



# alaska judicial council

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## Alaska Judicial Council Appellate Judge Questionnaire

### 2012 Candidates for Judicial Retention

October 2011

Joel H. Bolger

Name

Alaska Court of Appeals

Court

1. Please estimate your workload during your present term.

- a)        % civil cases                      b)   0   # of trials/year (as trial judge, if any)  
   100 % criminal cases  
          % court administrative work  
   100 % Total

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

For the court system, I serve as the Chair of the Conference Planning Committee and as a member of the Appellate Rules Committee, the Criminal Pattern Jury Instructions Committee, and the Fairness Diversity & Equality Committee. During this term, I planned several judicial conferences and personally presented programs on Recent Appellate Decisions and Search Warrants for Electronic Data.

For the Alaska Bar Association, I serve on the Bar Convention Steering Committee and the Continuing Legal Education Committee. I served as a judge for the Statewide Mock Trial Competition and sat on panels for bar association programs entitled Appellate Off-the-Record and Increasing Diversity in Alaska's Judiciary. I am scheduled to serve on a panel presentation for new appellate lawyers in November 2011.

3. 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 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.

On the court of appeals, I have written over 150 opinions and memorandum decisions on criminal law issues, as well as participating in over 300 decisions written by the other two judges. In 2009, I sat on two cases with the Alaska Supreme Court and wrote the opinions in *Smallwood v. Central Peninsula General Hosp.*, 227 P.3d 457 (Alaska 2010) and *Henrichs v. Chugach Alaska Corp.*, 2011 WL 3795531 (Alaska Aug. 26, 2011).

It has been a great honor for me to serve on a multi-judge court and to consider legal issues of statewide significance. During this process, I have tried to maintain the proper deference to the opinions of my colleagues, to the importance of precedent, to the special competencies of legislative and executive branch officials, and to the factual determinations of lower courts and juries.

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 non-judicial 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
  - f) had any complaints, charges or grievances filed against you with the Alaska Commission on Judicial Conduct, the Alaska Bar Association, or with the Alaska Court System that resulted in public proceedings or sanctions?  Yes  No

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

6. Please provide any other information which you believe would assist the Council in conducting its evaluations and in preparing its recommendations for the 2012 retention elections.

Thank you for the time you volunteer for these important evaluations.

**For questions 7 and 8, please do not list any cases that have pending issues in your court.**

7. Please list your six most recent opinions including case names and numbers. Please list the names, current addresses, including zip codes and suite numbers where applicable, of each attorney involved in these appeals. (Attach additional pages if necessary.)

**Case Number 1**

**Case Name:** Robert Henrichs **Case Number:** S-12878  
**v.** Chugach Alaska Corporation

**Attorneys Involved:**

<b>Name:</b> <u>Frederick Triem</u>	<b>Name:</b> <u>Robert Hume</u>
<b>Address:</b> <u>PO Box 129</u>	<b>Address:</b> <u>701 West 8th Ave. Ste. 1200</u>
<b>City, State, Zip:</b> <u>Petersburg, Alaska 99833</u>	<b>City, State, Zip:</b> <u>Anchorage, Alaska 99501</u>
<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

**Case Number 2**

**Case Name:** Yosbany Moore **Case Number:** A-10351  
**v.** State of Alaska

**Attorneys Involved:**

<b>Name:</b> <u>Beth Trimmer</u>	<b>Name:</b> <u>Tamara de Lucia</u>
<b>Address:</b> <u>1016 West 6th Ave., Ste. 100</u>	<b>Address:</b> <u>310 K Street, Suite 308</u>
<b>City, State, Zip:</b> <u>Anchorage, Alaska 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, Alaska 99501</u>
<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

**Case Number 3**

**Case Name:** Darren Shay **Case Number:** A-10380  
**v.** State of Alaska

**Attorneys Involved:**

<b>Name:</b> <u>Margi Mock</u>	<b>Name:</b> <u>Diane Wendlandt</u>
<b>Address:</b> <u>900 West 5th Ave., Ste. 200</u>	<b>Address:</b> <u>310 K Street, Suite 308</u>
<b>City, State, Zip:</b> <u>Anchorage, Alaska 99501</u>	<b>City, State, Zip:</b> <u>Anchorage, Alaska 99501</u>
<b>Name:</b> _____	<b>Name:</b> _____
<b>Address:</b> _____	<b>Address:</b> _____
<b>City, State, Zip:</b> _____	<b>City, State, Zip:</b> _____

**Case Number 4**

**Case Name:** Thomas Beattie **Case Number:** A-10505  
**v.** State of Alaska

**Attorneys Involved:**

**Name:** Jane Martinez **Name:** Diane Wendlandt  
**Address:** PO Box 113201 **Address:** 310 K Street, Suite 308  
**City, State, Zip:** Anchorage, Alaska 99511 **City, State, Zip:** Anchorage, Alaska 99501

