

Alaska Judicial Council
Application for Judicial Appointment

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JUL 10 2006
ALASKA
JUDICIAL COUNCIL

Position(s) for which you wish to be considered:
Anchorage Superior Court Judgeship

Date: July 7, 2006

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* Michael Robin Spaan
Name as it should appear on bar survey: Michael Spaan
* 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? **
- | | | |
|-------|-----------------|------------------|
| | <u>33</u> years | <u>10</u> months |
| Total | <u>33</u> years | <u>10</u> months |
3. How long have you been engaged in the active practice of law immediately preceding the date of this application? **
- | | | |
|-------|-----------------|------------------|
| | <u>33</u> years | <u>10</u> months |
| Total | <u>33</u> years | <u>10</u> 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.

California State College at Chico
BS in Business Administration
Attended 1963-1968

** 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.

University of California at Davis
JD
Attended 1968-1972

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.

Member of the Order of the Coif
Am Jur Awards in constitutional law and criminal law
UC Davis Law Review, member and managing editor

- (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.

ABA Conference on White Collar Crime 2002,2004,2005 and 2006
National Conference of United States Attorneys 2002,2004 and 2005

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: 1969-1975
(b) Branch of service: United States Army Reserves
(c) Rank at time of discharge: E5
(d) Type of military discharge: Honorable
(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.

Various part-time jobs during high school, college and law school

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: Patton Boggs LLP
Supervisor or name of contact person who can verify employment: Douglas Serdahely
Current address of this person: 601 West Fifth ste 700
City Anchorage State AK Zip 99501
Dates of Employment: From March 1999 To present
Description: Partner in Law Firm doing civil and criminal litigation

Previous Employers: (In chronological order, most recent first)
Employer: Bogle and Gates LLC
Supervisor or name of contact person who can verify employment: Robert Bundy
Current address of this person: 1031 West 4th Ave ste 600
City Anchorage State AK Zip 99501
Dates of Employment: From August 1990 To February 1999
Description: Partner in law firm doing civil and criminal litigation

Reason for Leaving: Firm went out of business

Employer: Department of Justice/ Office of the U.S. Attorney District of Alaska
Supervisor or name of contact person who can verify employment: Deborah Smith
Current address of this person: 222 West 7th Ave. #9, Room 253
City Anchorage State AK Zip 99513-7567
Dates of Employment: From September 1981 To May 1989
Description: Ran US Attorney's Office for District of Alaska while handling civil and criminal litigation.

Reason for Leaving: To take a year long sabbatical with family

Previous Employers (continued)

Employer: Birch Horton Bittner and Cherot
Supervisor or name of contact person who can verify employment: Bill Bittner
Current address of this person: 1127 W. 7th Ave.
City Anchorage State AK Zip 99501-3399
Dates of Employment: From 1976 To 1981
Description: Associate and Partner at firm doing civil and criminal litigation
Reason for Leaving: To join US Attorney's office

Employer: Senator Ted Stevens
Supervisor or name of contact person who can verify employment: Senator Ted Stevens
Current address of this person: 522 Hart Building
City Washington DC State Zip 20510
Dates of Employment: From Sept 1973 To 1976
Description: Legislative Assistant handling legislation for office
Reason for Leaving: Return to Alaska

Employer: Alaska Supreme Court
Supervisor or name of contact person who can verify employment: Robert Erwin
Current address of this person: 733 W. 4th Ave ste 302
City Anchorage State AK Zip 99501
Dates of Employment: From August 1972 To August 1973
Description: Law clerk for Justice Robert Erwin
Reason for Leaving: clerkship was up

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:

10. For the past five years, please indicate (approximately) the following:

(a) Percent of your practice that was:

Civil	<u>50</u>
Criminal	<u>50</u>
Other	<u> </u>
	= 100%

Comment: _____

(b) Percent:

State	<u>50</u>
Federal	<u>50</u>
Other	<u> </u>
	= 100%

Comment: _____

(c) Of practice in state courts, percent:

Supreme Court	<u>5</u>
Court of Appeals	<u> </u>
Superior Court	<u>90</u>
District Court	<u>5</u>
	= 100%

Comment: _____

(d) Frequency of appearance in court:
 Regularly Occasionally Infrequently Not at All

