



# alaska judicial council

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## Alaska Judicial Council Appellate Judge Questionnaire

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ALASKA JUDICIAL COUNCIL

### 2012 Candidates for Judicial Retention

October 2011

Daniel E. Winfree

Name

Supreme

Court

1. Please estimate your workload during your present term.

- a) 75 % civil cases                      b) N/A # of trials/year (as trial judge, if any)  
   15 % criminal cases  
   10 % court administrative work  
   100 % Total

2. Please describe your participation on court/bar committees or other administrative activities during your current term of office

Co-chair, Alaska Supreme Court Fairness & Access Committee  
Member, Alaska Bar Association Historian's Committee  
Member, National Conference of Bar Presidents  
Speaker, Western States Bar Conference (March 2011)

3. Please assess, in one or two paragraphs, your judicial performance during your present term. Appropriate areas of comment could include: satisfaction with your judicial role, specific contributions to the judiciary or the field of law, increases in legal knowledge and judicial skills, or other measures of judicial abilities that you believe to be important.

Growing up in Fairbanks, I realized many "regular" people were making decisions shaping Alaska. As a teenager, I dreamed of one day becoming one of those people. My dream came true with my appointment to the Alaska Supreme Court in November 2007. I walk into my chambers every morning humbled by the faith placed in me, thrilled to be a member of the court, and driven to be the best justice I can be. I love every minute of every day, even on a long, hard day.

The court's primary focus is issuing decisions, and I spend the majority of my time on that process. Preparation for oral argument and law conference is time-consuming, but I believe I am always well-prepared and able to contribute meaningfully by (1) asking appropriate questions at oral argument and (2) actively discussing the case's merits with my colleagues. I have been fascinated by how differently each of us may approach an issue, but at the same, how we take each other's views into account to come to a consensus on even the most difficult questions. I have often found myself persuaded away from my preliminary thinking by views expressed by my colleagues. I have considerable faith in our decision-making process.

A secondary focus is the consideration of petitions for hearing or review to take up discretionary legal issues in the absence of an automatic right of appeal. Each of us takes a share of these petitions; we circulate recommendations to accept or deny each petition. I work very hard to get recommendations out to my colleagues within a week or so of the assignment; this is often a challenge with petitions for hearing because criminal law is an area where I work harder to build my knowledge base.

I also work very hard to vote promptly on other justices' opinions or petition recommendations, sometimes to the detriment of getting my own draft opinions circulating in a timely fashion. Occasionally I think there is time to do everything except work on my opinions, but I am trying to adjust my work schedule accordingly.

Administrative duties are a lesser portion of my work load. As currently the only justice not previously a trial court judge, I have the least working knowledge of the court system. But I have learned a lot in the past four years, and I anticipate taking on more administrative duties in the future. I do co-chair, with Justice Fabe, the court's Fairness & Access to Justice committee. Because of my previous long-time involvement with the Alaska Bar Association, I still participate in court/bar matters. This past March I spoke on an access to justice panel at the Western States Bar Conference, an annual conference in which the Alaska Bar Association actively participates; I was president of the Conference in the latter part of the 90s and still enjoy attending the meetings.

In short: I love the work; I think I'm doing a good job; I'm working hard to do a better job.

4. During your most recent term as a judge, have you:
- a) had a tax lien filed or other collection procedure instituted against you by federal, state, or local authorities?  Yes  No
  - b) been involved in a non-judicial capacity in any legal proceeding whether as a party or otherwise?  Yes  No
  - c) engaged in the practice of law (other than as a judge)?  Yes  No
  - d) held office in any political party?  Yes  No
  - e) held any other local, state or federal office?  Yes  No
  - f) had any complaints, charges or grievances filed against you with the Alaska Commission on Judicial Conduct, the Alaska Bar Association, or with the Alaska Court System that resulted in public proceedings or sanctions?  Yes  No

5. If your answer to any of the questions above is "yes," please give full details, including dates, facts, case numbers and outcomes.

6. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2012 retention elections.

Please see attached.
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## Appellate Judge Questionnaire — Alaska Judicial Council 2012 Retention

### Question 6.

Prior to joining the court, I was active in community organizations and events. Although I've had to withdraw from much of my previous activities, I continue to make myself available to speak at Chamber of Commerce, Rotary, University of Alaska Fairbanks legal classes, local high school classes, and any other groups that would like to hear about us. I enjoy being a representative of the Alaska Court System, particularly the Alaska Supreme Court, and explaining what we do and how we do it.

