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ALASKA
JUDICIAL COUNCIL

Alaska Judicial Council
Application for Judicial Appointment

Anchorage District Court

Date: November 8 2004

Position(s) for which you wish to be
considered

I. PUBLIC INFORMATION (Qs. 1-24 & 35)

PERSONAL

1. (a) State full name* Alex Michael Swiderski
Name as it should appear on bar survey: Alex M. Swiderski
* 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

3. How long have you been a resident of the State of Alaska immediately preceding the date of this application? ** 27 years 4 months
Total years 27 months 4
4. How long have you been engaged in the active practice of law immediately preceding the date of this application? ** 27 years 1 months
Total years 27 months 1

** See AS 22.10.090; see also 1984 Inf. Op. Atty. Gen. (July 19; 366- 624-84).

NONLEGAL EDUCATION

5 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

Harvard University B A degree June 1969

LEGAL EDUCATION

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

Northeastern University Law School J D degree June 1977

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

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

Please see the attached page

MILITARY

8. Have you served in the armed forces (reserves or otherwise)? 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? If so, state the details

NONLEGAL EMPLOYMENT

9 Describe major nonlegal working experience, if any.

10 Describe major nonlegal business or professional experience, if any. If your association has been discontinued, please note whether there are unpaid debts or claims pending litigation

1969 - 1970. I worked for Aetna Casualty Surety Company in an actuarial training program.

LEGAL EXPERIENCE

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

Please see the attached page.

12 For the past five years, please indicate (approximately) the following

(a) Percent of your practice that was Civil 100%
Criminal _____
Other _____
= 100%

Comment _____

(b) Percent State 75%
Federal 25%
Other _____
= 100%

Comment _____

(c) Of practice in state courts, percent Supreme Court 10%
Court of Appeals _____
Superior Court 90%
District Court _____
= 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 to 5 _____ 6 to 16 _____ 16 to 30 _____ 31 or more

Comment _____

(f) Percent of these trials which were Jury _____ Non-Jury _____

Comment _____

(g) Approximate number of appellate matters handled 9,

Comment Please see the attached page.

(h) Approximate number of arbitrations or administrative hearings _____ None

1 to 5 _____ 6 to 16 _____ 16 to 30 _____ 31 or more

Briefly describe type of matters heard

Please see the attached page

(i) Have you undertaken any pro bono work during this period?

Yes No

Describe Assistance to the Great Land Trust in land transactions

13. 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 State Courts. 1977

U S District Court for the District of Alaska. 1977

U S Court of Appeals for the Ninth Circuit 2003

U S Bankruptcy Court for the District of Or (Portland) pro hac vice. 2003

PUBLIC SERVICE

14. List bar associations, sections and committees of which you are or have been a member or officer
Alaska Bar Association Environmental and Natural Resources Section

Alaska Bar Association Discipline Hearing Committee.

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

16. Have you ever applied for a judgeship? 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)

17 Have you ever held public or political office, elective or appointive? No

If so, state office, manner selected, and when and where held

18 List all other legal and any nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal (Please indicate whether you participate in the organization's activities, or simply hold a membership)

Great Land Trust. Chair of the board of directors.

Nordic Ski Association of Anchorage Member

Arctic Bicycle Club. Member

Our Lady of Guadalupe Parish. Member

Captain Cook Athletic Club. Member

19 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 other than minor traffic offenses (those for which a fine of \$50 00 or less, and no other sanctions were imposed)? Yes

(b) failed to answer any summons or other legal process served upon you personally at any time? 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? n/a

(d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? 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.

I was charged with and immediately pled no contest to shop lifting a \$3.00 item in Tucson, AZ in 1972. I was sentenced to a fine which I paid.

I have had two speeding tickets, both more than fifteen years ago.

- 20 (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? 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? If so, give particulars, including case numbers.

No

- (b) Have you ever been sued by a client? If so, give particulars, including case numbers.

No

- (c) Have you ever been a party in any other legal proceeding? If so, give the particulars. Include all legal proceedings in which you were a party in interest, including divorce/dissolution proceedings, a material witness, a named co-conspirator or correspondent, and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness. 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)

I was a party to an uncontested divorce in 1992.

