

**Alaska Judicial Council
2010 Judicial Retention Performance Evaluation Materials
Judge Marvin Charles Hamilton, III
Bethel Superior Court**

The Judicial Council finds Judge Hamilton to be **Qualified** and recommends unanimously that the public vote **"YES"** to retain him as a superior court judge.

Retention evaluation materials for this judge

1. Voter pamphlet page.	2
This page will appear in the State of Alaska Election Pamphlet sent to each Alaskan household.	
2. Judge questionnaire.	3
The judge's response to a Judicial Council questionnaire.	
3. Survey scores in 2010	
<i>(To view survey scores for all judges on the ballot go to main 2010 retention page.)</i>	
a. Attorney; Peace Officer; Social Worker/Guardians Ad Litem/CASA scores.	10
b. Juror survey scores.	15
c. Court employee survey scores.	16
4. Survey scores in previous retention evaluations	
<i>(This judge is standing for retention for the first time)</i>	

Retention evaluation materials for all judges on the ballot

(To view these materials go to main 2010 retention page.)

1. Peremptory challenges	
Analysis of peremptory challenge rates for judges.	
2. Recusals	
Evaluation of judge's record of self-disqualification from cases, or "recusals."	
3. Appellate Affirmance Rates	
Analysis of appellate decisions involving each trial judge's cases.	
4. Salary Warrant Withholdings	
Evaluation of judge's record of pay withholding for undecided or uncompleted decisions.	

Alaska Judicial Council Recommendation

Judge Marvin C. Hamilton, III, Superior Court, Bethel

Judicial Council Recommendation 2010

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 Judge Hamilton to be **Qualified** and recommends unanimously that the public vote **"YES"** to retain him as a superior court judge.

Judicial Council Evaluation

The Judicial Council surveyed thousands of Alaskans including peace and probation officers, court employees, attorneys, jurors, social workers/guardians ad litem, and child advocates 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 peremptory 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	Peace Officer Survey	Juror Survey	Court Employee Survey	Social Workers Guardians ad Litem CASAs
Legal Ability	4.2	---	---	---	---
Impartiality	3.9	2.9	4.6	4.4	---
Integrity	4.2	2.9	---	4.4	---
Temperament	4.3	3.7	4.8	4.4	---
Diligence	4.2	3.4	---	4.4	---
Overall	4.1	3.1	4.6	4.4	---

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 Judge Hamilton on the categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge Hamilton on overall performance was 4.1. Peace and probation officers gave Judge Hamilton a rating of 3.1. Jurors rated him 4.6 overall, and court employees gave him 4.4. No social workers, guardians ad litem or CASA volunteers rated Judge Hamilton.

Recommendation: Vote "YES" to retain Judge Marvin C. Hamilton, III

NOV 25 2009

ALASKA JUDICIAL COUNCIL

Alaska Judicial Council Questionnaire

Trial Judge 2010 Candidates for Judicial Retention

October 22, 2009

Marvin Hamilton	Bethel Superior Court
Name	Court

1. Please estimate your workload during your present term.

a) 50 % civil cases 45 % criminal cases 5 % court administrative work 100 % Total	b) 7 # of jury trials/year ? # of non-jury trials/year 1 # of administrative appeals/year
--	---

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

Criminal Rules Committee
 International Law Section
 Magistrate Training Judge
 ICWA Sub-Committee

*Alaska Judicial Council
Trial Judge Questionnaire
Retention*

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.

Like everyone else, I suppose, I try, each day, to keep an open mind, practice patience, and find wisdom. I also try to be as prepared as possible, but this is more difficult than I expected. As a lawyer, I was proud to know more about my cases than anyone else in the room. As a judge, however, I am continually amazed at how little I know. As a result, I am more dependent upon the lawyers than I would like to be and (short of investigating the cases myself) I cannot see a way around it.

Also, when I first started as a judge (having no training whatsoever), I thought that the model that I should emulate was "umpire": just sit back and call them as I saw them. But since a large percentage of the attorneys in Bethel are young and inexperienced, I think (after calling balls and strikes for 2 1/2 years now) there is a role for me, as judge, to offer guidance. I received stern advice (and dire warnings) from Judge Ripley when I was a baby lawyer in Anchorage. His words and threats of sanctions (for better or worse) still ring in my head today. Perhaps, in a friendlier (non-PTSD) way, I could help our local bar, too.