Lastly, I have to comment on the wonderful opportunity of working with the great young men and women who come to clerk for our court. In many ways it is much like my private practice experience with young associate attorneys working for me, but some differences make the experience more meaningful. The law clerks give up a year of their life right after law school to work with us; they are very smart and hard-working; they love learning about the law and helping us shape it; and I love teaching them everything I have to offer about the law, life, and Alaska. It is so incredibly satisfying when one of them stays in Alaska; aside from their future contributions to the Alaska bar, which will be no small thing, it's like having additional children to watch from afar.

*For questions 7 and 8, please do not list any cases that have pending issues in your court.*

7. Please list your six most recent opinions including case names and numbers. Please list the names, current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these appeals. (Attach additional pages if necessary.)

**Case Number 1**

**Case Name:** Melvin Gillis **Case Number:** S-13620

v. Aleutians E. Borough & DNR

**Attorneys Involved:**

<b>Name:</b> <u>J.P. Tangen</u>	<b>Name:</b> <u>Lawrence V. Albert</u>
<b>Address:</b> <u>1600"A" Street, #310</u>	<b>Address:</b> <u>P.O. Box 200934</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99520</u>

<b>Name:</b> <u>Joseph N. Levesque</u>	<b>Name:</b> <u>John T. Baker</u>
<b>Address:</b> <u>731 "N" Street</u>	<b>Address:</b> <u>1031 W. Fourth Ave., #200</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

**Case Number 2**

**Case Name:** Robert Stevens **Case Number:** S-13436

v. ABC Board & Mat-Su Borough

**Attorneys Involved:**

<b>Name:</b> <u>Christine S. Schleuss</u>	<b>Name:</b> <u>John J. Novak</u>
<b>Address:</b> <u>632 Christensen Dr., #200</u>	<b>Address:</b> <u>310 "K" Street, #403</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

<b>Name:</b> <u>John Aschenbrenner</u>	<b>Name:</b> <u>Lisa Thomas</u>
<b>Address:</b> <u>350 E. Dahlia Ave.</u>	<b>Address:</b> <u>350 E. Dahlia Ave.</u>
<b>City, State, Zip:</b> <u>Palmer, AK 99645</u>	<b>City, State, Zip:</b> <u>Palmer, AK 99645</u>

**Case Number 3**

**Case Name:** David F. Stone **Case Number:** S-13524

v. State of Alaska

**Attorneys Involved:**

<b>Name:</b> <u>Beth Lewis Trimmer</u>	<b>Name:</b> <u>Michael Sean McLaughlin</u>
<b>Address:</b> <u>1016 W. Sixth Ave., #100</u>	<b>Address:</b> <u>310 "K" Street, #308</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

**Case Number 4**

**Case Name:** State of Alaska, DOC **Case Number:** S-13602  
 v. Anita Hendricks-Pearce

**Attorneys Involved:**

<b>Name:</b> <u>Dale W. House</u>	<b>Name:</b> <u>Ted Stepovich</u>
<b>Address:</b> <u>1031 W. Fourth Ave., #200</u>	<b>Address:</b> <u>841 "I" Street</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

**Case Number 5**

**Case Name:** State, Division of Insurance **Case Number:** S-13499/S-13520  
 v. Alyeska Pipeline Service Co.

**Attorneys Involved:**

<b>Name:</b> <u>Signe P. Andersen</u>	<b>Name:</b> <u>Kenneth P. Eggers</u>
<b>Address:</b> <u>1031 W. Fourth, #200</u>	<b>Address:</b> <u>2600 Cordova Street, #110</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99503</u>

<b>Name:</b> <u>Sarah A. Badten</u>	<b>Name:</b> _____
<b>Address:</b> <u>2600 Cordova Street, #110</u>	<b>Address:</b> _____
<b>City, State, Zip:</b> <u>Anchorage, AK 99503</u>	<b>City, State, Zip:</b> _____

**Case Number 6**

**Case Name:** Lewis-Walunga & Soule **Case Number:** S-13825  
 v. Municipality of Anchorage

**Attorneys Involved:**

<b>Name:</b> <u>Michael W. Flanigan</u>	<b>Name:</b> <u>Erin K. Egan</u>
<b>Address:</b> <u>1029 W. Third Ave., #250</u>	<b>Address:</b> <u>510 "L" Street, #300</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

8. *Optional:* If you deem it helpful to the Council, please list up to three other cases during your past term in which you believe your work was particularly noteworthy. Please list the names, current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these appeals. (Attach additional pages if necessary.)

