiar with American history understands how vital our founding fathers felt that jury trials, before citizen jurors, was to a free nation. Some even believed that the right to trial by jury was one of the most important rights preserved in the Constitu-



Judge Ralph Beistline shares a moment with the eldest potential juror in his experience.

tion. But, while we all still appreciate the importance of juries, there are many among us who are not so anxious to serve. I am reminded of this whenever I have occasion to review the regular requests that we receive to be excused from jury duty. In fact, I think one could fill a book with some of the more creative ones.

Here are some examples: "I work at (censored) and am the only daytime bartender in the community, it would die without me." Or, "Please consider selecting portions of the population that are unemployed to serve on a jury panel instead of members of the working class, such as myself." Or, "No desire to serve. I basically hate everyone." Or, COVID is ridiculous. My current state is Anger and Rage. Please don't force me to jury." Or, "It would be to [sic] costly and stressful on my dogs for me to be away." Or, "Based on the contents of this letter, I pray the Court will find that I am not physically, emotionally, or financially able to serve as a juror, I most desperately and humbly request an excused absence — due to undue hardship and extreme incontinence." Or, "I do not understand what you want — I already have high anxiety from this jury thing. I do not like



"This summer, during a break in the COVID shutdown, I was able to do a jury trial in Fairbanks and encountered a local lady totally committed to her civic duty."

most people and am very prejudiced against everyone. The whole system is screwed up. Not for me. I do not trust our Government or the people that work for it. I have problem with the police trying to take my girl friends. I would like to be excused!"

And, so it goes. But not always.

This summer, during a break in the COVID shutdown, I was able to do a jury trial in Fairbanks and encountered a local lady totally committed to her civic duty. She was 92 years old and accompanied by her daughter. When it was explained to her that she need not attend, she was adamant. Her daughter could go home, but she would stay. She had been a schoolteacher in Fairbanks for 40 years and understood her civic duty. She stayed throughout the process and gladly would have served had her number been called. She even agreed to let us take her picture, which I have attached. In 30 years as a judge, she was my oldest juror, and perhaps the most dedicated. So, from my perspective, this juror appreciation month is dedicated to her. Thank you.

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

The Alaska BAR RAG

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Friend reflects on John Havelock's long Alaska career

By Victor D. Carlson

John Eric Havelock, 89, died Aug. 31, 2021. He came to Alaska in 1959, bringing his wife and infant son, first working for the Department of Law where he rose to be the deputy attorney general and then with the firm Ely, Guess, Rudd, & Havelock in Anchorage. In 1967 he was selected to be a White House Fellow where he was assigned to Secretary of Agriculture Orville Freeman. After returning to Alaska and private practice he was selected by Gov.-elect Egan to be his attorney general. I could go further with the details of John's career but realize those are easily available and do not really describe my late friend.

John and Av Gross met me in Juneau when I arrived Feb. 12, 1962, fresh from law school. They arranged for me to stay at the Juneau Hotel until I could find an apartment. Among my earliest memories are gathering for coffee in the communal secretaries' office and becoming acquainted with Dick Regan, Mike Holmes, Jim Wanamaker, Roberta Johnson, Edla Cashen, David Ruskin, John Brubaker, Leroy Barker and others. Those morning coffees gave me the opportunity to learn about Alaska and to be prepared to meet the challenges of advising our department clients.

In the summer of 1962 Jim Bradley and John acquired a small boat and they often invited me to go fishing with them at 5 a.m. We would meet at the small boat harbor. Among my successes was catching a 30-plus-pound king salmon. I am grateful to John and Jim for my experience on the waters of Gastineau Channel and the chance to learn about the practice of law.

The Alaska Bar Association met in Juneau in 1962. Not being admitted I could not attend but could help set up the chairs in the Elks Lodge. In conjunction with the bar meeting several of the district attorneys met in the office and I had the opportunity to become acquainted with Virgil Vochoska from Nome, Bob Erwin from Anchorage and Herb Soll from Fairbanks.

After meeting Herb I wanted to be transferred to Fairbanks. Most of my contemporaries chose Anchorage to gain trial experience and familiarity with the local bar. In the spring of 1963 I broached the subject of going to Fairbanks with John. It was a Sunday afternoon and we were alone in the office. John asked me penetrating questions about my choice. In the end he let me join Herb and Tom Fenton in Fairbanks for which I am forever grateful. Herb was a fine mentor and I got to practice before Superior Court Judge Jay Rabinowitz and become lifelong friends with him and Ann.

When visiting Anchorage from Fairbanks I enjoyed John's hospitality and counsel. After moving to Anchorage in 1965 I often spent evenings with John, Dick McVeigh, and others at his Windemere home. After John's return from D.C. he spent several weeks as my houseguest and that is when I learned how much he cherished married life and missed the company of his children. His company and comments caused me to question my appreciation of family which has greatly contributed to my own marital happiness.

Incoming president sets agenda

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spond to public events affecting the community or involving members of the Bar. By way of example, at our last meeting the Board considered a public statement on sexual misconduct involving members of the Bar (which is included in this Bar Rag), recognizing that our commitment to due process and privacy can be misinterpreted as deliberate silence or lack of concern.

I encourage everyone to communicate with your board members through whatever means or channel works for you. Contact information is available on the Bar website, as well as in the published legal directory. We have a public comment period at the start of every meeting that is open to everyone.

There are several major issues on the horizon for the Alaska legal community. The Diversity Commission has a year to study impediments to the profession for people of color and come forward with recommendations. The board is considering changes to mandatory CLE (both the number of hours and the type of hours) in light of stern and repetitive consternation from the Legislature. The slow return to normalcy coming out of the pandemic has the potential to cause disruptions in the legal community through the backlog of trials, the volume of bankrupt-

cies and foreclosures that some have predicted, changes to the commercial real estate market, and living patterns as professional mobility expands. At the same time, the recent federal infrastructure bill has the potential to pour billions of dollars into our state economy.

I encourage you to help shape our governance work in the next year because the Board of Governors and the Bar Association will make better decisions with more engagement and perspective from the many voices in the membership, either through a formal appointment, engagement with the staff, emails to the board members, informal discussions, or even an occasional one-off opinion. We welcome all input. I look forward to serving all of you in the next year.

Jessica Graham is president of the Alaska Bar Association. She has been a member of the board since 2019, and previously served as the Board New Lawyer Liaison from 2000-2002. She graduated from the Duke University School of Law in 1997 and clerked for the Honorable Sidney R. Thomas on the US Court of Appeals for the Ninth Circuit. She worked in private practice for several years before going in-house in 2003. She is the general counsel and chief risk officer for Alaska USA Federal Credit Union.



John Havelock

John was my counselor as I considered seeking the Public Defender appointment when the Public Defender Agency was created by the Legislature in 1969. His wife was our first secretary at a card table with a telephone in a barren office above Howard's Gun Shop on Fifth Avenue where Town Square Park is now. He was again my mentor when I applied to become a Superior Court judge.

Our social lives continued to intertwine in Juneau and after our return to Anchorage in the mid-1970's, he to the university and I to the court.

In the past several years we met weekly for lunch at Side Street Espresso. I looked forward to questioning him about his columns in the Anchorage Daily News

and hearing his responses to my questions about international issues. One of our recent conversations was about China and the possible U.S. response to its growing economic and political power. Just as the U.S. would not countenance an overwhelming Soviet presence in Cuba we cannot expect China to tolerate such a presence in Taiwan and its surrounding area. The Soviet Union weighed the costs and withdrew its missiles and that should be a lesson for the U.S. with regard to China's natural sphere of influence. Nuclear war is not a viable alternative.

John continued to consider the deeper questions which affect humanity to the end which made it a great pleasure for me to visit and to share a glass of wine and cheese. Already I greatly miss the intellectual stimulation I gained from our friendship and my heart goes out to his widow, family, and friends.

I realize John's impact was experienced by many and is not unique to me. I am honored to have shared it with so many others.

Victor Carlson was a Superior Court judge in Sitka, and a Superior Court judge in Anchorage until his retirement in 1995. He worked for the Attorney General's office in Fairbanks, was attorney for the Greater Anchorage Area Borough, and was the first Public Defender in Anchorage when the agency was established in 1969.

Editor's Note: John Havelock was also a frequent contributor to The Alaska Bar Rag.

A lifetime chronicle

- Born and lived in Toronto until he was 14 when his father moved to Cambridge MA, area.
- Graduated with a bachelor's degree from Harvard University in 1956.
- Drafted into the Army, he was a military police investigator in New York City.
- Earned a doctorate in jurisprudence from Harvard Law School in 1959.
- Moved to Juneau in 1959 for a four-year apprenticeship as an assistant attorney general, chief of the civil division and deputy attorney general.
- Founding member of the Ely, Guess, Rudd & Havelock firm in Anchorage
- Elected to the Board of Governors of the Alaska Bar Association.
- Served a stint as a White House fellow and was appointed as a special assistant to the U.S. secretary of agriculture.
- Returned to Alaska to work on the settlement of the Alaska Native claims.
- Helped organize the Kenai Peninsula Borough and served as its attorney.
- Named by Egan to be attorney general from 1970-1973.
- During his state service, helped enact the Alaska Native Claims Settlement Act, establish tax regimes against oil companies, authorize the Trans-Alaska Pipeline System and enact fisheries entry law. He also drafted the language of the state's Constitutional Privacy Amendment.
- In 1977, became a professor at the University of Alaska Anchorage, and served as founding director of UAA's Criminal Justice Center and the UAA legal studies program.
- After the Exxon Valdez oil spill in 1989, he was the lead lawyer and staff director for the state commission charged with investigating the accident.
- More recently authored a blog "Havelock's Potshots" <https://havelockspotshots.com>.
- Died Aug. 31, 2021, at 89 after a long fight with cancer.
- Survived by his wife, Mona; five children: and seven grandchildren.

Zero-G flight helps loosen an attorney's burden

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pills would provide a ready source of income for my professional practice, not to mention helping college students cram during late nights for final exams and long-haul truck drivers meet schedules.

In later years, I attempted to revise my diet to more socially acceptable items. At one point, I was introduced to the Fen Fen program, another pill-based solution. Overall, I liked pills, even if they weren't that filling. Fen Fen worked well. Once again, I lost a significant amount of weight. Unfortunately, the FDA later determined that Fen Fen caused serious heart problems in many users. So much for pills, although I understand that there still is a Fen Fen black market. And, once again, I blossomed.

There was the time that I was introduced to the Arbonne diet program. So long as somebody enjoyed kale and chalk-flavored beverages, Arbonne was not necessarily a bad program. True, I did lose weight once again. But, as always, I fell off the proverbial wagon.

I did not succumb to every fad. I avoided "Lose weight now. Ask me how!" because I had an aversion to pyramid marketing schemes. More than one Alaska attorney fell prey to a Ponzi scheme in years gone by. Various people have various addictions. There are alcoholics. Drug-addicts. Sex-addicts. Myself? I am a carbo-holic.

Having entered my 70's in 2021, I recognized that being able to my ability to knock off the weight which I carry was low. Ashes to ashes. Dust to dust. Someday I would be much lighter. But, for the time being, I accepted that my ability to lose weight appeared dismal.

All that changed in July of 2021. A client and good friend of mine indicated that his company had space available on a flight known as "Zero-G." Zero-G involves a modified Boeing 727, 200-series jet. The aircraft consists of a large padded tube. Some of my clients are familiar with padded rooms. Personally, I was not necessarily familiar with a padded tube, but I grew to realize the importance of it when I found that I could participate in a Zero-G flight in Seattle.

For the technically minded, the Zero-G aircraft flies a parabola. A parabola is a curved straight line familiar to many of my DUI clients. After takeoff, the aircraft climbs to approximately 32,000 feet. Once at altitude, the passengers unbuckle themselves from the 36 seats located in the rear of the aircraft. They next lay on the floor in the forward section of the plane which has had all seats removed. No first-class

section. And no airline mileage, either. The aircraft then enters a dive, picking up speed and subsequently pulls into a 1.8-g climb to 35,000 feet. At the top of the climb, the pilot abruptly noses the aircraft over and the plane falls into a 10,000-foot dive. It is during the nose-over and dive phase of the flight that the passengers become weightless.

Zero G is an expensive flight. It is not for the faint-hearted or the weak-stomached. It is clearly a rich person's game. Fortunately, my client sponsored my flight. Because there is only one Zero-G aircraft located in the United States, flight demand is high.

Various celebrities have ridden Zero-G flights, including astronauts, scientists and even teen idol Justin Bieber, who vomited all over the inside of the aircraft. The cabin clean-up after the Bieber flight was a challenge, which set a new standard.

The day before our flight, I flew to Seattle with two friends, Robbie and Paul. Despite admonitions that we should not drink alcohol before the flight in order to avoid air sickness, we poo-poo'd the concept. After all, we were tough Alaskans. In retrospect, poo-poo'd may have been an understatement. While Robbie and Paul ate cheap hamburgers at a local bistro, I devoured a greasy basket of buffalo chicken wings. Bad idea. Enough said.

The next morning, at 7 a.m. we Ubered to the hangar for our departure. Following the obligatory Covid test to ensure we were would not infect our Zero-G group if someone decided to do a "Bieber," we were issued swell flight suits to keep. We also were given our own name badge. We could name ourselves various fighter pilot names such as "Maverick," "Goose" or, in my case, "Mad Dog." Robbie chose to be original and aptly named himself, "Rob."

After the group had assembled, we were given a light breakfast and strongly advised to eat it. Food in the stomach was better than no food in the stomach. I certainly had no problem with that concept. After all, over the years, I had practiced well for the experience.

We were next introduced to our flight crew and our "coaches." The coaches were there to make sure we did not hurt ourselves or the others. My coach on our flight was a delightful lady, Julie, who paid professional attention to Rob, Paul and myself, among others.

We were first briefed on the flight



"For the technically minded, the Zero-G aircraft flies a parabola. A parabola is a curved straight line familiar to many of my DUI clients."

plan. There would be 15 parabolas. Each parabola would produce 30 seconds of weightlessness. The initial three parabolas were for a limited weightlessness. The initial parabola would simulate 30 percent of our Earth weight on Mars. We were encouraged to do push-ups. Push-ups were an exercise I had despised ever since elementary school. The next two parabolas would replicate our 10 percent lunar weight.

For that, we were told to bounce around the cabin like Neil Armstrong did on the moon. The final 12 parabolas would be true weightlessness.

We were next advised on how to deal with air sickness. We also were given complimentary barf bags to keep as souvenirs, used or unused. Our choice. The only two major rules were 1), do not jump because you will hit your head on the ceiling and 2), do not try to swim because you likely will kick the person floating next to you. Besides, swimming has no effect in zero gravity. Otherwise, we were asked to always smile for the abundance of cameras and to have fun. Finally, we were warned that, near the end of each 30 second parabola, we would be ordered "Feet down!" Seconds later, the aircraft would pull out of its dive. If the floater were not ready to accept the pull out

by lying on the floor, gravity would make sure that they did. After the pre-flight briefing and slithering into our flight suits, all of us went out to the aircraft. The obligatory photographs were taken of all participants. After photos, we boarded the aircraft and our flight began. There were no windows except for the escape hatches of the 727. It was a unique sensation to be flying out to our practice zone without any visibility. Eventually the aircraft leveled off. Our shoes were taken. After all, by law, a rough shod foot can be a weapon. We previously had been divided into two groups of adventurers. In order to keep our groups straight, we were given different sets of colored socks to wear. One set was yellow. One set was blue. I was yellow, although I later became green. Both sets of socks advertised Zero-G on the bottom. After all, it was a business.

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After a 20-minute transit to designated airspace, the aircraft began its 15 parabolas.

Following the first Martian parabola where I unsuccessfully tried to do my mandatory push-up, we did our two lunar parabolas. As instructed, I bounced around the cabin like an astronaut. We were then reminded that the remainder of our parabolas would be Zero-G evolutions.

