

April 20, 2006

RECEIVED

APR 24 2006

Alaska Commission on Judicial Conduct  
Attn.: Marla Greenstein, Executive Director  
1029 W. 3<sup>rd</sup> Ave., Suite 550  
Anchorage, AK 99501-1944

ALASKA COMMISSION  
ON JUDICIAL CONDUCT

RE: Judge M. Murphy Complaint

Dear Ms. Greenstein:

I received your letter dated 3/31/06 stating that the Commission feels Judge M. Murphy did not commit any ethical misconduct during my status hearings, trial, & sentencing. You stated that I should send you a list of people that observed Judge Murphy and Trooper Gibbens (main witness for the State during trial & sentencing) improperly spending personal time out of court. Listed below are people that I know who saw this happening:

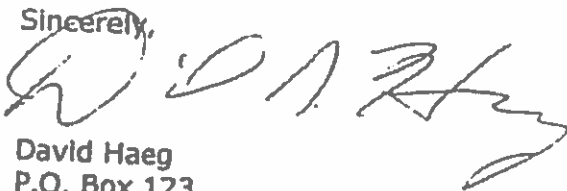
<u>Tony Zellers</u>	907-696-2319	Trial 7/28/05 Sentencing 9/30/05
<u>Tom Stepnosky</u>	570-727-3130	Sentencing 9/30/05
<u>Drew Hilterbrand</u>	907-252-4090	Sentencing 9/30/05
<u>Wendell Jones</u>	907-253-7606	Sentencing 9/30/05

If you want to contact people that are totally objective you could call the staff at the Hotel McGrath Bed & Breakfast (907) 524-3951 where she stayed during sentencing and the Takusko House (907) 524-3198 where we believe she stayed during trial. The Hotel McGrath B&B had a vehicle to rent (we know because we used one) yet every time we ever saw Judge Murphy away from Court she was always with Trooper Gibbens being driven to (the store, hotel, airport). She even had meals with Trooper Gibbens at the Hotel McGrath B&B.

Everyone present thought it was very unusual that this type of activity was happening with the Judge and Trooper Gibbens considering Trooper Gibbens was the States main witness.

Let me know if you need any more information. Thank you.

Sincerely,



David Haeg  
P.O. Box 123  
Soldotna, AK 99669  
907-262-9249

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

FAX TRANSMITTAL

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TO: David Haeg  
FAX #: (907) 262 8867

TO: Peter Masser  
FAX #: (907) 258.8751

TO: Andrew Peterson  
FAX: (907) 259.6270

TO: Marla Greenstein  
FAX: (907) 272.1033

FROM: Stephanie Juanides, Superior Court Judge  
(907) 264-0430  
Fax #: (907) 264-0518

SUBJECT: 3AHO-10-64 CI

DATE: August 27, 2010

NUMBER OF PAGES INCLUDING THIS ONE: 43

MESSAGE: Please call if you experience problems with this transmission.

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 STATE OF ALASKA, )  
 )  
 Respondent. )

POST-CONVICTION RELIEF  
Case No. 3HO-10-00064CI

(Trial Case No. 4MC-04-00024CR)

- CONFIDENTIAL ORDER:**
- (1) SUPPLEMENTING ORDER GRANTING REQUEST FOR DISQUALIFICATION;
  - (2) WITHDRAWING JULY 28, 2010 ORDER FOR INFORMATION FROM JUDICIAL CONDUCT COMMISSION; AND
  - (3) REFERRING AFFIDAVITS TO COMMISSION FOR ITS CONSIDERATION

This confidential order supplements the August 25, 2010 Order Granting Request for Disqualification on appearance grounds. It is confidential because it addresses the proceedings of the Alaska Commission on Judicial Conduct.<sup>1</sup>

This court was only tasked with resolving David Haeg's disqualification request. It is not privy to the Commission investigation and the statements made by the witnesses, Judge Murphy, or Trooper Gilbert. Therefore, it takes no position on the materials submitted herein. In addition, this order does not resolve any allegations

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<sup>1</sup> AS 22.30.060 (providing for confidentiality of all commission "proceedings, records, files, and reports"). Notwithstanding the confidentiality of the proceedings before

of impropriety. Therefore, the attached materials are being submitted to the Judicial Conduct Commission for its consideration.

Mr. Haeg alleges that during his trial in the remote community of McGrath, Judge Murphy accepted rides from Trooper Gibbens. Mr. Haeg filed a complaint with the Alaska Commission on Judicial Conduct alleging impropriety based upon Judge Murphy's use of Trooper Gibbens for transportation during the trial. The Commission sent Mr. Haeg a letter stating that the rural setting "led to more contact with the community members than usual" but concluded "there were no improper contacts".

In support of his concerns that (1) Judge Murphy and Trooper Gibbens did not provide the Commission accurate information about this issue and (2) the Commission did not adequately investigate their failure to provide full disclosure, Mr. Haeg submitted various witness affidavits<sup>3</sup> and a recording of two phone

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the Judicial Conduct Commission, both Judge Murphy and Mr. Haeg reference in their pleadings the referral and result of the investigation.

<sup>2</sup> Confidential letter from the Alaska Commission on Judicial Conduct to Mr. Haeg dated January 12, 2007 and confidential letter from the Alaska Commission on Judicial Conduct to Mr. Haeg dated January 25, 2007.

<sup>3</sup> The supplied affidavits are attached, as Attachments C-H.

Attach. C: Affidavit of former Alaska State Trooper Wendell Jones

Attach. D: Affidavit of retired Air Force Captain Tony Zellers

Attach. E: Affidavit of Tom Stepnosky

Attach. F: Affidavit of Drew Hilterbrand

Attach. G: Affidavit of Greg Pearson

Attach. H: Affidavit of Jackie Haeg

conversations between himself and Commission Executive Director Marla Greenstein.<sup>4</sup>

The basis of Mr. Haeg's concerns is best addressed in four parts. First, in a phone conversation on or about January 12, 2007, Mr. Haeg claims that Ms. Greenstein stated that Judge Murphy and Trooper Gibbens "didn't share any meals together and the rides were provided by somebody else . . . that's what everyone I interviewed said."<sup>5</sup> In contrast, a July 21, 2010 notarized affidavit from trial witness Tony Zellers asserts that on July 28, 2005 (day three of Haeg's four-day trial), "I personally observed Judge Margaret Murphy being shuttled in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner, and leave with Trooper Gibbens when court was finished for the day."<sup>6</sup> Jackie Haeg, Mr. Haeg's wife, asserted the same in her own affidavit.<sup>7</sup>

Second, Mr. Haeg claims that in that same telephone conversation with Ms. Greenstein, he was told that "after the completion of the sentencing hearing—um—Trooper Gibbens did give—uh—Magistrate Murphy a ride to the hotel. But that was

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<sup>4</sup> Mr. Haeg provided both a digital recording of and a substantially accurate transcript of the phone conversations. The transcripts are attached, as Attachments A and B, with chambers' law clerk's notations regarding minor discrepancies between the audio file and the transcript. Copies of the audio file shall be provided upon request.

<sup>5</sup> Attach. A at 1; *see also id.* at 7 ("[speaking to Haeg's wife] I talked to the people that your husband gave me the list of. . . they did see—um—a trooper giving her rides and—but they—they couldn't identify which—who the trooper was") Ms. Greenstein asserted, "It was VPSO Parker who provided the rides." *Id.* at 3, 7.

<sup>6</sup> Attach. D.

after the sentencing hearing.<sup>7</sup> A transcript of the sentencing hearing was provided by the Aniak District Court.<sup>8</sup> The transcript reflects that Judge Murphy raised the issue of obtaining a ride from Trooper Gibbens during the sentencing hearing.<sup>9</sup> A review of the log notes reveals that this statement was approximately five hours before the end of the hearing. In addition, Mr. Haeg provides four affidavits stating that on the date of the sentencing hearing, September 29, 2005, the affiant "personally observed" Judge Margaret Murphy taking rides from Trooper Gibbens throughout the day of the sentencing hearing.<sup>10</sup>

Third, Mr. Haeg claims that the Ms. Greenstein stated that she talked to the people that Mr. Haeg identified in a list he provided to the Commission.<sup>11</sup> Mr. Haeg claims that he provided a list of four people and that the affidavits of these four individuals state that they were not contacted regarding this matter.<sup>12</sup>

Finally, in addition to his concerns regarding the alleged impropriety of Judge Murphy receiving rides from Trooper Gibbens, Mr. Haeg also explains that based upon his understanding of Judge Murphy's and Trooper Gibbens' representations to the Commission, he feels that they were not truthful about their contacts during the trial. Therefore, Mr. Haeg is concerned over Ms. Greenstein's assertion that "even if

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<sup>7</sup> Attach H

<sup>8</sup> Attach I

<sup>9</sup> *Id.* at 1262.

