

**UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY**

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name:** State full name (include any former names used).

Morgan Brenda Christen
Brenda June Christen

2. **Position:** State the position for which you have been nominated.

United States Circuit Judge for the Ninth Circuit

3. **Address:** List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Boney Memorial Courthouse
303 K Street, Fifth Floor
Anchorage, Alaska 99501

4. **Birthplace:** State year and place of birth.

1961; Chehalis, Washington

5. **Education:** List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

2008 – present, The National Judicial College; candidate for Master’s Degree in Judicial Studies

2002 – 2008, The National Judicial College; various courses, no degree received

2009, New York University School of Law, Appellate Judges Seminar – New Judges Series, Certificate of Completion

1983 – 1986, Golden Gate University School of Law; J.D., 1986

1980 – 1983, Jackson School of International Studies, University of Washington; B.A., 1983

1981, Nanjing University, People’s Republic of China; summer intensive language study, no degree received

1979 – 1980, American College of Switzerland, Leysin, Switzerland, and Richmond College, London, England; no degree received

6. **Employment Record:** List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises,

partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2009 – present

Alaska Supreme Court
303 K Street, Fifth Floor
Anchorage, Alaska 99501
Justice

2002 – 2009

Alaska Superior Court
Third Judicial District
825 West Fourth Avenue
Anchorage, Alaska 99501
Presiding Judge (2005 – 2009)
Superior Court Judge (2002 – 2009)

1987 – 2002

Preston Gates & Ellis LLP (formerly known as Preston Thorgrimson Ellis & Holman and Preston Thorgrimson Shidler Gates & Ellis)
420 L Street, Fourth Floor
Anchorage, Alaska 99501
Partner (1993 – 2002)
Associate (1987 – 1992)

1986 – 1987

Alaska Superior Court
303 K Street
Anchorage, Alaska 99501
Law Clerk to the Honorable Brian Shortell

Summer 1986

Day Law Corporation (now known as Vaught & Boutris LLP)
80 Swan Way
Oakland, California 94621
Law Clerk

1986

U.S. District Court Law Library
Federal Building
450 Golden Gate Avenue
San Francisco, California 94102
Library Assistant

1985

Municipality of Anchorage
Department of Law (Prosecutor's Office)
310 K Street
Anchorage, Alaska 99501
Certified Legal Intern

1984 – 1985

Law Office of Bruce E. Krell, Inc.
Grove Street Law Offices
345 Grove Street
San Francisco, California 94122
Law Clerk

Other Affiliations (uncompensated):

2005 – present

Alaska Community Foundation
400 L Street, Suite 100
Anchorage, Alaska 99501
Member, Board of Directors

2004 – present

Rasmuson Foundation
301 West Northern Lights Boulevard, Suite 400
Anchorage, Alaska 99503
Member, Board of Directors

2002 – 2004

United Way of Anchorage
701 West Eighth Avenue, Suite 230
Anchorage, Alaska 99501
Member, Board of Directors

Approx. 1992 – 1996

Planned Parenthood of Alaska
4001 Lake Otis Parkway, Suite 101
Anchorage, Alaska 99508
Member, Board of Directors

1988 – 1992

Big Brothers/Big Sisters of Anchorage
1057 West Fireweed Lane, Suite 202
Anchorage, Alaska 99503
Member, Board of Directors

Approx. 1990 or 1991
Anchorage Association of Women Lawyers
712 West Fourth Avenue
Anchorage, Alaska 99501
President

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military or registered for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

YWCA Anchorage, Women of Achievement Award (2009)
Alaska Supreme Court's Community Outreach Award (2008)
Anchorage Chamber of Commerce Athena Award (2006)
Anchorage Chamber of Commerce Athena Society (2004)
National Association of Philanthropy, Alaska Chapter, Philanthropist of the Year (2004)
(jointly awarded, with husband)
Court Appointed Special Advocate (CASA), Light of Hope Award (2004)
(for work on behalf of Alaska's children)
Alaska Journal of Commerce, Top 40 Under 40 Award (1998)
Martindale Hubble AV rating (1996 until appointed to the bench)
Golden Gate University School of Law, American Jurisprudence Awards
Constitutional Law (1985)
Evidence (1985)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member, and give the titles and dates of any offices which you have held in such groups.

Alaska Bar Association (1987 – present)
Disciplinary Committee (1994)
Alaska Joint State-Federal Courts Gender Equality Task Force
Alaska Supreme Court
Civil Rules Committee (2000 – 2005)
Civil Rule 90.3 Review Committee (2002 – 2005)
CINA/Delinquency Rules Committee (2005 – present) (co-chair)
Committee on Involuntary Commitments & Involuntary Medications (2007 – 2011)
Anchorage Association of Women Lawyers
President (approx. 1990 or 1991)

Federal Admiralty Rules Committee (Chair) (1998 – 1999)
Federal Merit Selection Committee (Magistrate Judge Retention Committee)
National Association of Women Judges (2003 – present)
Ninth Circuit Judicial Conference
 Co-Chair Lawyer Representative (2001 – 2002)
 Lawyer Representative (1999 – 2002)
Tri-Borough Anti-Gang & Youth Violence Policy Team (2006 – 2008)
Washington State Bar Association (2001 – present) (inactive status)

10. Bar and Court Admission:

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

1987, Alaska
2001, Washington

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

I am eligible to practice in Alaska and Washington state courts. In addition;

United States Court of Appeals for the Ninth Circuit, 1989
United States District Court for the District of Alaska, 1988
United States Court of Claims, 1992

11. Memberships:

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation, and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Anchorage Chamber of Commerce Athena Society (2004 – present)
Alaska Civic Learning Assessment Project Advisory Board (2004 – 2006)
Alaska Community Foundation
 Member, Board of Directors (2005 – present)
Anchorage Chamber of Commerce
 Athena Society (2004 – present)
Anchorage Downtown Rotary Club (1994 – present)

Big Brothers/Big Sisters of Anchorage
 Member, Board of Directors (1988 – 1992)
 Member, Board of Ambassadors (1993 – 2005)
 Big Sister (1987 – 1989)
 Christen Sisters, LLC (1998 – 2009)
 Coalition for Fire Rescue Technology (1998)
 Commonwealth North (1993 – 1995)
 Planned Parenthood of Alaska
 Member, Board of Directors (approx. 1992 – 1996)
 Rasmuson Foundation
 Member, Board of Directors (2004 – present)
 Member, Substance Abuse Task Force (2009 – present)
 Grants Committee (2004 – 2010)
 Audit Committee (2004 – 2010)
 Sabbatical Committee (vice-chair) (2011)
 Roadrunners (1994 – present)
 Top-2005, LLC (2005 – 2009)
 Top-2005 Liquidating Trust (2010 – present)
 United Way of Anchorage
 Member, Board of Directors (2002 – 2004)
 Chair, Grant Allocation & Agency Review Panels (1998 – 2001)
 Y.W.C.A. Anchorage (1994 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

I believe Rotary International did not admit women at one point in its history. Otherwise, to the best of my knowledge, none of the groups listed above currently discriminates or formerly discriminated on the basis of race, sex, religion, or national origin either through formal membership requirements or the practical implementation of membership policies.

12. Published Writings and Public Statements:

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

I have not published any books, articles, reports or letters.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and a summary of its subject matter.

Committee on Involuntary Commitments and Involuntary Medications, Rule Recommendations to the Alaska Supreme Court, May 17, 2010. Copy supplied.

Tri-Borough Anti-Gang and Youth Violence Policy Team, final report, January 2009. Copy supplied.

Advancing Civic Learning in Alaska's Schools, final report of the Alaska Civic Learning Assessment Project, November 2006. Copy supplied.

Federal Admiralty Rules Committee, Admiralty Rules for the District of Alaska, November 15, 1999. Copy supplied.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

The following is a list of speeches that I have been able to identify through a search of my files and publicly-available databases. I speak frequently to attorneys and to other members of the public, including at Youth Court, Law Day, and Color of Justice events for youth. Although this represents my best efforts to compile a list that is as complete as possible, it is likely that I have given other speeches that I have been unable to recall or identify.

May 19, 2011: Swearing in ceremony for new admittees to the Alaska Bar. Outline supplied.

April 21, 2011: Swearing in ceremony for West Anchorage High School Honor Society. I spoke briefly about the importance of civic education and the National Honor Society. I have no notes, transcript, or recording. The address of the high school is 1700 Hillcrest Drive, Anchorage, Alaska 99517.

April 19, 2011: Anchorage Municipal Assembly – swearing in ceremony for new members of Municipal Assembly (administered oath only). I have no notes, transcript or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

March 30, 2011: Alaska Bar Association CLE: “Contempt of Court: A Lynching that Changed the American Justice System,” panel member with author Mark Curriden, judges and lawyers discussing 1906 case involving the arrest, trial, conviction, and lynching of Ed Johnson. Copy of recording supplied.

February 15, 2011: Anchorage Downtown Rotary, lunch presentation regarding experience as a Habitat for Humanity International volunteer. I presented slides from my experience working on a Habitat single-family residence in Romania. Outline supplied.

January 31, 2011: Remarks at retirement reception honoring Judge Stephanie Joannides and presentation of plaque from the Alaska Supreme Court. I provided remarks thanking Judge Joannides for her service on the Superior Court bench. I have no notes, transcript, or recording. The address of the Supreme Court is Boney Memorial Courthouse, 303 K Street, Fifth Floor, Anchorage, Alaska 99501.

December 4, 2010: High School Mock Trial Competition, final round judge and award ceremony. Remarks supplied.

November 18, 2010: Swearing in ceremony for Youth Court – new Head of the Bay Chapter – Kenai Peninsula Youth Court. I made remarks congratulating the graduates. I have been unable to obtain notes, transcript or recording from this event, however I have supplied remarks from another Youth Court graduation that are similar to what I would have said at this event. The address of the Kenai Peninsula Youth Court is 3733 Ben Walters Lane, #5, Homer, Alaska 99603.

November 1, 2010: Anchorage Association of Women Lawyers luncheon, discussion about how the legal community can support the Color of Justice program. I have no notes, transcript, or recording. The address for the Anchorage Association of Women Lawyers is 712 West Fourth Avenue, Anchorage, Alaska 99501.

October 15, 2010: WestPac Law Library Association meeting, keynote for morning session. Remarks supplied.

October 12, 2010: Golden Gate University School of Law, introduction of Justice Dana Fabe at Second Annual Justice Ronald M. George Distinguished Lecture Series. Remarks supplied.

October 11, 2010: CASA (Court Appointed Special Advocates). Congratulatory remarks to new graduates at swearing in ceremony. I have no notes, transcript, or recording. The address for CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

October 6, 2010: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

October 6, 2010: Fall Judicial Conference, remarks at lunch for lawyers, social workers, guardians and CASAs (Court Appointed Special Advocates) involved in child protection cases. Remarks supplied.

September 20, 2010 and February 17, 2010: Alaska Supreme Court Live Program, Q&A session with students after hearing an oral argument at a local high school. I have no notes, transcript, or recording, but press coverage is supplied. The address of the Alaska Supreme Court is 303 K Street, Fifth Floor, Anchorage, Alaska 99501.

May 25, 2010: Anchorage Youth Court Annual Meeting, presentation of Golden Gavel Award, administration of oath to new Youth Court Bar admittees, and congratulatory remarks. I do not have notes from this particular Youth Court swearing-in ceremony, but I have supplied a typical set of notes from one of several Youth Court ceremonies where I have presided in response to the November 18, 2010 event. The address for the Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99501.

May 15, 2010: Shining Light banquet honoring Arliss Sturgulewski. Remarks supplied.

May 7, 2010: Presentation for Youth Court Class, Begich Middle School. I spoke to a middle school class regarding the structure and jurisdiction of Alaska's state courts. I also answered questions regarding what is required to become a judge. I have no notes, transcript, or recording. The Begich Middle School address is 7440 Creekside Center Drive, Anchorage, Alaska 99504.

May 6, 2010: National Association of Legal Secretaries – installation ceremony for new NALS officers in the Alaska Supreme Court courtroom. I spoke about the logistics of preparing appeals and how to comply with our court’s filing rules. This was a joint presentation with the clerk of the appellate courts. I have no notes, transcript, or recording. The NALS of Anchorage address is Post Office Box 101197, Anchorage, Alaska 99510.

