

CONFIRMATION

MARCUS  
CLAPP



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4990

Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

# Committee on Judiciary

## Telephone Interview Questions

(Judicial Conduct Commission Confirmer's)

- 1) Do you feel that you understand the role you would play as a Judicial Conduct Commissioner?
- 2) Are you willing to put in the amount of time required to do the job without remuneration?
- 3) Why do you want to serve on the Commission?
- 4) Do you have any suggestions/plans, etc. for the Commission?
- 5) What specific qualifications do you possess for the Commission?
- 6) Have you held any public offices in the past?
- 7) What is your party/political affiliation?
- 8) Do you feel any conflict of interest between a role as a Commissioner and your private life?
- 9) Any other statements for the Committee members to consider?

MEMBERS:

REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE



POUCH V  
JUNEAU, ALASKA 99811  
(907) 463-4990

Alaska State Legislature  
HOUSE OF REPRESENTATIVES

REPRESENTATIVE  
CHARLIE BUSSELL  
CHAIRMAN

## Committee on Judiciary

Marcus Clapp

(Judicial Conduct Commission Confirmer's)

479-3161

- 1) Yes, have served on the Judicial Council for three years and a partner has been on the Commission in the past, so have a very good idea of the responsibilities involved.
- 2) Yes, the amount of time spent with the Judicial Council will easily shift to the Judicial Conduct Commission.
- 3) I am not very active with Bar association activities and have preferred to devote my time to important functions such as the Judicial Council and this. Supervising the way judges are retained and disaplined, is a very valuable thing to do.
- 4) No, not at the present, but plan to start research on the Commission very soon.
- 5) Have been in almost exclusive trial practice for over 16 years. So I have a very good understanding of the demands upon a judge and how a judge should act/react and his general demeanor. Also, the work on the Judicial Council has provided valuable experience.
- 6) No elective office, but public office through the Judicial Council.
- 7) No political affiliations at all- very apolitical person.
- 8) No conflict of interest; work on Judicial Council has kept everything up front and above board.
- 9) No additional statement.

MEMBERS:

REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;  
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLOCKSIN; REP. RON WENDTE

# Alaska State Legislature



Speaker of the House of Representatives

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-3720

May 2, 1983



Representative Charlie Bussell  
Chairman, Judiciary Committee  
Capitol Building Room 122  
Juneau, AK 99811

Dear Charlie,

Attached is a copy of Governor Sheffield's letter of April 29, 1983 submitting the names of Marcus Clapp, Bruce Bookman and Michael Holmes for appointment to the Commission on Judicial Conduct. Please review these appointments and hold confirmation hearings as necessary.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Joe L. Hayes".

Joe L. Hayes  
SPEAKER OF THE HOUSE

Enclosure

JLH:jvd



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

MAY 02 1983

April 29, 1983

The Honorable Joe Hayes  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Mr. Speaker:

Pursuant to applicable law, I submit the following names  
for legislative confirmation of appointment to the  
positions noted:

BOARDS AND COMMISSIONS  
(with terms)

State Medical Board

Dr. Thomas Conley, Ketchikan, 83/04/28 - 86/04/21

Alaska State Board of Public Accountancy

J. Shelby Stastny, Anchorage, 83/04/28 - 85/04/25

Commission on Judicial Conduct

Marcus Clapp, Fairbanks, 83/04/28 - 4 year term  
Bruce Bookman, Anchorage, 83/04/28 - 4 year term  
Michael Holmes, Juneau, 83/04/28 - 4 year term

L+C  
Judiciary

L+C  
Sent  
Jud J

Sincerely,

*Bill Sheffield*  
Bill Sheffield  
Governor

HUGHES THORSNESS GANTZ  
POWELL & BRUNDIN

ATTORNEYS AT LAW  
590 UNIVERSITY AVENUE, SUITE 200  
FAIRBANKS, ALASKA 99701  
TELEPHONE (907) 479-3181  
CABLE ADDRESS: DENALI  
TELECOPIER: 479-13478

JOHN C. HUGHES  
OF COUNSEL

509 WEST THIRD AVENUE  
ANCHORAGE, ALASKA 99501  
TELEPHONE (907) 274-7522  
CABLE ADDRESS: DENALI  
TELECOPIER: 274-7525  
TELEX: 090-26376

200 CHENEGA STREET  
P.O. BOX 767  
VALDEZ, ALASKA 99686  
TELEPHONE (907) 835-2968

DAVID H. THORSNESS  
RICHARD O. GANTZ  
JAMES M. POWELL  
BRIAN J. BRUNDIN  
MARCUS R. CLAPP\*  
KENNETH P. JACOBUS  
GARY W. GANTZ  
JERRY E. MELCHER  
JOE M. HUDDLESTON  
SIGURD E. MURPHY  
RICHARD D. THALER  
CARL J. D. BAUMAN  
FRED B. ARVIDSON  
DENNIS M. BUMP\*  
MARY K. HUGHES  
FRANK A. PFIFFNER  
RALPH R. BEISTLINE\*  
GORDON J. TANS\*\*  
R. CRAIG HESSER  
ROBERT L. MANLEY  
JAMES M. GORSKI

