

ABA  
RESPONSE  
APPENDIX  
D(12)-J.

#18

D12

Annual Reports

Legal Educational Opportunities Committee

Sen. Willard  
6/25/79

TO: President Donna Willard  
Committee on Legal Educational  
Opportunities, 1978 - 1979

DATE: June 12, 1979

RECEIVED

JUN 13 1979

FROM: Carolyn E. Jones,  
Chairperson

SUBJECT: Final Report

Richmond, Virginia & Willard

At the request of the Board of Governors, I appeared at their May meeting to discuss the contents of our report. Here below, follows an update on that report and action taken by the Board of Governors:

I. RESTORATION OF WICHE FUNDS.

The Senate version of the Post Secondary Education Commission budget was passed out of free conference committee. The 42 present recipients of WICHE funds were granted funds for the 1979 - 1980 school year. Twenty-seven new applicants were funded; 27 new applicants were not funded.

The Board of Governors voted to make the Committee on Legal Educational Opportunities a standing committee and directed that one of its responsibilities be that of monitoring the WICHE budget as it wends its way annually through the Governor's Office, the Legislature and the Free Conference Committee.

II. ETHNIC MINORITIES AND THE STUDY OF LAW.

One hundred fifteen candidates for admission to the practice of law took the February bar exam in Alaska. Included in that number were 2 blacks and 5 Alaskan Natives. Sixty-seven per cent of all the candidates were successful; none of the ethnic minorities were. Because the number of ethnic minorities taking the Alaska bar is not statistically significant, I compared the pass-fail rate in Alaska with that in California for whites and blacks, the only two groups for which figures are available in both states. The statistics were almost identical.

The Board of Governors assigned the following responsibilities to the committee: monitor the California study of racial and cultural bias in its bar exam; determine if nationwide evidence of racial and cultural bias exists for the multi-state exam; identify those law schools that are affirmatively interested in minority enrollment and act as a clearing house between those schools and Alaska's minority students; keep abreast of the University of Alaska's efforts to provide in-state legal education.

Several of our recommendations were assigned to other standing committees for action, e.g., the Public Services Committee will be asked to act on our recommendation re providing high school speakers; the paralegal committee will receive our recommendations re paralegals as a profession.

### III. BONEY MEMORIAL FUND.

The Board of Governors adopted our recommendation to provide an optional add-on charge on next year's bar dues statements and asked us to be responsible for notifying the local bar associations of the change in the bar dues statement for next year. The Board also directed us to approach local bar associations for contributions. The Board has asked that the Committee present a detailed structure for the scholarship fund and present it at their September meeting. The question of keeping client trust monies in interest-bearing accounts, as a source of fund-raising, is presently being explored in other states and the Bar Office will monitor those efforts. The Committee has also been assigned the responsibility of compiling a list of organizations that have funds available for minority law school scholarships and loans and to maintain a clearinghouse of this information as well as an accurate count of the minorities admitted to practice or studying law. The Board has suggested that an article be written for the Bar Rag describing the minority tutorial program within the Anchorage School District to determine if there are members interested in supporting that program. The Board rejected the recommendation that loans be made to take the bar review course and the bar exam.

I attended the Board of Governors/Committee Chairmen meeting held during the annual convention in Sitka. At my suggestion, the membership of several committees will be more geographically balanced this coming year as some committees attempt to meet through the use of the tele-conference network. This network is available in at least 12 Alaskan cities through the Legislative Information Agency.

I understand that President Willard will be making new committee assignments for the following year. Our committee was not a standing committee at the time that bar members expressed their preferences for committee assignments. Therefore, if you are interested in serving again on this committee or you know someone who would be so interested, please get that information to Donna Willard or me as soon as possible.

President Donna Willard  
Re: Final Report

-3-

June 12, 1979

Should we not be working together next year on this committee, I thank you now for serving. I know sometimes it was discouraging when all our members could not be present but those absences were a symptom of all bar committees and a function of our professional responsibilities and not our personal failings. So, when we meet in the future, I hope you won't feel guilty or that you let the committee down. Our report was truly appreciated by the Board of Governors and although out of date, liberally misquoted in the Anchorage Daily News.

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW  
OFFICE OF THE ATTORNEY GENERAL

420 "L" STREET, SUITE 100  
ANCHORAGE, ALASKA 99501

March 23, 1979

Kenneth O. Jarvi  
Attorney at Law  
1049 W. Fifth Avenue  
Anchorage, Alaska 99501

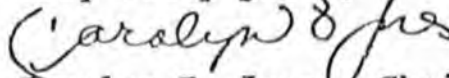
Re: Report from ABA Committee  
on Legal Educational  
Opportunities

Dear Ken:

At the time our committee was formed, you asked that we present a preliminary report to the Board of Governors at its March meeting. Although plagued by the normal amount of absenteeism, we have stuck it out and managed to define the general direction we think the ABA as a whole and this committee should be moving. I apologize for not having a report prepared in time for the Board to review it in advance of the March meeting and I offer the usual lawyer excuses about briefing schedules, oral arguments, etc.

You will note in the report several items that might properly be considered at the annual meeting. If you think that an oral report from our committee might be effective in generating support for our recommendations, I would be willing to make such a presentation.

Very truly yours,



Carolyn E. Jones, Chairperson  
Committee on Legal Educational  
Opportunities

CEJ:dr

cc: Board of Governors

RECEIVED

MAR 27 1979

GARRETSON & JARVI  
ATTORNEYS AT LAW

REPORT TO ALASKA  
BAR ASSOCIATION BY COMMITTEE ON  
LEGAL EDUCATIONAL OPPORTUNITIES

I  
RESTORATION OF WICHE FUNDS  
FOR ALASKANS WHO WISH TO STUDY LAW

At present, Governor Hammond has recommended a budget for the Post Secondary Education Commission that is little more than continuation level. Should that budget be accepted by the legislature, the Commission would be able to continue funding all those students presently receiving WICHE funds. With the remaining funds, the Commission would then fund one new applicant for each of the 15 areas of graduate study covered by the WICHE program. Consequently, new applicants for WICHE monies would not be completely eliminated. Any remaining monies would be allocated on a priority basis determined by the estimated employment demand for each field and determined by the number of students in each field applying, as a percentage of the total applicants. If the funding is at the level proposed by the Governor, the Commission would not reach students past the fourth ranking; law is ranked 13th. Therefore, under the Governor's budget, only one new applicant for the study of law would be funded in the coming fiscal year.

The Senate Finance Subcommittee reviewing the Commission's budget has indicated that it will recommend full funding for the Commission. Full funding would allow the Commission to provide WICHE monies for all applicants, regardless of the field of graduate study. It is expected, however, that the Governor would veto full funding..

With a total bar membership of 1,320, it is self-evident that there is no shortage of lawyers in Alaska. In 1972 when there were about 500 lawyers admitted to practice, the bar membership has increased at a rate of 11 percent annually. Nor will a cut off of WICHE funds halt this rapid growth because it is estimated that more than 90 percent of recent admittees only qualified as Alaskan residents at the time of taking the bar exam. What will happen if WICHE funds are cut back is that indigenous Alaskan residents, and particularly Alaska's ethnic minorities, will be deprived of an opportunity to study law.

#### RECOMMENDATION

A. The Alaska Bar Association will immediately send a letter to Governor Hammond and the relevant Senate and House committees outlining the consequences of a cutback in WICHE funds in terms of increasing the number of Alaskan lawyers.



B. The Alaska Bar Association will direct its lobbyist or designated members of the bar to personally speak with the Office of the Governor and the legislature regarding the WICHE cutback and its implications for future Alaskan lawyers.

## II

### INCREASING THE NUMBER OF ETHNIC MINORITIES INTERESTED IN THE STUDY OF LAW AS A CAREER

The Committee has been able to identify five Alaskan Natives (one retired) and three blacks admitted to practice in Alaska. There are several explanations for the paucity of ethnic lawyers practicing law in Alaska.

1. At present, only five percent of Alaskan Natives and blacks finish in the top quarter of their class in Anchorage. Fifty percent of eleventh grade Alaskan Natives and blacks tested in the lowest quarter of their class. Of those who do finish in the top quarter, most have no career goals or have not prepared themselves for college course work.

2. There is no law school in Alaska.

3. Little money is available for the study of law outside of Alaska.

4. An inordinate number of minorities who do take the Alaska bar exam fail it.

## RECOMMENDATIONS

The Alaska Bar Association will:

- (a) Make an affirmative effort to work with the School District to provide a career program that uses lawyers as volunteers. For example, on Career Day, students interested in law could spend an entire day with an attorney. The ABA could also provide speakers at the education fair.
- (b) Identify the law schools that have been making an affirmative effort to attract minorities and bring these schools together with the minority candidates. For example, U. of N.M., U. of Denver, U. of Minn., U.C. at Davis.
- (c) Affirmatively work with Alaska Legal Services to promote interest in law as a career in rural areas.
- (d) Define the role of paraprofessionals.
- (e) Educate the members of the bar regarding the merits of paraprofessionals and work to secure an informal commitment that a certain number of paraprofessional slots will be created. For example, one paraprofessional per ten attorneys in each firm.
- (f) Explore with the University of Alaska, the idea of the University acting as a

collaborator with an Outside law school as a means of providing in-state legal training.

- (g) Validate the Alaska bar exam to ensure that it is . . . ally biased.

### III

#### BONEY MEMORIAL FUND

At present, the Fund consists of a time certificate of deposit worth \$5,905. The ABA Tax Committee, and particularly Joseph Vitone, are presently investigating the tax status of the fund. Our Committee has considered various means of increasing the fund. The Committee has rejected the idea of allocating the interest from the client security fund to the Boney Fund on the grounds that \$26,000 in the client security fund is inadequate in itself as a security fund; nor would the interest generated by that fund contribute substantially to building up the Boney Fund. The Committee noted, however, that lawyers and law firms are required to maintain non-interest bearing trust accounts for funds belonging to their clients. In many cases, the interest accruing to any one client is negligible and cannot be identified. Ultimately, the banks are the only ones who profit.

#### RECOMMENDATIONS

##### Increasing the Fund

- (a) Future statements of dues owed to the ABA will contain an optional add-on charge .

of \$10 to be applied to the Boney Memorial Fund.

- (b) Local bar associations will be formally approached for contributions to the Boney Memorial Fund.
- (c) The Bar Association will investigate the feasibility of passing a rule, to be approved by the Alaska Supreme Court, which will permit the trust monies to be kept in interest-bearing accounts and the interest to be turned over to the Boney Memorial Fund.
- (d) The ABA will offer to provide matching funds out of the Boney Memorial Fund with the Native regional corporations who give grants or loans for the study of law.

Disbursing the Fund

- (a) Structure the Boney Memorial Fund to provide loans to Alaskan students for the study of law. The awards would be based on merit and there would be a partial or complete forgiveness of the loan if the recipient agreed to practice in rural areas for a fixed number of years.
- (b) Allocate a portion of the Boney Fund for use in the newly-created Anchorage School District tutorial program for blacks and Alaskan Natives.

(c) Compile a list of organizations presently giving money to minorities (e.g., BIA, CINA, Alaskan Native Brotherhood, for purposes of coordinating the loans made to minorities - and maintaining an accurate count on the number of Alaskan ethnic minorities who are studying law.

(d) Additionally, or alternatively, use the Boney funds to provide loans to take the bar review course and the bar exam. This loan would be repaid.

Dated: March 23, 1979

By: Carolyn E. Jones, Chairperson  
Chief Justice Jay Rabinowitz  
Pat Anderson  
Robert Erwin  
John Hedland  
Ron Kull

D13

Annual Reports  
Natural Resources Committee

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\* NOT ADMITTED IN ALASKA

June 5, 1979

BY HAND - VIA MESSENGER

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

Dear Donna:

The Natural Resources Committee of the  
Alaska Bar has the following projects underway:

- (1) We are attempting to establish a seminar to be given during the fall. A copy of our letter of May 18, 1979 to Ron Kull is attached. It more fully describes the seminar.
- (2) We are completing an analysis to be included as a mailer during your next regular mailing of legislation which passed the last State legislature pertaining to land disposal and natural resources.
- (3) We are continuing a monitoring function on federal legislation which would directly impact Alaska.

With best wishes,

Cordially,

BIRCH, HORTON, BITTNER & MONROE

  
Ronald G. Birch

RGB/mbr  
Enclosure

DIY

Annual Reports  
Paralegal Committee





UNIVERSITY OF ALASKA  
CRIMINAL JUSTICE CENTER  
3211 PROVIDENCE AVENUE  
ANCHORAGE, ALASKA 99504

March 12, 1979

RECEIVED

MAR 14 1979

ALASKA BAR  
ASSOCIATION

Ms. Donna Willard, President Elect  
Alaska Bar Association  
P.O. Box 279  
Anchorage, AK 99510

Dear Ms. Willard:

Your recent letter referred to a statement of purpose from me as committee Chairman. This is the first that I have heard of such a request.

In any event, in some attempt to satisfy this request, I will describe the work of the Paralegal Committee during my tenure as Chairman.

The Paralegal Committee has acted as go-between for information and direction between paralegals and attorneys. The Committee has made two surveys of the State Bar, the first to ascertain which attorneys employed or planned to employ paralegals. When we had isolated these persons, we subjected them to a very detailed inquiry regarding the kinds of skills required of paralegals in their offices. Finally, we have chaired this information with all interested parties, including persons who recruit for law offices, paralegals and member attorneys. In a special meeting with paralegal educators, we sought to determine whether or not present or proposed education offerings meshed with actual market needs.

Many paralegals have attended each meeting in the past year-and-a-half. I requested that these persons be allowed some adjunct membership on this Committee of the Board of Governors but received no response. The Committee plans a continuing legal education program for attorneys who work with paralegals or plan to work with them.

No requests from the bar regarding regulation or licensing of paralegals have been forthcoming during my tenure. Some persons have voiced questions about recent rules promulgated to define the practice of law. I would very much like some direct communication with those who drafted this section in order that I call a special meeting to allow some communication on this issue.

*Per [unclear] 3/14/79*

The Criminal Justice Center will be requesting some help from the Bar in coming months in order to secure American Bar Association review of its paralegal program so that it may join a half-dozen accredited education programs in the nation. I have received information from the Oregon Bar about licensing paralegals should the State Bar be interested in this.

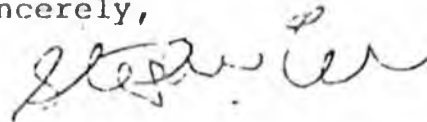
Finally, I have met with a newly formed paralegal society and suggested that the paralegals move to some self-regulation.

While direct participation of Bar members of my Committee is far more episodic than participation of paralegals, I would not suggest pruning the roll. A number of the attorneys are living and working outside of Anchorage. Still others touch base with me from time to time to learn if anything new has developed.

I think it is crucial for the Board of Governors to keep in touch with our Committee when matters such as practice of law are discussed. The paralegal market has grown by leaps and bounds in the private sector during the last two years. Increasingly, persons with formal training are entering the market. I suspect the market for paralegals is firmer and likely to grow at twice the rate of the market for new attorneys.

Please call upon me if you desire additional information.

Sincerely,



Stephen Conn, Esq.  
Chairman, Paralegal Committee

S.C./gas

REPORT TO BOARD OF GOVERNOR'S ON  
PARALEGAL COMMITTEE

MAY 13 1975

May 12, 1975

ALASKA BAR  
ASSOCIATION

Please find attached Exhibit "A" which constitutes a prior correspondence from the Alaska State Bar Paralegal Committee and which indicates what the Committee has done in the past, and the Committee's position presently.

As set forth in that document, after determining that paralegals are being and will be utilized in the State of Alaska, by members of the Bar and by others; it became apparent that the Committee's function was to determine and implement a program to control the use of paralegals.


We disapproved the use of educational prerequisite and certification for the advantageous control of paralegals, placing the full burden on the member or members of the State Bar who will be responsible for all acts or admissions by a paralegal whose services they are utilizing.

As set forth in the attached Exhibit "B", please note that the ethical foundation for placing this burden upon the supervising attorney is already in existence. However, it is the Committee's belief that these factors must be made known to members of the Bar, not by rules which would merely restate what is already in effect, but by an ethical opinion.

This will be the control factor for paralegals utilized within the framework of the Bar. It appears that the only way to control paralegals working outside the Bar framework, such as with real estate agencies, is through the use of action based on practicing law without a license.

Once an ethical opinion is created, setting forth the responsibilities of the members of the Bar regarding the use of paralegals, it is believed that members of the Bar will encourage their paralegals to acquire additional education. For this reason, members of the Paralegal Committee are taking an active advisory position with Sylvia Short and others regarding the present "paralegal" education with the hopes of establishing a paralegal educational system within the State of high quality and available for the continued education of paralegals.

The Committee is interested in educating members of the Bar in the acquisition of and use of paralegals which could be advantageous to both the citizens of the State of Alaska and the members of the bar.

By:   
SIGURD E. MURPHY, Chairman  
(co-chairman) Alaska Bar  
Association Paralegal Comm.

April 2, 1975

Mr. Keith Brown  
Attorney at Law  
329 "F" Street  
Anchorage, Alaska 99501

Re: Alaska Bar Paralegal Committee

Dear Keith:

Please find enclosed a proposal drafted by the Paralegal Committee which, hopefully, you can present to the Board of Governors.

Because of the numerous alternatives the Committee considered prior to completing the enclosed proposal, please utilize this letter to inform yourself and the Board of Governors of the Paralegal Committee's research which led to the basis for the proposal.

The first functions the Paralegal Committee took upon itself included creating an economic feasibility study of the need and use of paralegals within the State of Alaska. At the same time, other members of the Committee were contacting various state and local bar associations and various educational institutions with the intent of acquiring knowledge not only of actions taken by other bars regarding paralegals, but also of educational programs for the training of paralegals.

Our Committee has communicated with the following State and Local Bar Associations:

1. STATE BAR ASSOCIATIONS:

- (a) Alabama State Bar
- (b) State Bar of Arizona
- (c) State Bar of California
- (d) Colorado Bar Association
- (e) Delaware State Bar

EXHIBIT "A"

- (f) Florida Bar
- (g) Bar Association of Hawaii
- (h) Idaho State Bar
- (i) Illinois State Bar
- (j) Indiana State Bar
- (k) Massachusetts Bar
- (l) State Bar of Michigan
- (m) Montana Bar Association
- (n) State Bar of Nevada
- (o) State Bar of New Mexico
- (p) New York State Bar Association
- (q) Ohio State Bar
- (r) Oklahoma State Bar
- (s) Oregon State Bar
- (t) State Bar of Pennsylvania
- (u) State Bar of Texas
- (v) Utah State Bar
- (w) Washington State Bar
- (x) State Bar of Wisconsin
- (y) Wyoming State Bar

2. LOCAL BAR ASSOCIATIONS:

- (a) Beverly Hills Bar
- (b) Boston Bar Association
- (c) Chicago Council of Lawyers
- (d) Chicago Bar Association
- (e) Denver Bar Association
- (f) Lawyers Club of L.A. County
- (g) L.A. County Bar
- (h) New York County Lawyers Association
- (i) Philadelphia Bar Association
- (j) Lawyers Club of San Francisco
- (k) Bar Association of San Francisco

Prior to the completion of our research, we had contemplated that a primary function of the Paralegal Committee would be to determine the proper form of certification of the paralegals with consideration given to controlling the influx of paralegals into the community and the conduct of paralegals after some type of prior type of education. With this in mind, we considered various possible approaches to the use of paralegals within the State as certified.

However, the information gained by the Paralegal Committee led us to the following determinations. First, no formal educational priority is necessary for an individual to be utilized as a paralegal. Second, no certification of paralegals is necessary. Third, to avoid actions or omissions which would be detrimental to the citizens of the State of Alaska or the Alaska State Bar, paralegals must be utilized within a structured environment with full supervision by members of the State Bar.

The aforementioned conclusions are based on conclusive facts. First, concerning our finding that no formal educational prerequisite is necessary for a paralegal, the Committee determined that the economic feasibility study and the questionnaire program we had previously believed would be beneficial to our studies, was archaic based on the fact that "the" question is not one of determining whether or not paralegals can be utilized in the State of Alaska, but one of determining proper controls on paralegals who at this time are being utilized, or will be, throughout the State. Paralegals are now being utilized by members of the State Bar, either in the form of highly skilled secretarial help, or through use of non-bar member associates, researchers, and investigators. Furthermore, paralegals are being utilized at this time outside of the confines of the members of the State Bar by commercial institutions including banks, tax consultants, and real estate agencies. It would not be feasible or equitable for this Paralegal Committee or others to determine that the present paralegals and future paralegals must go through a specified educational program before they will be considered to be paralegals.

Secondly, the Committee determined that no certification was necessary for paralegals. We believe it would be unwise to attempt to control some paralegals who had not worked under the supervision or at the request of a member of the State Bar. You always have people, especially in commercial areas, drafting documents and giving advice, which in all reality involve legal considerations. However, as can be seen by the definition set forth in our proposal, these people in reality are not paralegals. The immediate need is to control the actions of paralegals who in reality are individuals aiding members of the State Bar in the furtherance of their legal services. We have concluded that the most efficient and

Mr. Keith Brown

April 2, 1975

Page -4-

proper way to control paralegals is not through educational or certification programs, but is through restricting their use to that which is under the supervision of a member of the State Bar, and to place the full burden of responsibility for the acts and omissions of paralegals on those members of the State Bar with whom they work.

The essential element of our proposal is the establishment, by court rules or otherwise, of specific controls on the use of paralegals by members of the State Bar which will place full burden on those members for the actions or omissions of the paralegal working under their supervision. As you are probably aware, the Paralegal Committee is concerned with the fact that the urban use of paralegals will be much different than the bush use. However, we are confident that placing full responsibility on the attorney will encourage that member of the Bar to insure an increased level of knowledge and expertise on the part of the paralegals utilized by him. We are hopeful that rules as will be promulgated will not only set forth some direct ethical considerations for the use of paralegals; but will also set forth sanctions to be taken against an attorney for unethical or improper conduct on the part of the paralegal under his supervision.

Hopefully by establishing guidelines and sanctions, the State Bar and Judicial System within the State will insure a close adherence by members of the State Bar. At present some problems may occur with regard to the use of paralegals within the present legal community. For instance, if a paralegal investigator utilized by a firm or member of the Bar coerces information from a witness in such a way as would be construed as unethical conduct on the part of a member of the bar; at the present time, even though the Committee believes that possibly under the Canon of Ethics the attorney can be held responsible, there is a much better chance the full burden for the act or omission will be placed on the paralegal investigator, allowing the attorney to escape criticism and sanctions which hopefully would not occur under the system as proposed. This again gets into the area of certification. It was our Committee's feeling that if a certification program were established, the intent

of that sub-committee and the Paralegal Committee in general will be proposed rules establishing in a concise manner rules for the use of paralegals which place the burden, including appropriate sanctions, on the members of the State Bar as appropriate. The rules most likely will consider such ethical considerations as the applicability of the attorney work-product privileges with regard to paralegal activities, the compensation of paralegals with a portion of the attorney fee, the use of paralegals with n our District Court, placing of the name of paralegals on a lawyer's or firm's stationary, the partnership with paralegals by members of the Bar, and other such activities.

In closing I should state that our Committee has determined that from now on instead of the use of the word "paralegal" we will formally be utilizing the phrase "non-lawyer legal assistants" and the shortened phrase "legal assistants".

Very truly yours,

Sigurd E. Murphy

HUGHES, THORSNESS, LOWE,  
GANTZ & POWELL

SEM/kt

Enclosure: Draft of Paralegal Committee proposal



MEMORANDUM

APR 16 1975

TO : Sigurd E. Murphy, Esq.

FROM : Alan Sherry, Esq.

DATE : April 14, 1975

SUBJECT: Meeting of Sub Committee of Para-Legal Committee Concerning Enforcement of Canons of Ethics in Relation to Control of Activities of Legal Assistants

It was the concensus of the entire para-legal committee and that of the sub committee relating to canons of ethics, that certification of "para-legals" was not recommended. This was so for a number of reasons including inability of the committee to effectively draw a definition of "para-legal" or legal assistant which would encompass all of the functions performed by such persons, and the feeling that effective regulation of activities of legal assistants would be better handled through regulation of attorneys employing said assistants as employees or independent contractors.

In essence, legal assistants are all persons performing functions on behalf of attorneys, that do not encroach upon the tasks which are limited to those persons licensed to practice law. According to the article in The Practical Lawyer (Vol 18--No. 7), regarding legal assistants, it was felt that some or all of the following tasks could be delegated by attorneys to qualified legal assistants:

- a. Scheduling of appointments.
- b. Tickler system.
- c. Interviewing of sales persons regarding the office.
- d. Collection of law book advertisements.
- e. Screening of lay applicants for employment.
- f. Composition of routine letters.
- g. Office and personal bookkeeping and some accounting.
- h. Routine completion of forms and filing of papers in corporate matters.
- i. Routine preparation of real estate settlements.
- j. Processing of collection matters up to the point of suit.
- k. Preparation of routine pleadings, with supervision of attorney.
- l. Interviewing of witnesses, investigation, initial research and collection of medical materials.

It is felt that rather than attempting to certify or qualify persons who perform

any or all of the above functions, that the emphasis should be toward insuring that such persons, who are not licensed as practicing attorneys, do not encroach in the area of practice of the law, which has been defined under existing canons of ethics to include appearance in court, before various tribunal bodies, rendering of legal advice and opinions to clients, drafting of client documents.

Another reason for not recommending certification of such lay assistants, is the concern that such certification might act as an effective insulation between the activities engaged in by said person and the attorney ultimately responsible. The concern was expressed that presently some individuals are abusing their position as lay assistants and performing certain acts which, if performed by an attorney, would be unethical, and attorneys are not being held to account for such activities, to wit: improper acts by an investigator in interviewing opposing parties and so forth. The committee feels it would be better to enforce existing canons of ethics which clearly set forth the attorney responsibility for acts of all employees and/or independent contractors retained on behalf of the attorney and his client, rather than trying to enforce sanctions against such individuals, which ultimately come under the effective control of the attorney in any event.

According to the code of professional responsibility as adopted by the American Bar Association in 1969, as set forth in the index of the case book entitled Professional Responsibility, Cases and Materials, canon 3 obligates a lawyer to assist in preventing the unauthorized practice of law. It is felt that this canon and the ethical considerations in disciplinary rules incorporated thereunder adequately deal with the problem in hand. EC3-1 states, "the prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence of those who undertake to render legal services. Because of the fiduciary and personal character of the lawyer-client relationship and the inherently complex nature of our legal system, the public can better be assured of the requisite responsibility and competence if the practice of law is confined to those who are subject to the requirements and regulations imposed upon members of the legal profession."

EC3-5 attempts to define the practice of law. "It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of law. Functionally, the practice of law relates to the rendition of services for others that call for the professional judgment of a lawyer. The essence of the professional judgment of the lawyer is his educated ability to relate the general body and philosophy of law to a specific legal problem of a client; and thus, the public interests will be better served if only lawyers are permitted to act in matters involving professional judgment. ...."

Concerning the problem of regulation of legal assistants EC3-6 states, "A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has a complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently."

Footnote 3 to the above ethical consideration recognizes that a lawyer may employ secretaries, investigators, detectives, accountants, scribes, non-lawyer draftsmen and researchers. In fact, the lawyer may employ non-lawyers to do any task for him except counsel clients about law matters, engage directly in the practice

of law, appear in court or appear in formal proceedings, a part of the judicial process, so long as it is the lawyer who takes the work and vouches for it to the client and becomes responsible to the client. ABA Opinion 316 (1967).

It is felt that the above mentioned canon and the opinion interpreting same as well as the ethical considerations set forth should be adequate if enforced. Within the confines of the lawyer's office, the multitude of functions performed by non-lawyers can be effectively regulated in a two-fold manner. A) The effective control of the employer over the employee concerning the work product which leaves the office, and B) the above mentioned legal and ethical considerations relating to the lawyer's ultimate responsibility for the work product leaving his office. Regulation of activities before tribunals can most effectively be done by the tribunals themselves concerning practice of law, admission of law clerks before said tribunals and so forth.

The other important area wherein assistants to lawyers are used is in that of field investigation, with the attendant possibility for abuse by trained investigators performing in a manner which, if done by an attorney, would be unethical. For example, contact of a person who has retained an attorney, by an investigator on behalf of the other side, would be unethical if done by an attorney, and should be just as unethical if done by a person retained on behalf of said attorney or his client. Effective enforcement should be directed toward the attorney in the matter, holding him responsible for all acts of employees or persons hired as independent contractors, but performing functions on behalf of the case or the client. In other words, the investigator becomes an extension of the attorney, and is not entitled to or given latitude to perform acts which the attorney could not perform.

The second potential area of abuse involving field investigators concerns acts performed by said investigators which would not necessarily be improper if done by an attorney but which encroach upon impermissible practice of law; for example, when said investigators purport to give legal advice to persons concerning their rights and obligations in litigation. Prior to the involvement of attorneys or the instigation of litigation, this is not necessarily impermissible or improper nor is it a proper matter for regulation by the Bar unless it involves solicitation of legal representation, which is adequately covered under existing canons of ethics. However, once an attorney or attorneys are involved in the matter, and hence become responsible for the acts of their agents or independent contractors retained by them, it is felt that the Bar should be concerned to prevent the unauthorized practice of law by such legal investigators. It is felt that canon 3, above mentioned, and disciplinary Rule 3-101, should be adequate to effectively regulate this practice if it exists.

It is possible that a specific additional canon might be proposed to the Alaska Supreme Court, to add further dimension to the existing canons of ethics, which have been taken from the American Bar Association canons, specifically reaffirming the obligation and legal responsibility of an attorney for acts of his employees and independent contractors as it relates to compliance with canons of professional conduct and ultimate responsibility for the lawyer's work product. While such additional canon would but restate the existing standards of professional conduct, it might emphasize that particular area as it relates to activities of legal assistants in light of evident concern for potential abuses.

AS/gp

cc: Phil Eide

# DIS

Annual Reports

Probate Committee

September 26, 1979

Peter C. Ginder  
Chairman  
Probate Committee  
420 L Street #402  
Anchorage, Alaska 99501

Dear Pete:

I am in receipt of your letter of September 19, 1979  
and the information contained therein.

I want to take this opportunity to thank you for keep-  
ing me informed on the activities of the Probate Committee  
and to express my appreciation for your efforts.

Sincerely yours,

ALASKA BAR ASSOCIATION

Donna C. Willard  
President

wj

Law Offices of  
Kempel, Huffman & Ginder

420 "L" Street, Suite 402  
Anchorage, Alaska 99501

Roger R. Kempel  
Richard R. Huffman  
Peter C. Ginder  
Ronald L. Baird

RECEIVED Telephone  
(907) 277-1604  
(907) 276-1605

SEP 20 1979

ALASKA BAR  
ASSOCIATION

September 19, 1979

Donna C. Willard, Esquire  
President  
Alaska Bar Association  
P.O. Box 279  
Anchorage, Alaska 99501

Re: Alaska Bar Association  
Standing Committee on Probate

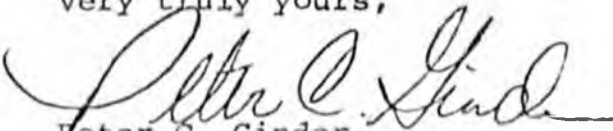
Dear Donna:

I have enclosed an illustrative copy of a letter sent today to all of the members of the above-referenced committee. Please be advised that a copy has been sent as well to Ted King, our liaison with the Board.

The enclosed letter is self-explanatory. Suffice it to say that the response to this letter, or the lack thereof, will give us a great deal of insight into the ultimate fate of the committee.

Again, I appreciate your patience and cooperation. Needless to say, I will keep you posted on my attempt to generate some enthusiasm for the work of the Probate Committee.

Very truly yours,

  
Peter C. Ginder

PCG/rg

Enclosure

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September 17, 1979

Ronald A. Offret, Esq.  
Vice-Chairman  
310 "K" Street, #408  
Anchorage, Alaska 99501

Dear Ron:

I write in my capacity as Chairman of the Standing Committee on Probate of the Alaska Bar Association. I do so in order to solicit your views in regard to the role to be played by this Committee. Your thoughts, comments and suggestions will be incorporated into a statement of goals and purposes which will soon be sent to Donna C. Willard, President of the Alaska Bar Association.