May 2010: Goldenview Middle School. I hosted a field trip of middle school students visiting the Alaska Supreme Court. I spoke about our court, gave a tour of the courtroom, and arranged for the students to try on robes and have their photos taken. I have no notes, transcript, or recording. The address for Goldenview Middle School is 15800 Goldenview Drive, Anchorage, Alaska 99516.

April 30, 2010: Friends of CASA (Court Appointed Special Advocates) in Anchorage town square. I have no notes, transcript, or recording. The address for CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

April 20, 2010: Anchorage Municipal Assembly – swearing in ceremony for new members of Municipal Assembly (administered oath only). I have no notes, transcript or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

April 16, 2010: Installation of Justice Stowers to the Alaska Supreme Court. Remarks supplied.

April 15, 2010: University of Alaska Anchorage College of Education, Culturally Responsive Teaching class, panel member, held at Hanshew Middle School. I participated in a class for new teachers on the importance of culturally responsive teaching, and Alaska’s very diverse community. I have no notes, transcript, or recording. The address for the University of Alaska Anchorage College of Education is 3211 Providence Drive, Professional Studies Building, Anchorage, Alaska 99508.

April 15, 2010: Welcoming remarks for Alaska Court System Judicial Assistant Conference. I have no notes, transcript, or recording. The conference was held in the Alaska Court System’s Snowden Administration Building, 820 West Fourth Avenue, Anchorage, Alaska 99501.

February 25, 2010: Swearing in ceremony for Judge Pfiffner. Outline and audio recording supplied.

February 3, 2010: CASA graduation and swearing in; congratulatory remarks and graduation ceremony. I have no notes, transcript, or recording. The address for

CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

January 19, 2010: Panel moderator during Newer Judges Training with Marla Greenstein (Alaska Commission on Judicial Conduct) and Larry Cohn (Alaska Judicial Council) on Judicial Ethics. Presentation materials supplied.

January 11, 2010: Young Lawyers Section of Alaska Bar Association – lunch speaker. I spoke on best practices for preparing an appellate argument. This session was held in the Alaska Supreme Court. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

December 2, 2009: Anchorage Youth Court swearing in ceremony. I do not have notes from this particular Youth Court swearing-in ceremony, but I have supplied a typical set of notes from one of several Youth Court ceremonies where I have presided in response to the November 18, 2010 event. The address for Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99501.

November 13, 2009: Swearing in ceremony for new admittees to the Alaska Bar. Welcoming remarks. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

October 8, 2009: CASA (Court Appointed Special Advocates) swearing in ceremony – welcome and congratulatory remarks for commencement ceremony. I have no notes, transcript, or recording. The address for CASA is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

September 3, 2009: National Association of Legal Secretaries dinner speaker. My recollection is that I spoke about my transition to the Supreme Court, explained the differences between its operations and trial court operations, and fielded questions about best practices for preparing appellate briefs to comply with court rules. I have no notes, transcript, or recording. The NALS of Anchorage address is Post Office Box 101197, Anchorage, Alaska 99510-1197.

June 12, 2009: Alaska Supreme Court installation ceremony. This was the public installation ceremony held after I joined the Alaska Supreme Court. My remarks are supplied.

May 3, 2009: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K

Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 29, 2009: Alaska Court System dedication of new addition to Palmer Courthouse. I have no notes, transcript, or recording. The Palmer Courthouse address is 435 South Denali Street, Palmer, Alaska 99645.

April 13, 2009: Alaska Court System dedication of Kenai Courthouse addition. I have no notes, transcript, or recording. The Kenai Courthouse address is 125 Trading Bay Drive, Kenai, Alaska 99611.

April 1, 2009: Alaska Bar Association CLE: Evidence - presented with panel. I have no notes, transcripts, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

February 18, 2009: Young Lawyers Section – member of mentoring panel; informal question and answer session. I have no notes, transcript, or recording. The Alaska Bar Association address is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 27, 2009: Alaska Bar Association CLE: “Off the Record – 3rd Judicial District” presented with panel. I gave an administrative report concerning the trial courts in the Third Judicial District, participated in the panel discussion with the clerk of court and answered questions from the Bar on trial court operations. I have no notes, transcript, or recording. The Alaska Bar Association address is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 4, 2009: Administered oath of office to former Anchorage Mayor Matt Claman. I made no additional remarks. I have no notes, transcript, or recording. The address for the Municipality of Anchorage is 632 West Sixth Avenue, Anchorage, Alaska 99501.

November 20, 2008: Office of Public Advocacy, National Adoption Day Event. Remarks supplied.

November 19, 2008: Alaska Bar Association Section Meeting - ethics presentation. This was an ethics discussion that focused on a set of hypotheticals supplied by the group participants. I have no notes, transcript, or recording. The address for the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

November 13, 2008: Alaska Association of Paralegals – Pointers and Tips from a Judge’s Perspective. I have no notes, transcript, or recording. The address of the Alaska Association of Paralegals is Post Office Box 101956, Anchorage, Alaska 99510-1956.

November 12, 2008: Alaska Bar Association, Bench Bar – legal writing. I have no notes, transcript or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

November 4, 2008: Alaska Bar Association, Family Law Section presentation. Outline supplied.

October 27, 2008: Wellness Court Graduation – congratulatory remarks to graduates. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

October 14, 2008: Alaska Black Chamber of Commerce - administered oath to Directors and Executive Board members of newly-formed chapter. I have no notes, transcript, or recording. The address of the Alaska Black Chamber of Commerce is 1231 Gambell Street, Anchorage, Alaska 99501

October 10, 2008: Swearing in ceremony for Judge Easter. Remarks supplied.

October 7, 2008: Alaska Bar Association CLE “Voir Dire: Picking the Winning Strategy for Your Case.” Video recording supplied.

September 24, 2008: Presented and participated in Evidence Cranium CLE at a Magistrate Training Conference. This is an evidence competition I developed with another judge for use at Alaska’s joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

June 16, 2008: Alaska Court System dedication of new courthouse in Unalaska. I have no notes, transcript, or recording. The address of the Unalaska courthouse is Post Office Box 245, Unalaska, Alaska 99685.

April 15, 2008: Swearing in ceremony for Anchorage Municipal Assembly members. I administered the oath and made no additional remarks. I have no notes, transcript, or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

April 4, 2008: Anchorage Chamber of Commerce Athena luncheon, keynote speaker. Remarks supplied.

April 1, 2008: Anchorage Bar Association, Young Lawyers Section, informal question and answer session on practice in Superior Court. I have no notes, transcript, or recording. The address of the Anchorage Bar Association is 425 G Street, Suite 920, Anchorage, Alaska 99501.

March 20, 2008: Alaska Association of Paralegals, I spoke on "Preparing for Your Day in Court." I have no notes, transcript, or recording. The address of the Alaska Association of Paralegals is Post Office Box 101956, Anchorage, Alaska 99510-1956.

March 8, 2008: Swearing in ceremony for Judge Kristiansen and Judge White. Remarks supplied.

February 2008: Anchorage Bar Association, Young Lawyers Section: Informal bench to bar discussion, panel member. I have no notes, transcript, or recording. The address of the Anchorage Bar Association is 425 G Street, Suite 920, Anchorage, Alaska 99501.

January 24, 2008: Alaska Bar Association CLE: "Off the Record: An Informal Bench/Bar Exchange." I provided an administrative report for the trial courts in the Third Judicial District, participated in the panel discussion with the clerk of court and other judges, and answered questions from the Bar. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

January 24, 2008: Alaska Association of Women Lawyers: Top 10 Things to Avoid in Court from the Judiciary's Perspective (brown bag lunch series). I have no notes, transcript, or recording. The address for the Anchorage Association of Women Lawyers is 712 West Fourth Avenue, Anchorage, Alaska 99501.

December 7, 2007: Swearing in ceremony for Judge Bauman. Remarks supplied.

November 6, 2007: Fifth Annual Alaska Bar Historians Luncheon, panel member, topic "Privacy in Alaska: Who gets it? How much do they get? When do they get it?" Audio recording supplied.

October 5, 2007: Swearing in ceremony for Judge Postma. Remarks supplied.

September 21, 2007: Swearing in ceremony for Judge Illsley. Remarks supplied.

June 18, 2007: Swearing in ceremony for Judge Moran. Remarks supplied.

March 2, 2007: Swearing in ceremony for Judge Spaan. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 20, 2007: Swearing in ceremony for Judge Smith. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 13, 2007: Alaska Bar Association CLE: "Off the Record: 3rd Judicial District." Video recording supplied.

January 2007: Hosted King Career Center class in courtroom, presented welcoming remarks, and an informal question and answer session. I have no notes, transcript, or recording. The address for the King Career Center is 2650 East Northern Lights Boulevard, Anchorage, Alaska 99508.

October 2006: Alaska Judicial Observers, Inc. I made congratulatory remarks and thanks to new graduates. As presiding judge, I also provided a tour of the jury rooms and chambers for the new graduates and spoke about the important role the Judicial Observers play by providing candid comments and ratings for trial court judges. I have no notes, transcript, or recording. The address of Alaska Judicial Observers was 308 G Street, Suite 315, Anchorage, Alaska 99501 but I do not believe it continues to operate from that location.

May 22, 2006: Anchorage Chamber of Commerce, Athena Award ceremony. I gave brief, extemporaneous acceptance remarks upon learning that I received the award. I have no notes, transcript or recording. The address of the Chamber of Commerce is 1016 West Sixth Avenue, Suite 303, Anchorage, Alaska 99501.

May 10, 2006: Panel Member University of Alaska, Anchorage, Leadership Conference. I participated in a panel discussion fielding questions from a moderator and from the audience. I have no notes, transcript, or recording. The address of the University of Alaska is 3211 Providence Drive, Anchorage, Alaska 99508.

April 28 or 29, 2006: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 3, 2006: CINA (Child In Need of Aid) Presentation. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

March 30, 2006: Alaska Association of Paralegals Conference. I gave an administrative update, solicited input regarding remodeling plans (for courtroom technology and storage options for trial exhibits), and answered questions. I have no notes, transcript, or recording. The address of the Alaska Association of Paralegals is Post Office Box 101956, Anchorage, Alaska 99510-1956.

March 3, 2006: Swearing in ceremony for Judge McKay. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

February 1, 2006: Alaska Bar Association "Off the Record: An Informal Bench/Bar Exchange." Video recording supplied.

February 2006: High School Mock Trial Competition. I served as final round judge and made congratulatory remarks at this award ceremony. I have no notes, transcript, or recording, but I have supplied remarks similar to what I would have said at this event in response to the December 4, 2010 entry. The address of the High School Mock Trial Competition is: c/o Ryan Forston, Dorsey & Whitney LLP, 1031 West Fourth Avenue, Suite 600, Anchorage, Alaska 99501.

2006: I introduced Chief Justice Alex Bryner as the lunch speaker at Anchorage Rotary Club. I have been unable to recall the date, but my introduction is supplied.

November 2, 2005: Ethics discussion for new judges. I served as moderator for this discussion with Marla Greenstein (Alaska Commission on Judicial Conduct) and Larry Cohn (Alaska Judicial Council). Talking points supplied.

May 11 – 13, 2005: Presented and participated in Evidence Cranium CLE. This is an evidence competition I developed with another judge for use at Alaska's joint bar/judicial conference. Teams of lawyers and judges answer a number of evidence questions, using hypothetical fact patterns. I have no notes, transcript, or recording. The CLE was jointly sponsored by the Alaska Court System, 303 K Street, Anchorage, Alaska 99501, and the Alaska Bar Association, 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

April 29, 2005: Participated in mock jury trial for Alaska Court System's Color of Justice program. I served as a juror. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

April 19, 2005: Anchorage Municipal Assembly. This was a swearing in ceremony for new members of Municipal Assembly. I administered the oath but gave no other remarks. I have no notes, transcript, or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

March 5, 2005: High School Mock Trial Competition. I served as final round judge and made congratulatory remarks at the awards ceremony. I have no notes, transcript, or recording, but I have supplied remarks similar to what I would have said at this event in response to the December 4, 2010 entry. The address of the High School Mock Trial Competition is: c/o Ryan Forston, Dorsey & Whitney LLP, 1031 West Fourth Avenue, Suite 600, Anchorage, Alaska 99501.

