

Alaska Judicial Council
Application for Judicial Appointment

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FEB 10 2009

ALASKA JUDICIAL COUNCIL

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

Fairbanks Superior Court

Date: 2/09/09

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* Michael P. McConahy
Name as it should appear on bar survey: Michael P. McConahy

* 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.

2. How long have you been a resident of the State of Alaska immediately preceding the date of this application? **
- | | | |
|-------|-----------------|-----------------|
| | <u>30</u> years | <u>9</u> months |
| Total | <u>30</u> years | <u>9</u> months |

3. How long have you been engaged in the active practice of law immediately preceding the date of this application? **
- | | | |
|-------|-----------------|-----------------|
| | <u>30</u> years | <u>2</u> months |
| Total | <u>30</u> years | <u>2</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.

University of Pittsburgh 1969-1973. B.A.

(1969-1971 at Titusville campus)

Dean's list at Titusville.

** 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 Puget Sound 1975-1978. J.D.

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.

(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.

2004: Alaska Native Law: What every Alaskan Lawyer needs to know, Municipal Government, Ethics at the 11th Hour: Anatomy of a Grievance;
2005: Effective Non-Deposition Discovery Methods and Practices, Evidence Cranium; **2006:** Accounting for Lawyers, 12th Annual Workers' Comp Update, Ethics; **2007:** Ethics; **2008:** Employment Law Ethics, WC Ethics, Ethical Responsibility, Ethics at 11th Hour, 14th Annual Workers' Comp Update

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.

Member of Laborer's Union in Erie, PA, 1969-1978; worked summers
through undergraduate school and law school and in between same;
non-union (casual) longshoreman/Stevedone while in law school; taught
several law-related classes at UAF/TVCC in remote past; commercial
fisherman (power troller) 2000 to present.

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: McConahy, Zimmerman & Wallace
Supervisor or name of contact person who can verify employment: Christopher E. Zimmerman
Current address of this person: 711 Gaffney Road, Suite 202
City Fairbanks State AK Zip 99701
Dates of Employment: From 1997 To present
Description: Shareholder/Partner, Practicing Attorney

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

Employer: Call, Barrett & Burbank
Supervisor or name of contact person who can verify employment: Winston S. Burbank
Current address of this person: 101 Lacey Street
City Fairbanks State AK Zip 99701
Dates of Employment: From 1986 To 1997
Description: Shareholder/Partner, Practicing Attorney

Reason for Leaving: Firm became McConahy, Zimmerman & Wallace

Employer: State of Alaska, Department of Law, District Attorney's Office
Supervisor or name of contact person who can verify employment: Harry L. Davis
Current address of this person: 3154 Riverview Drive
City Fairbanks State AK Zip 99701
Dates of Employment: From 1983 To 1986
Description: Assistant District Attorney, Misdemeanor Supervisor, Felonies, Rural Courts

Reason for Leaving: to join Call, Barrett & Burbank

Previous Employers (continued)

Employer: UA Local 375 Legal Trust (Plumbers & Pipefitters)
Supervisor or name of contact person who can verify employment: Jim Laiti
Current address of this person: 3568 Geraghty Ave.
City Fairbanks State AK Zip 99706
Dates of Employment: From 1981 To 1983
Description: Lawyer for members; handled all legal affairs; domestic relations; real estate; workers' compensation; criminal, etc.
Reason for Leaving: Work for State of Alaska

Employer: City of Fairbanks
Supervisor or name of contact person who can verify employment: Herb Kuss
Current address of this person: 800 Cushman Street
City Fairbanks State AK Zip 99701
Dates of Employment: From 1980 To 1981
Description: Municipal prosecutor
Reason for Leaving: Work for UA 375

Employer: Aschenbrenner & Savell
Supervisor or name of contact person who can verify employment: Richard Savell
Current address of this person: 1375 Olive Street, #209
City Eugene State OR Zip 97401
Dates of Employment: From 1978 To 1980
Description: Associate
Reason for Leaving: Work for City of Fairbanks

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>70</u>
		Criminal	<u> </u>
		Other	<u>30</u>
			<u> </u>
			= 100%

