

Alaska Judicial Council
Application for Judicial Appointment

RECEIVED
JUN 16 1998
AK Judicial Council

Date: June 15, 1998

Supreme Court of Alaska

Court(s) for which you wish to be
considered

Office Telephone: _

Home Telephone: _

FAX: _

I. PUBLIC INFORMATION (Qs. 1-26 & 33)

PERSONAL

1. (a) State full name* Walter L. Carpeneti
Name as it should appear on bar survey: Walter L. (Bud) Carpeneti

* 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. (a) Mailing address

(b) Current business address _

4. State every residence you have had in the last five years in the United States or elsewhere, with exact address of each, and the month and year of the beginning and ending of each such residence.

5. How long have you been a resident of the State of Alaska immediately preceding the date of this application? ** 23 years 9 months

Total years 25 months 6

6. How long have you been engaged in the active practice of law immediately preceding the date of this application? ** 27 years 7 months

Total years 27 months 7



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

NONLEGAL EDUCATION

7. 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.

Stanford University 1963-67, AB "with distinction";
departmental (History) honors.

LEGAL EDUCATION

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

Columbia Law School 1967-68 (no degree)
U. of California Berkeley (Boalt Hall) Law School, 1968-70, J.D.

9. (a) Did you receive any honors in law school or belong to any honorary societies or groups?
yes If so, please give details.

California Law Review 1968-69 (staff)
1969-70 (managing editor)

(b) Have you taken any CLE (continuing legal education) courses during the past five years?

Yes X No _____ Please describe: I have acted as a panelist on

various C.L.E. programs sponsored by the Alaska Bar Association,
 e.g., Ethics for New Lawyers (mandatory CLE); Uniform Child Custody
 Jurisdiction Act; New Discovery Rules; Settlement Techniques (Alaska
 Judicial Conference). I have in addition taught various judicial
 (including magistrate) training programs, e.g., Search Warrant
 Procedures. I have also taught bar review courses (Legal Ethics),
 and lectured to peace officers groups (e.g., Courtroom Procedures).

MILITARY

10. 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

11. Describe major nonlegal working experience, if any.

My nonlegal work experience is limited to summer work during high
 school (e.g., bridge worker for Golden Gate Bridge and Highway District
 college (e.g., able-bodied seaman on trans-Pacific freighter), and
 law school (e.g., research on police-community relations project (cont.

12. 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.

none

11. (Cont.) financed by Ford Foundation grant). Additionally, I taught
 English part-time and translated Italian governmental agency documents
 part-time during my sabbatical period in Italy, primarily to increase
 my facility in the language to assist my studies of the Italian
 judicial system.

LEGAL EXPERIENCE

13. 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.*
-

1970-71: Law Clerk, Alaska Supreme Court; Hon. John H. Dimond, Pouch U (now Box 114100), Juneau, Alaska and Hon. Jay A. Rabinowitz, 604 Barnette Street, Fairbanks, Alaska. Justice Dimond is now deceased; Justice Rabinowitz could verify my employment in this position. I left to join my wife in San Francisco, where she had begun law school. (The clerkship is normally a one-year position; I actually filled the position for about 16 months.)

1972: Associate, Belli, Ashe, Ellison, Choulos & Lieff; Melvin M. Belli was my supervisor; 722 Montgomery Street, San Francisco, California. The firm has long since disbanded; Mr. Belli, my direct supervisor, passed away recently. Plaintiff's personal injury practice primarily. I left after about six months to return with my wife to Alaska, where she had secured a summer internship with Justice Rabinowitz of the Alaska Supreme Court. Vasilios B. Choulos, a partner in the firm, 1701 Franklin St., San Francisco, California 94109, could verify my employment.

