

NOTICE OF PRELIMINARY DRAFT OF  
PROPOSED AMENDMENTS TO LOCAL RULES  
U.S. DISTRICT COURT, DISTRICT OF ALASKA

Comments are sought on proposed amendments to Local Rules  
[Admiralty, Bankruptcy, Civil, Criminal, Habeas Corpus, and Magistrate Judge]

*All Comments received become part of the permanent files on the rules.*

**Written comments on the preliminary draft rules are due not later than June 30, 2009**

Address all communications on rules to:

United States District Court, District of Alaska  
Attention: Court Rules Attorney  
222 West Seventh Avenue, MS 4  
Anchorage, Alaska 99513-7564

or

e-mail to [AKD-Rules@akd.uscourts.gov](mailto:AKD-Rules@akd.uscourts.gov)

TIME CHANGES

GENERAL OVERALL CHANGES

1. Exclusion of intervening weekends and holidays for short time periods (less than 11 days in district court rules and 8 days for bankruptcy rules) has been eliminated.<sup>1</sup> To compensate, the times in most rules have been increased between two and four days. NOTE: The “3-day mail rule” for all documents served other than by personal service remains in effect.
2. In general, following the protocol adopted in the national rules for times of less than 30 days, times are in increments of 7 days (7, 14, 21, or 28). For most rules: 5 days becomes 7; 10 and 15 days become 14; 20 days becomes 21; and 25 days becomes 28.
3. In those instances where the time in local rules is measured in calendar days, the amendment generally simply deletes the word calendar as now being superfluous. This change has no substantive effect.
4. Where the time was measured in business or court days less than five, the time was usually left unchanged (retaining the measurement in terms of business or court days).
5. Where the time was less than 5 days, the time was changed by simply adding 2 days to the time, e.g., 3 becomes 5, or by adding the word “business” before days.
6. In those rules where the time was measured in 7 calendar days, because these matters were previously determined to require a shortened time frame, in order to avoid distorting the time that the matter was pending, instead of increasing the time to 14 days, 10 days was used (considered and rejected using 9 days, mostly because it is an unusual period and most practitioners are used to 10-day time frames).

LOCAL RULES AFFECTED

- ▶ Local (Civil) Rules 3.3, 5.3, 7.1, 7.2, 10.1, 11.1, 16.3, 39.2, 39.3, 40.2, 40.3, 47.1, 51.1, 53.1, 54.1, 55.1, 58.1, 59.1, 67.2, and 83.1;

---

<sup>1</sup> Fed. R. Civ. P. 6(a) (amended effective 12/1/2009); Fed. R. Crim. Proc. 45(a) (amended effective 12/1/2009); Fed. R. Bank. P. 9006(a) (amended effective 12/1/2009).

- ▶ Local Criminal Rules 11.1, 32.1, 32.1.1, 32.2, 44.2, 46.1, 46.2, 47.1, and 58.1;
- ▶ Local Admiralty Rules (c)-1, (c)-2, (c)-3, (c)-4, (d)-1, (e)-8, (e)-9, and (e)-14;
- ▶ Local Habeas Rules 4.1, 7.1, and 8.2;
- ▶ Local Magistrate Rules 5 and 6; and
- ▶ Local Bankruptcy Rules 8009-1, 8009-2, 8010-1, 8012-1, 8017-1, 9015-2, and 9033-1 (adoption reserved to the district court).

#### DEVIATIONS

The following is a summary of those instances where the amendment did not simply implement the 7 – 14 – 21 – 28 protocol. All other amendments simply changed 5 calendar days to 7, 10 and 15 calendar days to 14, 20 calendar days to 21, and 25 calendar days to 28 wherever they appeared.

#### *Local (Civil) Rules*

Rule 7.1 “Motion Practice” – Subdivision (e) amended to increase time for filing oppositions to motions and replies from 15 and 5 days to 21 and 14 days, respectively for motions filed under Fed. R. Civ. P. 12(b) and (c). NOTE: This corresponds to the time set in Fed. R. Civ. P. 56 (effective 12/1/09) for filing oppositions and replies in response to motions for summary judgment. It is also expected that the increase in response times will reduce, if not eliminate, the number of requests for enlargement of time. For all other motions, the time is 14 days and 7 days, respectively.

Rule 7.2 “Hearings” – Times in subsection (a) (request for oral argument), and ¶¶ (b)(1) (motion for leave to present evidence) and (b)(3) (time for providing list of witnesses and estimate of time required) increased from 3 to 5 days.

Rule 7.3 “Telephonic Participation in Civil Cases” – The time for contacting the CMC in advance of the hearing remains unchanged as 2 business days.

Rule 16.3 “Administrative Agency Appeals” – In ¶ (e)(2) the time to respond to the Clerk’s notice of a delinquent brief has been increased from 7 to 10 days. This is believed appropriate in that the amendment to Fed. R. Civ. P. 6 eliminating the exclusion of intervening holidays and weekends would result in making the time to respond excessively short.

Rule 51.1 “Jury Instructions” – Time for meeting of counsel to review proposed instructions increased from 15 to 21 days before trial in ¶ (e)(1). This change departs from the usual rule that 15 days becomes 14 because of the change to the time for filing proposed instructions in subdivision (a) to 14 days. Otherwise the meeting and deadline for submission would fall on the same day.

Rule 54.1 “Taxation of Costs” – Subdivision (a) amended to provide that cost bill be filed within 14 days of entry of judgment [coincides with time permitted to file motion for attorney’s fees under Fed. R. Civ. P. 54(d)(2)(B)] and the hearing be not more than 28 days from date of notice. NOTE: Fed. R. Civ. P. 54(d)(1) (effective 12/1/09) provides for a minimum 14-day notice of the hearing instead of the current 1 day. Thus a 14-day window is created during which the cost bill hearing must held.

Paragraph (c)(1) amended to provide that objections be served and filed not later than 7 days before the hearing. Under the current rules the hearing could be held on 1 day and not more than 7 days notice; consequently objections were allowed to be first made at the hearing. With the

expanded time between notice of and holding the hearing on cost bills, to make cost bill hearings more efficient, objections must be filed at least 7 days before the hearing

Rule 55.1 “Entry of Judgment on Default” – Subsection (c) currently provides for submission 3 days after service of notice under Fed. R. Civ. P. 55(b)(2). Rule 55(b)(2) currently provides for a minimum of 3 days notice of the hearing. The amendment to Rule 55(b)(2) (effective 12/1/09) changes the notice time to 7 days. Under the amendment to Rule 6(a) it is possible that under the current LR 55.1 the opposition could be due as late as midnight of the date of the hearing. To ensure that the opposition is received by the party seeking default and the court before the hearing, subsection (c) has been amended to provide for submission of opposition at least 2 days before the hearing date. NOTE: As a minimum this would be at least the court day preceding the hearing.

Rule 59.1 “Motions for Reconsideration of Non-Appealable Orders” – Time for filing reconsideration motions of interlocutory orders, other than those governed by Fed. R. Civ. P. 59, in ¶ (b)(1) increased from 5 to 14 days. The departure from the usual “rule” of substituting 7 for 5 days in this instance is warranted by two factors: (1) Rule 59 (effective 12/1/09) increases the time for filing motions under that rule from 10 to 28 days; and (2) a general consensus among practitioners that a shorter time period is unrealistic.

Subparagraph (d)(1)[A] is new and sets a default rule for the time for filing an opposition. Subparagraphs (d)(2)[A] and [B] are new setting the default time for filing replies and limiting the size of replies.

#### *Local Criminal Rules*

Rule 11.1 “Change of Plea” – The time for filing a notice of change of plea changed from 3 to 5 days. The time in ¶ (b)(2) to arrange a pre-sentence report interview remains unchanged as 3 business days.

Rule 32.1 “Sentencing Procedures” – Time in ¶ (d)(1) for filing sentencing memoranda unchanged as 7 days preceding hearing. This has the effect of giving back to the parties the day lost by the change in the time for a PSR to be disclosed plus one additional day.

Rule 32.1.1 “Revocation of Probation or Supervised Releases” – Time in subparagraph (e)(2)[B] for filing with the court changed from 2 days to 2 business days. NOTE: Time for the initial appearance in subparagraph (a)(2)[A] (14 days) tracks the time for a preliminary appearance under Fed. R. Crim. P. 5.1 (effective 12/1/09).

Rule 46.1 “Bail Hearings, Pretrial Release – Times in subparagraph (e)(1) for making a request for special pretrial services and ¶ (f)(3) for completing the application forms changed from 16 working hours to 48 hours. Time in hours is now determined as provided in Fed. R. Crim. P. 45(a)(2). This change will not result in any change to when the respective materials are due.

#### *Local Admiralty Rules*

Rule (c)-3 “Notice Required for Default and Default Judgment in Action in Rem” – Time in subsection (b) for serving notice changed from 3 to 7 days. [The time coincides with the notice time required in Fed. R. Civ. P. 55.]

Rule (e)-9 “Adversary Hearing” – Time for holding a hearing in subsection (a) changed from 3 court days to 7 days.

Rule (e)-11 “Security Deposit for Seizure of Vessels” – Time in ¶ (b)(2) for advancing additional funds unchanged from 2 business days.

Rule (e)-14 “Sale of Property” – Deleted the word calendar in (b)(1), (b)(2), (d)(2)[B](ii), (h), (j), and (j)(2); and the word “business” between “next” and “day” in (c)(1). With the elimination of the intervening weekend/holiday provision, the word calendar/business in this rule is superfluous. This change is technical and does not make any substantive change to the times in those provisions.

Time in (d)(2)[B](ii) for payment of the balance of the purchase price in the event an objection is filed is changed from 7 court days to 7 calendar days making the time for competing payment the same irrespective of whether an objection is filed.

#### *Local Habeas Rules*

Rule 7.1 “Expansion of Record” – Time in ¶ (b)(1) for petitioner to file a motion for expansion of the record increased from 15 to 21 days. This departure from the protocol that 14 is substituted for 15 eliminates the incongruous disparity between the time allotted to a petitioner and that allotted to the respondent (a majority of prisoners seeking habeas relief are appearing *pro se*).

#### *Local Bankruptcy Rules*

Rule 8009-2 “Failure to Timely File Briefs” – Time within which to respond to notice of a delinquent brief increased from 7 to 10 days.

### OTHER (NON-TIME) AMENDMENTS

#### *Local (Civil) Rules*

Rule 5.1 “Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure” – Current subdivision (e) (Sealed Documents) deleted and re-designated 5.4(a).

Rule 5.4 “Filing Documents Under Seal or *In Camera*” – Subsection (a) is former Rule 5.1(e) amended to provide that the filing of sealed documents without prior court approval may be made in accordance with published policies and procedures as well as court rules, *e.g.*, CJA documents. Subsection (b) [New] provides the procedure for lodging documents *in camera*. Subsection (c) [New] adds a requirement that the authority for filing the document under seal include a notation of the authority in the caption, *e.g.*, court rule or reference to order granting leave. Related provisions have been expanded to include federal rules of practice that address filing documents under seal.

Rule 5.5 “Service Prior to an Event” [New] – Subsection (a) provides that, with respect to cases in which the due date for service prior to an event is a short time period (7 days or less), service is not completed timely unless delivered to the other party by the due date.

Subsection (b) creates a rebuttable presumption of timely receipt if served by handing it to the person (Rule 5(b)(2)(A)), delivery to the office or residence (Rule 5(b)(2)(B)), transmitted electronically (Rule 5(b)(2)(E)), or other consented to means of delivery (Rule 5(b)(2)(F)). If served by mail (Rule 5(b)(2)(C)), it must be mailed at least three business days prior to the due date. If served by courier, DHL, UPS, Fed-Ex, or similar means, the date and time of delivery will generally be as noted by the courier’s delivery receipt or notice.

Rule 10.1 “Form of Pleadings and Other Papers” – ¶ (e)(4) amended by adding subparagraph [C] providing for the automatic removal of the name of a terminated party from the caption.

Rule 50.1 “Motions for Judgment as a Matter of Law” [New] – See comment to proposed LR 59.2. This rule is adopted to make the procedures governing post-judgment motions uniform.

Rule 52.2 “Motions for Amended or Additional Findings” [New] – See comment to proposed LR 59.2. This rule is adopted to make the procedures governing post-judgment motions uniform.

Rule 53.1 “Discovery Masters” – Subsection (d) abrogated as matter is fully covered in and preempted by Fed. R. Civ. P. 53(d)–(f).

Rule 58.1 “Judgments” – The reference to the forms of the Appendix of Forms to the Fed. R. Civ. P. changed to coincide with the 2007 form numbering change in the Fed. R. Civ. P.

Rule 59.2 “Motions for New Trial/Amendment of Judgment [New] – This rule adopts a procedure for Rule 59 motions similar to that previously adopted for reconsideration of non-appealable interlocutory rulings. As with motions for reconsideration of non-appealable interlocutory orders, experience has shown that many Rule 59 motions may be decided without requiring a response. When the court desires a response it usually signifies that the court has reviewed the motion and that the motion has sufficient merit that a response would be helpful to the court.

#### *Local Criminal Rules*

Rule 32.1 “Sentencing Procedure” – Subsection (d) has been amended to make explicit that either the existence or nonexistence of cooperation agreements between the defendant and the government are not to be directly or indirectly referred to in sentencing memoranda. This amendment essentially adopts for sentencing memoranda the same procedure adopted last year for plea agreements.

Subsection (e) [new ] requires a supplement to the sentencing memorandum be filed in each case under seal in conjunction with every Sentencing Memorandum. If a criminal defendant has agreed to cooperate, the Sentencing Memorandum Supplement must contain the cooperation agreement. If the criminal defendant and the United States have not entered into a cooperation agreement, the Sentencing Memorandum Supplement will indicate that no such agreement exists.

In light of concerns for the safety of criminal defendants, law enforcement officers, and court personnel, it is necessary and appropriate to implement a procedure to uniformly treat Sentencing Memoranda so that the internet public cannot identify cooperating defendants. Sentencing Memoranda must no longer identify whether a criminal defendant has agreed to cooperate with the United States or, conversely, mention that there is no such agreement. A second document entitled “Sentencing Memorandum Supplement” must be filed that either contains the position of the party *vis-a-vis* the cooperation agreement if there is a cooperation agreement, or simply states that no cooperation agreement exists.

Clause (f)(2)[A] (currently (e)(2)[A]) amended to provide that a substantial assistance motion is to be included in the Sentencing Memorandum Supplement filed under seal. Departures for substantial assistance are no longer filed as a separate motion as such. To the extent that the government moves for a substantial assistance departure and any pertinent argument by the defendant in respect thereto, are to be included in the “Supplemental Sentencing Memoranda.”

Current subsections (e), (f), and (g) have been re-designated (f), (g), and (h) without change.

#### *Local Admiralty Rules*

Rule (e)-12 “Intervenor’s Claims” – Adaptation of Model Local Admiralty Rule E(11) promulgated by the Maritime Law Association of the United States (2008). As amended, subsection (a) dispenses with the current necessity for filing a motion to intervene under Fed. R. Civ. P. 24. A claimant may now file a complaint in intervention without first obtaining leave of court. The

amendment also adds the provisions of ¶¶ (c)(2) and (c)(3) regarding the obligations of the intervenor for costs and expenses incurred and the obligation of a claimant who dismisses a claim against the vessel suggested by the Maritime Law Association.

The amended rules, in both “clean” form incorporating the proposed amendments and “red-line” showing the changes, are attached (LR 7.3 and LAR (e)-11, which are unchanged are excluded). Please note that the 8000-series bankruptcy rules (Appeals) and Rules 9015-2 “District Court Jury Trials – Pretrial Procedures” and 9033-1 “Non-Core Proceedings” require approval at the District Court level and are included in this notice. Other proposed amendments to the Local Bankruptcy Rules are noticed separately and may be reviewed on the Bankruptcy Court website [www.akb.uscourts.gov](http://www.akb.uscourts.gov).

CONTENTS

Red-Line Version. . . . . 1

Local (Civil) Rules. . . . . 1

    Rule 3.3 Venue; Place of Trial; and Filing in Satellite Offices. . . . . 1

    Rule 5.1 Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure. . . . . 1

    Rule 5.3 Electronic Case Filing. . . . . 1

    Rule 7.1 Motion Practice. . . . . 2

    Rule 7.2 Hearings. . . . . 2

    Rule 10.1 Form of Pleadings, Motions, and Other Papers. . . . . 2

    Rule 11.1 Appearances, Substitution, and Withdrawal. . . . . 3

    Rule 16.3 Administrative Agency Appeals. . . . . 3

    Rule 39.2 Trial Briefs. . . . . 4

    Rule 39.3 Exhibits. . . . . 4

    Rule 40.2 Notice of Related Case. . . . . 4

    Rule 40.3 Calendaring Cases for Trial . . . . . 5

    Rule 47.1 Voir Dire. . . . . 5

    Rule 51.1 Jury Instructions. . . . . 5

    Rule 53.1 Discovery Masters. . . . . 5

    Rule 54.1 Taxation of Costs. . . . . 6

    Rule 55.1 Entry of Judgment Upon Default. . . . . 6

    Rule 58.1 Judgments. . . . . 6

    Rule 59.1 Motions for Reconsideration of Non-Appealable Orders. . . . . 7

    Rule 67.2 Investment of Funds on Deposit. . . . . 7

    Rule 83.1 Attorneys. . . . . 8

Local Criminal Rules. . . . . 8

    Rule 11.1 Change of Plea. . . . . 8

    Rule 32.1 Sentencing Procedure. . . . . 8

    Rule 32.1.1 Revocation of Probation or Supervised Release. . . . . 9

    Rule 32.2 Disclosure of Pretrial Services and Presentence Reports . . . . . 10

    Rule 44.2 Appointed Counsel. . . . . 10

    Rule 46.1 Bail Hearings, Pretrial Release. . . . . 10

    Rule 46.2 Non-custodial Transportation of Defendant(s) and Witnesses. . . . . 10

    Rule 47.1 Criminal Motion Practice. . . . . 10

    Rule 58.1 Misdemeanor Appeals from Magistrate Judge. . . . . 11

Local Magistrate Rules. . . . . 11

    Rule 5. Review of Magistrate Judge Civil Pretrial Orders. . . . . 11

    Rule 6. Objections to Matters under 28 U.S.C. § 636(b)(1) in Criminal Cases. . . . . 11

Local Admiralty Rules. . . . . 11

    Rule (c)-1 Funds or Intangible Property. . . . . 11

    Rule (c)-2 Publication of Notice of Action and Arrest. . . . . 12

    Rule (c)-3 Notice Required for Default and Default Judgment in Action in Rem. . . . . 12

    Rule (c)-4 Entry of Default and Default Judgment in Actions in Rem. . . . . 12

Rule (d)-1 Return Date. . . . .	12
Rule (e)-8 Security for Costs. . . . .	13
Rule (e)-9 Adversary Hearing. . . . .	13
Rule (e)-12 Intervenors' Claims . . . . .	13
Rule (e)-14 Sale of Property. . . . .	14
Local Habeas Rules. . . . .	14
Rule 4.1 Appointment of Counsel. . . . .	14
Rule 7.1 Expansion of Record. . . . .	15
Rule 8.2 Merit Briefs. . . . .	15
Local Bankruptcy Rules. . . . .	15
Rule 8009-1 Extension of Time to File Briefs. . . . .	15
Rule 8009-2 Failure to Timely File Briefs. . . . .	15
Rule 8010-1 Form of Briefs; Length. . . . .	16
Rule 8012-1 Oral Argument. . . . .	16
Rule 9015-2 District Court Jury Trials — Pretrial Procedures. . . . .	16
Rule 9033-1 Non-Core Proceedings. . . . .	17
Clean Version. . . . .	18
Local (Civil) Rules. . . . .	18
Rule 3.3 Venue; Place of Trial; and Filing in Satellite Offices. . . . .	18
Rule 5.1 Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure. . . . .	19
Rule 5.3 Electronic Case Filing. . . . .	20
Rule 5.4. Filing Documents Under Seal or <i>In Camera</i> . . . . .	24
Rule 5.5 Service Prior to an Event. . . . .	26
Rule 7.1 Motion Practice. . . . .	27
Rule 7.2 Hearings. . . . .	30
Rule 10.1 Form of Pleadings and Other Papers. . . . .	31
Rule 11.1 Appearances, Substitution, and Withdrawal. . . . .	34
Rule 16.3 Administrative Agency Appeals. . . . .	35
Rule 39.2 Trial Briefs. . . . .	36
Rule 39.3 Exhibits. . . . .	37
Rule 40.2 Notice of Related Case . . . . .	39
Rule 40.3 Calendaring Cases for Trial . . . . .	40
Rule 47.1 Voir Dire. . . . .	41
Rule 50.1 Motions for Judgment as a Matter of Law. . . . .	42
Rule 51.1 Jury Instructions. . . . .	42
Rule 52.2 Motions for Amended or Additional Findings. . . . .	43
Rule 53.1 Discovery Masters. . . . .	44
Rule 54.1 Taxation of Costs. . . . .	45
Rule 55.1 Entry of Judgment Upon Default. . . . .	47
Rule 58.1 Judgments . . . . .	48
Rule 59.1 Motions for Reconsideration of Non-Appealable Orders. . . . .	49
Rule 59.2 Motions for a New Trial/Amendment of Judgment. . . . .	50
Rule 67.2 Investment of Funds on Deposit . . . . .	51

Rule 83.1 Attorneys.....	52
Local Criminal Rules.....	56
Rule 11.1 Change of Plea.....	56
Rule 32.1 Sentencing Procedure.....	56
Rule 32.1.1 Revocation of Probation or Supervised Release.....	58
Rule 32.2 Disclosure of Pretrial Services and Presentence Reports.....	60
Rule 44.2 Appointed Counsel.....	64
Rule 46.1 Bail Hearings, Pretrial Release.....	64
Rule 46.2 Non-custodial Transportation of Defendant(s) and Witnesses.....	66
Rule 47.1 Criminal Motion Practice.....	66
Rule 58.1 Misdemeanor Appeals from Magistrate Judge.....	66
Local Magistrate Rules.....	67
Rule 5. Review of Magistrate Judge Civil Pretrial Orders.....	67
Rule 6. Objections to Matters under 28 U.S.C. § 636(b)(1) in Criminal Cases.....	68
Local Admiralty Rules.....	69
Rule (c)-1 Funds or Intangible Property.....	69
Rule (c)-2 Publication of Notice of Action and Arrest.....	70
Rule (c)-3 Notice Required for Default and Default Judgment in Action in Rem.....	70
Rule (c)-4 Entry of Default and Default Judgment in Actions in Rem.....	71
Rule (d)-1 Return Date.....	72
Rule (e)-8 Security for Costs.....	72
Rule (e)-9 Adversary Hearing.....	73
Rule (e)-12 Intervenors' Claims.....	73
Rule (e)-14 Sale of Property.....	74
Local Habeas Rules.....	77
Rule 4.1 Appointment of Counsel.....	77
Rule 7.1 Expansion of Record.....	78
Rule 8.2 Merit Briefs.....	79
Local Bankruptcy Rules.....	79
Rule 8009-1 Extension of Time to File Briefs.....	79
Rule 8009-2 Failure to Timely File Briefs.....	80
Rule 8010-1 Form of Briefs; Length.....	80
Rule 8012-1 Oral Argument.....	81
Rule 8017-1 Stay Pending Appeal to Court of Appeals.....	82
Rule 9015-2 District Court Jury Trials — Pretrial Procedures.....	82
Rule 9033-1 Non-Core Proceedings.....	84

RED-LINE VERSION

LOCAL (CIVIL) RULES

**Rule 3.3 Venue; Place of Trial; and Filing in Satellite Offices**

\* \* \* \*

**(c) Conventional Filing.**

\* \* \* \*

(4) In all cases in which a hearing or trial is scheduled, all pleadings, motions, papers, and other documents required for the hearing or trial filed conventionally less than ~~five~~seven (~~57~~)business days before the scheduled event must be—

[A] filed in the location where the hearing or trial is to be held, and

[B] if the presiding judge does not maintain chambers in that location, an additional copy must be delivered or mailed to the court location where the presiding judge maintains chambers.

