

## NOTE FROM THE EDITOR

The *Alaska Law Review* is pleased to publish our June 2022 issue, the first in our thirty-ninth volume. This issue features two practitioner articles, three student notes, and a student case comment. These pieces cover a wide range of important legal topics impacting Alaskan law.

Our first article is titled *Strangers in Their Own Land: A Survey of the Status of the Alaska Native People from the Russian Occupation Through the Turn of the Twentieth Century*. In this historical review, Jon W. Katchen, Partner at Holland & Hart, and Nicholas Ostrovsky, General Counsel of Ahtna, Inc., examine the legal status of Alaska Natives and shed light on the recent debate, resolved last year by the U.S. Supreme Court, about whether Alaska Native Corporations are considered “Indian tribes” for the purpose of a congressional COVID-19 relief package. The authors survey the unique history of the treatment of Alaska Natives from the mid-1700s through the early twentieth century.

In our next article, *ANSCA Corporation Proxy Wars*, Aaron M. Schutt, President and Chief Executive Officer of Doyon, Ltd., reviews the legal history of corporate proxy wars and related election issues that the Alaska Native Claims Settlement Act (ANCSA) corporations and candidates for their boards of directors have waged over the past nearly fifty years. Mr. Schutt details the important implications these cases have had for ANCSA corporations, including the financial burdens associated with litigation and their effect on the leadership of those corporations.

Our first student note, *Alaska’s Lengthy Sentences Are Not the Answer to Sex Offenses*, by Margot Graham, argues that the Alaska legislature and the Alaska courts have created an ineffective sentencing scheme that results in excessively long prison sentences for Alaskans convicted of sex offenses. Ms. Graham notes that rationales behind this sentencing scheme were based in unfounded and inaccurate assumptions about those who commit sex offenses, and that the lengthy sentences are not achieving the goal of public safety. This note proposes three solutions to this problematic scheme that could better protect Alaskan communities, help rehabilitate those who commit sex offenses, and save taxpayer dollars.

Our second student note, *It Takes a Village: Repurposing Takings Doctrine to Address Melting Permafrost in Alaska Native Towns*, written by incoming Editor-in-Chief Sasha Kahn, proposes a novel legal solution to an emergency facing many Alaska Native villages today. Due to climate change, Alaska Native villages built upon permafrost are beginning to sink and collapse. Most of these villages will have to physically move, as

the ground beneath them becomes unlivable. The estimated costs for these moves are enormous. Mr. Kahn proposes a novel avenue for funding: a state inverse condemnation regulatory takings claim. This note presents two possible arguments, and considers the shortcomings of this strategy, along with the potential for its use in response to other cases of environmentally related property destruction.

Our final student note, written by Matthew Naiman, is titled *The Plaintiff's Plight: Altering Alaska's Rule 82 to Better Compensate Plaintiffs*. Through a law and economics framework, this note examines various attorneys' fees rules in use throughout both the United States and England, and critiques Alaska's unique attorneys' fee shifting rules. Finally, Mr. Naiman proposes an alteration to Alaska Rule of Civil Procedure 82 to create better parity between plaintiffs and defendants in collecting attorneys' fees.

Our final piece is a student case comment by Mary Beth Barksdale, titled *Renewed Debate Over Alaska's Establishment Clause: Hunt v. Kenai Peninsula Borough and the Church of the Flying Spaghetti Monster*. This comment shows how a recent Alaska Superior Court case involving the Church of the Flying Spaghetti Monster has revitalized decades-old debates regarding the establishment clause in Alaska and beyond. Ms. Barksdale looks to early constitutional debates in Massachusetts and Virginia to inform her recommendations for the future of Alaska's establishment clause jurisprudence.

This issue of the *Alaska Law Review*, in addition to each of our previous issues, is available on our website, [alr.law.duke.edu](http://alr.law.duke.edu). There, anyone can access PDFs of our volumes, which are easily printable and searchable. Our website also houses our "Year-in-Reviews" -- summaries of important cases decided by the Alaska Court of Appeals and the Alaska Supreme Court each year. We hope that you will visit our website and continue engaging with *ALR* as we strive to serve the Alaska legal community. We welcome your comments, responses, and feedback at [alr@law.duke.edu](mailto:alr@law.duke.edu).

On behalf of the editorial staff, I hope you find this issue thought-provoking, useful, and enjoyable. We are grateful to the Alaska Bar Association for the privilege of publishing the *Alaska Law Review* and its continued support. We thank Duke University School of Law for its institutional support. Lastly, and most importantly, we thank you for your interest in the scholarship of our published authors. We look forward to future collaboration with the Alaska legal community in the months and years to come.

Kate Goldberg,  
Editor-in-Chief, 2021-22