1972: Contract Attorney working for Charles E. Cole in Fairbanks. I began working for Mr. Cole (in his general practice) only for the summer, but the relationship was mutually beneficial and I worked directly for him into the late fall. I then returned to San Francisco, where my wife had returned for her second year of law school and where by prior design my brother and I opened an office. I continued to work during the next two years on two major pieces of commercial litigation for Mr. Cole. His law office in effect became one of the larger clients of the firm my brother and I had opened. Charles E. Cole, 406 Cushman St., Fairbanks, AK 99701, could verify this employment.

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- 1972-74: Partner, Carpeneti & Carpeneti; 1255 Post Street, Suite 721, San Francisco, California. I left to return to Alaska once my wife had completed law school. General practice. Richard Carpeneti, (my brother), 921 Taylor St., San Francisco, California, could verify this employment.
- 1974-78: Supervising Attorney, Alaska Public Defender Agency, Juneau. My supervisors, both resident in Anchorage, were first Herb Soll and then Brian Shortell. I left the agency to open a private practice in Juneau with William T. Council. Criminal defense litigation (3 years); criminal defense appeals (1 year). The Honorable Brian Shortell, (Superior Court) 303 "K" St., Anchorage, Alaska 99501, could verify this employment.
- 1979-81: Partner, Carpeneti & Council; 319 Seward St., Juneau, Alaska 99801. I left to take my present position as a superior court judge in Juneau. General civil practice. William Council, Law Offices of William Council, 424 No. Franklin St., Juneau, Alaska 99801, could verify this employment.

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

(a) Percent of your practice that was

Civil	<u>60</u>
Criminal	<u>35</u>
Other	<u>5</u>
	= 100%

Comment: _____

(b) Percent

State	<u>100</u>
Federal	<u>0</u>
Other	<u>0</u>
	= 100%

Comment: _____

(c) Of practice in state courts, percent:

Supreme Court	<u>5</u>
Court of Appeals	<u> </u>
Superior Court	<u>92</u>
District Court	<u>3</u>
	= 100%

Comment: _____

(d) Frequency of appearance in court: Regularly X; 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 X 31 or more

Comment: _____

(f) Percent of these trials which were: Jury 80 Non-Jury 20

Comment: _____

(g) Approximate number of appellate matters handled: 200;

Comment: _____

(h) Approximate number of arbitrations or administrative hearings: X None *
 1 to 5 6 to 16 16 to 30 31 or more

Briefly describe type of matters heard: *I frequently handle appeals from administrative hearings (e.g., workers' compensation, CFEC, license revocations) but I have not handled such hearings themselves.

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

Yes _____ No x

Describe: As a sitting judge I believe I cannot undertake such work.
I have, however, actively participated as a panelist in bar association and judicial conference programs.

15. 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.

California Supreme Court, 1970; Northern District of California, 1970;

Alaska Supreme Court, 1970; District of Alaska, 1970.

PUBLIC SERVICE

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

California Bar Association

Alaska Bar Association

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

Article: "Legislative Apportionment: Multimember Districts and Fair Representation," 120 University of Pennsylvania Law Review 666 (1972).

18. 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)
Superior Court (Juneau)	1981	Y	N
Superior Court (Juneau)	1981	Y	Y
Supreme Court	1996	Y	N

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[This article has been cited in two different cases by the United States Supreme Court, Chapman v. Meier, 420 U.S. 1, 16, 17 et seq., 42 L.Ed.2d 766, 778 et seq., 95 S. Ct. 751, 760 et seq., (1975) and Thornburg v. Gingles, 478 U.S. 30, 47 et seq., 92 L.Ed.2d 25, 44 et seq., 106 S. Ct. 2752, 2764 et seq. (1986) and in a number of other federal and state courts as well as law review articles.]

Book Review: 60 University of California Law Review 610 (1972).

Editor: Comparative Analysis of Alaska Law, Rules and Practice with American Bar Association Standards Relating to Criminal Justice (1974).