\* \* \* \*

**Rule 5.1 Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure**

\* \* \* \* \*

**(e) Filings Under Seal.** [This subsection has been removed from this Rule and relocated in Rule 5.4 as subsection (a)]

Related Provisions:

- 28 U.S.C. § 1746 Unsworn declarations under penalty of perjury
- F.R.Civ.P. 5 Serving and Filing Pleadings and Other Papers
- F.R.Civ.P. 5.2 Privacy Protection for Filings made with the Court
- F.R.Civ.P. 6 Time
- F.R.Civ.P. 26 Duty to Disclose; General Provisions Governing Discovery
- D.Ak. LR 5.3 Electronic Case Filing
- D.Ak. LR 5.4 Filing Documents Under Seal or In Camera
- D.Ak. LR 5.5 Service Prior to an Event
- D.Ak. LR 7.1 Motion Practice

**Rule 5.3 Electronic Case Filing**

\* \* \* \*

**(d) Signatures.**

\* \* \* \*

(5) *Objections to Authenticity of Signatures.* Any objection to the authenticity of a signature on an electronically filed document must be served on the filing party and filed with the court not later than ~~ten~~fourteen (~~10~~)4 days after the document is served.

\* \* \* \*

## Rule 7.1 Motion Practice

\* \* \* \*

(e) **Time Limits.** Unless otherwise ordered by the court, provided by statute, or rule:

(1) for motions brought under Federal Rule of Civil Procedure 12(b) and 12(c), an opposition must be served and filed within twenty-one (21) days of service of the motion, and a reply, if any, within fourteen (14) days of service of the opposition;

(2) for all other motions, an opposition must be served and filed within ~~fifteen~~fourteen (14) days of service of the motion, and ~~replies~~a reply, if any, within ~~five~~seven (57) days of service of the opposition.

\* \* \* \*

(g) **Facsimile Copies.**

(1) Clear and legible facsimile copies of affidavits or declarations under penalty of perjury in support of or opposition to a motion may be filed without further leave of court.

(2) Originals must be filed within ~~five~~seven (57) days after the facsimile copy has been filed.

(3) Facsimiles on thermal paper must be photocopied onto non-thermal paper prior to filing.

\* \* \* \*

## Rule 7.2 Hearings

(a) **Oral Argument.** Any party may request oral argument by filing a separate paper making the request, and specifying the motion on which oral argument is sought, within ~~three~~five (35) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

\* \* \* \*

(b) **Motions Requiring Evidentiary Hearing.**

(1) In those matters where testimony must be heard or other evidence presented at a hearing, a motion for leave to present evidence must be filed not later than ~~three~~five (35) days after the party has filed the motion or opposition to the motion.

(2) If any party obtains leave to present evidence, all other parties may present evidence at the same hearing.

(3) Unless otherwise ordered by the court, not less than ~~three~~five (35) days before the hearing, a party who intends to present testimony must, except where counsel files a written certification that a requirement of prior disclosure would risk serious injustice, file with the court and serve on all other parties:

[A] a list of witnesses, together with a summary of what those witnesses will say; and

[B] an estimate of time needed.

(4) If a party appears at the hearing telephonically, any party intending to present or refer to documentary evidence must, where possible, serve copies of those documents on the party appearing telephonically so that the documentary evidence is received prior to the hearing, ~~where possible.~~

\* \* \* \*

## Rule 10.1 Form of Pleadings, Motions, and Other Papers

\* \* \* \*

(e) **Information to Be Placed on First Page.** The first page of each pleading, motion, or other paper must be prepared as provided in this subsection.

\* \* \* \*

(4) *Title of Action or Proceeding.* Below the title of the court and to the left of center of the page the title of the action or proceeding is to be inserted.

[A] In the event all defendants cannot be named on the first page, the names of defendants only may appear on the second page.

[B] Except for complaints and summonses, lengthy captions may be reduced to indicate a single-named party as plaintiff or defendant followed by "et al."

[C] unless otherwise ordered by the court, the name of a party who is terminated as a party in the action must be removed from the caption.

\* \* \* \*

### Rule 11.1 Appearances, Substitution, and Withdrawal

\* \* \* \*

(b) **Notification of Change of Address.** Not more than ~~five~~seven (~~5~~7) days after a change of address, telephone number, facsimile number, or e-mail address, an attorney who has entered an appearance in a matter must file and serve on all parties to the proceeding a notice of change of address, telephone number, facsimile number and/or e-mail address.

(c) **Substitution and Withdrawal.** Withdrawal as counsel requires leave of the court.

\* \* \* \*

(3) If the withdrawal would leave the party without an attorney of record, the motion must:

[A] provide the party's last known address and telephone number, and

[B] the attorney proposing to withdraw must arrange a hearing and give the client at least ~~twenty~~twenty-one (~~20~~21) days written notice of the hearing, unless good cause is shown why a hearing should not be required.

\* \* \* \*

### Rule 16.3 Administrative Agency Appeals

\* \* \* \*

(b) **Agency Record.**

(1) The agency record, together with proof of service of notice of filing, must be filed not later than sixty (60) days after the initial appearance by the defendants.

(2) A request to augment the agency record must be filed not later than fourteen (154) days after notice is given that the agency record has been filed with the court.

(c) **Briefing Schedule.**

(1) Plaintiff's principal brief, in the form of a motion for summary judgment, must be filed not later than thirty (30) days after the agency record is filed.

(2) Defendant's principal brief in opposition, which will be deemed a cross-motion for summary judgment, must be filed not later than thirty (30) days after plaintiff has served and filed plaintiff's principal brief.

(3) Plaintiff may file a reply to defendant's opposition not later than fourteen (154) days after service of the opposition.

(d) **Extension of Time.**

(1) The parties may, by written stipulation, extend the time under subsections (b) and (c) by not more than fourteen (154) days, which extension need not be approved by the court.

(2) Any extension of time other than as provided in paragraph (d)(1) may be granted only for good cause shown.

(e) **Failure to Timely File Briefs.**

\* \* \* \*

(2) In the event the plaintiff fails to file plaintiff's principal brief by the time specified, including any extensions thereof, the clerk will issue a notice that unless within ~~seven~~ten (~~7~~10) days after

notice is sent, the brief together with a motion to accept a late filed brief as provided in paragraph (d)(1) is filed with the court or good cause for the failure to file the brief be shown, the clerk will enter an order dismissing the case.

\* \* \* \*

### Rule 39.2 Trial Briefs

(a) **Time for Filing.** Unless otherwise ordered by the court, not less than ~~twenty~~twenty-one (201) days prior to the scheduled trial date in civil cases, each party will file and serve on all other parties a trial brief.

\* \* \* \*

### Rule 39.3 Exhibits

(a) **General.** Except as may be otherwise ordered by the court, exhibits will be managed as provided by this subsection.

(1) At least fourteen (14) days before trial or at least three (3) business days prior to the deadline for submission of exhibits under a pretrial order in the case, whichever is earlier, counsel must meet with a deputy clerk to review trial exhibits.

\* \* \* \*

(6) Within ~~three~~five (35) days after the exhibit review session:

[A] each party must serve and file an exhibit list, in the form of a pleading, identifying by number or letter those exhibits marked for admission and those marked for identification, and briefly describing each exhibit; and

\* \* \* \*

(c) **Digital Evidence Presentation System.** To utilize the Digital Evidence Presentation System (“DEPS”), not less than ~~two~~fourteen (214) weeksdays in advance of the hearing or trial, a party must:

(1) contact the assigned Case ~~m~~Management Clerk to arrange for necessary training and familiarization; and

(2) file a notice of intent to use DEPS including in the notice—

[A] the date, and

[B] location in which the hearing or trial is to be held.

\* \* \* \*

### Rule 40.2 Notice of Related Case

\* \* \* \*

(c) **Procedure after Filing.**

(1) Within ~~ten~~fourteen (104) days after service upon a party of a Notice of Related Case, the party may file and serve a response supporting or opposing the notice.

(2) A timely response will be considered when the court determines what action may be appropriate to coordinate the cases formally or informally.

\* \* \* \*

**Rule 40.3 Calendaring Cases for Trial**

\* \* \* \*

**(c) Continuances.**

(1) Where application is made for the continuance of the final pre-trial conference or trial of a case, the application, unless otherwise permitted, must be filed at least ~~fifteen~~fourteen (154) days before the day set for the final pre-trial conference or trial.

\* \* \* \*

**Rule 47.1 Voir Dire**

(a) **Submission of Questions.** Unless otherwise ordered by the court, not later than ~~five~~seven (57) days before trial, any party may file questions that the party requests be asked of the panel.

\* \* \* \*

**Rule 51.1 Jury Instructions**

(a) **Time For Filing.** Except as the court may otherwise direct, the parties must file requested jury instructions not later than ~~ten~~fourteen (104) days before trial.

\* \* \* \*

**(e) Meeting of Parties and Joint Instructions.**

(1) Except as the court may otherwise direct, not later than ~~fifteen~~twenty-one (1521) days before trial, the parties must meet and confer on instructions to be given the jury.

(2) Concurrently with the filing of jury instructions as provided in subsection (a), the parties must file with the court joint instructions on which there is no material disagreement.

\* \* \* \*

**Rule 53.1 Discovery Masters**

\* \* \* \*

**(b) Conflicts.**

(1) The master must disclose any possible conflicts between the master and any party within ~~ten~~fourteen (104) days of appointment.

(2) The discovery master will rule originally on any motion to disqualify for a conflict.

(3) A motion to disqualify a master must be made within ~~ten~~fourteen (104) days of the master's disclosure of the conflict.

\* \* \* \*

**(d) Rulings.**

~~(1) Rulings of the discovery master must be:~~

~~— [A] in writing;~~

~~— [B] served on the parties; and~~

~~— [C] filed with the court.~~

~~(2) Rulings of the discovery master are subject to review by the court by motion:~~

~~— [A] made not more than ten (10) days following the date of service of the ruling by the master; and~~

~~— [B] that plainly states the issue, applicable authorities, and moving party's argument.~~

[Abrogated]

\* \* \* \*

**Rule 54.1 Taxation of Costs**

**(a) Filing, Time**

(1) Not later than ~~ten~~fourteen (~~10~~14) days after the date of the entry of judgment, a prevailing party may serve on each of the other parties to the action:

[A] a cost bill; together with

[B] a notice of the date and time of the cost bill hearing at which the clerk will tax costs.

(2) The date and time of the hearing must be scheduled with the clerk's office and may not be more than ~~seventy~~twenty-eight (~~7~~28) days from the date of the notice.

\* \* \* \*

**(c) Objections.**

(1) Objections ~~may~~must be served and filed ~~either in writing or orally at~~not later than seven (7) days before the ~~cost~~ hearing.

(2) The clerk may review all items whether or not an objection is made.

\* \* \* \*

**Rule 55.1 Entry of Judgment Upon Default**

\* \* \* \*

(c) **Notice.** If notice is required under Rule 55(b)(2), Federal Rules of Civil Procedure, the ~~parties~~party(ies) against whom default judgment is sought may submit affidavits and other evidence in opposition ~~within three~~at least two (~~3~~2) days ~~of service of~~before the application~~hearing~~.

\* \* \* \*

**Rule 58.1 Judgments**

\* \* \* \*

(b) **Judgment on Jury Verdicts; Sum Certain.** For judgments denoted under clause (1) of Rule 58, Federal Rules of Civil Procedure, the clerk will prepare the judgment on the appropriate Administrative Office Form, using language similar to that in form ~~31~~70 or form ~~32~~71 of the Appendix of Forms in the Federal Rules of Civil Procedure as those forms are amended from time to time.

\* \* \* \*

(d) **Prejudgment Interest.** Where pre-judgment interest is appropriate:

(1) Within ~~ten~~fourteen (~~10~~14) days of the entry of judgment the prevailing party must provide a computation of interest, showing:

[A] the method of computation; and

[B] the total amount to be filled in by the clerk in the blank for interest.

(2) [A] If any party disagrees with the computation, the party must file an alternative computation within ~~five~~seven (~~5~~7) days of service of the prevailing party's computation.

[B] Submission of an alternative computation does not concede correctness of the judgment, or waive any objections to the judgment.

\* \* \* \*

Related Provisions:

- 28 U.S.C. § 1961 Interest
- 28 U.S.C. § 2516 Interest on claims and judgments
- F.R.Civ.P. 58 Entry of Judgment
- F.R.Civ.P. 79 Books and Records Kept by the Clerk and Entries Therein
- F.R.Civ.P., Appendix of Forms, Form ~~31~~70
- F.R.Civ.P., Appendix of Forms, Form ~~32~~71

## Rule 59.1 Motions for Reconsideration of Non-Appealable Orders

\* \* \* \*

### (b) Time for Filing.

(1) Except as provided in paragraph (b)(2), a motion for reconsideration of an order must be filed not later than ~~five~~fourteen (14) days after entry of the order.

\* \* \* \*

### (d) ~~Opposition and Replies~~Response.

~~(1) No opposition~~response to a motion for reconsideration may be filed unless requested by the court.

~~[A] Generally, the court will not grant reconsideration without first requesting an opposition.~~

~~[B] Any opposition~~ (1) Unless otherwise ordered by the court, a response to the motion must be filed within seven (7) days of entry of the order requesting a response.

(2) A response is limited to five (5) pages.

~~(2)3) Generally, the court will not grant reconsideration without first requesting a response.~~

(e) Reply. No reply may be filed unless requested by the court.

(1) Unless otherwise ordered by the court, a reply must be filed within seven (7) days of entry of the order requesting a reply.

(2) A reply is limited to five (5) pages.

\* \* \* \*

### Related Provisions:

F.R.Civ.P. 59	New Trials; Amendment of Judgments
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers

## Rule 67.2 Investment of Funds on Deposit

\* \* \* \*

(c) **Deposit by Clerk.** The clerk will take all reasonable steps to deposit funds into interest-bearing accounts or instruments not more than ~~fifteen~~fourteen (14) days after a copy of the order for the investment is served.

### (d) **Verification by Party.**

(1) Any party who obtains an order directing investment of funds by the clerk must, within ~~fifteen~~fourteen (14) days after service of the order on the clerk, verify that the funds have been invested as ordered.

\* \* \* \*

### (e) **Responsibility of Counsel.**

(1) It is the responsibility of counsel to notify the clerk regarding disposition of funds at maturity of a timed instrument not less than ~~fifteen~~fourteen (14) days before the stated maturity date.

\* \* \* \*

**Rule 83.1 Attorneys**

\* \* \* \*

**(g) Disbarment and Suspension.**

(1) [A] Whenever it appears to the court that any member of the bar of this court or any non-resident attorney permitted to appear or who has applied to appear before this court has been disbarred, suspended from practice, or convicted of a serious crime as defined by the Alaska Bar Rules, or similar authority in a state other than Alaska, the attorney will be immediately suspended from practice before this court.

[B] Unless good cause to the contrary is shown within ~~twenty~~twenty-one (201) days after notice has been mailed to the attorney's last known place of business or residence, an order of suspension or disbarment will be entered for such time as the court fixes.

\* \* \* \*

LOCAL CRIMINAL RULES

**Rule 11.1 Change of Plea**

(a) **Scheduling.** Unless otherwise ordered by the court, counsel for a defendant who enters a change of plea from not guilty to guilty must file a Notice of Change of Plea not less than ~~three~~five (5) days before the date set for trial.

\* \* \* \*

**Rule 32.1 Sentencing Procedure**

\* \* \* \*

(c) **Final Presentence Report.** Not less than ~~fifteen~~fourteen (154) days prior to the sentencing date, the final presentence report will be disclosed to counsel.

**(d) Sentencing Memoranda.**

(1) Not less than seven (7) days before the sentencing hearing, all counsel in the case must file with the court and serve on opposing counsel and the probation officer a sentencing memorandum.

(2) The sentencing memorandum must contain, but must not include any reference, direct or indirect, to either the existence or nonexistence of a cooperation agreement, if any, between the defendant and the government:

- [A] indicate if there is no disagreement with the presentence report;
- [B] indicate whether or not it is contended that a sentence within the Sentencing Guideline range is reasonable;
- [C] cite all controlling authority relevant to disputed guideline issues; and
- [D] may be supported by affidavits, statements, and records as appropriate.

**(e) Sentencing Memorandum Supplement.** In each case in which a sentencing memorandum is filed, a "Sentencing Memorandum Supplement" must be filed under seal.

(1) If the criminal defendant has agreed to cooperate, the Sentencing Memorandum Supplement must include any relevant or pertinent discussion of the cooperation agreement, including its affect on the sentence to be imposed.

(2) If the criminal defendant and the United States have not entered into a cooperation agreement, the Sentencing Memorandum Supplement must indicate that there is no cooperation agreement.

**(ef) Sentencing Factors.**

\* \* \* \*

(2) If the Government moves to depart on the basis that the defendant has provided substantial assistance to the Government in an investigation or prosecution, the government's motion:

[A] is to be ~~filed separately, and under seal if appropriate~~ included in the Supplemental Sentencing Memoranda; and

\* \* \* \*

**(fg) Evidentiary Hearing.** If a party deems an evidentiary hearing to be necessary, not later than concurrently with the filing of the Sentencing Memorandum under subsection (d), but as a separate pleading document:

\* \* \* \*

**Rule 32.1.1 Revocation of Probation or Supervised Release**

**(a) Initial Appearance.**

\* \* \* \*

(2) If the person is in custody:

[A] the initial appearance will be scheduled within ~~ten~~ fourteen (~~10~~ 14) days after the petition is filed; and

\* \* \* \*

**(c) Evidentiary Hearings.**

\* \* \* \*

(2) Upon conclusion of an evidentiary hearing referred to a magistrate judge under subparagraph (c)(1)(B), a report and recommendation(s) regarding the violation(s) will be filed and distributed to the government, defense counsel or defendant if not represented by counsel, and the probation officer.

[A] Any objection to the report and recommendation(s) must be:

(i) filed within ~~ten~~ fourteen (~~10~~ 14) days of the date distributed; and

(ii) is governed by D.Ak. LMR 6.

\* \* \* \*

**(e) Disposition Reports.**

\* \* \* \*

(2) Unless otherwise ordered by the court:

[A] Not less than ~~five~~ seven (~~5~~ 7) days prior to the disposition hearing the disposition report must be disclosed to counsel of record. A disposition report is presumed to have been disclosed—

(i) when a copy of the report is physically delivered, or

(ii) three (3) days after a copy of the report is sent electronically or mailed; and

[B] Not less than two (2) business days prior to the disposition hearing—

(i) the probation officer must furnish the court with a copy of the disposition report, addendum, and a confidential sentencing recommendation, and

(ii) any objections to the disposition report must be filed with the court and served on opposing counsel and the probation officer.

