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ALASKA
JUDICIAL COUNCIL

Alaska Judicial Council
Application for Judicial Appointment

Position(s) for which you wish to be considered:
Superior Court Judge, Anchorage, Alaska

Date: May 23, 2005

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* Patrick John McKay

Name as it should appear on bar survey: Patrick J McKay

* Unless otherwise specified, this is how your name will appear on the bar survey

(b) Have you ever used or been known by any other name? If so, please identify
No

2. How long have you been a resident of the State of Alaska immediately preceding the date of this application? **
27 years 11 months
Total 27 years 11 months

3. How long have you been engaged in the active practice of law immediately preceding the date of this application? **
27 years months
Total 27 years months

Nonlegal Education

4. State names and dates of attendance of all colleges and professional schools (other than law schools) ever attended and degrees and dates conferred. List any honors.

Illinois Benedictine College 1970-1972 No degrees attained

Waubonsee Community College 1972 No degrees attained

Aurora University 1972-1974 B S. Political Science, with honors

** See AS 22.10 090, see also 1984 Inf. Op Atty Gen (July 19; 366- 624-84)

Legal Education

5. List all law schools, dates attended and degrees conferred. If you did not receive a degree from any law school, please indicate.

Illinois Institute of Technology/Chicago-Kent College of Law 09/1974-06/1977 Jurs Docorate

6. (a) Did you receive any honors in law school or belong to any honorary societies or groups?
 Yes No If yes, please give details.

Graduated with honors from Aurora University 1974
Am - Jur Book Award - Constitutional Law at IIT/Kent College 1976
Graduated with honors from IIT/Kent College 1977

- (b) Have you taken any CLE (continuing legal education) courses during the past five years?
 Yes No

Please describe or list. Please do not attach individual certificates of attendance.

Military

7. Have you served in the armed forces (reserves or otherwise)? Yes No

If so, please provide the following information:

- (a) Dates of service: _____
(b) Branch of service: _____
(c) Rank at time of discharge: _____
(d) Type of military discharge: _____
(e) Awards or citations: _____

- (f) Have you ever been refused admission to or released from any of the armed services for reasons other than honorable discharge? Yes No If so, state the details

Nonlegal Employment

8. Describe major nonlegal working experience. If you had a business or association that has been discontinued, please note whether there are unpaid debts or claims pending litigation.

During my early college years, from 1970 through 1971, I worked for the Burlington Northern Railroad, as a fireman, and as a laborer at the National Accelerator Laboratory. I then worked full-time nights from 1971 through graduation at law school in 1977, as an orderly, in the Emergency Room and in security with Mercy Center for Health Care Services, in Aurora, Illinois, while attending school full-time.

Legal Experience

9. Describe chronologically your legal employment since admission to law school. Please provide dates, name of employer, name of supervisor or person who can verify employment, addresses, the reason you left the position, and a brief description of type of practice (i.e., insurance defense, criminal, appellate, general, litigation, etc.) *for each position listed below.*

The Council will ask for comments from your current and former employers about your employment and your judicial qualifications. You may choose to list other persons as character and professional references in response to Question 20 of this application.

If the supervisor or contact person asks (in writing) that the letter be shared with the governor, the Council will send designated letters for each nominee. The applicant should not request a copy of the letter from the reference. References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

Current Employer: (Self-employed) Law Offices of Patrick J McKay
Supervisor or name of contact person who can verify employment: Self
Current address of this person: 211 H Street
City Anchorage State Alaska Zip 99501
Dates of Employment: From 1981 To Present
Description: Sole practitioner in general areas, including criminal and civil matters, with a focus on insurance defense, plaintiff personal injury and domestic relations, at the trial and appellate levels

Previous Employers: (In chronological order, most recent first)

Employer: Pettyjohn & Pestinger
Supervisor or name of contact person who can verify employment: R Samuel Pestinger ((972) 830-9011)
Current address of this person: 9901 Valley Ranch Parkway, Suite 2000
City Irving State Texas Zip 75063
Dates of Employment: From 1978 To 1981
Description: Associate attorney, practicing in general areas of law, including criminal and civil matters
Reason for Leaving: Firm members separated because partners were elected to the Alaska Legislature

