

alaska judicial council

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Alaska Judicial Council Trial Judge Questionnaire

2012 Candidates for Judicial Retention

October 2011

Name Court Please estimate your workload during your present term. a)55 % civil cases	Please estimate your workload during your present term. a)55_ % civil cases	Please estimate your workload during your present term. a)55		
a)55 % civil cases	a) 55 % civil cases b) 7 # of jury trials/year 43 % criminal cases 14 # of non-jury trials/year 2 % court administrative work 11 # of administrative appeals/year	a)55 % civil cases	Please estimate your workload during yo	
43% criminal cases14# of non-jury trials/year2% court administrative work11# of administrative appeals/year	43% criminal cases14# of non-jury trials/year2% court administrative work11# of administrative appeals/year	43% criminal cases14# of non-jury trials/year2% court administrative work11# of administrative appeals/year		our present term.
100 / 0 1 0 001			43 % criminal cases 2 % court administrative work	# of non-jury trials/year

I was recently appointed by the Chief Justice to the Criminal Pattern Jury Instructions Committee, but I will not begin my work with them until their meeting in January, 2012. I was also asked to assist at the last Judicial Conference in a very minor role as a table monitor and group spokesperson during a breakout session on "The Future of the Court in Alaska",

and if asked again to help, I will to the extent my time permits.

during your current term of office.

My main law-related activity is still with the Kodiak Teen Court, a program I started here in 1995 and modeled after Anchorage Youth Court. I currently serve on the Board of Directors. I perform all of the judge training for the program and assist in their annual swearing-in ceremony.

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.

Although I practiced law in Kodiak for over 25 years and served as the local Magistrate for another 4 years, my tenure as the Superior Court Judge in Kodiak has been a real learning experience for me, and has come with a few surprises. I generally feel very comfortable in cases involving criminal law, divorce, custody and other family law matters, juvenile delinquency and Child in Need of Aid (all of which were the focus of my law practice before becoming the Magistrate) and I believe that I have handled those issues capably as a Superior Court Judge. However, there are a couple of other areas (mostly complex civil litigation and administrative appeals) that I do not have a lot of prior experience with, and so I have had to work especially hard to learn the issues presented and decide them in an expeditious manner. I will strive to continue to try my best to do so.

Shortly after becoming a Superior Court Judge, I volunteered to travel out to Unalaska to try cases there. In 2010, I offered to take on most of the Unalaska trial load. I also volunteered to take over a serious sexual assault case from False Pass on the Aleutian Chain, which resulted in me travelling to Sand Point to try the case and, after being unable find enough jurors there, I tried the case in Unalaska in December of last year. When the jurors were unable to reach a verdict there, I kept the case and have been in trial for much of the past two weeks trying it here in Kodiak. While the trial experience has been valuable, there is a downside, as all my time away from Kodiak has resulted in many decisions being delayed in my civil case load. As I am always willing to be a team player in this capacity, it is my hope that my travel outside of Kodiak will lessen over the next year, allowing me to catch up on my civil case load, and make timely decisions that those litigants deserve.

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? \square Yes $ ot \!$
	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.
	n/a
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.
	If retained by the voters in November of 2012, I will continue to work hard as the Superior Court Judge in Kodiak, and I will strive to improve my performance in all facets of my work and issue decisions as expeditiously as possible.

For questions 7 through 10 please do not list any cases that have pending issues in your court.

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, of each attorney involved in these trials. (Attach additional pages if necessary.)

