THE YEAR IN REVIEW 2025

SELECTED CASES FROM THE ALASKA SUPREME COURT, THE ALASKA COURT OF APPEALS, THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF ALASKA, AND THE NINTH CIRCUIT

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Introduction

The *Alaska Law Review*'s Year in Review is a collection of brief summaries of selected state and federal cases concerning Alaska law. They are neither comprehensive in breadth, as several cases are omitted, nor in depth, as many issues within individual cases are omitted. Attorneys should not rely on these summaries as an authoritative guide; rather, they are intended to alert the Alaska legal community to judicial decisions from the previous year. The summaries are grouped by subject matter. Within each subject, the summaries are organized alphabetically.

Administrative Law

Bittner v. Board of Game

In *Bittner v. Board of Game*, 563 P.3d 1123 (Alaska 2025), the Supreme Court of Alaska held that an Alaska resident who alleged an interest-injury caused by amendments to the State's predator control program, which expanded the killing of bears and wolves, had standing to sue. (*Id.* at 1131). The Board of Game in Alaska expanded its predator control program in 2021, which was designed to boost the population of Caribou. (*Id.* at 1125). As part of this effort, the Board allowed the targeted killing of wolves, brown bears, and black bears. (*Id.* at 1125). Michelle Bittner, an Alaska resident, challenged the amendment, arguing regulations affecting wildlife in Alaska must take into consideration both consumptive and "non-consumptive" uses of wildlife, such as wildlife viewing, conservation, photography, and "just knowing that wildlife is flourishing in Alaska." (*Id.* at 1126). The superior court granted the Board's motion to dismiss Bittner's complaint because it determined that Bittner had not alleged an injury sufficient to establish standing and was not an interested person "within the meaning of the APA." (*Id.* at 1127). The Supreme Court of Alaska disagreed, holding that at the motion to dismiss stage, where all facts in the complaint must be taken as true, Bittner's complaint established a sufficient interest injury. (*Id.*). Interests that establish standing include aesthetic or environmental interests. (*Id.* at 1128). Here, the Court held that Bittner's travels through Western Alaska, including visiting Katmai both before and after the new predator control program was implemented, were enough to establish a personal and specific aesthetic injury for standing. (*Id*.). Katmai is roughly 100 miles from where the predator control efforts were taking place, but Bittner alleged that staff members there told her that the population of Brown bears was noticeably smaller after the policy was enacted. (*Id.* at 1128–29). The Court was not persuaded by the fact that Bittner herself had never observed a brown bear, or that Bitner never alleged that she ever visited or intended to visit the specific areas where the predator control was occurring because bears can roam for distances of up to 100 miles. (*Id.*). The Court also clarified that when a person has interest-injury standing to challenge the validity of a regulation, the party is also an "interested person" within the meaning of the APA. (*Id.* at 1130). Reversing the superior court's decision, the Supreme Court of Alaska thus held that Bittner had standing to sue. (*Id.* at 1131).

Department of Fish and Game v. Cook Inletkeeper

In *Department of Fish and Game v. Cook Inletkeeper*, 576 P.3d 654 (Alaska 2025), the Supreme Court of Alaska held that the Commissioner of the Department of Fish and Game had the authority to repeal a regulation through the rulemaking process. (*Id.* at 659). Alaska's Board of Fisheries, Board of Game, and Department of Fish and Game implement restrictions on how Critical Habitat Areas (CHAs) may be used. (*Id*.). The Commissioner of the Department of Fish and Game adopted a regulation banning jet skis in two CHAs before repealing the ban through the rulemaking process years later. (*Id*.). Conservation groups challenged the repeal, arguing it was inconsistent with the governing statutes and unsupported by scientific evidence. (*Id.*). The superior court granted summary judgment for the conservation groups and reinstated the jet ski ban, arguing that the Commissioner did not have the authority to repeal the ban and the repeal conflicted with the purpose of the CHA statutes. (*Id.* at 661). The Supreme Court reversed,

concluding that the Commissioner had the authority to enact *and* repeal the jet ski ban. (*Id*. at 663). The Court looked at the Commissioner's implied statutory authority to approve uses within the CHAs and found that the authority to promulgate rules implied the authority to repeal them. (*Id*.). And while the Boards of Fishers and Game have the statutory authority to determine which uses of CHAs are compatible with protecting critical habitats, the Court found that they had delegated this authority to the Commissioner. (*Id.* at 666). Furthermore, the Court noted that the repeal was not inconsistent with the CHA statute because the statute contemplated allowing certain uses that may adversely affect the habitat. (*Id.* at 667). Lastly, the repeal of the ban was reasonable in that the Commissioner adequately studied the scientific evidence, considered the opinions of experts, did not predetermine the outcome, and acted consistently with existing regulations and policy. (*Id*. at 671–74). Reversing the lower court's decision, the Supreme Court held that the Commissioner of the Department of Fish and Game possesses broad authority to enact and repeal regulations through the rulemaking process. (*Id*. at 663).

Rivera v. Department of Administration, Division of Motor Vehicles

In *Rivera v. State, Department of Administration, Division of Motor Vehicles*, 564 P.3d 1040 (Alaska 2025), the Supreme Court of Alaska determined that a driver whose license has been revoked in another state cannot obtain a new driver's license in Alaska while that revocation is still in effect. (*Id.* at 1044). The Court upheld the Alaska Division of Motor Vehicles (DMV) decision to deny Joseph Rivera's application for an Alaska driver's license (*Id.*). Rivera's license was revoked permanently in New York after three alcohol-related offenses, and the Alaska DMV denied him an Alaska license during the active revocation period. (*Id.* at 1043). The Court found that Alaska Statute AS 28.15.031(b)(1), which prohibits licensing any person whose driving privileges are suspended or revoked in Alaska or any other state, does not conflict with the Interstate Driver License Compact. (*Id*. at 1045). Additionally, the Court ruled that other related Alaska statutes regarding license applications and record sharing comply with the Compact and do not override it. (*Id*. at 1046). The Court reasoned that New York's revocation of Rivera's license did not improperly cede Alaska's authority, as the Alaska DMV applied its own laws. (*Id.* at 1049). As a result, the judgment affirming the DMV's denial of Rivera's application was upheld. (*Id.* at 1051).

Business Law

Business Doe, LLC v. State

In *Business Doe, LLC v. State*, 574 P.3d 1167 (Alaska 2025), the Supreme Court of Alaska held an anonymous letter sent to the Consumer Protection Unit (CPU) of the Alaska Attorney General's Office provided sufficient basis for the unit to issue a subpoena on a business. (*Id.* at 1173). In August of 2023, the CPU received an anonymous letter alleging two local car dealerships, including Business Doe, were charging additional fees on top of advertised prices in violation of AS 45.25.440. (*Id.* at 1168). Attached to the letter was an email exchange between an alleged Business Doe employee and another individual, which confirmed the dealership was charging documentation fees on top of advertised pricing. (*Id.*). A member of the CPU went to Business Doe posing as a potential customer and was told by two employees there would be additional document fees on the advertised price. (*Id.*). CPU then issued a subpoena to Business Doe. (*Id.*). Business Doe argued CPU must have cause to believe that a violation of AS 45.50.471 has occurred or will occur before it can authorize an investigation, and CPU's investigation was based on an interest in the industry in general rather than the specific business practices of Business Doe. (*Id.* at 1169). The parties disagreed on what is required to have "cause to believe" a violation has occurred under AS 45.50.495(a). (*Id.* at 1171). The Supreme Court did not decide this question because, regardless of what the statute requires, there was sufficient cause for the subpoena. (*Id.* at 1171). The anonymous letter CPU received provided sufficient basis for CPU to issue a subpoena as the letter directly accused Business Doe of charging additional fees, and the attached email correspondence provided additional support to the letter's accusations. (*Id.*). Affirming the lower court's decision, the Supreme Court concluded the anonymous letter provided a sufficient basis for the CPU to open an investigation into Business Doe's practices. (*Id.* at 1173).

Johnson v. Albin Carlson & Co.

In *Johnson v. Albin Carlson & Co.*, 569 P.3d 1178 (Alaska 2025), the Supreme Court of Alaska determined the trial court abused its discretion by preventing a subcontractor from pursuing certain claims. (*Id.* at 1184). The lower court's decision was based on limited discovery documentation without first considering less severe sanctions. (*Id.*). Morris Johnson's construction company performed additional work on a time and materials basis for general contractor Albin Carlson & Co. (PAC) on a remote bridge in Alaska. (*Id.* at 1185). Disputes arose about final payments and documentation. (*Id.* at 1187, 1193). The superior court partially excluded Johnson's claims due to incomplete disclosures and awarded only limited damages following a bench trial. (*Id.* at 1188). According to Alaska Civil Rules, claim-ending sanctions should only be applied in extreme cases— and after exploring alternative options. (*Id.* at 1191). On appeal, the Alaska Supreme Court concluded that excluding entire claims without first considering lesser discovery sanctions was an abuse of discretion. (*Id.*). The Court further specified that the extra-work claim was not a total-cost claim but approved the trial judge's use of the jury-verdict method to estimate damages from the available evidence. (*Id.* at 1194). Ultimately, the Court vacated the award of attorneys' fees to the prevailing party and directed the

lower court to recalculate certain damages, as well as reassess fees and interest in accordance with its ruling. (*Id.* at 1200–01).

Kaiser-Francis Oil Co. v. Deutsche Oil & Gas, S.A.

In *Kaiser-Francis Oil Co. v. Deutsche Oil & Gas, S.A.*, 566 P.3d 252 (Alaska 2025), the Supreme Court of Alaska determined that the law governing whether to pierce the corporate veil of a foreign corporation should be assessed using an interest-based analysis rather than strictly following the internal affairs doctrine. (*Id.* at 262). Kaiser-Francis Oil (a Delaware Co.) and a related LLC sold Aurora Gas (an Alaska LLC) to Rieck Oil (a Delaware Co.). (*Id.* at 255). When Rieck Oil breached its contract related to well remediation on Alaska Native lands, Kaiser-Francis sought to hold Rieck personally liable by attempting to pierce Rieck Oil's corporate veil. (*Id.* at 256). The superior court applied Delaware law—since Rieck Oil was incorporated in Delaware—and declined to pierce the veil, finding no evidence of fraud or injustice. (*Id.*). On appeal, the Alaska Supreme Court ruled that this was the incorrect legal framework. The Court explained that veil-piercing does not concern an internal corporate affair. (*Id.* at 262). Therefore, Alaska courts should, instead, employ an interests-balancing approach derived from the Restatement (Second) of Conflict of Laws. (*Id.* at 262). Applying that test, the Court concluded that Alaska had the predominant interest in this case: the conduct, parties, and environmental liabilities were all connected to Alaska (*Id.* at 266–67); Rieck Oil had no operational ties to Delaware. (*Id.* at 267). Moreover, since Alaska's veil-piercing standard could lead to a different outcome than Delaware's standard, the Court vacated the judgment and remanded the case for reconsideration under Alaska law. (*Id.*).

Portfolio Recovery Associates, LLC v. Duvall

In *Portfolio Recovery Associates, LLC v. Duvall*, 568 P.3d 1224 (Alaska 2025), the Supreme Court of Alaska held that debt purchasers seeking to collect debt not expressly authorized by the agreement that created the debt or permitted by law, and that filing suit without adequate proof of debt ownership and amounts are violations Alaska's Unfair Trade Practices and Consumer Protection Act (UTPA) and that consumers who prevail on these claims may be awarded statutory damages and attorneys' fees. (*Id.* at 1242, 1249, 1252–53, 1255–56). The court consolidated three appeals from the superior court, all of which challenged debt purchaser Portfolio Recovery Associates, LLC's debt-collection practices. (*Id.* at 1230). In all three cases, Portfolio Recovery Associates, LLC filed suit against credit card holders for past-due debt. (*Id.*). In response, the credit card holders filed counterclaims alleging violations of the UTPA and filed for summary judgement. (*Id.*). The lower court found that in each of the three cases Portfolio failed to present adequate evidence that they were the rightful owners of the debt, or evidence of the actual amount owed by each card holder. (*Id.*). Thus, the lower court granted the card holder's motions for summary judgment and some of their UTPA counterclaims, awarding attorneys' fees accordingly. (*Id.*). Reasoning that debt-collection claims are governed by contract law in Alaska, the Court affirmed the superior court's finding that debt requires specific proof of assignment to be collected and the only debt that may be collected is debt authorized by the agreement or otherwise permitted under law. (*Id.* at 1242, 1249). Further finding that the card holder's counterclaims met the evidentiary standards required by summary judgement, the Court

found that the superior court did not err in granting the cardholder's UTPA counterclaims or in granting statutory damage awards. (*Id.* at 1254, 1256, 1258). However, the Court remanded to the lower courts for reconsideration of attorneys' fees in two of the cases. (*Id.* at 1260). Affirming on the merits, the Supreme Court held that filing suit to collect debt without permissible proof of the ownership and amount debt, as well as filing to collect interest, late fees, or other incidental charges violates the Alaska UTPA and consumers who prevail on UTPA claims are entitled to statutory damages and attorneys' fees. (*Id.* at 1242, 1249, 1252–53, 1255–56).