Comment: _____

(e) Number of trials (by court or jury) you conducted in the past 5 years:
 None 1-5 6-15 16-30 31 or more

Comment: _____

(f) Percent of these trials which were: Jury 100% Non-Jury

Comment: _____

(g) Approximate number of appellate matters handled: 7-10

Comment: _____

(h) Approximate number of arbitrations or administrative hearings:
 None 1-5 6-15 16-30 31 or more

Briefly describe type of matters heard:

NTSB, Department of Interior and arbitrations on product liability cases

(i) Have you undertaken any *pro bono* work through a *pro bono* legal service provider (e.g. Alaska Legal Services, Alaska Network on Domestic Violence and Sexual Assault, etc.) during this period? Yes No

Describe:

Am on the Criminal Justice panel for the federal defenders and take appointments for indigent defendants.

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 Bar Association 1973
 California Bar Association 1973
 District of Columbia Bar Association 1975
 District Court for the District of Alaska 1973
 United States Supreme Court 1975
 9th Circuit Court of Appeals 1981

Public Service

12. List bar associations, and sections and committees of which you are or have been a member or officer.

Alaska Bar Association. Was active in criminal rules committee
 California Bar Association(inactive)
 District of Columbia Bar Association(inactive)

13. List legal publications, if any (give title, subject and date of publications).

"Still Trying Harder," UC Davis Law Review, No. 8(1972)
 Numerous speeches and presentations before professional and Bar Associations.

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)
Applied Federal Judgeship	1988		
Withdrew application to take year long sabbatical with family.			

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.

United States Attorney for District of Alaska, 1981-1989
Presidential Appointment
Confirmed by United States Senate

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.

Alaska Inns of Court (1992-1996) Former President
Cub Scout leader 1990-1994
National Association of Former United States Attorneys (1992 to Present)
current board member
Alaska Moving Images Preservations-member
Youth Soccer 1995-1998
Youth Hockey member 1996-present-parent participant
American Bar Association-litigation and criminal law sections

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.

In 1978, I was charged with Driving Under the Influence. The case was resolved with a plea to negligent driving. I believe the fine was \$100. I was unable to find any records of this case inspite of a search.

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).

3AN-82-09570CI
1982 Divorce Proceedings; Plaintiff LaVon Spaan; divorce granted

3AN-97-09799CI
1997 Divorce Agreement Dispute; Plaintiff LaVon Gerber-Martin; settled out of court

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: Douglas J. Serdahely
Address: 601 West 5th ste 700
City/State/Zip: Anchorage, AK 99501 Phone: (907) 263-6300

Name: Larry Card
Address: 2620 Scarborough Dr.
City/State/Zip: Anchorage, AK 99507 Phone: (907) 764-1662

- (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: Barat LaPorte
Address: 601 West 5th Ste. 700
City/State/Zip: Anchorage, AK 99501 Phone: (907) 263-6300

Name: Robert Bundy
Address: 1031 W. 4th Ave. ste. 600
City/State/Zip: Anchorage, AK 99501 Phone: (907) 276-4557

Name: Judge Timothy Burgess US District Court
Address: 222 W. 7th Ave.
City/State/Zip: Anchorage, AK 99513 Phone: (907) 677-6203

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: Culp **Case Number:** 3AN-00-9503-Civil
v. Providence Hospital et al **Judge Name:** Judge Gleason

Attorneys Involved:

Name <u>John Conway</u>	Name <u>Bill Ingalson</u>
Address <u>420 L St. ste500</u>	Address <u>813 W 3rd Ave.</u>
City, State, Zip <u>Anchorage, AK 99501</u>	City, State, Zip <u>Anchorage, AK 99501</u>

Name <u>Nancy Schierhorn</u>	Name _____
Address <u>3931 Moonstar Circle</u>	Address _____
City, State, Zip: <u>Anchorage, AK 99516</u>	City, State, Zip _____

Case Number 2

Case Name: _____ **Case Number:** _____
v. _____ **Judge Name:** _____

Attorneys Involved:

Name _____	Name _____
Address _____	Address _____
City, State, Zip _____	City, State, Zip _____

Name _____	Name _____
Address _____	Address _____
City, State, Zip _____	City, State, Zip _____

Case Number 3

Case Name: _____ **Case Number:** _____
v. _____ **Judge Name:** _____

Attorneys Involved:

Name _____	Name _____
Address _____	Address _____
City, State, Zip _____	City, State, Zip _____

Name _____	Name _____
Address _____	Address _____
City, State, Zip _____	City, State, Zip _____

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: Robin Broomfield **Case Number:** A05-0099 CV
 v. Conoco Phillips **Judge Name:** Judge Sedwick

Attorneys Involved:

Name: Thad Guyer	Name: Dan Rodgers
Address: PO Box 1061, 116 Mistletoe St.	Address: 700 G St. Box 100360
City, State, Zip: Medford, OR 97501	City, State, Zip: Anchorage, AK 99510

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: Peralta **Case Number:** 3AN-04-04907 CI
 v. Genuine Auto Parts et al **Judge Name:** Judge Gleason

Attorneys Involved:

Name: Kenneth Gutsch	Name: C.R. Kennelly
Address: 360 K St. Ste 200	Address: 525 W. Third Ave. Ste. 202
City, State, Zip: Anchorage, AK 99501	City, State, Zip: Anchorage, AK 99501

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: United States/FDIC **Case Number:** 3:94-Cr00136/3:92-CV00060
 v. Whitmore **Judge Name:** Judge Holland

Attorneys Involved:

Name: James N. Leik	Name: Karen Loeffler (AUSA)
Address: 1029 W. 3rd Ave, Ste. 300	Address: 222 W. 7th #9
City, State, Zip: Anchorage, AK 99501	City, State, Zip: Anchorage, AK 99513

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

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. Please choose a sample that reflects your ability to do legal research and analysis. 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.

The year I was a clerk for the Alaska Supreme Court in 1972 changed the course of my life. It was fascinating to work on matters brought to the Court and it reaffirmed the reasons I went to law school. Moreover, the experience opened the door to a wealth of opportunities in a place that I would decide to make my home.

Over the past 33 years I have been fortunate to of been involved in nearly all aspects of the law in Alaska. As a young lawyer, in a private firm, I represented both plaintiffs and defendants in matters large and small. As U.S Attorney, I gained invaluable experience in managing high profile trials, as well as in honing my ability to efficiently manage a large and diversified caseload and staff. Since returning to private practice in 1990, I have represented a wide range of clients in both civil and criminal matters. I enjoy the practice and challenge of the law today as much as I did when I started more than three decades ago.

Additional Comments (Continued)

Now, after careful consideration, my family and I agree that I have reached a point, personally, where it is possible for me to devote my time and energy once again to public service. Professionally, I believe the scope and length of my experiences equip me to be a responsible, fair and effective judge.

I appreciate the opportunity to be considered for this important opening in the Court and would consider it an honor to serve if chosen.

24. Please indicate whether you prefer to be interviewed in public session or in private session. Your choice of a public or private interview has no bearing on the Council's determination of your qualifications or on the questions the Council may ask. You may change your request in writing at any time before the interview starts.

Public Interview

Private Interview

25. Please prepare a brief biographical statement (limited to 150 words) about your background, legal education, and legal experience. Your picture and a copy of this statement will be scanned and posted on the Council's website after the application deadline. In its Bar survey, the Council will invite attorneys to review the information if they wish to become more familiar with your background and experience. Use the form on the following page for your biographical statement. Please leave the box at the top empty. The Council will use this space for your scanned picture.

If you object to the posting of your picture on the Council's website, please indicate your objection below. If you object, we will not post your picture, although you still must submit twelve photographs of yourself with your application.

If you check this box we will not post your picture on the website.

Biographical Statement

Name Michael R. Spaan

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

Superior Court Judgeship - Anchorage

Date: July 10, 2006

After graduating from the University of California Law School at Davis in 1972, I was offered a clerkship with the Alaska Supreme Court. Following that influential first year, I was hired as a legislative assistant in the Washington Office of U.S. Senator Ted Stevens. In 1975, I returned to Alaska to join the law firm of Birch Horton Bittner and Cherot.

I was appointed U.S. Attorney for the District of Alaska in 1981 – a position I held until May of 1989 when I resigned to take a year long sabbatical with my family to travel throughout the United States.

In 1990, I joined the law firm of Bogle and Gates. I tried a number of jury cases in state court during my tenure there. In 1999, after the firm dissolved, I became a partner at Patton Boggs where I currently practice civil and criminal litigation.