	Case Nu	mber 1	
Case Name:	Trish Bartel and Jon Bartel	Case Number:	3KO-08-329 CI
v.	Michael Cox & K. Fitzgerald		
	Attorneys I	nvolved:	
Name:	Jill Wittenbrader, Esq.	Name:	Wayne Watson, Esq.
Address:	506 Marine Way - Suite #2	Address:	310 K Street - Suite 306
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	Anchorage, Ak. 99501
Name:			
Address:			
City, State, Zip:		City, State, Zip:	
	Case Nu	mher 2	
Casa Namas	State of Alaska		3KO-11-238 Cr
		Cuse Number.	3RO-11-238 CI
ν.	Darla Stewart		
	Attorneys I		
	Elizabeth Fleming, Asst. DA		Allan Thielen, Asst. PD
	202 Center Ave Suite 201	•	518 W. Marine Way #201
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	Kodiak, Ak. 99615
Name:		Name	
Address:			
	Case Nu	mber 3	
Case Name:	State of Alaska	Case Number:	3UN-10-184 Cr
ν.	Flynn Szady		
	Attorneys I	nvolved:	
Name:	David Martin, Asst. DA		Nikki C. Swayne, Asst. PD
	310 K Street - Suite 520	Address:	515 East Dahlia Ave - #100
	Anchorage, Ak. 99501	City, State, Zip:	Palmer, Ak. 99645
		•	
Name:		. Name:	
Address:		. Address:	
a. a. a.		a. a. a.	

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, of each attorney involved in these trials. (Attach additional pages if necessary.)

	Case N	umber 1	
Case Name:	In Re: S.S.	Case Number:	3KO-11-1 PR
v.	(note: contested adoption)		
•	Attorneys	 : Involved:	
Name:	Jill Wittenbrader, Esq.		Robert Polley, Esq.
	506 Marine Way - Suite #2	······································	820 W. Fourth Ave.
City, State, Zip:	Kodiak, Ak. 99615		Anchorage, Ak. 99501
Name:		Name:	
Address:			
City, State, Zip:		City, State, Zip:	
		umber 2	
Case Name:	Robyn Smith	Case Number:	3KO-10-495 CI
ν	Lucas Smith		
	Attorneys	Involved:	
Name:	Jill Wittenbrader, Esq.	Name:	Janella Kamai, Esq.
Address:	506 Marine Way - Suite #2	Address:	326 Center Ave - Suite 206
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	Kodiak, Ak. 99615
Name:		Name:	
Address:		Addrass	
City, State, Zip:			
		umber 3	
Case Name: _	Kelly Schactler	Case Number: ₋	3KO-06-310 CI
ν	Bruce Schactler		
	Attorneys	Involved:	
Name:	Maurice Ellis, Esq.		Jill Wittenbrader, Esq.
Address:		Address:	506 Marine Way - Suite #2
City, State, Zip:	Anchorage, Ak. 99501	City, State, Zip:	Kodiak, Ak. 99615
Name:		Name:	
Address:			
- City, State, Zip:		——————————————————————————————————————	

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, of each attorney involved in these cases. (Attach additional pages if necessary.)

	Case Nu	mber 1	
Case Name:	Val Flinders	Case Number:	3AN-11-6155 CI
v.	Toni Munsey		
•	Attorneys A	- Involved:	
Name:	Allison Mendel, Esq.		Jill Wittenbrader, Esq.
Address:	1215 W. Eighth Ave.		506 Marine Way - Suite #2
City, State, Zip:	Anchorage, Ak. 99501	City, State, Zip:	Kodiak, Ak. 99615
Name:		_ Name:	
Address:		_ Address:	
City, State, Zip:		City, State, Zip:	
	Case Nu	mber 2	
Case Name:	State of Alaska	Case Number:	3KO-11-108 Cr
ν,	Laura Korn		
•	Attorneys	- Involved:	
Name:	Elizabeth Fleming, Asst. DA	Name:	Suzanne Rapoza, Asst. PD
Address:	202 Center Ave Suite 201	Address:	518 W. Marine Way #201
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	Kodiak, Ak. 99615
Name:		Name: _	
Address:			
City, State, Zip: _		_ City, State, Zip: _	
	Case Nu	mber 3	
Case Name:	State of Alaska	Case Number:	3UN-10-237 Cr
v.	Michael Fernandez	_	
-	Attorneys I	Involved:	
Name:	David Martin, Asst. DA	Name:	David Mallet, Esq.
Address:	310 K Street - Suite 520	Address:	1588 Edwards Drive
City, State, Zip:	Anchorage, Ak. 99615	City, State, Zip:	Point Roberts, WA 98281
Name:		Name:	
Address: _		Address:	
Little Charles Time		A Tree Starte Time	

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, of each attorney involved in these cases. (Attach additional pages if necessary.)

