

Alaska Judicial Council Recommendation

Judge Ben Esch, Superior Court, Nome

I. Judicial Council Evaluation. The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Judge Esch to be **Qualified** and recommends unanimously (6-0) that the public vote "YES" to retain him as a superior court judge.

II. Summary of Evaluation Information. In a survey sent to all 2,644 attorneys in Alaska, Judge Esch was rated in the excellent range on overall judicial performance (4.0, see graph). He scored highest (4.2) in the categories of "sense of basic fairness," "conduct free from impropriety," "courtesy," "human understanding and compassion," "ability to control courtroom," "willingness to work," "settlement skills," and "consideration of all relevant factors in sentencing." He scored 4.0 or better in all sixteen categories.

Summary Categories	Attorney Survey	Peace Officer Survey	Juror Survey	Court Employee Survey
Legal Ability	4.0	---	---	---
Impartiality	4.2	4.5	4.6	---
Integrity	4.2	4.5	---	3.9
Temperament	4.2	4.5	4.6	4.1
Diligence	4.2	4.4	---	4.2
Special Skills	4.2	4.6	---	4.0
Overall	4.0	4.5	4.6	4.1

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

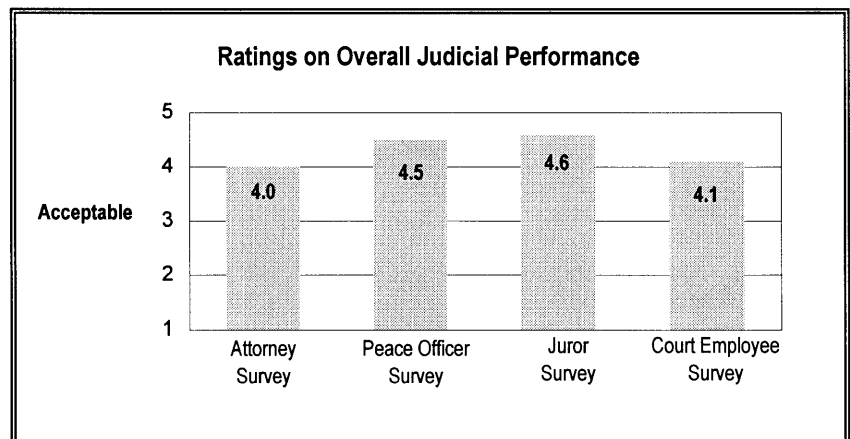
Range Description

4.0 - 5.0 = Excellent
 3.5 - 3.9 = Good
 3.0 - 3.4 = Acceptable
 2.5 - 2.9 = Below Acceptable
 1.0 - 2.4 = Poor

A survey of all 1,890 peace and probation officers in Alaska rated Judge Esch in the excellent range on overall judicial performance (4.5, see graph). He scored highest in the category of "settlement skills" (4.6). He scored 4.4 or better in all thirteen categories.

A survey of all jurors appearing before Judge Esch in 1998 and 1999 rated him in the excellent range (4.6) on overall performance. A survey of all court employees rated him in the excellent range (4.1) on overall performance.

The Council also completed a background investigation including a court records check, a disciplinary records check, a review of conflict of interest statements submitted to the court system, a review of any withheld salary warrants and a review of financial disclosure statements submitted to the Alaska Public Offices Commission. Attorneys, peace officers, court employees and jurors were asked to submit written comments about the judge. The Council actively encouraged the public to comment, both in writing and in a statewide public hearing teleconference.



Recommendation: Vote "YES" to retain Judge Esch

Contact the Judicial Council at 1029 W. 3rd, Suite 201, Anchorage, AK 99501 (telephone: (907) 279-2526) for more detailed information, or review the information on our Internet site at:

www.ajc.state.ak.us



alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1969 (907) 279-2526 FAX (907) 276-5046
http://www.ajc.state.ak.us E-Mail: postmaster@ajc.state.ak.us

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Alaska Judicial Council Questionnaire

Trial Judge 2000 Candidates for Judicial Retention

November 19, 1999

Ben Esch	Superior - 2nd District
Name	Court

1. Describe your workload during your present term.

a) <u>35</u> % Civil Cases	b) <u>10-12</u> # of trials/year
<u>65</u> % Criminal Cases	<u>10</u> # Administrative Appeals
<u>-</u> % Court Administrative	
100 % Total	

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

Member - Jury Implementation sub-committee, Fairness & Access Implementation Committee; Judicial Conference Planning Committee. Second Judicial District Training Judge - primary planner & presenter at district Magistrate Conferences ('97 & '99). Presenter to Coastal Judges program on Child Support. Panelist at Regional ICWA training (10/'99), panelist at Rural DV & Child Abuse workshop (6/'99).