On the first total weightless parabola, almost everyone was a bit timid. Still, there were some old timers on the plane, including one person who was juggling red rubber balls still trying to set a Guinness world record. Rumor was that he had taken the flights 17 times. Rich guy. As for myself, however, this was my first time to experience weightlessness for any extended period of time other than falling out of my bunkbed as a kid. As such, I approached the concept eagerly. Yet, as I began to float around the cabin during each successive parabola, I found myself becoming increasingly engaged. On some parabolas I did front flips and even a partial backflip. I got tossed around by others which reminded me of my fights in elementary school. At one point, Robbie bumped into me. Retaliating, I gave him a shove,

failing to realize that, for every action there is an opposite and equal reaction. Robbie tumbled one way across the aircraft and I careened the other, both of us slamming into our respective padded walls.

Toward the end of the flight, I began to sense an upcoming "Justin Bieber" syndrome. Although I did not toss my breakfast, four other people did, including two experienced pilots who were along for the ride. Perhaps recognizing that rookies could only stand so much first time Zero-G experience, our flight ended after a 16th bonus parabola and we returned to Boeing Field.

In the end, Zero-G was an experience I will not easily forget. Nor will those who unfortunately were too near the people who blew their cookies. Yet, for once, I had actually succeeded in losing weight completely. Mom would have been proud. Would I do it again? Possibly. On the other hand, I will need to let my stomach settle a little bit first so it can get back to its old habits.

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

In the end, Zero-G was an experience I will not easily forget. Nor will those who unfortunately were too near the people who blew their cookies. Yet, for once, I had actually succeeded in losing weight completely. Mom would have been proud.

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Lawyer joke ...

After I prosecuted a man for killing a bird out of season with his slingshot, the court clerk suggested setting up a date for him to return with both the money for the fine and proof of community service. "That way," she said innocently, "you can kill two birds with one stone."

This is the Landlord Tenant Helpline, how you can help

By JC Croft and Connor Smith

JC Croft and I sat down over drinks recently to talk about our ongoing work with Alaska Legal Services Corporation's (ALSC) Landlord Tenant Helpline. I've known JC for a few years, and although we met through our work in various legal-related projects — the helpline and other Pro Bono Services Committee endeavors — our conversations typically focus more on the various things we have in common from both growing up in



We talked about how we both enjoy being a part of the little community of volunteer attorneys who staff the helpline each month ...

Alaska and choosing to make our home here as adults. Besides being a local, JC has a good sense of humor, he's an avid outdoors person, and he cares deeply about Alaska. One way JC puts his care into action is by volunteering for the hotline.

JC told me that straight out of law school, he had a healthy amount of imposter syndrome discouraging him from taking on any substantial pro bono matters, but that he had learned about the helpline when he interned for a semester at ALSC and thought it might be a good way to get involved in pro bono work without overcommitting.

If you don't already know, ALSC's Landlord Tenant Helpline operates on scheduled evenings each month from 6pm-8pm, and anyone around the state can call the helpline to speak with that evening's volunteer attorney about the housing issue(s)

We talked about how landlord tenant law feels like one of the few areas where awareness of your rights can really make all the difference in a bad situation.

they are dealing with. Each volunteer takes one shift per month.

JC explained that he started volunteering for the helpline because it felt accessible, and he kept volunteering — more than two years running — because the commitment proved to be digestible (one two-hour shift per month); there is a built-in community of other volunteers for support; and once you've read the Landlord Tenant Act a time or two, you can add value to a caller's life or situation with little work on your end. I asked JC what his most interesting call was, but before he could answer I cut him off with, "I got a call once from a guy whose house had just been hit by an avalanche!" He replied, "I spoke with him too!"

We talked about how we both enjoy being a part of the little community of volunteer attorneys who staff the helpline each month; about how we both have family and friends in the state, but how if you were new to town or new to pro bono, the helpline would actually be a great way to meet people. I told JC that

when I started volunteering for the helpline in 2019, I made the mistake of giving my name out to each caller, and if you google "Connor Smith AND attorney AND Alaska" you'll find a two-star rating on Avvo from one caller who wrote, "I called a legal hotline for help paying rent due to Covid and he couldn't help me. Seemed very nice but was hoping for more." We talked about what we typically do between calls during our helpline shifts. He said he usually uses the time to tune in and out of whatever sports game of interest happens to be on that night, and I said that I use the two hours to slowly make a more complicated than usual dinner.

We talked about the pandemic, and the influx of callers we've both observed from pre- to post-pandemic. About how housing is such a core need in people's lives, especially in Alaska, and especially with winter coming. I told JC about how I was renting from a landlord



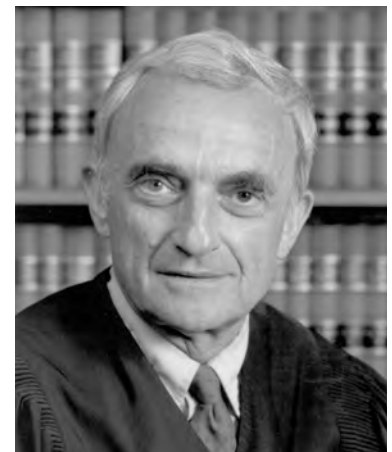
a few years ago who lost her house in foreclosure while I was a tenant, and how I had felt so privileged being able to navigate the situation with relative ease because I was familiar with my rights and state law. We talked about how landlord tenant law feels like one of the few areas where awareness of your rights can really make all the difference in a bad situation. And we also talked more than a little about our fall hunting trips — JC to Raspberry Is-

land and me to the Tazlina Glacier. If you have any interest in getting involved in the helpline, please reach out to JC, myself, or ALSC. We would love to talk more with you about it, and to support you getting involved with the helpline or any of the many other pro bono projects that could really use your help.

JC Croft is an associate at The Croft Law Office and Connor Smith is a litigation associate at Stoel Rives LLP

Call for nominations for the 2022 Jay Rabinowitz Public Service Award

The Board of Trustees of the Alaska Bar Foundation is accepting nominations for the 2022 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.



Jay Rabinowitz

ALASKA BAR FOUNDATION



Nominations for the award are presently being solicited. Nomination forms are available from the Alaska Bar Association, 840 K Street, Suite 100, Anchorage, AK 99501 or at www.alaskabar.org.

Completed nominations must be returned to the office of the Alaska Bar Association by March 1, 2022. The award will be presented at the 2022 Annual Convention of the Alaska Bar Association.



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MARK REGAN
2003 Recipient

1st Native-American woman federal judge's journey

Continued from page 1

except for Humetewa and her sister, who attended public school, due to their mom's job. At times she felt disconnected from the rest of her extended family, and felt like she was straddling two worlds.

Growing up in the 1970s, Humetewa felt like she couldn't tell her public school friends much about her summers in the Hopi village. She and her sister participated in sports and Girl Scouts, and had visits from the Johnson-O'Malley Program funded by the Bureau of Indian Education.

She went on to college pursuing a degree in the field now known as criminal justice. During her senior year of college at Arizona State, she interned for the U.S. Attorney's Office as a Victim Advocate. "It was an eye-opening experience," said

Humetewa about the D.O.J., "that the federal courts were really addressing crimes in Indian Country, including on my own reservation." Over time, she was able to assist victims who belonged to several different Indian nations in Arizona. In this role, she helped victims and witnesses understand the procedures of the federal courts and help them testify. Her cases included crimes on tribal lands, sometimes related to teachers or schools, and sometimes involved sexual abuse of Indian children. After her college graduation, the position became permanent. She was one of the first victim advocates in the United States Attorney system. "I worked with victims in those cases through the trial, and helped to get them counseling for the children," she says.

Many of the attorneys she worked with were white/Anglo men.

They encouraged her to apply to law school. Some said she would be the voice of victims if she did, and that she could convey their message better than the Anglo men could. Her supervisor put three law school applications on Humetewa's desk. Humetewa filled them out, and didn't realize the supervisor was planning to submit all three. She was accepted at all three law schools.

At Arizona State University Law School (now known as Sandra Day O'Connor College of Law), there were only six Native-American students in Humetewa's class. In her second year of law school, she took a class on federal Indian law and, according to her, "I finally understood why my family and I were on reservations, and why my cousins had to go to boarding school." Only three graduated.

Following an internship, Hu-

metewa worked after law school at the U.S. Senate Committee on Indian Affairs, under U.S. Sen. John McCain. Later she transitioned back to Arizona and joined the Department of Justice. She was one of four assistant U.S. attorneys in the country who were Native-American at that time. She felt compelled at that time to be vocal about violent crime in Indian Country. "There was a disconnect between the tribes and the courts that were administering justice on their behalf," said Humetewa.

Eventually she began to volunteer as a tribal appellate judge. She got to work with other judges to codify Hopi common law into written law and codes. She worked on issues that affected Hopi tribal members and applied precedent.

In December 2006, the George W. Bush administration fired seven U.S. attorneys around the country, including Humetewa's supervisor at the time. She was suggested to become U.S. attorney for the District of Arizona. When she consulted with her husband about the position, he said, "If it will help you get a judgeship, I would say yes."

Until that point, she had never considered becoming a judge. "Every day," said Humetewa, "I would walk past a wall of portraits and no one looked like me. They were all Anglo men." When McCain called and asked her to consider becoming U.S. attorney, she remembers, "You don't say no to John McCain so I said yes."

In 2012, a federal judgeship opened in the U.S. District Court for the District of Arizona. There had been a crisis in the number of judges — many took senior status at the same time. Alaska Judges Russel Holland, Sharon Gleason and John Sedwick all came to Arizona to help hear cases.

President Barack Obama, despite a recent and strong-fought campaign against John McCain for his presidency, appointed Humetewa. When she was appointed, the White House asked her how it felt to be the first Native American female federal judge. Humetewa said, "I think my expression went blank because I thought, it's 2013, surely I can't be the first. That can't be right." But she was.

The U.S. District Court for the District of Arizona has the fifth busiest docket in the country. Today, she works at the Sandra Day O'Connor United States Courthouse. Arizona has one of the largest criminal dockets in the country, and 300-350 civil cases at any one time.

"I enjoy the position every day," Humetewa said. "Every day is so rewarding here in federal court. It was a journey that was long, but well worth it."

Says Humetewa, "If there is someone out there who knows someone who might have similar backgrounds to what I have faced, obstacles my family faced, or decisions they had to make: I'd like to let them know that if I did it, they can do it. If you're willing to put in the work, it's worth the effort."

Monica Elkinton is an assistant municipal prosecutor in Anchorage.



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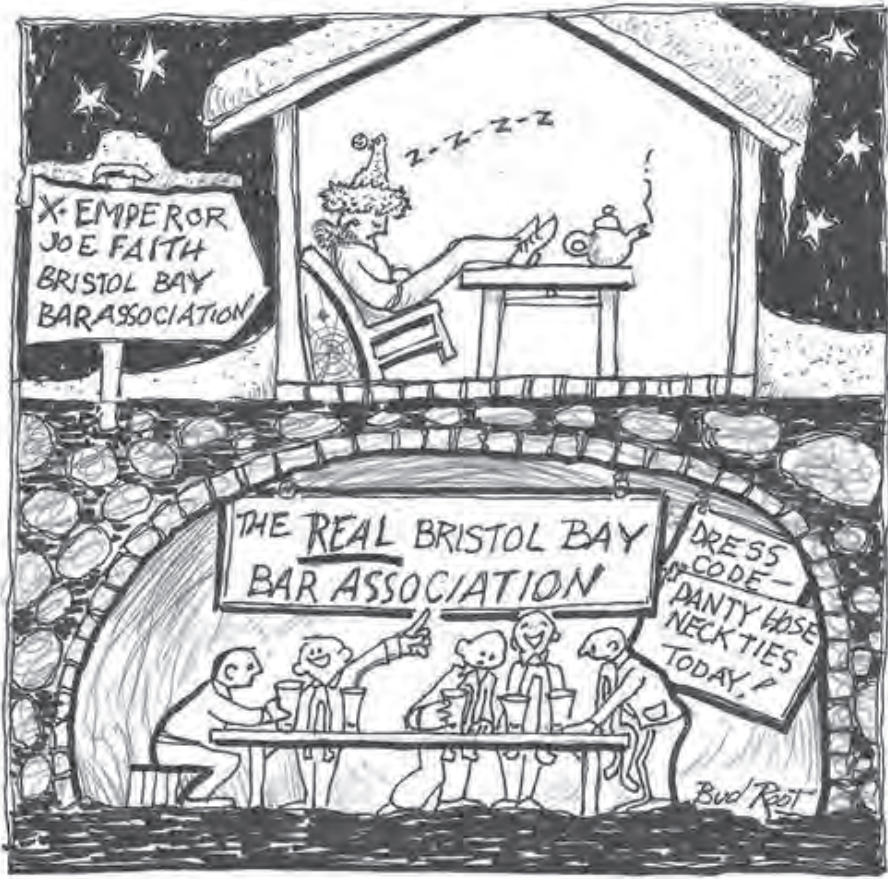
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Mystery surrounds existence of Bristol Bay Bar Association



From Bar Rag Staff

The Alaska Bar was doing some housekeeping and asking local bar associations if our contact information was correct for current bar leadership. Rachel Wright, the Bar's executive assistant, reached out to who we believed to be our most recent contact as the president of the Bristol Bay Bar Association, and this was the response we received.

Here's my answer to your question asking whether I'm still the president of the Bristol Bay Bar Association.

It's my understanding that there was a Bristol Bay Bar Association in the early 1980s. It met for a few years and then went underground.

It resurfaced in the early 2000s. Local attorneys began holding meetings in a local bar. I never attended the meetings for

reasons of conscience, which I thought I might lose drinking with this bunch in a bar. I'm not against drinking but haven't had even a dark beer since about '07 or '08.

The attorneys decided to hold an election for Bristol Bay Bar president. Their representative told me that I had been elected. I told him that I wouldn't be president. But I would be king. Their representative said he would get back to me. When he got back to me, he said it was decided that I could not be King. But I could be emperor. So, I was actually an emperor.

The one thing — and only, to my knowledge — the Bristol Bay Bar Association did was present a resolution to the Alaska Bar Association in 2003 to urge the Alaska Supreme Court "to adopt a rule making the wearing of a necktie a personal choice of the person who owns the neck." They even cited the succinct

dissenting opinion in *Friedman v. District Court* and mentioned the outdated powdered wig to support their resolution. Their representative showed me the resolution after the meeting, and I thought it was great. I didn't think anybody would take it seriously. For regular court hearings, I generally wear dress clothes, but for jury trials, I always wear a business suit, white shirt, tie and dress shoes.

At the statewide Bar Association meeting in 2003, women wanted to make panty hose as optional as the neck tie. The resolution's sponsor accepted panty hose as a friendly amendment to the resolution. When it came time to vote, a voice vote was inconclusive and required an individual voter count. When called to vote yes and when to vote no, people stood, and every vote was counted. The resolution with the panty-hose-friendly amendment passed, luckily.

To my memory, I attended one Bristol Bay Bar Association meeting held at a local restaurant with a food menu that included beer. Another election was held at this meeting and a new president was elected — to my great relief. The thing is — and I could never figure this one out — unlike when they must have notified the statewide Bar Association I had been elected, the new president's name apparently was never sent to the statewide Bar Association because I've been getting asked on and off whether I'm the president of the Bristol Bay Bar Association for more than a decade.

To answer your question, I believe that I am not the president of

the Bristol Bay Bar Association. I also think that the Bristol Bay Bar Association went underground again numerous years ago. I have seen signs recently though that it might be resurfacing.

Sincerely,
Joe Faith

P.S. Are you the Rachel who in the late 1990s would send me late notices with a hand drawn "skull and crossbones" on the late notices when I didn't return video cassettes for CLE courses that I got for me and local attorneys to watch?