	Case Nu	mber 1	
Case Name:	State of Alaska	Case Number:	3UN-09-164 Cr
v.	Tyler Fortun		
	Attorneys I	- Involved:	
Name:	Jonas Walker, Asst. DA		David Mallet, Esq.
Address:	310 K Street - Suite 520	- Address:	
City, State, Zip:	Anchorage, Ak. 99501	City, State, Zip:	Point Roberts, WA 98281
•		-	
Name:		Name:	
Address:		Address:	
City, State, Zip:		City, State, Zip:	
	Case Nu	mbor 2	
C N	State of Alaska		2172 22 274 9
Case Name:		Case Number:	3KO-09-374 Cr
ν.	Nicholas Dryden		
	Attorneys 1	nvolved:	
Name:	Stephen Wallace, Dist Attny	-	Michael Moberly, Esq.
Address:	202 Center Ave Suite 201		310 K Street - Suite 405
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	Anchorage, Ak. 99501
N		Namas	Charren Cray Eag
Name: . Address:		-	Steven Gray, Esq. 326 Center Ave. #203
City, State, Zip:		-	Kodiak, Ak. 99615
City, Sinic, 2.p.			
	Case Nu	mber 3	
Case Name:	ITMO H.T.	Case Number:	3KO-09-14 CN
ν.			
-	Attorneys 1	nvolved:	
Name:	Diane Foster, Asst. AG	Name:	Teresa Williams, Esq.
Address:	1031 W. 4th Ave - Suite 200	Address:	c/o Jill Wittenbrader Esq
City, State, Zip:	Anchorage, Ak. 99501	City, State, Zip:	506 Marine Way - Suite #2,
			Kodiah AK
Name:	Robert Polley, Esq.	Name:	Darryl Thompson, Esq.
Address:	820 W. Fourth Ave.	Address:	841 I Street
City, State, Zip:	Anchorage, Ak. 99501	City, State, Zip:	Anchorage, Ak. 99501

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, of each attorney involved in these cases. (Attach additional pages if necessary.)

	Case Nu	mber 1	
Case Name:	ITMO A.K.	Case Number:	3KO-10-4/5 DL
v.	note: juv. delinquency case		
•	Attorneys 1	- Involved:	
Name:	Stephen Wallace, DA	Name:	Allan Thielen, Asst. PD
Address:	202 Center Ave Suite 201	Address:	518 W. Marine Way #201
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	Kodiak, Ak. 99615
Name:	Paul Caldenty-Juv Probation		
Address:	204 Mission Road - Room 131		
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	
	Case Nu	mber 2	
Case Name:			3KO-09-10/12 CP
v.	note: juv. delinquency case	•	310 03 10, 11 01
	Attorneys 1	Involved:	
Name:	Stephen Wallace, DA		Allan Thielen, Asst. PD
-	202 Center Ave Suite 201	-	518 W. Marine Way #201
•	Kodiak, Ak. 99615	•	Kodiak, Ak. 99615
•		-	
Name:	Paul Caldenty-Juv Probation	Name:	
Address:	204 Mission Road - Room 131	Address:	
City, State, Zip:	Kodiak, Ak. 99615	City, State, Zip:	
	Case Nu	mber 3	
Case Name:			3KO-09-171 Cr
v.	Howard Bodi	- Cuse I vamber.	
<i>"</i> -	Attorneys I	Involvad:	
Namo	Stephen Wallace, DA		Josh Fitzgerald, Esq.
-	202 Center Ave Suite 201	-	P.O. Box 3436
-	Kodiak, Ak. 99615	-	Kodiak, Ak. 99615
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Name:		Name:	
Address:		Address:	
Cha Canta Than		City Canta Zing	

Alaska Judicial Council Recommendation

Judge Steve W. Cole, Superior Court, Kodiak

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 Judge Cole 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 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 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
Legal Ability	4.1				
Impartiality	4.5	4.4	4.9	4.5	
Integrity	4.6	4.3		4.4	
Temperament	4.4	4.6	5.0	4.3	
Diligence	4.2	4.3		3.8	
Overall	4.3	4.4	4.9	4.2	

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 Cole on the categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge Cole on overall performance was 4.3. Peace and probation officers gave Judge Cole a rating of 4.4. Jurors rated him 4.9 overall and court employees gave him 4.2. No social workers or guardians ad litem rated Judge Cole.

