

ABA INFO

REQUESTS

FROM HSE.

JUD. COMM.

#14

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION

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ANCHORAGE, ALASKA 99510
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WILLIAM GARRISON, BAR COUNSEL

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DONNA C. WILLARD

January 30, 1980

The Honorable Charles H. Parr
Chairman
House of Representatives'
Committee on Judiciary
State Capitol
Pouch V
Juneau, Alaska 99811

Dear Representative Parr:

The attached pages are submitted by the Alaska Bar Associations in response to the House Judiciary Committee's lengthy request of November 7, 1979. The questions have been answered to the best of the Association's ability, notwithstanding those questions about which the Board of Governors of the Association cannot, for reasons of privacy and because of limitations on its own authority as regards the confidentiality of the Association's discipline and grievance files, provide your Committee with the requested information. In addition, some of the data requested cannot be provided because the Association has not kept those records -- until very recently -- in a manner which would make the retrieval of those statistics feasible. Unfortunately, the Association has only limited staff resources, and complying with several of your requests is wholly impractical in terms of the number of staff hours necessary to compile the desired data.

Nevertheless, whenever remotely possible, the Board of Governors has instructed its staff to provide your Committee with the information requested. Hopefully, the attached material answers a majority of the House Judiciary Committee's questions, and provides the members of your Committee with sufficient information regarding the Association to begin understanding the wide-ranging activities of the Alaska Bar. In addition, you should know that the Board of Governors of the Association is preparing a booklet for dissemination to the members of your committee. The booklet attempts to lay out, in concise terms, the general functions of

Representative Charles Parr

January 30, 1980

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the Bar Association, including a description of the various committees of the Bar and, particularly, the full scope of the Association's disciplinary proceedings and fee arbitration and conciliation panels. This booklet should do much to clarify the impact of the Association's work.

The Alaska Bar Association, in responding to this request of the House Judiciary Committee, wishes to make it clear, however, that it has provided the enclosed data as a matter of comity, but with express reservations of rights. It remains the position of the Alaska Bar Association that it is not a State agency, and that it is not subject to the Sunset review process. Therefore, provision of these materials is not to be construed as a waiver of the jurisdictional issues or any other defense which the Association must have with respect to the applicability of those statutes concerned with Sunset review.

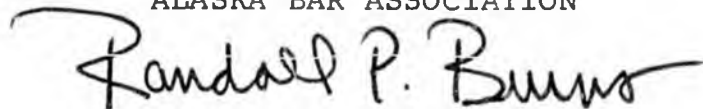
As your Committee can appreciate, the Association, like everything else in Alaska, experienced rapid and substantial growth during the past ten (10) years. For example, the number of attorneys in Alaska practically doubled in the last five (5) years. It was only during the closing years of the Seventies that the Association was financially able to fully organize and take a leading role in recording the activities of the legal profession, a profession whose major goals -- on behalf of the citizens of this State -- are to facilitate the administration of justice and to cultivate and advance the science of jurisprudence. The Association's attorney and judicial members are well aware of the importance of these goals to a maturing Alaska, and the Alaska Bar Association has worked hard in recent years to improve the legal profession in Alaska. The work it has done is beginning to have positive impact and, as the Association continues, it will strive to maintain the requisite records that reflect the growth and change. While the significant contributions made by individual members of the Association to the welfare and well-being of the State are well-known, it is ironic that at the present time, when it would so obviously be to its benefit to have kept more detailed records, the Alaska Bar Association is unable to freely and systematically document the challenges faced by, and the achievements of, the legal profession as a whole.

Representative Charles Parr
January 30, 1980
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If the Association can be of additional assistance, please contact us. I look forward to assisting your Committee in its work.

Sincerely,

ALASKA BAR ASSOCIATION

A handwritten signature in cursive script that reads "Randall P. Burns". The signature is written in dark ink and is positioned above the typed name and title.

Randall P. Burns
Executive Director

wj

Enclosures



Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

November 7, 1979

Donna C. Willard
President
Alaska Bar Association
P.O. Box 279
Anchorage, Ak. 99510

Dear Ms. Willard;

The House Judiciary Committee, pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and pursuant to its general authorities and powers as a standing committee of the Alaska State Legislature, requests the following information from the Board of Governors of the Alaska Bar Association:

1. How many attorneys are admitted to practice law in the State of Alaska, excluding those who are practicing on a waiver?

2. How many attorneys are practicing law on a waiver for Alaska Legal Services Corporation?

3. How many attorneys are practicing law on a waiver for the United States Armed Forces Expanded Legal Assistance Program?

4. What is the total number of attorneys practicing law in the state pursuant to a waiver?

5. How many legal interns are certified in the State of Alaska?

6. How many active members of the Alaska Bar Association are there?

7. How many inactive members of the Alaska Bar Association are there?

8. How many judicial members of the Alaska Bar Association are there?

9. How many honorary members of the Alaska Bar Association are there?

10. How many active members of the Alaska Bar Association are women and how many women were active members in 1976, 1977 and 1978?

11. How many active members of the Alaska Bar Association are Natives and how many Natives were active members in 1976, 1977 and 1978?

12. How many members of the Alaska Bar Association are black and how many blacks were active members in 1976, 1977, and 1978?

13. How many active members of the Alaska Bar Association are Hispanic and how many hispanics were active members in 1976, 1977 and 1978?

14. How many active members of the Alaska Bar Association are Asian and how many Asians were active members in 1976, 1977 and 1978?

15. What steps has the Alaska Bar Association taken to increase membership of women and minorities?

16. What steps has the Alaska Bar Association taken to implement any of the recommendations contained in the 1979 report from the association's Committee on Legal Educational Opportunities?

17. List all standing committees of the Alaska Bar Association?

18. What are the powers, duties and functions of the Alaska Bar Association's standing committees?

19. Furnish all annual reports from the Alaska Bar Association's standing committees for the years 1976, 1977 and 1978.

20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska bar exam.

21. Briefly describe all continuing legal education programs in 1976, 1977, 1978 and 1979.

22. How many ethics opinions did the Alaska Bar Association render in 1976, 1977, 1978 and 1979?

23. Briefly describe the legislative programs of the Alaska Bar Association in 1976, 1977, 1978 and 1979.

24. Briefly describe the Alaska Bar Association's lawyer referral system.

25. List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for 1976, 1977, 1978 and 1979.

26. What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?

27. How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

28. How many non-attorney individuals were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

29. Provide the position title, duties and powers as well as salaries and fringe benefits of all paid staff positions within the Alaska Bar Association for 1976, 1977, 1978 and 1979.

30. What is the turn-over rate for each of the positions?

31. Furnish copies of the Alaska Bar Association's budgets for 1976, 1977, 1978 and 1979.

32. Furnish copies of all financial audits of the Alaska Bar Association conducted in 1976, 1977, 1978 and 1979.

33. Furnish a copy of the budgets for the Bar Rag for 1978 and 1979.

34. Provide the source, purpose and amount of all state funds obtained by the Alaska Bar Association during 1976, 1977, 1978 and 1979.

35. Provide the total travel and per diem expenses paid by the Alaska Bar Association to members of the Board of Governors in 1976, 1977, 1978 and 1979.

36. Provide the total travel and per diem expenses paid by the Alaska Bar Association to individuals, other than members of the Board of Governors, for 1976, 1977, 1978 and 1979.

37. Furnish a copy of the profit and loss statement for the mid-winter Hawaii Convention prepared by V. Goodrow on August 27, 1979.

38. Provide the total income derived from applications for admissions to the Alaska Bar Association in 1976, 1977, 1978 and 1979.

39. What was the total expense of the admission procedures of the Alaska Bar Association, excluding the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

40. What was the total cost of the admission procedures of the Alaska Bar Association, including the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

41. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in 1976, 1977, 1978 and 1979, including the case name, docket number, brief description of the issues involved, whether the case was appealed to the Supreme Court and the final disposition. Additionally, it should be noted if the Alaska Bar Association was assessed attorney's fees and costs pursuant to Rule 82 or if the Alaska Bar Association was able to recover a portion of its attorney's fees and costs pursuant to that rule.

42. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.

43. Briefly describe what comprises the Alaska Bar Association examination for attorney applicants.

44. Briefly describe what comprises the Alaska Bar Association examination for general applicants.

45. What was the total number of general applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

46. What was the total number of general applicants who passed the spring Alaska Bar examination for 1976, 1977, 1978 and 1979?

47. What was the total number of general applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

48. What was the total number of general applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

49. What was the total number of attorney applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

50. What was the total number of attorney applicants who passed the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

51. What was the total number of attorney applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

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52. What was the total number of attorney applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

53. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

54. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

55. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

56. What was the total number of Alaska Natives, females, blacks, Hispanics and Asians who as general applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

57. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

58. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

59. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

60. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

61. Who is the Alaska Bar Association disciplinary administrator?

62. Distinguish between the type of complaints which are referred to a hearing committee as opposed to those complaints which are referred to a conciliator.

63. Provide a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms used for this purpose.

64. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

65. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

66. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court for the years 1976, 1977, 1978 and 1979.

67. Provide a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, the disposition if appealed to the Alaska Supreme Court.

68. For the years 1976, 1977, 1978 and 1979, furnish statistical data reflecting:

a. The types of complaints against attorneys received and acted upon;

b. The types of investigations conducted and the results thereof;

c. The procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action;

d. The number of times any member of the Alaska Bar Association subject to the Alaska Bar rules has been the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney was the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation and the ultimate disposition of each such action with respect to each such attorney.

69. Provide the total number of complaints against attorneys received by the Alaska Bar Association for the years 1976, 1977, 1978 and 1979.

70. Provide the total number of attorneys who were disciplined for the years 1976, 1977, 1978 and 1979.

71. What was the total number of attorneys who were the subject of a private admonition by the Alaska Bar Association disciplinary administrator for the years 1976, 1977, 1978 and 1979?

72. What was the total number of attorneys who were the subject of a private reprimand during the years 1976, 1977, 1978 and 1979?

73. What was the total number of attorneys who were the subject of a public censure during the years 1976, 1977, 1978 and 1979?

74. What was the total number of attorneys who were suspended from the practice of law during the years 1976, 1977, 1978 and 1979?

75. What was the total number of attorneys who were disbarred from the practice of law during the years 1976, 1977, 1978 and 1979?

76. From the date of the initiation of the complaint, how long did it take the Alaska Bar Association to resolve disciplinary actions filed in 1976, 1977 and 1978?

77. Are records maintained on previous disciplinary complaints against an attorney regardless of whether such complaints are ultimately dismissed?

78. What percentage of disciplinary complaints were filed against an attorney by a client of such attorney during the years 1976, 1977, 1978 and 1979?

79. What percentage of disciplinary complaints were filed by the Alaska State Bar Association disciplinary administrator during the years 1976, 1977, 1978 and 1979?

80. What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka or Juneau, for the years 1976, 1977, 1978 and 1979?

81. What was the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing to report such conduct during the years 1976, 1977, 1978 and 1979?

82. What was the total number of judges who have been disciplined for observing misconduct on behalf of a lawyer and failing to report such during the years 1976, 1977, 1978 and 1979?

83. What percentage of requests for investigation were determined to be inadequate, incomplete or insufficient to warrant further attention of the Board of Governors during the years 1976, 1977, 1978 and 1979?

84. What percentage of disciplinary complaints were filed against an attorney by another attorney for the years 1976, 1977, 1978 and 1979?

85. What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate during the years 1976, 1977, 1978 and 1979?

86. What was the total number of requests for investigation which were referred to the fee arbitration panel for the years 1976, 1977, 1978 and 1979?

87. Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was concluded in 1976, 1977, 1978 and 1979.



Official Business

Alaska State Legislature

House of Representatives

Committee on Judiciary

Pouch V
State Capitol
Juneau, Alaska 99811

1016 W. 6th, Suite 201
Anchorage, Ak. 99501

Telephone 277-7548

November 7, 1979

Donna C. Willard
President
Alaska Bar Association
P.O. Box 279
Anchorage, Ak. 99510

Dear Ms. Willard;

Upon receipt of your letter of September 17, 1979, the House Judiciary Committee requested the Legal Division of the Legislative Affairs Agency to provide a legal opinion as to the current status of the Alaska Bar Association. A copy of that legal opinion will be furnished to the Alaska Bar Association for its response.

However, pursuing your offer of cooperation, the House Judiciary Committee is submitting the enclosed informational requests pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and pursuant to its general authority and powers as a standing legislative committee.

The purpose of the informational request is to familiarize the House Judiciary Committee with the organization, operation and programs of the Alaska Bar Association as well as its regulation and control of the legal profession in Alaska. Obtainment of this information in advance of the upcoming public hearings required by the sunset law will greatly enhance the effectiveness of those hearings.

The following questions are intended to illicit non-confidential information in accordance with your letter of September 17, 1979. All the requests are made for information not contained in statutes, Alaska Bar rules or ethical codes. Since the Alaska Bar Association is scheduled for sunset review every four years, unless an earlier review is mandated, data spanning the last four years is relevant.

As the 1980 legislative session commences on January 14, 1980, the House Judiciary Committee requests that the information solicited be provided on or before that date.

Should you desire to meet with me concerning any specific request or to discuss the issue in general, please feel free to contact our Anchorage office. Our office in Anchorage will be maintained throughout the month of November.

Sincerely yours,

Margaret W. Berck

Margaret W. Berck,
Counsel to the House Judiciary Committee

17. List all standing committees of the Alaska Bar Association.
18. What are the powers, duties, and functions of the standing committees listed in response to question 17.
19. Furnish all annual reports for the standing committees listed in response to question 17 for the following years: 1976, 1977, and 1978.
20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska Bar Exam.
21. Briefly describe all continuing legal education programs offered by the Alaska Bar Association within each of the following years: 1976, 1977, 1978, and 1979.
22. How many ethics opinions did the Alaska Bar Association render in each of the following years: 1976, 1977, 1978, and 1979.
23. Briefly describe the legislative program of the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.
24. Briefly describe the Alaska Bar Association's Lawyer Referral System.
- ~~25. Furnish a copy of the Professional Code of Ethics.~~
- ~~26. Furnish a copy of the Code of Judicial Conduct.~~
25. ~~27.~~ List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.
26. ~~28.~~ What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?
27. ~~29.~~ How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed ~~amendment to the bar rules~~ ^{b r} AMENDMENT that ~~would~~ define the practice of law?
28. ~~30.~~ How many non-attorneys ^(individuals) were notified by the Alaska Bar Association of its consideration of a proposed ~~amendment to the bar rules~~ ^{b r} AMENDMENT that would define the practice of law?

- 40.42. What was the total cost of the admission procedures of the Alaska Bar Association (including the cost of any court litigation arising therefrom) for each of the following years: 1976, 1977, 1978, and 1979.
- 41.43. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in each of the following years: 1976, 1977, 1978, 1979. With respect to these expenditures provide the case name, docket number, brief description of issue, whether the case was appealed to the Supreme Court, and the final disposition. Additionally it should be noted if the Alaska Bar Association was assessed attorney's fees ^{and costs} pursuant to Rule 82 or if the Alaska Bar Association was able to recover a portion of its attorney's fees and costs pursuant to Rule 82 such rule. Furnish the amount of such assessments or reimbursements.
- 42.44. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.
- 43.45. Briefly describe what comprises the Alaska Bar Examination for general applicants.
- 44.46. Briefly describe what comprises the Alaska Bar Examination for attorney applicants.
- 45.47. Provide the total number of ^{general} applicants who took the spring ~~and summer~~ Alaska Bar Examinations for each of the following years: 1976, 1977, 1978, and 1979.
- 46.48. Provide the total number of ^{general applicants} ~~individuals~~ who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- 47.49. Provide the total number of general applicants who took the summer Alaska Bar Examination for each of the following 1976, 1977, 1978, and 1979.
- 48.50. Provide the total number of general applicants who passed the summer Alaska Bar examination for each of the following years: 1976, 1977, 1978, and 1979.

- ~~49.~~ ~~51.~~ Provide the total number of attorney applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~50.~~ ~~52.~~ Provide the total number of attorney applicants who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~51.~~ ~~53.~~ Provide the total number of attorney applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~52.~~ ~~54.~~ Provide the total number of attorney applicants who passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~53.~~ ~~55.~~ Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~54.~~ ~~56.~~ Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants and passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~55.~~ ~~57.~~ Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~56.~~ ~~58.~~ Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants and passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
- ~~57.~~ ~~59.~~ Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

58. ~~60~~. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
59. ~~61~~. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
60. ~~62~~. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
61. ~~63~~. Who is the State Bar Disciplinary Administrator for the Alaska Bar Association?
62. ~~64~~. Distinguish the type of complaints that are referred to a Hearing Committee as opposed to those complaints that are referred to a Conciliator.
63. ~~65~~. Furnish a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms utilized by the Alaska Bar Association since 1976.
64. ~~66~~. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.
65. ~~67~~. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.
66. ~~68~~. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.
67. ~~69~~. Furnish a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, if appealed the disposition, and if sent to the Alaska Supreme Court, the disposition there. (Names of attorneys subject to the disciplinary action may be deleted.)

68.

70. For the years of 1976, 1977, 1978, and 1979, all statistical data reflecting:

- a. the types of complaints against attorneys received and acted upon;
- b. the types of investigations conducted and the results thereof;
- c. the procedural steps taken with respect to each type of complaint

processed and the ultimate disposition of each such action; and

d. the number of times any member of the Alaska Bar Association subject to the Alaska Bar Rules is the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney is the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation, and the ultimate disposition of each such action with respect to each such attorney. (The names and identifying information for each such attorney may be deleted from any such data.)

Provide

69. 71. The total number of complaints against attorneys received by the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.

Provide

70. 72. The total number of attorneys that were disciplined ~~by the Alaska Bar~~

~~Association~~ ⁱⁿ each of the following years: 1976, 1977, 1978, and 1979.

INSERT QUESTION HERE — see back of this page.

72. 73. The total number of attorneys that were the subject of a private reprimand

Provide

in each of the following years: 1976, 1977, 1978, and 1979.

Provide

73. 74. The total number of attorneys that were the subject of a public censure

in each of the following years: 1976, 1977, 1978, and 1979.

Provide

74. 75. The total number of attorneys that were suspended from the practice of

in

law ~~for~~ each of the following years: 1976, 1977, 1978, and 1979.

Provide

75. 76. The total number of attorneys that were disbarred from the practice of law

in each of the following years: 1976, 1977, 1978, and 1979.

76. 77. Are records maintained of previous disciplinary complaints against an attorney regardless of whether such complaints are dismissed?

77.

~~78.~~ What percentage of disciplinary complaints were filed against an attorney by a client of such attorney for each of the following years: 1976, 1977, 1978 and 1979?

78.

~~79.~~ What percentage of disciplinary complaints were filed against an attorney by another attorney for each of the following years: 1976, 1977, 1978, and 1979?

79.

~~80.~~ What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate for each of the following years: 1976, 1977, 1978, and 1979?

80.

~~81.~~ What percentage of disciplinary complaints were initiated by the Alaska State Bar Disciplinary Administrator for each of the following years: 1976, 1977, 1978 and 1979?

81.

~~82.~~ What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka, and Juneau, for each of the following years: 1976, 1977, 1978, and 1979?

82.

~~83.~~ Provide the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing^{ed} to report such for each of the following years: 1976, 1977, 1978, and 1979.

83.

~~84.~~ Provide the total number of judges who have been disciplined for observing misconduct on behalf of^a lawyer and failing^{ed} to report such for each of the following years: 1976, 1977, 1978, and 1979.

84.

~~85.~~ What percentage of Requests for Investigation were determined to be inadequate, incomplete, or insufficient to warrant further attention of the Board of Governors for each of the following years: 1976, 1977, 1978, and 1979?

85.

~~86.~~ Provide the total number of Requests for Investigation that were referred to the Fee Arbitration Panel for each of the following years: 1976, 1977, 1978, and 1979.

86.

~~87.~~ Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was finalized^a in each of the following years: 1976, 1977, 1978, and 1979.

87.

~~88.~~ How many times did ^a the Fee Arbitration Panel refer a matter to the Executive Director of the Alaska Bar Association for appropriate disciplinary action in each of the following years: 1976, 1977, 1978, and 1979?

88

~~89.~~ Furnish a copy of the petition form and explanatory booklets which are required by Alaska Bar Rule III-42 to be provided to the clerks of court in every location in the state.



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

September 5, 1979

Mr. John Lohff
Executive Director
Alaska Bar Association
P.O. Box 279
Anchorage, Alaska 99510

Dear Mr. Lohff:

It has come to my attention that on September 3, 1979, the Board of Governors intends to develop a position regarding the recent ombudsman subpoena. As a matter of courtesy I wish to inform the Board of Governors of forthcoming informational requests of a similar nature.

Recently the House Judiciary Committee was informed by the Speaker of the House that the House Judiciary Committee would be the committee of referral in the House regarding the 1980 sunset review of the Alaska Bar Association. Advance notice of this intended referral was provided in order that committee staff might have sufficient time to collect the data necessary for such review. As staff to the committee, I have been assigned this project.