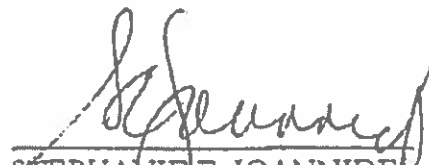
<sup>10</sup> Attach. C, D, E, F.

<sup>11</sup> Attach. A at 1, 7.

everything you say is true it wouldn't be that significant -um- a thing. It would be the kind of thing where we would just caution the judge to -um- to try to make other arrangements in small communities in the future. That's all we would do."<sup>12</sup>

In light of this court's ruling granting the disqualification request, the July 28, 2010 Order for Information from Judicial Conduct Commission is hereby  
WITHDRAWN.

DONE this 27<sup>th</sup> day of August 2010 at Anchorage, Alaska

  
STEPHANIE E. JOANNIDES  
Superior Court Judge

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<sup>12</sup> Attach. C, D, E, F. One affiant, Tom Stepnosky, stated that "[o]n or about 2006 I contacted . . . Mada Greenstein by phone and told her I had personally seen Trooper Gibbens give Judge Murphy rides before David Haeg was sentenced." Attach. E

<sup>13</sup> Attach. A. at 9.

Transcribed Phone Call between  
Alaska Commission on Judicial Council (Marla Greenstein) and  
David Haeg on or about January 12, 2007

1 HAEG: Hey I was wondering whatever became of the investigation into Judge Murphy?

2 GREENSTEIN: Yeah we're sending you a letter today. We have a meeting coming up

3 on January 22<sup>nd</sup>. Where -um- they'll consider my report and the judge's response

4 But - but it sounds like everything was -um- was ok. It sounds like -um- there was no

5 communication about the case and they didn't share any meals together and the rides

6 were provided by somebody else - not Trooper Gibbens

7 HAEG: They said the rides were provided by somebody other...

8 GREENSTEIN: Yes.

9 HAEG: ...than Trooper Gibbens?

10 GREENSTEIN: Yes

11 HAEG: Well that's the biggest pile of shit I've ever heard in my life.

12 GREENSTEIN: -Um- that's what - that's what everyone I interviewed said.

13 HAEG: And who did you interview - may I ask?

14 GREENSTEIN: Well in addition to the names you gave me I talked to Trooper Gibbens,

15 and the Judge, and there was one other law enforcement person there

16 HAEG: Ok well I'm goanna fly out to McGrath -uh- Marla and I'm goanna get tape

17 recordings of everybody - every juror that was there, all the people in McGrath -

18 cause there was 300 of them - and I'm goanna walk into your office and I'm goanna

19 hand you the tape. Ok?

20 GREENSTEIN: I'm just - it's - we don't

21 HAEG: Will that be clear enough for you Marla?



22 GREENSTEIN: No. And it's not that serious a thing anyway - even if it did happen  
23 Which we don't have any evidence that it did. They  
24 HAEG: Wasn't that serious?  
25 GREENSTEIN: No.  
26 HAEG: Do you know - you guys wouldn't accept the other stuff that happened in my  
27 case? Because 'oh...  
28 GREENSTEIN: Yeah..  
29 HAEG: 'we can't do whatever'.. She was changing her decisions 180 degrees to  
30 accommodate Trooper Gibbens. Ok?  
31 GREENSTEIN: Well I understand that's your perception but the...  
32 HAEG: Well..  
33 GREENSTEIN: I mean the other people..  
34 HAEG: Yeah my perception Marla..  
35 GREENSTEIN: Mmm hmm...  
36 HAEG: -Um- if I were you I would look at the Anchorage Daily News back whenever  
37 they arrested -uh- Anderson and start looking at what's going on in this state. I'd start  
38 opening my - my - my views should start expanding a little bit. You - and - I need a  
39 copy - can I have a copy of Trooper Gibbens saying he never gave Judge Murphy a  
40 ride - ever?  
41 GREENSTEIN: He didn't say never ever. It was during that week when you were  
42 down there.  
43 HAEG: During the week, when we were down there, he never gave her a ride?

44 GREENSTEIN: No.

45 HAEG: Ok and the Judge said that also?

46 GREENSTEIN: Umm hmm...

47 HAEG: -Um- I have to have copies of that. You tell me how - what I need to do to get  
48 copies of that? (talking over GREENSTEIN) And I will be there - in your office as fast  
49 as you could say...

50 GREENSTEIN: Yeah I understand you want

51 HAEG: ...get here

52 GREENSTEIN: ...the copies. But they're confidential documents so we can't give them  
53 to you. But it wasn't like they... Let me pull it up. Let me see if I could see the exact...  
54 I can tell you what - what's there - hold on... (1 minute passes)

55 HAEG: You believe this shit Jackie?

56 JACKIE HAEG: (Background) No I sure can't.

57 HAEG: Can you believe this?

58 JACKIE HAEG: (Background) She interviewed 2 people and that's just as far as she  
59 got?

60 GREENSTEIN: -Um- it was VPSO Parker who provided the rides..

61 JACKIE HAEG: (Background) She interviewed Tom?

62 HAEG: Ok, VPSO Parker...

63 GREENSTEIN: Yeah

64 HAEG: ...ok

65 GREENSTEIN: .. and -um- and after

66 HAEG: And did you interview – did you interview Mr. Parker?

67 GREENSTEIN: -Um- I don't remember. And then after

68 HAEG: Don't remember... Just hang on. Don't remember

69 GREENSTEIN: And then after the completion of the sentencing hearing -um- Trooper

70 Gibbens did give -uh- Magistrate Murphy a ride to the hotel. But that was after the

71 sentencing hearing.

72 HAEG: Ok just – after sentencing – was it. Ok mmm hmm. Do you read the papers

73 Marla?

74 GREENSTEIN: Yeah of course – yes

75 HAEG: Do you watch TV?

76 GREENSTEIN: No.

77 HAEG: Ok. -Um- how long have you been in your post?

78 GREENSTEIN: -Um- since 1989.

79 HAEG: Nineteen eighty-nine. So a good long time. Ok. Do you get many people like

80 me calling you and issuing complaints like this?

81 GREENSTEIN: -Um- we – we average about 3 complaints – 2 - 2 to 3 complaints a

82 month that we investigate.

83 HAEG: Ok. Investigate – ok. And when it was determined that there should be further

84 investigation were you the only one that investigated?

85 GREENSTEIN: I'm the staff investigator – yes.

86 HAEG: Ok are there any other investigators?

87 GREENSTEIN: No.

88 HAEG: Ok so it's just you. Comes in you decide what's going on and that's it?

89 GREENSTEIN: No the Commission reviews everything

90 HAEG: Ok and do I get a chance to appeal that decision?

91 GREENSTEIN: No

92 HAEG: Ok -- no appeal.

93 GREENSTEIN: You can -- I mean there might be some -- there might be a way to have

94 the Supreme Court...

95 HAEG: Oh -- that's good

96 GREENSTEIN: Do

97 HAEG: Cause I already got -- I already got two things heading their way already.

98 GREENSTEIN: Ok

99 HAEG: Ok -- Supreme Court may review -- and that would be a -- probably a Petition for

100 Review?

101 GREENSTEIN: No it's called an Original Application.

102 HAEG: Ok an Original Application.

103 GREENSTEIN: <sup>Totally (PS)</sup> ~~That's~~ discretionary on the part of the court

104 HAEG: Ok -- Original Application. Not the Petition for Review (Writing notes)

105 GREENSTEIN (indcipherable) out of court...

106 HAEG: Ok -Um- (laughs) and what level of liability do Trooper Gibbens and Judge

107 Murphy have when they were talking to you? Did you have them under oath? Or was

108 it just .