Recommendation: Vote "YES" to retain Judge Steve W. Cole

For more information go to www.knowyouralaskajudges.com

Judge Steve Cole: Detailed Information Responses Alaska Bar Association Members

	Lega		Imparti		Inton	.:	Judi		Dilias		Over Evalua	
	Abili Mean	ity N	Fairn Mean	ess N	Integr Mean	rity N	Temper Mean	ament N	Dilige Mean	nce N	Evalua Mean	ation N
Basis for Evaluation												
No Response		11		10		9		8		13		9
Direct Professional	4.1	59	4.5	59	4.6	60	4.4	61	4.2	57	4.3	60
Experience in last 5 yrs	4.1	52	4.5	52	4.6	53	4.5	54	4.3	50	4.3	53
Experience not in last 5 yrs	4.0	5	4.6	5	4.6	5	4.2	5	4.3	4	4.0	5
Professional Reputation	4.1	14	4.2	15	4.3	15	4.3	15	4.1	14	4.2	15
Other Personal Contacts	4.6	7	4.7	7	4.6	7	4.7	7	4.6	7	4.6	7
Type of Practice												
No Response		4		4		3		2		6		3
Private, Solo	4.3	9	4.8	9	4.9	9	4.6	9	4.5	8	4.4	9
Private, 2-5 Attorneys	3.9	9	4.2	9	4.4	10	4.0	9	4.4	10	4.4	10
Private, 6+ Attorneys	4.0	3	5.0	2	5.0	2	4.7	3	3.7	3	5.0	2
Private, Corporate Employee	4.3	3	4.3	3	4.3	3	4.7	3	4.7	3	4.3	3
Judge or Judicial Officer	4.1	19	4.5	19	4.6	19	4.6	19	4.3	15	4.4	19
Government	3.9	13	4.4	14	4.6	14	4.3	15	4.1	15	4.0	14
Public Service Agency/Org		0		0		0		0		0		0
Other	5.0	1	5.0	1	5.0	1	5.0	1	5.0	1	5.0	1
Years of Practice in Alaska												
No Response		4		4		3		2		6		3
5 Years or fewer	4.0	2	5.0	2	5.0	2	5.0	3	3.5	2	4.0	2
6 to 10 years	4.4	7	4.6	7	4.9	7	4.7	7	4.7	7	4.7	7
11 to 15 years	4.0	6	4.3	6	4.3	6	4.2	6	4.0	4	4.2	6
16 to 20 years	3.6	5	4.2	5	4.2	5	4.0	5	3.8	6	4.0	5
21 years or more	4.1	34	4.6	34	4.6	35	4.5	35	4.3	33	4.3	35
Gender												
No Response		4		4		3		2		6		3
Male	4.1	37	4.7	37	4.7	38	4.5	38	4.2	34	4.4	38
Female	4.1	20	4.3	20	4.5	20	4.3	21	4.3	21	4.3	20
Cases Handled												
No Response		4		4		3		2		6		3
Prosecution	4.3	3	5.0	3	5.0	3	5.0	3	4.0	3	4.3	3
Mainly Criminal	4.3	4	5.0	4	5.0	4	5.0	5	5.0	4	4.8	4
Mixed Criminal & Civil	4.1	24	4.4	25	4.5	25	4.3	25	4.1	21	4.3	25
Mainly Civil	4.1	22	4.6	21	4.7	22	4.5	22	4.3	23	4.4	22
Other	4.0	4	4.3	4	4.3	4	4.3	4	4.3	4	4.0	4
Location of Practice												
No Response		4		4		3		2		6		3
First District		0	4.0	1	4.0	1	4.0	1	4.0	1	4.0	1
Second District		0		0		0		0		0		0
Third District	4.0	52	4.5	51	4.6	52	4.4	53	4.2	50	4.3	52
Fourth District	4.8	5	4.8	5	4.8	5	4.8	5	5.0	4	4.8	5
Outside of Alaska	5.0	1	5.0	1	5.0	1	5.0	1	3.0	1	5.0	1