EDITOR'S NOTE: We would like to thank Joe Faith for giving us permission to include this letter. In addition, we would like to add that the Rachel mentioned in the letter is a past employee of the Alaska Bar Association. In the 1990s, the Alaska Bar Association used to have to do remote replays of all of our CLE's. After the program was taped, the Bar would get the video tapes back, print course materials and GoldStreak or FedEx them to the coordinators in all of these remote locations: Kenai, Homer, Juneau, Ketchikan, Dillingham, Nome, Barrow, among others. Apparently past employees went to great artistic lengths to encourage people to return the tapes in a timely fashion because there was always another site scheduled to view the video next.

The Bar still does not know if the Bristol Bay Bar Association is active or if it has a current president so if anyone has information they should reach out to the Bar at info@alaskabar.org. As nearly as we can tell there are no late fees due for outstanding videotapes.



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Women judges discuss diverse paths to the bench

By *Monica Elkinton*

At the Alaska Bar Convention Sept. 15, 2021, a panel of distinguished women judges from various cultural and ethnic backgrounds discussed diversity on the bench. The discussion was moderated by Kendri Cesar, a Tlingit attorney who works in the Juneau office of Sonosky, Chambers, Sachse, Miller & Monkman, LLP.

The panelists were:

- Judge Diane Humetewa, U.S. District Court for the District of Arizona
- Judge Una Gandbhir, Anchorage Superior Court
- Judge Jo-Ann Chung, Anchorage District Court
- Judge Kari McCrea, Anchorage District Court
- Judge Pamela Washington, Anchorage District Court.

Each started by telling about her own cultural upbringing and path to the judiciary. Humetewa was the first Native American woman to serve as U.S. District Court judge. She is an enrolled member of the Hopi Tribe. (See article on her keynote address starting on page 1).

Gandbhir is the oldest child of immigrant parents from India. She speaks but does not read her

parents' mother tongue. She was the first in her family to be born in the United States. Judge Washington's family is from New Orleans, but she grew up in Anchorage, and she is the first lawyer in her family.

Each panelist took different a pathway to the bench. For Gandbhir, she had a solo practice in elder law, complex estate planning, and disability issues. "My practice helped me learn how to listen to people, which is one of the most important skills as a judge."

Chung, who is Chinese-American, said all of her cousins became engineers, but she wanted to be an advocate so she went into criminal law after law school. She did not think about becoming a judge until she watched Washington (also on the panel) go through the process. "I don't think I would have ever applied had I not seen Judge Washington do it," Chung said.

McCrea worked as a public defender for 15 years before becoming a magistrate in Anchorage, where

she served alongside Gandbhir. "I think me being here opens the path to other women and people of color," McCrea said.

"I went to law school because someone else suggested it," said Washington. "I went on a whim, because I hadn't gotten some other job." She also did not consider becoming a judge, but it was the encouragement of Judge Larry Card, the first African-American judge in Alaska, and Justice Dana Fabe, the first woman appointed to the Alaska Supreme Court, and the first

woman to serve as Chief Justice, that finally pushed her to apply. "I say I'd got here just by my lucky stars," she said. "God set me on this path. I'm grateful for all the people who encouraged me to do it." When she was appointed in 2010, Washington became the first African American woman to serve as a judge in Alaska. McCrea became the second when she was appointed in 2017.

Humetewa mentioned that for her male colleagues, they were judged on different criteria than she was. "They didn't have any understanding of my areas of practice, like violent crime in Indian Country or federal Indian law," she said. "They didn't give me much credit for all the time I worked as a Hopi appellate judge. They gave the males from private law firms and military court service more credibility than me. In some ways, it was one step forward, two steps back."

For Chung, her family was not that supportive. "I should have reached out to a mentor, but it was difficult to find someone who was like me," she said. "There's not that many Chinese here in Alaska. Sometimes I just feel like I'm alone here."

"I have a very supportive family," said McCrea, "And they pushed me to swing for the fences. But once I went to law school, I was one of the only people in the room who looks like me. The sense of belonging was a challenge. Even though I worked my way into a space, I had to wonder whether I belonged there. So I just joined every organization I could."

Washington's family did not prepare her either. "My sisters and I are first-generation college graduates. My parents thought I was a super star as soon as I graduated, even though I didn't have a job." When she went to law school at Arizona State, she had no idea what to expect, or that it would be challenging at all. She didn't realize the school even reject-

ed some students for admission. "I just had no idea what to expect."

After graduation, Washington said, "I was so busy having to navigate every day being a lawyer. I saw no one who looked like me, no minority judges. I was one of maybe five or six African-American lawyers in the state." She said she was grateful to know Judge Larry Card, and for meeting Mahala Ashley Dickerson, the first African-American woman to practice law in Alaska.

Sometimes it is hard to understand the perspectives of litigants from different cultures. But diversity is important for the justice system to be fair to everyone. "In order to justly decide cases, it's so important to understand that people live different lives than we do. I feel like it's the only way to address certain inequities and fairly decide cases," Chung said.

"From my perspective," said McCrea, "meaningful justice requires an understanding of community and culture. To truly advocate for someone, you need to understand who that person or entity is, what makes

them work, what is important to them. True access to justice requires a diverse bench and bar." She pointed out that while 36 percent of Alaskans identify as racially or ethnically diverse, only 4 percent of Alaska Bar members do. McCrea lamented that there are no Alaska Native judges in Alaska. "The legal profession, at our core, we

are here to serve. How are we able to do that when we don't reflect the community we serve?"

"Justice is not just done," said Washington. "It is seen and it is also experienced. People can come through the system and even win, but they also need to be heard and understood. People aren't going to appreciate that they've experienced true justice unless they feel heard."

Gandbhir also pointed out that diversity doesn't always just refer to race or ethnicity. "People from rural areas or different socio-economic classes often have the same barriers that keep qualified people from applying to be a judge. Barriers that might keep a battered woman from coming to court, or a refugee from coming to traffic court."

The speakers also discussed the importance of cultural competence. "As a victim advocate and prosecutor," said Humetewa, "there were times I witnessed people not give eye contact. There was a perception they were not being truthful. In my community, looking someone in the eye is a sign of disrespect. And if a victim's family isn't wailing or crying loudly [in the courtroom gallery], certain people in the office would take



Judge Jo-Ann Chung,
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Women judges discuss diverse paths to the bench

Continued from page 8

that as them not caring. Many Native cultures are very stoic and don't show their emotions in that way."

Washington described presiding over a CINA case where an African-American father was considered by the white GALs, attorneys, and OCS workers as "verbally aggressive." "I thought he was behaving as a normal parent would behave when fighting to get their children back," she said. "It was a contested hearing and he was animated and passionate. If you know the African-American community, it's very different from the Native community. We are more animated and speak with all our body parts. If you don't know that, it's easy to make assumptions."

Humetewa described programs the federal courts are using to encourage and mentor diverse law stu-

... several judges, including those on the Alaska Supreme Court, are expanding recruitment for law clerks to more diverse law schools.

dents, including more Native American and Alaska Native students, many of whom are first-generation lawyers. McCrea started a Cultural Competence Committee in the Alaska Court System to educate Alaska judges on implicit bias and cultural issues to better serve Alaska's diverse people.

Additionally, several judges, including those on the Alaska Supreme Court, are expanding recruitment for law clerks to more diverse law schools. The Color of Justice program is aimed at high school students of color in Alaska, and encourages them to become lawyers.

There is also a new Diversity Commission which was created by the Alaska Bar Board of Governors this year, specifically directed at recruiting and retaining attorneys of color in Alaska. Washington serves on the court's Fairness, Equality and Diversity Committee.

The issue of diversity "should be important to everyone, no matter what your background or race is," said Washington. "It's not about what we do, it's about how we are perceived by the community. I encourage all bar members to be as active in those things as we are."

"I saw someone last week," Washington said, "And they'd been through their entire case, and I realized at the end that they needed an interpreter. I don't know how the lawyers had been communicating with them. Not even the lawyer spent enough time with the person to see that. That's why this kind of thing is important."

"I'd encourage all of the bar members to think about hiring

young lawyers from places you wouldn't expect, and how they'd enrich your community and practice," said Gandbhir, "That makes for a stronger justice system."

However, Gandbhir said Alaska is not always a welcoming environment for people from underrepresented backgrounds. "My parents moved halfway across the world to the United States, but going to Alaska can seem like going to the moon, especially if you are connected to a strong cultural community [in another state]. I always had Indian friends and family and community around me." She joked, "Now I have to hang out in the chick pea aisle at Carr's looking for cultural connection." Alaskans have to make it a welcoming place.

Each of the judges had advice and encouragement for women of color who might be interested in becoming judges. "Get familiar with the processes," said Humetewa, "Don't let it intimidate you. Look

at the resumes of recent applicants. Look at what areas you might be lacking in comparison. Whether it's federal or state, people want to see what you've done in the community. What's your community service like? There are ways to fill in gaps in your legal experiences."

Chung offered mentorship. "We are all willing to talk to anyone. Find a mentor who fits your style."

Gandbhir agreed, "It can be intimidating to reach out. I'd love to talk to anyone."

"Say yes to new and different opportunities," said McCrea.

Washington's advice was to get



Kendri Cesar,
moderator

involved. "There are committees you can serve on to help build your resume, do different things," she said. "Don't just put yourself on one path. Try lots of different avenues so you're ready to apply for the bench."

"I love my practice and I chose those things for a reason," Gandbhir said. "If we all did the same things, that's not what diversity is. Having different

practices and experiences is what diversity is. Live your authentic life and find your path. There are many paths. They are there, even if you are the one to create that path."

Monica Elkinton is an assistant municipal prosecutor in Anchorage.

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Each of the judges had advice and encouragement for women of color who might be interested in becoming judges. "Get familiar with the processes," said Humetewa, "Don't let it intimidate you.

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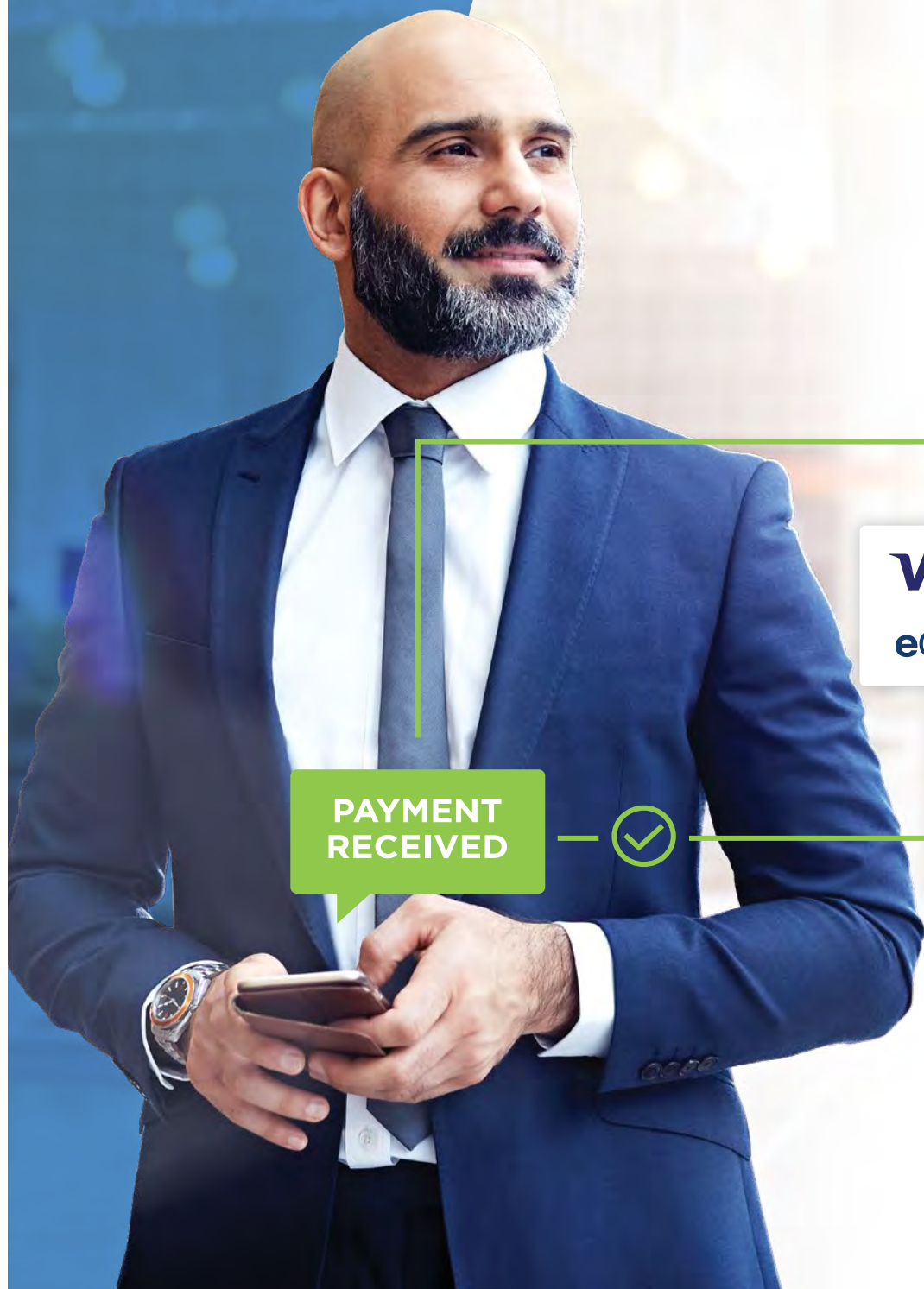
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NEWS FROM THE BAR

Board proposes updating Bar Rule 2 to expand UBE transfer provisions

Currently, an applicant to the Alaska Bar Association can only be admitted by UBE score transfer if they meet the requirements of (a) through (e) of Section 1 of Bar Rule 2. See Bar Rule 2, Section 4. As a result, applicants under Section 3 (unaccredited law school graduates, clerkship program graduates under AS 08.08.207, and foreign law school graduates) may be eligible to be admitted only after taking the UBE exam in Alaska, but they are not eligible to transfer their UBE score from another jurisdiction.

The proposed amendments to Alaska Bar Rule 2 would allow applicants who meet the provisions of Bar Rule 2, Section 3 to transfer their UBE score if it had been taken within five years preceding the date of the application to the Alaska Bar Association.

In addition, the Board of Governors is proposing a minor fix to Bar Rule 2, Section 3. SCO 1830 was adopted in 2014 amending Alaska Bar Rule 2, Section 1 by adding subsection (e) which prevents applicants who are unable to practice for disciplinary reasons in other jurisdictions from submitting an application for admission. However, when SCO 1830 was adopted, this requirement was never added to Bar Rule 2, Section 3. The Board recommends adding Section 1(e) to the requirements of Section 3.

Please send comments to Executive Director Danielle Bailey at bailey@alaskabar.org by January 10, 2022.

Board of Governors Action Items September 16, 2021

- Approved seven reciprocity and five UBE applicants for admission.
- Approved ALSC waivers for Taylor Frank and Abbi Novotny.
- Approved military spouse waiver for Amanda Michelle Lancaster.
- Approved minutes of board meetings from May 6 & 7, 2021; July 7, 2021; August 12, 2021; and August 26, 2021.
- Appointed members to ALSC Board of Directors: Meghan “Sigvanna” Topkok to the regular seat in the 2nd JD; Elizabeth Leduc to the regular seat in the 3rd JD; Tina Grovier and Benjamin Muse to alternate seats in 3rd JD.
- Voted to amend Article IV, Section 3 and Article VI, Section 1 of the Bylaws of the of the Alaska Bar Association to have Board of Governor members and officer terms start on November 1 and end on October 31.
- Voted to enter into a new contract with Fastcase for two years with an option to extend at the current rates for an additional eight years.
- Voted to approve updated Alaska Bar Association Employee Handbook.
- Voted to approve proposed building HVAC and ventilation upgrades at an expense not to exceed \$25,000.

