

1002 HJ AK BAR ASSN SUNSET REVIEW FILE NO. S 17 and 18

D2

Annual Reports

Bar/Bench Press Committee

F
Committee



District Court

State of Alaska

FIRST JUDICIAL DISTRICT
P. O. BOX 869
WRANGELL, ALASKA
99929

ROB'N L TAYLOR, Judge

RECEIVED

MAR 23 1979

Richmond, Willoughby & Willard

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MAR 23 1979

ALASKA BAR ASSOCIATION

March 20, 1979

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

Donna Willard, President Elect

Re: Alaska Bar Association
Bench, Bar, Press Committee

Dear Donna,

Though I didn't receive notification of my appointment as chairman of the above committee until the first issue of the Bar Rag last summer, I did attempt to make the committee function. My first efforts did, however, place the status and thus the effectiveness of the committee in a state of limbo. I asked my old friend Ken Jarvi if I could expand the committee membership to include attorneys and representatives of the Press in each of the major cities in Southeast Alaska.

As I ride a circuit from Yakutat to Ketchikan, including every village and town in between I had hoped to meet with small satellite committees in each place and after a few meetings be able to achieve some consensus of opinion from all of the committees and present recommendations to the Board of Governors, which might then be forwarded on to the Supreme Court and the Legislature for implementation.

However, this scheme apparently required additional Board action and my last correspondence from Ken indicated I should wait the boards direction and guidance.

Though I have met informally with members of the Bench, the Bar, and the Press to discuss areas of mutual interest and conflict I have yet to hold a formal meeting of this committee.

This is regrettable as the challenges currently facing the Bench

and the Bar in this state need to be addressed. The Press also has the dilemma of source confidentiality vs. the defendants right to disclosure and they are certainly interested in that subject.

I had hoped this committee might be in a position at this time to send some recommendations along to you and the board - but as you see I'm still awaiting the boards advice and guidelines on this matter.

Please be assured that I'm willing to work in any capacity on this subject or on any other topic as you might designate.

I'm personally very proud of our Bar and the fine people who labor daily in the legal vineyards. If I can be of any further assistance please let me know.

Sincerely yours,

R. L. Taylor
Robin L. Taylor

P.S. I've not found a single attorney or member of the Press that does not agree with the following:

No person should be allowed to apply for a judgeship in this state without first having practiced law at least 10 years.

RLT/al

OSS
see you at
the Sitra meeting
BT

D3

Annual Reports

Bar Polls & Elections Committee

F
Committee Reports

Law Offices of
Kempel, Huffman & Ginder

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

RECEIVED

APR 27 1979

Richmond, Willoughby & Willard

Roger R. Kempel
Richard R. Huffman
Peter C. Ginder

Telephone
(907) 277-1604
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APR 27 1979

Richmond, Willoughby & Willard

April 25, 1979

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APR 24 1979

ALASKA BAR ASSOCIATION

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

Re: Bar-Polls and Elections Committee

Dear Donna:

I write in response to your letter of April 20, 1979, a copy of which is attached hereto. This letter is designed to function as the formal report you requested in that letter.

The activities of the Bar Polls and Elections Committee can be summed up very briefly. Suffice it to say that the members of the committee appeared and counted ballots each and every time their services were required. We made every attempt to do our work rapidly and accurately, and the required tabulations were, to the best of my knowledge, furnished to the Bar on a timely basis.

I have every hope of attending the convention in Sitka. Unfortunately, however, problems have developed with my reservations, and I may not be able to attend. Needless to say, I will contact you as soon as my plans are firm.

Very truly yours,

KEMPEL, HUFFMAN & GINDER

P. C. Ginder
Peter C. Ginder

PCG/rg

Business Law Committee

Annual Reports

DH

F
Committee

PERKINS, COIE, STONE, OLSEN & WILLIAMS

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RICHARD C. COYLE
PHILIP E. CUTLER
ROBERT E. GILES
PAUL W. GODDICH
RONALD M. GOULD
STEPHEN M. GRAHAM
RAMER B. HOLTAN, JR.
HEATHER S. HOWARD
DONALD G. KAPI
CHARLES J. KATZ, JR.
OTTO G. REIN
RICHARD ALAN RLOBUCHER
JAMES R. LISBARKEN
DOUGLAS S. LITTLE

STEVEN C. MARSHALL
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ANDREW M. WILLIAMS
RICHARD E. WILLIAMS

JOHN R. PRICE
OF COUNSEL

* ADMITTED IN ALASKA & WASHINGTON
ALL OTHERS ADMITTED IN WASHINGTON

PLEASE REPLY TO ANCHORAGE OFFICE

March 9, 1979

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

Re: Alaska Bar Association Business Law Committee

Dear Donna:

In response to your letter of March 5, 1979 I am enclosing a copy of a letter which I circulated to our committee members in December. I was not aware that we had been requested to draft a "purposes statement" but I believe the letter essentially accomplishes the same thing.

Since the primary interest of the Bar Association, as expressed to me, was to have our committee monitor legislation, this has been our primary objective. However, business law legislation does not appear to be the primary objective of the current legislature, so we have not yet tested our effectiveness. For your information, subjects under review by our committee are summarized in the following table:

<u>COMMITTEE MEMBER</u>	<u>TOPIC</u>	<u>BILL NO.</u>
Garretson	Liens	HB 24 and HB 149
Stoller and Wonnell	Landlord and Tenant	Senate Bills 36, 37, 38, 42, 43, 44, 57 and House Bills 57, 58 and 77

Donna C. Willard, Esq.
March 9, 1979
Page 2

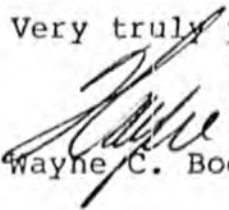
<u>COMMITTEE MEMBER</u>	<u>TOPIC</u>	<u>BILL NO.</u>
Eggers and Hillard	Corporations	SB 112
Cole	Executions	HB 56
Cole, Eggers and Hillard	Commerical Code	HB 35 and SB 55

Our committee also will be presenting a panel discussion at the Sitka Bar meeting regarding developments in business law.

I have the impression that few if any of the bills under review by our committee will be acted upon during this session of the legislature. As a consequence, some continuity in committee membership might be advisable. However, I am frankly not in a position to identify effectively the working and nonworking members of the committee since none of us (especially including the chairman) has made this a full-time occupation to date. Considering the number of possible topics for consideration by the legislature, an expansion in the committee membership would probably not hurt.

Please call me if you have any questions.

Very truly yours,


Wayne C. Booth, Jr.

WCB/jwg
Enclosure

PERKINS, COIE, STONE, OLSEN & WILLIAMS

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PLEASE REPLY TO
ANCHORAGE OFFICE

December 12, 1978

Members of the Business Law Committee

Re: Business Law Meeting - Summary

The following is a summary of my understanding of the conclusions reached at the initial meeting of the Business Law Committee which was attended by Hoyt Cole, Ken Eggers, Walt Garretson, Steve Hillard, Bob Stoller and myself.

Committee Objectives.

