

The Alaska BAR RAG

MERRY
CHRISTMAS
&
HAPPY
NEW YEAR

Dignitas, semper dignitas

VOLUME 46, NO. 4 October - December, 2022



Alaska Bar Association hosts 1st in-person convention since 2019

By Danielle Bailey

It was three years in the making but Oct. 26-28, 2022, the Alaska Bar Association was finally able to host its first in-person convention since 2019 at the Dena'ina Civic and Convention Center in Anchorage. Return to an in-person format came after a virtual convention in 2021 and a cancelled convention in 2020 due to the COVID-19 pandemic.

More than 400 individuals attended the convention with the largest single-day attendance of 361 attendees. The convention included an address from keynote speaker Professor Victoria Nourse who spoke about her role in authoring the original Violence Against Women Act, as well as a presentation by featured speaker Elie Mystal, justice correspondent with *The Nation* magazine.

See convention highlights on pages 10-15

The convention also marked a much-anticipated return to Alaska by Dean Erwin Chemerinsky who teamed up with Professor Laurie Levenson to deliver their review of U.S. Supreme Court opinions. This was Dean Chemerinsky's first return to Alaska after being awarded an honorary membership in 2021 in recognition of his longstanding, sustained and extraordinary commitment to promoting and encouraging the legal education of Bar members and the public.

Along with more than 15 credit-hours of programming, the convention included lunch programs with a State and Federal Court update, an

Continued on page 11

Chief Justice lays out history and future guidance at AFN

Editor's note: What follows here is the text of the speech Alaska Chief Justice Daniel E. Winfree gave at the recent Alaska Federation of Natives Convention in which he details his rise as the first Alaska-born Chief Justice, emphasizing his history with the Native community, acknowledging many Natives who have followed careers in law and encouraging future progress in Alaska's legal arena.

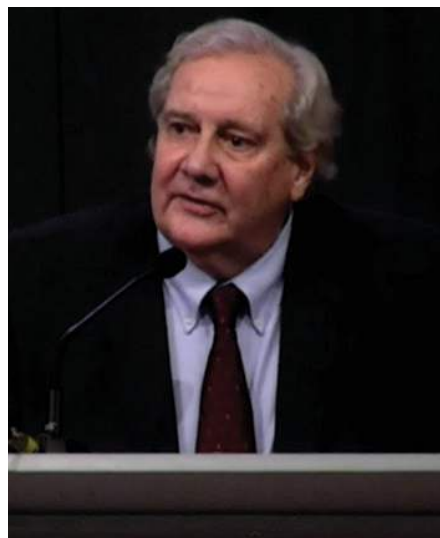
By Chief Justice Daniel E. Winfree

Good afternoon. I'm delighted to be here. Why? Because I'd like to thank you for making Alaska a better place. In some ways, this is a step in the path to completing a circle of my life.

My grandparents went to Dawson City in 1898 looking for gold, and they made their way to Fairbanks in about 1905. On the wall outside my office are pictures of the first Tanana Chiefs Conference with Judge Wickersham in 1915, when the Chiefs raised concerns about settlers pushing Alaska Natives out of their traditional lands. From a historical perspective, I recognize that my family obviously played some part in that.

I was born in Fairbanks in the early 50s, well before AFN was born. In elementary school I was in classes with Inupiat kids rooted in what was then Barrow and Athabaskan kids rooted in Interior villages. I was aware of their connections to places I'd never been and to cultures I didn't know anything about, and I was vaguely aware they came to Fairbanks for school; but in elementary school none of that really mattered as much as going out for recess.

Moving on to high school, though, teaches many things, including that there was obvious prejudice against Alaska Natives. Yet — and I blame this on history and teenage naivety — I never thought much about my Native friends' personal connections to a Native world I knew nothing



Chief Justice Daniel E. Winfree

about. There were no classes in Alaska Native history or culture. There were no classes in cross-cultural communication. And one thing I surely was never taught was that Alaska Natives had tribes.

Last year's AFN conference focused on 50 years of ANCSA and the future. ANCSA probably was the start of my pathway to understanding more about the Native kids I grew up with. After a decade in pipeline camps, college and law school, I came back to Alaska in 1982 to practice law. Through my years in the law I learned what ANCSA represents, and I saw what the continuing tribal sovereignty movement might mean not only to them, but to all Alaskans. Then in 1994 the federal government formally recognized Alaska Native tribes. What a different Alaska this

might be if what underlies these things — so self-evident to you — had been taught to the rest of us when we were young.

Thinking about all this for today's chat, I kept thinking about two people. In high school I played basketball and hung out with a kid a year older than me. We went our separate ways after that, but we're always glad to see each other and chat about life. Now I know him as a Rampart tribal member, a Doyon shareholder, and a past president of Doyon.

And whenever I come to Anchorage I see two incredible caribou masks selected by our court to hang in the public lobby on the fifth floor of our courthouse; they were created by a renowned Athabaskan woman who was born in Tanana and lived in Yukon River villages before coming to Fairbanks at age 5 to go to school. I smiled when I voted to hang those masks in the lobby, and I smile every time I see them; I'm transported back to my first or second grade classroom, where I used to sit and admire her drawings and colorings that were way beyond my limited stick-figure imagination. I know now that her family came to Fairbanks so they could be together and the kids wouldn't have to go to boarding schools. And I know now that she has had an incredible

Continued on page 24

New Chief Justice named.
Story on page 5

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PRESIDENT'S COLUMN

It's time for Alaska to lower our bar-exam cut score

By Diana Wildland

This is the second time the Board has evaluated our bar exam cut score since I joined the Board of Governors in 2018. At 280, Alaska has the highest cut score in the nation — with Arizona the next highest at 273. The Board has had multiple discussions, subcommittee meetings and presentations relating to this issue over my tenure on the board. The board has now proposed lowering our cut score to 270. We know from our work, including reviewing a psychometric study conducted by the Oregon bar, that this decision is not likely to negatively impact the quality of our lawyers. It would, however, make practicing law in our state more accessible for qualified new and young attorneys.

Alaska's population is decreasing. A recent Anchorage Daily News article described the last nine years as "the longest stretch of net out-migration recorded in Alaska since World War II." The article describes Alaska's population loss as particularly exacerbated among working-aged people (defined as aged 20-65), with many young people choosing to "leave their family to go to college and [...] potentially never come back."

I was very nearly one of those Alaskans. Born and raised in Fairbanks, I attended both undergrad and law school at the University of Oregon. In the spring before I grad-

uated in 2017, I had to decide in which state to sit for the bar exam. I learned that Alaska had the highest cut score among the states that had adopted the Uniform Bar Exam — a 280. Washington state, where I also considered practicing, had a cut score of 270. Taking the bar exam in Washington was an easy choice: I could stay in my apartment in Eugene, study for the bar with my classmates, and drive to Washington with a friend for a two-night stay. It was economically feasible and gave me the best opportunity to pass a bar in a state where I could see myself making a home.

The risk of failing the bar exam is not inconsequential for law students like me; with tens of thousands of dollars in outstanding student loans, the prospect of not passing the bar on my first attempt would have had devastating financial and professional consequences for me. One of the greatest indicators of whether a person will pass the bar is how much time they have dedicated to studying full-time. To maximize your chances of passing the bar, you must take eight to 10 weeks away from work, personal, and family obligations. Bar-takers must still pay bills, often including fees for a bar



"The Bar Association is charged with evaluating applicants for minimum competency before admitting them to practice law in our state."

exam study course, which can mean additional student loans.

I was offered my current job at the Public Defender Agency shortly before I started studying for the bar. I arranged to move home to Fairbanks after I took the July bar exam and began work in August while I awaited my bar results. Like so many new hires in Alaska, I did not know for over a month whether I would be able to stay in that position until I received my bar exam results. Still, I invested in the move both financially and emotionally, wanting to make Fairbanks my home again. Many lawyers hired under these conditions do not get to stay.

The Bar Association is charged with evaluating applicants for minimum competency before admitting them to practice law in our state. But adopting a lower cut score does not mean lowering the standards of practice. A lawyer who earns an exam score of 270 is currently permitted to practice law in 37 of the 41 UBE jurisdictions. Several jurisdictions have recently elected to lower their cut scores to make the practice of law more accessible. The most recent is Colorado, which previously had the second-highest cut score after Alaska. This month, Colorado

lowered its cut score from 276 to 270. Alaska's score makes us an increasingly extreme outlier with the next closest score being Arizona at 273. This forces Alaska employers to turn away good and valuable candidates who are interested in practicing here. Had we lowered the cut score to 270 in 2014, 92 additional examinees would have been admitted to the Alaska bar. It is hard to argue that those individuals do not meet minimum competency when they received scores that would now make them automatically eligible to practice in 90 percent of the UBE jurisdictions.

Denying these candidates access to our bar has a huge impact on Alaskans — especially in our most vulnerable communities. Every year, Alaska Legal Services turns away thousands of requests for counsel, often because of the unavailability of attorney resources. Our district attorneys and public defenders are overworked, with immense caseloads. Alaskans involved in the judicial system are struggling

Continued on page 3

EDITOR'S COLUMN

U.S. District Court Judge welcomed to senior status

By Ralph R. Beistline

I recently spoke at a reception honoring Judge Timothy Burgess as he assumed senior status. My comments contained some history that might be of interest, a true story about an elk head, which I have shared before in the Bar Rag, and some thoughts concerning the judge, all of which I share below.

.....

Good evening. I was asked to share a few thoughts this evening as we honor Judge Timothy Burgess as he transitions to senior status and joins the elite. But I was told to make my comments short, and not to mention horses, old gray ponies or equestrians of any type. That was solely for Judge Kindred's investiture. It is patented now and off the table. But I was not cautioned about elk, a topic which I have spoken of before.

My first law-related job out of law school, in 1974, was as a law clerk for the three Superior Court judges in Fairbanks, Judges Blair, Van Hoomissen and Taylor. I was excited because I was actually given my own office. It was right outside the judges' chambers, and it backed up to the courtrooms. So, I literally shared a common wall with the courtroom and got to watch the judges come and go every day. The only downside was that the office was dominated by a very large elk

head mounted on the wall which had been left by the Area Court Administrator after securing a more private office. But it was my first office, so I didn't complain. And this was all before there was any kind of court security — so anyone could come and go anywhere in the building at their leisure.

I recall one afternoon hearing footsteps on the linoleum floor of the judges' complex made by someone who had entered the area and who was traveling from one office to the next, apparently looking for a judge or some form of human life. For some reason there were no staff present and all the judges were gone or in court, but the footsteps kept plodding along.

Just as I was about to get up



"... as chief judge for the past six years, Judge Burgess excelled."

to welcome the visitor, he appeared in my doorway. And it was none other than Gov. Jay Hammond, the father of the Permanent Fund. But his focus was not on me, it was on the elk head. Gov. Hammond was quite an outdoorsman, and the elk occupied his full attention. The governor then entered my office and walked right up to the elk mount on the wall. He patted it on the neck, respectfully, and then looked at me and, with his hand still on the elk, asked me a very direct question, "Is the Ass in the courtroom?"

I paused for a moment, pondered, and then responded honestly, "Yes," I said, "he just went in." The governor then smiled and asked me to tell the judge that he had just stopped by to say "hi."

And with that, the governor was gone. My one and only conversation with Gov. Hammond was over. But I was left with a question. Which of the three judges should I deliver the message to? It probably could have applied to any of them.

The question though, that the governor posed, was a frequent one, "Is the Ass in the courtroom?" I have since thought that, if I ever were to write a book, that would be an appropriate title, "Is the Ass in



Continued on page 4

The Alaska BAR RAG

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Former legislator/attorney and his wife die within weeks of each other

Alaska lawyer and former legislator Leland Chancy Croft died Aug. 30, 2022, just 12 weeks after his wife, Toni Williamson Croft died June 8, 2022. They just missed celebrating 60 years of marriage, all in Alaska.

Toni died of progressive heart disease complicated by COVID-19. Chancy had suffered through a number of medical issues. Their health had declined rapidly over the previous nine months.

They were born five years apart in West Texas towns of Midland and Odessa and one of their first ambitions was the desire to get as far away from West Texas as possible.

Chancy entered the University of Texas in 1955, graduating with a combined B.A. in sociology/government and legal JD in 1961, a year ahead of time. Toni graduated a year early from high school and attended Stanford University, graduating in 1963 with an A.B. in history.

They first met at a debutante ball in 1960-61, sitting next to each other. By early 1962, Chancy was working at a local law firm.

At the end of the summer, Toni returned for her senior year in college. Chancy came to Alaska that fall with a college friend, Bill Bailey. Toni visited with a chaperone. Both liked Alaska. They were married in Midland July 8, 1963, and left Texas for good.

They started in a small house in Spenard. Toni was pregnant with their first child during the 1964 Good Friday earthquake. While Chancy was helping another couple, she moved the car and watched a hole open up where the car had been. They had three children: Eric in 1964, Kym in 1966, and Lee in 1968.

Toni and Chancy shared a passion for progressive politics. In 1968, Chancy ran for the State House and won. Toni managed the campaign

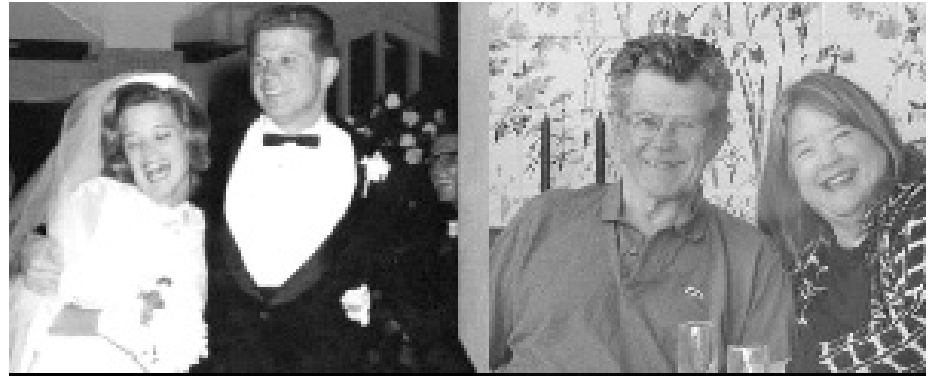
as she did all of his successful campaigns, first the House and then State Senate in 1972 and 1976.

In 1975, Chancy was elected president of the Senate, leading one of the most productive legislative sessions in Alaska history, including passage of oil taxes securing Alaska a fair share of oil wealth, and bills on anti-trust, workers' compensation, child support, decriminalization of marijuana and no-fault divorce. Chancy was an early proponent of the Permanent Fund, sponsoring the Senate version of the original statutory fund with Rep. Hugh Malone in the House. After Gov. Jay Hammond's veto, the Senate under Chancy's leadership passed the constitutional amendment for the current Fund.