October 28, 2021

- Approved the results of the July 2021 bar exam.
- Approved six reciprocity and six UBE applicants for admission.
- Approved ALSC waiver for Imran Ahmed.
- Voted to accept the recommendations of two subcommittees and recommend admission of two applicants who were previously referred to character and fitness subcommittees.
- Voted to publish a proposed bar rule amendment to Bar Rule 2 Section 3 expanding UBE score transfers and providing additional housekeeping updates.
- Approved the 2022 budget with amended salary budget.
- Appointed Heane Polis as the ABA Young Lawyer Delegate.
- Voted to approve the substance of the sexual misconduct statement and to provide an additional round of edits before publication and distribution.
- Voted to adopt four fixes to the following sections of the Standing Policies of the Board of Governors of the Alaska Bar Association:
 - Article VI, Section B: Removing the inactive dues amount.
 - Article VIII, Section B(2): Updating the Lawyer Referral Service fee.
 - Article IX, Section H: Eliminating this section
 - Article XII, Section C(3): Updating the Bar exam deadlines pursuant to SCO 1966.

Bar Rule 2, Section 4.

An applicant who meets the requirements of (a) through (e) of Section 1 of this Rule or meets the requirements of Section 3 of this Rule, and has achieved a scaled score of 280 or above on a Uniform Bar Examination (UBE) administered in another state, territory, or the District of Columbia within five years preceding the date of the application to the Alaska Bar Association may be admitted to the Alaska Bar Association.

Bar Rule 2, Section 3.

(a) An individual who has not graduated from a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools shall be eligible to take the bar examination as a general applicant if he/she (1) has been licensed to practice law in one or more jurisdictions in the United States for five of the seven years immediately preceding the date of his/her first or subsequent applications for admission to the practice of law in Alaska, (2) was engaged in the active practice of law for five of those seven years, and (3) meets the requirements of (a), (c), ~~and~~ (d), and (e) of Section 1 of this Rule.

(b) An individual shall also be eligible to take the bar examination as a general applicant if he/she (1) has successfully completed not less than one academic year of education at a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools, (2) has successfully completed a clerkship program under AS 08.08.207, and (3) meets the requirements of (a), (c), ~~and~~ (d), and (e) of Section 1 of this Rule.

(c) An individual who is a graduate of a law school in which the principles of English law are taught but which is located outside the United States and beyond the jurisdiction of the Council of Legal Education of the American Bar Association or the Association of American Law Schools may be eligible to take the bar examination as a general applicant if he/she submits proof that (1) the foreign law school from which he/she graduated meets the American Bar Association’s Council of Legal Education standards for approval, (2) he/she has either (a) successfully completed not less than one academic year of education at a law school accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools, including evidence satisfactory to the Board of Governors that the applicant has successfully completed not less than one course in United States Constitutional Law and one course in Civil Procedure in the United States, or (b) is a member in good standing of the Bar of one or more states, territories, or the District of Columbia and was admitted to the Bar of that state, territory, or the District of Columbia after written examination, and (3) meets the requirements of (a), (c), ~~and~~ (d), and (e) of Section 1 of this Rule.

TRIBAL SOVEREIGNTY IN ALASKA

How It Happened, What It Means



Donald Craig Mitchell

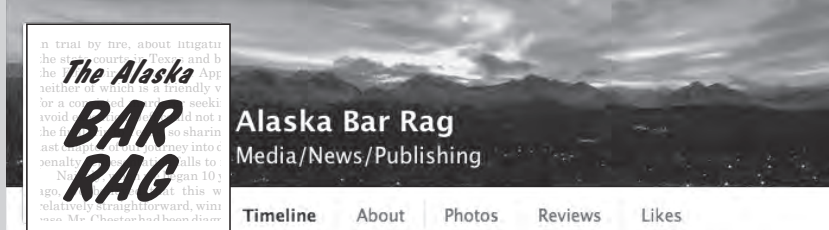
A not-before-told story of which every Alaskan who is interested in Alaska legal and political history should be aware.

— Steve Cowper, Governor of Alaska 1986-1990

A primary reference for every law-maker, judge, and historian who deals in federal and state relations with Alaska Natives.

— Christopher R. Fluhr, Former Staff Director Subcommittee on Indian & Alaska Native Affairs U.S. House of Representatives

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

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Law Review seeks articles for symposium

ALR 2022 Symposium! The *Alaska Law Review (ALR)* is requesting law review articles on environmental law in Alaska for its biannual symposium. The symposium will take place in October 2022 in Anchorage. Prospective authors will submit a substantially complete draft to alr@law.duke.edu by May 1 and indicate whether they are willing to serve as the symposium's keynote speaker or on a panel. *ALR* also welcomes suggestions for keynote speakers. Please reach out to the *ALR* staff at alr@law.duke.edu for further information.

More information about *ALR* symposia may be found at <https://alr.law.duke.edu/symposium/>.

Publication guidelines can be found at <https://bit.ly/3FC4t4b> and more information about *ALR* generally can be found on our Web site: alr.law.duke.edu.

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December 15:

The Accidental Lawyer: Terms of Engagement – How to Stay Out of Trouble When You Are Out of the Office
3.0 Ethics CLE Credits

December 16:

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

JANUARY 2022

January 12:

Time Management for Lawyers, Part I: Getting and Staying Organized
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January 26:

Time Management for Lawyers, Part II: Lawyers' Top Law Practice/Client Services Problems, and How to Solve Them
1.0 Ethics CLE Credit

FEBRUARY 2022

February 11:

From Panic to Profit – How 6 Key Numbers Can Make a Difference in Your Law Firm
1.0 General CLE Credit

February 17:

E-Discovery: Collecting and Analyzing Evidence from Mobile Devices
1.0 General CLE Credit

National Uniform Law Commission — an update

By *Rebecca Polizzoto and Susan Pollard*

Uniform laws provide a good source of information and guidance on new or changing legal issues that affect individual citizens in their business and personal life. Here, we briefly survey how uniform laws are developed and how Alaska practitioners can learn more about the work of the Uniform Law Commission (ULC) (formally, the National Conference of Commissioners on Uniform State Laws).

The ULC is a non-partisan organization of more than 300 attorneys from each state, district, and territory that researches and drafts uniform laws for consideration by state legislatures. The ULC's motto is: "Better Laws. Stronger States." To achieve this goal, the commission's work focuses on areas of concern to the states, such as commercial transactions, probate, partnership, marriage, child support, and other areas of state primacy. Once an act is approved by the full commission, it is available for consideration by state legislatures. No act becomes law unless enacted by the applicable state legislature. The Alaska Legislature has adopted many uniform acts, including the Uniform Commercial Code (AS 45.01 – 45.08; 45.12; 45.14; 45.29), and the Uniform Interstate Family Support Act (AS 25.25).

At the 2021 annual meeting, the ULC approved seven new uniform acts, covering personal data protection; use of a college athlete's name, image, or likeness; restrictive employment agreements; community property disposition at death; the economic rights of cohabitants; unregulated child custody transfers; and common interest ownership. The full name and description of each act is available on the commission's website at www.uniformlaws.org.

The commission's leadership also approved committees to draft acts on mortgage modification, the determination of death, public health emergency authorities, and restrictive covenants in deeds. The commission further established committees to study the need for laws to address the redaction of personal information from public records and the United Nations Convention on International Settlement Agreements Resulting from Mediation. More information on these committees is available on the commission's website at the link provided above.

Alaska delegates to the ULC are appointed by the governor and must be members of the Alaska Bar Association and interested in drafting and writing legislation at the national level. The current Alaska ULC delegates are Attorney General Treg Taylor, Chief Assistant Attorney General for Legislation and Regulations Rebecca Polizzoto (delegation chair), and retired Administrative Law Judge Andrew Hemenway (delegation legislative liaison). In addition, Chief Justice of the Alaska Supreme Court Daniel E. Winfree serves as the judicial delegate, and Megan Wallace, Legal Services director, as the legislative-branch associate delegate. Serving as Life Members, an honor bestowed by the ULC on long-time members, are Deborah Behr (retired attorney), Arthur H. Peterson (retired attorney), and W. Grant Callow (attorney in private practice).

The Alaska commissioners and the ULC are available to provide information on any uniform act and can arrange for a presentation to a bar section, legislative committee, or other group by a ULC commissioner familiar with the act. For further information on a uniform act, please contact Chief Assistant Attorney General Rebecca Polizzoto at Rebecca.Polizzoto@alaska.gov.

Rebecca Polizzoto is chair for the Alaska Delegation on Uniform State Laws, and chief assistant attorney general, Legislation and Regulations Section. Susan Pollard is former chair of the Alaska Delegation on Uniform State Laws; Susan now lives in Washington State.

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ALASKA BAR ASSOCIATION



Home router may be weak link for hackers

By Mark Bassingthwaighte

These days, most lawyers are taking appropriate steps to see that all work-related servers, computers, mobile devices and cloud-based apps are properly secured. Unfortunately, the same can't be said about all their personal devices and accounts. Admittedly, while more than a few give it the old college try, one personal device that is often overlooked is the wireless router in their homes.

Even if the amount of time spent working from home is minimal, all lawyers and staff need to make sure this device is properly secured. Not only is such a step now ethically mandated in a number of jurisdictions; but as their lawyer, your clients also expect you to take whatever reasonable steps are necessary to keep their personal information and your communications with them secure. Given that much of the work force shifted to working from home in 2020, securing home routers has become particularly important because cyber criminals have shifted their focus to home devices. Heaven forbid your home router, or the home router of a staff person, ends up being the weak link that enables a successful breach into your office network.

The good news is that you don't need to be an IT security expert to take care of most of the basics. Start by pulling out your instruction manual. If that's no longer available, instruction manuals are often available online. Just do a search for it using your router make and model number. With that in hand, make sure to address the following recommendations if they have not already been taken care of.

1) Because the default administrative username and password are easy to guess, you should change both. Best practices now call for a complex password of at least 20 characters comprised of uppercase and lowercase characters, numbers,

and symbols. And since many router manufacturers all set the default username as Admin on all their devices, pick a username that's unique to you.

2) Change the network SSID (the name of your network) defaults. Every router comes with a default network name. Change it to something unique to you but don't have be something that might identify you. As with the router's administrative password, also create a similarly strong network access password.

3) Setup a guest network with its own unique SSID and password because all guests, to include friends of any kids, should never have access to your home network.

4) Make sure the firmware version of your router is current. Update to the most current version if it isn't because version updates are how security patches are delivered to your router. If your router has an auto update option, make sure that is enabled. If no firmware updates have been released in the last 12 to 18 months, replace your router with a newer model.

5) Confirm that the network authentication method is set to WPA2-personal, or even better, WPA3-personal if that option is available. WPA3 is the more secure encryption language of the two. If neither of these options is available on your router, replace your router with a newer model.

6) Turn off UPnP (Universal Plug and Play). Yes, I know this can make connecting new devices to the network less convenient; but leaving it on provides hackers an access point that can be used to insert malware on to your network, to include things like programs that seek to capture login credentials to your bank accounts.

There are additional steps one can take to further secure a home router but a follow-through with these most basic steps will go a long way toward seeing that your home router is properly secured. That

said, one final note. I know that keeping track of long complex passwords can be a stumbling block for some. That problem can be easily solved with a password manager.



Given all the login credentials we're all trying to manage nowadays, the use of a password manager has quickly become a true necessity.

Since 1998, Mark Bassingthwaighte has been a risk manager with ALPS, an attorney's professional liability insurance carrier. In his tenure with the company, Bassingthwaighte has conducted more than 1,200 law firm risk management assessment visits, presented more than 400 continuing legal education seminars throughout the United States, and written extensively on risk management, ethics and technology. He is a member of the State Bar of Montana as well as the American Bar Association where he currently sits on the ABA Center for Professional Responsibility's Conference Planning Committee. He

received his J.D. from Drake University Law School. He can be reached at mbass@alpsnet.com

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The good news is that you don't need to be an IT security expert to take care of most of the basics.

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ALASKA BAR ASSOCIATION BOARD OF GOVERNOR AWARDS

HONORARY BAR MEMBER Dean Erwin Chemerinsky

Honorary membership is given to “deserving Alaska citizens, not already members of the Bar, and distinguished visitors who have contributed to the purposes of the Alaska Bar Association.” Dean Erwin Chemerinsky was accorded honorary membership in recognition of his longstanding, sustained, and extraordinary commitment to promoting and encouraging the legal education of members of the Alaska Bar Association and the Alaska public. This was the first time an honorary membership has been awarded in more than 40 years. Chemerinsky has been contributing to the annual convention both as a guest and as a keynote speaker since 1994. His presentations have been widely attended and have helped to provide members of the bar with clear, thoughtful and informed overviews of state appellate decisions and Alaska state law. In addition, Chemerinsky has encouraged the education of Alaska lawyers and the public at large by authoring three articles in the Alaska Law Review on different aspects of Alaska Constitutional law and has twice served as symposium keynote speaker for the Alaska Law Review.



Dean Erwin Chemerinsky

DISTINGUISHED SERVICE AWARD Deborah O'Regan

The Distinguished Service Award honors an attorney for outstanding service to the membership of the Alaska Bar Association. Deborah O'Regan recently retired as the executive director of the Alaska Bar Association after 38 years of service with the Bar. She began work with the Bar as the CLE director and was quickly promoted to the executive director. During her tenure as executive director she was responsible for training more than half of the presidents in Alaska Bar Association's history and administering more than 70 Bar Exams. She has continued volunteer service with the Bar following her retirement. She has served as a proctor for every Bar Exam since her retirement. In addition she continues to be available to offer guidance for Bar Staff and board members.



Deborah O'Regan

LAYPERSON SERVICE AWARD Bill Gordon

The Layperson Service Award is given to a non-lawyer who has provided outstanding service to the Alaska Bar Association. Bill Gordon was the non-attorney member of the Alaska Judicial Council from 2003-2009. He also served on the Board of Governors from 2012-2021. Bill has been instrumental in maintaining the integrity of the judiciary in Alaska with his involvement in Justice Not Politics. Bill continues to be a member of Justice Not Politics.



Bill Gordon

ROBERT K. HICKERSON AWARD Nikole Nelson

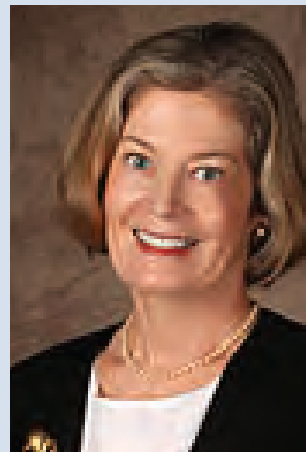
The Robert K. Hickerson Award recognizes lifetime achievement for outstanding dedication and service in the State of Alaska in the provision of pro bono legal services and/or legal services to low income and/or indigent persons. Nikole Nelson is the executive director of Alaska Legal Services Corporation (ALSC), Alaska's only LSC-funded program and the only statewide provider of free civil legal assistance to low-income Alaskans. Nikole oversees ALSC's 11 offices and a staff of more than 40 people who are scattered across the vast State of Alaska. She joined ALSC in 1998 as a staff attorney shortly after graduating from Willamette University College of Law. She became a member of the Alaska Bar in 1999. Before being hired as ALSC's executive director in 2010, she managed ALSC's four offices in Alaska's largest judicial district. She is a member of the Alaska Supreme Court Advisory Committee on Access to Civil Justice, the Alaska Bar Association's Pro Bono Services Committee, she serves on the Municipality of Anchorage's Housing and Neighborhood Development Commission, and currently co-chairs that commission's Oversight Subcommittee on Homelessness.



Nikole Nelson

PROFESSIONALISM AWARD Susan Pollard

The Professionalism Award recognizes an attorney who exemplifies the attributes of the true professional, whose conduct is always consistent with the highest standards of practice, and who displays appropriate courtesy and respect for clients and other attorneys. Susan Pollard retired this past summer as the section chief for the Legislation and Regulations Section of the Department of Law. Susan was widely respected and known for her efforts in building a productive, highly functioning team of section members; creating new protocols and training materials for the department; and putting in tireless effort to improving the department's legal services in the area of legislation and regulations. Susan assumed this work with endless energy, always showing thoughtfulness toward her work while balancing it with a great sense of humor. Susan always made time for colleagues and demonstrated a sincere interest in assuring newer attorneys understood and had the tools they needed to do their jobs well, serving as a model of professionalism even in times of high stress. She was calm, collected, and polished, and even in the busiest of times took the opportunity to have her door open for others and pick up the phone to answer questions from her colleagues. Susan has been an influential and esteemed colleague, friend and supervisor. She routinely took time to express her appreciation to others for their work, praise a job well done, offer helpful suggestions about how to improve workplace processes, policies and morale, and took every opportunity to elevate those around her.