As you are probably aware, the Alaska sunset law, AS 44.66.010, et seq., requires the House committee of referral to submit to the Speaker, not later than the 60th day of the legislative session, a detailed report on the activities of a board or program under sunset review. In accord with this statutory requirement, I wish to inform the Board of Governors that I intend to request information, similar to that requested by the ombudsman, that is, financial records, together with statistical reports concerning grievances filed with the association. Furthermore, additional data will be requested as the sunset law requires.

Within the next several weeks, I intend to request from the association the specific data that the committee will require for its sunset review of the association.

I feel certain that, working together on this matter, we will be able to provide the legislature with sufficient information to conduct a thorough and fair sunset review of the association.

Sincerely yours,



Margaret W. Berck
Counsel to House Judiciary Committee

cc: Rep. Charlie Parr, Chairman

Hand delivered Sept. 5th

BOARD OF GOVERNORS
ALASKA BAR ASSOCIATION

OFFICERS

DONNA C. WILLIARD
PRESIDENT
ANCHORAGE

WILLIAM B. ROZELL
PRESIDENT ELECT
JUNEAU

JONATHAN H. LINK
VICE PRESIDENT
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EDWARD G. KING
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AREA CODE 907/272-7469

WILLIAM GARRISON, BAR COUNSEL

BOARD MEMBERS

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WILLIAM B. ROZELL
RICHARD D. SAVELL
DONNA C. WILLARD

September 17, 1979

Margaret W. Berck
Counsel to
House Judiciary Committee
1016 West 6th Ave. #201
Anchorage, Ak. 99501

Dear Ms. Berck:

As I related to you over the telephone, the Board of Governors for the Alaska Bar Association has met and has considered your correspondence dated September 5, 1979.

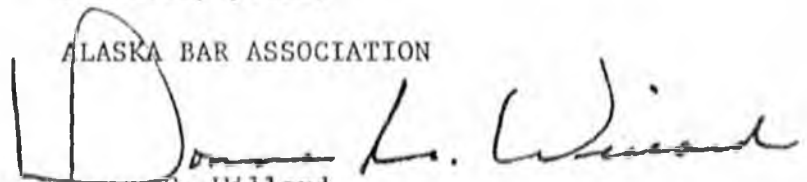
It is the position of the Board that requests from the House Judiciary Committee for materials not held to be confidential by the Alaska Bar Association will be provided in an effort to cooperate with the Committee's investigation.

It is, however, the position of the Alaska Bar Association that it is not a State agency and is not subject to the Sunset review process. Therefore, provision of any requested materials is not to be construed as a waiver of the jurisdictional issue or any other defense which the Bar Association might have regarding the applicability of the statutes with respect to Sunset review.

If there is any way in which I could be of any assistance to the Committee and you, please do not hesitate to contact me.

Sincerely yours,

ALASKA BAR ASSOCIATION


Donna C. Willard
President

DCW/vg

cc: Board of Governors
Bruce Gagnon
Fred Tausend
Keith Brown

Race - State

Patrick
Anderson

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& works upstairs
in this bldg -

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EEO: Reports

Cross reference. — As to radiation protection, see AS 18.60.475.

Chapter 66. Review of the Activities of Agencies, Boards and Commissions.

<p>Section 10. Termination of state boards and commissions 20. Agency programs</p>	<p>Section 30. Program identification 50. Legislative oversight 60. Existing claims</p>
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Cross reference. — As to the termination, continuation and reestablishment of regulatory boards, see AS 08.03.010.

Editor's note. — Section 1, ch. 149, SLA 1977, provides: "The legislature finds that the substantial increase in the number of state agencies, boards and commissions, and the proliferation of rules and regulations which each has adopted have contributed to a public disenchantment with the operation of state government,

and that there is need for an effective and regular system of scrutiny of the programs and activities of all agencies, boards and commissions. The legislature further finds that the establishment of a system for periodic review by the public and the executive and legislative branches of certain state agencies, boards and commissions will help the governor and the legislature to determine the need for the continued existence of each of the agencies, boards and commissions."

Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

- (1) Alcoholic Beverage Control Board (AS 04.05.010) — June 30, 1979;
- (2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1979;
- (3) State Board of Parole (AS 33.15.010) — June 30, 1980;
- (4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1980;
- (5) Alaska Pipeline Commission (AS 42.05.010) — June 30, 1981;
- (6) Alaska Council on Science and Technology (AS 44.19.181) — June 30, 1983;
- (7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed *r* years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 1979 SLA 1978)

Effect of amendments. — The first 1978 amendment added paragraph (6) of subsection (a).

The second 1978 amendment added paragraph (7) of subsection (a).

Editor's note. — The reference in paragraph (5) to AS 42.05.010 should be to AS 42.06.010.

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in § 30 of this chapter are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under § 30 of this chapter. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in § 20 of this chapter, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or § 10 of this chapter, or of an agency program under §§ 20 and 30 of this chapter, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit

division as prescribed in AS 24.20.271(1). The committee may consider any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it

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for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Part 8. Claims and Liability.

Chapter 77. Claims Against the State.

Sec. 44.77.010. Presentation of claims.

Legislative history of section. — See State v. ZIA, Inc., Sup. Ct. Op. No. 1337 (File No. 2-9), 556 P.2d 1257 (1976).

This section is only applicable after the claimant has pursued an administrative remedy. State v. ZIA, Inc., Sup. Ct. Op. No.

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

- (1) Board of Chiropractic Examiners (AS 08.20.010);
- (2) Board of Dental Examiners (AS 08.36.010);
- (3) State Medical Board (AS 08.64.010);
- (4) Board of Nursing (AS 08.68.010);
- (5) Board of Dispensing Opticians (AS 08.71.010);
- (6) Board of Examiners in Optometry (AS 08.72.010);
- (7) Board of Pharmacy (AS 08.80.010);
- (8) Board of Veterinary Examiners (AS 08.98.010);
- (9) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010);
- (10) Board of Nursing Home Administrators (AS 08.70.010);
- (11) Physical Therapy Board (AS 08.84.010).

(b) Boards listed in this subsection have a termination date of June 30, 1980:

- (1) Board of Public Accountancy (AS 08.04.010);
- (2) Board of Barber Examiners (AS 08.12.010);
- (3) Collection Agency Board (AS 08.24.011);
- (4) Board of Hairdressing and Beauty Culture Examiners (AS 08.28.010);
- (5) Board of Electrical Examiners (AS 08.40.010);
- (6) State Board of Registration for Architects, Engineers and Land Surveyors (AS 08.48.011);
- (7) Guide Licensing and Control Board (AS 08.54.010);
- (8) Board of Marine Pilots (AS 08.62.010);
- (9) Real Estate Commission (AS 08.88.011);
- (10) Board of Welding Examiners (AS 08.99.010);
- (11) Board of Governors of the Alaska Bar Association (AS 08.08.040).

(c) Upon termination, each board listed in (a) and (b) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs. During this period, termination does not reduce or otherwise limit the powers or authority of each board. One year after the date of termination, a board not continued shall cease all activities.

(d) The termination, dissolution, continuation or reestablishment of a regulatory board shall be governed by the legislative oversight procedures of AS 44.66.050. —

(e) A board scheduled for termination under this chapter may be continued or reestablished by the legislature for a period not to exceed four years. (§ 2 ch 149 SLA 1977)

Article

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- 3. Public Acc
- 4. Regulation
- 5. Unlawful
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Section

- 10. Creation
- 20. Appointr
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- 30. Removal
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During the course of her visitation to the office, she has thus far been provided with the following:

1. The Alaska Statutes as they relate to the Alaska Bar Association;
2. The Alaska Bar Rules;
3. The By-Laws of the Alaska Bar Association;
4. The Code of Professional Responsibility;
5. The Ethics Opinions of the Alaska Bar Association;
6. The Personnel Manual of the Alaska Bar Association;
7. The past editions of the Bar Bag, which is the official publication of the Alaska Bar Association;
8. Fee Arbitration forms utilized in administering the fee arbitration process which we provide to the public at no charge; and
9. The forms, relating in the area of Discipline, to request for investigation of attorneys who are members of this Association.

In addition, I am informed that she has been orally given information with respect to admission procedures.

In the future, and in order to avoid any misunderstanding and to avoid the potential for the relaying of any misinformation with respect to the Bar Association, we would request that all information which you want be set forth in writing. We will thereafter, respond in writing. This can obviously take the form of either interrogatories or questions which we will answer or it may include production of other documents.

Subject to the foregoing reservations and limitations, the Bar Association will continue to cooperate as fully as possible with you in your audit.

The House Judiciary Committee pursuant to its obligations under the sunset law, AS 44.66.050, and its general authority and powers as a standing committee of the Alaska State legislature requests the following information from the Board of Governors of the Alaska Bar Association:

1. How many attorneys ^{law} are admitted to practice in the State of Alaska? ~~excluding~~
~~are~~
~~x~~ excluding those who practicing on a waiver?
2. How many attorneys are practicing law on a waiver for Alaska Legal Services Corporation?
3. How many attorneys are practicing law on a waiver for a United States Armed Forces Expanded Legal Assistance Program?
4. What is the total number of attorneys practicing law pursuant to a waiver in the State?
5. How many legal interns are currently certified in the State of Alaska?
6. How many active members of the Alaska Bar Association are there?
7. How many inactive members of the Alaska Bar Association are there?
8. How many judicial members of the Alaska Bar Association are there?
9. How many honorary members of the Alaska Bar Association are there?
10. How many members of the Alaska Bar Association are women?
11. How many members of the Alaska Bar Association are Native Alaskans?
12. How many members of the Alaska Bar Association are black?
13. How many members of the Alaska Bar Association are Hispanic?
14. How many members of the Alaska Bar Association are Asian?
15. What steps has the Alaska Bar Association taken to increase the ~~number~~ membership of women and minorities within the association?
16. What steps has the Alaska Bar Association taken to implement any of the recommendations contained in the 1979 Report from the association's Committee on Legal Education's Opportunities?

17. List all standing committees of the Alaska Bar Association.
18. What are the powers, duties, and functions of the standing committees listed in response to question 17.
19. Furnish all annual reports for the standing committees listed in response to question 17 for the following years: 1976, 1977, and 1978.
20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska Bar Exam.
21. Briefly describe all continuing legal education programs offered by the Alaska Bar Association within each of the following years: 1976, 1977, 1978, and 1979.
22. How many ethics opinions did the Alaska Bar Association render in each of the following years: 1976, 1977, 1978, and 1979.
23. Briefly describe the legislative program of the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.
24. Briefly describe the Alaska Bar Association's Lawyer Referral System.
25. Furnish a copy of the Professional Code of Ethics.
26. Furnish a copy of the Code of Judicial Conduct.
27. List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.
28. What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?
29. How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed amendment to the Bar Rules which would define the practice of law?
30. How many non-attorneys ^(individuals) were notified by the Alaska Bar Association of its consideration of a proposed amendment to the Bar Rules that would define the practice of law?

42. What was the total cost of the admission procedures of the Alaska Bar Association (including the cost of any court litigation arising therefrom) for each of the following years: 1976, 1977, 1978, and 1979.

43. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in each of the following years: 1976, 1977, 1978, 1979. With respect to these expenditures provide the case name, docket number, brief description of issue, whether the case was appealed to the Supreme Court, and the final disposition. Additionally it should be noted if the Alaska Bar Association was assessed attorney's fees pursuant to Rule 82, if the Alaska Bar Association was able to recovery a portion of its attorney's fees and costs pursuant to such rule. Furnish the amount of such Rule 82 assessments or reimbursements.

44. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.

45. Briefly describe what comprises the Alaska Bar Examination for general applicants.

46. Briefly describe what comprises the Alaska Bar Examination for attorney applicants.

47. Provide the total number of general applicants who took the spring ~~and summer~~ Alaska Bar Examinations for each of the following years: 1976, 1977, 1978, and 1979.

48. Provide the total number of general applicants ~~individuals~~ who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

49. Provide the total number of general applicants who took the summer Alaska Bar Examination for each of the following 1976, 1977, 1978, and 1979.

50. Provide the total number of general applicants who passed the summer Alaska Bar examination for each of the following years: 1976, 1977, 1978, and 1979.

51. Provide the total number of attorney applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

52. Provide the total number of attorney applicants who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

53. Provide the total number of attorney applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

54. Provide the total number of attorney applicants who passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

55. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

56. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants and passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

57. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

58. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants and passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

59. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

60. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

61. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

62. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

63. Who is the State Bar Disciplinary Administrator for the Alaska Bar Association?

64. Distinguish the type of complaints that are referred to a Hearing Committee as opposed to those complaints that are referred to a Conciliator.

65. Furnish a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms utilized by the Alaska Bar Association since 1976.

66. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.

67. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.

68. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.

69. Furnish a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, if appealed the disposition, and if sent to the Alaska Supreme Court, the disposition there. (Names of attorneys subject to the disciplinary action may be deleted.)

70. For the years of 1976, 1977, 1978, and 1979, all statistical data reflecting:

a. the types of complaints against attorneys received and acted upon:

b. the types of investigations conducted and the results thereof;

c. the procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action; and

d. the number of times any member of the Alaska Bar Association subject to the Alaska Bar Rules is the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney is the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation, and the ultimate disposition of each such action with respect to each such attorney. (The names and identifying information for each such attorney may be deleted from any such data.)

71. The total number of complaints against attorneys received by the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.

72. The total number of attorneys that were disciplined ~~by the Alaska Bar Association~~ in each of the following years: 1976, 1977, 1978, and 1979.

INSERT QUESTION HERE - see back of this page.

73. The total number of attorneys that were the subject of a private reprimand in each of the following years: 1976, 1977, 1978, and 1979.

74. The total number of attorneys that were the subject of a public censure in each of the following years: 1976, 1977, 1978, and 1979.

75. The total number of attorneys that were suspended from the practice of law ~~by the Alaska Bar Association~~ in each of the following years: 1976, 1977, 1978, and 1979.

76. The total number of attorneys that were disbarred from the practice of law in each of the following years: 1976, 1977, 1978, and 1979.

77. Are records maintained of previous disciplinary complaints against an attorney regardless of whether such complaints are dismissed?

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78. What percentage of disciplinary complaints were filed against an attorney by a client of such attorney for each of the following years: 1976, 1977, 1978 and 1979?
79. What percentage of disciplinary complaints were filed against an attorney by another attorney for each of the following years: 1976, 1977, 1978, and 1979?
80. What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate for each of the following years: 1976, 1977, 1978, and 1979?
81. What percentage of disciplinary complaints were initiated by the Alaska State Bar Disciplinary Administrator for each of the following years: 1976, 1977, 1978 and 1979?
82. What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka, and Juneau, for each of the following years: 1976, 1977, 1978, and 1979?
83. Provide the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing to report such for each of the following years: 1976, 1977, 1978, and 1979.
84. Provide the total number of judges who have been disciplined for observing misconduct on behalf of lawyer and failing to report such for each of the following years: 1976, 1977, 1978, and 1979.
85. What percentage of Requests for Investigation were determined to be inadequate, incomplete, or insufficient to warrant further attention of the Board of Governors for each of the following years: 1976, 1977, 1978, and 1979?
86. Provide the total number of Requests for Investigation that were referred to the Fee Arbitration Panel for each of the following years: 1976, 1977, 1978, and 1979.
87. Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was finalized in each of the following years: 1976, 1977, 1978, and 1979.

73. Provide the total number of attorneys that were the subject of a private admonition by the Alaska State Bar Disciplinary Administrator for each of the following years: 1976, 1977, 1978, and 1979.

88. How many times did the Fee Arbitration Panel refer a matter to the Executive Director of the Alaska Bar Association for appropriate disciplinary action in each of the following years: 1976, 1977, 1978, and 1979?

89. Furnish a copy of the petition form and explanatory booklets which are required by Alaska Bar Rule III-42 to be provided to the clerks of court in every location in the state.

Although at first glance, these informational requests ~~app~~ ~~might~~ appear to be quite lengthy, ~~although the~~ ~~The~~ ~~House~~ ~~Judiciary~~ ~~Committee~~ it is not the intention of the House Judiciary Committee to unduly burden the staff of the Alaska Bar Association. ~~It is~~ ~~to~~ ~~avoid~~ ~~unnecessary~~ In keeping with this intention, ~~the~~ requests were drafted for that reason requests are not made for information contained in statutes, Alaska Bar Rules, or ethical codes. ~~Further, we~~ ~~should~~ ~~certain~~ ~~of~~ ~~the~~ ~~requests~~ ~~prove~~ ~~to~~ ~~be~~ Furthermore, as the 1980 Legislative Session commences on January 14, 1980, ~~responses to these informational requests~~ ~~by~~ ~~the~~ ~~Association~~ ~~would~~ ~~may~~ ~~be~~ ~~so~~ ~~would~~ ~~be~~ ~~may~~ ~~be~~ ~~timely~~ ~~furnished~~ ~~on~~ ~~or~~ ~~before~~ ~~that~~ ~~date.~~ ~~would~~ ~~be~~ ~~so~~ ~~considered~~ ~~timely~~ ~~at~~ ~~any~~ ~~on~~ ~~or~~ ~~before~~ ~~that~~ ~~date.~~

timely

Should you desire to meet with me concerning ~~this issue~~ this matter please feel free to contact my office. I shall be in the Anchorage through the month of November.

34.

Margaret W. Bersh

~~Enclosed herein is~~

The House Judiciary Committee, pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and ^{pursuant to} ~~its~~ its general authority and powers as a standing legislative committee, respectfully requests the Alaska Bar Association to ~~furnish the~~ ~~provide the~~ information requested comply with the informational requests contained herein. ~~These requests seek to~~ The purpose of these informational requests is to familiarize the House Judiciary Committee with the Association's membership, organization, continuing legal education programs, budget, and admission and disciplinary ^{processes} ~~procedures~~. ~~For~~ admission, discipline, and fee arbitration practices. Information ~~on~~ regarding each of these areas will

Procedures
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~~These information requests were drafted~~

These informational requests are intended to illicit non-confidential information in compliance with your letter of September 17, 1979.

November 7, 1979

Donna C. Willard
President
Alaska Bar Association
P.O. Box 279
Anchorage, Alaska 99510

Dear Ms. Willard:

~~I am in receipt of your letter dated~~

Upon receipt of your letter of September 17, 1979, ~~I requested~~ the House

~~Judiciary Committee requested the~~
~~Legislative Affairs Agency to provide~~
a legal opinion as to the current status of the Alaska Bar Association. A copy of that legal opinion will be ~~provided~~ ^{furnished} to the Alaska Bar Association, should the Association desire to respond.

~~Enclosed ~~is~~ herein is a series~~
~~of~~ Pursuant to ^{its} ~~the~~ obligations arising under the sunset law and furthermore pursuant to ~~the~~ its general authority and powers ~~of~~ as a standing legislative committee, the House Judiciary Committee ~~submits here with~~ submits herewith its ~~informational~~ requests for information from the Alaska Bar Association.

The House Judiciary Committee pursuant to its obligations under the sunset law, AS 44.66.050, and its general authority and powers as a standing committee of the Alaska State legislature requests the following information from the Board of Governors of the Alaska Bar Association:

1. How many attorneys are admitted to practice in the State of Alaska ^{law} ~~are~~ ~~including~~ ~~are~~ ~~2x~~ excluding those who practicing on a waiver?
2. How many attorneys are practicing law on a waiver for Alaska Legal Services Corporation?
3. How many attorneys are practicing law on a waiver for a United States Armed Forces Expanded Legal Assistance Program?
4. What is the total number of attorneys practicing law pursuant to a waiver in the State?
5. How many legal interns are currently certified in the State of Alaska?
6. How many active members of the Alaska Bar Association are there?
7. How many inactive members of the Alaska Bar Association are there?
8. How many judicial members of the Alaska Bar Association are there?
9. How many honorary members of the Alaska Bar Association are there?
10. How many members of the Alaska Bar Association are women?
11. How many members of the Alaska Bar Association are Native Alaskans?
12. How many members of the Alaska Bar Association are black?
13. How many members of the Alaska Bar Association are Hispanic?
14. How many members of the Alaska Bar Association are Asian?
15. What steps has the Alaska Bar Association taken to increase the ~~number~~ membership of women and minorities within the association?
16. What steps has the Alaska Bar Association taken to implement any of the recommendations contained in the 1979 Report from the association's Committee on Legal Educational Opportunities?

17. List all standing committees of the Alaska Bar Association.
18. What are the powers, duties, and functions of the standing committees listed in response to question 17.
19. Furnish all annual reports for the standing committees listed in response to question 17 for the following years: 1976, 1977, and 1978.
20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska Bar Exam.
21. Briefly describe all continuing legal education programs offered by the Alaska Bar Association within each of the following years: 1976, 1977, 1978, and 1979.
22. How many ethics opinions did the Alaska Bar Association render in each of the following years: 1976, 1977, 1978, and 1979.
23. Briefly describe the legislative program of the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.
24. Briefly describe the Alaska Bar Association's Lawyer Referral System.
25. Furnish a copy of the Professional Code of Ethics.
26. Furnish a copy of the Code of Judicial Conduct.
27. List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.
28. What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?
29. How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed amendment to the Bar Rules which would define the practice of law?
30. How many non-attorneys ^(individuals) were notified by the Alaska Bar Association of its consideration of a proposed amendment to the Bar Rules that would define the practice of law?