109 GREENSTEIN: No it was an informal interview.

110 HAEG: Ok – informal. -Um- if you found out that they lied to you -uh- is there any  
111 liability?

112 GREENSTEIN: -Um- if he -urn- well not for – not for just a witness but if a – if a judge  
113 wasn't telling us the truth we – we could review that as a complaint. But the – you  
114 know there's – it would have to be a – a deliberate kind of thing.

115 HAEG: Deliberate? -Um- let me just put my wife on for just one second. Jackie come  
116 here. Ok I want you to tell this lady that under the penalty of perjury you are goanna  
117 tell her how many times Trooper Gibbens drove Judge Murphy back and forth to the  
118 courthouse.

119 GREENSTEIN: I - I have...

120 HAEG: During my trial and sentencing.

121 GREENSTEIN: I have your wife's statement in writing – I have your wife's statement in  
122 writing. She doesn't need to tell me.

123 JACKIE HAEG: Hello.

124 GREENSTEIN: Hi. I have your statement in writing. That's fine.

125 JACKIE HAEG: Ok.

126 GREENSTEIN: You know I don't need you to tell me again cause I have your letter  
127 that you faxed us.

128 JACKIE HAEG: Ok well we did see her every single time that you know she was out of  
129 court and riding around to go to the store to get her pop or whatever and he was the  
130 one driving her everywhere. Back and forth from the hotel.

131 GREENSTEIN: Well he.

132 JACKIE HAEG: ...to eat...

133 GREENSTEIN: Well both he and the judge say that they weren't the people doing it..

134 JACKIE HAEG: Wow...

135 GREENSTEIN. ...It was VPSO Parker who provided the rides

136 HAEG: (in background) tell her ..

137 JACKIE HAEG: Well they're well he's - Dave's pretty upset cause they are both lying

138 - I - you know there were - everybody else that was there with us saw it too and they

139 were all - you know and all the jurors So - well I don't know what to tell ...

140 GREENSTEIN: Ok

141 JACKIE HAEG ... you probably need to ask some more people besides those two.

142 GREENSTEIN: No I talked to the people that your husband gave me the list of I've

143 spoke to them as well

144 JACKIE HAEG: And what did they tell you?

145 GREENSTEIN. -Um- they said they - that they did see -um- a trooper giving her rides

146 and - but they - they couldn't identify which - who the trooper was

147 JACKIE HAEG: Hmm... Well I'll let you talk to David again

148 GREENSTEIN: Ok - thank you

149 HAEG: Hi. (8M39S)

150 GREENSTEIN: Ok - well I think I gave you all the information that I can - so -um-

151 you'll get a letter after our Commission meeting on the 22<sup>nd</sup> to let you know exactly

152 what the Commission did

153 HAEG: Ok and when does the Commission meet the next time – where I can talk to  
154 them?  
155 GREENSTEIN: You already had an opportunity to talk to them  
156 HAEG: I want another opportunity.  
157 GREENSTEIN: We only give the public one – one opportunity to talk to...  
158 HAEG: Ok – my wife wants an opportunity.  
159 GREENSTEIN: No we give each complainant one opportunity.  
160 HAEG: She's a different complainant – she's pretty pissed  
161 GREENSTEIN: No it's the same complaint. She could've appeared when you did as  
162 well.  
163 HAEG: Oh really...  
164 GREENSTEIN: Yeah.  
165 HAEG: Oh.  
166 GREENSTEIN: No.  
167 HAEG: It's too bad you didn't .  
168 GREENSTEIN: .. It's the same...  
169 HAEG: ...tell us that.  
170 GREENSTEIN: ... complaint  
171 HAEG: Ok. -Um- (exhales)  
172 GREENSTEIN: So...  
173 HAEG: You understand what's going on here?

174 **GREENSTEIN** Well I – I'm telling you even if everything you say is true it wouldn't be  
175 that significant um- a thing. It would be the kind of thing where we would just caution  
176 the judge to -um- to try to make other arrangements in small communities in the  
177 future. That's all we would do.

178 **HAEG** Well if I just made a small little thing if you were in court and just you know -  
179 um- see I've been reading about how important all this stuff is and why people do what  
180 they do. And when she's hanging out with Trooper Gibbens the whole time – he's the  
181 one – he actually perjured his search warrant affidavits to start my whole case and I  
182 mean you - I know that you're just saying I'm convicted and I have sour grapes. And I  
183 understand that and that's a good position to take because it's probably the logical  
184 position. But when she was involved over the entire course of my case and every  
185 decision that she was free to make sided with Trooper Gibbens and then she's riding  
186 around with him all the time and my jury is watching that each and every day. She  
187 leaves with Trooper Gibbens and she arrives with Trooper Gibbens. What they say is  
188 that a jury when they see that they say 'that trooper is credible.'

189 **GREENSTEIN** Did you have a lawyer?

190 **HAEG** ... because he has the trust of the judge'.

191 **GREENSTEIN** You have a lawyer?

192 **HAEG** Huh?

193 **GREENSTEIN** Did you have a lawyer?

194 **HAEG** Yeah and I can prove my lawyer was lying to me throughout the whole trial and  
195 I know that's another fantastic idea.



196 GREENSTEIN. Right no I mean if you're telling me everybody is lying including your  
197 lawyer you know I'm .  
198 HAEG: Then - then I'm not credible I understand that.  
199 GREENSTEIN: Right  
200 HAEG. Ok look at Trooper or I mean not .. Legislator Anderson and I know that I'm  
201 kind of harping on this a little bit. But would you believe one of our legislators was  
202 extorting money from somebody?  
203 GREENSTEIN. Well you would be the first to say that somebody ~~excused~~ <sup>accused</sup> should not  
204 be assumed guilty? Right?  
205 HAEG. No what I'm saying and I - I understand entirely what you're saying - that you  
206 can't judge people before they're found guilty.  
207 GREENSTEIN: Right  
208 HAEG. And that's what you're saying I'm doing. But what everybody's saying to me is  
209 since I've already been found guilty that my word is no longer any good.  
210 GREENSTEIN. That's kind of how the system works.  
211 HAEG. <sup>well</sup> My wife just told you what happened and she hasn't been found guilty of  
212 anything. And I will go get every jurors -um- affidavit.  
213 GREENSTEIN. Well I'm just saying even if what you tell me is true it's a very minor  
214 thing from our perspective on what we address  
215 HAEG: Ok if it was so minor a thing in your perspective..  
216 GREENSTEIN. Right  
217 HAEG. ...why do you even do it?

218 GREENSTEIN: Because then we could give a cautionary letter to Judge -um- warning  
219 them that -um- they should make other arrangements if they're in a small community  
220 without public transportation.

221 HAEG: Ok now this is the real question. Why do you think Trooper Gibbens and  
222 Judge Murphy lied?

223 GREENSTEIN: I - I don't believe they lied. I understand you do. But I don't believe  
224 they did. If - if your memories differ on those things...

225 HAEG: If my memories different...

226 GREENSTEIN: Mm hmm...

227 HAEG: You know how many times I've been told that? -um- and you know I'll have you  
228 know that I'm taping this conversation as I tape all my conversations. And you know  
229 these allegations that I made about my - my -uh- lawyers they were all on tape.

230 GREENSTEIN: Mm hmm...

231 HAEG: And my first lawyer cause the one that went through trial was the second one.  
232 My first one I had before the Alaska Bar Association and as he lied I think it was  
233 somewhere over 20 times. Actually he was under oath so it was perjury. We played  
234 the - actually didn't play the tape he agreed that the transcriptions my wife made of  
235 the secretly recorded conversations were true and correct and as he read them he  
236 started shaking like a leaf. And you know there aint - there probably isn't goanna be  
237 much done to him because of people like yourself that when they're faced with the  
238 obvious they don't want to do anything. But I mean I have this - I have - I mean

239 GREENSTEIN: Well let me.

240 HAEG my

241 GREENSTEIN Let me just reflect back to you

242 HAEG. Ok.

243 GREENSTEIN. I think what you really want to - is a new trial or a retrial or to have

244 everything done over again.