By 1978, Chancy and Toni felt that politically, it was up or out. They decided to run for governor. When asked at a Chamber of Commerce forum about his taxation of the oil industry he said, "We are not buying love; we are selling oil," receiving a reluctant round of applause. While Chancy eventually won the Democratic nomination, the primaries on both sides were razor thin and in doubt for many weeks, resulting in a three-way general election race among Chancy, Hammond and Wally Hickel as a write-in. After the loss, they decided to move on to new challenges.

Chancy made a second career representing injured workers and fighting insurance companies for over 40 years. He appeared before the Alaska Supreme Court many times and the cases he won define much of the current law regarding workers' compensation in Alaska. He could not have done it without the help and friendship of his paralegal Brenda Marlow.

After leaving elected office, Toni



Toni and Chancy Croft on their wedding day and more recently.

and Chancy developed a passion for rafting Alaska's wild rivers. As a family, they rafted more than 20 remote Alaska rivers.

While Toni was taking care of three young children, she began teaching math at the Adult Learning Center, part of the Alaska Community College system. When UAA absorbed the community colleges, Chancy and Toni opposed the consolidation, but they were unsuccessful.

Eventually becoming a UAA professor, Toni earned her master's degree in brain theory and learning. She developed as a math professor and later served as department chair. Chancy served on the UA Board of Regents from 1995-2003, including one term as chair.

Both lifelong learners and bibliophiles, Chancy and Toni formed a book club in 1986 with Gretchen Bersch, Jack and Martha Roderick, Alice and Gunnar Knapp, Michael and Maggie Carey and later Eric Wohlforth. They met monthly, mostly, for over 35 years.

Although they always said they had never tasted wine until they got to the Legislature, Toni and Chancy developed an interest in growing grapes and tasting fine wines. In 1983, after discovering the prohibitive Napa prices for vineyards, Toni and Chancy bought an orchard in

Oregon's central Willamette Valley and turned it into a 30-acre vineyard. They began growing sauvignon blanc and pinot noir grapes, and one year later followed this with another orchard which they turned into a 70-acre vineyard. They were opposed to using chemicals to grow their grapes; from the very beginning they farmed both vineyards entirely organically. Croft Vineyards is recognized for producing some of the best fruit in Oregon. They later formed Croft Winery and their wines have won multiple awards.

Chancy is survived by his sister, Dona Lee Croft of London. Toni was predeceased by her brother, Ralph; and sisters, Charla, Margaret and Mary Jane. In addition they are survived by grandchildren JC and John by Lee and Terri; Jennifer, Sage and Laugan by Kym and Tim Miller; and Shannon and Burke by Eric and Joanna.

The family planned to hold an event in Anchorage to honor Chancy and Toni's lives at a future date. In lieu of flowers they suggested donations to the Dorothy Croft scholarship for Young Musicians, the Alaska Community Foundation, the Toni Croft Developmental Education Scholarship at UAA, or to any progressive candidate of your choice, the more liberal and outspoken the better.

It's time for Alaska to lower our bar-exam cut score

Continued from page 2

with delayed trials, difficulty resolving cases, and difficulty communicating with their attorneys. Filling the open positions in these agencies and others in our state will make a substantial difference in the ability of Alaskans to have meaningful and effective legal representation.

Lowering the bar exam cut score will also better serve the values of our Bar. The Bar Association's mission statement charges us with regulating the practice of law; promoting reform in the law and in judicial procedure; facilitating the administration of justice; and increasing public service and the efficiency of the bar. The Board of Governors recently engaged in a multi-day strategic planning session, at which we adopted 3 goals: 1) to reduce the access to justice gap; 2) to ensure the Bar is more reflective of the people it serves; and 3) to increase public service and efficiency of the Bar. Re-evaluating the cut score is a meaningful step toward achieving each of these goals.

Making Alaska's bar exam cut score more comparable to other jurisdictions means making the practice of law more accessible — especially for people for whom standard-

ized tests are not designed. Parents with young children, people of color, and non-traditional students may all benefit from a cut score that more closely reflects other jurisdictions. Right now, ethnic and racial minorities are less likely to pass the bar exam. Since 2014, the total pass rate was 59% (or 70% for first-time takers). However, the pass rate for non-white applicants is much lower: only 39% (54% for first-time takers).

This is not an Alaska-specific issue: The American Bar Association recently wrote that "based on statistics, the first-time pass rate for white candidates in 2021 was 85%, compared with numbers below 79% for test-takers of color." By adopting measures that make admission to the bar more accessible, Alaskans involved in our legal system can expect that they will see more attorneys who look like them, share life experiences with them, and sometimes literally speak their language.

We lawyers have the unique privilege and responsibility of speaking for the people that we serve, often on the worst days of their lives. Our job obliges us to ask for our clients', and the community's, trust and confidence. The Alaska Bar Association should issue a recommendation to the Alaska Supreme Court to lower

the cut score to 270, bringing our practices in line with other states, so that quality and abundant legal representation can be readily available for all Alaskans. We should not sell ourselves — or Alaskans — short.

Diana Wildland is president of the Alaska Bar Association. She

was born and raised in Fairbanks. She has been a member of the board since 2020, and previously served as the Board New Lawyer Liaison from 2018-2020. She graduated from University of Oregon School of Law in 2017. She is currently a supervising attorney in Fairbanks with the Alaska Public Defender Agency.



Mother, daughter team up on pro bono domestic violence case

By Brian Conwell



Early in life, it's common that the parent is the teacher and the child is the learner. As Theresa Hillhouse and her daughter Tracy Hillhouse Price learned, however, those roles can transform later in life. Theresa and Tracy recently teamed up on a pro bono domestic violence case and had the opportunity to work together as equals.

In late 2020, Theresa and Tracy were contacted by the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA). A client needed pro bono representation, and the pair thought that they could help. Seeing an opportunity to jointly represent a client — an opportunity they couldn't see themselves being afforded in any other situation given that they practice in separate areas of law — they accepted.

It helped that Theresa was entering the tail end of her legal career, and she saw this case as an opportunity to bring full circle the work on behalf of survivors that she had spent doing for much of her career.

Tracy grew up in Alaska watching her mother Theresa take pro bono cases from ANDVSA and volunteer to answer ANDVSA's Legal Information & Referral Hotline.

That spirit of giving back and working hard influenced her greatly. Growing up, Tracy realized that her mother was a hard worker — she saw it every day. In the process of following in her footsteps as a lawyer, however, Tracy's eyes opened even more to her mother's balance of career and family life: "It gave me a new appreciation for everything she did while I was growing up."

When they were finally able to do a case together for ANDVSA, Theresa was the one whose eyes opened. "Tracy and I have different strengths and so we were able to fall into different roles and work to our strengths," she said. Tracy was great at client contact and was able to use her position as a young lawyer to teach Theresa new technologies, like Zoom and eFiling, that had arisen during the pandemic.

Further, she was closer in age to the client and was able to relate to her better. In Theresa's words, it was a "very litigious," complex case that covered several areas of law. Here, she was able to bring her wealth of legal experience to help bounce ideas around with her daughter.

Despite the complexity of the case, they found that their lack of filter with each other due to their

relationship meant that they could support each other better, and more quickly, during the particularly hard parts of the case.

Through this collaboration they were able to secure a favorable outcome for their client, and more importantly, provide a much needed and much appreciated service for the community.

Both Theresa and Tracy highlighted the need to empower domestic violence survivors in court. "I think the most important thing was that we were able to empower the client," said Tracy. "Our client felt really good when they were able to express to the judge what happened to them. When they spoke up and said something, something happened."

The pair expressed taking ANDVSA cases would be a great experience for attorney friends or attorney relatives to finally work together while giving back to their community. To

"Tracy and I have different strengths and so we were able to fall into different roles and work to our strengths,"

learn more about pro bono opportunities with ANDVSA, please contact Katy Soden at ksoden@andvsa.org or (907) 297-2791.

Brian Conwell is a Legal Fellow at the Sitka office of the Alaska Network on Domestic Violence and Sexual Assault. He is a lifelong Alas-



Tracy Hillhouse Price and her mother Theresa Hillhouse proved to be an effective legal team.

kan, having grown up in Unalaska/Dutch Harbor. He graduated from Harvard University in 2022 with a bachelor's degree in History and Literature.

U.S. District Court Judge Burgess welcomed to senior status

Continued from page 2

the courtroom?"

Anyway, speaking of Judge Burgess, ... that title would not apply to him.

Truthfully, though, I have never actually seen Judge Burgess in a courtroom setting, other than for official functions, because I was always busy in my own courtroom or chambers, but he tells me he is good, really good. And he would know.

But, as chief judge for the past six years, Judge Burgess excelled. As a chief judge, he was second only to (well, I am not here to talk about me), but he was incredible. I think this was due, in part, to the fact that God was on his

side. It seemed that whenever there was a need to provide an example of Judge Burgess' administrative skills, his leadership skills, there would be an Act of God. There was an earthquake, a big one, and Judge Burgess led us through. There came the plagues and a seemingly endless pandemic, another Act of God, and he led us through again — brilliantly.

But, on a more serious note, for 15 plus years I have been a colleague of Judge Burgess, and have come to understand what a great judge he really was and is.

It is probably good that Judge Burgess took senior status when he did, because I am not sure what was next on the list — boils, frogs, fire, whatever. No matter what, though, Judge Burgess would have led us through.

But, on a more serious note, for 15 plus years I have been a colleague of Judge Burgess, and have come to



Chief Judge Sharon Gleason congratulates Judge Timothy Burgess.

understand what a great judge he really was and is. He is as smart as they come, as hard working as they come, and as dedicated to the rule of law as anyone I have ever known. I don't know if Judge Burgess ever was a Scout, but those principles of the Scout Law must have been imbedded in him somewhere along the line. He is trustworthy, loyal, helpful; I mean so helpful. If I would drop by his chambers with a casual question that he didn't immediately know the answer to, I'd get a memo from him on the subject within the hour with the answer. And he is, of course, friendly, courteous, kind, and cheerful, all of those. I don't know about thrifty or obedient, but I'll give him clean and reverent. I do think, though, that the reason Judge Burgess has been such a good judge is that he genuinely is a good person. And I don't use these plati-

tudes lightly. I use them because they truly apply to this man. What better legacy could one have.

So, in closing, let me say that I am fortunate to have been a close colleague of Judge Burgess. He was just fun to be around. I am proud to consider him a friend.

But it is not over. This is only Act One of a great play. Judge Burgess has a family whom he loves and is proud of, a cabin up north to work on, continents to explore, and cases still to try. So, he will still be around, and we are grateful for that.

And so, Judge, as you transition to the next act of this play, you can do so knowing that you gave it your all, and that no one could have done better.

Congratulations on a job well done!

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

SERVING ALASKA

274-2023



22 new lawyers take the Oath of Attorney

The Alaska Court System and the Alaska Bar Association hosted a swearing-in ceremony for new members of the Alaska Bar Association Nov. 9, 2022, in the Supreme Court Courtroom at the Boney Courthouse in Anchorage. Justice Jennifer Henderson presided over the swearing-in of 22 new lawyers. Family, friends, and colleagues appeared in person or viewed the live stream of the event through the court system's website. The new attorneys can be seen in the picture raising their right hands as they take the Oath of Attorney which was administered by Meredith Montgomery, clerk of the Appellate Court.

New Lawyers sworn in included:

Janet Bering	Kody George
Tyra Boose	Lydia Heye*
Daisy Borders*	Crystal Hill-Pennington
Sarah Kathryn Bryan*	Cameron King
Connor Campbell	Sarah Murtada*
Lily Cohen	Braden Seward
Jeremy Conkling*	Julia McCartney Stublen
Scott Crawford	Jenna Sutton*
William Crowther	Emily Walker*
Jessica Falke*	Danika Watson*
Michael Garland*	Joyce Zabala

*Denotes United States District Court admission

Bar People

Two named partners at Farley & Graves

Timothy Bowman grew up in Omaha, NE, earned his B.A. from Santa Clara University and his J.D. from Creighton University School of Law in 2005. He has been licensed in Nebraska since 2005 and Alaska since 2009, and joined Farley & Graves in 2018.



Timothy Bowman

Jim Wilkson grew up in Tacoma, WA, and earned his B.A. from the University of Montana and his J.D. from the University of Washington in 2006. He has been licensed in Alaska since 2006, and joined Farley & Graves in 2013.



Jim Wilkson

Farley & Graves, P.C., provides quality legal services in virtually all areas of insurance defense and civil litigation, including first- and third-party insurance claim defense, medical malpractice defense, maritime/Jones Act claim defense, and employment law defense.

JOB OPENING

EXECUTIVE DIRECTOR—ALASKA INNOCENCE PROJECT

The Alaska Innocence Project, a 501(C) non-profit organization, seeks an individual to serve as Executive Director of the organization.

Guided by AKIP's mission, vision, and values, and working with the Board of Directors, the ED provides strategic and operational direction for AKIP.

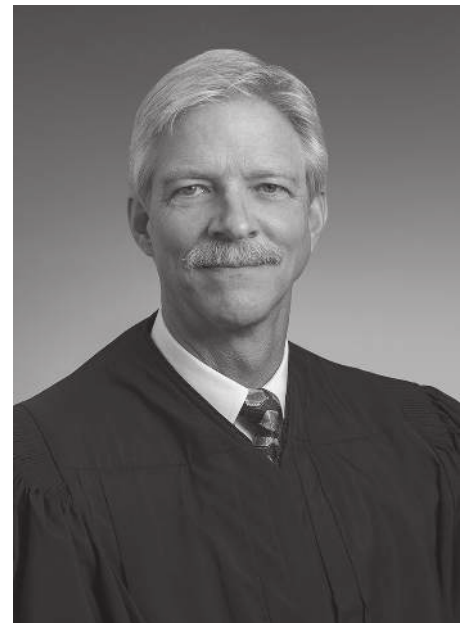
Knowledge and experience in criminal justice litigation is required. Knowledge and experience in non-profit management is required. Experience with fund-raising is essential. Admission to practice law in Alaska is highly desirable.

AKIP will consider applicants with an interest in working on less than a full-time basis. For a complete job description or to submit letters of interest contact: President, AKIP, P.O. Box 201656, Anchorage, AK 99508.

Peter Maassen named Chief Justice

From the Alaska Court System

After releasing the information at the Alaska Bar Association convention in late October, the state Nov. 29 officially announced Justice Peter J. Maassen will serve as the Chief Justice beginning Feb. 7, 2023, after the retirement of current Chief Justice Daniel E. Winfree Feb. 6. Justice Maassen was first appointed to the Supreme Court in 2012.



Justice Peter J. Maassen

Maassen was born and raised in western Michigan, the son of a minister and an elementary school teacher. He attended Hope College, Wayne State University Law School and the University of Michigan Law School, where he received his J.D. in 1980. He and his wife, Kay Gouwens, first came to Alaska in 1980 and came to stay in 1981, interrupted once by a two-year tour in Washington, D.C., where he worked in the General Counsel's Office of the U.S. Department of Commerce and for a law firm with a federal administrative practice.