\* \* \* \*

## Rule 32.2 Disclosure of Pretrial Services and Presentence Reports

\* \* \* \*

### (e) Motion to Authorize Disclosure.

\* \* \* \*

(3) Within ~~fifteen~~fourteen (~~15~~14) days of the date the petition is served and filed any interested party may file and serve on all other parties an opposition to the release or disclosure of the presentence report

\* \* \* \*

## Rule 44.2 Appointed Counsel

### (a) Right to and Appointment of Counsel.

(1) If the defendant requests appointment of counsel by the court, or retained counsel has not entered an appearance within ~~ten~~fourteen (~~10~~14) days of arraignment, the court will, when the defendant is eligible under the Criminal Justice Act, appoint counsel, unless the defendant:

[A] elects to proceed without counsel; and

[B] signs and files the court-approved form of waiver of right to counsel.

\* \* \* \*

## Rule 46.1 Bail Hearings, Pretrial Release

\* \* \* \*

(e) **Special Release Services.** In addition to the usual pretrial services furnished under 18 U.S.C. § 3152, *et seq.*, counsel for a defendant may request special release services from the court's pretrial services office.

(1) If a request for special release services is made, counsel must provide pretrial services and opposing counsel, with a written request no less than ~~sixteen~~forty-eight (~~16~~48) ~~working~~ hours prior to any court hearing at which the results of that service are to be considered. Examples of special services that require this notice include—

\* \* \* \*

(f) **Third Party Request.** No person will be considered for approval as a third-party custodian unless:

\* \* \* \*

(3) the completed application and questionnaire forms have been served on Pretrial Services and opposing counsel not less than ~~sixteen~~forty-eight (~~16~~48) ~~working~~ hours prior to the hearing at which the matter is addressed.

\* \* \* \*

## Rule 46.2 Non-custodial Transportation of Defendant(s) and Witnesses

Any request for non-custodial travel of a federal defendant or a defense witness must be filed with the clerk at least ~~five~~seven (~~5~~7) ~~working~~ days in advance of the intended travel except upon showing of good cause justifying shorter notice.

## Rule 47.1 Criminal Motion Practice

(a) **General.** Except as otherwise ordered by the court or as specified in these rules, written motions in criminal proceedings are governed by D.Ak. LR 5.1, L.R. 7.1, and L.R. 7.2.

**(b) Time for Opposition.** Unless otherwise ordered by the court, oppositions to motions in criminal cases must be served and filed within ~~five~~seven (~~5~~7) days of service of the motion.  
\* \* \* \*

**Rule 58.1 Misdemeanor Appeals from Magistrate Judge**

In an appeal from a judgment of a magistrate judge under Rule 58, Federal Rules of Criminal Procedure.

(1) [A] Appellant’s opening brief must be served and filed within thirty (30) days after the date the certificate of the record is filed;.

[B] appellee must serve and file a brief within thirty (30) days after service of a copy of appellant's brief, and

[C] appellant may serve and file a reply brief within ~~ten~~fourteen (~~10~~14) days after service of a copy of appellee’s brief.

\* \* \* \*

LOCAL MAGISTRATE RULES

**Rule 5. Review of Magistrate Judge Civil Pretrial Orders**

**(a) Nondispositive Matters under Rule 72(a), Federal Rules of Civil Procedure.**

(1) Unless other wise ordered by a district judge:

[A] not later than ~~fifteen~~fourteen (~~15~~14) days after the objection is filed, the objecting party must serve and file a brief;

[B] not later than ~~fifteen~~fourteen (~~15~~14) days after service of the objecting party’s brief, the opposing party must file an opposing brief; and

[C] the objecting party may serve and file a reply brief within ~~five~~seven (~~5~~7) days after service of the opposing party’s brief.

\* \* \* \*

**Rule 6. Objections to Matters under 28 U.S.C. § 636(b)(1) in Criminal Cases**

**(a) Objections and Replies.** Unless otherwise ordered:

\* \* \* \*

(2) any reply to the objection must be filed within ~~five~~seven (~~5~~7) days after any objection is filed; and

\* \* \* \*

LOCAL ADMIRALTY RULES

**Rule (c)-1 Funds or Intangible Property**

**(a) Contents of Summons.**

(1) A summons issued for the arrest, attachment, garnishment or seizure of funds or intangible property under Supplemental Rule C(3) must direct the person having control of the funds or intangible property to comply with the provisions of subsection (b) not later than ~~ten~~fourteen (~~10~~14) days after service.

\* \* \* \*

**Rule (c)-2 Publication of Notice of Action and Arrest**

\* \* \* \*

(b) **Contents.** The notice must, to the extent applicable, contain:

\* \* \* \*

- (5) name, address, ~~and~~ telephone number, and e-mail address of the attorney for the plaintiff;
- (6) a statement that the claim of a person who is entitled to possession or who claims an interest under Supplemental Rule C(6) must be filed with the Clerk of the Court and served on the attorney for the plaintiff—

[A] in the case of an *in rem* forfeiture for violation of a federal law, within ~~twenty~~twenty-one (201) days after the date of publication, or

[B] in any other case, within ~~ten~~fourteen (104) days after the date of publication, or within such additional time as may be allowed by the court;

- (7) a statement that an answer to the complaint must be filed and served within ~~twenty~~twenty-one (201) days after publication, or such other time as the court may order, otherwise, default may be entered and condemnation ordered; and

\* \* \* \*

**Rule (c)-3 Notice Required for Default and Default Judgment in Action in Rem**

\* \* \* \*

(b) **Service of Notice.** Not less than ~~three~~seven (37) days notice by service under Rule 5(b), Federal Rules of Civil Procedure upon:

- (1) the master or other person having custody of the property;
- (2) every other party who has appeared in the action;
- (3) every person who has not appeared in the action and is known to have an interest in the property, including—

[A] if the defendant property is a vessel documented under the laws of the United States, all persons identified in the United States Coast Guard Office of Vessel Documentation as having an interest in defendant vessel, or

[B] if the defendant property is a vessel numbered as provided in 46 U.S.C. Chapter 123 (Numbering Undocumented Vessels), to the persons named in the records of the issuing authority.

\* \* \* \*

**Rule (c)-4 Entry of Default and Default Judgment in Actions in Rem**

\* \* \* \*

(b) **Entry of Default Judgment.**

\* \* \* \*

(2) Any person who has appeared and does not join in the motion for default judgment must be given ~~five~~seven (57) days notice of the motion.

\* \* \* \*

**Rule (d)-1 Return Date**

In a possessory action under Supplemental Rule D, the court may order that:

- (1) the claim and answer be filed within a time longer or shorter than ~~twenty~~twenty-one (201) days after arrest; or
- (2) the matter be set for expedited hearing.

## Rule (e)-8 Security for Costs

\* \* \* \*

### (b) Posting of Security and Effect of Non-Compliance.

(1) Unless otherwise ordered by the court, the party ordered to post security -must do so within ~~five~~seven (~~5~~7) days after the order is entered.

\* \* \* \*

## Rule (e)-9 Adversary Hearing

(a) **Scheduling.** Unless otherwise ordered by the court, the adversary hearing following arrest, attachment or garnishment under Supplemental Rule E(4)(f) will be conducted by a judicial officer within ~~three~~seven (~~3~~7) ~~court~~ days.

\* \* \* \*

## Rule (e)-12 Intervenor's Claims

~~(a) **Motion to Intervene.** Unless otherwise ordered by the court, anyone pursuing a claim against the vessel or property that has been arrested, attached or garnished, and is in the hands of the Marshall or a person substituted for the Marshall, is required to file a motion to intervene under Rule 24, Federal Rules of Civil Procedure.~~

(a) **Presentation of Claim.** Unless otherwise ordered by the court, anyone pursuing a claim against the vessel or property that has been arrested, attached or garnished, and is in the hands of the Marshall or a person substituted for the Marshall, is required to file an intervening complaint and obtain a warrant of arrest, and not by filing an original complaint. No formal motion is required.

~~(b) **Requirements After Order Granting Leave to Intervene.**~~

~~—(1) Upon entry of an order granting a motion to intervene, the intervening party must immediately provide a conformed copy of the complaint in intervention to a process server, who must serve the copy on the owner of the vessel or custodian of the property under the otherwise applicable Federal Rule of Civil Procedure.~~

~~—(2) The intervenor will thereafter be subject to the rights and obligations of the parties, and the vessel or property stands arrested, attached, or garnished by the intervenor.~~

(b) **Service.**

(1) The intervening party must:

[A] serve a copy of the intervening complaint and warrant of arrest upon all parties to the action under the otherwise applicable Rules of Civil Procedure; and

[B] forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal.

(2) The U.S. marshal must deliver the copies to the vessel or custodian of the property.

(3) The intervenor will thereafter be subject to the rights and obligations of the parties, and the vessel or property stands arrested, attached, or garnished by the intervenor.

(c) **Marshal's Fees and Expenses.**

~~(~~3~~1) Unless otherwise ordered by the court, an intervenor will not be required to advance a security deposit to the Marshal under D.Ak. LAR (e)-11.~~

(2) An intervenor will owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, enforceable on motion, consisting of the intervenor's share of the Marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims.

(3) If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal for fees and expenses in proportion to the remaining claims and for the duration of the Marshal's custody because of each claim.

### Rule (e)-14 Sale of Property

\* \* \* \*

(b) **Notice.** Unless otherwise ordered upon good cause shown or as provided by law, notice of sale of property in an action *in rem* must:

(1) be published at least four (4) times prior to the day of the sale so the last required notice is published not less than five (5) ~~calendar~~ days prior to the day of the sale; and

\* \* \* \*

(c) **Written Bids.** The Marshal is authorized to accept written sealed bids.

(1) Bids must be received at the Marshal's office in Anchorage by 4:00 o'clock p.m. local time the ~~business~~ day preceding the sale.

\* \* \* \*

(d) **Payment of Bid.** Except to the extent otherwise provided in the Order of Sale, the provisions of this subsection apply to all sales of property governed by the Supplemental Rules.

\* \* \* \*

[B] if the bid exceeds one thousand dollars (\$1,000.00), the bidder must—

(i) within a reasonable time set by the Marshal, pay a deposit of at least one thousand dollars (\$1,000.00) or ten percent (10%) of the bid, whichever is greater, and

(ii) pay the balance within seven (7) ~~calendar~~ days after the day on which the bid was accepted, provided that if an objection to the sale is filed within that seven-day period, the bidder is excused from paying the balance of the purchase price until seven (7) ~~court~~ days after the sale is confirmed.

\* \* \* \*

(h) **Time and Procedure for Objection to Sale.** An interested person may object to the sale by filing a written objection with the Clerk of the Court within seven (7) ~~calendar~~ days (~~inclusive of weekends and holidays~~) following the sale.

\* \* \* \*

(j) **Confirmation of Sale.** The party seeking the sale of a vessel must lodge a proposed order with the Clerk of the Court confirming the sale within seven (7) ~~calendar~~ days (~~inclusive of weekends and holidays~~) after the date of sale.

\* \* \* \*

(2) The judicial officer will sign the order within ~~ten~~fourteen (~~10~~14) days, but no sooner than seven (7) ~~calendar~~ days after the sale, unless:

\* \* \* \*

### LOCAL HABEAS RULES

#### Rule 4.1 Appointment of Counsel

\* \* \* \*

(b) **Upon Granting Leave for Discovery.** In the event the court grants leave to invoke the processes of discovery under Rule 6 of the Section 2254 Rules or Rule 6 of the Section 2255 Rules, the court will notify each petitioner or moving party appearing without counsel of any right to appointed counsel, and direct the petitioner to file either a request for counsel or a notice of intent to proceed without counsel within ~~twenty~~twenty-one (~~20~~21) days.

(c) **Upon Granting Setting Evidentiary Hearing.** In the event the court determines an evidentiary hearing is required under Rule 8 of the Section 2254 Rules or Rule 8 of the Section 2255 Rules, the court will notify each petitioner or moving party appearing without counsel of any right to appointed counsel, and direct the petitioner to file either a request for counsel or a notice of intent to proceed without counsel within ~~twenty~~twenty-one (~~20~~21) days.

\* \* \* \*

### Rule 7.1 Expansion of Record

\* \* \* \*

#### (b) **Request by Party.**

(1) The petitioner must file a motion for expansion of the record not later than ~~fifteen~~twenty-one (~~15~~21) days after the answer is served and filed by the respondent.

(2) The respondent may file a motion for expansion of the record not later than ~~ten~~fourteen (~~10~~14) days after the petitioner has filed a request for expansion of the record, or ~~twenty~~twenty-one (~~20~~21) days after the answer is filed, whichever is later.

\* \* \* \*

### Rule 8.2 Merit Briefs

Unless otherwise ordered by the court, briefs addressing the merits of a petition must be served and filed as follows:

(1) Petitioner's/moving party's opening brief not later than thirty (30) days after the date the respondent files an answer;

(2) Respondent's answering brief not later than thirty (30) days after service of the petitioner's opening brief; and

(3) Petitioner's/moving party's reply brief or a notice that a reply brief will not be filed not later than ~~twenty~~twenty-one (~~20~~21) days after respondent's brief is filed.

## LOCAL BANKRUPTCY RULES

### Rule 8009-1 Extension of Time to File Briefs

(a) **By Stipulation.** The parties may, by written stipulation filed with the court, extend the time for filing any brief for a period not to exceed ~~fifteen~~fourteen (~~15~~14) days, which stipulation does not require approval by the court.

#### (b) **By Motion.**

\* \* \* \*

(4) A party opposing the motion for an extension may serve and file a written opposition within ~~three~~seven (~~3~~7) days after the motion is served.

\* \* \* \*

### Rule 8009-2 Failure to Timely File Briefs

\* \* \* \*

(b) **Failure by Appellant to File Brief.** In the event the appellant fails to file appellant's principal brief by the time the principal brief is due, including any extensions of time for filing, the clerk will issue a notice that unless, within ~~seven~~fourteen (~~7~~14) days after notice is sent, the brief, together with a motion under subsection (a) is filed, or good cause for the failure to file the brief be shown, the clerk will enter an order dismissing the appeal.

\* \* \* \*

**Rule 8010-1 Form of Briefs; Length**

\* \* \* \*

**(b) Request to File Overlength Brief.**

\* \* \* \*

(3) A motion to file an overlength brief extends the time to file the brief for the time the motion is pending before the district judge plus fiveseven (57) days after the motion is granted or denied.

(4) A motion to file an overlength brief not acted upon by the district judge within tenfourteen (104) days after the date the motion is filed will be deemed denied and the brief conforming to the rules must be filed within fiveseven (57) days thereafter.

\* \* \* \*

**Rule 8012-1 Oral Argument**

**(a) Setting of Oral Argument.**

(1) Unless the court determines oral argument is not needed, the court will set the matter for oral argument on not less than twenty-fivetwenty-eight (258) days notice to the parties.

(2) In the event the court deems oral argument is not needed, the court will give the parties notice of the determination and, unless a request for oral argument is made under subdivision (b) and granted by the court, the matter will be submitted on the briefs without oral argument.

**(b) Request for Oral Argument.** Any party desiring oral argument on all, or any part of, the issues presented on appeal must, within tenfourteen (104) days of the date notice is given under paragraph (a)(2), serve and file a request for oral argument, specifying the reason(s) oral argument is deemed necessary.

**Rule 8017-1 Stay Pending Appeal to Court of Appeals**

\* \* \* \*

**(b) Opposition to Motion for Stay.**

(1) A party opposing the motion for a stay pending further appeal may file a written opposition to the motion within sevenfourteen (714) days after the date of service of the motion.

\* \* \* \*

**Rule 9015-2 District Court Jury Trials — Pretrial Procedures**

\* \* \* \*

**(c) Status Report to District Court**

\* \* \* \*

(2) Within tenfourteen (104) days after the status report is lodged, the bankruptcy court will, by endorsement thereon, indicate either:

[A] all matters submitted for determination have been determined by the bankruptcy court;

or

[B] the date by which all matters under submission are expected to be determined.

\* \* \* \*

**Rule 9033-1 Non-Core Proceedings**

\* \* \* \*

**(c) Nondispositive Matters.**

\* \* \* \*

(2) [A] Within ~~ten~~fourteen (~~10~~14) days after being served with a copy of the order of the bankruptcy judge, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the bankruptcy judge's order to which objection was not timely made.

[B] The district judge to whom the matter is assigned will consider the objection and must modify or set aside any portion of the bankruptcy judge's order found to be clearly erroneous or contrary to law.

CLEAN VERSION

LOCAL (CIVIL) RULES

**Rule 3.3 Venue; Place of Trial; and Filing in Satellite Offices**

(a) **Original Actions.** An action in which venue is proper in the United States District Court for the District of Alaska may be commenced in any location specified in 28 U.S.C. § 81A.

(b) **Removed Actions.**

(1) If an action commenced in state court is removed to federal court, the notice of removal may be filed in:

- [A] Anchorage;
- [B] Fairbanks;
- [C] Juneau;
- [D] Ketchikan; or
- [E] Nome.

(2) The clerk must promptly transfer the removed action to:

- [A] the location in the same state judicial district as the state court in which it was filed; and
- [B] the same city if there is a federal location in that city.

(c) **Conventional Filing.**

(1) In cases where venue is proper in Anchorage, complaints and subsequent pleadings, motions, papers, and other documents, may only be filed conventionally in Anchorage; and

(2) except as provided in paragraph (3), in all other cases, complaints and subsequent pleadings, motions, papers, and other documents, may be filed conventionally in either Anchorage or the location of the court in which venue lies.

(3) All documents filed by delivery utilizing the U.S. Postal Service, Fed-Ex, UPS, DHL, or similar service, are to be filed in the Anchorage office only.

(4) In all cases in which a hearing or trial is scheduled, all pleadings, motions, papers, and other documents required for the hearing or trial filed conventionally less than seven (7) days before the scheduled event must be—

[A] filed in the location where the hearing or trial is to be held, and

[B] if the presiding judge does not maintain chambers in that location, an additional copy must be delivered or mailed to the court location where the presiding judge maintains chambers.

(d) **Intra-District Transfer.** The court may decide on motion of a party or its own motion whether the action should be transferred to another location for case management or trial.

Related Provisions:

28 U.S.C. § 81A	Alaska
28 U.S.C. § 1391	Venue
28 U.S.C. § 1441	Actions removable generally
28 U.S.C. § 1446	Procedure for removal
D.Ak. LR 5.3	Electronic Case Filing

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule 5.1 Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure**

(a) **Proof of Service.** Proof of service under Rule 5, Federal Rules of Civil Procedure must be made by:

- (1) the recipient's acknowledgment of service; or
- (2) through certification of the person making the service, which certification must include—
  - [A] the person or persons upon whom it was served,
  - [B] the means of service, and
  - [C] the date it was served.

(3) [A] Unless impractical, proof of service should be reflected on the document served, not on a separate document.

[B] Where a document includes attachments, *e.g.*, exhibits, affidavits, or a proposed order, unless otherwise indicated in the certificate of service for the principal document, the certificate of service for the principal document also constitutes a certificate that the attachments were served concurrently therewith.

(b) **Facsimile Filing.** Pleadings or documents may not be filed by facsimile transmission to the court, unless specifically authorized in advance by the court.

(c) **Special Conditions.**

(1) Any pleading, motion, paper or other document that exceeds twenty-five (25) pages in length, including all attachments and exhibits thereto, may not be served by facsimile unless the party to be served has expressly consented to receive lengthy documents by facsimile.

(2) Consent to service by e-mail constitutes consent to service of pleadings and documents in Adobe Acrobat portable document format ("pdf").

(d) **Inmate Filing and Service.** A document filed or served by an inmate confined in an institution is timely filed or served if deposited in the institution's internal mail system on or before the last day for filing or service.

(1) Timely filing or service of a document by an inmate confined in an institution may be shown by a notarized statement or declaration under 28 U.S.C. § 1746, setting forth the date of deposit and stating that first-class postage has been pre-paid or that the inmate has taken the required steps to have prison officials affix postage.

(2) For purposes of calculating response times under these rules and the Federal Rules of Civil Procedure, parties responding to a document mailed by an incarcerated litigant are entitled to rely on the postmark date as the date of service by mail and not the date that the inmate deposited the document in the prison's internal mail system.

#### Related Provisions:

28 U.S.C. § 1746	Unsworn declarations under penalty of perjury
F.R.Civ.P. 5	Serving and Filing Pleadings and Other Papers
F.R.Civ.P. 5.2	Privacy Protection for Filings made with the Court
F.R.Civ.P. 6	Time

F.R.Civ.P. 26  
D.Ak. LR 5.3  
D,Ak. LR 5.4  
D.Ak. LR 7.1

Duty to Disclose; General Provisions Governing Discovery  
Electronic Case Filing  
Filing Documents Under Seal or *In Camera*  
Motion Practice

COMMENT: Subsection (e) "Filings Under Seal" deleted and renumbered as LR 5.4(a).