19. Have you ever held public or political office, elective or appointive? yes

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

Alaska Judicial Council, bar association appointment (based on
election by attorneys), 1980-81

Alaska Commission on Judicial Conduct, election by judges,
Alaska, 1991-95.

20. 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.)

Juneau Freewheelers (bicycle club)

21. 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)?
no

(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.

- (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 have been a party in other legal proceedings, but only ones in which I have been sued as the judge presiding in a case. (All such cases have been dismissed.) E.g., Epperly v. Alaska et al; 89-0674 (D.D.C. 1989)

23. 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*

24. (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: Byron I. Mallott
ADDRESS: 102 Cordova St.
CITY/STATE/ZIP: Juneau, Alaska 99801 PHONE: (907) 586-6937

(2) NAME: Hon. Thomas B. Stewart (Ret.)
ADDRESS: 925 Calhoun Street
CITY/STATE/ZIP: Juneau, Alaska 99801 PHONE: (907) 586-1220

- (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: Hon. Dana Fabe
ADDRESS: 303 "K" Street
CITY/STATE/ZIP: Anchorage, AK 99501 PHONE: (907) 264-0622

(2) NAME: Hon. Jay A. Rabinowitz
ADDRESS: P.O. Box 114100
CITY/STATE/ZIP: Juneau, AK 99811-4100 PHONE: (907) 463-4770

(3) NAME: Charles E. Cole, Esq.
ADDRESS: 406 Cushman Street
CITY/STATE/ZIP: Fairbanks, AK 99701 PHONE: (907) 462-1124

* **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 case names and numbers. (*Attach additional pages if necessary.*)

1

<i>Name of Case</i>	<i>Case Number</i>
<u>State v. Michael Paquette</u>	<u>1JU-S98-329 CR</u>

Attorneys Involved

Name: David Brower
 Address: P.O. Box 100300
Juneau, AK 99811-0300

Name: James E. Curtain
 Address: 319 Seward St., Ste. 2
Juneau, AK 99801

Name: _____
 Address: _____

Name: _____
 Address: _____

2

<i>Name of Case</i>	<i>Case Number</i>
<u>In Re: R.W., E.W., M.W.</u>	<u>1JU-95-40/41/42 CP</u>

Attorneys Involved

Name: Janine Reep
 Address: P.O. Box 110300
Juneau, AK 99811-0300

Name: Michael O'Brien
 Address: 227 - 7th Street
Juneau, AK 99801

Name: Julia Moudy
 Address: P.O. Box 110216
Juneau, AK 99811-0216

Name: _____
 Address: _____

3

<i>Name of Case</i>	<i>Case Number</i>
<u>Naomi Hamilton v. AHFC</u>	<u>1JU-96-481 CI</u>

Attorneys Involved

Name: Tony Strong
 Address: 526 Main St., Ste. 200
Juneau, AK 99801

Name: Patrick Gilmore
 Address: 420 L St., 5th Floor
Anchorage, AK 99501-1989

Name: _____
 Address: _____

Name: _____
 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 case names and numbers. (*Attach additional pages if necessary.*)

1 Eugene Miller v. Barbra Holian 1J&-96-2007 CI

Attorneys Involved

Name: Kathryn Kolkhorst
 Address: P.O. Box 34338
Juneau, AK 99803-4338

Name: Mary Alice McKeen
 Address: 301 E. 3rd St., Ste. 3
Juneau, AK 99801

Name: _____
 Address: _____

Name: _____
 Address: _____

2 Bridget Reilly v. John Foskin 1JU-97-1018 CI/1JU-93-1372 CI

Attorneys Involved

Name: Gerald K. Davis
 Address: 417 Harris Street
Juneau, AK 99801

Name: Sharon Gleason
 Address: 510 L Street, Ste. 306
Anchorage, AK 99501

Name: _____
 Address: _____

Name: _____
 Address: _____

3 Olaf Totland v. CSED 1JU-96-2786 CI

Attorneys Involved

Name: Paul Hoffman
 Address: P.O. Box 1211
Juneau, AK 99802-1211

Name: Dan Branch
 Address: P.O. Box 100300
Juneau, AK 99811-0300

Name: _____
 Address: _____

Name: _____
 Address: _____

ADDITIONAL COMMENTS (Non-Confidential)

