



alaska judicial council

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MEMORANDUM

TO: Judicial Council

FROM: Staff

DATE: May 3, 1996

RE: Recusal Records for Retention Judges

Alaska Statute § 22.20.020 and Canon 3C of the Code of Judicial Conduct describe the circumstances in which a judge should be disqualified from hearing a particular matter. Alaska Statutes § 22.20.020 prohibits a judge from acting in certain matters, for example, matters in which the judge is a party or material witness, matters in which the judge or a member of the judge's family has a direct financial interest, or matters in which the judge or the judge's former law firm represented either party in the case.

Judicial Canon 3C is a similar rule. It requires a judge to recuse (disqualify) him or herself from proceedings in which the judge's impartiality might reasonably be questioned. The canon gives a number of examples of proceedings in which a judge's impartiality might be questioned: when the judge has a personal bias against a party, when the judge or the judge's former law partner served as a lawyer in the matter in controversy, or when the judge or a member of the judge's family has a financial interest in the case or in a party.

Canon 5 of the Code of Conduct advises judges to regulate their extra-judicial activities to minimize the risk of conflict with their judicial duties. For example, a judge should refrain from

financial and business dealings that tend to interfere with the proper performance of judicial duties or involve the judge in frequent transactions with lawyers or persons likely to come before the court.

The table shows the number of cases from which each trial court retention judge recused him or herself over his or her past term of office.

RECUSAL RECORDS FOR RETENTION JUDGES						
Judge	1991	1992	1993	1994	1995	1996 (1st quarter)
Carpeneti	5	4	2	3	5	4
Thompson			3	3	4	2
Card	--	--	0	0	0	not available
Shortell	1	0	6	0	0	not available
Savell	not avail	not avail	not avail	11	15	5
Beistline		2	23	27	33	7
Ashman	--	--	0	0	0	not available
Finn	--	--	1	0	0	not available
Fuld	--	--	0	0	0	not available
Joannides	--	--	0	0	0	not available
Pengilly	--	--	4	3	2	1
Wanamaker	--	--	0	0	0	not available
Wood	--	--	11	8	12	3

Of the thirteen 1996 retention judges, only Judge Beistline shows a significant number of recusals. Almost all of the cases from which Judge Beistline recused himself are civil. Before being appointed to the bench, he worked for the large private civil litigation firm of Hughes, Thorsness, etc. Under Canon 3 and AS 22.20.020, Judge Beistline would be expected to recuse himself from matters in which he or a former partner represented a party.