245 HAEG. Exactly

246 GREENSTEIN. I don't have the power -- our agency doesn't have the power to do that.

247 So I'm saying even if you know we found everything that you want us to find all we

248 would do is a cautionary letter to the judge. It won't help you.

249 HAEG: And did she get a cautionary letter?

250 GREENSTEIN: No. She hasn't yet ..

251 HAEG: So she didn't even get that?

252 GREENSTEIN: Well until you

253 HAEG. Didn't even ..

254 GREENSTEIN: ... our Commission ..

255 HAEG. ...freaking get that?

256 GREENSTEIN: ..I told you our Commission..

257 HAEG: I cannot believe that Maria.

258 GREENSTEIN: I told you our Commission hasn't finished with it yet. Didn't I just tell

259 you that we are goanna address it at our January 22<sup>nd</sup> meeting?

260 HAEG: I thought you said it's over and that

261 GREENSTEIN. I said

262 HAEG: ...you said -um- ...

263 GREENSTEIN: ...January 22<sup>nd</sup> meeting.

264 HAEG: ...everything - I wrote down -um- everything I wrote down everything was ok.

265 GREENSTEIN: Yeah from my investigation but I told you that we re meeting on

266 January 22<sup>nd</sup>.

267 HAEG: Ok January 22<sup>nd</sup>. Do you have a call in number for that date?

268 GREENSTEIN: I told you you already had your opportunity to address the

269 Commission

270 HAEG: No there's other people that want their opportunity.

271 GREENSTEIN: You're the only - we only allow the complainant to talk about their

272 complaint. And we'll give the opportunity one time

273 HAEG: Hmm. How convenient -Um- And who's your boss in the big scheme of

274 things here?

275 GREENSTEIN: I work for the Commission.

276 HAEG: Ok Commission. And whose the - is there a president or...

277 GREENSTEIN. There's a Chair

278 HAEG: Ok who's the Chair?

279 GREENSTEIN: Judge Ben Esch.

280 HAEG: Judge - what's the last name again?

281 GREENSTEIN: Esch. E-S-C-H.

282 HAEG: S-C-H?

283 GREENSTEIN: E-S-C-H.

284 HAEG: Ok and how do you pronounce that?

285 GREENSTEIN: Esch

286 HAEG: Esch? Ok -um- ok well I guess and I probably am not allowed to talk to her or  
287 him or.. Is it a him or a her?

288 GREENSTEIN: Him.

289 HAEG: Him

290 GREENSTEIN: Yes Mr. Ben Esch.

291 HAEG: -Um- is there any way I can communicate with him?

292 GREENSTEIN: -Um- you can send a letter.

293 HAEG: Ok do you have an address?

294 GREENSTEIN: -Um- He's at the Nome court. Do you have access to the Internet?

295 HAEG: Yep. Nome court?

296 GREENSTEIN: -Uh- huh.

297 HAEG: Ok we can probably manage that one. -Um- -uh- well actually this is kind of  
298 good. And if i wanted those records Cause this is goar na be good. Cause I'm going  
299 to have Trooper Gibbens and Judge Murphy under oath again <sup>during RS</sup> ~~at~~ my Post Conviction  
300 Relief And this will be a joy a true joy.

301 GREENSTEIN: Our - our records are confidential .

302 HAEG: I can - I can subpoena those records, correct?

303 GREENSTEIN: No Our - our records are confidential by State statute

304 HAEG: Ok and there's no - absolutely no court record - no way of getting those?

305 GREENSTEIN: No.

306 HAEG: Not even through the Supreme Court?

307 GREENSTEIN: -Um- if the...

308 HAEG: Supreme Court? I - I..

309 GREENSTEIN: If the Supreme Court.

310 HAEG: ... I walk into your office with an SCO and I can't have it?

311 GREENSTEIN: I mean if the Supreme Court ordered it they would get it under seal but

312 you probably wouldn't have access to it.

313 HAEG: Ok. Well I'll guarantee you those records are gonna be -um- looked at by

314 somebody -um- cause I'm actually starting to enjoy this. This is kind of like - I used to

315 be a trapper and a hunter but this is far more fun. -Um- because it's the most

316 ridiculous thing that's ever happened. This state is so crooked you couldn't get a fair

317 trial here if you tried your hardest - like I did. It's unbelievable -Um- but anyway you

318 probably heard that before. -Um- and as I said I'm guilty so you don't have to listen to

319 me -Um- and oh I guess I've taken up enough of your time Marla.

320 GREENSTEIN: Ok

321 HAEG: Thank you very much

322 GREENSTEIN: You're welcome.

323 HAEG: Bye.

324 GREENSTEIN: Bye

Transcribed Phone Call between  
Alaska Commission on Judicial Council (Marla Greenstein) and  
David Haeg on or about September 23, 2009

1 HAEG: Yep

2 GREENSTEIN: Marla Greenstein.

3 HAEG: Hey how yah doing?

4 GREENSTEIN: I'm doing fine

5 HAEG: -Um- hey I have a couple questions for you. I don't know if you remember me  
6 but I had a

7 GREENSTEIN: I do

8 HAEG: -Uh-

9 GREENSTEIN: I do it was a hunting thing

10 HAEG: Yep and I'd - I'd filed a complaint I think it was against Judge Murphy

11 GREENSTEIN: Right

12 HAEG: -um- and -uh- what I was wondering is at the time you had said that -uh- -um-  
13 you had interviewed I think Judge Murphy and some of the people that I had...

14 GREENSTEIN: Right the trooper and some of those other people

15 HAEG: Yep And you had said that they -um- denied that the trooper had ever given  
16 Judge Murphy notes until I think you said - I'd wrote down some notes until like after I  
17 was sentenced. And I was wondering if you -um- I guess have any documentation on  
18 what they said or if you could give me some on what they said?

19 GREENSTEIN: I can't share that with anybody I do the documentation but that -  
20 that's confidential within our office

21 HAEG: Ok and is there anyway to make it non confidential?

22 GREENSTEIN: No there is not

23 HAEG: Not even a – like a court proceeding or anything?

24 GREENSTEIN: No our files are confidential by statute.

25 HAEG: Ok and so when you like if I claim what you had told me – I can't even do that

26 either then?

27 GREENSTEIN: What I said to you? If you – I mean you should have a letter from me

28 that probably set out the reasons we dismissed the complaint. That's the only thing. If

29 you don't have that letter we can you another copy of that letter.

30 HAEG: Ok.

31 GREENSTEIN: That's the only thing that you can refer to.

32 HAEG: Ok. Well what – what my problem is is you had said that they – you had

33 questioned them and they both denied that the trooper had given the judge rides. Ok?

34 And I – I you know I wrote down -um- all the stuff that you had said because you had –

35 you actually called me. I don't know if you remember that or not?

36 GREENSTEIN: Let me see. I think have the note - an advisory opinion that wrote as a

37 result of that I can read. Let me just look it up. I think we wrote a summary of the

38 opinion that public...

39 HAEG: And what – so this actually went further than what...

40 GREENSTEIN: No – no

41 HAEG: .. just your investigation?

42 GREENSTEIN: No we did a formal opinion. They just - we write opinions to give

43 judges guidance at times -Um-

44 HAEG: Well why would there be any guidance if there were never any rides given?



45 GREENSTEIN: No there was (time passes while looking through her stuff) ... just  
46 trying to help you. Just want to see if there's more information I can give you

47 HAEG: Ok.

48 GREENSTEIN: No he did give them rides. It was a question of when the rides were  
49 given. So I can give you this opinion. Their opinion 'the judicial officer accepted rides  
50 from law enforcement while on duty in small village without any form of public  
51 transportation did not violate the Code of Judicial Conduct where no ex parte  
52 communication concerning the pending criminal matter occurred. The circumstances  
53 in rural Alaska often create a need for accommodations that would not be suitable if  
54 there were other alternatives. Where these accommodations include assistance by  
55 law enforcement officers, great care should be given to avoid any discussion of official  
56 matters while outside the courtroom. The best practice would be to disclose the  
57 special needs and accommodations on the record at the beginning of the court  
58 proceeding to avoid appearance of impropriety questions.'

