

Alaska Judicial Council Recommendation

Justice Dana Fabe, Supreme Court

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

II. Summary of Evaluation Information. In a survey sent to all 2,644 attorneys in Alaska, Justice Fabe was rated in the excellent range on overall judicial performance (4.4, see graph). She scored highest in the category of "preparation for appeals" (4.6). She scored 4.3 or better in all ten categories.

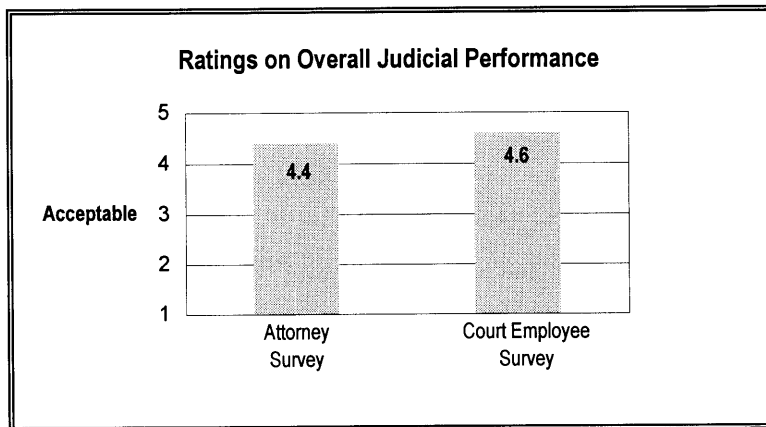
Summary Categories	Attorney Survey	Court Employee Survey
Legal Ability	4.4	---
Impartiality	4.3	---
Integrity	4.4	4.6
Temperament	4.4	4.8
Diligence	4.6	4.6
Overall	4.4	4.6

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 Fabe in the excellent range (4.6) 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 Fabe

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



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AK Judicial Council

alaska judicial council

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Alaska Judicial Council Questionnaire

Appellate Judge 2000 Candidates for Judicial Retention

November 19, 1999

DANA FABE	SUPREME
_____	_____
Name	Court

1. Describe your workload during your present term.

- a) 75 % Civil Cases b) * # of trials/year (as trial court judge)
5 % Criminal Cases
20 % Court Administrative
100 % Total

*Volunteered for several criminal trials with Rule 45 problems; all
resulted in pleas. Conducted settlement conferences at the
request of the trial court.

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

Civil Rules, Chairperson; Access to Civil Justice, Chairperson; Judicial
Education, Chairperson; Joint Federal & State Gender Equality Task Force,
Co-Chair; Alaska Bar Gender Equality Section, Co-Chair; Alaska Bar CLE
Committee, Judicial Representative; Criminal Justice Assessment
Commission, Supreme Court Representative, Steering Committee Member.

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

Appellate Judge Questionnaire
2000 Retention - Dana Fabe

Question No. 3

I have enjoyed my term in this position and have found the work to be intellectually challenging and rewarding. All facets of the job -- from deciding cases and writing opinions to performing administrative duties and judicial outreach -- have been fulfilling, and I believe that I have contributed something of value to each of these functions.

Deciding Cases

I spend the majority of my time working on the decisions of the court. I am always well prepared for oral arguments and law conferences and try to make positive contributions to our discussion of the cases. We are presented with many difficult questions, and in listening to the views of my colleagues, I almost always gain a new perspective on an issue. My organizational skills and my administrative and supervisory background have resulted in the efficient flow of work in our chambers. I strive to be prompt in drafting my opinions and recommendations on petitions and in voting on the work of other justices.

Administrative Duties

I enjoy the detail of the rule-making process as well as the larger policy issues involved. I have also worked on many court committees. In my work as chair of the Judicial Education Committee, I have coordinated the details of four judicial conferences, on such topics as Judicial Writing, Alternative Dispute Resolution, Scientific Evidence in the Courtroom, and Community Outreach. For the past two years, I have chaired the Supreme Court's Access to Civil Justice Task Force, examining ways to increase the accessibility of the courts to the poor and persons of moderate means. I have been involved in the Joint Federal-State Gender Equality Task Force as co-chair with Chief Judge James Singleton, and I worked on its transition to a new section of the Alaska Bar Association. I believe that I have a talent for administrative matters, and this part of the job has been particularly gratifying.

Community Outreach

One of the most wonderful aspects of this position has been the increased opportunity to work with the youth of our community. I have made presentations in dozens of elementary, middle, and high schools and participated on community panels designed for young people on such topics as Brown v. Board of Education, Ethical Reporting of Controversial Cases, and Using Math in the Workplace.

Question No. 3 Cont'd

Last week I read Yertle the Turtle to elementary school kids, and I have given commencement addresses at local high schools and installed new members of the National Honor Society. I have trained judges of the Anchorage Youth Court and conducted the installations of youth court attorneys in Kenai and Homer. These opportunities have been among the most rewarding of my term in this position.