At the outset, it should be pointed out that there is a very real question in the minds of many in regard to whether or not this particular committee need continue to exist at all. I have been a member of this committee since my admission to the bar in the autumn of 1974. During that period the Probate Committee has, to the best of my knowledge, neither held a meeting, actively lobbied for passage of a particular piece of legislation, nor undertaken any other activities generally undertaken by committees of this type. A review of my rather sparse file involving the activities of this committee reflects fewer than half a dozen pieces of correspondence, most of which are similar to this one.

The relative inactivity of the Probate Committee has not, I suspect, been due to lack of interest in the subject matter, for the committee is made up of people who are, by definition, interested in this area. Further, I do not feel that it is due to any lack of energy or initiative on the part of

Ronald A. Offret  
Re: Standing Committee on Probate  
September 17, 1979 - Page Two (2)

the various committee members. Rather, I feel that this committee's inactivity over the past five years is due to two factors: First, the bar association has for a number of years placed little if any emphasis on the successful operation of the various standing committees. The relative indifference of the bar has resulted, in my view, in apathy on the part of the members of the committees themselves. This factor is no longer present, as the incumbent Board of Governors has made it clear that it places a significant amount of emphasis upon the committee function. It is equally clear that the Board intends to revitalize the committees so that they might play an effective role in the overall context of bar activities.

A second factor resulting in this committee's inactivity is, I feel, unique to this committee. We are not, unlike other committees, dealing with laws which require extensive revision. The Alaskan adaptation of the Uniform Probate Code, AS 13.06.005 et seq., is a coherent and unified body of law which has been enacted here in Alaska on a relatively recent basis. Whatever its perceived defects, it is hardly ripe for extensive revision. As a result, one of the roles normally undertaken by a committee such as this one is effectively foreclosed.

Legislative enactment of the Uniform Probate Code also removes this Committee from the business of drafting proposed "model" forms or practice manuals. The "official" forms promulgated and adopted by the Supreme Court of the State of Alaska on June 5, 1974, are sufficiently comprehensive to cover most of the situations apt to be encountered in day-to-day probate practice. Moreover, similar forms are readily available from other states which have adopted the Code. Finally, of course, there are a variety of practice aids available to the practitioner here in Alaska, including official comments, practice manuals, and a growing body of commentary and case law. There does not appear to be a significant need for additional work in this area on a local level.

It is apparent from my conversations with Donna that serious consideration will be given to disbanding this Committee if it fails during the coming year to develop coherent goals and



Ronald A. Offret  
Re: Standing Committee on Probate  
September 17, 1979 - Page Three (3)

objectives and then take steps to accomplish them. I personally feel that the Committee can become a viable entity, and that it should continue to exist. I feel that the Committee can perform a valuable function in at least three distinct areas. First, by its mere existence it serves as a vehicle for action if action indeed becomes necessary. This alone gives its continued existence some value. Second, it can and should be used as a clearing house for information and discussion on the problems apt to be faced by probate practitioners. I feel that this role is an important one, even if organized along informal lines. Third, there is a public information function which can readily be met by the members of this Committee.

Finally, of course, there is at least some necessity to refine and supplement existing legislation. This committee could most certainly do an effective job of drafting, submitting and promoting various pieces of legislation designed to amend or supplement the Code. Supplemental legislation which would appear to be desirable would include legislation dealing with simultaneous death, fiduciary powers, allocation of principal and income, and assignment of group life insurance policies.

I would very much appreciate it if you would give active thought to the role of this committee and contact me with your comments and suggestions when you have done so. Your comments, formal and informal, will be of great assistance. I will look forward to hearing from you.

Very truly yours,

KEMPPEL, HUFFMAN & GINDER

  
Peter C. Ginder

PCG/rg

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A PROFESSIONAL CORPORATION

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ANCHORAGE, ALASKA 99503

TELEPHONE 278-4655  
AREA CODE 907

February 20, 1979

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FEB 25 1979

ALASKA BAR  
ASSOCIATION

Alaska Bar Association  
P.O. Box 279  
Anchorage, Alaska 99510

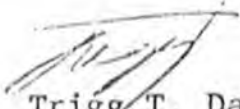
Attn: Donna C. Willard  
President Elect

Dear Donna:

For some time I have been meaning to give you a report on progress of the Alaska Probate Committee. Frankly, a recent bout of mine own with pneumonia has delayed the report and some committee activities. However, some things have been accomplished. In general, we are doing the following. First, the committee is preparing a position on three different pieces of legislation which has been introduced in the Alaska legislature and will be providing that to the appropriate committee. Additionally, a group in the committee is working on an effort to obtain repassage of the Uniform Simultaneous Death Act. In addition, the committee is seeking to adopt a position on trust registrations since at least a fair portion of the committee feels that it should be repealed. Also, some discussion has been had concerning interpretations of the code by different masters and possible means of obtaining uniform interpretations.

I hope this update is of assistance to you.

Very truly yours,



Trigg T. Davis

TTD:pn

*Orig sent to Donna  
2/24*

HUGHES THORSNESS GANTZ POWELL & BRUNDIN  
Attorneys at Law

JOHN C. HUGHES	RICHARD D. THALER
DAVID H. THORSNESS	CARL J. D. BAUMAN
RICHARD O. GANTZ	FRED B. ARVIDSON
JAMES M. POWELL	ROBERT T. PRICE
BRIAN J. BRUNDIN	* DENNIS M. BUMP
* MARCUS R. CLAPP	MARY HUGHES PATCH
KENNETH P. JACOBUS	FRANK A. PFIFFNER
GARY W. GANTZ	* RALPH R. BEISTLINE
JERRY E. MELCHER	RANALD H. JARRELL
JOE M. HUDDLESTON	GORDON J. TANS
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	ROBERT L. MANLEY

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Please reply to: ANCHORAGE

May 8, 1978

Kenneth O. Jarvi  
President Elect  
Alaska Bar Association  
P. O. Box 279  
Anchorage, Alaska 99510

Re: Probate Committee

Dear Mr. Jarvi:

Pursuant to your request, March 29, 1978, as enlarged by an oral request of Boyett Godell, it is my painful duty to report that the probate committee as such has not functioned well during the year of 1977. However, I think it is also fair to state that it has functioned as well in 1977 as it has in any of the other recent past years.

By virtue of a letter of January 11, 1977, I was either appointed chairman or co-chairman, as the case may be with Norman C. Banfield of Juneau. I have not seen Norman during the past year, but I have talked with Mrs. Banfield and it is my belief that Norman is at least partially retired from the practice of law. I will send a copy of this letter to him and we will perhaps hear more from him.

In the past several years, I have from time to time, circulated Round Robin's letters with various members of the probate committee; but to date, none of my letters have stimulated much response that I can recall.

The last letter that I passed around to the committee was on February 12, 1976, at which time we were discussing the tentative standards for specialization in estate planning and probate law.

My major personal effort on behalf of the bar, during the past year has been in the area of grievance committee work

Mr. Kenneth O. Jarvi  
May 8, 1978  
Page Two

and one of our major hearings involved several allegations of poorly attended probate matters that extended over a great period of time.

I don't know how the message can be delivered to the Bar, but it is my opinion that the uniform probate code has enlarged the possibility for dilatory practice in the probate sector, particularly for those who only occasionally do some probate work.

As I see it, the probate code for the State of Alaska really wasn't sufficiently inadequate as to require the adoption of the uniform probate code because we did have essentially a no notice probate, and we had removed most of the hurdles, such as, court order for the sale of all property, and we did have a definitive 1, 2, 3 statutory procedure that could be understood by most lawyers who wanted to practice probate occasionally. All they had to do was follow the statute and go by the numbers.

Under the uniform probate code, instead of a book of rules so to speak, we have a series of options and not infrequently the lawyers that are faced with a series of options couched in vague and unfamiliar language find themselves pretty much like the farmer boy in the potato cellar sorting spuds, decisions! decisions! decisions! and the result is that a busy lawyer trying to handle an occasional probate finds that a year or so has gone by and he hasn't made any decisions.

I have recently received a request from the lower 48 in respect of a probate that has been pending for more than one year, and no personal representative has yet been appointed, no notice to creditors published, no inventory filed and the lawyer involved is still faced with decisions.

Once a probate proceeding gets a year behind schedule, it is pretty difficult for any other lawyer to pick up the file and make it appear like a professional operation.

It would seem to me that until the day we do have meaningful specialization within the probate practice of law and probably even after we do have that specialization, that the court through its rule making authority, could greatly

Mr. Kenneth O. Jarvi  
May 8, 1978  
Page Three

assist the probate practice by installing a rule to the effect that no lawyer or firm of lawyers could file a probate matter if they had pending a probate matter of more than eighteen months or two years duration without a special order of court. The point being that some norm be established (comparable to the theory that no Judge should receive compensation who has had under consideration a motion for six months without decision thereon). Over and above the proposition above recited, I have in mind two areas of housekeeping chores that could be modified either by rule making authority or statutory change to the benefit of probably court personell as well as the general public.

The trust registration is covered in Chapter 36 and the contents of the registration is covered in Section 13.36.010. It appears to me that the main purpose served by the statute is to designate a person upon whom service of process can be had. The service of process is important and represents a plus to the general public, but it also seems to me that there ought to be a positive benefit to the trustor and to the beneficiary.

It would be my suggestion that the registration of a trust under Chapter 36 should be prima facie evidence that the person named in said registration has the authority to act as trustee, but the successor trustee if any should be named in the registration and that a title company or a lending institution should be entitled to rely on the authority of the trustee named in the "trust registration" to act for and on behalf of the trust. If we did this, then the designated trustee could not only accept service, but would have the prima facie authority and a title company or a bank could rely upon the signature of that particular individual.

From a housekeeping stand point, in the Anchorage office, most of the trust registrations are contained on one legal sheet of paper. A ten dollar fee is paid and the court in the probate's office opens a file, places the one sheet of paper in the file and it is then placed in the file cabinet for posterity. If you would look at the trust registration file in the Anchorage office, you would see a filing cabinet full of file folders with nothing in them except the Acco Fastners and one sheet of paper. A more practical method of handling these simple filings would be to photocopy them and put them into a regular recording book or in a ring binder of some sort which certainly would be less cumbersome. If

Mr. Kenneth O. Jarvi  
May 8, 1978  
Page Four

a standard trust registration form were established, it could be accommodated in a much more economical arrangement. My main concern however, is not the housekeeping chores, but rather the thought is to breathe more life and purpose into the statute other than the registered agent concept suit.

It is my recommendation that Section 13.11.315 which allows for the deposit with the court of a will of the testatory during his lifetime, is not well thought out. I admit prejudice because I cannot think of a situation where I would use the court as a depository and I never have used the court as a depository of a will. The areas of rethinking are as follows: My understanding is that Court Administrator Arnold on March 15, 1978 issued a memorandum directing that wills could be filed only at Anchorage, Kodiak and Kenai in the Third Judicial District due to the lack of facilities. The storing of an endless number of wills of a transitory population over a period of fifty or a hundred years can create a terrific paper jam, because the testatory may die in a foreign jurisdiction or even if he dies within the State of Alaska, there is a very good chance that the filed won't be discovered. I can foresee that the State of Alaska will have the thankless task of storing hundreds or thousands of wills in the next few generations without ever knowing whether the will has been modified or the testatory died in another jurisdiction, and without any possibility of clearing the revised or revoked wills from record. It would appear that the theory of recording wills is based upon the assumption that a person makes a will only once in their life and accordingly, no provision need be made for modification, revocation or change of circumstances. The lack of recognition of these possibilities, can itself work an injustice.

It would appear to me that the effectiveness of a recorded will because it has a limited value, in the respects above mentioned, should be offered for a period of time only. In other words, if you want to record your will, it would be good for a period of five, ten or fifteen years; but in any event, there would be a point in time when the will would be considered destroyed, unless it was renewed by some overt act. At the same time, no will should be accepted without a permanent address where the testatory could be contacted in order that the notice of termination or return of the expired or voided will might be transmitted.

Mr. Kenneth O. Jarvi  
May 8, 1978  
Page Five

I would recommend that the Uniform Simultaneous Death Act enacted as Chapter 80, Laws of Alaska 1949 be reenacted. As I see it there is nothing in the Probate Code to prevent the two from working in harmony and we need the 1949 Act.

Recognizing that the different members of the probate committee might well differ in regards to the above expressed thoughts, I am giving each of them a copy of this letter.

Respectfully submitted,

  
John C. Hughes

JCH:meh

cc: James McCarrey, III  
Suzanne Pestinger  
Trigg T. Davis  
Kenneth McCaskey  
Peter Ginder  
Norman C. Banfield

D16

Annual Reports  
Real Estate Committee



RECEIVED

MAY 26 1978

ALASKA BAR  
ASSOCIATION

LAW OFFICES

FRANCIS J. NOSEK, JR.

A PROFESSIONAL CORPORATION

1026 WEST FOURTH AVENUE, SUITE 206

ANCHORAGE, ALASKA 99501

TELEPHONE  
(907) 274-2602

May 26, 1978

TO: KEN JARVI, Board of Governors, Alaska Bar Association  
FROM: FRANCIS J. NOSEK, JR., Chairman  
RE: REAL ESTATE COMMITTEE REPORT

I. COMMITTEE ACTIVITIES

- A. Reviewed various items of significant legislation (State) of interest to real estate practitioners. This was done by Nosek as Alaska Representative of American Bar Association, Committee on Real Property, Probate and Trusts. This report was not made available to the Alaska Bar due to cost, but is available through the ABA.
- B. Reviewed various items of significant court decisions (State) of interest to real estate practitioners. This was done by Nosek as Alaska Representative of American Bar Association, Committee on Real Property, Probate and Trusts. This report was not made available to the Alaska Bar due to cost but is available through the ABA.
- C. Explored possibility of the presentation of a seminar on real property law by a national figure, both through the ABA and ALI-ABA. None appear available without significant subsidy.
- D. No formal meetings were held.
- E. Contact was made with the Anchorage Board of Realtors regarding joint presentation of programs of interest to both lawyers and realtors.

II. CONTINUED EXISTENCE

- A. This committee has valid reasons for existence, i.e.,
  - 1. legislative review
  - 2. case law review
  - 3. legal education

- B. If re-structured, this committee should continue to exist and will become increasingly viable and needed. Might as well continue growth now.

III. SHOULD COMMITTEE CONTINUE IN PRESENT COMPOSITION?

- A. Present composition is unwieldy.
- B. Should be re-composed. (See later comments)

IV. ROLE OF BOARD OF GOVERNORS AND EXECUTIVE DIRECTOR

- A. Board Role - adapt the structural format later suggested.
- B. Executive Director Role - provide reproduction and mailing assistance, provide coordination and registration for seminars.
- C. Funding - possibly for travel for seminar lecturers.

V. OBJECTIVES

A. Restructure:

1. Three (3) member executive committee, authorized to carry out and on the committee objectives without other approval.
2. Membership should carry a \$5.00 annual fee and entitle member to (a) publications at cost, (b) annual meeting resolutions and vote.
3. Membership open to any Alaska Bar Association member.

B. Next Year Objectives:

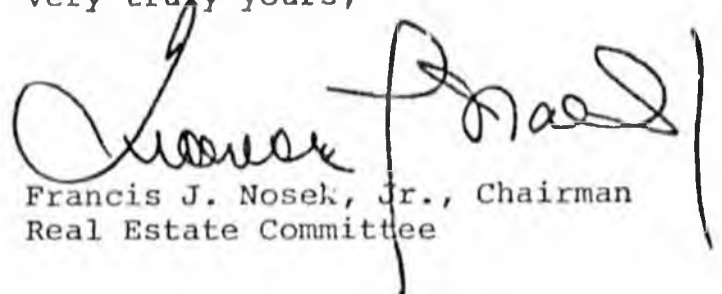
1. Mail members report on significant Alaska real property legislation and case decisions.
2. Establish a pilot program of "mini-seminars" -
  - (a) 2-3 hours in evening.
  - (b) Standardize format.

- (c) Topics to be basic to real estate practice initially, later somewhat more specialized as to area of real estate law.
- (d) Lecturers to be practicing Alaska lawyers, one visiting and one local, to be supplemented with others as needed, i.e., insurance, tax, etc.
- (e) Open to all lawyers and public.
- (f) Minimal fee, i.e. \$10.00 to defray costs.
- (g) Attendees to receive credit toward continuing legal education.
- (h) Instructors to receive "honorarium" plus double CLE credit.
- (i) Outline material for seminar to be printed by Executive Director and distributed to enrollees attending.

C. Long Range Objectives:

1. Improve and increase "mini-seminars".
2. Promote joint programs with the local Board of Realtors.
3. Aim for one per year, 1-2 day seminar by outside experts.

Very truly yours,



Francis J. Nosek, Jr., Chairman  
Real Estate Committee

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March 13, 1979

RECEIVED

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

MAR 15 1979

ALASKA BAR  
ASSOCIATION

Re: Real Estate Committee

Dear Donna:

The Real Estate Committee organized in December and adopted a purpose clause in January, a copy of which is enclosed for your information. It is based on the purpose clause set forth in the American Bar Association By-Laws on the section of real property, probate and trusts.

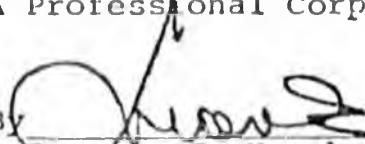
The Committee is meeting monthly on the third Thursday of the month at noon at "The Restaurant". The Committee has the following undertakings in progress:

1. Title 34 and other Statutes relative to real property are in the process of being revised by the State Code Revision Commission. The Real Estate Committee is working with the contract lawyer for the Commission in reviewing drafts of the proposed code revisions in this area. It is contemplated that these revisions will be submitted to the legislature in 1980, and will be offered for preview to the Bar Association and other interested persons in the community prior to filing.
2. We are reviewing legislation filed which we feel has some effect upon real property areas.
3. We are communicating with the Anchorage Board of Realtors and exploring joint educational programs.

The following members, initially appointed to this Committee, have not attended any meetings: Dan Coffey and Paul Robison.

Best regards,

FRANCIS J. NOSEK, JR.  
A Professional Corporation

By   
Francis J. Nosek, Jr.

*dry sent 3/16/79*  
FJN:sl

Enclosure

ALASKA BAR ASSOCIATION

REAL ESTATE COMMITTEE

Purpose

The purpose of the Real Estate Committee shall be to study the law concerning the ownership, use, development, transfer, regulation, financing, taxation, and disposition of real estate and all interests therein, including but not limited to the following specific purposes:

(a) To consider all matters of legal interest relating to the various subjects covered;

(b) To engage in educational and related activities;

(c) To inform and assist members of the Bar in all matters pertaining to the subject matter covered.

(d) To sponsor, encourage and promote scholarship in these fields;

(e) To collect, analyze and disseminate information as to legislation and judicial decisions;

(f) To initiate, sponsor and promote within the Association legislation and uniform laws when necessary and appropriate in the public interest;

(g) To provide in accordance with Association policy a forum, where appropriate, with other disciplines; and with governmental and private bodies, for the exchange of ideas and opinions; and

(h) To serve as a spokesman for the Bar, if approved by the House of Delegates.

D17

Annual Reports

Statutes, By-Laws & Rules Committee

F  
Committee Reports

W. EUGENE GUESS, 1932-1975

ROBERT C. ELY  
JOSEPH RUDD  
THEODORE E. FLEISCHER  
FRANCIS E. SMITH, JR.  
HERBERT BERKOWITZ  
MICHAEL G. BRIGGS  
DAVID H. BUNDY  
HARRIS SAXON  
PHILLIP J. EIDE  
GARY A. ZIPKIN  
JOSEPH M. WILSON  
PAUL DE STEFANO  
GENE R. NICHOL  
ROBERT H. WOLFE  
LOUIS R. VEERMAN  
CLIFFORD W. HOLTZ  
JOHN FOSTER

LAW OFFICES OF  
ELY, GUESS & RUDD

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NORMAN C. GORSUCH  
STEPHEN J. PEARSON  
GORDON E. EVANS  
MONTE L. BRICE

JOSEPH A. McLEAN  
OF COUNSEL

May 8, 1979

RECEIVED  
MAY 8 1979  
ALASKA BAR ASSOCIATION

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

Re: Statutes, By-Laws & Rules Committee

Dear Donna:

In response to your letter of April 19, 1979, this letter will constitute an annual report of the above committee.

During the past year, this committee has been engaged in consideration and drafting of proposed amendments to the Association's by-laws and to the Bar Rules. Principal projects included revisions to the discipline rules, which were adopted by the Supreme Court earlier this year, and the drafting of a definition of "the practice of law".

The committee's work generally is assigned to it by the Board, or the Executive Director, and the projects are routed through the chairman of the committee to various committee members. The committee's proposals are then sent to the Board for its consideration and review.

I would anticipate that the work of the committee during the next year will be conducted along the same lines as previously, although various members of the committee may wish to originate projects of their own.

Very truly yours,

David H. Bundy

DHB:gm

1976-1977

Preface:

Once again, the most active committee of the Alaska Bar Association has had an extremely busy year. While no amendments were proposed to the statutes governing the bar because complete revisions were accomplished in 1975-1976, rule changes proliferated.

For clarity and organization this report will be divided into major parts; rules amendments and by-law and code revisions. Each subpart will be further divided into five parts; rules pending before the Court, rules rejected by the Court, rules promulgated by the Board, and rules in Committee.

I. Rules

For those unfamiliar with the procedure, a Rule or Rule of Civil Procedure is either promulgated by the Board. If the proposal comes from a variety of sources and is initiated by the Committee or a special committee formulated by the Board.

Thereafter, proposed language is taken before the Board. The proposal is either accepted, rejected, modified or returned to Committee for further study. When accepted, it is forwarded to the Supreme Court with a recommendation for its adoption. Action by that body decides its future.

A. Rules Promulgated by the Court

No rules initiated by the Bar Association have been adopted by the Supreme Court since the last convention.

B. Rules Pending Before the Court

1. An amendment to Rule 44 which would allow persons who have at one time failed but subsequently passed an out-of-state bar examination to be granted a legal intern permit.

*Committee Report*

W. EUGENE GUESS, 1932-1978  
ROBERT C. ELY  
JOSEPH R. RUDD  
THEODORE C. SMITH, JR.  
FRANCIS C. SMITH, JR.  
MICHAEL G. BERKOWITZ  
DAVID H. BUNDY  
HARRIS J. SAISON  
PHILLIP J. ZIPKIN  
JOSEPH M. WILSON  
PAUL DESTEFANO  
GENE R. NICHOL  
ROBERT W. WOLFE  
CLIFFORD W. HOLTZ  
JOHN FOSTER

ELY, GUESS  
A PHOTO



2. A revision to Rule 4, section 7 requiring that any bar applicant electing to substitute an earlier MBE score be required to file such election at the time application is made to take the bar examination.

3. Rules 7 and 7.1, represent extensive reorganization of the admissions rules. Proposed Rule 7 governs the conditions under which an administrative hearing would be granted to a failing applicant. New Rule 7.1 would detail the procedures to govern such a hearing.

4. Rule 8 has been revised to provide that no Supreme Court review would occur in applicant appeal cases until the administrative hearing process before the Board has been exhausted. It further provides that the normal filing fee schedule of the Supreme Court will apply.

5. Rule 28(b) has been amended to give the Court the authority to issue orders to show cause in pending disability cases. It also gives the Board the discretion to take and preserve evidence where disciplinary action is pending in conjunction with a disability case.

6. The amendment to Rule 31, if accepted, would give the Board authority in all disciplinary cases except those involving disability to publish a summary of facts, without reference to the attorney by name, once Board action has become final. Rule 39 would also give the Board authority, in fee arbitration matters, to publish a summary of the facts once Bar action is final. Furthermore, applications for discovery and the extent it will be allowed will be within the discretion of the Chairman of the Fee Arbitration Panel.

g. Rule 81 of the Rules of Civil Procedure has been amended to provide that out of state attorneys appearing before both administrative agencies and arbitration proceedings must comply with the procedures of Rule 81.

The Court has asked the Board to provide a legal opinion, which is currently being drafted, as to whether or not the Court has the authority to regulate such attorneys.

#### C. Rules Rejected By the Court

An amendment to Rule 2, Section 2 which would have established the multi-state portion of the Alaska Bar exam as the examination to be taken by the attorney applicants was rejected by the Court without consultation with the Board.

#### D. Rules Pending Before the Board

1. An amendment to Rule 14, providing for removal of any member of a Disciplinary Hearing Committee who fails to attend two consecutive hearings.
2. An amendment to Rule 28(e) provided for notification to the Federal District Court and State administrative agencies of a disability order.
3. Complete revision of the Disciplinary Rules.
4. A revision to Rule 37 providing for the removal of fee arbitration panel members in appropriate instances.
5. New Rule 62 providing procedures for the consideration of and adoption of Rules, By-Laws and regulations.
6. A Rule defining the Practice of Law.

#### E. Rules Pending in Committee

1. A Trust Fund Audit Rule pursuant to resolution of the Bar Convention.
2. Complete revision of Rule 44, the Legal Intern Rule.
3. Amendments to Rule 7 providing for conditions under which a failing bar applicant must elect between an administrative hearing and the right to take the next bar examination.

#### II. By-Laws and the Code of Professional Responsibility

1. Currently pending before the Court is an amendment to DR 2-102 which <sup>would</sup> preclude the use of a firm name where the named attorneys are not admitted to the practice of law in Alaska.
2. Professional Corporation By-Laws were proposed but rejected by the Board.
3. The Board passed an amendment to Article III, section 8 of the by-laws providing for a determination of good character where an attorney has been inactive for more than one year and <sup>desires</sup> fails to return to active status.
4. Article IV, Section 1 was revised to raise inactive dues from \$10.00 to \$35.00.

5. Pending before the Board are amendments to Article III, Section 1 & 3 and Article IV, Section 1(b), providing for a judicial membership category and establishing bar fees for that group.

It has been an exciting and challenging experience to serve as Chairman of this Committee for the past three years.

Respectfully Submitted,

*Donna C. Willard*  
Chairman

- Donna C. Willard.  
Chairman

D18

Annual Reports  
Taxation Committee

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MAR 3 1979

ALASKA BAR ASSOCIATION

TAXATION COMMITTEE ANNUAL REPORT FOR 1979

In late 1978, the Board of Governors of the Alaska Bar Association approved the formation of a Taxation Committee, and appointed the initial membership of the committee. Subsequently, on January 18, 1979, the Taxation Committee held its organizational meeting. The membership discussed the goals of the committee, and created the following subcommittees:

(1) Legislative Subcommittee. The four members of this committee (representing Anchorage, Fairbanks and Juneau) will attempt to keep a constant monitoring upon tax and tax-related legislation which is before the legislature. The Committee intends to review such legislation, and where appropriate, make recommendations to the legislature. In addition, we plan to recommend needed legislation in the tax area. We will work with the Taxation Committee of the CPA Society, and propose unified legislative recommendations, where possible. George Goerig and Ralph Duerre are Co-Chairmen of this subcommittee, and the other members are Franklin Fleeks and Steve Pearson.

In April, the Taxation Committee met and discussed tax legislation pending before the legislature in Juneau. The committee's conclusions and recommendations were subsequently drafted and sent to the Chairman of the Senate and House Finance Committees.

(2) New Tax Law Developments Subcommittee. The purpose of this subcommittee is to monitor new developments in the area of state taxation. This subcommittee will bring such developments before the Taxation Committee for general discussion. In addition, this subcommittee will coordinate the preparation of monthly tax articles which will be published in the Bar Rag. The purpose of the articles is to provide practical, useful tax information to the members of the Bar. William Van Doren and Bernard J. Dougherty are Co-Chairmen of this subcommittee, and all of the members of the Taxation Committee will work upon the projects of this subcommittee.

(3) Continuing Education and Public Education Subcommittee. This subcommittee will coordinate, organize and assist the presentation of continuing education programs in the field of taxation. In addition, this subcommittee will provide organization and personnel for the presentation of programs to the public relating to taxation matters. Peter Ginder is the Chairman of this subcommittee, and Stanley Reitman and David Shaftel are also members.

Page two

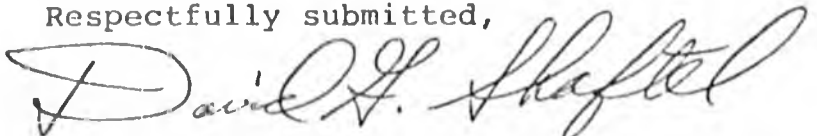
In addition to the above subcommittees, Stanley Reitman has agreed to serve as liason between the Tax Committee and the CPA Society, and has agreed to be the Law Library Resources representative.

The membership of the Taxation Committee for 1979 is:

Peter Bartlett	A. Fred Miller
Bernard J. Dougherty (Vice Chairman)	Steve Pearson
Anthony D. Doyle	Stanley H. Reitman
Ralph Duerre	David G. Shaftel (Chairman)
Franklin D. Fleeks	William Van Doren
Peter Ginder	Joseph A. Vittone
George F. Goerig	Thomas Yerbich
Bill Lawrence	

The Taxation Committee has monthly meetings on the second Friday of each month at the conference room of Cole, Hartig, Rhodes, Norman & Mahoney.

Respectfully submitted,

  
David G. Shaftel, Chairman

D19

Annual Reports

Tort Committee

LAW OFFICES

**KELLY & LUCE**

A PROFESSIONAL CORPORATION

1015 WEST SEVENTH AVENUE

ANCHORAGE, ALASKA 99501

(907) 279-9571

BERNARD P. KELLY  
L. JAMES LUCE

KENAI OFFICE

HIGHLAND BUILDING  
P. O. BOX 3762  
KENAI, ALASKA 99611

May 8, 1979

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MAY 9 1979

GARRETSON & JARVI  
ATTORNEYS AT LAW

✓ Kenneth O. Jarvi, Esq.  
President, Board of Governors  
Alaska Bar Association  
Anchorage, Alaska 99501

Ms. Donna Willard  
President Elect, Board of Governors  
Alaska Bar Association  
Anchorage, Alaska 99501

Re: Tort Committee, Alaska Bar Association

Our Tort Committee has met three times this year, and as you know, we are one of the active forces behind having a lobbyist in Juneau. Attendant to that, Norman Gorsuch was hired by the State Bar. I have discussed with Mr. Gorsuch the legislative areas of concern and can report as follows:

1) That a bill which would reduce the civil liability of the State for highway road defects did not get out of its original committee of recommendation.

2) That the bad products liability bill that would set a short statute of limitations and curtail consumers' rights did not get out of committee of original referral. We will probably see this bill again, since there is a big push in the State of Washington, and that state may have passed a bill similar to that introduced here. I may have that information by the time of the Alaska Bar convention.

3) That no-fault auto liability insurance did not get out of its committee of original referral and it seems to have lost a lot of its appeal with the legislature.

4) That a bill to exempt gratuitous furnishers of alcoholic beverage from liability, according to my understanding, is still in committee and will not pass this year.

As you know, the legislature adjourned on Sunday, May 6, 1979.

We are told that hearings will be held this summer on the matter of Superior Court judgeships for Anchorage, and it seems to be agreed that we will get one Superior Court judge. Our Tort Committee



Kenneth O. Jarvi, Esq.  
Ms. Donna Willard  
May 8, 1979  
Page Two

will probably try to fight for more - probably three Superior Court judgeships for the Third Judicial District.

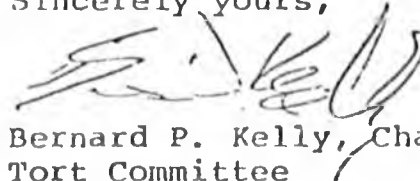
The intermediate Court of Appeals bill was defeated, but prospects for that bill also may be pretty good in the upcoming legislature.

We plan to hold one more meeting of our Tort Committee - if possible, before the State Bar convention - and I could report further at that time if you so desire. We would like to keep as much of our committee intact as possible, since we have a good working group.

We also recommend the lobbyist for next year, and we would like to remain active at the legislative level. I will try to keep a legislative file and note bills of concern that could be discussed with the Board of Governors for a position.

I hope this report is satisfactory and self-explanatory.