**Case Number 1**

**Case Name:** State of Alaska **Case Number:** S-13332  
 v. Native Village of Tanana

**Attorneys Involved:**

<b>Name:</b> <u>Peter K. Putzier</u>	<b>Name:</b> <u>Heather Kendall-Miller</u>
<b>Address:</b> <u>1031 W. Fourth Ave., #200</u>	<b>Address:</b> <u>801 "B" Street, #401</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

<b>Name:</b> <u>Lloyd B. Miller</u>	<b>Name:</b> <u>Andy Harrington</u>
<b>Address:</b> <u>900 W. Fifth Ave., #700</u>	<b>Address:</b> <u>1648 Cushman Street, #300</u>
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> <u>Fairbanks, AK 99701</u>

**Case Number 2**

**Case Name:** Pebble Ltd. P'Ship **Case Number:** S-14404  
 v. Lake & Peninsula Borough

**Attorneys Involved:**

<b>Name:</b> <u>Aisha T. Bray</u>	<b>Name:</b> <u>Matthew Singer</u>
<b>Address:</b> <u>100 Cushman Street, #500</u>	<b>Address:</b> <u>3000 "A" Street, #300</u>
<b>City, State, Zip:</b> <u>Fairbanks, AK 99701</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99503</u>

<b>Name:</b> <u>Scott Kendall/Tim McKeever</u>	<b>Name:</b> <u>Additional names attached</u>
<b>Address:</b> <u>701 W. Eighth Ave., #700</u>	<b>Address:</b> _____
<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>	<b>City, State, Zip:</b> _____

**Case Number 3**

**Case Name:** Jack Beltz **Case Number:** S-12775  
 v. State of Alaska

**Attorneys Involved:**

<b>Name:</b> <u>A. Lee Petersen</u>	<b>Name:</b> <u>Terisia Chleborad</u>
<b>Address:</b> <u>P.O. Box 286</u>	<b>Address:</b> <u>310 "K" Street, #308</u>
<b>City, State, Zip:</b> <u>Willow, AK 99688</u>	<b>City, State, Zip:</b> <u>Anchorage, AK 99501</u>

<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

Appellate Judge Questionnaire — Alaska Judicial Council 2012 Retention

Question 8.

Nancy Wainwright & Victoria Clark  
1026 W. Fourth Ave., #201  
Anchorage, AK 99501

John Baker & Joanne Grace  
1031 W. Fourth Ave., #200  
Anchorage, AK 99501



# Alaska Judicial Council Recommendation

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## Justice Daniel E. Winfree, Supreme Court Justice

### Judicial Council Recommendation 2012

The Alaska Judicial Council is a non-partisan citizens' commission established by the Alaska constitution. Alaskan law requires the Council to evaluate judges' performance and authorizes the Council to recommend to voters whether judges should be retained in office. The Judicial Council reviews judges' integrity, diligence, legal ability, fairness, demeanor, ability to manage their caseloads, and overall performance of their judicial responsibilities in and out of the courtroom. The Judicial Council finds Justice Winfree to be **Qualified** and recommends unanimously that the public vote "YES" to retain him as a supreme court justice.

### Judicial Council Evaluation

The Judicial Council surveyed thousands of Alaskans including peace and probation officers, court employees, attorneys, jurors, social workers and guardians ad litem about the judges on the ballot. Respondents were asked to rate judicial performance and to submit comments. The Council also reviewed the ratings and observations of the Alaska Judicial Observers, independent community-based volunteers. The Council reviewed the judge's preemptory challenge, recusals, and appellate affirmance and reversal rates; any civil or criminal litigation involving the judge; APOC and court system conflict-of-interest statements; any disciplinary files involving the judge; and whether a judge's pay was withheld for an untimely decision. The Council reviewed other court records and investigated judicial conduct in specific cases. The Council interviewed some judges, attorneys, and court staff, and held a statewide public hearing to obtain comments about judges.

	Attorney Survey	Court Employee Survey
Legal Ability	4.4	---
Impartiality	4.5	4.7
Integrity	4.6	4.7
Temperament	4.5	4.7
Diligence	4.4	4.7
Overall	4.5	4.7

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

#### Rating Scale

5.0 = Excellent  
4.0 = Good  
3.0 = Acceptable  
2.0 = Deficient  
1.0 = Poor

### Summary of Survey Information

Survey respondents rated Justice Winfree on the categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Justice Winfree on overall performance was 4.5. Court employees gave him 4.7.