### **Rule 5.3 Electronic Case Filing**

#### **(a) Cases Assigned to CM/ECF System.**

(1) Except as otherwise provided by this rule or order of the court, all pleadings, papers, and documents filed in all civil cases in this district on or after January 3, 2006, must be filed electronically utilizing the Case Management/Electronic Case Filing ("CM/ECF") System.

(2) If directed by the court, in a case assigned to the Electronic Filing System after it has been opened, parties who are Filing Users, or are represented by Filing Users, must promptly provide the clerk with electronic copies of all documents previously provided in paper form.

#### **(b) Procedures.**

(1) The filing of documents in electronic format will be in accordance with this rule and the CM/ECF administrative procedures promulgated by the Clerk of the Court.

(2) Participants in the CM/ECF System are responsible for ensuring that current filing procedures are followed.

#### **(c) Registration.**

##### **(1) Password.**

[A] (i) Each attorney admitted to practice under D.Ak LR 83.1(c) or appearing under D.Ak LR 83.1(e), who files pleadings, documents, or papers in cases assigned to the CM/ECF system, must obtain a CM/ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

(ii) Exceptions to the requirements of subparagraph (1)[A](i) must be approved by the Chief Judge and will be granted only upon motion for good cause shown.

(iii) Attorneys in outlying areas of the state that do not have access to high speed (256 kbs, or higher) internet access may be exempted from the requirements of subparagraph (1)[A](i) until such time as high speed (256 kbs, or higher) internet access becomes available in the area in which the attorney maintains the attorney's principal office. Any request for exception under this provision must be accompanied by an affidavit showing the availability and cost of internet access in the area.

[B] Attorneys admitted to practice under D.Ak LR 83.1(d) may be entitled to one CM/ECF System password to permit the attorney to participate in the electronic retrieval and filing of pleadings and other papers in accordance with the CM/ECF System electronic filing procedures.

[C] An individual may become registered to participate in the CM/ECF System by submission of an application in the form prescribed by the Clerk of the Court and—

(i) have completed such training/familiarization as may be prescribed by the Clerk of the Court, or

(ii) is registered as a CM/ECF participant in another court.

(2) *Consent to Electronic Notice and Service.* Except as provided in subparagraph (2)[C], participation in the CM/ECF System by receipt of a password from the court, constitutes:

[A] a request for service of notice electronically under Rule 49(b), Federal Rules of Criminal Procedure and Rule 5(b), Federal Rules of Civil Procedure; and

[B] consent to receive notice and service by electronic means in each case in which a formal entry of appearance as a party or attorney for a party has been made.

[C] A user may elect not to receive notice and service by electronic means by filing with the Clerk of the Court a notice of that election in a form as prescribed by the Clerk of the Court.

(3) *Unauthorized Use of Passwords.*

[A] No registered participant may knowingly permit or cause to permit the participant's password to be utilized by anyone other than an authorized employee of the participant or the participant's firm.

[B] No person may knowingly utilize or cause another person to utilize the password of a registered participant unless the person is an authorized employee of the participant or the participant's firm.

(4) *Compromised Password.*

[A] Each registered participant in the CM/ECF System is responsible for maintaining the integrity of the participant's password.

[B] In the event a registered participant has reason to believe that the password issued to the participant has been compromised or otherwise may be subject to use by an unauthorized person, the participant must immediately notify the Clerk of the Court in writing or by e-mail and request cancellation of the existing password and issuance of a new password.

(5) *Withdrawal.*

[A] A registered participant may withdraw from participation in the CM/ECF System by providing the Clerk of Court with written notice of withdrawal.

[B] Upon receipt of a written notice of withdrawal, the Office of the Clerk will immediately cancel the participant's password and delete the participant from any applicable electronic service list.

[C] Unless otherwise ordered by the court, withdrawal by an attorney from participation in the CM/ECF System does not relieve the attorney of the obligation to comply with paragraph (1).

(d) **Signatures.**

(1) *Registered Participant.*

[A] The electronic filing of a petition, complaint, indictment, pleading, motion or other paper by a registered participant in the CM/ECF System constitutes the signature of the participant under Rule 11, Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the local rules of this court, and any other purpose for which a signature is required in connection with proceedings before this court.

[B] (i) A registered participant may, if authorized to so do, sign on behalf of another person a pleading, motion or other paper to be filed electronically as follows: "s/ James Smith for Jane Doe."

(ii) Affixing the signature of another as provided herein constitutes a certification by the participant that the participant has been authorized by the person whose signature is so signified to sign the pleading, motion, or paper on the signatory's behalf.

(iii) The person whose signature is affixed under this subparagraph must be served with a copy of the pleading, motion, or paper and such service noted on the proof of service.

(2) *Court Orders.* The electronic filing of an order or other document by, or at the direction of, a judge or the Clerk of the Court constitutes the signature of the judge or the Clerk of the Court under the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the local rules

of this court, and any other purpose for which a signature is required in connection with proceedings before this court.

(3) *Other Documents*. The signature page of any electronically filed pleading or paper not governed by paragraph (1) or (2) must bear a digitally imaged (scanned) original signature.

(4) *Verified Documents*. Subject to paragraphs (1), (2) and (3), verified documents (affidavits or declarations under penalty of perjury as provided in 28 U.S.C. § 1746), are to be filed electronically.

(5) *Objections to Authenticity of Signatures*. Any objection to the authenticity of a signature on an electronically filed document must be served on the filing party and filed with the court not later than fourteen (14) days after the document is served.

**(e) Electronic Filing.**

(1) *Mandatory Electronic Filing*. Except as expressly otherwise provided in this Rule or in exceptional circumstances that prevent a participant from filing electronically, all petitions, complaints, indictments, motions, pleadings, memoranda of law, or other documents required to be filed with the court in connection with a case assigned to the CM/ECF System must be electronically filed by participants in the CM/ECF System.

(2) *Related Documents*. All documents must be filed separately, except that exhibits to a document must be filed as attachments to that document under the same docket number.

[A] Where documents related to a motion or other pleading are being filed concurrently with the motion or other pleading, *e.g.*, a motion, memorandum of law and a supporting affidavit, the related documents must be filed separately and shown as being a document related to the motion or other pleading.

[B] If documents being submitted electronically have lengthy exhibits, the filing of relevant excerpts of the exhibits is preferred and permitted without prejudice to the right of any party to file additional excerpts or the complete exhibit with the court at any time.

(3) *Emergency Motions*.

[A] Emergency motions, supporting pleadings and objections are to be filed electronically as provided in this rule.

[B] The party filing the motion must promptly advise the Clerk's Office of the filing as provided in the CM/ECF Procedures promulgated by the Clerk of the Court.

(4) *Lodged Documents*. Unless otherwise ordered by the court, participants in the CM/ECF System must submit all documents required to be lodged with the court, *e.g.*, proposed orders, findings of fact and conclusions of law, and judgments, electronically, in accordance with the CM/ECF administrative procedures promulgated by the Clerk of the Court.

**(f) Service.**

(1) The filing party must serve the pleading or other paper being electronically filed upon all persons entitled to service in accordance with otherwise applicable rules.

(2) If a person entitled to notice or service is a registered participant in the CM/ECF System in the case in which the pleading or other paper is being filed, electronic service of the Notice of Electronic Filing is deemed the equivalent of service of the pleading or other paper by first class mail, postage prepaid.

**(g) Special Filing Requirements.** Electronic or conventional filing of the following documents is governed by the provisions of this subsection:

(1) *Documents to be Filed under Seal*.

[A] All documents to be filed under seal and motions to file documents under seal are to be filed as provided in the CM/ECF administrative procedures promulgated by the Clerk of the Court.

[B] The party filing a document under seal is responsible for effecting service of the document as provided in the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, or the Local Rules of this court.

(2) *Exhibits to Pleadings and Other Documents.*

[A] Wherever possible, documents being filed as exhibits, including but not limited to leases, notes, and the like, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the exhibit using Portable Document Format (pdf).

[B] (i) Exhibits that are not available in electronic format are to be filed conventionally attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the exhibit(s) pertains either by mail not later than the next business day or hand delivered not later than the second business day next immediately following the filing.

(ii) If an exhibit is filed conventionally, the filer must include a "dummy" page in the appropriate place sequentially in the document to which the exhibit applies with a conspicuous notation in the middle of the page "Exhibit \_\_\_\_ (insert brief description of the exhibit) filed conventionally."

(3) *Complaints/Summonses/Civil Cover Sheets.* All complaints, civil cover sheets (JS 44), and summonses to be issued by the court are to be filed as provided in the CM/ECF administrative procedures promulgated by the Clerk of the Court.

(4) *Trial and Hearing Exhibits.*

[A] Exhibit lists, to the extent that the filing thereof is required by the rules otherwise applicable to the trial or hearing, are to be filed electronically.

[B] The actual exhibits are to be submitted conventionally as provided by the rules otherwise applicable to the trial or hearing.

(5) *Transcripts.*

[A] Whenever possible, transcripts, or the relevant portions thereof, not otherwise converted to electronic format, should be electronically imaged (*i.e.*, "scanned") and filed as part of the document referring to the transcript using Portable Document Format (pdf).

[B] Transcripts that are not available in electronic format are to be filed conventionally attached to a copy of the Notice of Electronic Filing for the electronically filed document to which the transcript(s) relate.

(6) *Service of Conventionally Filed Documents.* Except as otherwise provided by order of the court, the party filing pleadings or other documents conventionally under this subsection is responsible for effecting service in the manner provided for in the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure and Local Rules of this court.

(h) **Fees.**

(1) Any required fee may be paid as provided in the CM/ECF administrative procedures.

(2) Unless other arrangements are made with the Clerk of Court, any required fee for a document filed electronically not paid electronically must be mailed to the Clerk of the Court not later than the next business day or hand delivered to the Clerk of the Court not later than the second business day next immediately following the filing.

(3) Unless otherwise ordered by the court, no summons or other process will be issued until such time as any required filing fee is received by the Clerk of the Court.

(i) **Technical Failures.**

(1) If a participant in the CM/ECF System is unable to transmit a time-critical document electronically due to technical failure of either the CM/ECF System or the participant's system, or due to internet congestion or internet service provider problems, the participant must promptly contact the Clerk of the Court and make alternate arrangements for filing the document in electronic format during normal working hours.

(2) Unless exceptional circumstances exist that prevent the document from being transmitted during regular business hours, the participant must make every effort to transmit any time-critical document during regular business hours on the date the document is due.

(j) **Consequences for Noncompliance.** Any misuse of the CM/ECF System, or intentional noncompliance with its requirements, may result in revocation of the participant's login and password privileges and/or the imposition of sanctions as provided in District of Alaska Local Rule 1.3.

**Related Provisions:**

F.R.Civ.P. 5	Serving and Filing Pleadings and Other Papers
F.R. Civ. P. 5.2	Privacy Protection for Filings Made with the Court
D.Ak. LR 1.3	Sanctions
D.Ak. LR 3.1	Papers to Accompany Initial Filing
D.Ak. LR 3.3	Venue; Place of Trial; and Filing in Satellite Offices
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure.
D.Ak. LR 5.4	Filing Documents Under seal or <i>In Camera</i>
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers
D.Ak. LCrR 49.1	Electronic Case Filing
D.Ak. LCrR 49.1.1	Privacy Protection for Filings Made with the Court

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

**Rule 5.4. Filing Documents Under Seal or *In Camera***

(a) **Filings Under Seal.** Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, no pleading, motion, or other paper may be filed under seal without first obtaining leave of the court.

(1) Any motion to file a document under seal, except in connection with a motion for a protective order under Federal Rule of Civil Procedure 26(c), must:

- [A] Set forth the factual basis for sealing the document and citation to supporting authority;
- [B] Identify the pleading or motion of which the document is or intended to be a part; and
- [C] Certify that it is not feasible or practicable to file a redacted version of the document.

(2) A motion to file a document under seal may be filed under seal without prior court order.

(3) Where the filing consists of multiple documents, e.g., exhibits to a motion for summary judgment, only those documents that contain material subject to non-disclosure to the public may be filed under seal; all other parts of the filing must be filed as part of the public record.

(4) An order authorizing filing a document under seal in a protective order or in connection with a non-dispositive motion will not be considered or construed as authorization to file the document under seal in connection with a dispositive motion, hearing, or trial, unless:

[A] specifically so stated in the order; and

[B] the order sets forth the compelling reasons justifying sealing the document.

(5) In any case in which filing under seal is authorized, the court may direct the party to file a redacted copy of the document for the public record.

(6) The court may, upon the motion of any party or upon its own volition after notice to the parties, order any document filed under seal to be unsealed.

(7) [A] A filing that contains redacted information may be filed together with a reference list that identifies each item of redacted information and specifies an appropriate identifier that uniquely corresponds to each item of redacted information listed.

[B] The list must be filed under seal and may be amended of right.

[C] Any reference in the case to a listed identifier will be construed to refer to the corresponding item of information.

(8) Nothing in this subsection should be construed as prohibiting the party filing a redacted copy as part of the public record, or any opposing party, from filing an unredacted version under seal.

(b) **Filing Documents *In Camera*.** Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, no pleading, motion, or other paper may be filed *in camera* without first obtaining leave of the court.

(1) A motion to file a document *in camera* may be made under seal without prior court order.

(2) Documents filed *in camera* are to be delivered to the court in a sealed envelope conspicuously marked "Filed *in Camera*" and containing the following information on the envelope:

[A] the caption of the case and case number; and

[B] name of presiding judge.

(c) **Notation in Caption.** A document filed under seal must include in the caption immediately below the title of the document the notation "Filed Under Seal per (authority for filing under seal)."

Related Provisions:

Fed. R. Civ. P. 5.2	Privacy Protection for Filings Made with the Court
Fed. R. Civ.P. 26	Duty to Disclose; General Provisions Governing Discovery
Fed. R. Civ. P. 11	Signing Pleadings, Motions and Other Papers; Representations to the Court; Sanctions
Fed. R. Civ. P. 45	Subpeona
Fed. R. Crim. P. 6	The Grand Jury
Fed. R. Crim. P. 12.2	Notice of an Insanity Defense; Mental Examination
Fed. R. Crim. P. 12.3	Notice of a Public-Authority Defense
Fed. R. Crim. P. 16	Discovery and Inspection
Fed. R. Crim. P. 26.2	Producing a Witness's Statement
Fed. R. Crim. P. 49.1	Privacy Protection for Filings Made with the Court
Fed. R. Evid. 412	Sex Offense Cases; Relevance of Alleged Victim's Past Sexual Behavior or Alleged Sexual Predisposition
Fed. R. Bank. P. 6011	Disposal of Patient Records in Health Care Business Cases
Fed. R. Bank. P. 9018	Secret Confidential, Scandalous, or Defamatory Matter
Fed. R. Bank. P. 9037	Privacy Protection for Filings Made with the Court
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LCrR 11.2	Plea Agreements
D.Ak. LCrR 32.1	Sentencing Procedure

D. Ak. Plan for Implementing the Criminal Justice Act of 1964 (as Amended), § 6.03 “*Ex parte* Applications)

D.Ak. CJA Compensation Policy Manual, § 2.3 “Confidentiality of CJA Documents”

COMMENT: Subsection (a) is former Rule 5.1(e) amended to provide that the filing of sealed documents without prior court approval may be made in accordance with published policies and procedures as well as court rules, *e.g.*, CJA documents.

Subsection (b) [New] provides the procedure for lodging documents *in camera*.

Subsection (c) [New] adds a requirement that the authority for filing the document under seal include a notation of the authority in the caption, *e.g.*, court rule or reference to order granting leave.

### **Rule 5.5 Service Prior to an Event**

(a) **Timely Receipt.** Whenever under a rule or an order of the court service is required to be made upon a party seven (7) days, or less, prior to an event, service is not completed timely unless received by the party upon whom service is required by the due date.

(b) **Presumption of Timely Receipt.** For the purposes of this rule, service is presumed to have been completed timely:

(1) if service is effected under Federal Rule of Civil Procedure 5(b)(2)(A), (B), (E), or (F); or

(2) if service is effected under Federal Rule of Civil Procedure 5(b)(2)(C), deposited with the U.S. Postal Service not less than three (3) business days preceding the due date.

#### Related Provision:

F.R.Civ.P. 5                      Serving and Filing Pleadings and Other Papers

COMMENT: Generally under Fed. R. Civ. P. 5, service is complete when sent. Subsection (a) provides that, with respect to cases in which the due date for service prior to an event is a short time period (7 days or less), service is not completed timely unless delivered to the other party by the due date. In several instances, objections or other responses are required a short time before an event, *e.g.*, a hearing. There have been situations where counsel have not received information before the hearing. This can result in either a continuance of the hearing or the hearing prolonged while the information is reviewed by counsel. In order to ensure that the party entitled to receive the document or information does so in a timely manner it is necessary that it be received not later than the due date. For example, in a situation where affidavits or other documents are due two days before a hearing, if sent by mail it is likely that the other party will not receive it until after the due date. This is generally not a problem with matters that are electronically filed as the CM/ECF System immediately transmits the information to all parties having elected to receive electronic service. Where a party is not an electronic filer, *e.g.*, a *pro se* litigant, service must be made by some other means of delivery. The problem also arises in situations where exhibits or other documents/information are not filed with the court prior to the hearing.

Subsection (b) creates a rebuttable presumption of timely receipt if served by handing it to the person (Rule 5(b)(2)(A)), delivery to the office or residence (Rule 5(b)(2)(B)), transmitted electronically (Rule 5(b)(2)(E)), or other consented to means of delivery (Rule 5(b)(2)(F)). If served under Rule 5(b)(2)(C), it must be mailed at least three business days prior to the due date. If served by courier, DHL, UPS, Fed-Ex, or similar means, the date and time of delivery will generally be as noted by the courier's delivery receipt or notice.

### **Rule 7.1 Motion Practice**

(a) **Motion and Opposition.** A motion is initiated by the filing and service of a single document, and the motion and any opposition to a motion must include or be accompanied by the following.

(1) A concise statement of the relief or decision sought by the moving or opposing party.

(2) A brief statement of points and authorities relevant to the relief requested.

(3) [A] Legible copies of affidavits, deposition excerpts, and properly authenticated documents or other exhibits as provided in paragraph (a)(4) upon which the moving or opposing party relies.

[B] Documents and depositions should be appropriately excerpted so that only the portions required to be reviewed to make the decision are filed with the motion papers.

(4) [A] The evidence ordinarily presented, in support of or in opposition to any motion, includes:

(i) affidavits;

(ii) declarations under 28 U.S.C. § 1746;

(iii) deposition excerpts;

(iv) admissions;

(v) verified interrogatory answers; and

(vi) other similar documentary exhibits.

[B] Bulky, heavy or otherwise sensitive exhibits, e.g. controlled substances or firearms, are to be photographed and the photograph submitted, or leave of court obtained for submission of the exhibit.

[C] Exhibits not provided to the court and the parties in this manner, including purely demonstrative or summary exhibits, may not be referred to in oral argument.

(5) Motions or oppositions presented to the clerk's office for filing that have supporting affidavits, exhibits, or other documents, must be firmly attached as one document where practicable.

(6) Proposed orders as provided in D.Ak. LR 7.4 are not to be stapled or otherwise affixed or attached to motions or oppositions.

(b) **Reply.** A reply memorandum by the party initiating a motion is optional, and, if filed, must be restricted to rebuttal of factual and legal arguments raised in the opposition.

(c) **Citation of Unpublished Decisions; Judicial Notice.**

(1) [A] Except to support a claim of *res judicata*, collateral estoppel, or law of the case, or as provided by rule, no decision, opinion, or order of any court may be cited in this court if citation is prohibited in the court that rendered the decision; and

[B] unless the decision is published in the National Reporter System, a National Loose-Leaf Reporter, or publicly accessible on an electronic data base, a copy of a decision cited must be attached to the brief.

(2) The court may take judicial notice of the contents of case files within the District of Alaska to establish that:

[A] other proceedings have taken place;

[B] the same or similar claims have been raised and adjudicated; and  
[C] like or similar matters.

(3) The contents of other case files may not be used to establish disputed substantive facts unless those facts are established in a previous ruling, order, or judgment entitled to *res judicata* or collateral estoppel effect.

(d) **Failure to Support or Oppose Motions.** Failure to include proper materials in support of, or in opposition to, a motion as required by this rule subjects the motion to summary ruling by the court.

(1) If the failure is by the moving party, it may be deemed an admission that the motion is without merit, and, if by the opposing party, that the motion is well taken.

(2) No unopposed motion for summary judgment will be granted unless the court is satisfied that there are no disputed issues of material fact and that the moving party is entitled to the decision as a matter of law.

(e) **Time Limits.** less otherwise ordered by the court, provided by statute, or rule:

(1) for motions brought under Federal Rule of Civil Procedure 12(b) and 12(c), an opposition must be served and filed within twenty-one (21) days of service of the motion, and a reply, if any, within fourteen (14) days of service of the opposition;

(2) for all other motions, an opposition must be served and filed within fourteen (14) days of service of the motion, and a reply, if any, within seven (7) days of service of the opposition.

(f) **Format.**

(1) Format is governed by D. Ak. LR 10.1 and copies of proposed orders by D. Ak. LR 7.4.

(2) The caption of each motion must contain a brief description of the motion, including citation to the section of the United States Code or rule under which the motion is brought and the relief requested.

(g) **Facsimile Copies.**

(1) Clear and legible facsimile copies of affidavits or declarations under penalty of perjury in support of or opposition to a motion may be filed without further leave of court.