Although several alternatives were considered, it was the consensus of the committee that our activities should be limited at the present time to monitoring legislative activities of interest to business lawyers. To implement the monitoring activities, I will contact Norm Gorsuch and request that he send copies of all pending legislation to me. I will then route items to the appropriate committee member for comment and action on behalf of the committee. Legislation in the following areas of interest will be reviewed by the committee members designated below:

Administrative Law	Stoller/Wonnell
Banking	Cole
Commercial Transactions	Booth/Eggers/Hillard
Construction	Garretson
Corporate	Eggers/Hillard
Securities	Booth
Tax	Bartlett

During the legislative session, items which do not fall in the above categories will be referred to committee members at the whim of the chairman.

In connection with our legislative activities, the chairman will prepare and circulate a letter to each legislator advising them of the existence of our committee and our willingness to be of service in connection with any business-related legislation. A similar letter will be addressed to the Legislative Affairs Committee and to selected administrative agencies.

Sponsoring Legislation.

The general attitude of the committee was that it would be unwise at the present time to undertake sponsorship of major items of legislation. However, two matters were considered worthy of additional attention. 1) The chairman will contact the code revisor and Norm Gorsch to determine what must be done in order to conform the numbering system in Alaska Statutes Section 45.05 to the corresponding provisions of the Uniform Commercial Code. 2) Walt Garretson will prepare an amendment and supporting statement in connection with a proposed increase in the pre-judgment interest rate.

Other Activities.

Although priority will be placed on the legislative monitoring function, if time (and committee member enthusiasm) permits, the committee may engage in the following activities:

1. Bob Stoller will establish a liaison committee with the Administrative Law Committee.
2. Wayne Booth will explore publication of a catalog of continuing legal education materials available to Bar members with business law interests.
3. Wayne Booth will contact Practising Law Institute and other sponsors regarding the feasibility of a program in Anchorage on the Bankruptcy Reform Act; and
4. The chairman, having read the above summary, will explore better ways to delegate further responsibilities to committee members.

Members of the Business Law Committee
December 12, 1978
Page Three

Additional Meetings.

Regular meetings will not be scheduled. Once the legislative session has begun we will meet when, if and as necessary. On those occasions when we do meet, committee members are all encouraged to invite others who may be interested in the work of the committee.

Enclosed for each of you is a list of the names, addresses and telephone numbers of the current committee members. The chairman makes no representation, express or implied, regarding the accuracy of this list.

Sincerely,

Wayne C. Booth, Jr.

WCB/dj
Enclosure
cc: Kenneth O. Jarvi

D5

Annual Reports
Civil Rules Committee

F
Committees

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LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
185 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

MAR 22 1979

Richmond, Willoughby & Willard

March 20, 1979

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

RECEIVED
MAR 21 1979
ALASKA BAR
ASSOCIATION

Re: Civil Rules Committee

Dear Donna:

Please forgive me for not responding to your letter of March 5 any sooner. I am living in Juneau during the legislative session and find very little time to keep up with the committee work. When the legislature adjourns I will have more time. This letter is to bring you up-to-date on the activities of the Civil Rules Committee.

The committee has had one meeting, the minutes of which I am enclosing. The Supreme Court has agreed to cooperate with the committee and has requested certain actions of it. The relevant correspondence is also attached.

I am not aware of any non-functioning members. All members either attended the November meeting or specifically expressed interest in further involvement.

Matters before the committee at present are 1) the proposed rules of evidence, 2) the Parsons inquiry regarding subpoena of witnesses, 3) the proposed changes to Civil Rule 81, and 4) review of rule-adoption procedures of the Supreme Court.

I am willing to continue serving as chairman of the Civil Rules Committee and to continue the work started by this newly formed committee.

Please call if you have any questions.

Sincerely,


DONALD E. CLOCKSIN
Chairman, Civil Rules Committee

cc: Committee Members

Enclosure

MAR 22 1979

Richmond, Willoughby & Willard

Minutes of the Civil Rules Committee Alaska Bar Association
November 21, 1978 Meeting

Present were Skladal, Hellenenthal, Thorsness, Burke, and Clocksin.

After a discussion of Resolution 15 from the Alaska Bar Association Convention (leaving space after each interrogatory), the Committee tabled consideration until the next meeting.

Susan Burke indicated that the Supreme Court may be taking some action on such a rule and a rule limiting the number of interrogatories which may be submitted.

Next, the Committee approved the sending of a letter to the Chief Justice of the Alaska Supreme Court announcing the existence of the Civil Rules Committee and requesting that all proposed rules and requests for rules be forwarded to the committee for review and screening. Further, the committee requested of the Supreme Court that we meet with them to discuss possible changes in rule adoption procedures. Further, the Committee decided to address only the Alaska Civil Rules at this point, and not the U.S. District Court Civil Rules, nor the Appellate Rules, Children's Rules, District Court Rules, etc. The Committee also decided not to conduct any legislative activity at this time. That decision may be reviewed later.

The committee also agreed to prepare a column of sorts for the Alaska Bar Rag which would report on proposed rule changes it had received from the Supreme Court.

The committee also agreed not to review the Report and Tentative Recommendations of the Committee to Consider Standards for Admission to Practice in the Federal Courts. Finally, the committee agreed to request from the Supreme Court the latest proposal on the Rules of Evidence so that it may comment.

The next meeting was tentatively scheduled for December 15.

Donald E. Clocksin

D6

Annual Reports
Continuing Legal Education Committee

W. EUGENE GUESS, 1932-1975
JOSEPH RUDD, 1933-1978
ROBERT C. FLY
THEODORE E. FLEISCHER
FRANCIS E. SMITH, JR.
HERBERT BERKOWITZ
MICHAEL G. BRIGGS
DAVID H. BUNDY
HARRIS SAXON
PHILLIP J. EIDE
GARY A. ZIPKIN
STEPHEN J. PEARSON
JOSEPH M. WILSON
PAUL DESTEFANO
ROBERT H. WOLFE
LOUIS R. VEERMAN
CLIFFORD W. HOLST
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NORMAN C. GORSUCH
GORDON E. EVANS
MONTE L. BRICE

JOSEPH A. McLEAN
OF COUNSEL

April 3, 1979

RECEIVED

HAND DELIVER

APR 3 1979

Donna C. Willard
President Elect
Alaska Bar Association
360 "K" Street
Anchorage, Alaska 99501

ALASKA BAR
ASSOCIATION

Re: Continuing Legal Education Committee

Dear Donna:

I apologize for taking so long to reply to your letter of March 5. I am not sure what the "purposes statement" is, but I will tell you something about the Committee's activities.

As you no doubt are aware, Ron Kull is interested in C.L.E. and experienced in this area. He has, to a great extent, taken on the administrative burden of scheduling, lining up speakers, etc. He has numerous contacts based on his past C.L.E. experience, and has been drawing on these liberally in order to find and schedule speakers. We will begin to see the results in the next month or so as this year's series of C.L.E. programs gets under way in May with the evidence program.

I am pleased by the interest and involvement of our Southcentral Committee, most of whom attend meetings regularly. Sandi Saville had originally indicated that she could not participate, but I persuaded her to take on the mandatory C.L.E. project. We will have a proposed rule on mandatory C.L.E. by early May, and the substance of a report to the Sitka convention. As you may know, the C.L.E. portion of the Sitka convention will be taken up primarily by "up-dates" in various areas of law, as well as some videotapes to fill what we assume will be sparsely attended afternoon sessions. So far everything looks good for this program.

Donna C. Willard
April 3, 1979
Page Two

After a rocky beginning, plans for the 1980 Hawaii program are underway. Although there are some who are not particularly happy with leaving the Kuai Surf or scheduling the meeting in mid-January, I think everybody now agrees that this is our only viable option and that we should proceed with it. We are, in any event, working on this assumption. I am certain that we can put together a fine program.