Rosauer v. Alaska Diesel Electric, Co.

In *Rosauer v. Alaska Diesel Electric, Inc.*, 771 F. Supp. 3d 1092 (D. Alaska 2025), the United States District Court for the District of Alaska rejected a marine engine repair service's motion for summary judgment, finding genuine issues of material fact. (*Id.* at 1094–95). In this case, a fishing vessel owner sued a repair service, alleging that the repair failed to fix the problem and caused more damage. (*Id.* at 1097–98). During several weeks, the repair service attempted to fix the engine, but it continued to malfunction despite many repairs and removals of the fuel pump. (*Id.* at 1095). Following attempts to fix the fuel pump, the transmission also failed. (*Id.* at 1096). The vessel owner sued under multiple causes of action: breach of contract, breach of warranty of workmanlike performance, negligence, unfair trade practices and Consumer Protection Act (*Id.* at 1097–1100). The judge found that genuine disputes of material fact existed about whether the attempted repairs disturbed the transmission cooling lines, the timing of engine leaks, and the adequacy of the repairman's qualification, training, and supervision. (*Id.* at 1096–97). Therefore, when the repair service filed for summary judgment, the United States District Court for the District of Alaska denied motion. (*Id.* at 1101–02).

Civil Procedure

Roseberry v. North Slope Borough School District

In *Roseberry v. North Slope Borough School District*, 568 P.3d 338 (Alaska 2025), the Supreme Court of Alaska held that when a trial record clearly shows that a federal court would have declined to exercise supplemental jurisdiction over a state claim that a complainant did not file, claim preclusion does not prevent a later filing in state court. (*Id.* at 348). A principal brought suit against her former school district employer, alleging that she had been fired for whistleblowing against the district. (*Id.* at 340–41). The principal initially brought a federal § 1983 claim and a state-law whistleblower claim in federal court. (*Id.* at 341). The federal court dismissed her § 1983 claim, and declined to exercise supplemental jurisdiction over the state whistleblower claim. (*Id.* at 342). The principal then brought suit in state court, alleging both the state whistleblower claim and three new state causes of action. (*Id.*). The district filed a motion to dismiss the new claims and argued that they were barred under claim preclusion, because the principal did not raise them in her federal court action. (*Id.*). The Supreme Court disagreed, and held that when a federal court dismisses a case before trial, and the record clearly indicates that the court wouldn't have exercised supplemental jurisdiction over the subsequently-added state law claims, claim preclusion does not bar a complainant from filing those claims in state court. (*Id.* at 348).

Constitutional Law

Jouppi v. State

In Jouppi v. State, 566 P.3d 943 (Alaska 2025), the Supreme Court of Alaska held that it was not unconstitutionally excessive punishment to confiscate the airplane of a pilot who attempted to transport alcohol into a dry village. (*Id.* at 947–48). Jouppi, the owner of a private airline company, attempted to fly a passenger into a village that prohibited the sale, consumption, and possession of alcohol. (*Id.* at 948). The passenger brought 3 cases of alcohol on board. (*Id.* at 948). At trial, it was found that Jouppi noticed at least one six-pack of beer. (*Id.* at 948). Before the plane took off, the alcohol was found and seized by state troopers. (*Id.* at 949). As part of his criminal punishment, Jouppi had to forfeit the airplane used in the commission of the offense. (*Id.* at 949). He challenged this punishment as "unconstitutionally excessive" under the Eighth Amendment. (*Id.* at 949). The trial court held that the punishment was unconstitutionally excessive because it was grossly disproportionate to the gravity of the offense committed. (*Id.* at 950). The Court of Appeals remanded to the trial court to conduct additional fact-finding. (*Id.* at 950). The State appealed to the Alaska Supreme Court, arguing that regardless of the findings of the lower court, Jouppi's punishment was not grossly disproportionate to his offense. (*Id.* at 951). The Supreme Court agreed with the State, noting that the legislature is primarily responsible for determining the appropriateness of penalties and that because judicial assessments are imprecise, the Courts should defer to the legislature's judgment. (*Id.* at 953–54). The Court was persuaded by the fact that the statute was amended in 2004 to mandate the forfeiture of aircraft used to unlawfully import alcohol into dry communities due to studies indicating the damage caused by excessive alcohol consumption. (*Id.* at 955–56). The Court also noted that gross disproportionality challenges should "rarely succeed" (*Id.* at 954). Reversing the Court of Appeals' decision, the Supreme Court held that the statutory punishment requiring forfeiture of aircraft involved in transporting alcohol into dry communities was not unconstitutionally excessive. (*Id.* at 958).

Smith v. Municipality of Anchorage

In *Smith v. Municipality of Anchorage,* 568 P.3d 367 (Alaska 2025), the Supreme Court of Alaska remanded the superior court's decision not to rule on whether a "campsite abatement" was proper, holding that the superior court could hear that constitutional issue within its jurisdiction. (*Id.* at 368). The Anchorage Municipal Code identifies "prohibited campsites" as public nuisances and allows the municipality to remove them through an abatement procedure, including the right to appeal to superior court. (*Id.*). In 2022, Anchorage posted a "Notice of Zone Campsite" in Davis Park and ten days later six individuals filed an appeal in superior court, arguing that the decision violated due process and the Eighth Amendment's prohibition of cruel and unusual punishment. (*Id.* at 369). The superior court decided that it had appellate jurisdiction only to the legal sufficiency of the notice and dismissed the constitutional issues. (*Id.*). However, the Supreme Court disagreed with the superior court's reading of the term "final administrative decision" within the AMC 15.20.020: the public nuisance statute. (*Id.* at 371). Specifically, the Court held that this term indicated the date from which the 30-day appeal period began but had no impact on the subject matter of the appeal someone could file during that period. (*Id.*). The

Court then determined that the legislative history of AMC 15.20.020 supported the right to a substantive appeal because during a 2010 amendment the Assembly seemed to endorse a prior substantive due process ruling from superior court. (*Id.* at 373). Finally, the Court noted that if the superior court felt that the record was insufficient for meaningful appellate review it could order a supplemented record or declare a trial de novo. (*Id.* at 376). As a result, the Alaska Supreme Court reversed the superior court's superior court's dismissal and remanded the case for further proceedings. (*Id*.).

Valoaga v. Department of Corrections

In *Valoaga v. State, Department of Corrections*, 563 P.3d 42 (Alaska 2025), the Supreme Court of Alaska held that the Department of Corrections did not violate a pretrial inmate's right to due process by using the preponderance of the evidence standard, rather than the clear and convincing standard, in prison disciplinary proceedings against the inmate for failing to provide a timely urine sample. (*Id.* at 46–48). In April 2022, Defendant Valoaga failed to provide a urine sample for random drug testing within the Department of Correction's two-hour policy. (*Id.* at 44). Valoaga tried to provide the sample multiple times throughout the two-hour period but was having trouble urinating. (*Id.*). Because failure to provide a sample results in discipline, a staff member told Valoaga that he would receive an infraction. (*Id.*). Later that month, a prison disciplinary tribunal found Valoaga guilty for failing to provide the urine specimen. (*Id.*). The tribunal used the preponderance of the evidence standard, which is the burden of proof that Department of Corrections regulations prescribes for prisoner disciplinary hearings. (*Id.*). Valoaga argued that the Supreme Court's decision in *McGinnis v. Stevens*, 543 P.2d 1221 (Alaska 1975) required the Department of Corrections to use a clear and convincing standards in disciplinary hearings, not a preponderance of the evidence standard, and as such, the prison violated his due process rights. (*Id.* at 45). The Alaska Supreme Court affirmed the prison tribunal and the lower courts, holding that a clear and convincing evidence standard is not constitutionally required in this context, and that using a preponderance of the evidence standard did not violate Valoaga's due process rights. (*Id.* at 46). The Court reasoned that, while *McGinnis* established certain minimum due process protections for prison disciplinary proceedings under the Alaska Constitution, the Court expressly rejected that the Constitution required proof beyond a reasonable doubt in such proceedings, and that a lower standard would suffice. (*Id.*). Additionally, applying the balancing test prescribed by *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court found that due process under the Alaska Constitution does not require prison disciplinary decisions to be made by clear and convincing evidence. (*Id.* at 47–48). Accordingly, the Court affirmed the lower court's decision and held that the Department of Corrections did not violate Valoaga's due process rights by using a preponderance of the evidence standard in his disciplinary hearing.

Criminal Law

Ballard v. State

In *Ballard v. State*, 576 P.3d 686 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that signed and notarized calibration reports of a breathalyzer are admissible under the public records exception to hearsay and are self-authenticating documents. (*Id*. at 690–91). Ballard was pulled over on suspicion of driving under the influence. (*Id*. at 688). He was breathalyzed and registered a Blood Alcohol Content over the legal limit. (*Id*.). At trial, the state admitted records of the breathalyzer's calibration reports through the business records exception to hearsay. (*Id*.). Ballard appealed. (*Id*. at 689). On appeal, Ballard claimed that the District Court erred in allowing in the calibration reports, claiming they are hearsay and not subject to the business records exception. (*Id*.). The Court of Appeals affirmed the lower court's ruling on different grounds. (*Id*.). The court reasoned that because breathalyzer calibration reports are a regularly conducted activity by a public agency, they are admissible under the public records exception to hearsay. (*Id*. at 690). The court further reasoned that if a copy of a public record, such as a breathalyzer calibration report, is authenticated by a custodian that the documents are considered self-authenticating. (*Id.* at 691). Affirming the lower court's decision, the Court of Appeals held that signed and notarized calibration reports of a breathalyzer are admissible under the public records exception to hearsay and are self-authenticating documents. (*Id.* at 690–91).

Burney v. State

In *Burney v. State*, 563 P.3d 86 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that the trial court's determination that a jury tampering incident was not presumptively prejudicial was error, because the trial court framed the incident from the perspective of an objective observer, rather than from the viewpoint of how the juror understood the incident. (*Id.* at 107). Criminal defendants convicted of murder motioned for a new trial after a juror informed the trial judge about an incident of jury tampering. (*Id.* at 103–04). The juror told the judge that a man, whom he believed to be one of the defendant's brothers, came up to him and flashed his waistband. (*Id.* at 104). The juror believed that the man was attempting to show he had a gun, and the juror testified that he was worried that he did have a gun. (*Id.*). The juror testified that he believed the man was trying to intimidate him. (*Id.*). The trial court denied the defendants' motion, reasoning that the incident was too brief, and the objective evidence of what happened—whether the man did have a gun, what the man's intentions were—was so unclear that a presumption of prejudice did not attach to the incident. (*Id.* at 105). The appeals court reversed, holding that the trial court had misconstrued the inquiry into whether an objective juror would have been influenced. (*Id.* at 107). Though the trial court must ascertain how an objective juror would have been affected by the incident, the incident must be framed with the facts as the juror subjectively understood them. (*Id.*). The juror believed that a defendant's brother had tried to intimidate him, and he was worried he had a gun. (*Id.* at 103–04). Thus, the Court of Appeals of Alaska found that an objective juror, believing that the defendant's brother had threatened him, would create a credible risk of influence, and consequently a presumption of prejudice attached. (*Id.* at 108).

Burton-Hill v. State

In *Burton-Hill v. State*, 569 P.3d 1 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that the crime of riot as defined in AS 11.61.100(a) requires the common-law elements of mutual agreement by defendant and at least five other people and applies only when the conduct creates a likelihood of public terror and alarm. (*Id.* at 24, 26). The case arose from a disturbance at Fairbanks Correctional Center where three dozen inmates refused to be moved from A Wing to a different module of the facility, eventually leading to a SORT team administering chemical agents to quell the disturbance. (*Id.* at 11). Thirteen defendants were charged with riot and criminal mischief. (*Id.*). Three of these defendants were tried together and convicted; they appealed citing improper jury instructions. (*Id.* at 12). AS 11.61.100(a) defines riot as engaging in "tumultuous and violent conduct" while "participating with five or more others." (*Id.*). The trial court interpreted "participating with" to include any circumstances where the defendants' own conduct would involve five or more individuals. (*Id* at 20). Relying on the common law, however, the Court rejected this reading and concluded that the statute required "mutual agreement . . . (1) to achieve or advance a shared purpose (2) by engaging in tumultuous and violent conduct, and (3) by assisting each other in committing this tumultuous and violent conduct, including resisting anyone who might oppose it." (*Id.* at 24). Similarly, the Court held that the trial court's dictionary definition of "tumultuous" as "loud, excited and chaotic" was insufficient. (*Id.* at 25). The Court ruled that "tumultuous conduct" was something that created "a likelihood of public terror and alarm." (*Id* at 26). Lastly, the Court noted it was plain error of the trial court not to give the jury instruction about proximate cause and the state's burden of proof under the Criminal Mischief Statute. (*Id* at 39). As a result, the Court of Appeals of Alaska reversed the superior court's judgments against the three defendants. (*Id.* at 46).