Sincerely yours,



Bernard P. Kelly, Chairman  
Tort Committee

BPK:de

BERNARD P. KELLY  
L. AMES LUCE

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KENA, ALASKA 99611

May 20, 1978

Kenneth O. Jarvi, Esq.  
Attorney at Law  
1049 West Fifth Avenue  
Anchorage, Alaska 99501

Re: Alaska Bar Association Tort Committee

Dear Ken:

I am sorry for the delay in response to your letter of March 29, 1978, regarding activities of my committee, which is the Tort Committee. This letter got misplaced, and I have been out of town a good portion of the time.

There have been no formal meetings of my committee during the past year. There has, however, been a significant amount of activity informally by myself and other members of the Bar, at my request. I would like to review the needs of the Tort Committee at the Bar meeting, and would request the time to discuss this matter.

Some of the informal activities that have occurred are as follows:

1) Mr. Edgar Paul Boyko, Mr. L. Ames Luce, Mr. Stephen S. DeLisio, Mr. Theodore M. Pease, Jr., and I made separate presentations before the legislative task force which met in Anchorage for two or three days last summer on the automobile no-fault question. Mr. Luce and I brought out Leonard Ring of Chicago, Illinois, former president of American Trial Lawyers and presently head of the Auto Reparations Committee of ATLA, to attend that meeting. As a result of our efforts, the special legislative interim committee voted in our favor to not recommend a no-fault bill, at least of the type that would take away substantial rights from the injured public. As a result of that, this year's legislature apparently has no incentive to get out a no-fault bill.

2) Mr. Luce, Millard Ingraham, Sandra Saville, and perhaps others, appeared in Juneau on the medical malpractice question. As a result of those efforts, it appears that the only negative feature coming out of that proposal would be a voluntary medical malpractice insurance required of doctors instead of compulsory, as under the previous law, and the advisory panel remains intact, although it gives

Kenneth O. Jarvi, Esq.  
May 20, 1978  
Page Two

more leeway for the appointment of people other than physicians on such advisory panel.

3) Richard Block, Insurance Commissioner, who has taken a very strong stand in favor of a whole revision of the tort system, which would include various no-fault and other provisions which take away rights, including limitation of contingent fees, has not been able to get any more funding for his project into the tort reform. He previously started with an allocation of \$100,000 for such a study, the purpose of which would have been inimical to the Bar and the public. We are now advised that Commissioner Block is resigning because he is not in favor with the trial bar. We interpret this as a voluntary resignation by Block, in lieu of being fired.

4) I believe that the Tort Committee must remain active during the upcoming year, and I certainly will assure the Board that one meeting will be held before the next legislative session, and more meetings will be held if needed. We do need a small committee that is pretty dynamic and able to get together. We also need an active lobbyist. I do not believe the Bar can exist with the number of anti-lawyer bills that are now so popular in various legislatures. We must have good information flowing to us from Juneau on various legislative proposals, so that we are prepared to act in timely fashion.

I will expand on these thoughts at the meeting.

Sincerely yours,

KELLY & LUCE



Bernard P. Kelly

BPK:de

cc: Albert H. Branson, Esq.  
R. Stanley Ditus, Esq.  
Ms. Karen L. Hunt  
Dick L. Madson, Esq.  
William B. Rozell, Esq.  
Richard D. Savell, Esq.  
Edward A. Stahla, Esq.  
Ms. Donna C. Willard

RECEIVED

MAY 23 1978

GARRETSON & JARVI  
ATTORNEYS AT LAW

APPENDIX E

REGISTRATION

Publications & two luncheons are included in the \$55.00 registration fee.

Each person attending the seminar will receive a soft-cover book of approximately 250 pages containing detailed outlines of the lectures and a copy of the Prentice-Hall paperback book entitled Estate & Gift Tax Provisions of the Tax Reform Act of 1976.

Please register me for the Seminar on The Tax Reform Act of 1976 - Estate & Gift Tax Provisions. My check for the \$55.00 registration fee, payable to the Alaska Bar Association is enclosed. (The cancelled check will be your receipt.)

Name: \_\_\_\_\_

Address \_\_\_\_\_

Zip \_\_\_\_\_

Mail check & registration form to:

Alaska Bar Association  
Box 279  
Anchorage, Alaska 99510

No refunds will be made after 5:00 p.m. on January 19, 1977

Education expenses (including fees, books, travel costs & luncheons) are deductible if they improve or maintain skills. Treas. Reg. 1-162.5

Continuing Legal Education Committee  
Alaska Bar Association

TAX REFORM ACT OF 1976  
Estate & Gift Tax Provisions

January 21-22, 1977  
Captain Cook Hotel, Aft Deck  
Anchorage, Alaska

TAX  
REFORM

ACT OF 1976

ESTATE & GIFT  
TAX PROVISIONS



A Two Day

CONTINUING LEGAL EDUCATION SEMINAR

Sponsored By

The Alaska Bar Association

and

The Anchorage Estate Planning  
Council

Anchorage  
Captain Cook Hotel-Aft Deck

January 21-22, 1977

PROGRAM

ABOUT THE SEMINAR

The Tax Reform Act of 1976, which became law on October 4, 1976, comprehensively revised the Federal gift and estate tax laws.

The changes are numerous, creating many new tax planning limitations but new opportunities as well. This two-day seminar will focus upon the significant revisions of the Estate and Gift Tax laws and will serve as an introduction to this major legislation.

The seminar is a colored videotape presentation of a program presented originally by the American Bar Association National Institute in New York. It features some of the foremost tax authorities in the country, including Mark L. McConaghy, Legislative Counsel to the Joint Committee which drafted the Act. A panel of Alaska tax specialists will be available to answer questions from the audience.

January 21, 1977 - Friday

8:30 - 9:00 a.m. - Registration

Morning Session - 9:00 a.m.-Noon

Overview of Estate & Gift Tax Provisions

Mark L. McConaghy

New Credit Concept in Estate and Gift Tax

Dave L. Cornfield

Unification

Arthur Peter, Jr.

Transfers Made Within Three Years of Death

Dave L. Cornfield

Question & Answer Session

Noon: Luncheon - Aft Deck

Afternoon Session - 1:30 p.m.-5 p.m.

Marital Deductions

Frank S. Berall

Carryover Basis

Philip R. Stansbury

Panel discussion on Practical Problems in the Law Office Caused by Legislation in Reviewing & Revising Estate Plans & Documents.

David L. Cornfield

Arthur Peter, Jr.

Luther J. Avery

Question & Answer Session

January 22, 1977 - Saturday

Morning Session: - 9:00 a.m.-noon

Generation Skipping Transfers

Richard B. Covey

Valuation of Farm & Closely Held Business Property; Recapture, Special Lien

Luther J. Avery

Extension of Time for Payment of Estate Tax; Interest Rates, Special Lien; Distributions in Redemption of Stock

Jackson, M. Bruce

Question & Answer Session

Noon: Luncheon - Aft Deck

Afternoon Session - 1:30-4:30 p.m.

Income Tax Amendments Re Trusts

Edward J.P.

Zimmerman

Miscellaneous. Disclaimers

Lawrence Newmar

Byrum Rule & Orphan's Exclusion

Albert Kalter

Community Property, Qualified Pension Plan Benefits; Administrative Provisions

Thomas W. Wiley

Question & Answer Session

BOARD OF GOVERNORS

ALASKA BAR ASSOCIATION

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P. O. BOX 279  
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AREA CODE 907/272-7469

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Dear Bar Member:

Freedom of information and the right of privacy are ancient ideas that are enjoying new interest and attention within and without the legal community. The past five years have witnessed important and far reaching changes at every level of society in the fundamental rights of citizens to control the flow of information about their personal lives to and from government agencies or private entities. Because of the rapid pace with which changes in the law of privacy and freedom of information have occurred, the Alaska Civil Liberties Union and the Alaska Bar Association Committee on Continuing Legal Education will sponsor a conference on Informational Privacy on March 4 & 5, 1977. You are cordially invited to attend.

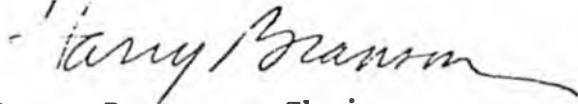
The morning of the first day of the conference will consist of an introduction to the Federal Freedom of Information Act, including a discussion of its general functions and purposes, and the more significant exemptions which limit the Act's usefulness. Morton Halperin, former Assistant Secretary of Defense who successfully litigated a privacy suit against Richard Nixon will conduct the first day's proceedings, aided by Charles Marson, a Stanford University law school lecturer and leading privacy lawyer. The afternoon will consist of discovery and litigation techniques in FOIA suits.

The second day of the conference will concentrate on trial strategies under the Freedom of Information Act, the Fair Credit Reporting Act, the Buckley Act, private tort remedies and bank secrecy acts. In addition, several Alaska attorneys will outline recent developments in the constitutional right of privacy in this state, the various public records laws in Alaska, and access to and dissemination of criminal justice information in Alaska.

The conference will be held at the Captain Cook Hotel on March 4 and 5, 1977. Course materials, including outlines of relevant Alaska statutes and an extensive litigation manual for the Freedom of Information Act are available. A brochure describing the conference in detail is enclosed for your review, along with an application form. It is advisable to pre-register by mail as seating will be limited.

We believe the conference will be interesting and useful to you and look forward to seeing you here in Anchorage.

Sincerely,

A handwritten signature in cursive script that reads "Harry Branson". The signature is written in dark ink and has a long, sweeping tail that extends to the right.

Harry Branson, Chairman  
Continuing Legal Education Committee



BOARD OF GOVERNORS

# ALASKA BAR ASSOCIATION

P. O. BOX 279

ANCHORAGE, ALASKA 99510

AREA CODE 907/272-7469

MARY F. LA FOLLETTE EXECUTIVE DIRECTOR AND BAR COUNSEL

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WILLIAM B. ROZELL  
RICHARD D. SAVELL  
EDWARD A. STAHLA  
THOMAS M. WARDELL

## FOR IMMEDIATE RELEASE

On March 4th and 5th, at the Captain Cook Hotel, the Alaska Bar Association and the ACLU of Alaska will present a two day seminar on the Freedom of Information Act and Alaska Public Information Laws.

Guest lecturers will include Morton Halperin, former Senior Mentor of the National Security Council and frequent litigator of the Freedom of Information Act and Charles Marson, Legal Director of the Northern California ACLU and lecturer at Stanford Law School in Freedom of Information Act and Privacy Law.

Attorney's William Council, Assistant Attorney General, Alan Tesche, Assistant Attorney with the Anchorage Municipality, Phil Weidner, private attorney in Anchorage and Craid Cornish of Wagstaff and Middleton, will present a series of discussions on Informational Privacy Laws in Alaska.

The price of the two day conference is \$35.00. Pre-registration is now open at the Alaska Bar Assn., P. O. Box 279, Anchorage Alaska, 99510.

For more information contact Colleen Ray at 279-6900 or the Alaska Bar Assn. at 272-7469.

Marked 9-8-77

ALASKA BAR CONTINUING EDUCATION COMMITTEE

Announces a one-day course

# DILEMMAS IN LEGAL ETHICS

(A videotaped American Bar Association presentation.)

Fairbanks - September 17, 1977  
Contact Bob Groseclose or  
Mary Nordale for time and location)

Juneau - September 24, 1977  
9:00 a.m. - 3:00 p.m.  
Sen. Ray Center, U of A  
Juneau-Douglas Community College  
10th & Glacier - Juneau

Etchikan - October 1, 1977  
9:00 a.m. - 3:00 p.m.  
Grand Jury Room  
State Court Building

Anchorage - October 7, 1977  
9:00 a.m. - 4:30 p.m.  
Jury Assembly Room, New Court Bldg.  
3rd & K Streets, Anchorage  
Live discussion following each tape.  
Panelists: Chuck Flynn, Hugh  
Fleischer, Member of Ethics Comm.

## ABOUT THE PROGRAM

A highly entertaining program providing novel and imaginative approach for examining questions of legal ethics and professional responsibility. The five color videocassettes include dramatic vignettes and panel discussions on practical aspects of lawyering and legal ethics.

These videocassettes deal with ethical issues faced by attorneys in their day-to-day practice. Problems arising in common and important lawyering tasks, such as interviewing, negotiation, investigation, counseling and advocacy, are presented in casts of professional actors and lawyers. Following each dramatization, a distinguished group of panelists chaired by Barnabas Sears discusses the ethical issues and evaluates the conduct of the lawyers.

## COURSE HIGHLIGHTS

Videocassette	Issues Raised		
Part One: Interviewing and the Law- yer-Client Relationship	Conflicts of Interest; Grounds for Divorce; Attorney-Client Privi- lege and Confidentiality; Fabrication of Evidence; Fee Setting; Conditional Representation; Obligation to Suggest Marriage Counseling	Part Three: Negotiation	Attorney preparation; Misrepresentation; Attorney Client Privilege; Attorney's Duty to Disclose Criminal Conduct; Extortion; Settlement Tactics; Obligation to Represent Diligently Every Client
Part Two: Counseling	SEC Disclosures; Bribery; Corporate Responsibility; Corporation Representation; Litigation Tactics; Fraud	Part Four: Investigation	Attorney preparation; Discovery; Right to Interview Opposing Witnesses; Fairness; Breach of Trust
		Part Five: Advocacy	Duties of Prosecutor; Perjury; Misuse of Evidence; Confidentiality; Fairness

### Course Materials

Enrollees will receive a discussion guide for each videocassette. The guides contain transcripts of the vignettes annotated to the Code of Professional Responsibility and Formal and Informal Ethics Opinions, an analysis of key issues and lists of questions for discussion.

### Enrollment Fee

The enrollment fee for this 5 to 6 hour course is \$25.00 (includes course materials).

Please use the enrollment form below.

### Enrollment form

Please return to:

Alaska Bar Association  
P. O. Box 279  
Anchorage, Alaska 99510

NAME \_\_\_\_\_

Street No. \_\_\_\_\_

City & Zip Code \_\_\_\_\_

- I enclose \$25.00 enrollment fee for the course. I plan to attend the program in:
- Fairbanks
- Juneau
- Ketchikan
- Anchorage

Make checks payable to Alaska Bar Association

Announces a two day Practice Course

# CRIMINAL TRIAL PROCEEDINGS

## TECHNIQUES & TACTICS

Anchorage - October 1 and 2, 1977

9:00 a.m. to 4:30 p.m.  
Jury Assembly Room, 4th Floor  
New Court Building  
3rd. & K Streets, Anchorage

Limited Seating - Register Early

The program will be video taped in Anchorage and presented on video tape in the following locations:

Fairbanks - November 4 and 5  
(Contact Bob Groseclose for  
time and location)

Juneau - November 11 and 12  
(Contact Theresa Bannister for  
time and location)

Ketchikan - November 18 and 19  
(Contact Tony Canorro for  
time and location)

Sitka - December 2 and 3  
(Contact Bill Royce for time  
and location)

### ABOUT THE PROGRAM

You can't learn everything you need to know about criminal trial work from books. Much of the criminal law practitioner's skill derives from on-the-spot in-court training and from observation of colleagues. Here is an opportunity to view criminal trial proceedings through the eyes of the veteran defense attorney.

This program is a unique blend of learning experiences that simulates this type of training. Four top criminal defense attorneys will offer valuable information and demonstrate proven techniques and tactics. These instructors will combine live discussions and videotaped segments to project the actual situations you encounter in criminal trial work.

The videotaped segments emphasize techniques for interviewing clients, cross-examining witnesses, introducing evidence, and other procedures.

THE INSTRUCTORS WILL ASSUME THAT YOU HAVE HAD SOME CRIMINAL TRIAL EXPERIENCE.

The program has been presented by the same instructors for the California Continuing Education of the Bar in several California locations.

### COURSE HIGHLIGHTS

#### Pretrial Work

Investigation techniques  
Client interview strategy  
Preliminary hearing techniques  
Motion under Penal Code Section 1538.5  
(preparing for later use during trial)  
Pretrial motions-how they can help or  
hurt your case  
The Ballard motion; tactical errors in  
the use of experts  
Severance and when not to use it  
How to get discovery at a lineup  
Preventing prosecution discovery  
Fighting your client's priors

#### Bargaining and Disposition of Case

New California sentencing law and  
its consequences  
When to bargain  
How to plead to what charge  
Consequences of a plea  
Diversion, transfer to other court  
Dealing with the probation officer  
Transition motions

Trial Preparation and Trial

- Confessions
- Hitch motion
- Lineups
- Anticipatory objections (challenge to judge or jury, Wade-Gilbert, Beagle, Miranda)
- Challenge to the jury panel
- Challenge to the judge
- Trial brief
- Jury selection (graphologists, exemptions, community surveys)
- Opening statement
- Motions at end of prosecutions' case
- Defense strategy
- Special defenses
- Objections
- Order of witnesses
- Conduct of direct examination
- Closing argument
- Instructions
- How to deal with a political defendant
- How to deal with an obstreperous judge
- How to deal with prosecution's arguments

Post-Trial Motions and Sentencing

- Motion for new trial
- How to reduce sentence

THE INSTRUCTORS

James R. Jenner, (Course Coordinator)  
Assistant Public Defender  
Oakland

Charles A. Gessler  
Deputy Public Defender  
Los Angeles

Louis S. Katz  
Gostin & Katz, Inc.  
San Diego

Edward A. Rucker  
Deputy Public Defender  
Los Angeles

Enrollment Fee

The enrollment for this twelve-hour course is \$50.00. (includes course materials) in Anchorage. Attorneys who attend the videotaped presentation in Fairbanks, Juneau, Ketchikan or Sitka may enroll for the reduced fee of \$30.00 (includes materials).

Course Materials

Enrollees will receive a syllabus on criminal trial proceedings, including pretrial and post-trial motion. Note: This syllabus is designed to be used in conjunction with the instructors' presentations. You should not enroll just to obtain it.

PLEASE USE THE FOLLOWING ENROLLMENT FORM

Enrollment Form

Please return form to:

Alaska Bar Association  
P. O. Box 279  
Anchorage, Alaska 99510

- I enclose \$50.00 enrollment fee for the course in Anchorage on Oct. 1 & 2
- I enclose \$30.00 enrollment fee for a videotape presentation of the program in the following location:

NAME \_\_\_\_\_

Fairbanks (Nov. 4 & 5)

Street No. \_\_\_\_\_

Juneau (Nov. 11 & 12)

City & Zip Code \_\_\_\_\_

Ketchikan (Nov. 18 & 19)

Sitka (Dec. 2 & 3)

Make checks payable to: Alaska Bar Association

THE ALASKA BAR ASSOCIATION CONTINUING LEGAL EDUCATION COMMITTEE

and

THE ANCHORAGE ESTATE PLANNING COUNCIL

Announces a Three-day Course

## ESTATE PLANNING IN DEPTH

January 12, 13 & 14, 1978

ANCHORAGE

9:30 a.m. to 4:30 p.m.

Captain Cook Hotel  
Aft-Deck

ABOUT THE PROGRAM: This three day seminar covers a broad spectrum of estate planning problems and gives special attention to the effects of the 1976 Tax Reform Act.

TOPICS:

Will Drafting  
Estate Planning for Real Estate  
Estate Planning for the Corporate Executive  
Marital Deduction & Orphan's Exclusion  
Joint Property Problems  
Valuation  
Post Mortem Estate Planning  
Income Taxation of Estate & Trusts  
Practical Suggestions for Lifetime Gifts - Outright or in Trust

COURSE MATERIALS:

Each participant will receive a substantial set of printed materials including the new two-volume, 4th Edition of ALI-ABA's Resource Materials for Estate Planning in Depth, the ALI-ABA Study Outline Tax Reform Act of 1976, and a copy of Federal Estate and Gift Tax Code and Regulations.

FORMAT:

The seminar is structured to encourage participation from the

attendees. Each topic will be analyzed by a nationally known expert on the subject. Each videotaped lecture will be followed by a discussion period in which local experts will discuss and answer your questions and problems on estate planning.

THE INSTRUCTORS:

The 9 lecturers will be presented on colored videotape by the following nationally known experts:

Stefan F. Teuber, Washington, D.C.  
Edward S. Schlesinger, N. Y.  
John H. Butala, Jr., Cleveland  
Julian S. Bush, N. Y.  
Frederic B. Moriaty  
Martin Kalb  
Gerald W. Vesper  
Albert Kalter  
Joel N. Simon

The panel of local estate planning experts will be announced at a later date.

The lectures were videotaped by ALI-ABA at it's July 1977 Course Estate Planning in Depth, held in Madison, Wisconsin.

(These are not the same videotapes used in the January 1977 Alaska Estate Planning Seminar.)

**ENROLLMENT FEE:** The enrollment fee for the three day seminar is \$110.00.  
(This includes course materials.)

**ENROLLMENT FORM:**

Please return to: Alaska Bar Association  
P. O. Box 279  
Anchorage, Alaska 99501

NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY & STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

Make Checks payable to: Alaska Bar Association

[ ] I enclose \$110.00 enrollment fee for the program.

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P. O. BOX 279

ANCHORAGE, ALASKA 99510

AREA CODE 907/272-7469

MARY F. LAFOLLETTE EXECUTIVE DIRECTOR AND BAR COUNSEL

November 18, 1977

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RE: CLE PROGRAM, Hawaii, February, 1978

Dear Bar Member:

On behalf of the Continuing Legal Education Committee of the Alaska Bar Association, I urge you to attend the Association's mid-winter meeting at Kauai, Hawaii, February 23 to 26, 1978.

The C.L.E. program at this conference promises to be an unusual, interesting and valuable experience. I believe it will prove to be an outstanding program that you cannot afford to miss.

To date we do not have final confirmation with respect to the opening banquet speaker. However we have invited and are presently negotiating with United States Senator Samuel Ichiye Hayakawa.

The first days program on Friday will focus on current revolutionary trends affecting the profession and the legal system. This will involve an in depth look at the forces for change in the practice of law and their future effect on the Alaska lawyer.

Tentative lecture and discussion topics will focus on developments affecting the cost of practicing law and current and future threats to the survival of the independent, private practitioner. The topics discussed in this program could have a vital impact upon the future practice of each member of the Alaska Bar. (See attached program.)

The second and third days program will involve The General Practitioner Advising the Alaska Business. The program will be geared to the practical problems encountered by the general practitioner counseling Alaskan businessmen. A desk book which will provide a helpful working tool for the general practitioner is being prepared for the program.

CLE PROGRAM, Hawaii, February, 1978

November 18, 1977

Page - 2

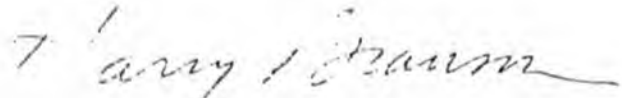
In addition there will be video tape programs available to members during the 3 day program. These include: Malpractice, Starting a Law Office and Irving Youngers new program, Credability on Cross-Examination.

A tentative program is attached. Since confirmation has not been received from all speakers, changes may be made before the program is finalized.

Only a limited number of hotel rooms are available for this convention. The hotel has agreed to hold the rooms until December 15 but reservations and room deposits must be made on or before that date or the space will be released. See the attached program for more information about travel arrangements.

We look forward to seeing you in Hawaii in February.

Sincerely,



Harry Branson, Chairman  
Alaska Bar Association  
Continuing Legal Education  
Committee



THE  
ALASKA BAR  
FIRST  
MID-WINTER MEETING  
KAUAI, HAWAII

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THE PROGRAM

Thursday, February 23, 1978

- 9:00 a.m. - 5:00 p.m. -- Registration
- 1:30 p.m. - 5:00 p.m. -- Video tapes:  
LEGAL MALPRACTICE, HOW TO OPEN A LAW  
OFFICE: LECTURES AND DEMONSTRATIONS  
ON TRIAL PRACTICE.
- 6:30 - 8:00 p.m. -- Reception
- 8:00 p.m. -- Dinner  
Guest Speaker: (tentative)  
Senator Samuel I. Hayakawa

Friday, February 24, 1978

- 7:30 a.m. -- Breakfast sponsored by Anchorage Association of  
Women Lawyers
- 9:00 a.m. -- Welcome - Member of Kauai Bar Association
- 9:30 a.m. - 4:30 p.m. -- Seminar: CURRENT REVOLUTIONARY  
TRENDS AFFECTING THE PRACTICE OF  
LAW.

Discussion Topics will include:

1. The growth of the consumer movement in law.
2. The impact of steadily increasing lawyer malpractice litigation and it's effect on the availability of effective, affordable insurance.
3. National law firms.
4. Legal clinics.
5. Prepaid legal plans.
6. Costs and pricing of legal services.
7. Future trends in the court system.
8. The delivery of legal services to urban and bush areas.
9. The public lawyer.
10. Pro bono legal service.
11. Restrictive legislation.
12. The end of self regulation.
13. Growing limits on the adversary process.
14. Arbitration, Conciliation and Dispute Center.
15. Tort System Reform.

10:00 a.m. (Friday evening -- en)

Saturday, February 25, 1978

8:45 a.m. - 5:00 p.m. -- Seminar: THE GENERAL PRACTITIONER  
ADVISING THE ALASKA BUSINESS.

1. Introduction.
2. Selecting the Property for a New Business.
3. Sole Proprietorships.
4. Partnerships.
5. Corporations:
  - a. Organization
  - b. Director's and Officer's Responsibilities
  - c. Stock Agreements
  - d. Corporate Operating Problems
6. Tax Ramifications Regarding Businessmen.
7. Security Laws Involving Small Businesses.
8. Financing of Small Businesses.

6:30 p.m. -- Hawaiian Luau

Sunday, February 26, 1978

10:00 a.m. - 12:00 a.m. -- Seminar: THE GENERAL PRACTITIONER  
ADVISING THE ALASKA BUSINESS.

1. Acquiring and Disposing of Going Businesses.
2. Questions and Answer Session.

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THE FACULTY

Friday: REVOLUTIONARY TRENDS:

The Honorable Robert Boochever, Chief Justice  
Alaska Supreme Court

Mark Harrison, President  
National Organization of Bar Presidents and  
Past-President of the Arizona Bar Association

Ms. Sandra DeMent, Washington, D. C.  
Executive Director, National Resource Center  
for Consumers of Legal Services

Keith Brown  
Hagens, Smith, Brown, Erwin & Gibbs  
Past-President of the Alaska Bar Association

The Honorable Christopher Cooke  
Superior Court Judge, Bethel

Frank Flavin, Alaska's First Ombudsman

Saturday & Sunday: THE GENERAL PRACTITIONER ADVISING ALASKA  
BUSINESS:

Professor Lehan Puchs, University of  
Washington School of Law, Seattle

Professor Milton Ray, University of  
Oregon School of Law, Eugene, Oregon

Phil Talbert  
Portland, Oregon

Carl Ege  
Bogle & Gates, Seattle

Henry J. Camarot  
Merdes, Schaible, Staley & DeLisio  
Anchorage

Hoyt M. Cole  
Cole, Hartig, Rhodes, Norman & Mahoney  
Anchorage

Mary Patch  
Hughes, Thorsness, Gantz, Powell & Brundin  
Anchorage

Peter A. Lekisch  
Hoge, Lekisch, Cardwell, & Lawrence  
Anchorage

William G. Ruddy  
Robertson, Monagle, Eastaugh & Bradley  
Juneau

Jack Bookey, Regional Director  
Securities & Exchange Commission  
Seattle

Mark Copeland  
Keane, Harper, Pearlman & Copeland  
Anchorage

Frank Cox, Director  
SBA, Anchorage

Mary A. Nordale  
Fairbanks

Stanley H. Reitman  
Delaney, Wiles, Moore, Hayes & Reitman, Inc.  
Anchorage

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#### HOTEL AND TRAVEL INFORMATION

Hotel Accommodations: Hotel accommodations have been blocked at the Kauai Surf, Kauai, Hawaii. Reservations must be made before December 15. (Rooms which are not reserved on or before December 15, may be released by the hotel after that date.)

A deposit equal to one nights room charge must accompany each reservation. The hotel requires full prepayment by January 15, 1978. This prepayment is non-refundable except for a limited number of emergency cancellations (not exceeding 5 for the entire group) which will be allowed up to 72 hours before arrival.

(See hotel registration form for room rates.)

Plane Reservations: Western's Boeing 707, Flight 741, has been blocked for the trip to Kauai. This flight departs Anchorage at 12:55 a.m. on February 23, 1978 and arrives Honolulu at 6:55 a.m. with connecting flights on to Kauai.

Departure arrangements have been made for the evening of February 26, 1978, leaving Kauai at approximately 4:00 p.m., connecting on to Western Flight 740 (Boeing 707) to Anchorage.

Group rates will be available if 40 or more seats per flight are booked. The round-trip group rate from Anchorage is \$311.04. The regular round-trip tourist rate from Anchorage is \$321.24.

A \$25.00 deposit should accompany each request for an adult seat reservation. This deposit will be non-refundable after January 23, 1978.

Buses will be available at the Kauai Airport to transport members to the hotel. Bus fare will be approximately \$2.50 per person.

REGISTRATION INFORMATION

Registration Fee: The registration fee will be approximately \$75.00 per lawyer. Since this fee is used to defray costs of transportation, accommodations and honorariums for out of state speakers, video tape and equipment rental, printing and mailing costs, etc., the exact amount of the fee cannot be determined until program arrangements are finalized.

The registration fee will include admission to the two seminars and the video tape programs, program materials and the Alaska Business Desk book.

Meal Functions: There will be a separate charge for each meal function which you decide to attend. This charge will include the hotel's charge for the meal, a 15% gratuity and 4% tax. The price of the ticket for each event will be announced as soon as menu selection is completed.

Prepayment of tickets at least 48 hours in advance of the function will be required to secure a guaranteed reservation. (The hotel requires a minimum attendance guarantee at least 48 hours in advance of each function and the Bar is charged for the number guaranteed or the actual members served, whichever is higher.)

You will receive forms to be used for advance registration as soon as the program is finalized and the menu selection is completed.

HOTEL RESERVATIONS

THE ALASKA BAR - MID-WINTER MEETING  
February 23-26, 1978

PLEASE RESERVE KAUAI SURF ACCOMMODATIONS

Name \_\_\_\_\_

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Sharing room with \_\_\_\_\_

Signature \_\_\_\_\_

PLEASE CIRCLE PREFERRED RATE BELOW:

Accommodations	Pali Kai (Cabin)	Standard	Superior	Deluxe
Single	\$41.00	\$41.00	\$49.00	\$54.00
Twin	\$44.00	\$44.00	\$52.00	\$57.00
Triple	\$52.00	\$52.00	\$60.00	\$65.00

Arrival Date \_\_\_\_\_  
Length of Stay \_\_\_\_\_ Nights

Enclose deposit equal to one night's charge and MAIL TO:

Professional Travel  
1030 W. 4th Avenue  
Anchorage, Alaska 99501  
Attn: Ms. Linda McMahon

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TO: MEMBERS OF THE ALASKA BAR ASSOCIATION

RE: C.L.E. Seminar: Recent Developments in Antitrust Law

The Alaska Bar Association and the Antitrust Section of the Attorney General's Office are jointly sponsoring a one-day seminar in Anchorage on antitrust and related consumer matters. The program is intended for the general practitioner.

Featured speaker at the seminar will be Thomas E. Kauper, Professor of Law at the University of Michigan Law School. Professor Kauper is a former law clerk to Justice Potter Stewart of the United States Supreme Court, and was in charge of the Antitrust Division of the Department of Justice from 1972 to 1976. Also participating in the one-day seminar will be two attorneys from the Seattle Regional Office of the Federal Trade Commission.

The seminar will be held in Anchorage on Thursday, August 24, 1978, from 10:00 a.m. to 4:00 p.m. in Supreme Court Room of the State Court Building. The program fee is \$10.00

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TO: MEMBERS OF THE ALASKA BAR ASSOCIATION

RE: C.L.E. Seminar: Labor Law

Mrs. Betty Southard Murphy, member of the National Labor Relations Board, and chairperson of the NLRB from 1975 - 1977 will head a Labor Law Seminar September 8 & 9, 1978 in Anchorage.

During her chairmanship, the Board achieved a 30% increase in productivity and issued a record number of cases in the shortest period of time in the agency's history.

From July 1974 until her NLRB appointment, Mrs. Murphy was Administrator of the Wage and Hour Division, Department of Labor, where she administered and enforced over 70 laws affecting more than 73 million workers.