59 HAEG: Well if. .

60 GREENSTEIN: So that - that was our findings. I can mail that to you if you'd like?

61 HAEG: Ok well that would be great but what my question is is you had said that you  
62 investigated

63 GREENSTEIN: Mm hmm.

64 HAEG: And you had called me and said that the trooper and the judge denied that any  
65 rides ever took place. Is that correct?

66 GREENSTEIN: No - until after sentencing

67 HAEG: Ok until after sentencing?

68 GREENSTEIN Right.

69 HAEG: Ok. Ok the problem I have Maria is I was there with I believe like 7 witnesses  
70 and an attorney and - and...

71 GREENSTEIN: I talked to everybody.

72 HAEG: Ok.

73 GREENSTEIN I talked to the attorneys I talked to everybody I talked to people in the  
74 courtroom. I talked to a bunch of people And they view things differently than you.

75 HAEG: Wow...

76 GREENSTEIN Mm hmm.

77 HAEG: That's unbelievable Isn't it? Because ..

78 GREENSTEIN: I talked even to the people in Texas - or whoever they were. I made a  
79 lot of phone calls.

80 HAEG: Ok

81 GREENSTEIN: That's why I remember it so well

82 HAEG: And you got no indication from anybody that they ever got - ever - the judge  
83 ever took a ride with the trooper during my trial or sentencing, correct?

84 GREENSTEIN Correct

85 HAEG: Ok but I have a note here that says you talked VPSO Parker He doesn't  
86 remember. That you never talked to any of the witnesses

87 GREENSTEIN: Listen are - are you goanna argue with me? I just told you I

88 interviewed a lot of the people. I talked to them...

89 HAEG. Well the problem – ok I'm not argu.. I'm not try – I don't mean to argue with  
90 you Ok? The problem is – is over this case...

91 GREENSTEIN: Mm hmm...

92 HAEG: ... I lost everything I had built for my family from.

93 GREENSTEIN: I understand that

94 HAEG: . when I was age 18.

95 GREENSTEIN Nothing we do is going to change that

96 HAEG. Ok Correct absolutely. But what I'm saying is when the judge rode in every  
97 morning, every noon to lunch, and it's even on the record. This is what really pisses  
98 me off. Is that they - the State transcribed the record of the case and it has Judge  
99 Murphy 'I'm going to commandeer you again Trooper Gibbens and we're goanna into  
100 to town and get some stuff and blah blah blah'. And then when you tell me that – and  
101 ever day this happened. And it was like I think a 5-day trial and 2 day sentencing.  
102 And when that trooper was the main witness against me and it was proven he'd  
103 committed perjury and the judge overlooked it and they re riding around together the  
104 appearance – how that you are saying that the appearance of bias isn't right - we seen  
105 actual bias because we proved the trooper was lying about where the evidence was  
106 found They claimed it was found where I guide and so I should be charged as a big  
107 game guide. And so it has to do with real things in life rather than protecting a couple  
108 people that did something they shouldn't be doing and are now denying it. And -um-  
109 you know and I don't mean to jump down your throat Marla but it's now five and a half  
110 years of my life as I know it ending. And I know that – that probably doesn't mean

111 anything to you. You get a paycheck and you go home at night and your jobs secure  
112 but me and my family have a hard time putting – having enough money to put food in  
113 our children's mouths anymore - over this. And Maria do you understand the  
114 determination when you make a claim like I did – and I didn't even know it was that big  
115 of deal but when they claimed it never happened. The judge lied to you and the  
116 trooper lied to you and if I were you I would take that very seriously. And apparently  
117 from what you're saying everybody agrees in fact you said no witnesses said it ever  
118 happened. Didn't I tell you it happened?

119 GREENSTEIN: You - you did but nobody else.

120 HAEG: Nobody else told you it happened?

121 GREENSTEIN: Right.

122 HAEG: Did you ever talk to my jurors?

123 GREENSTEIN: No.

124 HAEG: Did I ask that you do?

125 GREENSTEIN: Listen you're arguing with me again so I'm gonna hang up. This has  
126 been over for several years and I was trying to give you additional information. I'm  
127 sorry but there's nothing more I can do. (click)

David S. Haeg  
P O Box 123  
Soldotna, AK 99669  
(907) 262-9749

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG )  
Applicant, )  
vs. )  
STATE OF ALASKA, ) Case No. 3HO-10-00064CI  
Respondent )  
\_\_\_\_\_ )

AFFIDAVIT

1. My name is Wendell Jones and I am a former Alaska State Trooper.

2. I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05.

On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued straight through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.

3. On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens, leave and return with Trooper Gibbens in the same truck during breaks and dinner, and leave with Trooper Gibbens when court was finished on 9-30-05. Nearly all the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.

4. Trooper Gibbens was the primary witness against David Haeg at sentencing and I believe during his trial.

5. During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.

6. Other than David Haeg himself I was never contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I, WENDELL JONES, swear under penalty of perjury that the statements above and information included are true to the best of my knowledge

Wendell Jones

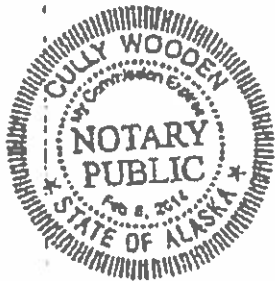
Wendell Jones

SUBSCRIBED AND SWORN to before me this 20th day of July, 2010.

Cheryl Jones

Notary Public in and for Alaska

My Commission Expires: 2-6-14



*Exhibit #6*

David S. Haeg  
P O Box 123  
Soldotna, AK 99569  
(907) 262-9249

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG	)	
Applicant,	)	
vs.	)	
	)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent	)	
	)	
	)	

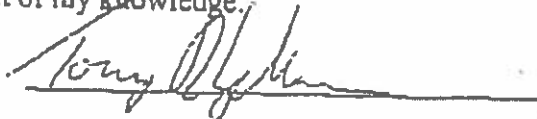
AFFIDAVIT

1. My name is Tony Zellers and I am a retired Air Force Captain.
2. I was a state witness at David Haeg's trial in McGrath on 7-28-05. I also attended the sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse while David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.
3. On 7-28-05 and 9-29-05 I personally observed Judge Margaret Murphy being shuffled in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner, and leave with Trooper Gibbens when court was finished for the day. Nearly all the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.

4. Trooper Gibbens was the primary witness against David Haeg at trial and sentencing.
5. During David Haeg's proceedings I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.
6. Since 1994 to present my phone number has been 907-696-2319.
7. Other than David Haeg himself I was never contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.

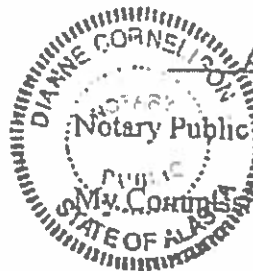
AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I, TONY ZELLERS, swear under penalty of perjury that the statements above and information included are true to the best of my knowledge.



Tony Zellers  
9420 Swan Circle  
Eagle River, AK 99577  
907-696-2319

SUBSCRIBED AND SWORN to before me this 21 day of July, 2010.



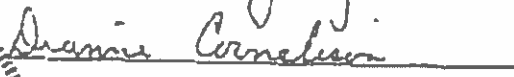
  
Notary Public in and for Mat Su Bus Stop Alaska  
My Commission Expires: April 5, 2014



Exhibit #6

David S. Haeg  
P O Box 123  
Soldotna, AK, 99659  
(907) 262-9249

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG	)	
Applicant,	)	
vs.	)	
STATE OF ALASKA,	)	Case No.: <u>3HO-10-00064CI</u>
Respondent	)	
	)	
	)	

AFFIDAVIT

1. My name is Tom Stepnosky and I am retired Vietnam Veteran.
2. I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.
3. On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens, leave and return with Trooper Gibbens in the same truck during breaks and dinner, and then leave with Trooper Gibbens when sentencing was finished on 9-30-05. Nearly all the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.
4. Trooper Gibbens was the primary witness against David Haeg at sentencing and I believe during his trial.

5 During David Haeg's proceedings I never saw Judge Murphy arrive or  
depart the courthouse alone or with anyone other than Trooper Gibbens.

6 Since 2005 to present my phone number has been 570-727-3130.

7 Other than David Haeg himself I was never contacted by anyone  
investigating whether or not Trooper Gibbens gave Judge Murphy rides.