TIMOTHY R. BYRNES  
JAMES M. SEEDORF  
RONALD E. NOEL\*  
FREDERICK J. ODSEN  
MICHAEL L. LESSMEIER\*  
STEVEN S. TERVOOREN  
MATTHEW K. PETERSON  
JOSEPH R. D. LOESCHER  
JAMES F. KLASEN  
KENNETH D. LOUGEE\*  
KENNETH F. BRITTAIN  
DAVID H. MERSEREAU  
CORY A. CARLSON  
EARL M. SUTHERLAND  
CRAIG A. CARLSON  
JAMES E. RAMSEY  
JOSEPH S. SLUSSER\*  
LESLIE A. MORRILL  
JOHN B. THORSNESS  
JAMES R. SZENDER  
GAIL M. BALLOU\*

\*FAIRBANKS OFFICE  
\*\*VALDEZ OFFICE

April 21, 1983

Ms. Carol Derfener  
Special Staff Assistant  
Office of the Governor  
Pouch A  
Juneau, Alaska 99811

RE: Marcus R. Clapp's Nomination to the  
Commission on Judicial Conduct

Dear Ms. Derfener:

I was asked to submit a resume to the Governor for his consideration of my nomination by the Alaska Bar Association to the Commission on Judicial Conduct. I do not have a resume because it has been over fifteen years since I have applied for a job and I simply have not kept copies of the very old resumes. I will set forth concisely, however, my background in this letter and request that it suffice in place of a formal resume. I hope this doesn't cause any inconvenience but since the request is on quite short notice I felt this was the fastest way to comply.

Professional Experience

I have been with Hughes, Thorsness, Gantz, Powell & Brundin for fifteen years. It is the only job I have ever held in Alaska. I have been a partner in the firm for thirteen years and am presently the senior partner in the Fairbanks office. For the past twelve years I have attempted to limit my practice to the area of litigation mostly from the defense side.

Prior to coming to Alaska I was employed for one year as law clerk to Judge James D. Hathaway, Chief Judge of the Court of Appeals of the State of Arizona. This was from May of 1967 to June of 1968.

I was employed as a law clerk part time for attorney John William Johnson in Tucson, Arizona from December of 1966 through May of 1968.

I was a summer law clerk for the Scottsdale, Arizona law firm of Bottsford & Shumway in 1966.

#### Professional Achievements

I hold an "av" rating in Martindale-Hubbell which is voted on by my fellow lawyers and is the highest rating awarded by this publication which is the only publication that rates lawyers in the United States and Canada and is widely accepted by the Bar in general.

I was appointed by Governor Hammond and served three years on the Judicial Council from 1979 through mid-1982.

Throughout the last fifteen years I have served on various committees of both the State and local Bar associations. I am presently active in the torts section of the State Bar Association.

#### Education

Juris doctor degree 1967 from the University of Arizona Law School.

B.A. degree, Cum Laude, 1965 Arizona State University - English Major.

#### Personal

Date of birth February 11, 1942, Phoenix, Arizona.

Married to Judy with two daughters, Kimberly 13 and Kara 12.

Lay Leader First United Methodist Church, 1982 to present.

Coach in both girls basketball and softball for the last four years.

References

Andrew J. Kleinfeld, Attorney, 200 North Cushman, Fairbanks, Alaska 99701. 452-1305.

Richard K. Heacock, Jr., Pastor, First United Methodist Church, 915 Second Avenue, Fairbanks, Alaska 99701. 452-2956.

Richard O. Gantz, 509 West Third Avenue, Anchorage, Alaska 99501. 274-7522.

I think the above information will suffice to give the Governor the basic information he may need in making his appointment. I will be more than happy to supply any additional information upon request. Thank you.

Sincerely,

HUGHES, THORSNESS, GANTZ, POWELL & BRUNDIN

By

  
Marcus R. Clapp

MRC:ac

## Section 2. Supreme Court.

(a)

### NOTES TO DECISIONS

Cited in *Johnson v. State*, Ct. App. Op. No. 006 (File No. 4462), 631 P.2d 508 (1981).

## Section 3. Superior Court.

### NOTES TO DECISIONS

**Jurisdiction generally.** — The question of a court's jurisdiction goes to its power to hear and adjudicate the subject matter in a given case. *K.C.M. v. State*, Sup. Ct. Op. No. 2326 (File No. 4764), 627 P.2d 607 (1981).

Where a court is one of general jurisdiction, such as a superior court, it has traditionally been regarded as having the power to hear all controversies which may be brought before a court within a legal bounds of rights or remedies, except insofar as has been expressly and unequiv-

ocally denied by the state's constitution or statutes. *K.C.M. v. State*, Sup. Ct. Op. No. 2326 (File No. 4764), 627 P.2d 607 (1981).

**Order for sterilization of mental incompetent.** — A superior court, as a court of general jurisdiction, does have, as part of its inherent *parens patriae* authority, the power to entertain and act upon a petition seeking an order authorizing the sterilization of a mental incompetent. *K.C.M. v. State*, Sup. Ct. Op. No. 2326 (File No. 4764), 627 P.2d 607 (1981).