42. What was the total cost of the admission procedures of the Alaska Bar Association (including the cost of any court litigation arising therefrom) for each of the following years: 1976, 1977, 1978, and 1979.

43. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in each of the following years: 1976, 1977, 1978, 1979. With respect to these expenditures provide the case name, docket number, brief description of issue, whether the case was appealed to the Supreme Court, and the final disposition. Additionally it should be noted if the Alaska Bar Association was assessed attorney's fees pursuant to Rule 82 or if the Alaska Bar Association was able to recover a portion of its attorney's fees and costs pursuant to such rule. Rule 82 Furnish the amount of such assessments or reimbursements.

44. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.

45. Briefly describe what comprises the Alaska Bar Examination for general applicants.

46. Briefly describe what comprises the Alaska Bar Examination for attorney applicants.

47. Provide the total number of general applicants who took the spring ~~XXXXXX~~ Alaska Bar Examinations for each of the following years: 1976, 1977, 1978, and 1979.

48. Provide the total number of general applicants ~~individuals~~ who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

49. Provide the total number of general applicants who took the summer Alaska Bar Examination for each of the following 1976, 1977, 1978, and 1979.

50. Provide the total number of general applicants who passed the summer Alaska Bar examination for each of the following years: 1976, 1977, 1978, and 1979.

51. Provide the total number of attorney applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
52. Provide the total number of attorney applicants who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
53. Provide the total number of attorney applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
54. Provide the total number of attorney applicants who passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
55. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
56. Provide the total number of females, Alaskan Natives, blacks, hispanics, and Asians who were general applicants and passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
57. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
58. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were general applicants and passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.
59. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who took the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

60. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who passed the spring Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

61. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who took the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

62. Provide the total number of females, Alaskan Natives, blacks, Hispanics, and Asians who were attorney applicants who passed the summer Alaska Bar Examination for each of the following years: 1976, 1977, 1978, and 1979.

63. Who is the State Bar Disciplinary Administrator for the Alaska Bar Association?

64. Distinguish the type of complaints that are referred to a Hearing Committee as opposed to those complaints that are referred to a Conciliator.

65. Furnish a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms utilized by the Alaska Bar Association since 1976.

66. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.

67. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.

68. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court during each of the following years: 1976, 1977, 1978, and 1979.

69. Furnish a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, if appealed the disposition, and if sent to the Alaska Supreme Court, the disposition there. (Names of attorneys subject to the disciplinary action may be deleted.)

70. For the years of 1976, 1977, 1978, and 1979, all statistical data reflecting:

- a. the types of complaints against attorneys received and acted upon:
- b. the types of investigations conducted and the results thereof;
- c. the procedural steps taken with respect to each type of complaint

processed and the ultimate disposition of each such action; and

d. the number of times any member of the Alaska Bar Association subject to the Alaska Bar Rules is the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney is the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation, and the ultimate disposition of each such action with respect to each such attorney. (The names and identifying information for each such attorney may be deleted from any such data.)

71. The total number of complaints against attorneys received by the Alaska Bar Association for each of the following years: 1976, 1977, 1978, and 1979.

72. The total number of attorneys that were disciplined. ~~by the Alaska Bar Association~~
in
~~each~~ each of the following years: 1976, 1977, 1978, and 1979.

~~INSRT QUESTION HERE - see back of this page.~~

73. The total number of attorneys that were the subject of a private reprimand in each of the following years: 1976, 1977, 1978, and 1979.

74. The total number of attorneys that were the subject of a public censure in each of the following years: 1976, 1977, 1978, and 1979.

75. The total number of attorneys that were suspended from the practice of law ~~in~~ in each of the following years: 1976, 1977, 1978, and 1979.

76. The total number of attorneys that were disbarred from the practice of law in each of the following years: 1976, 1977, 1978, and 1979.

77. Are records maintained of previous disciplinary complaints against an attorney regardless of whether such complaints are dismissed?

s

78. What percentage of disciplinary complaints were filed against an attorney by a client of such attorney for each of the following years: 1976, 1977, 1978 and 1979?
79. What percentage of disciplinary complaints were filed against an attorney by another attorney for each of the following years: 1976, 1977, 1978, and 1979?
80. What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate for each of the following years: 1976, 1977, 1978, and 1979?
81. What percentage of disciplinary complaints were initiated by the Alaska State Bar Disciplinary Administrator for each of the following years: 1976, 1977, 1978 and 1979?
82. What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka, and Juneau, for each of the following years: 1976, 1977, 1978, and 1979?
83. Provide the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing to report such for each of the following years: 1976, 1977, 1978, and 1979.
84. Provide the total number of judges who have been disciplined for observing misconduct on behalf of lawyer and failing to report such for each of the following years: 1976, 1977, 1978, and 1979.
85. What percentage of Requests for Investigation were determined to be inadequate, incomplete, or insufficient to warrant further attention of the Board of Governors for each of the following years: 1976, 1977, 1978, and 1979?
86. Provide the total number of Requests for Investigation that were referred to the Fee Arbitration Panel for each of the following years: 1976, 1977, 1978, and 1979.
87. Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was finalized^a in each of the following years: 1976, 1977, 1978, and 1979.

73. Provide the total number of attorneys that were the subject of a private admonition by the Alaska State Bar Disciplinary Administrator for each of the following years: 1976, 1977, 1978, and 1979.

88. How many times did the Fee Arbitration Panel refer a matter to the Executive Director of the Alaska Bar Association for appropriate disciplinary action in each of the following years: 1976, 1977, 1978, and 1979?

89. Furnish a copy of the petition form and explanatory booklets which are required by Alaska Bar Rule III-42 to be provided to the clerks of court in every location in the state.

Information to be requested from the Alaska Bar Association

- ~~Bud~~ 1. Budgets from the ~~past~~ last four years
- ~~Bud~~ 2. What state funds does the ABA currently receive? What are these funds for? What is the source of these state funds? Similar information for ~~past~~ last four years.
- ~~Gfr~~ 3. Statistics pertaining to the grievance procedures for past four years.
- ~~Ad~~ 4. Statistics pertaining to the admission of attorneys for the past four years.
- ~~General~~ ~~General~~ 5. ~~all personnel positions and salaries for past four years; what is the turn-over factor. Personnel Manual~~ paid staff positions powers, duties, title, fringe benefits
- ~~General~~ 6. Names of Board of Governors and officers for the Past four years.
- ~~General~~ 7. Description of CLE programs offered for the last four years
- ~~Ad~~ 8. Number of Blacks, Native Alaskans, Hispanic, Asian, Phillipino, or other minorities admitted to practice in Alaska. Numbers of such minority groups that took Bar Exams in past four years and failed such exam.
- ~~Gen~~ 9. What legislative bills has the bar lobbied for and what have they lobbied against in the last four years.
- ~~Gen~~ 10. What educational programs have been offered to the general public during the last four years?
- ~~Gen~~ 11. What agencies or groups are notified of intended bar rule changes aside from attorneys.
- ~~Gen~~ 12. Do lay person have any input in the ABA, do they serve on the Board or any of the Committees? of reports or policies on
- ~~Gen~~ 13. Number of Attorney currently admitted in Ak.
- ~~Gen~~ 14. List of Committee and chairman for each, currently in existence. Copies of Committee reports for th past four years.
- ~~General~~ 15. Minutes of Annual Bar Meetings for the last four years.
- ~~General~~ 16. ~~Ethic~~ Ethics Opinions of the ABA for the last four years.
- 17.

*General
Budget
Admission
Grievances*

legal opinion forthcoming

what is residency requirement for admissions?

Board

Income derived from
~~Expenses~~ of admissions - 4 years
cost of admissions (excluding litigation)

including litigation

qualification required for Admissions

Gen.

dates + locations of all Bd. of Gov. Meetings
type of public notice provided for such meetings.

copy of by laws

Rep. 1000
10/15/79
2/11/80
per diem

ad.

copy of application form

travel

expenses for Hawaii meeting - for each yr that Board met in Hawaii.

Board

Travel & Associated expenses

~~minutes of Meetings of Bd. of Gov.~~

financial records of the association with respect to the 1979 Hawaii Mid-Winter CLE meeting and Board of Gov.'s travel and per diem expenses for fiscal year 1979

types of members;

General

- active
- judicial
- inactive
- honorary

~~delinquent members~~

you

powers, duties, functions of standing committees - annual written reports

Rule

separate budget for BAR RAG

Expenses of Bd. of Governors

procedural step was taken with respect to each such complaint or investigation, and the ultimate disposition of each such action with respect to each such Atty. (The names and identifying information for each such attorney may be removed from any such data)

you

- A summary of facts, without reference to an attorney by name, in complaints or investigations completed for last 4 years

Yes. Any and all reports used by the Committee studying the AK Bar Exam

All Reports made by the Conflicts Committee

(X) # of Active members
of inactive members & decedent last 4 yrs.

<p>(B) All court litigation - (including ongoing case expenses to date)</p>	<p>case name + docket no.</p>
	<p>description of issues</p>
<p>whether contested Atty's costs success rate</p>	<p>Attorney's fees assessed to BAR</p>
	<p>opposing counsel fees assessed to BAR</p>
	<p>recovery of cost and</p>
	<p>Att. fees — to BAR</p>
	<p>Appealed</p>
	<p>Success / Failure</p>

Board Latest Audit report.

Board All vouchers, billings or other requests for reimbursement from the ABA to the Alaska Court System.

Give Form for reporting disciplinary cases to Board for last 4 years.

Board All disciplinary reports submitted to Dept. Ct. for last 4 years, including any revisions of such reports.

Give letters explaining reasons for reversed disciplinary reports.

Give card index on discipline indicating type of case, disposition, whether or not appealed, if appealed the disposition, and if sent to the Supreme Court, the disposition there (names of Attorneys may be removed).

Board ~~state~~ statistical data reflecting:

- the types of complaints against attorneys received and acted upon;
- the types of investigation conducted and the results thereof;
- procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action, and

Board d. the # of times any member of the Bar subject to the Bar Rules is the subject of a complaint or a complaint or investigation, the type of complaint or investigation in which each such Attorney is the subject, the dates on which each

Prin

Statistics pertaining to grievance procedures -

- # of complaints for each year
- # disciplined
 - # private reprimand
 - # public censure
 - # suspended
 - # disbarred

any forms used in process

{ % of complaints that are dismissed each year by merely a phone call or letter from accused lawyer.

{ Records maintained of all previous complaints against an individual ~~are kept~~ regardless of whether dismissed

- # of complaints submitted by client
- # of complaints submitted by lawyers.
- # of complaints submitted by judges
- # of complaints initiated by State Bar Disciplinary Administration

*

See Clark Report ABA

- 5 states have relaxed security requirements
- 20 states allow laymen to sit on disciplinary boards
- 3/4 of states - have \$ for staff & records.

* In past 4 years has any lawyer been disciplined for observing misconduct on behalf of another lawyer and not reporting it.

same for judges.

BR III-39 (n)(2) Summary of facts w/o reference to either of parties names (fee disputes) may be publicized in all cases once the action of bar has become final.

III-40
(c)

of times the fee dispute panel has referred a matter to Executive Director for appropriate disciplinary proceedings

copy of petition form and explanatory booklets AS per Bar Rule 42

DU

Client Security Fund Committee to reimburse clients for wrongful conversion by lawyers

Application for Reimbursement - Rule 46 may be rejected otherwise to Committee

no lay people on that Committee

Committee is Advisory only!

ABA - ~~com~~ is subrogated to rts of successful Applicant to extent paid - collection is 50% profit in court.

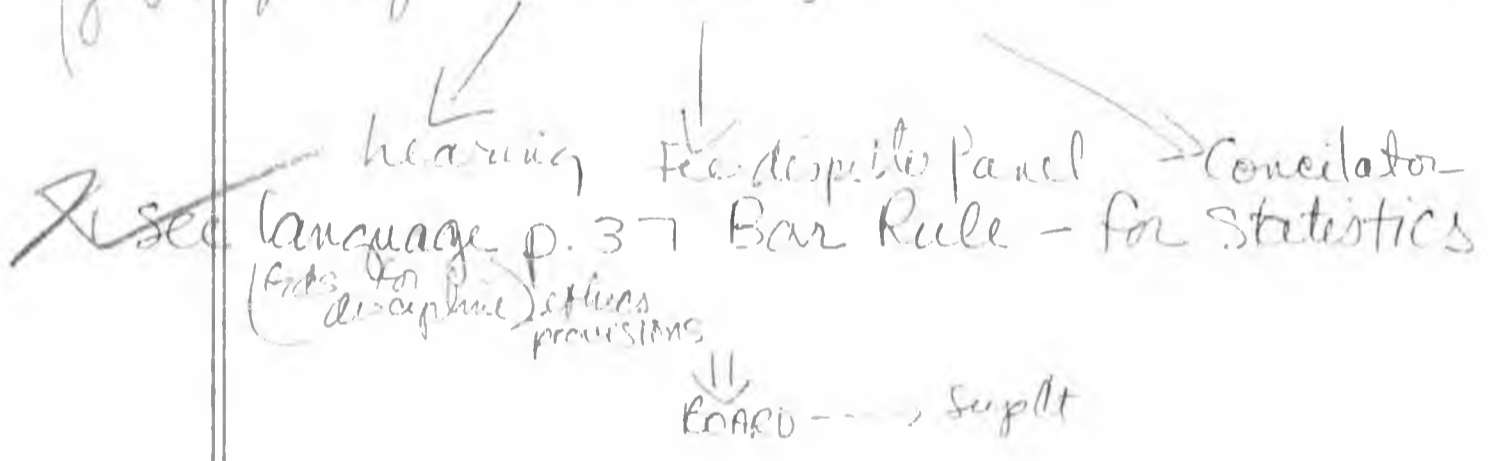
Notice of BR action - those on list, those self interested - groups or persons

of complaints initiated by State Bar
Disciplinary Administrative
form "Request for Investigation"



some determined inadequate, incomplete or insufficient
to warrant further attention of the Board.

same -> Leg sever upon respondent
after receipt of response can then be dismissed
after further investigation, but must file report to Bd



Conciliation Panels - disputes betw. Clients & Atty's

of suspensions resulting from crimes

Establishment of Fee Dispute Committee
called: "Attorney Fee Review Committee"

subto. call
see ASCM
43.01D
- ASCM.43
180

disagreement over fees, paid, charged or
claimed for legal services, where there
exists an express or implied contract
establishing an atty-client relationship.

~~gen code of professional ethics~~

~~gen lawyer referral system~~

~~gen continuing legal education programs~~

see arbitration disputes.

from Bar Rules

ed. What comprises the attorney bar examination?

ad. What comprises the general bar examination?

~~gen code of judicial conduct~~
now called "Disciplinary Enforcement"

types of discipline:

Disbarment by the Court

Suspension by the Court for a period not exceeding 5 yrs.

gen. Public Censure by the Court

Private Reprimand by the

Disciplinary Board or

Private Informal Admonition

* by the Administrator.

Who is the current State Bar Disciplinary Administrator?

The Alaska

BAR RAG

Volume 2, Number 6

Dignitas. Semper Paritas

July, 1979 \$1.00

Fourteen Resolutions Considered at Sitka Business Meeting

INAX Plan Passes Unanimously

At its annual Business Meeting in Sitka on June 9th, the Alaska Bar Association's membership in attendance considered fourteen resolutions dealing with such diverse topics as Bar sponsorship of a malpractice carrier for attorneys practicing law in Alaska; the establishment of an intermediate appellate court by constitutional amendment; tape recording of Board of Governors meetings; mandatory continuing legal education; and the prohibition of the practice of using secretaries, law clerks and others as standing masters, acting District Court Judges and Urban magistrates.

The meeting was called to order by outgoing President Ken Jarvi who served as chairman for the proceedings with the assistance of Bill Erwin from Anchorage as parliamentarian. The convention approved the situs and time for the 1980 convention and business meeting as Anchorage, Alaska, June 12, 13 and 14, 1980. After introducing the members of the Board of Governors, President Jarvi announced the nominations for the Board Positions of President-Elect, Vice President, and Secretary for the coming year. The names of the nominees submitted to the membership for election were Fart Rozell of Juneau for the office of President-Elect; Jonathan Link of Fairbanks for the office of Vice President; and Ted King of Ketchikan for the office of Secretary. Ken Jensen of Anchorage inquired of the Chair why the membership was not voting for President as well as President-Elect. Jarvi ruled Jensen out of order explaining that in accordance with the By-Laws, the incoming president had already been elected in Fairbanks in 1978. Ken Jensen challenged the ruling of the Chair. Then Jensen and Dave Call of Fairbanks seconded his motion that the chair be overruled. This motion was defeated. Voting followed and the Board Slate of Candidates, Rozell, Link and King were elected to the positions of President-Elect, Vice President and Secretary, respectively.

Malpractice CLE Reports

Following the election of officers for the coming year, the meeting was turned over to Karen Hunt and Chuck Flynn of Anchorage who presented an extensive review of the year long study and findings of the Self-Risk Management Committee of the Alaska Bar Association. On behalf of the committee, Hunt and Flynn recommended the passage of Resolution Number 1 endorsing INAX as the Bar-sponsored malpractice carrier for attorneys practicing law in Alaska.

The next event was the report of the Continuing Legal Education Committee on their study of the

(continued on page 8)

IN THE TRIAL COURTS FOR THE THIRD JUDICIAL DISTRICT

In the Matter of the Establishment of a List of Attorneys Re: Appointments for Criminal Conflict Cases.

ORDER

The Supreme Court has announced that, effective July 1, 1979, counsel appointed to represent defendants in criminal cases in which the Public Defender has established a conflict exists will be compensated at the rate of \$40 per hour with a maximum of \$1,500 in misdemeanor and \$2,500 in felony matters.

The Alaska Court System expenditure transactions reflect approximately two hundred ten (210) appointments of counsel in criminal conflict cases during the calendar year of 1978.

As the Greater Anchorage telephone directory contains approximately four hundred seventy (470) names of lawyers engaged in the private practice of law.

IT IS ORDERED that a list be established which will contain the name of each lawyer above-described. The order in which the names will appear on the list will be from a drawing, and it will be the responsibility of each attorney so appointed to provide legal representation or to arrange for another attorney to provide said representation.

If, during the preceding six-month period, any lawyer has been appointed to represent a defendant in a criminal matter, and so requests, his name will appear at the end of the newly established list.

Any lawyer who has been admitted to practice in Alaska for less than one year may request and have only misdemeanor assignments for a period of not more than one year.

It is further ordered that appointments will be established for Palmer, Kodiak, Kenai and Valdez. In the event that hardships result in small communities from the lack of adequate numbers from which to rotate assignments, with approval from this office, appointments may be made from the Anchorage list or other convenient locations.

DATED at Anchorage, Alaska, this 22nd day of June, 1979, with an effective implementation date of July 1, 1979.

Ralph E. Moody
Presiding Judge
Third Judicial District

Appointment of Temporary Bar Director Announced

John Lohff to Fill Post



The office of the Alaska Bar Association recently announced the appointment of John Lohff as temporary acting Bar Director until a replacement is found for the post recently vacated by Ronald Kull's resignation.

Lohff is working half-days in the Bar Office and half days in his own recently commenced private practice in Anchorage, Alaska.

While filling the post of the Executive Director of the Alaska Bar Association, Mr. Lohff is working to find his own replacement. Mr. Lohff took the position on a temporary basis to help the Bar and to pay some rent bills while he starts a private practice in Anchorage. Before his present job, John spent four and one-half years in the U.S. Army Judge Advocate General's Corp., three of which were at Ft. Richardson. He worked there as defense counsel in sixty-five criminal cases and also worked a year as government labor counsel and administrative law advisor. Before that, he was on President Ford's Clemency Board Staff as Assistant Counsel where he reviewed over forty applications.

Inside

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13 Candidates for Superior Court Judge Slot

Thirteen candidates have submitted applications for the position of Superior Court Judge for the Third Judicial District at Anchorage. The Superior Court Judgeship has been vacant since Judge Kalamarides' sudden death. In alphabetical order, the candidates are:

Albert H. Brunson, 44, born in Evanston, Ill. Received undergraduate degree from Northwestern University and his J.D. from the Univ. of Chicago. Since 1974 he has been in private practice with Branson & Guel-schow.

Robert C. Bundy, 32, born in Long Beach, Calif. Received undergraduate degree from Univ. of Southern Calif. and law degree from the Univ. of Calif.-Berkeley. From January, 1978 to present he has been assistant district attorney in Anchorage.

LeRoy E. DeVeaux, 38, born in Highland Park, Mich. Received undergraduate and law degree from the Univ. of San Francisco. Since July, 1974 he has been in private practice and from 1967 to the present he has been the attorney for the Bristol Bay Borough.

Shells Gallagher, 39, born in Ottumwa, Iowa. Received undergraduate degree from Northwestern Univ. and J.D. from the Univ. of Michigan. From 1976 to present she has been in private practice.

Max F. Gruenberg, Jr., 35, born in San Francisco, Calif. Received undergraduate degree from Stanford Univ. and J.D. from Univ. of Calif.-Los Angeles. From 1966 he has been in private practice. Since Feb. 1979 has practiced as Gruenberg & Frenz.