Employer:
Supervisor or name of contact person who can verify employment:
Current address of this person:
City State Zip
Dates of Employment: From To
Description:
Reason for Leaving:

Previous Employers (continued)

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates of Employment From _____ To _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates of Employment: From _____ To _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates of Employment: From _____ To _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates of Employment From _____ To _____
Description: _____
Reason for Leaving: _____

Employer: _____
Supervisor or name of contact person who can verify employment: _____
Current address of this person: _____
City _____ State _____ Zip _____
Dates of Employment: From _____ To _____
Description: _____
Reason for Leaving: _____

11. List all the courts and administrative tribunals in the United States or elsewhere to which you are or have been admitted to practice, and the dates of admission.
- Alaska Superior Court - October 28, 1977
-
- U S. District Court - June 22, 1978
-
- 9th Circuit Court of Appeals - January 30, 1987
-

Public Service

12. List bar associations, and sections and committees of which you are or have been a member or officer.
- Alaska Bar Association
-
- Anchorage Bar Association
-
- Served on Supreme Court committee for mediation which resulted in the adoption of
-
- ARCP 100 (1992)
-
13. List legal publications, if any (give title, subject and date of publications).
- None
-
-
-

14. Have you ever applied for a judgeship? Yes No
- Please list dates and judgeships applied for, as well as whether you were nominated by the Judicial Council and appointed.

Judgeship	Date	Nominated By Council (Y/N)	Appointed By Governor (Y/N)
N/A			

15. Have you ever held public or political office, elective or appointive? Yes No
If so, state office, manner selected, and when and where held.

- 16 Please provide the Council with information that you would like the Council to consider about other legal and nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal organizations. Please indicate whether you participate in the organization's activities, or simply hold a membership. Your involvement in the community is one of the criteria the Council uses in its evaluations. The Council does not use affiliation with a particular group as a criterion except to the extent that it might raise questions of conflict of interest or would affect an applicant's ability to impartially apply the law.

Valley Hospital Operating Board, Palmer, AK - (2) terms, approximately 1986-88

Valley Hospital Credential Committee, Palmer, AK - (8) years, approximately 1986-94

Valley Hospital Joint Venture Board of Trustees, Palmer, AK - (2) year term, 2004-06

Coached youth basketball, Palmer, AK - various times

Judged "We The People" (high school constitution competition), Anchorage, AK - 3/2005

Other high school debate competitions. Anchorage, AS - various times

Fish and Wildlife Safeguard board, Anchorage, AK - (2) years, approximately 1987-89

Child Safe, Anchorage, AK - Founding Director, Assisted families of sexually abused children, established in mid -1980's Child Safe was dissolved when S T A R assumed role

Association of Trial Lawyers of America - member since approximately 1990

Charitable contact with various organizations and non-profit groups through contributions

St. Michael's Catholic Church, Palmer, AK - member since 1978

17. Indicate (Yes or No) whether you have ever:

- (a) been arrested, charged with, pled guilty or *nolo contendere* to, or been convicted of the violation of any law or ordinance, or been requested to appear before any prosecuting or investigative agency in connection with any matter in any jurisdiction, including all traffic offenses, unless the fine was less than \$50 and there were no other sanctions?
 Yes No
- (b) failed to answer any summons or other legal process served upon you personally at any time? Yes No
- (c) as a member of any armed forces, been the subject of any charges which may have resulted in disciplinary action or court martial? Yes No

- (d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? Yes No

If your answer is "yes" to any part of this question, state the facts in detail. Give the name and place of the court or agency, dates of the beginning and end of any action or proceeding, case numbers, and the judgment or other disposition.