Spring 2005: University of Alaska Anchorage Family Law class. I do not recall the topic on which I spoke. I have no notes, transcript, or recording, but press coverage is supplied. The address of the University of Alaska, Anchorage, is 3211 Providence Drive, Anchorage, Alaska 99508.

January 20, 2005: Alaska Bar Association CLE: "Off the Record: An Annual Informal Bench/Bar Exchange," panel member. I participated in the panel discussion with the clerk of court and other judges, and answered questions from the Bar. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

September 24, 2004: CASA/GAL Conference, Advocating for Alaska's Children: Today's Voice for Our Children's Future, Judges' Panel "Expectations from the Bench." I spoke about the importance of the CASA program and encouraged active participation by CASAs in CINA proceedings. I have no notes, transcript, or recording. The address of the CASA office is c/o Office of Public Advocacy, 900 West Fifth Avenue, Suite 525, Anchorage, Alaska 99501.

July 2004: Color of Justice program presenter. This was a brown bag lunch discussion with high school students attending a statewide Color of Justice program. I discussed career options in law. I have no notes, transcript, or recording. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

May 19, 2004: Children in Alaska's Courts Public Forum. I served as a roundtable facilitator for a public discussion on Domestic Violence. I have no notes, transcript, or recording, but a report on the roundtable discussion and other similar events is supplied. The address of the Alaska Court System is 303 K Street, Anchorage, Alaska 99501.

April 20, 2004: Anchorage Municipal Assembly – swearing in ceremony for new members of Municipal Assembly (administered oath only). I have no notes, transcript, or recording. The address of the Assembly is 623 West Sixth Avenue, Suite 250, Anchorage, Alaska 99501.

November 14, 2003: Alaska Academy of Trial Lawyers Mediation CLE: panel member regarding preparation for settlement conferences. I have no notes, transcript, or recording. The address of the Alaska Academy of Trial Lawyers is Post Office Box 102323, Anchorage, Alaska 99510.

September 9, 2003: Anchorage Youth Court, Faces of AYC: More than Robes and Gavel. Welcoming remarks. I do not have notes from this particular Youth Court swearing-in ceremony, but I have supplied a typical set of notes from one of several Youth Court ceremonies where I have presided in response to the

November 18, 2010 event. The address of Anchorage Youth Court is 838 West Fourth Avenue, Anchorage, Alaska 99501.

July 2003: Girl Scouts Susitna Council, I spoke to senior scouts regarding law as a career option. I have no notes, transcript, or recording. The address of the Girl Scouts Susitna Council is 3911 Turnagain Boulevard, East, Anchorage, Alaska 99517.

April 11, 2003: Alaska Bar Association CLE: "An All-Star Faculty Discuss and Debate How to Present Evidence Effectively at Hearings, Trials, and Settlement Conferences." I participated in a panel discussion with other judges and lawyers. Outline supplied.

April 11, 2003: Alaska Bar Association CLE: "A CLE Program Just for Lawyers (and Judges) on Domestic Relations Cases: How to Effectively Present Evidence at Hearings, Trials, and Settlement Conferences and How Judges Can Make Better Decisions." I participated in a panel discussion with other judges and lawyers. I have no notes, transcript, or recording. The address of the Alaska Bar Association is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

March 24, 2003: Alaska Judicial Observers, I spoke at training session regarding courtroom protocols for the Alaska Judicial Observers, a group that observes judges and provides ratings and comments regarding their performance. I have no notes, transcript, or recording. The address of the Alaska Judicial Observers was 308 G Street, Suite 315, Anchorage, Alaska 99501 but I do not believe it continues to operate at that location.

March 18, 2003: Alaska Bar Association – Tort Section Meeting. Panel provided observations and recommendations for effective settlement conferences. I have no notes, transcript, or recording. The address of the Alaska Bar is 550 West Seventh Avenue, Suite 1900, Anchorage, Alaska 99501.

March 8, 2003: Alaska High School Mock Trial Competition. I served as a judge for the final round of this competition. I have no notes, transcript, or recording. The address of the sponsoring agency is: c/o Ryan Forston, Dorsey & Whitney LLP, 1031 West Fourth Avenue, Suite 600, Anchorage, Alaska 99501.

March 6, 2002: Anchorage Association of Women Lawyers and the Gender Equality Section of the Alaska Bar Association event honoring Senator Arliss Sturgulewski, Police Chief Shirley Warner, and Judge Beverly Cutler. Introductory remarks supplied.

January 18, 2002: Alaska Superior Court judge installation ceremony. Audio recording supplied.

June 22, 1999 and April 7, 1998: Anchorage Downtown Rotary invocation. Remarks supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

McKibben Jackinsky, *New Youth Court Established at Head of Bay*, Homer News, Dec. 1, 2010. Copy supplied.

Dan Levine, *New Names Emerge for 9th Circuit Seats*, The Recorder, July 26, 2010. Copy supplied.

Morgan Christen: Justice for All in Profiles in Prominence, ed. Dan and Patricia Angel, Golden Gate University, 2010. Copy supplied.

Jill Goetz, *Her Most Rewarding Work*, Golden Gate Lawyer, Spring/Summer 2009. Copy supplied.

Beth Bragg, *Stewart, State Constitutional Stalwart, Dies – 88 Years Old: Retired Judge Was Alaska's Ben Franklin, Friend Says*, Anchorage Daily News, Dec. 14, 2007. Copy supplied.

Press release, *Governor Palin Orders Flags Lowered for Secretary of Alaska Constitutional Convention; Judge Tom Stewart Dead at 88*, Office of the Governor of Alaska, Dec. 13, 2007. Copy supplied.

Lisa Demer, *Mother Tries to Earn Daughters Back*, Anchorage Daily News, Jan. 30, 2005. Copy supplied.

Press release, *Rasmuson Foundation Welcomes Two New Board Members*, Rasmuson Foundation, Dec. 2004. Copy supplied.

Knowles Names Morgan Christen to Superior Court, 25 AK Bar Rag 13 (Nov/Dec 2001). Copy supplied.

Alaska Digest; Attorney Morgan Christen Named to Anchorage Superior Court, Anchorage Daily News, Oct. 28, 2001. Copy supplied.

Sheila Toomey, *Scout Settlement OK'd; Details Secret*, Anchorage Daily News, Apr. 11, 1991. Copy supplied.

Sheila Toomey, *Oil Firm Prepares for Inquiry; Exxon Staff to Testify on Destroyed Papers*, Anchorage Daily News, July 12, 1989. Copy supplied.

Joan Hamilton and David Castellon, *AIDS: Where Insurers Are Showing Little Mercy*, BusinessWeek, Nov. 21, 1988. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

I was appointed to the Alaska Superior Court Bench on October 25, 2001. I was sworn in at a private ceremony on January 9, 2002 and at a public in ceremony on January 18, 2002. I served as a Superior Court Judge until April 6, 2009. I was Presiding Judge of the Third Judicial District, Alaska, from November 1, 2005, until March 25, 2009. On March 4, 2009, I was appointed to the Alaska Supreme Court. I have been a member of the Alaska Supreme Court from April 6, 2009 to the present.

All of the judicial offices I have held were the product of Alaska's judicial selection process, modeled after the Missouri Plan. A Judicial Council (composed of three members of the bar, three members of the public appointed by governor(s) in staggered terms, and the chief justice) nominates at least two candidates for each judicial vacancy. The governor makes the final decision regarding judicial appointments, but all appointed judicial officers are subject to retention elections in Alaska.

The superior court is the court of general jurisdiction in Alaska. The civil caseload principally consists of civil disputes with amounts in controversy exceeding \$100,000, family law and probate matters, domestic violence, actions for declaratory or injunctive relief, administrative appeals, and appeals from the district court. The criminal caseload is typically felony offenses. The Third Judicial District accounts for just under 70% of the statewide trial court caseload. The presiding judge of this district supervises approximately 40 judicial officers in 13 court locations.

The Alaska Supreme Court is the highest level of state court in Alaska. Its jurisdiction includes direct appeals in civil cases from the state's general jurisdiction trial courts, discretionary appeals of decisions from the Alaska Court of Appeals in criminal cases, discretionary appeals of non-final orders in criminal cases and superior court civil cases, and original applications in matters for which relief is not otherwise available. The latter category includes bar admissions, attorney disciplinary matters, and questions of state law certified from federal courts.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

Our court system's computer shows that while I served in the trial court, I was assigned to 3,641 cases at disposition. Courtview does not have an accurate list of the cases I tried. I was able to locate records of 19 jury trials. I estimate that I tried at least 150 bench trials.

i. Of these, approximately what percent were:

| | |
|-----------------------|------|
| jury trials: | 12% |
| bench trials: | 88% |
| civil proceedings: | 100% |
| criminal proceedings: | 0% |

b. Provide citations for all opinions you have written, including concurrences and dissents.

I wrote the following opinions on the Alaska Supreme Court:

Bagby v. Bagby, S-13785, Op. No. 6559, 2011 WL 1814244 (May 13, 2011).

Henrichs v. Chugach Alaska Corp., S-13094, Op. No. 6553, 2011 WL 1519386 (April 22, 2011).

Olson v. City of Hooper Bay, S-13455, Op. No. 6552, 2011 WL 1441869 (April 15, 2011).

Calvert v. State, Dep't of Labor & Workforce Dev., S-13721, Op. No. 6549, 2011 WL 1441861 (April 15, 2011).

Doug Y. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13701, Op. No. 6527, 243 P.3d 217 (Alaska 2010).

Misyura v. Misyura, S-13809, MO&J No. 1374, 244 P.3d 519 (Alaska 2010).

Misyura v. Misyura, S-13579, Op. No. 6525, 242 P.3d 1037 (Alaska 2010).

Allstate Ins. Co. v. Dooley, S-13331, Op. No. 6524, 243 P.3d 197 (Alaska 2010).

Brotherton v. Warner, S-13541, Op. No. 6521, 240 P.3d 1225 (Alaska 2010).

Davis v. Kiewit Constr. Co., S-13291, MO&J No. 1371, 2010 WL 3928859 (October 6, 2010).

Kingik v. State, Dep't of Administration, Div. of Retirement & Benefits, S-13431, Op. No. 6515, 239 P.3d 1243 (Alaska 2010).

Hertz v. State, Dep't of Revenue, S-13661, MO&J No. 1370, 2010 WL 3719161 (Sept. 22, 2010).

Barnett v. Barnett, S-13177, Op. No. 6505, 238 P.3d 594 (Alaska 2010).

Smith v. Radecki, S-13171, Op. No. 6506, 238 P.3d 111 (Alaska 2010).

West v. State, Board of Game, S-13184/13343, Op. No. 6497, 2010 WL 3063151 (Aug. 6, 2010).

Anderson v. Alyeska Pipeline Service Co., S-13367, Op. No. 6496, 234 P.3d 1282 (Alaska 2010) (Dissent).

Croft v. Parnell, S-13200, Op. No. 6491, 236 P.3d 369 (Alaska 2010).

Roderer v. Dash, S-13106, Op. No. 6488, 233 P.3d 1101 (Alaska 2010).

Schug v. Moore, S-13162, Op. No. 6487, 233 P.3d 1114 (Alaska 2010).

Laughlin v. Laughlin, S-13683, MO&J No. 1365, 2010 WL 2637025 (June 30, 2010).

Osterkamp v. Stiles, S-13497, Op. No. 6482, 235 P.3d 193 (Alaska 2010).

Osterkamp v. Stiles, S-13297/13317, Op. No. 6481, 235 P.3d 178 (Alaska 2010).

Kent V. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13578, Op. No. 6480, 233 P.3d 597 (Alaska 2010).

Partridge v. Partridge, S-13256, Op. No. 6478, 239 P.3d 680 (Alaska 2010).

Mueller v. Buscemi, S-12943, Op. No. 6477, 230 P.3d 1153 (Alaska 2010).