On mandatory C.L.E., which could be a fairly time-consuming matter on the convention agenda, I would expect that our Committee will come up with a fairly low-key, dispassionate recommendation. I do not think that the Committee will use a "hard sell" to get mandatory C.L.E. adopted. Our inclination is to present a proposed rule, taking into consideration all of the factors which we thought were important, and to give the convention some idea of how we think a mandatory program would work. At this point the Committee has not developed a philosophical commitment to pushing mandatory C.L.E. through. In fact, even if the convention did adopt such a proposal, I would be inclined to recommend that we wait at least one year to implement it. I think that we need this time to get some further C.L.E. experience under our belt and to organize ourselves for what will be a fairly substantial task.

One comment on the administration of C.L.E. Ken Jarvi chose, for good reasons I believe, to set up three committees to cover the three major areas of the State. Each has its own chairman. As it has turned out, and as was surely anticipated, the Southcentral Committee does all of the State-wide program planning. In fact, I am not sure what the other regional Committees have done in the way of C.L.E. There has been an interaction between the various Committees. As an example, I expect that there will be little, if any, input from Fairbanks or Southeast on mandatory C.L.E. prior to the convention. Thus the proposal presented to the convention will, of necessity, be the proposal of the Southcentral Committee.

I suppose that we could have a system of sending minutes of meetings back and forth and that sort of thing. But you know how that goes. The work really gets done when several people sit down together face to face. This is not to suggest that the regional committee system be dismantled or that it is not accomplishing exactly what Ken Jarvi thought it should. But I want you to be aware that the

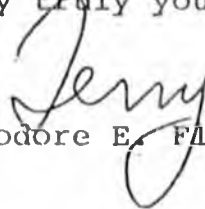
Donna C. Willard
April 3, 1979
Page Three

Southcentral Committee tends to work pretty much in a vacuum, with only occasional opportunities (such as Hawaii and the summer convention) for the entire Committee to get together. This is probably the best we can do. One solution would be to budget some money for Committee travel, so that members from other areas could attend meetings in Anchorage, at least on (say) a bi-monthly basis.

By this letter I would ask that Ron Kull schedule a time during one afternoon at the Sitka convention when all C.L.E. Committee members could get together. Ideally, this would occur before the business meeting so that we could have at least one discussion of the mandatory C.L.E. proposal.

I will appreciate your comments on C.L.E. performance and your expectations for the future.

Very truly yours,



Theodore E. Fleischer

TEF/sg

cc: Ken Jarvi, Esq.
✓Ron Kull, Esq.

D7

Annual Reports
Criminal Law Committee

RECEIVED

AUG 22 1979

ALASKA BAR
ASSOCIATION

*inclosed in
packet
✓ 8/22/79*

August 20, 1979

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

Re: Criminal Law Committee/Annual Program Plan

Dear Donna:

The Criminal Law Committee had its first meeting on Tuesday, August 14, 1979 at 4:00 p.m. in the offices of the Alaska Judicial Council. At that meeting it was decided that the next year's work would concentrate on the following areas:

1. Review of Criminal Code.

Last year the committee went through the code and had numerous sections under discussion and a great many ideas about how it should be changed. However, because of time pressures relatively few of these suggested changes were crystalized into specific language in bill form. This year we intend to go back over the old territory but make more progress toward getting specific amendments. When we have these, we hope to get Board of Governor approval and then pre-file them before the opening of the next Legislature. (Even without Board approval, we would like to pre-file them as Committee recommendations.)

2. Revision of drug laws.

Right now there is a house bill that proposes a wholesale amendment to the drug laws and the senate bill which proposes the same thing. They are at extreme odds and the speculation reculation is that neither one will go

Donna Willard, President
August 20, 1979
Page Two

anywhere. There seems to be some interest in the creation of a commission to study the problem of revising drug laws, much the same as the Criminal Code revision subcommission. (There is even a bill that was introduced to this effect--HB497.) At any rate, our committee favors such a commission and would like the Bar to take an active role in it. The Judicial Council has also voted that a study of the drug laws are one of its priorities for next year. I would like to bring the subject up for discussion at the next Board of Governors meeting on September 6-8.

3. Alternatives to incarceration under Criminal Code.

The new criminal code provides for alternatives such as work service to the community but sets up no specific structures under which these alternatives might be effectuated. The committee will look into this further.

4. Bush justice problems.

Recent reports have indicated great disparities in the quality of justice rendered in remote areas of the state, in comparison to what is available in Anchorage, Fairbanks and Juneau. Joe Balfe suggested that we look into how the situation might be improved.

5. Sentencing guidelines.

At the present time a committee of judges and citizens is at work devising guidelines to govern sentences in many kinds of cases. They have already devised one for sentencing marijuana cases and are working on other drugs. These guidelines will be followed by all Superior Court judges except in cases where justice makes it necessary for them to depart. When there is a departure, the judges will have to provide written reasons why the guidelines were inadequate to the particular case. Most lawyers are completely unaware of this ongoing guidelines effort or how it might affect their own practices. Our committee would like to open up lines of communication to the guidelines committee and at least become a vehicle whereby other members of the bar might be informed of what is going on in this area.

Donna Willard, President
August 20, 1979
Page Three

I understand that I will be invited to appear at the next Board of Governors meeting on September 6-8 to discuss some of the matters on this agenda. I would also like to discuss the Bar poll, but that is Judicial Council business and unrelated to that of this committee. I look forward to meeting with you later.

Sincerely,



Michael L. Rubinstein
Chairman, Criminal Law Committee

MLR/1kc

cc: Jonathan Link



Alaska Judicial Council

LAW MEMBERS

KENNETH L. BRADY
JOHN E. LONGWORTH
ROBERT H. MOSS

LAW MEMBERS

MICHAEL A. STEPOVICH
MICHAEL H. HOLMES
JOSEPH L. YOUNG

CHAIRMAN, EX OFFICIO

ROBERT BOOCHEVER
CHIEF JUSTICE
SUPREME COURT

303 K STREET
ANCHORAGE, ALASKA
99501

April 5, 1978

EXECUTIVE DIRECTOR
MICHAEL L. RUBINSTEIN

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

Dear Ken:

As per your request of March 29, 1978, the following is a brief outline of the Criminal Law Committee's activities during the past year:

On May 17, 1977, the Criminal Law Committee met in Anchorage. After a discussion of an investigation made on the criminal appointments list in state and federal courts, and the Adult Correctional Institutional regulations, the Committee discussed the work of the Criminal Law Revision Subcommittee of the Legislature, and the issue of the Bar's involvement in that process. It was decided that the Criminal Law Committee would work closely to monitor the efforts of the Subcommittee so that the Bar would be well-informed and have an adequate opportunity to participate in the legislative process before the Criminal Law was revised.

On July 22, 1977, the Committee met in Anchorage. After a general discussion of the proposed new Criminal Code led by two members of the staff of the Criminal Code Revision Subcommittee, the Committee discussed its strategy for the coming year and appointed a subcommittee on the agenda and planning.