Maassen spent most of his legal career in private practice in Anchorage. His civil litigation work was varied and included many appeals.

From 1994-2000 he served as editor-in-chief of the Alaska Bar Rag, the official publication of the Alaska Bar Association. In 2006 he received the Professionalism Award from the Alaska Bar Association's Board of Governors. He was a member of the Board of Governors from 2009-2012, serving as treasurer, president-elect, and discipline liaison. He also served for 10 years on the board of the Anchorage Youth Court, an alternative, peer-driven justice system for young offenders. He is a Fellow of the American Bar Foundation.

Under Alaska's Constitution, the Chief Justice is selected from among the justices of the Supreme Court by majority vote of the justices. The Chief Justice serves as the administrative head of the judicial branch of government, presides over Supreme Court arguments and conferences, appoints presiding judges for Alaska's four judicial districts, and serves as the chair of the Alaska Judicial Council.

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NEWS FROM THE BAR

Supreme Court suspends Fairbanks lawyer for four years

The Alaska Supreme Court suspended Fairbanks attorney, Ward Merdes, for four years for the intentional defrauding of Leisnoi, Inc., a former client and legitimate creditor. The Court adopted findings of fact and conclusions of law of the Disciplinary Board, but determined the Board's recommended one-year suspension for intentional misconduct was too lenient.

Events leading to Merdes' suspension took place over three decades. Ed Merdes, Ward Merdes' father and founding member of Merdes & Merdes, P.C., successfully represented Leisnoi, Inc. in a land dispute under a contingency fee agreement entered in 1988. Leisnoi contested the fee in a fee arbitration. A 1994 fee arbitration decision awarded a fee to Merdes & Merdes and set out a payment schedule for Leisnoi. A Superior Court judge approved the award.

After a series of payments, Leisnoi stopped payments. Merdes requested a writ of execution which the Superior Court granted in 2010. Leisnoi paid the remainder of the fee arbitration award under the writ, but immediately appealed the writ that the court had granted. In 2013, the Alaska Supreme Court reversed the Superior Court's writ of execution, holding that the contingency fee agreement violated a provision of the Alaska Native Claims Settlement Act. The Court held that Leisnoi should recover \$643,760 plus interest that it paid as a result of the writ. The Court did not return the approximately \$800,000 Leisnoi had earlier paid Merdes & Merdes.

The Supreme Court's decision was issued on a Friday. By Monday, Merdes & Merdes had transferred its clients and assets to a recently formed firm, Merdes Law Office. Merdes & Merdes then claimed it no longer had assets with which to

pay Leisnoi. Leisnoi sued Merdes & Merdes, Merdes Law Office and Ward Merdes and sought treble damages for violation of the Unfair Trade Practices Act, among other claims. Merdes & Merdes filed a counterclaim seeking attorney fees under a claim for quantum meruit.

Following a bench trial, the Superior Court found that the transfer of assets from Merdes & Merdes to Merdes Law Office and Ward Merdes was fraudulent. The court did not find value in the quantum meruit claim. Merdes appealed and in 2017, the Supreme Court upheld the court's findings.

Leisnoi filed a Bar grievance and Bar Counsel began formal disciplinary proceedings which resulted in a four-day hearing before an Area Hearing Committee. The Committee found that the Bar did not prove that Merdes violated rules governing the safekeeping of property. The Committee majority did, however, find that Merdes violated ARPC 8.4(c) because he engaged in fraud

with the intent "to strip Merdes & Merdes of recoverable assets and to thwart Leisnoi."

At the start of its analysis, the Hearing Committee deemed disbarment the appropriate sanction for Merdes' intent to hinder Leisnoi's recovery as well as misrepresenting to Leisnoi that Merdes & Merdes had no assets to pay Leisnoi. But after weighing aggravating and mitigating factors, the Committee majority recommended the Disciplinary Board issue a "public reprimand and/or suspension." The Board adopted the Committee's findings and conclusions of law, and recommended the Court suspend Merdes from the practice of law for one year.

Merdes appealed the Board's recommendation. The Supreme Court agreed with the Board that Merdes engaged in conduct involving dishonesty, fraud, deceit, or misrepresentation, a violation of ARPC 8.4(c). The Court applied its independent judgment to determine the appropriate sanction for the wrong-

ful transfer of money from Merdes & Merdes to avoid paying his former client and for misrepresenting its ability to pay Leisnoi. The Court found in addition to aggravators the Board identified, that Merdes' refusal to acknowledge the wrongful conduct was an additional aggravating factor. The court also did not agree that the mitigator of "full and fair disclosure" to the Disciplinary Board applied.

The Court found that the Board applied great weight to the mitigating factors, resulting in a too lenient sanction recommendation. The court found that the conduct warranted a four-year suspension. The court found that Merdes' misconduct demonstrated "a lack of integrity and a complete disregard for the standards and duties required by the legal profession."

The case is *In the Disciplinary Matter Involving Ward M. Merdes*, Supreme Court No. S-18006, (Order No. 7627 - October 14, 2022).

Board of Governors Action Items October 24 and 25, 2022

- Appointed Meghan "Sig" Tapqaq to fill the vacant at-large Board seat.
- Approved August 2022 Board meeting minutes.
- Approved ten reciprocity and twelve UBE applicants for admission.
- Approved the results of the July 2022 bar exam.
- Appointed a subcommittee to review the admission fees: Sig Tapqaq, Rachel Espejo, and Bill Granger.
- Approved the 2023 budget.
- Appointed Ambriel Sandone as the New Lawyer Liaison.
- Voted to adopt ethics opinion 2022-2.
- Voted to adopt three-year Strategic Plan of the Board of Governors.
- Voted to submit amendments to Alaska Rule of Professional Conduct 1.8(e)(3) to the Supreme Court.
- Voted to submit Bar Rule amendment to the Supreme Court regarding limited practice of law for non-lawyers trained and supervised by ALSC.
- Voted to publish memo in December *Bar Rag* to accompany Bar Rule amendment to lower the Alaska Bar exam cut score from 280 to 270.

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The 645 election and selecting an estate's tax year

By Steven T. O'Hara

When an individual dies, a taxpayer known as an estate comes into existence, whether or not it is an estate to be administered by a court-appointed executor or is contained, in whole or in part, in a wrapper known during the decedent's lifetime as a Revocable Living Trust. See AS 13.16.005 (property vested at death, subject to administration) and AS 13.36.368 (Revocable Trusts subject to decedent's creditors).

Tax law generally requires a trust, but not an estate, to have a calendar taxable year. IRC Sec. 644(a) and see IRC Sec. 441(b) and Treas. Reg. Sec. 1.645-1(h)(4)(ii). A tax year is the period of time with respect to which taxable income is computed. IRC Sec. 7701(a)(23).

An election may be available for a trust to be considered a decedent's estate. IRC Sec. 645(a). A decedent's estate for these purposes is not necessarily an estate, such as a probate estate, where a court appoints an executor. See Treas. Reg. Sec. 1.645-1(c)(2)(i).

One or more trusts may, by affirmative election with the Internal Revenue Service, constitute the decedent's estate. Treas. Reg. Sec. 1.645-1(a). The key is that at the time of death, the decedent owned the trust within the meaning of Section 676 of the Internal Revenue Code ("IRC"). In other words, the key is that the trust was revocable by its owner. IRC Sec. 645(b)(1). There are limits on what constitutes ownership; for example, ownership will not be imputed to the decedent under IRC Section 672(e) with respect to a power or interest held by the decedent's spouse. *Id.* and Treas. Reg. Sec. 1.645-1(b)(1).

This election is called the 645 election, not surprisingly, because it is authorized under IRC Section 645. This election makes tax items of qualified trusts reportable on an estate's federal income tax return. See Treas. Reg. Sec. 1.645-1(e)(2)(i).

Think of a trust electing to be a fictitious estate for federal income tax purposes like a limited liability company electing to be a fictitious corporation for federal income tax purposes. See Treas. Reg. Sec. 301.7701-2(a), 301.7701-3(a), and 301.7701-3(b)(1). Here, an entity in a particular form under state law may in certain circumstances be ignored as if it does not exist in that form for federal income tax purposes and have its tax items reported on the tax return designed for a person in a different form.

Unlike the LLC election, however, a qualified trust may be a fictitious estate only for a relatively short period of time, such as a maximum of roughly two years from the decedent's death where no federal estate tax return is required to be filed. The election period is obviously longer if an estate tax return is required. IRC Sec. 645(b)(2) and Treas. Reg. Sec. 1.645-1(f)(2).

The 645 election also terminates, if not before, when all property being administered is distributed. Treas. Reg. Sec. 1.645-1(f)(1).

In circumstances where distributees are one or more successor trusts, the 645 election does not apply to the successor trusts. *Id.*

If the duration limitation of the 645 election terminates the election,

the property of each qualified trust is deemed distributed on the last day of the election period from the fictitious estate to new trusts based on which trusts actually own the property. Treas. Reg. Sec. 1.645-1(h)(1). The regulations provide: "The new trust shall include the amount of the deemed distribution in gross income to the extent required under [IRC] section 662." *Id.* They also provide: "Upon termination of the section 645 election, the taxable year of the new trust is the calendar year. See [IRC] section 644." Treas. Reg. Sec. 1.645-1(h)(4)(ii).

If there is an executor who continues in office after the termination of the 645 election, the tax year of the actual estate continues as the same tax year used during the 645 election period. Treas. Reg. Sec. 1.645-1(h)(4)(i).

The taxable year is one of the first decisions for an estate. IRS form SS-4, used to obtain a taxpayer identification number, requires the fiduciary to enter at item 12 the "[c]losing month of the [estate's] accounting year." *Cf.* IRC Sec. 7701(a)(23).

As suggested above, if the decedent had created and funded one or more Revocable Living Trusts, those trusts become separate taxpayers at the individual's death because as of that moment the trusts are irrevocable with respect to the decedent. *Cf.* IRC Sec. 676. These trusts then face the decision about electing to be treated as the decedent's estate. IRC Sec. 645(a).

An estate may select any tax year that is desirable, as long as it ends on the last day of a calendar month and is not longer than 12 months. IRC Sec. 441. An estate may select a tax year ending other than on Dec. 31. IRC Sec. 441(b)(1) and (e). If a non-calendar tax year is selected, the estate's executor must keep adequate records relating to that tax year or a calendar tax year may be presumed. See IRC Sec. 441(g).

Every estate with gross income of \$600 or more in a tax year must file a federal income tax return. IRC Sec. 6012(a)(3).

One reason to select a non-calendar tax year is to postpone as long as possible the date of filing the federal income tax return and paying tax. For example, if an individual dies in October of 2023 and a calendar tax year is selected, the estate's income for the balance of 2023 would be reportable on April 15, 2024. IRC Sec. 6072(a). By contrast, if the fiduciary selects a tax year ending on September 30, the income for October, November, and December of 2023 would not be reportable until January 15, 2025, a deferral of nine months. *Id.*

On the other hand, the estate is entitled to an exemption of \$600 for each of its tax years, including a short initial tax year. IRC Sec. 642(b)(1). Therefore, in order to maximize the number of exemptions available to the estate, the fiduciary may want to select a short initial non-calendar tax year ending, for example, on Jan. 31, which would mean in our example that



"Clients need to discuss the 645 election and the decision about a tax year with their accountants ..."

the estate would have to file an income tax return by May 15, 2024. IRC Sec. 6012(a)(3) and 6072(a).

Consider also that expense deductions on the estate's income tax return must be reduced if the estate has any tax-exempt income. IRC Sec. 265(a)(1) and 641(b). Therefore, if the estate has tax-exempt income from municipal bonds, the fiduciary may want in our example to select a short initial non-calendar tax year that is a little longer — for example, one ending on March 31.

During this period, the fiduciary may want to distribute or dispose of the bonds in order to help the estate use a greater amount of deductible expenses on its income tax returns in subsequent years.

Another reason to select a non-calendar tax year is to cause the estate's tax year to end after the close of the beneficiaries' tax years and thus obtain tax deferral. For example, if an estate has a tax year ending Jan. 31, 2024, and the beneficiaries have calendar tax years, a distribution taxable to the beneficiaries made in February of 2023 would not be taxable to the beneficiaries in 2023. The distribution would be taxable to them in 2024, and the beneficiaries would not have to report the tax on the distribution until April 15, 2025, because the distribution relates to income for a tax year of the estate ending within the beneficiaries' 2024 tax year. IRC Sec. 662(c) and 6072(a).

As suggested above, the 645 election allows one or more qualified trusts to be ignored for federal income tax purposes and treated as part of the estate of the individual who created the trusts. See Treas. Reg. Sec. 1.645-1(e)(2)(i). There-

fore, during the election period, the applicable trusts will in effect have the same tax year as the estate. However, the separate share rule of IRC Section 663(c) means that the trusts as such are not ignored altogether. While the 645 election is in effect, the tax items flowing from the property being administered is booked on only one federal income tax return; however, the separate share rule applies, which means, for example, that the probate estate as such and the qualified trusts as such have separate calculations within one tax return. See Treas. Reg. Sec. 1.645-1(e)(2)(iii).

The 645 election is made on IRS form 8855 and must be made no later than the deadline for filing the estate's first federal income tax return, including extensions. IRC Sec. 645(c). Once made, the election is irrevocable. *Id.* and Treas. Reg. Sec. 1.645-1(e)(1).

This area of planning points out differences in taxation between estates and Revocable Living Trusts. The 645 election can suspend those differences and allow estate rules to control for a period of time. Clients need to discuss the 645 election and the decision about a tax year with their accountants, as applicable, not only in terms of taxes but also in terms of what tax year is easiest from a return preparation standpoint and from an administrative standpoint.

Nothing in this article is legal advice, tax advice, or investment 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.

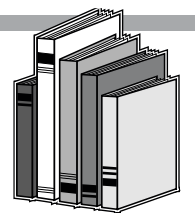
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In private practice in Anchorage, Steven T. O'Hara has written a column for every issue of The Alaska Bar Rag since August 1989.

Law Library

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By Susan Falk



In recent years, the law library has added dozens of American Bar Association titles to our collection. ABA books encompass a wide variety of topics, from family law to business and corporate governance, from intellectual property to torts. We have particularly focused on books that help lawyers practice law, acquiring titles on practice management, professional development, and ethics. These books are mostly located in the Anchorage Law Library, though some of the more prominent titles, like the Model Rules of Professional Conduct, are also available in Fairbanks and Juneau.

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—Susan Falk is the Alaska law librarian.



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We are especially grateful to our 2021-2022 campaign committee: John Bioff, Nicole Borromeo, Chief Justice Walter (Bud) Carpeneti, Charles Cole, J.C. Croft, Andrew Harrington, Carolyn Heyman, Elizabeth LeDuc, and James Torgerson.