**Name:** \_\_\_\_\_ **Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_ **Address:** \_\_\_\_\_  
**City, State, Zip:** \_\_\_\_\_ **City, State, Zip:** \_\_\_\_\_

**Case Number 5**

**Case Name:** Brenda Cleveland **Case Number:** A-10466  
**v.** State of Alaska

**Attorneys Involved:**

**Name:** Jane Martinez **Name:** Tamara de Lucia  
**Address:** PO Box 113201 **Address:** 310 K Street, Suite 308  
**City, State, Zip:** Anchorage, Alaska 99511 **City, State, Zip:** Anchorage, Alaska 99501

**Name:** \_\_\_\_\_ **Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_ **Address:** \_\_\_\_\_  
**City, State, Zip:** \_\_\_\_\_ **City, State, Zip:** \_\_\_\_\_

**Case Number 6**

**Case Name:** Winona Fletcher **Case Number:** A-10455  
**v.** State of Alaska

**Attorneys Involved:**

**Name:** Beth Trimmer **Name:** Nancy Simel  
**Address:** 1016 West 6th Ave., Ste. 100 **Address:** 310 K Street, Suite 308  
**City, State, Zip:** Anchorage, Alaska 99501 **City, State, Zip:** Anchorage, Alaska 99501

**Name:** \_\_\_\_\_ **Name:** \_\_\_\_\_  
**Address:** \_\_\_\_\_ **Address:** \_\_\_\_\_  
**City, State, Zip:** \_\_\_\_\_ **City, State, Zip:** \_\_\_\_\_

# Alaska Judicial Council Recommendation

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## Judge Joel H. Bolger, Alaska Court of Appeals

### Judicial Council Recommendation 2012

The Alaska Judicial Council is a non-partisan citizens' commission established by the Alaska constitution. Alaskan law requires the Council to evaluate judges' performance and authorizes the Council to recommend to voters whether judges should be retained in office. The Judicial Council reviews judges' integrity, diligence, legal ability, fairness, demeanor, ability to manage their caseloads, and overall performance of their judicial responsibilities in and out of the courtroom. The Judicial Council finds Judge Bolger to be **Qualified** and recommends unanimously that the public vote "YES" to retain him as a court of appeals judge.

### Judicial Council Evaluation

The Judicial Council surveyed thousands of Alaskans including peace and probation officers, court employees, attorneys, jurors, social workers and guardians ad litem about the judges on the ballot. Respondents were asked to rate judicial performance and to submit comments. The Council also reviewed the ratings and observations of the Alaska Judicial Observers, independent community-based volunteers. The Council reviewed the judge's peremptory challenge, recusals, and appellate affirmance and reversal rates; any civil or criminal litigation involving the judge; APOC and court system conflict-of-interest statements; any disciplinary files involving the judge; and whether a judge's pay was withheld for an untimely decision. The Council reviewed other court records and investigated judicial conduct in specific cases. The Council interviewed some judges, attorneys, and court staff, and held a statewide public hearing to obtain comments about judges.

	Attorney Survey	Court Employee Survey
Legal Ability	4.4	---
Impartiality	4.3	4.9
Integrity	4.5	4.9
Temperament	4.5	4.9
Diligence	4.5	4.8
Overall	4.4	4.9

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

#### Rating Scale

5.0 = Excellent  
4.0 = Good  
3.0 = Acceptable  
2.0 = Deficient  
1.0 = Poor

### Summary of Survey Information

Survey respondents rated Judge Bolger on the categories summarized in the table above, using 5 as the highest rating possible. The attorney rating for Judge Bolger on overall performance was 4.4. Court employees gave him 4.9.

**Recommendation: Vote "YES" to retain Judge Joel Bolger**

For more information go to  
[www.knowyouralaskajudges.com](http://www.knowyouralaskajudges.com)

