



# alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1981 (907) 279-2526 FAX (907) 276-5046  
<http://www.state.ak.us/local/akpages/COURTS/AJC/home.htm> E-Mail: 72302.1261@COMPUSERVE.COM

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William T. Cotton

## MEMORANDUM

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**To:** Alaska Judicial Council  
**From:** Staff  
**Date:** May 2, 1996  
**Re:** Retention Judges' Peremptory Challenge Records

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Alaska Statutes § 22.20.020 and Alaska Civil Rule 42(c) permit each party in any court case to change the judge assigned to a case once as a matter of right. This memo discusses each retention judge's peremptory challenge record during his or her previous term in office.

When evaluating this information, please remember that many different factors can prompt litigants or attorneys to peremptorily challenge judges. While some parties might challenge a judge because they perceive the judge as unfair in a certain type of case, others might challenge a judge because they perceive the judge to be too fair and they hope that the case will be reassigned to another judge who is perceived as favoring their case. Other reasons to challenge a judge include wanting to delay proceedings, being unfamiliar with a new judge, or wanting to avoid the demands of a judge who insists on high standards of practice or timeliness.

Please take care when comparing challenge records between judges with different caseloads. Remember that judges with higher-volume caseloads are expected to have more challenges than those with lower-volume caseloads. Also, expect an increase in challenges whenever a judge is reassigned to a different caseload (parties have the right to challenge a newly assigned judge). Understand also that because these data are recorded manually by the court system, they may not be complete or accurate.

**I. First Judicial District Judges**

*A. Superior Court Judges*

Peremptory Challenge Records First Judicial District Superior Court January 1991 - March 1996												
	1991		1992		1993		1994		1995		1996*	
Type of Case	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil
Carpeneti	2	3	2	6	3	11	2	4	7	16	1	2
Thompson	--	--	--	--	0	3	0	2	2	8	2	1

\* first quarter

**1. Judge Carpeneti (Juneau).** Litigants infrequently challenged Judge Carpeneti during his previous term, with the possible exception of civil cases filed in 1993 and 1995. Plaintiffs filed all but one of the civil challenges he received in 1993. In 1995, plaintiffs filed ten of Judge Carpeneti's 16 civil case challenges.

**2. Judge Michael Thompson (Ketchikan).** Judge Thompson was appointed in January of 1993. Litigants challenged Judge Thompson infrequently during his first two years on the bench, 1993 and 1994. In 1995, however, civil litigants (both plaintiffs and defendants) challenged him more often. Based on figures for the first quarter of 1996, however, it appears that the volume of his civil challenges will decrease compared to 1995.

## II. Third Judicial District Judges

### A. Superior Court Judges

Two superior court judges from the Third District must stand for retention in 1996. Both sit in Anchorage. The following table summarizes the challenges received by each during his previous term in office. Data for the first quarter of 1996 are not available.

Peremptory Challenge Records Anchorage Superior Court Judges January 1991 - December 1995										
Type of Case	1991		1992		1993		1994		1995	
	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil
Card	--	--	--	--	--	7	--	51	--	49
Shortell	--	1	--	4	--	3	--	13	--	4

**1. Judge Larry Card.** Appointed in September of 1991, Judge Card was assigned to the high-volume family court caseload until October of 1995, when family cases were reassigned equally among all Anchorage superior court judges (Judge Card retained 20% of his domestic cases). The volume of Judge Card's challenges resembles that of his colleague on the family bench, Judge Reese; however, it is higher than the volume that Judge Andrews typically received when she was assigned to the family bench. For example, Judge Reese received fifty-nine civil challenges in 1992, compared to twenty-two for Judge Andrews. He received sixty-six in 1991, compared to fourteen for Judge Andrews. Judge Card received 51 challenges in his first full year on the bench, and 49 the next year.

**2. Judge Brian Shortell.** Judge Shortell was assigned to the civil division during his most recent term in office. From 1991 to 1995, he was assigned to a nonfast track calendar. In 1995, the court abolished the "nonfast" track. Currently, the court presumes most new cases to be appropriate

for the fast track unless counsel convince the judge otherwise. Judge Shortell was presiding judge until November of 1992 (meaning he had fewer cases assigned to him than the other judges). Litigants filed very few challenges against Judge Shortell during his most recent term.

**B. District Court Judges**

Five district court judges in the Third District must stand for retention in 1996. Four sit in Anchorage and one sits in Palmer. The following table summarizes their challenges during their most recent terms in office.

