



# alaska judicial council

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## Alaska Judicial Council Trial Judge Questionnaire

### 2012 Candidates for Judicial Retention

October 2011

Steve W. Cole

Name

Kodiak Superior Court

Court

1. Please estimate your workload during your present term.

a) 55 % civil cases

43 % criminal cases

2 % court administrative work

100 % Total

b) 7 # of jury trials/year

14 # of non-jury trials/year

11 # of administrative appeals/year

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

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.

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?  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.

n/a
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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.
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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 Number 1**

**Case Name:** Trish Bartel and Jon Bartel **Case Number:** 3KO-08-329 CI  
**v.** Michael Cox & K. Fitzgerald

**Attorneys Involved:**

<b>Name:</b> <u>Jill Wittenbrader, Esq.</u>	<b>Name:</b> <u>Wayne Watson, Esq.</u>
<b>Address:</b> <u>506 Marine Way - Suite #2</u>	<b>Address:</b> <u>310 K Street - Suite 306</u>
<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</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 2**

**Case Name:** State of Alaska **Case Number:** 3KO-11-238 Cr  
**v.** Darla Stewart

**Attorneys Involved:**

<b>Name:</b> <u>Elizabeth Fleming, Asst. DA</u>	<b>Name:</b> <u>Allan Thielen, Asst. PD</u>
<b>Address:</b> <u>202 Center Ave. - Suite 201</u>	<b>Address:</b> <u>518 W. Marine Way #201</u>
<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</u>	<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</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 3**

**Case Name:** State of Alaska **Case Number:** 3UN-10-184 Cr  
**v.** Flynn Szady

**Attorneys Involved:**

<b>Name:</b> <u>David Martin, Asst. DA</u>	<b>Name:</b> <u>Nikki C. Swayne, Asst. PD</u>
<b>Address:</b> <u>310 K Street - Suite 520</u>	<b>Address:</b> <u>515 East Dahlia Ave - #100</u>
<b>City, State, Zip:</b> <u>Anchorage, Ak. 99501</u>	<b>City, State, Zip:</b> <u>Palmer, Ak. 99645</u>
<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

- 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 Number 1**

**Case Name:** In Re: S.S. **Case Number:** 3KO-11-1 PR  
**v.** (note: contested adoption)

**Attorneys Involved:**

<b>Name:</b> <u>Jill Wittenbrader, Esq.</u>	<b>Name:</b> <u>Robert Polley, Esq.</u>
<b>Address:</b> <u>506 Marine Way - Suite #2</u>	<b>Address:</b> <u>820 W. Fourth Ave.</u>
<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</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 2**

**Case Name:** Robyn Smith **Case Number:** 3KO-10-495 CI  
**v.** Lucas Smith

**Attorneys Involved:**

<b>Name:</b> <u>Jill Wittenbrader, Esq.</u>	<b>Name:</b> <u>Janella Kamai, Esq.</u>
<b>Address:</b> <u>506 Marine Way - Suite #2</u>	<b>Address:</b> <u>326 Center Ave - Suite 206</u>
<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</u>	<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</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 3**

**Case Name:** Kelly Schactler **Case Number:** 3KO-06-310 CI  
**v.** Bruce Schactler

**Attorneys Involved:**

<b>Name:</b> <u>Maurice Ellis, Esq.</u>	<b>Name:</b> <u>Jill Wittenbrader, Esq.</u>
<b>Address:</b> <u>731 I St. #103</u>	<b>Address:</b> <u>506 Marine Way - Suite #2</u>
<b>City, State, Zip:</b> <u>Anchorage, Ak. 99501</u>	<b>City, State, Zip:</b> <u>Kodiak, Ak. 99615</u>
<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

- 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 Number 1**

Case Name: Val Flinders Case Number: 3AN-11-6155 CI

v. Toni Munsey

**Attorneys Involved:**

Name: Allison Mendel, Esq.	Name: Jill Wittenbrader, Esq.
Address: 1215 W. Eighth Ave.	Address: 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 Number 2**

Case Name: State of Alaska Case Number: 3KO-11-108 Cr

v. 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: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

**Case Number 3**

Case Name: State of Alaska Case Number: 3UN-10-237 Cr

v. Michael Fernandez

**Attorneys 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: _____
City, State, Zip: _____	City, State, Zip: _____

- 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 Number 1**

*Case Name:* State of Alaska *Case Number:* 3UN-09-164 Cr  
*v.* Tyler Fortun

**Attorneys Involved:**

<i>Name:</i> <u>Jonas Walker, Asst. DA</u>	<i>Name:</i> <u>David Mallet, Esq.</u>
<i>Address:</i> <u>310 K Street - Suite 520</u>	<i>Address:</i> <u>1588 Edwards Drive</u>
<i>City, State, Zip:</i> <u>Anchorage, Ak. 99501</u>	<i>City, State, Zip:</i> <u>Point Roberts, WA 98281</u>
<i>Name:</i> _____	<i>Name:</i> _____
<i>Address:</i> _____	<i>Address:</i> _____
<i>City, State, Zip:</i> _____	<i>City, State, Zip:</i> _____