*Alaska Judicial Council
Trial Judge Questionnaire
Retention*

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 2010 retention elections.

Alaska Judicial Council
 Trial Judge Questionnaire
 Retention

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

Case Number 1

Case Name: Cheryl Evans, et al **Case Number:** 4BE-09-341 CI
 v. Dario Notti, Jr

Attorneys Involved:

Name: Jim Valcarce	Name: _____
Address: PO Box 409	Address: _____
City, State, Zip: Bethel, AK 99559	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: SOA **Case Number:** 4BE-09-125 CR
 v. John Jason Hawk

Attorneys Involved:

Name: Dena Ivey	Name: Kari McCrea
Address: PO Box 170	Address: PO Box 10
City, State, Zip: Bethel, AK 99559	City, State, Zip: Bethel, AK 99559
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: SOA **Case Number:** 4BE-09-122 CR
 v. Riece Francis

Attorneys Involved:

Name: Chris Carpeneti	Name: Heather Sia
Address: PO Box 170	Address: PO Box 409
City, State, Zip: Bethel, AK 99559	City, State, Zip: Bethel, AK 99559
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

*Alaska Judicial Council
Trial Judge Questionnaire
Retention*

8. Please list your three most recent non-jury trials including case names and numbers. Please list the names, current addresses, including zip codes and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent non-jury trials. (Attach additional pages if necessary.)

Case Number 1

Case Name: ITMO MKH *Case Number:* 4BE-07-28 CP
v. _____

Attorneys Involved:

Name: Lannette Nickens	Name: Miriam Dawn Dillard
Address: 1031 W 4th Ave, Suite 200	Address: PO Box 885
City, State, Zip: Anchorage, AK 99501	City, State, Zip: Bethel, AK 99559
Name: Megan Brady Viccellio	Name: _____
Address: PO Box 10	Address: _____
City, State, Zip: Bethel, AK 99559	City, State, Zip: _____

Case Number 2

Case Name: Olinka Alexie *Case Number:* 4BE-05-71 CI
v. Alexander Alexie

Attorneys Involved:

Name: Charles Agerter	Name: Miriam Dawn Dillard
Address: PO Box 248	Address: PO Box 885
City, State, Zip: Bethel, AK 99559	City, State, Zip: Bethel, AK 99559
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: Fay Pope *Case Number:* 4BE-08-465 CI
v. Barry Worm

Attorneys Involved:

Name: Lauri Owen	Name: _____
Address: PO Box 671465	Address: _____
City, State, Zip: Chugiak, AK 99567	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

*Alaska Judicial Council
Trial Judge Questionnaire
Retention*

9. Please list your three most recent cases, including case names and numbers, which did not go to trial, but on which you did significant work (such as settlement conference, hearings, motion work, etc.). Please list the names, current addresses, including zip codes and suite numbers where applicable, and phone numbers of each attorney involved these cases. (Attach additional pages if necessary.)

Case Number 1

Case Name: ITMO T.P., et al *Case Number:* 4BE-03-146/147/148; 04-101/102 CP
v. _____

Attorneys Involved:

Name: Mark Regan	Name: Miriam Dawn Dillard
Address: 1949 Gillam Way, Suite H	Address: PO Box 885
City, State, Zip: Fairbanks, AK 99701	City, State, Zip: Bethel, AK 99559
Name: Sharon Sigmon	Name: Angela Green
Address: PO Box 3505	Address: PO Box 276
City, State, Zip: Bethel, AK 99559	City, State, Zip: Kotzebue, AK 99752

Case Number 2

Case Name: ITMO H.N. *Case Number:* 4BE-08-05 CP
v. _____

Attorneys Involved:

Name: Elizabeth Pederson	Name: Miriam Dawn Dillard
Address: PO Box 10	Address: PO Box 885
City, State, Zip: Bethel, AK 99559	City, State, Zip: Bethel, AK 99559
Name: Sharon Sigmon	Name: _____
Address: PO Box 3505	Address: _____
City, State, Zip: Bethel, AK 99559	City, State, Zip: _____