This subcommittee met on July 28, 1977, when it was decided that the Criminal Law Committee would be divided into subcommittees, one for each volume of the Alaska Criminal Code Revision tentative draft. Each subcommittee would meet to discuss their part of the tentative draft and would write up a memo pointing out all the changes made from existing law and what effect these changes would have on the practicing Bar. A meeting of the entire Committee would then be scheduled to discuss each memo.

On September 7, 1977, the Criminal Law Committee met in Fairbanks for a discussion of four sections of the proposed Criminal Code: theft, burglary and trespass, arson, and forgery. A copy of the minutes of this meeting is enclosed.

On October 4, 1977, the Criminal Law Committee met in Anchorage and discussed part one of the proposed Code, Offenses Against the Person. A copy of the minutes of this meeting is enclosed.

On October 20, 1977, the Criminal Law Committee met in Anchorage and discussed the first three chapters of part two of the revised Code: General Principles of Criminal Liability, Parties to Crime, and General Principles of Justification. A copy of the minutes of this meeting is enclosed.

On November 29, 1977, the Criminal Law Committee met in Fairbanks and discussed some of the proposed statutes that appeared in tentative draft, part four: Conspiracy, Business and Commercial Offenses, and Prostitution.

On January 30, 1978, the Criminal Law Committee of the Alaska Bar Association met in Anchorage to consider what recommendations it would make to the Legislature concerning the revised criminal code submitted by the Criminal Code Revision Subcommittee. Though most of the Criminal Law Committee's recommendations regarding the revised Criminal Code were presented to and adopted by the Criminal Code Revision Subcommittee as amendments to the revised Code, there were several recommendations that were not considered by the Subcommittee. Accordingly, these recommendations were reiterated to the Legislature by the Committee. A copy of the minutes of this meeting is enclosed.

All of the Criminal Law Committee recommendations have been reported out in writing and through oral presentations at meetings of the Criminal Code Revision Subcommittee and legislative sessions. The majority of our Subcommittee recommendations were accepted by the Code revisors and, to a remarkable extent, were actually incorporated into the proposed legislation in its present form. Consequently, our Committee has had a substantial impact on the proposed Criminal Code. In answer to your question whether the committee should continue in existence, my answer is yes. However, not in its present form. I would be happy to elaborate on this topic by phone or face to face.

I hope this information has been of assistance to you. If you require anything additional, please contact me.

Sincerely,



Michael L. Rubinstein
Chairman of the Criminal
Law Committee

Enc.

D8

Annual Reports
Environmental Law Committee

COLE, HARTIG, RHODES, NORMAN & MAHONEY

ROY M. COLE
ROBERT L. HARTIG
JAMES D. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
BERNARD J. DOUGHERTY
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WEV W. SHEA
EDGAR R. LOCKE
C. WALT EBELL
SPENCER C. SNEED

OF COUNSEL:
G. KENT EDWARDS

April 24, 1979

RECEIVED

REPLY TO:
Anchorage

APR 27 1979

ALASKA BAR
ASSOCIATION

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

Re: Alaska Bar Association
Environmental Law Committee

Dear Madam President:

Following is a report on the activities of this Committee submitted in accordance with the requirements of the Bylaws of our Association calling for a report to be submitted prior to the annual business meeting of the Alaska Bar Association.

The Alaska Bar Association Environmental Law Committee has been extremely active this year. Thanks to Ken Jarvis' committee reorganizational efforts, we now have a full compliment of active and enthusiastic members. The Committee has held ten meetings during the past year. At several of the meetings representatives of local government agencies and others interested in environmental law in Alaska have attended, given brief presentations, and exchanged ideas with the members.

At our organizational meeting, John A. Reeder was elected Vice Chairman and Jane Pearia was elected Recording Secretary. With the staggered membership terms, the Committee is looking forward to continuity that has been lacking in the past.

*Sent to Donna
4/27/79*

Ms. Donna C. Willard
President Elect
April 24, 1979
Page Two

The primary focus of the Committee's activity this year has been on the emerging area of coastal zone management in Alaska. In conjunction with the University of Alaska, the Committee is sponsoring a one-day seminar on the implementation of the Coastal Zone Management Act in Alaska, to be held at the Anchorage campus of the University on Saturday, May 19th. An impressive array of speakers has been assembled for this seminar. They will discuss implementation of coastal zone management at the local, state and federal levels. Jon Tillinghast, Assistant Attorney General, will be the lead-off speaker and will present an overview of the Coastal Zone Management Act. He will be followed by various other speakers from around the state. In addition, Roger Beers, an attorney with the Resources Defense Council in San Francisco, will be a featured speaker, directing his remarks to coastal zone management at the national level.

I am enclosing a copy of our program brochure which will be mailed to the Alaska Bar and to numerous other individuals, organizations and governmental agencies.

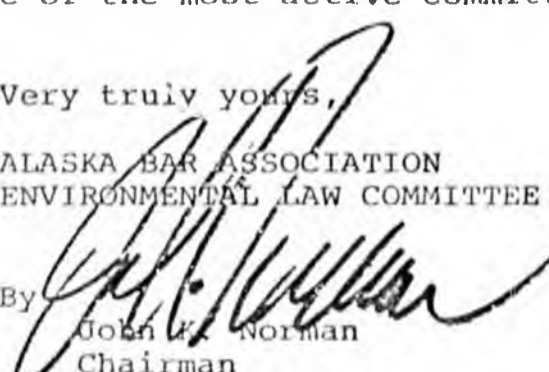
We would like to note that in planning this seminar Mr. Ron Kull has been extremely helpful to this Committee, and we would like to take this opportunity to acknowledge all the help he has given us.

In summary, I can say that it has been a productive year for the Environmental Law Committee. Although my term on the Committee is now expiring, I have every reason to believe that the committee will retain the momentum that we have gathered this year, and that we can continue to look forward to having this Committee be one of the most active committees in our Association.

Very truly yours,

ALASKA BAR ASSOCIATION
ENVIRONMENTAL LAW COMMITTEE

By


John K. Norman
Chairman

JKN:bw
Enclosure

cc: All Members

COLE, HARTIG, RHODES, NORMAN & MAHONEY

HOYT M. COLE
ROBERT L. HARTIG
JAMES D. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
BERNARD J. DOUGHERTY
MICHAEL W. SHARON

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SPENCER C. SNEED

OF COUNSEL:
G. KENT EDWARDS

April 2, 1979

REPLY TO:

Anchorage

RECEIVED

APR 9 1979

ALASKA BAR
ASSOCIATION

5-1 to
4/9/79
~~Ms. Donna C. Willard~~
President Elect
Alaska Bar Association
P. O. Box 279
Anchorage, AK 99510

Re: Alaska Bar Association
Environmental Law Committee

Dear Donna:

This is in response to your letter of March 5, 1979 requesting a report on activities of the Environmental Law Committee of the Alaska Bar Association.

During the past year the members of the Environmental Law Committee of the Alaska Bar Association have held seven meetings. At our organizational meeting, John A. Reeder was elected Vice Chairman of the Committee and Jane Pearia was elected Recording Secretary. The Committee, as a long-range project, is continuing to consider the possibility of preparing an Alaska Environmental Law handbook which could be made available to members of the Bar. We have delayed going ahead with this project until we can see how the State's new Permit Directory is received by the public and lawyers and whether it seems to fill this need. If, after the Directory receives wide circulation, there still appears to be need for a handbook, then it is our plan to consider going ahead with this project.

