

Alaska Judicial Council Recommendation

Justice Alexander O. Bryner, Supreme Court

I. Judicial Council Evaluation. The Alaska Judicial Council, a non-partisan citizens commission established by the Alaska Constitution, finds Justice Bryner to be **Qualified** and recommends unanimously (6-0) that the public vote "YES" to retain him as a supreme court justice.

II. Summary of Evaluation Information. In a survey sent to all 2,644 attorneys in Alaska, Justice Bryner was rated in the excellent range on overall judicial performance (4.3, see graph). He scored highest (4.5) in the category of "conduct free from impropriety," and "preparation for appeals." He scored 4.0 or better in all ten categories.

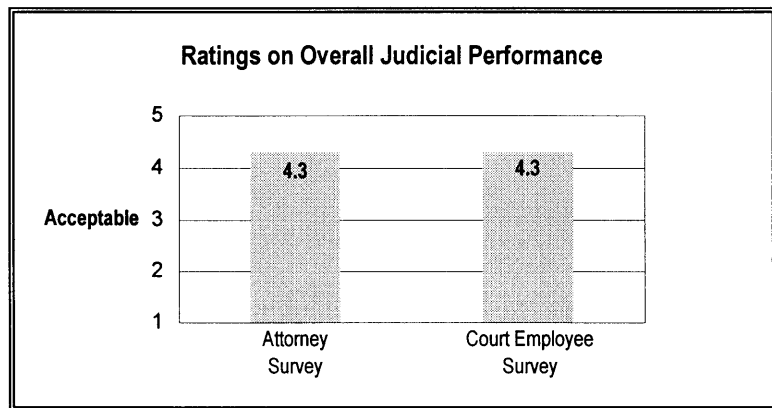
Summary Categories	Attorney Survey	Court Employee Survey
Legal Ability	4.4	---
Impartiality	4.3	---
Integrity	4.4	4.4
Temperament	4.0	4.3
Diligence	4.5	4.2
Overall	4.3	4.3

Ratings are based on a one to five scale. Five is the best rating and three is "acceptable."

Range Description
 4.0 - 5.0 = Excellent
 3.5 - 3.9 = Good
 3.0 - 3.4 = Acceptable
 2.5 - 2.9 = Below Acceptable
 1.0 - 2.4 = Poor

A survey of all court employees rated Justice Bryner in the excellent range (4.3) on overall performance.

The Council also completed a background investigation including a court records check, a disciplinary records check, a review of conflict of interest statements submitted to the court system, a review of any withheld salary warrants and a review of financial disclosure statements submitted to the Alaska Public Offices Commission. Attorneys and court employees were asked to submit written comments about the judge. The Council actively encouraged the public to comment, both in writing and in a statewide public hearing teleconference.



Recommendation: Vote "YES" to retain Justice Bryner

Contact the Judicial Council at 1029 W. 3rd, Suite 201, Anchorage, AK 99501 (telephone: (907) 279-2526) for more detailed information, or review the information on our Internet site at:

www.ajc.state.ak.us



alaska judicial council

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Supreme Court

Alaska Judicial Council Questionnaire

Appellate Judge 2000 Candidates for Judicial Retention

November 19, 1999

Alexander O. Bryner Supreme Court
Name Court

1. Describe your workload during your present term.

- a) 80 % Civil Cases
 - 10 % Criminal Cases
 - 10 % Court Administrative
 - 100 % Total
- b) -0- # of trials/year (as trial court judge)

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

- 1) CINA Advisory Committee -- co-chair
- 2) Criminal Pattern Jury Instructions Committee -- member
- 3) Boney Building Remodel Committee -- member
- 4) Supreme Court Committee on Appellate Delay -- member
- 5) Statewide Time Standards Committee -- co-chair

3. On a separate sheet of paper 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

Response to No. 3:

The Alaska Supreme Court has seen the appointment of four new justices during the past five years. For me, joining the court during this period of transition has been an exciting, rewarding, and intensely challenging experience. My greatest challenges have been in acquainting myself with the court's diverse and complex civil caseload, assimilating the myriad administrative issues that the court regularly considers, and adjusting to the court's internal procedures and five-judge voting dynamic, which tend to be far more intricate, formalized, and rigorous than the relatively straightforward three-judge process that I had grown so accustomed to in the court of appeals.