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

1. Complex Litigation Experience

My experience in handling complex litigation may be of interest to the members of the Judicial Council. I would like to mention two cases, one civil and one criminal:

(a) In 1985 I inherited State v. Amerada Hess, 1JU-77-847 CI (later re-named In re ANS Royalty Litigation). That case was a suit by the State of Alaska against all of the North Slope oil and gas producers over royalty payments. Split into two phases (roughly, the oil issues and the gas issues), the case eventuated in cash settlements of approximately 800 million dollars and revision of the basic lease agreement which, over the life of the leases, will involve additional payments of an even larger amount. Between 1989 and 1992, and again during 1994-95, I was intensively involved in management of the case, including the convening of monthly progress conferences, deciding hundreds of motions (including substantial discovery disputes which arose in the process of exchanging several millions of pages of information), remodelling the courtroom to accommodate about 30 "lead" counsel, etc. The file of the case occupies an entire storage room and fills over 51 banker's boxes of files, even after the return of exhibits which occupied a greater volume. Several aspects of this case were reviewed by the Supreme Court of Alaska and one by the United States Supreme Court.

(b) In 1987 I was assigned the retrial of State v. Peel, 1JU-87-975 CR, a nine-count indictment charging eight counts of first degree murder and one count of arson. The first trial, before Judge Thomas E. Schulz in Ketchikan, had resulted in a deadlocked jury. The retrial took place in Juneau, beginning with jury selection in November, 1987, and concluding with the jury's verdict in April, 1988.

2. Rulemaking Experience

The supreme court's rulemaking function is extremely important. I have served on several advisory committees for the court, most notably the committee which recommended the adoption of Rules of Evidence (chaired by now-Justice Bryner), and I acted as reporter for the Pattern Jury Instructions (Criminal) committee (chaired by now-retiring Justice Compton). I also served as chair of the supreme court's advisory committee on Sentencing Practices and Procedures.

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3. Statewide Experience

I have lived in Fairbanks for a total of nine months (from September to December, 1971, while clerking for Justice Rabinowitz and again from June, 1972 to October, 1972 while working for Charles E. Cole). I have lived in Anchorage for a total of six months (from January to June, 1978, while doing appeals for the Alaska Public Defender Agency). While these experience are now dated, they nonetheless have given me some appreciation for the pronounced differences in the legal cultures which prevail in each area.

4. Appellate Experience

I had the great good fortune in 1995 to be invited by the Supreme Court of Alaska to sit for two months with the court while the vacancy created by Justice Daniel Moore's retirement was filled (eventually by Justice Dana Fabe). The experience showed me several things, among them that the work of the court is demanding yet exhilarating, that the collective decisionmaking which is the hallmark of a multimember appellate court is a wonderful process, and that I am capable of contributing something to that process. I came away convinced that I would like very much to be a member of this court.

CERTIFICATION AND WAIVER

I hereby certify that, to the best of my knowledge, the information provided on this application is true and complete.

I hereby waive any privilege of confidentiality I may have with respect to information concerning my qualifications for judicial office which the Judicial Council may desire to obtain. I specifically authorize the Council to obtain information regarding me from any credit reporting agency, any law enforcement agency, and the Judicial Conduct Commission. I further authorize all of the aforesaid institutions, organizations, and individuals to make available to the Council all documents, records, and information concerning me which the Council may request.

Walter L. Carpeneti

Signature of Applicant

Walter L. Carpeneti

Typed Name

15 June 1998

Date

Subscribed and sworn to before me this 15th day of June, 1998.

Don M. Honkle

Notary Public, State of Alaska

My Commission expires: with office