

Alaska Judicial Council  
Application for Judicial Appointment

RECEIVED

OCT 20 1995

Alaska Supreme Court

Date: October 20, 1995 ~~Alaska Judicial Council~~

Court(s) for which you wish to be  
considered

I. PUBLIC INFORMATION (Os. 1-27 & 32)

PERSONAL

1. (a) State full name\* Dana Anderson Fabe  
Name as it should appear on bar survey: \_\_\_\_\_  
\* 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

6. How long have you been a resident of the State of Alaska immediately preceding the date of this application?\*\* 19 years 3 months  
Total years 19 months 3
7. How long have you been engaged in the active practice of law immediately preceding the date of this application?\*\* 19 years 3 months  
Total years 19 months 3

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

### NONLEGAL EDUCATION

8. 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.
- Cornell University, 9/69 - 12/72 BA conferred 1/73
- Summer sessions: University of California, Santa Cruz 1971, 1972
- Antioch College, 1970

### LEGAL EDUCATION

9. List all law schools, dates attended and degrees conferred. If you did not receive a degree from any law school, please indicate.
- Northeastern University, 9/73 - 5/76 JD
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10. (a) Did you receive any honors in law school or belong to any honorary societies or groups? N/A If so, please give details. Northeastern University School of Law, which requires 12 months of cooperative legal experience, grades on a pass/fail system. I was selected as a Legal Writing Teaching Assistant during my second and third years and was selected to run a Civil Procedure tutorial during my third year. Since graduation from law school, I have received my law school's Alumni Public Service Award 1991 and recognition as Alumna of the Year 1983.
- (b) Have you taken any CLE (continuing legal education) courses during the past five years?

Yes X No      Please describe: Have been faculty for numerous CLE programs including: Discovery Rules; Settlement Conferences; Ethics; Mediation and Rule 100; Evidence and Direct Examination; Evidence and Cross-Examination; Use of Interpreters for Deaf Jurors; Torts; Joint and Several Liability. Have also participated in numerous magistrate training conferences on a variety of topics.

### MILITARY

11. Have you served in the armed forces (reserves or otherwise)? 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. If so, state the details.

### NONLEGAL EMPLOYMENT

12. Describe major nonlegal working experience, if any.
- N/A

13. Describe major nonlegal business or professional experience, if any. If your association has been discontinued, please note whether there are unpaid debts or claims pending litigation.

N/A

### LEGAL EXPERIENCE

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

<u>DATED</u>	<u>EMPLOYER/SUPERVISOR</u>	<u>TYPE OF PRACTICE</u>
10/28/88 - present	Superior Court Judge	Civil caseload
4/22/81 - 10/5/88	Public Defender Alaska Public Defender Agency	Criminal defense
9/1/77 - 4/22/81	Staff Attorney, Alaska Public Defender Agency/Brian Shortell	Criminal defense
7/2/76 - 7/8/77	Alaska Supreme Court Honorable Edmond W. Burke	Judicial clerkship
<u>NORTHEASTERN COOPERATIVE EMPLOYMENT</u>		
12/1/75 - 3/1/76	Hart, Leavitt & Hall/ Brook Hart 333 Queen St., Honolulu, HI 96813	General practice with emphasis on personal injury and crim. def.
6/1/75 - 9/1/75	Zalkind & Zalkind/ Norman Zalkind 65a Atlantic Ave., Boston, MA 02110	General practice with emphasis on constitu- tional law and criminal defense
12/1/74 - 3/1/75	Tim McCall, Esq. 730 W. Main St., Louisville, KY	Criminal defense practice
6/1/74 - 9/1/74	James H. Goetz, Esq. 35 North Grand Ave., Bozeman, MT	General practice with emphasis on environ- mental issues

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

- |     |                                   |          |                   |
|-----|-----------------------------------|----------|-------------------|
| (a) | Percent of your practice that was | Civil    | <u>95</u>         |
|     |                                   | Criminal | <u>5</u>          |
|     |                                   | Other    | <u>          </u> |
|     |                                   |          | = 100%            |

Comment: \_\_\_\_\_

- (b) Percent State 100  
Federal             
Other             
= 100%

Comment: \_\_\_\_\_

- |   |                  |            |
|---|------------------|------------|
| (c) Of practice in state courts, percent: | Supreme Court    | <u>*</u>   |
|   | Court of Appeals | <u>*</u>   |
|   | Superior Court   | <u>100</u> |
|   | District Court   | <u></u>    |
|   |                  | = 100%     |

Comment: I have served as a pro tem justice on two Alaska Supreme Court appeals and as a pro tem judge on approximately eight Court of Appeals matters.