(a) MOA v McKay, 3AN-88-2236 CI, Seventeen years ago, in April, 1988, I was stopped on my way home I was charged with DWI After a technical challenge to the intoximeter results (AK Ct App A-2789), I was convicted, served (72) hours, paid the minimum fine of \$250, underwent screening with A S A P., and completed all requirements of my sentence This was a life changing event - and one that I would not be shy from sharing with others for their benefit

Continued on attached pg 9(a)

18. (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? Yes No

In particular, have you been the subject of any proceeding, criminal or civil, initiated against you by the Internal Revenue Service or a State Tax Office? Yes No
If so, give particulars, including case numbers.

- (b) Have you ever been sued by a client? Yes No

If so, give particulars, including case numbers.

- (c) Have you ever been a party in any other legal proceeding? Yes No

If so, give the particulars. Include all legal proceedings in which you were a party in interest, including petitioner or respondent in dissolution or divorce proceedings; a material witness; a named co-conspirator or correspondent; and subject or witness in any grand jury proceedings. Do not list proceedings in which you were sued only in a representative capacity (e.g. guardian ad litem, or as Commissioner of Natural Resources).

See attached pg 9(b)

17. (a) [Indicate whether you ever] been arrested, charged with, pled guilty or *nolo contendere* to, or been convicted of the violation of any law or ordinance, or been requested to appear before any prosecuting or investigative agency in connection with any matter in any jurisdiction, including all traffic offenses, unless the fine was less than \$50 and there were no other sanctions? [Yes]

Continued response:

SOA v. McKay, PA W543691 - State citation for fishing with wrong fishing gear. We were on a raft trip in a remote location and because we had taken some back channels off the main power boat channel that was marked, we thought we were in an area where the fishing gear I was using was permissible. I paid a small fine and received Suspended Imposition of Sentence (SIS).

U.S. v. McKay, (Citation No. unknown); I received a citation from U.S. Fish and Wildlife when returning from a duck hunting trip where we had cleaned our ducks due to the heat (to prevent spoliation), but prior to completing transportation. I pled no contest and paid a small fine.

18. (c) Have you ever been a party in any other legal proceeding?
[Yes]

Response:

In 1992, I was the plaintiff in several lawsuits filed to collect fees from past clients who had not paid their legal bills.

The following is a list of the lawsuits I filed:

McKay v. Gina Bailey, 3AN-92-5724 SC; McKay v. Gilbert, Gail Allen, 3AN-92-5725 SC; McKay v. Susan Andrews, 3AN-92-5727 SC; McKay v. Bryan Bailey, 3AN-92-5728 SC; McKay v. Jeff Callison, 3AN-92-5729 SC; McKay v. Carol Allen, 3AN-92-5730 SC; McKay v. Janis Gull-Griffith, 3AN-92-531 SC; McKay v. John Thompson, 3AN-92-5732 SC; McKay v. Clay Starbuck, 3AN-92-11739 CI; McKay v. Linda Hamilton, 3AN-92-11740 CI; McKay v. Jim Anderson, 3AN-92-11741 CI.

In 3AN-91-4806 CI, I was one of four plaintiffs in a lawsuit against three co-shareholders and their businesses, for return of monies owed on an investment. The case was settled by the defendants providing payment and a Promissory Note.

In 3AN-92-4905 CI, I was counsel for plaintiff, who filed a claim against an attorney who had failed to respond to a summary judgment motion, which led to a judgment against my client. The attorney, David Michael Clower, was to have been supervised at all times by another attorney, Martin Farrell, as required by an Alaska Bar Association ruling issued against Mr. Clower. In response to the complaint, attorney Farrell filed a third-party claim against me for malicious prosecution, which was successfully dismissed by an A.R.C.P. 12(b)(6) motion before answer.

In 3AN-98-10287 CI, I was one of three arbitrators named in a complaint filed by one of the parties to the arbitration. I was never served with a summons or the complaint, and the case was dismissed. I did not even know this case existed until I reviewed the Trial Court Name Index on myself to prepare this application.