I would say that I have made satisfactory progress toward meeting these challenges. Though I have sometimes found it frustratingly difficult to keep pace with the daily flow of paperwork and with the demands of my caseload, the experience of serving on the court is deeply rewarding. Our cases expose me to fascinating issues, involve me in a constant process of learning and growth, and enable me to participate in resolving difficult legal problems. I have always believed that the best way for me to contribute to our system of justice is to decide cases fairly and justly, case by case. I have tried very hard to contribute to the court in this way, and hope that I have succeeded in making a contribution. I look forward enthusiastically to continued service on the court. My impression is that the court has passed through a period of transition and is developing a renewed sense of itself as an institution. In my view, the future holds promise for progress in reducing appellate delay, in increasing the court's efficiency and responsiveness, and in broadening public access to justice.

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.

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 nonjudicial 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 .

If your answer to any of the questions above is "yes," please give full details, including dates, facts, case numbers and outcomes.

Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2000 retention elections.

5. Please list the names and case numbers of the six most recent opinions issued by you, identify the attorneys involved, and show their current addresses. (Attach additional pages if necessary.)

	<i>Name of Case</i>	<i>Case Number</i>
1	See attached	

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

	<i>Name of Case</i>	<i>Case Number</i>
2	See attached	

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

	<i>Name of Case</i>	<i>Case Number</i>
3	See attached	

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

4

Name of Case

See attached _____

Case Number

Attorneys Involved

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

5

Name of Case

See attached _____

Case Number

Attorneys Involved

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

6

Name of Case

See attached _____

Case Number

Attorneys Involved

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

5. Please list the names and case numbers of the six most recent opinions issued by you, identify the attorneys involved, and show their current addresses.

<i>Name of Case</i>	<i>Case Number</i>
1. <u>Alaska National Ins. Co. v. Jones, Rehbock</u>	S-8519

Attorneys Involved

Trena L. Heikes
Law Office of Trena L. Heikes
3380 C St., Ste 202
Anchorage, AK 99503

J. L. McCarrey III
3301 C St., Ste. 500
Anchorage, AK 99503

<i>Name of Case</i>	<i>Case Number</i>
2. <u>Chenega Corp. v. Exxon Corp.</u>	S-7252/7512

Attorneys Involved

Samuel J. Fortier
Fortier & Mikko, P.C.
2550 Denali St., Ste. 1500
Anchorage, AK 99503

Douglas J. Serdahely
Patton Boggs LLP
1031 W. 4th Ave., Ste. 504
Anchorage, AK 99501

Kenneth F. McCallion, Of Counsel
Goodkind Labaton Rudoff &
Sucharow
New York, New York

John F. Clough III
Eric Twelker
Clough & Associates, P.C.
418 Harris St., Ste. 217
Juneau, AK 99801

Charles P. Diamond
M. Randall Oppenheimer
O'Melveny & Myers
1999 Avenue of the Stars
Los Angeles, CA 90067

	<i>Name of Case</i>	<i>Case Number</i>
3.	<u>Kodiak Island Borough v. Exxon Corp.</u>	S-7581

Attorneys Involved

Matthew D. Jamin
Jamin Ebell Schmitt & Mason
323 Carolyn St.
Kodiak, AK 99615

Douglas J. Serdahely
Patton Boggs LLP
1031 W. 4th Ave., Ste. 504
Anchorage, AK 99501

Lloyd B. Miller
Sonosky Chambers Sachse Miller &
Munson
900 W. 5th Ave., Ste. 700
Anchorage, AK 99501

John F. Clough III
Clough & Associates, P.C.
418 Harris St., Ste. 217
Juneau, AK 99801

N. Robert Stoll
Stoll Stoll Berne Lokting & Shlachter
209 S.W. Oak St., 5th Fl.
Portland, OR 97024

Charles P. Diamond
O'Melveny & Myers
1999 Avenue of the Stars
Los Angeles, CA 90067

	<i>Name of Case</i>	<i>Case Number</i>
4.	<u>Willis v. State, CSED</u>	S-8367

Attorneys Involved

James J. Davis, Jr.
Mark Regan
Alaska Legal Services Corp.
419 6th St., Ste. 322
Juneau, AK 99801

Douglas D. Gardner
Daniel N. Branch
Assistant Attorneys General
Box 110300
Juneau, AK 99811-0300

Robert K. Hickerson
Alaska Legal Services Corp.
1016 W. 6th, Ste. 200
Anchorage, AK 99501

	<i>Name of Case</i>	<i>Case Number</i>
5.	<u>V.D. v. State, Dep't of Health & Social Servs.</u>	S-8980