Collins v. State

In *Collins v. State*, 568 P.3d 349 (Alaska 2025), the Supreme Court of Alaska held that the Court of Appeals of Alaska erred by retroactively applying new standards dictating whether a criminal defendant's case can be heard by a three-judge sentencing panel, violating the separation of powers doctrine and the prohibition of *ex post facto* laws. (*Id.* at 358–67). In 2009, Collins was convicted of first-degree sexual assault and was sentenced to 25 years with five years suspended and 15 years of probation. (*Id.* at 351–53). Although his sentence was at the lower end of the presumptive range established for his offense by the Alaska Legislature's 2006 amendments to the state sentencing guidelines, Collins moved for his case to be referred by a three-judge sentencing panel. (*Id.* at 352–53). After the sentencing judge denied Collins' motion, the Court of Appeals of Alaska later remanded his sentence back to the superior court to reconsider Collins' motion to be heard by the three-judge sentencing panel. (*Id.*). While the Supreme Court of Alaska considered the State's petition on this matter (*Collins I*), the Alaska Legislature amended the governing statute for three-judge sentence panel referrals in 2013 (*Id.* at 354). The legislature specifically noted its intent to overturn the decision in *Collins I*, reasoning that the legislature did not intend when crafting the original statute for defendants convicted of a sexual felony, like Collins had, to be able to obtain referral to a three-judge panel. (*Id.*). When the superior court applied the 2013 amendments on remand in *Collins I*, the court again declined to refer Collins' case to the three-judge panel, which the Court of Appeals of Alaska later affirmed (*Collins II*).

(*Id.* at 355). The Supreme Court of Alaska reversed, holding that the lower courts should have evaluated Collins' case under *Collins I*, rather than *Collins II*. (*Id.* at 359). The Court reasoned that subjecting Collins to the 2013 three-judge panel standards of *Collins II* would run afoul of the separation of powers and allow the legislature to institute *ex post facto* laws. (*Id.* at 359–60). The Court further reasoned if the 2013 amendments are substantiative and not merely procedural, then applying the 2013 amendments would deprive the appeals court in *Collins I* of the finality and *stare decisis* power that state law guarantees under Alaska Statute 22.07.020(g) for substantiative laws. (*Id.* at 362). Accordingly, the Court reversed *Collins II* and remanded Collins' case back to the court of appeals to determine whether the 2013 amendments are substantiative or procedural, instructing that a finding of the former prohibits the amendments from being applied retroactively to Collins' case. (*Id.* at 358–67).

Marino v. State

In *Marino v. State,* 577 P.3d 992 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held exculpatory evidence raised an issue of material fact and that a criminal defendant raising an untimely claim of newly discovered evidence of innocence must prove by clear and convincing evidence that the outcome would be an acquittal. (*Id.* at 1010, 1024). In 1994, Marino was convicted of first-degree murder and attempted murder (*Id.* at 996). In 2018, Marino received a report excluding him from male DNA found on a vacuum cleaner handle, the likely murder weapon. (*Id.* at 1004). Marino filed for post-conviction relief and the State submitted a motion for summary disposition arguing the male DNA was irrelevant and the request was untimely. (*Id.* at 1005–06). The superior court granted the motion and dismissed Marino's application. (*Id.* at 1006). Reversing the lower court's decision, the Court of Appeals of Alaska concluded the male DNA on the vacuum cleaner raised an issue of material fact with regard to Marino's claim of innocence. (*Id.* at 1007). The court found it significant that unknown male DNA was found on the likely murder weapon, considering the vacuum was found in the victim's all-female household. (*Id.* at 1007–08). The court found this DNA evidence was not cumulative, but represented new exculpatory evidence that could undermine the State's case in new ways. (*Id.* at 1010). Regarding the issue of untimely appeal, after reviewing Alaskan legislative history, Alaskan Supreme Court precedent, other state's jurisprudence, and United States Supreme Court precedent, the Court of Appeals of Alaska held that to obtain an exception from the statute of limitation that would otherwise apply, a criminal defendant raising an untimely claim of newly discovered evidence of innocence must prove by clear and convincing evidence that the outcome would be an acquittal. (*Id.* at 1023). The Court remanded the case to the superior court to conclude whether Marino met this standard. (*Id.* at 1024). Reversing the lower court's decision, the Court of Appeals of Alaska held exculpatory evidence raised an issue of material fact and that a criminal defendant raising an untimely claim of newly discovered evidence of innocence must prove by clear and convincing evidence that the outcome would be an acquittal. (*Id.* at 1010, 1024).

Rice v. State

In *Rice v. State*, 563 P.3d 132 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that the Sixth Amendment provides no exception to admit unconfronted testimonial hearsay even if

the judge determines admission of the hearsay might be reasonably necessary to correct a misleading impression. (*Id.* at 135). At the trial court, a jury convicted Rice of third-degree weapons misconduct for possessing a concealable firearm as a felon. (*Id.* at 133). During the investigation, Friendsuh, Rice's wife, provided statements that corroborated Rice's possession of a firearm. (*Id.*). Friendsuh was unavailable to testify at trial. (*Id.*). On re-direct examination, the state introduced Friendsuh's statement, arguing that the defense had "opened the door" to their admission by referencing the statements during cross-examination. (*Id.* at 134). Over Confrontation Clause and Sixth Amendment concerns, the trial court admitted the hearsay. (*Id.*). The trial court reasoned that a party "opens the door" to otherwise inadmissible evidence if the party's presentation creates a misleading impression that requires correction with the inadmissible evidence. (*Id.*). The Court of Appeals of Alaska reversed. (*Id.* at 155). The court reasoned that the principle of "opening the door" is incompatible with the Confrontation Clause. (*Id.* at 134). The Confrontation Clause's text clearly requires that the truthfulness of evidence be tested by cross-examination, not by a trial court. (*Id.*). Reversing the trial court, the Court of Appeals of Alaska held that the Sixth Amendment provides no exception to admit unconfronted testimonial hearsay even if the judge determines admission of the hearsay might be reasonably necessary to correct a misleading impression. (*Id.* at 135).

Stoneking v. State

In *Stoneking v. State*, 567 P.3d 725 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that the Alaska Parole Board may not deny a defendant's application for discretionary parole because it deems the defendant's conviction a serious crime or based on the board members' personal opinions regarding what an appropriate sentence for the defendant's crime should be. (*Id.* at 729). Stoneking was sentenced to serve 99 years in prison for first-degree murder, first-degree assault, and first-degree burglary. (*Id.*). When Stoneking's application for parole was reviewed in 2019, the Parole Board denied discretionary parole and required that he serve ten more years before applying again. (*Id.*). Stoneking challenged the Parole Board's decision, and after both parties filed cross-motions for summary judgment, the superior court denied the application. (*Id.*). On appeal, Stoneking argued that the Parole Board misapplied AS 33.16.100(a)(4), a statutory provision that prescribes the parameters the Board must follow when making discretionary parole decisions. (*Id.*). Among other things, the provision authorizes the Board to deny discretionary parole to a defendant if it believes that releasing that defendant would "engender disrespect for the law or would be incompatible with societal norms." (*Id.* at 729–30). When Stoneking applied for discretionary review in 2019, seven victims of his crimes wrote letters to the Parole Board detailing their strong opposition to him being granted parole based on the ongoing effects his conduct has had on their lives. (*Id.* at 731). Stoneking's parole officer also recommended his application be denied, despite the rehabilitation and education programs Stoneking participated in while incarcerated, because of the violence of his crimes and his inability to grasp the seriousness of his murder conviction. (*Id.*). The Court of Appeals of Alaska upheld the Parole Board's and the superior court's decision to deny Stoneking's parole, arguing in part that AS 33.16.100(a) permits the Board to discretionarily deny a defendant's application even if they meet the other eligibility criteria. (*Id.* at 732). Additionally, 22 Alaska Administrative Code 20.165 gives the Parole Board the discretion to "determine the priority and weight to be given each factor when making a parole release decision." (*Id.*). The Parole Board also satisfied Stoneking's procedural rights as outlined in AS 33.16.130(b), including by giving

Stoneking a letter in writing that explained its reasoning for denying his parole application. (*Id.* at 733). Although the Court of Appeals of Alaska agreed with Stoneking's arguments that the Board should not have considered whether his sentence was sufficient for his conviction, the record indicated that the Board appropriately referenced specific facts and circumstances of Stoneking's crime and behavior when it denied his parole application. (*Id.* at 738). Accordingly, the Board made individualized findings that were supported by the factual record in denying Stoneking's parole application, rather than making a categorical determination as Stoneking alleged based on the seriousness of his offense. (*Id.* at 738–39). As such, the Court of Appeals of Alaska affirmed the superior court's denial of Stoneking's parole application, holding that although the Board did not abuse its discretion, Alaska law does not permit the Alaska Parole Board to deny a defendant's application for discretionary parole because it deems the defendant's conviction a serious crime or based on the board members' personal opinions regarding what an appropriate sentence for the defendant's crime should be.

Walker v. State

In *Walker v. State*, 573 P.3d 1116 (Alaska Ct. App. 2025), the Court of Appeals of Alaska reversed the superior court, holding that giving the *Mann* instruction and referencing it during closing argument at an attempted murder trial was not harmless error. (*Id.* at 1118–19). Because the jury found the defendant guilty of attempted-murder, a specific intent crime, the erroneous jury instruction, combined with the prosecution's reliance on it during closing argument to establish intent, were grounds for a retrial. (*Id.*). Walker was charged with attempted murder after stabbing a stranger who was gardening outside her apartment. (*Id.* at 1117). Because the incident was clearly captured on video, the primary issue at trial was whether Walker acted with specific intent to kill—supporting a conviction of attempted murder—or whether he lacked intent to kill and instead recklessly caused her physical injuries, supporting a conviction for first-degree assault. (*Id.*). Over Walker's objection, the jury was given an instruction which included burden-shifting language and invited improper speculation. (*Id.* at 1117–18). This instruction resembled the *Mann* instruction, that included the burden-shifting phrase "unless the contrary appears from the evidence" and encouraged jurors to speculate about defendant's intent by directing them to consider what "someone 'similarly situated . . . and with like knowledge' would have reasonably intended." (*Id.* at 1116–17 (quoting *Mann v. United States*, 319 F.2d 404, 407 (5th Cir. 1963)). More than five decades ago, the Alaskan Supreme Court adopted the Fifth Circuit's reasoning in *Mann*, admonishing Alaskan trial courts from using similar instructions and holding that giving a *Mann* instruction is error, although, depending on the circumstances, such error may be harmless beyond a reasonable doubt. (*Id.* at 1117–18 (citing *Menard v. State*, 578 P.2d 966, 970 (Alaska 1978)). Here, both the superior court and the Court of Appeals concluded the instruction contained both types of problematic language identified in *Mann* and that its delivery to the jury, as well as its use during closing argument, constituted clear error. (*Id.* at 1118–19). Although the superior court held the error harmless, the Court of Appeals of Alaska reversed, reasoning that because the prosecution used the instruction to argue that Walker acted with the specific intent to kill, the error was not harmless beyond a reasonable doubt. (*Id.*). The Court of Appeals of Alaska then remanded the case allowing the State to retry Walker on the attempted murder charge with a properly instructed jury—one not given a *Mann* instruction—or to resentence him for first-degree assault. (*Id.* at 1119).

Criminal Procedure

Aketachunak v. State

In Aketachunak v. State, 563 P.3d 622 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that Alaska Criminal Rule 7(e) does not bar the state from introducing a new charge against a defendant three days before the defendant's scheduled trial. (Id. at 629). Aketachunak was originally charged with one count of third-degree recidivist assault in connection to his attack on Price, his ex-girlfriend. (*Id.* at 624). Three-days before the scheduled trial, the state filed an additional charge for misdemeanor unlawful contact, alleging Aketachunak had violated his probation conditions that prohibited him from contacting Price. (*Id.* at 624–25). At Aketachunak's arraignment for the unlawful contact charge, his attorney did not ask the court to sever the charges and stated they would still proceed with trial. (*Id.* at 625). During trial, his attorney objected to the new unlawful contact charge, arguing it introduced new issues into the case. (*Id.*). The lower court rejected Aketachunak's motion to sever the charge, citing Alaska Criminal Rule 7(e), which allows for an indictment or information to be amended at any time before the verdict. (*Id.* at 624–25). On appeal, Aketachunak argued that the State's introduction of a new charge violates Alaska Criminal Rule 7(e). (*Id.* at 626). The Court of Appeals of Alaska reasoned that Rule 7(e) is inapplicable when the State has filed a new charge prior to trial. (*Id.* at 627). Despite rejecting the lower court's reliance on Alaska Criminal Rule 7(e), the Court of Appeals of Alaska affirmed the lower court's holding, reasoning that Aketachunak was not prejudiced by the introduction of the new charge given his attorney failed to object to the charge until trial had already begun. (*Id.* at 627–30). Affirming the lower court's decision, the Court of Appeals of Alaska held that while Alaska Criminal Rule 7(e) does not prevent the state from introducing a new charge soon before trial, due process and the right to a speedy trial may instead serve as a check on this government power. (*Id.*).