## Judge Joel H. Bolger: Detailed Information Responses Alaska Bar Association Members

	Legal Ability		Impartiality/ Fairness		Integrity		Judicial Temperament		Diligence		Overall Evaluation	
	Mean	N	Mean	N	Mean	N	Mean	N	Mean	N	Mean	N
<b>Basis for Evaluation</b>												
No Response		0		0		0		0		0		0
<b>Direct Professional</b>	<b>4.4</b>	<b>140</b>	<b>4.3</b>	<b>141</b>	<b>4.5</b>	<b>140</b>	<b>4.5</b>	<b>139</b>	<b>4.5</b>	<b>130</b>	<b>4.4</b>	<b>143</b>
Experience in last 5 yrs	4.4	119	4.3	120	4.5	119	4.4	118	4.5	110	4.3	121
Experience not in last 5 yrs	4.2	19	4.4	19	4.4	19	4.5	19	4.5	18	4.3	19
Professional Reputation	4.3	44	4.3	43	4.4	41	4.4	42	4.3	38	4.4	45
Other Personal Contacts	4.7	9	4.6	10	4.6	10	4.8	10	4.7	10	4.7	10
<b>Type of Practice</b>												
No Response		5		4		5		6		15		2
Private, Solo	3.8	23	3.7	23	4.3	23	4.1	24	4.2	22	3.8	25
Private, 2-5 Attorneys	3.6	13	3.6	14	3.7	14	3.6	14	3.8	14	3.6	14
Private, 6+ Attorneys	4.7	11	4.8	11	4.9	11	4.9	9	5.0	9	4.7	11
Private, Corporate Employee	4.0	1	4.0	1	4.0	1	5.0	1	5.0	1	4.0	1
Judge or Judicial Officer	4.7	42	4.7	42	4.8	42	4.7	41	4.8	37	4.8	42
Government	4.5	43	4.4	43	4.6	42	4.5	43	4.6	40	4.4	43
Public Service Agency/Org	--	0	--	0	--	0	--	0	--	0	--	0
Other	4.5	4	4.5	4	4.5	4	4.3	4	4.5	4	4.5	4
<b>Years of Practice in Alaska</b>												
No Response		15		4		5		5		14		2
5 Years or fewer	4.2	6	4.4	5	4.6	5	4.7	6	4.7	6	4.2	6
6 to 10 years	4.0	8	3.7	9	4.3	9	3.9	8	4.3	8	3.9	8
11 to 15 years	4.1	4	4.1	14	4.4	14	4.1	14	4.5	12	4.1	14
16 to 20 years	4.3	12	4.1	12	4.5	12	4.6	11	4.4	11	4.2	12
21 years or more	4.5	90	4.5	91	4.6	90	4.5	91	4.6	84	4.5	93
<b>Gender</b>												
No Response		5		4		5		5		14		2
Male	4.4	94	4.4	96	4.5	95	4.4	95	4.5	89	4.4	98
Female	4.4	43	4.3	42	4.6	42	4.5	42	4.5	39	4.4	42
<b>Cases Handled</b>												
No Response		5		4		5		6		14		2
Prosecution	5.0	9	4.9	9	5.0	8	4.9	9	4.9	8	5.0	9
Mainly Criminal	4.0	14	3.7	13	4.0	13	3.9	14	4.5	14	3.7	13
Mixed Criminal & Civil	4.3	61	4.3	61	4.4	61	4.3	59	4.4	53	4.3	62
Mainly Civil	4.5	40	4.6	42	4.7	42	4.7	42	4.6	41	4.5	43
Other	4.6	9	4.7	9	4.8	9	4.8	8	4.8	8	4.7	9
<b>Location of Practice</b>												
No Response		5		4		5		6		15		2
First District	4.5	12	4.5	12	4.7	11	4.6	11	4.6	8	4.4	12
Second District	5.0	2	5.0	2	5.0	2	5.0	2	5.0	2	5.0	2
Third District	4.4	102	4.3	103	4.5	103	4.5	102	4.5	97	4.4	104
Fourth District	4.2	20	4.1	20	4.3	20	4.0	20	4.3	19	4.0	21
Outside of Alaska	5.0	1	5.0	1	5.0	1	5.0	1	5.0	1	5.0	1

Note: Ratings for only those respondents who reported direct professional experience with the judge.

<b>Distribution of Court Employee Ratings*</b> <b>2012 Retention Evaluation</b> <b>Joel H. Bolger</b>							
<b>Survey Category</b>	<b>Number of Responses</b>						
	<b>Total</b>	<b>Excellent</b>	<b>Good</b>	<b>Acceptable</b>	<b>Deficient</b>	<b>Poor</b>	<b>Mean</b>
<b>Impartiality/Fairness</b>	33	30	2	1	0	0	<b>4.9</b>
<b>Integrity</b>	32	30	1	1	0	0	<b>4.9</b>
<b>Judicial Temperament</b>	33	30	2	1	0	0	<b>4.9</b>
<b>Diligence</b>	32	28	3	1	0	0	<b>4.8</b>
<b>Overall Evaluation</b>	33	31	1	1	0	0	<b>4.9</b>

\* Ratings are based on direct professional experience.



# Current and Prior Retention Scores

## Joel H. Bolger

Appointed	Name of Court
7/3/1997	Valdez District Ct
9/2/2003	Kodiak Superior Ct
8/29/2008	Ct of Appeals

### Retention Attorney Bar Scores

Year	Legal Ability	Impartiality	Integrity	Temperament	Dilligence	Special Skills	Overall Performance
2000	4.4	4.5	4.5	4.6	4.5	4.6	4.5
2006	4.4	4.5	4.6	4.5	4.5		4.5
2012	4.4	4.3	4.5	4.5	4.5		4.4

### Peace and Probation Officer Survey Scores

Year	Impartiality	Integrity	Temperament	Diligence	Special Skills	Overall Performance
2000	4.5	4.5	4.6	4.5	4.3	4.4
2006	4.4	4.7	4.5	4.6		4.6
2012						