I was sued by and sued Gilfilian Engineering Company in 1991. The litigation involved replacement of a septic system at a house that I owned near Palmer. The claims were settled when Gilfilian agreed to forgive a bill for replacing the septic tank. I had to replace the tank because it was an insufficient distance from my well. Gilfilian had evaluated the well and septic at the time I purchased the home and determined that the tank was an adequate distance from the well.

- 21 State the nature and disposition of any of the following actions which apply to you

- (a) Are there any unsatisfied judgments against you? 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? 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? Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure.

No

- (b) Have you ever made an assignment for the benefit of creditors? Has any petition in bankruptcy ever been filed by you? If so, state the circumstances, case number, and the outcome

No

REFERENCES*

22 (a) List the names, addresses, and phone numbers of two persons whom the Judicial Council may contact who can discuss your general character and background

(1) NAME Ms. Marty K Rutherford
ADDRESS 500 West 7th Av. Suite 1400
CITY/STATE/ZIP Anchorage, AK 99501 PHONE 269-8431

(2) NAME Mark P Worcester
ADDRESS 700 G St Bcx 100360 ATO 2090
CITY/STATE/ZIP Anchorage, AK 99501 PHONE 265-6544

(b) List the names, addresses, 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 (You should not list the Chief Justice of the Alaska Supreme Court)

(1) NAME Charles E Cole
ADDRESS 406 Cushman St
CITY/STATE/ZIP Fairbanks, AK 99701 PHONE 452-1124

(2) NAME Joanne M. Grace
ADDRESS 1031 West 4th Av. Suite 200
CITY/STATE/ZIP Anchorage, AK 99501 PHONE 269-5251

(3) NAME Craig J Tillery
ADDRESS 1031 West 4th Av Suite 200
CITY/STATE/ZIP Anchorage, AK 99501 PHONE 269-5274

* **Please Note:** Letters of reference from these persons are confidential and will not be given to the applicant. The applicant should not request a copy of the letter from the reference.

REFERENCES (continued)

(c) List the names, addresses and phone numbers of attorneys 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)

1 Case Name: n/a Case Number: _____
v. _____ Judge Name: _____

Attorneys Involved:

Name _____	Name _____
Address _____	Address _____
_____	_____
Name _____	Name _____
Address _____	Address _____
_____	_____

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

Attorneys Involved:

Name _____	Name _____
Address _____	Address _____
_____	_____
Name _____	Name _____
Address _____	Address _____
_____	_____

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

Attorneys Involved:

Name _____	Name _____
Address _____	Address _____
_____	_____
Name _____	Name _____
Address _____	Address _____
_____	_____

REFERENCES (continued)

(d) List the names, addresses and phone numbers of attorneys 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)

1 Case Name: Tom Lakosh Case Number: 3AN-04-3820 CI
v. ADEC Judge Name: Mark Rindner

Attorneys Involved:

Name Kevin D. Callahan Name Please see the attached page
Address 601 W. 5th Av Suite 700 Address _____
Anchorage, AK 99501 _____

Name Michael W. Seville Name _____
Address 810 N St Address _____
Anchorage, AK 99501 _____

2 Case Name: United Soil Recycling Case Number 03-39320(OR bankruptcy)
v. _____ Judge Name: Randall L Dunn

Attorneys Involved:

Name Brennan P Cain Name David E. Mills
Address 421 W 1st Av Suite 250 Address 115 W 8th Av Suite 280
Anchorage, AK 99501 Eugene, OR 97401

Name Daniel W Hickey Name Robert J Vanden Bos
Address 500 L St Suite 401 Address 319 SW Washington St, Ste 520
Anchorage, AK 99501 Portland, OR 97204

3 Case Name: U S and State of AK Case Number: A02-0057 CV (JKS)
v. Kuroshima Shipping, S A. Judge Name. James K Singleton

Attorneys Involved:

Name Regina R Belt, US DOJ Name Daniel M Duame
Address 801 B St, Suite 504 Address 201 East Third Av
Anchorage, AK 99501 Anchorage, AK 99501

Name Herbert H. Ray, Jr Name _____
Address 1029 W Third Av 6th flr Address _____
Anchorage, AK 99501 _____

WRITING SAMPLE

- 23 Attach as Appendix A 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 **Please do not submit longer writing samples** Make sure the sample contains sufficient facts to make it understandable. Please do not submit coauthored writing samples
- 24 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? Have formal grievance procedures been brought against you? 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? In each case, state in detail the circumstances and the outcome

No

ADDITIONAL COMMENTS (Non-Confidential)

- 35 Please make any additional comments that you wish to bring to the Council's attention regarding your experience and suitability for this judgeship

Both my life experience and my practice as an attorney have prepared me to serve our community as a District Court judge. Although I am blessed with a strong family, I also have raised two foster children. From that challenging experience, I know firsthand of the many impacts of broken families. Our community is important to my family and to me. We are active in our church and firmly believe in the importance of commitment to a community.