Lookhart v. State

In *Lookhart v. State*, 570 P.3d 949 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that a search warrant giving officers the right to seize dental and healthcare records, computers and any "removable or loose computer storage media such as … cell phones" was not sufficient to authorize a search of all electronic data on a personal cell phone. (*Id.* at 954–56). Lookhart and Cranford operated a dental practice that was suspected of providing unnecessary medical procedures to Medicaid patients to increase profits. (*Id.* at 952). The Alaska Medicaid Fraud Control Unit received tips about these practices and obtained a search warrant. (*Id.* at 952–53). Investigators seized Lookhart and Cranford's cell phones and extracted the phones' data, finding incriminating text messages, videos, and photos. (*Id.* at 956). Cranford later entered into a plea agreement consenting to the search of her cell phone, but this occurred after the initial searches had taken place. (*Id.* at 952). Lookhart challenged the constitutionality of the phone searches, arguing that they did not comply with the (1) probable cause and (2) particularity requirements of the Fourth Amendment and Article 1, Section 14 of the Alaska Constitution. (*Id.* at 954). The trial court held that because there was probable cause to search the dental business's computers, there was also probable cause to search Cranford and Lookhart's cell phones because "modern day cellphones are computer devices." (*Id.* at 953). Furthermore, the allegation that Cranford and Lookhart were co-conspirators led to the inference that they had communicated to each other

about their conspiracy using cell phones. (*Id.*). The Court of Appeals of Alaska rejected both probable cause arguments because the affidavit for the warrant did not explain why law enforcement expected to find evidence of crime in the cell phones. (*Id.* at 957). The court also noted that cell phones serve different functions and contain different information than computers. (*Id.* at 958). The trial court argued the warrant was particular because it "identified the types of records sought." (*Id.* at 959). The court of appeals disagreed, because the warrant did not describe the particular place to be searched on the phones. (*Id*.). Reversing the trial court decision, the Court of Appeals of Alaska held the "unfettered" search of Lookhart's cell phone violated the probable cause and particularity requirements of the Fourth Amendment and Article I, Section 14 of the Alaska Constitution. (*Id.* at 961). Because Cranford pled guilty and consented to the search of her cellphone, which contained evidence incriminating Lookhart, the court of appeals remanded to the trial court the issue of determining whether evidence on her phone could be excluded or not, as Lookhart's standing to challenge that issue was unclear. (*Id.* at 964).

Lorenz v. City and Borough of Juneau

In *Lorenz v. City & Borough of Juneau*, 576 P.3d 675 (Alaska Ct. App. 2025), the Court of Appeals of Alaska determined that a nuisance-barking ordinance was not unconstitutionally vague as it provided adequate guidance to both pet owners and enforcement officials regarding the scope of its prohibitions. (*Id. at 685).* Additionally, the court found that the district court erred by refusing to consider video recordings that had not been submitted to the city before the trial. (*Id*. at 680). Lorenz's neighbors lodged complaints about her two dogs, asserting that they barked frequently and for prolonged periods. (*Id*. at 677). Lorenz was cited under ordinance CBJ 08.45.010(a)(1), which mandates that an animal keeper prevent it from "disturbing a neighborhood . . . by frequent or protracted noise." (*Id*. at 864). During the trial, the magistrate judge permitted the city to present a brief video from a neighbor but declined to accept Lorenz's longer recordings from her Ring camera, as Lorenz had not provided these in advance, and the court faced time constraints. (*Id*. at 680–82). Consequently, the judge convicted Lorenz predominantly based on witness testimony and a "bark log" that had not been formally admitted as evidence. (*Id*. at 684). The trial court's categorical refusal to consider Lorenz's video evidence constituted an abuse of discretion. (*Id*. at 681). Lorenz had reasonably relied on prior notice indicating that she should have evidence "ready at the time of trial," rather than requiring her to exchange it beforehand. (*Id*. at 682). As her videos were potentially exculpatory and central to the case, this error warranted a remand. (*Id.*). Moreover, the nuisance-barking ordinance was not deemed unconstitutionally vague when interpreted through a reasonable person standard; this standard stipulates that owners must prevent barking that would disturb a reasonable neighbor. (*Id.* at 685). An ordinance may be unconstitutionally vague if it "fails to provide fair notice of the conduct it prohibits or if it invites arbitrary or selective enforcement." (*Id*. at 684). Thus, the ordinance provides sufficient notice and mitigates arbitrary enforcement. (*Id*. at 686). However, the trial court must clarify that it applied this objective standard. (*Id.*). The minor offense convictions against Lorenz were vacated, and the case was remanded for further proceedings. *(Id*.).

Macasaet v. State

In *Macasaet v. State,* 566 P.3d 287 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that warrants authorizing a search of a cell phone's "app data" are too broad and therefore violate the Fourth Amendment's particularity requirement, but a warrant authorizing a search for "text messages" includes messages sent via social media applications. (*Id.* at 298–99). A trial court found Macasaet guilty of first-degree murder. (*Id.* at 291). The police obtained a search warrant for "app data" and "text messages" on Macasaet's phone. (*Id.* at 297). Under the "app data" provision of the warrant, officers reviewed messages that Macasaet sent via Facebook Messenger. (*Id.* at 296). Macasaet appeals that the trial court should have suppressed evidence of his communications via Facebook Messenger. (*Id.* at 297). Macasaet argues that the warrant illegally authorized a search for "app data" that was insufficiently particular to view messages sent via social media applications. (*Id.*). Because smartphones contain massive amounts of personal data, a warrant to search a cell phone's "app data" must *sufficiently* and *precisely* define the data that the police want. (*Id.* at 299). If a warrant for "app data" doesn't specify the data sought by police, then the warrant illegally authorizes a general exploratory search in violation of the Fourth Amendment. (*Id.*). However, a warrant to review "text messages" allows law enforcement to view messages sent via social media applications because the common understanding of the phrase "text messages" includes texts sent through messaging applications. (*Id.*). Accordingly, the court of appeals held that warrants authorizing a search of a cell phone's "app data" are too broad and therefore violate the Fourth Amendment's particularity requirement. However, a warrant authorizing a search for "text messages" includes messages sent via social media applications. (*Id.* at 298–99). The court of appeals affirmed Macasaet's conviction. (*Id.* at 312).

Office of Public Advocacy v. Superior Court, First Judicial District

In *Office of Public Advocacy v. Superior Court, First Judicial District*, 566 P.3d 235 (Alaska 2025), the Supreme Court of Alaska held that a public defender agency's lack of capacity resulting from excessive caseload, which prevents the agency from providing effective representation, constitutes a conflict of interest requiring the Office of Public Advocacy (OPA) to provide legal representation. (*Id.* at 238). The Public Defender Agency (Agency) withdrew from representing a criminal defendant after her attorney resigned, citing a lack of capacity to assign permanent counsel for at least five months. (*Id.* at 239, 243). The superior court found this delay excessive given the three-year age of the case and the defendant's speedy trial rights, and it appointed the OPA. (*Id.* at 242–44). OPA challenged the appointment, arguing that capacity issues were not an "actual" or "legal" conflict of interest as contemplated by the authorizing statute, AS 44.21.410(a)(4). (*Id.*). Affirming the lower court's decision, the Supreme Court of Alaska reasoned that trial courts have an affirmative duty to intervene when it is apparent a defendant is not receiving constitutionally effective representation. (*Id.* at 245–48). Excessive caseloads compromise an attorney's ability to provide competent representation and diligence, thus constituting a conflict of interest under professional rules. (*Id.* at 248–49). The Court reasoned because of this conflict, AS 44.21.410(a)(4) requires OPA to step in, as the statute does not exclude conflicts based on capacity. (*Id.* at 249–52).

State v. Estate of Powell

In *State v. Estate of Powell*, 563 P.3d 50 (Alaska 2025), the Supreme Court of Alaska held that Alaska Criminal Rule 6(s)(1) governing admissibility of evidence before the grand jury permits the presentation of evidence if the requirements for admissibility at a future trial would be met, and does not require the prosecutor to actually establish all foundational requirements during the preliminary, ex parte grand jury stage. (*Id.* at 57). Powell was indicted based partly on video recording with child victims of sexual abuse presented to the grand jury. (*Id.* at 54–55). Powell argued the evidence was inadmissible because requirements of Evidence Rule 801(d)(3), specifically the victim's availability for cross-examination and specific judicial findings, could not be met at the ex parte grand jury stage. (*Id.*). The superior court dismissed and the Court of Appeals of Alaska affirmed the dismissal, finding that foundation requirements specific to trial could not be met at the grand jury stage. (*Id.* at 55–56). Reversing the Court of Appeals of Alaska's decision, the Supreme Court of Alaska reasoned that requiring procedural steps, such as judicial findings or cross-examination, to be completed at the preliminary, ex parte grand jury stage would be impossible and inconsistent with the function of the grand jury. (*Id.* at 63–64). The Court reasoned that the Rules of Evidence, such as Rule 801(d)(3), do not need to specifically address admissibility during grand jury proceedings because that function is performed by Alaska Criminal Rule 6(s). (*Id.* at 64). The Supreme Court of Alaska further reasoned that Alaska Criminal Rule 6(s) sets a conditional forward-looking standard that implicitly requires the prosecutor to make a good faith, reasonable judgment that the evidence would be admissible at the time of trial. (*Id.* at 57–59). This interpretation also aligns with the legislative goal of avoiding repeated traumatization of child victims by forcing them to testify multiple times. (*Id.* at 64–67).

Weston v. State

In *Weston v. State*, 574 P.3d 1173 (Alaska 2025), the Court of Appeals of Alaska held that when a legal intern's participation in a criminal defense complies with Alaska Bar Rule 44 and a licensed attorney supervises the intern, a criminal defendant's right to counsel is not infringed. (*Id.* at 1180). In a criminal defendant's trial, a legal intern gave the defendant's opening statement and cross-examined a witness. (*Id.* at 1174). The legal intern was supervised by an attorney while participating. (*Id.*). After the defendant was convicted, he appealed and argued that, because he had not consented to the legal intern's participation in his defense, he had been deprived of his right to counsel under the Alaska Constitution and the United States Constitution. (*Id.* at 1175). The Court of Appeals of Alaska disagreed reasoning that the Supreme Court of Alaska, in promulgating Bar Rule 44, has spoken on the requirements that an intern must meet to practice law in Alaska. (*Id.* at 1178). As a result of those requirements being met in the case, including attorney supervision, no violation existed. (*Id.*). Additionally, the presence of a licensed attorney at all times independently satisfied the defendant's right to counsel, irrespective of the intern's participation. (*Id.* at 1179–80). The court additionally noted that an indigent criminal defendant has no right to choose his court-appointed attorney, and thus the defendant had no right to exclude the intern. (*Id.* at 1180). Because the intern's participation satisfied Rule 44 and an attorney supervised, the criminal defendant's right to counsel was not violated. (*Id.*).

Education Law

Department of Education & Early Development v. Alexander

In *State, Department of Education and Early Development v. Alexander*, 566 P.3d 268 (Alaska 2025), the Supreme Court of Alaska held that statutes authorizing correspondence study programs and allotments for educational expenses were not facially unconstitutional. (*Id.* at 271). Alaska law allows school districts to operate correspondence study programs and provides public funds for educational materials to meet the students' needs. (*Id.* at 272). Alexander and three other parents of public-school students sued the Department of Education and Early Development, challenging the constitutionality of these statutes. (*Id.* at 273). Alexander argued that the statutes violated Article VII, Section 1, of the Alaska Constitution, which prohibits using public funds for the direct benefit of any religious or other private institution. (*Id.* at 274). The superior court agreed, granting Alexander's motion for summary judgment and deeming the statutes facially unconstitutional. (*Id*. at 275). The Supreme Court of Alaska reversed, concluding that the statutes at issue permit constitutionally permissible uses of funds. (*Id*. at 277). The Court reasoned that a statute will not be struck down on its face unless it lacks a plainly legitimate sweep. (*Id*. at 277). Because the statutes here have numerous constitutionally valid applications—such as using funds to purchase educational materials or supplies from private businesses—the statutes do not violate the constitution in all their applications. (*Id.* at 283). The Court declined to decide whether the statutes were unconstitutional as applied because the issue was not briefed and the school districts approving the allegedly unconstitutional uses of funds were not parties to the litigation. (*Id*. at 286). Therefore, the Supreme Court of Alaska held that the correspondence study and allotment statutes at issue are not facially unconstitutional and remanded for further proceedings to address any potential as-applied challenges. (*Id*. at 287).