Peremptory Challenge Records District Court Judges, Third Judicial District January 1993 - March 1996								
Type of Case	1993		1994		1995		1996*	
	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil
Ashman	0	0	1	0	0	0	not available	
Finn	33	0	12	0	30	0	12	0
Fuld	4	2	9	0	10	1	0	0
Joannides	--	--	--	--	3		1	0
Wanamaker			20	5	17	6	4	0

\* first quarter

**1. Judge Peter Ashman (Palmer District Court).** Judge Ashman has served on the Palmer District Court since 1987. The Palmer court has one of the highest caseloads of any court in the state. Despite the high volume of cases, Judge Ashman received very few challenges during his most recent term.

**2. Judge Natalie Finn (Anchorage District Court).** For the three years preceding her last retention election, Judge Finn had the most challenges on average of all the Anchorage District Court judges. During her most recent term, litigants continued to challenge her relatively frequently. In both 1993 and 1994, criminal defendants filed all but one of her challenges in criminal cases. In 1995, defendants filed all of her criminal case challenges.

**3. Judge William Fuld (Anchorage District Court).** The volume of Judge Fuld's challenges falls into the intermediate range compared to other judges on the Anchorage District Court. Most of his challenges were filed in criminal cases, and most were filed by the prosecutor.

**4. Judge Stephanie Joannides (Anchorage District Court).** Judge Joannides took the bench at the beginning of 1995 and received only three challenges that year. Although it is too early to know whether this trend will continue, her numbers for 1995 were among the lowest of any Anchorage district court judge.

**5. Judge James Wanamaker (Anchorage District Court).** Of note are the twenty criminal challenges Judge Wanamaker received during his first year on the bench; most were filed by the prosecutor. His challenges fell only slightly in 1995, however, the defense filed most of the challenges he received in his second year.

### **III. Fourth Judicial District Judges**

#### ***A. Superior Court Judges***

Two superior court judges in the Fourth District must stand for retention in 1996. Both sit in Fairbanks. The following table summarizes their challenges during their most recent terms in office.

Peremptory Challenge Records Fourth Judicial District Superior Court January 1991 - March 1996												
	1991		1992		1993		1994		1995		1996*	
Type of Case	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil
Beistline	--	--	--	--	1	4	1	5	6	17	0	6
Savell	--	--	--	--	27	20	10	20	19	21	2	4

\* first quarter

**1. Judge Beistline (Fairbanks).** Judge Beistline was appointed in October of 1992. The volume of challenges during his most recent term has been low compared to his colleague, Judge Savell, with the exception of civil challenges filed in 1995. Defendants filed all but five of Judge Beistline's civil case challenges in 1995. For the first quarter of 1996, civil litigants filed six challenges, half in children's cases (child in need of aid and delinquency cases).

**2. Judge Richard Savell (Fairbanks).** Because of the way the court system input data into its computer, the Fairbanks clerk's office cannot break down by year Judge Savell's challenges from 1987 through 1992. The clerk's office did provide summary statistics for the six-year period, however. From 1987 through 1992, Judge Savell received 121 challenges in civil cases (24 of them in children's cases) and 111 challenges in criminal cases. In the civil cases, plaintiffs and defendants challenged him in roughly equal numbers, except that in children's cases defendants filed all but one of his challenges. In criminal cases, the prosecution almost never challenges Judge Savell (only three times since 1987).

***B. District Court Judges***

Two judges in the Fourth District district court must stand for retention in 1996. Both sit in Fairbanks.

Peremptory Challenge Record Fairbanks District Court, Fourth Judicial District January 1993 - March 1996								
	1993		1994		1995		1996*	
Type of case	Criminal	Civil	Criminal	Civil	Criminal	Civil	Criminal	Civil
Pengilly	31	6	11	3	5	5	1	1
Wood	25	5	62	7	34	2	6	1

\* first quarter

**1. Judge Charles Pengilly (Fairbanks District Court).** Judge Pengilly took the bench in about October of 1990. Judge Pengilly's most recent term was marked by a relatively large volume of criminal case challenges. In 1993, prosecutors filed twenty-four of the thirty-one criminal case challenges he received. By 1994, they filed only six of the eleven criminal case challenges.

**2. Judge Mark Wood (Fairbanks District Court).** Judge Wood took the bench in January of 1993. During his first year on the bench, he logged a substantial number of criminal case challenges, all filed by the defense. His criminal case challenges increased in 1994, again all filed by the defense. By 1995, the volume was on its way down, but again the defense filed all thirty-four criminal case challenges.

Although Judges Pengilly and Wood appear to have received a large number of criminal case challenges, the pattern may not be uncommon for the Fairbanks bench. For example, both received fewer challenges in 1993 than their colleague, Judge Kauvar (she received 57 that year, all but one filed by criminal defendants).