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

Judge Steve Cole Peace and Probation Officers

	Imparti		T 4	•,	Judic		D'II		Over	
	Fairn Mean	iess N	Integ Mean	rity N	Tempera Mean	iment N	Dilige Mean	ence N	Evalua Mean	ation N
Basis for Evaluation	Ivicuit	11	Ivioun	11	Titouii		Titeun		Titoun	
No Response		1		1		2		1		1
Direct Professional	4.4	17	4.3	17	4.6	16	4.3	17	4.4	17
Experience in last 5 yrs	4.4	17	4.2	17	4.6	16	4.3	17	4.4	17
Experience not in last 5 yrs		0		0		0		0		0
Professional Reputation		0		0		0		0		0
Other Personal Contacts	4.0	1	4.0	1	4.0	1	4.0	1	4.0	1
Type of Work										
No Response		0		0		1		0		0
State Law Enforcement Officer	3.8	5	3.8	5	4.2	5	4.0	5	3.8	5
Municipal/Borough Law Enforcement Officer	4.4	9	4.2	9	4.8	8	4.4	9	4.4	9
Village Public Safety Officer (VPSO)		0		0		0		0		0
Probation/Parole Officer	5.0	3	5.0	3	5.0	3	4.3	3	5.0	3
Other		0		0		0		0		0
Length of Experience										
No Response		0		0		1		0		0
5 Years or fewer	4.8	4	4.5	4	5.0	4	4.5	4	4.8	4
6 to 10 years	4.5	4	4.3	4	4.8	4	4.3	4	4.5	4
11 to 15 years	3.3	3	3.7	3	4.0	3	4.0	3	3.7	3
16 to 20 years	5.0	2	4.5	2	5.0	2	4.5	2	5.0	2
21 years or more	4.3	4	4.3	4	4.3	3	4.3	4	4.0	4
Gender										
No Response		0		0		1		0		0
Male	4.4	16	4.2	16	4.6	15	4.3	16	4.3	16
Female	4.0	1	5.0	1	5.0	1	5.0	1	5.0	1
Location of Work										
No Response		0		0		1		0		0
First District		0		0		0		0		0
Second District		0		0		0		0		0
Third District	4.4	17	4.2	17	4.6	16	4.3	17	4.4	17
Fourth District		0		0		0		0		0
Community Population										
No Response		0		0		1		0		0
Under 2,000	5.0	1	5.0	1	5.0	1	5.0	1	5.0	1
Between 2,000 and 35,000	4.3	14	4.1	14	4.5	13	4.3	14	4.3	14
Over 35,000	4.5	2	4.5	2	5.0	2	4.0	2	4.5	2

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

Information Insights, Inc. Retention 2012 | **71**

Distribution of Court Employee Ratings* 2012 Retention Evaluation Steve Cole

			Num	ber of Resp	onses		
Survey Category	Total	Excellent	Good	Acceptable	Deficient	Poor	Mean
Impartiality/Fairness	17	12	2	2	1	0	4.5
Integrity	16	10	3	2	1	0	4.4
Judicial Temperament	18	10	5	1	2	0	4.3
Diligence	18	6	6	3	3	0	3.8
Overall Evaluation	19	9	6	2	2	0	4.2

^{*} Ratings are based on direct professional experience.

Juror Survey Results 2012 Retention Evaluation Steve Cole

Survey Category	Mean	Excellent	Good	Acceptable	Deficient	Poor	Total Responses
Impartiality/Fairness	4.9	53	5	0	0	0	58
Respectful/Courteous	5.0	56	2	0	0	0	58
Attentive during Proceedings	4.8	49	9	0	0	0	58
Control over Proceedings	4.9	53	5	0	0	0	58
Intelligence/ Skill as a Judge	4.9	51	7	0	0	0	58
Overall Evaluation	4.9	51	7	0	0	0	58