8 On or about 2006 I contacted Alaska Commission on Judicial Conduct  
investigator Marla Greenstein by phone and told her I had personally seen Trooper  
Gibbens give Judge Murphy rides before David Haeg was sentenced.

AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY

I, TOM STEP NOSKY, SR., swear under penalty of perjury that the statements above  
and information included are true to the best of my knowledge

*Thomas J. Stepnosky, Sr.*

Tom Stepnosky, Sr.  
PO Box 205  
Thompson, PA 18465  
570-727-3130

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of July, 2010.

*Nina A. Bills*

Notary Public in and for \_\_\_\_\_

My Commission Expires: COMMONWEALTH OF PENNSYLVANIA

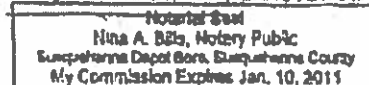


Exhibit #6

David S Haeg  
P.O. Box 123  
Soldotna, AK 99669  
(907) 262-9249

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG	)	
Applicant,	)	
vs.	)	
	)	
STATE OF ALASKA,	)	Case No: <u>3HO-10-00054CI</u>
Respondent	)	
	)	
	)	

AFFIDAVIT

My name is Drew Hilterbrand.

I attended David Haeg's sentencing in McGrath on 9-29-05 and 9-30-05. On these days I was present at the courthouse every hour David Haeg's court was in session. On 9-29-05 sentencing testimony and arguments started at 1 PM and continued through the night until the early morning of 9-30-05. David Haeg was finally sentenced at nearly 1 AM on 9-30-05.

On 9-29-05 I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks and dinner; and leave with Trooper Gibbens when court was finished on 9-30-05. Nearly all the rides I

witnessed Trooper Gibbens give Judge Murphy happened before David Haeg  
was sentenced

Trooper Gibbens was the primary witness against David Haeg at sentencing and I  
believe during his trial.

During David Haeg's proceedings I never saw Judge Murphy arrive or depart the  
courthouse alone or with anyone other than Trooper Gibbens

From about 2004 to present my phone number has been 907-252-4090.

Other than David Haeg himself I have never been contacted by anyone investigating  
whether or not Trooper Gibbens gave Judge Murphy rides.

**AFFIDAVIT SWORN TO UNDER PENALTY OF PERJURY**

I declare under penalty of perjury the forgoing is true and correct. Executed on  
July 19th 2010. A notary public or other official empowered to  
administer oaths is unavailable and thus I am certifying this document in accordance with  
AS 09.63.020.



Drew Hilterbrand  
PO Box 1038  
Soldotna, AK 99669  
907-252-4090



Exhibit # 6

David S. Haeg  
P.O. Box 123  
Soldotna, AK 99669  
(907) 262-9249

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG	)	
Applicant,	)	
vs.	)	
	)	
STATE OF ALASKA,	)	Case No. <u>3HO-10-00064CI</u>
Respondent.	)	
	)	
	)	


AFFIDAVIT

- 1 My name is Jackie Haeg, I work for the Kenai Peninsula Borough School District, am married, and mother of two.
- 2 I attended David Haeg's trial in McGrath on 5-17-05, 5-18-05, 7-25-05, 7-26-05, 7-27-05, 7-28-05, and 7-29-05. Trial went till 11.29 PM some days and I was present at the courthouse every hour of trial.
- 3 Every day of David Haeg's trial I personally observed Judge Margaret Murphy arrive at court in a white Trooper pickup truck driven by Trooper Brett Gibbens; leave and return with Trooper Gibbens in the same truck during breaks, lunch, and dinner; and leave with Trooper Gibbens when court was done for the day. All the rides I witnessed Trooper Gibbens give Judge Murphy happened before David Haeg was sentenced.
- 4 Trooper Gibbens was the primary witness against David Haeg at trial

5. During David Haeg's trial I never saw Judge Murphy arrive or depart the courthouse alone or with anyone other than Trooper Gibbens.
6. Since about 1990 to present my phone number has been 907-262-9249.
7. Other than David Haeg himself I have never been contacted by anyone investigating whether or not Trooper Gibbens gave Judge Murphy rides.
8. I was the one who found David Haeg's 17-page letter (evidencing that the State had told and induced David Haeg to do what the State later charged him with doing) had been removed out of the official court record while proof it had been admitted remained in the official court record
9. I attended all of David Haeg's 12-hour self-representation hearing that was conducted in McGrath on 8-15-06 before Magistrate David Woodmancy
10. During David Haeg's self-representation hearing I heard Magistrate Woodmancy ask Trooper Brett Gibbens for a ride and Trooper Gibbens responded that he could not give Magistrate Woodmancy a ride because of all the trouble he (Gibbens) got into by doing this the last time

I declare under penalty of perjury the forgoing is true and correct. Executed on

July 23, 2010. A notary public or other official empowered to administer oaths is unavailable and thus I am certifying this document in accordance with AS 09.63.020.

  
Jackie Haeg  
PO Box 123  
Soldotna, Alaska 99669  
(907) 262-9249

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA  
THIRD JUDICIAL DISTRICT AT ANCHORAGE

DAVID HAEG )

Plaintiff, )

v. )

STATE OF ALASKA )

Defendant. )

Case No. 3KN-10-01295 CI

(Previously identified as PCR Case No. 3HO-10-00064 CI  
and Trial Case No. 4MC-04-00024 CR)

**ORDER**

*(Notifying Parties of Court Error in Serving Orders on Commission,  
Confirming August 27, 2010 Order, and  
Referring Materials to Judicial Conduct Commission for Review)*

Mr. Haeg contacted my law clerk, both by phone and by letter,<sup>1</sup> and requested formal confirmation that my chambers sent the Executive Director of the Alaska Commission on Judicial Conduct, Marla N. Greenstein, a copy of my August 27, 2010 order wherein I referred certain documents to the Alaska Commission on Judicial Conduct for their consideration. The original order and fax transmittal sheet in question were located in the file which is now in Kenai. Therefore, the court obtained a faxed copy of the original order and a copy of the transmittal sheet which are attached to this order as Exhibit 2.<sup>2</sup> Based upon my review of the documents it appears that the Alaska Judicial Conduct Commission was not properly served. The fax transmittal sheet shows their telephone number as their fax number. Therefore, unless they were provided the order from Mr. Haeg, or another

<sup>1</sup> See Exhibit 1, faxed letter of March 22, 2011 and attachments (11 pages).

<sup>2</sup> The fax transmittal sheet reflects that 43 pages were faxed to the interested parties. A review of the document and attachments received from the Kenai court reveals that 54 pages are in the file. It appears that Attachment of 1 of Exhibit 2 consists of two versions of the transcript. Only one of them must have been sent. Since the other version is easier to read we have attached both versions to this order. Because of this error, and in an abundance of caution, the entire document with its attachments is being provided with this order. See Exhibit 2 with attachments A through I. (54 pages)



# Joannides March 25, 2011 Order

interested party requesting that they take action on the order, they would not have known the court referred the matter back to the Commission for review.

Over the last couple of months, Mr. Haeg has sent me courtesy copies of the materials he is filing in his case. Because there are no pending issues before me, I have not taken any action on them. Because of this recent request, I reviewed the submitted documents, including Ms. Greenstein's letter to Assistant Bar Counsel Louise Driscoll. Ms. Greenstein notes that Courtview does not include a reference to the court's August 27, 2010 order. Ms. Greenstein is correct, it does not. This error is being corrected and the docket shall now reflect the August 27, 2010 order.

Because of the discovery of the errors in the service of the August 27, 2010 order and in the failure to enter the order in Courtview, I requested copies of the two August 25, 2010 orders. The orders faxed to me from the Kenai court reveal that these documents were served on the Alaska Judicial Council rather than the Alaska Commission on Judicial Conduct.<sup>3</sup> This error is being corrected by the service of the documents as attachments in this case.

