

Alaska Judicial Council
Application for Judicial Appointment

Position(s) for which you wish to be considered:

Palmer District Court

Date: August 16, 2009

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* David Lee Zwink
Name as it should appear on bar survey: David L. Zwink

* Unless otherwise specified, this is how your name will appear on the bar survey.

(b) Have you ever used or been known by any other name? If so, please identify.
No

2. How long have you been a resident of the State of Alaska immediately preceding the date of this application? **
_____ years _____ months
Total 23 years 11 months

3. How long have you been engaged in the active practice of law immediately preceding the date of this application? **
_____ years _____ months
Total 23 years 2 months

Nonlegal Education

4. State names and dates of attendance of all colleges and professional schools (other than law schools) ever attended and degrees and dates conferred. List any honors.

Buffalo State College
B.S. in Secondary Education
1974-1978

** See AS 22.10.090; see also 1984 Inf. Op. Atty. Gen. (July 19; 366- 624-84).

Legal Education

5. List all law schools, dates attended and degrees conferred. If you did not receive a degree from any law school, please indicate.

University of Oregon Law School
J.D.
1982-1985

6. (a) Did you receive any honors in law school or belong to any honorary societies or groups?
 Yes No If yes, please give details.

- (b) Have you taken any CLE (continuing legal education) courses during the past five years?
 Yes No

Please describe or list. Please do not attach individual certificates of attendance.

Annual Magistrates/ Masters conferences

Military

7. Have you served in the armed forces (reserves or otherwise)? Yes No

If so, please provide the following information:

- (a) Dates of service: _____
(b) Branch of service: _____
(c) Rank at time of discharge: _____
(d) Type of military discharge: _____
(e) Awards or citations:

- (f) Have you ever been refused admission to or released from any of the armed services for reasons other than honorable discharge? Yes No If so, state the details.

Nonlegal Employment

8. Describe major nonlegal working experience. If you had a business or association that has been discontinued, please note whether there are unpaid debts or claims pending litigation.

English Teacher, Grades 7 and 8, St. James School, Buffalo, NY 1978-1980

English Teacher, Grade 9, Alexander Central School, Alexander NY 1981-1982

Legal Experience

9. Describe chronologically your legal employment since admission to law school. **Please provide dates, name of employer, name of supervisor or person who can verify employment, addresses, the reason you left the position, and a brief description of type of practice (i.e., insurance defense, criminal, appellate, general, litigation, etc.) for each position listed below.**

The Council will ask for comments from your current and former employers about your employment and your judicial qualifications. You may choose to list other persons as character and professional references in response to Question 20 of this application.

If the supervisor or contact person asks (in writing) that the letter be shared with the governor, the Council will send designated letters for each nominee. The applicant should not request a copy of the letter from the reference. References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

Current Employer: State of Alaska Court System

Supervisor or name of contact person who can verify employment: Hon. Beverly Cutler

Current address of this person: 435 S. Denali

City Palmer State AK Zip 99645

Dates of Employment: From Nov. 1990 To Present

Description: Magistrate/ Standing Master
District Court Judge, pro tem

Previous Employers: (In chronological order, most recent first)

Employer: (Self-employed) Law Office of David L. Zwink

Supervisor or name of contact person who can verify employment: Richard Deuser

Current address of this person: 1075 Check St. #214

City Wasilla State AK Zip 99654

Dates of Employment: From May 1, 1989 To Nov 1990

Description: Attorney, general civil practice and criminal defense

Reason for Leaving: Obtained present position

Employer: Law Office of Jean Schanen

Supervisor or name of contact person who can verify employment: Kay Peterson

Current address of this person: 1175 N. Jack Nicklaus Drive

City Wasilla State AK Zip 99654

Dates of Employment: From February 1986 To May 1989

Description: Associate attorney, general civil practice and criminal defense

Reason for Leaving: Started my own law office

Previous Employers (continued)

Employer: _____

Supervisor or name of contact person who can verify employment: _____

Current address of this person: _____

City _____ State _____ Zip _____

Dates of Employment: From _____ To _____

Description:

Reason for Leaving: _____

Employer: _____

Supervisor or name of contact person who can verify employment: _____

Current address of this person: _____

City _____ State _____ Zip _____

Dates of Employment: From _____ To _____

Description:

Reason for Leaving: _____

Employer: _____

Supervisor or name of contact person who can verify employment: _____

Current address of this person: _____

City _____ State _____ Zip _____

Dates of Employment: From _____ To _____

Description:

Reason for Leaving: _____

Employer: _____

Supervisor or name of contact person who can verify employment: _____

Current address of this person: _____

City _____ State _____ Zip _____

Dates of Employment: From _____ To _____

Description:

Reason for Leaving: _____

Employer: _____

Supervisor or name of contact person who can verify employment: _____

Current address of this person: _____

City _____ State _____ Zip _____

Dates of Employment: From _____ To _____

Description:

Reason for Leaving: _____

10. For the past five years, please indicate (approximately) the following:

(a) Percent of your practice that was: Civil 40
Criminal 60
Other _____
= 100%

Comment: _____

(b) Percent: State 100
Federal _____
Other _____
= 100%

Comment: _____

(c) Of practice in state courts, percent: Supreme Court _____
Court of Appeals _____
Superior Court 40
District Court 60
= 100%

Comment: _____

(d) Frequency of appearance in court:
 Regularly Occasionally Infrequently Not at All

Comment: _____

(e) Number of trials (by court or jury) you conducted in the past 5 years:
 None 1-5 6-15 16-30 31 or more

Comment: Mostly minor offenses or small claims with pro se parties

(f) Percent of these trials which were: Jury _____ Non-Jury 100

Comment: _____

(g) Approximate number of appellate matters handled: 0

Comment: _____

(h) Approximate number of arbitrations or administrative hearings:
 None 1-5 6-15 16-30 31 or more

Briefly describe type of matters heard:

(i) Please briefly summarize any *pro bono* work that you have done and indicate whether the work was done through a *pro bono* legal service provider (e.g. Alaska Legal Services, Alaska Network on Domestic Violence and Sexual Assault, etc.) during this period.

none

11. List all the courts and administrative tribunals in the United States or elsewhere to which you are or have been admitted to practice, and the dates of admission.

State of Alaska 1986
U.S. District Court 1986

Public Service

12. List bar associations, and sections and committees of which you are or have been a member or officer.

Alaska Bar Association
Mat-Su Bar Association

13. List legal publications, if any (give title, subject and date of publications). Please include publications you have co-authored and the name(s) of the co-author(s).

none

14. Have you ever applied for a judgeship? Yes No
Please list dates and judgeships applied for, as well as whether you were nominated by the Judicial Council and appointed.

Judgeship	Date	Nominated By Council (Y/N)	Appointed By Governor (Y/N)
Palmer District Court	1997	Y	N
Palmer District Court	2003	N	N
Palmer Superior Court	2006	N	N

15. Have you ever held public or political office, elective or appointive? Yes No
If so, state office, manner selected, and when and where held.

16. Please provide the Council with information that you would like the Council to consider about other legal and nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal organizations. Please indicate whether you participate in the organization's activities, or simply hold a membership. Your involvement in the community is one of the criteria the Council uses in its evaluations. The Council does not use affiliation with a particular group as a criterion except to the extent that it might raise questions of conflict of interest or would affect an applicant's ability to impartially apply the law.

Boy Scouts of America: Merit badge counselor, committee member

Mat-Su Youth Court: Advisory board

Wasilla Youth Baseball: manager, coach

Sacred Heart Church: musician, otherwise only a member

17. Indicate (Yes or No) whether you have ever:
- (a) been arrested, charged with, pled guilty or *nolo contendere* to, or been convicted of the violation of any law or ordinance, or been requested to appear before any prosecuting or investigative agency in connection with any matter in any jurisdiction, including all traffic offenses, unless the fine was less than \$50 and there were no other sanctions?
 Yes No
 - (b) failed to answer any summons or other legal process served upon you personally at any time? Yes No
 - (c) as a member of any armed forces, been the subject of any charges which may have resulted in disciplinary action or court martial? Yes No

- (d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? Yes No

If your answer is "yes" to any part of this question, state the facts in detail. Give the name and place of the court or agency, dates of the beginning and end of any action or proceeding, case numbers, and the judgment or other disposition.

18. (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? Yes No

In particular, have you been the subject of any proceeding, criminal or civil, initiated against you by the Internal Revenue Service or a State Tax Office? Yes No

If so, give particulars, including case numbers.

- (b) Have you ever been sued by a client? Yes No

If so, give particulars, including case numbers.

- (c) Have you ever been a party in any other legal proceeding? Yes No

If so, give the particulars. Include all legal proceedings in which you were a party in interest, including petitioner or respondent in dissolution or divorce proceedings; a material witness; a named co-conspirator or correspondent; and subject or witness in any grand jury proceedings. Do not list proceedings in which you were sued only in a representative capacity (e.g. guardian ad litem, or as Commissioner of Natural Resources).

Divorce: 3AN-08-12810 CI David L. Zwink v. Lynnette J. Carrier

19. State the nature and disposition of any of the following actions which apply to you:

- (a) Are there any unsatisfied judgments against you? Yes No
Have you ever defaulted in the performance of any court-imposed obligation, including payment of alimony or child support or compliance with another court order or decree?

Yes No

In each case, list the name and address of the creditor, the court which rendered the judgment, the case number, the date, the amount of the judgment, and the circumstances on which such claim was based.

Has property owned by you been either judicially or non-judicially foreclosed?