Okpik v. City of Barrow, Op. No. 6473, S-13195, 230 P.3d 672 (Alaska 2010).

Laughlin v. Laughlin, S-13313, Op. No. 6472, 229 P.3d 1002 (Alaska 2010).

Krause v. Matanuska-Susitna Borough, S-13068, Op. No. 6471, 229 P.3d 168 (Alaska 2010).

Hertz v. Carothers, S-13245, Op. No. 6457, 225 P.3d 571 (Alaska 2010).

Hidden Heights Assisted Living, Inc. v. State, Dep't of Health & Social Services, Div. of Health Care Services, S-13029, Op. No. 6445, 222 P.3d 258 (Alaska 2009).

Weiner v. Burr, Pease & Kurtz, P.C., S-13214, Op. No. 6433, 221 P.3d 1 (Alaska 2009).

Hunter v. Conwell, S-13336, Op. No. 6432, 219 P.3d 191 (Alaska 2009).

Morris v. Horn, S-12514, Op. No. 6431, 219 P.3d 198 (Alaska 2009).

Valdez Fisheries Dev. Ass'n, Inc. v. Froines, S-13228, Op. No. 6424, 217 P.3d 830 (Alaska 2009).

Danielle A. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13377, Op. No. 6410, 215 P.3d 349 (Alaska 2009).

Johnson v. Johnson, S-13251, Op. No. 6403, 214 P.3d 369 (Alaska 2009).

State v. Jacob, S-13226, Op. No. 6402, 214 P.3d 353 (Alaska 2009).

Peterson v. Swarthout, S-12886, Op. No. 6398, 214 P.3d 332 (Alaska 2009).

Jon S. v. State, Dep't of Health & Social Services, Office of Children's Services, S-13257, Op. No. 6395, 212 P.3d 756 (Alaska 2009) (Dissent).

Unpublished Orders:

Olson v. State, Dep't of Envtl. Conservation, and Alaska R.R. Corp., S-13381, Order (March 23, 2010).

State, Board of Dental Examiners v. Ness, S-13129, Order (January 28, 2010).

Opinions issued by superior court judges in Alaska are only published when the Alaska Supreme Court elects to incorporate an entire superior court order into one of its decisions on appeal. One of my trial court decisions was published in that way: *Dennis Lee d/b/a United Community Services of America v. State of Alaska*, 141 P.3d 342 (Alaska 2006). I do not know of any other decisions or orders I issued from the superior court that were published.

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *DeNardo v. Carr*, 3AN-05-10726 Civil.

I entered a Pre-Filing Order in this case as presiding judge pursuant to *De Long v. Hennessey*, 912 F.2d 1144, 1147-49 (9th Cir. 1990). The order was issued in response to a motion asking that the plaintiff be deemed a "vexatious litigant" because of his practice of filing serial complaints arising from the same incidents, and because he routinely filed suit against judicial officers who ruled in favor of the opposing party. The latter practice resulted in judges recusing themselves and the cases being transferred, which disrupted the ability of the trial court to process plaintiff's claims on the merits. The Pre-Filing Order allowed plaintiff to

continue to file complaints, but directed that no summons would be issued until he affirmed that each new claim did not restate a cause of action that had already been asserted or could have been asserted in a prior case against the same parties, and that the new complaint did not raise issues of fact or law that were actually litigated and necessarily decided in a prior case. Order Granting Judge Joannides' Motion for Summary Judgment and Motion for Pre-Filing Order supplied (March 24, 2008).

Counsel:

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2. *Alaskans for Efficient Gov't v. Knowles*, 3AN-02-07717 Civil, affirmed: 91 P.3d 273 (Alaska 2004).

This case concerned a proposal to move the Alaska state capital from Juneau to the Matanuska-Susitna Borough. Plaintiffs argued that AS 44.06.060 required the governor to appoint a commission to determine the cost of the proposal. I ruled that the statutory scheme contemplated a two-step process: if the voters passed the initiative to move the legislature, then a commission was to be appointed to investigate the cost of such a move; as a second step, voters were to separately decide whether to authorize the move. This decision was affirmed by the Alaska Supreme Court. Order Denying Plaintiff's Motion for Injunctive and Declaratory Relief supplied (July 22, 2002).

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3. *Sunland Dev. Co., LLC v. Spizzirri*, 3AN-02-03705 Civil.

This construction contract dispute concerned a real estate development project for the construction of recreational cabins in Homer, Alaska. The claims included breach of cost-plus contract, breach of lump-sum contract, statutory lien claim, breach of change order modification agreements for bedroom additions, a septic system, water tanks and treatment system, and a telephone system. Defendants asserted misrepresentation as a counterclaim and argued several defenses, including equitable estoppel and quasi-estoppel. After a jury trial, judgment of \$1,718,725 was entered in favor of Sunland Development Company, the builder, but defendant was credited with the value of real property conveyed during the dispute (\$900,000). Order on Motion for Summary Judgment supplied (December 2, 2005).

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4. *Columbus v. Mehner and Prudential Jack White Real Estate*, 3AN-00-09060 Civil

This litigation concerned the failure to disclose that a real estate agent was acting in a dual capacity as required by former AS 08.88.396(c) and (d). Plaintiffs prevailed on their statutory and common law claims and received an award of compensatory damages. One of the plaintiffs was found to be entitled to an award of punitive damages. The case was settled by the parties after the liability phase of the trial and before the punitive damages phase. In a separate administrative

proceeding after de novo review, the Alaska Real Estate Commission imposed a 120-day suspension, one year probation, and \$20,000 fine. Findings of Fact and Conclusions of Law supplied (April 15, 2002).

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5. *Church Mut. Ins. Co. v. Redick d/b/a Able Mechanical*, 3AN-05-05813 Civil.

This litigation arose when a church was destroyed by fire. Plaintiff alleged the fire was caused by the negligent installation of a hot water heater. The evidence at trial consisted almost exclusively of expert testimony interpreting the physical evidence to determine the cause and path of the fire. After a bench trial I entered findings of fact and conclusions of law deciding that plaintiff did not show that the fire was caused by the negligent installation of the hot water heater. Judgment was entered for the defense. Findings and Conclusions supplied (September 10, 2007).

Counsel:

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6. *Cook Inlet Region, Inc. v. New Alliance for the Future of CIRI, Inc.*, 3AN-08-0779 Civil.

This action arose from a complaint with the Alaska Division of Banking, Securities and Corporations alleging that a misleading proxy statement had been issued for the 2008 annual election for an Alaska Native Regional Corporation. In superior court, the board's motion for summary judgment alleged that the slate's proxy solicitation contained at least 20 materially false and misleading statements in violation of Alaska's Securities Act and Alaska proxy regulations. The slate's cross-motion alleged the Board's proxy materials violated the same statutory and regulatory requirements and common law proxy rules, and that the Board breached its common law fiduciary duties. I issued orders: (1) granting the request that the proxies given to the slate be declared void; (2) denying the slate's cross-motion for summary judgment; (3) denying one individual director's motion to dismiss; and (4) denying the defendants' motion to dismiss. Order regarding CIRI's Motion for Summary Judgment supplied (May 5, 2009).

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7. *Bedder v. Alaska Surgery Center, Inc.*, 3AN-05-05415 Civil.

This contract dispute arose between a physician practice group and an anesthesiologist recruited to work with the practice group. The primary questions concerned the parties' communications and whether they formed binding oral or written contracts. I issued an order denying summary judgment on five counts but granting summary judgment as to the claim for breach of the Second Anesthesia Services Contract and the associated claim for breach of the covenant of good faith and fair dealing. I also partially granted summary judgment as to the claim that the general partner breached the covenant of good faith and fair dealing by refusing to execute the second contract and/or by repudiating it. This case settled in a judicial settlement conference after the summary judgment rulings were issued. Order on Cross-Motions for Summary Judgment supplied (February 24, 2007).

Counsel:

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8. *Brown v. L.D.G., Inc.*, 3KN-00-00513 Civil, affirmed: *L.D.G., Inc. v. Brown*, 211 P.3d 1110 (Alaska 2009).

Another judge presided over the jury trial in this wrongful death suit but recused himself after the jury awarded each of the victim's two sons an amount above the statutory cap for non-economic damages and plaintiff filed a motion for remittitur and a challenge to the statutory cap. I was assigned to decide the motions. I ruled that the statutory cap on damages was constitutional both facially and as applied to this case. The Alaska Supreme Court affirmed. Order on Pending Motions supplied (July 25, 2006).

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9. *Larson v. Cooper*, 3AN-00-03607 Civil, affirmed: 113 P.3d 1196 (Alaska 2005).

An inmate brought an action against two guards at Spring Creek Correctional Center alleging that they violated his rights under the Alaska and United States Constitutions by refusing to allow him to hold hands and pray with family members during visitation. I found that defendants' conduct did not violate the United States Constitution or the Alaska Constitution. This decision was affirmed by the Alaska Supreme Court. Decision and Order supplied (September 20, 2002).

Counsel:

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10. *Anthoney v. Dep't of Corrections, State of Alaska*, 3AN-06-12520 Civil, affirmed: 229 P.3d 164 (Alaska 2010).

An inmate appealed after being found guilty of a disciplinary infraction in prison. The inmate was charged with "mutual combat," and found guilty after a hearing in the prison. The inmate alleged 24 errors in his appeal to the superior court. Grouping the arguments into seven points on appeal, I entered a decision addressing each. The decision concluded that the inmate was incorrectly charged, but was guilty of a lesser-included infraction under 22 AAC 05.400(d)(13). I ordered that his disciplinary record be amended to reflect that he was guilty of a "low-moderate infraction," and affirmed the prison tribunal's findings in all other respects. In a subsequent order, I found the inmate to be the prevailing party. The State's appeal of the latter ruling was affirmed by the Alaska Supreme Court. Decision on Appeal from the Alaska Board of Corrections August 7, 2006
Disciplinary Hearing of Kirby Anthoney supplied (September 22, 2008).

Counsel:

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- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.
1. *Olson v. City of Hooper Bay*, S-13455, Op. No. 6552, 2011 WL 1441869 (April 15, 2011).

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2. *Henrichs v. Chugach Alaska Corp.*, S-13094, Op. No. 6553, 2011 WL 1519386 (Apr. 22, 2011).

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3. *West v. State of Alaska, Board of Game*, S-13184/13343 (Consolidated), Op. No. 6497, 248 P.3d 689 (Alaska 2010).

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4. *Hidden Heights Assisted Living, Inc. v. State, Dep't of Health & Social Services, Div. of Health Care Services*, 222 P.3d 258 (Alaska 2009).

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5. *Croft v. Parnell*, 236 P.3d 369 (Alaska 2010).

Counsel:

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Michael Barnhill
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6. *Krause v. Matanuska-Susitna Borough*, 229 P.3d 168 (Alaska 2010).

Counsel:

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7. *Jon S. v. State, Dep't of Health & Social Services, Office of Children's Serv.*, 212 P.3d 756 (Alaska 2009) (Dissent).

Counsel:

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8. *Harmon v. Olson d/b/a Jim's Towing*, 3KN-05-00641 Civil (order supplied).

Counsel:

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9. *Citizens for Implementing Medical Marijuana v. Municipality of Anchorage*, 3AN-02-12732 Civil, affirmed: 129 P.3d 898 (Alaska 2006) (order supplied).

Counsel:

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Greater Fairbanks Community Hospital Foundation
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10. *Trust the People Initiative Comm. v. Leman*, 3AN-04-11341 Civil (order supplied).

Counsel:

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- e. Provide a list of all cases in which certiorari was requested or granted.

I know of no cases of mine in which certiorari was requested or granted.

- f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

Millette v. Millette, 177 P.3d 258 (Alaska 2008). I entered custody, visitation, and child support orders. The Alaska Supreme Court affirmed the custody and visitation orders but remanded the child support order. I do not have a copy of this order but it is maintained on microfiche.

Samuel H. v. State, Office of Children's Services, 175 P.3d 1269 (Alaska 2008). I ruled that a parent failed to make adequate provisions for the care of his child during his incarceration. The Alaska Supreme Court ruled that the father's testimony, if believed, demonstrated he did make adequate arrangements for his daughter. Findings, Conclusions, and Order Terminating Parental Rights and Responsibilities and Permanency Findings (January 9, 2007) supplied.