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Speaker and panel address Violence Against Women Act

By *Monica Elkinton*

Georgetown Law Professor Victoria Nourse addressed the Alaska Bar Convention Banquet Oct. 27, 2022, and then participated in a panel the following morning on the 2022 Re-Authorization of the Violence Against Women Act (VAWA).

Nourse was a primary drafter of VAWA from 1990-1993 when she worked for the Senate Judiciary Committee and then-Sen. Joe Biden. Nourse has written several books, including “Misreading Law, Misleading Democracy” in 2016 and has been featured in books about the passing of VAWA such as “Equal: Women Reshape American Law.” Her story about the passage of VAWA has also been told in the NPR podcast *Throughline*.

In her address to the convention banquet, Nourse told the story of, in her words, “The Arc of Justice.” She talked about how, in 1990, when her team first started working on VAWA, it was a time in history where the Feminist Revolution had been declared to be over. The movie “Pretty Woman” was in theatres, and Ronald Reagan said he didn’t need to appoint any more women to the Supreme Court since there were enough. According to Nourse, surveys showed only 20% of Americans believed sexual harassment was wrong.

When they started to talk about funding women’s shelters, many Americans believed doing so would contribute to the breakdown of families because wives would abandon



Alaska U.S. Attorney Lane Tucker, Rebecca Patterson, and Alex Cleghorn participate in a panel discussion moderated by Keynote Speaker Professor Victoria Nourse. (Photo by Amy Mackenzie)

their husbands and children.

In June through December 1990, Nourse described how nine different women testified on the Senate floor that that they had been sexually assaulted, raped and beaten, and that those they loved had forced them to flee in terror. They were not believed. Nourse said, “This radically changed me. And it changed a president named Joe Biden. He saw injustice. He heard it.”

“Legal institutions,” said Nourse, “fought against this bill. They helped Americans duck and deny.” She also described how VAWA was opposed by Civil Rights activists, not seeing intersectionality between race and gender discrimination at the time.

VAWA included a civil rights remedy where victims of abuse could sue their abuser in Federal Court. However, Nourse explained

that as soon as the first case of this reached the Supreme Court, the civil remedy was declared unconstitutional in *U.S. v. Morrison*, 529 U.S. 598 (2000).

After hearing about the civil rights remedy being lost to history, the convention attendants heard from Nourse the following morning as part of a panel about re-authorizing VAWA in 2022. On the panel with her were U.S. Attorney Lane Tucker, Alaska Native Justice Center Legal and Policy advisor Alex Cleghorn, and attorney Rebecca Patterson.

In the re-authorization of VAWA, Alaska Native people are now included. “We have a justice crisis. It’s disproportionately borne by Alaska Native women, and it’s disproportionately borne by women living off the road system,” said Cleghorn. Ac-

ording to Patterson, “From 2013 until now, we have not been recognized because we don’t have ‘Indian country’ in the same way as the Lower 48. Now there is a citation to federal law for the inherent authority of tribes in Alaska.”

“This is all part of the evolution of moving toward self-determination,” said Tucker. “Tribes know best what works for them, and how to enforce their laws. There’s a lot of investment by villages, as well as the federal government. I’ve been to about a dozen villages around the state and people are very encouraged. We are working hard to keep up the momentum.” Tucker described a pilot project to be part of tribal law enforcement under VAWA 2022.

Monica Elkinton is a deputy municipal prosecutor for the Municipality of Anchorage. She’s a former co-chair of the Unbundled Services Section and serves on the Alaska Bar CLE Committee.

“Tribes know best what works for them, and how to enforce their laws.”

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Convention attendees listen in on one of the CLE sessions.



Bar President Jessica Graham introduces a convention speaker.

Alaska Bar Association hosts 1st in-person convention since 2019

Continued from page 1

update from the Diversity Commission, and the Bar's Annual meeting.

More importantly for many, the in-person convention marked the first time that legal colleagues from around the state were able to gather and socialize. The welcome reception at the Alaska Native Heritage Center included a performance by the ANHC dancers, and included an unexpected invitation by all participants to join in the dance as well. Each day after the convention

events concluded, hospitality suites were hosted by the Anchorage Bar Association.

In addition to the social and educational events, the convention also marked an opportunity to celebrate fellow attorneys who were presented awards or who had received recognition for their 25, 50 and 60 years of membership in the Bar.

The 2023 convention is scheduled to take place in Fairbanks Sept. 20-22. Mark your calendars.

Danielle Bailey is executive director of the Alaska Bar Association.



Convention favorites Dean Erwin Chemerinsky and Professor Laurie Levenson were back to give updates on the U.S. Supreme Court and Alaska Appellate Law.

Photos by Amy Mackenzie.



The welcome reception hosted at the Alaska Native Heritage Center featured a performance by the Alaska Native Heritage Center Dancers.



Diversity Commission co-chair Renee Wardlaw, Executive Director Danielle Bailey, and co-chair Kendri Cesar give an update on the Diversity Commission during a lunch session.

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ALASKA BAR ASSOCIATION BOARD OF GOVERNOR AWARDS

DISTINGUISHED SERVICE AWARD Matt Claman

The Distinguished Service Award honors an attorney for outstanding service to the membership of the Alaska Bar Association.

Although he originally made his way to Alaska to work as a cook in remote mining camps, the winner of this year's award eventually stumbled on to the practice of law and became a member of the Alaska Bar Association in 1988. After spending some time early in his career working for the Public Defender Agency, he set out and managed his own private practice for over a decade — representing both victims of domestic violence and families in crisis. He has taught classes on law at the University of Alaska Anchorage. And, importantly, he served two terms on the Board of Governors — serving as Bar president in 2007-2008. These days he is best known for his service as an elected public official — first, as a member of the Anchorage Assembly, which also included a stint as acting mayor for the municipality, and, second, as a state legislator representing West Anchorage in the Alaska House of Representatives since 2014.

While some Bar members may forget, the Bar Association is a creature of statute subject to a sunset provision and periodic review by the legislature. The Bar underwent its latest sunset review in 2021, which was sponsored by our award winner in his role as chair of the House Judiciary Committee. He was instrumental in aiding Bar staff in its presentations to the Legislature, shepherding the sunset legislation through committee, and providing testimony before the Senate Judiciary Committee in support of the bill.



Matt Claman

ROBERT K. HICKERSON AWARD Katy Soden

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.

Katy is a senior staff attorney at the Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) where she has worked since moving to Alaska in 2010. And she has a history of working with survivors of domestic violence and sexual assault since 2001. Prior to moving to Alaska, Katy graduated magna cum laude from NYU Law School, clerked for Justice Alex Bryner on the Alaska Supreme Court and for Judge Margaret Morrow in the Central District of California. In 2010 Katy left a high-paying job in California where she was on a partner track so that she could serve the Alaska community.

Clients described Katy's work for them as "fantastic," "amazing," and "life-changing" for their family. For the last several years, she has taken over ANDVSA's volunteer and contract attorney program, recruiting, training and mentoring attorneys to work with survivors. Her perseverance at placing cases and maintaining relationships has truly increased ANDVSA's capacity to serve vulnerable Alaskans. Staff at ANDVSA appreciate Katy's efficiency, compassion, deep sense of justice and equity, and commitment to ensuring that all Alaskans have access to justice. Countless survivors' lives have been improved through Katy's hard work at ANDVSA.

Katy has demonstrated over and over her commitment to public service through not only her work but also volunteer efforts on the pro bono service committee and service on the Board of the Anchorage Association of Women Lawyers.



Katy Soden

PROFESSIONALISM AWARD Don McClintock

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.

After clerking for Justice Warren Matthews of the Alaska Supreme Court and spending a few years working as an Assistant AG, Don McClintock has spent the majority of his career leading Ashburn & Mason's real estate and business practice groups. Don is widely respected for his legal acumen and dedication to developing eminent domain jurisprudence. Since 1983, Don has taken particular care in mentoring and developing dozens of local lawyers. He is a gracious colleague, respected adversary, and someone who cares deeply about Alaska. Don has adventured throughout this state with his wife Joanie and their children, Daniel and Kime. He is a semi-accomplished fisherman and a gifted wine connoisseur. In another life, or maybe when he finally retires, Don could have a long and respected career as a sommelier.

Don has served as a model of professionalism outside of the office. He served on the Alaska Board of Governors from 2008 to 2014, and was its president from 2011 to 2012. Don has served on a number of civic committees over the years, including as a board member of Justice Not Politics Alaska, the Blood Bank of Alaska, and various other family and civic groups. His positive attitude, grace, calm, and keen and thoughtful intelligence make Don a model of professionalism in our legal community.



Don McClintock

LAYPERSON SERVICE AWARD Ingrid Varenbrink

The Layperson Service Award is given to a non-lawyer who has provided outstanding service to the Alaska Bar Association.

Ingrid Varenbrink worked for the Alaska Bar Association for 29 years. For most of that time she served as the fee arbitration and MCLE coordinator. As a result of her position, she was usually the first person to talk to members of the public who had complaints or issues that needed to be resolved for the Bar.

And the Bar is the better for it. Members of the public were often coming to Ingrid when they felt the legal community had not served them. She showed them that the legal community could support them. Her commitment toward making members of the public feel heard along with her multi-lingual abilities ensured that they actually could be heard.

She was in charge of recruiting and maintaining relationships with non-attorneys to make sure the mediation and fee arbitration committees were staffed by volunteer members of the public.



Ingrid Varenbrink

Keith Thomas honored for outstanding public service

Anchorage attorney Keith Thomas was honored for outstanding public service to the Bar with an award given by the Anchorage Bar Association. Anchorage attorney Joseph Levesque presented Thomas with the Benjamin Walters Distinguished Service Award Thursday, Oct. 27, 2022, at the Alaska Bar Convention in Anchorage.

Thomas is assistant public defender with the Alaska Public Defender Agency. He was nominated for the award based upon the action he took at the request of the Anchorage Police Department this past summer.

Police called Thomas about one of his clients who was in a mental health crisis. He was informed his client had a knife and had barricaded himself in his residence. The client refused to talk with any of the police negotiators, insisting that he would only talk to Thomas, who rushed to the scene and successfully talked his client out of the residence and into police custody.

Thomas' quick action helped to diffuse a difficult situation. This is an example of how he is committed to the cause and is willing to go above and beyond what is required.



Keith Thomas



LEGAL VOLUNTEERS HONORED FOR PRO BONO EFFORTS

Each year Alaska’s pro bono service providers select the recipients of the annual Bryan P. Timbers pro bono awards. This year marked the 33rd anniversary of the award and recognition of excellence in our community’s access to justice efforts. This year’s award recipients are Dorne Hawxhurst (private practitioner), Alice Curci (public sector), and Stoel Rives, LLP (firm).

BRYAN P. TIMBERS PRO BONO LAW FIRM AWARD Stoel Rives, LLP

Stoel Rives has been a long-time supporter of Alaska Legal Services Corporation. The attorneys and paralegals have contributed more than 2,000 hours in just the last 10 years. The efforts include a pro bono case full-representation, consulting with ALSC staff attorneys, mentoring other ALSC pro bono attorneys, staffing an advise-only office at Eviction Court, volunteering on ALSC’s Landlord/Tenant Helpline, serving as an ALSC board member, and being on a fundraising event committee. But tonight we recognize the policy-changing work done by Stoel attorneys Jim Torgerson, Kevin Cuddy, Connor Smith, Whitney Brown and paralegal Sarah Dronenburg alongside Jim Davis of the Northern Justice Project and Savannah Fletcher of (formerly with) ALSC.

The lawsuit had two aims: to get justice for a young man who was failed by the Alaska foster care system and second, and just as important, to help bring change to the system itself.

Their client entered the foster care system when he was 13 months old. He was separated from his siblings, subjected to improper psychotropic drug-ging as a toddler, and moved to dozens of different foster homes, facilities and schools. The friendships, stability, security and familial relationships that we take for granted were never an option. The Stoel team alleged that, due to the negligence of DHSS, the client was severely harmed. By the



Stoel Rives From left: Connor Smith, Whitney Brown, Kevin Cuddy, Sarah Dronenburg, and Jim Torgerson

time their client left foster care at 18, he had lost his relationships with his siblings, distrusted authority figures and struggled to connect with others. The foster care system failed him.

After years of hard-fought litigation, including half a dozen dispositive motions, numerous reports from experts in New York, Fairbanks and Seattle, and tens of thousands of pages of documents, we were able to secure a significant, life-changing settlement for their client.

In addition, the team was able to work with DHSS and identify concerns and offer suggestions about how the system could be improved. DHSS agreed to take these into consideration as it sought to help ensure that other foster children wouldn’t have to go through what the group’s client did.

BRYAN P. TIMBERS PRO BONO PRIVATE PRACTITIONER AWARD Dorne Hawxhurst



Dorne Hawxhurst

When Dorne retired from her position as the court forms attorney at the Court System in 2019, she was pretty sure that she would stay retired. About six months later, however, two women separately came to her for assistance in domestic violence cases and she jumped in to help. Both clients were from small towns without a local legal services office.

Early on in her career, Dorne had become acquainted with the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) — her first job in Alaska was working for Alaska Legal Services Cor-

poration under an ANDVSA grant meant to help survivors of domestic violence in rural areas. Dorne also represented three ANDVSA pro bono clients in the early 2000’s. Based on this experience, Dorne knew that she should reach out to ANDVSA about representing these two women as pro bono clients through ANDVSA’s Legal Program. She had some concerns — for one, as a retired attorney she no longer was carrying malpractice insurance, so ANDVSA was able to sponsor that for her.

More than that, the cases were challenging both in terms of the legal problems involved as well as the heinous violence that had been done and Dorne was able to get support from ANDVSA in navigating that.

Using skills from her extensive experience at ALSC, the court system and in private practice, Dorne worked diligently to secure favorable outcomes for her pro bono clients in their cases. She ensured that her clients were heard, safe, and ultimately received justice through the courts.

BRYAN P. TIMBERS PRO BONO PUBLIC SECTOR AWARD Alice Curci



Alice Curci

By day Alice works as a district attorney and in her free time for the past two years has represented a journalist who fled his country after repeated attempts on his life due to his opposition to the government. She spent long hours preparing applications for temporary protected status, work authorization and asylum. She appeared with her client before the asylum office.

Now that her client has been granted political asylum, she is preparing the necessary applications to allow her client’s spouse and children to join him in the United States.

When asked why this type of volunteerism is compelling to her Alice wrote, “What drew me to this type of pro bono work is that I went through the immigration process myself. I moved to the US in 2015, and got to experience firsthand how daunting the immigration process can be, from the information overload to the seemingly endless pile of forms, expensive filing fees, and complete lack of a reliable timeline. Yet, I recognize that my position was one of privilege. I am a military spouse from Western Europe, I am fluent in English and I have an advanced degree. The process was far easier for me to navigate than many. It left me wondering just how taxing it must be for immigrants in less fortunate circumstances. So I thought I could put my law degree to good use!”