### (Proposed Amendment)

**Section 10. Commission on Judicial Conduct.** The Commission on Judicial Conduct shall consist of nine members, as follows: three persons who are justices or judges of state courts, elected by the justices and judges of state courts; three members who have practiced law in this state for ten years, appointed by the governor from nominations made by the governing body of the organized bar and subject to confirmation by a majority of the members of the legislature in joint session; and three persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. In addition to being subject to impeachment under Section 12 of this article, a justice or judge may be disqualified from acting as such and may be suspended, removed from office, retired, or censured by the supreme court upon the recommendation of the commission. The powers and duties of the commission and the bases for judicial disqualification shall be established by law.

**Editor's notes.** — This amendment was proposed by Legislative Resolve No. 36, SLA 1981, and will be voted upon at the next general election to be held in

November, 1982.

**Cross references.** — For provisions on the powers and duties of the Commission on Judicial Qualifications, see AS

**Section 8. Judicial Council.** The judicial council shall consist of seven members. Three attorney members shall be appointed for six-year terms by the governing body of the organized state bar. Three non-attorney members shall be appointed for six-year terms by the governor subject to confirmation by a majority of the members of the legislature in joint session. Vacancies shall be filled for the unexpired term in like manner. Appointments shall be made with due consideration to area representation and without regard to political affiliation. The chief justice of the supreme court shall be ex-officio the seventh member and chairman of the judicial council. No member of the judicial council, except the chief justice, may hold any other office or position of profit under the United States or the State. The judicial council shall act by concurrence of four or more members and according to rules which it adopts.

**"Term".** -- With the exception of Alaska Const., art. IV, §§ 4 and 13, wherever "term" or "service at the pleasure of" appears in the constitutional text originally adopted, the reference is to a period of service for a particular office. *Buckalew v. Holloway*, Sup. Ct. Op. No. 1988 (File No. 4058), 604 P.2d 240 (1979).  
**Meaning of phrase "position of profit".** — See *Begich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).

And its intent. — The term "position of profit" was intended to prohibit all other salaried non-temporary employment under the United States or the State of Alaska. *Begich v. Jefferson*, Sup. Ct. Op. No. 481 (File No. 894), 441 P.2d 27 (1968).  
 Quoted in *Delahay v. State*, Sup. Ct. Op. No. 648 (File No. 1252), 476 P.2d 90 (1970).

**Section 9. Additional Duties.** The judicial council shall conduct studies for improvement of the administration of justice, and make reports and recommendations to the supreme court and to the legislature at intervals of not more than two years. The judicial council shall perform other duties assigned by law.

**Section 10. Commission on Judicial Qualifications.** The Commission on Judicial Qualifications shall consist of nine members, as follows: one justice of the supreme court, elected by the justices of the supreme court; three judges of the superior court, elected by the judges of the superior court; one judge of the district court, elected by the judges of the district court; two members who have practiced law in this state for ten years, appointed by the governing body of the organized bar; and two persons who are not judges, retired judges, or members of the state bar, appointed by the governor and subject to confirmation by a majority of the members of the legislature in joint session. In addition to being subject to impeachment under section 12 of this article, a justice or judge may be disqualified from acting as such and may be suspended, removed from office, retired, or censured by the supreme court upon the recommendation of the commission. The powers and duties of the commission and the bases for judicial disqualification shall be established by law. [Amendment approved August 27, 1968]

*add law*

Cross reference  
 means regarding C  
 Qualifications, see  
 231 190.  
 Effect of am  
 endment approv  
 the Legislature's 2  
 to rewrite this se  
 commission and  
 "disqualification" of  
 are dealt only  
 movement of judge  
 1968  
 Alaska Commis  
 Qualifications wa  
 constitutional amen  
 effective in 1968. Th  
 as a 1966 revision of  
 the California Consti  
 Sup Ct Op No. 117  
 11 21 303 (1975).  
 This section ve  
 the ultim  
 disciplinary mat  
 In re Han  
 117 117 File No. 23111  
 This section ar  
 unanimously est  
 court of Alaska as th  
 the ultimate dispo  
 judicial qualificat  
 Hanson, Sup. Ct. O  
 21:11, 532 P.2d 303  
 Power of supren  
 judge under this ar  
 the subject of sanctio  
 22 20 070 (2) pr  
 recommendation of  
 Judicial Qualificati  
 of Alaska may susp  
 remove a judge.  
 Hanson, Sup. Ct. O  
 11:12, 500 P.2d 657  
 Supreme cour  
 independent judg  
 considerable weight  
 given recommen  
 Commission on Jud  
 supported by an at  
 Nevertheless, both  
 22 20 070 (2) clea  
 supreme court of A  
 independent judgm  
 appropriate sancit  
 recommendation m  
 temporary concern  
 No 825 (File No.  
 1977.  
 The supreme cou  
 judicial qualificat  
 to that of an indepe  
 evidence. In re Han