Prior to accepting the Wage-Hour appointment, Mrs. Murphy was a partner in a Washington, D.C., law firm where she was an active trial lawyer, trying cases in Federal or State courts in 20 states, as well as presenting arguments before 9 of the 11 U.S. Courts of Appeals. She is one of the few attorneys in the United States who represented both unions and employers.

She is very active in various Bar Associations. She also serves on the Council of the Administrative Conference of the United States, and the International Center for Settlement of Investment Disputes, both of which are Presidential appointments.

Charles M. Henderson, Regional Director (Seattle) and Delano D. Eyer, NLRB Resident Officer in Anchorage, will also participate. An invitation is being extended to NLRB General Counsel John S. Irving to be part of the program and panel discussion.

Topics to be addressed will include:

1. How the NLRB operates.
2. How the Regional Office (Seattle) operates.
3. How the Resident Office (Anchorage) operates.

(over)

C.L.E. Seminar: Labor Law Cont'd

4. Recent Court Decisions.
5. Connell Cases
6. Local (Alaska) Labor Representative
7. Local (Alaska) Employer Representative
8. Alaska Labor-Law Attorney(s)
  - a. Employer's Counsel
  - b. Labor's Counsel
9. Issues That Need Answers.

The Seminar will be held in Anchorage on Friday and Saturday, September 8 & 9, 1978 from 9:00 a.m. to 4:30 p.m. in the Jury Assembly Room of the State Court Building. The program fee is \$20.00.

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TO: MEMBERS OF THE ALASKA BAR ASSOCIATION

RE: C.L.E. Seminar: Practical Trial Psychology

A four day "Piggy-Back" C.L.E. program entitled "WINNING AT TRIAL" will be presented in September.

Professor Bernard Segal, the celebrated Philadelphia criminal trial lawyer, co-author of a basic treatise on criminal trial practice entitled "TRIAL MANUAL FOR THE DEFENSE OF CRIMINAL CASES" and currently law professor at Golden Gate Law School in San Francisco, will present one day seminars in Fairbanks, Anchorage, Juneau and Ketchikan as follows:

Fairbanks

Friday, September 15, 1978 9:00 a.m. to 4:30 p.m.  
Deposition Room (Library)/ State Court House

Anchorage

Saturday, September 16, 1978 9:00 a.m. to 4:30 p.m.  
Jury Assembly Room/ State Court House

Juneau

Monday, September 18, 1978 9:00 a.m. to 4:30 p.m.  
Supreme Court Room/ State Court House

Ketchikan

Tuesday, September 19, 1978 9:00 a.m. to 4:30 p.m.  
Grand Jury Room/State Court House

His presentation will stress trial techniques, particularly strategy, winning at trial and practical trial psychology.

The Fairbanks presentation will emphasize criminal practice, while in Anchorage, Juneau and Ketchikan both criminal and civil practice will be addressed.

Registration for the one day seminar is \$25.00



## ALASKA BAR ASSOCIATION

P. O. BOX 279

ANCHORAGE, ALASKA 99510

AREA CODE 907/272-7469

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TO: MEMBERS OF THE ALASKA BAR ASSOCIATION

RE: Two day Seminar PARTNERSHIP TAXATION - ADVANCED

There will be a two day seminar on "Partnership Taxation - Advanced" on September 21 & 22, 1978 at the Anchorage Westward Hotel.

Time: 9:00 A.M. to 5:00 P.M.  
 Site Registration: 8:30 A.M., September 21, 1978  
 Fee: \$150.00 (includes lunch and materials)  
 Sponsor: Alaska Society of CPA's  
 Credit: 16 hours  
 Lecturer/Discussion Leader:

Arthur B. Willis, Attorney of Willis, Butler, Scheifly, Leydorf & Grant, Los Angeles, California, will be guest lecturer for this presentation.

Objective: To enable participants to obtain a thorough analysis of the more complex aspects of partnership taxation.

This seminar is designed for experienced tax practitioners and deals in depth with tax planning and the formation, operation and termination of general and limited partnerships. It examines the dispositions of partnership assets and partnership interests and how to maximize capital gains and minimize opportunities and bring pitfalls into focus.

There will be a limit of 60 persons for the seminar. Please make your check payable to the Alaska Society of Certified Public Accountants, P.O. Box 675, Anchorage, AK 99510, and return with the bottom portion of this form.

Refund policy to be 90% if the materials are returned three days prior to the course date -- no refunds thereafter.

PLEASE RETURN THIS REGISTRATION FORM BY SEPTEMBER 14, 1978.

NAME \_\_\_\_\_

FIRM \_\_\_\_\_

STREET & CITY \_\_\_\_\_

CATEGORY:      ( ) Partner                      ( ) Sole Practitioner  
                   ( ) Staff                      ( ) Private Industry  
                   ( ) Other                      ( ) Attorney

"PARTNERSHIP TAXATION - ADVANCED"      September 21 - 22, 1978

1979 MID-WINTER MEETING

ALASKA BAR ASSOCIATION

February 1, 2 & 3, 1979

KAUAI, HAWAII

REGISTRATION FORM

Welcome to the 1979 Mid-Winter Meeting of the Alaska Bar Association in Kauai, Hawaii. Please complete and return this form to the Alaska Bar Association. Advance registration must be received on or before January 22, 1979.

ADVANCE REGISTRATION:

\$100 per lawyer. (No registration fee for spouses.) This fee includes admission to all seminars and programs, program materials and admission to hosted cocktail parties.

A summary of the program to be presented is on the reverse.

Advance registration should include the registration fee and money for requested tickets. There will be no refunds for cancellations received after January 22, 1979.

REGISTRATION AT MID-WINTER MEETING:

\$110 per lawyer. Only a limited number of tickets for meal functions will be available at this time because attendance guarantees are required by the hotel 48 hours in advance of each function.

ACCOMMODATIONS IN HAWAII ARE LIMITED TO 100 ROOMS AT THE KAUAI SURF. IF YOU HAVE NOT MADE YOUR HOTEL RESERVATIONS YET, MAKE THEM THROUGH THE BAR OFFICE AT ONCE.

RETURN TO: Alaska Bar Association, Box 279, Anchorage, AK 99510

	<u>Number</u>	<u>Cost</u>
1. Registration fee (lawyer only)	_____	_____
2. Banquet, February 1, 1979 at \$ 15.50 per person. Art Buchwald, Speaker	_____	_____
3. Luncheon, February 2, 1979 at \$7.50 per person. Anchorage Association of Women Lawyers	_____	_____
4. Luncheon, February 3, 1979 at \$7.50 per person. Chief Justice Jay Rabinowitz speaker	_____	_____

(All ticket prices include 15% gratuity and 4% state tax).

TOTAL ENCLOSED \_\_\_\_\_

NAME: \_\_\_\_\_

SPOUSE'S NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

CITY: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_

PROGRAM

February 1, 1979

CONSUMER PROTECTION AND UNFAIR PRACTICES SEMINAR

This seminar will include a review and analysis of Alaska's consumer protection and unfair trade statutes and focus specifically on the rights of litigants, both private and government, to bring injunctive and damage actions and the forms of relief available. The course will also cover the Federal Trade Commission Act (Section 5), franchising, false advertising, consumer warranties and other business torts.

The teachers are Fredric C. Tausend and Donald H. Mullins, partners in Schweppe, Doolittle, Krug, Tausend and Beezer, Seattle, Washington. Tausend has trial practice in business, commercial, consumer protection and antitrust litigation; he is an adjunct law professor teaching various courses in these areas; was in private practice from 1957 to date and was the assistant attorney general, Division of Antitrust and Consumer Protection, State of Washington, from 1963 to 1964. Mullins has trial practice involving business and antitrust litigation; is an adjunct law professor, and was trial attorney for the Antitrust Division, U.S. Department of Justice from 1967 to 1972. He has been in private practice from 1972 to date.

February 2 and 3, 1979

TRIAL PRACTICE SEMINAR ON PRODUCT LIABILITY LITIGATION

This seminar will discuss current status of substantive law, trial problems and their solution including opening statement, jury selection, evidence problems, technical assistance, identification of technical experts and preparation of technical experts. There will also be discussion of the presentation of the plaintiff's case and the defendant's case.

Chairman of the seminar will be Theodore (Russ) Dunn. Other participants are: Justice Edmund W. Burke, Supreme Court of the State of Alaska, Bernard Kelly, Joseph Young, Lloyd Hoppner and others.

REGISTRATION FORM—Please Mail Promptly.  
Institute on the Alaska Rules of Evidence.

Name(s) \_\_\_\_\_

Address \_\_\_\_\_

I (we) will attend the Institute in  Juneau  Anchorage  Fairbanks  
and enclose \$\_\_\_\_\_ registration fee(s) at \$60.00. (Registration fee in-  
cludes complete set of the new Alaska Rules of Evidence, with commen-  
tary.)

I cannot attend the Institute, but would like a set of the new rules.  
Enclosed is my check for \$25.00.  
(Please mail this form to the Alaska Bar Association, Box 279, Anchorage,  
Alaska 99510.)

ALASKA BAR ASSOCIATION  
P.O. Box 279  
Anchorage, AK 99510

BULK RATE  
U.S. Postage  
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Permit No. 401  
Anchorage, AK

Announcing...

THE ALASKA BAR ASSOCIATION'S  
INSTITUTE ON

# The New Alaska Rules of Evidence

May 10, 1979  
The Hilton Hotel  
Juneau, Alaska

May 11, 1979  
The Westward Hilton Hotel  
Anchorage, Alaska

May 12, 1979  
The Traveler's Inn  
Fairbanks, Alaska

*Attendance at this program will  
qualify you for six hours credit for the  
purpose of qualifying for a legal  
malpractice insurance discount.*

The Program...

The new Alaska Rules of Evidence are the product of months of study by a special committee appointed by the Alaska Supreme Court. And although the Alaska rules closely parallel the Federal Rules of Evidence, in many respects there are some important differences which all Alaska practitioners should be aware of.

At this writing, the rules tentatively are to go into effect in the summer of 1979; therefore, it is important that Alaska Bar members avail themselves of this opportunity for an insight into these new rules.

The speakers, for the most part, were active in formulating these new rules. Thus, they will be able to provide insight into the committee's thinking in suggesting changes in the Alaska Rules of Evidence.

Tuition, travel, hotel and living expenses of attending continuing legal education programs are deductible for federal income tax purposes. See Coughlin v. Commissioner, 203 F. 2d (2d Cir. 1953); Treas. Reg. 1.162-5.

- HON. JAMES R. BLAIR  
Superior Court Judge  
Fourth Judicial District  
Fairbanks, Alaska
- HON. ALEXANDER BRYNER  
United States Attorney  
Anchorage, Alaska
- HON. VICTOR D. CARLSON  
Superior Court Judge  
Third Judicial District  
Anchorage, Alaska
- PATRICK GULLUFSEN, ESQ.  
Assistant Attorney General  
Juneau, Alaska
- HON. SAMUEL P. KING  
Chief Judge, U.S. District Court  
District of Hawaii  
Honolulu, Hawaii
- STEPHEN A. SALTZBURG  
Professor of Law  
University of Virginia  
School of Law  
Charlottesville, Virginia

SPECIAL NOTICE: All attendees at these institutes will receive, at no cost, a complete set of the new Alaska Rules of Evidence, including commentary.

- 8:30 a.m. Late Registration.
- 9:00 a.m. The Alaska Rules of Evidence—General Provisions, Scope and Applicability.  
Professor Saltzburg
- 9:50 a.m. Morning Break.
- 10:05 a.m. Judicial Notice and Presumptions.  
Mr. Bryner
- 10:55 a.m. Relevance and Competency  
Judge Carlson
- 11:45 a.m. Questions and Answers.  
Professor Saltzburg, Mr. Bryner, and Judge Carlson
- Noon Luncheon Break
- 1:00 p.m. Privilege.  
Judge Blair
- 1:50 p.m. Afternoon Break.
- 2:05 p.m. Opinion Testimony and Hearsay.  
Judge King
- 2:55 p.m. Documentary or Real Evidence; Writings, Documents or Records.  
Mr. Gullufsen
- 3:45 p.m. Questions and Answers.  
Professor Saltzburg, Judge Blair, Judge King and Mr. Gullufsen
- 4:30 p.m. Adjournment.

**REGISTRATION FORM — Please Mail Promptly.**  
**Institute on Basic Estate Planning**

Name(s) \_\_\_\_\_

Address \_\_\_\_\_

I (we) will attend the Institute at  Ketchikan  Fairbanks and enclose \$\_\_\_\_\_ for \_\_\_\_\_ registration fee(s) at \$50 each. (The registration fee covers the cost of complete course materials.)

Make checks payable to the Alaska Bar Association, Box 279, Anchorage, Alaska 99510.

**ALASKA BAR ASSOCIATION**  
P.O. Box 279  
Anchorage, AK 99510

BULK RATE  
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Permit No. 4  
Anchorage, AK

Announcing...

An Alaska Bar Association  
Institute  
on

# **BASIC ESTATE PLANNING**

(In cooperation with the Anchorage  
Estate Planning Council)

June 1, 1979  
Sons of Norway Hall  
Ketchikan, Alaska

June 2, 1979  
The Westward Hilton Hotel  
Anchorage, Alaska

*Attendance at this program qualifies  
all members of the Alaska Bar  
Association for six hours of credit  
toward the malpractice insurance  
discount.*

## About this Program...

Because of the numerous changes in the law caused by the Tax Reform Act of 1978, and because of inflation, changing life styles and customs—the mobile society—a thorough grasp of estate planning rules and techniques is more important now than ever before. Added to this should be the fact that errors in tax and estate planning are one of the prime causes of malpractice claims.

In planning this session, it was our hope to give the general practitioner information which would be valuable in day-to-day practice. Hopefully, we have avoided esoteric theory in favor of a practical approach to problems frequently faced in general practice.

Each speaker has had extensive and practical experience in estate planning, and will be able to offer valuable insight into many areas in this field of practice.

Tuition, travel, hotel and living expenses of attending continuing legal education programs are deductible for federal income tax purposes. See *Coughlin vs. Commissioner*, 203 F. 2d (2d Cir. 1953); Treas. Reg. 1.162-5

## The Program...

- 8:30 a.m. Late Registration.
- 9:00 a.m. Estate & Gift Tax Fundamentals—with 1978 Amendments  
Professor Crapo
- 10:30 a.m. Morning Break.
- 10:45 a.m. Client Management and Basic Estate Planning Documents.  
Mr. Bengtson
- 12:15 p.m. Questions and Answers.  
Professor Crapo and  
Mr. Bengtson
- 12:30 p.m. Luncheon Break.
- 1:30 p.m. Estate Tax Shelter Trusts, Marital Deduction Gifts and Orphan's Exclusion.  
Professor Crapo
- 3:00 p.m. Afternoon Break.
- 3:15 p.m. Use of Insurance in Estate Planning—Taxation, Ownership and Transfer.  
Mr. Lawrence
- 4:45 p.m. Questions and Answers.  
Professor Crapo and  
Mr. Lawrence
- 5:15 p.m. Adjournment.

## The Faculty...

**JOHN H. BENGTON, ESQ.**  
Randall, Bengtson & Cox  
Lewiston, Idaho

**TERRY L. CRAPO**  
Assistant Professor of Law  
J. Reuben Clark Law School  
Brigham Young University  
Provo, Utah

**BILL LAWRENCE, ESQ.**  
Hoge, Lekisch & Lawrence  
Anchorage, Alaska

Kenai, Alaska  
August 24, 1979

The Kenai Peninsula Bar Association is presenting a one day seminar entitled "Persuasion in Civil Litigation". The purpose of this program is to aid the legal practitioner in obtaining skills of persuasion and advocacy at each stage of litigation, from pre-trial preparation to final argument.

An outstanding faculty has been assembled in order to present a quality program to Alaskan attorneys.

The seminar will take place at the Sheffield House in Kenai, Alaska. Registration will commence at 9:00 a.m.

The program is scheduled on a Friday in order to allow attending attorneys and their families to enjoy outdoor activities on the Kenai Peninsula for the weekend. On Saturday, August 25, the Kenai Peninsula Bar Association will host a picnic overlooking the Cook Inlet at Captain Cook State Recreation Area.

RECEIVED

THE FACULTY

DICKY GRIGG...J.D., University of Texas, 1973; Former Assistant District Attorney, Lubbock County, Texas; Partner, law firm of Spivey and Grigg, Austin, Texas; Board certified by the Texas Board of Legal Specialization in Personal Injury Trial Law.

J. PATRICK HAZEL...J.D., University of Texas, 1971; Associate Professor of Trial Advocacy, University of Texas; Southern Regional Director of the National Institute For Trial Advocacy.

WENDELL P. KAY...J.D. Northwestern University, 1938; Partner, law firm of Kay, Christie, Fuld and Saville, Anchorage, Alaska; experienced trial practitioner; former lecturer in Trial Practice at the University of Arizona; former visiting Professor of Trial Practice at Arizona State University.

HENRY L. TAYLOR...J.D., Florida State University, 1968; presently in private law practice in Anchorage, Alaska; member of the Association of Trial Lawyers of America and the Alaska Trial Lawyers Association.

BROADUS A. SPIVEY...J.D., University of Texas, 1962; Partner in the law firm of Spivey and Grigg, Austin, Texas; Board certified by the Texas Board of Legal Specialization in Personal Injury Trial Law; Director of the Texas Trial Lawyers Association.

FRIDAY - August 24, 1979

SEP 4 1979

9:00- 9:30 Registration

I. PRETRIAL PERSUASION

ALASKA BAR ASSOCIATION

9:30-10:15 Client & Witness Interviews  
Investigation

Pleadings

Trial Notebook

10:15-10:30 Break

10:30-12:00 Settlement. New Ideas for  
small and large cases;  
use of video tape brochures.

Henry L. Taylor

12:00- 1:30 Lunch (Not included in registration fee.)

II. PERSUASION THROUGH WITNESSES

1:30- 2:15 Direct Examination  
(With demonstration)

J. Patrick Hazel

2:15- 3:00 Cross-Examination  
(With demonstration)

Wendell P. Kay

3:00- 3:15 Break

III. DIRECT PERSUASION

3:15- 4:00 Voir Dire, Opening  
Statement, Summation

Broadus A. Spivey

4:00- 4:30 Final Argument

Wendell P. Kay

SATURDAY - August 25, 1979

1:00 - Picnic by the sea at Captain Cook State Recreational Area  
(Located at the end of the North Road.)

CERTIFICATION FOR CLE CREDIT

Application for approval for Continuing Legal Education Credit is pending before the Continuing Legal Education Committee of the Alaska Bar Association.

REGISTRATION FORM  
PERSUASION IN CIVIL LITIGATION

Return to: Roger E. Holl, President  
Kenai Peninsula Bar Association  
P.O. Box 4210  
Kenai, Alaska 99611

Make checks payable to:  
Kenai Peninsula Bar Association

TRAVEL INFORMATION

Scheduled air service is available on AAI from Anchorage to Kenai, roundtrip for \$41.00. Reservations should be made in advance. Those who wish to drive to Kenai should contact the State Department of Highways regarding road closures affecting the Seward Highway.

Name \_\_\_\_\_  
Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
Enclosed is my registration fee of \$10.00. \_\_\_\_\_  
Signature \_\_\_\_\_



# THE BANKRUPTCY REFORM ACT OF 1978

SEPTEMBER 8, 1979

ANCHORAGE

ANCHORAGE WESTWARD HILTON  
ALASKA ROOM

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Sponsored By

THE CONTINUING LEGAL EDUCATION  
COMMITTEE

ALASKA BAR ASSOCIATION

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## SCOPE AND PURPOSE

On October 1, 1979, the Bankruptcy Reform Act of 1978, representing the first major change in bankruptcy law in 40 years, becomes effective. The new Act dramatically alters the Substantive, procedural and administrative aspects of the rights and obligations of debtors and creditors. Among other important features, the new Act creates a new court structure with dramatically expanded jurisdiction and unites business reorganizations under one chapter which requires different procedures depending upon the sophistication of the debtor.

This one day seminar presents an overview of the Bankruptcy Reform Act -- including comparisons with the present Code -- approximately one month before the effective date of the new Act's major provisions.

## FACULTY

**GERALD K. SMITH** - A partner in the Phoenix, Arizona law firm of Lewis & Roca, Mr. Smith is a Root-Tilden Scholar and graduate of the New York University School of Law. A member of the National Bankruptcy Conference and the Commercial Bankruptcy Committee of the American Bar Association, he is also Deputy Director of the Commission on the Bankruptcy Laws of the United States and is a contributing editor of Volume 12 of the COLLIER ON BANKRUPTCY.

**LAWRENCE P. KING** - Charles Seligson Professor of Law at New York University School of Law and a counsel of Wachtell, Lipton, Rosen & Katz, New York. Professor King is Editor-in-Chief of COLLIER ON BANKRUPTCY and co-author of Duesenberg & King, SALES AND BULK TRANSFERS UNDER THE UNIFORM COMMERCIAL CODE. Among other activities, he is the Reporter for the Advisory Committee on Bankruptcy Rules of the Judicial Conference of the United States; is a member of the National Bankruptcy Conference and Chairman of its Committee on Legislation; and is a past consultant to the Commission on the Bankruptcy Laws of the United States.

**DILLION E. JACKSON** - A partner in the Bellevue, Washington law firm of Keller, Jacobson, Hole, Jackson & Wentz, where his practice has focused on consumer and business bankruptcy matters. A member of the ABA's Litigation Section and a number of State and Local Bar Sections concerned with bankruptcy matters, Mr. Jackson has been a frequent speaker at State and National programs on creditor-debtor matters, including the recent series on seminars on the Bankruptcy Reform Act of 1978 sponsored by the Practising Law Institute.

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## COURSE CREDIT

This course has been approved by the Alaska Bar Association for 6.00 hours of credit toward continuing legal education.

## PROGRAM SCHEDULE

8:15 - 9:00 a.m.	REGISTRANT CHECK-IN AND DISTRIBUTION OF MATERIALS
9:00 - 9:05 a.m.	INTRODUCTORY REMARKS
9:05 - 9:20 a.m.	JURISDICTION AND APPEALS
9:20 - 9:25 a.m.	ELIGIBILITY AND AMENABILITY
9:25 - 9:55 a.m.	PROPERTY OF THE ESTATE AND EXEMPTIONS, INCLUDING COMPARISON OF STATE AND FEDERAL ALTERNATIVES
9:55 - 10:10 a.m.	DISCHARGE; DISCHARGABILITY OF DEBTS AND REAFFIRMATION

10:10 - 10:25 a.m. COFFEE BREAK

10:25 - 10:40 a.m. LIQUIDATIONS: TRUSTEE; MEETINGS; CLAIMS; AND REDEMPTION

10:40 - 11:40 a.m. AVOIDING POWERS

11:40 - 12:00 NOON CHAPTER 13

12:00 - 1:00 p.m. LUNCH BREAK

1:00 - 1:30 p.m. AUTOMATIC STAY; USE OF COLLATERAL; ADEQUATE PROTECTION

1:30 - 1:45 p.m. EXECUTORY CONTRACTS

1:45 - 2:15 p.m. CHAPTER 11 - ADMINISTRATION: COMMITTEES, TRUSTEE, EXAMINER; AND FILING CLAIMS

2:15 - 2:30 p.m. COFFEE BREAK

2:30 - 3:30 p.m. CHAPTER 11 - PLAN: CLASSIFICATION OF CLAIMS: CONTENTS: FILING; DISCLOSURE STATEMENT; ACCEPTANCE; AND CONFIRMATION

3:30 - 4:00 p.m. QUESTIONS AND DISCUSSION

4:00 p.m. ADJOURNMENT

## REGISTRATION INFORMATION

**TUITION:** Tuition for this course is \$60.00. This entitles each registrant to admission, coffee breaks, and all written materials. The cost for materials only is \$25.00.

**ADVANCE REGISTRATION:** Due to substantially increased enrollments in all CLE courses, advance registration is strongly recommended. Door registrations on the day of the program can be accepted only if space is available.

**PAYMENT:** If more than one person wishes to register, payment may be included in a separate check; however, a separate registration form should be included for each registrant. Payment for other seminars should be handled by separate check.

**REFUNDS:** The registration fee for this seminar will be refunded, less \$2.00 for handling, for any cancellation received at least 2 full business days before the date of the presentation in question.

**TAX DEDUCTIBLE:** Tuition, travel, hotel and living expenses incurred in attending the Continuing Legal Education course are deductible if they maintain or improve professional skills. Treas. Reg. Section 1.162.5

**WHO MAY ENROLL:** Enrollment is open to all members of the Bar and the Judiciary. Law students and persons currently employed as legal assistants may enroll on a space available basis.

**TAPE RECORDING:** Tape recording of CLE seminars by members of the Alaska Bar Association for future reference and use in the practice of law is permitted. Attorneys wishing to record a particular seminar should inform the CLE Staff in advance. Tape recording for any other purpose, commercial or otherwise, is prohibited.

## REGISTRATION FORM

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Please Detach and Mail

MAIL TO: CLE BANKRUPTCY                      Make Check Payable To;  
Alaska Bar Association                  Alaska Bar Association  
P. O. Box 279  
Anchorage, Alaska 99510

Enclosed is my check for \_\_\_\_\_ covering my registration/  
materials for the BANKRUPTCY REFORM ACT OF 1978 seminar at the  
Anchorage Westward Hilton on Saturday, September 8, 1979.

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

OFFICE PHONE \_\_\_\_\_

# THE REVISED ALASKA CRIMINAL CODE

November 16-17	Fairbanks	Travelers Inn
November 29-30	Anchorage	Anchorage Westward Hilton
December 7-8	Juneau	Juneau Hilton

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Sponsored by

THE CONTINUING LEGAL EDUCATION COMMITTEE

Alaska Bar Association

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## SCOPE AND PURPOSE

On January 1, 1980, the revised Alaska Criminal Code becomes effective. The revised code dramatically and comprehensively alters the substantive aspects of Title 11 and adopts a new sentencing scheme in Title 12. Among other important features of the revised code, all crimes with the exception of murder and kidnapping are classified based on seriousness as Class A, B, or C felonies, or Class A or B misdemeanors. The revised code provides for uniform penalty provisions. This 1-1/2 day seminar presents an overview of the Revised Criminal Code, including comparisons with the present code, approximately one month before the effective date of the Revised Criminal Code provisions.

## FACULTY

William Bryson, Esq.  
Barry Stern, Esq.  
Bruce Bookman, Esq.

Brian Shortell, Esq.  
Daniel W. Hickey, Esq.  
Peter Michaski, Esq.

The Honorable Beverly Cutler

## COURSE CREDIT

This course has been approved by the Alaska Bar Association for 8 hours of credit toward continuing legal education.

## PROGRAM SCHEDULE

### First Morning:

Resistant check-in and distribution of materials

Introductory remarks

Overview of the Criminal Code, including general principles of liability and culpability

Coffee break

Sentencing

Panel Discussion and questions

Luncheon

### First Afternoon:

Justification - Panel discussion

Offenses against persons

Coffee break

Offenses against property

Question and Answer session

### Second Morning:

Offenses against public administration

Prostitution and gambling, weapons and offenses

Second morning cont'd.

Coffee break

Offenses against public order

Offenses against family

Question and answer panel

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## REGISTRATION INFORMATION

**TUITION:** Tuition for this course is \$75.00. This entitles each registrant to admission, coffee breaks, and all written materials. The cost for materials only is \$30.00.

**ADVANCE REGISTRATION:** Due to substantially increased enrollments in all CLE courses, advance registration is strongly recommended. Door registrations on the day of the program can be accepted only if space is available.

**PAYMENT:** If more than one person wishes to register, payment may be included in a separate check; however, a separate registration form should be included for each registrant. Payment for other seminars should be handled by separate check.

**REFUNDS:** The registration fee for this seminar will be refunded, less \$2.00 for handling, for any cancellation received at least 2 full business days before the date of the presentation in question.

**TAX DEDUCTIBLE:** Tuition, travel, hotel and living expenses incurred in attending the Continuing Legal Education course are deductible if they maintain or improve professional skills, Treas. Reg. Section 1.162.5.

**WHO MAY ENROLL:** Enrollment is open to all members of the Bar and the Judiciary. Law students and persons currently employed as legal assistants may enroll on a space available basis.

**MATERIALS:** Each participant will receive a comprehensive manual on the Revised Criminal Code as well as outlines prepared to supplement the presentations.

**TAPE RECORDINGS:** Tape recording of CLE seminars by members of the Alaska Bar Association for future reference and use in the practice of law is permitted. Attorney wishing to record a particular seminar should inform the CLE Staff in advance. Tape recording for any other purpose, commercial or otherwise, is prohibited.

## REGISTRATION FORM

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Please Detach and Mail

MAIL TO: CLE REVISED CRIMINAL CODE  
Alaska Bar Association  
P.O. Box 279  
Anchorage, Ak. 99510

Make check payable to  
Alaska Bar Association

Enclosed is my check for \_\_\_\_\_ covering my registration/materials for the REVISED CRIMINAL CODE seminar at:

- November 16-17 at Travelers Inn in Fairbanks  
 November 29-30 at Anchorage Westward Hilton in Anchorage  
 December 7-8 at Juneau Hilton in Juneau

NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_

OFFICE PHONE \_\_\_\_\_ ZIP \_\_\_\_\_

APPENDIX F

ETHICS  
OPINION 76-1  
(Approved by Board of Governors 7/30/76)

The Committee's opinion has been requested in connection with the following statement of facts:

"A", an attorney admitted to practice in Alaska, is elected to the Borough Assembly of the Borough in which he is a resident. The Borough Assembly has no authority to appoint, recommend, remove or affect the pay and emoluments of any magistrate or other judicial official within the Borough. The Assembly does, however, have the power by ordinance to hire, fire, and fix the pay and emoluments of the Borough Attorney. The Borough Charter requires each member of the Assembly to vote on each question raised for determination by the Assembly, except when otherwise prohibited from doing so, or when excused by all remaining members of the Assembly entitled to vote. The Charter also provides that a member of the Assembly is prohibited from voting on a matter wherein he has a substantial financial interest. Interpreting this latter provision as requiring abstention where a member of his law firm is either personally financially interested, or is employed to represent an applicant or litigant, "A" scrupulously abstains in such cases without putting the matter to a vote of the Assembly. Further, "A" personally refrains from accepting any employment which involves representation before the Assembly, or any city staff agency, board or commission, and announces his intention to refrain from voting on questions relating to the hiring, firing, or pay of the Borough Attorney. If forced to a

vote on abstention, "A" would in any event refuse to vote. The sanction in the Borough Charter for such act would be a vote by the Assembly to remove the Assemblyman from office. Under the circumstances described, may other attorneys from the firm in which "A" is a partner undertake civil representation of clients having claims against the Borough; appear in civil matters before the Borough Assembly; and appear before Borough boards and commissions such as the planning and zoning commissions?

1. An attorney who is a member of a legislative body such as a borough assembly, which apparently has both legislative and quasi-judicial responsibilities, may not practice or represent clients before that body.

DR 9-101(b) provides that, 'A lawyer shall not accept private employment in a matter in which he has substantial responsibility while he was a public employee.'

The proscription, obviously applies to present public employment as well as past. The problem becomes clearer when considered in the light of DR 9-101(c), which provides that a lawyer "shall not state or imply that he is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official". In the ABA Opinion, No. 296, August 1, 1959, it is stated that a law firm should not accept employment to appear before a legislative committee while a member of the firm is serving in the legislature. In an informal opinion, No. 855, it is stated that a judge should not practice in a court over which he occasionally presides, and neither should a partner or associate practice over which such judge occasionally presides. Insofar as the borough assembly has quasi-judicial powers in certain matters,

this proscription would be applicable by analogy.

Arizona Ethics Committee Opinion 74-28 addresses the question of whether the members of a firm may appear on civil matters before the city council where one of the members of the firm is a member of that council, and answers the question negatively. The Arizona opinion does not directly address the question of whether the attorney member may himself appear before the Assembly, but the answer is obvious.