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 X.

- b) been involved in a nonjudicial capacity in any legal proceeding whether as a party or otherwise? Yes _____ No X.

- c) engaged in the practice of law (other than as a judge)? Yes _____ No X.

- d) held office in any political party? Yes _____ No X.

- e) held any other local state or federal office? Yes _____ No X.

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.

Please see attached.

Appellate Judge Questionnaire
2000 Retention - Dana Fabe

Question No. 4

In addition to my work on court and bar committees, I have taken an active role in judicial outreach to the community. I planned and coordinated Law Day 1999, an effort to have all judicial officers statewide meet with students in classrooms and courtrooms. I have participated in a wide variety of projects with the Anchorage schools, including:

Commencement speaker at East High;

Honors commencement speaker at West High;

Baccalaureate speaker at Service High;

Keynote speaker for National Honor Society installations at West High and Goldenview Middle School;

Keynote speaker for district-wide Math Experience conference for middle school girls;

Participant in the Athena Program for sixth graders at O'Malley and Klatt Elementary Schools;

Panelist on Brown v. Board of Education forum at the Loussac Library;

Speaker for many high school government classes, both in the classroom and in the courtroom;

I have also provided annual training to the Youth Court judges and conducted installations of new youth court attorneys in Anchorage, Kenai, and Homer.

I have spoken at many conferences, including:

National Federation of Paralegal Associations;

International Association of Women Police Officers;

U.S. Equal Employment Opportunity Commission;

Matanuska-Susitna Women's Conference;

Kenai Peninsula League of Women Voters;

Alaska Women's Resource Center;

Alaska Women's Conference;

King County Washington Women Lawyers;

Conference for Psychotherapists on "Ethics in the Trenches: Boundaries for Professionals".

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 Please see attached. _____	_____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
2 Please see attached. _____	_____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

<i>Name of Case</i>	<i>Case Number</i>
3 Please see attached. _____	_____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Appellate Judge Questionnaire
2000 Retention - Dana Fabe

Question No. 5

NAME OF CASE	CASE NUMBER
1. <u>Virgin v. Virgin</u>	No. S-8686

Attorneys Involved

Name: Lynda Limon
Address: 742 K Street
Anchorage, AK 99501

Name: Colleen Baxter
Wayne A. Ross
Address: 327 E. Fireweed
Suite 201
Anchorage, AK 99503

NAME OF CASE	CASE NUMBER
2. <u>Tybus v. Holland</u>	No. S-8559/8560

Attorneys Involved

Name: William Ford
Address: 745 West 4th Avenue
Suite 501
Anchorage, AK 99501

Name: Deidre Ganopole
Address: 431 West 7th Avenue
Suite 107
Anchorage, AK 99501

NAME OF CASE	CASE NUMBER
3. <u>I.R.H.A. v. James</u>	No. S-8493/8563

Attorneys Involved

Name: Tracey Knutson
Address: 445 West 9th Avenue
Anchorage, AK 99501

Name: Michael Stepovich
Allen Vacura
Address: 543 2nd Avenue
Suite A
Fairbanks, AK 99701

4

Name of Case

Case Number

Please see attached.

Attorneys Involved

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

5

Name of Case

Case Number

Please see attached.

Attorneys Involved

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

6

Name of Case

Case Number

Please see attached.

Attorneys Involved

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Question No. 5 Cont'd

NAME OF CASE	CASE NUMBER
4. <u>Smithart v. State of Alaska</u>	No. S-8358

Attorneys Involved

Name: Andrew Lambert
Address: 711 H Street
Suite 320
Anchorage, AK 99501

Name: John Scukanec
Address: 310 K Street
Suite 308
Anchorage, AK 99501

NAME OF CASE	CASE NUMBER
5. <u>Wasserman v. Bartholomew</u>	No. S-8238

Attorneys Involved

Name: William Satterberg, Jr.
Address: 709 4th Avenue
Fairbanks, AK 99701

Name: Daniel Winfree
Address: 119 N. Cushman
Suite 400
Fairbanks, AK 99701

Name: James McLain
Address: 709 4th Avenue
Fairbanks, AK 99701

Name: Randy Olsen
Address: 100 Cushman
Suite 400
Fairbanks, AK 99701

NAME OF CASE	CASE NUMBER
6. <u>Sherbahn v. Kerkove</u>	No. S-8222

Attorneys Involved

Name: Maryanne Boreen
Address: 711 H Street
Suite 510
Anchorage, AK 99501

Name: Rebecca Hozubin
Address: 1215 West 8th Avenue
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 Please see attached. *Case Number* _____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

2

Name of Case Please see attached. *Case Number* _____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