3. On a separate sheet of paper 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

I believe my judicial performance has improved since appointment. I think this comes from a combination of increased technical proficiency, a better awareness of the lives of the people who appear before me, and a better understanding of the personal biases which have the potential to impact the decisions we all make. Technical competence has been improved through a process of judicial education, working harder and making mistakes. I have also learned much from the attorneys who appeared before me. As a new attorney, I felt that I learned more about being a good lawyer from the judges before whom I practiced than from the lawyers with whom I dealt or the CLEs that I attended. It's only now that I realize how much those judges were also learning from me and from all the other attorneys who came into their courts.

Beside improved technical competence, the other areas I believe are helping me to be better at my job are more experiences with the lives of the people who come into my court and the constant self-reflection that is necessary to learn more about myself. All of us who put on robes want to do a good job. In performing the technical part of the job, analyzing the law to be applied, interpreting evidence rules or framing a decision, we usually have the benefit of competent attorneys. But in the part of the job which requires us to make difficult decisions that affect others' lives, we often have little other than "gut" sense. To use this particular resource well requires an appreciation of the realities of the lives of the parties. I have learned about the people who are directly impacted by my decisions through a combination of day-to-day contact, involvement in my community, visits to the villages which surround Nome, and by listening to the people who appear in my court as parties, witnesses, victims and visitors. Finally, this job demands that I be constantly alert to avoid the racial, gender and other biases that might intrude into my work. I think that being a good judge requires that I know myself well enough to recognize the biases where they exist and, as much as humanly possible, keep them out of my decisions. This process of personal review and self-analysis involves a reflection on the decisions that I have made, pondering how I might have made better decisions, and carefully considering how those decisions affect the lives of those who appear before me and the lives of the citizens of the Seward Peninsula and the State of Alaska.

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.

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 x.

- b) been involved in a nonjudicial capacity in any legal proceeding whether as a party or otherwise? Yes _____ No x.

- c) engaged in the practice of law (other than as a judge)? Yes _____ No x.

- d) held office in any political party? Yes _____ No x.

- e) held any other local state or federal office? Yes _____ No x.

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

Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2000 retention elections.

5. Please list the names and case numbers of the three most recent jury cases tried before you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

<i>Name of Case</i>	<i>Case Number</i>
1 <u>State v. Marvin Roberts/Kevin Pease</u>	<u>4FA-97-3163CR & -3164CR</u>

Attorneys Involved

Name: Jeffery O'Bryant
Address: 604 Barnette St., Room 247
Fairbanks, AK 99701

Name: _____
Address: _____

Name: Dick Matson
Address: 712 8th Ave.
Fairbanks, AK 99701

Name: Lori Bodwell
Address: 712 8th Ave.
Fairbanks, AK 99701

<i>Name of Case</i>	<i>Case Number</i>
2 <u>State v. Eugene Vent</u>	<u>4FA-97-3161CR</u>

Attorneys Involved

Name: Jeffery O'Bryant
Address: 604 Barnette St., Room 247
Fairbanks, AK 99701

Name: _____
Address: _____

Name: William Murphree
Address: 250 Cushman St., Suite 500
Fairbanks, AK 99701

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
3 <u>Barr v. Olsen Air</u>	<u>2NO-98-48CI</u>

Attorneys Involved

Name: Jim Valcarce
Address: P.O. Box 555
Bethel, AK 99559

Name: Laurel Peterson
Address: 805 W. 3rd Ave, Suite 200
Anchorage, AK 99501

Name: Larry G. Berry
Address: 1400 W. Benson, Suite 315
Anchorage, AK 99503

Name: H. Conner Thomas
Address: P.O. Box 61
Nome, AK 99762

6. Please list the names and case numbers of the three most recent non-jury cases tried before you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