**Recommendation: Vote "YES" to retain Justice Daniel E. Winfree**

For more information go to  
[www.knowyouralaskajudges.com](http://www.knowyouralaskajudges.com)

## Justice Daniel Winfree: Detailed Information Responses Alaska Bar Association Members

	Legal Ability		Impartiality/ Fairness		Integrity		Judicial Temperament		Diligence		Overall Evaluation	
	Mean	N	Mean	N	Mean	N	Mean	N	Mean	N	Mean	N
<b>Basis for Evaluation</b>												
No Response		0		0		0		0		0		0
<b>Direct Professional</b>	<b>4.4</b>	<b>221</b>	<b>4.5</b>	<b>223</b>	<b>4.6</b>	<b>218</b>	<b>4.5</b>	<b>220</b>	<b>4.4</b>	<b>202</b>	<b>4.5</b>	<b>220</b>
Experience in last 5 yrs	4.4	208	4.5	210	4.6	205	4.5	207	4.4	189	4.5	207
Experience not in last 5 yrs	4.3	11	4.6	11	4.6	11	4.5	11	4.5	11	4.5	11
Professional Reputation	4.3	61	4.4	61	4.5	59	4.4	58	4.4	52	4.4	61
Other Personal Contacts	4.4	17	4.5	17	4.4	19	4.3	16	4.3	10	4.3	18
<b>Type of Practice</b>												
No Response		4		2		7		5		23		5
Private, Solo	4.4	39	4.4	40	4.5	37	4.4	40	4.4	36	4.4	40
Private, 2-5 Attorneys	4.4	35	4.4	36	4.5	36	4.4	35	4.3	31	4.4	35
Private, 6+ Attorneys	4.5	38	4.7	38	4.8	38	4.7	36	4.7	37	4.6	37
Private, Corporate Employee	4.3	3	5.0	3	4.7	3	4.7	3	5.0	3	4.7	3
Judge or Judicial Officer	4.6	34	4.7	34	4.7	34	4.7	34	4.6	32	4.6	34
Government	4.4	59	4.4	59	4.5	58	4.4	59	4.3	53	4.5	58
Public Service Agency/Org	4.0	5	4.2	5	4.5	4	4.2	5	4.5	2	4.2	5
Other	4.5	4	5.0	4	5.0	4	5.0	4	4.8	4	4.8	4
<b>Years of Practice in Alaska</b>												
No Response		4		2		7		5		22		5
5 Years or fewer	4.4	9	4.7	9	4.8	9	4.7	9	4.5	8	4.6	9
6 to 10 years	4.4	13	4.5	13	4.6	12	4.3	12	4.7	10	4.6	12
11 to 15 years	4.7	12	4.4	14	4.5	13	4.4	14	4.5	13	4.4	14
16 to 20 years	4.3	18	4.3	18	4.4	18	4.4	17	4.5	15	4.3	18
21 years or more	4.4	159	4.5	159	4.6	156	4.5	158	4.4	147	4.5	157
<b>Gender</b>												
No Response		4		2		7		4		22		5
Male	4.4	151	4.5	152	4.6	149	4.5	150	4.4	140	4.5	150
Female	4.4	64	4.5	65	4.6	63	4.5	65	4.5	57	4.5	64
<b>Cases Handled</b>												
No Response		4		2		7		5		23		5
Prosecution	4.8	4	4.3	4	4.5	4	4.5	4	3.8	4	4.5	4
Mainly Criminal	4.1	12	4.3	12	4.6	11	4.6	12	4.7	10	4.6	11
Mixed Criminal & Civil	4.3	51	4.3	52	4.3	52	4.3	51	4.3	48	4.3	52
Mainly Civil	4.5	137	4.6	137	4.7	134	4.6	136	4.6	126	4.6	135
Other	4.5	11	4.6	12	4.6	11	4.4	11	4.4	8	4.5	12
<b>Location of Practice</b>												
No Response		4		2		7		5		23		5
First District	4.6	21	4.6	21	4.7	21	4.6	21	4.7	18	4.6	21
Second District	4.0	2	4.5	2	5.0	2	4.5	2	4.5	2	4.5	2
Third District	4.4	160	4.5	161	4.7	156	4.5	159	4.5	144	4.5	158
Fourth District	4.3	29	4.2	30	4.2	30	4.1	29	4.2	29	4.2	30
Outside of Alaska	5.0	2	4.5	2	4.5	2	4.5	2	4.5	2	4.5	2

Note: Ratings for only those respondents who reported direct professional experience with the judge.

<b>Distribution of Court Employee Ratings*</b> <b>2012 Retention Evaluation</b> <b>Daniel Winfree</b>							
<b>Survey Category</b>	<b>Number of Responses</b>						
	<b>Total</b>	<b>Excellent</b>	<b>Good</b>	<b>Acceptable</b>	<b>Deficient</b>	<b>Poor</b>	<b>Mean</b>
<b>Impartiality/Fairness</b>	41	33	5	2	1	0	<b>4.7</b>
<b>Integrity</b>	42	36	2	3	1	0	<b>4.7</b>
<b>Judicial Temperament</b>	43	36	4	2	1	0	<b>4.7</b>
<b>Diligence</b>	42	33	6	2	1	0	<b>4.7</b>
<b>Overall Evaluation</b>	43	35	5	2	1	0	<b>4.7</b>

\* Ratings are based on direct professional experience.