Case Number 3

Case Name: SOA *Case Number:* 4BE-09-491 CR
v. James Lott

Attorneys Involved:

Name: AJ Barkis	Name: Andrew Grannik
Address: PO Box 170	Address: PO Box 170
City, State, Zip: Bethel, AK 99559	City, State, Zip: Bethel, AK 99559
Name: Terrance Haas	Name: _____
Address: PO Box 10	Address: _____
City, State, Zip: Bethel, AK 99559	City, State, Zip: _____

*Alaska Judicial Council
Trial Judge Questionnaire
Retention*

10. *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, and phone numbers of each attorney involved in these cases. (Attach additional pages if necessary.)

Case Number 1

Case Name: _____ *Case Number:* _____

v. _____

Attorneys Involved:

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: _____ *Case Number:* _____

v. _____

Attorneys Involved:

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: _____ *Case Number:* _____

v. _____

Attorneys Involved:

Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Fourth Judicial District Marvin Charles Hamilton, III - Bethel Superior Court

Summary Sheet and Detailed Survey Scores

Summary of survey information

Judge Hamilton's detailed survey scores follow. Attorneys rated him 4.1 on overall performance. Peace and probation officers rated him 3.1 overall. He was not rated by any social workers, Guardians ad Litem or CASA volunteers.

	Attorney Survey N=55	Peace Officer Survey N=18
Legal Ability	4.2	--
Impartiality	3.9	2.9
Integrity	4.2	2.9
Temperament	4.3	3.7
Diligence	4.2	3.4
Overall	4.1	3.1

The Judicial Council's Evaluation Process

State law requires the Judicial Council to evaluate each judge standing for retention, and to report its evaluations to the voters. The three surveys reported here are an important part of the Council's evaluations. The Council also considers survey ratings by jurors and court employees, public comments, and the ratings by the independent citizen volunteers at Alaska Judicial Observers. Along with the personal observations of the hundreds of people who had direct professional experience with the judge, the Council reviews any litigation involving the judge, conflict of interest records, public disciplinary files, and indicators of judicial performance such as appellate affirmances and reversals, and peremptory challenges and recusals. All of the evaluation information about the judge is on the Council's website at www.ajc.state.ak.us.

Superior Court Judge Marvin C. Hamilton, III**A. Alaska Bar Association****Demographic Description**

		N	%
Type of Practice			
	No Response	1	1.6%
	Private, Solo	5	7.8%
	Private, 2-5 Attorneys	8	12.5%
	Private, 6+ Attorneys	6	9.4%
	Private, Corporate Employee	--	0.0%
	Judge or Judicial Officer	16	25.0%
	Government	25	39.1%
	Public Service Agency or Organization (Not Govt)	1	1.6%
	Other	2	3.1%
Length of Alaska Practice			
	No Response	4	6.3%
	5 Years or fewer	11	17.2%
	6 to 10 years	5	7.8%
	11 to 15 years	6	9.4%
	16 to 20 years	4	6.3%
	21 years or more	34	53.1%
Gender			
	No Response	2	3.1%
	Male	38	59.4%
	Female	24	37.5%
Cases Handled			
	No Response	1	1.6%
	Prosecution	7	10.9%
	Mainly Criminal	8	12.5%
	Mixed Criminal & Civil	25	39.1%
	Mainly Civil	21	32.8%
	Other	2	3.1%
Location of Practice			
	No Response	1	1.6%
	First District	6	9.4%
	Second District	3	4.7%
	Third District	33	51.6%
	Fourth District	20	31.3%
	Outside of Alaska	1	1.6%