Comment: _____

(b)	Percent:	State	<u>95</u>
		Federal	<u>5</u>
		Other	<u> </u>
			<u> </u>
			= 100%

Comment: _____

(c)	Of practice in state courts, percent:	Supreme Court	<u>5</u>
		Court of Appeals	<u> </u>
		Superior Court	<u>70</u>
		District Court	<u>25</u>
			<u> </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: Tried significant number of cases in 1980's and 1990's

(f) Percent of these trials which were: Jury 2/3 Non-Jury 1/3

Comment: _____

(g) Approximate number of appellate matters handled: 6-10

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: Workers' Compensation

(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: Not through these agencies in this time frame (did so in the past), but now by direct request and referral

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.

All Alaska Courts - 1978. U.S. District Court, 9th Cir. - 1978.

U.S. Court of Appeals, 9th Cir.-1983. U.S. Supreme Court-1983.

Public Service

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

Alaska Bar Association: workers' compensation and tort sections. Member of local arbitration and grievance committee. Served as independent counsel re complaints against Board of Governor members. Tanana Valley Bar Association.

13. List legal publications, if any (give title, subject and date of publications). Please include publications you have co-authored and the name(s) of the co-author(s).

No publications. Have made several presentations with materials.

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)
Fairbanks District Court	1984	Y	N
Fairbanks Superior Court	2006	Y	N
Fairbanks Superior Court	2007	Y	N

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.

Alaska Commission on Judicial Conduct, attorney member. Selected by
Bar Association and confirmed by legislature. Served on Commission
and Ethics Committee. Also was appointed twice to Merit Selection
Panel for U.S. District Court Magistrate.

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.

Member of local Bahai community. Serve on its governing body and
actively involved in its community programs of child education and
elimination of racism. Actively involved in women's sports at UAF,
particularly women's volleyball. Provide foster care, and foster
grandparent care, for several families, including supporting education,
shelter, employment, food, and clothing, as well as legal advocacy.
Active in all aspects of the Hunter Education Indoor Range in Fairbanks.
Shot competitively in two different disciplines (bullseye and practical).
Certified instructor for basis pistol, rifle, and shotgun. Licensed
ACHP instructor. Public Shooting Volunteer of the year 2008.

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.

Re 17(a): I was cited for failure to stop at a stop sign in 1996.

I don't believe the fine could have been more than \$50, but I can't recall. I was acquitted at trial by Magistrate Bachelder.
4FA-96-F414905.

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.

Not sued by client, but insurer for client regarding an offer of judgment. Horace Mann v. McConahy, Zimmerman & Wallace, 4FA-06-1803 CI.

The case was dismissed. Prior firm had a claim that arose before I was a member, Pederson v. Call, Barrett & Burbank, 3AN-93-11085 CI. A copy of the letter included in a prior application is attached for reference.

- (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 #17 above re traffic citation.

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: Charles Cole
Address: 406 Cushman Street
City/State/Zip: Fairbanks, AK 99701 Phone: 452-1124

Name: Paul A. Barrett
Address: 108 Duke Way
City/State/Zip: Fairbanks, AK 99709 Phone: 479-5283

- (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: Winston S. Burbank
Address: 101 Lacey Street
City/State/Zip: Fairbanks, AK 99701 Phone: 452-9370

Name: Dan Winfree
Address: P.O. Box 71396
City/State/Zip: Fairbanks, AK 99707 Phone: 458-6465

Name: Roger Brunner
Address: P.O. Box 755160
City/State/Zip: Fairbanks, AK 99775 Phone: 450-8080

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. Please do not list cases pending in the trial courts. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases that 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: Ulak *Case Number:* 4BE-02-130 CI
v. Suburban Propane, et al. *Judge Name:* Curda

Attorneys Involved:

Name: <u>Chris Cooke</u>	Name: <u>John Thorsness</u>
Address: <u>3700 Jewel Lake Road</u>	Address: <u>711 H Street, Suite 620</u>
City, State, Zip: <u>Anchorage, Alaska 99502</u>	City, State, Zip: <u>Anchorage, Alaska 99501</u>
Name: _____	Name: <u>AWCB #200311301</u>
Address: _____	Address: <u>Fred Brown (AWCB)</u>
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: Burt *Case Number:* _____
v. Kuykendall, Inc. *Judge Name:* _____