(2) Originals must be filed within seven (7) days after the facsimile copy has been filed.

(3) Facsimiles on thermal paper must be photocopied onto non-thermal paper prior to filing.

(h) **Supplemental Materials.**

(1) *Briefs and Pleadings.* Supplemental briefs may not be filed without leave of court. If a party proposes to file a pleading or brief not authorized by these rules, the party must serve and file a motion requesting permission to do so and attach a copy of the pleading or brief to the motion.

[A] If the motion is granted, the propounding party must serve and file the pleading or brief, or

[B] When pertinent or controlling authorities come to the attention of a party after a brief has been filed, the party may file a notice, without leave of court, limited to two pages, setting forth the citation, docket number, and page numbers of the brief to which the citation pertains. No argument may be included in the notice.

(2) *Factual Materials.* Supplemental factual materials, e.g., deposition excerpts, discovery responses, and affidavits responding to new materials filed with reply briefs, or on account of a change in circumstances, may be filed only by leave of court.

[A] Motions for leave to file supplemental factual materials must reference by docket number the motion papers to which the materials pertain.

[B] Leave will not be routinely granted. The court will consider, among other things—

(i) whether the material was available to the party when briefs were due, and

(ii) whether the pertinence of the material was established at the times for briefing.

[C] Leave may be conditioned on such terms as the court in its discretion deems appropriate.

- (i) **Motion Submitted.** A motion will be treated as submitted and ripe for decision after:
- (1) the time for filing opposition has elapsed and no opposition has been filed;
  - (2) opposition has been filed, the reply filed or the time for filing a reply has elapsed, and no request for oral argument or evidentiary hearing has been made within the time allowed;
  - (3) opposition has been filed, the reply filed or the time for filing a reply has elapsed, and request for oral argument or evidentiary hearing has been made and denied; or
  - (4) at the conclusion of oral argument or a hearing if one has been granted.
- (j) **Postponement of Submission.** All motions should be decided by the court as soon as practicable after all pleadings or briefs have been filed, and, in any event, within six (6) months from the filing of the motion.
- (1) It is the responsibility of counsel to complete briefing of motions in accordance with the schedule contained in this rule, except where there is good cause to stipulate to extend the time for briefing or postponement of formal submission to the court for a decision.
  - (2) Where one or more stipulations for postponement will make it impossible for the court to rule upon a motion within six (6) months from the date the motion was filed, the court may, in its discretion, deny the motion with leave to summarily renew the same.
- (k) **Separate Documents.** Except as otherwise provided by rule or order of the court, motions, other than motions for relief in the alternative, may not be combined into a single document but must be filed separately.

Related Provisions:

28 U.S.C. § 1746	Unsworn declarations under penalty of perjury
F.R.App.P. 32.1	Citing Judicial Dispositions
F.R.Civ.P. 6	Time
F.R.Civ.P. 7	Pleadings Allowed; Form of Motions
F.R.Civ.P. 10	Form of Pleadings
F.R.Civ.P. 12	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
F.R.Civ.P. 26	Duty to Disclose; General Provisions Governing Discovery
F.R.Civ.P. 37	Failure to Make Disclosures or to Cooperate in Discovery; Sanctions
F.R.Civ.P. 56	Summary Judgment
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively for motions brought under Fed. R. Civ. P. 12(b) and (c). NOTE: This corresponds with the time set Fed. R. Civ. P. 56 (effective 12/1/09) for filing oppositions and replies in response to motions for summary judgment. It is also expected that the increase in response times will reduce, if not eliminate the number of requests for enlargement of time.

Oppositions and replies to all other motions are due in 14 and 7 days, respectively.

### **Rule 7.2 Hearings**

(a) **Oral Argument.** Any party may request oral argument by filing a separate paper making the request, and specifying the motion on which oral argument is sought, within five (5) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

(1) A request for oral argument is not subject to withdrawal except by stipulation of all parties.

(2) The court will set the date and time for argument and notify the parties.

(3) The court, in the exercise of its discretion, may:

[A] order oral argument without request; or

[B] determine that argument is unnecessary and deny the request.

(4) A late request must be based upon a showing of good cause and is addressed to the discretion of the court.

(5) At oral argument counsel should:

[A] be familiar with the briefs and the record;

[B] be prepared for a colloquy with the court regarding tentative views the court may have reached; and

[C] avoid reading briefs or a scripted argument aloud.

(6) In the absence of an order setting an evidentiary hearing, hearings are solely for the purpose of hearing argument.

(b) **Motions Requiring Evidentiary Hearing.**

(1) In those matters where testimony must be heard or other evidence presented at a hearing, a motion for leave to present evidence must be filed not later than five (5) days after the party has filed the motion or opposition to the motion.

(2) If any party obtains leave to present evidence, all other parties may present evidence at the same hearing.

(3) Unless otherwise ordered by the court, not less than five (5) days before the hearing, a party who intends to present testimony must, except where counsel files a written certification that a requirement of prior disclosure would risk serious injustice, file with the court and serve on all other parties:

[A] a list of witnesses, together with a summary of what those witnesses will say; and

[B] an estimate of time needed.

(4) If a party appears at the hearing telephonically, any party intending to present or refer to documentary evidence must, where possible, serve copies of those documents on the party appearing telephonically so that the documentary evidence is received prior to the hearing.

(c) **Shortened Time.** A party may move for hearing or consideration of a matter on a time schedule shorter than provided by the rules.

(1) The motion for shortened time must be accompanied by:

[A] an affidavit explaining—

- (i) why shortened time is needed,
- (ii) efforts made to work out the problem with counsel for other parties,
- (iii) positions counsel for the other parties take, and
- (iv) what dates are of significance; and

[B] (i) proof of service by a means reasonably likely to allow counsel for other parties an opportunity to see the papers at least as soon as the court, or

(ii) an affidavit explaining why service of the motion upon the opposing party under the circumstances should not be required.

(2) The clerk will immediately bring the motion to the judge's attention.

(3) The court may, if the motion is granted:

[A] act *ex parte*;

[B] set a hearing;

[C] order briefing on shortened time; or

[D] take such other action as may be appropriate in the circumstances.

**Related Provisions:**

F.R.Civ.P. 6	Time
F.R.Civ.P. 43	Taking of Evidence
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.3	Telephonic Participation in Civil Cases

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Times in subsection (a) (request for oral argument), and ¶¶ (b)(1) (motion for leave to present evidence) and (b)(3) (time for providing list of witnesses and estimate of time required) increased from 3 to 5 days.

**Rule 10.1 Form of Pleadings and Other Papers**

**(a) Form in General.**

(1) All pleadings, motions, and other papers presented for filing, conventionally or electronically, with the clerk or intended for the use by the court must be:

[A] in either double-spaced or one-and-one-half spaced typewriting or printing, except that lengthy quotations should be single-spaced and indented;

[B] have margins all around of at least one (1") inch, exclusive of identification printed on the stationery;

[C] if consisting of more than one (1) page, at the bottom of each consecutive page—

- (i) contain a page number, and
- (ii) have a footer including the case name and number; and

[D] all printed matter appear in at least 11-point type, ten-pitch (10 characters per inch) or 12-point proportionally-spaced font.

(2) Conventionally filed documents must be:

[A] upon letter size (8½ by 11) white paper of good quality, of at least 16-pound weight, not onionskin, except where ripple finish or other opaque paper is used, in which event the weight must be at least 13-pound; and

[B] either in original clear and legible typewriting with black ribbon, or in clear and legible printing in black ink.

(3) Electronically filed documents must be in Adobe Acrobat Portable Document Format (“ .pdf”).

**(b) Chambers Copy.**

(1) [A] A complete and legible paper copy of every pleading, motion, or paper exceeding twenty-five (25) pages, filed conventionally or electronically, must be provided for use by the judge in chambers.

[B] If the original pleading, motion, or paper was filed electronically, the chambers copy must be an exact replica of the filed pleading, motion, or paper including the document header assigned by the CM/ECF System.

[C] Chambers copies are to be two-hole punched at the center of the top of the page.

(2) Chambers copies are not part of the official file in the case and are not open to public inspection.

**(c) Exhibits.**

(1) All exhibits to pleadings, motions, or papers must be:

[A] numbered progressively according to the number of the page of the exhibit, preceded by the number or identification of the exhibit, e.g., "Ex. A, p. 1"; provided that

[B] exceptions to progressive numbering of exhibits may be permitted by the court where acceptable copies of original documents make it impractical to comply with that requirement.

(2) If more than five (5) exhibits are attached, the exhibits must be preceded by a table of contents identifying each exhibit by number and description.

(3) Exhibits attached to the chambers copy, including exhibits filed conventionally under D.Ak. LR 5.3(g)(2)[B], must be:

[A] identified by attached tabs in a manner that the tab identifying the exhibit is readily visible; and

[B] permanently attached to the pleading or document to which they apply in a manner to be easily accessible and readable without detaching from the principal document.

**(d) Interlineation – One Side of Paper to Be Used.** All pleadings, motions, and other papers must be without interlineation unless noted by the court, and printed or written upon only one side of the paper.

**(e) Information to Be Placed on First Page.** The first page of each pleading, motion, or other paper must be prepared as provided in this subsection.

(1) *Attorney's or Party's Name/Address.*

[A] The name, address, telephone number, facsimile number, and e-mail address of the attorney appearing for a party to an action or proceeding, or of a person appearing without an attorney, must be typewritten or printed in the space to the left of center of the paper beginning at least 1¼ inches below the top edge, or

[B] the attorney's name, address, telephone number, facsimile number and e-mail address may be printed on the left-hand margin of the paper.

[C] The attorney must identify the party the attorney represents.

(2) *Title of the Court.* The title of the court is to be centered on the paper and commence not less than 1½ inches below the top edge, and in any event not less than ½ inch below the name, address, and telephone number of the attorney or person appearing without an attorney if this appears at the top of the page as provided in paragraph (e)(1).

(3) *Clerk's Filing Marks; Case Number.*

[A] A space above the title of the court and to the right of center on the page must be reserved for the filing marks of the clerk; and

[B] below that the file number of the action or proceeding, including the initials of the judge assigned, is to be inserted.

(4) *Title of Action or Proceeding.* Below the title of the court and to the left of center of the page the title of the action or proceeding is to be inserted.

[A] In the event all defendants cannot be named on the first page, the names of defendants only may appear on the second page.

[B] Except for complaints and summonses, lengthy captions may be reduced to indicate a single-named party as plaintiff or defendant followed by "*et al.*"

[C] unless otherwise ordered by the court, the name of a party who is terminated as a party in the action must be removed from the caption.

(5) *Description of Pleading, Motion or Paper.* Below the title of the court and file number, and either centered or to the right of center of the page, a brief designation of the nature of the pleading, motion or paper and, where relief is sought, the nature thereof is to be inserted.

(f) **Information to be Placed on Signature Page.**

(1) Names are to be typed beneath signatures to pleadings, motions and other papers.

(2) An attorney must identify each party the attorney represents.

(g) **Citation of Statute.** A party filing a complaint, counterclaim or cross-claim seeking relief under a specific statute should cite the statute relied upon in parentheses following the title of the pleading.

(h) **Reference to Other Parts of Document.**

(1) Where practical, reference to other portions of the same pleading, motion or other paper should be made to avoid repetition.

(2) [A] In any action brought upon or any proceeding involving serial notes, bonds, coupons or obligations for the payment of money that are of the same form, tenor and effect, and are issued under the same law, or by the same authority, and differing only in number, date of maturity or amount, it is sufficient for the plaintiff to set forth in one claim of the complaint one note, bond, coupon, or obligation, either verbatim or according to legal effect.

[B] The remaining notes, bonds, coupons or obligations may be pleaded, in the same or another claim of the complaint, by a general reference or description sufficient to identify them with like effect as if they had been set forth verbatim.

[C] Similar practice may be followed in any pleading where any two or more documents of similar form, tenor or effect are set forth.

(3) Any document referred to in any pleading, motion, or other paper filed with the court may be set forth either in the body of the document or in an exhibit attached thereto.

(i) **Reference to Other Documents in Record.** A reference to a specific part of another pleading, motion, or paper must include the document number and page assigned by the CM/ECF System.

(j) **Replacing Papers Lost or Withheld.** If an original pleading, motion or paper, other than a document filed in the CM/ECF System, is lost or withheld by any person, the court may order a verified copy to be filed and used in lieu of the original.

(k) **Judge's Name Typed on Orders.** On all orders prepared for signature, the name of the ordering judge, if known, should be typed immediately under the signature line prior to presentation for signature.

(l) **Jurisdictional Statement.** The short and plain statement of jurisdictional grounds required by Rule 8(a), Federal Rules of Civil Procedure, should be at the beginning of the complaint, with citations to any federal statutes or constitutional provisions upon which jurisdiction may be based.

(m) **Length.** Unless otherwise ordered, principal briefs or memoranda of law in civil and criminal cases (including appeals) may not exceed twenty-five (25) pages and replies may not exceed fifteen (15) pages, exclusive of pages containing a table of contents, table of citations, or reproductions of statutes, rules, regulations, ordinances, *etc.*

Related Provisions:

F.R.Civ.P. 5.2	Privacy Protection for Filings Made with the Court
F.R.Civ.P. 6	Time
F.R.Civ.P. 7	Pleadings Allowed; Form of Motions
F.R.Civ.P. 8	General Rules of Pleading
F.R.Civ.P. 9	Pleading Special Matters
F.R.Civ.P. 10	Form of Pleadings
F.R.Civ.P. 12	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
F.R.Civ.P. 13	Counterclaim and Cross-Claim
F.R.Civ.P. 14	Third-Party Practice
D.Ak. LR 5.3	Electronic Case Filing
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 15.1	Motions to Amend
D.Ak. LR 38.1	Notation of Jury Demand in Pleading

COMMENT: ¶ (e)(4) amended by adding subparagraph [C] providing for the automatic removal of the name of a terminated party from the caption.

**Rule 11.1 Appearances, Substitution, and Withdrawal**

**(a) Entry of Appearance.**

(1) Unless the context clearly indicates otherwise, the filing of a pleading, paper, or document by an attorney for or on behalf of a party constitutes an entry of appearance on behalf of the party by the attorney signing the pleading, document, or paper, and no separate entry of appearance need be filed.

(2) Partnerships, corporations, and associations must be represented by an attorney.

(3) [A] A party that has appeared by counsel may not thereafter appear or act in the party's own behalf in the action unless an order of substitution has been entered by the court, after notice to the attorney of the party and all other parties.

[B] The court may, in its discretion, hear a party in open court notwithstanding the fact that the party is represented by counsel.

(4) [A] Parties appearing without an attorney are bound by these rules and the Federal Rules of Civil Procedure.

[B] A party proceeding without an attorney must at all times keep the court and other parties advised of the party's current address and telephone number.

**(b) Notification of Change of Address.** Not more than seven (7) days after a change of address, telephone number, facsimile number, or e-mail address, an attorney who has entered an appearance in a matter must file and serve on all parties to the proceeding a notice of change of address, telephone number, facsimile number and/or e-mail address.

**(c) Substitution and Withdrawal.** Withdrawal as counsel requires leave of the court.

(1) A motion for leave to withdraw must be accompanied by:

- [A] (i) written consent of the client;
- (ii) substitution of counsel and formal appearance of substituting counsel; or
- (iii) a showing of good cause.
- (2) [A] Any party or attorney may oppose the motion, and
- [B] the court may deny the motion even if consented to or unopposed.
- (3) If the withdrawal would leave the party without an attorney of record, the motion must:
  - [A] provide the party's last known address and telephone number, and
  - [B] the attorney proposing to withdraw must arrange a hearing and give the client at least twenty-one (21) days written notice of the hearing, unless good cause is shown why a hearing should not be required.
- (4) Notwithstanding the foregoing, attorneys employed by a governmental entity may substitute as counsel without leave of court and without written consent of the client provided all parties to the action are immediately notified of the substitution, with notice including the full name, mailing address, telephone and facsimile numbers, and e-mail address of the substituting attorney.

Related Provisions:

D.Ak LR 83.1                      Attorneys

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

**Rule 16.3 Administrative Agency Appeals**

- (a) **Applicability.** Unless otherwise ordered by the court, this rule applies to all appeals under the Administrative Procedure Act.
- (b) **Agency Record.**
  - (1) The agency record, together with proof of service of notice of filing, must be filed not later than sixty (60) days after the initial appearance by the defendants.
  - (2) A request to augment the agency record must be filed not later than fourteen (14) days after notice is given that the agency record has been filed with the court.
- (c) **Briefing Schedule.**
  - (1) Plaintiff's principal brief, in the form of a motion for summary judgment, must be filed not later than thirty (30) days after the agency record is filed.
  - (2) Defendant's principal brief in opposition, which will be deemed a cross-motion for summary judgment, must be filed not later than thirty (30) days after plaintiff has served and filed plaintiff's principal brief.
  - (3) Plaintiff may file a reply to defendant's opposition not later than fourteen (14) days after service of the opposition.
- (d) **Extension of Time.**
  - (1) The parties may, by written stipulation, extend the time under subsections (b) and (c) by not more than fourteen (14) days, which extension need not be approved by the court.
  - (2) Any extension of time other than as provided in paragraph (d)(1) may be granted only for good cause shown.

**(e) Failure to Timely File Briefs.**

(1) [A] A brief may be filed after the time for filing a brief, including any extensions of time for filing, has lapsed only by leave of the court.

[B] Leave of court must be obtained by motion and, unless otherwise ordered by the court, no opposition to the motion may be served and filed.

[C] The moving party must set forth in the motion:

(i) that the moving party has conferred with the other party(ies) to the appeal and must advise the court whether the motion is opposed or unopposed:

(ii) the date the brief was due;

(iii) whether any extensions were given to file the brief; and

[D] The motion must be accompanied by:

(i) an affidavit or declaration under penalty of perjury stating the reason for seeking leave to file the brief late; and

(ii) a copy of the brief proposed to be filed.

(2) In the event the plaintiff fails to file plaintiff's principal brief by the time specified, including any extensions thereof, the clerk will issue a notice that unless within ten (10) days after notice is sent, the brief together with a motion to accept a late filed brief as provided in paragraph (d)(1) is filed with the court or good cause for the failure to file the brief be shown, the clerk will enter an order dismissing the case.

(3) Failure by the defendant to file defendant's principal brief may be deemed by the court as an admission that the appeal is well taken; provided, however, that the court will not enter judgment reversing the agency decision unless the agency record, taken as a whole, reveals that the agency action was erroneous as a matter of law.

Related Provisions:

5 U.S.C. §§ 701–706 Judicial Review

D.Ak. LR 7.2 Hearings

D.Ak. LR 7.3 Telephonic Participation in Civil Cases

D.Ak. LR 10.1 Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

*Exception:* In paragraph (e)(2) the time to respond to the Clerk's notice of a delinquent brief has been increased from 7 to 10 days. This is believed appropriate in that the amendment to Fed. R. Civ. P. 6 eliminating the exclusion of intervening holidays and weekends would result in making the time to respond excessively short.

**Rule 39.2 Trial Briefs**

**(a) Time for Filing.** Unless otherwise ordered by the court, not less than twenty-one (21) days prior to the scheduled trial date in civil cases, each party will file and serve on all other parties a trial brief.

- (b) **Length and Format.** The brief may not exceed twenty-five (25) pages and should contain:
- (1) a summary identifying the—
    - [A] parties, and
    - [B] theories of recovery and defenses that have been pled;
  - (2) a designation of the appropriate pleadings and any pre-trial rulings or stipulations by docket number;
  - (3) a designation of which claims and which parties remain for disposition;
  - (4) a summary, organized by claim, of—
    - [A] the anticipated evidence on liability and damages, with
    - [B] a spreadsheet or itemized list of relief requested, including anticipated dollar amounts where applicable;
  - (5) citations to controlling statutes and cases;
  - (6) a summary of what is likely to be most at issue; and
  - (7) a summary, with references to controlling authorities, of issues likely to arise regarding evidence.

Related Provisions:

- D.Ak. LR 5.1            Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
- D.Ak. LR 10.1        Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

**Rule 39.3 Exhibits**

- (a) **General.** Except as may be otherwise ordered by the court, exhibits will be managed as provided by this subsection.
- (1) At least fourteen (14) days before trial or at least three (3) business days prior to the deadline for submission of exhibits under a pretrial order in the case, whichever is earlier, counsel must meet with a deputy clerk to review trial exhibits.
  - (2) Plaintiff will arrange the time for this exhibit review.
  - (3) [A] (i) At the time set, all exhibits must be available for inspection by opposing counsel and the deputy clerk.
    - (ii) Trial will not be recessed or delayed to permit counsel to read or examine exhibits.
  - [B] (i) Large or bulky exhibits that cannot be readily transported to the office of the deputy clerk must be made available at a reasonable time and location prior to the meeting with the deputy clerk for examination by opposing counsel.
    - (ii) If available, photographs or other representations of large or bulky exhibits must be included with the exhibits marked under this rule.

(4) Prior to the exhibit review, parties will obtain from the deputy clerk exhibit labels that counsel must affix to proposed exhibits, marking the same with numbers for plaintiff and letters for defendant in the approximate order of anticipated use of the exhibits.

[A] With the approval of the deputy clerk, the parties may stipulate prior to marking exhibits that an exhibit identification scheme other than that provided by this rule be used.