Karl S. Johnstone, 37, born in Phoenix, Arizona. Received undergraduate and law degree from the Univ. of Arizona. From 1973 he has been in private practice in Anchorage.

Carolyn E. Jones, 38, born in Port Chester, N.Y. Received undergraduate degree from Stanford Univ. and law degree from Yale Univ. Since 1975 she has been legal counsel to various state agencies—Alaska State Commission for Human Rights, Dept. of Education, Dept. of Revenue and Alaska Transportation Commission.

Judge Laurel J. Peterson, 31, born in Roseau, Minn. Received undergraduate degree from the Univ. of Minnesota.

New Job for Former D.A., Joe Balfe

By Judith Bazeley

After six years as head of the District Attorney's Office in Anchorage, Joe Balfe started a new job this month. He will fill a recently created position in the Department of Public Safety, entitled either Departmental Legal Officer or Assistant Attorney General for Law Enforcement. According to Balfe, the Department of Public Safety has long wanted its own attorney, but the position was only recently funded, thanks in part to the efforts of Bill Nix, the present Commissioner of Public Safety.

Balfe's new duties will be varied, consisting of legal research, interpretations of rules and statutes affecting the Department and which it has to implement, interpretation of various new pieces of legislation that concern the Department, and work on changes to regulations and portions of the Alaska Administrative Code. In addition, Balfe will assist the District Attorney's Offices in certain major criminal cases, functioning as a liaison between the State Troopers and the District Attorney, but not as a substitute for the District Attorney. In particular, he expects to help in developing shooting policies for the police and troopers. Balfe also expects that he will be active in lawsuits in which the Department of Public Safety is a party, assisting the Assistant Attorney General responsible for the litigation and acting as a liaison between the Department and those attorneys.

One area in which Balfe hopes to be of considerable benefit to the Department of Public Safety involves the administration of the new Criminal Code which goes into effect in early 1980. Apparently, the Department anticipates a certain number of problems with the Code and its new attorney will probably work on developing both a Handbook on the Criminal Code for the police and in developing training programs for the police and possibly others.

Balfe anticipates that most of his time will be spent on problems arising with Troopers and the Department of Motor Vehicles with considerably less time devoted to such other branches of the Department, such as Weights and Measures and Fish and Wildlife Protection.

Balfe says he has had his eye on this position since it was first dreamed up in the early 70's during John Havelock's tenure as Attorney General. Lack of funding kept the position from becoming reality until this year.

His feelings about his change of job are positive. Having asked for

the job, he wants to give it his best efforts. Balfe sees it as an exciting new opportunity to get in on the ground floor, remarking that he will still be working closely with the D.A.'s office. His immediate supervisor will be Dan Hickey, as before.

Balfe professes few regrets about leaving his position as D.A. after six years of service. His new position, although not a promotion, will be far more diversified and less administrative. However, he maintains that he would have remained in the D.A.'s slot had this new opportunity not arisen. He feels the office will be left in competent hands when his successor, Larry Weeks of Juneau, arrives in Anchorage on July 2. Until that time, Balfe will alternate his time between the D.A.'s office and the Department of Public Safety's Office on Tudor Road.

When asked about his accomplishments during his six years tenure as D.A., Balfe cited the opening of District Attorney Offices in Kodiak and Bethel, increased service to bush communities with each attorney in the District Attorney's Office spending one week a month in a bush community. There are now three attorneys in the District Attorney's Office who do nothing but intake work. A paralegal position as a victim witness coordinator has been established. The District Attorney's Office assists in training the City Police; and the diversion program, designed to offer alternative solutions for first offenders in nonviolent crimes, is now operating with a reasonable degree of success.

In addition, over Balfe's six years, the District Attorney's legal staff has grown from 10 to 18 attorneys, and Balfe points to greater continuity of personnel, something which has hitherto been a problem. Several attorneys have been employed by the District Attorney's Office for slightly under five years and two have passed the five year mark. In all, Balfe has been responsible for overseeing 40 people in the District Attorney's Office and in remarking that the position is purely administrative, notes that he has only tried four cases in the past six years.

Prior to becoming District Attorney in Anchorage, Balfe was District Attorney in Juneau from 1971 to 1973 and was Assistant District Attorney from 1970 through June, 1971. An advertisement brought him to Juneau from Oregon where he had been a private practitioner since 1964. Prior to that time he was an Oregon State Policeman for eight years.

Wilma French Wins Legal Secretary Award

Wilma French of Anchorage was chosen Legal Secretary of the Year by the Anchorage Legal Secretaries Association at its meeting on May 3, 1979.

Ms. French has been a legal secretary for 32 years and is presently employed by the firm of Burr, Pease & Kurtz, Inc. Wilma has been a member of the Legal Secretaries Association both in Washington and Alaska for eight years. She held several positions in the Anchorage Legal Secretaries Association including President (two years); Vice President (one year); Recording Secretary (two years);

and she has also won the Chairperson for the Membership and Insurance Committees. She is presently the Chairperson of the Legal Education Committee. Ms. French has been a member of the National Secretaries Association for 32 years and has served and chaired on many committees within their organization.

The Legal Secretary of the Year award is made annually to a member on the basis of outstanding secretarial ability, service to civic, charitable and religious activities and the national, state and local legal secretary associations.

ALASKA BAR ASSOCIATION ETHICS COMMITTEE OPINION 79-1

The question posed to the Committee is:

It is proper for an attorney to charge interest on unpaid portions of a billing?

There are three opinions of the American Bar Association Committee on Ethics which are pertinent to this inquiry.

Formal Opinion No. 151 (February 15, 1936) held that it was improper to offer a discount to clients for prompt payment of fees. The opinion was premised upon then-in-effect Canon 12:

In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade...

Informal Decision No. 741 (March 31, 1964) held that it would be improper to include the following language on an attorney's billing, form:

Interest at the rate of six percent per annum will be charged on all accounts not paid within thirty days.

The Committee's rationale for Informal Decision No. 741 was that the practice might constitute a bargaining weapon which the attorney might use in reaching an agreement as to the amount of fees where the fees owed were in dispute. Furthermore, the Committee contended that even where the fees have been agreed upon, the claim of interest would appear to be an inducement to pay promptly, similar in effect to offering a discount for prompt payment, a practice which was condemned in Formal Opinion No. 151, as discussed above.

On the other hand, Informal Decision No. 741 (1964) went on to state that in special cases it would be appropriate for an attorney to

accept a promissory note for the amount of a fee, with interest to accrue until paid, and with the provision that the client could prepay without penalty. This practice would be acceptable, according to the Informal Decision No. 741, only where the client was able to pay but desired that payment be deferred for his convenience rather than of necessity.

Formal Opinion No. 338 (November 16, 1974) dealt generally, and approvingly, with the use of credit cards for the payment of legal services; it also contains the following statement:

It is also the Committee's opinion that a lawyer can charge his client interest providing that the client is advised that the lawyer intends to charge interest and agrees to the payment of interest on accounts that are delinquent for more than a stated period of time.

The Alaska Bar Association Committee on Ethics notes in these opinions a definite liberalizing trend toward the allowance of interest on unpaid billings; more importantly, the Committee does not find any provision of the Code of Professional Responsibility which directly or indirectly prohibits or condemns the charging of interest on unpaid billings. The Committee believes that the public generally would in fact be surprised if interest were not charged on overdue billings as in the case of any other debt. If it is an attorney's intent to charge interest on unpaid billings, he should of course inform his client of that intent to avoid later disputes, but the Committee can find no reason either in logic or under the provisions of the Code of Professional Responsibility which would indicate that the charging of interest is improper.

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ALASKA BAR ASSOCIATION

Proposed Amendments to Rule 3, Alaska Bar Rules

Proposed Amendments to Discipline Rules, Relating to Appointment of Hearing Committees

	APPROVED 1979 BUDGET
INCOME	
A. Members Dues	\$220,647
B. Admission Fees	51,925
C. Client Security Fees	12,833
D. C.L.E. Fees	30,000
E. Insurance Fees	1,550
F. Lawyer Referral Fees	3,000
G. Newsletter	N/A
H. Bar Convention	5,000
I. Hawaii Meeting	15,000
J. Contract: Anchorage Bar	4,200
K. Contract: Discipline	61,500
L. Interest	4,000
M. Miscellaneous	500
	\$410,155
Less Client Security Funds	12,833
Total Income to General Funds	\$397,322
EXPENSES	
A. Board of Governors	\$ 30,000
B. Admissions	35,888
C. Client Security Fund	N/A
D. C.L.E.	20,000
E. Committees	5,000
F. Legislative	10,000
G. Newsletter	4,000
H. Convention	5,000
I. Hawaii Meeting	15,000
J. Lawyer Referral	16,188
K. Discipline	100,000
L. UCLA-Ak Law Review	9,000
M. Administrative	128,000
N. Judicial Poll	N/A
O. Insurance	4,800
P. Fee Arbitration	N/A
Q. American Bar Association	5,000
R. Western State Bar Conference	2,500
	\$388,374
Excess of Income over Expense	

Section 1 should be re-written to read as follows:

Section 1. An application form shall be provided by the Board upon request and upon payment of such fees as the Board shall deem appropriate. Bar examinations shall be held in the months of February and July of each calendar year. The time, date, and place or places of each bar examination shall be announced by the Board no fewer than 120 days prior to the first day of such bar examinations, and prompt notice thereof shall be provided all applicants and persons who have been provided applications following the date of the last preceding bar examination. Application forms provided by the Board shall be transmitted with a copy of the Alaska Bar Rules governing admission to the practice of law. The Board may provide applicants with such other matters as it may deem pertinent.

The fifth sentence of Section 2 of Rule 3 should be amended to read as follows:

Every applicant shall submit a certified transcript of his law school record, together with two-inch by three-inch photographs of himself showing a front view of his head and shoulders.

The first sentence of Section 3, Rule 3, Alaska Bar Rules, should be amended to read as follows:

An application shall be filed not later than March 1 for the July bar examination and not later than October 1 for the

1. Repeal subsection (4) of Section (c), Rule 13, and re-number subsections of Section (c), accordingly.

2. Amend Rule 15(a) to add, at the beginning of that subsection, the following sentence:

Members of hearing committees shall be appointed by the President, subject to ratification by the Board. The term of any member serving as of January 1, 1980 shall be extended to the 30th day of June next following the date on which his term would otherwise have expired; thereafter all terms of members shall commence on July 1 of the year in which appointment is made.

3. Amend the last sentence of Rule 15(a) to read:

The President shall designate the chairman of the committee, who shall act as chairman for one year, and who may succeed himself.

Amendments to Article IV of the By-Laws

PROPOSED NEW SECTION 1(b)

(b) **ADJUNCT MEMBERS.** The annual membership fee for active adjunct members is \$127.50, \$10.00 of which is allocated to the Client Security Fund.

Section 1(b) through (f) should be re-numbered (c) through (g). Section 1(c), which is now to be (d), should read:

(d) **INACTIVE MEMBERS.** The inactive membership fee for an inactive member or inactive adjunct member is \$35.00. Section 1(f), now (g), should read:

Executive Director shall issue to each active member or active adjunct member making payment of his dues an official membership card certifying that such member has paid his dues.

Proposed Amendments to Section 1 of Rule 6 of the Alaska Bar Rules

Section 1. An applicant receiving notice that he has successfully passed the bar examination prescribed by the Board pursuant to Rule 4 hereof, and has been found by the Board to be of good moral character, and has in other respects been determined eligible shall within one year file an Alaska Bar Association registration card in the form provided by the Board; certify under oath that he is domiciled in the State of Alaska; and pay prorated active membership fees for the balance of the calendar year in which he is admitted, computed from the date of payment.

Section 2. The Board may conduct a character investigation of an applicant, or may continue such an investigation, after an applicant has been permitted to take, or has passed, the examination prescribed by the Board pursuant to Rule 4 hereof. The fact that the Board has permitted an applicant to take the examination, and has given the applicant notice that he has passed the examination, shall not thereafter preclude the Board from finding that the applicant is precluding from admission by lack of good moral character.

Committees

COMMITTEE APPOINTMENTS

The standing Committees of the Alaska Bar Association for 1979-1980 are as follows:

1. ADMINISTRATIVE LAW:

- Mary Patch, Chairman, term end. 1981
- David Marquez, Vice-Chairman, term end. 1981
- Donn Wannell, term end. 1980
- George Weiss, term end. 1980
- Roger Kempell, term end. 1980
- Andy Hoge, term end. 1981
- Andrew Sarisky, term end. 1982
- James W. Reeves, term end. 1982
- David Le Blond, term end. 1982
- Pat Kennedy, Board Liaison Member

2. BAR ROLLS AND ELECTIONS:

- Ronald L. Baird, Chairman, term end. 1980
- Elaine Andrews, term end. 1981
- Ronald H. Jarrell, term end. 1982
- Karen Hunt, Board Liaison Member

3. BAR - BENCH PRESS:

- Southcentral:**
- Chancy Croft, Chairman, term end. 1982
- Charles Tunley, term end. 1981
- Superior Court Judge, term end. 1980
- Local Bar President - in accordance with term of office
- Southeastern:**
- Judge Robin L. Taylor, Chairman, term end. 1982
- Bart Pozell, term end. 1980
- Mike Thomas, term end. 1981
- Judge Allen Compton, term end. 1982
- Geoffrey Currall, term end. 1981
- Bill Royce, term end. 1980
- Interior:**
- Will Schendel, Chairman, term end. 1982
- Judge James Blair, term end. 1981

4. BUSINESS LAW:

- Judge Hugh Connelly, term end. 1982
- Mary Green, term end. 1980
- Local Bar President, term end. 1980
- Karen L. Hunt, Board Liaison Member
- Wayne Booth, Chairman, term end. 1982
- Steve Hillard, Vice-Chairman, term end. 1981
- Hoyt Cole, term end. 1982
- J. Douglas Williams II, term end. 1982
- Raymond E. Plummer, term end. 1981
- Walt Garratson, term end. 1980
- Ken Eggers, term end. 1980
- C.L. Cavness, term end. 1980
- Peggy Roston, term end. 1980
- Stan Fischer, Board Liaison Member

5. CIVIL RULES:

- Don Cocksain, Chairman, term end. 1982
- J.L. McCarrey III, term end. 1981
- Vice-Chairman**
- Millard Ingraham, term end. 1982
- Samuel Pestinger, term end. 1982
- David Thorness, term end. 1981
- Karl Walter, term end. 1981
- Susan Burke, term end. 1980
- John Hellenthal, term end. 1980
- Linda Swiderski, term end. 1980
- Donna C. Wilford, Board Liaison Member

6. CONTINUING LEGAL EDUCATION

- SOUTHCENTRAL:**
- ROBERT HAKTIG, Statewide and Southcentral Chairman, term end. 1982
- Phil Nash, term end. 1982
- Sandra Seville, term end. 1980
- Michael Arruda, term end. 1980
- Nancy Gordon, term end. 1981
- Brad Owens, term end. 1981

(continued on page 12)

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 Jim Douglas, Chairman, term end. 1981
 Frank Rothschild, term end. 1982
 Dennis McCarty, term end. 1980
Interior:
 Art Rozell, Chairman, term end. 1982
 Rita Allee, term end. 1980
 Niesje Steinkruger, term end. 1981
 Harry Branson, Board Liaison Member
7. CRIMINAL LAW:
 Mike Rubinstein, Chairman, term end. 1982
 Bill Bryson, Vice-Chairman, term end. 1980
 Edgar Paul Boyko, term end. 1982
 William H. Babcock, term end. 1982
 Kevin McCoy, term end. 1981
 Jim Gilmore, term end. 1981
 Rhonda Butlerfield, term end. 1981
1981
 Joe Balfe, term end. 1980
 Judge John Mason, term end. 1980
1980
 Harry Branson, Board Liaison Member
8. ENVIRONMENTAL LAW:
 John Reeder, Chairman, term end. 1980
 Jane Pearis, Vice-Chairman, term end. 1981
 Steve Volker, term end. 1980
 Robert E. Mintz, term end. 1980
 W.J. Bonner, term end. 1981
 Paul Grant, term end. 1981
 J.P. Tangen, term end. 1982
 Ken Norman, term end. 1982
 Steve Oliver, term end. 1982
 Bart Rozell, Board Liaison Member
9. ETHICS COMMITTEE:
 Chuck Flynn, Chairman, term end. 1982
 Hugh Fleischer, Vice-Chairman, term end. 1982
 Charles D. Silvey, term end. 1982
 David Shimek, term end. 1980
 Robert Mahoney, term end. 1980
 Dennis Hopewell, term end. 1980
 Bill Bittner, term end. 1981
 Alex Bryner, term end. 1981
 Carol Johnson, term end. 1981
 Ted King, Board Liaison Member
10. FAMILY LAW:
 John Reese, Chairman, term end. 1982
 Tim Lynch, Vice-Chairman, term end. 1981
 Max Gruenberg, term end. 1982
 Michele D. Brown, term end. 1982
 Bob Frenz, term end. 1981
 Bruce Tennant, term end. 1981
 Mel Evans, term end. 1980
 Bob Rehbock, term end. 1980
 Drew Peterson, term end. 1980
 Jon Link, Board Liaison Member
11. LAW RELATED EDUCATION
 Bill Choquette, Chairman, term end. 1982
 Randy Farleigh, Vice-Chairman, term end. 1982
 Keith Goltz, term end. 1981
 John Ulyatt, term end. 1980
 Carol Johnson, term end. 1980
 Paul Waggoner, term end. 1980
 Donna C. Willard, Board Liaison Member
12. LEGAL EDUCATIONAL OPPORTUNITIES:
 Carolyn Jones, Chairman, term end. 1982
 Pat Anderson, Vice-Chairman, term end. 1982
 Chief Justice J. Rablnowitz, term end. 1982
 John W. Peterson, term end. 1981
 Robert C. Erwin, term end. 1981
 Dennis Lazarus, term end. 1980
 John Hedland, term end. 1980
 Fritz Pettyjohn, term end. 1980
 Norman Staton, term end. 1980
 Pat Kennedy, Board Liaison Member
13. NATURAL RESOURCES:
 Ron Birch, Chairman, term end. 1982
 Carl Bauman, Vice-Chairman, term end. 1980
 Robert Price, term end. 1982
 John K. Norman, term end. 1982

- Cameron Sharrick, term end. 1981
 Harris Saxon, term end. 1981
 Joseph Henri, term end. 1981
 William Moses, term end. 1980
 Garritt Von Kommer, term end. 1980
 Bart Rozell, Board Liaison Member
14. PARALEGAL:
 Steve Conn, Chairman, term end. 1982
 Michael Jeffrey, Vice-Chairman, term end. 1980
 James E. Fischer, term end. 1982
 Joseph A. Kalamarides, term end. 1982
 Chuck Dunnagan, term end. 1981
 Eric Olson, term end. 1981
 Steve Branchflower, term end. 1981
 Sylvia Short, term end. 1980
 Irene Jackson, term end. 1980
 Richard D. Savell, Board Liaison Member
15. PROBATE
 Peter Glinder, Chairman, term end. 1981
 Ronald Offret, Vice-Chairman, term end. 1982
 Jack D. Clark, term end. 1982
 Trigg Davis, term end. 1982
 George W. Skladal, term end. 1981
 John Hughes, term end. 1981
 Edward Garnett, term end. 1980
 Doris Loennig, term end. 1980
 Mutt Jamin, term end. 1980
 Ted King, Board Liaison Member
16. REAL ESTATE:
 Frank Nosek, Chairman, term end. 1982
 Peter Lekisch, Vice-Chairman, term end. 1982
 Paul Jones, term end. 1982
 John W. Abbott, term end. 1981
 Tim Petumenos, term end. 1981
 Michael W. Price, term end. 1981
 Jan Van Dort, term end. 1980
 Ted Burton, term end. 1980
 Rich Huffman, term end. 1980
 Stan Fischer, Board Liaison Member
17. STATUTES, BYLAWS AND RULES:
 David Bundy, Chairman, term end. 1982
 Judith Bazeley, Vice-Chairman, term end. 1980
 Martha Mills, term end. 1982
 Ben Esch, term end. 1982
 Phil Weidner, term end. 1981
 Paul L. Henderson, term end. 1981
 Robert Downs, term end. 1981
 Michael Flanigan, term end. 1980
 Peter Michalski, term end. 1980
 Donna C. Willard, Board Liaison Member
18. TAXATION
 David Shaftel, Chairman, term end. 1982
 Bernie Dougherty, Vice-Chairman, term end. 1980
 Joseph A. Vittono, term end. 1981
 Peter Bartlett, term end. 1981
 Franklin Fleeks, term end. 1981
 A. Fred Miller, term end. 1981
 Thomas Y. Yerbich, term end. 1981
 George Goerig, term end. 1982
 Anthony Doyle, term end. 1982
 Steve Pearson, term end. 1982
 Ralph Duerre, term end. 1982
 Stanley Reitraan, term end. 1980
 Peter Glinder, term end. 1980
 William Van Doren, term end. 1980
 Bill Lawrence, term end. 1980
 Richard D. Savell, Board Liaison Member
19. TORT
 Bernie Kelly, Chairman, term end. 1982
 Wav Shea, Vice-Chairman, term end. 1981
 Mark Sandburg, Vice-Chairman, term end. 1981
 Samuel E. Vandiver, term end. 1982
 Louis Agi, term end. 1982
 Jan Ostrosky, term end. 1981
 John Hendrickson, term end. 1980
 Julie Clark, term end. 1980
 Willem Pauzaskie, term end. 1980
 Jon Link, Board Liaison Member

The Nose...knows the news

Dig out your first year law books everyone, it's easize time. Judges Singleton and Rowland are off to England on administrative leave to study, get this! Early English Common Law!