ALASKA BAR FOUNDATION JAY RABINOWITZ PUBLIC SERVICE AWARD MAYOR PATRICIA B. BRANSON

The Jay Rabinowitz Public Service Award is given out each year by the Board of Trustees of the Alaska Bar Foundation. The award is given to a well-deserving individual whose life work has demonstrated a commitment to public service in the State of Alaska.

This year’s award is presented to Mayor Patricia B. Branson. Branson has served as the chief executive officer of Senior Citizens of Kodiak, Inc. for 34 years. Her passion to enhance the lives of older adults has extended beyond her job to her service on the State of Alaska Commission on Aging, the National Council on Aging, the Geriatric Exchange and the National Institute of Senior Centers. Additionally, Branson has volunteered on the Boards of the Alaska Municipal League, Providence Alaska Foundation Board, Providence Kodiak Island Medical Center Advisory Board, Providence Alaska regional Board, The Foraker Group Board, and the Kodiak Chamber of Commerce.

Throughout her career, Branson has also served in elected office through the Kodiak Island Borough Assembly, Kodiak City Council, and most recently as the Mayor of Kodiak for the past 11 years. As one nominator commented, “By putting her hand up and then jumping in and focusing on getting the job done, Mayor Branson has made Kodiak and Alaska a better place for all community members to live.”



Kodiak Mayor Patricia B. Branson

Convention speaker advocates larger Supreme Court

By **Monica Elkinton**

After a first in-person CLE since 2019, given by Erwin Chemerinsky and Laurie Levenson, “The Nation” legal correspondent Elie Mystal took the stage at the Alaska Bar Convention. Mystal, a graduate of Harvard Law School and Harvard College, is a former editor at *Above the Law*, and also a frequent commentator on MSNBC, Sirius XM, and other television and radio news outlets. As Mystal himself said from the podium, “You might know me from screaming at Republicans or Merrick Garland on television.”

In his 2022 book, “Allow Me To Retort: A Black Guy’s Guide to the Constitution,” Mystal critiques the U.S. Constitution through a Generation X lens. His comparison of each amendment in the Bill of Rights to Marvel’s Avengers (First Amendment as Captain America, “a mascot, which has also been weaponized”, Second Amendment as Ironman, Fourteenth Amendment as The Hulk, etc.) is as entertaining as it is educational.

Mystal also has a very active and hilarious Twitter and YouTube feed. He is known for videos re-enacting Supreme Court arguments using action figures as puppets with his self-provided silly voices in the roles of each justice — this article will leave to the reader which justice is best represented by Darth Vader, Spider-Man, Barbie, a Teenage Mutant Ninja Turtle, and a small beer keg commandeered from Mystal’s children’s “Barrell o’ Mon-

keys” game.

Aside from online silliness that yields followers, Mystal is known for publicizing what living in the United States as a black man, and as a parent of black sons, means when the Constitution was written by a bunch of slave-owning white men. The chapters of his book have titles like, “Bigotry is Illegal Even if You’ve Been Ordered to by Jesus,” “Why You Can’t Punch a Cop,” and “The Taking of Black Land.”

During the Alaska Bar Convention, typically all the judges in Alaska have their own training conference. But the two overlap for one day — the day of Erwin Chemerinsky, Laurie Levenson, and Elie Mystal. Mystal addressed a mostly white crowd of about 200, including all the judges in Alaska.

After law school, Mystal started his career at Debevoise & Plimpton, a firm where, according to Mystal, “I made a lot of money because I was really good at figuring out who we were going to fire. What a horrible thing to be good at; scapegoating people for money.” He also considered representing actual people, once trying to get a restraining order on behalf of an abuse survivor. But the pressure was too high, “The stomach that it takes to have people’s actual life in your hands, it wasn’t for me.” He said, “I couldn’t defend desperate people or rich people and didn’t want criminals either in or out of jail.”

So instead of representing clients, Mystal told the audience he views his client as “the truth.” He said, “Lawyers should have an intellectual framework that should lead us to apply our training to the truth.”

“Most lawyers know they are not their clients,” said Mystal, “DUI lawyers don’t drive drunk. White collar defense lawyers don’t embezzle. Divorce lawyers don’t, well, sometimes they get divorced. But you shouldn’t lose sight of which side is right — you can advocate for truth, justice and fairness no matter what kind of practice you have.”

He advocated that because lawyers have legal training, we are more able to find the truth. “People trust lawyers to know things. And to think, to do the homework, to give out accurate information. Honor that trust.”

Mystal told the audience, “You can start with your friends, your family, your colleagues. You guys will be invited into rooms where people like me aren’t invited... That is your responsibility of public advocacy. Do what you can to be a beacon of truth.”

He explained how local media, even some that seem outdated like newspapers and radio, can be a tool for advocacy. “This is where working people get a whole lot of their news. People in this country spend their entire day listening to this. They won’t snuggle up with *The Economist* after a long day on the factory floor,” said Mystal.

Mystal had some advice about social media as well. “I don’t want anyone who is not on social media to get on there. There is no deeper hive of scum and villainy than Twitter. But if you’re already on there, worry about your own feed. Worry about being accurate and truthful. Don’t be a reply guy. Just do your own feed. Ted Cruz doesn’t need to know you hate him. He knows.”

“Don’t worry about others,” said Mystal. “Worry that what you are sharing is true and just. When people see you, as an attorney, and you have a reputation for saying accurate truthful things. What you say will matter way more than what anyone else says. They’ll remember that you’re a straight shooter.”

Mystal was asked during the Q&A about removing politics from



Elie Mystal discusses the importance of encouraging attorneys to participate in local media to help educate communities on important legal issues.

the Supreme Court. He advocated court-packing. “I have two arguments,” said Mystal. “One: Revenge. We should do it out of straight spite for Merrick Garland not being on the court. Two: Reform. We should add 20-30 Justices, and reform the heck out of the Supreme Court.” He argued that more justices would mean shorter, more common confirmation hearings, and that more justices would necessarily result in more moderate opinions. “If I have three friends and we are deciding where to eat tonight, we might find somewhere off the beaten path. If I have to go with 30, we are going to Applebee’s. To Olive Garden. I am so for court packing that if you even gave me 10 more Justices on each side, and it still retained its 6-3 conservative bent, we would still get more done.”

He concluded with a more Alaska analogy, “If you need to put a radio collar on the bear, you must tranquilize the bear, then put on the collar. Court expansion is the tranq dart. The Supreme Court has gotten too big for its britches and is too extreme. There are lots of ways to restrain its power. But I can’t get any of that done until we expand the court. I need 30 Justices on there before we reform certain rights and laws. Right now, if I got into court and tell John Roberts his power should be restricted, he’ll eat me!”

Monica Elkinton is a deputy municipal prosecutor for the Municipality of Anchorage. She’s a former co-chair of the Unbundled Services Section and serves on the Alaska Bar CLE Committee.

He explained how local media, even some that seem outdated like newspapers and radio, can be a tool for advocacy.



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Lab coach leads discussions on legal business at Bar convention

By Kyle Harrington

Lawyerist lab coach and CEO Stephanie Everett ventured out of the lower 48 in November and headed to Anchorage. Once here, she presented at the 2022 Alaska Bar Association Annual Convention Oct. 26 -28, 2022, at the Dena'ina Civic and Convention Center. Stephanie facilitated two interactive sessions during the event.

Building a healthy practice

First, Everett led a discussion on Building a health practice: considerations and tools lawyers need to build a client-centered, future-focused firm. In this session, she explored how lawyers can compete in today's market.

Clients expect a frictionless experience. And yet, the way most law firms have operated in recent memory didn't prioritize their client's needs. Everett asked the audience to recall times when they received excellent service. They then discussed how lawyers could borrow from those experiences to create memorable moments for their clients.

For example, one of Everett's clients decorated their family law firm lobby to look, feel and smell like a spa. This lawyer wanted to ease the burden her clients felt going through a divorce by offering her law office as a place of refuge and relaxation. This was one of many specific examples Everett shared about how lawyers are changing the way they approach their business to build a future-focused firm.

Defining vision, values, and your next priorities to ensure success

Next, Everett facilitated a strategic planning workshop: Defining vision, values, and next priorities as the foundation for success. In this session, Everett walked participants through a shortened strategic planning process. A solid law firm strategy should be the driver of many of the smaller decisions firm leaders make.

In this interactive workshop, participants completed a vision exercise where they answered a series of questions to better define the business they are building. One participant shared how excited he was thinking of the ways he could improve his business. Another participant was excited to realize that her firm could "grow" in other ways besides adding people to the payroll.

Next, Everett explained the importance of core values and how to use them in everyday firm life. With that backdrop, the group worked through an exercise to help them discover their firm's core values. Stephanie took a few participants through shortened coaching ses-



Stephanie Everett

sions on narrowing and defining their values in front of the group. This allowed everyone to see how they started with one idea but eventually ended up with a more nu-

anced and compatible word that captured the spirit of their culture.

Finally, the group ended by focusing on strategic priorities to make their firm a reality. Stephanie gave the group time to process and prioritize the ideas they learned throughout the conference. In the end, the participants left with more than just ideas — they had started the first three essential steps needed for their firm's strategic plan.

Everett shared, "One of my favorite parts of the job is seeing people's eyes light up when they make the connections about the ideas I'm sharing and how it works in everyday firm life. I had a line of people connecting with me during and after the workshops excited to see the possibilities and know what they wanted to do next. These are wins in my book!"

Bonus: moose sightings!

Everett always loves connecting with new lawyers, but this trip for

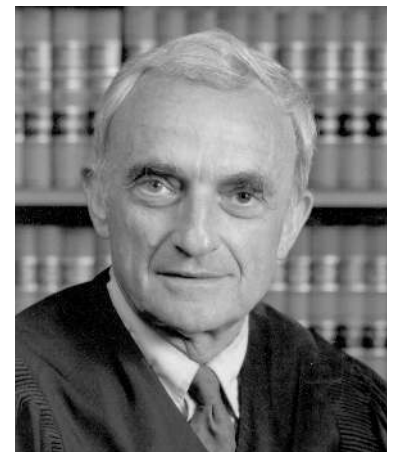
the Alaska Bar Association came with a bonus—Alaska. Stephanie brought her 11-year-old daughter along for the trip. Abigail attended the conference as Stephanie's official photographer and got to see her mom in action. After the conference, they enjoyed a little mother-daughter time exploring some of the amazing sights the area offers. Stephanie's daughter was delighted to see fresh snow (she is from Georgia, after all), a moose and the northern lights.

Kyle Harrington is the content manager at Lawyerist. She writes for Lawyerist.com, creates content across our platforms, stays on top of industry engagement, and creates graphics.

Lawyerist is a team of lawyers, legal tech aficionados, business coaches, subject matter experts, champions for access to justice, and stewards changing the legal industry by guiding healthier businesses. <https://lawyerist.com/about/>

Call for nominations for the 2023 Jay Rabinowitz Public Service Award

The Board of Trustees of the Alaska Bar Foundation is accepting nominations for the 2023 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, 2023. The award will be presented at the 2023 Annual Convention of the Alaska Bar Association.

 MAYOR PATRICIA B. BRANSON 2022 Recipient	 MAGISTRATE JUDGE KIMBERLEY SWEET 2021 Recipient	 CHRISTINE PATE 2020 Recipient	 SENIOR JUSTICE DANA FABRE 2019 Recipient	 VICTOR FISCHER 2018 Recipient	 SENIOR JUDGE ELAINE ANDREWS 2017 Recipient	
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Lawyer joke ...

A man walked into a bar with his alligator and asked the bartender, "Do you serve lawyers here?" "Sure do," replied the bartender. "Good," said the man. "Give me a beer, and I'll have a lawyer for my gator."

Law clerks recall their time with retiring Judge John Sedwick

By his former law clerks

After 30 years serving as a U.S. District Court Judge, Judge John W. Sedwick is retiring from the Bench. A handful of his former law clerks available in Anchorage held a dinner for the Judge and Debby Sedwick Oct. 1, 2022, to commemorate his service. Judge Sedwick received his commission in October 1992. He took senior status in 2011. At that time the *Alaska Bar Rag* published an article by Ashley McDow addressing the judge's life and career (*Alaska Bar Rag*, Vol. 35, No. 1, Jan-March 2011). McDow's article could not be improved upon. A copy will be posted on the Alaska Bar Rag's online website (<https://issuu.com/alaskabarrag>). In that same issue, a few of the judge's former law clerks also shared their personal memories and how their respective clerkships shaped their personal lives and professional careers. What follows here is an updated and revised version of that collection of personal memories. It's admittedly a small and insufficient way to commemorate the judge on his formal retirement.

John Bernitz (retired, State of Alaska, assistant public defender)

"Do Something" I had the opportunity to be Judge Sedwick's first law clerk. I remember that he was invited to speak at a presentation for new attorneys. I think he attended this presentation even before he had a judicial case load. I went to learn more about my new boss. He told these young, eager attorneys that he had just started as a federal judge so he did not yet have "the wisdom that comes with experience from the bench." He did have lots of years working on complex civil cases. He mentioned the feeling of being overwhelmed and scared when a lawyer is handed a complex assignment. His answer was to just start to work. As he put it "do something." I remembered that concept for the remainder of my career.

"Appellation Pettifogger" A couple months into my clerkship there was an attorney who was filing below standard motions. These motions are difficult to oppose, or decide, because one first has to make sense out of the poorly reasoned argument and then oppose, or

decide, the issue. Opposing counsel and law clerks end up doing the work for the moving party, which annoys everyone. This particular lawyer would routinely file such motions. Normally, we would analyze the motions and then give the judge a proposed order or memorandum. In this particular case, the judge handed me an order he had drafted and asked that I review it. I do not remember the specific topic of the motion that prompted the judge's order, but the motion presented a trivial, stupid argument. The last line of the order was something like: "motions of this kind bring to mind the appellation pettifogger." Sadly, or innocently, I did not

I did not know the word "pettifogger" at the time. I do now.

know the word "pettifogger" at the time. I do now. After receiving this order the attorney changed his practice and withdrew several pending motions. I try to make sure that, no matter what else is said about my work, no judge will use the appellation "pettifogger."

The Honorable Gary Spraker (chief judge U.S. Bankruptcy Court, District of Alaska)

I considered it a tremendous honor, and rare opportunity, to clerk for a federal district court judge at the start of his tenure. I was not disappointed. Throughout the two years of my clerkship, I was continuously struck not only by the respect Judge Sedwick showed to all, but by the collegial atmosphere he quickly created within his office among clerks, his secretary and case management clerks. In fact, my fondest memory came not at work, but at one of the get togethers he and his wife would host for the office where Debby taught my infant daughter to crawl. From the beginning, it was clear that Judge Sedwick had a distinct writing style that was direct, decisive, and often contained a memorable line. Within his first year, he tasked my co-clerk with the unusual task of obtaining permission to quote a line from a country song that was popular at the time by Lorrie Morgan. In his order, he enquired of counsel "what part of 'no' don't you understand?"

