

## NOTE FROM THE EDITOR

The *Alaska Law Review* is pleased to present our June 2019 issue, which is the first in our thirty-sixth volume. This issue features two articles, two student notes, and two case comments. These pieces touch on a variety of legal topics that are significant to Alaska, ranging from issues with jury instructions to the state's growing economic relationship with China.

In the first article, "*Actual*" and "*Constructive*" Possession in Alaska: *Clarifying the Doctrine*, Professor Chad Flanders looks at two Alaska court cases, each decided by Judge David Mannheimer, which raise important questions about Alaska's jury instructions on "possession." Particularly, the article suggests that the current jury instructions on "possession" are too expansive, and argues for a refined understanding of the definition of "constructive possession" that hinges on the idea of "authority." Chad Flanders is a Professor of Law at the Saint Louis University School of Law.

Our second article, *Pathway to Permanency: Enact a State Statute Formally Recognizing Indian Custodianship as an Approved Path to Ending a Child in Need of Aid Case*, by Courtney Lewis, looks at the disproportionate number of Alaska Native youth in foster care and the overburdened and understaffed state child welfare agency in Alaska. The article argues that Alaska should enact a state statute that formally recognizes Indian custodianships as a pathway for Indian children to exit the state foster care system. Courtney Lewis is an assistant public defender at the Alaska Public Defender Agency.

The first note, *Caught Between Superpowers: Alaska's Economic Relationship with China Amidst the New Cold War*, by Sam Karson, discusses Alaska's growing economic relationship with China in the context of the U.S. federal government's increasingly tense relationship with China. The note argues that the anti-commandeering doctrine can provide constitutional protection for Alaska to promote its own economic interest with China without interference from the federal government.

In our second note, *Protecting Passenger Fees: Reawakening Congress's Tonnage Clause Authorization Powers*, I analyze the recent court holding in *Cruise Lines International Association Alaska v. The City and Borough of Juneau*. In this case, Cruise Line International Association Alaska sued Juneau for charging passenger fees to cruise vessels that entered the City's port. I argue that while the imposition of these fees may violate the U.S. Constitution's Tonnage Clause, the City should circumvent the

constitutional issue by persuading Congress to expressly authorize Alaska passenger fees.

Notably, the comments in this issue are part of a new feature of the *Alaska Law Review* that seeks to expand the treatment given to important Alaska cases beyond what is covered in our annual “Year-in-Review.” Beginning in the fall of 2019, these comments will be published directly onto our website. Each comment is designed to give summary and analysis of prominent Alaska cases to highlight the impact they will have on Alaska and U.S. law.

*League of Conservation Voters v. Trump: A Potential Blueprint to Challenging Environmental Policy Rollbacks*, by Nick Buchta and Quentin Jorgensen, is the first comment in this issue. This comment examines the recently rejected motion to dismiss in *League of Conservation Voters v. Trump* and its potential to serve as a roadmap for environmental organizations seeking to challenge regulatory rollbacks by the Trump administration. The authors argue that the ruling in this case may allow future plaintiffs to argue that an injury has been established, and thus gain standing to sue, on the basis of environmental damage to public lands.

Finally, our second comment is *Hunt v. Kenai Peninsula Borough: The Search for Clarity in Legislative Prayer Speaker Selection*, by Charles Truslow and Craig Jones. The authors focus on a recent case where three residents of the Kenai Peninsula Borough successfully argued that a speaker selection policy in their community violated the Alaska Constitution’s Establishment Clause. The authors argue that the limited amount of federal precedent on the principles guiding speaker selection policies has led to significant variance of application in different jurisdictions, and that important questions regarding the scope of legislative prayer doctrine in Alaska still need to be addressed.

This issue of the *Alaska Law Review*, as with all of our previous issues, is freely available on our website, [alr.law.duke.edu](http://alr.law.duke.edu). There, anybody can access PDFs of all of our content, which are both printable and searchable. We hope that you will visit our site, and continue to engage with the journal. We always welcome your comments, responses, and feedback; please feel free to email us at [alr@law.duke.edu](mailto:alr@law.duke.edu).

On behalf of my peers on the *Alaska Law Review* editorial staff, I hope that you enjoy this issue. It is a privilege to participate in this service for the Alaskan legal community. We thank the Alaska Bar Association for its confidence in Duke University School of Law, and thank all of our readers for your interest and support.

*Bradley Russian*  
*Editor-in-Chief, 2018–2019*