In the meantime the Committee has focused its attention upon the emerging Alaska Coastal Zone Management Act. At our meetings we have invited speakers representing the local, state and federal levels to exchange ideas with the Committee members. We are presently working with the University of Alaska toward jointly sponsoring a seminar on Coastal Zone Management, planned to take place sometime in late May.

With reference to membership in the Committee, Committee members were appointed on staggered one, two and three-year terms. In my

Ms. Donna C. Willard
President Elect
Alaska Bar Association
April 2, 1979
Page 2.

view this is good practice and will give continuity to the work of the Committee while insuring a turnover in membership and injection of new blood and fresh ideas.

Those members initially appointed for one year will have their terms expiring shortly. The one-year members are myself, John Gissberg and Elizabeth D. Cuadra. John Gissberg has already had to withdraw from participation in the Committee because other activities prevented him from taking an active role. This leaves three immediate vacancies to be filled by appointment.

The two-year members of the Committee whose terms will expire in 1980 are: Steve Volker, John Reeder and Robert E. Mintz. Thus far all of these individuals have been active in the Committee and, as far as I know, have evidenced a desire to continue to participate in the Committee until their term of appointment expires.

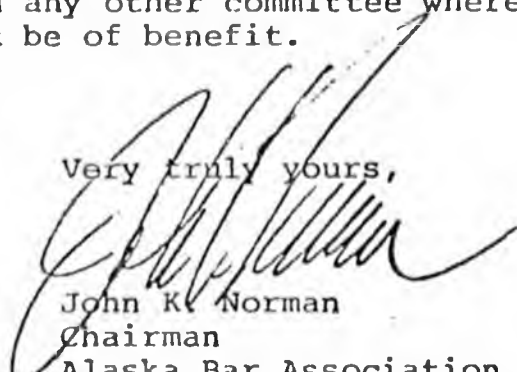
The three-year term appointees are: W. J. Bonner, Paul Grant and Jane Pearia. These individuals have also been active and indicated a continuing interest in participating in the activities of the Committee.

In addition, Bart Rozell is currently our Board liaison member and he has been active and participated by conference telephone call in most of the meetings. I am not sure what Bart's term on the Board of Directors is but if possible I would suggest that he be reappointed as Board liaison member in view of his active participation in the Committee's affairs.

Finally, with reference to me, personally, I would like to thank the Association for having me serve as Committee Chairman for the past three years. I think that this is long enough for one member to serve on the Committee, and, accordingly, I would ask that with my present term of appointment expiring that I not be reappointed to the Environmental Law Committee. I would, however, like to continue with Bar committee work. My first choice if there is an opening would be the Natural Resources Committee, however, I would also be pleased to serve on any other committee where you think that my participation might be of benefit.

Kindest regards.

Very truly yours,



John K. Norman
Chairman
Alaska Bar Association
Environmental Law Committee

COLE, HARTIG, RHODES, NORMAN & MAHONEY

HOYT M. COLE
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JAMES D. RHODES
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May 2, 1978

OF COUNSEL:
G. KENT EDWARDS

REPLY TO:

Anchorage

ALASKA BAR
ASSOCIATION
MAY 11 1978

Mr. Kenneth O. Jarvi
President Elect
c/o Alaska Bar Association
P. O. Box 297
Anchorage, AK 99510

Re: Alaska Bar Association
Environmental Law
Committee

Dear Ken:

Your letter of March 29, 1978 requested a report on Committee activities and a statement as to whether we felt the Committee should continue in existence if it had not been active.

Over the past year the Committee has served as a vehicle for some exchange of information between its members. Other than that the Committee has not been active.

When we received your letter, we scheduled a Committee meeting for the purpose of reviewing the activities of the Committee and deciding what our recommendations should be for the future.

I am pleased to report that we met on May 2, 1978. We had a turnout of five Committee members with four more having previously contacted me to express their interest in the Committee but advising that prior commitments would keep them from attending the meeting.

Based upon discussion at the meeting, it was unanimously decided that the Committee should continue as a functioning Committee of the Alaska Bar Association.

One of the members suggested the Committee might undertake the project of preparing an environmental law handbook for

Mr. Kenneth O. Jarvi
President Elect
c/o Alaska Bar Association
May 2, 1978
Page 2

possible dissemination to the entire Bar at a later date. This proposal has been tentatively adopted by the Committee and we have set our next meeting for Tuesday, May 21th at 4:30 p.m., at which time we will develop a specific format for the handbook and then assign sections to be written by each of the members.

As the handbook progresses, we will coordinate with the Bar Association to determine the best method of making it available to all members.

Thank you for your continuing interest in this Committee. Please let this letter serve as our annual report of activities to the President of the Bar Association.

Very truly yours,

ENVIRONMENTAL LAW COMMITTEE
ALASKA BAR ASSOCIATION

By 

John A. Norman
Chairman

JKN:bw

cc: Mr. Dick Madsen
President
Alaska Bar Association

Mr. Dick L. Madson

Miss Loyette Goodell
Executive Director
Alaska Bar Association

Members of the Bar Association
Environmental Law Committee

File: Environmental Law Comm
File: [unclear]

ANCHORAGE:
HOYT M. COLE
ROBERT L. HARTIG
JAMES D. RHODES
JOHN K. NORMAN
ROBERT J. MAHONEY
BERNARD J. DOUGHERTY

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STEPHEN D. ROUTH

KODIAK:
MICHAEL W. SHARON

May 4, 1977

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JUL 25 1977

ALASKA BAR ASSOCIATION
REPLY TO:

Anchorage

RECEIVED
MAY 9 1977
ALASKA BAR ASSOCIATION

Edward A. Stahla, President
Alaska Bar Association
360 K Street
Anchorage, AK 99501

Re: Alaska Bar Association
Environmental Law
Committee Annual Report

Dear Mr. President:

The Environmental Law Committee of the Alaska Bar Association submits the following report to be presented at the annual members meeting June 8th through 12th, 1977:

Committee appointments were made in January of this year and since that time the Committee has organized itself and the members have been polled for the purpose of determining their wishes as to various future activities of the Committee.

Several members have suggested that a newsletter covering matters of interest to members of the Environmental Law Committee be circulated to the members. This would facilitate the exchange of information on recent developments in the area of Alaskan environmental law. The Committee is now working to implement this suggestion.

It has also been suggested that the Committee might consider sponsoring a continuing legal education seminar and further consideration will be given to this later in the year.

Edward A. Stahla, President
Alaska Bar Association
Page 2
May 4, 1977

The Committee has no resolutions to recommend for consideration by the general membership at this year's convention.

Very truly yours,

THE ENVIRONMENTAL LAW COMMITTEE
THE ALASKA BAR ASSOCIATION


By John K. Norman, Chairman

JKN:bw

D9

Annual Reports

Family Law Committee

JOHN REESE
ATTORNEY AT LAW
920 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: 276-5231

RECEIVED

JAN 29 1979

ALASKA BAR
ASSOCIATION

January 24, 1979

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

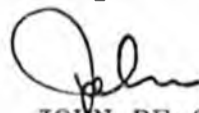
RE: Family Law Committee

Dear Ken:

Enclosed are the minutes of the first two meetings we held after the first of September. There was a third meeting but we do not have written minutes from that meeting. Our next meeting is scheduled for February 5, 1979, and we will be taking action on a couple of legislative proposals, one having to do with withdrawal of counsel following a decree of divorce and the other having to do with some revisions of the guardianship laws. Nothing earthshaking.