In summary, it is unacceptable that this series of errors occurred and I must apologize to the parties for the errors in service and in Courtview.<sup>4</sup> These errors have further frustrated a long and fairly complicated case that required careful review. As the August 27, 2010 order states, my task was limited in scope. At the conclusion of my review, I granted Mr. Haeg's request to disqualify Judge Murphy from the Post Conviction Relief case because I found that, at a minimum, there was an appearance of impropriety. Because I was not privy to the parameters of the Commission's investigation of Mr. Haeg's complaint

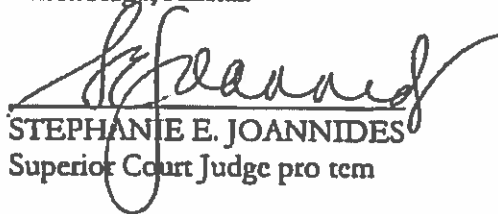
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<sup>3</sup> See Exhibits 3 (5 pages) and 4 (2 pages).

<sup>4</sup> In an abundance of caution, this order with the attachments is being served on all the individuals who should have been previously served. In addition, this order is being served on Assistant Bar Counsel Driscoll and Assistant Ombudsman Higgins since the issue of the receipt of the documents is being reviewed by them.

and because I was unable to evaluate any alleged factual discrepancies<sup>5</sup> between the affidavits submitted by Mr. Haeg's witnesses and (1) the information in the taped conversations between Mr. Haeg and Ms. Greenstein and (2) the statements made by Judge Murphy and Trooper Gibbens, I referred the matter back to the Commission so they could evaluate the consistency of the statements. Therefore, I provided pages of information, along with the August 27, 2010 order, to the Commission for their consideration.<sup>6</sup>

DONE this 25<sup>th</sup> day of March 2011 in Anchorage, Alaska.

  
STEPHANIE E. JOANNIDES  
Superior Court Judge pro tem

I certify that on 3/29/11  
a copy of the above was mailed and/or faxed to  
each of the following at their  
addresses of record:

David Haeg, by fax and mail  
Judge Bauman, assigned judge, by mail  
Members of the Alaska Commission on Judicial Conduct, by mail  
Assistant Bar Counsel Louise Driscoll, by mail  
Assistant Ombudsman Kate Higgins, by mail  
Marla Greenstein, by fax and mail  
Peter Maasen, counsel for Judge Murphy, by mail  
A. Andrew Peterson, Office of Special Prosecutions, by mail  
Original order sent to Kenai Court to be placed in the file

  
\_\_\_\_\_  
Judicial Assistant

<sup>5</sup> Some of the factual conflicts that Mr. Haeg raised are addressed in the court's August 27, 2010 order.

<sup>6</sup> In addition to the courtesy copies of the pleadings and the letter discussed above, Mr. Haeg provided the court with a CD of what appears to be a February 2011 conversation between Mr. Robinson, Mr. Haeg's attorney, and Mr. Haeg. During the conversation, Mr. Robinson states he spoke to Ms. Greenstein about this matter. Mr. Haeg supplied this CD because he believes that it directly contradicts Ms. Greenstein's verified January 21, 2011 letter to the Alaska Bar Association Bar Counsel that she spoke to Mr. Robinson. Because these issues are not ones assigned to me, I do not intend to address the substantive issue. I only note it for the record because it is unclear to me if I was provided a courtesy copy of the CD or if this is an original that should be made part of the record in Mr. Haeg's PCR case or his other complaints. Mr. Haeg should file notice with the court no later than April 15, 2011 if he wishes the CD provided to me to be made part of the record in his PCR case or any other case. If he has already provided it to the Kenai court or other agencies, it need not be made part of the record a second time.



## Alaska Commission on Judicial Conduct

1029 W. 3rd Ave., Suite 550, Anchorage, Alaska 99501-1944  
(907) 272-1033 In Alaska 800-478-1033 FAX (907) 272-9309

Marla N. Greenstein  
Executive Director  
E-Mail: mgreenstein@acjc.state.ak.us

**CONFIDENTIAL**

January 21, 2011

Louise R. Driscoll  
Assistant Bar Counsel  
Alaska Bar Association  
P.O. Box 10029  
Anchorage, AK 99510-0279



**RE: ABA File No. 2010D243**

Dear Ms. Driscoll:

Thank you for allowing me time to provide information in this matter. I was on vacation from January 6<sup>th</sup> thru January 14<sup>th</sup> and so did not see your letter of January 5<sup>th</sup> until I returned to the office this week. Mr. Haeg filed a complaint against a state court judge with our office in 2006. That complaint was fully investigated by staff and reviewed and overseen by the full Commission. We also sought and received a response from the judge in the matter. As a result of the investigation, the complaint was dismissed without any disciplinary action at the Commission's January 22, 2007 meeting.

Mr. Haeg has subsequently sought to re-open the matter and the Commission has declined to do so. He also has raised the same issues relating to his initial complaint with us as part of his post-conviction relief petition in 3HO-10-00064CI. I have enclosed the relevant court documents concerning that matter. I have also enclosed our Formal Ethics Opinion #025 that addresses whether the conduct that Mr. Haeg complains of would constitute a violation of the Alaska Code of Judicial Conduct. Whether that opinion was the result of Mr. Haeg's specific complaint is confidential.

As Executive Director for the Commission, I am the investigator for all complaints. It is within my discretion, as guided by the Commission, how extensive an investigation to undertake. While I often conduct interviews as part of an investigation, I do not always interview every individual that is suggested by the complainant. In Mr. Haeg's matter, I interviewed: Mr. Haeg's attorney, Arthur Robinson; Mr. Tony Zellers, a witness and co-defendant who had settled earlier; Tom Stepnosky; Trooper Gibbens; and the subject judge (who also provided a written statement to the Commission). The Commission did not direct any further investigation.

To the extent that Mr. Haeg states that I claimed that I contacted all witnesses, that is not correct. I did contact the witnesses above, and believe that I communicated that to Mr. Haeg in various phone conversations with him. The witnesses did state that they observed transportation provided by Trooper Gibbons and that was documented in my investigative memo to the Commission. The Commission did not find that those facts constituted a violation of the Code of Judicial Conduct. My investigative memos are confidential, so I cannot provide them here, but the fact of at least one transport occurring is not disputed.

Mr. Haeg asserts that Judge Joannides referred affidavits to our office on August 27, 2010. I have enclosed copies of the filings and orders between Judge Joannides and our office. We did not receive anything dated after August 25, 2010. I also searched CourtView to see if any August 27<sup>th</sup> document issued (printout enclosed) and have not found any reference to an August 27<sup>th</sup> document or to affidavits affecting our office. The court documents also reflect that we filed appropriate requests with the court to reconsider the request for our confidential documents. That reconsideration was granted.

Mr. Haeg's request to speak at the October 10, 2010 meeting was not approved by the Chair, as is the procedure under Commission Rule 1(h). Mr. Haeg stated that he would appear and speak despite the Chair's ruling and would bring friends with him. To ensure an orderly public session, staff arranged with Court System Judicial Services for a representative to be accessible to the meeting room. No law enforcement officer entered the meeting room during the public session, as there was no need.

I hope that this information and the attached documents address any concerns.

Sincerely,



Marla N. Greenstein  
Executive Director

This letter constitutes a true and correct statement of the facts to my best knowledge and belief.



Marla N. Greenstein  
Alaska Bar No. 970848

Dated 1-21-2011



# Alaska Commission on Judicial Conduct

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Marla N. Greenstein  
Executive Director  
E-Mail: [mgreenstein@acjc.state.ak.us](mailto:mgreenstein@acjc.state.ak.us)

**Confidential**

December 21, 2010

David Haeg  
P.O. Box 123  
Soldotna, AK 99669

Dear Mr. Haeg,

As requested by your phone call, I am writing this letter to inform you that I have not been successful in finding a letter from your wife in the commission's files. Because I have not been able to recover a letter, I am unable to confirm that the commission received this letter at any time. I apologize for any inconvenience this may cause you.

Respectfully,

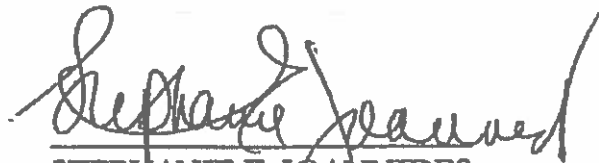
A handwritten signature in cursive script that reads "Traci Moran".