Carr-Gottstein Foods Co. v. Wasilla, LLC, 182 P.3d 1131 (Alaska 2008). I ruled that the "use clause" of a shopping center lease did not permit the sale of alcohol and that the landlord was not estopped from enforcing the terms of its lease. I also ruled that the owners of the shopping center were the prevailing parties. The Alaska Supreme Court ruled that the landlord impliedly waived the right to enforce the "use clause" and held that the tenants were the prevailing party.

Order on Post-Trial Briefing (December 24, 2004), Findings of Fact and Conclusions of Law (April 9, 2004) supplied.

Allstate Ins. Co. v. Falgoust, 160 P.3d 134 (Alaska 2007). I ruled that a homeowner's insurance policy that excluded coverage for a "dependent person" in the care of the insured was ambiguous as to a foster child in the custody of the State of Alaska who was placed with the homeowner. (The child was dependent upon the foster family for care, but dependent upon the State of Alaska for financial support.) Because of this ambiguity, I ruled that there was coverage. I declined to rule on whether the State had an obligation to defend the foster parents and on whether the insurer had a claim against the State for its defense costs. The Alaska Supreme Court ruled that the policy's exclusion applied because the child was dependent upon the foster family. Order on Motions for Summary Judgment, Entry of Default Judgment, Motion for Entry of Judgment Against Fewer than All Parties, and Motion for Sanctions (April 23, 2004) supplied. Findings of Fact and Conclusions of Law (June 13, 2005) supplied.

State Farm Mut. Auto. Ins. Co. v. Lestenkof, 155 P.3d 313 (Alaska 2007) (rehearing denied). *State Farm Mut. Auto. Ins. Co. v. Lestenkof*, 144 P.3d 504 (Alaska 2006). I ruled that an insurer was obligated to pay attorney's fees on its underinsured motorist coverage pursuant to the "mirror rule." The Alaska Supreme Court ruled that under the facts of the case the insured was not entitled to recover attorney fees on the underinsured motorist coverage. Order on Motion for Judgment on the Pleadings, (September 24, 2003) supplied. Ruling on Plaintiff's Motion for Summary Judgment and Defendant's Cross-Motion for Summary Judgment (November 2, 2004) supplied. Order on Motion for Reconsideration supplied.

Pruitt d/b/a Seward Ship's Ace Hardware and Marine v. City of Seward, 152 P.3d 1130 (Alaska 2007) (Carpeneti, J. dissenting). In an enforcement action for violation of a city's building and zoning codes, I ruled that the citizen failed to exhaust his administrative remedies and that the canopy affixed to his building violated the City's setback requirements. The Alaska Supreme Court held that because the citizen did not receive notice that the City's decision was final, the exhaustion doctrine did not prevent him from defending against the City's enforcement action. The court remanded with instructions that the matter should be held in abeyance while the citizen exhausted his administrative remedies. Order on Motion for Summary Judgment and Cross-Motion for Summary Judgment (June 3, 2004) supplied.

Thoeni v. Consumer Elec. Services, 151 P.3d 1249 (Alaska 2007) (rehearing denied). I affirmed the Alaska Workers' Compensation Board's decisions that (1) claimant's failure to attend a medical examination was unexcused; and (2) she had achieved medical stability. The Alaska Supreme Court reversed those rulings. I also affirmed the Board's decisions that (1) claimant failed to prove the need for additional medical treatment; (2) claimant's depression and insomnia were not

work related; and (3) the controversies were not frivolous or unfair. The Alaska Supreme Court affirmed these rulings. Ruling on Appeal from Decisions of Alaska Workers' Compensation Board (March 17, 2005) supplied.

Board of Trustees, Anchorage Police and Fire Ret. Sys. v. Municipality of Anchorage, 144 P.3d 439 (Alaska 2006). I ruled that requiring a retirement system to absorb the actuarial impact of settling a grievance impermissibly increases the system's costs and impairs the system's ability to withstand future contingencies. The Alaska Supreme Court held that allowing the system to absorb losses from grievances did not impair vested rights, and that the Municipality was not required to compensate the system. Findings of Fact and Conclusions of Law (March 9, 2005) supplied.

B. R. v. State, Dep't of Corrections, 144 P.3d 431 (Alaska 2006) (Fabe, J., joined by Carpeneti, J., concurring in part and dissenting in part.). I ruled that the Department of Corrections was immunized from liability for an employee's intentional assaultive conduct by Alaska's tort immunity statute. The Alaska Supreme Court ruled that plaintiff should be given the opportunity to amend the complaint to allege claims based on the State's independent protective duty, recognized in its recent decision *Kinegak v. State*, 129 P.3d 887 (Alaska 2006), and to pursue a claim for the negligent failure to train other employees. I do not have a copy of this order but it is maintained on microfiche.

Jarvis v. Ensminger, 134 P.3d 353 (Alaska 2006). I granted summary judgment on plaintiff's contract, promissory estoppel, and misrepresentation claims. The Alaska Supreme Court affirmed dismissal of the contract claims but reversed dismissal of the promissory estoppel and misrepresentation claims. Order Re Defendants' Second Motion for Summary Judgment (March 9, 2004) supplied.

Byers v. Ovitt, 133 P.3d 676 (Alaska 2006). I ordered a party to file tax returns so that child support could be calculated. When the tax returns were not filed, I imputed income and calculated child support. The orders requiring production of the tax returns and imputing income were affirmed. The Alaska Supreme Court reversed the calculation of child support, holding that taxes and retirement contributions must be deducted from imputed income regardless of whether they have actually been paid. Child Support Order (September 3, 2002) and Order on Cross-Motions for Reconsideration and Child Support Findings (November 11, 2002) supplied.

State, Dep't of Revenue, Child Support Services Division v. Wise, 122 P.3d 212 (Alaska 2005). I entered a child support order effective as of the date the motion to modify child support was filed. The Alaska Supreme Court held that the order should have been effective as of the date the parties received notice of the motion. I do not have a copy of this order but it is maintained on microfiche.

State of Alaska, Division of Elections v. Metcalfe, 110 P.3d 976 (Alaska 2005). I granted an injunction allowing a candidate to appear on the ballot where he had signatures from less than 3%, but more than 1%, of the voters who voted in the prior election. Because it was a ballot access case, I applied strict scrutiny and ruled that the 1% signature requirement for individual candidates' nominating petitions should be sufficient to establish the required "modicum of support" required for candidates affiliated with political parties. The Alaska Supreme Court also applied strict scrutiny, but held that the State was justified in requiring a greater showing of support for a candidate affiliated with a political party. I do not have a copy of this order but it is maintained on microfiche.

Caldwell v. State, Dep't of Revenue, Child Support Enforcement Division, 105 P.3d 570 (Alaska 2005). I ruled that a parent who received a lump sum for the sale of his business, entered into a five-year non-competition agreement, and did not attempt to find new employment, was obligated to amortize the lump sum payment over the period of the non-competition agreement for purposes of determining his annual income and calculating child support. The Alaska Supreme Court held that one-time capital gains could not be treated as income amortized over the period of the non-competition agreement. I do not have a copy of this order but it is maintained on microfiche.

Wedman v. Wedman, 2005 WL 628806 (Alaska 2005) (unpublished MO&J). I ruled that a material change of circumstances warranted modification of child support and entered a revised child support order. The Alaska Supreme Court affirmed the decision to modify support, rejected appellant's due process claim, and affirmed the rulings on five of the points argued on appeal regarding the calculation. The court remanded the issue of how one party's earned income credit should affect the other's support obligation. Order Adopting Master's Report (June 11, 2003) supplied.

Alderman v. Iditarod Properties, Inc., 104 P.3d 136 (Alaska 2004). I ruled that the plaintiff's claim for breach of an agreement to pay rent was not barred by res judicata, ultimately entered judgment for the plaintiff, and awarded enhanced attorney's fees. The Alaska Supreme Court affirmed the ruling that the doctrine of res judicata did not bar plaintiff's action to recover commercial rent, and the calculation of prejudgment interest. The court reversed the award of enhanced attorney's fees. Order on Cross Motions for Summary Judgment (September 28, 2002), Findings of Fact and Conclusions of Law (November 21, 2002) and Order on Motion for Reconsideration of Attorney's Fees (January 29, 2003) supplied.

Kodiak Island Borough v. Mahoney, 71 P.3d 896 (Alaska 2003). A municipal clerk rejected a ballot initiative proposing term limits on the grounds that it raised constitutional issues of first impression. I ruled this was not a permissible reason to reject the ballot initiative. This ruling was affirmed by the Alaska Supreme Court. Because the citizens erroneously proposed a "ballot measure" rather than an "ordinance," I also ruled that the clerk should correct their error. The latter

ruling was vacated on appeal. Order Denying Defendant's Motion for Summary Judgment and Granting Plaintiff's Motion for Entry of Declaratory Relief (July 5, 2002) supplied.

Alaskans for Efficient Gov't, Inc. v. State of Alaska, 52 P.3d 732 (Alaska 2002) (Eastaugh, J. and Carpeneti, J. dissenting). I affirmed the lieutenant governor's decision approving a ballot initiative summary. The Alaska Supreme Court held that the language of the summary should be revised. Order (May 6, 2002) supplied.

Dobrova v. State, Dep't of Revenue, 171 P.3d 152 (Alaska 2007). I dismissed a late-filed administrative appeal. The Alaska Supreme Court determined that some of the pleadings that had been filed as part of the record on appeal had actually been filed in the wrong trial court case, and were therefore not considered when the motion to accept late-filed appeal was denied. The Alaska Supreme Court remanded the case so that appellant would have an opportunity to file the pleadings in the correct file and have his motion to accept late-filed appeal reconsidered.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Opinions issued by superior court judges in Alaska are only published when the Alaska Supreme Court elects to incorporate an entire superior court order into one of its decisions on appeal. One of my trial court decisions was published in that way: *Dennis Lee d/b/a United Community Services of America v. State of Alaska*, 141 P.3d 342 (Alaska 2006). I do not know of any other decisions or orders I issued from the superior court that were published.

All of the decisions and orders I authored as a superior court judge are maintained by the Records Division of the Nesbett Courthouse, 825 West Fourth Avenue, Anchorage, Alaska 99501. I also maintained a "reading file" where I stored hard copies of many of my trial court decisions. The reading file is now stored in my chambers in the Alaska Supreme Court.

As an Alaska Supreme Court justice, I have issued two unpublished orders and four unpublished decisions. All published and unpublished orders issued by the Alaska Supreme Court are maintained by the Clerk of the Appellate Courts, and I have hard copies in my chambers.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

Olson v. City of Hooper Bay, S-13455, Op. No. 6552, 2011 WL 1441869 (April 15, 2011).

Croft v. Parnell, S-13200, Op. No. 6491, 236 P.3d 369 (Alaska 2010).

West v. State, Board of Game, S-13184/13343, Op. No. 6497, 248 P.3d 689 (Alaska 2010).

The Alaska Public Interest Research Grp. v. Murkowski, 3AN-04-10618 CI, copy supplied.

Kodiak Island Borough v. Mahoney, 3KO-01-00207 CI, copy supplied in response to 13(f). Reviewed by the Alaska Supreme Court, 71 P.3d 896 (Alaska 2003).

Trust the People Initiative Comm. v. Leman, 3AN-04-11341 CI, copy supplied in response to 13(d).

Brown v. L.D.G., Inc., 3KN-00-00513 CI, copy supplied. Reviewed by the Alaska Supreme Court, 211 P.3d 1110 (Alaska 2009).

Citizens for Implementing Medical Marijuana v. Municipality of Anchorage, 3AN-02-12732 CI, copy supplied in response to 13(d). Reviewed by the Alaska Supreme Court, 129 P.3d 898 (Alaska 2006).

Hinterberger v. State of Alaska, 3AN-04-03810 CI, copy supplied.

Larson v. Cooper, 3AN-00-03607 CI, copy supplied. Reviewed by the Alaska Supreme Court, 113 P.3d 1196 (Alaska 2005).