Do you want to come to our meetings?

Very truly yours,



JOHN REESE

JR/dlh
Enclosure

RECEIVED

JAN 30 1979

GARRETSON & JARVI
ATTORNEYS AT LAW

JOHN REESE
ATTORNEY AT LAW
920 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: 276-5231

September 29, 1978

Dear Family Law Committee Members:

The Family Law Committee held its organizational meeting for the 1978-1979 year on September 28, 1978. Of the eight members of the Committee, fourteen were present. So it goes.

The following projects were adopted for pursuit during the next several months. Members of the Committee assigned specific responsibilities to work on each project are noted in parenthesis.

1. Establishment of custody evaluation standards. (Lynch, Palmier, Rawitz, Ames).
2. Clarification of termination of responsibility of an attorney following decree in a divorce case. (Gruenberg).
3. Establishment of domestic relations rules, family court proposal, and liaison with the court system concerning family law matters. (Reese, Johnson, Frenz, others to be announced).
4. Correction of interstate referral resource information with particular stress on interstate child stealing problems. (Unassigned).
5. The problems arising in the dissolution procedures. (Johnson).
6. Development of a dialogue with groups such as the Commission on the Handicapped. (Tennant, Gruenberg).
7. CLE programs. (Gruenberg, Reese, Johnson).
8. Submission of a regular column to the new Bar Rag. (To be announced).

2. Child support standards and administrative establishment of child support obligation. (Lynch, Simpson, Gruenberg).

The committee will attempt to meet monthly for lunch. The next meeting will be on October 26, 1973, probably in the basement of the Woodshed.

At the next meeting we will have a report from each of the subcommittees. The first person listed in the parenthesis above should be responsible for accomplishing something in the meantime and making the report. Don't forget that the Commission on the Handicapped meeting and the public hearings on the child support regulations will occur prior to the next meeting, so there should be some substantial reports on these two subjects.

The proposed child support regulations and covering documents are enclosed for your comments. Please let Tim Lynch, Helen Simpson or Max Gruenberg have your comments immediately. Notice that the present deadline will expire next week.

I was very pleased with the response to this first meeting of the new committee. I hope we will be able to keep attendance up and make some progress. If anyone has any complaints about how things work or don't work, please don't be afraid to mouth off to me. The important thing is to get our work done, hopefully for the benefit of our clients and the families of Alaska.

Yours truly,



JOHN REESE

JR/dlh
Enclosures

cc: J. Ames
M. Evans
M. Frankel
R. Frenz
M. Gruenberg
C. Johnson
P. Kennedy
T. Lynch
N. McMurtray
J. Palmier
D. Peterson
P. Rawitz
B. Rehbock
H. Simpson
B. Tennant

JOHN REESE
ATTORNEY AT LAW
920 WEST SIXTH AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE: 276-5231

November 1, 1978

Dear Family Law Committee Members:

This is a recap of our meeting held October 26, 1978.

1. Bruce Tennant reported on the meeting of the Commission on the Handicapped. The main point was that the commission has hired a law student or lawyer in California to draft a statute for Alaska creating a limited guardianship and a public guardian, (probably the State of Alaska), to care for the several hundred wards in the State who do not have family or others in an appropriate position to look out for them. When this draft statute is received, we will check it out and make our comments.

2. Enclosed is a copy of the California statute relating to termination of attorney's obligations following entry of a final decree. Max has also obtained several annotations to this statute. This issue will be discussed at the next meeting and we will probably take action at that time.

3. Carol Johnson was malingering at the hospital and therefore was not able to report on the problems with the dissolution statute. She did, however, say that she had made some progress and is expected to be back by our next meeting.

4. We had no volunteers to write a column for the next issue for the Bar Rag, although Bonnie Lembo indicated a willingness to do an article on juvenile law in the future. A subsequent conversation with Max Gruenberg indicates that he has two articles in progress which may be completed in time for the Bar Rag deadline. Anyone who has any ideas for an article should go ahead and get started.

5. Tim Lynch reported on the Child Support regulation controversy. Between Lynch's efforts with the bureaucrats and his appearance at the hearing, Bruce Tennant's suggestions to the agency, and a little bit of heat from the ombudsman's

office it was announced that the matter would remain open for comments until November 15, 1978. Subsequent to the meeting, I received a call from the ombudsman's office which indicated that the agency had announced it would hold the matter open for comments until December 31, 1978. This was probably in response to the combined efforts of everyone and particularly Bruce Tennant's letter to the agency which suggested that action.

Tim Lynch is to set up a meeting to work on our formal response to the regulations. Members of his subcommittee will be notified by him.

No other reports were received.

The committee on custody evaluation standards has been expanded to include Lynch, Palmier, Rawitz, McMurtray, and Ames. Absent a volunteer, I agreed to be chairman of this subcommittee. A work session on this issue will be announced to these committee members shortly.

The next meeting of the committee will be held November 22, 1978, at noon, probably at McDouald's basement. If anyone thinks we deserve a break that day, please give me your alternate suggestions. Or did we decide to brown bag it at Palmier's office? Stay tuned.



JOHN REESE

JR/dlh
Enclosures

cc: J. Ames
M. Evans
M. Frankel *Fren 2*
M. Gruenberg
C. Johnson
P. Kennedy
T. Lynch
N. McMurtray
J. Palmier
D. Peterson
P. Rawitz
B. Rehbock
H. Simpson
B. Tennant

OCT 16 1978

LAW OFFICES

MAX F. GRUENBERG, JR.
ROBERT D. FRENZ

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ANCHORAGE, ALASKA 99501

[907] 276-6945
[907] 276-6844

October 13, 1978

John Reese, Esq.
920 W. 6th Avenue
Anchorage, Alaska 99501

Re: Termination of Responsibility of
Attorney Following Decree in a
Divorce Case.
(No. 2 on "The List")

Dear John:

Enclosed please find copies of Section 4809 of the California Civil Code which should clear up this problem. There should be enough copies for every member of the Family Law Committee and other interested family law practitioners.

Also enclosed please find a xerox copy of the same section from West's California Civil Code Annotated. This includes most of the California cases construing this section.

I recommend that Section 4809 be added in toto as Alaska Civil Rule 5(g). I further recommend that the supreme court order adding this rule indicate that the rule is based upon Section 4809, and is adopted complete with the construction placed upon it by the California courts prior to the date of its adoption in Alaska. This will give us some common law in construing the rule. See City of Fairbanks v. Schatble, 375 P.2d 201,207 (Alaska 1962).

As you can see from the historical note in the annotation, it is a restatement of a former section in the California Civil Code and has been the law of that state for quite some time. I attempted to re-work it, but do not believe that I can make a proper improvement upon the language (particularly since it has been interrupted upon several occasions by the courts of California). The only change I think we should make is in line one to say "divorce on dissolution". California law no longer speaks of "divorce", only "dissolution". Of course in Alaska "divorce" is a different procedure from "dissolution". This minor amendment will not affect the intent of the statute-rule.

October 13, 1978
Page 2
John Reese

I would suggest your distributing it with your next mailing to the family law members. I do not know if it is necessary to distribute all the annotations too. Possibly we can take this statute up at our next meeting.

With best wishes,

Cordially,



Max F. Gruenberg, Jr.