Susan Pollard

ALASKA BAR ASSOCIATION BRYAN P. TIMBERS PRO BONO AWARDS



Scott Sterling



Dave Jones



Davis Wright Tremaine members are from left: Jean Rosston, office administrator; Sheila Swanson; Joe Reece; Liz Hodes, partner in charge; Anne Marie Tavella; and Chad Darcy.

Each year Alaska's pro bono service providers select the recipients of the annual Bryan P. Timbers pro bono awards. 2021 marked the 32nd anniversary of this award and recognition of excellence in our community's access to justice efforts. This year's award recipients are Scott Sterling (private practitioner), Dave Jones (public sector), and Davis Wright Tremaine (firm).



the Palmer Early Resolution Project. His commitment to ALSC's mission, and his pro bono advocacy have helped both the organization and countless Alaskans in need.

BRYAN P. TIMBERS PRO BONO PUBLIC SECTOR AWARD Dave Jones

After recently retiring from the State Department of Law, Dave started volunteering with the Pro Bono Asylum Project at the Alaska Institute for Justice. Since 2018 Jones has represented clients from Central and South America who fled violence and persecution in their home countries and are now seeking a safe place to live and work in Alaska. He recognizes the value of legal representation for people trying to navigate a sometimes byzantine immigration system. He advocates aggressively for his clients, recognizing the many challenges asylum seekers face in Alaska, including language barriers, and both immigration and non-immigration legal issues. Jones prepared a defensive asylum case for a Central American woman currently in immigration court removal proceedings, who fled to the United States after suffering domestic violence and persecution from gangs. He is currently representing a couple and their young daughter who fled their home in South America due to persecution and death threats by an insurgent militia group. He has filed affirmative applications for them with the asylum office, applied for work permits, and has represented them in non-immigration legal matters where legal input was critical. Jones does all this while also volunteering with Habitat for Humanity.

BRYAN P. TIMBERS PRO BONO PRIVATE PRACTITIONER AWARD Scott Sterling

A career long-time supporter of Alaska Legal Services Corporation (ALSC), Scott Sterling is a partner with Sterling and De Armond, PC in Wasilla. With more than 1,000 volunteer hours for ALSC, Scott's wealth of experience is further complemented by his strong sense of empathy and compassion for his clients. He has always made himself available, despite a demanding private practice schedule, and has helped mentor at least one staff attorney at ALSC. Sterling has been an incredible pro bono attorney volunteer for ALSC, recently jumping into multiple matters on behalf of a severely disabled family to advocate for substantial settlements that will change the lives of a single mother and her four children. He has dedicated literally hundreds of hours to help this family in need. Scott has taken 15 family law pro bono cases since 1996, and also regularly volunteers for

HISTORIANS COMMITTEE AWARD JUDGE NORA GUINN AWARD – Cheryl McKay

The Judge Nora Guinn Award is presented to a person who has made an extraordinary or sustained effort to assist Alaska's rural residents, especially its Native population, overcome language and cultural barriers to obtaining justice through the legal system. Selection is designated to the Historians Committee. Cheryl is Inupiaq, with family in Unalakleet and Utqiagvik (formerly Barrow). Cheryl worked her way through school to become an accomplished lawyer working with Alaska Native corporations, Tribes and rural school districts to advocate on behalf of rural and Alaska Native youth. Cheryl is a frequent public speaker, presenting continuing education programs on corporate governance and Alaska Native history, lands and education issues. She served as president and chairman of Avant-Garde Learning Alliance, a nonprofit organization dedicated to improving teaching and learning for Alaska Native communities. She serves as pro bono legal counsel to the Alaska Native Village Corporation Association. She clerked for the Native American Rights Fund during the case of Alaska v. Native Village of Venetie Tribal Government before the United States Supreme Court. Cheryl also volunteers as a mentor for the Color of Justice Program. She has also served on the Board of Directors of the Anchorage Bar Association for 17 years, with two terms as president.



Cheryl McKay

ALASKA BAR FOUNDATION JAY RABINOWITZ PUBLIC SERVICE AWARD Magistrate Judge Kimberley Sweet

The Jay Rabinowitz Public Service Award is given each year by the Board of Trustees of the Alaska Bar Foundation. The award goes to an individual whose life work has demonstrated a commitment to public service in the State of Alaska. This year's award is presented to Magistrate Judge Kimberley Sweet. In May 2012, Sweet was appointed the chief judge by the Kenaitze Indian Tribe's Executive Council after serving nearly a decade as a Tribal Court Judge. As Chief Tribal Court Judge, she was influential in the development of the Tribe's Henu Healing to Wellness Court, the first joint tribal-state court of its kind in Alaska. Judge Sweet has displayed dedication to community, family, and the safety of children through the foster care system, housing and caring for seven children over the course of a decade herself. Her continued work as a magistrate judge for the Kenai courts is invaluable to local and statewide Alaskans.



Magistrate Judge Kimberley Sweet

Anchorage Bar presents Ben Walters Distinguished Service Award



Jon Katchen



Katy Brautigam

The Anchorage Bar Association presents the annual Ben Walters Distinguished Service Award to recognize outstanding contributions to the Anchorage legal community. The Association has given an Outstanding Service Award for many years. In 2006 the board renamed the award in honor of our longtime Board member and friend who died that year. Ben exemplified the values of caring and service to the legal community and to the community in general, giving selflessly to help others through diligent pro bono work and board stewardship.



This year's award was presented to Jon Katchen and Katy Brautigam, of Holland & Hart LLP. Together Jon and Katy recently donated hundreds of hours representing a survivor of domestic violence in a high conflict divorce and custody case, providing tireless assistance through numerous pandemic-related challenges. Jon has also provided tremendous support to ANDVSA Legal for many years: encouraging his associates to volunteer and mentoring them; taking several cases himself; and speaking at volunteer outreach events. Jon also devoted significant time to brainstorming additional funding possibilities for ANDVSA Legal to increase access to their services for survivors.



The board and staff of Alaska Legal Services Corporation (ALSC) extend our sincere thanks to the individuals, firms, foundations, and corporate sponsors who contributed to the ALSC in the last year, including those that donated to the Robert Hickerson Partners in Justice Campaign.

We are especially grateful to our 2020-2021 campaign co-chairs: John Bioff, Nicole Borromeo, Charles Cole, J.C. Croft, Andrew Harrington, Carolyn Heyman, Elizabeth LeDuc, James Torgerson, and Emily Wright.



July 1, 2020 to June 30, 2021

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Council seeks help to evaluate judges standing for retention in 2022

By Susanne DiPietro

The Alaska Judicial Council is required by law to evaluate the performances of judges in advance of their retention elections. The council has now begun its evaluation for the November 2022 ballot, and I'm writing to encourage all of you who have practiced before these judges to participate.

The most important way you can participate is to take our online survey. During the week of Feb. 1, 2022, you will receive an electronic survey from the council's contractor, the University of Alaska Institute for Social and Economic Research. You will be asked to rate the judges on five measures, and to provide narrative comments. Your responses are confidential, and they will be shared with the judge only after being edited to preserve confidentiality and anonymity. As an attorney who may have first-hand experience with these judges, your participation is especially valuable.

You also may receive a written request for more detailed feedback in a specific case you've litigated before a retention judge. Your thoughtful (and confidential) responses to these questionnaires are used by the Council to supplement and enhance the survey data.

Our judicial retention system depends on providing voters with as much information as possible. To

The surveys provide feedback on areas where judges can improve, and positively reinforce the behaviors of judges who excel. This is feedback judges generally do not receive outside of the retention evaluation process.

provide a variety of perspectives, the council surveys other groups with experience of the judges (court employees, peace and probation officers, jurors, and social services professionals), and compiles a wide range of non-survey information about judges' performances. While all this information is important, only attorneys like you have the training and expertise to evaluate judges' legal abilities.

Your participation on the council's survey also helps the judges. The surveys provide feedback on areas where judges can improve, and positively reinforce the behaviors of judges who excel. This is feedback judges generally do not receive outside of the retention evaluation process. I hope every member of the Bar will review the judges with whom they have experience. The deadline for completing the survey will be Feb. 28.

If you do not receive an online survey by the week of Feb. 1, please contact me at postmaster@ajc.state.ak.us. (To receive future online surveys, make sure the Bar has your most current email address, and add ajc@qemailserver.com as a safe sender to your email software program.)

Thank you in advance for participating in the judicial performance evaluation process.

Susanne DiPietro is executive director of the Alaska Judicial Council



Judges who are currently expected to stand for retention in 2022:

- Eric Aarseth
- Brent Bennett
- John C. Cagle
- Jo-Ann M. Chung
- Brian K. Clark
- Catherine Easter
- Martin C. Fallon
- Una Sonia Gandbhir
- Josie Garton
- Jason Gist
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ALASKA BAR ASSOCIATION

Inheritance could hide a bomb in the form of a tax on tax

By Steven T. O'Hara

Tax-inclusive computations under the federal estate and income tax systems create potential tax time bombs. With tax on tax, the Internal Revenue Service may, in a given case, be the single largest beneficiary of assets passing at death.

Consider Jane Client who died Feb. 1, 2020 in her late 60s. A resident of Alaska and a U.S. citizen, she never married and left no descendants. Over her lifetime, she made so many gifts that she used up all her unified credit against gift tax under IRC Section 2505. By reason of that credit, Client never paid federal gift tax; however, her adjusted taxable gifts totaled \$11,580,000 as of the date of her death. Thus this amount is part of the federal estate tax computation. IRC Sec. 2001(b)(1)(B). See also: my blog post, at www.oharatax.lawyer, entitled "How Lifetime Gifts Figure Into The Estate Tax."

Client left no debt and three remaining assets: \$1,500,000 consisting of after-tax cash savings in various financial institutions, \$1,000,000 in her 401(k) account, and \$500,000 in her traditional Individual Retirement Account.

Upon her death, Client's retirement accounts of \$1,500,000 passed by beneficiary designation to her unmarried nephew Joe Nephew. He is not disabled and previously had little or no income or assets. Client's other assets of \$1,500,000 passed, upon her death, by Will to her niece Jane Niece. Under the controlling documents, Nephew and Niece are equally liable for the \$1,200,000 in federal estate tax payable by reason of Client's death. *Cf. AS 13.16.610 and see IRC Sec. 2001, 6018, and 6075(a)*. Both Nephew and Niece are U.S. citizens.

Upon learning that he is the beneficiary of \$1,500,000 in retirement accounts, Nephew also learned that the IRS could receive more of those funds than he will. Nephew's share of federal estate tax, which he paid in 2020 through withdrawals from the retirement accounts, was \$600,000. For 2020, Nephew is entitled to a federal income tax

deduction of \$600,000 because he paid that amount in federal estate tax, but he is not entitled to any such tax deduction in any other year. IRC Sec. 691(c). This income tax deduction, limited to \$600,000, means that with an inheritance nominally of \$1,500,000, Nephew effectively pays tax on \$2,400,000 because he pays federal estate tax on \$1,500,000 plus federal income tax on \$900,000. IRC Sec. 2001 and 691. If not a tax time bomb, this event is certainly tax on tax.

The combined federal estate and income taxes for 2020 would have been \$897,000 if Nephew had withdrawn the full \$1,500,000 from the retirement accounts in 2020. IRC Sec. 1(j)(2)(C), 691(c), and 2001. These taxes are 59.8% of his inheritance. By contrast, the total federal tax on Niece's \$1,500,000 inheritance is the \$600,000 estate tax, which is \$297,000 less than the tax-on-tax burden imposed on Nephew. *Cf. IRC Sec. 102 and 691*.

Nephew can reduce federal income tax by stretching his withdrawals from the retirement accounts over approximately 10 years, which is the maximum number of years available for beneficiaries like himself. IRC Sec. 401(a)(9)(H)(i)(I). Here, the word approximately is used because the event of Client's death plus 10 anniversaries of that event stretches over 11 calendar years. *Cf. Treas. Reg. Sec. 1.401(a)(9)-3(b)(A-2)* (the old five-year rule; this regulation will presumably be updated with the 10-year rule).

Suppose Nephew withdrew \$700,000 in 2020, primarily because he owed \$600,000 in federal estate tax, which must be paid within nine months of Client's death. *See IRC Sec. 6075(a)*. Suppose he then withdraws roughly \$80,000 in each of the years 2021 through 2030. Here, the combined federal estate and income taxes for 2020 is \$618,080. IRC Sec. 1(j)(2)(C), 691(c), and 2001. The federal income tax for each of the years 2021 through 2030 on



"With tax on tax, the Internal Revenue Service may, in a given case, be the single largest beneficiary of assets passing at death."

\$80,000 of income received by an unmarried U.S. citizen might be estimated at \$11,000 per year for five years and \$13,000 per year for five years, for a total of about \$120,000. *See IRC Sec. 1(j)(2)(C) and 63(c)(2)(7)*. Thus, under such circumstances, the combined federal estate and income taxes imposed upon Nephew for 2020 though 2030 could be about \$738,000. These taxes are nearly 50 percent of his inheritance.

As illustrated, Nephew does not receive the full amount of \$1,500,000 left to him, but he pays minimally about half of that sum in estate and income taxes to the IRS as if he received a \$1,500,000 benefit. His actual benefit is roughly between \$603,000 and \$762,000, depending on how many taxable years he is able to stretch the retirement accounts over. And even though Niece does not receive the full amount of \$1,500,000 left to her, she pays \$600,000 in estate tax to the IRS as if she received a \$1,500,000 benefit. Her actual benefit is \$900,000.

Another way to demonstrate the tax-on-tax nature of the federal estate tax system is to consider what Nephew and Niece would have received had Client sidestepped that system altogether by lifetime gifting. A complication with lifetime gifting is that Client must live three years and a day beyond the date of the gift because otherwise the federal gift tax paid is included in her gross estate for federal estate tax purposes given the long arm of that tax-inclusive system. IRC Sec. 2035(b). Another complication with lifetime gifting of retirement accounts to individuals, of course, is that Client must first take the accounts into income and then gift only the remaining, after-tax amount. *See Treas. Reg. Sec. 1.401(a)(13) and IRC Sec. 408(d)* (taxable transfer exception for certain transfers incident to divorce).

Suppose, back in early 2017, Client withdrew all the funds in

her retirement accounts and electronically paid the IRS the resulting \$575,000 in federal income tax. *See IRC Sec. 1(c)*. At this point, suppose Client's remaining assets consisted of \$2,425,000 cash savings in after-tax accounts. Suppose rent and other expenses of her modest lifestyle were more than covered by monthly social security income and an insurance company's annuity terminating at her death.

Next suppose that Client, in 2017, made gifts of her cash savings in equal amounts to Nephew and Niece (i.e., \$1,212,500 each), but only after first obtaining an agreement from them to pay in equal shares Client's resulting federal gift tax. *Cf. IRC Sec. 2502(c) and 2512(b)* (donees paying donor's tax is consideration received by donor). Suppose, in 2020, over three years later, Client died with no remaining assets.

Under such circumstances, nothing passes at Client's death. No federal estate or income tax is payable by reason of her death. *Cf. IRC Sec. 6018(a)(3)* (even a dollar in Client's gross estate would trigger the requirement to file a federal estate tax return because of Client's adjusted taxable gifts). Nephew and Niece each owed federal gift tax of \$346,429, which was paid by the due date of April 15, 2018. IRC Sec. 6019 and 6075(b).