Attorneys Involved

Margi A. Mock
Assistant Public Defender
900 W. 5th Ave., Ste. 200
Anchorage, AK 99501

Laura C. Bottger
Assistant Attorney General
1031 W. 4th Ave., Ste. 200
Anchorage, AK 99501

	<i>Name of Case</i>	<i>Case Number</i>
6.	<u>Romann v. State, DOTPF</u>	S-8344

Attorneys Involved

Peter J. Maassen
William H. Ingaldson
Ingaldson Maassen, P.C.
711 H St., Ste. 510
Anchorage, AK 99501

Elizabeth J. Hickerson
Assistant Attorney General
1031 W. 4th Ave., Ste. 200
Anchorage, AK 99501

6. If you deem it helpful to the Council, please list the name, case number and attorneys' names and current addresses of any other cases during your judicial career in which you believe your work was particularly noteworthy. (Attach additional pages if necessary.)

1

Name of Case *Case Number*
None _____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

2

Name of Case *Case Number*

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

3

Name of Case *Case Number*

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

MEMORANDUM

TO: Judicial Council Members

FROM: Staff

DATE: May 16, 2000

RE: Comparison of Previous Survey Results - Alexander O. Bryner

Alexander O. Bryner is standing for retention in 2000. The tables on the following pages compare retention and selection survey scores for Justice Bryner. Changes in the form and content of the various surveys should be noted carefully in making any comparisons.

Justice Bryner previously stood for retention in 1976 as a district court judge (survey scores attached), and in 1984 and 1992 as a Court of Appeals Judge. He was evaluated with other non-retention judges in 1990 and 1998.

Justice Bryner applied for the Anchorage District Court in 1975, the Sitka Superior Court in 1976, the Anchorage Superior Court in 1977, the Court of Appeals in 1980, and the Supreme Court in 1983 and 1996 (twice). He was appointed to the Anchorage District Court in 1975, the Court of Appeals in 1980 and the Supreme Court in 1996.

Justice Alexander O. Bryner					
Retention surveys					
	2000 Retention	1998 Retention Preview	1992 Retention Preview	1990 Retention Preview	1984 Retention
Legal Ability	4.4	4.5	4.1	4.1	3.8
Fairness	4.3	4.3	4.0	4.0	3.7
Integrity	4.4	4.5	4.2	4.2	4.2
Judicial Temperament	4.0	4.1	3.9	3.9	---
Diligence	4.5	—	4.2	---	---
Administrative Skills	—	—	—	---	---
Overall Performance	4.3	4.3	4.0	4.0	---

Justice Alexander O. Bryner appointed to the Supreme Court 1/24/97						
	1980 Appellate Court	1983 Supreme Court	1996 Supreme Court (Moore's seat)		1996 Supreme Court (Rabinowitz' seat)	
			Score	Range	Score	Range
Legal Ability	4.4	4.2	4.3	Excellent	4.4	Excellent
Integrity	4.5	4.3	4.3	Excellent	4.4	Excellent
Fairness	4.3	4.1	4.1	Excellent	4.1	Excellent
Judicial Temperament	—	—	3.8	Good	3.8	Good
Suitability of Experience	—	—	4.1	Excellent	4.1	Excellent
Freedom from Arrogance	4.2	3.9	—	—	—	---
Decisiveness	4.1	4.0	—	—	—	---
Willingness to Work	4.3	4.1	—	—	—	—
Good Character	4.5	4.3	—	—	—	—
Understanding	4.3	4.0	—	—	—	—
Judgment	4.3	4.0	—	—	—	----
Reasonableness	4.2	4.0	—	—	—	---
Overall Performance	4.3	4.0	4.1	Excellent	4.2	Excellent

MEMORANDUM

TO: Judicial Council Members

FROM: William T. Cotton

DATE: June 21, 2000

RE: Non-Confidential Salary Warrants: **Justice Alexander O. Bryner**

Department of Administration Paycheck Holds

The Council requested information from the Department of Administration about how many times the retention justices' and judges' paychecks were withheld in 1998 and 1999 for failure to issue decisions within six months. See AS 22.05.140(b), 22.07.090(b), 22.10.190(b), and 22.15.220(c). Justice Bryner's paycheck was withheld for one or two pay periods six times in 1998 and once in 1999, and it was withheld for less than a full pay period six times in 1999. Justice Bryner explained this tardiness by stating that his abrupt transfer from the Court of Appeals to the Supreme Court in 1997 left him responsible for cases in both of the appellate courts for a period of time. This responsibility, combined with staffing disruptions caused by his transfer and his desire to be cautious and thorough in his supreme court responsibilities, caused him to exceed the statutory period for issuing decisions on several occasions. Justice Bryner's DOA paycheck record sheet and his letter responding to our query are attached to this memorandum.