MFG/jc

Enclosures

§ 4808

MARRIAGE

Div. 4

Note 27

27. Collateral attack

An interlocutory divorce decree assigning to successful wife a homestead selected by wife from community property could not, after time for appeal had elapsed, be collaterally attacked by former husband after death of his former wife, on petition in probate court, to have the property set apart to him as surviving spouse. In re Teel's Estate (1949) 210 P.2d 1, 34 C.2d 349.

28. Review

Trial judge, in awarding wife divorce on grounds of extreme cruelty, did not abuse his judicial discretion in awarding wife family home and directing husband to sell

parcels of community property and apply proceeds in reduction of indebtedness upon family home, where wife was thereby enabled to rent rooms for \$90 per month and apply same to support of her four minor children. Dowd v. Dowd (1952) 245 P.2d 339, 111 C.A.2d 760.

Where husband was erroneously awarded an interlocutory decree of divorce on ground of desertion, wife's appeal from portion of judgment canceling and assigning to husband homestead selected by wife from husband's separate property was dismissed as involving a "moot question". Brooks v. Brooks (1942) 127 P.2d 296, 53 C.A.2d 95.

§ 4809. Modification of judgment, order or decree; service of notice

After the entry of a final judgment decreeing the dissolution of the marriage or the legal separation of the parties, or after a declaration of void or voidable marriage, or after a permanent order in any other proceeding in which there was at issue the custody, support, maintenance, or education of a minor child, no modification of such judgment, order, or decree, and no subsequent order in such proceedings shall be valid unless any prior notice otherwise required to be given to a party to the proceeding be served, in such manner as such notice is otherwise permitted by law to be served, upon the party himself. For such purpose, service upon the attorney of record shall not be sufficient.

(Added by Stats.1969, c. 1608, p. 3336, § 8, operative Jan. 1, 1970.)

Historical Note

This section is a restatement of former section 147.

Derivation:

Former section 137, enacted 1872; amended by Code Am. 1877-78, c. 208, p. 76, § 1; Code Am. 1880, c. 41, p. 4, § 4; Stats.1905, c. 216, p. 205, § 1; Stats.1907, c. 63, p. 82, § 1; Stats.1917, c. 36, p. 35, § 1; Stats.1927, c. 249, p. 441, § 1; Stats.1929, c. 84, p. 161, § 1; Stats.1941, c. 1028, p. 2086, § 1; Stats. 1951, c. 1700, p. 3910, § 1.

Former section 147, added by Stats. 1963, c. 605, p. 1481, § 1.

Former section 147 read as follows: "After the granting of a final decree of

divorce, or final decree or judgment in an action for separate maintenance, a final decree of annulment, or an order for the support, maintenance or custody of minor children, no modification of the decree, judgment or order and no other order of the court in the divorce, separate maintenance, annulment, or child support, maintenance or custody action shall be valid unless any prior notice otherwise required to be given to a party to the action be served, in such manner as such notice is otherwise permitted by law to be served, upon the party himself. For such purpose service upon the attorney of record shall not be sufficient."

Cross References

Enforcement of judgments, orders and decrees, see § 4540.

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Annual Reports
Ethics Committee

E. L. ARNELL (1913-1958)

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F
Annual
Committee
Report
BURR, PEASE & KURTZ, INC.

810 N STREET

ANCHORAGE, ALASKA 99501

TELEPHONE
AREA CODE 907
279-2411

TELEX NO.
(090) 26-405

June 4, 1979

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

RE: Ethics Committee Matters
Our File #A-1945

Dear Donna:

In accordance with your request of April 19, 1979, this is a report on the business of the Ethics Committee during the calendar year 1979.

During that year, the Committee has met approximately every other month to consider formal requests for opinions. During the course of that year, the Committee has adopted several formal opinions, which have been forwarded to the Board of Governors for consideration. In addition, the Committee has met once in joint session with the Committee on law examinations, and adopted formal recommendations to the Board of Governors with respect to examinations on the subject of ethics. In addition, I have responded to approximately a dozen requests for ethical opinions on an informal basis, where the press of events made it necessary to respond without formal reference to an opinion and the Board of Governors. In addition, of course, the members of the Committee receive telephone calls from time to time, to which we respond in an informal manner.

As to the status of the Committee's work, I must reiterate the comments I have made in past years. Though the members are by and large well intentioned, they are all busy practitioners. For that reason, we have a serious problem in completing the research for serious ethical

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ASSOCIATION

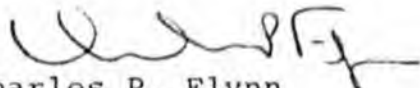
Page Two
June 4, 1979

questions which would have wide ramifications, and an equally serious problem in getting formal opinions drafted. The Committee presently has approximately half a dozen requests before it for formal opinions, which have not been acted upon. Those opinions have been assigned to members of the Committee to research and draft appropriate opinions. With respect to two of the six opinions pending, that has been done, and after discussion of the merits of the proposed opinion, various revisions and additional research has been suggested. As to the balance, no draft opinion has been forthcoming. As I have stated in previous years, I do not know the solution to this problem, since only a certain amount of nagging on my part seems to be effective. In all candor, of course, there are occasions on which I am as guilty as anyone in procrastinating on this work. If the Board has any suggestions, we would be more than happy to try and implement them, but so far the various tactics we have tried have not been successful.

I anticipate arriving in Sitka the afternoon of June 7, and will look forward to discussing the affairs of the Committee with you at that time.

Very truly yours,

BURR, PEASE & LORTZ, INC.


Charles P. Flynn

CPF/lsf

BURR, PEASE & KURTZ, INC.

E. L. ARNELL 1913-1958

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LARRY MEYER
ANN C. LIBURD
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ANCHORAGE, ALASKA 99501

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AREA CODE 907
279-2411

May 5, 1978

TELEX NO
(090) 26-405

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

Re: Ethics Committee

Dear Ken:

In response to your letter of March 29, 1978, regarding the proposed committee reorganization within the Bar Association, I am afraid my comments must be relatively limited. Our committee has been reasonably active, although it meets only on a sporadic basis. During 1978, we have met on February 7 and May 2. The meetings are basically dictated by the number of questions which are presented for our consideration, however, and no predetermined schedule is established.

As you undoubtedly know, the committee's primary function is advising members, frequently on a prospective basis, about the ethical propriety of various actions. We generally get two types of questions. The first is probably of a less serious and far-reaching character, and involves telephone calls from people who have an immediate and specific problem with which they need guidance. In the past I have responded verbally to those questions myself, or referred them to one of the committee members if I felt for some reason I should not be involved, with the proviso that my opinion was just that, and that it had no binding weight whatsoever.

The second category of questions involve more serious and long-standing problems, which generally do not require as rapid a resolution. These are submitted in hypothetical, written form to the committee, and the



Kenneth G. Jarvi
Alaska Bar Assn.
May 5, 1978
Page Two

committee attempts to respond in writing, subject to the approval of the Board. These responses are normally issued as ethics opinions, under the authority of the Board of Governors.