Stirling v. North Slope Borough School District

In *Stirling v. North Slope Borough School District*, 565 P.3d 181 (Alaska 2025), the Supreme Court of Alaska held that a public school principal's for-cause termination for incompetency was supported by substantial evidence because his actions rendered him unable to perform his customary duties due to lost community trust; however, this principal was denied due process when the school district failed to notify him of his right to call witnesses during the pre-termination hearing. (*Id.* at 184, 194). A principal created coasters using a school printer after hours that modified the school district's logo with racially offensive and profane language. (*Id.* at 184). The coaster design was widely shared on social media, resulting in community outrage and loss of trust. (*Id.* at 185). The district terminated him for incompetence after the principal himself stated he could no longer be an effective leader and left the community. (*Id.* at 185–88). The principal appealed, arguing the termination lacked evidence and that the pre-termination process violated due process because he was not notified of his right to call witnesses. (*Id.* at 188). The superior court affirmed the board's decision and denied the principal backpay. (*Id.*). Affirming in part, reversing in part, and remanding with directions for calculation of backpay, the Supreme Court of Alaska reasoned that substantial evidence, including the principal's own concession of his inability to perform his duties, support the finding of incompetency because he lost the trust of administrators and the community. (*Id.* at 194; 189–90). The termination did not violate free

speech rights because the School District's interest in maintaining public trust and avoiding workplace disruption outweighed the principal's speech rights. (*Id.* at 190–92). However, since incompetency was alleged, due process required that the principal be allowed to present a defense with testimonial evidence, and the district failed to notify him of his right to call witnesses before or during the pre-termination hearing. (*Id.* at 192–94).

Election Law

Alaska Democratic Party v. Beecher

In *Alaska Democratic Party v. Beecher*, 572 P.3d 556 (Alaska 2025), the Supreme Court of Alaska explained the reasoning behind a short order decision from September 2024, which allowed Hafner, the sixth place finisher in a ranked choice primary contest, to be elevated to one of the four spots on the general ballot after two of the top-four finishers timely withdrew. (*Id.* at 557–58). The Alaska Democratic Party (ADP) argued Hafner should not have been included on the general ballot because the plain language of Alaska Statute 15.25.100(c)—the rank-choice voting statute which allows elevation of candidates to the general ballot—only permitted the fifth-place finisher to be promoted. (*Id.* at 562). The statute states that "if a candidate nominated at the primary election . . . withdraws . . . after the primary election and 64 or more days before the general election, the vacancy shall be filled by the director by replacing the withdrawn candidate with the candidate who received the fifth most votes in the primary election." (*Id.* at 561–62 (quoting Alaska Stat. § 15.25.100(c))). The Supreme Court held that this statute is ambiguous as to whether the withdrawal of multiple candidates allows the director to continue to fill vacancies. (*Id.* at 562). The Court proceeded to examine the language and purpose of Ballot Measure 2—the initiative which established rank-choice voting in Alaska—finding that the stated goal of improving voter choice and the repeated emphasis of four candidates indicates that the director is not limited to filling only one vacancy in the event of multiple withdrawals. (*Id.* at 558, 563–65). Additionally supporting a permissive reading, the Court followed prior precedent which supported reading ambiguous statutes in a way which provides greater ballot access. (*Id.* at 565–66). The Court did not reach the question of whether Hafner, a federal prison inmate in New York, was constitutionally unable to run due to his confinement. (*Id.* at 560). Instead, the Supreme Court of Alaska held that Alaska Statute 15.25.100(c) requires election directors to fill successive vacancies on the general election ballot if more than one top-four primary candidate timely withdraws and additional primary candidates are available. (*Id.* at 567).

Medicine Crow v. Beecher

In *Medicine. Crow v. Beecher*, 570 P.3d 452 (Alaska 2025), the Supreme Court of Alaska affirmed the superior court's decision to certify a ballot initiative, which was challenged because of corrections made to circulators' certifications of the petition booklets. (*Id.* at 453). The ballot initiative, which sought to end the system of ranked choice voting and open primaries, began gathering signatures in February 2023. (*Id.* at 454). In January 2024, the Division accepted 641 petitions but found errors with 64 of them; the sponsors resubmitted 62 of them and the Division approved the initiative to appear on the November ballot. (*Id.*). A month later, several Alaska residents challenged the division's decision, arguing that the statutory scheme did not allow sponsors to cure petitions after their submission. (*Id.* at 455). The superior court granted summary judgment for the Division. (*Id.*). On appeal, the Supreme Court of Alaska concluded that the plain language of Alaska Statute 15.45.130 allows sponsors to correct certifications after the filing date. (*Id.* at 458). The Court added that a full replacement was still permissible as a "correction" under the statute. (*Id.* at 461). Finally, the Court noted that allowing a full replacement submission did not conflict with the legislative history of the statute or regulatory requirements. (*Id.* at 464–65). As a result, the Supreme Court of Alaska affirmed the superior

court’s superior court's grant of summary judgment in favor of the Division and the sponsors. (*Id.* at 466).

Environmental Law

Alaska Department of Fish and Game v. Federal Subsistence Board

In *State, Department of Fish & Game v. Federal Subsistence Board 139 F.4th 773* (9th Cir. 2025), the United States Court of Appeals for the Ninth Circuit held that ANILCA provides the Federal Subsistence Board the power to authorize an emergency subsistence hunt on federal public lands (*Id.* at 778). In April 2020, the Federal Subsistence Board authorized a subsistence hunt, known as the "Kake hunt," on federal public lands for the Organized Village of Kake because the COVID-19 pandemic significantly diminished their food supply. (*Id.* at 777). The Federal Subsistence Board initially requested the State's view on the Tribe's request but received no response. (*Id.* at 780). The Federal Subsistence Board then authorized the hunt based on Section 811 of the Alaska National Interests Lands Conservation Act (ANILCA). (*Id.*). This federal law states that the Board "shall ensure that rural residents engaged in substance uses shall have reasonable access to subsistence resources on public lands." (*Id.* at 781). The Alaska Department of Fish & Game sued. They argued that ANILCA allows the Federal Subsistence Board to provide physical access to federal lands but not access to subsistence resources like wildlife located on federal lands. (*Id.* at 781). The United States Court of Appeals for the Ninth Circuit rejected the Department of Fish & Game's arguments. (*Id.* at 782). The United States Court of Appeals for the Ninth Circuit reasoned that Section 811 of ANILCA's clear language granting "access to subsistence resources on public lands" authorized the hunting of wildlife on federal lands, not just physical access to the federal lands on which the wildlife lives. (*Id.*). Additionally, the United States Court of Appeals for the Ninth Circuit ruled that the ANILCA allows the Federal Subsistence Board, when the State has not acted, to authorize subsistence hunts on federal land when there are no practical alternative means to replace diminished food supplies. (*Id.* at 785). Accordingly, the United States Court of Appeals for the Ninth Circuit held that ANILCA provides the Federal Subsistence Board the power to authorize an emergency subsistence hunt on federal public lands. (*Id.* at 778).

Cassell v. State

In *Cassell v. State*, 567 P.3d 1273 (Alaska 2025), the Supreme Court of Alaska held that a regulation treating Alaska residents differently than nonresidents for the purpose of hunting Kodiak brown bears did not violate the Alaska state constitution. (*Id.* at 1275). A hunting regulation places allocation requirements on permits to hunt Kodiak brown bears. (*Id.*). Sixty percent must be allocated to Alaska residents, while no more than forty percent may be allocated to nonresidents. (*Id.*). Further, nonresidents may only hunt in most situations if they hire a professional guide, a requirement not present for Alaska residents. (*Id.*). In this case, an Alaska hunter argued that the regulation gives a special privilege to nonresidents, notwithstanding the fact that nonresidents may receive a lesser percentage of allocated permits and must hire professional guides. (*Id.*). The hunter argued that the supposed special privilege for nonresidents violated the principle in Alaska's state constitution of equal access to fish and game. (*Id.*). The Supreme Court rejected the Alaska hunter's argument, stating that the regulation gave no special privilege to nonresidents. (*Id.*). Further, the hunter argued that the regulation that limited the allocation of permits to Alaska residents fell short of the duty to maximize benefits for the Alaskan people. (*Id.* at 1283). The Supreme Court also rejected this argument, stating that the

government may consider competing uses for wildlife when making allocation decisions. (*Id.* at 1283–84). Affirming the lower court's judgment, the Supreme Court held that a regulation covering permits to hunt Kodiak brown bears did not violate the Alaska constitution. (*Id.* at 1275).

Center for Biological Diversity v. United States Bureau of Land Management

In *Center for Biological Diversity v. United States Bureau of Land Management*, 141 F.4th 976 (9th Cir. 2025), the United States Court of Appeals for the Ninth Circuit held that the Bureau of Land Management's use of the "full field development" standard to approve an oil and gas venture did not violate various environmental laws. (*Id.* at 999). However, the Court also held that the Bureau of Land Management's approval of the project was arbitrary and capricious because it failed to explain how its final alternative complied with the full field development standard. (*Id.*). In this case, several environmental agencies challenged the Bureau of Land Management's approval of an oil and gas venture in Alaska's National Petroleum Reserve, the Willow Project. The agencies challenged the decision under the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA), the Naval Petroleum Reserves Production Act (NPRPA), and the Alaska National Interest Lands Conservation Act (ANILCA). (*Id.* at 989). The Court reviewed the Willow Project's approval under the Administrative Procedure Act, which allows the Court to set aside agency actions that are arbitrary, capricious, or unlawful. (*Id.* at 993). After the district court denied Plaintiff's Motion for Summary Judgment, the United States Court of Appeals for the Ninth Circuit affirmed in part and reversed in part, remanding the case. (*Id.* at 989, 999). The United States Court of Appeals for the Ninth Circuit held that it was neither arbitrary nor capricious for the Bureau of Land Management to use the "full field development" standard to analyze the Willow Project. (*Id.* at 999). However, the Court also remanded, labeling the approval of the Willow Project as arbitrary or capricious because the Bureau of Land Management never explained how its final alternative complied with that standard. (*Id.*).

State v. Rosenbruch-Decker

In *State v. Rosenbruch-Decker*, 567 P.3d 715 (Alaska Ct. App. 2025), the Court of Appeals of Alaska held that two game guides violated a regulation prohibiting "taking" of game animal with the aid of a wireless communication device when they used a radio to locate and kill a goat they had already wounded. (*Id.* at 723). The game guides were leading a mountain goat hunt when a client wounded a goat that then fled. (*Id.* at 717). The game guides used a radio to help the client locate the goat and kill the animal. (*Id.*). The game guides were charged with violating a fish and game regulation that prohibits "taking" a game animal with the aid of a wireless communication device. (*Id.*). The guides filed a motion to dismiss on three grounds: (1) they had not used a radio to "take" the animal because it was already taken when mortally shot and wounded; (2) the State's interpretation of "take" was vague and overbroad; and (3) the prosecution violated their substantive due process rights. (*Id.*). The district court agreed and dismissed the case. The Court of Appeals of Alaska reversed, finding that the statutory definition of "taking" is broader than the common law definition and includes ongoing conduct such as pursuit. (*Id.* at 719–22). Additionally, given there is no evidence of arbitrary enforcement of the statute, and the statute is

clarified by legal analysis, the Court of Appeals of Alaska held the statute is not vague and provides sufficient notice to hunters. (*Id.* at 724). Finally, the Court of Appeals of Alaska held the guides' substantive due process rights were not violated as they had lawful alternatives to locate the goat without the use of a radio. (*Id.* at 725). Reversing the lower court's decision, the Court of Appeals of Alaska held two game guides violated a fish and game regulation prohibiting "taking" of an animal with the aid of a wireless communication device when they used a radio to locate and kill a wounded goat. (*Id.* at 723).

Ethics

Sheldon-Lee v. Birch Horton Bittner, Inc.