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MAY 3 2000

AK Judicial Council



Chambers of:
Alexander O. Bryner
Justice

303 K Street
Anchorage, Alaska
99501-2083
(907) 264-0632
FAX (907) 264-0768

Supreme Court
State of Alaska

May 2, 2000

Mr. William T. Cotton
Executive Director
Alaska Judicial Council
1029 W. Third Avenue, Suite 201
Anchorage, Alaska 99501-1969

Dear Mr. Cotton:

Thank you for your letter offering me an opportunity to explain the periods in 1998 and 1999 when the Department of Administration delayed issuance of my paycheck.

The situation grew out of my transition from the court of appeals to the supreme court. I began hearing supreme court cases almost immediately upon appointment to the court in 1997. At the same time, I had to remain active on a significant number of court of appeals cases that had already been submitted and could not be reassigned without serious inconvenience and delay. My desire to be cautious and thorough in addressing my new case assignments, the demands of winding down my court of appeals cases, and some unavoidable staffing disruptions caused by my abrupt move left me with a build-up of cases that eventually required me to delay claiming my paycheck for several brief periods during 1998-99.

I appreciate the Council's concern with this matter and would of course be happy to discuss it more fully upon request by the Council.

Sincerely,

A handwritten signature in black ink, appearing to be "A. Bryner", with a long horizontal flourish extending to the right.

Alexander O. Bryner

Judicial Council Evaluation

Affidavit Review					
Alexander O. Bryner					
Appointed 1/24/97					
City/Judicial District: Anchorage/NA					
1999				1998	
Pay Period End	When Paid	How Late	Pay Period End	When Paid	How Late
PP. 1 - 12/31/98	On Time		PP. 1 - 12/31/97	On Time	
PP. 2 - 1/15/99	On Time		PP. 2 - 1/15/98	On Time	
PP. 3 - 1/31/99	On Time		PP. 3 - 1/31/98	On Time	
PP. 4 - 2/15/99	On Time		PP. 4 - 2/15/98	On Time	
PP. 5 - 2/28/99	On Time		PP. 5 - 2/28/98	On Line 3/17/98	1 pay period
PP. 6 - 3/15/99	On Time		PP. 6 - 3/15/98	On Time	
PP. 7 - 3/31/99	On Time		PP. 7 - 3/31/98	On Time	
PP. 8 - 4/15/99	On Line 4/26		PP. 8 - 4/15/98	On Time	
PP. 9 - 4/30/99	On Line 5/28		PP. 9 - 4/30/98	On Time	
PP. 10 - 5/15/99	On Line 5/28		PP. 10 - 5/15/98	On Time	
PP. 11 - 5/31/99	On Line 7/8		PP. 11 - 5/31/98	On Line 6/10/98	1 pay period
PP. 12 - 6/15/99	On Line 7/12	1 pay period	PP. 12 - 6/15/98	On Line 6/29/98	1 pay period
PP. 13 - 6/30/99	On Line 7/14		PP. 13 - 6/30/98	On Time	
PP. 14 - 7/15/99	On Time		PP. 14 - 7/15/98	On Time	
PP. 15 - 7/31/99	On Time		PP. 15 - 7/31/98	On Time	
PP. 16 - 8/15/99	On Time		PP. 16 - 8/15/98	On Time	
PP. 17 - 8/31/99	On Line 9/10		PP. 17 - 8/31/98	On Time	
PP. 18 - 9/15/99	On Time		PP. 18 - 9/15/98	On Time	
PP. 19 - 9/30/99	On Time		PP. 19 - 9/30/98	On Time	
PP. 20 - 10/15/99	On Time		PP. 20 - 10/15/98	On Time	
PP. 21 - 10/31/99	On Time		PP. 21 - 10/31/98	On Line 11/17	1 pay period
PP. 22 - 11/15/99	On Time		PP. 22 - 11/15/98	On Time	
PP. 23 - 11/30/99	On Time		PP. 23 - 11/30/98	On Line 12/30	2 pay periods
PP. 24 - 12/15/99	On Time		PP. 24 - 12/15/98	On Line 1/12/99	2 pay periods