The result is that Nephew and Niece each net about \$866,000 under the lifetime gift scenario. Nephew would have received between \$603,000 and \$762,000 under the death transfer and Niece would have received \$900,000. Thus, the lifetime gift scenario saves between \$70,000 and \$229,000 in tax (\$1,732,000 net gifts vs. between \$1,503,000 and \$1,662,000 in net death transfers).

The net gift is calculated as follows: 40% (the applicable gift tax rate) times \$1,212,500 (the amount transferred to each of Nephew and Niece) equals \$485,000. *See IRC Sec. 2502*. This preliminary number, \$485,000, is then divided by 1.4% to come up with the gift tax of \$346,429. *See Rev. Rul. 75-72, 1975-1 C.B. 310* and my blog post, at www.oharatax.lawyer, entitled "Interrelated Computations" (discussion of both this formula calculation and the trial-and-error method of calculating net gifts).

Lifetime gifting can trigger taxes based on other tax systems. For example, in certain circumstances, the payment of federal generation-skipping transfer tax is considered a gift on which federal gift tax is payable. IRC Sec. 2515. As mentioned, there is inclusion in the gross estate of gift tax paid on gifts made within three years of death. IRC Sec. 2035(b). And federal estate tax can be payable on so-called adjusted taxable gifts. IRC Sec. 2001(b)(1)(B). As illustrated, however, the federal gift tax system can reduce tax on tax.

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

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



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ECLECTIC BLUES

A novice, a leaking boat, the Kuskokwim River, what could go wrong?

By Dan Branch

This is a story about bad judgment, unwarranted good luck, knowledge from stumbles, and a leaky skiff.

On a Kuskokwim River beach in front of Bethel, Alaska, a bearded white man dropped a 6-gallon gas can onto the planks of his creek-robber-gray skiff. With the help of me, a Volunteer in Service to America (VISTA) who had expressed an interest in buying it, he pushed the skiff into the river current. As water flooded up between the floorboard planks, he said:

“She will leak a little bit at first but that should stop when the plank seams swell tight. You won’t even have to bail. Just pull out that plug there under the motor when she’s on step, and the water will drain out.”

I did not know that a skiff skimming on the river’s surface while un-

miles downstream from my home in Bethel. The village’s plywood-sided store was the only place on the river that sold Ghirardelli chocolate.

We had a good day for a skiff ride. The sun shone but did not bring wind to ruffle the river with chop. Sunlight brightened the water to the hue of milky tea. Just as we approached NapaSkiak, not Napakiak where they sold good chocolate, I noticed a line of small rapids on the port side of the skiff. In seconds I learned that water running over a shallow sandbar raised such rapids. That is when the outboard slammed into a sandbar and snapped up and out of the water. The transom board, to which



“I felt like a rescued child. I would feel that way after each of the many times a Yup’ik person saved me from frostbite or other consequences of bad decisions made through ignorance or overconfidence.”

I choose to name Steve’s girlfriend Tasha, not to avoid confusion, but because I was working my way through Tolstoy’s Russians at the time of the motor’s attempted escape, and she found joy in most experiences, like Tolstoy’s Natasha Rostova. I won’t bother to name the other male passenger or his scowling girlfriend. They did not smile reassurance. They pouted and said things that most people would consider ungracious. Fear of drowning can bring the worst out in some people.

The tide shifted while I reattached the motor.

Now nothing checked our downriver drift. Even though we floated toward the Bering Sea in a sinking skiff with at least two people who thought I was a moron, I believed that everything would be okay. The teller of this story, a decades’ older version of myself, would like to note that if placed in a similar situation today, I would not think it was okay to be floating toward the Bering Sea in a sinking boat with a malfunctioning motor, but that would be a lie.

I reattached the fuel line to the motor and pulled on the starting

rope, but the engine gave no sign of life. Then, a metal skiff with two Yup’ik men left the beach in front of Napaskiak. Their motor started on the first pull. The Napaskiak skiff driver brought it alongside my sinking boat. While the other Napaskiak man held the gunwales of my skiff, the driver climbed aboard with a spark-plug wrench in his hand. Without speaking or showing any emotion, he lifted off the engine cowling. He had a deeply tanned face and hands but white skin flashed each time one of his shirt cuffs slipped back as he worked. Five minutes later, when the old Johnson was idling smoothly, he left the boat. Whether he could hear my “thank you” over the sound of the engine was never clear. I felt like a rescued child. I would feel that way after each of the many times a Yup’ik person saved me from frostbite or other consequences of bad decisions made through ignorance or overconfidence.

A wise person would have turned the skiff upriver and returned to Bethel before something else could go wrong, but there was little wisdom in the skiff and by then everyone was hungry for fancy chocolate.

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



A tranquil winter’s day in Kuskokwim country.

der power is on step. I sat on a middle seat in the old boat, glad that I was wearing waterproof boots.

“She’s a little tough to start when she hasn’t run for a while.”

Two inches of water sloshed over the floorboards by the time the outboard came to life. The seller sat near the motor, grabbed the tiller arm, and pointed the boat upriver. I felt engine vibrations through my seat as the skiff rose up on step as if lifted by strong hands.

Minutes after the seller pulled the drain plug, the floorboards were almost dry. I watched the riverside willows fly past as we cruised on flat calm water into Straight Slough. Late afternoon sun bounced off the slough and lit the white tent cabins of the fish camps we passed. Women in calico kuspuku hung raw, dark-red strips of king salmon meat on horizontal drying racks. I imagined myself drinking tea in front of my own fish camp tent as the woman who loved me hung up strips cut from fish I had netted in the skiff. The woman would always be kind, the skiff dry, motor faithful, and there would be plenty of salmon. The dream blinded me to the jets of water that shot up through the floorboards every time the skiff bounced through a boat wake.

After the bank opened Monday, I took possession of the skiff. The next weekend, I invited my girlfriend then, and now wife, Susan, and some others on a boat ride to Napakiak — a Yup’ik village 20 river

I had carefully tightened the motor clamps, cracked. The top half of the board left the boat with the engine attached. Later, I would learn to secure the motor to the skiff with a chain or strong rope. I grabbed the rubber fuel line, which soon parted from the motor. With hose in hand, I watched the motor spiral around and around, each revolution bringing it closer to the water’s surface as the boat continued downriver. Seconds later it lay partially submerged on the sandbar. I plugged the drain hole but couldn’t stop the water from leaking up between the skiff’s floorboards.

Without the flood tide we would have drifted toward the Bering Sea until sunk. But the tide checked our progress and pushed the boat upriver to the motor. With the help of one of the passengers, I lifted it out of the shallow water and clamped it onto what was left of the transom. I thought myself lucky to have recovered the motor but would later wish I had left it on the sandbar and let the boat sink, if possible, without loss of life.

We would have rowed to shore if I had brought oars. I loved Susan and liked two of the other four people in the boat — another VISTA and his girlfriend. These friends smiled reassurance as the water level inside the boat rose. In soft North Carolina tones, Steve, the other VISTA, said, “At least we still have the gas can and fuel line. I would have never thought to grab the fuel line.”



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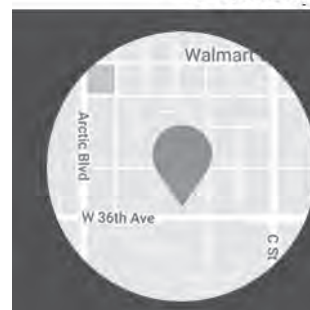
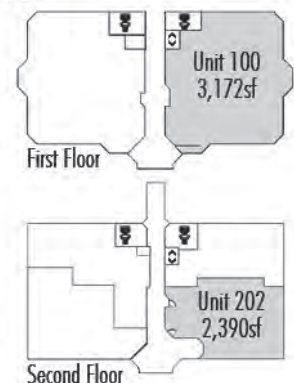
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2022 Alaska Bar Association Budget

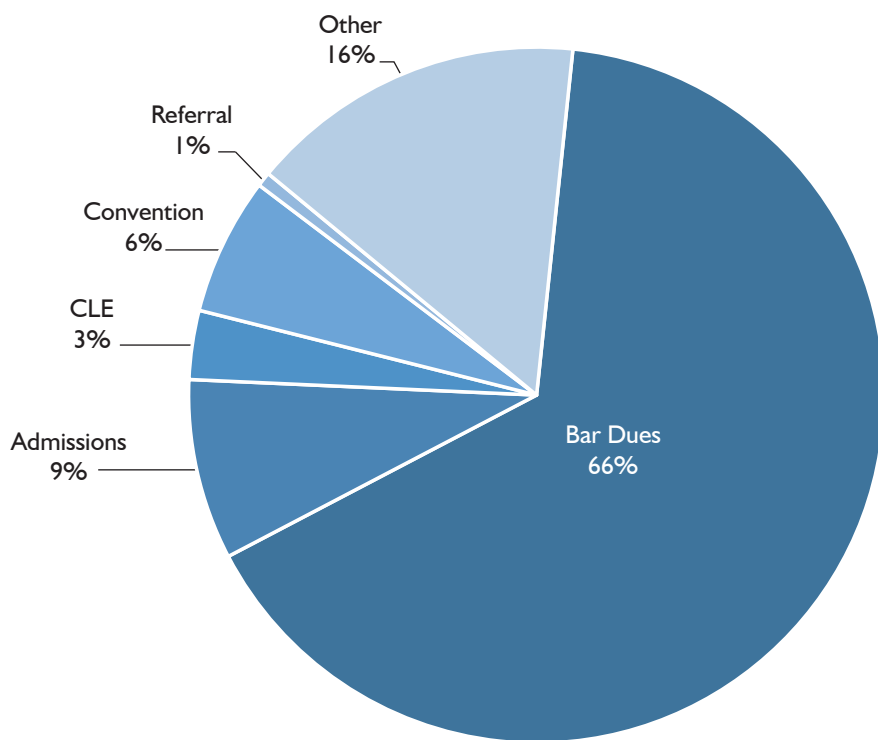
REVENUE

AdmissionFees-Bar Exams	68,700
AdmissionFees-MotionAdmit	52,500
AdmissionFees-Exam Soft	8,700
AdmissionFees-UBE	36,800
AdmissionFees-Rule 81s	110,500
CLE Seminars	105,885
Accreditation Fees.....	3,000
Lawyer Referral Fees.....	22,210
Alaska Bar Rag - Ads,Subs	18,000
Annual Convention.....	211,165
Substantive Law Sections	26,535
AccountingSvc Foundation	10,805
Membership Dues	2,154,775
Dues Installment Fees	4,725
Penalties on Late Dues	10,360
840 K Street Rental Income.....	432,982
Disc Fee & Cost Awards	0
Labels & Copying.....	680
Investment Interest	23,900
Miscellaneous Income	2,450
SUBTOTAL REVENUE.....	3,304,672

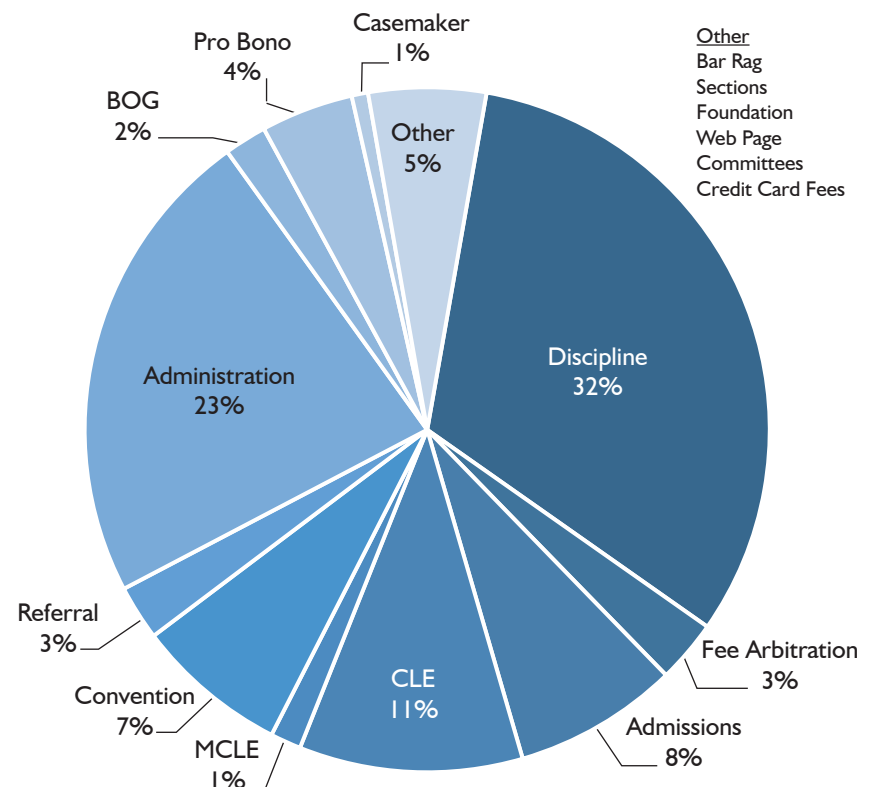
EXPENSE

BOG Travel.....	44,852	Credit Card Fees.....	64,883
Committee Travel.....	1,000	Miscellaneous	6,275
Diversity Commission Travel.....	5,330	Staff Salaries.....	1,224,759
Staff Travel	44,974	Staff Payroll Taxes.....	104,955
New Lawyer Travel	3,000	Staff 401k Plan	59,503
CLE Seminars	59,155	Staff Insurance	440,932
Free Ethics Course.....	350	Postage/Freight.....	9,083
Alaska Bar Rag	38,120	Supplies.....	13,505
Bar Exam	55,502	Copying	3,529
Other Direct Expenses.....	78,651	Office Rent	153,408
Annual Convention.....	211,165	Depreciation/Amortization.....	73,028
840 K Street Expenses	414,913	Leased Equipment	33,979
Substantive Law Sections	4,297	Equipment Maintenance.....	85,852
AccountingSvc Foundation	10,805	Property/GLA/WC Insurance	26,764
MLK Day	4,000	Programming/Database Maint.....	32,215
Casemaker	24,848	Temp Support Staff/Recruitment.....	14,600
Committees.....	8,731	SUBTOTAL EXPENSE	3,386,308
Duke/Alaska Law Review	0	NET GAIN/LOSS	(81,636)
Internet/Web Page.....	11,345		
Lobbyist.....	0		
Succession Planning	18,000		

Revenue



Expense



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

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

Fairbanks: Aimee Oravec, aimee@akwater.com
Mat-Su: Greg Parvin, gparvin@gparvinlaw.com
Anchorage: Stephanie Joannides, joannidesdisputeresolution@gmail.com

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

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The Lawyers' Assistance Committee promotes the well-being of the legal profession and protects the public by providing education, respectful confidential assistance and referrals for members of the Bar, their families, colleagues, and clients affected by a member's mental health and substance abuse issues.

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Sonnet 65: Shall I compare thee to a winter's day?

By Doron Levine and Hope Radke

Shall I compare thee to a winter's day?
Thou art more chilly and more desolate.
In time Birch Hill explodes with buds of May,
Nenana coughs up gold come breakup date;

Soon croaking raven greets arriving cranes and
yawning sow departs the den she dug;
Spent roads rejoice as tires shed their chains,
Ere ten above, all engine blocks unplug.

But thy eternal hardpack shan't be plowed,
Nor salt disperse thy sidewalks' slipp'ry frost; Nor
alpen twilight flicker 'cross thy brow,
When temps inverted trap thy truck's exhaust.

Perhaps another day I'll live to see, Albeit with
deficient vitamin D.

*The authors, law clerks in District Court Judge
Andrew Kleinfeld's office.*

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In Memoriam

Attorney made his mark in Alaska, Montana, Virginia



Russ Dunn

Theodore Russ Dunn died Sept. 1, 2021, while grouse hunting on the continental divide near Big Sheep Creek MT. He was 83 years old.

Russ was born March 28, 1938, in Colon, Panama to Captain Theodore Lamar Dunn and Marie Russ Dunn. He attended George Washington High School in Alexandria, Va. and was most proud of being a member of the Old Dominion Rowing Club and winning the National High School Championship for eight-oared shells in 1956. After graduation he followed his family tradition and became a cadet at West Point, graduating in 1960 with a degree in engineering.