Speaking of Judges, the nose bears the Judge's sensitivity training conference in Sitka really showed how sensitive the Judges are to the lack of a pay raise. Most of the conference was taken up with that issue.

Word has it the District Attorneys are persona nongrata as far as the Trooper Academy people are concerned after holding their conference in that hallowed police shrine. Someone said you would have thought it was a Public Defenders' Conference, what the coeducational use of the sauna late at night, etc.

What happened in Lloyd Haggner? He didn't show for the business meeting at the Bar. We know where Ken Jensen was, he was winning all the money in the poker game.

And speaking of the Bar Convention. Plaudits to the Sitka Bar Association. That small group of lawyers did a great job and their hospitality during the convention was outstanding.

The go-go place out the road, has been trying to get Will Condon Dep. A.C. to come back to Sitka for a repeat performance. Even his friends didn't know he could dance like that.

In addition, the Channel Club has invited Sharon Burke to a special "All you can eat" salad bar. Seems she just couldn't get enough while she was there.

Gene Wiles and a few of the boys were whooping it up in the Hotel Coffee Shop at about 6:00 A.M. one morning of the convention, while next to them was a group holding, or at least trying to hold, a prayer breakfast. All Gene could say when they confronted his group for their continued expletives was, "Well, Pray For Me Too."

Lanier gave Arnold Palmer three tips to improve his timing.



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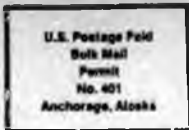
#3 Call Barretts
 Since I started using Lanier, I have more time to spend on the golf course. Take a tip from Arnold Palmer. If paperwork is interfering with your timing, give Lanier a try. They have a wide variety of desktops and portables at prices you can afford.

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Volume 2, Number 9

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Judiciary Committee Public Hearings Announced

The House Judiciary Committee of the Alaska Legislature will be holding public hearings in five Alaskan communities this fall. It will be the first time this committee has taken public testimony outside of Juneau. The communities scheduled are Anchorage, Fairbanks, Nome, Bethel and Ketchikan. Local legislative information offices have the specific dates and places of all hearings, as well as a listing of the bills currently pending action in the house judiciary committee. The public hearing will include all matters within the justice system: The courts, corrections, law enforcement, discrimination, rural justice, domestic violence, and lawyers, as well as specific bills. They include SB 104, establishing an intermediate court of appeals, HB 392, an act relating to domestic violence, HB 252, an act relating to juries, and HB 479, an act relating to Alaska's drug laws. Copies of bills are available at local legislative information offices. All interested persons are urged to attend. Those not wishing to testify may send written statements to the House Judiciary Committee, Pouch V, Juneau, Alaska 99811.

House Judiciary Committee Interim Schedule

- September 6th Anchorage
Charlie, Peggy and Rocky - work session at office: 1016 W. 6th Ave., Suite 201
- September 13th Anchorage
Committee Briefing - 9:00 a.m. - office: 1016 W. 6th Ave., Suite 201
Public Hearing - 7:30 p.m. - Eagle River Public Library
- September 14th Anchorage
Committee tour of correctional facilities - Time TBA - Ridgeway, McLaughlin, Third Ave. (Sixth Ave. time permitting)
- September 15th Anchorage
Public Hearing - 9:00 a.m. - Alaska Court Building, 303 "K" St. rm 402
- October 5th Bethel
Committee tour of Bethel jail - Time TBA
Public Hearing - 2:00 p.m. - Legislative Information Office, Kuskokwim Inn Annex
- October 6th Bethel
Public Hearing - 9:00 a.m. - Legislative Information Office, Kuskokwim Inn Annex
- October 19th Fairbanks
Committee tour of Fairbanks jail - Time TBA
Public Hearing - 2:00 p.m. - City Council Chambers, 410 Cushman St.
- October 20th Fairbanks
Public Hearing - 9:00 a.m. -

Judge Taylor Elected to AUS Board

CHICAGO: The Honorable Robin L. Taylor, Judge of the District Court, First Judicial District, Wrangell, Alaska, has been elected to the Board of Directors of the American Judicature Society.

The American Judicature Society is a national membership organization of lawyers, judges and non-lawyer citizens founded to promote the effective administration of justice through judicial improvements and court modernization.

Judge Taylor was president of the Young Lawyers Section of the American Bar Association, 1972-76; served on the Alaska Bar Association Ethics Committee from 1973-1976; and was Alaska Coordinator of Emergency Services, Federal Disaster Assistance Administration. In 1975, Taylor was president of the Ketchikan Chamber of Commerce and served one term as vice-mayor of that city. He is a member of the American Bar Association and the Alaska Bar Association.

Contracts Let For Criminal Conflict Defendant Representation

Contracts between the Alaska Court System and private practitioners have been entered into to provide legal representation for conflict criminal defendants in four areas of the State. Drathman, Wiedner & Bryson will provide representation in Area 3 (Anchorage, Palmer, Glennallen, Valdez and Cordova) and Area 5 (Kenai and Kona Peninsula). James Hackett and Irwin Raven jointly will represent conflict criminal defendants in Area 6 (4th Judicial District excluding Bethel Service Area but including Barrow Service Area). Law Offices of Myron Angstman will provide legal services in Area 8 (Bethel Service Area).

No contracts were let for the First Judicial District: The Chain, Bristol Bay and Alaska Peninsula; or Nome and Kotzebue because no responsive offers were submitted that were cost efficient for the Court System.

- Borough Assembly Chambers, 520 5th Ave.
- November 2nd Nome
Committee tour of Nome jail - Time TBA
Public Hearing - 2:00 p.m. - Nome City Hall

(continued on page 7)

Ombudsman Springs New Subpoenas on Bar



Frank Flavin

The latest salvo in the power struggle between Frank Flavin, Ombudsman, his anonymous informants, and the Alaska Bar Association consists of a series of subpoenas for attendance and production of documents from Frank Flavin's office. Those summoned to appear before Flavin's Deputy, Padeen Moriarty, are Donna Willard, President, William Garrison, Bar Counsel and Vicki Goodrow, Bookkeeper. They are required to produce the following documents:

1. Latest audit report.
2. Ted King's letter to Board of Governors dated Sept. 12, 1978 concerning Sunset Audit.
3. Mary LaFollette's letter of resignation.
4. All vouchers, billings or other requests for reimbursement from the Bar Association to the Alaska Court System.
5. Monthly Financial reports for the period July 1, 1978 to June 30, 1979.
6. All vouchers, billings, or requests for reimbursement for members of the Board of Governors for the period January 1, 1979 to June 30, 1979.
7. All vouchers, billings and receipts which back up the Profit and Loss statement for the Midwinter Hawaii Convention prepared by V. Goodrow on August 27, 1979.
8. Original disciplinary report prepared for Supreme Court for last quarter of 1977.
9. Revised disciplinary report for last quarter of 1977.
10. Letter of explanation explaining reasons for revised disciplinary report for last quarter of 1977.
11. Form for reporting disciplinary cases to Board prior to May, 1979.
12. Form for reporting disciplinary cases to Board after May, 1979.
13. The card index on discipline, indicating the type of case, disposition, whether or not appealed, if appealed the disposition, and if sent to the Supreme Court, the disposition there. (Names of attorneys may be removed.)

14. For the period July 1, 1978 - June 30, 1979, all statistical data reflecting

- a. the types of complaints against attorneys received and acted upon;
- b. the types of investigation conducted and the results thereof;
- c. the procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action, and
- d. the number of times any member of the Bar subject to the Bar rules is the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney is the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation, and the ultimate disposition of each such action with respect to each such attorney. (The names and identifying information for each such attorney may be removed from any such data.)

15. A summary of facts, without reference to an attorney by name, in complaints or investigations completed in the period July 1, 1978 - June 30, 1979.

In addition, Willard, Garrison and Goodrow are commanded to appear in the hearing room of the office of the Ombudsman on Wednesday, October 31, 1979 at 10:00 to give testimony.

Moody Moots Motion

On September 13th Judge Moody summarily dismissed Flavin's motion to compel compliance with another subpoena holding it moot in as much as the Bar had voluntarily supplied the information to Frank in his capacity as a Bar member rather than Ombudsman.

Donna Willard announced, on the advice of Counsel, that the Bar office will provide, once again, all records, not deemed confidential, to Frank in his capacity as a member of the Association.

Donna Available

Willard indicated she will be present in the Association offices, at the date and time set forth in the subpoena, to answer any questions which Frank, as a member of the Bar, might have.

Inside

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Random Potshots

"Can the Supreme Court Define the 'Practice of Law'?"

by John Havelock

On receiving his 25 year membership award at a September Bar lunch, Verne Martin recalled the circumstances of his first case. A dozen or so lawyers, the entire Anchorage Bar of the day, made a point of being on hand to congratulate Martin on his humiliation by a lay practitioner.

Willkey Jefferson, already a "living legend" 25 years ago, still enlarges his career. At perhaps its high point, Jefferson cost the Anchorage borough hundreds of thousands of dollars in legal defense expenses and costs of interest and bond sales disrupted by litigation. One might fairly ask "if the Bar couldn't put Willkey out of business, what is it doing asking the Supreme Court to adopt a definition of the "practice of law" reaching conduct far beyond Mr. Jefferson's busy practice?"

Unfazed By Cannon

The Bar Association was evidently unfazed by Canon Three of the ABA Code of Professional Responsibility which recites, "It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law."

Perhaps the adoption of AS 08.08.230 brought this knotty task to the fore. There the legislature, while going out of its way to announce that its actions were founded on "the legislature's inherent power," criminalized the unlicensed practice of law "as that term is defined in the Alaska Bar Rules..." It may be that there is no prohibition on authorized practice until such a definition is promulgated. Take note Willkey imitators but first consult a lawyer.

Draft Ruminations

The Board of Governors approved a draft rule at the end of March of this year, a draft upon which the Supreme Court still ruminates.

It is not without its difficulties. One of the problems is that the same section of statute which calls for a definition excludes from the definition "the use of paralegal personnel as defined by the rules of the Alaska Supreme Court." How does one define the principle without also defining the exception?

The legislative action places in confusing juxtaposition two "inherent" powers. It makes sense that the power of courts should include, without specific constitutional recite-

tion, the power to control who may appear in courts, the conduct of parties and their representatives therein and closely related conduct outside the court having a major impact on the judicial forum. But, absent specific legislative authorization, what stretch of imagination and power allows the court to control the modalities used in transactional counseling?

Fiduciary Filmflam

There is a public interest in the control of various classes of fiduciary conduct. The giving of legal advice and the preparation of documents having legal effect may be activities which the legislature has a legitimate interest in controlling in the interest of consumer protection at least to the point where First Amendment rights take over. But does the court have a legislative power over such transactional management? It seems unlikely.

Claiming The World

Arguendo, the court may have an inherent interest in controlling the management of disputes which may clearly be heading for the courts. Out of the sea of law which envelopes virtually all transactional activity in the modern era, pre-litigation disputes are but a small fraction. To claim an interest in the management of all transactions which could become disputes which could come to court is to claim a legislative power covering the entire world of human affairs.

Court claims to regulate the rendering of advice beyond the context of litigation are on soft ground. Is the ground firmed up by a delegation under "the legislature's inherent power?" The Court itself would probably say no. At least it said that in the Sahre Jet case when the court disclaimed power granted by the legislature to license liquor dealers.

Turf Tussles

With the integrated bar now under intensive review and lawyers' turf claims challenged on several fronts, the court today may be reluctant to move into an arena where it could end up with a legislatively bloodied nose. No inside knowledge is claimed, but it does not surprise this observer that the definition of the practice of law has been sitting in the justices' in-basket for some time.

BOG Meets for Four Days in September

The Board of Governors of the Alaska Bar Association met in Anchorage, Alaska on September 6, 7, 8, and 9, 1979. In addition to handling five bar examination matters and recommending to the Supreme Court disciplinary action in a matter before it as the Disciplinary Board, the Board also heard reports from Nancy Gordon, CLE Committee; Carolyn Jones, Legal Education Opportunities Committee and Mike Rubinstein, Executive Director of the Judicial Council.

The following actions were taken by the Board. Special committees on Specialization and Prepaid Legal Services were established to report to the Board in March, 1980 and report to the membership in June, 1980 at the Annual Meeting. A standing insurance committee was established and assigned the task of monitoring the Bar endorsed Professional Malpractice program and the Bar sponsored group health and life programs.

The proposal of Bill Erwin and Joe Kalamarides to prepare and write a Workmen's Compensation manual for members of the Alaska Bar Association was tentatively accepted by the Board. The Board considered budgeting \$5,000 in 1980 to pay for secretarial and manuscript preparation. Erwin and Kalamarides agreed to present a CLE program at which the manual would be distributed. They also agreed to present a CLE program at which the manual would be distributed. They agreed to present a budget to the Board in December.

The Board approved a line item budget procedure and determined that the budget for each year would be considered at the December meeting. By unanimous vote, the Board decided to publish for membership response an amendment to the By-laws of the association which would provide for the election of a Treasurer. In the interim, Pat Kennedy was selected to act as Fiscal Responsibility Officer until the Annual Meeting in 1980.

The Board adopted a policy requiring support staff evaluation in December for annual merit raises. To effectuate the policy, merit raises will be considered in December, 1979, which raises, if any, will be effective July 1, 1979 for the remainder of 1980.

Several rule changes were forwarded to the Supreme Court for its consideration. These changes make all time periods for Committee appointments consistent. The Board also approved an Association By-law change establishing an adjunct membership available to lawyers employed in the State of Alaska by the Federal Government and in-house Council. Without taking the Bar Exam, such attorneys can apply for

an adjunct membership by payment of \$147.50 per year. This entitles them to full benefits of the Association except they cannot vote or hold office. The Board further voted to publish rule changes regarding law school accreditation and graduation certificates.

The Board adopted Ethics Opinion 79-2 which holds that it is unethical for an attorney to ransack the opposing attorney's trash and garbage. Ethics Opinion 79-3 was deferred until the October Board meeting and Opinion 79-4 was returned to the Committee for clarification.

The proposal of the Bar Polls and Elections Committee to conduct a pro bono activity poll was adopted by the Board with some clarification instructions being forwarded to the Committee Chairman, Ron Baird.

The Board adopted the recommendations of the paralegal Committee and its Chairman, Stephen Conn, to give associate committee membership to paralegals at no fee.

The Board referred to the special committee studying the Alaska Bar Examination the issue of whether prolonged inactive status should require a Bar exam in order to transfer to active status.

The Board adopted a new policy whereby examinees can receive a copy of their essay exam answers and the questions by payment of \$10.00 to cover handling and administrative costs. The multi-state exam questions and answers can not be made available because of restrictions of the National Conference of Bar Examiners from whom the multi-state exam is purchased.

The 1980 mid-winter CLE meeting of the Association will be in Kona January 16th through the 20th, 1980. The 1982 mid-winter CLE meeting will be at the Maui Surf January 20, 21, 22, 23 and 24. The Board is seeking input from the membership as to whether it prefers that the 1981 mid-winter CLE meeting to be held on a cruise ship or some alternative location in the continental United States. Consideration is being given to a seven day round trip cruise from Los Angeles to Mexico. The projected cost per person ranges from \$800 to \$1,500. Special air rates from Anchorage to Los Angeles can be arranged as a part of the cruise package. Final determination on the location of the 1981 mid-winter CLE program will be made at the October Board meeting.

The President reported to the Board on the American Bar Association meeting in Dallas, the 9th Circuit Judicial Conference, the Alaska Legal Services Corporation meeting and the meetings with the Alaska Supreme Court Chief Justice and Court Administrator.

As an economy consideration, the Board voted to hold the remainder of the 1979 BOG meetings in Anchorage. The next meeting is scheduled for October 25, 26 and 27 at the Association Offices.

ALASKA STATUTES



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Special Conflicts Committee Dissolved

The Conflicts Committee voluntarily formed in July by representatives of the Court System, Department of Law, Bar Association and Public Defender Agency has been dissolved by committee vote. The purpose of the committee was originally twofold. First, with Court System approval, the committee determined procedures, drafted documents, and wrote solicitation letters to members of the Bar urging private practitioners individually or as a group, to submit offers to enter into a four month contract with the Court System to provide legal services to conflict criminal defendants in one or more of eight specific geographical areas of the state. This goal has been accomplished as reported elsewhere in this issue of the Bar Rag.

The Committee's second goal was (1) to review criteria for determining indigency and conflicts; and (2) to consider and recommend long-term solution(s) to assure competent representation at reasonable cost in all cases where court-appointed counsel is required. This goal will not be pursued by the Committee.

In a letter to Chief Justice Rabinowitz, the Conflicts Committee has urged the Court System to appoint a committee to review such criteria, to recommend rule changes, if any, to establish criteria to determine "indigency" and "conflict" and to recommend rule changes, if any, in order that competent counsel can be provided at reasonable cost in all court appointed-counsel cases. The Committee also recommended that such a Committee be comprised of representatives from the Court Administration, Trial Court Bench, Bar Association, Department of Law, the Public Defender and ALSC. Until such an investigation can be completed, the Committee further urged the Court System to continue to provide representation for criminal conflict defendants by contract with private practitioners.

The Committee members were Karen Hunt, chairperson; Rick Barrier, Grant Callow, Bob Fisher (Court System); Will Condon, Tom Juhnke (Department of Law); Brian Shortell (Public Defender); and Dick Savell and Donna Willard (Bar Association).

Criminal Misdemeanor Pretrial Order by Judge Beverly Cutler

The following Pretrial Order now is effective in all misdemeanor cases in Anchorage District Court. It is patterned after the Superior Court Omnibus Hearing and Trial Order, but there are distinctly different deadlines and procedures authorized for District Court. The District Attorneys' Office, Municipal Prosecutor's Office, and Public Defender Agency were consulted over wording the order and establishing the deadlines. Most of the order merely sets forth in writing the existing or modified procedures for motions and trial settings in District Court, which policies previously were unwritten.

New Discovery

One important new part of the order pertains to discovery. The need for defense attorneys to file "form" motions for discovery has been eliminated, because the prosecution now is obliged to disclose everything required by Criminal Rule 16(b)(1-3) within 5 days of entry of a plea of Not Guilty. Defense attorneys must still contact the prosecutor's office and arrange to pick up the materials, however. There is a parallel requirement that the defense disclose certain matters to the prosecutor at least 10 days prior to trial without the necessity of the prosecution applying for a court order.

Deadlines also are set for the filing of motions, at least 21 days before trial, unless new information becomes available after that. If oral argument is desired on motions, a motions hearing date must be requested at calendar call. If an attorney requests a motions date but does not file any motion, he must inform the court when the deadline passes.

Change of pleas must be accomplished on or before the trial date. If a defendant requests a trial and then later decides that he wants to change his plea, he may do so at anytime but must do so on or before the trial date. He may not announce at trial that he intends to change his plea at some future date, unless special leave of the court is sought and granted.

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Anchorage Motion Practice: Civil & Criminal Cases

MEMORANDUM
TO: Members of the Anchorage Bar Association
FROM: Ralph E. Moody
 Presiding Judge
 Third Judicial District
RE: Motion Practice—Civil and Criminal Cases

In order to better utilize judicial time and insure that important matters receive the attention to which they are entitled, the judges of the superior court in Anchorage have agreed on certain changes in procedure regarding the calendaring of motions which became effective September 1, 1978. In order to put those changes in the context of existing procedures and answer some questions that have arisen, I am circulating this memo. We in the Third Judicial District are not adopting local rules, rather we are explaining local procedures.

Henceforth, the hours between 9:00 a.m. and noon and 1:30 p.m. and 4:00 p.m. will be set aside for the trial of lawsuit and the hearing of disputes. Each judge will hear oral argument on dispositive motions at 4:00 p.m. each day. The calendaring department will not schedule oral argument on non-dispositive motions unless directed to do so by a superior court judge.

Short Notice Motions—Screening Hearings

Henceforth, all applications to shorten the time for the hearing of a motion (see Civil Rule 77(j)) will be presented to the presiding judge or, in his absence, the acting presiding judge for consideration. If the presiding judge or acting presiding judge is on the bench, the motion and supporting papers should be left in chambers and will be acted upon at the judge's earliest convenience. Individual judges, including those nominally assigned cases for motions, should not be contacted. Counsel will be notified by the presiding judge's secretary regarding his disposition of the request. Should a hearing be granted on the application for shortened time, it will be calendared before the presiding judge for screening and will be limited

to the question whether time should be shortened on the principal motion (see Civil Rule 77(j)(3), last paragraph). If it is determined that the motion should be considered on short notice, the presiding judge will set an abbreviated briefing schedule (see Civil Rule 77(b) and (c)) and refer the matter to the assigned judge, or if no judge has been assigned, assign the matter to a trial judge for determination.