In *Sheldon-Lee v. Birch Horton Bittner, Inc.*, 565 P.3d 985 (Alaska 2025), the Supreme Court of Alaska adopted the continuous representation rule in attorney-malpractice cases, vacating summary judgment that had dismissed a malpractice claim as time-barred under the statute of limitations. (*Id.* at 995). The malpractice action arose from a trust settlement that Sheldon-Lee alleged she was coerced into accepting after receiving improper mediation guidance from her attorneys at Birch Horton Bittner, Inc. (BHBC). (*Id.* at 989–92). Sheldon-Lee filed suit against BHBC in February 2020. (*Id.* at 992). Shortly thereafter, the superior court granted summary judgment to the attorneys, concluding that Sheldon-Lee was "on notice" of her alleged injury either when the mediation and settlement occurred in December 2015 or, at the latest, when her motion for reconsideration was denied in August 2016. (*Id.* at 995). Because Alaska imposes a three-year statute of limitations on malpractice claims, the court held the claim time-barred. (*Id.*). Sheldon-Lee appealed. (*Id.* at 992). The Supreme Court of Alaska agreed that August 2016 was the latest date on which Sheldon-Lee had enough information to alert her of her injury, meaning the claim would ordinarily be barred under Alaska's discovery rule. (*Id.* at 993–95). However, the Court emphasized that Alaska's legislature has not specified how the limitations period should begin to run in attorney-malpractice cases and that the discovery rule itself is a court-created doctrine. (*Id.* at 997–98). Accordingly, the Court held that it retained authority to adopt the continuous representation rule and chose to do so in this case. (*Id.* at 995–98). Under the continuous representation rule, the statute of limitations for attorney malpractice is tolled until the attorney's representation in the specific matter at issue has ended. (*Id.* at 996). The Court described the rule as a limited carveout from the discovery doctrine designed to protect ongoing attorney-client relationships, provide fairness to plaintiffs who await appeals—since the discovery rule does not delay accrual until final judgment—and allow clients an opportunity to permit attorneys to remedy alleged errors without forfeiting malpractice claims. (*Id.* at 996–98). The Court cautioned that accrual is not tolled by the mere continuation of a general professional relationship, explaining that when an attorney has been formally substituted out as counsel, that substitution ordinarily ends the representation. (*Id.* at 1000–01). However, where there is an ongoing mutual relationship in which professional services continue from the alleged malpractice, accrual does not begin. (*Id.*). Applying this standard, the Court held that it was a question of fact whether BHBC's post-2016 emails—advising Sheldon-Lee that another attorney might be preferable while simultaneously providing limited legal guidance—demonstrated an "ongoing, continuous, developing, and dependent relationship." (*Id.* at 1000–02). Viewing the evidence in the light most favorable to Sheldon-Lee, the Court concluded that her malpractice claim may not be untimely under the continuous representation rule and that summary judgment based on the statute of limitations passing since plaintiff's discovery of their harm was therefore improper. (*Id.* at 1002).

Family Law

Chapman v. Chapman

In *Chapman v. Chapman*, 563 P.3d 1155 (Alaska 2025), the Supreme Court of Alaska held that the Superior Court did not err when it ordered undistributed trust income to be used in calculating a child support obligation from a parent who exercised control over the trust. (*Id.* at 1157). Peter and Julia Chapman divorced in 2020 agreeing to shared custody of their one child and a child support payment from Peter to Julia which, based off Peter's 2020 income of $45,000, was set at $31.35 by a modification. (*Id.* at 1157–58). After the divorce, Peter acquired additional businesses and transferred them, along with the parties' former rental car business, into the Cephas Trust. (*Id.*). Although he never withdrew money from the trust and only paid himself a salary of roughly $55,000 in 2021, Peter's federal tax return reflected an adjusted gross income of $861,382 because the trust's business income flowed through to him for tax purposes. (*Id.* at 1158–59). Julia moved to modify child support, arguing that Peter's accessible income had materially increased. (*Id.*). The Superior Court found that Peter controlled the trust, had the ability to request distributions at any time, and chose to reinvest substantial earnings rather than withdraw them. (*Id.* at 1160). Imputing income up to Civil Rule 90.3's $126,000 cap, the Court increased his monthly obligation to $1,167.35. (*Id.*). Peter appealed and the Supreme Court of Alaska rejected his argument that no material change in circumstances existed, holding that the creation of the trust and the dramatic increase in available income after the earlier order constituted a change beyond Rule 90.3's 15% threshold. (*Id.* at 1160–61). The Supreme Court of Alaska also rejected Peter's argument that the lower Court abused its discretion when imputing income from the trust, since the Superior Court found Peter exercised control over the trust and its "independent" trustee and could have accessed the trust's income to improve his financial situation. (*Id.* at 1162–65). The Supreme Court of Alaska found the trust could be analogized to an underperforming asset and excluding this asset from calculating his child support obligation unreasonably decreased available funds. (*Id.*). The method used for assessing the trust's income, Peter's federal tax return, was also found to be sufficient considering his control and the assets pass-through taxation status, although a fact-specific inquiry into each business return would be ideal. (*Id.* at 1165–67). Affirming the order, the Supreme Court of Alaska held that the Superior Court did not err or abuse its discretion in imputing trust income and modifying child support for a parent who had substantial business income listed on his federal tax return from a trust that he solely owned and controlled, even though he did not withdraw its earnings. (*Id.* at 1160–67).

Mary B. v. Kovol

In *Mary B. v. Kovol*, 786 F. Supp. 3d 1161 (D. Alaska 2025), the United States District Court for the District of Alaska held that the Adoption Assistance and Child Welfare Act of 1980 (CWA) created rights, enforceable under 42 U.S.C. § 1983, to an adequate written case plan and an adequate case review system. (*Id.* at 1171–74). Children brought suit against Alaska's Office of Children's Services (OCS), alleging violations of their federal rights under the CWA. (*Id.* at 1164). The children alleged that the CWA creates a right to (1) individual written case plans that advance placement, support, and reunification goals; (2) a case review system that facilitates appropriate placements and ensures parental rights termination filings are made when statutorily required; (3) placements that satisfy statutory requirements; and (4) quality health and safety

services. (*Id.* at 1171–73). OCS filed a motion to dismiss, in which it argued that the relevant CWA sections focused on the required features of a state's plan, rather than the individual benefits conferred on children, and thus failed to create individual rights enforceable under § 1983. (*Id.* at 1169). The court disagreed with OCS as to the first and second claims, and agreed with OCS as to the third and fourth claims. (*Id.* at 1174). The court reasoned that the "written case plan" language was focused on each child individually. (*Id.* at 1170–71). Similarly, the court reasoned that the "case review system" language focuses on the benefits that each child derives from the procedure. (*Id.* at 1171–73). Concerning the third claim, the court reasoned that the CWA's language only secured a right to a procedure designed to facilitate appropriate placements—not the placement itself. (*Id.* at 1172). For the fourth claim, the court reasoned that the CWA's language focused on the state's requirement to provide quality services for foster care children generally, rather than each child, and so did not create an individual right. (*Id.* at 1173). The court held that the CWA created rights to written case plans and a case review system due to the individual-centric language mandating those items. (*Id.* at 1174).

Matter of Lila B.

In *Matter of Lila B.*, 568 P.3d 1 (Alaska 2025), the Supreme Court of Alaska held that the State must demonstrate by clear and convincing evidence that shaving a mental-health detainee's head is the least restrictive means of furthering a compelling government interest. (*Id.* at 5–6). An individual detained at Alaska Psychiatric Institute (API) was awaiting mental health commitment evaluation when staff realized she had a severe head lice infestation. (*Id.* at 3). Staff determined her head needed to be shaved before commitment, but the detainee opposed any touching of her head as a violation of her religious beliefs. (*Id.*). A superior court hearing occurred where the State argued that permethrin shampoo and isolation would be insufficient to protect employees and other detainees from lice infestation, and shaving her head was the least restrictive alternative. (*Id.* at 3–4). The superior court authorized the involuntary head shaving. (*Id.* at 4). Affirming the public interest exception to mootness, the Supreme Court vacated the order authorizing the involuntary head shaving. (*Id.* at 8). The Court reasoned that involuntary head-shaving intrudes upon fundamental liberty and privacy rights, including the right to control appearance and medical treatment decisions. (*Id.* at 6). Therefore, the "clear and convincing evidence" standard applies to the State's burden. (*Id.*). The Court then determined that the State failed to show clearly and convincingly that permethrin treatment combined with a head covering or reasonable isolation would have been ineffective, especially since the authorized detention was only 72 hours. (*Id.* at 7–8).

Matter of Macon J.

In *Matter of Macon J.*, 565 P.3d 215, 226 (Alaska 2025), the Supreme Court of Alaska held that appointing a guardian does not require the same standard of evidence as terminating parental rights and that such appointment is not a de facto termination of parental rights. (*Id*. at 226). Macon is a child in the foster care system in Alaska. (*Id.* at 218.) His father, Kaleb, left him and his mother when Macon was six years old to live in Arizona. (*Id*.). When Macon was eight, the Office of Childcare Services (OCS) took custody of Macon and initiated a Child in Need of Aid (CINA) proceeding due to reports of drug use and domestic violence. (*Id*.). While a CINA

proceeding typically requires that both parents be contacted, Kaleb alleges that he was not informed. (*Id*.). After Kaleb expressed interest in asserting full custody of Macon, OCS performed a home study, which led to a negative recommendation. (*Id*. at 219). After a year in the foster system, Macon settled with his aunt Kara. (*Id*.). After two years, Kara filed for guardianship of Macon. Kaleb contested the guardianship motion, but Kara succeeded. (*Id*.). Kaleb appealed. (*Id.*). Kaleb argued that a proceeding granting guardianship is functionally equivalent to a termination of parental rights and, therefore, should require the same standard of evidence present in a termination proceeding. (*Id*. at 218). The Court rejected Kaleb's argument, because granting guardianship to a third party does not terminate the rights of a parent. (*Id*. at 222). Kaleb also claimed that granting guardianship is a de facto termination of his parental rights because it is virtually impossible for a parent to reacquire custody rights so long as the guardian is providing adequate care. (*Id*. at 225). The Court clarified a previous holding, stating that any material change to the lives of the child, the guardian, or the parent could warrant a change in custody under Alaskan law. (*Id*.). Affirming the lower court's decision, the Supreme Court held that appointing a guardian does not require the same standard of evidence as terminating parental rights and that such appointment was not a de facto termination of parental rights. (*Id*. at 226).

Matter of Sasha J.

In *Matter of Sasha J.*, 563 P.3d 602 (Alaska 2025), the Supreme Court of Alaska held that courts are not necessarily precluded from determining whether an individual is incapacitated by a previous determination of that individual's incapacity. (*Id.* at 610). In 2012, the Alaska superior court determined that Sasha was incapacitated and required guardianship. (*Id.* at 604). Sasha's grandmother, Bella, acted as her guardian. (*Id.*). In 2014, the court terminated Bella's guardianship. (*Id.*). Sasha's family, including Bella, acted as Sasha's informal caretakers. (*Id.*). In 2022, Adult Protective Services filed a petition for guardianship, but Sasha requested a jury trial on the issue of her incapacity. (*Id.*). The superior court denied the request because it believed that the issue of Sasha's incapacity was precluded by the 2012 determination. (*Id.* at 606–07). The Supreme Court of Alaska reversed this decision, arguing that the superior court erred in its application of issue preclusion (also known as collateral estoppel). (*Id.* at 609). The Supreme Court of Alaska reasoned that the superior court did not make sufficient findings that the issue of Sasha's incapacity in 2022 was identical to the issue in 2012. (*Id.*). Since incapacity is not static, a court must determine whether there are new facts before precluding an issue of incapacity (*Id.* at 610). The Supreme Court of Alaska remanded for proceedings to determine Sasha's capacity. (*Id.*). The Supreme Court of Alaska held that courts are not necessarily precluded from determining whether an individual is incapacitated by a previous determination of that individual's incapacity. *(Id.*).

Native Village of Saint Michael v. State of Alaska, Department of Family & Community Services, Office of Children's Services

In *Native Village of Saint Michael v. State of Alaska, Department of Family & Community Services, Office Of Children's Services*, 572 P.3d 546 (Alaska 2025), the Supreme Court of Alaska held that, when the Office of Children's Services (OCS) properly releases custody of a

child to a parent, the requirements of the Interstate Compact on Placement of Children (ICPC) do not apply, even if the parent plans to subsequently depart Alaska with the child. (*Id.* at 556). Two Indian children were taken into emergency custody of OCS after they were found in an unsuitable environment. (*Id*. at 548). Several years later, the father underwent significant treatment for his addiction, moved to another state, and acquired full time employment. (*Id.* at 549). He then filed for full custody of his children. (*Id*.). OCS initiated a process to gain approval from the father's new state of residence to transfer custody. (*Id.* at 549–50). However, despite the father's fitness in every other criteria, the other state denied the petition due to him being inconsistent with his communication with the state. (*Id.* at 550). Because under the ICPC both states need to agree before custody of children is transferred into "foster care or as a preliminary to a possible adoption" across state lines, they could not immediately transfer the children. (*Id.* at 550, 553). OCS determined that working with the other state would add at least a year to the process and that it was in the best interest of the children to grant the father custody while he was visiting Alaska. (*Id.* at 550). After a custody hearing, the transfer was completed. (*Id.* at 551). The Village then appealed the decision. (*Id.*). On appeal, the Village claimed that OCS had violated the ICPC, because transferring custody to a parent fell under the ICPC. (*Id.* at 553–54). The Supreme Court affirmed the lower court's decision, reasoning that a plain reading of the ICPC unambiguously showed that a parent was not considered a foster care or preliminary placement in the statute's context. (*Id.* at 554). Because this transfer is not covered by the ICPC, OCS did not require the approval of the other state. (*Id.* at 556). Affirming the lower court's decision, the Supreme Court held that, when the OCS properly releases custody of a child to a parent, the requirements of the ICPC do not apply even if the parent plans to subsequently depart Alaska with the child. (*Id.* at 556).