**Case Number 2**

*Case Name:* State of Alaska *Case Number:* 3KO-09-374 Cr  
*v.* Nicholas Dryden

**Attorneys Involved:**

<i>Name:</i> <u>Stephen Wallace, Dist Attny</u>	<i>Name:</i> <u>Michael Moberly, Esq.</u>
<i>Address:</i> <u>202 Center Ave. - Suite 201</u>	<i>Address:</i> <u>310 K Street - Suite 405</u>
<i>City, State, Zip:</i> <u>Kodiak, Ak. 99615</u>	<i>City, State, Zip:</i> <u>Anchorage, Ak. 99501</u>
<i>Name:</i> _____	<i>Name:</i> <u>Steven Gray, Esq.</u>
<i>Address:</i> _____	<i>Address:</i> <u>326 Center Ave. #203</u>
<i>City, State, Zip:</i> _____	<i>City, State, Zip:</i> <u>Kodiak, Ak. 99615</u>

**Case Number 3**

*Case Name:* ITMO H.T. *Case Number:* 3KO-09-14 CN  
*v.* \_\_\_\_\_

**Attorneys Involved:**

<i>Name:</i> <u>Diane Foster, Asst. AG</u>	<i>Name:</i> <u>Teresa Williams, Esq.</u>
<i>Address:</i> <u>1031 W. 4th Ave - Suite 200</u>	<i>Address:</i> <u>c/o Jill Wittenbrader Esq</u>
<i>City, State, Zip:</i> <u>Anchorage, Ak. 99501</u>	<i>City, State, Zip:</i> <u>506 Marine Way - Suite #2,</u>
<i>Name:</i> <u>Robert Polley, Esq.</u>	<i>Name:</i> <u>Darryl Thompson, Esq.</u>
<i>Address:</i> <u>820 W. Fourth Ave.</u>	<i>Address:</i> <u>841 I Street</u>
<i>City, State, Zip:</i> <u>Anchorage, Ak. 99501</u>	<i>City, State, Zip:</i> <u>Anchorage, Ak. 99501</u>

Kodiak, AK 99615

- 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 Number 1**

Case Name: ITMO A.K. Case Number: 3KO-10-4/5 DL

v. note: juv. delinquency case

**Attorneys Involved:**

Name: <u>Stephen Wallace, DA</u>	Name: <u>Allan Thielen, Asst. PD</u>
Address: <u>202 Center Ave. - Suite 201</u>	Address: <u>518 W. Marine Way #201</u>
City, State, Zip: <u>Kodiak, Ak. 99615</u>	City, State, Zip: <u>Kodiak, Ak. 99615</u>

Name: <u>Paul Caldenty-Juv Probation</u>	Name: _____
Address: <u>204 Mission Road - Room 131</u>	Address: _____
City, State, Zip: <u>Kodiak, Ak. 99615</u>	City, State, Zip: _____

**Case Number 2**

Case Name: ITMO A.A. Case Number: 3KO-09-10/12 CP

v. note: juv. delinquency case

**Attorneys Involved:**

Name: <u>Stephen Wallace, DA</u>	Name: <u>Allan Thielen, Asst. PD</u>
Address: <u>202 Center Ave. - Suite 201</u>	Address: <u>518 W. Marine Way #201</u>
City, State, Zip: <u>Kodiak, Ak. 99615</u>	City, State, Zip: <u>Kodiak, Ak. 99615</u>

Name: <u>Paul Caldenty-Juv Probation</u>	Name: _____
Address: <u>204 Mission Road - Room 131</u>	Address: _____
City, State, Zip: <u>Kodiak, Ak. 99615</u>	City, State, Zip: _____

**Case Number 3**

Case Name: State of Alaska Case Number: 3KO-09-171 Cr

v. Howard Bodi

**Attorneys Involved:**

Name: <u>Stephen Wallace, DA</u>	Name: <u>Josh Fitzgerald, Esq.</u>
Address: <u>202 Center Ave. - Suite 201</u>	Address: <u>P.O. Box 3436</u>
City, State, Zip: <u>Kodiak, Ak. 99615</u>	City, State, Zip: <u>Kodiak, Ak. 99615</u>

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