Pamela Weiss (assistant municipal attorney, Civil Division, Municipality of Anchorage)

I am so very thankful to Judge Sedwick because I can genuinely



Former law clerks join Judge John Sedwick at his retirement dinner Oct. 1, 2022.

say my clerkship with him changed my life. His conduct each day — his commitment to public service, his outstanding intellect and legal reasoning skills, his attention to detail, and his absolute professional demeanor— inform my professional life. I strive in my work each day to emulate these important qualities. But I am also filled with immense gratitude for the opportunity the clerkship with Judge Sedwick gave me to start and build a career and family in Alaska.

Irene Tresser (part-time stay-at-home mom, part-time contract attorney, part-time legal advisor for Anchorage Youth Court, and adjunct instructor for Charter College paralegal program)

Judge Sedwick taught me the importance of professional integrity. He gave every decision the time, attention and thought that it deserved, recognizing that people's lives were greatly affected by his decisions. Watching and listening to Judge Sedwick, I gained a better understanding of the law and the role of the judiciary. Also, he was a kind and patient mentor who treated his law clerks like family. I thoroughly enjoyed the early Tuesday morning meetings, getting out of the building for lunch, and talks about politics, law and Alaska. I feel so lucky to have had the opportunity to work for such a person.

Daniel Cheyette (VP Lands and Resources, Bristol Bay Native Corporation)

To the extent I have an attorney role model, it is Judge Sedwick. By example he taught me how to be a professional. Reserved, studied and efficient, Judge Sedwick was always prepared on his cases, treated everyone fairly and commanded the respect of all who appeared in his court. He is one of the best-regarded judges in the state; he certainly has my admiration. It was a pleasure and an honor to work as his law clerk. I reflect on that experience regularly.

Edward Attala (Attala Law, APC)

Judge Sedwick allowed me to

work as a summer intern in his chamber before offering the opportunity to be his law clerk. Because of the interest he took in my development as a lawyer, I learned more that summer about researching, legal analysis and writing than I ever could have imagined. As his law clerk, the opportunity to discuss with the judge not only the law, but the performance and persuasiveness of attorneys shaped my career. I have always admired and tried to emulate the respect and professional courtesy the judge shows to everyone. Outside of chambers, I have been lucky enough to have the judge and Debby know my family. It is an absolute honor and a blessing to have my legal career associated with Judge Sedwick and a pleasure to have my entire family consider the judge and Debby as friends.

Amy Shimek (senior VP legal affairs and general counsel Alutiq Business Services LLC)

When I mentioned to my father that Judge Sedwick was taking senior status in 2011, he reminded me that when I started my clerkship in 1997 I emphatically told him: "I think this is the best job I will ever have!" Clearly, I absolutely loved clerking for Judge Sedwick. (And I was right.) I learned a lot about the practice of law from him, especially legal writing and analytical thinking, but the most important lesson I took from my clerkship was from watching him treat everyone—from filing clerks, law clerks, attorneys, fellow judges, criminal defendants, members of the Ninth Circuit, and more — with equal respect. I am beyond grateful to have worked for and learned from him. Thank you Judge Sedwick for making an important and positive difference in my life and my legal career.

Dawn MacKinnon (retired, formerly partner, Bryan Cave Leighton Paisner LLP)

It was a joyous day when Judge Sedwick offered me a position as

Continued on page 17

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Law clerks recall their time with retiring Judge John Sedwick

Continued from page 16

his law clerk in 2001; not only was I going back to my beloved Alaska, but, according to several law professors, I was to embark on a remarkable professional experience. And, remarkable it was. Judge Sedwick guided my professional development with a kind hand and exemplified the highest standards of integrity, thoughtfulness and intelligence. He gave me the confidence to trust my instincts — a very valuable gift indeed. Thank you, Judge Sedwick, for treating me as a colleague and shaping my legal career in such a positive way.

Gregory Fisher (shareholder, Littler Mendelson)

Clerkship ethics prohibit discussing anything in Chambers but based on public records the Michael Hester case is the one I most remember. The Judge took many cases from the District of Arizona when that court was shorthanded and needed help. Hester was sentenced to 99 years in prison under an Arizona “three strikes” law. The felonies were nonviolent drug crimes. The Arizona Board of Executive Clemency (yes, think “Raising Arizona”) recommended his release. However, Governor Symington (who himself was later convicted of fraud

then pardoned by President Clinton after the Ninth Circuit reversed his conviction but before he could be retried by the feds) exercised a pocket veto by not approving the Board’s recommendation. There was no evidence that the governor reviewed the Board’s recommendation, and his decision was never filed with the Secretary of State. At face value, Hester’s case looked like any other habeas case — DOA. However, Judge Sedwick had a unique gift for not confusing law with justice, and not letting public sentiment affect his judgment. In a decision filed in August 2000, the judge granted relief concluding the failure to file the

decision meant it never became official, leaving the Board’s clemency recommendation in place. Hester was released.

I never saw the Judge lose his temper even when we gave him every reason to do so. When I am at my professional best-and that may not be often enough — it is because of what I learned clerking for Judge Sedwick. He taught by example, and he taught us respect for the profession and the courts. The Judge valued integrity, sound intellectual reasoning, meticulous research, and the important role that the court plays in our society to safeguard the rule of law.

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New Superior Court judge grew up in Utqiagvik

Judge David Roghair was installed as a Superior Court Judge Oct. 7, 2022, at Barrow High School in Utqiagvik. The program opened with a performance from the Kenwood Academy Concert Choir in Chicago, specially recorded for the event. Michael Jeffery Retired Judge, Utqiagvik Superior Court, administered the oath of office.

Remarks were given by Justice Susan Carney, Alaska Supreme Court; Michael Jeffery, retired judge, Utqiagvik Superior Court; Colleen Baxter, magistrate judge Utqiagvik; Robert Campbell with the Utqiagvik Bar Association; and Chris McLain, former magistrate judge, Galena. A highlight of the installation was a dance performance by the Barrow dancers.

Roghair was appointed to the court in Utqiagvik Dec. 23, 2021, after serving as a magistrate judge in Tok and Utqiagvik for nearly 12 years. Before taking the bench, he spent three and a half years in private practice serving clients in rural Alaska.

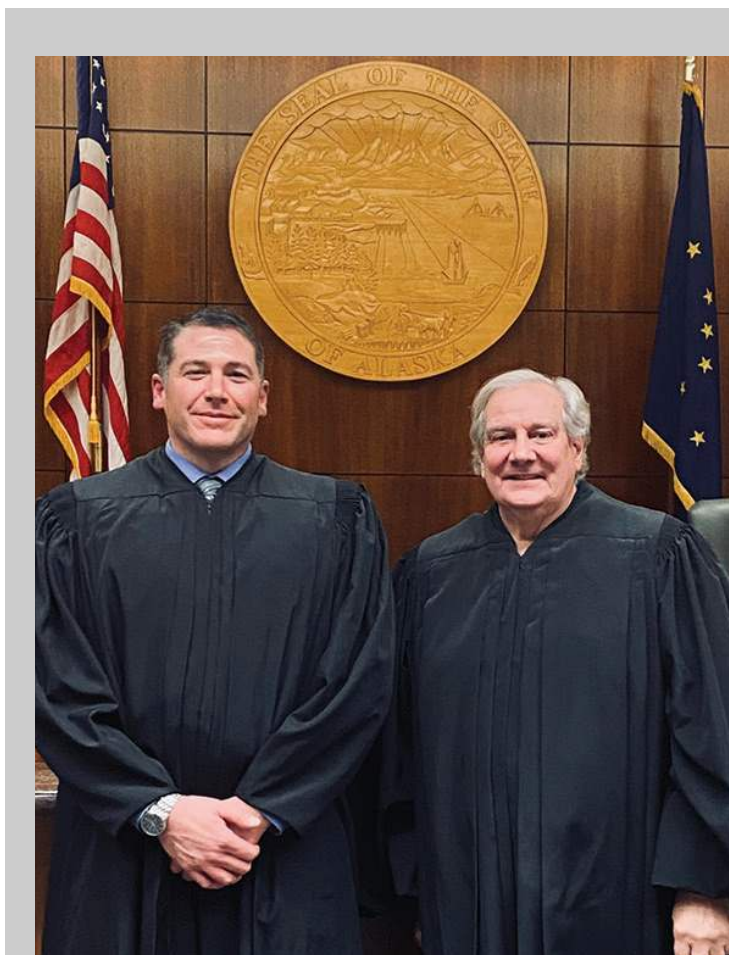
He grew up in Utqiagvik with his parents Rev. James and the late Rev. Willa, and his brother Nicholas, a family that gave him a sense of responsibility and service to the community. He is a member and past president of the Rotary Club of Barrow Nuvuk, and a long-time volunteer judge and coach for the Philip C. Jessup International Law Moot Court at the regional, national and international levels. He is an avid and deliberate distance runner, and has completed 18 marathon-length (or longer) races.

A Barrow High School graduate, Roghair holds a Bachelor of Arts in Psychology and Slavic Languages from Stanford University, a Master of Arts in Russian and East European Studies from the University of Kansas,



Attending the ceremony are from left: Justice Susan M. Carney, Alaska Supreme Court; Judge David Roghair, Utqiagvik Superior Court; Magistrate Judge Colleen Baxter, Utqiagvik Court; and retired Judge Michael I. Jeffery, Utqiagvik Superior Court, who administered the oath.

and a Juris Doctor from Lewis & Clark Law School, and a Master of Laws with distinction from Georgetown University Law Center. He lives in Utqiagvik with his wife Adrienne.



Judge Kirk Schwalm, Fairbanks Superior Court (left) and Chief Justice Daniel E. Winfree, Alaska Supreme Court after the ceremony.

Judge Schwalm takes oath for Superior Court in Fairbanks

Judge Kirk Schwalm was sworn in as a judge with the Superior Court Oct. 14, 2022, at the Rabinowitz Courthouse in Fairbanks.

Schwalm was born in Fairbanks and has been an Alaska resident for 46 years. He graduated in 2010 from Lewis and Clark Law School in Portland, OR. He has practiced law for more than 11 years. Schwalm was most recently in private practice as a partner at the law firm of Downes, Tallerico and Schwalm.



Attending from left are: Judge Paul R. Lyle, Fairbanks Superior Court; Judge Matthew Christian, Fairbanks District Court; Judge Bethany S. Harbison, Alaska Court of Appeals; Judge Kirk Schwalm, Fairbanks Superior Court; and Chief Justice Daniel E. Winfree, Alaska Supreme Court.

New judge installed in Ketchikan Superior Court

Judge Daniel Doty was installed to the Superior Court Sept. 1, 2022, at the Ketchikan Courthouse. Chief Justice Daniel Winfree swore him in and his wife and daughters robed him.

Doty was appointed to the Ketchikan Superior Court by Gov. Mike Dunleavy March 9, 2022. Family members, friends, co-workers, and members of the Ketchikan Bar Association and community attended the event. First Judicial District Presiding Judge Amy Mead delivered remarks along with Chief Justice Winfree, District Court Judge Kevin Miller, and members of the Ketchikan Bar Association.

Judge Doty was born in Belgium to Daniel and Elizabeth Doty. His father's career in the Air Force took the family all across the western United States. Of all the places they lived they spent the most time in Alaska, first in Fairbanks and later in Eagle River. He attended George Washington University, graduating in 2009 with a B.A. in International Affairs. He fell in love with the law after an internship at the U.S. Supreme Court, and earned his J.D. at William & Mary Law School in 2013.

Judge Doty's career began almost immediately after graduating when he moved to Bethel to take a job as an assistant district attorney. This was the first step of a prosecuting career that took him through every level of government and through communities around the state, including Bethel, Dillingham, Anchorage and Fairbanks. At the time of his appointment, Doty was the deputy chief of the Criminal Division at the United States Attorney's Office, supervising rural prosecutions around the state and branch offices in Fairbanks and Juneau.

Doty met his wife, Jessica, in Bethel, and they now live in Ketchikan with their daughters, Lily and Lucy.



Attending were, from left: Magistrate Judge Amanda Schulz, Senior Judge Trevor Stephens (Ret.), Presiding Judge Amy Mead, Chief Justice Daniel E. Winfree, Judge Daniel Doty, Judge Kevin Miller, and Judge Katherine H. Lybrand.

Judge McKenna joins Superior Court in Anchorage

Superior Court Judge Jack R. McKenna was installed in a ceremony Sept. 30, 2022, in the Supreme Court Courtroom at the Boney Courthouse in Anchorage. He was sworn into the Anchorage Superior Court by Justice Dario Borghesan. Addresses and remarks were given by Justice Dario Borghesan, Judge Timothy W. Terrell, Judge Michael R. Spaan (Ret.), Judge J. Patrick Hanley, as well as the Alaska and Anchorage Bar Associations.

McKenna was appointed to the Superior Court Dec. 23, 2021, by Gov. Mike Dunleavy to fill the seat of Judge Jennifer Henderson who was appointed to the Alaska Supreme Court.

Jack first came to Alaska to clerk for Superior Court Judge Michael R. Spaan. He returned to California to work at a law firm for a time, then moved back to Alaska. He worked at the Anchorage DA's Office for seven years and then at Birch Horton Bittner and Cherot for three years. In 2019, Jack returned

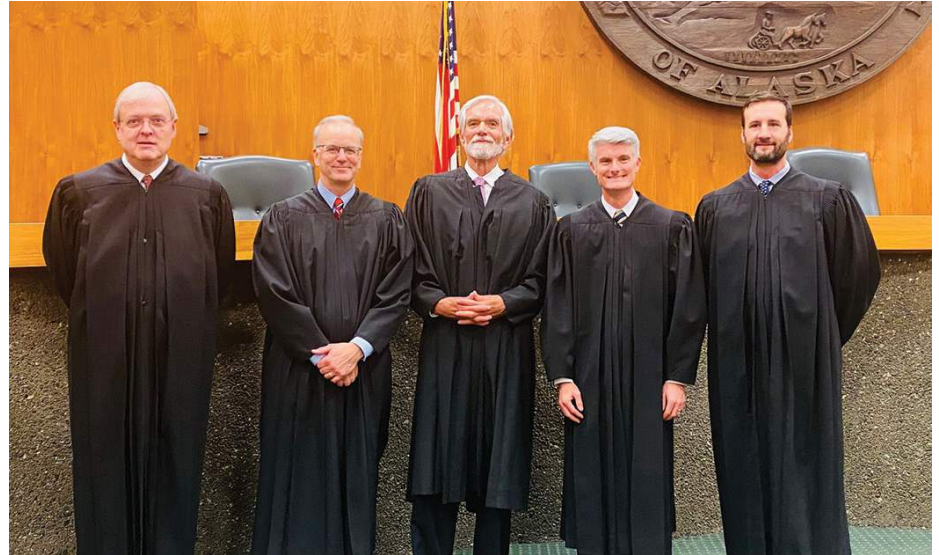
to the Department of Law to be the chief of the Office of Special Prosecutions. Prior to being appointed, Jack served as the director of Criminal Division at DOL.