Board of Trustees, Anchorage Police and Fire Ret. Sys. v. Municipality of Anchorage, 3AN-03-10273 CI, copy supplied in response to 13(f). Reviewed by the Alaska Supreme Court, 144 P.3d 439 (Alaska 2006).

Alaskans for Efficient Gov't, Inc. v. State of Alaska, 3AN-01-09799 CI, copy supplied in response to 13(f). Reviewed by the Alaska Supreme Court, 52 P.3d 732 (Alaska 2002).

Price v. Ulmer, 3AN-02-10179 CI, copy supplied.

Jordan v. State of Alaska, 3AN-05-13722 CI, copy supplied.

Hertz v. Carothers, S-13245, Op. No. 6457, 225 P.3d 571 (Alaska 2010).

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an "automatic" recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself sua sponte. Identify each such case, and for each provide the following information:
- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself sua sponte;
 - b. a brief description of the asserted conflict of interest or other ground for recusal;
 - c. the procedure you followed in determining whether or not to recuse yourself;
 - d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

Alaska's Automatic Recusal System:

Alaska Rule of Civil Procedure 42(c) allows parties in district or superior court one change of judge as a matter of right. Under the rule, a Notice of Change of Judge is timely if filed before trial and within five days after notice that a case has been assigned to a specific judge. Since 2004, judicial assignments are made on a random basis by Courtview, our court system's computer case management system. (Prior to 2004, cases were randomly assigned by the clerk's office.) Judicial assignment notices are issued when new case files are opened in the clerk's office. As a judge in the superior court, I rarely received Notices of Change of Judge because the clerk's office typically reassigned the cases before new case files were routed to chambers. When I did receive a Notice of Change of Judge it was because the clerk's office was uncertain whether the notice was timely or otherwise invalid, usually because a party attempted to exercise a change of judge after the time allowed by Civil Rule 42(c) or because a party attempted to exercise a second change of judge as a matter of right. I cannot recall the names or case numbers of specific cases where a Notice of Change of Judge was routed to me.

In the Alaska Supreme Court, the clerk's office maintains a list of automatic recusals compiled by each justice. Notices are sent out in those files by the clerk's office directly.

To determine the cases and case types for the automatic recusal list, I have been guided by the Alaska Code of Judicial Conduct, advice from the Executive Director of the Alaska Commission on Judicial Conduct, published opinions from the Alaska

Commission on Judicial Conduct, and AS 22.20.020, the statute governing disqualification for cause in Alaska.

Recusal Sua Sponte:

Our court system's computer was not able to generate a list of cases in which I voluntarily recused myself, but my electronic records show that I recused myself from the following cases:

Isla Partners; CDC Real Estate Corp. v. The Weinstein Family L.C., 3AN-06-06383 CI. My friend was counsel of record in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Powercorp Alaska, LLC v. State of Alaska, AIDEA, 3AN-06-04543 CI. My former law firm was involved in this case. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Abbott v. State, Dep't of Administration, Division of Motor Vehicles, 3AN-06-06610 CI. The plaintiff is a family friend. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Laurin v. Household Fin. Corp., 3AN-06-05358 CI. My husband's law firm was counsel for one of the parties. I recused myself in accordance with Canon 3E(1)(d)(ii) of the Alaska Code of Judicial Conduct.

General Teamsters Local 959, State of Alaska v. Paratransit, Inc., 3AN-06-07134 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Colaska, Inc., dba QAP v. General Concrete Co., 3AN-05-09825 CI. My former law firm was involved in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Krone v. State of Alaska, Dep't of Health & Social Services, 3AN-05-10024 CI. A family member was potentially eligible for the same benefits at issue in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

McCann v. Wooten, 3AN-05-6836 CI. I was not the assigned judge for this case, but I was asked to conduct a settlement conference. The parties reached a settlement on custody and visitation, and put their agreement on record. About ten months later, they had a dispute about the interpretation of their agreement and they asked me to resolve it. By that time, I was a candidate for the Alaska Supreme Court. Because one of the parties is related to the former governor, I entered an order recusing myself from the case to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Chey v. Netzley, 3AN-04-03787 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Tunista, Inc. v. Bilista, LLC, 3AN-04-12322 CI. Counsel of record was a member of my husband's law firm. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

A&H Enterprises v. Sisson, 3AN-03-10497 CI. My former law firm was involved in this case. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Hutchins v. Hutchins, 3AN-02-04977 CI. One of the parties provided house cleaning services for my family residence. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Johnson v. Sears Roebuck and Co., 3AN-02-06750 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Port Graham Seafoods, Inc. v. Port Graham Dev. Corp., 3AN-01-11477 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Talbot v. Guarino, 3AN-01-11676 CI. My daughter was riding with one of the parties at the time of the car accident at issue in this case. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

LaRose v. Columbia Investments, 3AN-00-10579 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Little v. Welch, 3AN-99-10717 CI. Counsel of record was from my previous law firm. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Thompson v. Thompson, 3AN-99-09467 CI. I had represented one of the parties while in private practice. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Moody v. MacGregor, 3AN-99-12107 CI. The defendant's sister was my health care provider. She made a statement about the case, thinking the case was resolved. The case was not yet concluded and I believed the fact that I had become aware of the relationship (which had previously been unknown to me) and the nature of the health care provider's comment created an appearance of impropriety. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Sea Hawk Seafoods, Inc. v. Valdez Fisheries Dev. Ass'n, 3AN-95-03500 CI. My husband's law firm was counsel for one of the parties. I recused myself in accordance with Canon 3E(1)(d)(ii) of the Alaska Code of Judicial Conduct.

Pacheo v. Pacheo, 3AN-92-03842 CI. The custodian of the child at issue in this case was a former co-worker. I recused myself in accordance with Canon 3E(1) of the Alaska Code of Judicial Conduct.

Mapco Petroleum, Inc. v. Roy Marion Moats Revocable Trust, 3AN-92-11117 CI. Counsel of record was from my previous law firm. I recused myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

In the Alaska Supreme Court I recuse myself from cases involving my husband and his law firm, a few close friends who practice law, cases involving boards where I currently serve (Rasmuson Foundation and Alaska Community Foundation), and cases in which close friends have been litigants. I also recuse myself from cases that were assigned to me in the trial court and cases I was involved with in my capacity as presiding judge.

Notices:

In the superior court and in the Alaska Supreme Court, I have issued notices of prior or current affiliations that do not require automatic disqualification and have allowed the parties an opportunity to object to the case assignment. This category includes cases involving my former law firm, cases involving non-profit organizations where I have previously served as a board member, cases involving Alaska Legal Services Corporation (where my husband and I have made annual contributions), and cases involving more distant connections – such as cases involving lawyers whose children were my daughters' classmates or participated on my daughter's soccer teams. In cases involving challenges to an Individual Education Plan, I have given notice that my husband and I were parents of a child with special needs who had an Individual Education Plan.

Recusals Requested by a Party:

Superior Court:

At my request, the Administrative Director of the Alaska Court System arranged for a Courtview report of any "Motions for Recusal of Judge" under my name and found no cases where a motion for change of judge was filed. After reviewing my own records, I found the following cases in which the parties requested recusal or filed notice of change of judge:

Provost v. Nevitt, 3AN-06-00522 CI. This was a timely notice of change of judge. I asked that the case be reassigned in accordance with Alaska Rule of Civil Procedure 42(c).

Williams v. Williams, 3AN-05-06854 CI. One party asked that I recuse myself because he felt he was treated unfairly by not receiving notice of trial. I reviewed the case file and verified with my assistant that the party had telephoned chambers acknowledging his awareness of the trial date. After review of the file I concluded that the record did not support disqualification: written notices of the original and rescheduled trial dates were mailed to both parties, none were returned to the court, and the party requesting recusal contacted my assistant indicating his awareness of the scheduled trial date and his inability to attend. Accommodations were made for the party to appear telephonically if necessary, and the trial date was rescheduled to give him additional time. When the party did not appear at the rescheduled date, I went forward with the parties' divorce trial. I denied the request that I disqualify myself and referred the decision for review by another judicial officer pursuant to AS 22.20.020(c).

In the Matter of Ahkivgak, 3AN-04-00355 CN. The parties requested a specific judge who was familiar with the case. I considered the court system's policy that child-in-need-of-aid cases should be handled by the same judge assigned to other family law matters for the same family, and agreed the case should be reassigned.

DeNardo v. Municipality of Anchorage, 3AN-04-12244 CI. I gave notice of a personal association with the municipal attorney and plaintiff requested recusal. The former colleague was a person with whom I had worked closely for a number of years. Although he was not assigned to the case, he did have supervisory authority over it. I thought it best to recuse myself to avoid an appearance of impropriety pursuant to Canon 3E(1) of the Alaska Code of Judicial Conduct.

Stroud v. Stroud, 3AN-98-07905 CI. The parties requested a transfer of this case. This case was reassigned in keeping with the trial court policy that one judge handle all family law matters for one family.

Alaska Supreme Court:

In the Alaska Supreme Court, I have been asked to recuse myself from two cases:

1. *Planned Parenthood of Alaska v. Campbell*, S-13826/S-13835/S-13845. I issued a notice to the parties in this case that I am a former member of the board of Planned Parenthood of Alaska, and that I believed I could sit on the case in a fair and impartial manner. One of the parties asked that I recuse myself. After reviewing the file and considering briefing from all parties, I recused myself. Consistent with the practice of the Alaska Supreme Court, I did not state a reason for the recusal.
2. *NCO Fin. Sys., Inc. v. Ross*, S-13557. The Alaska Commission on Judicial Conduct has published an opinion permitting judicial officers to contribute to Alaska Legal Services Corporation but recommends that this be disclosed in cases where ALSC is counsel of record. The appellant in this action was represented by Alaska Legal Services Corporation in part of the trial court proceedings but Alaska Legal Services Corporation did not represent her on appeal. The Appellate Court Clerk's office

issued a notice that my husband and I contribute to Alaska Legal Services Corporation and that my husband has served as a campaign co-chair for Alaska Legal Services Corporation. One party requested that I recuse myself. I issued an individual justice order denying the motion seeking my recusal, explaining my reasoning, and referring the motion to the Alaska Supreme Court for review pursuant to AS 22.20.020(9)(c). The other members of the Alaska Supreme Court issued an order denying the motion for recusal. The same request was made of another member of the Alaska Supreme Court who has also contributed to Alaska Legal Services Corporation. It was also denied.

15. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

I have not held public office other than judicial office. I have not had any unsuccessful candidacies for elective office or unsuccessful nominations for appointed office.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

I have not held any memberships or offices in, or rendered any services to, any political party or election committee, nor have I held a position or played a role in a political campaign.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:

- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I clerked for Judge Brian Shortell, Alaska Superior Court, from September 1986 to September 1987.

- ii. whether you practiced alone, and if so, the addresses and dates;

I did not practice alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1987 – 2002
Preston, Gates & Ellis LLP
420 L Street, Suite 400
Anchorage, Alaska 99501
Associate (1987 – 1992)
Litigation Partner (1993 – 2001)

The firm name was “Preston Gates & Ellis LLP” at the time I was appointed to the bench. When I joined the firm it was called “Preston Thorgrimson Ellis & Holman.” During my tenure it was also known as “Preston Thorgrimson Shidler Gates & Ellis.”

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I served as a discovery master on at least two occasions while in private practice, and as an arbitrator one time that I can recall.

In re the Arbitration of Sarkissian v. Gregory, 3AN-99-08835 Civil. I acted as arbitrator for this dispute concerning the interpretation of an automobile insurance policy.

b. Describe:

- i. the general character of your law practice and indicate by date when its character has changed over the years.