- (d) Frequency of appearance in court: Regularly X; Occasionally \_\_\_\_\_;  
Infrequently \_\_\_\_\_; Not at All \_\_\_\_\_

Comment: \_\_\_\_\_

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

Comment: \_\_\_\_\_

- (f) Percent of these trials which were: Jury 95% Non-Jury 5%

Comment: \_\_\_\_\_

- (g) Approximate number of appellate matters handled: 66;

Comment: These included appeals from administrative agencies  
as well as appeals from District Court.

- (h) Approximate number of arbitrations or administrative hearings: X\* None  
 \_\_\_\_\_ 1 to 5 \_\_\_\_\_ 6 to 16 \_\_\_\_\_ 16 to 30 \_\_\_\_\_ 31 or more

Briefly describe type of matters heard: \*However, I have conducted approximately 400 settlement conferences in the past five years, involving both civil and family court cases.

- (i) Have you undertaken any pro bono work during this period?

Yes \_\_\_\_\_ No X\*

Describe: \*As a judge, I am not permitted to represent clients on a pro bono basis.

16. 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.

Alaska Supreme Court	October, 1977
U.S. Supreme Court	January, 1981

### PUBLIC SERVICE

17. List bar associations, sections and committees of which you are or have been a member or officer. Chair, Alaska Civil Rules Committee; Judicial Representative, Alaska Bar Association Continuing Legal Education Committee; Member, Joint State-Federal Gender Equality Task Force; Member, Judicial Conference Education Planning Committee; Member, committee of five community leaders selected to design and implement a course on women in public administration for the MPA Program at U.A.A.; Member, Training Judges Committee; (Cont'd below in space for #18)
18. List legal publications, if any (give title, subject and date of publications): None (No. 17 Cont'd) Chair, Alaska Supreme Court Special Committee on Contempt of Court; Former Chair, Alaska Supreme Court Committee on Criminal Pattern Jury Instructions; Mentor, Anchorage School District's Mentorship Program; Member, Subcommittee on Intermediate Sanctions; Member, Facility Advisory Committee; (Cont'd below)
19. Have you ever applied for a judgeship? 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)
Anchorage Superior Court	5/88	Y	Y

(No. 17 Cont'd) Member, Governor's Drunk Driving Task Force. Have also taken an active role in training Anchorage Youth Court judges.

20. Have you ever held public or political office, elective or appointive? Yes

If so, state office, manner selected, and when and where held.

Superior Court Judge; appointed by Governor Cowper in August, 1988.

Public Defender; appointed by Governor Hammond in April, 1981  
after Judicial Council screening pursuant to AS 18.85. Reappointed  
by Governor Sheffield in 1985.

21. List all nonlegal organizations and clubs of which you are a member, including civic, charitable, religious, educational, social and fraternal. (Please indicate whether you participate in the organization's activities, or simply hold a membership.)
- Trustee, Anchorage Museum Association. Active Board member of the  
association which supports the Anchorage Museum of History  
and Art. Currently chair a subcommittee and am on two  
other subcommittees.
- Member, Soroptimist International of Cook Inlet. Am an active  
member of this service organization made up primarily of  
women leaders in Anchorage's business and professional  
community. Past member of the Board of Directors and  
Chair of Youth Citizenship Awards. Currently chair  
Committee on Advancement of Women.
- Member, Cornell Club of Alaska. Participate as member of the  
committee which interviews applicants to Cornell.
- My husband and I are also contributing members of a variety of arts  
groups including: Anchorage Concert Association; Anchorage Opera;  
Anchorage Museum, etc.

22. 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 other than minor traffic offenses (those for which a fine of \$50.00 or less, and no other sanctions were imposed)? No
- (b) failed to answer any summons or other legal process served upon you personally at any time? 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? No

- (d) had any proceedings brought to have you declared a ward of any court or adjudged an incompetent? 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.

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23. (a) Has a tax lien or other collection procedure ever been instituted against you by federal, state or local authorities? 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? If so, give particulars, including case numbers.

No

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- (b) Have you ever been sued by a client? If so, give particulars, including case numbers.

Not personally. The Public Defender Agency was sued on  
occasion and in at least one case, I was named as a party  
due to my position as Director of the Agency despite my lack  
of personal involvement with the case.