There are other two cases that do not appear in the trial court computer in which I remember being involved. In 1977 or 1978, while driving, my vehicle slid into the rear-end of another vehicle as we stopped for a red light. I know a lawsuit was filed which was handled by my insurance company. I know the case settled, but I cannot recall the name of the plaintiff or the outcome, although it was a minor accident. And, in approximately 1989, I was a passenger in a vehicle being driven by my (then) seventeen year old daughter, when an adverse vehicle pulled in front of us and caused a collision. I was named as a third-party defendant by the adverse driver for "failure to supervise" my daughter. The case was settled by the insurance company and resulted in the adverse driver paying my daughter a sum of money for medical bills and property damage. However, I do not recall the name of the adverse driver nor the amount of the settlement.

19. State the nature and disposition of any of the following actions which apply to you:

- (a) Are there any unsatisfied judgments against you? Yes No
Have you ever defaulted in the performance of any court-imposed obligation, including payment of alimony or child support or compliance with another court order or decree? Yes No

In each case, list the name and address of the creditor, the court which rendered the judgment, the case number, the date, the amount of the judgment, and the circumstances on which such claim was based.

Has property owned by you been either judicially or non-judicially foreclosed?

Yes No

Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure.

- (b) Have you ever made an assignment for the benefit of creditors? Yes No
Have you ever filed any petition in bankruptcy? Yes No
If so, state the circumstances, case number, and the outcome.

References and Counsel Questionnaires*

- * **Please Note:** Letters of reference from these persons are confidential and will not be given to the applicant. If the reference asks (in writing) that the letter be shared with the governor, the Council will send designated letters and counsel questionnaires for each nominee. The applicant should not request a copy of the letter from the reference. (You should not list the Chief Justice of the Alaska Supreme Court.)

References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

20. (a) List the names, addresses, **including zip codes**, and **phone numbers** of two persons whom the Judicial Council may contact who can discuss your general character and background.

Name: Robert Woolsey
Address: P O Box 3161
City/State/Zip: Palmer, AK 99645 Phone: (907) 745-4086 HM

Name: Colleen Larsen
Address: P O Box 263
City/State/Zip: Palmer, AK 99645 Phone: (907) 746-9236

- (b) List the names, addresses, **including zip codes**, and **phone numbers** of three other persons whom the Judicial Council may contact who can discuss your professional competence and qualifications for a judicial position.

Name: Honorable Eric T Sanders
Address: 1029 West 3rd Avenue, Suite 650
City/State/Zip: Anchorage, AK 99501 Phone: (907) 279-9696

Name: Paul D Stockler, Esq
Address: 1309 West 16th Avenue
City/State/Zip: Anchorage, AK 99501 Phone: (907) 277-8564

Name: Roger F Holmes, Esq.
Address: 3928 Clay Products Drive
City/State/Zip: Anchorage, AK 99517 Phone: (907) 248-8013

References and Counsel Questionnaires (continued)

- (c) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that have gone to trial. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases which have gone to trial within the past three years. Please include the judge's name and case names and numbers. (Attach additional pages if necessary.)

Case Number 1

Case Name: Donald Hogg Case Number: 3KN-03-0361 CI
 v. Raven Contractors, Inc , KPB Judge Name: Harold M Brown

Attorneys Involved:

Name	A Lee Peterson, Esq	Name	
Address	Box 286	Address	
City, State, Zip	Willow, AK 99688	City, State, Zip	
	(907) 495-6239		
Name		Name	
Address		Address	
City, State, Zip		City, State, Zip	

Case Number 2

Case Name: Peterson Case Number: 3AN-01-09535 CI
 v. Century v M J Hall v First Funding Judge Name: Peter J Michalski

Attorneys Involved:

Name	Richard G Haggart, Esq	Name	Paul A Barrett, Esq
Address	1215 West 8th Avenue	Address	1000 2nd Avenue, Suite 3500
City, State, Zip	Anchorage, AK 99501	City, State, Zip	Seattle, WA 98104
	(907) 278-2525		(206) 464-1900
Name	Richard A Weinig, Esq	Name	Thomas A Matthews, Esq
Address	800 E Dimond Blvd Suite 3-615	Address	431 West 7th Avenue, Suite 207
City, State, Zip	Anchorage, AK 99515	City, State, Zip	Anchorage, AK 99501
	(907) 349-1900		(907) 276-1516

