



Received

FEB 14 2020

Alaska Judicial Council

Alaska Judicial Council Application for Judicial Appointment

Position(s) for which you wish to be considered:
Alaska Supreme Court Justice

Date: Feb. 13, 2020

I. Public Information (Questions 1-24)

Personal

1. (a) State full name* Dario Borghesan
Name as it should appear on bar survey: Dario Borghesan
* 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? **

	<u>11</u> years	<u>5</u> months
Total	<u>11</u> years	<u>5</u> months
3. How long have you been engaged in the active practice of law immediately preceding the date of this application? **

	<u>9</u> years	<u>8</u> months
Total	<u>9</u> years	<u>8</u> 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.

Amherst College, Sept. 1998 - May 2002.
B.A. magna cum laude in political science.

Trinity College Rome study abroad program, Sept. - Dec. 2000.

** 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.

The University of Michigan Law School, Sept. 2005 - May 2008.
J.D. magna cum laude.

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.

Henry M. Campbell Moot Court Competition, first place prize 2008.
Order of the Coif.

- (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.

NAGTRI Core Leadership Competencies & Conflict Resolution (2019); NAGTRI Webinar, Fundamental Principles of Managerial Leadership (2019); Department of Law in-house CLE, Open Meetings Act (2019); State & Local Legal Ctr., Supreme Court Midterm Webinar (2019); Alaska Court System, Supreme Court Off the Record (2019); Department of Law in-house CLE, Sexual Harassment Training for Supervisors (2018); Multitasking Gone Mad, how to practice law effectively in a wired, demanding, and distracting world (2018) (video replay); Department of Law in-house training, Open Meetings Act (2018); Department of Law in-house CLE, Appellate Practice (presenter) (2017); presentations by the Appellate Law section of the AK Bar.

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.

I have not worked in a non-legal job since beginning law school. Prior to law school I worked as a waiter in restaurants in 2005; was a Peace Corps Volunteer in Togo, Africa from Sept. 2002 - Dec. 2004; and worked in landscaping from June - Sept. 2002.

Legal Experience

9. Describe chronologically your legal employment since admission to law school. **Please provide dates and location of employment, name of employer, name AND CURRENT ADDRESS OF supervisor or person who can verify AND COMMENT ON YOUR employment, 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.** IF YOU ARE CURRENTLY A TRIAL COURT JUDGE, PLEASE LIST YOUR PRESIDING JUDGE. FOR PAST JUDGESHIPS, PLEASE LIST THE JUDGE WHO LAST PRESIDED DURING YOUR TIME ON THE BENCH.

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: Alaska Department of Law

Supervisor or name of contact person who can verify employment: Clyde "Ed" Sniffen

Current address of this person: 1031 W. Fourth Ave., Suite 200

City Anchorage State AK Zip 99501

Dates and location of Employment: From Sept. 2009 To present City Anchorage State AK

Description:

I have had three different roles at the Department of Law. I started out as a special assistant to the AG, from Sept. 2009 to Dec. 2010. From Dec. 2010 to April 2018, I was an assistant attorney general in the Opinions, Appeals & Ethics Section. From May 2018 to the present, I have been the Chief Assistant Attorney General of the Opinions, Appeals & Ethics Section.

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

Employer: Alaska Court System

Supervisor or name of contact person who can verify employment: Hon. Daniel E. Winfree

Current address of this person: Rabinowitz Courthouse, 101 Lacey Street

City Fairbanks State AK Zip 99701

Dates and Location of Employment: From Sept. 2008 To Sept. 2009 City Fairbanks State AK

Description: I clerked for the Honorable Daniel E. Winfree of the Alaska Supreme Court in Fairbanks.

Reason for Leaving: Clerkship term ended.

Employer: University of Michigan Law School Civil-Criminal Litigation Clinic

Supervisor or name of contact person who can verify employment: Prof. Paul D. Reingold

Current address of this person: The University of Michigan Law School, 625 S. State Street

City Ann Arbor State MI Zip 48109-1215

Dates and Location of Employment: From Sept. 2007 To Dec. 2007 City Ann Arbor State MI

Description: I represented low-income clients with landlord-tenant disputes, debt collection, and other legal problems through the law school's clinic.

Reason for Leaving: End of semester.

Previous Employers (continued)

Employer: Orrick LLP

Supervisor or name of contact person who can verify employment: Joe Evall, Esq.

Current address of this person: Gibson Dunn, 200 Park Avenue

City New York State NY Zip 10166-0193

Dates and Location of Employment: From May 2007 To July 2007 City New York State NY

Description: I worked as a summer associate in the litigation practice of Orrick's New York office. I assisted with motion practice, document review, and legal research.

Reason for Leaving: This was a summer associate position.

Employer: ACLU of Michigan

Supervisor or name of contact person who can verify employment: Prof. Michael S. Steinberg

Current address of this person: The University of Michigan Law School, 625 S. State Street

City Ann Arbor State MI Zip 48109-1215

Dates and Location of Employment: From Jan. 2007 To May 2007 City Detroit State MI

Description: I did legal work for the ACLU of Michigan as a legal extern, receiving some course credit. I worked on issues related to students' constitutional rights, among other things.