ABA Informal Opinion No. 1182, expresses the opinion that there is no flat proscription upon an appearance by a lawyer-legislator before a Workmen's Compensation Board, the members of which are appointed by the legislature or where their compensation is fixed by the legislature. However, EC 8-8 states, "A lawyer who is a public officer, whether full or part time, should not engage in activities in which a personal or professional interest is or foreseeably may be in conflict with his official duties." EC 9-2 provides, "When explicit ethical guidance does not exist a lawyer should determine his conduct by acting in a manner that promotes public confidence in the integrity and the efficiency of the legal system and the legal profession." EC 9-6 provides in part, "Every lawyer owes a solemn duty . . . to conduct himself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust of his clients and of the public; and to strive to avoid not only professional impropriety but also the appearance of impropriety."

2. An attorney should not practice before agencies or adjudicative bodies from which the normal course of appeal is to



the legislative and quasi-judicial body of which the attorney is a member.

EC 9-2 and EC 8-8 appear to be in point on this matter. The statement appears to be simply an extension of the first statement that the attorney may not practice before the body of which he is a member. The Code of Judicial Conduct is also instructive by analogy. Part II, 1(A) of the Judicial Canons provides that a part-time judge should not practice law in the court on which he serves or in any court subject to the appellate jurisdiction of the court on which he serves. While the Judicial Canons in effect in this State apply only to officers of the Alaska Court System, to the extent that the Borough Assembly exercises quasi-judicial powers, the analogy is valid.

3. An attorney who is a member of a legislative and quasi-judicial body may not practice before that body, or agencies from which an appeal lies to that body, even if the attorney disqualifies himself from acting upon the matter as a member of the body.

While the proscription against engaging in activities which give the appearance of impropriety is sometimes vague and may be overly broad, it seems clear that at least this type of activity would fall within the category and would be improper and unethical. It should also be noted that an appearance before the body of which the attorney is a member would be improper even if there was no objection to it, inasmuch as the public, whom the attorney serves as a member of the body, cannot give its consent to such a procedure if it involves a conflict of interest. ABA Opinions No. 16, 34, 71, 77, 192.

4. If the attorney himself cannot practice before the body, or before agencies from which an appeal lies to that body, his associates and partners are similarly prohibited.

It appears to be fairly settled that associates or partners of an attorney who is disqualified from representing a client are similarly disqualified. Disciplinary Rule 5-105(d) provides, 'If a lawyer is required to decline employment or to withdraw from employment under DR 5-105, no partner or associate of his or his law firm may accept or continue such employment.' While the attorney in this case is not prevented from practicing before the body because of DR 5-105, the principle seems equally applicable. In ABA Opinions 33, 49, 50, 72, and 103, it has been held that a partnership cannot undertake any professional relationship which any one of the partners, because of adverse influences and conflicting interests, could not ethically undertake. In informal opinion No. 855, it is said . . . the duties and considerations of possible conflicts are such that what a lawyer cannot do because of these ethical precepts relating to other parties, neither his partner, his associate, nor one with whom he shares offices, may do.' Informal opinion No. 1182, addressing the ethical constrictions on a lawyer-legislator states:

It is generally recognized that disqualification of a lawyer includes disqualification of his law partners; see e.g., ABA Formal Opinion 33; Basset v. Cook, 201 F. Supp. 821 (1862); Consolidated Theater v. Warner Brothers, 113 F. Supp. 265 (1953); Note, 73 Yale 1058 (1964); C.f. DR 5-105(D) (relating specifically to differing interests of two clients); DR 1-102(A) (2); But see ABA Formal Opinion 220 (1941). While the question is not completely free from doubt, in our opinion, the same rules apply to a lawyer partner of the legislator. A lawyer legislator should never of course use his position

in the legislature to his advantage in the representation of his clients (see DR 8-101), and his conduct should be governed at all times by the Code.

The Committee on Rules of Professional Conduct of the Arizona Bar has addressed a very similar fact situation in Opinion No. 74-28 (Sept. 24, 1974). The Opinion states that partners and associates of a lawyer-councilman are prohibited by EC 9-3, EC 9-6, and DR-101, directly and by implication, from practicing or appearing professionally before the council or boards or agencies from which an appeal lies to the council. The basis for this proscription is the inevitable appearance of impropriety attendant to such practices. This Committee is in accord with Arizona Opinion 74-28.

5. The Committee has insufficient facts to decide whether the lawyer-assemblyman, or his partners or associates, may prosecute-claims against the municipality involved.

Inasmuch as the role of the Assembly and its members is not set forth in the facts hypothesized with reference to municipal handling of claims, nor the municipality's litigation practices or the character of claims involved, the Committee feels it should refrain from addressing this question in this Opinion.

The committee has been asked the following questions:

1. Is it ethical for a law firm which occupies the second floor of a two-story building to display a firm sign in a second floor window of that building?
2. Is it ethical for a law firm which occupies the second floor of a two-story building to display a firm sign in the stairwell leading to the second floor?
3. Is the use of the name Alaska Legal Clinic a permissible generic name reflecting a particular style and type of practice, or is it unethical because it is considered impermissible advertising and/or the impermissible use of a trade name?
4. Is it ethical for an attorney-landlord to personally enforce what he believes to be the Canons of Ethics by forcibly removing and secreting a window sign and/or a wall sign with the name of his tenant's law firm after being advised that tenant would seek an opinion on the propriety of those signs from this Ethics Committee?

It is the committee's opinion, in response to Question No. 1 that under no circumstances would it be proper for a law firm occupying a second story of a two-story building to display a sign in the second floor window. The committee believes that the considerations involved in this decision are fully set forth in its Opinion 71-2.

The ethical considerations governing an answer to Question No. 2 are fully set forth in the committee's Opinion 71-2.

In answer to Question No. 3, it is the committee's opinion that the name "Alaska Legal Clinic" is not a proper name and style for a member of the Bar in private practice. It is the committee's opinion that this name and style is specifically prohibited by DR 2-102(b), which restricts the name and style under which an attorney may do business, in relevant part, to a name containing the names of at least one of the lawyers in the firm. See also EC 2-11. In addition, the Committee finds the particular name "Alaska Legal Clinic" objectionable because of its potential to mislead the public as to the official nature of the organization.

The question would next logically present itself whether or not a name such as "The Legal Clinic of Smith & Jones" would be a permissible name. The committee is mindful of the primary injunction of the ethical considerations that the name and style under which attorneys do business should not in any manner mislead those seeking a lawyer's assistance concerning the nature of the firm he consults, or its membership. In this context, the committee is not prepared at this time to answer the question whether or not "Legal Clinic" is a permissible name "...reflecting a particular style and type of practice....". This is because the committee has been furnished with no guidelines to establish what sort of style and type of practice is contemplated, and the meaning from the words is certainly not self-evident. Upon being presented hypothetical facts which would detail this style and type of practice, the committee is prepared to review the question further.

The answer to Question No. 4 is outside of this committee's jurisdiction, and should be referred to the appropriate grievance mechanism within the Bar Association, or the appropriate law enforcement agencies.

ETHICS  
OPINION 76-3  
(Approved by Board of Governors 6/1/76)

The committee has been asked whether or not an attorney in the public practice of law may continue to represent two defendants in a criminal appeal in which there is a substantial potential conflict of interest between the two defendants. From the facts presented to us, it is our understanding that a full and vigorous representation of the interests of one of the co-defendants would necessarily, at least inferentially, involve imputing the other co-defendants' testimony, and would further involve casting criminal responsibility from the co-defendants jointly to one of the co-defendants exclusively. We have also been asked to assume for purposes of the question that both of the co-defendants have had this potential conflict fully, fairly and candidly explained to them, by the attorney, and that after that explanation they desired to waive any conflict of interest and continue with the representation of a single attorney.

In this connection, we are referred to the case United States v. Amredo-Sarmiento, decided by the Second Circuit October 10, 1975. After reviewing the text of that opinion, we do not consider it in point. That opinion held that the Sixth Amendment right to assistance of counsel, when raised by a defendant in a criminal appeal, overbore the conflict of interest considerations involved in that case, and allowed the accused to make a selection of counsel of his choice despite that conflict. The question for our consideration, however, is whether or not the attorney so

chosen should accept the proffered employment. As such, we deal with the obligations of the attorney not only to the accused, but also to the profession and the adversary system of justice.

In the committee's opinion, the two defendants in the situation presented, may not continue to be represented by a single attorney.

This opinion is based in large part on EC5-15, which provides in part:

If a lawyer is requested to undertake or to continue representation of multiple clients having potentially differing interests, he must weigh carefully the possibility that his judgment may be impaired or his loyalty divided if he accepts or continues the employment. He should resolve all doubts against the propriety of the representation. A lawyer should never represent in litigation multiple clients with differing interests; and there are few situations in which he would be justified in representing in litigation multiple clients with potentially differing interests.

In the committee's view, the facts presented indicate a very strong potential for differing interests between multiple clients, if not actually differing interest at this time. It is therefore the committee's opinion, as previously expressed, that the attorney may not continue to represent both defendants.

The waiver of this conflict by the co-defendants does not cure the conflict. EC5-16 provides:

In those instances in which a lawyer is justified in representing two or more clients having differing interests, it is nevertheless essential that each client be given the opportunity to evaluate his need for representation free of any potential conflict and to obtain other counsel if he so desires.

Thus, before a lawyer may represent multiple clients, he should explain fully to each client the implications of the common representation and should accept or continue employment only if the clients consent.

It is our opinion that this is not an "instance in which a lawyer is justified in representing two or more clients," and therefore the clients' consent does not cure the taint created by the conflicting or potentially conflicting interests of the co-defendants. There is an initial threshold question which must be answered by the attorney representing multiple clients in litigation, which is whether or not, under the particular facts and circumstances of the case, he would be ethically permitted to continue the multiple representation. If that question is answered affirmatively, the attorney still has an obligation to explain the potential conflict to each of the multiple clients, and after such explanation, secure the clients consent to such continued multiple representation. In the case before the Committee the threshold question is answered negatively, and therefore the question of the clients consent never arises.



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ALASKA BAR  
ASSOCIATION

ETHICS OPINION 76-5

The Committee has been asked the following question:

Do the Canons of Ethics require an attorney to offer a prospective divorce client a choice between a flat fee and an hourly rate?

It is the Committee's opinion, as set forth in the specialized context of Opinion 74-3, that an attorney has an ethical obligation to advise a client fully and fairly as to all the various fee arrangements available for a particular matter, even though that lawyer, himself, would only be willing to undertake the representation on one of those arrangements. This general principle is applicable to divorce cases as well as personal injury actions.

Dated: October 10, 1976

ETHICS OPINION 76-7

The Committee has been asked its opinion as to the proper ethical course of action for an attorney presented with the following fact situation:

Defendant is arrested, charged with robbing a bank. The teller was held at gun point, bound with tape and a red bandana, while the safe was blown with plastic explosives.

Defendant tells his attorney he is innocent - wasn't there. He can't get out of jail because of high bail. While defendant is in jail a friend comes to town and with defendant's consent occupies his trailer.

About a month after defendant is bound over by the grand jury and while he is still in jail, Defendant authorizes his friend to "clean out" the car in his driveway.

In the car, friend finds the following:

- 1) A set of roller skates
- 2) A detailed floor plan of the bank robbed
- 3) A list of "things to take with me", including roller skates, plastic explosives, and "tape and red bandana to tie teller"
- 4) Receipt for purchase of plastic explosives dated two days before robbery took place.

Friend, without asking Defendant's permission or disclosing to him his intentions, calls Defendant's attorney, and turns over the above. Defendant's attorney takes possession of the writings.

All of the above were documents in defendant's possession. Defendant's attorney asks Defendant if he wrote them, he admitted it, however explained they were written "after I read of the bank robbery - I was fantasizing how I would have done it, if it were me". Defendant's attorney cannot, in good faith, say that he believes defendant.

QUESTIONS:

1. Does Defendant's attorney have an ethical obligation to turn over the material - or part of it, to the District Attorney or police? (If so, should he withdraw from the case?)

2. If he keeps the material, should he keep it in his personal possession or return it to the car where it was found?

(a) See AS 11.30.330 (Sic)

(b) also note; car could be repossessed  
soon

The Committee has considered the questions posed, and has formulated an opinion as to the present ethically-required course of conduct.

Our consideration and opinion is based solely upon the ethical requirements which may be imposed upon defendant's attorney. Defendant's attorney is a citizen and is subject to the law in the same manner and to the same extent as other citizens. As suggested, AS 11.30.315 may arguably impose some duty with respect to the physical evidence in the attorney's possession. That Statute provides as follows:

Destroying, altering or concealing evidence. A person who willfully destroys, alters or conceals evidence concerning the commission of a crime or evidence which is being sought for production during an investigation, inquiry or trial, with the intent to prevent the evidence from being discovered or produced, is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than \$1,000, or by both.

The Committee has taken the statute into consideration, but obviously can render no definitive opinion as to its applicability, or the applicability of other civil and criminal law of the State of Alaska. The course of conduct outlined in this opinion is based upon ethical considerations, but if a different course of action is required by the statute, observance of the statutory requirement would also be ethically proper. See DR4-101(c)(2), which provides: "A lawyer may reveal: (2) Confidences or secrets when permitted under Disciplinary Rules or required by law or Court Order."

In addition, if the statute requires the revelation of the confidence or secret, such revelation is ethically required. DR7-102(A)(3) provides:

In his representation of a client, a lawyer shall not:  
(3) Conceal or knowingly fail to disclose that which he is required by law to reveal.

It is the attorney's duty under Canon 4 of the Code of Professional Responsibility to preserve the confidences and secrets of a client. As DR4-101(c) points out, you may ethically reveal confidences or secrets of a client when required by law, but otherwise, such revelation of confidences or secrets is prohibited. As EC4-4 properly points out, this

duty to safeguard the confidences and secrets of a client is broader than the attorney/client evidentiary privilege, and "...exists without regard to the nature or source of information or the fact that others share the knowledge." Thus, it seems clear to us that the attorney is ethically obligated not to reveal the existence of the physical evidence which has come into his possession, unless required to do so by statute.

We have also considered informal Opinion #1057 of the American Bar Association Committee on Ethics, and find the analysis therein persuasive. The American Bar Association has advised that when a client, or one acting on behalf of a client, presents evidence of the type described to us to the attorney, the attorney should decline to take possession of it and should advise the client with respect to his obligations regarding the evidence under relevant state law. If the client then declines to follow the course that he is legally obligated to follow, the attorney should either decline employment or withdraw from employment previously accepted. In our opinion, this is the correct balancing of the interests of society, the attorney's duty as an officer of the court, and the attorney's duty to preserve the confidences and secrets of a client.

Therefore, in the situation posed, it is our opinion that the attorney is ethically required to contact the "friend" who tendered the evidence to him, return it to his possession, advise the "friend" of the existence and terms of AS 11.30.315, and advise the friend, if asked any additional questions, to secure his own counsel.

Whether or not the lawyer is required to withdraw from representation of the accused will depend upon the course of future events. DR 2-110(B)(2) provides as follows:

A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

- (2) He knows or it is obvious that his continued employment will result in violation of a Disciplinary Rule.

DR 7-102(A) & (B) provide in part as follows:

In his representation of a client, a lawyer shall not: (A)

- (3) Conceal or knowingly fail to disclose that which he is required by law to reveal.
  - (4) Knowingly use perjured testimony or false evidence.
  - (5) Knowingly make a false statement of law or fact.
  - (6) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.
  - (7) Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent.
  - (8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.
- (B) A lawyer who receives information clearly establishing that:
- (1) His client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same, and if his client refuses or is unable to do so, he shall reveal the fraud to the affected person or tribunal.

(2) A person other than his client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

Obviously there is a potential for violation of one of the Disciplinary Rules in the future evolution of this situation. If the lawyer knows, or it becomes obvious, that such a violation has occurred, is occurring, or will occur, he will be obligated to withdraw.

Adopted by Board of Governors June 6, 1977

ETHICS OPINION 76-8

The Committee has been asked the following question:

With regard to an attorney admitted in Alaska who has been a law clerk to a Superior Court judge and who has entered private practice by joining an existing law firm, may he do any of the following:

- 1) Represent a client in court;
- 2) Give professional consultation or assistance to a client;
- 3) Perform legal research relating to a case of a client; or
- 4) Do factual research and investigation relating to a case of a client;

when that client has been represented by the law firm before the Superior Court judge to whom the law clerk had served under the following circumstances:

- A) When the client's case was merely pending before the judge;
- B) When the case was pending and the law clerk had had administrative contact with the case such as merely bringing the file to the judge at the time for his consideration of a motion made in the case; or
- C) When the case was pending and the law clerk had performed legal research and had drafted a memorandum on the law for the judge on an issue raised by either of the parties to the case?

The attorney would be entitled to perform the services enumerated 1, 2, 3, and 4 in the event that his contact with the case had been solely as described in paragraphs A and B. If this contact had been more substantive,



such as that described in paragraph C, he would not be entitled to participate in any way in the representation of the client in that case because of the appearance of impropriety associated with having dealt substantively with the case as an agent of the court, and then adopting an advocacy role in the same case.

DATED: Approved 3-31-79  
B.O.G.

ETHICS OPINION 76-9

The Committee has been asked the following question:

Assume that an individual is involved in an automobile accident. Further assume that the individual believes that the other party was at fault in causing the accident and wishes to pursue recovery of damages through litigation. Assume further that the party then contacts counsel and after having the hourly fee versus contingent fee situation thoroughly explained, the party elects to enter into a contingent fee professional employment contract with the attorney for an appropriate percentage of the recovery which is reasonable and just. Now, then assume further that the party who has now taken the posture of being a prospective plaintiff in litigation is without sufficient funds or inclination to pay for an hourly fashion or flat fee basis for investigative services. Assume further then that either at the suggestion of counsel or independently, the party then enters into a contingent fee contract with an investigating firm; said contract providing that the investigating firm will do investigation of the incident itself and supply reports to counsel (and theoretically testify as to their investigation or the work product thereof) in return for a percentage of the ultimate recovery, said percentage being reasonable and just.

The question I wish to present to the Ethics Committee is whether or not the investigators contingent fee agreement directly with the client is violative of any canon of ethics. I am of course aware that it is unethical to retain the services of an expert witness on a contingent fee basis and can readily understand the reasoning behind such a view. My query thus is aimed at the concept of contracting on a contingent fee basis for services to be performed where it is possible although not planned that the other parties to the contract, to-wit, the investigator, will ultimately be paid a fixed percentage from the proceeds of the litigation or settlement.

In the Committee's opinion, it would be ethically improper for an attorney to instigate or participate in an arrangement such as the one described. In the Committee's opinion, this creates an undue opportunity for overreaching a client with respect to the costs of litigation, and has an inherent potential for abuse as a subterfuge to avoid the clear prohibition of the lawyer himself employing an investigator or other expert witness on a contingent fee. In addition, the Committee is persuaded by previous formal and informal opinions of the American Bar Association prohibiting similar fee arrangements on the basis that they constitute dividing legal fees with a non-lawyer.

Thus, it is the Committee's opinion that arrangements such as that described are not ethically permissible.

Dated: October 15, 1976

ETHICS OPINION 77-2

The Committee has been asked the following question: May an attorney hold a client's papers pursuant to the attorneys' lien statute, A.S. 34.35.430(a) without violating DR 2-110(a)(2), when the papers would be helpful to the client in pending litigation.

The Code of Professional Responsibility provides that ". . . a lawyer shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his clients, including . . . delivering to the client all papers and property to which the client is entitled . . ." DR 2-110(a)(2). Ethical Consideration 2-32 adds that a lawyer should endeavor to minimize possible adverse effects and prejudice to his client when he withdraws. Yet the attorneys' lien statute gives the attorney a lien for compensation on the papers of a client that have come into the attorney's possession in the course of professional employment. A.S. 34.35.430(a).

The A.B.A. has determined that whether an attorney can hold the client's papers as a lien is a question of law rather than ethics. Opinion #209.

Since the disciplinary rule requires the return of papers "to which the client is entitled" an attorney does not violate DR 2-110(a)(2) by exercising the lien in a legally proper manner after justifiably terminating his employment with the client.

DATED this \_\_\_ day of \_\_\_\_\_, 1978.

ETHICS OPINION 78-77-3

The question has been asked whether an attorney or firm which represents a client in a civil case to collect a debt may also initiate a criminal prosecution for violation of a statute which makes failure to pay a crime.

The relevant Disciplinary Rule is DR 7-105 which provides:

A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil manner.

In determining whether the prosecution violates this provision one must consider the conduct of the prosecuting attorney as well as his expressed purpose, if any, to see if the purpose is solely to obtain payment or some other advantage in the civil case.

The purposes of a criminal prosecution are 1) to rehabilitate the offender; 2) to isolate him from society in order to prevent further criminal conduct during confinement; 3) to deter the offender; 4) to deter other members of the community with similar tendencies; and 5) to demonstrate society's condemnation of the offender. State v. Chaney, 477 P.2d 441 (AK 1970).

Since DR 7-105 states that the abuse occurs only where the motive for the prosecution is solely to obtain an advantage in the civil case, a violation occurs only where the circumstances including any expressed intention support only that conclusion, and none of the five purposes referred

to above. However, communications from the lawyer to the offender that he may avoid the prosecution by paying are clearly prohibited. Evidence that the charge was dismissed by the prosecuting lawyer, at the request of the creditor's lawyer, or that the prosecutor's efforts ceased after payment while the criminal case was still open, are strong evidence that the prosecution was for the prohibited purpose.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1978. .

Adopted by the Board 12/3/78

ETHICS OPINION 78-1

The question has been asked: When may an attorney record a phone conversation?

The American Bar Association has adopted a formal opinion which fully sets out the history of informal opinions rendered on this subject, and the reasons proscribing such conduct. D.R. 1-102(A)(4), which prohibits conduct involving "dishonesty, fraud, deceit, or misrepresentation," clearly prohibits recordings of any and all conversations without the consent of all parties. The opinion goes on to state that "No lawyer should record any conversation, whether by tapes or other electronic devices, without the consent and prior knowledge of all parties to the conversation."

The American Bar Association Opinion No. 337 is hereby adopted by the Ethics Committee.

Adopted by the Board of Governors October 28, 1978

## Formal Opinion 337

(August 10, 1974)

*With certain exceptions spelled out in this opinion, no lawyer should record any conversation, whether by tape or other electronic device, without the consent or prior knowledge of all parties to the conversation.*

CANONS, DISCIPLINARY RULES, AND ETHICAL CONSIDERATIONS CITED. CANONS 1, 4, 7, and 9. Disciplinary Rule 1-102(A)(4). Ethical Considerations 1-5, 4-4, 4-5, 7-1, 9-2, and 9-6.

Recent technical progress in the design and manufacture of sophisticated electronic recording equipment and revelations of the extent to which such equipment has been used in government offices and elsewhere make it desirable to issue a formal opinion as to the ethical questions involved.

Attorneys may desire to record conversations to which the following three classes of persons may be party: (a) clients; (b) other attorneys with whom they deal; (c) the public, including but not limited to witnesses and public officials. These would include conversations in which the attorney was not himself a party.

No prior formal opinion has been issued which deals directly with the problem. Informal opinions have addressed the issue only in part.

Formal Opinion 150, issued in 1936, held that a prosecuting attorney could not ethically use a recording of conversation between the defense attorney and his client in evidence in the prosecution of the defendant, even though such recording was legally admissible at the time of the opinion. The committee based its holding in part on the duty of attorneys in public employ to avoid the appearance of impropriety. The opinion also stresses the nature of the intercepted conversation (between the accused and his counsel) as to which the attorney and client were entitled to confidentiality.

Informal Opinion C-450, issued in 1961, requires disclosure to the court and opposing counsel before using a recording device in court.

Informal Opinion 11008, issued in 1967, holds that a lawyer may not make a recording of a conversation with a client without previous disclosure.

Informal Opinion 1009, issued on the same day, makes a similar ruling as to conversation with an attorney for the other party. This opinion cites Opinion 201 of the Michigan Ethics Committee, Henry S. Drinker, *Legal*

*Ethics*, page 197, and New York City Committee Opinions 878 and 900.

So far as clients and other attorneys are concerned, the prior informal opinions make the conclusion clear. Attorneys must not make recordings without the consent of these parties to the conversation.

A survey of state opinions listed in the *Digest of Bar Association Ethics Opinions* reveals the same pattern with only one opinion to the contrary: Texas Opinion 34, issued in November, 1953 and published without comment in 16 *Texas Bar Journal* 701 (1953).

1. Federal Law. It is not a federal offense to make secret recordings of conversations without disclosure. Sections 2510-20 of the Omnibus Crime Control and Safe Streets Act of 1968 were adopted specifically for the purpose of clarifying the existing law governing the interception of wire and oral communications. Section 2511 provides:

"It shall not be unlawful under this Chapter for a person not acting under color of law to intercept a wire or oral communication where such person is a party to the communication, or where one of the parties to the communication has given prior consent to such interception unless such communication is intercepted for the purpose of committing any criminal or tortious act in violation of [or] any other injurious act." 18 U.S.C.A. Section 2511.

Special provision is made for the recording of privileged communications in Section 2517(2), which states:

"No otherwise privileged wire or oral communication intercepted in accordance with or in violation of the provisions of this Chapter shall lose its privileged character."

As interpreted by the Supreme Court in *United States v. White*, 401 U.S. 745 (1971), Sections 2510-20 of the Omnibus Crime Control Act permit a participant in a conversation to record a conversation and to use a device for transmitting the conversation to a third party, or any consent to letting a third party use a device to overhear the conversation. The Court stated that:

"Our opinion is carefully shared by Congress and the Executive Branch. Title III Omnibus Crime Control and Safe Streets Act of 1968, 82 Stat. 212, 18 U.S.C. Section 2510 et seq., and the American Bar Association, Project on Standards for Criminal Justice Electronic Surveillance Section 4.1 (Approved Draft 1971)."

This statement is vulnerable in that it equates the very broad provision of Sections 2510-20 with the A.B.A. Project, Section 4.1, which permits only the use of electronic surveillance by law enforcement officers.

Furthermore, Section 5.11 of the A.B.A. Project recommended that "no order should be permitted authorizing or approving the monitoring or recording of communications over a facility or in a place primarily used by licensed physicians, licensed lawyers . . . unless an additional

showing as provided in section 5.11 is made. However, the Court in *White* refused to overrule *Katz v. United States*, 389 U.S. 347, which in effect required a search warrant before the F.B.I. could intercept a phone conversation.

Since only four justices joined in the majority of the plurality opinion, the question cannot be considered closed so far as police practices are concerned.

2. State Law. The majority of states follow federal law as to participant recording of conversations, but at least ten states require the consent of all parties to the recording and impose civil and criminal penalties for violation.

3. F.C.C. Regulations. The F.C.C. regulations in effect since 1948, require telephone companies to file tariffs with the F.C.C. to the effect:

1. Adequate notice be given to all parties to their conversation is being recorded.

2. That such notice be given by the use of an automatic tone warning device.

3. That the tone warning device be installed, and maintained by the telephone company using specified technical procedures. 11 F.C.C. 1031, 1050; 12 F.C.C. 1703, 1024 (1948).

These regulations are directed toward the telephone carriers and do not make recording a criminal offense. However, the telephone carriers are legally bound by the regulations which reflect the public policy adopted by the Commission concerning the tape recording of conversations.

A carrier found in violation of the regulations is subject to a fine of \$500 for each day of continued violation, and an attorney who uses a "tap tone" device is subject to discontinuance of his telephone service for violation of the telephone company's tariff. There is no evidentiary sanction against the use of a "tap tone" device. *United States v. White*, 312 F. 2d 534 (2d Cir. 1963), cert. denied, 382 U.S. 955 (1965).

The position of the F.C.C. is that in the absence of an order forbidding the use of private citizens or radio devices, which are licensed by the Commission, to intercept conversations unless all parties to the conversation have given their consent. 21 Fed. Reg. 1275 (1956).



A recent New York State Bar Association opinion (Opinion 328, issued March 18, 1974) holds it unethical for a lawyer engaged in private practice to record conversations with any persons without their consent.

Authority as to recording by lawyers of conversations of "other persons," except for the New York opinion just rendered, is scant, and the legal position less clear. Federal and state laws and F.C.C. regulations are in conflict (see footnote on page 1448) and do not settle the ethical questions involved.

Two California bar opinions (Los Angeles Opinion 272 and California State Bar Opinion 1966-5) held that because of the public policy adopted by the F.C.C. in requiring the use of the "beep tone" in order to inform all parties that a recording is being made, and because a telephone user who violates F.C.C. regulations may be enjoined from such practice or may have his telephone service disconnected, it would be unethical for an attorney to record a telephone conversation without the use of a warning device.

While the law is not clear or uniform as to recording by lawyers of conversations of "other persons," it is difficult to make a distinction in principle. If undisclosed recording is unethical when the party is a client or a fellow lawyer, should it not be unethical if the recorded person is a lay person? Certainly the lay person will not be likely to perceive the ground for distinction.

At least by analogy to Formal Opinion 150, secret recording by attorneys of conversations of any person is unethical, even though legal under federal law.

Present Canon 9 of the Code of Professional Responsibility. "A lawyer should avoid even the appearance of professional impropriety," expresses in general terms the standards of professional conduct expected of lawyers in their relationships with the public, with the legal system, and with the legal profession, for all attorneys.

D.P. 1-102(A)(4) of the Code of Professional Responsibility states that "A lawyer shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation." This disciplinary rule is substantially equivalent to but somewhat broader than Canon 22 of the former Canons of Professional Ethics which imposed on an attorney an obligation to be candid and fair before the court and with other lawyers. Informal Opinions C-480, 1678, and 1679 rely on Canon 22.

Canons 1, 4, 7, and 9 read ethical

Each in the view of the committee supports the conclusion that lawyers should not make recordings without consent of all parties. E.C. 1-5, E.C. 4-4, E.C. 4-5, E.C. 7-1, E.C. 9-2, and E.C. 9-6 all state in various ways the conduct to which lawyers should aspire. None would condone such conduct. The conduct proscribed in D.P. 1-102(A)(4), i.e., conduct which involves dishonesty, fraud, deceit, or misrepresentation, in the view of the committee clearly encompasses the making of recordings without the consent of all parties. With the exception noted in the last paragraph, the committee concludes that no lawyer should record any conversation, whether by tapes or other electronic device, without the consent or prior knowledge of all parties to the conversation.

There may be extraordinary circumstances in which the attorney general of the United States or the principal prosecuting attorney of a state or local government or law enforcement attorneys or officers acting under the direction of the attorney general or such principal prosecuting attorneys

might ethically make and use see recordings if acting within strict statutory limitations conforming to constitutional requirements. This opinion does not address such exceptions which would necessarily require examination on a case-by-case basis. It should be stressed, however, that the mere fact that secret recording in a particular instance is not illegal will not necessarily render the conduct of a public law enforcement officer in making such recording ethical. A

• The Committee on Ethics and Professional Responsibility announces the availability of a looseleaf binder designed especially for the opinions, both formal and informal, of the committee as they are released in looseleaf form. The binder is manufactured in the same cloth and color as the bound copy of the Reporter's Notes to the Code of Judicial Conduct. The binder may be obtained for \$4.50 from the committee at 1155 East Sixtieth Street, Chicago, Illinois 60637.

*Disapproved  
Suppressed  
by DE 2-11  
(A) + (B)*

*Hot file*

ETHICS OPINION 78-2

The question has been asked whether an attorney or firm which cooperates with a reporter doing a story on an attorney's relocation and opening of a new firm violates ethical constraints against lawyer advertising.

Existing Disciplinary Rule 2-101(b) prohibits a lawyer from publicizing himself, or his partner, or associate, or any other lawyer affiliated with him or his firm, as a lawyer through newspaper or magazine advertisements. The purpose of this rule was to prohibit self-laudation or touting by a lawyer. Encouragement of laudatory statements in newspapers and magazines has been considered reprehensible conduct, unless the press and public have a proper and legitimate interest in a newsworthy incident about the career and activities of a lawyer.

Several formal and informal opinions have been rendered in the past on this question. Opinion No. 806, May 2, 1955, responded to an inquiry by a lawyer who asked whether or not he could cooperate with a "New Yorker" magazine article on his career. The opinion stated that

. . . a lawyer may with propriety answer questions and volunteer personal or professional non-privileged data in connection with the preparation of such an article regarding his career, so long as he insists that the article be dignified and in good taste and be written in such a tone as not to imply to the public that it is intended to constitute advertisement for professional employment.