The granting of such an abbreviated schedule will not ipso facto entail the granting of oral argument. Should the presiding judge determine at the shortened notice hearing that oral argument or an evidentiary hearing is warranted, he shall schedule such further proceedings before the assigned judge and see that the parties are notified. It should be stressed that the presiding judge will only be determining whether consideration of the motion on an abbreviated schedule is warranted and whether oral argument or an evidentiary hearing is desirable. He will not attempt, at the first appearance, to resolve the merits of the motion, though an opportunity will be given counsel to record a stipulated resolution of the motion mooted further proceedings.

Motions to Dismiss for Failure to Comply with Discovery

The current policy is to grant oral argument as a matter of right on dispositive motions. Technically, a motion to dismiss for failure to make discovery is such a dispositive motion. Technically, a motion to dismiss for failure to make discovery is such a dispositive motion. Practically speaking, such motions are almost never granted. In effect, such motions are treated as discovery motions (see Civil Rule 77(f)), i.e., applications for sanctions under Rule 37, and some sanction less than dismissal almost always imposed. Consequently, oral argument will not automatically be granted on motions to dismiss for failure to make discovery. Before such a motion is calendared for argument, counsel must specifically

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Stephen Conn's



Illustrations by Bradley S. Stockwell

Introduction by King Fanning
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Gala Anniversary Issue

The Alaska Bar Rag is one year old. Not a long time in the life of a commercial or house publication, but an advanced stage for a voluntary effort by lawyers. We celebrate our survival in this gala anniversary issue and fervently hope we will be able to continue to mark the passage of the years with twelve issues per annum; more or less on time, depending upon our skills at collecting advertising monies and copy that is worth reading.

We are amateurs at the newspaper business—and as such have made plenty of mistakes. Fortunately, our readers have been kind enough to overlook or tolerate this learning process. We have misspelled difficult words like lawyer and memoriam, fitted the wrong headline to a story or the wrong title to a poem. We have run photographs backwards, but not, so far, upside down. Sometimes our paper looks to us like it is almost a professional effort. Then we read it closely, and find otherwise.

As we review our first year, we note that we have brought to you all the news we can find about the Alaska and Anchorage Bar Associations; and all we dared print about the Ketchikan and Tanana Bar Associations. In addition, we have tried to select and print news stories of general interest to attorneys everywhere in the state.

We have brought to you, our readers, the fascinating mental processes of John Havelock, the musings of Russ Arnett, the field and stream writing of Wayne Ross, cartoons, poems, interviews and wherever possible photographs of interest. We have featured articles on the judicial Council, Equal Rights Amendment, tax considerations for small corporations, malpractice insurance, the new Alaska Lien Law, how to pick a jury and how to cross-examine, as well as critiques of Superior Court cases of significance.

On the lighter but perhaps no less informative side, we have shown you Stanley Dikus in his element; shared Dick Savell's uncanny know-how at raising chickens; Jack Fyfe's hanggliding savvy; the news of the nose; and Steve Dunning's introduction to the art of judo. We brought the news of the legislature to attorneys around the state through Norm Gorsuch's Bills and Notes. We hope to have even closer coverage of the legislature in the next session particularly with the sunset legislation looming ahead for the Alaska Bar Association.

We tried to make elections more interesting by printing stories and pictures about the Board of Governors candidates and judicial candidates. We also covered the Hawaii and Sitka conventions and hope to continue to cover the two annual major events of the Alaska Bar Association.

This isn't meant to be an exhaustive list, but we think it touches some of the more interesting highlights of a fascinating year for all of us here at the Bar Rag. We expect the news and features to come will be every bit as interesting, perhaps more. Eventually, we may even produce an error-free edition.

We appreciate all of the help we have had from contributing Alaskan attorneys and others who have had something to say to our readers. We are delighted with the writing ability of some of our contributors and anxious to uncover new talent in the years ahead. Given your help and support, we hope to be around this time next year to celebrate again.



Wallace Stevens: Poetry, Lawyers and Alaska

by William T. Ford

I was in New York one day this week, but had very little time to spare. However, I did manage to see Mr. Kent's exhibition [Alaska Paintings of Rockwell Kent] at Knoedler's. Frankly, I was disappointed. This may be because I had not the time to study the pictures. Moreover, I was very much badgered by a female who, judging from my size and the roughness of my regalia, evidently mistook me for a strayed Klondiker. After all, would a Klondiker recognize in all that old gold, old rose, bou-doir blue, and so on, not, of course, the actual Alaska, but any sense of Alaska that he had ever had, or any sense of life that he had ever had there? Wallace Stevens, Letters, p. 217

The interrelationship of literature and law has often been commented upon. Many of the world's greatest writers have had legal training or juristic service: Dante, Mont-

aigno, Goethe, Balzac and Kafka, to name but a few. Both Shakespeare and Dickens are supposed to have served legal apprenticeships, based on evidence in their writing. Portia's courtroom oration in *The Merchant of Venice* and the interminable machinations of *Jarndyce v. Jarndyce* in *Bleak House* both reveal the artist's fascination with the mechanics of the legal process. Interestingly, each of these works in turn is credited with having had an important influence on the development of English law: Shakespeare in predicting the victory of equity (chancery) over law, which is said to have influenced Bacon's historic decision in *Glanville v. Courtney*; and Dickens with bringing about a reform of the worst abuses of Victorian chancery procedure.

In the twentieth century connections between legal training and literature are more tenuous. The best recent writing about law and lawyers, one thinks especially of Auden's "Law Like Love," and John Barth's *The Floating Opera*, has been by non-attorneys. And of American

literary figures we know to have been members of the legal profession: Melville, MacLeish and Wallace Stevens, only the most sensitive reader might make a connection between the poet's occupation and his literary work.

Wallace Stevens

Wallace Stevens, lawyer, insurance executive and the best, if not best known modern American poet, was born a hundred years ago this month in Reading, Pennsylvania. He came from a family of attorneys—his father, and later, his two brothers, had legal practices in Pennsylvania. But Stevens decided early for a life in poetry. He spent three years at Harvard as a special student, taking courses in French and literature and editing the *Harvard Advocate*. After Harvard, he worked for a year as a newspaper reporter in New York City. But at length despairing he would ever be able to make a comfortable living as a journalist, he took his father's advice to enter the family occupation. He enrolled in New York Law School, then as now an undistinguished institution, sometimes confused with New York University Law School, though at the time it boasted retired Supreme Court Chief Justice Charles Evans Hughes on its faculty.

Little is known of his law school days. He spent his summers clerking for W.G. Peckham, a friend of his father and during August of 1903 accompanied Peckham on a hunting trip to the Canadian Rockies in British Columbia. This was as close to Alaska as Stevens ever got but the event was a memorable one of which he wrote and spoke all the rest of his life. In later years, Stevens traveled extensively throughout the United States either on vacations or in the course of insurance litigation. But unlike Robert Service, who ranged from the Klondike to Turkey, Wallace Stevens never traveled abroad ("Abhorring Turk as Esquimeau") and visited Alaska only in his considerable imagination.

(continued on next page)

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Stevens

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He graduated uneventfully from high school, was admitted to the New York bar in 1904, and opened a law office in New York City with another young attorney. But he was not successful in private practice, although he kept at it with a number of firms until 1908, when he joined the New York office of the American Bonding Company, finally discovering what was to become his life's work. In 1916 he joined the Hartford Accident & Indemnity Co., as a surety bond claims specialist. In 1934 he was named a vice president of the company, a post he held until his death in 1955.

Poetry

Stevens' mature poetry dates from about 1915, when he was thirty-five years old. In that year he published "Peter Quince at the Clavier," and "Sunday Morning," two of his best known works. From this same period come: "Thirteen Ways of Looking at a Blackbird," "The Emperor of Ice Cream," "Anecdote of the Jar," and two poems which anticipate the poet's increasing preoccupation with winter imagery, journeying to the North, cabin building, living in snow and ice, and contemplating the beauty of the aurora borealis, "The Snow Man":

One must have a mind of winter
To regard the frost and the boughs
Of the pine-trees crusted with snow;

And have been cold a long time
To behold the junipers shagged with ice,
The spruces rough in the distant glitter

Of the January sun;...

and "The Comedian as the Letter C":

America was always north to him,
A northern west or western north, but north,
And thereby polar, polar-purple, chilled
And lank, rising and slumping from a sea
Of hardy foam, receding flatly, spread
In endless ledges, glittering, submerged
And cold in a boreal mistiness of the moon.

Perhaps the Arctic moonlight really gave
The liaison, the blissful liaison,
Between himself and his environment,
Which was, and is, his motive, first delight,
For him, and not for him alone. It seemed
Blissive, faint, more real than moon, perverse
Wrong as a divagation to Peking.

These lines, written sixty years ago, seem almost prophetic of modern day Alaska and its concerns.

Such themes recur constantly in the work of this poet who has been called (by poet Leonard Nathan) The Master of the Winter Land scape. And these remained constant throughout his life.

In *The Auroras of Autumn* (1947), the poet in his candlelight cabin, opens his door on the Northern Lights:

He opens the door of his house
On flames. The scholar of one candle flame
An Arctic effulgence flaring on the frame
Of everything he is. And he feels afraid.

Stevens' poetic reputation grew steadily during the 1930's and 40's, although his work was considered to be neither "popular" (like Frost) or "serious" (like Eliot) in that it frequently seemed to lack either subject or readily discerned antecedents in the tradition. But if he was a puzzle to readers and critics, other poets came to regard him with highest admiration. As early as 1919, Hart Crane could write: "There is a man who makes most of the rest of us quail," and after Stevens' death in 1955, Theodore Roethke would compose "A Rouse for Stevens":

Roar'em, whore'em, cockalorum,
The Musee, they must all adore him.
Wallace Stevens, are we for him?
Brother, he's our father!

A Trip to China or What I Did Last Summer

by James Blair

During late June and early July my wife, Shirley, and I visited China. Our trip was for the sole purpose of seeing as much of China as we could in 13 days. It was not a legal or judicial tour so we had no contact with courts, judges or lawyers. Accordingly, it was a real vacation.

The tour was organized by faculty members of Montana State University, and the full cost of the tour was paid in advance to the China Travel Services. In return, China Travel Services provided all transportation, lodging, meals and tour guides who took care of the details. Two guides met us in Canton, and they accompanied us during the entire trip. We visited four major cities, Canton, Shanghai, Sian and Peking, and were assisted by two local guides in each city, and our permanent guides were responsible for arranging travel between cities and dealing with the daily management problems inherent with a 24-person group. This system worked very well. Our local guides could answer almost any and all questions because of their familiarity with their own region, and our permanent guides were free to make sure that all necessary advance planning was done.

The daily itineraries were designed to keep the group busy all day and most nights, but there was no requirement that individual members participate in the scheduled tours. We were free to venture off on our own to explore as we wished if we could make our own arrangements. Language barriers prohibited any complicated ventures, but we did enjoy just walking around the cities exploring and looking. The Chinese

people in Peking seemed to be used to Westerners, but we were apparently still unique in Canton, Shanghai and Sian. I suspect this is because we often went in places on our own which were well off the beaten tourist track. In these areas



it was not unusual to be surrounded by more than one hundred people. They were unfailingly polite and courteous, but they were certainly curious. At no time were any of us ever nervous or concerned for our welfare during these encounters. I learned to just accept and enjoy the crowds as a part of China. There wasn't actually much choice. It is very difficult to be inconspicuous when you wear a beard and are nine inches taller than the average Chinese.

Tour Highlight

The highlight of our tour was a visit to the excavation site of the buried terra-cotta army which stands guard a few miles from the tomb of Chin Shih Huang, first Emperor of the Chin dynasty. The tomb is located about 25 miles from Sian in Western China.

Chinese archeologists are laboriously piecing together the smashed fragments of 8,000 life-sized pottery figures of warriors and horses. The army consisted of infantry, cavalry, chariots and bowmen. It had a vanguard and a rear-guard and two lines facing outwards on the flanks. They were buried 20 feet deep approximately 2,100 years ago.

The warriors are all six feet tall. They carried swords, spears and crossbows. The wood has vanished, but the bronze trigger mechanisms for the crossbows remain intact. The trigger mechanisms have several

moving parts and, of the numerous mechanisms thus far excavated, the parts are interchangeable. Testing of the swords shows that 13 separate elements were used to produce the extremely hard steel from which they were made. They remain as sharp and durable as any weapons produced since.

Only a small portion of the three acre site has been excavated. At least 95 percent of the figures are still buried. Numerous Chinese archeologists, assisted by laborers, were scraping away the soil with hand trowels. Some of the statues have survived mostly intact. It was a powerful experience to see them particularly unearthed. Heads and torsos projected out of the ground at odd angles.

The whole excavation site is now covered with a huge cantilever roof. The building, which resembles an airplane hanger, measures 200 feet by 700 feet. The long range plan is to excavate the whole site, restore all the figures and replace them as they originally were with all 8000 figures lined up at attention. It is now estimated that it will take 20 more years to complete the project.

The tomb that the figures guard is covered by a sloping, hand-constructed hill several hundred feet high. It has not been opened, and the Chinese have no plans to open it in the near future.

The Lure of Peking

In Peking we visited the Great Wall, the Forbidden City and Chairman Mao Tse Tung's Mausoleum.

The Great Wall has been more than adequately described many times elsewhere, but it was a great thrill to see. We walked along the top of the wall for several hours. In the days of horseback armies it must have been a formidable obstacle.

The former Imperial Palaces were the residences of the emperors of the Ming and Ching dynasties. They form the biggest and the best preserved group of ancient buildings now existing in China. The Palace Quarter is surrounded by a wall 35 feet high and a moat 170 feet wide. The area inside the wall used to be called the Forbidden City since only royalty and staff could enter. The palaces are now used to house national art treasures, and the whole area is called the Imperial Museum. There are many palaces and over 9,000 rooms so several days could easily be spent there.

Just outside the main gate to the Forbidden City is Tian An Men Square—one square mile of concrete open space in the center of Peking. Over one million Chinese can

[continued on page 9]



It has taken readers awhile to catch up. Now it seems one cannot pick up a piece of popular literature without coming upon a quotation of Stevens. We find in John Irving's bestseller *The World According to Garp*, an indulgent novel, yet full of favorite things: Newfoundland dogs and calligraphy pens, Wellesley girls—and Wallace Stevens. On page 465, the author/protagonist, son of a famous feminist writer, wants to write a novel titled "The Plot Against the Giant." The significance is not clear, but the poem, one of Stevens' most sensuous ("Heavenly labials in a world of gutturals.") is possibly the closest thing to a feminist manifesto Stevens ever wrote.

And a recent book of scientific essays, Lewis Thomas' *The Medusa and the Snail: More Notes of a Biology Watcher*, in a piece called "The Scrambler in the Mind":

Maybe there is a need for secrecy where language is involved. It is conceivable that if we had anything like full, conscious comprehension of what we are doing, our speech

would be degraded to a permanent stammer or even into dead silence. It would be an impossible intellectual feat to turn out the simplest of sentences, the lovely Wallace Stevens sentence, for example: "The man replied, Things as they are, are changed upon the blue guitar."

These are merely instances.

A lawyer, Stevens is not a lawyer's poet. His concerns have to do with the relation of reality and the imagination, and the role of poetry in defining this relationship. One may occasionally come upon a lex or res, but the language is not legal. Stevens' idea of a "supreme fiction" may have some antecedents in legal fictions, but there is ample literary tradition to account for this concept. If there is any one thing about Stevens' work, aside from its generalist aspect, that ought particularly to appeal to the legalistic sensibility, it is his habit of argument by dialectic, so reminiscent of trial procedures, (or sometimes) of motion hearings. It is these arguments that a fellow lawyer might best be able to follow.

appreciate and judge. And what lawyer does not wish to be a judge, especially of another lawyer's work?

The Centennial

The centennial of Wallace Stevens' birth (October 2, 1896) is to be the occasion of a number of tributes, poetry readings, and new critical works: a new biography by Peter Brazeeu is to appear in a few months, a book of essays has been announced by Princeton University Press, special issues of literary periodicals *The Southern Review*, *Antaeus* and *The Wallace Stevens Journal* are in the works, and festivals are being held at The University of North Carolina, Chapel Hill, and in New Haven and Hartford, Connecticut. It is hoped that from all this will come an increased readership and appreciation for this lawyer's supreme literary achievement.

William T. Ford is an Anchorage attorney and managing editor of *The Bar Rag*. He formerly edited and published *The Wallace Stevens Newsletter* and is associate editor of *The Wallace Stevens Journal*.

Bar Rag Interview Wendell Kay

A Candid Conversation in two parts with "The Silver Fox"
by Ace Reporter
Kathleen Harrington

KH: Wendell, you have been an established practitioner in Anchorage for years. What initially brought you to Anchorage?

WK: Came up here in 1946 but I didn't start practicing until January 1, 1946 because at the time I came up here I was Executive Director of the Alaska Housing Authority. Something I knew absolutely nothing about. But it was an interesting job.

KH: And you were there for two years?

WK: Yes. Actually I came up here in the fall of 1946.

KH: With a law degree in hand?

WK: Oh yes, I had practiced law before the war in Centralia, Illinois. I got out of law school in 1938 and worked for the National Labor Relations Board for a year in Washington, D.C. and then my brother and I opened a law office in Centralia, Illinois. We didn't know what we were doing, but we had a lot of fun anyway.

KH: That's a farming community isn't it?

WK: Centralia was a farming community, peach orchard area, but they struck oil there so it was like Alaska in a way, it was full of pointed-toed boots from Arizona, Oklahoma and Texas and they were drilling oil wells all over town. They were drilling them on city lots, if you can imagine that.

KH: A real boom.

WK: A real boom town. And so nobody knew one lawyer from another. We hung up a sign. You know, as far as the average guy from Texas knew, we were just as good as lawyers as anybody else, so we had a

lot of fun fooling people that way.

KH: How long did you practice in Centralia?

WK: The war got both of us. My brother went in the Army in 1941 and I went in late 1942. I was in the Army until September of '45. I got out and I took a look at Centralia and it was the old story of how you gonna get 'em back on the farm after they've been Paroo' so I went from Centralia to Portland, Oregon. The little government agency I worked for in the Department of Interior became the nucleus of the first regional office of the Bureau of Land Management. We created the Bureau of Land Management and so I was really the first acting regional attorney of the first region of the Bureau of Land Management. Then this job offer came from Alaska and I came up here.

KH: Did your brother stay in Centralia?

WK: My brother didn't. It's an interesting story too. He got out of the Army. He had never really been too hot about practicing law. He was really a musician. So he was wounded in the war and when he got out he took a look at Centralia and said "I'm not only not going back to Centralia but I'm not going to practice law," so he commenced teaching piano and he's been teaching piano ever since.

KH: In the mid-west?

WK: In Louisville, Kentucky. He's the dean of the piano teachers of Louisville I guess. He is very happy, very successful. He and I just got back from a trip to Spain this summer.

KH: What was the practice of

law like when you initially came up here?

WK: Well, when I came up here there were 18 lawyers in town. The entire bar association is in that picture up on the wall. In the top one on the right. Come on I'll show you. The front row is Harold Butcher, John Maulers and old George Grigsby who was the president of the bar. This is George here, Dorothy Tynes, Warren Cuddy that's Dan's father, who was my partner, and Bill Olson. In the middle row that's Dan Cuddy over on the left, Staw McCutch, Paul Robison, Harold Stringer, Ed Davis and Evander Smith. In the back row, Cecil Rolsy, Wendell Kay and Pete Kalamarides. There were a couple more that weren't in the pic-



ture. Bill Renfro wasn't there. But that was the entire bar. Anchorage was a town of about 15,000 people, very busy, very exciting place to practice law. Everybody was doing everything. Buying and selling and shooting each other, and getting divorced.

KH: What did you do after working as executive director of the Alaska Housing Authority?

WK: I went in with Mr. Cuddy. Mr. Cuddy had had a partner, Ed Arnell. Ed was actually the founding member of the firm of what is now Burr, Pessen & Kurtz. Ed died many years ago. But anyway, he had been Mr. Cuddy's partner and he decided he was going back to Seattle. So he quit, leaving Mr. Cuddy without a partner and without anybody to do his trial work. Mr. Cuddy liked office law but he didn't like to try cases. He could try them but he didn't like to so he was desperate. Somebody told him that I was a lawyer. He called me up out at the Housing Authority and said, "I understand you are a lawyer," and I said, "Yes I am." He said, "What are you doing out there," and I said, "I'm marking time." He said, "Why don't you come down and talk to me?" So I came down and we started talking at 8 o'clock and at 11 o'clock we had formed a partnership. Believe it or not that was the way it went. I never met him before that night, he'd never met me. But by 11 o'clock he offered me a partnership and I accepted it.

KH: What was your practice like?

WK: Very, very busy. Mr. Cuddy at that time was the President of First National Bank as well as having a law office. A couple of years later the controller of currency told him he had to quit that. Do one or the other but at that time in addition to doing a great deal of business work for all the bank's customers and Mr. Cuddy's friends and so on and so forth we also did a fairly large just general litigation practice, so it was very, very busy. We had two lawyers and six secretaries.

KH: Were you in court a lot?

WK: I was in court almost continuously.

KH: Who was your favorite judge, then?