I must say that I am not entirely happy with the record of our performance in response to the written queries. The intervals between committee meetings are sometimes long, and the process of having one of the committee members draft a written response to the question for consideration by the Board of Governors sometimes takes even longer. In the past we have had a serious problem with participation in the affairs of the committee, and at the present time there are only four or five members who take an active interest and regularly attend the committee meetings. In addition, I recognize that, since drafting the opinions frequently calls for legal research and writing, which is not being reimbursed, it frequently takes a lower priority on the lawyer's desk than other matters. Thus, the responses to our written questions are frequently not as timely as I would like. As I have indicated, the primary problem in that respect is the research and writing of opinions. I do not suggest that the members of the committee should be paid, even at the minimal rate, for their time in that respect. It does seem to me, however, that some staff support in terms of research and writing would make the committee much more effective. I recognize, however, the inherent difficulty in having the staff of the Association do such work, given the possibility of its involvement in a disciplinary proceeding arising out of the same considerations. Nevertheless, I would commend that to your consideration in terms of speeding up the committee's activities.

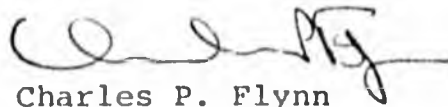
Your question regarding payment of travel expenses for committee members conducting committee business is a difficult one. In general, I do not recommend it. On the other hand, it might well be desirable in the consideration of some specific questions to be able to use conference call facilities to get the viewpoints and opinions of lawyers on the committee not residing in Anchorage. As you may expect, on only one occasion have we had a lawyer from

Kenneth O. Jarvi
Alaska Bar Assn.
May 5, 1978
Page Three

outside Anchorage participate, and on that occasion his contribution was quite valuable. In addition, some of the questions presented have a peculiar impact on the practice outside Anchorage, and I believe it would be desirable to get the opinions of the lawyers who would be most affected. I believe, however, that a conference call budget would be sufficient to meet this purpose.

Your question regarding the long-range purpose of the committee I think should best be answered by reflection on what the committee has done in the past. I think it has met a need in the legal community, and will continue to meet that need. I would not suggest either broadening its warrant to include such matters as unauthorized practice, or abandoning the committee altogether. I think the long-term goal of giving advice on ethics questions of broad general interest to the bar in written form, as well as providing a method for members of the Association to secure informal advice, is a desirable one. I hope the Board of Governors will agree with me.

Very truly yours,



Charles P. Flynn

CPF/mr

DII

Annual Reports

Law Related Education Committee

WILLIAM D. ARTUS
WILLIAM L. CHOQUETTE

LAW OFFICES OF
ARTUS & CHOQUETTE, P. C.
ATTORNEYS AND COUNSELLORS AT LAW
805 WEST THIRD AVENUE, SUITE 100
ANCHORAGE, ALASKA 99501

TELEPHONE | 274-4626
| AREA 907

March 14, 1979

Kenneth O. Jarvi
President
Alaska Bar Association
Garretson & Jarvi
1049 W. 5th Avenue
Anchorage, Alaska 99501

Re: Alaska Bar Association Law Related
Education Committee

Dear Ken:

Pursuant to our previous discussions, I have contacted several individuals concerning their participation in the Alaska Bar Association's Law Related Education Committee. I have discussed with each of them the objectives that the committee would be seeking to accomplish and each has expressed an interest in participating on the committee. I would therefore request that Keith Goltz, Randy Farleigh, Carol Johnson and John Ulyatt be appointed to the committee to serve with me in our effort to improve the quality and quantity of law related education within the State of Alaska. It is anticipated that our initial efforts will be directed toward the establishment of law related education within the Municipality of Anchorage with future expansion statewide.

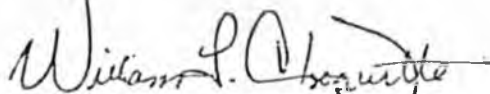
We have not yet prepared a purpose statement for the committee and I would like to delay doing so until I have had an opportunity to meet with the entire committee and obtain input and ideas from each of the members. Generally speaking, I am viewing the purpose of the committee as primarily to increase the quantity and quality of law related education in the community. Through the sponsorship of the Alaska Bar Association and the voluntary participation of Alaskan lawyers, we will be seeking, as a by-product of

the programs established, an increased appreciation of the Alaska Bar Association and its members by the community. At the outset, I intend to pursue the establishment of a course within the Community Service School System with a curriculum which covers the general principles and procedures under the existing legal system. Since such a program is currently in existence, this should be relatively easy to establish on an annual basis. Second, the committee could develop a program, possibly in conjunction with a local university, to offer a course to high school teachers which would prepare them to teach law at the high school level. Successful completion of such a course and institution of the curriculum in the high schools would have the advantage of reaching a large number of the communities members at once. One legal course is currently offered at Dimond High School. The recent drug controversy and proposal to eliminate elective social studies courses may make a proposal to the School Board to increase knowledge of the law warmly received. The course could be supplemented by voluntary representations by local attorneys. Third, as we discussed, we will be looking into the advisability and use of institutionalized advertising in order to further educate the public about the function of law in their lives and the community. It would be my hope that these programs' purposes (defined to aid in obtaining any necessary grant) would increase understanding of the legal and political systems of our State and nation; increase the understanding of the role of a citizen in a constitutional democracy (including understanding of and commitment to exercising the rights, privileges and responsibilities of citizenship); increase the understanding of democratic procedures and willingness to use them when participating in making of decisions and the management of conflicts; increase the understanding of the need for laws and willingness to abide by legal means for changing laws and policies; increase support for legitimate authority and those in position of authority such as law enforcement officers, judicial officers, teachers, administrators, etc.; and decrease the willingness to use or support extralegal means for securing change. In more specific terms, I am hoping that the programs to be developed by the Law Related Education Committee will help members of the community to recognize the complexities of legal (political) issues; recognize the value of the democratic procedures; recognize the human dimension contained within legal affairs; and recognize and learn to deal with the gap between ideals and realities of our legal system.

Please advise me what, if anything, may be added or eliminated from the above to obtain the support and approval of the Alaska Bar Association. Support of the Board of Governors of the Alaska Bar Association is, I believe, crucial to certain goals. Any ideas or proposals on any of the above will be appreciated.

Very truly yours,

ATTUS & CHOQUETTE, P.C.



William L. Choquette
WLC/va

cc: Donna C. Willard
Ronald L. Cole
Randall Farleigh
Carol Johnson
John Ulyatt
Keith Goltz

ABA
RESPONSE
APPENDIX
D(12)-J.

#18

D12

Annual Reports

Legal Educational Opportunities Committee

Sen 6/30/79
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

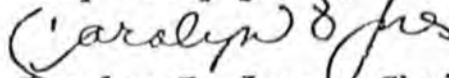
Re: Report from ABA Committee
on Legal Educational
Opportunities

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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DOUGLAS J. SERDAHELY
NANCY J. SHAW
PATRICK H. OWEN
MICHAEL C. GERAGHTY
PERCY R. LUNEY*

* 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 attach-
ed. It more fully describes the seminar.

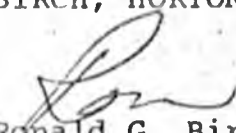
(2) We are completing an analysis to
be included as a mailer during your next regular
mailing of legislation which passed the last State
legislature pertaining to land disposal and natural
resources.

(3) We are continuing a monitoring func-
tion on federal legislation which would directly im-
pact 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.

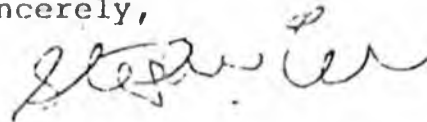
Finally, I have met with a newly formed paralegal society and suggested that the paralegals move to some self-regulation.

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

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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

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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

Probate Committee

Annual Reports

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