Sandvik v. Frazier

In *Sandvik v. Frazier*, 573 P.3d 552 (Alaska 2025), the Supreme Court of Alaska held that the superior court needed to further explain why the purchase of life insurance for a divorced spouse was not an appropriate remedial action. (*Id.* at 553). Sandvik and Frazier divorced and reached a settlement agreement about how to split their assets. (*Id.*). The parties agreed that the marital portion of Frazier's pension plan would be divided equally with 50% survivorship to Sandvik. (*Id.*). However, the plan did not accommodate these terms. (*Id.*). It only offered options with (1) no survivor beneficiary, with (2) Sandvik as Frazier's surviving spouse, and with (3) Sandvik as a conditional surviving spouse (so long as Frazier did not remarry). (*Id.*). Sandvik argued that only the second option would fully compensate her and honor the previous agreement. (*Id.* at 554). Frazier argued that the third option was the fairest, especially if he purchased a life insurance policy "to guarantee equivalent to survivor benefits to Sandvik for the rest of her life" (*Id.*). Sandvik did not like this outcome because she did not trust Frazier to diligently pay the life insurance premiums. (*Id.*). Because the "principal purpose" of the initial agreement was "substantially frustrated," it was the Court's duty to supply an essential term to preserve the wishes of both parties and "grant relief on such terms as justice requires." (*Id.* at 555). The superior court ultimately decided that making Sandvik the conditional surviving spouse was the fairest option, but did not include as part of this the requirement that Frazier purchase life insurance (even though he had already agreed to do so). (*Id.* at 554). The Supreme Court of Alaska agreed, holding that the option to make Sandvik the conditional surviving spouse best

reflected the initial intentions of the parties because Sandvik was not overcompensated, but questioned why the superior court did not incorporate the life insurance into its order. (*Id.* at 555–56). Vacating the superior court's decision, the Supreme Court of Alaska remanded back to the superior court to get further clarification on their reasoning. (*Id.* at 556).

Willis v. Humphries

In *Wills v. Humphries*, 564 P.3d 272 (Alaska 2025), the Supreme Court of Alaska held that a child support offset may be granted to a parent who is owed attorneys' fees by the other parent. (*Id.* at 282). When Robert Wills and Aniela Humphries divorced in 2012, they entered into a shared custody schedule of their three minor children. (*Id.* at 273-74). After Wills breached the custody agreement in 2020, Humphries was awarded $21,000 in attorneys' fees. (*Id.* at 247). In July 2022, Wills chose to move from Alaska to South Carolina with the three children, moving to modify their custody arrangement. (*Id.*). The Court granted his motion and increased Humphries' child support payments. (*Id.* at 275). In September 2023, Humphries filed a request to have the amount she owed in child support payments to be offset by the amount Wills owed her in attorneys' fees. (*Id.*). The lower court granted her motion and Wills appealed, arguing that the superior court abused its discretion by offsetting the amount Humphries owed him. (*Id.* at 275-76). The Supreme Court of Alaska found the offset to be proper, relying on Alaska Civil Rule 90.3(c)'s authorization for a court to offset child support if good cause exists and if the offset is in the best interest of the children. (*Id.* at 276). The Supreme Court of Alaska found that the lower court did not abuse its discretion, given the court properly held evidentiary hearings to fully identify the financial circumstances of both parties and through this process, concluded that the offset would allow Humphries to use the money Wills owed her to travel to see the children. (*Id.* at 281–82). Given seeing their mother is in the children's best interest, the Supreme Court of Alaska affirmed, holding that an offset of child support may be granted to a parent who is owed attorneys' fees by the other parent when good cause exists and an offset in the best interest of the children. (*Id.* at 282).

Health Law

Thompson v. Department of Health and Human Services, Division of Senior and Disability Services

In *Thomason v. Department of Health and Social Services*, 563 P.3d 586 (Alaska 2025), the Supreme Court of Alaska held that Medicaid providers have a protected liberty interest in their reputations that the state deprives when it terminates providers, and therefore the state can only deprive that interest with due process. (*Id.* at 597–98). Thomason was a personal care assistant paid by Medicaid to provide direct services to her stepson. (*Id.* at 590). The Department of Health and Social Services (Department) investigated Thomason for inaccurate records of services, and found evidence that her records were indeed inaccurate. (*Id.* at 590–91). The Department then notified Thomason that her status as a personal care assistant would be terminated, and that she had a right to appeal this decision. (*Id.* at 592). Thomason appealed to the Office of Administrative Hearings, and an administrative law judge affirmed the Department's decision. (*Id.*). Thomason then appealed to the Alaska superior court, arguing, among other things, that the administrative procedure did not provide sufficient due process to protect her liberty interest in her reputation. (*Id.* at 593). The superior court rejected this claim on the basis that the Department's decision to terminate reflected on Thomason's professional, rather than personal or moral character. (*Id.* at 597). However, the Supreme Court of Alaska reversed the superior court on this issue, reasoning that the court had previously recognized harms to reputational interests based on negative government job evaluations where the evaluated employee's honesty, integrity, or morality was criticized. (*Id.* at 597). Thomason's dismissal allowed the inference that she had committed some act or omission warranting such dismissal from a position of trust. (*Id.* at 598). The Supreme Court of Alaska held that Medicaid providers have a protected liberty interest in their reputations that the state deprives when it terminates providers, and therefore the state can only deprive that interest with due process. (*Id.* at 597–98).

Immigration Law

Salad v. Department of Corrections

In *Salad v. State, Department of Corrections*, 769 F. Supp. 3d 913 (D. Alaska 2025), the United States District Court for the District of Alaska ruled that the removal of a foreign national is not foreseeable while their Temporary Protected Status (TPS) application is pending, thus making it illegal for Immigration and Customs Enforcement (ICE) to detain them while their application is being processed. (*Id*. at 923–24). Salad is a citizen of Somalia who entered the country through the southern border without inspection. (*Id.* at 916). After the United States was unable to return him to Somalia, he was released but was required to check in with the Customs Office in San Antonio. (*Id.* at 917). Salad left for Alaska, where he filed for TPS. However, he failed to inform the Customs office of his relocation. As a result, he was arrested. (*Id*.). ICE then placed Salad into removal proceedings. (*Id*.). Salad filed a petition objecting to the length of his detainment. (*Id*. at 918). The main issue before the United States District Court for the District of Alaska was whether the period of detention was reasonably necessary to bring about Salad's removal. (*Id*.). The government argued that because Somalia had issued a travel document, removal was reasonably foreseeable. (*Id*. at 919). The court affirmed the magistrate court's decision, however, finding that the temporary nature of the travel document and Salad's meeting of the prima facie case for TPS made his removal unforeseeable. (*Id*. at 924). The court further reasoned that even in the event of Salad not obtaining TPS status, Salad was entitled to an appeal process, which would further delay his removal. (*Id*. at 919). Affirming the magistrate judge's recommendation, the United States District Court for the District of Alaska held that indefinite detention under these circumstances violated due process and ordered Salad's immediate release. (*Id*. at 924).

Insurance Law

Estate of Wheeler v. Garrison Property and Casualty Insurance Company

In *Estate of Wheeler v. Garrison Property & Casualty Insurance Co.*, 564 P.3d 611 (Alaska 2025), the Supreme Court of Alaska held that a pollution exclusion clause in a homeowner's insurance policy does not exclude coverage for carbon monoxide poisoning arising out of an improperly installed water heater. (*Id.* at 621–22). A seventeen-year-old renting a cabin from the homeowners died from carbon monoxide poisoning which leaked from an improperly installed water heater. (*Id.* at 612–13). The homeowners had an insurance policy which excluded coverage for bodily injury or property damage resulting from pollutants. (*Id.* at 613). The insurance company argued carbon monoxide is a pollutant and thus the death was not covered by insurance. (*Id.*). The Supreme Court of Alaska examined the text of the homeowner's specific insurance policy and asked what the reasonable expectations of the insured would be. (*Id.* at 615). While acknowledging the word "pollutant" can be construed broadly, the Court reasoned other provisions in the insurance policy would indicate a narrower interpretation of the pollution exclusion. (*Id.* at 618–19). Following the pollution exclusion clause were exclusions for lead paint, lead based products, and asbestos which the Court reasoned a reasonable insured could infer means exposure to toxic substances typically found within the home would not fall within the pollution exclusion clause. (*Id.* at 619). Finding that an insured could reasonably expect coverage for liability from carbon monoxide poisoning based on these additional clauses, the Supreme Court of Alaska held the pollution exclusion in the homeowner's insurance policy does not exclude carbon monoxide poising resulting from an improperly installed water heater. (*Id.* at 621–22).

Travelers Property Casualty Company of America v. Keluco General Contractors, Inc.

In *Travelers Property Casualty Co. of America v. Keluco General Contractors, Inc.*, 572 P.3d 537 (Alaska 2025), the Supreme Court of Alaska held that insurance companies' internal procedures to record mailings do not satisfy the United States Postal Service (USPS) certification requirements under Alaska Statute § 21.36.260. (*Id.* at 543). Travelers Property Casualty Co. of America (Travelers) issued a workers' compensation insurance plan to Keluco General Contractors (Keluco) in March 2016 that was to expire in March 2017. (*Id.* at 539). In January 2017, Travelers mailed to Keluco a renewal notice in advance of its policy expiration. (*Id.*). Travelers internally recorded the January 2017 renewal notice through a USPS Form 3877 and an internal affidavit. (*Id.* at 542). Travelers did not seek a certificate or other verification of mailing from USPS. (*Id.* at 543). The letter never reached Keluco. (*Id.*). Consequently, Keluco did not renew its workers' compensation insurance, and only realized its policy had lapsed when an injured Keluco worker sought to file a claim with Travelers against Keluco (*Id.*). Keluco brought suit that Travelers had failed to send notice of nonrenewal in accordance with Alaska Statute § 21.36.260. Travelers argues that their internal procedures—which were submitted to USPS but required no verification by USPS—satisfied the mailing notice requirement under Alaska Statute § 21.36.260. (*Id.* at 540). The Supreme Court of Alaska held that Travelers' internal recording procedures did not fulfill the renewal notice requirements in Alaska Statute § 21.36.260. (*Id.* at 543). The Alaska Legislature amended Alaska Statute § 21.36.260 in 1987 to clearly require insurers to obtain a mailing certificate from USPS when sending renewal notices

to clients. (*Id.*). Travelers' internal procedures cannot be deemed equivalent to obtaining a certificate mailing from USPS (*Id.*). Accordingly, the Supreme Court of Alaska affirmed the trial court, holding that insurance companies' internal procedures to record mailings do not satisfy the United States Postal Service (USPS) certification requirements under Alaska Statute § 21.36.260. (*Id.*).

Native Law

United States v. Alaska

In *United States v. Alaska*, 151 F.4th 1124 (9th Cir. 2025), the United States Court of Appeals for the Ninth Circuit held that "public lands" under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) includes navigable waters where subsistence fishing traditionally has taken place. (*Id.* at 1127). In this case, the United States sought declaratory and injunctive relief to prevent Alaska from interfering with federal efforts to implement the rural subsistence priority. (*Id.* at 1135–36). The district court granted summary judgment in favor of the United States, and Alaska appealed. (*Id.* at 1136). The *Katie John* Trilogy interpreted "public lands" to include water rights where the United States holds water rights. (*Id.* at 1127). In contrast, *Sturgeon II* interpreted "public lands" differently in another ANILCA section based on subsistence-fishing context that was not at present in the *Katie John* Trilogy. (*Id.* at 1127–28). When Alaska argued that the *Katie John* Trilogy and *Sturgeon II* are clearly irreconcilable, the United States Court of Appeals for the Ninth Circuit rejected the argument. The Court stated that the contextual differences between the two sections rebuts the presumption of consistent usage for "public lands" and analyzed legislative history to ground its opinion. (*Id.* at 1128, 1141–42). Affirming the lower court's judgment, the United States Court of Appeals for the Ninth Circuit held that the federal government has the authority to implement the rural subsistence priority on navigable waters within federal conservation units in Alaska. (*Id.* at 1143–44).