Russ chose the Marines and served in the Mediterranean and as a tank commander at Guantanamo. After his military service he made studied law at Georgetown University Law School. He was managing editor of the Law Review and graduated with highest honors in 1965. He married Patricia Lyon in 1962 and had two children, Jennifer Ann and John Warren. They later divorced.

Long-time Anchorage lawyer dies



Ron Offret

Ronald A. Offret died Oct. 26, 2021, in Anchorage. A loving husband and father; he was a lawyer, golfer, and true man of his time known for his easy-going nature, sharp wit and dry sense of humor.

He was born Dec. 8, 1944, to parents, Alvin Offret and Elaine Mephie in Compton, Calif. He spent his early years in California and Utah before settling in Yakima, WA, where he spent his formative years with his mom, stepfather George Mephie, and his siblings Jerry, Dale, Don, Karen, and Mike. After high school he attended the University of Washington. During those years he served as a missionary for the LDS church in the Franco-Belgium Mission where he grew a fondness for the French people and culture.

After earning his bachelor's degree, he continued on to law school at Lewis and Clark College, and then at Boston University where he earned an LLM degree. While in Boston, he met his wife, the late Kathleen Bradley, whom he married in Utah Feb. 20, 1974. Ron and Kathy had five children. Friends and acquaintances in law school convinced him to head to Alaska to practice law in Anchorage. He ended up loving Alaska so much that, he stayed and lived out his remaining 50-plus years as founding partner of the law offices of Aglietti, Offret & Woofter.

After the loss of his wife, Ron married Ina on Oct. 6, 1987. Ina continued as a loving, devoted, and loyal partner for him for the remainder of his life.

He had a great passion for golf and found it a convenient way to miss work and explore warmer climates. He also spent weekends enjoying hiking in the trails and mountains around Anchorage. He was very tolerant of his wife's need to adopt old senior poodles and let them live out their last days spoiled and pampered in love and peace.

He is survived by his wife, Ina; and children, Rebecca, Craig, Elizabeth, Amy, and Nicole; and two poodles, Suzie Q and Martin.

A golf memorial celebration will be scheduled during summer 2022.

Russ chose Alaska to begin his law practice. He first practiced with the Anchorage law firm of Burr, Boney and Pease until 1969 when, with Warren Matthews, he founded the firm of Matthews and Dunn. The firm later became Dunn, Baily and Mason when Doug Baily and Julian Mason joined Russ in the practice. The firm lives on today as Ashburn and Mason. Russ distinguished himself as a trial attorney specializing in aviation and product failure cases. He won numerous precedent-setting awards and helped to establish the law of strict products liability in Alaska.

Russ was an active and effective conservationist. He founded the Alaska chapter of Trout Unlimited. His persistent advocacy for catch and release fishing regulations was initially strongly resisted by state officials, but ultimately he prevailed. As a result, many of Alaska's premier trout streams were placed under catch and release management where they remain highly productive to this day. Russ was a board member of the Alaska Conservation Society and he served on the ad hoc committee that was instrumental in establishing the 500,000-acre Chugach State Park near Anchorage. His name is inscribed on a plaque at the park entrance.

Russ fly fished throughout the state and took a yearly float trip with friends on wilderness rivers that were memorable for spicy food, derisive limericks and occasional episodes of sheer survival. He briefly owned and flew a float plane. But he gave up flying in favor of a long and happy life soon after he landed long on the largest lake in the state and put a wing through a shed that was the only building within 10 miles. He most loved upland game hunting — working with his setter and pointer in the fall colors of Alaska's game bird country. If no birds were shot, it would still be a good day.

Russ moved to Bozeman in 1978. Once settled in Bozeman, Russ became a partner in the firm of Goetz Madden and Dunn.

In 1983, he married Ruth Attebury and together they had two sons, Thomas Joseph "Joe" and Robert Edward "Rob."

After a bout with Lymphoma in 1997, Russ returned to Virginia, settling in Harbortown on Chesapeake Bay.

Russ continued to fight corporate interests, including a firm seeking to dump trash on an historic Chesapeake Bay island. State officials had quietly approved it. Russ fought against the project and prevailed at stopping the effort.

In 2003, he felt strong enough to return to Montana and began an Of Counsel practice in Bozeman with the Cok Kinzler law firm. Russ had previously been inducted into the American College of Trial Lawyers and was honored by the Montana Trial Lawyers Association with its Career Achievement Award.

As a preeminent lawyer, and with excellent co-counsel in Alaska, Montana, and Wyoming, he achieved judgements against Boeing Aircraft, Volkswagen Corp., the Alaska Pipeline, Bell Helicopter, Honda Motors, Caterpillar Corp., and General Motors.

Russ fully retired in 2013.

He is survived by his wife of 38 years, Ruth; his sons, Joe and Robert; his daughter, Jennifer and her husband Toby Day, all of Bozeman; and son, John, his wife Heather and granddaughters, Virginia and Lorielei, of Denver.

Memorials may be made to the American Heart Association, the Nature Conservancy, or your charity of choice.

Former Superior Court judge dies in Arizona



Justin Ripley

J. Justin Ripley died in Green Valley, Ariz., Sept. 14, 2021. He was born Oct. 21, 1934, in Kotzebue to teachers J. Loyd and A. Teresa Ripley. He was raised in several Bering seacoast and Southeast Alaska communities, graduating from Sitka High School in 1952.


Upon graduation from Gonzaga University, he was commissioned in the U. S. Army. Following active duty, he served in the Washington and Alaska National Guards, retiring as a lieutenant colonel. Military flying led to civilian aviation, where he earned a variety of fixed-wing and helicopter ratings.

After graduating Gonzaga Law School, Judge Ripley served first as law clerk for the Hon. John H. Dimond of the Alaska Supreme Court, and then on the staffs of the attorney general in Juneau and the district attorney in Anchorage. In 1975, he was appointed to the Alaska Superior Court, a position he retired from in 1993. Subsequently he served as a private mediator resolving more than 1,500 cases.

Justin married Rossalie Cushman in 1985. Together they enjoyed camping and traveling in Alaska, Hawaii, the Lower 48 and around the world.

He is survived by his wife; brother, J. Gregory Ripley; five sons, J. Justin Ripley II (Wendy), Robert G. Ripley (Nancy), Lars M. S. Ripley (Karen), John F. Ripley (Patty) and Jeffrey V. Ripley (Teresa); as well as many grandchildren and great-grandchildren.

There will be a memorial in Anchorage later. Event details and an opportunity to leave remembrances will be available at <https://JustinRipley.com>. In lieu of flowers, please consider a donation to the American Stroke Foundation or the Alzheimer's Association.



Association of Legal Administrators
Alaska Chapter
Salary Survey

Survey Cost

Members who participated in the survey: \$100
Non-members who participated in the survey: \$150
Non-participants (members and non-members): \$275

For more information contact Jodi Walton at
(907) 334-5608 or Jodi@mb-lawyers.com

Alaska ALA
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Anchorage, AK 99510-2396
www.alaskaala.org

In Memoriam

Anchorage banker and attorney, David Lawer dies



David Lawer

Alaska attorney and banker David Lawer died Aug. 30, 2021.

Born in New York City to Anne and Alexander Lawer, David and his sisters, Lisa Lawer Post and Sasha Lawer, grew up in New York and New Jersey. He was a state champion soccer goalie in high school, a football player attending Duke University on a scholarship and a rucker playing the position of hooker for the Duke University rugby team.

At Duke, he met Betsy Cuddy, whose father was also a rugby hooker, having played for Stanford. David introduced Betsy to the real, bawdy rugby lyrics of rugby songs she had learned as sanitized lullabies sung by her father. David followed Betsy

north to Alaska, where he worked construction summers, paving roads and the tarmac at the Anchorage International Airport to pay off his college debts and save money for law school. David and Betsy married in 1972 and spent the next 49 years together.

David graduated from McGeorge Law School in California in 1976 at the top of his class. During his years at McGeorge, David and Betsy spent time in the Napa and Sonoma wine country, later buying vineyards and starting a winery. Their first brand, Hooker, was a tribute to David's rugby position.

After passing the Bar, he entered private practice for 17 years, specializing in commercial and banking law. In 1993, he became senior vice president and general counsel of First National Bank Alaska, his principal client for many years. Nearly 25 years later, he retired as executive vice president. A fervent supporter of the Alaska community, he served as president of the American Lung Association of Alaska, trustee of Alaska Regional Hospital, president of the Alaska Bankers Association, director of the Alaska Oil Support Industry Alliance and served on the Board of Trustees of the Alaska

Chapter of American Red Cross. For many years he was an advisor to the Kachemak Bay Shellfish Association, and, true to his East coast roots, built an oyster shell driveway at their home in Homer. In 2020, he was the recipient of the Alaska Business Hall of Fame award and was recognized by Junior Achievement for his business acumen and work as a mentor to young people and an advocate for his community.

In 1979, David and Betsy gave birth to their daughter, Sarah.

Regardless of the size of the crowd, David always cooked for an army. No one was a stranger at his table. His marinated flank steak and barbecued bone-in ham are family favorites, signature dishes for the holidays and any gathering, and are perpetually on the house menu for his two grandchildren. David and Betsy often visited Sarah and her husband, Frank Guanco, in Seattle, and their children, Meryl, 5, and Holmes 2.

David also leaves his sisters, Lisa Lawer Post (David) and Sasha Lawer (Mark); in-laws, Laurel Stutzer (Fred), Lucy Mahan (Mark), Jane Klopfer (Gary), Gretchen Cuddy and David Cuddy (Kathy); as well as many nieces, nephews, grandnieces and grandnephews.

A celebration of life will be held next spring, on the opening day of the 2022 golf season.

In lieu of flowers, please consider a donation to the American Red Cross of Alaska, by mail at American Red Cross of Alaska 235 E. 8th Ave, Ste. 200, Anchorage, AK 99501, please put "In Memory of David Lawer (AK Region)" in the signature line; or online at <https://www.redcross.org/donate/donation.html>, select "donate to your local chapter" and enter "David Lawer" in the open text box.

Anchorage attorney dies at 84



Richard Block

Richard Block, 84, attorney, actor, entrepreneur, bon vivant, world traveler, horrible joke teller, patron of the arts, husband, father and lover of Alaska, died peacefully Aug. 14, 2021. He was with family at the time.

He left six children.

A Memorial Service was Saturday, Oct. 16, 2021, at Central Lutheran Church, Anchorage. The family requested that, in lieu of flowers or other expressions, that those who wish to, will contribute to the Anchorage Opera Foundation Endowment Richard started some years ago, or to the Alaska Red Cross, one of many organizations Dick supported.

Former Alaska attorney, judge dies in Mississippi



Richard Avery

C. Richard Avery died Sept. 2, 2021. He was born Oct. 8, 1941 in Atlanta, Georgia.

Richard graduated from Furman University where he was president of his social fraternity, Sigma Alpha Epsilon. After receiving his law degree from Emory University, Richard practiced law in Decatur, GA, until moving to Anchorage in 1977. In Alaska, he served as an attorney for the U.S. Department of Interior and then went on to become an administrative law judge for the State of Alaska and then a state district court judge. Richard was appointed as an administrative law judge for the U.S. Department of Labor out of the Cincinnati, Ohio, office in 1983 and eventually out

of the New Orleans office until his retirement in November 2013. He was a resident of the Mississippi, Gulf Coast since 1987 and loved its people and lifestyle. Horses and fishing were his favorite pastimes.

Richard is survived by his wife of 41 years, Joan; his children, Bradley and Traci; his stepsons, Jeff and Jerry Mitchell; and his grandchildren, Maggi, Austen and Grace.

The family would like to express their sincere gratitude to everyone at Notre Dame Hospice and Baycove Memory Cottage for the care provided him during his there.

Richard wrote: "I was not a religious man in the traditional sense of the word and for that reason requested that much of the usual funeral ritual as we know it to be dispensed with. What I did want, though, was an opportunity to thank all of you for a satisfying life. Because of wives, children, family and friends, I was allowed whether, rightfully or wrongly, to live my life, as I saw fit and for that I thank you — it made all the difference.

There was no service. At his request, Richard's remains were to be cremated.

Donations on his behalf can be made to one or all of the following: St. Jude Children's Hospital - <https://www.stjude.org>; Hancock County, MS, SPCA - <https://bit.ly/31UWrVv>; The Parkinson's Foundation - <https://www.parkinson.org>.

Happy holidays from the Lawyers' Assistance Committee

A few holiday tips from the Lawyers' Assistance Committee

- Have a strategy for not drinking at parties
- If you do drink, call a cab
- If you're feeling lost or depressed, reach out

We take calls over the holidays; you are not alone!

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Lawyers' Assistance Committee
Alaska Bar Association

After 125 years, a look back at the Alaska Bar Association

By Leroy Barker

This year we celebrate the 125th anniversary of the founding of the Alaska Bar Association. The history leading up to its formation is helpful in understanding the creation of the association. The transfer of Alaska from Russia to the United States occurred Oct. 18, 1867. For the next 17 years there was no civil or criminal law in the territory.

On May 10, 1872, Congress passed an act that provided that mining camps could abide by customs of the miners. "In the absence of formal government structure, the miners of Juneau and the Interior, like their counterparts in western America, drafted their form of frontier democracy known as the 'miners' code.' In their initial meetings they decided on the boundaries of their mining district, drew up the rules for the staking of claims and they elected an official known as the recorder to register the site of a mining claim staked out by each man. They then prescribed the rules of conduct for the community, ranging from fines for minor offenses to banishment for stealing and hanging for murder. A court composed of the miners themselves would sit in judgment and mete out the penalties." (*Alaska: A History of the 49th State*, by Claus M. Naske and Herman E. Slotnick) Civil disputes were resolved by arbitration. Criminal cases were tried by a jury selected by the miners. They would appoint a judge, a prosecutor, and a person to represent the accused. The only appeal in both civil and criminal cases was to the miners committee. Their decision was final.

On May 17, 1884, Congress passed the Organic Act. It incorporated the laws of the State of Oregon for the Territory of Alaska. It created a territorial court in Sitka. Shortly thereafter the first three lawyers were admitted by the court to the practice of law. The applicable sections of the act provided:

Sec. 733. APPLICATION AND PROOF. An applicant for admission as an attorney must apply to the district court, and must show-

First. That he is a citizen of the United States or has declared his intention to become such, and is



The first jurists of the Alaska Court System, Juneau, Alaska, November 1959. Alaska Supreme Court (front row, L-R): Justice Walter Hodge, Chief Justice Buell Nesbett, Justice John Dimond. Alaska Superior Court (back row, L-R): Judge Walter Walsh, Ketchikan; Judge Harry Arendt, Fairbanks; Judge Earl Cooper, Anchorage; Judge Everett Hepp, Fairbanks; Judge Hubert Gilbert, Nome; Judge James von der Heydt, Juneau; Judge Edward Davis, Anchorage; Judge James Fitzgerald, Anchorage.

a resident of said district, and of the age of twenty-one years, which proof may be made by his own affidavit;

Second. That he is a person of good moral character, which may be proved by any evidence satisfactory to the court;

Third. That he has the requisite learning and ability, which must be shown by the examination of the applicant by the

judges, or under their direction at the term at which the application is made.

Sec. 734. WOMEN MAY BE ADMITTED. Hereafter women shall be admitted to practice law as attorneys in the courts of said district upon the same terms and conditions as men.

Sec. 735. OATH OF OFFICE, ORDER OF ADMISSION. If, upon examination, the applicant be found qualified, the court shall administer an oath to the applicant to support the Constitution and the laws of the United States and of the district, and to faithfully and honestly demean himself or herself in office. The court shall then direct an order to be entered to the effect that the applicant is a

citizen of the United States and of the district, of the age of twenty-one years, of good moral character, and possesses the requisite learning and ability to practice as an attorney in all courts of the district, and has taken the oath of office; and upon the order and in payment of the legal fee, he or she is entitled to practice as such attorney, and not otherwise.