[B] Depositions and deposition excerpts that are to be used for any purpose at trial must be marked as exhibits and included on an exhibit list as provided by this rule.

(5) The parties must stipulate at the exhibit review meeting to admissibility of those exhibits to which there will be no objection, which exhibits are to be marked "ADM."

[A] Exhibits marked "ADM" are evidence, without need for foundation or further offer at trial, and no objections will be heard regarding their admissibility.

[B] Exhibits not admitted by stipulation are to be marked for identification only, "ID."

(6) Within five (5) days after the exhibit review session:

[A] each party must serve and file an exhibit list, in the form of a pleading, identifying by number or letter those exhibits marked for admission and those marked for identification, and briefly describing each exhibit; and

[B] a copy of all exhibits that can be photocopied, including depositions, must be lodged for use by the court, and a copy provided to opposing counsel, which copies—

(i) will be photocopied subsequent to the exhibit review meeting bearing all the information required by paragraphs (a) (2) and (3), and

(ii) original labels should not be used on the court's copy of exhibits.

(7) Exhibits not presented according to this rule will not be admitted except upon a showing of good cause.

(8) Exhibits are to be retained by the parties between the marking session and trial, and will not be stored by the court.

(9) Counsel will maintain custody of all exhibits during trial, see that they are properly marked when identified and admitted, and keep them organized for ready access by opposing counsel, the court, and witnesses during trial.

[A] All exhibits admitted on a party's behalf must be immediately available at the conclusion of trial for submission to the jury or the court during deliberations.

[B] Prior to submission of the exhibits to the jury, counsel must meet with the clerk and review all parties' exhibits to assure that all admitted exhibits are segregated for submission, and no non-admitted exhibits are submitted.

(10) Immediately after a jury verdict or findings of fact by the court, the exhibits will be returned to the custody of respective counsel and must be retained by them pending appeal and final disposition of the case.

**(b) Custody of Drugs, Cash, Firearms and Other Sensitive Exhibits.**

(1) Any cash, drugs, firearms, weapons, and other sensitive items, presented to the Court for admittance as evidence must be presented in a sealed bag identifying the exhibit and marked not to be opened except under order of the court.

(2) The attorney or party offering to introduce any firearm or other weapon into evidence must:

[A] provide written notification to the Supervisory Deputy in the Office of the United States Marshal of the intent to introduce the firearm or weapon not later than two (2) business days prior to the date the firearm or weapon is to be brought to the courtroom, including—

(i) identity of the person who will have physical possession or custody of the firearm or weapon; and

(ii) a complete, detailed description of the firearm or weapon, including, if applicable, the serial number; and

[B] prior to the first day of trial or the date of the hearing at which the firearm or weapon is to be introduced into the courtroom, coordinate with the Supervisory Deputy to have a Deputy United States Marshal physically secure the firearm or weapon to make it safe for handling.

[C] The United States Marshal is authorized to promulgate such forms for the purposes of providing the United States Marshal with such notice and additional information as the United States Marshal may, in the discretion of the United States Marshal, deem appropriate or necessary.

(3) The attorney for the party offering the exhibit will retain custody of the exhibit and is responsible for the exhibit during trial, including recesses.

(4) [A] Sensitive items admitted into evidence and submitted to the jury for deliberation become the responsibility of the jury bailiff during deliberations.

[B] Upon the return of a verdict or discharge of the jury, the attorney for the party offering the exhibits must immediately take custody of the item.

(c) **Digital Evidence Presentation System.** To utilize the Digital Evidence Presentation System (“DEPS”), not less than fourteen (14) days in advance of the hearing or trial, a party must:

(1) contact the assigned Case Management Clerk to arrange for necessary training and familiarization; and

(2) file a notice of intent to use DEPS including in the notice—

[A] the date, and

[B] location in which the hearing or trial is to be held.

(d) **Applicability to Criminal Cases.** Except for the pretrial exhibit marking procedures in paragraphs (a)(1)–(5), this rule applies to criminal cases.

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

*Exception:* Time for meeting with deputy clerk prior to deadline for submission of exhibits in ¶ (a)(1) and time for serving and filing exhibits in ¶ (a)(6) from 3 days to 3 business days. Time for contacting CMC to arrange DEPS training changed from 2 weeks to 14 days to maintain uniformity in describing time. No substantive change intended.

## **Rule 40.2 Notice of Related Case**

### **(a) Duties of Counsel.**

(1) Whenever counsel has reason to believe that an action or proceeding on file or about to be filed in this court is related to another action or proceeding in this or any other federal or state court, whether pending, dismissed or otherwise terminated, counsel must promptly file and serve on all known parties in each related action or proceeding a Notice of Related Case.

(2) Notice must:

[A] state the court, title, case number, and filing date of each action or proceeding believed to be related;

[B] contain a brief statement of the relationship; and

[C] if the related case is pending in this court, give reasons why assignment to a single judge is or is not likely to effect economies.

(3) This is a continuing duty that applies when counsel files a case with knowledge of a related action or proceeding, or whenever counsel learns of a related action or proceeding.

(b) **Definition.** An action or proceeding is related to another when both involve:

- (1) some of the same parties and are based on the same or similar claims;
- (2) the same property, transaction, or event; or
- (3) substantially the same facts and questions of law.

(c) **Procedure after Filing.**

(1) Within fourteen (14) days after service upon a party of a Notice of Related Case, the party may file and serve a response supporting or opposing the notice.

(2) A timely response will be considered when the court determines what action may be appropriate to coordinate the cases formally or informally.

(d) **Judicial Assignment of Consolidated Cases.** Unless otherwise ordered, related cases that are consolidated will be assigned to the presiding judge in the case first filed, *i.e.*, the case having the lowest or first case number assigned.

Related Provision:

D.AK. LR 10.1      Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

### **Rule 40.3 Calendaring Cases for Trial**

(a) **Setting Cases for Trial; Certification.**

(1) Cases may be set for trial by the Court upon its own motion or upon written motion by any party.

(2) A motion under this rule must bear the certificate of counsel for the moving party that:

[A] the case is at issue for trial;

[B] all depositions and other discovery procedures necessary to adequately prepare for trial have been completed;

[C] all preliminary and pre-trial conferences necessary to carry into effect the purpose of Rule 16, Federal Rules of Civil Procedure have been held; and

[D] all necessary pretrial motion practice has been completed and all legal matters resolved.

(b) **Setting Cases for Trial; Notice from Clerk.** Unless otherwise instructed by the court, not later than thirty (30) days following the date set for close of discovery in a civil case, the clerk will routinely notify the parties to certify the case ready for trial.

(1) Upon receipt of notification, counsel must confer and, unless otherwise directed, counsel for plaintiff must prepare, serve, and file a report as to the status of discovery, motion practice, and settlement.

(2) Unless the case is potentially not ready to be calendared for trial, counsel will propose two (2) agreeable alternative trial dates, at least one (1) of which should be approximately six (6) months subsequent to the date of the report.

(c) **Continuances.**

(1) Where application is made for the continuance of the final pre-trial conference or trial of a case, the application, unless otherwise permitted, must be filed at least fourteen (14) days before the day set for the final pre-trial conference or trial.

(2) The application must be supported by affidavit setting forth all reasons for continuance.

(3) If the case is not tried upon the date set, the court may, in addition to such other terms as it may in its discretion impose, require the payment of jury fees and other costs by the party upon whose request the continuance is ordered.

Related Provisions:

F.R.Civ.P. 40                      Assignment of Cases for Trial  
D.Ak. LR 16.1                    Pre-Trial Procedures

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

**Rule 47.1 Voir Dire**

(a) **Submission of Questions.** Unless otherwise ordered by the court, not later than seven (7) days before trial, any party may file questions that the party requests be asked of the panel.

(b) **Objections to Questions.** Objections to proposed *voir dire* questions may be made orally at any time before the court commences *voir dire*.

Related Provisions:

28 U.S.C. § 1870                Challenges  
F.R.Civ.P. 47                    Selection of Jurors

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

### Rule 50.1 Motions for Judgment as a Matter of Law

(a) **Motion.** A renewed motion for judgment as a matter of law under Federal Rule of Civil Procedure 50(b) is limited to ten (10) pages, and, where appropriate, affidavits, deposition excerpts, or other factual materials.

(b) **Response.** No response to a motion for judgment as a matter of law may be filed unless requested by the court.

(1) Unless otherwise ordered by the court, a response to the motion must be filed within fourteen (14) days after entry of the order requesting a response.

(2) A response is limited to ten (10) pages.

(3) Generally, the court will not grant a motion for judgment as a matter of law without first requesting a response.

(c) **Reply.** No reply may be filed unless requested by the court.

(1) Unless otherwise ordered by the court, a reply must be filed within seven (7) days after entry of the order requesting a reply.

(2) A reply is limited to five (5) pages.

#### Related Provisions:

F.R.App.P. 4	Appeal as of Right—When Taken
F.R.Civ.P. 6	Time
F.R.Civ.P. 50	Judgment as a Matter of Law in a Jury Trial; Related Motion for a New Trial; Conditional Ruling
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: See comment to proposed LR 59.2. This rule is adopted to make the procedures governing post-judgment motions uniform.

### Rule 51.1 Jury Instructions

(a) **Time For Filing.** Except as the court may otherwise direct, the parties must file requested jury instructions not later than fourteen (14) days before trial.

(b) **Form.** The requested instructions must:

(1) be numbered consecutively;

(2) indicate which party requests the instruction be given;

(3) embrace but one subject;

(4) not repeat the principle of law embraced in the instruction in subsequent requests; and

(5) state what form it copies or on what authorities it relies.

(c) **Nonconforming Requests.** Requests that do not comply with the terms of this rule will not be considered by the court.

(d) **Computer Disks.** Each side may also submit a set of instructions on a computer disk in a computer language compatible with the court's computer system.

(e) **Meeting of Parties and Joint Instructions.**

(1) Except as the court may otherwise direct, not later than twenty-one (21) days before trial, the parties must meet and confer on instructions to be given the jury.

(2) Concurrently with the filing of jury instructions as provided in subsection (a), the parties must file with the court joint instructions on which there is no material disagreement.

(f) **Reference to Model/Pattern Instructions.** In lieu of reproducing and submitting model or pattern jury instructions to which no modification is requested, a requested or joint instruction may be by reference to the model or pattern jury instruction.

(g) **Settlement of Jury Instructions.**

(1) Not later than the close of evidence, the court and counsel will confer for the purpose of formulating instructions to be given the jury. At this conference the court and counsel will consider the parties' requested instructions and the court's draft proposed instructions.

(2) Subsequent to the conference provided in paragraph (1) and prior to closing argument:

[A] The court will provide counsel with its proposed final instructions; and

[B] Counsel will be afforded an opportunity to place on the record objections, if any, to the court's proposed instructions or the court's refusal to give any requested instruction.

Related Provisions:

F.R.Civ.P. 51            Instructions to Jury; Objection  
Ninth Circuit Manual of Model Civil Jury Instructions  
Ninth Circuit Manual of Model Criminal Jury Instructions  
Ninth Circuit Manual on Jury Trial Procedures  
Alaska Pattern Civil Jury Instructions  
D.Ak. LR 5.3            Electronic Filing

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

*Exception:* Time for meeting of counsel to review proposed instructions increased from 15 to 21 days before trial in ¶ (e)(1). This change departs from the usual rule that 15 days becomes 14 because of the change to the time for filing proposed instructions in subdivision (a). Otherwise the meeting and deadline for submission would fall on the same day.

**Rule 52.2 Motions for Amended or Additional Findings**

(a) **Motion.** A motion for amended or additional findings under Federal Rule of Civil Procedure 52(b) is limited to ten (10) pages, and, where appropriate, affidavits, deposition excerpts, or other factual materials.

(b) **Response.** No response to a motion for amended or additional findings may be filed unless requested by the court.

(1) Unless otherwise ordered by the court, a response to the motion must be filed within fourteen (14) days after entry of the order requesting the response.

(2) A response is limited to ten (10) pages.

(3) Generally, the court will not grant a motion for amended or additional findings without first requesting a response.

(c) **Reply.** No reply may be filed unless requested by the court.

(1) Unless otherwise ordered by the court, a reply must be filed within seven (7) days after entry of the order requesting a reply.

(2) A reply is limited to five (5) pages.

Related Provisions:

F.R.App.P. 4	Appeal as of Right—When Taken
F.R.Civ.P. 6	Time
F.R.Civ.P. 52	Findings and Conclusions by the Court; Judgment on Partial Findings
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: See comment to proposed LR 59.2. This rule is adopted to make the procedures governing post-judgment motions uniform.

**Rule 53.1 Discovery Masters**

(a) **Appointment.** On motion by a party or on its own motion, the court may in its discretion appoint a discovery master to assist the parties in the speedy and economical conduct of discovery and resolution of discovery disputes.

(1) As a condition of appointment, and especially in complex cases involving numerous, significant disputes, the court may require the parties to pay the fees of the discovery master.

(2) In other cases, the court may call upon local counsel who have agreed to take discovery master assignments on a *pro bono* basis.

(b) **Conflicts.**

(1) The master must disclose any possible conflicts between the master and any party within fourteen (14) days of appointment.

(2) The discovery master will rule originally on any motion to disqualify for a conflict.

(3) A motion to disqualify a master must be made within fourteen (14) days of the master's disclosure of the conflict.

(c) **Authority.**

(1) The authority of the discovery master will be set forth in the order of appointment.

(2) In the absence of anything to the contrary in the appointment order, or if the order is silent as to the authority of the master, a discovery master is authorized to:

[A] resolve all discovery disputes between the parties;

[B] respond to all discovery requests and motions of the parties;

[C] call discovery conferences under Rule 16, Federal Rules of Civil Procedure, at the request of a party or on the master's own motion;

[D] recommend to the court, but not impose, sanctions; and

[E] set procedures for the timing and orderly presentation of discovery disputes for resolution, including facsimile filing of motions with the discovery master, provided all motions to the discovery master are to be filed under D. Ak. LR 7.1, with a copy served on the discovery master.

(d) **Rulings.** *Abrogated*

(e) **Pretrial Order Revisions.** The discovery master may recommend to the court a revision of any pre-trial order entered in the case.

Related Provisions:

28 U.S.C. § 957	Clerks ineligible for certain offices
F.R.Civ.P. 26–37	Depositions and Discovery
F.R.Civ.P. 53	Masters

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively. Subsection (d) has been abrogated as the subject is fully covered by Fed. R. Civ. P. 53(d)–(f).

### **Rule 54.1 Taxation of Costs**

#### **(a) Filing, Time**

(1) Not later than fourteen (14) days after the date of the entry of judgment, a prevailing party may serve on each of the other parties to the action:

[A] a cost bill; together with

[B] a notice of the date and time of the cost bill hearing at which the clerk will tax costs.

(2) The date and time of the hearing must be scheduled with the clerk's office and may not be more than twenty-eight (28) days from the date of the notice.

#### **(b) Cost Bill.**

(1) Cost bills must include:

[A] the statutory verification;

[B] photocopies of invoices;

[C] proofs of payment; and

[D] other supporting documents as necessary or appropriate.

(2) Costs are to be broken out by subsection of the statute under which they are sought.

(3) Parties may use the Bill of Costs Form AO 133 available from the clerk's office.

#### **(c) Objections.**

(1) Objections must be served and filed not later than seven (7) days before the hearing.

(2) The clerk may review all items whether or not an objection is made.

#### **(d) Hearing.**

(1) At the time set for the taxation hearing, the clerk will tax the costs and allow the items specified in the cost bill properly taxable by the clerk.

(2) At the conclusion of the hearing, the clerk will:

[A] prepare and enter minutes of the taxation hearing; and

[B] insert the amount of costs awarded on the judgment.

(e) **Taxable Costs.** Taxable costs, as set forth by statute with the following clarifications, include:

(1) *Clerk's and Marshal's Fees.*

[A] Clerk's and Marshal's fees allowable by statute;

[B] fees for the service of process not served by the Marshal; and

[C] expenses of caring for property attached, replevied, libeled or held pending stay of execution.

(2) *Trial Transcripts.*

[A] The costs of the originals furnished the court of a trial transcript, a daily transcript or of a transcript of matters prior or subsequent to trial are taxable when either requested by the court or prepared under a stipulation. Mere acceptance by the court does not constitute a request.

[B] Copies of transcripts for counsel's use are not taxable in the absence of a special order of court.

(3) *Deposition costs.* The reporter's charge for a deposition used, including an audio-visual deposition if ordered by the court or stipulated to by the parties, is taxable.

[A] On a taxed deposition the reasonable expenses of the deposition reporter and the notary or other official presiding at the taking of the deposition are taxable, including travel and subsistence;

[B] all postage costs are taxable;

[C] fees for the witness at the taking of the deposition are taxable at the same rate as for attendance at trial and the witness need not be under subpoena; and

[D] a reasonable fee for a necessary interpreter at the taking of the deposition is taxable.

(4) *Witness Fees, Mileage, and Subsistence.*

[A] The rate of witness fees, mileage, and subsistence is fixed by 28 U.S.C. § 1821 and are taxable even though:

(i) the witness does not take the stand, (i) provided the witness necessarily attends court; or

(ii) the witness attends voluntarily upon request and is not under subpoena. [B] if travel is by common carrier, witnesses are entitled to the cost of the most economical accommodations available, including jet coach for travel in Alaska and outside Alaska in proceeding to or from Alaska.

[C] Receipts or other evidence of actual payment will be furnished whenever practicable.

[D] Witness fees and subsistence are taxable only for the reasonable period during which the witness was within or without the district.

(i) Subsistence to the witness is allowable if the distance from the court to the residence of the witness is such that mileage fees would be greater than subsistence fees if the witness were to return to his residence from day to day.

(ii) If the witness appears on the same day in related cases requiring his appearance in the same court, one set of fees is taxable—the single set as taxed to be divided equally among the related cases.

[C] (i) Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually.

(ii) Fees of expert witnesses are not taxable in a greater amount than statutorily allowable for ordinary witnesses, except compensation for a court-appointed expert paid by the parties as ordered and directed by the court as a taxable cost.

(iii) Allowance of fees to a witness on a deposition does not depend on whether or not the deposition is admitted into evidence.

[D] The reasonable fee of a competent interpreter or translator is taxable if the fee of the witness involved is taxable.

(5) *Exemplification of copies and papers.* Costs of reproducing documents obtained in discovery and used for any purpose in the case.

(6) *Fees to Masters, Receivers, and Commissioners.* Fees to masters, receivers, and commissioners ordered by the court.

(7) *Premiums on Undertakings, Bonds or Security Stipulations.* The party entitled to recover costs will ordinarily be allowed premiums paid on undertakings, bonds or security stipulations where they are:

[A] furnished by reason of express requirement of the law;

[B] on order of the court or a judge thereof; or

[C] where necessarily required to enable the party to secure some right accorded in the action or proceeding.

(f) **Nontaxable Costs.** The following costs are not taxable.

(1) Counsels' fees, expenses in arranging for taking, and expenses in attending the taking of a deposition, except as provided by statute or by the Federal Rules of Civil Procedure.

(2) Copies of transcripts for the use of counsel in the absence of a special order of the court.

(3) Witness fees of a party for testifying on the party's own behalf.

Related Provisions:

28 U.S.C. § 1821	Per diem and mileage generally; subsistence
28 U.S.C. § 1824	Mileage fees under summons as both witness and juror
28 U.S.C. § 1920	Taxation of Costs
28 U.S.C. § 1921	United States marshal's fees
28 U.S.C. § 1922	Witness fees before United States commissioners
28 U.S.C. § 1923	Docket fees and costs of briefs
28 U.S.C. § 1924	Verification of bill of costs
28 U.S.C. § 2412	Costs and Fees
F.R.Civ.P. 54	Judgments; Costs

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Subdivision (a) amended to provide that cost bill be filed within 14 days of entry of judgment [coincides with time permitted to file motion for attorney's fees under Fed. R. Civ. P. 54(d)(2)(B) (effective 12/1/09)] and the hearing be not more than 28 days from date of notice. NOTE: Fed. R. Civ. P. 54(d)(1) (effective 12/1/09) provides for a minimum 14-day notice of the hearing. Thus a 14-day window is created during which the cost bill hearing must held.

Paragraph (c)(1) amended to provide that objections be served and filed not later than 7 days before the hearing. Under the current rules the hearing could be held on 1 day and not more than 7 days notice; consequently objections were allowed to be first made at the hearing. With the expanded time between notice of and holding the hearing on cost bills, to make cost bill hearings more efficient, objections must be filed at least 7 days before the hearing

**Rule 55.1 Entry of Judgment Upon Default**

(a) **Applications.** All applications for default judgment must be in writing, identifying the pleadings to which no defense has been made and against which party(ies) default judgment is sought.

(1) The application must be accompanied by an affidavit showing that:

[A] no person against whom default judgment is sought is an—

(i) infant,

(ii) incompetent, or

- (iii) in the military service of the United States; or
- [B] if the person is in one of these categories, that the person is represented.
- (2) If a money award is sought, the applicant must file with the application an affidavit with such attachments as may be appropriate:
  - [A] showing entitlement to the amount sought; and
  - [B] that provides a computation of the amounts to be filled in by the clerk on the judgment.
- (b) **Entry of Default Judgment.** Upon application for default judgment, the clerk will:
  - (1) enter judgment if appropriate under Rule 55(b)(1), Federal Rules of Civil Procedure; or, if not,
  - (2) refer the application to the judge for disposition.
- (c) **Notice.** If notice is required under Rule 55(b)(2), Federal Rules of Civil Procedure, the party(ies) against whom default judgment is sought may submit affidavits and other evidence in opposition at least two (2) days before the hearing.