Such cooperation was premised, however, on the assumption that the attorney's career and change in career was a newsworthy incident. The opinion reasoned that this would be particularly true in the case of a lawyer who occupied a prominent position, public or private, or where he was a candidate for election or appointment to public office.

In rendering the opinion, the Ethics Committee cautioned that in the event an article were submitted by the magazine in advance of publication, it would be the "duty of a lawyer to discourage the publication of an article where he knew in advance that it was sensational or undignified, or might be construed as advertising, and he should give no aid in its preparation."

In addition to Opinion No. 806, several informal opinions have addressed the question of a newspaper story of firm changes or relocation. Informal Decision 526 dealt specifically with the question of whether it is ethical for lawyers involved in changes of office location, to furnish the information to a newspaper which then carries the announcement as a news item. The Committee on Ethics responded to this question as follows:

We also refer to Informal Decision 447, dated May 26, 1961, in which we referred to Informal Decision 142A, wherein we specifically held that "notice of the removal of an office to another building should be printed by card mailed to regular clients and not by newspaper advertisement." In Informal Decision 447, this committee stated, "It is equally improper for a lawyer to request a newspaper to carry information of this sort as a news story. Canon 27 prohibits indirect advertising: such as furnishing or inspiring newspaper comments."

Both of these informal decisions again assert the caveat, that in the event the newspaper decided on its own merits to carry a story on the relocation of an office as a newsworthy item, there would be nothing improper in responding to questions posed by the press.

While the Alaska Bar Association is currently conducting a review of its disciplinary rules on professional advertising as a result of Bates v. State Bar of Arizona, \_\_\_ U.S. \_\_\_, 97 Sup.Ct. 2591 (1977), proposed changes are generally limited to providing information essential to consumers in making decisions about the need for legal services. Disciplinary Rule D-101(a) and (b) continue to place restrictions on public communications about the lawyer. Public communications should not be "self-laudatory" and they should be presented in a "dignified manner".

In sum, under existing Disciplinary Rule D.R. 2-101(b), a lawyer should not encourage reporters or newspaper articles publicizing a lawyer's change in office location or a change in those associated with him. A lawyer may respond to questions about changes in his career if bona fide inquiries are made by reporters. The lawyer should discourage stories if in advance he knows the article will be self-laudatory. The proposed changes to the disciplinary rules on lawyer advertising would not change this conclusion.

ETHICS OPINION

78-3

The Committee has been asked the following question: Is there a conflict of interest if a law firm represents a defendant in an action filed on behalf of a plaintiff by an attorney, that, before trial, joined the defendant's law firm?

It is our understanding that the facts are these: Attorney A, an employee of Alaska Legal Services Corporation in a certain rural community, was retained by the plaintiff in an action for divorce, which also contained an issue of child custody. Attorney A consulted with the plaintiff, prepared the necessary documents, and initiated the action for divorce, and proceedings to secure custody of the children for the plaintiff. Prior to trial, Attorney A terminates his employment with Alaska Legal Services Corporation, and becomes an employee of the partnership of Y & Z, attorneys. The defendant had previously retained the firm of Y & Z as counsel. The partnership of Y & Z maintains an office in that same community, but it is our understanding that Y & Z are themselves only present part of the time. Attorney A is the only attorney employee in the partnership in the subject community. We have been asked to assume that Attorney A does not disclose or otherwise take advantage of any confidential communication to which he may be privy as a result of his previous representation of the plaintiff. In this factual situation, is the firm of Y & Z required to withdraw from the representation of the defendant?

The Code of Professional Responsibility properly counsels that the ". . . decision by a lawyer to withdraw should be made only on the basis of compelling circumstances . . ." EC 2-32. However, an attorney is required to withdraw from employment, after proper compliance with the rules of the court, when "he knows or it is obvious that his continued employment will result in violation of a disciplinary rule." DR 2-110(b)(2). If a lawyer is required to withdraw from employment, he is required to take all reasonable steps to avoid foreseeable prejudice to the rights of his client. DR 2-110(a)(2).

The primary ethical consideration which presents itself in this matter is whether the employment of Attorney A by Y & Z creates an appearance of impropriety in the subject child custody case.

It is clear that Attorney A could not personally undertake the representation of the defendant, for such representation would present a specific breach of his duty to preserve the confidences and secrets of plaintiff under Canons 4 and 9 as set out in our Opinion 75-2, (App. by Bd. of Gov. October, 17, 1975). In that prior opinion we quoted from ABA Opinion 165, August 23, 1936, which interpreted former Canon 6 as preventing acceptance of professional employment against a former client

. . . which will or even may require him to use confidential information obtained by the attorney in the course of [such former employment]. (emphasis in the original)

The question of whether or not the firm of attorneys, Y & Z, by whom Attorney A is now employed is disqualified, was, no doubt, posed because of the hardship to defendant, particularly if Y & Z is the only law firm in the community so that he or she must now retain counsel from the next nearest city which may be hundreds of miles distant. The question also raises implications regarding the mobility of attorneys in Alaska, particularly in communities in rural Alaska, where the prospect of such possible conflicts is high.

Notwithstanding these legitimate and somewhat unique concerns, the Committee is impelled to determine that the firm of Y & Z must withdraw from the subject litigation.

The continued representation of defendant by the firm Y & Z would create an irresistible appearance of disclosure by Attorney A of the confidences and secrets of plaintiff as prohibited by a combination of Canons 4 and 9. It is well settled that an

attorney may not accept litigation against a past client if such requires that the attorney contest the same issue for which he previously was an advocate in the prior litigation. Nor may a partner of such attorney accept such litigation even though he was not a partner at the time of the prior litigation.

ABA Formal Opinion 33.

A similar result was reached in ABA Informal Decision C-493 (November 22, 1961) in which the Committee stated:

[The former] Canon 6 also is designed to make it unethical to divulge confidences in situations where there may be conflict of interests between clients. This has been interpreted to prevent a lawyer from representing a client when there has been prior disclosure of confidences to himself or another member of his firm by a person who has an adverse interest to the proposed client in the litigation which the client proposes to undertake.

\* \* \*

It is also true that it is not what the lawyer may have learned in the previous lawyer-client relationship but what others, the bar and the public, may have thought was learned that prevents assuming a new lawyer-client relationship with a former opponent.

The Alaska Supreme Court in Alcut Corp. v. McGarvey, 573 P.2d 473 (Alaska 1978), has confirmed this position, holding

We believe that an attorney may not represent a third party against a former client where there exists a substantial possibility that knowledge gained by him in the earlier professional relationship can be used against the former client, or where the subject matter of his present undertaking has a substantial relationship to that of his prior representation.

\* \* \*

It is well established that where one member of a firm is disqualified from representing a client all are.

DATED this \_\_\_\_\_ day of July, 1978.

Charles P. Flynn  
Chairman, Ethics Committee

Adopted by the Board 12/3/78



The Committee has been asked whether or not it is proper for an attorney, representing the plaintiff, in a personal injury context, to directly contact the claims supervisor for the defendant's insurer, despite objections by defense counsel. The Committee has likewise been asked whether it is appropriate for the plaintiff's attorney to continue a conversation with a claims representative of the defendant's insurer, when that contact is initiated by the claims representative.

Outside the personal injury context, the answer to the question posed is obvious. The plaintiff's attorney is not entitled to contact the defendant directly, without the prior consent of his counsel. Likewise, the plaintiff's counsel is not ethically permitted to continue a conversation initiated by the defendant, without prior consent of the defendant's counsel. The question posed for the Committee is whether or not a claims representative of an insurance company should be entitled to substantially the same consideration. In the Committee's opinion, the claims representative should receive such consideration.

In typical personal injury litigation, the defendant is insured. A portion of the contract of insurance entitles the defendant's insurer to control the litigation, and designate the counsel for defense of that litigation. This, coupled with the insurer's duty of good faith and fair dealing toward

its insured, effectively places the insured in the position of the insured for purposes of the suit. In the Committee's view all of the evils of direct contact between an attorney for one party and the opposing party are present in direct contact with a claims representative and the Committee can see no justification for drawing a special rule to include only insurance companies and their representatives. Thus, the Committee's opinion would be that the plaintiff's attorney in the situation posed is not entitled to either contact, or continue discussion with, a claims representative of the defendant's insurer.

Dated October 28, 1978

ETHICS OPINION 78-5

The problem presented is whether it is ethical for an employee of Alaska Legal Services to refer ineligible clients and fee-generating cases to individual lawyers within the community rather than to the statewide lawyer referral office in Anchorage.

DR2-103 is the applicable rule regarding recommendations of professional employment. In particular, DR2-103(A) states that a lawyer is not prohibited from being "recommended, employed or paid by, or cooperating with, one of the following offices or organizations that promote the use of his services... if there is no interference with the exercise of independent professional judgment in behalf of his client." The section then proceeds to list the organizations from which a lawyer is not prohibited from being recommended, including one operated or sponsored by a governmental agency (such as the federally funded Alaska Legal Services Corporation). Although the rule is stated in terms that a lawyer is not prohibited from accepting a recommendation from an organization like ALSC, it would seem to follow therefrom that an employee of ALSC is not prohibited from recommending the lawyer.

Although it was primarily concerned with the fee arrangements of legal aid societies, ABA Informal Opinion No. 1334 lends support to this conclusion. In that opinion, one of the questions presented was whether a legal aid society

could accept a client and then refer the matter to private counsel who, in turn, is compensated by the legal aid society. It was ruled that "no Disciplinary Rule forbids a lawyer with a legal aid society from making such a reference or forbids a lawyer from receiving such a reference on any fee basis that is mutually satisfactory and that is not clearly excessive or illegal." Obviously, there are differences between the situation addressed in the opinion and the present problem. In the opinion, the legal aid society had already accepted the client, whereas in the present situation, the referrals are being made to persons determined to be ineligible to receive benefits from ALSC. Also, in the opinion, the fees of the lawyer referred to by the legal aid society were paid by the society, rather than the client himself. However, such differences do not prevent the conclusion that an employee of such a legal aid society is not prohibited from referring a client to another lawyer, since the same rationale used by the Ethics Committee in Informal Opinion No. 1334 is equally applicable under the present circumstances, i.e., no Disciplinary Rule forbids a lawyer with a legal aid society from making such a reference.

An obvious concern with such a conclusion is the solicitation of such referrals by private lawyers. However, Disciplinary Rules 2-103(B) and 2-103(C) would address the activities of such lawyers. DR2-103(B) states that except by paying dues to certain approved organizations, a lawyer shall

not give anything of value to anyone to recommend his employment or as a reward for having made a recommendation resulting in his employment by a client. Additionally, DR2-103(C) states that a lawyer may not request anyone to recommend him, except. he may request referrals from a referral service approved by a bar association. Any violation of these two rules would subject the offending lawyer to disciplinary proceedings, which would appear to be more appropriate than prohibiting employees of a legal aid society from making such recommendations on a good faith basis.

In conclusion, no Disciplinary Rule is necessarily violated by the referral by employees of the Alaska Legal Services Corporation of ineligible clients to private lawyers rather than to the statewide lawyers referral program.

*Approved*

*3/31/79*

ALASKA BAR ASSOCIATION

ETHICS COMMITTEE

OPINION 79-1

RECEIVED

MAR 29 1979

517, 7222 & Kuit, 106

The question posed to the Committee is:

Is it 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.

Approved  
5/19/79



ALASKA BAR ASSOCIATION

Ethics Committee Opinion No. 79-2

The question posed to the Committee is:

Is it proper for an attorney or an attorney's agent to go to the trash receptacle used by opposing counsel and remove bags of trash containing, among other things, copies of pleadings, correspondence, etc., that were discarded in the normal course of opposing counsel's operations?

The basic facts appear to be that as a hotly-contested case, involving substantial amounts of money, neared trial and while settlement negotiations were in progress, one attorney dispatched an investigator or someone else on the attorney's behalf to go to the trash receptacle used by his opposing counsel and remove bags of trash that had been disposed there in the normal operation of the opposing counsel's office.

Since a lawyer who removes or causes removal of trash containing documents from opposing counsel's office violates, if not the express letter of the Code of Professional Responsibility, then at least the spirit of it, this Committee finds such actions to be improper. Such conduct violates EC1-5 inasmuch as it is not in keeping with "high standards of professional conduct" and is not "temperate and dignified". While it is not quite such a clear violation, in this Committee's opinion, digging through and removing opposing counsel's trash is "prejudicial to the administration of justice" and "adversely reflects on his fitness to practice law" in contravention of DR1-102(B)(5) and (6). A violation of DR7-106(C)(6) also exists inasmuch as counsel has engaged "in undignified or discourteous conduct which is degrading", in the Committee's opinion, "to the tribunal". Finally, such acts clearly contravene Canon 9's mandate that a lawyer should avoid even the appearance of professional impropriety. EC9-2 and 9-6. While the conduct does not appear to be illegal, it nevertheless "diminishes public confidence in the legal system or in the legal profession." EC9-2. Clearly, a lawyer engaging in such activities has failed to:

conduct himself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust of his clients and of the public; and to strive to avoid not only professional impropriety but also the appearance of impropriety. EC9-6.

Such an attorney might be ethically required to withdraw from the case if she or he came across any confidential information. As said by Henry Drinker:

A lawyer must also observe the customs of the Bar as well as the confidences of another lawyer, although indiscreetly given and improperly received, and although this may entail his withdrawal from the case. Drinker, Legal Ethics, 195 (1958).

See, also, Op. No. 107, Opinions of the Committees on Professional Ethics of the Association of the Bar of the City of New York and the New York County Lawyer's Association (1958 ed.). Formal Opinion No. 47 of the American Bar Association requires withdrawal by an attorney who, even inadvertently, receives an improper disclosure of the opposing party's confidences.

In conclusion, while this Committee takes no position on whether an attorney engaging in the actions considered herein should be subject to discipline, it does find the conduct to be improper.

Adopted by the Board of Governors, September, 1979.

APPENDIX G

GI

Lawyer Referral Service Information

## ALASKA BAR ASSOCIATION

## OFFICERS

DONNA C. WILLARD  
PRESIDENT  
ANCHORAGE

WILLIAM B. ROZELL  
PRESIDENT ELECT  
JUNEAU

JONATHAN H. LINK  
VICE PRESIDENT  
FAIRBANKS

EDWARD G. KING  
SECRETARY  
REICHMAN

P.O. BOX 279

ANCHORAGE, ALASKA 99510

AREA CODE 907/272-7459

WILLIAM GARRISON, BAR COUNSEL

## BOARD MEMBERS

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JONATHAN H. LINK

WILLIAM B. ROZELL

RICHARD D. SAVELL

DONNA C. WILLARD

Dear Colleague:

In response to public demand for more information about the availability of legal services, the Alaska Bar Association has chartered a state-wide Lawyer Referral Service. It operates as follows:

1. Each participating attorney signs an agreement to participate in the state-wide Lawyer Referral Service (see Charter and Agreement attached).
2. For a fee of \$35.00, each lawyer may register in up to five categories of law in which he or she will accept referrals (see category list attached).
3. The State is divided into ten geographical areas and each area is kept separately for referrals (see category list).
4. Each participating attorney agrees to charge a maximum of \$25.00 for the first one-half hour consultation (see Agreement).
5. Monies generated by registration fees pay only part of the administrative costs of the Referral Service. In addition, the Alaska Bar Association runs weekly ads in area newspapers and lists the Lawyer Referral Service in practically all telephone directories in Alaska. Local Bar Associations are also encouraged to participate in funding the advertisements (see Charter).
6. Referral enrollment is on a yearly basis from June through May. A \$35.00 fee enrolls the attorney in this service.

7. Once yearly, all registration cards are filed in alphabetical order by category and geographical area and then shuffled to get random selection.

8. A caller/writer seeking a referral is given three names of attorneys registered in the category of needed service for the geographical area in which the caller seeks legal assistance.

9. If requested, a confirming letter is sent to the caller/writer to whom referrals have been made.

10. Statistical records on the number and category of referrals are maintained in the Alaska Bar Association's office, and a yearly report will be made to the Association (see Charter).

11. Because the Alaska Legal Services Corporation and the Public Defenders have difficulty knowing which attorneys are willing to accept pro bono referral work for each of those agencies, each registering attorney has the opportunity to list those categories in which he or she will accept pro bono referrals from those agencies.

This state-wide Lawyer Referral Service was chartered not only in an attempt to respond to the complaints which generated the Bates opinion, but also to the Justice Department and FTC complaints against the Bar. To date, the Service has been very successful, jointly benefiting the participating Alaska Bar members and their referral clients. Should you decide to participate, please fill out the enclosed registration cards and return them to us, along with your check.

Should you have any questions, please do not hesitate to contact this office.

Sincerely,

Randall P. Burns  
Executive Director

wj

## CHARTER

### LAWYER REFERRAL SERVICE

#### I.

Name:

LAWYER REFERRAL SERVICE OF THE ALASKA BAR ASSOCIATION

#### II.

Purpose:

To provide the general public with the names of active members of the Alaska Bar Association who are in good standing and are willing and able to accept referral clients at a reasonable fee.

#### III.

Administration:

The Alaska Bar Association shall assume responsibility for the Lawyer Referral Service and under this charter shall operate the Referral Service in the manner deemed to be in the best interest of the public and the Bar, and shall request assistance from the Bar, propose changes in the Charter, arrange for publicity, register participating lawyers in appropriate categories, authorize all administrative requirements, maintain records of operation, make an annual report to the Bar, as well as performing all other functions necessary for the successful operation of the Lawyer Referral Service.

#### IV.

Operation:

A. Each caller/writer (hereafter simply referred to as "caller") shall be given the names of three attorneys in his or her geographical area who are registered in the category for which the caller seeks services. The order of the categories shall be random, but shall be systematically rotated. The categories shall be organized into the following geographical areas:

Anchorage  
Matanuska-Susitna Valley  
Juneau  
Fairbanks  
Ketchikan

Sitka  
Kenai Peninsula  
Valdez  
Kodiak  
Rural Alaska (Kotzebue,  
Nome, Barrow, Bethel)

The attorney shall be registered in the geographical area indicated by his or her office address as listed on the registration card.

B. Each caller shall be advised that the fee for an initial one-half hour conference is a maximum of \$25.00, and that attorney/client agreement shall govern subsequent charges.

C. Each caller shall be advised to select one of the three attorneys referred and to telephone the participating attorney for an appointment. If the first attorney is unable to assume responsibility for the case, the caller shall be advised to contact the remaining two lawyers for advice.

D. A current list of names and addresses of callers shall be maintained in the Alaska Bar Association office.

E. All monies available from enrollment fees not required for administration costs shall be spent for state-wide newspaper advertising of the availability of Lawyer Referral Service to the public.

V.  
Participation:

A. Enrollment in the service is voluntary, and all active members of the Alaska Bar Association are urged to participate. Enrollment shall be on an annual basis and the calendar year shall be from June 1 to May 31.

B. Each participating lawyer shall maintain "errors and omissions" insurance of at least \$50,000.00.

C. Each participating lawyer shall pay an enrollment fee of \$35.00 for listing in up to five categories in any calendar year. This fee shall be reserved exclusively for the operation of the Lawyer Referral Service.

D. The first half-hour conference may be charged at a maximum of \$25.00. Thereafter, attorney/client agreement shall govern subsequent fees.

E. Each participating attorney may register in up to five categories selected from the following list:

1. Admiralty
2. Administrative Law (Government Agencies)
3. Bankruptcy
4. Commercial Law (Real Estate Transactions, all forms of Business Organizations)
5. Consumer (Credit/Collections)
6. Criminal
7. Discrimination
8. Eminent Domain
9. Environmental Law
10. Family Law (Divorce, Child Custody, Adoption, Name Change, etc.)
11. Immigration
12. Labor Relations



13. Landlord-Tenant
14. Mining
15. Negligence (P.I., P.D., Professional Malpractice, Products Liability, Libel/Slander, Workmen's Compensation)
16. Patent-Copyright
17. Public Interest
18. Tax
19. Traffic
20. Trusts, Estates, Wills
21. Arts Law
22. Community Legal Assistance

This preference shall be honored by the Lawyer Referral Service.

F. The attorney registrant shall indicate on each category registration card file whether he or she will accept pro bono work referred from the Alaska Legal Services Corporation and/or the Public Defender's Office in that category.

REFERRAL ENROLLMENT CATEGORIES

1. Admiralty
2. Administrative Law (Government Agencies)
3. Bankruptcy
4. Commercial Law (Real Estate Transactions, all forms of Business Organizations)
5. Consumer (Credit/Collections)
6. Criminal
7. Discrimination
8. Eminent Domain
9. Environmental Law
10. Family Law (Divorce, Child Custody, Adoption, Name Change, etc.)
11. Immigration
12. Labor Relations
13. Landlord-Tenant
14. Mining
15. Negligence (P.I., P.D., Professional Malpractice, Products Liability, Libel/Slander, Workmen's Compensation)
16. Patent-Copyright
17. Public Interest
18. Tax
19. Traffic
20. Trusts, Estates, Wills
21. Arts Law
22. Community Legal Assistance

STATE-WIDE LAWYER REFERRAL SERVICE ENROLLMENT AGREEMENT

1. I am an active member, in good standing, of the Alaska Bar Association.
2. I wish to be a member of the State-Wide Lawyer Referral Service and agree to pay \$35.00 for up to five category registrations.
3. My practice is covered by Errors and Omissions Insurance totaling at least \$50,000.00 (policy issued by \_\_\_\_\_), and shall maintain such insurance at all times while participating in the Lawyer Referral Service.
4. Enclosed is the total amount of \$35.00 to cover the registration fee for the following categories:

_____	_____
_____	_____
_____	_____

5. I (am) (am not) willing to accept pro bono work referred by Alaska Legal Services or by the Public Defender's Office in the following categories in which I am enrolled:

_____	_____
_____	_____
_____	_____

6. I agree to a maximum charge of \$25.00 for the initial one-half hour consultation.
7. In the event that petition is filed for removal to inactive status for disability and/or if formal disciplinary proceedings are initiated against me, or if a criminal complaint is filed or an indictment returned alleging a serious crime (as defined in Alaska Bar Rule #23), I hereby agree to a suspension of referrals until final resolution of the matter.

SIGNED: \_\_\_\_\_

DATE: \_\_\_\_\_

GZ

Statistical Data on Lawyer Referral

Service Usage

1978 and 1979

The following is a list of referrals given through the Alaska Bar Association State-wide Lawyer Referral Service through 11/24/78.

Total Referrals: 2356

Anchorage: 2110 (includes Palmer, Wasilla area)

Other:

Anchor Point	1	Admiralty	24
Adak	1	Administrative	55
Barrow	1	Bankruptcy	95
Bethel	1	Commercial	292
Copper Center	2	Consumer	145
Clear	1	Criminal	192
Chitina	1	Discrimination	22
Cordova	3	Eminent Domain	0
Dillingham	3	Environmental	0
Fairbanks	98	Family	778
Gakona	1	Immigration	29
Glenallen	1	Labor Relations	65
Girdwood	4	Landlord/Tenn.	98
Homer	1	Mining	4
Healy	2	Negligence	344
Indian	2	Patent/Copy.	17
Juneau	3	Public Interest	3
Kodiak	2	Tax	36
King Salmon	2	Traffic	24
Ketchikan	1	Trusts/Estates/	
Kasilof	1	Wills	151
Kenai	3		
McKinley Pk.	1		
Petersburg	1		
Soldotna	7		
Sterling	3		
Seldovia	1		
Seward	5		
Tok	3		
Tyonek	1		
Talkeetna	2		
Unalakleet	2		
Usibelli	1		
Valdez,	4		
Wrangell	1		
Willow	1		

# MEMORANDUM

Alaska Bar Association  
Box 279, Anchorage, Alaska 9951

TO: John R. Lohff, Exec. Director  
FROM: Vicki Goodrow, Bkg.  
DATE: 10/25/79  
SUBJECT: Lawyer Referral Quarterly Report 7/1/79 - 9/30/79

The following listing is the calls received by the Bar Association for Lawyer Referrals:

Family	366
Commercial	143
Negligence	95
Criminal	73
Traffic	70
Consumer	52
Administrative	36
Landlord/Tenant	35
Trusts/Wills/Estates	35
Bankrupcy	2
Labor	25
Tax	14
Admiralty	8
Discrimination	8
Immigration	5
Mining	1
Patent	<u>1</u>
TOTAL NUMBER OF CALLS IN QUARTER	994
WEEKLY AVERAGE -	76.5
DAILY AVERAGE -	15.3

cc: Donna Willard, Pres.

APPENDIX H

MEMORANDUM

P O BOX 277 ANCHORAGE ALASKA 99501

TO:

No. \_\_\_\_\_

DATE December 29, 197

BOARD OF GOVERNORS

FROM

Willie 

SUBJECT: PERSONNEL MANUAL

Attached is the personnel manual for the Bar Office.

Please insert in your Blue Manuals under Chapter III.

*June: Please*

|



ALASKA BAR ASSOCIATION

PERSONNEL MANUAL

October, 1978

FORWARD

This Personnel Manual has been prepared to inform you, the employee, of the Personnel Policies of the Alaska Bar Association and to assist you to perform your duties in a proper manner. Additions and revisions will be made from time to time, which can be inserted in the proper place in this manual.

Feel free to ask questions about any subject. Your suggestions regarding additional items will be welcome and will be given careful consideration.

This manual covers personnel regulations, operation procedures and job descriptions of the Alaska Bar Association office.

The success of any organization depends upon team work and cooperation of all its employees not only between individual employees working together but between the organization and each employee as well. It is important in this cooperative effort that each employee know as much as possible about what can be expected of the Alaska Bar Association and, in turn what the Alaska Bar Association can expect.

This manual has been prepared to bring about a better understanding of the privileges, as well as the responsibilities that go with employment with the Alaska Bar Association.

Every effort will be made to maintain a friendly and cheerful working atmosphere. Each individual can contribute to it and will be expected to do so.

CONFIDENTIALITY

A CARDINAL RULE OF THIS ORGANIZATION IS CONFIDENTIALITY. ALL FILES, RECORDS AND INFORMATION OF BAR APPLICANTS AND MEMBERS SHALL NOT BE DISCLOSED EXCEPT UPON THE EXPRESS DIRECTION OF BAR COUNSEL, THE EXECUTIVE DIRECTOR OR THE PRESIDENT OR THE BOARD OF GOVERNORS, AND UPON SUCH CONDITIONS AS MAY BE SET FORTH.

VIOLATIONS OF THIS RULE IS GROUNDS FOR IMMEDIATE TERMINATION.

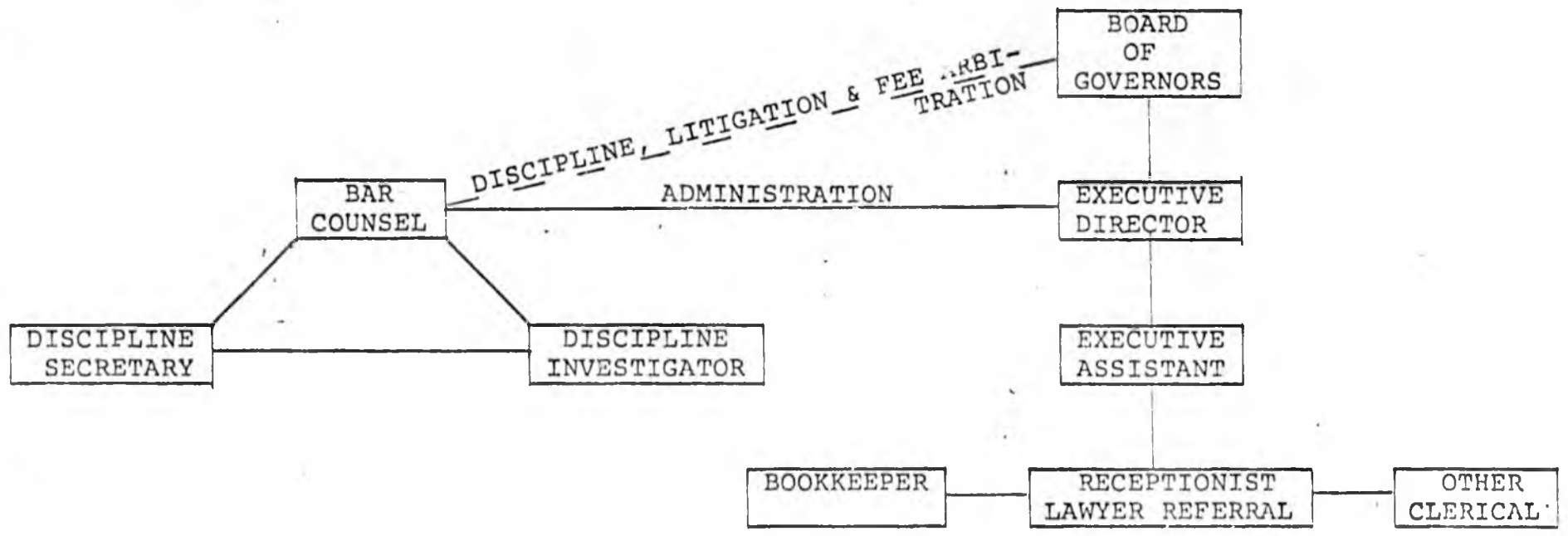
PURPOSE OF THE ALASKA BAR ASSOCIATION

The primary function of the Alaska Bar Association is to provide service to the members of the profession in Alaska, in order that they may better serve the public. Our services must be provided in a highly professional, yet cordial manner. The Alaska Bar Association provides the following services to its members: maintains records of all members of the Bar in good standing; disciplines and regulates lawyers; keeps members informed of the latest developments of law, legislation and legal management; provides various benefits to the members including insurance; assists with individual matters and distributes public information materials. The Bar Association performs services to the general public such as legal education, lawyer referral service, fee arbitration, discipline and the regulation of the unauthorized practice of law.

Each employee should become familiar with the basic functions and organi-

zational aspects of the Alaska Bar Association and should be familiar with the names of the Alaska Bar Association Board of Governors. These individuals are our employers and make all policy decisions.

ORGANIZATIONAL CHART  
ALASKA BAR ASSOCIATION



# ALASKA BAR ASSOCIATION

## PERSONNEL POLICIES AND PROCEDURES

### I. PERSONNEL POLICIES

Employment Classifications: The following are classifications of administrative staff of the Alaska Bar Association.

1. Permanent Full-Time: Those employees who work a full week, Monday - Friday, 8:30 A.M. to 5:00 P.M., and whose employment is not time-limited except by funding limitations established by the Board of Governors.
2. Permanent Part-Time: Those employees who work less than the full work week on a regularly scheduled basis and whose employment is not time limited except by funding limitations established by the Board of Governors.
3. Temporary: This category includes those positions for which the anticipated need does not exceed 120 calendar days or 960 hours. Such persons will be informed of and acknowledge the temporary nature of their employment at the commencement of their employment. The positions will be created on an "as needed" basis determined by the Executive Director and with approval of the Board of Governors.

#### PROBATIONARY PERIOD

New employees are on probationary status for a period of six months after hire or placement in a new position. During this time employment may be terminated by either the employee or the employer without giving cause upon two weeks notice. At the end of six months an evaluation is made of new employee's performance. If satisfactory, employee is given permanent status and is eligible for pay increase based on the performance of the individual. The probationary period may be extended if it appears necessary. Should the employee receive a rating of unsatisfactory, he or she will be terminated with two weeks notice.

Once an employee's probational status has ended and the employee has been notified of his or her permanent employment, he or she may have their employment terminated only as specified in the section entitled Termination.

#### PERSONNEL ACTIONS

Employment functions, work schedules, salary increases and terminations are established at the discretion of the Executive Director if not inconsistent with printed job descriptions and are, in any event, subject to the approval of the Board of Governors.

SALARY CHANGES

After an employee has been granted permanent status, his or her performance will be evaluated annually. Salary changes may thereafter be made annually with the above criteria in effect as Association funds permit. Evaluation of an employee's efficiency rating shall be made by the Executive Director or appropriate supervisor.

TERMINATION

The Executive Director may terminate the employment of an Administrative employee and Bar Counsel may terminate disciplinary employees on the date specified in a written notice delivered to the employee not less than two weeks prior to the date of termination. The Executive Director and Bar Counsel may terminate the employment of an employee without notice with pay in lieu of such notice or without notice for breach of ethics or rules of confidentiality. The Executive Director and Bar Counsel serve at the pleasure of the Board.