Case Number 3

Case Name: Joseph Elliott Case Number: 3AN-02-9498 CI
 v. John Pattee Judge Name: Eric T. Sanders/John Suddock

Attorneys Involved:

Name	Richard A Weinig, Esq	Name	Gary A. Zipkin, Esq
Address	800 E Dimond Blvd Suite 3-615	Address	510 L Street, Suite 700
City, State, Zip	Anchorage, AK 99515	City, State, Zip	Anchorage, AK 99501
	(907) 349-1900		(907) 793-2200
Name	Michael J. Schneider, Esq.	Name	
Address	880 N Street, Suite 202	Address	
City, State, Zip	Anchorage, AK 99501	City, State, Zip	
	(907) 277-9306		

References and Counsel Questionnaires (continued)

- (d) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that did not go to trial but in which you did significant work. (Applicants who are currently judges should list the three most recent cases they presided over that did not go to trial but in which they did significant work.) Please include the judge's name and case names and numbers. *(Attach additional pages if necessary)*

Case Number 1

Case Name: In Re November, 2002 Collision **Case Number:** (Consolidated) 3AN-03-13628 CI
 v. (Plaintiff Shawn Pletnikoff- client) **Judge Name:** Dan A Hensley

Attorneys Involved:

Name	See attached pg 13(a)	Name	
Address		Address	
City, State, Zip		City, State, Zip	
Name		Name	
Address		Address	
City, State, Zip		City, State, Zip	

Case Number 2

Case Name: Russell, et al **Case Number:** 3PA-04-0330 CI
 v. Broadway Signs, et al , **Judge Name:** Beverly W. Cutler

Attorneys Involved:

Name	Gary A Zipkin, Esq	Name	Roger F Holmes, Esq
Address	500 L Street, Suite 700	Address	3928 Clay Products Drive
City, State, Zip	Anchorage, AK 99501 (907) 793-2200	City, State, Zip	Anchorage, AK 99517 (907) 248-8013
Name		Name	
Address		Address	
City, State, Zip		City, State, Zip	

Case Number 3

Case Name: John Fleming **Case Number:** 3AN-04-3418 CI
 v. Sinder Trucking, Inc. **Judge Name:** Sen K Tan

Attorneys Involved:

Name	Dennis M Mestas, Esq	Name	Hon Eric T Sanders
Address	745 West 4th Avenue, Suite 306	Address	1029 West 3rd Avenue, Suite 650
City, State, Zip	Anchorage, AK 99501 (907) 277-9496	City, State, Zip	Anchorage, AK 99501 (907) 279-9696
Name	Jason E. Skala, Esq	Name	
Address	11517 Old Glenn Highway, Suite 202	Address	
City, State, Zip	Eagle River, AK 99577 (907) 694-6633	City, State, Zip	

20. (d) List the names, addresses, and phone numbers of each attorney involved in your three most recent cases that did not go to trial but in which you did significant work.

Case Number 1

Attorneys Involved:

Response:

Plaintiffs Hesterberg

David H. Shoup, Esq.
TINDALL BENNETT & SHOUP, P.C.
508 West 2nd Avenue, Suite 300
Anchorage, AK 99501
(907) 278-8533

Plaintiff Nilsen

David K. Gross, Esq.
BIRCH, HORTON, BITTNER & CHEROT
1127 West 7th Avenue
Anchorage, AK 99501
(907) 265-1550

Plaintiff Powell

Peter Gruenstein, Esq.
GRUENSTEIN & HICKEY
500 L Street, Suite 401
Anchorage, AK 99501
(907) 258-4338

**Plaintiffs Estates Usugan, Olanna
and Damian**

Russell L. Winner, Esq.
WINNER & ASSOCIATES, P.C.
900 West 5th Avenue, Suite 700
Anchorage, AK 99501
(907) 277-9522

Defendant R & K Industrial, Inc.