Related Provision:

F.R.Civ.P. 55	Default
D.Ak. LR 5.5	Service Prior to an Event

COMMENT: Subsection (c) currently provides for submission 3 days after service of notice under Fed. R. Civ. P. 55(b)(2). Rule 55(b)(2) currently provides for a minimum of 3 days notice of the hearing. The amendment to Rule 55(b)(2) (effective 12/1/09) changes the notice time to 7 days. Under the amendment to Rule 6(a) it is possible that under the current Rule 55.1 the opposition could be due as late as midnight of the date of the hearing. To ensure that the opposition is received by the party seeking default and the court before the hearing, subsection (c) has been amended to provide for submission of opposition at least 2 days before the hearing date.

**Rule 58.1 Judgments**

- (a) **Costs.** Entry of judgment by the clerk will not be delayed for the taxing of costs or computation of pre-judgment interest.
  - (1) Where appropriate, the clerk or the party preparing the judgment, will leave a blank space in the form of judgment for insertion of costs, attorney's fees, and interest, and the total.
  - (2) The clerk will fill in the appropriate amounts (or zeros) in the appropriate blanks, perform the addition, and fill in the total amount:
    - [A] upon final award of interest, costs, and attorney's fees; or
    - [B] the termination of the period allowed for application without application having been made,
- (b) **Judgment on Jury Verdicts; Sum Certain.** For judgments denoted under clause (1) of Rule 58, Federal Rules of Civil Procedure, the clerk will prepare the judgment on the appropriate Administrative Office Form, using language similar to that in form 70 or form 71 of the Appendix of Forms in the Federal Rules of Civil Procedure as those forms are amended from time to time.
- (c) **Service.** The clerk will serve the judgment by depositing it in a U.S. mail receptacle prior to the last pickup of the day on the same day as the judgment is entered.
- (d) **Prejudgment Interest.** Where pre-judgment interest is appropriate:
  - (1) Within fourteen (14) days of the entry of judgment the prevailing party must provide a computation of interest, showing:
    - [A] the method of computation; and

[B] the total amount to be filled in by the clerk in the blank for interest.

(2) [A] If any party disagrees with the computation, the party must file an alternative computation within seven (7) days of service of the prevailing party's computation.

[B] Submission of an alternative computation does not concede correctness of the judgment, or waive any objections to the judgment.

(3) If the file shows no disagreement, the clerk will fill in the interest on the judgment.

(4) If there is a disagreement, the matter will be referred to the court for decision.

(e) **Post-judgment Interest Rate.** The clerk will fill in the post-judgment interest rate at entry of judgment, if available, on request by any party.

Related Provisions:

28 U.S.C. § 1961	Interest
28 U.S.C. § 2516	Interest on claims and judgments
F.R.Civ.P. 58	Entry of Judgment
F.R.Civ.P. 79	Books and Records Kept by the Clerk and Entries Therein
F.R.Civ.P., Appendix of Forms, Form 70	
F.R.Civ.P., Appendix of Forms, Form 71	

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively. The reference to the forms of the Appendix of Forms to the Fed. R. Civ. P. changed to coincide with the 2007 form numbering change in the Fed. R. Civ. P.

**Rule 59.1 Motions for Reconsideration of Non-Appealable Orders**

(a) **Applicability.** This rule applies solely to non-appealable interlocutory orders.

(b) **Time for Filing.**

(1) Except as provided in paragraph (b)(2), a motion for reconsideration of an order must be filed not later than fourteen (14) days after entry of the order.

(2) A motion for reconsideration of an order based on an intervening change of controlling law may be filed at any time.

(3) For the purposes of this subsection, an order is deemed entered:

(A) upon service by the clerk of the minutes of the proceeding, unless the court then announces an intention to prepare a written ruling; or

(B) upon service by the clerk of a written ruling.

(c) **Motion.** A motion for reconsideration is limited to five (5) pages, and, where appropriate, affidavits, deposition excerpts, or other factual materials.

(d) **Response.** No response to a motion for reconsideration may be filed unless requested by the court.

(1) Unless otherwise ordered by the court, a response to the motion must be filed within seven (7) days of entry of the order requesting a response.

(2) A response is limited to five (5) pages.

- (3) Generally, the court will not grant reconsideration without first requesting a response.
- (e) **Reply.** No reply may be filed unless requested by the court.
- (1) Unless otherwise ordered by the court, a reply must be filed within seven (7) days of entry of the order requesting a reply.
- (2) A reply is limited to five (5) pages.

Related Provisions:

F.R.Civ.P. 59	New Trials; Amendment of Judgments
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Time for filing reconsideration motions, other than those governed by Fed. R. Civ. P. 59, in ¶ (b)(1) increased from 5 to 14 days. The departure from the usual “rule” of substituting 7 for 5 days in this instance is warranted by two factors: (1) Rule 59 (effective 12/1/09) increases the time for filing from 10 to 28 days; and (2) a general consensus among practitioners that a shorter time period is unrealistic.

Paragraph (d)(1) is new and sets a default rule for the time for filing a response.

Paragraphs (e)(1) and (2) are new setting the default time for filing replies and limiting the size of replies.

**Rule 59.2 Motions for a New Trial/Amendment of Judgment**

- (a) **Motion.** A motion for a new trial or to amend a judgment under Federal Rule of Civil Procedure 59 is limited to ten (10) pages, and, where appropriate, affidavits, deposition excerpts, or other factual materials.
- (b) **Response.** No response to a motion for a new trial or to amend a judgment may be filed unless requested by the court.
- (1) Unless otherwise ordered by the court, a response to the motion must be filed within fourteen (14) days after entry of the order requesting a response.
- (2) A response is limited to ten (10) pages.
- (3) Generally, the court will not grant a motion for new trial or to amend a judgment without first requesting a response.
- (c) **Reply.** No reply may be filed unless requested by the court.
- (1) Unless otherwise ordered by the court, a reply must be filed within seven (7) days after entry of the order requesting a reply.
- (2) A reply is limited to five (5) pages.

Related Provisions:

F.R.App.P. 4	Appeal as of Right—When Taken
F.R.Civ.P. 6	Time
F.R.Civ.P. 59	New Trials; Amendment of Judgments
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.2	Hearings

D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers
D.Ak. LR 59.1	Motions for Reconsideration of Non-Appealable Orders

COMMENT: This rule adopts a procedure for Rule 59 motions similar to that previously adopted for reconsideration of non-appealable interlocutory rulings. As with motions for reconsideration of non-appealable interlocutory orders, experience has shown that many Rule 59 motions may be decided without requiring an opposition. When the court desires a response it usually signifies that the court has reviewed the motion and that the motion has sufficient merit that a response would be helpful to the court.

## **Rule 67.2 Investment of Funds on Deposit**

### **(a) Investment.**

(1) Funds on deposit in the Registry Account of the court under 28 U.S.C. § 2041 will not be invested in the absence of an order by the court.

(2) All motions or stipulations for an order directing the clerk to invest Registry Account funds in an interest-bearing account must contain the following:

[A] the name of the bank or financial institution where the funds are to be invested;

[B] the type of account or instrument and the terms of investment where a timed instrument is involved; and

[C] language that directs the clerk to deduct from income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

### **(b) Service of Order.**

(1) Counsel obtaining an order under this rule must personally serve a copy of the order on the clerk or the chief deputy, and the financial deputy.

(2) A supervisory deputy clerk may accept service on behalf of the clerk, chief deputy or financial deputy in their absence.

(c) **Deposit by Clerk.** The clerk will take all reasonable steps to deposit funds into interest-bearing accounts or instruments not more than fourteen (14) days after a copy of the order for the investment is served.

### **(d) Verification by Party.**

(1) Any party who obtains an order directing investment of funds by the clerk must, within fourteen (14) days after service of the order on the clerk, verify that the funds have been invested as ordered.

(2) Failure of the party or parties to personally serve the clerk, the chief deputy, and financial deputy, or in their absence a supervisory deputy clerk with a copy of the order, or failure to verify investment of the funds, releases the clerk from any liability for the loss of earned interest on such funds.

### **(e) Responsibility of Counsel.**

(1) It is the responsibility of counsel to notify the clerk regarding disposition of funds at maturity of a timed instrument not less than fourteen (14) days before the stated maturity date.

(2) In the absence of notice, funds invested in a timed instrument subject to renewal will be reinvested for a like period of time at the prevailing interest rate.

(3) Funds invested in a timed instrument not subject to renewal will be re-deposited by the clerk into the Registry Account of the court, which is a non-interest-bearing account.

(f) **Change in Terms and Conditions.** Any change in terms or conditions of an investment will be by court order only, and counsel will be required to comply with subsections (a) and (b).

(g) **Payment from Account.**

(1) No funds may be paid out of an interest-bearing account or interest-bearing instrument except by order of the Court.

(2) The order must:

[A] distinctly set forth the funds in question and name the payee;

[B] should the named payee be other than the depositor of the funds, that fact must be reflected;

[C] identify by name, address and social security or taxpayer's identification number the individual entitled to the interest accumulated; and

[D] direct the clerk to deduct from income earned on investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(3) The clerk will deliver a copy of the order to the private institution where the deposit was made.

Related Provisions:

28 U.S.C. § 2041	Deposit of money's in pending or adjudicated cases
28 U.S.C. § 2042	Withdrawal
28 U.S.C. § 2044	Payment of fine with bond money
F.R.Civ.P. 67	Deposit in Court
D.Ak. LR 67.1	Deposit and Investment of Funds in the Registry Account; Certificate of Cash Deposit

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days. Subdivision (e) amended to provide for filing of oppositions and replies increased from 15 and 5 days to 21 and 14 days, respectively.

**Rule 83.1 Attorneys**

**(a) Eligibility.**

(1) Except as otherwise provided in this rule, any attorney admitted to practice as an attorney and counselor at law before the courts of the State of Alaska under Part I of the Alaska Bar Rules is eligible for admission to practice in the United States District Court for the District of Alaska.

(2) Active members of the bar of this court may appear and act in all respects on behalf of parties anywhere in the District of Alaska unless the court finds good cause to require association with an active member of the bar of this court residing in the place within the district where the case is pending.

(b) **Law Clerks.** No individual serving as a law clerk to a judge of this court may engage in the practice of law while continuing in such position. After separating from that position, practice as

an attorney in connection with any case pending during the individual's term of service before the judge for whom the individual worked will be limited by Rule 1.11, Alaska Rules of Professional Conduct.

**(c) Procedure for Admission.**

(1) All attorneys admitted to practice before the former District Court for the Territory of Alaska on February 20, 1960, are admitted to practice in this court without further procedure for admission.

(2) Each applicant for admission must file with the clerk a petition stating:

[A] all names by which the applicant has been known;

[B] residence and office addresses; and

[C] the names and addresses of all courts before which the applicant has been admitted to practice and dates of—

(i) admission, and

(ii) suspension or other such action on account of disability or other reason in any of the jurisdictions or courts before which the applicant has practiced.

(3) The petition must be:

[A] accompanied by a certificate of good standing signed by a justice or the clerk of the Alaska Supreme Court or the Executive Director of the Alaska Bar Association bearing a date not more than ninety (90) days prior to the date of the application; and

[B] served on the Alaska Bar Association.

(4) After a twenty-day period for the filing of objections has elapsed, the court will determine whether to order admission, and, if admission is ordered, the clerk will issue a certificate of admission.

(5) The court may, on its own motion or in response to an objection, make further inquiry of the applicant or others and determine what response to objection, hearing, or other procedures are appropriate.

(6) Service of the petition on the Alaska Bar Association and the objection period does not apply for new admittees to the Alaska Bar Association if the petition for admission is filed in this court within sixty (60) days of the date the Alaska Bar Association certifies the person for admission to the Alaska Supreme Court.

(7) An accepted applicant must take an oath substantially in the form as may be prescribed from time to time by the Administrative Office of the United States Courts or by miscellaneous general order of this court.

**(d) Non-Eligible Attorneys.**

(1) [A] A member in good standing of the bar of another jurisdiction, who is not an active member of the bar of this court, may, upon motion, be permitted by the court to appear and participate on behalf of a party, but non-local counsel will ordinarily be required to associate with an active member of the bar of this court.

[B] The court may permit a member in good standing of the bar of another jurisdiction, on a sufficient showing, to appear and participate without association with an active member of the bar of this court.

(2) [A] Unless otherwise ordered by the court:

(i) the attorney applying may appear and participate from the time of filing as though it had been approved, and

(ii) approvals will be deemed to be effective as of the time of filing of the motion.

[B] The motion must either designate a member of the bar of this court in accord with the above paragraphs or show cause why, in accord with the above paragraphs, no association should be required.

[C] Motions for leave to participate without local counsel will not be approved as a matter of course, and if denied, a party represented by non-local counsel will be given a reasonable period within which to associate local counsel.

(3) If a non-local attorney appears for a party, whether from outside the district of Alaska or outside the location within the district where the proceeding is located, the court may at any time during the proceeding, on motion of a party or its own motion, for good cause, require association of local counsel.

(4) The motion must be accompanied by the affidavit or declaration of the attorney seeking admission, which affidavit or declaration must:

[A] Contain—

- (i) all names by which the applicant is known,
- (ii) the applicant's office and residence addresses,
- (iii) name and address of each jurisdiction or court to which the applicant has been admitted to practice and the year of admission to each,
- (iv) a statement that the applicant is not the subject of any pending disciplinary action in any jurisdiction or before any court to which the applicant has been admitted to practice,
- (v) all relevant information, including dates, of any suspension, disbarment, or similar action, on account of disability or other reason, in any jurisdiction or court to which the applicant has been admitted to practice, and
- (vi) certification that the applicant has read the local rules of this court; and

[B] Be accompanied by either—

- (i) a certificate of good standing from a jurisdiction or court to which the applicant has been admitted to practice, or
- (ii) a certification from the Alaska Bar Association that the applicant is admitted to practice in the State of Alaska under Alaska Bar Rule 43 or 43.1.

**(e) Attorneys for the United States Government and the Federal Public Defender Agency.**

(1) Any attorney representing the United States Government, or any agency thereof, or any attorney employed by the Federal Public Defender's Office may appear and participate in particular cases in an official capacity without submitting a petition for admission, provided the attorney is admitted to practice and in good standing before the highest court of any state.

(2) If the attorney is not a resident of this District, the resident United States Attorney or Federal Public Defender, as the case may be, must be associated initially, but upon application demonstrating good cause, the court may dispense with such association.

**(f) Appearances, Substitution, and Withdrawal. [Abrogated]**

**(g) Disbarment and Suspension.**

(1) [A] Whenever it appears to the court that any member of the bar of this court or any non-resident attorney permitted to appear or who has applied to appear before this court has been disbarred, suspended from practice, or convicted of a serious crime as defined by the Alaska Bar Rules, or similar authority in a state other than Alaska, the attorney will be immediately suspended from practice before this court.

[B] Unless good cause to the contrary is shown within twenty-one (21) days after notice has been mailed to the attorney's last known place of business or residence, an order of suspension or disbarment will be enter'd for such time as the court fixes.

(2) If a suspended attorney requests, in writing, reinstatement to practice before the court, and the court has received notification that the attorney has been reinstated to practice before the courts of the State of Alaska or such other courts where the suspended attorney practices, an order of reinstatement may be entered.

(h) **Contact with Trial Jurors.**

(1) No attorney admitted to practice or appear before this court may:

[A] seek out, contact, or interview at any time any juror of the jury venire of this court; or

[B] without prior approval of the court, allow, cause, permit, authorize or in any way participate in any contact or interview with any juror relating to any case in which the attorney has entered an appearance.

(2) This subsection will be posted in the jury rooms of this District and jurors will be instructed fully as to this matter.

(i) **Professional Conduct.** Every member of the bar of this court and any attorney admitted to practice or appear in this court must:

(1) be familiar with and comply with the Standards of Professional Conduct required of the members of the State Bar of Alaska and contained in the Alaska Rules of Professional Conduct and decisions of any court applicable thereto, except insofar as those rules and decisions are otherwise inconsistent with federal law;

(2) maintain the respect due courts of justice and judicial officers; and

(3) perform with the honesty, care, and decorum required for the fair and efficient administration of justice.

(j) **Current Address.** All persons admitted to practice before the United States District Court for the District of Alaska should notify the clerk of the court, in writing, of any change in address, telephone number, facsimile number, or e-mail address not later than thirty (30) days after the change in address, telephone or facsimile number, and/or e-mail address becomes effective.

(k) **Admission Fee.** Each applicant, other than an applicant who is practicing law in the State of Alaska under Alaska Bar Rule 43 or 43.1, applying for admission to practice in this district must pay at the time of application for admission the following fee:

(1) for admission under subsection (c), \$100.00 plus the fee required under the District Court Miscellaneous Fee Schedule promulgated by the Judicial Conference of the United States; or

(2) for admission under subsection (d), \$150.00.

Related Provisions:

Alaska Rules of Professional Conduct

D.Ak. LR 11.1      Appearances, Substitutions and Withdrawals

Alaska Bar Rule 43      Waivers to Practice Law for Alaska Legal Services Corporation.

Alaska Bar Rule 43.1      Waivers to Practice Law Under a United States Armed Forces Expanded Legal Assistance Program.

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 21 days; 20-day periods become 28 days; and 25-day periods become 35 days.

**Rule 11.1 Change of Plea**

(a) **Scheduling.** Unless otherwise ordered by the court, counsel for a defendant who enters a change of plea from not guilty to guilty must file a Notice of Change of Plea not less than five (5) days before the date set for trial.

(b) **Duties of Defense Counsel.** Defense counsel must:

(1) discuss all applicable Sentencing Guidelines with the defendant prior to a change of plea hearing; and

(2) prior to the entry of the change of plea, contact the U.S. Probation Office and arrange for a pre-sentence report interview, which should be held no later than three (3) business days following the entry of the change of plea.

Related Provisions:

Sentencing Guidelines

F.R.Cr.P. 11 Pleas

D.Ak.LCrR 11.2 Plea Agreements

D.Ak.LCrR 32.1 Sentencing Procedure

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. The time for filing a notice of change of plea changed from 3 to 5 days. The time in ¶ (b)(2) remains unchanged from 3 business days.

**Rule 32.1 Sentencing Procedure**

(a) **Scheduling.** Unless otherwise ordered by the court, imposition of sentence will be scheduled no earlier than seventy-two (72) days after conviction.

(b) **Confidential Recommendation.** Unless otherwise ordered by the court, the confidential sentencing recommendation accompanying the presentence report is to be disclosed to counsel concurrently with the disclosure of the final presentence report..

(c) **Final Presentence Report.** Not less than fourteen (14) days prior to the sentencing date, the final presentence report will be disclosed to counsel.

(d) **Sentencing Memoranda.**

(1) Not less than seven (7) days before the sentencing hearing, all counsel in the case must file with the court and serve on opposing counsel and the probation officer a sentencing memorandum.

(2) The sentencing memorandum must contain, but must not include any reference, direct or indirect, to either the existence or nonexistence of a cooperation agreement, if any, between the defendant and the government:

[A] indicate if there is no disagreement with the presentence report;

[B] indicate whether or not it is contended that a sentence within the Sentencing Guideline range is reasonable;

[C] cite all controlling authority relevant to disputed guideline issues; and

[D] may be supported by affidavits, statements, and records as appropriate.

(e) **Sentencing Memorandum Supplement.** In each case in which a sentencing memorandum is filed, a "Sentencing Memorandum Supplement" must be filed under seal.

(1) If the criminal defendant has agreed to cooperate, the Sentencing Memorandum Supplement must include any relevant or pertinent discussion of the cooperation agreement, including its affect on the sentence to be imposed.

(2) If the criminal defendant and the United States have not entered into a cooperation agreement, the Sentencing Memorandum Supplement must indicate that there is no cooperation agreement.

**(f) Sentencing Factors.**

(1) If counsel intends to argue that the court depart from the sentencing guidelines, the sentencing memorandum must:

[A] identify the grounds for departure;

[B] cite the statute and guideline permitting the departure; and

[C] justify the recommended departure.

(2) If the Government moves to depart on the basis that the defendant has provided substantial assistance to the Government in an investigation or prosecution, the government's motion:

[A] is to be included in the Supplemental Sentencing Memoranda; and

[B] the government must make a specific recommendation of the extent to which departure should be made and the reasons that justify the departure.

(3) If counsel intends to argue that a factor enumerated in 18 U.S.C. § 3553(a), other than paragraphs (4) and (5), is relevant to the imposition of sentence:

[A] identify the factor by reference to the paragraph of § 3553(a);

[B] cite all controlling authority relevant to the factor, if any;

[C] briefly state the facts in support of the contention, including reference to any evidence supporting the existence of the fact; and

[D] state with particularity the effect contended the application of that factor should have on the sentence imposed.