An employee may terminate his/her employment on a specified date in a written notice delivered to the Executive Director not less than two weeks prior to the date of termination. Failure to give such notice shall operate to forfeit accrued vacation or leave, not to exceed two weeks.

WORK SCHEDULES

The work day shall be 8:30 a.m. to 5:00 p.m. with 1 hour for lunch. Work schedules, including vacation schedules and other types of leave shall be established by the Executive Director or appropriate supervisor. Schedules will be developed by the Executive Director to assure continuous operation of the services of the Bar office. All work performed in addition to the normal work day hours shall require the express prior approval of the Executive Director or Bar Counsel. Work performed in excess of 7 1/2 hours per day or in excess of 37 1/2 hours per week shall be compensated at the rate of one and one-half the regular rate of pay.

LEAVE

Annual leave is provided to permit employees to be absent from their jobs without loss of pay. Employees are expected to give reasonable notice in requesting annual leave and to submit such request one month in advance so that work load may be scheduled among other employees.

Employees of the Alaska Bar Association shall accrue annual leave as follows:

ADMINISTRATIVE STAFF

Five-sixths working day for each full monthly pay period with less than two years service; 1-1/4 working days for each monthly pay period for 2 to 5 years.

LEAVE Cont'd

PROFESSIONAL EMPLOYEES

One and one-quarter working days for each full monthly pay period.

ALL EMPLOYEES

After five years service, 20 working days per year.

There shall be no accrual of annual leave during any monthly pay period when an employee is absent without approved leave.

A maximum of 15 days unused annual leave can be accrued where upon no additional annual leave will be earned, except for those employees with 5 years or more service.

Temporary employees shall not accrue leave credit. Employees filling permanent part-time or permanent seasonal positions shall accrue leave credit on a pro-rated basis.

Annual leave may be taken after six months employment with permission of the Executive Director.

Holidays occurring during a period of annual leave will be charged as holidays.

MEDICAL LEAVE

Medical leave is available at the discretion of the employee's appropriate supervisor.

The appropriate supervisor may require a physician certificate to support a request for medical leave.

PATERNITY/ MATERNITY LEAVE

An employee, otherwise qualified for leave of absence, may take a maximum of 9 weeks paternity/maternity leave immediately preceding and following childbirth. A maximum of 2 weeks of the leave is chargeable first to Medical Leave, and the remainder is chargeable to annual leave or leave without pay at the discretion of the employee. A physician certificate may be required to support the additional leave request.

A person taking paternity/maternity leave shall be treated as any other employee taking medical or annual leave.

COURT LEAVE

When an employee is called by proper authority to appear as a witness or to present himself/herself for jury duty, he/she will be granted court leave for a period of such service which falls during his/her regular work schedule.

The employee will present the court order, subpoena or summons to his/her supervisor when requesting court leave.

Court leave must always be substantiated by written evidence of attendance at court, showing dates and hours of service. When an employee is excused by the court for portions of the day, he/she is expected to return to work.

If any remuneration is received by the employee for performance of court services, he/she shall endorse the check to the Bar Association.

HOLIDAYS

The Alaska Bar Association observes the following holidays during the year:

- |                          |                      |
|--------------------------|----------------------|
| 1. New Year's Day        | 6. Independence Day  |
| 2. Lincoln's Birthday    | 7. Labor Day         |
| 3. Washington's Birthday | 8. Alaska Day        |
| 4. Seward's Day          | 9. Veteran's Day     |
| 5. Memorial Day          | 10. Thanksgiving Day |
| 11. Christmas            |                      |

These holidays will be taken on the days observed by the State Court System.

OTHER BENEFITS

A health and life insurance policy is provided for the employees of the Alaska Bar Association. The health and life insurance policy becomes effective thirty days following employment. In addition, the following benefits are provided to permanent employees: Workmen's Compensation.



EMPLOYEE EVALUATION SYSTEMS  
PURPOSE OF THE EVALUATION

Performance evaluation is of prime importance to both the supervisor and the employee, and should serve the following purposes:

- Find out if employee's work is up to standard.
- Help employee improve work performance.
- Let employee know how he/she is getting along.
- Give recognition for good work.
- Determine training needs.
- Assist in discharging or reducing incompetent employees

THE USE OF ITEMS

The use of items ( , , -) is very important for a complete evaluation of performance. All items must be checked to indicate strengths or weaknesses of the performance.

OVER-ALL EVALUATION

**OUTSTANDING** - Total work performance is definitely superior and well above the standards of performance required for the position. Justification must be presented in writing to substantiate this evaluation.

**COMPETENT** - The work performance is consistently up to or somewhat above the requirements of the position. This is the performance which is expected of a trained and qualified employee.

**NOTE:** When employee's performance tends to be borderline within this category, a notation to this effect should be made in the Comments section.

**IMPROVEMENT NEEDED** - A significant part of the work is below the standards required for the position, and it is reasonable to expect that the employee will bring performance up to acceptable standard. This evaluation indicates that serious effort is needed to improve performance. Factual evidence must be presented to substantiate this rating, a plan for improving the employee's performance included with the report, and a new evaluation made within the subsequent period not to exceed six months.

**UNSATISFACTORY** - Total work performance is inadequate and definitely inferior to the standards of performance required for the position and plans for improvement have not been successful or an act has been committed which makes the employee unsuitable for service. This rating must be accompanied by discharge or reduction, if the employee is still in service, and must be substantiated with written factual evidence.

ALASKA BAR ASSOCIATION OFFICE

PERFORMANCE EVALUATION

NAME	DATE
------	------

POSITION	Report Coverage FROM _____ TO _____
----------	--

REASON FOR REPORT:

- Progress Check (Probation)
- Annual
- General
- Termination

GENERAL CATEGORY RATING:

- OUTSTANDING
- COMPETENT
- IMPROVEMENT NEEDED
- UNSATISFACTORY

TE EACH FACTOR SPECIFICALLY:

Strong  Standard  Weak

1. QUANTITY:

- Amount of work performed
- Completion of work on schedule

2. QUALITY:

- Accuracy
- Neatness of work product
- Thoroughness
- Oral Expression
- Written expression

3. WORK HABITS:

- Observance of working hours
- Attendance
- Observance of rules & regulations
- Planning and organizing work
- Compliance with work instructions

3. cont'd.

- Orderliness in work
- Application to duties

4. PERSONAL RELATIONS:

- Getting along with fellow employees
- Meeting and handling the public
- Personal appearance

5. ADAPTABILITY:

- Performance in nr situations
- Performance in emergencies
- Performance w/minimum instructions

6. EVALUATING FACTS AND MAKING DECISIONS

7. SUPERVISORY ABILITY: (supervisors only)

- Planning & assigning
- Training and instructing
- Disciplinary control
- Evaluating performance
- Leadership
- Making decisions
- Fairness and impartiality
- Approachability

Use COMMENTS space to describe employees strength and weaknesses. Give examples of work well done and plans for improving performance. (factor rating of outstanding, improvement needed or unsatisfactory must be substantiated by comments.) For definition of rating standards, see EMPLOYEE RATING SYSTEMS.

EMPLOYER COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

EMPLOYEE COMMENTS:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

OVER-ALL EVALUATION

\_\_\_\_ Unsatisfactory    \_\_\_\_ Competent    \_\_\_\_ Improvement needed    \_\_\_\_ Outstanding

RECOMMENDED FOR MERIT PAY INCREASE                    \_\_\_\_ YES                    \_\_\_\_ NO

REPORT DISCUSSED WITH EMPLOYEE:

BY: \_\_\_\_\_ DATE \_\_\_\_\_

THIS REPORT HAS BEEN DISCUSSED WITH ME:

EMPLOYEES SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

COPY OF REPORT GIVEN TO EMPLOYEE:

BY: \_\_\_\_\_ DATE \_\_\_\_\_

GOAL PLAN

(Note: More than one goal can be established for each employee)

Name \_\_\_\_\_ Date \_\_\_\_\_

GOAL: UNMET \_\_\_\_\_ MET \_\_\_\_\_ SURPASSED \_\_\_\_\_

STATE GOAL(S):

Position responsibility(ies) related to goal(s):  
(Job Description)

Objectives for meeting the goal(s):

Evaluation/results:

II. PERSONNEL PROCEDURES

MONTHLY TIME AND ATTENDANCE RECORDS

Every employee of the Alaska Bar Association is required to keep a record of the actual hours worked every day on a monthly time and attendance record (See Office Form #1). They should be completed as soon as possible after the last day in the month. The purpose of these attendance records is to determine accrual of employees annual leave and sick leave. Any absences, as well as overtime or compensatory time, should be recorded in the proper columns.

At the end of each month, the forms are to be signed by the employee as well as the supervisor and sent to the Bookkeeper.

LONG DISTANCE TELEPHONE CALLS

Each employee who places long distance calls must log the call with the necessary information on a Telephone Log Sheet (See Office Form #2). Incoming collect calls will be accepted by the Receptionist only on the authorization of a Supervisor. The call will be recorded on the Telephone Log Sheet.

The bookkeeper will reconcile the phone bill. Log sheets should be turned in to this person at the end of each month. This person should check each call on the bill to see if it was actually made.

ALLOWABLE TRANSPORTATION EXPENSES

When an employee uses a private automobile while in the conduct of Alaska Bar Association business, he/she may be reimbursed for his transportation expenses at the rate of 20 cents per mile. No additional reimbursement is made for auto insurance, repairs, depreciation, etc.; but employees may be reimbursed for miscellaneous expenses such as toll charges, local phone calls, parking meter or lot expenses, cab and local bus fare. Travel between an employee's residence and his office is not considered official travel. If forms of transportation other than a personal auto are used, actual cost is the basis of reimbursement; however, when an employee must travel out of his/her city of residence overnight, per diem will be paid at the rate of \$75 per day. In addition, costs for taxi, rental car if required, and bus fare between airports and hotels will be reimbursed.

ALASKA BAR ASSOCIATION  
MONTHLY TIME AND ATTENDANCE RECORD

NAME \_\_\_\_\_

PERIOD ENDING \_\_\_\_\_

Days	Regular*	Overtime	Comp. Time	TOTAL	COMMENTS
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
18					
19					
20					
21					
22					
23					
24					
25					
26					
27					
28					
29					
30					
31					

\* Include holidays.

I certify that the reported information is correct.

Signature/Date \_\_\_\_\_

RECORD OF  
LONG DISTANCE TELEPHONE CALL

Date \_\_\_\_\_

Time \_\_\_\_\_ a.m.  
p.m.

Total Min. \_\_\_\_\_

Collect

Prepaid

Charge to \_\_\_\_\_

Number Called ( \_\_\_\_\_ )  
(Area Code and Number)

Person Called \_\_\_\_\_

of \_\_\_\_\_  
(Company)

Address \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Call Made by \_\_\_\_\_  
(Person Calling)

Ext. # \_\_\_\_\_ Dept. \_\_\_\_\_

Remarks \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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Form OA-3

#2

OFFICE FORM #2

APPENDIX

OFFICE PROCEDURES AND JOB DESCRIPTIONS: The following job descriptions list the responsibilities and procedures by which the functions of the Alaska Bar Association are accomplished, except in the case of professional employees, the supervisor may assign different responsibilities and initiate different procedures on a temporary basis to promote efficient operation to the Bar Office.

Executive Director (Professional)

Responsible for overall management of business of operations including clerical staff management, budgeting, accounting, admissions process, Board functions, and liaison with membership and general public.

Certifies applicants for Bar exams.

Supervises administration of Bar exam and grade computation.

Executes policies, programs, and projects initiated by Board of Governors. Keeps Board informed regularly of Bar office activities and general information from the APA and other sources.

Designs and administers new programs serving membership and general public.

Aggressively seeks improvements to the management of the Bar Association and increased benefits to members and public.

Bar Counsel (Professional)

The Alaska Bar Counsel shall be responsible for all litigation in which the Bar is named a party, anything to do with discipline, fee arbitration and also responsible for quarterly reports.

Re Admissions: He shall advise the executive director on the legal issues and shall represent the Bar in any proceedings arising therefrom.

If counsel and the executive director disagree, the question shall be brought before the Board.

Bar counsel may hire and fire his own secretary and has authority to prepare his budget and submit a study to the executive director. Again, if the two disagree, the question will be placed before the Board. The Board shall establish the salary ranges. The budget shall include a part-time investigator. The bar counsel and the executive director shall support each other with the mutual objective of betterment of the bar.



## OFFICE PROCEDURES AND JOB DESCRIPTIONS

### Executive Assistant

1. Pick up morning mail from Post Office, stamp in, sort, and distribute. (Delegate as appropriate to receptionist).
2. Handle Executive Director's dictation and correspondence.
3. Board of Governors:
  - a. Set up telephone conference calls.
  - b. Assist in setting up meetings, which includes hotel and travel arrangements and rooms for conferences. Coordinate these with the bookkeeper so proper fiscal records are maintained.
  - c. Prepare agenda and Board packets at least 10 days prior to meeting and mail packets to Board members, agenda included, and distribute agenda to the following:
    1. All law libraries around the State;
    2. Post on office bulletin board; and
    3. As designated by the Executive Director.
  - d. Type and File Minutes of Board meetings.
4. Committee Work
  - a. Keep list up to date.
  - b. Type letters of appointments as needed under the direction of the President.
  - c. Arrange committee meetings when requested.
5. Bar Applications
  - a. Assist when possible in accepting applications.
  - b. Review for completeness.
  - c. Assist with updating applicant roster and change of addresses.
6. Character Investigations
  - a. Assist with sending out questionnaires.
  - b. Assist with the recording of information received from questionnaires.
  - c. Check for completeness before exam i.e., receipt, attorney affidavits, fingerprint cards and photos.
  - d. Prepare Confidential Report under the direction of the Executive Director.

7. Mailings

- a. Prepare brochures, ballots etc. for printing.
- b. Plan for proper handling i.e., envelopes, postage, etc.
- c. Assist in collating, stuffing, etc. when time allows.

8. Judicial Polls

- a. Obtain information from Judicial Council
- c. Prepare ballot forms for mailing.
- c. Prepare necessary forms for ballot counting committee.
- d. Copy and mail results of polls, i.e., Judicial Council, Board of Governors, The Governor and each applicant.

9. Bar Exams

- a. Order exams for State.
- b. Set up locations, times, needs, etc. of exam for Anchorage area.
- c. Prepare instruction forms and letters to be mailed to applicants.
- d. Sort and ship necessary exams for each location.
- e. Assist during the exam where necessary.
- f. Distribute materials after exam, i.e., return to proper locations.
- g. Prepare Alaska Exams Questions under the direction of the Law Examiners chairman.
- h. Coordinate with graders and prepare graders' packets.
- i. Schedule appointments for failing applicants to review exams and provide the necessary materials.

10. Assist Executive Director in coordinating work flow and operations of the bar office among receptionist, bookkeeper and discipline secretary when available.

11. Miscellaneous

- a. Errands when necessary.
- b. Cover for receptionist when absent
- c. Assist with seminars i.e., fliers, phone calls, etc.
- d. Attend CLE seminars and meetings when necessary.
- e. Filing

Discipline Secretary

1. Grievance:

- A. Schedule appointments
- B. Assign numbers to new cases
- C. Send out letter to Respondent with copy of grievance
- D. Send Respondent's answer to Complainant
- E. Keep individual files in order
- F. Keep file cabinets in order
- G. Type misc. correspondence from dictaphone
- H. Type recommendations from dictaphone
- I. Send files to Review Committee members
- J. Pick files up from Review Committee members if not delivered back to us
- K. Close files
- L. Keep Discipline record file up to date
- M. Work on quarterly report
- N. Various filing

2. Hearing Committee:

- A. Open new files with same number as grievance file
- B. Type and send Petition for Formal Hearing
- C. Contact district chairman to set up hearing if not in Anchorage
- D. Contact court building and get room and recorder for hearing if in Anchorage
- E. Send out Notice of Formal Hearing
- F. Xerox complete file for each Hearing Committee member
- G. Mail these duplicate files out to Hearing Committee members with original file going to the Chairman
- H. Call court house to see if transcripts are ready on Anchorage hearings
- I. Keep in touch with the chairman on the status of the decision
- J. Take decision around for Committee member's signatures
- K. Make Certificate of Record
  - 1. Put file in proper order
  - 2. Type table of contents
  - 3. Type decision if not already typed
  - 4. Xerox complete file
  - 5. File original file with court
- L. Type briefs and file them with the court
- M. Various filing

3. Fee Arbitration:

- A. Schedule appointments
- B. Assign numbers to new cases
- C. Send out Notice of Acceptance of Petition for Arbitration with copies of complaint to Respondent and Complainant
- D. Tickle for 10 days and pull to be scheduled for a hearing
- E. If hearing is in Anchorage:

OFFICE PROCEDURES AND JOB DESCRIPTIONS Cont'd.

3. E.
    1. Send out Notice of Hearing to all Committee members
    2. Call Committee members to remind them of the meeting
  - F. If hearing is out of town:
    1. Call Chairman of the area to see where and what time to schedule before sending out Notice of Hearing
    2. Send out Notice of Hearing to Respondent, Complainant and Committee members
    3. Send file to Chairman
  - G. Keep in touch with the Chairman on the status of the Decision and Award
  - H. Type Decision and Award if not already typed
  - I. Take Decision and Award around for signature if not already signed.
  - J. Send copies of Decision and Award to Respondent and Complainant
  - K. Close file and file in closed drawers under Respondent's name
  - L. Keep Fee Arbitration book up to date
  - M. Various filing
  - N. All responsive pleadings and pertinent documents with respect to a Fee Arbitration proceeding are to be forwarded to the Petitioner.
4. Admissions
    - A. Type correspondence
    - B. Type briefs
    - C. Various filing
5. Law Library
    - A. Order necessary law books and periodicals
    - B. Post changes, supplements, and new orders to library
    - C. Maintain library in reasonable order
6. Misc.
    - A. Read the local newspapers daily for articles pertaining to the Bar Association
    - B. Make sure there are enough forms printed
    - C. Work on re-scheduling various meetings
    - D. Made various calls to REspondent and Complainant
    - E. Keep Bar Counsel's calendar up to date
    - F. Keep track of all files not in office area:
      1. Who checked out to
      2. When taken
      3. When returned
      4. Status of file when checked out
    - G. Help in other areas when no discipline work to do
    - H. Keep current a misc. correspondence file
    - I. Keep current an informal complaint correspondence file
    - J. Keep current an informal complaint correspondence closed file

OFFICE PROCEDURES AND JOB DESCRIPTIONS

Receptionist

1. Office order and appearance:
  - a. General
  - b. Bulletin Board
  - c. Coffee Service
2. Placing and answering phone calls:
  - a. Screen incoming calls for staff personnel and refer to appropriate secretary and take phone messages.
3. Lawyer Referral
  - a. Answers written request, incoming calls, maintains referral files and statewide referral register. Sufficient familiarity with the Lawyer Referral program is required to answer all questions regarding enrollement, etc.
  - b. Enrolls panel members and collects initial enrollment fee.
4. Visitors - greets persons with appointments or walk-ins
5. Mail - when delegated by Executive Assistant, picks up mail, opens and distributes it.
6. Office Mailings
  - a. General membership
  - b. Daily outgoing mail
7. Writes receipts for incoming money.
8. Prepares Legal Intern Permits for review and signature of Executive Director and maintains a copy for files.
9. Filing - maintains general membership and applicants files.
10. Membership Location Roster
  - a. Maintains roster
  - b. General membership - (notify UCLA/Alaska Law Review and court agencies of changes)
  - c. Bar exam applicants

11. Prepares Certificate of Good Standing for review and signature of Executive Director and maintains a copy for files.
12. Ballot Committee - records receipt of ballot.
13. Bar Applications and Admissions
  - a. Accept applications and set up files
  - b. Answer admission inquiry letters
  - c. Character investigations - assist in preparing character questionnaires and actual investigation.
14. Assist in arranging for, distribution of and collecting test for bar examination.
15. Postage Meter - responsible for filling and operation.
16. Addressograph (in addition to membership mailings)
  - a. Dues billings
  - b. Insurance billing
  - c. Bar Rag subscribers
  - d. Committee mailings
17. Xerox Machine - key operator

Bookkeeper

1. Billings and collections:
  - A. Annually (12/1 - 4/1) Alaska Bar Membership dues
  - B. Annually (6/1) Lawyer Referral panel fees
  - C. Annually - Insurance Trust annual administrative fee
  - D. Quarterly - Newsletter advertising
  - E. Quarterly - Insurance Trust Life Insurance premiums
  - F. Quarterly - Court System re. discipline contract
  - G. As needed - Checks and misc. registration fees
  - H. Annually - Billing and collection of advertising for Lawyer Referral Service from local Bar Association.
  
2. Management of funds Investment Program:
  - A. In consultation with Executive Director and Board of Governors Treasurer plan and invest/deposit Bar Association general funds in program which will earn maximum interest while maintaining funds adequate to meet current operating expenses in checking account.
  - B. Segregation of Client Security funds from general funds and investment to earn maximum interest for fund.
  - C. Investment of Alaska Bar Foundation Student Loan Fund to earn maximum interest when fund is in use.
  
3. Maintain personnel records.
  
4. Preparation of Management Information Reports
  - A. Monthly - Alaska Bar Financial Statements (accrual basis) and comparison to budgeted projections.
  - B. As needed - Financial statements re: CLE programs and Bar conventions.
  - C. Prepare yearly Budget
  - D. Budget readjustments on Quarterly Basis.
  
5. Administration of Bar Insurance Trust Fund Program
  - A. Requires familiarity with Bar Life Insurance policy provisions, enrollments and cancellation procedures - answer all questions regarding group program.

5. B. Supervise enrollments and collection of initial enrollment fees.
- C. Notifies of cancellations when appropriate
- D. PREPARES and remits monthly report and premium to group insurance carrier.
- E. Maintains and posts accounts receivable insurance card monthly.
- F. Deposit and record all premiums.
  
6. C.L.E.
  - A. In consultation with Executive Director and C.L.E. Committee
    1. Obtain cost estimates and organize facilities for presentation in Anchorage.
    2. Coordinate arrangements and scheduling, for presentations in Fairbanks, Juneau, Ketchikan, etc., and obtain attendance and cost estimates.
    3. Prepare budget and set enrollment fees.
    4. Prepare and organize flyer mailing (consult Executive Director for content of flyer if necessary.)
    5. Responsible for advance registration and door registration in Anchorage.
    6. Responsible for shipment of materials to other locations.
    7. Coordination with other locations re: advance registration.
    8. Recording of financial data for all presentations-accounting for all printed materials and return of unused materials to source - record of attendees and accounting plus payment to source of materials.
  
7. Bar Conventions and other events requiring registration
  - A. Maintain financial records
  - B. Record advance registrations
  - C. Be prepared to assume responsibility and accountability for printed materials
  
8. Maintain membership status records
  - A. Record changes in membership status per instructions of Executive Director and bill accordingly
  - B. Answer inquiries re: procedures for change in membership status (Requires familiarity with provisions of By-Laws on status change.)



OFFICE PROCEDURES AND JOB DESCRIPTIONS Cont'd.

9. Purchasing and supplies
  - A. Responsible for purchase and routing of supplies including coffee - expected to maintain familiarity with prices of supplies and to purchase at least cost to the Bar Association.
  - B. With approval of Executive Director responsible for purchase of other supplies and equipment after obtaining bids from suppliers.
  - C. Responsible for maintaining re-order signals at appropriate places in inventory of each type of supply (Letterhead to be tickled for change immediately after each Annual Bar Convention)
  
10. Furniture and equipment control
  - A. Maintain inventory
  - B. Advise Executive Director on costs, purchases, etc.
  - C. Record and maintain records of maintenance contracts, see that provisions of contracts are carried out, i.e., make sure that maintenance is provided.
  - D. Responsible for ordering equipment repair when necessary.
  
11. Audits - Cooperate with Association auditor in preparation of annual financial statements.
12. Stamps for employees
13. Maintain accurate accounts receivables and account payables ledgers.
14. Maintain Petty Cash fund
15. Maintain information sent and received in regards to suspension.
16. Start new admittees cards and send Bar pamphlets
17. Assist in preparing correspondence when time permits at direction of Exec. Asst.

## EMPLOYEE EVALUATION SYSTEMS

The purposes of the employee evaluation system include the following:

1. Inform the employee of expected standards of performance.
2. Provide a guide for judging the employee's performance.
3. Provide the employee with concrete information about his/her supervisor's evaluation of performance at the Bar Association Office.
4. Provide the Employee's supervisor with data upon which to grant merit pay increases.

### EVALUATION SCHEME

Receptionist - Evaluated by the Executive Director in consultation with the Executive Assistant.

Bookkeeper - Evaluated by the Executive Director in consultation with the Board of Governors' treasurer.

Executive Assistant -- Evaluated by the Executive Director in consultation with the Board of Governors' President.

Discipline Secretary - Evaluated by the Bar Counsel in consultation with the Executive Director only with respect to that part of the discipline secretary's assistance in the general bar office activities.

The evaluation of each employee is to be prepared by the appropriate supervisor based on observations, work habits and performance of the employee, and appropriate comments from the Board of Governors of the Bar Association.

The Goal of the Bar Association office is to provide effective, precise, rapid, helpful and cordial service to the Alaska Bar Association, and to the Alaska public while maintaining an enjoyable work environment for the employees of the Alaska Bar Association.

### USE OF THE EVALUATION SCHEME

When an employee first starts an evaluation period, the appropriate supervisor will schedule a conference with the employee to establish a mutual understanding of the employee's office procedures and job description. The standards of work performance will be established as well. At that time, the employee will individually or in discussion with the supervisor, establish goals for accomplishment during the rated period. These goals may range from improving performance, to maintaining previous standards, to developing more effective methods of accomplishing the job, to learning new skills for application on the job, on to most any area that promotes the Alaska Bar Association goals.

## EMPLOYEE EVALUATION SYSTEMS

### USE OF THE RATING SCHEME      Cont'd

Any appropriate suggestions or modifications of employee performance noted during the evaluation period, shall be communicated in a tactful private conference between the employee and appropriate supervisor. A quarterly review of employee performance at a private conference shall be conducted.

At the end of the evaluation period the appropriate supervisor shall prepare a draft copy of the employee rating form and discuss this evaluation with the employee. The comments of the employee are to be noted on the evaluation form and any changes to the evaluation form shall be noted during the conference. Included in the evaluation shall be an analysis of the employee's effectiveness at meeting the performance goals established by the employee.

The final draft of the employee evaluation form shall be prepared in duplicate and shall include the matters discussed in the evaluation conference. One copy of the evaluation form will be maintained in the Bar office and one copy given to the employee.

### EVALUATION TIMES

- A. At the end of the six months probationary period for a new employee.
- B. At the end of the first year of employment for a new employee.
- C. Annually after the first year of employment at a time so that the rating can be used for consideration of merit pay increases.
- D. Termination of employment.
- E. Other times as may be necessary or warranted.

## II. OFFICE PROCEDURES

### 1. Filing System

Original  
White - Carbon copies  
Pink - Our file copy  
Yellow - Reading file

### 2. Files - Color Coding of Tabs

Membership & applicants — Salmon  
✓ Fee Arbitration — Green  
✓ Discipline — White  
✓ Disc. Hearing Committee — Orange  
✓ Waivers — Black  
✓ Administrative — Blue  
Blank forms — Red

### 3. Ethics Opinions

- A. Filing - Upon receipt of an opinion, the original is filed in the Ethics Opinion file. A copy is placed in the green Ethics Opinion book.
- B. Update the Table of Contents in the green book.
- C. Send copies to all State Law Libraries advising that the opinion is a new Ethics Opinion approved by the Board of Governors and suggesting that "to keep your set of opinions up-dated, it will be necessary for you to add the new opinion to the Table of Contents." Also circulate to Board of Governors.
- D. Opinions must also be published in the Bar newspaper.

### 4. Admissions Applications

Applications should be processed daily, if at all possible. Receipts for admission fees should be written after the morning mail distribution, or immediately when an application is hand-delivered. Copies of receipts are processed as follows:

- A. White Copy - Give to applicant  
B. Yellow Copy - Give to Bookkeeper with check  
C. Pink Copy - Attach to application (Will be taped to folder when processing the application.)

There are three types of applications:

- A. Original Applicants  
B. Attorney Applicants  
C. Re-applicants

Process applications as follows:

- A. Review application in its entirety for the following items which are to be filed with the application (Original and attorney applicants.)
  1. Fee
  2. Two Photos
  3. Two completed fingerprint cards
  4. Signature and/or notarization on Application and Authorization and Release forms
  5. Location exam is to be taken
  6. Typing or writing exam
  7. Substitution of MBE scores
  8. Smoking or non/smoking section
  
- B. Check application for the following information:
  1. Adequate mailing addresses and zip codes on questions 6, 25, and 26
  2. Has applicant given three references on question 25 for each location listed under question 2
  3. Is certificate of Graduation included with application
  4. Is law school accredited by ABA
  5. Is residence information on application or an Affidavit of Residence attached
  
- C. If an attorney applicant, check all of the above plus:
  1. Has applicant included a Certificate from a Bar or court showing he was admitted to practice in another state and is a member in good standing of a state bar.
  2. Affidavits from prior employers or clients showing applicant has engaged in active practice of law for 5 of the last 7 years. (3 affidavits are required.)
  
- D. If a re-applicant:
  1. Remove folder from storage files
  2. Review for necessary fees
  3. Make sure original application is up-dated on the re-application where necessary, i.e. employment changes, residence, etc.
  4. Review for any missing documentation
  
- E. Prepare file folder on each applicant as follows:
  1. Type folder label showing applicant's last name first, in CAPS and month and year of exam to the right
  2. Prepare roster strips noting name (last name, first in CAPS, address and phone number)

OFFICE PROCEDURES Cont'd

- F. Prepare Form Letter #A4 for Executive Director's signature, and attach to front (outside) of folder
  - G. Set up folder as follows:
    - 1. Left side: Application or re-application forms and correspondence to or from applicants (Fingerprint cards should be on left side when returned from Department of Public Safety.)
    - 2. Right side: Summary Sheet (Form A5) and character investigation report when received
  - H. Folders are then submitted to Executive Director for review and signature
  - I. When folder is returned by Executive Director, mail the letter, place strip on roster board and file folders in proper drawer in alphabetical order
  - J. Character investigation can then commence
5. Preparing for Exams
- A. Have as much printing done as possible 3 to 4 weeks in advance. You will need the following printing done:
    - 1. Exam permits (Number of applicants doubled)
    - 2. Notice of Board approval
    - 3. Instructions to applicants and proctors (Number of applicants and proctors.)
    - 4. Denial letters (Have a supply of approximately 35 on hand.)
    - 5. Alaska Questions (See ordering and distribution instructions.)
  - B. Make sure supplies such as pencils, paper, staplers, etc. are available.
  - C. Cut typing paper for answer booklets for those applicants typing the exam
  - D. Check with Hotel 3 to 4 weeks in advance to make sure all arrangements are in order for room in which to administer exam.
6. Ordering and Distribution of Bar Exams
- A. Go thru roster and list by locations, i.e. Anchorage, Fairbanks, Juneau, and Ketchikan, the number of persons taking the exam number substituting MBE scores, number typing or writing and number taking General and Attorney exams

B. Approximately 4 to 6 weeks before the exam send orders as follows:

1. CALIFORNIA ESSAY QUESTIONS (Taken by all but the attorney applicants except those who have elected to take the MBE.)

Order from: California Bar Examiners, 555 Franklin Street, First Floor, San Francisco, CA 94102. They should be mailed to Alaska Bar Association 360 K Street, Suite 240, Anchorage, AK, 99501

2. MULTI-STATE BAR EXAMS (Taken by all except those substituting the MBE or attorney applicants who have elected to take the Essay portion.)

Order from: National Conference of Bar Examiners, Mr. Joe Covington, University of Missouri, Tate Hall, Columbia, Missouri 65201. Have these shipped directly to each location in the numbers needed.