Yes No

Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure.

- (b) Have you ever made an assignment for the benefit of creditors? Yes No

Have you ever filed any petition in bankruptcy? Yes No

If so, state the circumstances, case number, and the outcome.

References and Counsel Questionnaires*

- * **Please Note:** Letters of reference from these persons are confidential and will not be given to the applicant. If the reference asks (in writing) that the letter be shared with the governor, the Council will send designated letters and counsel questionnaires for each nominee. The applicant should not request a copy of the letter from the reference. (You **should not** list the Chief Justice of the Alaska Supreme Court.)

References or letters not solicited by the Council are considered public (with few exceptions) and will be sent to the governor for all nominees.

20. (a) List the names, addresses, **including zip codes**, and **phone numbers** of two persons whom the Judicial Council may contact who can discuss your general character and background.

Name: William Casler

Address: PO Box 875735

City/State/Zip: Wasilla, AK 99687 Phone: (907) 376-3739

Name: Hon. Beverly Cutler

Address: 435 S. Denali

City/State/Zip: Palmer, AK 99645 Phone: (907) 232-3230

- (b) List the names, addresses, **including zip codes**, and **phone numbers** of three other persons whom the Judicial Council may contact who can discuss your professional competence and qualifications for a judicial position.

Name: Hon. Kari Kristiansen

Address: 435 S. Denali

City/State/Zip: Palmer, AK 99645 Phone: (907) 746-8163

Name: Hon. Eric Smith

Address: 435 S. Denali

City/State/Zip: Palmer, AK 99645 Phone: (907) 746-8128

Name: Hon. Greg Heath

Address: 435 S. Denali

City/State/Zip: Palmer, AK 99645 Phone: (907) 746-8133

References and Counsel Questionnaires (continued)

(c) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that have gone to trial. Please do not list cases pending in the trial courts. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases that have gone to trial within the past three years. Please include the judge's name and case names and numbers. (Attach additional pages if necessary.)

Case Number 1

Case Name: Rand Tickner **Case Number:** 3PA-08-537 SC
v. Jonathan Cline **Judge Name:** Zwink

Attorneys Involved:

Name: <u>Rand Tickner (pro se)</u>	Name: <u>Jon Marc Petersen</u>
Address: <u>PO Box 5543</u>	Address: <u>344 N. Main Street</u>
City, State, Zip: <u>Chiniak, AK 99615-5543</u>	City, State, Zip: <u>Wasilla, AK 99654</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: Cornerstone Credit Services, LLC **Case Number:** 3PA-09-225 SC
v. Tabitha McElroy **Judge Name:** Zwink

Attorneys Involved:

Name: <u>Brian Heady</u>	Name: <u>Tabitha McElroy (pro se)</u>
Address: <u>PO Box 92090</u>	Address: <u>PO Box 877648</u>
City, State, Zip: <u>Anchorage, AK 99509</u>	City, State, Zip: <u>Wasilla, AK 99687</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 3

Case Name: Cornerstone Credit Services, LLC **Case Number:** 3PA-09-403 SC
v. Pamela L. Fithian **Judge Name:** Zwink

Attorneys Involved:

Name: <u>Brian Heady</u>	Name: <u>Pamela Fithian(Jeffrey)pro se</u>
Address: <u>PO Box 92090</u>	Address: <u>13526 E. Oceanview Rd.</u>
City, State, Zip: <u>Anchorage, AK 99509</u>	City, State, Zip: <u>Palmer, AK 99645</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

References and Counsel Questionnaires (continued)

(d) List the names, addresses, including zip codes, and suite numbers where applicable, and phone numbers of each attorney involved in your three most recent cases that did not go to trial but in which you did significant work. Please do not list cases pending in the trial courts. (Applicants who are currently judges should list the three most recent cases they presided over that did not go to trial but in which they did significant work.) Please include the judge's name and case names and numbers. (Attach additional pages if necessary.)

Case Number 1

Case Name: MEA, Inc. **Case Number:** 3PA-09-114 SC
v. Joseph A. Philbin **Judge Name:** Zwink

Attorneys Involved:

Name: <u>Richard Deuser</u>	Name: <u>Joseph Philbin (pro se)</u>
Address: <u>1075 S. Check St. #214</u>	Address: <u>2700 lovers Lane</u>
City, State, Zip: <u>Wasilla, AK 99654</u>	City, State, Zip: <u>Wasilla, AK 99654</u>
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: In Re: M.M.W. **Case Number:** 3PA-07-263 PR
v. _____ **Judge Name:** Zwink

Attorneys Involved:

Name: <u>J. Randall Luffberry</u>	Name: <u>Daine Olsen</u>
Address: <u>203 S. Alaska St.</u>	Address: <u>PO Box 142273</u>
City, State, Zip: <u>Palmer, AK 99645</u>	City, State, Zip: <u>Anchorage, AK 99514-2273</u>
Name: <u>Bonnie Burgan-Kelly (Visitor)</u>	Name: _____
Address: <u>PO Box 172</u>	Address: _____
City, State, Zip: <u>Palmer, AK 99645</u>	City, State, Zip: _____

Case Number 3

Case Name: In Re:M.A. **Case Number:** 3PA-08-34 PR
v. _____ **Judge Name:** Zwink

Attorneys Involved:

Name: <u>J. Randall Luffberry</u>	Name: <u>John/Nancy Azok (Petitioners)</u>
Address: <u>203 S. Alaska St.</u>	Address: <u>4350 Mitzie Ct.</u>
City, State, Zip: <u>Palmer, AK 99645</u>	City, State, Zip: <u>Wasilla, AK 99854</u>
Name: <u>Bonnie Burgan-Kelly (Visitor)</u>	Name: <u>Elizabeth Russo</u>
Address: <u>PO Box 172</u>	Address: <u>900 W. 5th Ave.</u>
City, State, Zip: <u>Palmer, AK 99645</u>	City, State, Zip: <u>Anchorage, AK 99501</u>

Writing Sample

21. Attach one example of a brief, memorandum of law, or legal opinion or similar example of legal writing (10-20 pages in length; 15-25 pages for appellate positions) prepared solely by you within the last five years. Please choose a sample that reflects your ability to do legal research and analysis. If you do not have a good sample of this length, include an excerpt from a longer writing. Make sure the sample contains sufficient facts to make it understandable. (Some reply briefs may not meet these requirements.)

Please do not submit: (a) coauthored writing samples, (b) samples with confidential information unless redacted to remove such information, (c) longer writing samples.

22. Has any **public** sanction been imposed against you in response to a complaint, charge or grievance brought against you as an attorney or a judge? Yes No

Have formal grievance procedures been brought against you? Yes No

See Bar Rule 22(b) & (e) concerning public grievance procedures against attorneys, and AS 22.30.011(b) and .060(b)(3) concerning public grievance procedures against judges.

Have you ever been held in contempt of court? Yes No

In each case, state in detail the circumstances and the outcome.

Additional Comments (Non-Confidential)

23. Please make any additional comments that you wish to bring to the Council's attention about your experience and suitability for this judgeship.

I have lived and worked in the Mat-Su Valley since 1986, and have been with the Palmer Court System since 1990. I am active in the local community, and have found that this has given me an understanding of what the community values. I have a very good working relationship with the other judges here as well as the Clerk of Court and all of her staff. This is a truly remarkable place to work.

In my time on the bench in Palmer, I have encountered many members of this community, and occasionally I am approached in public by people who want to tell me how they have turned their life around since appearing in my court. I handle many people's only connection to the court system: traffic cases, small claims, minor consuming alcohol cases. I strive to leave them with a sense that they have been heard respectfully, even if the case does not result in their favor.

Additional Comments (Continued)

Most of my work does not give rise to long written pleadings or decisions. Most of my rulings are made from the bench. I have included a recent written decision which, while not quite 10 pages, should address the points sought by the Judicial Council. I do not have anything of the length noted in the instructions to submit that was authored solely by myself in the last 5 years.

24. Please indicate whether you prefer to be interviewed in public session or in private session. Your choice of a public or private interview has no bearing on the Council's determination of your qualifications or on the questions the Council may ask. You may change your request in writing at any time before the interview starts.

Public Interview

Private Interview

25. Please prepare a brief biographical statement (*limited to 150 words*) about your background, legal education, and legal experience. Please do not list personal information about minor children. Your picture and a copy of this statement will be scanned and posted on the Council's website after the application deadline. In its Bar survey, the Council will invite attorneys to review the information if they wish to become more familiar with your background and experience. Use the form on the following page for your biographical statement. Please leave the box at the top empty. The Council will use this space for your scanned picture. ***To be fair to all applicants, the Council will strictly enforce the 150 word limit.***

If you object to the posting of your picture on the Council's website, please indicate your objection below. If you object, we will not post your picture, although you still must submit twelve photographs of yourself with your application.

If you check this box we will not post your picture on the website.

Biographical Statement

Name David L. Zwink

Position(s) for which you wish to be considered:

Palmer District Court

Date: August 16, 2009

After I graduated from the University of Oregon School of Law in 1985, my family and I moved to Alaska, and in early 1986, settled in the Mat-Su Valley. The State of Alaska has treated us very well and I hope that I have been able to return the favor. After having practiced law as an attorney in Wasilla in the late 1980's, it has been my honor to serve the people of my community through my work on the bench in the Palmer Courthouse. Many people I see in the community approach me about what I have said to them in my courtroom, and tell me how they have made a success of their lives. There can be no greater reward for a job than that, and I hope to continue to serve my area for many more years.