1

Name of Case

North Slope Borough v. Danner

Case Number

2BA-97-154CI

Attorneys Involved

Name: Joel Rothberg
Address: P.O. Box 69
Barrow, AK 99723

Name: _____
Address: _____

Name: Michael Danner (pro per)
Address: P.O. Box 1323
Barrow, AK 99723

Name: _____
Address: _____

2

Name of Case

Green v. Green

Case Number

2NO-96-28CI

Attorneys Involved

Name: Dorthea Aguero
Address: 711 H St., Suite 330
Anchorage, AK 99501

Name: _____
Address: _____

Name: Robert Lewis
Address: P.O. Box 61
Nome, AK 99762

Name: _____
Address: _____

3

Name of Case

Moriarty v. Moriarty

Case Number

2NO-98-44CI

Attorneys Involved

Name: Patrick Ross
Address: 310 K St., Suite 507
Anchorage, AK 99501

Name: _____
Address: _____

Name: William English
Address: 733 W. 4th Ave., Suite 533
Anchorage, AK 99501

Name: _____
Address: _____

7. Please list the names and case numbers of the three most recent cases which did not go to trial, but on which you did significant work (such as settlement conference, hearings, motion work, etc.), identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

1

<i>Name of Case</i>	<i>Case Number</i>
<u>Blodgett v. City of Teller</u>	<u>2NO-97-126CI</u>

Attorneys Involved

Name: C.R. Kennelly
Address: 733 W. 4th Ave, Suite 401
Anchorage, AK 99501

Name: _____
Address: _____

Name: Michael D. Corey
Address: 701 W. 8th Ave., Suite 1100
Anchorage, AK 99501

Name: _____
Address: _____

2

<i>Name of Case</i>	<i>Case Number</i>
<u>Teller Commercial v. Sherman</u>	<u>2NO-98-51CI</u>

Attorneys Involved

Name: Gordon Schadt
Address: 2909 Arctic Blvd, Suite 103
Anchorage, AK 99503

Name: _____
Address: _____

Name: William S. Cummings
Address: 1130 W. 6th Ave., Suite 100
Anchorage, AK 99501

Name: Bryan Timbers
Address: P.O. Box 61
Nome, AK 99762

3

<i>Name of Case</i>	<i>Case Number</i>
<u>State v. Katchatag</u>	<u>2NO-96-165CR</u>

Attorneys Involved

Name: John Vacek
Address: P.O. Box 160
Nome, AK 99762

Name: _____
Address: _____

Name: Kirsten Bey
Address: P.O. Box 203
Nome, AK 99762

Name: _____
Address: _____

8. If you deem it helpful to the Council, please list the name, case number and attorneys' names and current addresses of any other cases during your judicial career in which you believe your work was particularly noteworthy. (Attach additional pages if necessary.)

1

Name of Case

Case Number

Hanson v. Arco

2BA-97-13CI

Attorneys Involved

Name: Dennis Mestas
Address: 725 W. 4th Ave., Suite 306
Anchorage, AK 99501

Name: Phillip Eide
Address: 425 G St., Suite 930
Anchorage, AK 99503

Name: _____
Address: _____

Name: _____
Address: _____

2

Name of Case

Case Number

Alowa v. Honda

2NO-93-230CI

Attorneys Involved

Name: Richard Freidman
Address: 1227 W. 9th Ave., Suite 201
Anchorage, AK 99501

Name: John Thorsness
Address: 550 W. 7th Ave., Suite 1100
Anchorage, AK 99501

Name: Don Bauemeister
Address: 921 W. 6th Ave., Suite 200
Anchorage, AK 99501

Name: _____
Address: _____

3

Name of Case

Case Number

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

MEMORANDUM

TO: Judicial Council Members

FROM: Staff

DATE: May 16, 2000

RE: Comparison of Previous Survey Results - Ben Esch

Ben Esch is standing for retention in 2000. The table on the following page compares retention and selection survey scores for Judge Esch. Changes in the form and content of the various surveys should be noted carefully in making any comparisons.

This is Judge Esch's first time to stand for retention. He was evaluated with the other non-retention judges in 1998.

Judge Esch applied for and was appointed to the Nome Superior Court in 1996.

Judge Ben Esch						
appointed to Nome Superior Court 2/16/96						
	2000 Retention		1998 Retention Preview		1996 Nome Superior	
	Bar	PPO	Bar	PPO	Score	Range
Legal Ability	4.0	—	3.8	—	3.5	Good
Fairness	4.2	4.5	4.0	4.5	3.7	Good
Integrity	4.2	4.5	4.0	4.3	3.7	Good
Judicial Temperament	4.2	4.5	4.0	4.5	3.6	Good
Diligence	4.2	4.4	—	—	—	---
Administrative Skills	4.2	4.6	—	—	—	---
Suitability of Experience	—	—	—	—	3.5	Good
Overall Performance	4.0	4.5	3.9	4.5	3.5	Good