WK: There was only one in those days. The judge then was Judge An-

thony Diamond who was the father of Justice John Diamond who retired from the Supreme Court. I remember when John was admitted to the bar. I was his examining lawyer. In those days you took a little exam and then a practicing lawyer examined you on the law and then took you over to court, introduced you to the judge and moved your admission. And so I asked John a few perfunctory questions and marched him over to court and moved that he be admitted. I introduced him to his father who acknowledged that he knew him faintly and he was admitted, whereupon we all went over to the Dermac Lounge and had several drinks.

KH: When did you start getting interested in the criminal law?

WK: After two or three years. I did a great deal of litigation but it was mostly civil litigation in the early couple of years and then George Grigsby who was the best and most prominent lawyer in town, he was really a very tremendous trial lawyer, you could write a book about him incidentally, he came to Alaska in 1900 in Nome and he practiced all over Alaska until about 1963 when he finally retired. That is a pretty long career, 63 years practicing law in Alaska. Great lawyer. Well anyway, George called me up and asked me if I would help him on a murder trial. He needed somebody to counsel with, sit at the table, run errands, run down witnesses so on and so forth. And I said I would be delighted. So he and I were defending a young man by the name of Buzz Barrow, that was quite a case. Buzz was convicted of negligent homicide by virtue of having accidentally shot a fellow right under the chin with a Ruger pistol. Rather amazing result. George was a fine lawyer. Well, that got me interested in criminal law.

Then a few months later George was asked to go down to Ketchikan and defend a fellow by the name of Joe Patterson on a charge of bribery. He was invited to come down there by Adolph Ziegler who was the head of the Ketchikan bar and the father of Bob Ziegler, the present state senator and lawyer in Ketchikan. George couldn't go so he recommended that Mr. Ziegler have me come down and try the case. I went down and tried the case and it was a great case, Joe Patterson was a very well liked young man there in Ketchikan who was charged with attempting to bribe a fish officer to permit him to fish illegally and it turned out to be an absolute classic case of entrapment. Trial lasted three days. In those days the courtrooms were full, that was before television in Alaska and if a case had any prominence at all it was standing room only.

KH: Theater.

WK: Yes, it was real theater. Standing room only. There would be 15, 20, 30, 40 people standing across the back of the courtroom at all times. Fascinating, fascinating case. Great case. And then in about 1951 or 1953 Mr. Cuddy as I said was requested to either practice law or continue to serve as President of the First National Bank. The bank was too big for a part-time president and so of course he elected to pursue the bank. By that time his son Dan Cuddy was a partner and also Roger Cremo was associated with us and so Roger and Dan formed a law firm and I was left in the office with a great many of the clients and the furniture when Mr. Cuddy went over to the bank. And I promptly formed a partnership with Paul Robison who had been working for Davis & Renfro and Paul and I had a very happy relationship for about two years when he decided to go off on his own and in the meantime Ralph Moody had joined us. The firm was Kay, Robison & Moody for a year or so. And Dave Talbot was working for us as a clerk. And during

(continued on next page)

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that time while I was continuing to do a great deal of civil work, I also br in to do a lot of criminal cases.

KH: Did you every try a case with Judge Moody?

WK: I tried cases against Ralph when Ralph was Assistant United States Attorney before he came with our firm. I tried a number of cases with Ralph. He was a good trial lawyer. After we were partners, no, I don't believe we ever had



occasion to go to court at the same time. Ralph was the attorney for what is now the Alaska State Bank. In those days it was the City Bank. And he also was, the firm was also the city attorney's of Anchorage. In those days the city did not have its own house counsel but they were engaging law firms in town to do the city's legal work. Our firm was the city attorney and Ralph was the one who went to the meetings and did the city's work. So he was pretty busy between the bank and the city. He didn't try too many cases after he went into private practice, at least while he was with me. He did later but not then.

In 1954 or so, Ralph and Dave moved out and formed their own firm. Shortly thereafter, I went to the 1955 session of the legislature as Speaker of the House and came back and S.J. Buckalew and I had formed a very close friendship during the legislature. When we came back we formed a law partnership and so the firm was Kay & Buckalew for a number of years.

KH: Was there still only one judge on the bench in Anchorage?

WK: Well, the situation in territorial days was there was one judge for the Third Judicial District. There was a judge in Nome, a judge in Fairbanks and a judge in Juneau and Anchorage. Anchorage was of course the busy place so quite frequently we would get the judge from the First Judicial District, from Juneau to come up and help. For a long time that was Judge Folta who was later followed by, I can't recall the judge's name, who succeeded him briefly at about the time Alaska became a state. And there was Judge Pratt in Fairbanks would come down occasionally and try cases. Judge Pratt was succeeded by Judge Vernon Forbes, who is still in the banking business up in Fairbanks. The judge at Nome was for a time Judge Joe Kehoe. Judge Kehoe was a painter of some renown. In fact he was a water colorist and a very good one. After he retired from the bench in 1951 or 1952, he became a professor of art at the University of Washington, and died there after many years of teaching art. He was a better painter than he was a judge, let me say that. He was a nice old fellow, but a fine painter.

KH: You talked about a courtroom providing drama and theater when there wasn't any other form of entertainment. Did the judges that you practiced before allow that theater to happen?

WK: Well they were good judges. I wouldn't say that they in any way lacked in dignity or the ability to maintain the proper atmosphere in the courtroom. I think that generally the practice of law was a little bit looser, let's put it that way, then maybe it is now. There might be a little bit more frontier flavor, of bravado and daring to make

some remarks that you might not make today. Daring to ask questions that you might not ask. In other words the practice of law was a lot of fun. Incidentally, in criminal cases discovery in those days was unheard of. There was no discovery. You found out what you could about the other side of the case but it was really a battle of wits. You knew that the other side was going to attempt to surprise you and you hoped that you would be able to surprise them. And so I think the trials did have a lot more excitement to them than they do now, when you know everything the government is going to present, or hopefully everything and the government has a pretty good idea of what you are going to say.

KH: Did you do your own investigation back in the 50's or did you hire someone to do that discovery for you?

WK: No, in those days I don't believe there were any investigators in Anchorage for anybody and so in personal injury cases and all kinds of investigation, criminal investigations, you did what you could yourself. Or maybe you had some young man working for you, or young lady working for you, who you would send out to do some of the investigation. Most of it you did yourself. And most of the legal work you did yourself. You went to the library and you stayed until 11 o'clock briefing the legal points.

KH: What is your favorite criminal case from this period of time, the 50's?

WK: Well, it would be hard to say what would be my favorite one. I think probably one of the most exciting cases from the 50's was the case of Frank Maroney, he was charged with murder. That case was transferred for trial from Anchorage on a change of venue to Juneau and was tried there by myself for the defense and George Hayes was the United States attorney prosecuting. It was a real exciting knock down drag out case. Went four or five days in Juneau. Pretty exciting event for little old Juneau because Maroney and his entire entourage of bail-bondsmen, lawyers, witnesses and everything else occupied the penthouse at the Baranof Hotel.

KH: In practicing criminal law did you spend a lot of time with

people who, so to speak, live on the edge?

WK: I discovered fortunately, very early in my practice that while these people might be very charming and entertaining, that associating with them outside of your law office could be a very dangerous thing to do. I was fortunate.

I was advised by an old lawyer from Texas back in Centralia that one thing you didn't do was hobnob with people who were accused of crime. They might be fine people but confine it to your office and so on and so forth and I did. And I've seen fellows who didn't do that, who got too chummy with their clients, get into trouble. I've seen two or three guys who were friends of mine, good lawyers, disbarred. No longer in practice simply because they got too chummy with the people they were representing and eventually that fine line between...Well, they just got too chummy, let's put it that way.

KH: So you didn't stay up in the penthouse at the Baranof?

WK: No, I did not. And sometimes when you're busy late at night and early evening and instead of coming down to the office you think to yourself, this guy is a nice guy, why shouldn't I bring him over here to the house and we can work on the floor in the living room and get all this stuff done. And then I would think to myself, no, let's go down

(continued on page 10)



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Judiciary Committee
(continued from page 1)
November 3rd Nome
Public Hearing - 9:00 a.m. - Nome City Hall
November 9th Ketchikan
Committee tour of Ketchikan jail - Time TBA
Public Hearing - 2:00 p.m. - 3rd Floor District Court Room, 415 Main St.
November 10th Ketchikan
Public Hearing - 9:00 a.m. -

3rd Floor District Court Room, 415 Main St.
November 29th Anchorage
Committee Hearing with invited persons - 9:00 a.m. - Place TBA
November 30th Anchorage
Committee work session & wrap-up for final report - 9:00 a.m. - office: 1016 W. 6th Ave., Suite 201
Public hearings will include all matters in the justice system: courts, law enforcement, corrections, discrimination, domestic violence, lawyers, as well as specific bills: SB 104, HB 392, HB 252, HB 479.

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Plea Bargaining in Alaska

by Russ Arnett

Mayhem was charged against a man who shaved off his girl friend's pubic hair without her consent. The prosecutor believed the public interest could be assured and the accused adequately punished for some offense less heinous than mayhem, but he and defense counsel knew no lesser included offense. Judge Foltz suggested "barbering without a license." Nowadays in Alaska the case would presumably be concluded as guilty or not guilty of mayhem because in 1975 Av Gross told his prosecutors not to plea bargain.

On another occasion Judge Foltz was present when prosecution and defense negotiated and agreed upon a change of plea and recommended sentence. After a guilty plea was entered Judge Foltz imposed a more severe sentence than recommended. When defense counsel claimed this was unfair in view of his silence during the negotiations Judge Foltz claimed he was not a party to the negotiations.

To clarify such matters Criminal Rule 11(e) was promulgated by the the Alaska Supreme Court in 1973. It approved plea bargaining and imposed reasonable safeguards. The Supreme Court recognized that prosecution and defense can as a rule be trusted to work out an appropriate disposition. The requirement of Rule 11 of acceptance or rejection of the plea agreement by the judge provides further assurance of its reasonableness.

The Untold Story

The untold story of plea bargaining in Alaska is that it is alive, but not well. If the accused is a snitch, or if the accused turns state's evidence, fine, the State will plea bargain. The D.A. may plea bargain where the expense of prosecution is excessive. Excessive expense to the defense not so. Plea bargaining has occurred as to traffic manslaughter. There may be plea bargaining for sexual offenses, particularly child molesting, or in drug cases. Misconduct by a police informant which might have embarrassed the police also resulted in plea bargaining in several drug cases. Mental or emotional problems of defendants has resulted in plea bargaining. The State may plea bargain when the

D.A. realizes his case is weak and may not get through an Omnibus Hearing. This, of course, is one of the main reasons why prosecutors the world over plea bargain and establishes the practical necessity for plea bargaining. Negotiations for dismissal of a whole raft of proveable charges against a defendant who pleads guilty to one charge still takes place.

Subjective Standards

For the Attorney General to refuse to let his prosecutors plea bargain implies he is afraid they are weak and may give away the store. Anchorage once had a prosecutor who would regularly check into the hospital when defense counsel put on the pressure. Whether plea bargaining will occur now usually depends upon case by case decisions in the A.G.'s office in Juneau, often by the Attorney General himself. The determination must be relatively subjective or written standards could be adopted which would free the A.G. from this task. It was originally contemplated by the Attorney General that records of all exceptions to the ban would be kept on file in Juneau at the Criminal Division offices and that all requests be in writing. Requests now may be phoned in. In addition to official requests for permission to plea bargain there are also unofficial requests which are granted. Though some plea bargaining authorizations are found in the exceptions file in Juneau others are not. Though exceptions may prove the rule, an incomplete record of exceptions to the ban does not prove anything. The Attorney General has embarked on a policy of limiting plea bargaining even though it is a time honored practice which the Supreme Court has authorized. The Bar, the judiciary, and the citizenry at the very least are entitled to know everything presently going on and to have written and consistent plea bargaining standards which district attorneys and defense counsel may follow.

Sentencing Function

One of the reasons given by the Attorney General for the plea bargaining ban is that district attorneys were blamed by the public for lenient sentences. His ban on plea bargaining was intended to reduce or eliminate the role of prosecutors in sentencing. It was argued that sentencing is a judicial function and counsel should stay out of it. On the contrary, because sentencing in one of the most critical stages of a criminal case it is one where active

participation by counsel is most needed to protect the public and the accused. Nearly always counsel have spent more time on the case and know more about the accused than the judge. The public is entitled to have the prosecutor argue forcefully that the defendant be given a stiff sentence if this is necessary to protect the public.

The December 1978 report of the Judicial Council on plea bargaining concludes that in the Anchorage, Fairbanks and Juneau study area the absolute number of felony trials increased 37 percent from 109 trials in Year One to 149 in Year Two, and that prosecutors, defense attorneys, and court officials were noticeably busier with trials than formerly. The percentage of felony cases which went to trial increased from 6.7 percent to 9.6 percent. This is an increase of 30.20 percent. My personal view is that the ban on plea bargaining has finally put the trial courts in Anchorage over the brink with the resulting disruption of all civil and criminal litigation.

Practice of Law Committee Notice

On May 19, 1979, the President of the Alaska Bar Association appointed an Ad Hoc Committee to survey current practices of law in Alaska with respect to advertising, use of firm names, compliance with the Alaska Bar Rules and the Code of Professional Responsibility, and those current practices' effect on the Board of Governor's and Supreme Court's powers to discipline the practice of law in Alaska. This Committee consists of Robert Baker, John Eradbury, Keith Brown, David Bundy, Daniel Gerety, Robert Mahoney, Lester Miller, James Powell, Richard Thaler, and Eric Wohlforth. Frederick H. Boness has since been appointed to the Committee.

The Committee will receive written comments from members of the Bar and any other interested persons concerning the above mat-

Federal Arbitration Conference Scheduled

The Federal Mediation and Conciliation Service (FMCS) and the American Arbitration Association are sponsoring a conference on arbitration in Anchorage on October 29, 1979. The conference starts at 8:00 A.M. in the Kuskokwim Room of the Sheraton Anchorage Hotel. The program includes a speech from Lawrence L. Schultz, Director of Arbitration Services, FMCS in Washington, D.C., a panel including Chairman Neal Blacker, Regional Director, American Arbitration Association on the selection of an arbitrator, and afternoon workshops on the following topics:

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Federal Mediation & Conciliation Service
P.O. Box 8
Federal Building and U.S. Court House
701 C Street
Anchorage, Ak. 99513

ters. The Committee desires to make its recommendations, if any, to the Board of Governors by October 15, 1979. Written comments may be submitted to Dan Gerety, Chairman, Ad Hoc Committee, 1007 West Third Avenue, Anchorage, Alaska 99501.

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(continued from page 3)

PRE-TRIAL ORDER-CRIMINAL MISDEMEANOR

(1) Calendar call in this case will be held at the date and time indicated in the attached papers. At that time defendant or counsel shall be prepared to request a trial date, a date for hearing motions, or change of plea. Discovery, investigation, and conference with the prosecutor vary to preparation for the trial must be completed before the call.

(2) Within five (5) days after entry of a plea of not guilty the prosecuting attorney shall make available for inspection and copying all information and material within his possession and control which he is required to disclose by subsections (b)(1), (b)(2), and (b)(3) of Criminal Rule 16. Such materials coming into his possession or control after that date shall be disclosed promptly without the necessity of a defense request or further order of this court.

(3) In not less than ten (10) days prior to trial defense counsel shall disclose to the prosecuting attorney and make available for inspection and copying, any reports or statements of experts made in connection with the case, including results of physical or mental examinations and of scientific tests, experiments or comparisons which are intended by the defendant to be used at trial, and give notice of any intent to present a defense of alibi, insanity, or lack of capacity. Such materials or information coming into his possession or control after that date shall be disclosed promptly without the necessity of a request or further order of this court.

(4) Upon a showing of good cause, the disclosure required by this order may be restricted, deferred or denied

pursuant to subsections (d)(4), (d)(6) or Criminal Rule 16.

(5) In not less than fourteen (14) days prior to any motion date, counsel or the defendant shall file with the clerk of the court and serve on opposing counsel all pre-trial motions. Opposing counsel's response (if any) shall be filed and served not less than seven (7) days prior to the motion date. If the party requesting a motions date later decides that he does not intend to file a motion or for any reason he does not file a motion by the deadline set, he shall inform the court immediately and the court will set the case for the next available calendar call with notice to all parties.

(6) Subject to constitutional limitations, failure to raise any pre-trial error or issue by filing appropriate motions at least twenty-one (21) days before the day of trial and/or requesting a motion date at calendar call if oral argument is desired shall constitute a waiver of such error or issue unless the party concerned, despite the exercise of reasonable diligence, does not possess the information necessary to raise it.

(7) No attorney shall represent the defendant at any proceeding without filing, immediately after being retained, a statement of appearance with the court and serving a copy upon the prosecution (Criminal Rule 50) with the exception of public defenders, including specially appointed public counsel, who instead must indicate at calendar call the attorney assigned to the case.

(8) The defendant shall be present at each stage of the proceeding unless a consent to proceed has been filed with the court, according to the provisions of Criminal Rule (38)(c). Failure of the defendant to appear at calendar call will result in the issuance of a bench warrant unless a consent to proceed has been filed with the court. Failure to appear of an attorney who has filed an appearance will result in the issuance of an order to show cause.

(9) If defense counsel requests a trial date at calendar call, he shall thereby be deemed to assert,

as an officer of the court, that he has had contacts with his client of such a recent nature that he reasonably believes that the client will be able to be reached to be informed of the trial date and be present at trial. The prosecuting attorney upon accepting a trial date shall thereby be deemed to assert that he reasonably believes the necessary witnesses can be reached by subpoena or otherwise and will be available.

If either counsel cannot make the above assurances, he must inform the court of that fact.

(10) Defense counsel shall inform the prosecution at least (1) working day before trial if he has not been able to inform the defendant of the trial date or else be subject to possible sanction for unnecessary appearance of witnesses should the defendant fail to appear for trial. The prosecuting attorney shall similarly inform the defendant or defense counsel if he learns prior to trial that he is unable to subpoena or otherwise secure the appearance of a witness without whom he does not intend to proceed, or else be subject to similar sanction for unnecessary appearance of defense witnesses.

(11) If a defendant decides after requesting a trial date that he wishes to change his plea, he may do so at any time without leave of the court provided the change of plea is accomplished on or before the day of trial.

Both the prosecutor and the defendant or defense counsel are hereby ordered to comply with the terms of the foregoing unless specifically otherwise directed or be prepared to show cause why appropriate sanctions should not be imposed.

All time periods referred to in this order are computed by calendar days unless otherwise indicated.

This order applies to all misdemeanor prosecutions in Anchorage District Court effective immediately.

This done at Anchorage, Alaska, this 16th day of August, 1979.

BEVERLY W. CUTLER,
DISTRICT COURT JUDGE

China

(continued from page 5)

gather here, and they do on May Day. The only building in the Square is Chairman Mao's Mausoleum. We joined thousands of Chinese in marching solemnly past the crystal bier containing Mao's body. I can report that Mao looks well, old and very dead. What is left of him is extremely well preserved, and he is certainly recognizable.

Personal Impressions

Several things impress me most after several weeks and several thousand miles in China. Every acre that can produce food is being cultivated. Even the banks of irrigation ditches contain poles which support bean vines which grow over the ditches.

The people generally appear to be well fed, happy and content with their lot in life. Naturally this is the rankest form of speculation based only upon my limited contact, but that is the impression I received.

The cities and the people we saw were immaculate. In a city like Shanghai with more than 12 million people, it is most impressive to note the almost total lack of filth and garbage. Throughout the country the people were clean and neatly dressed. Given that bathtubs and hot water taps are almost unknown, this is a real accomplishment.

The major tasks of building, cultivating, harvesting, repairing roads, etc. are done almost entirely by hand with little help from machines. On one stretch of 10 miles of road which was being rebuilt, I saw one small tractor and one roller. Everywhere else were people with shovels, picks and baskets full of rocks.

Tourism in China is in an embryonic stage. Some of the facilities are a bit primitive by our standards, but they are certainly adequate.

We thoroughly enjoyed the experience and hope to return before all the statues are unearthed at Sian.

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Wendell

[continued from page 7]

to the office. I wouldn't say that I hadn't in the old days had drinks with some of these guys because I did. Lots of times. In a small town like Anchorage was in those days you bumped into people around town all the time. But I tried to keep it at arm's length. And I think I succeeded pretty well. Some of these people were very entertaining. I recall Buckalew and I had offices in a little white house down on Second Avenue right behind what is now the older building occupied by Hughes & Thorsness. We were down behind them. I was representing a burglar by the name of Stewart and I made an appointment for him to come down to the office one night. This was in the winter time so that we could go over his testimony. I told him to meet me there at 8 o'clock. Well I was a little late and I didn't get there until 8:30. Drove up in the little yard and I could see the lights on in the building. I thought Buck must have let them in or somebody is down

here so I went up and rattled the door and went on in. Here they were sitting in my office, he and his friend with their feet on the desk chatting away. And I said, "Hi, fellows, how did you get in?"

Mr. Stewart looked at me and said, "Mr. Kay, are you kidding?"

I think he may have been guilty of burglary. I'm not sure. He was presumed to be innocent, let's put it that way.

KH: Did the jury find him guilty?