Jack grew up in San Jose, CA. He attended Bellarmine College Prep and UC Berkeley, where he studied paleontology — a major in which took him on lots of field trips and to spend summers on digs in eastern Montana. He went to law school at UC Davis.

Jack lives in Anchorage with his wife, Lea McKenna. Lea works at Durrell Law Group. Jack and Lea have two children.



Judge McKenna's wife, Lea, and their two children perform the robing ceremony.



Attending the ceremony from left are: Judge Timothy W. Terrell, Judge J. Patrick Hanley, Judge Michael R. Spaan (Ret.), Judge Jack R. McKenna, and Justice Dario Borghesan.

First Youth Court student judge now on Superior Court



Judge Wheelles' family assists during the robing ceremony as Judge Tracey Wollenberg, Justice Jennifer Henderson and Judge Eric Aarseth observe from the bench.

Judge Ian Wheelles was sworn into the Anchorage Superior Court in a ceremony Oct. 21, 2022, at the Boney Courthouse in Anchorage. He was appointed to the court June 16, 2022, by Gov. Mike Dunleavy. Justice Jennifer Henderson administered the oath of office and provided welcoming and closing remarks.

Addresses were also given by Judge Tracey Wollenberg, Alaska Court of Appeals; Judge Eric A. Aarseth, Anchorage Superior Court; Judge Patrick Hanley, Anchorage District Court; friends Adam Diaz and Dan Olsen; Jeffrey W. Robinson, vice president of the Alaska Bar Association; and Cheryl McKay, president of the Anchorage Bar Association.

Wheelles was born and raised in Anchorage by his parents, Rod and Bonnie Wheelles, along with his older sister, Eris, and brother, Lem. All five family members graduated from Dimond High School. Ian was a tireless baseball player growing up, and studied architectural engineering his freshman year of college at Illinois Tech, on a baseball scholarship. He completed his undergraduate degree back home at UAA, and earned his J.D. at the University of Idaho, College of Law in 2007.

He spent his second summer of law school as an intern with the Anchorage Prosecutor's Office, winning his first jury trial. During his final spring break of law school, Ian led a team of Idaho students to rural Alaska villages preparing tax returns. Ian's career began as an associate at the law office of Dan Allan, where he practiced criminal defense and started to focus on family law. In 2009, he established his own firm, where he managed five associates over 13 years until his appointment to the bench. While he primarily practiced all areas of family law, Ian also handled cases in personal injury, estate planning and probate, business formation, employment law, administrative law, criminal defense, and other civil litigation. In 2015, late Chief Justice Craig Stowers appointed Ian to the Child Support Review Committee, where he continues to serve today.

Judge Wheelles has previously served on the board of the Anchorage Library Foundation, the Anchorage Adult Baseball League, and for the past five years at his church. He is an alumnus of the Anchorage Youth Court, has served as an instructor, and is the first AYC student judge to serve as a state court judge. Among other family and friends at the installation, were his 94-year-old grandmother, his wife, Kathryn, and four children, Ruby, Pepper, Saylor and Riker.



Attending from left are: Judge Tracey Wollenberg, Alaska Court of Appeals; Justice Jennifer S. Henderson, Alaska Supreme Court; Judge Ian Wheelles, Anchorage Superior Court; Judge Eric A. Aarseth, Anchorage Superior Court; and Judge J. Patrick Hanley, Anchorage District Court.



Judge Wheelles and wife Kathryn Wheelles, and four children Ruby, Pepper, Saylor, and Riker stand for a family portrait.

In Memoriam

Former Supreme Court justice dies in Oregon

Retired State of Alaska Supreme Court Justice Daniel Alton Moore Jr., 88, died at Legacy Meridian Park Center near his home in Wilsonville, Ore., after complications from COVID-19.

Dan was born in 1933, the second of nine children to Daniel Sr. and Irma Moore in Oak Park, Ill. His childhood was full of family gatherings and competitive. A star debater, Dan graduated from Cathedral High School in Duluth, Minn., in 1951. He then graduated in 1955 from the University of Notre Dame with a bachelor's degree in business administration.

Dan spent two years in the United States Marines while simultaneously attending night law school. He received his law degree from the University of Denver. After working a couple of summer jobs in remote parts of Alaska with Western Electric, he began his long and distinguished legal career in Alaska.

Dan's career included serving two years as a District Court Magistrate judge; 20 years as a prominent defense attorney at Delaney Wiles, in which he served for many years as managing partner; two years as a Superior Court trial judge; and 12 years serving on the State of Alaska's highest court, the State Supreme Court, from 1983-1995, during which time he authored several hundred court opinions.

After retiring from the Alaska Supreme Court as Chief Justice in 1995, Dan worked as a contracted mediator/arbitrator for 10 years, successfully ending with a 95 percent settlement rate. But above all, Dan was most proud of all the law clerks he helped to mentor and launch their law careers.

In addition to his legal career, Dan became a Silver Life Master in contract bridge in his 30s and continued as a skilled and passionate player until a month before his passing. He served on various public and private boards, often as a chair.

Dan is survived by his wife of 58 years, Patricia; son, Daniel (Stephanie) of Anchorage, Alaska; granddaughters, Maddy, 27, and Elise, 25) and remaining siblings, Kay (Chuck) of Illinois, Mary Helen of Minnesota, and Michael of Minnesota. Dan is preceded in death by his eldest child, Briden, who died of cancer at age 25; and by five of his eight siblings, George, Pat, Nancy, Tim and Jim.

A Catholic Mass was planned for Oct. 8, 2022, in Wilsonville.



Daniel Alton Moore Jr

Cancer takes Anchorage attorney

Alaska lawyer Harold Wilfred Green Jr., 70, died Aug. 21, 2022, after a bout with pancreatic cancer.

Born to Harold Green Sr. and Margaret Green in New York, NY, he came to Alaska just six weeks after his birth. He attended Clark Middle School and was one of the first to graduate from East High School.

After graduation, he attended two years of undergraduate studies at the University of Alaska Anchorage. He then moved to Chicago where he received his bachelor's degree in economics from the University of Chicago. He graduated with honors, Phi Beta Kappa, and was offered a scholarship to continue graduate studies in economics, but his mother convinced him to attend law school instead. He then pursued his Juris Doctor from John Marshall Law School in Chicago, where he graduated among the top of his class. At graduation he received the Corpus Juris Secundum Award for significant legal scholarship, and the Hornbook Award for outstanding scholastic achievement.

He started his career trading futures, selling real estate, learning how to become a great negotiator, and making lifelong friends along the way. He moved back to Alaska, where he started Alaska Green Law Offices specializing in criminal and family law, married and had three children.

He was an active member in the community: a donor to local softball and baseball clubs, a member and regular participant in the Minneapolis Grain Exchange and a continuous member and former president of the Alaska Farmers Union. He enjoyed golf, investing and traveling the world. He was an avid stamp and coin collector, and loved growing peonies.

His parents and younger sister preceded him in death. He is survived by his sons, Justin and Aaron; daughter, Jennifer; sister, Katherine; brother, Craig; four grandchildren; two stepchildren; four step-grandchildren; and loving girlfriend.

A public viewing was held Sept. 6, 2022, at Evergreen Memorial Chapel in Anchorage, followed by a burial at Angeles Memorial Park. The family suggests contributions to the Lustgarten Foundation for Pancreatic Cancer Research in honor of Harold would be appreciated.



Harold Green

Fairbanks attorney dies at his remote cabin

Fairbanks attorney Chris Zimmerman died Sept. 24, 2022, at his cabin on the Richardson Clearwater River near Delta.

Chris was born in Johnstown, PA, in 1949 to Elaine and John Zimmerman and grew up near Stoystown, PA. He graduated from Forbes High in 1967 before attending Temple University and graduating from Dickinson College with a B.A. in political science in 1971. While attending Dickinson, Chris met Deborah Jane Hamby, and the two married May 16, 1971. Chris received his Juris Doctorate from Dickinson School of Law in 1974 before entering the US Army JAG Corps. He and Jane came to Fort Wainwright with the Army in 1975.

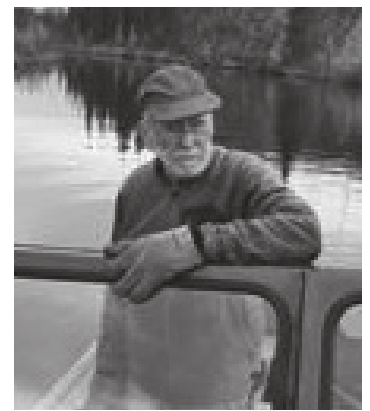
Once living in Fairbanks, Chris quickly decided he had found his permanent home. In 1978, Chris left the military and entered into private legal practice until 1985 when he was appointed District Court judge in Fairbanks. In 1984, Jane and Chris welcomed their only child, Ruth, into their family.

When Ruth was young, Chris enjoyed riding bikes and fishing in the summer and cross country skiing in the winter as well as spending time as a family at their cabin at Harding Lake. Chris returned to private practice in 1990 and continued working as a lawyer at his firm, Zimmerman and Wallace, until his death.

During his 47 years in Fairbanks, Chris was closely involved with the Alaska State Bar Association, the Fairbanks Concert Association, Fairbanks Lutheran and Christ Lutheran Churches. He loved music, art, and enjoyed musical theater, opera, and supported many local arts organizations, including FDA, FLOT and the Fairbanks Symphony.

Once he acquired his cabin on the Richardson Clearwater, he spent most of his summers there and a month every moose season. He enjoyed being outdoors hunting, fishing and birdwatching. Chris is survived by his wife of 51 years, Jane; his daughter, Ruth, and son-in-law, Daniel Boaz; and his dog Gunther. He was preceded in death by his parents and his brother, Jerry Zimmerman.

A memorial service was planned for Oct. 6 at Christ Lutheran Church in Fairbanks. Memorial Donations may be made to the Fairbanks Community Food Bank, 725 26th Ave., Fairbanks, 99701-2377.



Chris Zimmerman

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Alaska Law Review staff meets with legal community in Anchorage

By *Sasha Kahn*

Over their fall break, six 3L members of the *Alaska Law Review*, including all four Executive Committee members, came to Anchorage. Sasha Kahn, editor in chief; Mary Beth Barksdale, managing editor; Margot Graham, executive articles editor; Megan Mason Dister, special projects editor; Emma Giusto, online editor; and Hannah Rogers, lead editor; had the opportunity to meet with some of the attorneys in Anchorage dealing with the many legal issues arising in Alaska.

The group met with Alaska Supreme Court Justice Jennifer Henderson, the ACLU, the Anchorage Public Defender, the Federal Public Defender's office, an assistant attorney general, the District Attorney's office, several Supreme Court clerks, and multiple firm attorneys. They also saw oral arguments for two cases before the Supreme Court and attended an event hosted by Dorsey & Whitney's Anchorage office, where they spoke with former Alaska Bar Association President Jessica Graham. At the end of the week, the group hosted the fifth *Alaska Law Review* Symposium at the University of Alaska Anchorage, discussing "Alaska and the Environment." Information about the keynote and closing speakers and all of the panelists can be found here: <https://alr.law.duke.edu/symposium/2022-symposium/>.

The *Alaska Law Review* would like to thank the Alaska Bar Association, Duke Law School, *Alas-*



Sarah Matsumoto speaks at the fifth Alaska Law Review symposium at the University of Alaska, Anchorage. (Photo by Sasha Kahn)

ka Law Review faculty advisor Professor Tom Metzloff, the University of Alaska, Anchorage and Professor Ryan Fortson, their host families, the many amazing people who spoke at the symposium, and those attorneys who took the time to meet with them throughout the week. It was truly an unforgettable experience."

The *Alaska Law Review* is a scholarly publication that examines legal issues affecting the state of Alaska. It is published by students at Duke Law School every June and December. The Alaska Bar Association recognizes a need for such a publication devoted specifically to issues affecting Alaska. Alaska does not, however, have a state law school so the Alaska Bar selected Duke University School of Law to publish the *Alaska Law Review*. It is composed of second- and third-year law students from Duke University School of Law, and governed by a faculty advisory committee. These visits to Alaska are a great opportunity for the law students to meet Alaska attorneys and discuss legal issues affecting Alaska.



From the left, Megan Mason Dister, Emma Giusto, Margot Graham, Sasha Kahn, Hannah Rogers, and Mary Beth Barksdale from the Alaska Law Review visiting the Alaska Supreme Court building in Anchorage. (Photo by Sasha Kahn)

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Alaska State Court Digital Library Training

About the Training

This training will provide an in-depth look on the features and functionality of your LexisNexis Digital Library. The Alaska State Court Digital Law Library contains ebooks from LexisNexis, Matthew Bender, ABA and other publishers. The session will help familiarize you with the collection and how to use it, along with answering your questions.

Here are a few of the titles in this eBook collection, which includes some of the most popular titles from our print collection:

- [Cohen's Handbook of Federal Indian Law](#)
- [Alaska Criminal Laws and Rules Annotated](#)
- [Warren's Forms of Agreements](#)
- [Corbin on Contracts](#)
- [Moore's Federal Practice](#)
- [Family Law and Practice](#)

DATE & TIME

Wednesday, January 18, 2023

12pm to 12:30 PM

LOCATION


This session will take place online via Zoom. Click the below link to register and join the session.

https://lexisnexis.zoom.us/webinar/register/WN_s0_a2svETXaOcskNbspTGg

For more information, please contact Kara Bridge at bridge@alaskabar.org


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About the Presenter

This program will be presented by **Andrea Roberts**, Digital Media Consultant for LexisNexis. Andrea Roberts works with law schools, law firms, courts, governmental agencies, and corporations across the U.S. to assist customers with access to their LexisNexis Digital Library eBook collection. Prior to joining LexisNexis in 2011, Andrea worked at the United States Merchant Marine Academy in Kings Point, NY and the Screen Actors Guild in Los Angeles, CA. She holds a JD from Western State College of Law and a BA in History from California State University, Long Beach.