- (c) Have you ever been a party in any other legal proceeding? If so, give the particulars. Include all legal proceedings in which you were a party in interest; a material witness; a named co-conspirator or correspondent; and any grand jury investigation in which you figured as a subject, or in which you appeared as a witness. 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).

In 1983, my husband and I filed suit against former tenants of  
a home we were renting pursuant to a lease/purchase agreement  
as well as the realtor representing the tenants. We sued for  
back rent owed as well as the earnest money involved, given the  
tenants' decision not to purchase and the realtor's failure to  
collect and deposit the earnest money. The realtor settled  
with us and, as a result, the suit against the tenants was  
dismissed.

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

- (a) Are there any unsatisfied judgments against you? 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? 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? Please state the circumstances and outcome of any such unsatisfied or default judgment, or of any foreclosure.

No

- (b) Have you ever made an assignment for the benefit of creditors? Has any petition in bankruptcy ever been filed by you? If so, state the circumstances, case number, and the outcome.

No

## REFERENCES\*

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

(1) NAME: Elaine M. Andrews, Superior Court Judge  
ADDRESS: 303 K Street, Room 371  
CITY/STATE/ZIP: Anchorage, AK 99501 PHONE: 264-0418

(2) NAME: Nancy R. Gordon, Assistant Attorney General  
ADDRESS: 1031 West 4th Avenue, Suite 200  
CITY/STATE/ZIP: Anchorage, AK 99501 PHONE: 269-5100

- (b) List the names, addresses, 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. (You should not list the Chief Justice of the Alaska Supreme Court.)

(1) NAME: Walter L. Carpeneti, Superior Court Judge  
ADDRESS: P.O. Box 114100  
CITY/STATE/ZIP: Juneau, AK 99811-4100 PHONE: 463-4741

(2) NAME: Charles R. Pengilly, District Court Judge  
ADDRESS: 604 Barnette Street, Room 313  
CITY/STATE/ZIP: Fairbanks, AK 99701 PHONE: 452-9379

(3) NAME: Eric T. Sanders, Esq.  
ADDRESS: 500 L Street, Suite 400  
CITY/STATE/ZIP: Anchorage, AK 99501 PHONE: 272-3538

- \* Please Note: Letters of reference from these persons are confidential and will not be given to either the Governor or the applicant. The applicant should not request a copy of the letter from the reference.

## REFERENCES (continued)

- (c) List the names, addresses and phone numbers of attorneys involved in your three most recent cases that have gone to trial. (Applicants who are currently judges should list the three most recent trials they presided over.) List only those cases which have gone to trial within the past three years. Please include case names and numbers. (*Attach additional pages if necessary.*)

<i>Name of Case</i>		<i>Case Number</i>
<b>1</b>	<u>Anesthesia Consultants v. Lee</u>	<u>3PA-94-483 Civil</u>
<i>Attorneys Involved</i>		
Name: <u>David Shoup</u>		Name: <u>Thomas P. Owens, Jr.</u>
Address: <u>510 L Street, Suite 500</u>		Address: <u>1500 West 33rd, Suite 200</u>
<u>Anchorage, AK 99501</u>		<u>Anchorage, AK 99503</u>
Name: _____		Name: _____
Address: _____		Address: _____
_____		_____

<i>Name of Case</i>		<i>Case Number</i>
<b>2</b>	<u>Baublits v. Weidner</u>	<u>3AN-92-5051 Civil</u>
<i>Attorneys Involved</i>		
Name: <u>Russell Walker, Mark</u>		Name: <u>Theodore Pease</u>
Address: <u>Wittow, Richard Illgen,</u>		Address: <u>810 N Street</u>
<u>Louann Cutler, 420 L, Suite</u>		<u>Anchorage, AK 99501</u>
<u>400, Anchorage, AK 99501</u>		_____
Name: _____		Name: _____
Address: _____		Address: _____
_____		_____

<i>Name of Case</i>		<i>Case Number</i>
<b>3</b>	<u>Woodruff v. Sea-Land</u>	<u>3KO-93-369 Civil</u>
<i>Attorneys Involved</i>		
Name: <u>Richard Pennington,</u>		Name: <u>Eric Gillett</u>
Address: <u>Kristi Nelson, 4041 B,</u>		Address: <u>705 5th Avenue, 3300</u>
<u>Suite 300, Anchorage, AK</u>		<u>Columbia Center, Seattle,</u>
<u>99503</u>		<u>WA 98104</u>
Name: _____		Name: _____
Address: _____		Address: _____
_____		_____

## REFERENCES (continued)

- (d) List the names, addresses and phone numbers of attorneys involved in your three most recent cases that did not go to trial but in which you did significant work. (Applicants who are currently judges should list the three most recent trials they presided over that did not go to trial but in which they did significant work.) Please include case names and numbers. (Attach additional pages if necessary.)