WK: He was found guilty and that is an interesting thing too. He was found guilty because of poor selection of the jury. A very prominent Anchorage banker was on the jury panel, very nice guy, I knew him. He said, "Hello" as he walked by, I said "Hi, Jim." And he went on into the jury box. I said to Stewart who was sitting beside me, "Well, that's one that's got to go."

He said, "Why would he have to go? I like him."

I said, "No, you don't like him. He's a banker, he'll convict you, bankers don't like burglars, forget it." So anyway we had quite an argument. I exercised all of my challenges, I got down to the last one and he's still insisting that Jim, the

banker stay on the jury. I kept telling him no, no, no. I said, "You're going to have to serve the time now, he's going to convict you. He's a leader, it's going to be a one man jury. Don't leave him on." He insisted he be left on. He was convicted. I later had a chance to interview some of the members of the jury which is a very good habit to find out what mistakes you made. Turned out that the first vote was nine to three for acquittal but Jim was the foreman of the jury. He led the fight, it took him all day but he eventually convinced the other nine and convicted Mr. Stewart which taught Mr. Stewart a lesson and I'm sure taught me a lesson. Don't let your client tell you to leave any bankers on a burglary jury.

Continued in Next Issue



ALASKA BAR ASSOCIATION

Executive Director responsible for overall management of state wide bar association including clerical staff management, budgeting, accounting, admissions process, board functions and liaison with membership in general public. Certifies applicant for bar exams, supervises administration of bar exams, executes policies and programs initiated by Board of Governors, designs and administers programs serving memberships and general public. Salary \$35,000. Send resume to: President, Alaska Bar Association P.O. Box 279, Anchorage, Alaska 99510.

CITY ATTORNEY

of Kenai, Alaska. Full time position/ no private practice. Salary \$30,000-\$35,000. Applications and interviews open to the public. Apply to Honorable Mayor and City Council, City of Kenai, P.O. Box 580, Kenai, Alaska 99611. Closing date for applications October 22, 1979.

Position Available:

We're looking for an attorney with one to three years experience to join a five-person law firm. Heavy emphasis on personal injury, primarily defense. Please send resume to Box 1204, Anchorage, Alaska 99510. All replies will be kept strictly confidential.

ASSOCIATE ATTORNEY POSITION AVAILABLE

Six person, well established law firm is looking for a bright, energetic, young attorney with one to two years experience in the area of corporate, commercial and real estate, or wills and estates. This associate must be interested in establishing an office practice in one or more of the above fields. If you are interested, please send a complete resume and your salary requirements to Law Firm, P.O. Box 1178, Anchorage, Alaska 99510. All replies will be strictly confidential.

ASSOCIATE

Medium-size Anchorage law firm is seeking an additional associate.

Requirements include admission to the Alaska State Bar and 1-5 years experience.

Interests should include general corporate matters and commercial practice. This individual should be willing to accept considerable responsibility and have the desire to become part of a growing practice.

Interested persons should submit a comprehensive resume by November 1 to Box 3576, Anchorage, AK 99510. All replies will be held in strict confidence.

LEGAL SERVICES POSITIONS

Send Resumes, References and Sample of Legal Work to Don Clockain, Alaska Legal Services, 736 G Street, Anchorage, AK

Supervising Attorney; Salary \$23,000. Available immediately. Supervise Nome office of ALSC, staffed by 2-3 attorneys and support staff. Responsible for carrying caseload, administrative functioning of office, caseload management and review and maintaining relationships with local communities. Also responsible for establishing local CETA paralegal programs and recruiting, training, and supervising about four paralegals residing in surrounding villages. The Nome office serves the city of Nome (3,000 population) and approximately 18 Inupiat Eskimo village in northwestern Alaska. Subsistence fishing, hunting and gathering are predominant activities of the client population. Applicants must have the ability to practice law in a multi-cultural setting and must learn to respect and protect cultures different from their own.

Applicants must have at least 2-3 years experience, preferably in legal services, and must be willing to make at least a two-year commitment to ALSC. Women and minorities particularly encouraged to apply.

Supervising Attorney; Salary \$23,000. Open 11-1-79. Close when filled. Supervise Fairbanks office of ALSC, staffed by 3-4 attorneys, 2 paralegals, and support staff. Responsibilities include carrying caseload, office administration functions, caseload management and review, and maintaining relationships with local bar association and communities served. The Fairbanks office serves both the urban Fairbanks area (40,000 population) and about 35 surrounding villages throughout interior Alaska each with a population of 500 or less. Practice in

Fairbanks is a typical urban poverty law practice; rural practice involves providing services to a client population of predominantly Athabaskan Indians living a largely subsistence life. Must have the ability to practice law in a multi-cultural setting and must learn to respect and protect cultures different from your own. Three years experience required, preferably in legal services, and willingness to make a two year commitment to Alaska Legal Services also required. Minorities and women particularly encouraged to apply.

Staff Attorney (four positions); Salary \$20,000. Available January 1, 1980. Staff positions available in Anchorage, Bethel, Juneau, and Kotzebue offices of ALSC. Responsible for caseload, impact litigation and certain amount of community legal education. Anchorage position in 7-8 attorney primarily urban office. Juneau position in 3 attorney urban/rural office. Bethel position in 4-5 attorney rural office. Kotzebue position in 2-3 attorney rural office.

Rural practice involves providing legal services to predominantly Native American (Indian and Eskimo) population residing in numerous, scattered subsistence hunting and fishing villages not connected by roads. Severe weather conditions, poor housing, isolation, and cultural differences make legal work in Alaska challenging. Must have ability to practice law in multi-cultural setting and must learn to respect and protect cultures different from your own.

At least one year experience and admission to any state bar required. Two-year commitment to Alaska Legal Services requested. Women and minorities particularly encouraged to apply.

Moody

(continued from page 7)

move for such argument and support his motion with an affidavit setting out sufficient facts indicating that such extraordinary relief is likely to be granted. An order directing a party to make discovery and evidence that the party nevertheless failed to comply would appear a prerequisite to such a showing. Counsel should be warned, however, that the court will not tolerate disobedience to discovery orders and, where established, substantial sanctions will be imposed, even where warranted, against counsel personally. Counsel are also warned that while failure to make discovery standing alone will not authorize dismissal or harsh sanction, it will support an inference of willfulness which, unless rebutted, might lead to such a harsh sanction. Finally, counsel are warned that if conditions beyond their control prevent them from complying with a discovery or other order, they should not merely wait to have the opposing party bring a motion to compel, but should seek relief from the other party and if that party is obdurate, seek an order relieving the moving party from the order previously imposed. Failure to do so standing alone would warrant the imposition of monetary sanctions against counsel.

Other Dispositive Motions

Oral argument will be calendared as a matter of course on dispositive motions where opposition has been filed. Occasionally, the moving party requests and schedules oral argument before the time for opposition runs. Should no opposition be filed, the matter will be automatically removed from the calendar. For purposes of this memorandum, an opposition will be defined as a presentation that fairly and completely meets the moving party's case on the law and the facts. Counsel are cautioned that a mere request for additional time will be decided without oral argument.

Evidentiary Hearings

In the past, the word "hearing" has been used ambiguously to describe oral argument and evidentiary hearings. Unfortunately, while oral argument on most motions can be effectively compressed within a half-hour, it is rare that an evidentiary hearing can be completed in that time. In order to prevent future confusion, the judges in the Third Judicial District have adopted the following policy:

Any party relying upon evidence in support of or opposition to a motion must present that evidence by affidavit (see Civil Rule 43(e)). This rule applies to both civil and criminal cases, including inter alia on the civil side motions for preliminary injunction, motions for pre-judgment attachment, and other ancillary relief and civil contempt proceedings. On the criminal side it will include all proceedings for the suppression of evidence for post-conviction relief and for reduction of sentence.

Where an examination of the affidavits submitted pro and con lead counsel to conclude that there are disputed issues of material fact, he may apply by a motion, properly served and filed with the presiding judge, for the scheduling of an evidentiary hearing. If, and only if, the presiding judge agrees that the papers filed manifest disputed issues of material fact, such a hearing will be calendared before an assigned judge, allowing sufficient time to resolve the existing disputes. In the absence of such an express order, no evidentiary hearings will be calendared. (When calendared, evidentiary hearings shall be treated as trials and placed on the calendar between 9:00 a.m. and noon and 1:30 p.m. and 4:00 p.m.) If necessary, such a hearing may interrupt a continuing trial. In all other cases where a motion matter is scheduled before the court, the parties will be limited to oral argument.

Special Proceedings

The civil rules contemplate a variety of special proceedings that have this in common with hearings after orders shortening time: At the time the motion is made, it is not certain whether there will be opposition or not; thus, in connection with applications for temporary restraining orders and preliminary injunctions (see Civil Rule 65), applications for change of name (see Civil Rule 84), applications to recover property, i.e., forcible entry and detainer (see Civil Rule 85), applications for habeas corpus (see Civil Rule 86 and c.f. Criminal Rule 35), applications for civil arrest (see Civil Rule 87), applications for claim and delivery of personal property (see Civil Rule 88), applications for attachment (see Civil Rule 89), applications to hold a party in civil contempt (see Civil Rule 90), and motions to withdraw by attorneys (see Civil Rule 81(d)); past experience indicates that, of the possible results at the initial hearing, it is more likely that the opposing party will either default, appear and request additional time

to answer, or appear with the moving party and enter into a stipulation, than that disputed issues of fact or law will be presented for resolution. Consequently, in the future, all motions relating to the foregoing matters shall be calendared for a screening hearing before the presiding judge. If a party defaults or a stipulation is reached, the presiding judge will resolve the matter. If service is not obtained or a continuance is requested and granted, the matter will be rescheduled before the presiding judge for a further screening hearing. A request by the moving party for relief pending service on the opposing party will be determined by the presiding judge according to the standards developed for temporary restraining orders. A moving party seeking relief before notice should comply with Civil Rule 65. If it appears that the matter is disputed, it will be referred to the assigned judge or assigned to a judge for determination. Should it appear that oral argument or an evidentiary hearing is warranted, the presiding judge will direct the calendaring department to schedule such proceedings before the assigned judge, allowing sufficient time for their completion. The presiding judge will not resolve disputes going to the merits of motions at the screening hearing. Counsel may, however, settle the matter at such a hearing.

Use of Masters and Parajudicials

In order to meet an increasing caseload and allow sufficient time for judges to hear, consider and resolve disputed matters, it is contemplated that the court will be making a

greater use of masters and parajudicials to handle matters previously heard by judges which do not involve the resolution of a dispute going to the merits of the action. Counsel are cautioned that while a party may, pursuant to Civil Rule 42 and its criminal counterpart, challenge a master, it may not challenge all masters. The court will determine, upon application, whether a matter may or may not properly be delegated to a master. Counsel are also cautioned that it may be necessary in the future, in cases involving protracted litigation, to appoint a member of the bar as special master at the parties' expense to resolve discovery disputes.

Peremptory Challenge

A.S. 22.20.022, Criminal Rule 25 and Civil Rule 42 provide for change of judge as a matter of right. In *Gieffels v. State*, 552 P.2d 661 (Alaska 1976), the court held that the presiding judge could continue to carry out his calendaring functions despite a timely exercise of rights under Rules 25 and 42. None of the matters addressed in this memorandum involves the resolution of a dispute going to the merits of an action and, consequently, none of the procedures described herein will be affected by "Notice of Change of Judge" directed at the presiding judge or an acting presiding judge.

Exceptions

The above procedures do not apply to family court and juvenile matters. Orders to show cause and motions for orders shortening time for these matters shall continue to be presented to the family court judge.

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Pouch V
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Juneau, Alaska 99811

November 7, 1979

Donna C. Willard
President
Alaska Bar Association
P.O. Box 279
Anchorage, Ak. 99510

Dear Ms. Willard;

The House Judiciary Committee, pursuant to its obligations under the sunset law, AS 44.66.010, et. seq., and pursuant to its general authorities and powers as a standing committee of the Alaska State Legislature, requests the following information from the Board of Governors of the Alaska Bar Association:

1. How many attorneys are admitted to practice law in the State of Alaska, excluding those who are practicing on a waiver?
2. How many attorneys are practicing law on a waiver for Alaska Legal Services Corporation?
3. How many attorneys are practicing law on a waiver for the United States Armed Forces Expanded Legal Assistance Program?
4. What is the total number of attorneys practicing law in the state pursuant to a waiver?
5. How many legal interns are certified in the State of Alaska?
6. How many active members of the Alaska Bar Association are there?
7. How many inactive members of the Alaska Bar Association are there?
8. How many judicial members of the Alaska Bar Association are there?
9. How many honorary members of the Alaska Bar Association are there?

10. How many active members of the Alaska Bar Association are women and how many women were active members in 1976, 1977 and 1978?

11. How many active members of the Alaska Bar Association are Natives and how many Natives were active members in 1976, 1977 and 1978?

12. How many members of the Alaska Bar Association are black and how many blacks were active members in 1976, 1977, and 1978?

13. How many active members of the Alaska Bar Association are Hispanic and how many hispanics were active members in 1976, 1977 and 1978?

14. How many active members of the Alaska Bar Association are Asian and how many Asians were active members in 1976, 1977 and 1978?

15. What steps has the Alaska Bar Association taken to increase membership of women and minorities?

16. What steps has the Alaska Bar Association taken to implement any of the recommendations contained in the 1979 report from the association's Committee on Legal Educational Opportunities?

17. List all standing committees of the Alaska Bar Association?

18. What are the powers, duties and functions of the Alaska Bar Association's standing committees?

19. Furnish all annual reports from the Alaska Bar Association's standing committees for the years 1976, 1977 and 1978.

20. Furnish all reports issued by the special committee established by the Alaska Bar Association to study and evaluate the Alaska bar exam.

21. Briefly describe all continuing legal education programs in 1976, 1977, 1978 and 1979.

22. How many ethics opinions did the Alaska Bar Association render in 1976, 1977, 1978 and 1979?

23. Briefly describe the legislative programs of the Alaska Bar Association in 1976, 1977, 1978 and 1979.

24. Briefly describe the Alaska Bar Association's lawyer referral system.

25. List the dates and locations of all meetings of the Board of Governors of the Alaska Bar Association for 1976, 1977, 1978 and 1979.

26. What type of public notice is provided for meetings of the Board of Governors of the Alaska Bar Association?

27. How many non-attorney agencies or groups were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

28. How many non-attorney individuals were notified by the Alaska Bar Association of its consideration of a proposed bar rule amendment to define the practice of law?

29. Provide the position title, duties and powers as well as salaries and fringe benefits of all paid staff positions within the Alaska Bar Association for 1976, 1977, 1978 and 1979.

30. What is the turn-over rate for each of the positions?

31. Furnish copies of the Alaska Bar Association's budgets for 1976, 1977, 1978 and 1979.

32. Furnish copies of all financial audits of the Alaska Bar Association conducted in 1976, 1977, 1978 and 1979.

33. Furnish a copy of the budgets for the Bar Rag for 1978 and 1979.

34. Provide the source, purpose and amount of all state funds obtained by the Alaska Bar Association during 1976, 1977, 1978 and 1979.

35. Provide the total travel and per diem expenses paid by the Alaska Bar Association to members of the Board of Governors in 1976, 1977, 1978 and 1979.

36. Provide the total travel and per diem expenses paid by the Alaska Bar Association to individuals, other than members of the Board of Governors, for 1976, 1977, 1978 and 1979.

37. Furnish a copy of the profit and loss statement for the mid-winter Hawaii Convention prepared by V. Goodrow on August 27, 1979.

38. Provide the total income derived from applications for admissions to the Alaska Bar Association in 1976, 1977, 1978 and 1979.

39. What was the total expense of the admission procedures of the Alaska Bar Association, excluding the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

40. What was the total cost of the admission procedures of the Alaska Bar Association, including the cost of any court litigation arising therefrom, for 1976, 1977, 1978 and 1979?

41.. Provide the total amount of funds expended by the Alaska Bar Association for court litigation in 1976, 1977, 1978 and 1979, including the case name, docket number, brief description of the issues involved, whether the case was appealed to the Supreme Court and the final disposition. Additionally, it should be noted if the Alaska Bar Association was assessed attorney's fees and costs pursuant to Rule 82 or if the Alaska Bar Association was able to recover a portion of its attorney's fees and costs pursuant to that rule.

42. Furnish a copy of the application form which the Alaska Bar Association requires all applicants for admission to complete.

43. Briefly describe what comprises the Alaska Bar Association examination for attorney applicants.

44. Briefly describe what comprises the Alaska Bar Association examination for general applicants.

45. What was the total number of general applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

46. What was the total number of general applicants who passed the spring Alaska Bar examination for 1976, 1977, 1978 and 1979?

47. What was the total number of general applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

48. What was the total number of general applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

49. What was the total number of attorney applicants who took the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

50. What was the total number of attorney applicants who passed the spring Alaska Bar examination in 1976, 1977, 1978 and 1979?

51. What was the total number of attorney applicants who took the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

52. What was the total number of attorney applicants who passed the summer Alaska Bar examination in 1976, 1977, 1978 and 1979?

53. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

54. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

55. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as general applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

56. What was the total number of Alaska Natives, females, blacks, Hispanics and Asians who as general applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

57. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

58. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the spring Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

59. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants took the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

60. What was the total number of females, Alaska Natives, blacks, Hispanics and Asians who as attorney applicants passed the summer Alaska Bar examination for the years 1976, 1977, 1978 and 1979?

61. Who is the Alaska Bar Association disciplinary administrator?

62. Distinguish between the type of complaints which are referred to a hearing committee as opposed to those complaints which are referred to a conciliator.

63. Provide a copy of the "Request for Investigation" form which is currently utilized by the Alaska Bar Association as well as copies of any previous forms used for this purpose.

64. Furnish copies of all original disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

65. Furnish copies of any revised disciplinary reports prepared for the Alaska Supreme Court during the years 1976, 1977, 1978 and 1979.

66. Provide an explanation for any revision of a disciplinary report prepared for the Alaska Supreme Court for the years 1976, 1977, 1978 and 1979.

67. Provide a copy of the card index on discipline, indicating the type of case, disposition, whether or not appealed, the disposition if appealed to the Alaska Supreme Court.

68. For the years 1976, 1977, 1978 and 1979, furnish statistical data reflecting:

a. The types of complaints against attorneys received and acted upon;

b. The types of investigations conducted and the results thereof;

c. The procedural steps taken with respect to each type of complaint processed and the ultimate disposition of each such action;

d. The number of times any member of the Alaska Bar Association subject to the Alaska Bar rules has been the subject of a complaint or investigation, the type of complaint or investigation in which each such attorney was the subject, the dates on which each procedural step was taken with respect to each such complaint or investigation and the ultimate disposition of each such action with respect to each such attorney.

69. Provide the total number of complaints against attorneys received by the Alaska Bar Association for the years 1976, 1977, 1978 and 1979.

70. Provide the total number of attorneys who were disciplined for the years 1976, 1977, 1978 and 1979.

71. What was the total number of attorneys who were the subject of a private admonition by the Alaska Bar Association disciplinary administrator for the years 1976, 1977, 1978 and 1979?

72. What was the total number of attorneys who were the subject of a private reprimand during the years 1976, 1977, 1978 and 1979?

73. What was the total number of attorneys who were the subject of a public censure during the years 1976, 1977, 1978 and 1979?

74. What was the total number of attorneys who were suspended from the practice of law during the years 1976, 1977, 1978 and 1979?

75. What was the total number of attorneys who were disbarred from the practice of law during the years 1976, 1977, 1978 and 1979?

76. From the date of the initiation of the complaint, how long did it take the Alaska Bar Association to resolve disciplinary actions filed in 1976, 1977 and 1978?

77. Are records maintained on previous disciplinary complaints against an attorney regardless of whether such complaints are ultimately dismissed?

78. What percentage of disciplinary complaints were filed against an attorney by a client of such attorney during the years 1976, 1977, 1978 and 1979?

79. What percentage of disciplinary complaints were filed by the Alaska State Bar Association disciplinary administrator during the years 1976, 1977, 1978 and 1979?

80. What percentage of disciplinary complaints were filed against an attorney by an individual living in Alaska, but not within Anchorage, Fairbanks, Ketchikan, Sitka or Juneau, for the years 1976, 1977, 1978 and 1979?

81. What was the total number of attorneys who have been disciplined for observing misconduct on behalf of another attorney and failing to report such conduct during the years 1976, 1977, 1978 and 1979?

82. What was the total number of judges who have been disciplined for observing misconduct on behalf of a lawyer and failing to report such during the years 1976, 1977, 1978 and 1979?

83. What percentage of requests for investigation were determined to be inadequate, incomplete or insufficient to warrant further attention of the Board of Governors during the years 1976, 1977, 1978 and 1979?

84. What percentage of disciplinary complaints were filed against an attorney by another attorney for the years 1976, 1977, 1978 and 1979?

85. What percentage of disciplinary complaints were filed against an attorney by a judge or magistrate during the years 1976, 1977, 1978 and 1979?

86. What was the total number of requests for investigation which were referred to the fee arbitration panel for the years 1976, 1977, 1978 and 1979?

87. Furnish factual summaries, without reference to either parties by name, of each fee arbitration dispute which was concluded in 1976, 1977; 1978 and 1979.

Donna Willard

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