The District Court judges make an important contribution to our community. I spent the first year of my career as a public defender in the Anchorage District Court. It was a memorable and rewarding experience. It is where the public most often participates in the judicial process, not only as parties, but also as witnesses and jurors. The cases are important events for the participants, who consistently testify truthfully, judge fairly, and as parties, abide by the procedures and rulings. In my experience the judges, through their decorum and evenhandedness, set the courtroom tone that encourages respect for and compliance with our laws.

I believe that I have the skills and judgment to maintain such a tone. As a public defender I practiced in Anchorage, Barrow, Cordova, Fairbanks, Dillingham, Dutch Harbor, Glennallen, Naknek, Palmer, and Valdez. I had many opportunities to observe and learn from excellent judges, prosecutors, and defense attorneys.

My practice since then has also prepared me for a judicial position. The Exxon Valdez litigation was an intensive course in complex civil litigation and negotiation. I worked with dozens of attorneys defending depositions of state employees. Following settlement of the government case, I worked with state and federal agencies to implement its terms. The governments had to invent the means to restore injured natural resources, which required balancing multiple competing public and private interests. I worked with skilled people to develop and implement a restoration program that is respected in Alaska and worldwide.

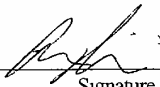
In the past few years my practice has become more typical of a government attorney. I advise client agencies, primarily DEC, DNR and the Department of Fish and Game, concerning a wide range of matters that consistently require the exercise of good judgment, considerations of fairness, and the application of facts and law. I have done substantial work with DEC to enforce Alaska's pollution laws, a part of my practice that has afforded me civil prosecution experience.

If appointed to the District Court bench, I recognize there are areas of law in which I would need to hone my expertise. Even the criminal law has evolved since I last practiced it. I have undertaken new areas of practice over the years and embrace the opportunity to do so again. I am committed to developing the expertise to provide the highest quality of judicial service.

CERTIFICATION AND WAIVER

I hereby certify that, to the best of my knowledge, the information provided on this application is true and complete; and that I am a citizen of the United States and of the State, and am licensed to practice law in Alaska (Ak Const Art IV; § 4)

I waive any privilege of confidentiality I may have with respect to information concerning my qualifications for judicial office that the Judicial Council may desire to obtain. I specifically authorize the Council to obtain and examine my personnel files from current and past employers, including all files maintained by the Alaska Court System, and to obtain information, records and documents regarding me from any credit reporting agency, any law enforcement agency, any bar association, any occupational licensing board, any educational institution, and any disciplinary body, including specifically the Alaska Bar Association and the Alaska Judicial Conduct Commission. I further authorize these institutions, organizations, and individuals, and any other institutions, organizations and individuals to make available to the Council all confidential and non-confidential documents, records and information concerning me that the Council may request.



Signature of Applicant

Alex M. Swiderski

Typed Name

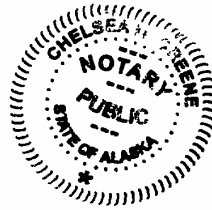
November 8, 2004

Date

Subscribed and sworn to before me this 8th day of November, 2004

Chelsea Greene

Notary Public, State of Alaska
My Commission expires 8-30-08



Application of Alex Swiderski for Anchorage District Court November 8, 2004

Question 7.b

Appellate writing One day course taught by Timothy Terrell. August 2002.
Western States environmental enforcement course. Three day courses. April 2000, April 2001, and October 2002
EPA environmental enforcement training. Two day course. February 2002.
NOAA Natural Resource Damage Assessment. Three day course. March 1999
Several short Alaska Bar Association CLEs on ethics and other matters.

Question 11.