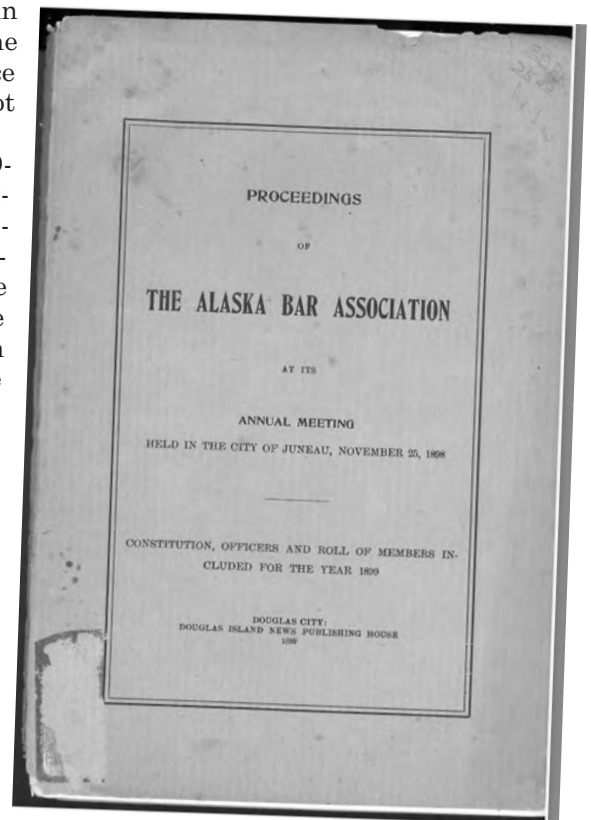
Sec. 736. WHEN ADMITTED ON CERTIFICATE. Whenever an applicant for admission as attorney shall present to the district court a certificate showing him to have been duly admitted to practice as an attorney in the highest courts of any State or Territory of the United States, or in one of the circuit courts or the Supreme Court of the United States, such applicant may be admitted to practice as an attorney without further examination.

On March 3, 1899, Congress passed a Criminal Code for the territory and June 6, 1900, it passed the Second Organic Act (Carter Code). It was drafted to give the Territory of Alaska its own set of laws although it was mainly copied from the laws of the State of Oregon. The act created three divisions in Alaska each with a territorial federal judge. The first division was headquartered in Juneau, the second division was in Saint Michael, and the third division was in Eagle City.

In November 1896 the Alaska Bar Association was organized in Juneau. Organizers created a Constitution and Bylaws. They also elected officers. Admission required at least five of the seven members of the Board of Directors to vote for a candidate to be admitted to the association. Suspension or expulsion from the association required a three-fourths vote of the members. Balloting for admission or suspension was secret. The Board of Directors established a "schedule of the minimum fees to be charged

by members for such professional services as is proper to establish a uniform rate of charge for." Any departure from the schedule "shall be cause for suspension or expulsion from membership." This was the

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only ethical standard set forth by the bar. The bar dues were \$1 a year. The fee schedule provided in part:

- Deeds: clients, \$2.50; others, \$3.50
- Agreements: \$5.00
- Wills: \$25.00
- Civil suits in District Court: \$50.00
- Felonies in District Court: \$100.00
- Misdemeanors in District Court: \$30.00
- Articles of Incorporation: \$100.00

The only record of the association's annual meetings was in 1896, 1897, and 1898. By 1900 there were 111 admitted to practice, and 46 were members of the Alaska Bar Association. Many of the lawyers lived out of state. A majority of the bar members resided in Juneau. Others were scattered about the

Continued on page 27

Appeals

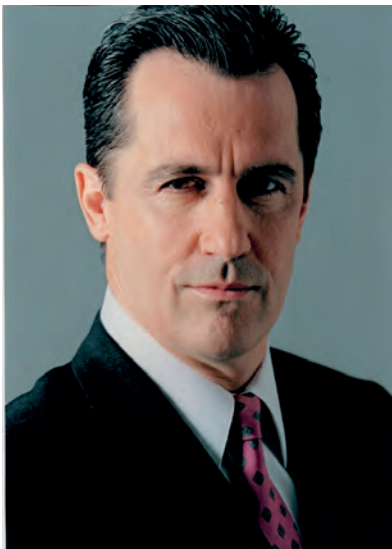
(and help on any other facet of litigation)

Joel DiGangi

Alaska Bar since 1980

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A look back at the Alaska Bar Association

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state in Dyea, Porcupine, St. Michaels, Eagle, Skagway, Wrangel and Douglas City.

In 1915 the second Territorial Legislature enacted legislation regarding admission to the bar. In many respects it was similar to the 1900 Organic Act. The act provided for three methods to be qualified for admission to the bar. The act provided for admission by reciprocity or graduation from two years of study at an accredited law school. The third alternative was to study in a law office under the supervision of an attorney. The applicant was required to read "Blackstone's Commentaries, Kent's Commentaries, Pomeroy's Equity Jurisprudence, Greenleaf on Evidence, Bishop on Criminal Law, Cooley's Constitutional Limitations, Cooley on Torts, Cooley on Statutory Construction, Stephens on Pleading, Lube's Equity Pleading, Parsons on Contracts, Pomeroy on Code Pleading, or other standard works as may be prescribed by the district judge upon the same or similar subjects, and the codes and other laws of Alaska, as well as such other reading as the Court may from time to time designate." Then the District Court would appoint a committee from among the members of the bar of the District Court, if there be no standing committee of the bar, to examine the applicant as to his learning and ability in the law. The examination would be written and have no fewer than 10 questions.

There were significant changes by the Legislature in 1929 to the admission process. There was created a Board of Territorial Law Examiners. The board had five members. Each of the four Divisions of the territory appointed one member and the fifth member was the attorney general of the Territory. The latter served as president. The process was in two steps. First a written examination, followed by an oral examination in open court. The subjects an applicant was examined on were "the Constitution of the United States, Blackstone's and Kent's Commentaries, Real and Personal Property, Contracts, Negotiable Instruments, Agency, Bailment, Equity, Pleading, Evidence, Criminal Law, and other subjects as the board may direct." The other provisions are similar to the 1915 law. The ultimate power to admit an applicant still rested with the District Court judge.

The legislative act in 1941 was very expansive. The most significant change was to require the ap-



A drawing in the May 23, 1896 depicts the first president of the Alaska Bar Association, Judge John S. Bughee.

PLICANT to travel to Juneau to undergo the examination for admission to the bar. The revised reading list for applicants was "the Constitution of the United States, Real and Personal Property, Domestic Relations, Corporations, Legal Ethics,

Conflicts of Laws, Contracts, Negotiable Instruments, Agency, Bailment, Equity, Pleading, Evidence, Partnership, Appeal and Error, Statutory Construction, Local Pleadings and Practice, Criminal Law, Mining, Admiralty, and such other subjects as the board direct." It also adopted the code of ethics of the American Bar Association.

In 1949 an applicant who was teaching law in a law school approved by the American Bar Association was added to the list of those who could be admitted on reciprocity. In 1949 the law was amended to provide that "any person may, without compensation, act as an attorney for another in a Justice court."

The Alaska Integrated Bar Act was passed in 1955. It created the bar association as we know it today. One other note. District Court judges were appointed by the President of the United States. They could be terminated without cause.

Author's note: This article was written in an effort to highlight the history of the bar. It was not intended to be comprehensive.

Leroy Barker is a retired attorney now residing in Portland, OR. He was the long-time chair of the Alaska Bar Association's Historians Committee, now chaired by Marilyn May. Anyone interested in the history of the association, its members, and the Alaska judicial system is invited to contribute by writing an article for the Bar Rag, interviewing a member of the bench or Bar, or helping with a CLE. Contact the Committee at: info@alaskabar.org

Here's a pdf of the proceedings of the Bar Association Annual meeting in 1898: <https://bit.ly/3wDrj8l>

There were significant changes by the Legislature in 1929 to the admission process. There was created a Board of Territorial Law Examiners.

Bar People

Two join firm in Anchorage

Bill Falsey and Zoe Danner have joined Birch Horton Bittner & Cherot as additions to its Anchorage-based team of attorneys.

Falsey is an experienced practitioner who has dedicated his career to the practice of law and advancement of public policy in Alaska. As the former municipal attorney for the Municipality of Anchorage, he has extensive experience in regulatory compliance and enforcement, constitutional and appellate practice, governance, public utility, and election law. Prior to his tenure with the Municipality of Anchorage and later its Manager, he routinely represented clients before various state and federal agencies, including the Alaska Public Offices Commission. Falsey is a lifelong Alaskan and a graduate of Stanford University and Yale University Law School.

Zoe Danner joined the firm after completing two prestigious clerkships with the Anchorage Superior Court. Danner is also a lifelong Alaskan. She graduated from Columbia University with a degree in Russian Language and Culture and received her juris doctorate from the University of California, Irvine School of Law. During law school, she clerked at the Anchorage District Attorney's Office and the Los Angeles County District Attorney's Office, where she prosecuted misdemeanor and felony matters. In her free time, she enjoys volunteering with Big Brothers Big Sisters and the many opportunities for adventure that Alaska presents.



Bill Falsey



Zoe Danner

Landye Bennett Blumstein announces two new associates

Ambriel C. Sandone was born and raised in Wasilla. She studied law at the University of Oregon School of Law where she also tutored law students in Oregon's Legal Research and Writing Program and served as co-director of the Native American Law Students Association and Executive Editor of the Oregon Law Review. Ambriel clerked for Chief Justice Daniel E. Winfree at the Alaska Supreme Court from 2020 to 2021. She will focus her practice on Alaska Native law, litigation, corporate and business law, and real estate development and transactions.

Casey K. Gilmore joined the firm in September as an associate. Casey was born and raised in Anchorage. Casey studied law at the Willamette University College of Law and Atkinson Graduate School of Management, where she was a writer and editor-in-chief for Willamette Law Online. Casey clerked for Judge Peter Ramgren at the Anchorage Superior Court from 2020 to 2021. She will focus her practice on Alaska Native Law, corporate and tribal law, civil litigation, real estate development and transactions, bankruptcy, collections and creditor's rights.



Ambriel Sandone



Casey Gilmore

Stoel Reeves promotes Anchorage woman to partner

Stoel Rives LL has announced nine attorneys were promoted to the partnership effective Jan. 1, 2022. This year's class of new partners includes six women and three men who practice in the firm's offices in Anchorage, Portland, Salt Lake City, Seattle, and Washington, D.C.

Andrea Canfield in the Anchorage office is a corporate attorney with an extensive mergers and acquisitions practice. She is experienced in a wide range of industries and represents clients with diverse ownership structures, including Alaska Native corporations, large public institutions, middle market companies, as well as privately held and emerging businesses. A graduate of the University of Virginia School of Law, Andrea is a member of The University of Alaska Anchorage's Legal Studies Program Advisory Committee, a member and former president of the Anchorage Association of Women Lawyers (AAWL) and also serves on the Board of Abused Women's Aid in Crisis (AWAIC), the largest domestic violence safe shelter in Alaska



Andrea Canfield





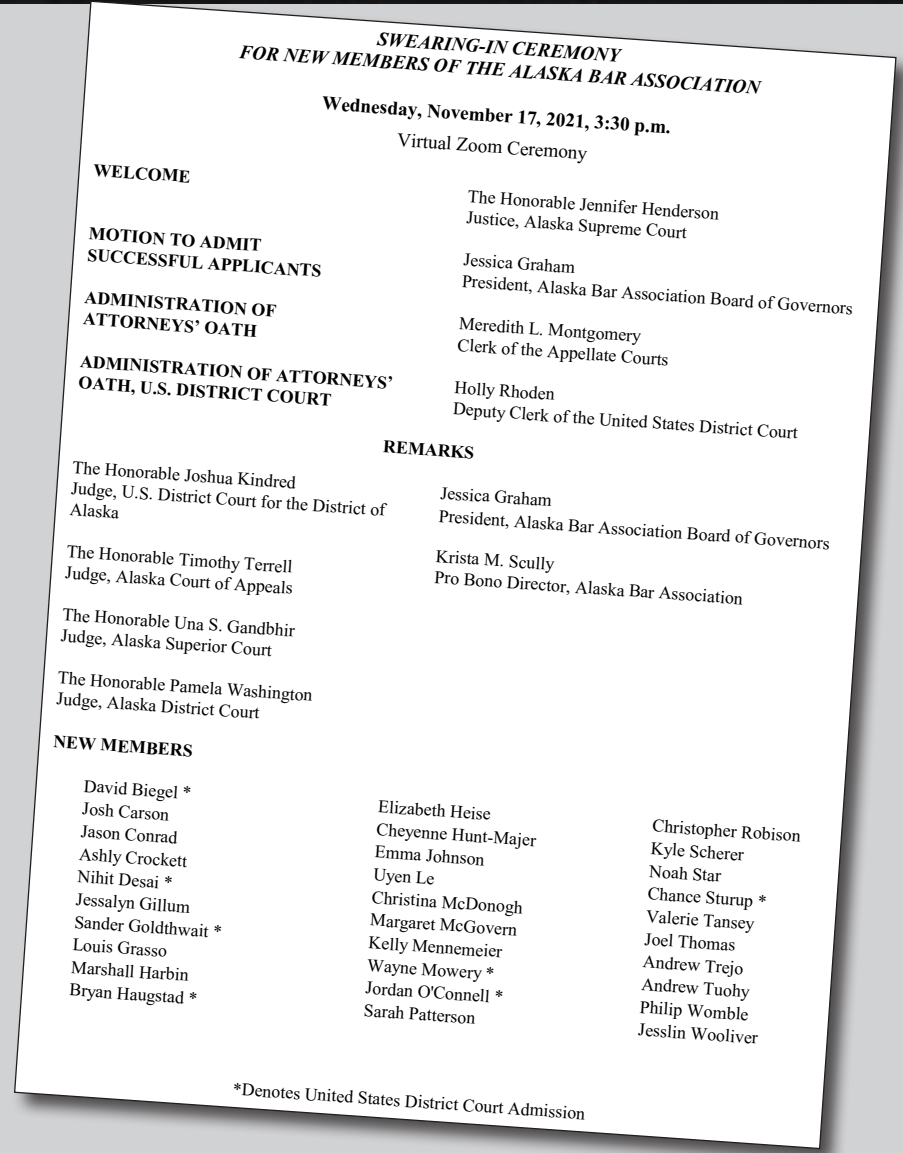
30 new lawyers sworn in to Alaska Bar

The Alaska Court System and the Alaska Bar Association hosted their third virtual swearing-in ceremony for new members of the Alaska Bar Association Nov. 17, 2021. Justice Jennifer Henderson presided over the virtual swearing-in of 30 new lawyers. The Alaska Bar Association received such a high level of interest in viewing the ceremony that they had to upgrade their Zoom license to accommodate more than 100 participants. Some of the new lawyers can be seen raising their right hands as they take the Oath of Attorney which was administered by Meredith Montgomery, clerk of the Appellate Court.

NEW MEMBERS:

- | | |
|---------------------|---------------------|
| David Biegel * | Margaret McGovern |
| Josh Carson | Kelly Mennemeier |
| Jason Conrad | Wayne Mowery * |
| Ashly Crockett | Jordan O'Connell * |
| Nihit Desai * | Sarah Patterson |
| Jessalyn Gillum | Christopher Robison |
| Sander Goldthwait * | Kyle Scherer |
| Louis Grasso | Noah Star |
| Marshall Harbin | Chance Sturup * |
| Bryan Haugstad * | Valerie Tansey |
| Elizabeth Heise | Joel Thomas |
| Cheyenne Hunt-Majer | Andrew Trejo |
| Emma Johnson | Andrew Tuohy |
| Uyen Le | Philip Womble |
| Christina McDonogh | Jesslin Wooliver |

*Denotes United States District Court Admission



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