I was a general civil litigator throughout my private practice. I began by assisting with large litigation projects for clients of the firm, particularly the State of Alaska, but I developed my own practice fairly early on. Many of my clients came as referrals from my involvement in the community and from previous clients. In the first three years of my practice, I was lead counsel on a large embezzlement case for the Susitna Girl Scout Council. By the time I became a partner in January of 1993, I had developed a practice area in Jones Act personal injury claims and was lead counsel in a case tried in the United States Court of Claims for the death of an infant due to a vaccine. I did not specialize in aviation cases, but I did serve as lead counsel on four aviation fatality cases between 1993 and 1999. Also between 1993 and 1999, I served as lead counsel in an Equal Pay Act case and represented a fuel barge line in several

commercial disputes, including its lease of a fuel tank farm and taxes it allegedly owed for the use of a city-owned fuel dock. Between 1999 and 2001, over half of my practice was devoted to defending two physician practice groups in a federal Medicaid fraud investigation and related False Claims Act case, and assisting with the defense of a class action anti-trust case brought against purchasers of salmon harvested in Alaska.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

I had a general civil litigation practice. My clients included institutional entities such as the State of Alaska and University of Washington Physicians Group. They also included Alaska businesses in commercial disputes: an RV dealership, a pipeline inspection firm, a fuel barge line, and members of a professional practice group. I represented individuals and estates in wrongful death and personal injury claims (aviation fatalities, commercial fishing accidents, some auto and truck accidents, a rock slide, and an avalanche). I also represented the Susitna Girl Scouts in an embezzlement claim, and I handled some family law matters.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

The frequency of my court appearances varied between “frequently” and “occasionally” depending on the litigation I was involved with at any given time. The time records from my former firm do not allow me to provide accurate estimates of the amount of time I spent in court over the course of my practice, but as is typical of most civil litigation, the bulk of my cases resolved short of trial, at judicial settlement conferences and mediations, after motions practice at the summary judgment level.

- i. Indicate the percentage of your practice in:

- | | |
|-----------------------------|-----|
| 1. federal courts: | 15% |
| 2. state courts of record: | 80% |
| 3. other courts: | 5% |
| 4. administrative agencies: | 0% |

- ii. Indicate the percentage of your practice in:

- | | |
|--------------------------|-----|
| 1. civil proceedings: | 90% |
| 2. criminal proceedings: | 10% |

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

I believe I tried six cases as a lawyer; I was lead counsel on five of them.

i. What percentage of these trials were:

- | | |
|--------------|-----|
| 1. jury: | 66% |
| 2. non-jury: | 33% |

e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- the date of representation;
- the name of the court and the name of the judge or judges before whom the case was litigated; and
- the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

1. *State of Alaska v. Exxon Corp.*, 3AN-89-6857 CI.

From 1989 to June 1991, I was one of four attorneys on the liability team representing the State of Alaska in its claims for compensation arising from the *Exxon Valdez* oil spill. I was the principal attorney responsible for establishing the events in the 24 hours before the grounding through 24 hours after the grounding. This included the activities of the captain and crew in port and after they returned to the tanker. I prepared for and participated in depositions of principal crew members. I created a timeline of events for use by all lawyers representing the State from my own informal witness interviews, depositions, interviews conducted by the Alaska State Troopers, NTSB investigators, Coast Guard responders, and sworn testimony provided at administrative proceedings. I accompanied the State's liability experts when they inspected the tanker at the shipyard, and walked them through the sequence of events to explore theories of liability addressing navigational tools available to the captain and crew and errors made on the night of the grounding. I participated in drafting the State's successful summary judgment motion establishing liability under AS 46.03.822 and drafted research memos to assist in advising the State Attorney

General on subjects such as the applicable statutes of limitations, vessel arrest under maritime law, preemption, Alaska's strict liability statutory scheme, and the availability of punitive damages. After the State settled its liability claim in 1991 until approximately 1994, I defended against claims brought by individuals who argued the State's response to the spill was inadequate.

Alaska Superior Court Judge Brian Shortell presided in the Third Judicial District. Lead co-counsel for the State of Alaska were Fred Boness, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969, and Craig Tillery, (retired) Assistant Attorney General, State of Alaska, current address 2222 Loussac Drive, Anchorage, Alaska 99517; telephone 907-433-9185. There were several dozen lawyers in this case. The service list for lead counsel for other key parties included: David Oesting, Davis Wright Tremaine, 550 West Seventh Avenue, Suite 1450, Anchorage, Alaska 99501; telephone 907-257-5323; Matthew Jamin, Jamin Law Office, 323 Carolyn Street, Kodiak, Alaska 99615; telephone 907-486-6024; Tim Petumenos, Birch, Horton, Bittner & Cherot, 1127 West Seventh Avenue, Anchorage, Alaska 99501; telephone 907-276-1550; Charles Flynn, Burr, Pease & Kurtz, 820 N Street, Suite 300; Anchorage, Alaska 99501; telephone 907-276-6100; Randy Weddle, Faulkner, Banfield, Doogan & Holmes, 550 West Seventh Avenue, Suite 100, Anchorage, Alaska 99501; telephone 907-274-0666.

2. *United States ex. rel. Erickson v. Univ. of Washington Physicians*, 2:99-cv-01261-BJR.

This case and the related criminal investigation arose out of a False Claim Act complaint filed in 1999 against the faculty practice plans of the University of Washington by a *qui tam* relator. The complaint alleged fraudulent claims for reimbursement and other impermissible billing practices for medical services by certain physicians in those faculty practice plans. Preston Gates & Ellis LLP represented the plans in criminal grand jury investigations. I had principal responsibility for several areas that were the subject of inquiry by the U.S. Attorney's Office and the grand jury relating to billing and documentation practices in several faculty departments and for different medical center sites. The investigation and related civil litigation were ultimately resolved by a settlement, a fine, and the implementation of an Institutional Compliance Agreement. (I was not involved in the settlement because I had been appointed to the bench by the time the case settled.)

Judge Barbara J. Rothstein presided in the United States District Court, Western District of Washington. Principal Counsel for the U.S. Department of Justice was the Office of the U.S. Attorney in Seattle where the grand jury was empanelled: John McKay, Robert Westinghouse, Susan Loitz, 700 Stewart Street, Suite 5220, Seattle, Washington 98101; telephone 206-553-7970. Principal Co-Counsel for the University of Washington included: Dan R. Dubitzky (retired), 8350 NE Oddfellows Road, Bainbridge Island, Washington 98110; telephone 206-467-6709. Principal Counsel for the CEO of UWP included: Irwin Schwartz, 710 Cherry Street, Seattle, Washington 98104; telephone 206-623-5084. Other counsel with whom I had regular

contact: Jeffrey Robinson, Schroeter Goldmark & Bender, 810 Third Avenue, Suite 500, Seattle, Washington 98104; telephone 206-622-8000; J. Ron Sim, Stoel Rives LLP, 600 University Street, Suite 600, Seattle, Washington 98101; telephone 206-386-7592; David Bukey, Law Offices of David Bukey, 1501 Fourth Avenue, Suite 2150, Seattle, Washington 98101; telephone 206-382-1787.

3. *Lane v. United States Dep't of Health & Human Services*, Case No. A93-54 V (unpublished), November 15, 1993.

Between January 1992 and January 1994 I represented the parents of an infant who died after receiving a childhood vaccination. The claim was filed under 42 U.S.C.A. Sec. 300aa-1 et seq. I was lead counsel in this bench trial. Both parents testified at trial, as did the child's aunt (care provider), pediatrician, and plaintiff's retained expert physician witness. DHSS defended by presenting a competing expert and arguing that the child died of Sudden Infant Death Syndrome. DHSS relied upon: (1) the forensic pathologist's opinion attributing the cause of the child's death to SIDS; and (2) the child's medical records which did not show that he suffered an encephalopathy within three days of receiving the DPT vaccine. The bulk of trial preparation involved reviewing literature on the type of reaction at issue; reviewing the child's medical, paramedic, and autopsy records; preparing all lay witnesses to testify; working with a retained expert to prepare the presentation of his opinion; and preparing the cross-examination of DHSS's expert. I recovered a judgment in the amount of \$250,000 (amount set by statutory scheme) on behalf of the child's family.

Special Master Paul T. Baird of the United States Court of Federal Claims presided. Opposing counsel was Gerard W. Fischer, Torts Branch, Civil Division, United States Department of Justice, P.O. Box 146, Benjamin Franklin Station, Washington, DC 20004; telephone 202-616-4090.

4. *Guy v. Northern Television, Inc.*, A97-182 CV (JWS).

Guy was promoted to serve as the first female president of NTV, a company that owned radio and television stations in Alaska. Her male predecessors received retirement packages but the owner of NTV and Guy did not finalize negotiations for her retirement package. The owner of NTV sold the company without informing Guy that he planned to do so. On behalf of Guy, I filed suit in the federal district court for the district of Alaska, alleging violations of Title VII, the Equal Pay Act, and the state law claim of violation of the covenant of good faith and fair dealing. I acted as lead counsel on the case, which was assigned to Judge Jack Sedwick. My co-counsel was my partner, Jennifer Coughlin. Judge Sedwick denied NTV's motion for summary judgment on the statute of limitations, and granted Guy's summary judgment motions establishing Guy's prima facie case on her Equal Pay Act and Title VII claims as a matter of law: (1) that the Anchorage and Fairbanks divisions of NTV are a single establishment for purposes of the Equal Pay Act; (2) that Guy performed equal work to her male predecessors for purposes of the Equal Pay Act; and (3) that Guy received less compensation than her male predecessors for performing equal work. Our

motion in limine was granted, preventing NTV's expert from testifying in its case in chief. Ms. Coughlin and I both worked on the written motions, which I argued. The remaining issues for trial were: NTV's affirmative defenses, Guy's claim for violation of the covenant of good faith and fair dealing, and Guy's damages. The case settled shortly before trial. We negotiated a structured settlement with a ten year pay out schedule. I represented Ms. Guy from May 1997 through January 1999.

Judge John (Jack) W. Sedwick presided in the United States District Court for the District of Alaska. Co-Counsel for plaintiff included Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Counsel for Northern Television, Inc. was Walter Featherly, Patton Boggs LLP, 601 West Fifth Avenue, Suite 700, Anchorage, Alaska 99501; telephone 907-263-6300.

5. *Susitna Girl Scout Council v. Ernst & Young*, 3AN-90-07700 CI.

I represented the Susitna Girl Scout Council's efforts to recover \$667,000 in losses suffered as the result of an employee's long term embezzlement scheme. The Council pursued claims against two national auditing firms and one local auditing firm that conducted the Council's annual audits. (The auditors' work papers showed actions that fell short of Generally Accepted Accounting Principles.) The other defendant was a national bank where the embezzler was able to funnel hundreds of checks into separate bank accounts she set up in her name, contrary to the signature card authorizations the Council provided for negotiating its checks. I worked with counsel for all four potential defendants to enter into a tolling agreement permitting us to wait until after resolution of the criminal prosecution before moving forward with the banking and auditing malpractice cases. During the tolling period, I worked with a forensic auditor to prepare for and depose the embezzler after her criminal prosecution, and compiled the evidence and arguments supporting successful theories of banking and accounting malpractice liability as to all potentially responsible entities. The multi-party mediation resulted in a global settlement. The amount paid to the Council is subject to a confidentiality agreement. I represented the Susitna Girl Scout Council from January 1990 through April 1991.

Judge Karen Hunt presided in the Alaska Superior Court, Third Judicial District. Opposing Counsel was Jon Ealy, current address: Marsh Creek, LLC, 2000 East 88th Avenue, Suite 200, Anchorage, Alaska 99507; telephone 907-258-0050; Jean Kizer, current address: Alaska State Commission for Human Rights, 800 A Street, Suite 204, Anchorage, Alaska 99501; telephone 907-276-7474; Ray Plummer, 310 K Street, Suite 200, Anchorage, Alaska 99501; telephone 907-272-9665; Nina Ruffini, 1251 Avenue of the Americas, New York, New York 10020; telephone 212-819-4861.

6. *Claiborne v. Precision Airmotive Corp*, A:99-46 CI (JKS) (originally filed as F:98-22-CV (HRH) but venue was changed).