3. If either of the above are ORDERED BY PHONE, YOU SHOULD CONFIRM BY LETTER IMMEDIATELY

C. When the exams are received in the Bar Office from the California Bar Examiners distribute as follows:

1. Call Chairman of the Law Examiners Committee to come over and check out the California questions, set up sessions and number the Alaska Questions.
2. Prepare Alaska Questions for printing. These questions are written by the Committee of Law Examiners. We do the rough draft and necessary changes as the Committee gets them ready. Order enough for all locations.

.. Do cover sheet for Alaska Questions by showing correct date and session (This cover should be the same as on the California questions.) Run on legal size paper, and print back to back. You may have more than one question on a page (See California exams.) Have the printer run back to back (print on both sides of paper.)

D. Once Chairman of Law Examiners has numbered and noted sessions, the following should be done:

1. Spread out the answer booklets and cover the word "California" with a stick-on tab on each booklet.
2. Do same as above on the questions.

3. Sort out number needed for each location for Ketchikan, Juneau, and Fairbanks. Do one location at a time and save Anchorage for last
4. Remove paper from answer booklets and insert paper for applicants typing the exam.
5. Call Air Borne Freight (243-4313) giving them information for shipping to the various locations and approximate number of boxes and weight
6. Pack and prepare for shipping via Air Borne Freight, to the various locations. Each location should receive:
  - a. The questions
  - b. The answer booklets
  - c. Roster of persons taking the exam in their location
  - d. Notice of Board approval
  - e. Instruction to applicants and proctors
7. Send to the Board members in each location, giving a street address to insure proper delivery by Air Borne Freight

7. Bar Examination Permits and Denials

- A. These must be issued at least 10 days prior to the first day of the exam.
- B. Approximately 15 days before actual deadline:
  1. Need a roster from Executive Director indicating (a) approvals to take exam, and (b) denials.
  2. Pull names of denials from the main roster and set up a separate roster on these people, names remaining will be approved applicant roster.

8. To Issue Permits:

- A. Number the persons on the approved roster, starting with the number 4000 and beginning in the middle of the roster. (i.e. start with 4000 in the J's or K's - go to the end of the roster and then continue on with the beginning of the roster in the A's.)
- B. Type permits (original and one carbon) by inserting the correct information as follows:
  1. Name
  2. Exam date
  3. Type of exam (Attorney or General)
  4. Write or type
  5. Location
  6. Permit number
  7. Date



- C. Have Executive Director sign each permit, then mail by registered mail enclosing Notice of Board Approval and instructions to proctors and applicants.
- D. Set up location roster from permits for:
  - 1. First District (Southeastern Alaska)
  - 2. Second and Fourth Districts (Fairbanks area)
  - 3. Third District (Anchorage, Valdez, Kenai, etc.)
- E. File copy of permit in applicant's folder.

9. To Issue Denials:

- A. Remove strips from main roster and set up separate roster for "Denials" as noted above.
- B. Type original and one carbon copy of letter referring to certificate of graduation or affidavit or residence being needed to complete file. If other than C/G or A/R is needed, adjust letter accordingly.
- C. File copy of letter in applicant's folder.
- D. As applicant brings in the necessary items and after approval by Executive Director issue exam permit and have Executive Director sign.

10. Distribution of Examination After Exam

When all materials are received in the Bar office from other locations:

- A. Remove all Alaska answers from boxes.
- B. Combine California essay answer booklets by session:
  - 1. Make sure in numerical order.
  - 2. Check for number inside of books (Remove if you find any)
  - 3. Cut down paper in answer booklets if necessary
- C. Prepare California essay booklets for shipping to California Bar Association, 555 Franklin Street, First Floor, San Francisco, California.
  - 1. Check booklets against roster.
  - 2. Enclose copy of roster with booklets.
  - 3. Ship via Air Borne Freight.
- D. Committee of Law Examiners will grade Alaska questions in Anchorage.
- E. Board meets to approve exam results. February exam is usually approved in May. July exam is usually approved in October.

F. After Board decisions:

1. Notify successful applicants (telephone, telegram, etc.)
2. All applicants must receive "Notification of Determination."

G. Prepare for printing and mailing:

1. Notice of Determination to passees.
2. Notice of Determination to failures.
3. Affidavit, i.e. Certificate of Compliance
4. Admission Ceremonies
5. Petition for Supreme Court

11. Mailings to Examinees

- A. Notice of Pass mail by regular mail.  
Notice of Fail mail by certified mail.

B. To Admittees mail the following:

1. 1 copy of Notice of Determination (1 copy in file)
2. 1 copy of Affidavit
3. 1 copy of Oath of Attorney
4. 1 copy of Admission Ceremonies
5. 1 Registration card

C. To Failures mail the following

1. Notice of Determination

12. Post Results

13. Admissions Appeals

A. File for master on admissions appeals

1. File should contain originals of necessary documents
2. Keep a duplicate of file sent to master for our records.
3. Need a covering letter to master showing what is in his file.

14. Admission Appeals to Supreme Court

A. Table of contents must be done

1. Number every page in lower right corner.  
(Must be in date order most recent on top)
2. If more than 1 folder - list File 1, File 2, etc.
3. Type table of contents noting names of documents, date, and page number.

1. Prepare master score sheets utilizing 14 columnar paper. The headings are as follows:

1st Column	-	Applicant code number
2nd	"	- California essay score
3rd	"	- California re-read score
4th	"	- Alaska essay score
5th	"	- Total essay raw score
6th	"	- Total essay percentage
7th	"	- Leave blank for computation figures
8th	"	- Total essay re-read score
9th	"	- Total essay re-read percent
10th	"	- MBE scale score
11th	"	- MBE percent (135=70)
12th	"	- Leave blank for computations
13th	"	- Total combined score
14th	"	- Total combined score after re-read

2. Using the California score sheet, insert the applicant code and total California essay scores in the appropriate columns.
3. Set up a master score sheet for Alaska essay scores. A 6 columnar pad is necessary, columns to be headed up as follows:

1st Column	-	Applicant code number
2nd	"	- Question #1
3rd	"	- Question #2
4th	"	- Question #3
5th	"	- Question #4
6th	"	- Total Scores

Post totals from each score sheet provided by Alaska Law Review Committee. When all 4 questions have been read, total the score and insert the number in the total score column.

4. Insert Alaska scores on master score sheet.
5. Utilizing the MBE score sheets, convert the MBE applicant code numbers to the California and Alaskan applicant numbers. Then insert MBE scale score into the appropriate column on the master score sheet.
6. Employing the equivalency table insert the MBE percentage by applicant.
7. Add the California essay score to the Alaska essay score and insert the total in column, "Total Essay Raw Score".
8. Divide the total essay raw score by 12, which is the number of questions for which the score is computed. Enter that figure in the "Total Essay Percentage" column. The percentage should be computed to the nearest 10th of a percent, in other words, if the total essay percent is 66.58, it should be rounded off to 66.6%, however, if the score were to come out 66.52 the score to be entered into the essay column would be 66.5.

- 9.
- J. Multiply the total essay percent times 3 and insert that figure in the "Total Essay % x 3" column following "Total Essay Raw Score". Then multiply the MBE percentage times 2 and enter that in the "MBE % x 2" column following MBE percent. Those two figures are then added together and inserted in "Total of Column 6 + 11" and divide by 5 to give the final total combined score.
10. Those scores which fall between 65% and 70% as a total combined score then go to re-read. After the Alaska Law Review committee has re-read the California essay in that category the scores are then recomputed, using the same method but inserting the figures in the re-read columns.

APPENDIX I

1978 PROPOSED BUDGET &  
1976 and 1977 BUDGET COMPARISON

INCOME	1976 BUDGET	1977 BUDGET	PROPOSED 1978 BUDGET
A. Members Dues	\$ 144,635	\$ 169,061	\$ 194,223
B. Admission Fees	45,800	46,675	51,500
C. Client Security Fee	8,280	9,769	11,189
D. C.L.E. Fees	10,000	10,475	25,250
E. Insurance Fees	3,500	1,780	2,000
F. Lawyer Referral Fees	800	1,020	2,500
G. Newsletter	600	346	400
H. Bar Convention	12,000	10,000	n/a
I. Contract, Anchorage Bar	4,650	4,080	n/a
J. Contract - Discipline	20,000	22,000	24,684
Interest	2,600	1,500	2,500
Miscellaneous	400	600	500
	<u>\$ 253,265</u>	<u>\$ 277,306</u>	<u>\$ 314,746</u>
Less Funds Transferred to Client Security Fund Asst.	8,280	9,769	11,189
Total Income to General Fund	<u>\$ 244,985</u>	<u>\$ 267,537</u>	<u>\$ 303,557</u>
<u>EXPENSES</u>			
A. Board of Governors	\$ 12,600	\$ 15,650	\$ 19,500
Admissions	42,400	45,000	35,250
C. Client Security Trust Fund	5,000	9,769	n/a
D. C.L.E.	9,900	12,400	25,250
E. Committees	1,500	2,750	7,500
F. Legislative	11,900	10,000	10,000
G. Newsletter	7,400	1,500	1,500
H. Convention	12,000	12,000	1,000
I. Lawyer Referral	5,050	5,800	8,500
J. Discipline & Unauthorized Practice	20,000	70,000	70,000
K. U.C.L.A.-Alaska Law Review	7,650	8,448	8,448
L. Administrative	99,225	118,000	110,000
M. Judicial Poll	4,700	4,500	1,200
N. Insurance	2,385	1,200	1,200
O. Fee Arbitration		5,000	2,000
	<u>\$ 241,710</u>	<u>\$ 322,017</u>	<u>\$ 301,378</u>
Excess of Income Over Expense	<u>\$ 11,555</u>	<u>(\$ 44,711)</u>	<u>\$ 2,179</u>

	1978 BUDGET	APPROVED 1979 BUDGET
<u>INCOME</u>		
A. Members Dues	\$ 194,223	\$ 220,647
B. Admission Fees	51,500	51,925
C. Client Security Fees	11,189	12,833
D. C.L.E. Fees	25,250	30,000
E. Insurance Fees	2,000	1,550
F. Lawyer Referral Fees	2,500	3,000
G. Newsletter	400	N/A
H. Bar Convention	N/A	5,000
I. Hawaii Meeting	N/A	15,000
J. Contract: Anchorage Bar	N/A	4,200
K. Contract: Discipline	24,684	61,500
L. Interest	2,500	4,000
M. Miscellaneous	500	500
	<u>\$ 314,746</u>	<u>\$ 410,155</u>
Less Client Security Funds	11,189	12,833
Total Income to General Fund	<u>\$ 303,557</u>	<u>\$ 397,322</u>

EXPENSE

A. Board of Governors	\$ 19,500	\$ 30,000
B. Admissions	35,250	35,886
C. Client Security Fund	N/A	N/A
D. C.L.E.	25,250	20,000
E. Committees	7,500	5,000
F. Legislative	10,000	10,000
G. Newsletter	1,500	4,000
H. Convention	1,000	5,000
I. Hawaiian Meeting	N/A	15,000
J. Lawyer Referral	8,500	16,188
K. Discipline	70,000	100,000
L. UCLA-Ak Law Review	8,448	9,000
M. Administrative	110,030	126,000
N. Judicial Poll	1,200	N/A
O. Insurance	1,200	4,800
P. Fee Arbitration	2,000	N/A
Q. American Bar Association		5,000
R. Western State Bar Conference		2,500
	<u>\$ 301,378</u>	<u>\$ 388,374</u>
Excess of Income over Expense	\$ 2,179	\$ 9,948

APPENDIX J



51

1976 and 1977 Official Audits of the  
Alaska Bar Association

ALASKA BAR ASSOCIATION

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 1977 AND 1976

CONTENTS

FINANCIAL STATEMENTS	PAGE
Accountants' Report	1
Balance Sheets - General Fund	2
Statement of Unrestricted Revenues and Expenses and Changes in Fund Balances - General Fund	3
Balance Sheets - Client Security Fund	4
Notes to Financial Statements	5-8

February 16, 1978

The Members  
Alaska Bar Association  
Anchorage, Alaska

We have examined the balance sheet of the Alaska Bar Association as of December 31, 1977, and the related statements of unrestricted revenues and expenses and changes in fund balances for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Alaska Bar Association at December 31, 1977, and the results of its operations for the year then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.



TERRY L. PETRUSKA, C.P.A.

ALASKA BAR ASSOCIATIONBALANCE SHEETSGENERAL FUND

	December 31	
	1977	1976
<u>ASSETS</u>		
Current Assets:		
Cash	\$ 159,160	\$ 113,675
Accounts receivable (Note B)	9,507	4,338
Prepaid expenses		2,997
Total Current Assets	148,767	121,010
Library and Equipment (Note A)		
Video Tape library	4,830	4,830
Library	1,868	1,868
Office furniture and equipment	17,092	15,076
	23,790	21,774
Less accumulated depreciation	(13,513)	(10,543)
Total Library and Equity	10,477	10,926
	<u>\$ 159,244</u>	<u>\$ 131,936</u>

LIABILITIES AND FUND BALANCE

Current Liabilities:		
Accounts payable	\$ 9,208	<del>\$ 6,525</del>
Accrued and withheld payroll taxes	375	1,085
Unearned membership dues (Note A)	47,029	39,960
Unearned fees (Note A)	16,430	11,200
Note payable (Note C)	552	2,097
Payable to client security fund (Note D)	3,284	2,290
Total Current Liabilities	76,878	62,957
General Fund Balances:		
Reserve for working capital (Note E)	13,577	13,577
Unappropriated	68,789	55,402
Total Fund Balance	82,366	68,979
	<u>\$ 159,244</u>	<u>\$ 131,936</u>

See notes to financial statements.

ALASKA BAR ASSOCIATIONSTATEMENT OF UNRESTRICTED REVENUES AND EXPENSES  
AND CHANGES IN FUND BALANCE

	<u>GENERAL FUND</u>	
	<u>Year Ended</u> <u>December 31</u>	
	<u>1977</u>	<u>1976</u>
<b>REVENUES:</b>		
Membership dues	\$ 166,294	\$ 143,993
Admission fees	48,000	40,213
Continuing legal education	14,484	8,956
Insurance fees	2,565	1,925
Convention revenues	3,747	16,754
News Letter revenues	-	660
Interest income	5,102	1,146
Lawyer referral and administrative services - Anchorage Bar Association	5,188	4,453
Alaska Court System contract for disciplinary services	37,301	21,766
Miscellaneous	694	769
	<u>283,375</u>	<u>240,755</u>
<b>EXPENSES:</b>		
Bar admission (Note F)	32,164	33,079
Board of Governors (Note F)	14,635	11,517
Discipline and unauthorized practice (Note F)	69,405	22,660
Continuing legal education	11,673	8,705
Committees	2,265	137
Legislative	9,376	9,952
News Letter	896	1,675
U.C.L.A. - Alaska Law Review	8,122	10,630
Convention	9,342	16,847
Lawyer referral	5,605	548
Administrative (Note F)	106,505	95,480
	<u>269,988</u>	<u>211,590</u>
Excess of unrestricted revenues over expenses	13,387	29,045
<b>FUND BALANCE:</b>		
Beginning of year	68,979	39,934
End of year	<u>\$ 82,366</u>	<u>\$ 68,979</u>

See notes to financial statements.

ALASKA BAK ASSOCIATIONBALANCE SHEETCLIENT SECURITY FUND

	<u>December 31</u>	
	<u>1977</u>	<u>1976</u>
<u>ASSETS</u>		
Cash	\$ 17,729	\$ 8,138
Receivable from General Fund	3,285	2,290
	<u>\$ 21,014</u>	<u>\$ 10,428</u>

FUND BALANCE

Beginning of year	\$ 10,428	\$ 7,480
Additional contributions	10,586	2,948
End of year	<u>\$ 21,014</u>	<u>\$ 10,428</u>

- See Note D -

See notes to financial statements.

## ALASKA BAR ASSOCIATION

## NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1977 AND 1976

Note A. Summary of Significant Accounting Policies.

## (1) Accounting basis for reporting income.

The Association's accounting records are maintained on the accrual method. Receipts for membership dues are recognized as revenue in the period to which they apply. Administrative fees collected for the Alaska Bar Insurance Trust Fund are recognized as income by the General Fund when received. Fees collected from applicants for admission to the Association are recognized as follows:

- (a) Forms and charter investigation fee are recognized when received.
- (b) Application fee is recognized during the period in which the applicant sits for the examination.

## (2) Library and Equipment.

Contributions of books are recorded at their estimated fair market values at time of receipt, and other items are recorded at cost. Depreciation expense is computed by the straight-line method over the estimated useful life of the asset.

## ( ) Income Taxes.

The Association is exempt from income taxes as a public agency of the State of Alaska.

Note B. Accounts Receivable.

Accounts receivable were due from the following:

	December 31	
	1977	1976
Alaska State Court	\$ 6,713	\$ 2,455
Idaho Bar Association	1,109	1,109
Alaska Bar Association Insurance Trust Fund	1,030	205
Anchorage Bar Association	455	569
	<u>\$ 9,307</u>	<u>\$ 4,338</u>



## ALASKA BAR ASSOCIATION

## NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1977 AND 1976

Note C. Note Payable.

The Association is obligated on an installment note, dated April 3, 1975, payable in 36 equal installments of \$141 per month including interest. Collateralized by duplicating equipment.

Note D. Client Security Fund.

During 1975, the Board of Governors established a fund, pursuant to a rule promulgated by the Supreme Court of the State of Alaska, to provide amounts for settling claims related to members' client trust funds. The Client Security Fund is funded from membership dues.

Note E. Reserve for Working Capital.

The reserve was created by the Board of Governors as a segregation of the General Fund Balance. The fund is not restricted to any specific purpose.

Note F. Detail of Selected Expenses.

	December 31	
	1977	1976
Bar admission:		
Rentals	\$ 1,739	\$ 1,349
Mailing and supplies	2,549	639
Salaries	8,573	9,110
Grading fees and per diem	14,462	10,103
Litigation costs	3,642	10,953
Telephone and miscellaneous	1,199	937
	<u>\$ 32,164</u>	<u>\$ 33,079</u>
Board of Governor's:		
Travel and per diem	\$ 11,838	\$ 8,608
Telephone	1,469	1,324
Rent	370	1,130
Postage and supplies	488	291
Miscellaneous	470	164
	<u>\$ 14,635</u>	<u>\$ 11,517</u>

## ALASKA BAR ASSOCIATION

## NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1977 AND 1976

## Detail of Selected Expenses. (Continued)

	December 31	
	1977	1976
Discipline and unauthorized practice:		
Salaries	\$ 62,293	\$ 20,284
Supplies	3,028	464
Travel	3,188	176
Telephone	896	446
	<u>\$ 69,405</u>	<u>\$ 21,370</u>
Administrative:		
Telephone and telegraph	\$ 1,395	\$ 2,099
Salary of Executive Director	40,917	35,700
Expense allowance and travel, Executive Director	3,743	1,200
Secretarial and bookkeeping salaries	27,077	29,292
Office supplies	2,688	4,906
Postage	3,997	4,576
Office equipment rental	6,180	3,902
Audit and accounting	3,424	2,850
Library	804	633
Payroll taxes	7,547	5,357
Depreciation	2,465	2,335
Insurance, including employee medical	2,168	1,372
Reproduction and printing	1,525	478
Tues	255	125
Interest expense	147	314
Judicial poll	956	491
Miscellaneous	1,217	210
	<u>\$106,505</u>	<u>\$ 95,840</u>

Note G. Group Insurance Fund Transfer

On March 31, 1976, the Association transferred the assets and liabilities of the Group Insurance Fund to the Alaska Bar Association Trust Fund. Below is a summary of the assets and liabilities transferred to the trust:

ALASKA BAR ASSOCIATIONNOTES TO FINANCIAL STATEMENTSYEARS ENDED DECEMBER 31, 1977 AND 1976Note G. Group Insurance Fund Transfer. (Continued)

Cash	\$ 3,616
Premiums and administrative fees receivable	<u>469</u>
Assets transferred	<u>\$ 4,085</u>
Insurance premiums received in advance	\$ 3,716
Administrative fees collected for the Alaska Bar Association	<u>369</u>
Total liabilities transferred	<u>\$ 4,085</u>

JZ

1977 and 1978 Official Audits of the  
Alaska Bar Association

ALASKA BAR ASSOCIATION

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 1978 AND 1977

CONTENTS

<u>FINANCIAL STATEMENTS</u>	<u>PAGE</u>
Accountants' Report	1
Balance Sheets - General Fund	2
Statement of Unrestricted Revenues and Expenses and Changes in Fund Balances - General Fund	3
Balance Sheets - Client Security Fund	4
Notes to Financial Statements	5-7

February 1, 1979

The Members  
Alaska Bar Association  
Anchorage, Alaska

We have examined the balance sheet of the Alaska Bar Association as of December 31, 1978, and the related statements of unrestricted revenues and expenses and changes in fund balances for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Alaska Bar Association at December 31, 1978 and the results of its operations for the year then ended in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

TERRY L. PETRUSKA, C.P.A.

ALASKA BAR ASSOCIATION

BALANCE SHEETS

GENERAL FUND

	December 31	
	<u>1978</u>	<u>1977</u>
<u>ASSETS</u>		
Current Assets:		
Cash	\$ 140,925	\$ 139,460
Accounts receivable (Note B)	14,872	9,307
Prepaid expenses	2,120	-
Total Current Assets	<u>157,917</u>	<u>148,767</u>
Library and Equipment (Note A)		
Video Tape library	4,830	4,830
Library	1,868	1,868
Office furniture and equipment	24,926	17,092
	<u>31,624</u>	<u>23,790</u>
Less accumulated depreciation	<u>(15,334)</u>	<u>(13,313)</u>
Total Library and Equity	<u>16,290</u>	<u>10,477</u>
	<u>\$ 174,207</u>	<u>\$ 159,244</u>

LIABILITIES AND FUND BALANCE

Current Liabilities:		
Accounts payable and accrued expenses	\$ 2,302	\$ 9,583
Advanced fees for Hawaii convention	20,478	-
Unearned membership dues (Note A)	62,028	47,029
Unearned fees (Note A)	11,700	16,430
Note payable	10,000	552
Payable to client security fund (Note C)	3,453	3,284
Total Current Liabilities	<u>109,961</u>	<u>76,878</u>
General Fund Balances:		
Reserve for working capital (Note D)	13,577	13,577
Unappropriated	50,669	68,789
Total Fund Balance	<u>64,246</u>	<u>82,366</u>
	<u>\$ 174,207</u>	<u>\$ 159,244</u>

See notes to financial statements.



ALASKA BAR ASSOCIATION

STATEMENT OF UNRESTRICTED REVENUES AND EXPENSES  
AND CHANGES IN FUND BALANCE

GENERAL FUND

	Year Ended	
	December 31	
	<u>1978</u>	<u>1977</u>
<b>REVENUES:</b>		
Membership dues	\$ 191,266	\$ 166,294
Admission fees	48,686	48,000
Continuing legal education	11,687	14,484
Insurance fees	1,392	2,565
Convention revenues-Hawaii	16,080	-
Convention revenues-Other	13,621	3,747
Interest income	7,433	5,102
Lawyer referral	3,125	960
Administrative services-Anchorage Bar	975	4,228
Alaska Court System contract for disciplinary services	54,620	37,301
Miscellaneous	2,482	694
	<u>351,367</u>	<u>283,375</u>
<b>EXPENSES:</b>		
Bar admission (Note E)	29,875	32,164
Board of Governors (Note E)	34,217	14,635
Discipline and unauthorized practice (Note E)	74,351	69,405
Continuing legal education	16,196	11,673
Committees	932	2,265
Legislative	8,762	9,376
News Letter	1,213	896
U.C.L.A. - Alaska Law Review	6,672	8,122
Convention-Hawaii	16,515	-
Convention-Other	14,223	9,342
Lawyer referral	12,200	5,605
Contractual service-self insurance	11,642	-
Administrative (Note E)	142,689	106,505
	<u>369,487</u>	<u>269,988</u>
Excess (deficit) of unrestricted revenues over expenses	(18,120)	13,387
<b>FUND BALANCE:</b>		
Beginning of year	<u>82,366</u>	<u>68,979</u>
End of year	<u>\$ 64,246</u>	<u>\$ 82,366</u>

See notes to financial statements.

ALASKA BAR ASSOCIATION

BALANCE SHEET

CLIENT SECURITY FUND

	<u>ASSETS</u>	<u>December 31</u>	
		<u>1978</u>	<u>1977</u>
Cash	\$ 29,591	\$ 17,729	
Receivable from General Fund	3,453	3,285	
	<u>\$ 33,044</u>	<u>\$ 21,014</u>	
<u>FUND BALANCE</u>			
Beginning of year	\$ 21,014	\$ 10,428	
Additional contributions	12,030	10,586	
End of year	<u>\$ 33,044</u>	<u>\$ 21,014</u>	

- See Note C -

See notes to financial statements.

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1978 AND 1977

Note A. Summary of Significant Accounting Policies

(1) Accounting basis for reporting income.

The Association's accounting records are maintained on the accrual method. Receipts for membership dues are recognized as revenue in the period to which they apply. Administrative fees collected for the Alaska Bar Insurance Trust Fund are recognized as income by the General Fund when received. Fees collected from applicants for admission to the Association are recognized as follows:

- (a) Forms and charter investigation fee are recognized when received.
- (b) Application fee is recognized during the period in which the applicant sits for the examination.

(2) Library and Equipment.

Contributions of books are recorded at their estimated fair market values at time of receipt, and other items are recorded at cost. Depreciation expense is computed by the straight-line method over the estimated useful life of the assets.

(3) Income Taxes.

The Association is exempt from income taxes as a public agency of the State of Alaska.

Note B. Accounts Receivable

Accounts receivable were due from the following:

	December 31	
	1978	1977
Alaska State Court	\$ 10,200	\$ 6,713
Idaho Bar Association	-0-	1,109
Alaska Bar Association Insurance Trust Fund	1,409	1,030
Bar Rag	3,000	-0-
Others	263	455
	<u>\$ 14,872</u>	<u>\$ 9,307</u>

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1978 AND 1977

Note C. Client Security Fund

During 1975, the Board of Governors established a fund, pursuant to a rule promulgated by the Supreme Court of the State of Alaska, to provide amounts for settling claims related to members' client trust funds. The Client Security Fund is funded from membership dues.

Note D. Reserve for Working Capital

The reserve was created by the Board of Governors as a segregation of the General Fund Balance. The fund is not restricted to any specific purpose.

Note E. Detail of Selected Expenses

	December 31	
	1978	1977
Bar admission:		
Rentals	\$ 2,489	\$ 1,739
Mailing and supplies	1,748	2,549
Salaries	9,118	8,573
Grading fees and per diem	14,006	14,462
Litigation costs	82	3,642
Telephone and miscellaneous	2,432	1,199
	\$ 29,875	\$ 32,164
Board of Governors:		
Travel and per diem-Other	\$ 26,200	\$ 11,838
Travel and per diem-Hawaii	4,780	-
Telephone	1,544	1,469
Rent	-	370
Postage and supplies	753	488
Miscellaneous	940	470
	\$ 34,217	\$ 14,635
Discipline and unauthorized practice:		
Salaries	\$ 62,684	\$ 62,293
Supplies	1,733	3,028
Travel	2,601	3,188
Telephone	988	896
Rent	5,522	-
Litigation	823	-
	\$ 74,351	\$ 69,405

ALASKA BAR ASSOCIATION

NOTES TO FINANCIAL STATEMENTS

YEARS ENDED DECEMBER 31, 1978 AND 1977

Note E. Detail of Selected Expenses (Continued)

	December 31	
	1978	1977
Administrative:		
Salary of Executive Director	\$ 40,455	\$ 40,917
Expense allowance and travel, Executive Director	5,797	3,743
Secretarial and bookkeeping salaries	25,457	27,077
Payroll taxes	11,596	7,547
Office supplies	6,019	2,688
Postage	4,647	3,997
Office equipment rental	7,141	6,180
Office rent	8,281	-
Staff parking	675	-
Telephone and telegraph	3,272	1,395
Audit and accounting	10,554	3,424
Library	1,627	804
Depreciation	2,022	2,465
Litigation-Horowitz, et al. v. ABA	7,292	-
Insurance, including employee medical	5,243	2,168
Reproduction and printing	1,055	1,525
Dues	230	255
Interest expense	12	147
Judicial poll	458	956
Miscellaneous	1,481	1,217
	<u>\$142,689</u>	<u>\$106,505</u>

ALASKA BAR ASSOCIATION TRUST FUND

REPORT ON EXAMINATION OF FINANCIAL STATEMENTS

YEAR ENDED DECEMBER 31, 1978

Februar, 1, 1979

The Trustees  
Alaska Bar Association Trust Fund  
Anchorage, Alaska

We have examined the balance sheet of the Alaska Bar Association Trust Fund as of December 31, 1978, and the related statement of operations and changes in fund balance for the year ended December 31, 1978. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of the Alaska Bar Association Trust Fund at December 31, 1978, and the results of its operations for the year then ended in conformity with generally accepted accounting principles.

TERRY L. PETRUSKA, C.P.A.

February 1, 1979

The Board of Directors  
Alaska Bar Foundation, Inc.

I have verified the activity of the Alaska Bar Foundation, Inc. for the year ended December 31, 1978. In addition, cash bank balances were confirmed and verified as of December 31, 1978.

As such, the following balance sheet as of December 31, 1978 and statement of revenues and expenses and changes in fund balance for the year ended December 31, 1978 accurately reflect the financial position of the Alaska Bar Foundation, Inc. as of December 31, 1978.

Sincerely,

Terry L. Petruska, C. P. A.

BALANCE SHEET AT DECEMBER 31, 1978

Cash in savings and savings certificates	\$ 6,102
	<u>\$ 6,102</u>
Accounts payable - Alaska Bar Association	\$ 263
George F. Boney Memorial Fund Balance-Unappropriated	<u>5,739</u>
	<u>\$ 6,102</u>

STATEMENT OF REVENUE AND EXPENSE AND CHANGES IN  
FUND BALANCE FOR THE YEAR ENDED DECEMBER 31, 1978

Interest income	\$ 332
Excess of revenue over expenses	332
Fund balance - beginning of year	<u>5,407</u>
Fund balance - end of year	<u>\$ 5,739</u>



ALASKA BAR ASSOCIATION TRUST FUND

BALANCE SHEET

December 31, 1978

ASSETS

Cash \$ 4,706

LIABILITIES AND FUND BALANCE

Insurance premiums received in advance \$ 3,297

Administrative fees payable to Alaska  
Bar Association 1,409

Total Liabilities 4,706

Fund balance -  
\$ 4,706

See notes to financial statements.

ALASKA BAR ASSOCIATION TRUST FUND

STATEMENT OF OPERATIONS AND CHANGES IN FUND BALANCE

Year Ended December 31, 1978

Revenues (Note 2):	
Insurance premiums	\$ 16,380
Administrative fees	<u>1,429</u>
	<u>17,809</u>
Expenses (Note 2):	
Insurance premiums	16,380
Administrative fees	<u>1,429</u>
	<u>17,809</u>
Excess of revenues over expenses	<u>\$ -0-</u>

See notes to financial statements.

ALASKA BAR ASSOCIATION TRUST FUND

NOTES TO FINANCIAL STATEMENTS

Year Ended December 31, 1978

1. Organization:

The Trust Fund was organized March 11, 1976 pursuant to a trust indenture entered into by the Alaska Bar Association and its members. Operations began April 1, 1976.

The purpose of the Trust is to provide and maintain a broad range of health and welfare benefits for the Association's members, their employees and families through insurance policies issued by licensed insurance carriers. These benefits were available to the Association's members through the Association's Group Insurance Fund prior to the organization of the Trust Fund.

2. Significant Accounting Policies:

The following is a summary of the Trust Fund's significant accounting policies:

Insurance Premiums

Insurance premiums are recognized as revenues at the time the premiums are due and payable to the insurance carriers. Amounts received from subscribers in excess of amounts immediately due and payable to the carriers are deferred until the premium due date.

Administrative Fees

Administrative fees collected from subscribers are recognized as income when collected. At the time the fees are collected an expense is recorded to recognize the administrative support provided by the Alaska Bar Association.

Income Taxes

The Alaska Bar Association Trust Fund is subject to income taxation as a complex trust as defined by the Internal Revenue Code. A provision for income taxes will be provided should the Trust have taxable income in the future.