	<i>Name of Case</i>	<i>Case Number</i>
<b>1</b>	Meek v. Unocal	3AN-94-7012 Civil
	<i>Attorneys Involved</i>	
	Name: <u>Suzanne Lombardi,</u>	Name: <u>William Soule</u>
	Address: <u>Constance Livsey, 550</u>	Address: <u>4824 Knight's Way</u>
	<u>W. 7th, Suite 1000,</u>	<u>Anchorage, AK 99508</u>
	<u>Anchorage, AK 99501</u>	
	Name: _____	Name: _____
	Address: _____	Address: _____
	_____	_____
	<i>Name of Case</i>	<i>Case Number</i>
<b>2</b>	Gallion v. Municipality	3AN-94-8592/95-345 CI (Consol)
	<i>Attorneys Involved</i>	
	Name: <u>Peter Gruenstein, David</u>	Name: <u>Mary Hughes, George</u>
	Address: <u>Stewart, 500 L, Suite</u>	Address: <u>Newsham, P.O. Box</u>
	<u>401, Anchorage, AK 99501</u>	<u>196650, Anchorage, AK 99519</u>
	Name: <u>Allan Tesche</u>	Name: <u>Robert Klausner</u>
	Address: <u>510 L, Suite 300</u>	Address: <u>6565 Taft Street, Suite</u>
	<u>Anchorage, AK 99501</u>	<u>200, Hollywood, FL 33024</u>
	<i>Name of Case</i>	<i>Case Number</i>
<b>3</b>	In the Matter of: C.R.	3AN-94-438 CP
	<i>Attorneys Involved</i>	
	Name: <u>Susan Parkes</u>	Name: <u>Nancy Groszek</u>
	Address: <u>1031 West 4th, Suite 200</u>	Address: <u>900 West 5th, Suite 200</u>
	<u>Anchorage, AK 99501</u>	<u>Anchorage, AK 99501</u>
	Name: <u>James Babb</u>	Name: <u>Robert Sparks</u>
	Address: <u>1007 West 3rd, Suite 202</u>	Address: <u>1552 Noble Street</u>
	<u>Anchorage, AK 99501</u>	<u>Fairbanks, AK 99701</u>

26. Attach as Appendix A 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. If you do not have a good sample of this length, include an excerpt from a longer writing. **Please do not submit longer writing samples.** Make sure the sample contains sufficient facts to make it understandable. Please do not submit coauthored writing samples.

- No

No \_\_\_\_\_

## ADDITIONAL COMMENTS (Non-Confidential)

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

I believe that I have substantial experience in four areas which would be of benefit to the Alaska Supreme Court: 1. Substantive Decision Making; 2. Rule Making; 3. Administrative Experience; and 4. Community Involvement and Education.

1. Substantive Decision Making. For the past seven years, I have handled a caseload of civil litigation. This had required me to analyze and make decisions, both oral and written, on complex civil issues arising in the context of dispositive motion work, administrative appeals, and trial. I have also made decisions in many criminal and family court matters. I enjoy researching and writing, and since I have been on the trial court bench, this has been a significant portion of my daily work.

2. Rule Making. Because rule making is a significant function of the Supreme Court, the Council may wish to be aware of my experience as Chair of the Civil Rules Committee as well as of the Supreme Court's Special Committee on Contempt. I have worked on numerous rule drafting projects in these capacities, including work and training on the new discovery rules.

3. Administrative Experience. My eight years as the Public Defender for the State and the past three years as Deputy Presiding Judge in charge of the Civil Division have prepared me well for the work of the Supreme Court in administrative matters involving the Alaska Court System. In addition, my work as a training judge for magistrates in the Third Judicial District has increased my awareness of issues facing court personnel in outlying areas.

4. Community Involvement and Education. My experience as a mentor with the School District, as a presenter in such courses as Minorities and Justice and Women in Public Administration at the University of Alaska, my work with the Anchorage Youth Court training youth court judges and lawyers, as well as my extensive involvement with Continuing Legal Education of the Alaska Bar, have all made me aware of the importance of judges and justices educating the bar and the community on the work and role of the court.