Judge Marvin C. Hamilton, III: 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
Basis for Evaluation												
No Response		1		3		3		1		2		2
Direct Professional	4.2	55	3.9	53	4.2	53	4.3	55	4.2	54	4.1	54
Professional Reputation	3.0	3	2.0	3	2.0	3	2.33	3	3.0	3	2.33	3
Other Personal Contacts	4.7	3	4.5	2	4.7	3	4.7	3	4.5	2	4.7	3
Type of Practice												
No Response		0		1		0		0		0		0
Private, Solo	4.7	3	5.0	3	5.0	3	5.0	3	4.7	3	5.0	3
Private, 2-5 Attorneys	3.7	7	3.4	7	4.0	7	4.0	7	3.7	7	3.7	7
Private, 6+ Attorneys	3.7	6	4.0	5	3.8	4	4.2	6	3.8	5	3.8	5
Private, Corporate Employee	--	0	--	0	--	0	--	0	--	0	--	0
Judge or Judicial Officer	4.5	15	4.5	15	4.6	15	4.6	15	4.4	15	4.5	15
Government	4.2	22	3.4	21	4.0	22	4.1	22	4.2	22	3.9	22
Public Service Agency or Organization (Not Govt)	4.0	1	5.0	1	5.0	1	4.0	1	4.0	1	4.0	1
Other	4.0	1	4.0	1	5.0	1	5.0	1	4.0	1	5.0	1
Years of Practice in Alaska												
No Response		0		1		2		0		1		1
5 Years or fewer	4.7	10	3.5	10	4.3	10	4.6	10	4.6	10	4.1	10
6 to 10 years	4.0	3	2.3	3	3.7	3	4.7	3	4.0	3	4.0	3
11 to 15 years	4.2	6	4.5	6	4.7	6	4.5	6	4.3	6	4.5	6
16 to 20 years	3.8	4	3.3	3	3.5	4	4.0	4	4.0	4	3.3	4
21 years or more	4.1	30	4.1	29	4.2	28	4.1	30	4.0	29	4.1	29
Gender												
No Response		1		2		2		1		2		2
Male	4.2	33	3.8	32	4.2	32	4.3	33	4.1	32	4.1	32
Female	4.2	21	4.0	20	4.2	20	4.3	21	4.3	21	4.1	21
Cases Handled												
No Response		0		1		1		0		1		1
Prosecution	4.2	5	2.2	5	3.4	5	4.0	5	4.2	5	3.0	5
Mainly Criminal	4.6	7	4.4	7	4.7	7	7.9	7	4.4	7	4.9	7
Mixed Criminal & Civil	4.4	23	4.3	22	4.5	22	4.4	23	4.2	23	4.3	23
Mainly Civil	3.9	19	3.7	18	4.1	18	4.1	19	4.1	18	3.9	18
Other	4.0	1	4.0	1	3.0	1	4.0	1	4.0	1	4.0	1
Location of Practice												
No Response		0		0		0		0		0		0
First District	4.5	4	4.8	4	4.8	4	4.8	4	4.3	4	4.8	4
Second District	4.5	2	4.5	2	5.0	2	4.5	2	4.5	2	4.5	2
Third District	4.0	29	4.0	27	4.1	27	4.3	29	4.1	28	4.1	28
Fourth District	4.4	20	3.6	20	4.2	20	4.3	20	4.3	20	3.9	20
Outside of Alaska	--	0	--	0	--	0	--	0	--	0	--	0

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

Superior Court Judge Marvin C. Hamilton, III**B. Peace and Probation Officers****Demographic Description**

		N	%
Type of Work			
	No Response	1	4.8%
	State Law Enforcement Officer	8	38.1%
	Municipal/Borough Law Enforcement Officer	--	0.0%
	Village Public Safety Officer (VPSO)	1	4.8%
	Probation/Parole Officer	10	47.6%
	Other	1	4.8%
Length of Alaska Experience			
	No Response	2	9.5%
	5 Years or fewer	7	33.3%
	6 to 10 years	4	19.0%
	11 to 15 years	3	14.3%
	16 to 20 years	4	19.0%
	21 years or more	1	4.8%
Gender			
	No Response	1	4.8%
	Male	15	71.4%
	Female	5	23.8%
Location of Work			
	No Response	1	4.8%
	First District	1	4.8%
	Second District	1	4.8%
	Third District	5	23.8%
	Fourth District	13	61.9%
	Outside of Alaska	--	0.0%
Community Population			
	No Response	1	4.8%
	Under 2,000	1	4.8%
	Between 2,000 and 35,000	12	57.1%
	Over 35,000	7	33.3%