Attorneys Involved:

Name: <u>Robert Beconovich</u>	Name: _____
Address: <u>1305 21st Ave., Suite 204</u>	Address: _____
City, State, Zip: <u>Fairbanks, Alaska 99701</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: Samuel *Case Number:* AWCB #200023997
v. Alaska Rent A Car, Inc. *Judge Name:* William Walters (AWCB)

Attorneys Involved:

Name: <u>Joseph Kalamarides</u>	Name: _____
Address: <u>711 H Street, Suite 450</u>	Address: _____
City, State, Zip: <u>Anchorage, Alaska 99501</u>	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. Please do not list cases pending in the trial courts. (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: Thomas **Case Number:** 4BE-05-252 CI
v. Pacifica Guest House **Judge Name:** Curda

Attorneys Involved:

Name: <u>Jim Valcarce</u>	Name: _____
Address: <u>P.O. Box 409</u>	Address: _____
City, State, Zip: <u>Bethel, Alaska 99559</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: Hill **Case Number:** 4FA-04-776 CI
v. Tip Top Chevrolet **Judge Name:** Olsen (Burbank-Settlement)

Attorneys Involved:

Name: <u>Joseph Paskvan</u>	Name: _____
Address: <u>P.O. Box 73888</u>	Address: _____
City, State, Zip: <u>Fairbanks, Alaska 99707</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: Stutz **Case Number:** 4FA-05-1973 CI
v. Bottcher **Judge Name:** Downes

Attorneys Involved:

Name: <u>William Satterberg</u>	Name: _____
Address: <u>709 Fourth Avenue</u>	Address: _____
City, State, Zip: <u>Fairbanks, Alaska 99701</u>	City, State, Zip: _____
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. (Some reply briefs may not meet these requirements.)

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 handle cases in all state and federal courts, and have a strong working knowledge of evidence, procedure, and administrative regulations. My criminal experience, albeit now somewhat remote, was extensive from both prosecution and defense. My work for the union members provided extensive criminal defense and family law work, and my stints as a prosecutor exposed me to extensive criminal work. I am still involved with criminal cases handled directly by my partners and associates. Likewise, I am involved in family law matters handled by my office as the cases are staffed and prepared for trial or resolution, although I do not try these cases myself. I have a first-hand appreciation of the financial and emotional cost involved in litigating these matters.

Additional Comments (Continued)

I served a term on the Alaska Commission on Judicial Conduct, including the Ethics Committee, and have a working and practical appreciation of the conduct required of judges in the courtroom. I also served on the Merit Selection Panel for the U.S. District Court Magistrate and have knowledge of the qualities necessary for a successful judge. I believe I have the skill, training, experience, character, and decision-making skills necessary to effectively handle the case load of the superior court in a speedy, just, and efficient manner.

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. Please do not list personal information about minor children. 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. **To be fair to all applicants, the Council will strictly enforce the 150 word limit.**

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 P. McConahy

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

Fairbanks Superior Court

Please leave this area blank

Date: February 9, 2009

I graduated from the University of Pittsburgh in 1973 and received a law degree from the University of Puget Sound in 1978, and have been in the active practice of law in Alaska ever since. I am admitted before all courts in Alaska, the U.S. District Court in Alaska and the Ninth Circuit Court of Appeals, and the U.S. Supreme Court. I have been in private practice since 1986 handling a variety of civil and administrative litigation; previously I have worked as a prosecutor handling a variety of civil and administrative litigation; previously I have worked as a prosecutor and as a lawyer for union members. I have served on the Alaska Commission on Judicial Conduct, and Federal Merit Selection Panel, and the Alaska Bar Association fee arbitration and grievance panels.

I am married with two adult children. I belonged to the Laborer's Union and worked as a longshoreman during school. My wife and I also are commercial fishermen in southeast Alaska.