Tort Law

Alaska v. Express Scripts, Inc.

In *Alaska v. Express Scripts, Inc.*, 774 F. Supp. 3d 1150 (D. Alaska 2025), the United States District Court for the District of Alaska held that organizations can still engage in a RICO enterprise with a common purpose even if they compete with one another in other respects. (*Id.* at 1174). Express Scripts was a Pharmacy Benefits Manager. (*Id.* at 1157). Pharmacy Benefits Managers are administrators that set drug coverage and reimbursement conditions in health plans called "formularies." (*Id.*). The State sued Express Scripts for its involvement in the opioid crisis, alleging that Express Scripts colluded with opioid manufacturers to favor opioids on its formularies. (*Id.*). The State claimed that Express Scripts' relationship with manufacturers constituted an "association-in-fact" enterprise under RICO. (*Id.* at 1173). Express Scripts argued that there not have been an association-in-fact with the manufacturers because the manufacturers were all competing with one another over the opioid market and therefore could not have a "common purpose." (*Id.* at 1174). However, the court reasoned that although manufacturers may have competed over their shares in the market, they also cooperated with Express Scripts to expand the market as a whole, collectively benefiting from the increased total sales. (*Id.*). Denying in part Express Scripts' motion to dismiss, the United States District Court for the District of Alaska held that organizations can still engage in a RICO enterprise with a common purpose even if they compete with one another in other respects. (*Id.*).

Downing v. Shoreside Petroleum, Inc.

In *Downing v. Shoreside Petroleum, Inc.*, 563 P.3d 34 (Alaska 2025), the Supreme Court of Alaska held that the lower court was not required to make a damages award based on the post-accident earning capacity the plaintiff suggested. (*Id.* at 39–40). Downing sued Shoreside Petroleum, Inc. (Shoreside) after she was injured by a truck driven by an employee of Shoreside in 2017. (*Id.* at 36). At trial, Downing's expert witnesses testified about the traumatic brain injury she suffered from the accident, and the superior court found that it was more likely than not that Downing suffered a loss of earning capacity as a result. (*Id.*). However, the court dismissed Downing's claim for damages for lost earning capacity, reasoning that she failed to prove the amount of her loss to a reasonable degree. (*Id.* at 37). When Downing appealed, the Supreme Court of Alaska remanded to the superior court, holding that once the court had found that Downing suffered loss of future earning capacity, it was obliged to award damages based on its best estimate of that loss. (*Id.*). On remand, the court did not find Downing's expert witness's estimate of loss of future earnings persuasive and instead awarded based on Shoreside's expert witness's estimate. (*Id.* at 37–39). Downing appealed again, arguing that the superior court should have found that her post-accident earning capacity was somewhere within the range of figures her witnesses proposed. (*Id.* at 39). The Supreme Court of Alaska held that because the superior court did not find Downing's witnesses credible, the court was not required to rely on that witness's estimates for damages. (*Id.* at 40). The Court also reasoned that the superior court complied with Alaska Civil Rule 52 by clearly calculating that she had 6.3 years of work life expectancy and basing their damages calculation on that. (*Id.* at 41–42). Because these calculations used the average retirement age for women, the Supreme Court of Alaska therefore

held that the superior court did not clearly err by using their calculations in awarding Downing damages, instead of using Downing's expert witness's calculations.

Kisling v. Grosz

In *Kisling v. Grosz*, 565 P.3d 226 (Alaska 2025), the Supreme Court of Alaska held that when a jury awards noneconomic damages, the court must first allocate fault before deciding whether a damages cap applies. (*Id.* at 227). After Grosz was traumatically injured while helping his friend Kisling hang a crucifix on the wall in Kisling's home, he sued Kisling for negligence. (*Id.*). The jury awarded $1.2 million worth of non-economic damages but found that Kisling was only 25% at fault while Grosz was 75% responsible for his own injuries. (*Id*. at 228). Alaska law caps noneconomic damages in personal injury cases at $400,000. (*Id*.). The parties disagreed as to how to apply the statutory damages cap to Grosz's recovery. (*Id*.). Kisling argued that the court should apply the cap to reduce the award to $400,000 before applying the apportionment-of-fault percentages, resulting in a $100,000 recovery for Grosz. (*Id*.). Grosz, on the other hand, argued that the court should first apply the apportionment percentages before deciding whether a cap should apply, resulting in a $300,000 recovery (25% of $1.2 million). (*Id*. at 228–29). The superior court agreed with Grosz's sequencing and the Supreme Court of Alaska affirmed. (*Id*. at 229). The Court reasoned that the cap applies only to the amount for which the defendant is responsible. (*Id*.). While the Court acknowledged that the legislature intended to limit a defendant's exposure and plaintiff's recovery in implementing its damages cap, it noted that the statutory text and legislative history do not require reductions below the cap. (*Id*. at 231). The statutory cap is a limitation on a defendant's liability, not on the entire damages award. (*Id*.). Affirming the lower court's decision, the Supreme Court held that courts must first apply principles of comparative fault to determine what the claimant is owed and then decide whether that amount is subject to a statutory damages cap. (*Id*. at 235).

Griffith v. Hemphill

In *Griffith v. Hemphill*, 556 P.3d 932 (Alaska 2025), the Supreme Court of Alaska held that (1) "negligent infliction of emotional distress" claims cannot be based on litigation conduct and (2) "malicious prosecution" claims require those bringing the claim to have won on all relevant issues in the previous litigation. (*Id.* at 939–41). In a previous case, landlord Griffith sued his tenants Hemphill and Davis for eviction. (*Id.* at 936). Hemphill and Davis counterclaimed on various breach of contract claims. (*Id.*). The court entered judgment in favor of Hemphill and Davis on Griffith's suit and on one of their counterclaims. (*Id.*). In the case at hand, Griffith sued Hemphill and Davis over their counterclaims, alleging (1) negligent infliction of emotional distress and (2) malicious prosecution. (*Id.* at 936, 940). To the claim for negligent infliction of emotional distress, the Supreme Court of Alaska reasoned that, since litigation conduct could not form the basis of a claim for intentional infliction of emotional distress, it also could not form the basis of a claim for negligent infliction of emotional distress. (*Id.* at 939). As to the claim for malicious prosecution, the Supreme Court of Alaska articulated two standards based on California precedent. (*Id.* at 940). The first standard required that the person bringing the claim to have won on every issue in the litigation. *(Id.*). The second required that the person bringing the claim to have won on every "separable" issue. (*Id.*). The court declined to decide on which

standard to use because Griffith did not meet even the second, lower standard. (*Id.* at 940–41). The court reasoned that Hemphill and Davis's counterclaims were not separable from one another because they were all compulsory to Griffith's claim. (*Id.* at 941). Since Hemphill and Davis gained a favorable judgment on one of their breach of contract counterclaims, Griffith had not even won on every separable issue. (*Id.* at 940–41). The Supreme Court of Alaska held that (1) "negligent infliction of emotional distress" claims cannot be based on litigation conduct and (2) "malicious prosecution" claims require those bringing the claim to have won on all relevant issues in the previous litigation. (*Id.* at 939–41).

Rochon v. City of Nome

In *Rochon v. City of Nome*, 568 P.3d 8 (Alaska 2025), the Supreme Court of Alaska held that municipalities are immune from liability when providing gratuitous emergency services outside of city limits. (*Id*. at 17). After he was injured in a single-vehicle accident 35 miles outside Nome, Rochon sued the City and an emergency responder for negligently providing assistance and aggravating his injuries. (*Id*. at 12). Rochon claimed that the emergency worker failed to adequately secure him in the ambulance, exacerbating his injuries. (*Id.*). He alleged that the City of Nome was vicariously liable for the emergency worker's conduct and additionally sued for negligent hiring, supervision, and training, seeking over $100,000 in damages. (*Id.*). Rochon filed a separate lawsuit against a woman he claimed had provided alcohol to the underage driver of the ambulance, and the superior court consolidated the two cases. (*Id.*). The ambulance department charged Rochon $1,775 for its services, its standard rate. (*Id*.). The City offered Rochon $7,500 to resolve the lawsuit, but Rochon did not reply to the offer. (*Id.*). Summary judgment and attorneys' fees were subsequently granted for the City. (*Id*. at 13). Rochon appealed the superior court's summary judgment and attorneys' fees award, both of which the Supreme Court of Alaska affirmed. (*Id.*). Alaska law immunizes municipalities and their agents from lawsuits based on their performance during the gratuitous extension of municipal services. (*Id*. at 14). Because the City had no obligation to provide ambulance services 35 miles away but charged Rochon the standard fare, the service was gratuitous. (*Id*. at 17). The Supreme Court of Alaska also affirmed the award of attorneys' fees. (*Id.* at 18). The Court noted that the City proposed to Rochon a $7,500 settlement offer, but Rochon received $0 in the final judgment. (*Id*.). Under Rule 68, a party that declines an offer of judgment must pay some part of the offering party's attorneys' fees if the final judgment is at least 10% less favorable to him than that offer. (*Id*.). Affirming the superior court's decision, the Supreme Court of Alaska held that municipalities are immunized from liability for providing gratuitous emergency services outside of city limits. (*Id*. at 17).

Tripp v. City and Bureau of Juneau

In *Tripp v. City & Borough of Juneau*, 563 P.3d 17 (Alaska 2025), the Supreme Court of Alaska held that a public employer has no duty to train employees against excessive alcohol consumption outside of work hours and therefore could not be held liable for an employee who drives drunk outside of work hours. (*Id.* at 21). The case itself concerned a Juneau Police Department (JPD) officer who rear-ended another vehicle and injured the driver when he had a blood alcohol content of 0.239. (*Id.* at 22). The officer struggled with both alcohol abuse and

Post Traumatic Stress Disorder (PTSD). (*Id.*). Tripp, who was injured, alleged that JPD was negligent in failing to provide the officer with counseling for his PTSD or training to manage his alcohol abuse. (*Id.*). The superior court dismissed the case because it did not believe that the JPD had a duty of care, and the decision was appealed to the Supreme Court of Alaska. (*Id.* at 24). Tripp claimed that the duty of care could be sourced from: "(1) AS 18.65.130, a provision setting out general policies for the Police Standards Council; (2) CBJ's Drug-Free Workplace policy; and (3) JPD Rule of Conduct 114." (*Id.* at 25). The Supreme Court of Alaska disagreed. (*Id.*). Instead, the Supreme Court of Alaska concluded that the statute itself was too broad to create a specific duty of care, and the internal policies and rules of conduct did not extend a duty outside of the workplace. (*Id.* at 25–27). Finally, the Supreme Court of Alaska held that public policy did not mandate creating a duty of care due to the limited foreseeability of the injury and the strained relationship between the proposed duty and the tortious conduct. (*Id.* at 31–32) As a result, the Supreme Court of Alaska affirmed the superior court's dismissal of the case. (*Id.* at 34).

Trusts & Estates Law

Matter of Estate of Rousey

In *Matter of Estate of Rousey*, 568 P.3d 717 (Alaska 2025), the Supreme Court of Alaska held that *inter vivos* transfers must be rescinded when the estate has presented clear and convincing evidence that the transfers were the product of undue influence over the deceased's financial and legal decisions. (*Id.* at 731–32). The Rousey's were a financially successful family and had built a substantial portfolio of properties in and outside of Alaska. (*Id.* at 721). As Erna Rousey aged, her memory began to decline, leading to her dementia diagnosis in 2015. (*Id.*). When her husband James entered into rehabilitative care in 2017, Erna lived alone and began to depend heavily on her son Jimmy. (*Id.*). Jimmy was involved in all aspects of Erna's life, from household and yard upkeep to advising her on legal and financial matters, with his involvement only increasing after his father's death in 2018. (*Id.*). By the end of 2019, Erna had transferred all five of her properties to Jimmy, added him to her bank accounts, and transferred him nearly $225,000, leaving her with just $950. (*Id.*). After Erna's death in December 2019, the estate filed a probate petition requesting rescission of the *inter vivos* transfers to Jimmy. (*Id.*). Finding that Erna was susceptible to undue influence because of her dementia and reliance on Jimmy, the superior court held rescission of the transfers was necessary and awarded the estate attorneys' fees, granting an enhanced award due to Jimmy's bad faith not only during the litigation, but in his fraud against his mother. (*Id.* at 734). Although agreeing the estate is entitled to attorneys' fees, the Supreme Court remanded for a reconsideration of the amount, finding that the court may not hold a litigant's pretrial actions against them when conducting the collective bad faith analysis. (*Id.*). The Supreme Court of Alaska affirmed the lower court's decision, holding that rescission of *inter vivos* transfers is proper where the recipient abused his confidential relationship with the grantor and thus exerted undue influence over the grantor's actions. (*Id.* at 731–32, 735).