Judge Marvin C. Hamilton, III
Peace and Probation Officers

	Impartiality/ Fairness		Integrity		Judicial Temperament		Diligence		Overall Evaluation	
	Mean	N	Mean	N	Mean	N	Mean	N	Mean	N
Basis for Evaluation										
No Response		0		0		0		0		0
Direct Professional	2.9	18	2.9	18	3.7	18	3.4	18	3.1	18
Professional Reputation	--	0	--	0	--	0	--	0	--	0
Other Personal Contacts	3.0	3	3.0	3	3.0	3	3.0	3	3.0	3
Type of Work										
No Response		0		0		0		0		0
State Law Enforcement Officer	2.9	7	2.9	7	3.7	7	3.3	7	3.0	7
Municipal/Borough Law Enforcement Officer	--	0	--	0	--	0	--	0	--	0
Village Public Safety Officer (VPSO)	--	0	--	0	--	0	--	0	--	0
Probation/Parole Officer	2.8	10	2.8	10	3.6	10	3.4	10	2.9	10
Other	5.0	1	5.0	1	5.0	1	5.0	1	5.0	1
Length of Experience										
No Response		0		0		0		0		0
5 Years or fewer	2.8	6	2.5	6	3.5	6	3.3	6	2.8	6
6 to 10 years	3.3	3	3.0	3	4.0	3	3.7	3	3.3	3
11 to 15 years	2.7	3	3.0	3	3.7	3	3.7	3	3.0	3
16 to 20 years	3.0	4	3.3	4	4.0	4	3.5	4	3.3	4
21 years or more	4.0	1	5.0	1	5.0	1	5.0	1	5.0	1
Gender										
No Response		0		0		0		0		0
Male	2.6	13	2.6	13	3.5	13	3.1	13	2.7	13
Female	3.8	5	3.8	5	4.4	5	4.4	5	4.0	5
Location of Work										
No Response		0		0		0		0		0
First District	4.0	1	4.0	1	5.0	1	4.0	1	4.0	1
Second District	--	0	--	0	--	0	--	0	--	0
Third District	2.6	5	2.8	5	3.0	5	3.0	5	2.6	5
Fourth District	3.0	12	2.9	12	3.9	12	3.6	12	3.2	12
Outside of Alaska	--	0	--	0	--	0	--	0	--	0
Community Population										
No Response		0		0		0		0		0
Under 2,000	--	0	--	0	--	0	--	0	--	0
Between 2,000 and 35,000	2.8	11	2.5	11	3.6	11	3.2	11	2.8	11
Over 35,000	3.1	7	3.7	7	3.9	7	3.9	7	3.4	7

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

Juror Survey Results 2010 Retention Evaluation Marvin Charles Hamilton III									
		Distribution of Ratings							
Survey Category	Mean	Excellent % (n)	Good % (n)	Acceptable % (n)	Deficient % (n)	Poor % (n)	Total Responses		
Impartiality/Fairness	4.6	62% 23	32% 12	5% 2	0% 0	0% 0	37		
Respectful/Courteous	4.8	87% 32	5% 2	8% 3	0% 0	0% 0	37		
Attentive during Proceedings	4.4	57% 21	30% 11	11% 4	3% 1	0% 0	37		
Control over Proceedings	4.6	65% 24	27% 10	8% 3	0% 0	0% 0	37		
Intelligence/Skill as a Judge	4.6	70% 26	22% 8	8% 3	0% 0	0% 0	37		
Overall Evaluation	4.6	65% 24	27% 10	8% 3	0% 0	0% 0	37		

Court Employee Survey Results 2010 Retention Evaluation Marvin Charles Hamilton III							
Question	Excellent % (n)	Good % (n)	Acceptable % (n)	Deficient % (n)	Poor % (n)	Mean	Total Responses
Impartiality/Fairness	61% 14	26% 6	9% 2	4% 1	0% 0	4.4	23
Integrity	61% 14	30% 7	4% 1	0% 0	4% 1	4.4	23
Judicial Temperament	55% 12	36% 8	5% 1	5% 1	0% 0	4.4	22
Diligence	64% 14	18% 4	14% 3	0% 0	5% 1	4.4	22
Overall Evaluation	57% 13	39% 9	0% 0	0% 0	4% 1	4.4	23