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2023 Alaska Bar Association Budget

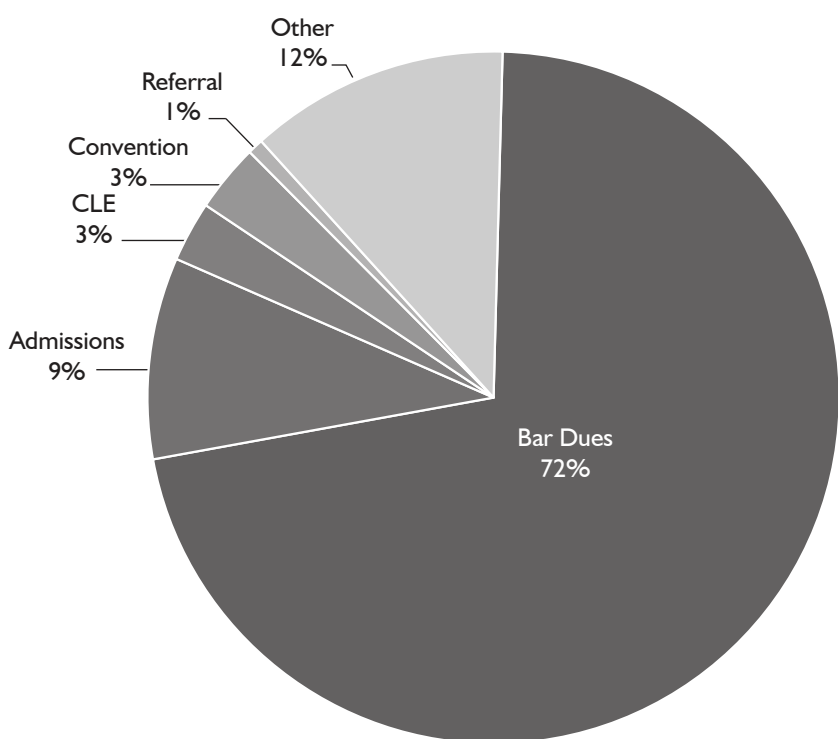
REVENUE

AdmissionFees-Bar Exams	69,080
AdmissionFees-MotionAdmit	57,000
AdmissionFees-Exam Soft	9,000
AdmissionFees-UBE	36,800
AdmissionFees-Rule 81s	110,500
CLE Seminars	84,575
Accreditation Fees.....	2,500
Lawyer Referral Fees.....	21,860
Alaska Bar Rag - Ads,Subs	18,000
Annual Convention.....	95,257
Substantive Law Sections	25,830
AccountingSvc Foundation	11,036
Membership Dues	2,135,236
Dues Installment Fees	4,825
Penalties on Late Dues	11,020
840 K Street Rental Income.....	249,866
Disc Fee & Cost Awards	0
Labels & Copying.....	733
Investment Interest	53,093
Miscellaneous Income	2,826
SUBTOTAL REVENUE.....	2,999,037

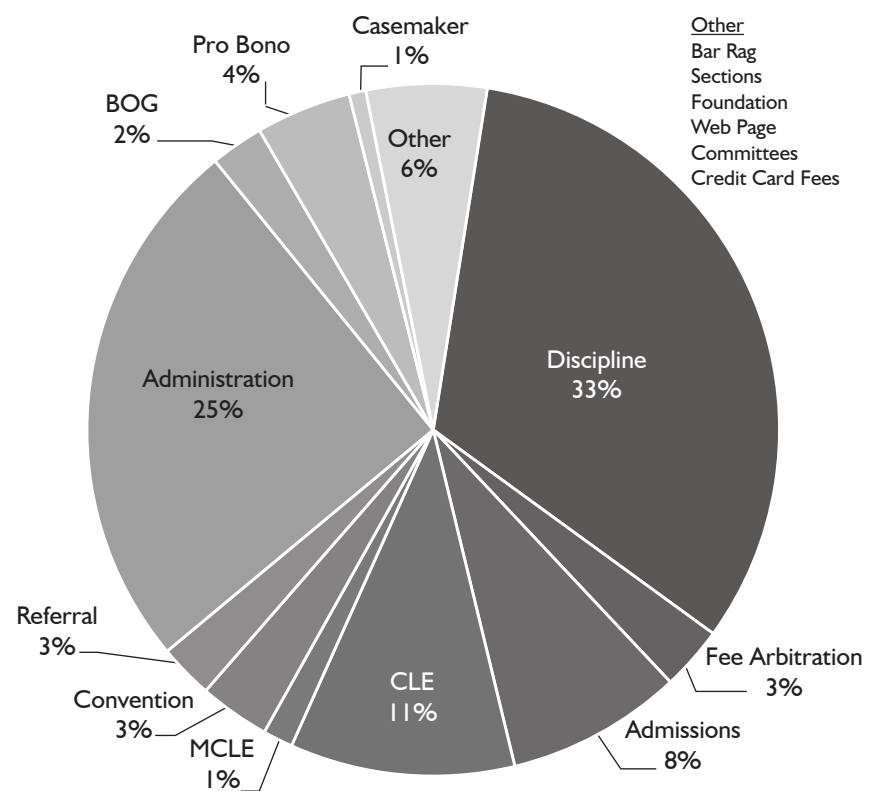
EXPENSE

BOG Travel.....	56,291	Miscellaneous	17,875
Committee Travel.....	1,000	Staff Salaries.....	1,270,545
Staff Travel	54,320	Staff Payroll Taxes.....	102,386
CLE Seminars	70,675	Staff 401k Plan.....	62,701
Free Ethics Course.....	350	Staff Insurance	460,886
Alaska Bar Rag	41,918	Postage/Freight.....	12,508
Bar Exam	54,311	Supplies.....	13,244
Other Direct Expenses.....	76,656	Copying	4,331
Annual Convention.....	95,257	Office Rent	112,114
840 K Street Expenses	239,440	Depreciation/Amortization.....	85,223
AccountingSvc Foundation	11,036	Leased Equipment.....	35,021
MLK Day	4,000	Equipment Maintenance.....	85,429
Casemaker	24,852	Property/GLA/WC Insurance	26,231
Committees.....	4,313	Programming/Database Maint.....	33,343
Duke/Alaska Law Review	0	Temp Support Staff/Recruitment.....	15,025
Internet/Web Page.....	13,225	SUBTOTAL EXPENSE	3,181,826
Lobbyist.....	0	NET GAIN/LOSS	(182,789)
Credit Card Fees.....	67,320		
Succession Planning.....	30,000		

Revenue



Expense



DO YOU KNOW SOMEONE WHO NEEDS HELP?



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

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

- Fairbanks: Aimee Oravec, aoravec@doyonutilities.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.

Do you have clients who have been injured as a result of receiving medical care in Washington?

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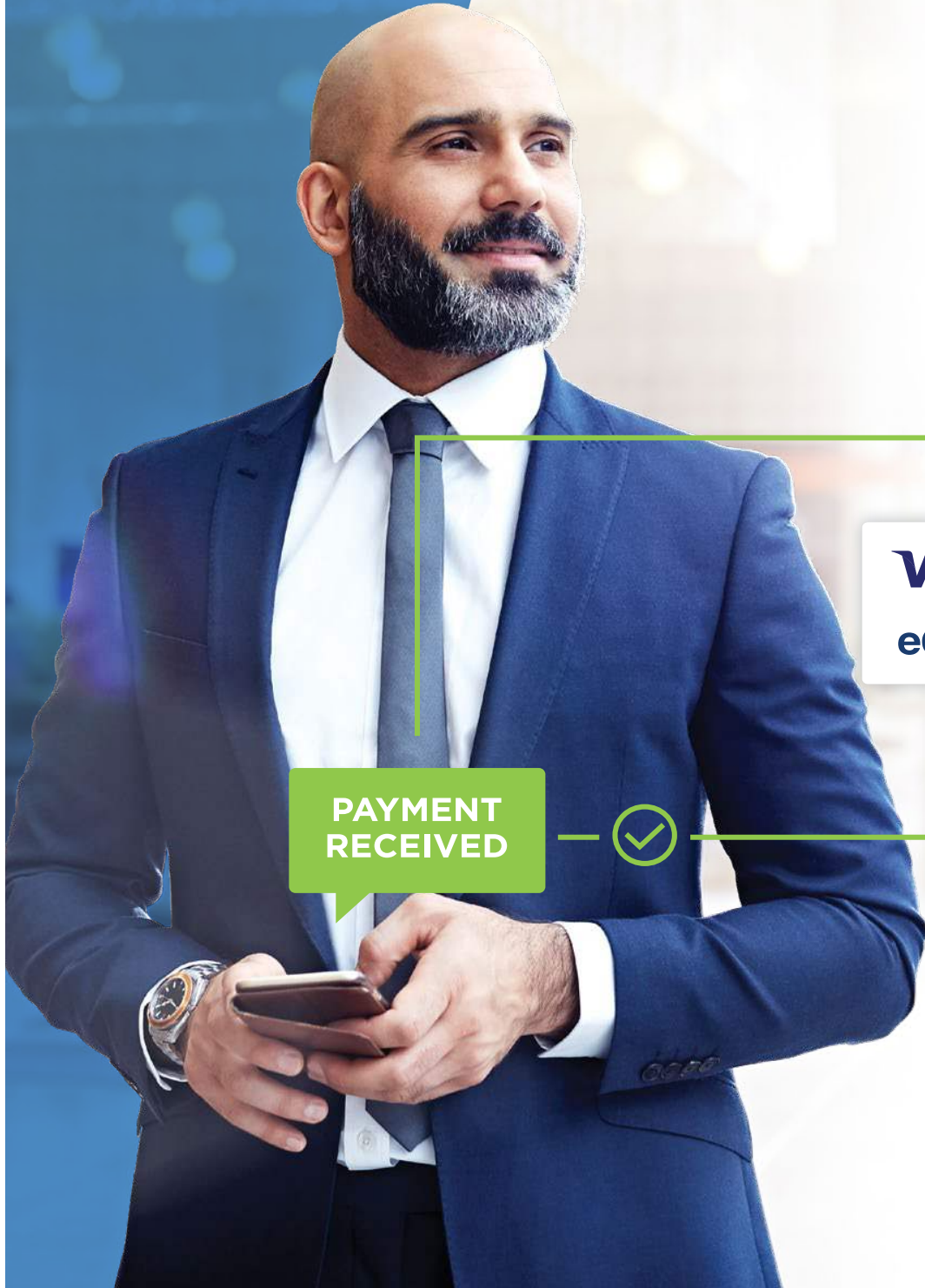
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Chief Justice lays out history and future guidance at AFN

Continued from page 1

teaching career in Native villages and at the University of Alaska.

I am in awe of these two classmates from the old days; there are more than I have time to tell about — village mayors; corporate leaders; tribal leaders; you name it, and my former classmates are there. I wish I had learned more about them when I had the chance.

But so what, you say; it's just another old white guy saying he now understands things. It's true that

my pathway to understanding has been longer than yours and will never be as complete as yours. But it matters to me. And I haven't been alone on that pathway; you must continue to light that pathway for all Alaskans. And while it's also true that I'm getting old and will have to retire in February, hopefully my age and gray hair make me some kind of elder worth listening to. So let me make a few points.

First, I can assure you that we are doing what we can to strengthen our presence in rural Alaska. For example, we're using what we learned during the pandemic to create rules and policies for holding more proceedings by telephone and video. This will help reduce the need to travel to the courthouse, take time off from work or find childcare. We want to partner with tribal courts where possible, certainly with therapeutic sentencing initiatives, and perhaps even with joint court facilities in smaller locations or sharing of video technology for people to attend hearings. We're working to identify court proceedings that can

But so what, you say; it's just another old white guy saying he now understands things. It's true that my pathway to understanding has been longer than yours and will never be as complete as yours. But it matters to me.

be streamed over the internet for public viewing so people all over the state, particularly in rural Alaska, can see what courts are doing every day to provide justice. We have been emphasizing more ICWA education across the state and are implementing ICWA courts to foster more cooperation between tribes and the state. And we continue hiring Alaska Native magistrates in rural areas in the tradition of iconic former magistrates Nora Guinn, Dorothy Kameroff and Sadie Neakok.

Second, we need Alaska Native judges for a judiciary that reflects

all of Alaska's people. Encourage your young people to go to law school, come back to clerk for our courts, practice law and become state court judges. I know that we always learn from our Alaska Native law clerks, and I think we play a small but important role in their transition to bigger things.

Let me mention some past law clerks whose names you surely will recognize. Sisters Heather Kendell Miller and April Ferguson clerked for Justice Jay Rabinowitz; Heather is a non-stop advocate for Alaska Native rights and was the first Alaska Native to argue a case to the United States Supreme Court; April has had long involvement with AFN and the Bristol Bay Native Corporation.

How about brothers Aaron Schutt, who clerked for Justice Alex Bryner, and Ethan Schutt, who clerked for Justice Bud Carpeneti; you know them today as top executives at Doyon and BBNC. Kyan Olanna, who also clerked for Justice Bryner, went on to be vice president and general counsel for Cook Inlet Tribal Council. Karlin Itchoak, an-

other clerk for Justice Bryner, has been involved in Native corporation and tribal work and now is the Arctic Region director for the Wilderness Society.

Hilary Martin, now working for the Legislature's Legal Counsel office, clerked for Justice Dana Fabe, as did Native American Natalie Landreth, a long-time Alaska lawyer for the Native American Rights Fund and now at the Department of the Interior in Washington, D.C. Natasha Singh clerked for both Superior Court Judge Niesje Steinkruger and me; she went on to be TCC's General Counsel and a Stevens Village tribal judge, and now is with the Alaska Native Tribal Health Consortium. And here's a name that for some reason I've seen a lot the last year or so: Nicole Borromeo, AFN's vice president and general counsel, who clerked for Superior Court Judge Patricia Collins.

You know, I get it — working for tribal organizations, Native Corporations, and Alaska Native advocacy groups clearly is a tremendously fulfilling way to serve your communities. But the Alaska judiciary, and all Alaska, needs your tribal members and shareholders, too; so please send waves and waves of your kids to law school, and encourage and help them along.

For example, in the audience today is a young woman delegate from Nelson Lagoon; she's clerking for a Superior Court judge in Fairbanks this year. I recently hired a young man to be a supreme court clerk next year with an Anchorage justice; he's an enrolled member of Native Village of Tanana and a Doyon shareholder. He's also a Fairbanks kid and the son and nephew of two of my very good friends in high school. For whatever reason, I am

the first Alaska-born Chief Justice of the Alaska Supreme Court. Perhaps this young man, or the young woman from Nelson Lagoon, or someone else already out there, will be the first Alaska Native Chief Justice. I look forward to that day, and if anything I have done contributed in even some small part to that, my circle will be complete.

Finally, over the last nearly 15 years on the Alaska Supreme Court I participated in a wide variety of cases involving Native corporations, tribes, and individual Alaska Natives, with the State of Alaska often on the other side. I can assure you that we never have considered these cases with politics in mind. We have dedicated our best efforts to follow and fairly implement federal law on matters important to Alaska Natives. Like tribal sovereignty. Like ICWA. So I hope that when you hear


talk about re-making Alaska's courts by allowing the Legislature or the governor to control who can be a judge instead of having judges nominated for selection based on their qualifications, you will remember how important it is to have an independent judiciary willing to put an appropriate check on the political branches of government.

My colleagues and I — and judges all across the state — want justice for all Alaskans. But you of all people know that injustice is never resolved overnight; you must never stop fighting for justice. Your theme of Unity demands it.

Thank you for inviting me and allowing me to share my thoughts. Have a great conference, and please keep pushing Alaska — and all Alaskans — forward to a better life for all of us.

But you of all people know that injustice is never resolved overnight; you must never stop fighting for justice.

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