Robert C. Bundy, Esq.
DORSEY & WHITNEY
1031 West 4th Avenue, Suite 600
Anchorage, AK 99501
(907) 276-4557

Defendant Longan

Timothy M. Stone, Esq.
STONE & JENICEK, PC
880 H Street, Suite 203
Anchorage, AK 99501
(907) 277-8567

Plaintiff David Jackson

Wayne D. Hawn, Esq.
PHILLIP PAUL WEIDNER & ASSOCIATES
330 L Street, Suite 200
Anchorage, AK 99501
(907) 276-1200

Plaintiff Estate Fife

Frank J. Schlehofer, Esq.
WILLIAM G. AZAR PC
800 East Dimond Blvd., Suite 3-440
Anchorage, AK 99515
(907) 344-3434

Defendant State of AK

Michael C. Geraghty, Esq.
DeLISIO MORAN GERAGHTY & ZOBEL, PC
943 West 6th Avenue
Anchorage, AK 99501
(907) 279-9574

Writing Sample

21. Attach one example of a brief, memorandum of law, or legal opinion or similar example of legal writing (10-20 pages in length; 15-25 pages for appellate positions) prepared solely by you within the last five years. If you do not have a good sample of this length, include an excerpt from a longer writing. Make sure the sample contains sufficient facts to make it understandable.

Please do not submit: (a) coauthored writing samples, (b) samples with confidential information unless redacted to remove such information, (c) longer writing samples.

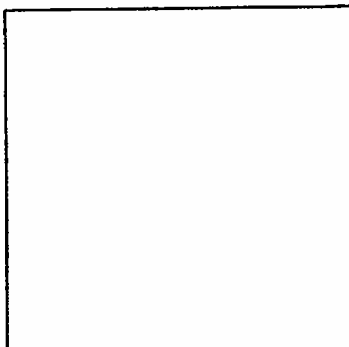
22. Has any **public** sanction been imposed against you in response to a complaint, charge or grievance brought against you as an attorney or a judge? Yes No
Have formal grievance procedures been brought against you? Yes No
See Bar Rule 22(b) & (e) concerning public grievance procedures against attorneys, and AS 22.30.011(b) and .060(b)(3) concerning public grievance procedures against judges.
Have you ever been held in contempt of court? Yes No
In each case, state in detail the circumstances and the outcome.

Additional Comments (Non-Confidential)

23. Please make any additional comments that you wish to bring to the Council's attention about your experience and suitability for this judgeship.

I have significant practice experience in virtually all areas of the law that will likely be litigated before the Superior Court, including attending countless mediations and settlement conferences
I am often chosen by my colleagues to act as a third arbitrator in uninsured/underinsured motorist arbitrations and, as such, have experience in making rulings on motions and evidence matters I look forward to having an opportunity to interview with the judicial council

Biographical Statement



Name Patrick J McKay

Position(s) for which you wish to be considered:

Superior Court Judge, Anchorage, Alaska

Date: May 24, 2005

Born: 9/21/1952 Saginaw, Michigan

Family: Patricia A. McKay (wife), married since 1971
Four children; six grandchildren.

Education: Aurora University 1974; B.S. Political Science
/Honors
Illinois Institute of Technology/Chicago Kent
College of Law 1977; Juris Doctor/Honors

Work History:

Mercy Center for Health Care Services; Worked full-time nights as an orderly, in the E.R. and security while attending school full-time.

In 1977, moved to Alaska and passed the bar. Began private practice in 1978 and have practiced solo for twenty-five years. Experienced in criminal, domestic, personal injury and commercial litigation law. Over the last twenty years, I have focused primarily on insurance defense, plaintiff personal injury and domestic relations.

Volunteer Activities:

Valley Hospital Operating Board and Valley Hospital Credential Committee; currently on the Joint Venture Board of Trustees. Coached youth basketball, participated in judging "We The People" and high school debate competitions, Fish and Wildlife Safeguard board, Special Olympics, and Child Safe.