June-August 1971. New Bedford Legal Services. New Bedford, MA I cannot locate an address for this legal services organization and do not recall the name of my supervisor
Law school internship.

June-August 1975 Pine Tree Legal Assistance Calais, ME My supervisor was Thomas N. Tureen, 1 Monument Way, Portland, ME, 04101. Law school internship.

December 1975-February 1976 Silverglade, Shapiro and Gertner The practice was civil litigation and criminal defense. My supervisor was Thomas G. Shapiro who may be reached at Shapiro, Haber and Urmy LLP, 53 State St, Boston, MA 02109. Law school internship

June-November 1976. Law Office of Lester Miller, Anchorage, AK My supervisor was Lawrence J. Kulik. Personal injury primarily representing plaintiffs Both Mr. Kulik and Mr. Miller are deceased. Law school internship.

June 1977- December 1978. Law Office of Lawrence J Kulik Primarily representing plaintiffs in personal injury cases with some criminal defense. I also did a modest amount of work for Libbey and Serdahley, also representing plaintiffs in personal injury matters. Mr. Kulik and Douglas Serdahley (601 West 5th Av, Suite 700, Anchorage, AK 99501) were my respective supervisors. I left the practice because there was not enough work to support a new associate such as myself

January 1979-December 1980. Sole practitioner with primarily criminal and personal injury cases I also did some contract work and worked briefly at the Alaska Public Defender Agency

January 1981-June 1990 Alaska Public Defender Agency. I was supervised by Dana Fabre until she was appointed to the Superior Court bench and then by John Salem I was initially a misdemeanor trial attorney and then felony trial attorney in the Anchorage office. I worked from September 1982 through May 1983 in the Barrow public defender agency office where I handled all Barrow cases including criminal, juvenile, child in need of aid, and appeals Upon my return to the Anchorage office I handled criminal cases arising on the Alaska Peninsula and Aleutian chain. I worked in the Palmer office from

January 1985 through June 1990. I handled all types of public defender agency cases in Palmer and supervised the office from 1988 until I left the agency.

July 1990-present. Alaska Department of Law I initially worked in the Oil Spill Litigation Section, which was established to represent Alaska in the Exxon Valdez oil spill. My principal responsibility was the economic component of Alaska's damages case, although I was involved with other aspects of the case as well. Initially Barbara Herman was my supervisor and then Craig Tillery after Ms. Herman left the Department. After the Exxon case was settled, the Oil Spill Litigation Section was converted to the Environmental Section where I have worked until the present. My duties until approximately three years ago were primarily related to the Exxon case including providing legal advice to the three state trustees on the Trustee Council and various matters relating to implementation of the settlement and the litigation ongoing between Exxon and the private plaintiffs. Since then I have taken on other environmental cases, primarily civil enforcement actions against polluters. I have also taken on numerous cases defending administrative actions of the Department of Environmental Conservation. Craig Tillery has been my immediate supervisor and Nancy Gordon is the Anchorage office chief

Question 12.g.

I have handled one Alaska Supreme Court matter, which is currently pending decision and one ninth Circuit matter in which Alaska was the lead amicus, *Zurich American Ins Co. v Whittier Properties, Inc* 356 F3d. 1131 (9th Cir. 2004) (Alaska's brief is my writing sample). I have also handled seven appeals of administrative decisions to the Superior Court, all of which involve related parties and issues

Question 12.h

Several matters relating to Oil Discharge Prevention and Contingency Plans, which are required for companies that transport oil including the Prince William Sound Tanker fleet and the Valdez Marine Terminal; a request for an informal hearing (allowed under DEC regulations) to challenge a permit for a soil treatment facility; and a logging sort yard permit application in which I provided advice to the commissioner of DEC as deciding officer. All of these matters were resolved on pleadings.

Question 22.d.

Tom Lakosh is a pro se litigant with a number of lawsuits against the State of Alaska. Almost all involve the same parties and attorneys and they raise somewhat similar issues. The other significant matters are: Case no 3AN-04-10440 CI (dismissed), which was also assigned to Judge Rindner; Case no. 3AN-00-3683 CI, which is assigned to Judge Hensley (Nancy S. Wainwright 13030 Back Road, Suite 555, Anchorage, AK 99515 represents intervenors in this matter), and Supreme Court case number S-11014 which is awaiting decision. I have done significant work in all of these cases.