Reason for Leaving: End of semester

Employer: Prof. Michael S. Barr, The University of Michigan Law School

Supervisor or name of contact person who can verify employment: Prof. Michael S. Barr

Current address of this person: The University of Michigan Law School, 625 S. State Street

City Ann Arbor State MI Zip 48109-1215

Dates and Location of Employment: From Sept. 2006 To Dec. 2006 City Ann Arbor State MI

Description: I worked as a research assistant for Professor Barr to support his scholarship on alternative financial instruments and sub-prime mortgages.

Reason for Leaving: End of semester

Employer: The Hon. David G. Traeger (deceased), U.S. District Court Judge

Supervisor or name of contact person who can verify employment: Karen Sheley, Esq.

Current address of this person: ACLU of Illinois, 150 N. Michigan Ave., Suite 600

City Chicago State IL Zip 60601

Dates and Location of Employment: From May 2006 To July 2006 City Brooklyn State NY

Description: I worked as a summer intern in the chambers of Judge Traeger, drafting bench memos and decisions.

Reason for Leaving: This was a summer position.

Employer: _____

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

Current address of this person: _____

City _____ State _____ Zip _____

Dates and Location of Employment: From _____ To _____ City _____ State _____

Description: _____

Reason for Leaving: _____

10. During your legal career, please indicate (approximately) the following:

(a) Percent of your practice that was: Civil 100
Criminal 0
Other _____
= 100%

Comment: _____

(b) Percent: State 80%
Federal 20%
Other _____
= 100%

Comment: _____

(c) Of practice in state courts, percent: Supreme Court 75
Court of Appeals 0
Superior Court 25
District Court _____
= 100%

Comment: _____

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

Comment: _____

(e) Number of trials (by court or jury) you conducted (select one):
 None 1-5 6-15 16-30 31 or more

Comment: _____

(f) Percent of these trials which were: Jury 0 Non-Jury 100

Comment: _____

(g) Approximate number of appellate matters handled: 40

Comment: This figure includes appeals from final judgment and petitions for interlocutory review.

(h) Approximate number of arbitrations or administrative hearings (select one):

None 1-5 6-15 16-30 31 or more

Briefly describe type of matters heard:

I participated in an informal administrative proceeding before the DNR Commissioner's office, and one before the DNR's Division of Mining, Land & Water.

(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.).

I handled a pro bono divorce for the Alaska Network on Domestic Violence and Sexual Assault in 2010-2011. I worked on two pro bono divorces for Alaska Legal Services Corporation, one in 2012-13 (client eventually withdrew) and one in 2014 (successful outcome). I staffed ALSC's landlord-tenant hotline from 2015 through early 2018, and for several years I was the Department of Law's pro bono coordinator. I received the Bryan P. Timbers pro bono award from the Bar Association in 2013, and I was ALSC's volunteer of the month in March 2016.

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 (2010). State of New York (2010). D.C. Circuit (2013). District of Alaska (2014). Ninth Circuit (2015). U.S. Supreme Court (2016).

Public Service

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

I am currently a member of the Appellate Rules Committee. I was a co-chair of the Alaska Bar's Appellate Law Section from 2015 - 2018.

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)

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.

I am a member of the Nordic Skiing Association of Anchorage and the Friends of the Chugach National Forest Avalanche Information center. In the past I have volunteered at the Alaska Food Bank, and I currently volunteer with my children's day care, Hillcrest Children's Center.

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.

I received a speeding ticket (4-9 MPH Over) on Mach 15, 2014, and pled no contest. 3SW-14-00453MO. I was driving on the Seward Highway just south of the Sterling Highway junction and did not notice the reduced speed limit.

I was in a car accident in college and received a ticket for failure to use care when stopping.

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).

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: Sen. Daniel S. Sullivan
Address: 510 L Street, Suite 750
City/State/Zip: Anchorage, AK 99501 Phone: _____

Name: James Ord
Address: _____
City/State/Zip: _____ Phone: _____

- (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: The Honorable Daniel E. Winfree
Address: 101 Lacey Street
City/State/Zip: Fairbanks, AK 99701 Phone: _____

Name: Joanne Grace
Address: 1031 W. Fourth Ave., Suite 200
City/State/Zip: Anchorage, AK 99501 Phone: _____

Name: David T. Jones
Address: _____
City/State/Zip: _____ Phone: _____

References and Counsel Questionnaires (continued)

(c) List the names, addresses, **including zip codes, and suite numbers where applicable**, 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: _____ **Case Number:** _____
v. _____ **Judge Name:** _____

Attorneys Involved:

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

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

Case Number 2

Case Name: _____ **Case Number:** _____
v. _____ **Judge Name:** _____

Attorneys Involved:

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

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

Case Number 3

Case Name: _____ **Case Number:** _____
v. _____ **Judge Name:** _____

Attorneys Involved:

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

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**, 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: Alaska Laser Wash **Case Number:** S-16915
v. State, Dept. of Transp. & Public Facilities **Judge Name:** Alaska Supreme Court

Attorneys Involved:

Name: <u>Kevin Fitzgerald</u>	Name: <u>George Trefry</u>
Address: <u>813 W. Third Ave.</u>	Address: _____
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: _____
Name: _____	Name: _____
Address: _____	Address: _____
City, State, Zip: _____	City, State, Zip: _____

Case Number 2

Case Name: Andrew et al. **Case Number:** 3AN-19-06026CI
v. Bristol Bay Regional Seafood Dev. Assoc. et al. **Judge Name:** Hon. Yvonne Lamoreaux

Attorneys Involved:

Name: <u>Sarah Langberg Schirack</u>	Name: <u>Scott M. Kendall</u>
Address: <u>1029 W. Third Ave., Suite 300</u>	Address: <u>701 W. 8th Ave., Suite 700</u>
City, State, Zip: <u>Anchorage, AK 99501-1981</u>	City, State, Zip: <u>Anchorage, AK 99501</u>
Name: <u>Eric B. Fjelstad</u>	Name: <u>Jahna Lindemuth</u>
Address: <u>1029 W. Third Ave., Suite 300</u>	Address: <u>701 W. 8th Ave., Suite 700</u>
City, State, Zip: <u>Anchorage, AK 99501-1981</u>	City, State, Zip: <u>Anchorage, AK 99501</u>

Case Number 3

Case Name: Addy S. (Mother) **Case Number:** S-17257
v. State, Dept. of Health and Social Services, OCS **Judge Name:** Alaska Supreme Court

Attorneys Involved:

Name: <u>Emily L. Jura</u>	Name: <u>Rebecca Karstetter</u>
Address: <u>900 W. 5th Ave., Suite 200</u>	Address: _____
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: _____
Name: <u>Jonathon Torres</u>	Name: _____
Address: <u>900 W. 5th Ave., Suite 525</u>	Address: _____
City, State, Zip: <u>Anchorage, AK 99501</u>	City, State, Zip: _____

References and Counsel Questionnaires, cont.

Case Number 2 (Andrew et al. v. Bristol Bay Regional Seafood Dev. Assoc. et al., 3AN-19-06026CI)

Additional Attorneys:

Matthew N. Newman
745 W. 4th Ave., Suite 502
Anchorage, AK 99501

Wesley James Furlong
745 W. 4th Ave., Suite 502
Anchorage, AK 99501

Megan R. Condon
745 W. 4th Ave., Suite 502
Anchorage, AK 99501

Joe Geldhof
229 4th Street
Juneau, AK 99801

David Bledsoe
1120 N.W. Couch Street, 10th Floor
Portland, OR 97209

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, (d) samples from open cases including cases on appeal.

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 bar grievance procedures against attorneys, and AS 22.30.011(b) and .060(b)(3) concerning public disciplinary grievance procedures against judges.

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

Have you ever been fined or otherwise sanctioned by a judge? 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.

For most of my legal career I have had the privilege of serving the people of Alaska through the Department of Law. I have litigated cases in trial court, but most of my work has been appeals. I have briefed and argued cases before the Alaska Supreme Court, federal circuit courts, and the United States Supreme Court. The variety of cases I have handled closely mirrors the kinds of cases the Alaska Supreme Court regularly sees: from child-in-need-of-aid to eminent domain, separation-of-powers disputes to workers compensation, tort claims to Medicaid eligibility, and much in between.

Additional Comments (Continued)

I became the supervising attorney for the Department of Law's civil appeals section a little under two years ago. I oversee a team of eight attorneys, a paralegal, and three legal assistants. While personally handling fewer appeals, I now have a leadership role in our appellate practice. I act as a sounding board for our attorneys as they develop arguments; review briefs in our office's most significant cases; advise whether to seek interlocutory review or appeal; and act as a resource for attorneys Department-wide when considering the implications of their trial strategies on the eventual appeal. Serving in this role has not only broadened my knowledge of substantive law and appellate practice, but also sharpened my skill in working as a member of a team to promote the goals and health of a large institution.

Practicing frequently before the Alaska Supreme Court, I have seen in the Court's work its fidelity to important judicial values. Among the most important are respect for litigants, recognition of the courts' role in our system of government, independence from partisan politics, and analytical rigor. I share those values and would strive to emulate the example our justices have set. My familiarity with the Court's docket, procedures, and tradition would be a valuable source of continuity for the Court with the great turnover it will see in the coming 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 (select one).

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 Dario Borghesan

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

Justice of the Alaska Supreme Court

Please leave this area blank

Date: Feb. 13, 2020

I first came to Alaska in high school and fell in love with the vast wilderness and the midnight sun. I always hoped for the chance to come back.

After graduating from the University of Michigan Law School, I moved to Fairbanks to clerk for Justice Daniel E. Winfree of the Alaska Supreme Court. Since then, I have worked at the Department of Law in Anchorage—first as a special assistant to Attorney General Daniel S. Sullivan, then as an assistant attorney general handling civil appeals, and now as the supervising attorney of the department's civil appeals section. I feel privileged to serve the people of Alaska in this job and would be honored to serve as a Justice of the Alaska Supreme Court.

In my free time, I love to ski, fish, and hike with my wife, two young boys, and loyal dog.