I represented the estate of a commercial pilot who had been employed by Northern Air Cargo. Mr. Claiborne was killed while working as part of the flight crew on a DC-6A aircraft that was en route to Aniak, Alaska when it experienced a catastrophic engine failure and in-flight fire. Plaintiff's expert testified that the fire was caused by fatigue fractures in the component parts of the engine. Defendant sold Northern Air Cargo the overhauled aircraft engine that ultimately failed. Discovery showed the master rod had been salvaged from a heavily corroded engine and plaintiff's expert testified that the part was defective at the time it was installed. Precision defended the strict liability claim on the theory that it only repaired the engine, rather than selling a repaired engine into the stream of commerce. The federal district court granted Precision's summary judgment motion on the issue of strict liability, but on reconsideration the district court certified to the Alaska Supreme Court the question whether a repairer is strictly liable under Alaska law where the predominant purpose of its work was the overhaul of an aircraft engine. Because Precision also defended on the theory that the flight crew failed to properly respond to the fire by "feathering" the propeller, discovery required analysis of the master rod disassembly/repair, analysis of the NTSB investigation results, cockpit voice recorder, black box, and wreckage, in conjunction with several experts to determine the cause of the engine failure and how the crew responded. Ultimately, this case settled at mediation. I represented Mr. Claiborne's estate between August 1998 and March 2001.

Judge James Singleton presided in the United States District Court, District of Alaska. Co-Counsel: Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Opposing Counsel: James Leik, Perkins Coie, 1029 West Third Avenue, Suite 300, Anchorage, Alaska 99501; telephone 907-279-8561; Mike Moody, Atkinson, Conway & Gagnon, 420 L Street, Suite 500, Anchorage, Alaska 99501; telephone 907-276-1700; and Robert Griffin, Law Offices of Robert Griffin, 1600 A Street, Suite 101, Anchorage, Alaska 99501; telephone 907-274-5546.

7. *Cherrier, King and Cherrier v. Western Pioneer*, 3AN-97-3712 CI.

I defended a fuel barge company in this litigation involving their commercial lease of a fuel tank farm and improvements in Dillingham, Alaska. The primary issues concerned the condition of the premises at the conclusion of a five-year lease, whether the tenant complied with the terms of the Oil Discharge Prevention and Contingency Plan it filed with the State of Alaska, Department of Environmental Conservation, whether the tenant was liable for diminishing the capacity of the tank farm by deactivating some of the fuel tanks, and whether the tenant was obligated to replace a fuel dock, vehicles, and other equipment. Plaintiff's claims included breach of contract, breach of the covenant of good faith and fair dealing, waste, interference with business expectancy and punitive damages. This case was resolved at a

settlement conference. I represented Western Pioneer from May 1997 through February 2000.

The case was assigned to Judge Rene Gonzales presiding in the Alaska Superior Court, Third Judicial District, but was settled by mediation with retired Judge J. Justin Ripley. Opposing Counsel: Frank Bettine, Frank Bettine Law Offices, 343 Parks Highway, Wasilla, Alaska 99654; telephone 907-892-6971.

8. *Estate of Larson v. ERA Aviation*, A:00-0121 CV (JKS) consolidated with J:00-0014 CV and A:00-0194 CV.

This federal tort claims act case arose from a mid-air collision between a fixed wing aircraft and a commercial flight-seeing helicopter near Juneau, Alaska. My client was the Estate of a long-time employee of the FAA who was killed in the collision, as was the other occupant of the airplane. The helicopter landed safely, though one of its passengers was injured by the impact of the collision. No one on the helicopter ever saw the plane and there were no eyewitnesses on the ground who saw the collision. From accident reconstruction efforts, plaintiffs were able to establish that the helicopter ascended into the path of the airplane. The collision occurred in very congested airspace controlled by an agreement signed by air tour operators and published in the FAA's Flight Safety Program. Pretrial discovery focused on establishing the flight path of both aircraft, and establishing the corridor and altitude of the aircraft at the time of the collision to show that the helicopter violated the tour operators' voluntary air space agreement. The legal theories advanced by the Estate included theories of negligence and incorporation of administrative findings from the licensure action pursuant to the doctrine of collateral estoppel. The Estate sought pecuniary damages and loss of consortium under Alaska's Wrongful Death Statute. This case was settled short of trial. My representation was from June 1998 through October 1999.

Judge James Singleton presided in the United States District Court, District of Alaska, Anchorage. Co-Counsel: Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Opposing Counsel: Robert Richmond, Richmond & Quinn, 360 K Street, Suite 200, Anchorage, Alaska 99501; telephone 907-276-5727; Debra Fowler, Stephen R. Cerutti, Torts Branch, Civil Division, U.S. Department of Justice, P.O. Box 14271, Washington, DC 20044; telephone 202-616-4112; Ken Roosa, (former) Assistant United States Attorney, current address: Cook & Roosa LLC, 3700 Jewel Lake Road, Anchorage, Alaska 99502; telephone 907-276-2744; Mike Moody, Atkinson Conway & Gagnon, 420 L Street Suite 500, Anchorage, Alaska 99501; telephone 907-276-1700; David Martin, contact information unknown.

9. *Alakayak v. All Alaskan Seafoods, Inc.*, 3AN-95-04676 CI.

I assisted with the defense of Kyokuyo Co., Ltd., a large Japanese fishing company, in a class action antitrust suit brought against U.S. and foreign processors and

purchasers of salmon by a class of commercial salmon fishers who fished in Bristol Bay, Alaska between 1989 and 1995. Among other work on the case, I prepared and argued Kyokuyo's motion for summary judgment at the same time the parallel importers' motion for summary judgment was argued. The court granted the importers' motion and dismissed the claims, mooted the individual Kyokuyo motion. Thereafter, Kyokuyo negotiated a favorable settlement of all claims. The firm's representation spanned September 1992 through May 2000 but my involvement in this case was from February 1999 through September 1999.

Judge Peter Michalski presided in the Alaska Superior Court, Third Judicial District. Co-Counsel: Hugh Bangasser, K&L Gates LLP, 925 Fourth Avenue, Suite 2900, Seattle, Washington 98104; telephone 206-623-7580; Jeff Feldman, Feldman & Orlansky, 500 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-272-3538. Opposing counsel: Parker Folse, Susman & Godfrey, 1201 Third Avenue, Suite 3800, Seattle, Washington 98101; telephone 206-516-3880; Phillip Weidner, 330 L Street, Suite 200, Anchorage, Alaska 99501; telephone 907-276-1200.

10. *Minnich v. Carlin*, 1KE-95-366 Cl.

The plaintiff in this case suffered a catastrophic crush injury when a multi-ton boulder sheared off the top of a bluff in Ketchikan, Alaska, crashed through the commercial building located at the foot of the bluff, and pinned her to the floor. Defendants owned the residential property built at the top of the bluff which had a support beam located directly on top of the boulder. Extensive discovery efforts established facts to support claims for negligence, negligence per se, and destruction of evidence: deposition testimony established that defendants had been warned not to build on top of the bluff without an engineer's report, the engineer they approached to get one declined and advised against building on the slope, defendants built the deck without obtaining a building permit, they used an unlicensed contractor, and their home had downspouts that directed water to the base of the deck's foundation. Defendants received warnings from the City Engineer and from the Director of Public Works. The destruction of evidence claim was based on the decision to dismantle the deck after the accident and before the site could be examined by plaintiff's experts. In addition to extensive discovery efforts, trial preparation included working with geological experts to prepare reports and testimony on the freeze/thaw cycle's impact on slope stability, engineering techniques that could have been employed to stabilize the slope, negligent construction of the deck, the emergency response to the accident, plaintiff's medical treatment and expenses, and preparation/presentation of plaintiff's economic damage report. My co-counsel and I both participated in briefing and taking depositions on this case; I argued the summary judgment motions before Judge Thompson on defendants' vicarious liability for negligent acts of the builder, negligence per se, and a motion to shift the burden of proof to defendants (based on spoliation of evidence). This case settled at a judicial settlement conference conducted by Judge Patricia Collins. I represented Ms. Minnich from May 1995 through May 1997.

Judge Michael Thompson of the Alaska Superior Court, First Judicial District, Ketchikan, was the assigned judge who ruled on the summary judgment motions. Judge Patricia Collins acted as settlement judge. Co-Counsel: Jennifer Coughlin, K&L Gates LLP, 420 L Street, Suite 400, Anchorage, Alaska 99501; telephone 907-276-1969. Opposing Counsel: Geof Currall, Keene & Currall, 540 Water Street, Suite 302, Ketchikan, Alaska 99901; telephone 907-225-4131; Greg Lessmeier, Lessmeier & Winters, One Sealaska Plaza, Suite 303, Juneau, Alaska 99801; telephone 907-586-5912; Michael Holman, 700 Water Street – upper, Ketchikan, Alaska 99901; telephone 907-225-8000; Thomas Bachelor, Bachelor, Brinkman & Pearson, 526 Main Street, Juneau, Alaska 99801; telephone 907-586-9455; A. Fred Miller, Attorney at Law, PC, 426 Main Street, Ketchikan, Alaska 99901; telephone 907-226-6666.

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

While in private practice, I served on several firm committees, including the firm-wide Governance Council and, for four years, the Partner Compensation Committee. I served as chair of the Partner Compensation Committee in 2000.

I spent about 50% of my time in the last few years of my private practice defending two physician practice plans that were responding to a federal grand jury investigation and False Claims Act allegations concerning Medicaid billing. This involved coordinating with private criminal defense counsel from approximately ten law firms pursuant to a joint defense agreement.

Each year, the Alaska Supreme Court rules on approximately 85 petitions for discretionary review in criminal cases. One-fifth of the petitions are assigned to me to prepare recommendations for the full court. Because I have more civil experience than criminal experience, I draft each recommendation memo myself, and have used this as an opportunity to review and learn the substantive criminal issues presented by each petition.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have not taught any courses.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

I expect to receive income from the Alaska Judicial Retirement System, Supplemental Benefits System, and Deferred Compensation Program after retirement. I also have a 401(k) plan from my years in private practice.

As a member of the Top-2005 Liquidating Trust, I may receive one small additional distribution in the fall of 2012.

I have no other deferred income arrangements.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

Apart from my service on the boards of the Rasmuson Foundation and the Alaska Community Foundation, I have no plans, commitments, or agreements to pursue outside employment, with or without compensation, during my service with the court. My term on the Rasmuson Foundation Board expires on December 31, 2011. My term on the Alaska Community Foundation Board expires December 31, 2012.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

See attached Financial Disclosure Report.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

See attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

Other than my husband and daughter, the only parties that might present potential conflicts of interest if I am confirmed include the following: Rasmuson Foundation, its board members and staff; Alaska Community Foundation, its board members and staff; Stoel Rives LLP (spouse's current law firm); Jennifer Coughlin (personal friend and former partner); Louann Cutler (personal friend and former partner). In the event any of these persons or entities were to become parties in a case before me, I would recuse myself.

I would also review my financial investments to minimize the risk of conflicts.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will follow the federal recusal statutes and the Code of Conduct for United States Judges.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

I served as a pro bono lawyer while in private practice. Specifically, I prepared wills for terminally ill clients, assisted with a social security disability claim, and prepared adoption paperwork for a child whose parent had died. I have not handled pro bono legal work since being appointed to the bench, but community involvement is a high priority for me. I continue to serve on two non-profit boards since being appointed to the bench, and have regularly participated in Youth Court and as a judge for high school mock trial competitions. I have hosted tours for schools, and conducted mock trials of Goldilocks and the Three Bears with elementary school children. I participate in the Color of Justice program, where minority high school students from all over Alaska come to Anchorage to learn about law as a career option, and I have made similar presentations in middle and high school classrooms and for the Girl Scouts. I have spoken at conferences and meetings for paralegals and legal assistants, court appointed special advocates (CASAs), and the Judicial Observer program. Also, another judge and I developed a game called Evidence Cranium where judges and lawyers participate together in teams and tackle tricky evidence problems. We have revised and re-presented this game several times at statewide bar conferences because it was well received as a good way to foster improved bench-bar relations. I was honored to receive the Alaska Supreme Court's Community Outreach Award in 2008.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your

jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

To the best of my knowledge, there was no formal selection committee or commission for this position. I provided writing samples and a resume to Senator Begich's office in May of 2010. I met with Senator Murkowski to discuss this position in early 2011. Since January 31, 2011, I have been in contact with pre-nomination officials at the Department of Justice. On March 15, 2011 and May 4, 2011, I met with officials from the White House Counsel's Office and the Department of Justice in Washington, D.C. On May 18, 2011, the President submitted my nomination to the Senate.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.