3

Name of Case Please see attached. *Case Number* _____

Attorneys Involved

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Name: _____
Address: _____

Appellate Judge Questionnaire
2000 Retention - Dana Fabe

Question No. 6

NAME OF CASE	CASE NUMBER
1. <u>Weiss v. State of Alaska</u>	No. S-6845

Attorneys Involved

Name: David T. Walker
Address: 417 Harris Street
Juneau, AK 99801

Name: James B. Gottstein
Bruce A. Moore
Address: 406 G Street
Suite 206
Anchorage, AK 99501

Name: James H. Parker
Address: 900 W. 5th Avenue
Suite 525
Anchorage, AK 99501

Name: Philip R. Volland
Address: 211 H Street
Anchorage, AK 99501

Name: Brian Bjorkquist
Address: 1031 W. 4th Avenue
Suite 200
Anchorage, AK 99501

Name: Nathaniel Atwood
Address: 800 A Street
Suite 204
Anchorage, AK 99501

Name: Julian L. Mason
William S. Cummings
Address: 1130 W. 6th Avenue
Suite 100
Anchorage, AK 99501

Name: G. Thomas Koester
Address: 2550 Fritz Cove Rd.
Juneau, AK 99801

NAME OF CASE	CASE NUMBER
2. <u>John v. Baker</u>	No. S-8099

Attorneys Involved

Name: Andrew Harrington
Address: 1648 Cushman Street
Suite 300
Fairbanks, AK 99701

Name: Mark W. Regan
Address: 419 6th Street
Suite 322
Juneau, AK 99801

Name: J. John Franich, Jr.
Address: 100 Cushman St.
Suite 502
Fairbanks, AK 99701

Name: Brant McGee
Address: 900 W. 5th Avenue
Suite 525
Anchorage, AK 99501

Question No. 6 Cont'd

Name: Deborah Niedermeyer
Address: 754 9th Avenue
Fairbanks, AK 99701

Name: D. Rebecca Snow
Address: 100 Cushman Street
Suite 400
Fairbanks, AK 99701

Name: Harold N. Brown
Michael J. Walleri
Address: 122 1st Avenue
Suite 600
Fairbanks, AK 99701

Name: Heather Kendall-Miller
Martha L. King
Address: 420 L Street
Suite 505
Anchorage, AK 99501

Name: Lloyd Benton Miller
Address: 900 W. 5th Avenue
Suite 700
Anchorage, AK 99501

Name: Vance A. Sanders
Address: 617 Willoughby Avenue
Suite 457
Juneau, AK 99801

Name: Lois J. Schiffer
David C. Shilton
Ethan G. Shenkman
Address: P.O. Box 23795
Washington, D.C. 20026

Name: John D. Leshy
Sandra J. Ashton
Address: Office of the
Solicitor
Dept. of the Interior
Washington, D.C. 20240

NAME OF CASE

CASE NUMBER

3. General Motors v. Farnsworth

No. S-7700

Attorneys Involved

Name: Daniel Gerety
Donald C. Thomas
Address: 1007 West 3rd Avenue
Suite 400
Anchorage, AK 99501

Name: Neil T. O'Donnell
Richard E. Vollertsen
Address: 420 L Street
Suite 500
Anchorage, AK 99501

Name: Anne E. Kane
Address: 1600 Market St.
Suite 3600
Philadelphia, PA 19103

MEMORANDUM

TO: Judicial Council Members

FROM: Staff

DATE: May 16, 2000

RE: Comparison of Previous Survey Results - Dana Fabe

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

Justice Fabe previously stood for retention as a superior court judge in 1992. She was evaluated with the other non-retention judges in 1990 and 1998.

Justice Fabe applied for and was appointed to head the Public Defender Agency in 1981 (survey scores attached). She was appointed to the Anchorage Superior Court in 1988 and the Supreme Court in 1996.

Justice Dana Fabe						
Retention surveys						
	2000 Retention	1998 Retention Preview	1992 Retention		1990 Retention Preview	
	Bar	Bar	Bar	PPO	Bar	PPO
Legal Ability	4.4	4.6	4.4	—	4.3	---
Fairness	4.2	4.4	4.4	3.7	4.3	3.4
Integrity	4.4	4.6	4.5	3.8	4.5	3.5
Judicial Temperament	4.4	4.6	4.4	3.6	4.3	3.5
Diligence	4.6	—	—	—	—	---
Administrative Skills	—	—	4.4	3.5	4.3	3.5
Overall Performance	4.4	4.5	4.4	3.6	4.2	3.2

Justice Dana Fabe				
appointed to Supreme Court 1/26/96				
	1996 Supreme Court		1988 Anchorage Superior	
	Score	Range	Score	Range
Professional Competence	4.6	Excellent	4.1	Good
Integrity	4.6	Excellent	4.1	Good
Fairness	4.4	Excellent	3.9	High Acceptable
Judicial Temperament	4.4	Excellent	3.9	High Acceptable
Suitability of Experience	4.4	Excellent	3.8	High Acceptable
Overall Performance	4.5	Excellent	—	---