Traci Moran  
Administrative Assistant



only note it for the record because it is unclear to me if I was provided a courtesy copy of the CD or if this is an original that should be made part of the record in Mr. Haeg's PCR case or his other complaints. Mr. Haeg should file notice with the court no later than April 15, 2011 if he wishes the CD provided to me to be made part of the record in his PCR case or any other case. If he has already provided it to the Kenai court or other agencies, it need not be made part of the record a second time.

DONE this 8th day of April 2011 at Anchorage, Alaska.

  
STEPHANIE E. JOANNIDES  
Superior Court Judge pro tem

I certify that on 11 April 2011  
a copy of the above was mailed to  
each of the following at their  
addresses of record:

David Haeg, by fax and mail  
Judge Bauman, assigned judge, by mail  
Members of the Alaska Commission on Judicial Conduct, by mail  
Assistant Bar Counsel Louise Driscoll, by mail  
Assistant Ombudsman Kate Higgins, by mail  
Marla Greenstein, by fax and mail  
Peter Maassen, counsel for Judge Murphy, by mail  
A. Andrew Peterson, OSPA, by mail  
Original order sent to Kenai Court to be placed in the file

  
Judicial Assistant, Ellen Bozzini

**Transcribed Phone Call between  
Chuck Robinson & David Haeg 2-4-11**

- 1 **HAEG:** How goes it?
- 2 **ROBINSON:** Oh pretty good. What's up?
- 3 **HAEG:** Hey I'm -uh- -uh- oh I filed a complaint -uh- you rec -uh- this is David Haeg. I don't
- 4 know if you recognize me or not but -um- I had filed a complaint -um- about -uh- Trooper
- 5 Gibbens during my trial and sentencing chauffeuring the Judge.
- 6 **ROBINSON:** Yeah.
- 7 **HAEG:** And it went – I filed it with the Alaska Commission on Judicial Conduct and it's still
- 8 kind of ongoing what happened there but the – the – lady Marla Greenstein states that she talked
- 9 to you during her investigation into that. Is that true or not?
- 10 **ROBINSON:** That's not true.
- 11 **HAEG:** Ok so beyond any doubt you can say that ...
- 12 **ROBINSON:** Nobody ever contacted me to talk to me about Trooper Gibbens and – and – and –
- 13 and – and Margaret running around together in the Trooper car.
- 14 **HAEG:** Ok... And do you remember that happening during my trial ...
- 15 **ROBINSON:** I saw it.
- 16 **HAEG:** ... and or sentencing?
- 17 **ROBINSON:** I saw it during the trial – I believe. I – I could be wrong. You know all those
- 18 days kind of blend together. But while we were there I saw it.
- 19 **HAEG:** Ok and you're for sure it happened before I was sentenced? And you remember when I
- 20 got sentenced?



IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT KENAI

DAVID S. HAEG, )  
 )  
 Applicant, )  
 )  
 v. )  
 )  
 STATE OF ALASKA, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

No. 3KN-10-01295 CI

DEPOSITION OF ARTHUR S. ROBINSON

SEPTEMBER 9, 2011

APPEARANCES:

FOR THE APPLICANT: DAVID S. HAEG  
*In propria persona*

FOR THE RESPONDENT: A. ANDREW PETERSON  
Assistant Attorney General  
Office of Special Prosecutions  
Dep't of Law - Criminal Division  
310 K Street, Suite 308  
Anchorage, Alaska 99501-3450

**TRANSCRIPTION SUPPORT SERVICES**

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lsfoley@acsalaska.net

1 asked today or to address any of the allegations.  
 2 A Well, it may have been -- you know, I mean, it may have  
 3 been really beneficial to have this all happen sooner  
 4 before my memory faded and I was -- long after the fact  
 5 but, I mean, it might have if I'd have been able to have  
 6 something physical like that earlier.  
 7 Q Okay. All right. Now, on May 11th, it appears that you  
 8 sent a letter to Scott Leaders attempting a -- it was --  
 9 I have to get the exact date here -- in an attempt to  
 10 negotiate an additional plea.  
 11 A Right, additional agreement.  
 12 Q Or an additional agreement. That's right. Thank you.  
 13 In that letter -- get the date here -- so it's May 11th,  
 14 2005 so this would have been before trial.  
 15 A Mm-hmm.  
 16 Q You indicate that Mr. Haeg realizes what he did was  
 17 against the law. How did you come to that realization?  
 18 A Through my discussion with David.  
 19 Q So, based upon your discussion with David, it was evident  
 20 that he had acknowledged he had, in fact, taken wolves  
 21 outside the predator control zone?  
 22 A Yeah, but his belief was that it was a necessity and  
 23 justified because of the fact that where they had set up  
 24 the wolf hunts for predator control was not going to  
 25 accomplish the goal. In other words, it -- it would be

1 with Mr. Haeg up -- not social but about this case?  
 2 A I haven't had any personal contact with David about this  
 3 case except for that one time when we talked in  
 4 February.....  
 5 Q Okay.  
 6 A .....other than the fact that I'm on some list of his  
 7 that he sends out his pleadings about this case.  
 8 Q And do you review those pleadings when you get notice of  
 9 them?  
 10 A I think I may have looked at a couple early on but, as  
 11 time went on, I stopped reviewing them but I think that's  
 12 because I'm just on some e-mail list of his.  
 13 Q Okay.  
 14 A But I've never talked to him about anything that he's  
 15 said in any of those documents.  
 16 Q Okay. I don't have any additional questions for you at  
 17 this time, sir. I believe Mr. Haeg probably does and do  
 18 we want to -- do you want to continue for awhile?  
 19 MR. HAEG: I could use a break.  
 20 MR. PETERSON: It's your call. Any idea how long you plan  
 21 to go?  
 22 MR. HAEG: I don't know, do we want to try to get lunch or  
 23 just keep going?  
 24 FEMALE: Right. When's the next one?  
 25 MR. PETERSON: The -- this is the only one for today.

1 difficult to get wolves in that area so he thought that  
 2 if they really wanted to go after wolves, he'd go get  
 3 them.  
 4 Q And he would go where the wolves were?  
 5 A Well, where he thought they were.  
 6 Q All right. You indicated you'd had a conversation maybe  
 7 with -- since your attorney/client relationship with Mr.  
 8 Haeg ended on this case, you just previously indicated  
 9 you may have had one conversation about an affidavit with  
 10 him.  
 11 A I had a conversation with David earlier this year. I was  
 12 in Washington, DC after the death of my mother. David  
 13 didn't know about that but, anyway, he called me on my  
 14 cell phone and I called him back and he wanted to know if  
 15 I had ever talked to someone from the State of Alaska  
 16 about this issue of Judge Murphy and Trooper Givens  
 17 riding together in a car and I said I don't know,  
 18 nobody's ever ta -- nobody's ever come to me and talked  
 19 with me or called me or anything else to talk to me about  
 20 that and then he told me that -- I believe it was a woman  
 21 but I don't remember her name but an attorney for the  
 22 state had said that they had contacted me and talked to  
 23 me about it but I told him that it didn't happen but  
 24 that's the only (simultaneous speaking).  
 25 Q Other than that contact, have you had any other contacts

1 FEMALE: Oh, Osterman or anything?  
 2 MR. PETERSON: No.  
 3 FEMALE: Okay. How about.....  
 4 MR. HAEG: What do you want to do? Get over it or go have  
 5 a bite to eat or what?  
 6 A Well, I don't like to usually bring this up but I'm a  
 7 diabetic. I got to eat something. When I eat is a  
 8 different story though. In other words, I haven't been  
 9 able to eat on the way up, you know, grab the bacon and  
 10 egg and cheese thing from the cooks and.....  
 11 MR. HAEG: It's my personal, I'd like to get -- maybe go  
 12 get something and come back.....  
 13 A All right. So.....  
 14 MR. HAEG: .....if that's okay.  
 15 A .....but my question is -- and I know you haven't done  
 16 deposition before, David, but when we come back, how long  
 17 you think you're going to be?  
 18 MR. HAEG: I don't know but maybe as long as we've been  
 19 going, I guess.  
 20 A Okay. Couple hours maybe?  
 21 MR. HAEG: I think.  
 22 A Okay.  
 23 MR. PETERSON: So.....  
 24 MR. HAEG: If that's okay.  
 25 MR. PETERSON: ....can we be back here at 1:00 o'clock?