**(g) Evidentiary Hearing.** If a party deems an evidentiary hearing to be necessary, not later than concurrently with the filing of the Sentencing Memorandum under subsection (d), but as a separate document:

(1) a motion for an evidentiary hearing is to be served and filed on shortened time; and

(2) the court advised of—

[A] the nature and extent of the evidence, and

[B] an estimate of time necessary for the hearing.

**(h) Duties of Counsel.** Defense counsel must review both the draft presentence report and the final presentence report with the defendant(s).

Related Provisions:

18 U.S.C. § 3143 Release or detention of a defendant pending sentence or appeal

18 U.S.C. § 3551 Authorized sentences

18 U.S.C. § 3552 Presentence reports

18 U.S.C. § 3553 Imposition of a sentence

18 U.S.C. § 3559 Sentencing classification of offenses

18 U.S.C. § 3561 Sentence of probation

18 U.S.C. § 3571 Sentence of fine

18 U.S.C. § 3581 Sentence of imprisonment

18 U.S.C. § 3583 Inclusion of a term of supervised release after imprisonment

United States Sentencing Guidelines

F.R.Cr.P. 32 Sentence and Judgment

F.R.Cr.P. 46 Release From Custody

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

*Exception:* Time in ¶ (d)(1) for filing sentencing memoranda unchanged as 7 days preceding hearing.

#### SUBSTANTIVE AMENDMENTS

Subsection (d) has been amended to make explicit that either the existence or nonexistence of cooperation agreements between the defendant and the government are not to be directly or indirectly referred to in sentencing memoranda. This amendment essentially adopts for sentencing memoranda the same procedure adopted last year for plea agreements.

Subsection (e) [new ] requires a supplement to the sentencing memorandum be filed in each case under seal in conjunction with every Sentencing Memorandum. If a criminal defendant has agreed to cooperate, the Sentencing Memorandum Supplement must contain the cooperation agreement. If the criminal defendant and the United States have not entered into a cooperation agreement, the Sentencing Memorandum Supplement will indicate that no such agreement exists.

In light of concerns for the safety of criminal defendants, law enforcement officers, and court personnel, it is necessary and appropriate to implement a procedure to uniformly treat Sentencing Memoranda so that the internet public cannot identify cooperating defendants. Sentencing Memoranda must no longer identify whether a criminal defendant has agreed to cooperate with the United States or, conversely, mention that there is no such agreement. A second document entitled "Sentencing Memorandum Supplement" must be filed that either contains the position of the party *vis-a-vis* the cooperation agreement if there is a cooperation agreement, or simply states that no cooperation agreement exists.

Clause (f)(2)[A] (currently (e)(2)[A]) amended to provide that a substantial assistance motion is to be included in the Sentencing Memorandum Supplement filed under seal. Departures for substantial assistance are no longer filed as a separate motion as such. To the extent that the government moves for a substantial assistance departure and any pertinent argument by the defendant in respect thereto, are to be included in the "Supplemental Sentencing Memoranda."

Current subsections (e), (f), and (g) have been re-designated (f), (g), and (h) without change.

### **Rule 32.1.1 Revocation of Probation or Supervised Release**

#### **(a) Initial Appearance.**

(1) Upon the filing of a petition alleging a violation of the conditions of probation or supervised release supervision, an initial appearance will be held before a magistrate judge.

(2) If the person is in custody:

[A] the initial appearance will be scheduled within fourteen (14) days after the petition is filed; and

[B] the hearing on a motion for release pending the revocation hearing may be combined with the initial appearance.

**(b) Agreed Modification.**

(1) If the parties agree upon a modification of the condition(s) or term of probation or supervision in lieu of revocation, the probation officer will prepare a Petition to Modify the Conditions of Supervision and a Waiver of Hearing and Consent to Modify for the parties approval.

(2) The petition and waiver will be forwarded to the appropriate judicial officer for approval or rejection.

(3) If modification is approved by the court, unless further action by the court is required, the government must move the court to dismiss the petition with or without prejudice.

**(c) Evidentiary Hearings.** If the defendant denies the allegations of violation(s) of the conditions of probation or supervised release, an evidentiary hearing on the merits of the petition will be scheduled without undue delay.

(1) Evidentiary hearings will be heard by a magistrate judge if:

[A] sentence was imposed by a magistrate judge; or

[B] referred by a district judge when sentence was imposed by a district judge.

(2) Upon conclusion of an evidentiary hearing referred to a magistrate judge under subparagraph (c)(1)(B), a report and recommendation(s) regarding the violation(s) will be filed and distributed to the government, defense counsel or defendant if not represented by counsel, and the probation officer.

[A] Any objection to the report and recommendation(s) must be:

(i) filed within fourteen (14) days of the date distributed; and

(ii) is governed by D.Ak. LMR 6.

[B] If no objection is timely filed, the court may adopt the report and recommendations(s) without further hearing or notice to the parties.

**(d) Disposition Hearing.** Upon the entry of an order finding a violation, unless the court finds that there is sufficient information in the record to enable the meaningful exercise of sentencing authority under 18 U.S.C. §§ 3553, 3565, or 3583, the court will set the matter of a disposition hearing.

**(e) Disposition Reports.**

(1) The court may order the Probation Office to conduct a disposition investigation and prepare a disposition report.

(2) Unless otherwise ordered by the court:

[A] Not less than seven (7) days prior to the disposition hearing the disposition report must be disclosed to counsel of record. A disposition report is presumed to have been disclosed—

(i) when a copy of the report is physically delivered, or

(ii) three (3) days after a copy of the report is sent electronically or mailed; and

[B] Not less than two (2) business days prior to the disposition hearing—

(i) the probation officer must furnish the court with a copy of the disposition report, addendum, and a confidential sentencing recommendation, and

(ii) any objections to the disposition report must be filed with the court and served on opposing counsel and the probation officer.

(3) Defense counsel must review the disposition report with the defendant.

(4) Unless otherwise ordered by the court, the confidential recommendation accompanying the disposition report will be disclosed to counsel concurrent with disclosure of the disposition report.

**(f) Hearing on Disposition Report.** If either party deems an evidentiary hearing on the disposition report is necessary, a Motion for an Evidentiary Hearing may be filed on shortened time.

(1) The motion must advise the court of:

[A] the nature and extent of the evidence; and

[B] counsel's estimate of time necessary to offer the evidence.

(2) At the hearing the court may:

[A] consider material submitted by the parties without regard to admissibility at trial, provided that the material submitted is deemed credible by the court; and

[B] in appropriate cases, consider testimony.

(g) **Disposition Agreements.** Any revocation disposition agreement must be either:

(1) placed on the record in open court; or

(2) reduced to writing and contain written approval by the United States Attorney or designee, counsel for the defendant, and the defendant.

Related Provisions:

18 U.S.C. § 3143	Release or detention of a defendant pending sentence or appeal
18 U.S.C. § 3401	Misdemeanors; application of probation laws
18 U.S.C. § 3553	Imposition of a sentence
18 U.S.C. § 3565	Revocation of Probation
18 U.S.C. § 3583	Inclusion of a term of supervised release after imprisonment
United States Sentencing Guidelines	
F.R.Cr.P. 32.1	Revocation or Modification of Probation or Supervised Release
F.R.Cr.P. 45	Computing and Extending Time
F.R.Cr.P. 46	Release From Custody
D.Ak. LCrR 46.1	Bail Hearings; Pretrial Release
D.Ak. LMR 6	Objections to Dispositive Matters Under 28 U.S.C. § 636(b)(1)(B) in Criminal Matters

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

*Exception:* Time in subparagraph (e)(2)[B] time for filing with the court changed from 2 days to 2 business days.

NOTE: Time for the initial appearance in subparagraph (a)(2)[A] (14 days) tracks the time for a preliminary appearance under Fed. R. Crim. P. 5.1 (effective 12/1/09).

**Rule 32.2 Disclosure of Pretrial Services and Presentence Reports**

**(a) General Rule of Confidentiality.**

(1) The pretrial services, presentence and probation reports and records, including the notes, recordings, memoranda, interviews, and statements, maintained by the probation and pretrial services office of this court, and correspondence to the United States Probation and Pretrial Services Office for the District of Alaska or to the court, relative to a charged defendant, are hereby declared to be confidential records of the court.

(2) Except as otherwise ordered by the court to serve the interests of justice, or as specifically provided in this rule, 18 U.S.C. §§ 3153(c)(1), 3552(d), 3553(c), and 4042(b) and (c), F.R.Cr.P. 32, D.Ak. LCrR 32.1 and 46.1, Guide to Judiciary Policies and Procedures, Volume X, Probation Manual, Chapter III (Sentencing Options) and Chapter IV (Supervision Services), and Volume XII,

Pre-Trial Services Manual, Chapter III (Confidentiality), the materials described in paragraph (a)(1) may not be released or otherwise disclosed to any entity.

**(b) Continuing Confidentiality.**

(1) Except as otherwise ordered by the court or provided by law, any entity to whom a presentence report, or any portion thereof is disclosed, must not reproduce, copy, or make further release or disclosure of the information contained in the presentence report.

(2) [A] Paragraph (b)(1) notwithstanding, except as otherwise ordered by the court, nothing herein precludes or prevents an entity to whom the presentence report is released or disclosed from contacting or examining the source of any information contained therein for the purpose of verifying that information.

[B] Unless otherwise ordered by the court, information obtained under subparagraph (b)(2)[A] is not subject to the confidentiality requirement of paragraph (b)(1).

(3) Any entity, other than the Federal Bureau of Prisons, U.S. Parole Commission, or U.S. Sentencing Commission to whom the presentence report, or any portion thereof, is released or disclosed must sign a Confidentiality Agreement in the form provided by the U.S. Probation and Pretrial Services Office.

**(c) Bureau of Prisons/U.S. Parole Commission/U.S. Sentencing Commission.**

(1) [A] Any copy of a presentence report the court makes available, or has made available, to the Federal Bureau of Prisons, U.S. Parole Commission or U.S. Sentencing Commission:

(i) Constitutes a confidential court document and is presumed to remain under the continuing control of the court during the time it is in the temporary custody of these agencies;

(ii) Is lent to the Federal Bureau of Prisons, U.S. Parole Commission or U.S. Sentencing Commission solely for the purpose of enabling those agencies to carry out their official functions, including classification and treatment of prisoners under 18 U.S.C. § 4081, release under 18 U.S.C. § 4042, and supervision; and

(iii) Must be returned to the court upon request.

[B] Further disclosure of a report made available to the Federal Bureau of Prisons, U.S. Parole Commission, or U.S. Sentencing Commission is authorized only so far as necessary for the agency to comply with applicable statutes and established case law.

(2) Any copy of a presentence report made available to the Federal Bureau of Prisons, U.S. Parole Commission or U.S. Sentencing Commission is to be marked prominently and distinctly on the cover sheet and the first and last pages of the report as follows: **CONFIDENTIAL PROPERTY OF U. S. COURT SUBMITTED FOR OFFICIAL USE OF THE U.S. SENTENCING COMMISSION, U. S. PAROLE COMMISSION AND FEDERAL BUREAU OF PRISONS, TO BE RETURNED UPON REQUEST. FURTHER DISCLOSURE OR RE-DISCLOSURE IS AUTHORIZED ONLY TO THE EXTENT NECESSARY TO COMPLY WITH APPLICABLE STATUTES AND ESTABLISHED CASE LAW.**

**(d) Additional Authorized Disclosures.** Unless otherwise ordered by the court, except to the extent that release of the information would violate a promise of confidentiality made to the source of the information, upon written request, the U.S. Probation and Pretrial Services Office may disclose the presentence report, or portions thereof as provided in this subsection.

(1) *State Probation Office.* The presentence report may be disclosed to the State of Alaska, Department of Corrections.

[A] Any copy of a presentence report the court makes available, or has made available, to the State of Alaska, Department of Corrections:

(i) Constitutes a confidential court document and is presumed to remain under the continuing control of the court during the time it is in the temporary custody of the State of Alaska, Department of Corrections;

(ii) Is lent to the State of Alaska, Department of Corrections, solely for the purpose of enabling that agency to carry out its official function of preparing a presentencing report in accordance with Rule 32.1, Alaska Rules of Criminal Procedure; and

(iii) Must be returned to the court upon request.

[B] Any report made available to the State of Alaska, Department of Corrections is to bear a legend similar in form to that prescribed in paragraph (c)(2).

[C] Further disclosure of any report made available to the State of Alaska, Department of Corrections may be made only as provided in this rule.

(2) *Health and Drug Treatment Professionals.* Information concerning substance use, diagnosis, diagnostic test results (physical, psychological, vocational, etc.), type, frequency and effectiveness of therapy, general adjustment to program rules, type and dosage of medication, response to treatment, prior treatment programs, including attendance and evaluation data, prognosis, recommended course of treatment, or other evaluation of suitability or amenability to treatment of the defendant, may be extracted from and released to licensed health and substance abuse treatment professionals actively providing care or treatment to the defendant, if:

[A] treatment is in accordance with an order of the court; or

[B] disclosure is authorized by the defendant.

(3) *Mental Health Treatment Professionals.* The presentence report may be disclosed to licensed mental health treatment professionals actively providing assessment, care or treatment of the defendant.

[A] Any copy of a presentence report the court makes available, or has made available, to a mental health treatment professional:

(i) constitutes a confidential court document and is presumed to remain under the continuing control of the court during the time it is in the temporary custody of the State of Alaska, Department of Corrections;

(ii) is lent to the mental health professional solely for the purpose of enabling the professional to treat the defendant; and

(iii) must be returned to the court upon request.

[B] Any report made available to a mental health professional is to bear a legend similar in form to that prescribed in paragraph (c)(2).

[C] Further disclosure of any report made available to a mental health professional may be made only as provided in this rule.

(4) *Law Enforcement/Correctional Officials.* The following information may be extracted from and released or disclosed to federal, state, or local law enforcement or correctional officials and probation officers with respect to an individual awaiting sentencing or under a criminal justice sentence including imprisonment, parole, probation, supervised or work release, or has absconded from supervision.

[A] Identifying information, including:

(i) name;

(ii) date and place of birth;

(iii) race, color or complexion;

(iv) identifying marks (tattoos, scars, deformities, etc);

(v) social security number, any local or federal identification number; and

(vi) photographs.

[B] Current or last known address and telephone number.

[C] Former addresses and telephone numbers.

[D] Current and last known addresses of all known relatives.

[E] Names, aliases and addresses of all known co-defendants and associates.

- [F] Areas that the defendant may be known to frequent or have frequented.
- [G] Occupation and name, address, and telephone number of last known employer.
- [H] Date, place, and nature of last known arrest.
- [I] Automobile make, model, color and license number.
- [J] The defendant's criminal history including a description of the offense(s) of conviction in federal court.

**(e) Motion to Authorize Disclosure.**

(1) Any entity requesting release or disclosure of any presentence report other than as specified in this rule may do so by filing a written motion in the case in which the sentence was imposed.

(2) The motion must:

[A] include—

- (i) the nature of the information requested,
- (ii) reason(s) release is requested,
- (iii) intended use of the information, and
- (iv) any relevant or pertinent authority authorizing the release;

[B] state —

- (i) whether the requesting party has met and conferred with the U.S. Probation and Pretrial Services Office and the subject of the presentence report and/or the subject's counsel if represented, and
- (ii) if so, the position of the U.S. Probation and Pretrial Services Office and/or subject of the report on the requested release; and

[C] be served on—

- (i) the subject of the report,
- (ii) if represented, counsel for the subject of the report,
- (iii) U.S. Attorney, and
- (iv) U.S. Probation and Pretrial Services Office.

(3) Within fourteen (14) days of the date the petition is served and filed any interested party may file and serve on all other parties an opposition to the release or disclosure of the presentence report

**(f) Procedure for Subpoenas.**

(1) The party at whose request a subpoena is issued must, concurrently with or before service of the subpoena on the U.S. Probation and Pretrial Services office, serve and file a motion under subsection (e).

(2) In addition to the requirements of subsection (e), the motion must include a copy of the subpoena.

(3) Unless otherwise ordered by the court as provided in this subsection, the U.S. Probation and Pretrial Services Office may not release, furnish, or otherwise disclose the presentence report or its contents in response to a subpoena.

**(g) Unauthorized Disclosure.** Any unauthorized reproduction or copying, in whole or in part, or disclosure or dissemination of the information described in paragraph (a)(1) may be treated as a contempt of court and punished accordingly.

Related Provisions:

18 U.S.C. § 3153	Organization and administration of pretrial services
18 U.S.C. § 3552	Presentence reports
18 U.S.C. § 3553	Imposition of a sentence
18 U.S.C. § 4042	Duties of Bureau of Prisons

F.R.Cr.P. 32 Sentence and Judgment  
F.R.Cr.P. 46 Release from Custody  
D.Ak. LCrR 32.1 Sentencing Procedure  
D.Ak. LCrR 46.1 Bail Hearings, Pretrial Release

X *Guide to Judiciary Policies and Procedures, Probation Manual, Ch. III (Sentencing Options)*

X *Guide to Judiciary Policies and Procedures, Probation Manual, Ch. IV (Supervision Services)*

XII *Guide to Judiciary Policies and Procedures, Pretrial Services Manual, Ch. III (Confidentiality)*

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule 44.2 Appointed Counsel**

#### **(a) Right to and Appointment of Counsel.**

(1) If the defendant requests appointment of counsel by the court, or retained counsel has not entered an appearance within fourteen (14) days of arraignment, the court will, when the defendant is eligible under the Criminal Justice Act, appoint counsel, unless the defendant:

[A] elects to proceed without counsel; and

[B] signs and files the court-approved form of waiver of right to counsel.

(2) In an appropriate case, the court may designate counsel to advise and assist a defendant who elects to proceed without counsel to the extent the defendant might thereafter desire.

(b) **Application of Other Rules.** Appointment of counsel will be made in accordance with the plan of this court adopted pursuant to the Criminal Justice Act of 1964 on file with the clerk.

#### Related Provisions:

18 U.S.C. § 3006A Adequate representation of defendants

F.R.Cr.P. 44 Right to and Assignment of Counsel

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule 46.1 Bail Hearings, Pretrial Release**

(a) **Hearings.** Bail review hearings will not be set before a District Judge until there has been an initial bail hearing before a Magistrate Judge, unless a Magistrate Judge is unavailable.

(b) **Pretrial Services.** The United States Probation Office for the District of Alaska is authorized to conduct all pretrial services provided for in 18 U.S.C. §§ 3151-3156.

**(c) Pretrial Services Interview.**

(1) Upon notification that a defendant has been arrested or summoned, the pretrial service officer must:

[A] conduct an interview; and

[B] prepare a written report addressing the statutory factors governing release and detention.

(2) The judicial officer setting or reviewing bail must consider all applicable reports submitted by pretrial service officers.

**(d) Pretrial Services Reports.** 18 U.S.C. § 3153(c)(1) governs the availability of the pre-trial services report to counsel for the accused and for the government prior to any bail hearing.

(1) Pretrial services will allow counsel for any party to retain copies of pretrial services reports provided counsel first signs a written acknowledgment stating familiarity with the confidentiality requirements set forth in 18 U.S.C. § 3153(c)(1).

(2) [A] Counsel must not disclose the pretrial services report to any other party; and

[B] pretrial services reports may be used solely for bail determination purposes.

(3) This rule does not authorize counsel to photocopy or otherwise reproduce or duplicate the pretrial services report and photocopying, reproduction, or duplication of the pretrial report is expressly forbidden.

**(e) Special Release Services.** In addition to the usual pretrial services furnished under 18 U.S.C. § 3152, *et seq.*, counsel for a defendant may request special release services from the court's pretrial services office.

(1) If a request for special release services is made, counsel must provide pretrial services and opposing counsel, with a written request no less than forty-eight (48) hours prior to any court hearing at which the results of that service are to be considered. Examples of special services that require this notice include—

- ▶ request for third-party investigations;
- ▶ home confinement and electronic investigations;
- ▶ residential treatment program investigations;
- ▶ halfway house placement investigations; and
- ▶ any other non-routine investigations deemed necessary by the court.

(2) Counsel requesting special release pretrial service is also responsible for requesting that any bail review hearing on the service be set on the court's calendar.

**(f) Third Party Request.** No person will be considered for approval as a third-party custodian unless:

(1) proposing counsel certifies that the proposed custodian has been interviewed by Pretrial Services;

(2) the proposed third-party custodian has completed a third-party application form and questionnaire as provided by the Pretrial Services Office; and

(3) the completed application and questionnaire forms have been served on Pretrial Services and opposing counsel not less than forty-eight (48) hours prior to the hearing at which the matter is addressed.

**(g) Supervision.** Pretrial service officers will supervise persons released on bail at the discretion of the judicial officer granting the release or modification of the release.

Related Provisions:

18 U.S.C. § 3041 Power of courts and magistrates

18 U.S.C. §§ 3141–3156 Release and Detention Pending Judicial Proceedings

F.R.Cr.P. 5 Initial Appearance Before the Magistrate Judge

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Times in subparagraph (e)(1) for making a request for special pretrial services and ¶ (f)(3) for completing the application forms changed from 16 working hours to 48 hours. Time determined in hours is now determined as provided in Fed. R. Crim. P. 45(a)(2). This change will not result in any change to when the respective materials are due.

### **Rule 46.2 Non-custodial Transportation of Defendant(s) and Witnesses**

Any request for non-custodial travel of a federal defendant or a defense witness must be filed with the clerk at least seven (7) days in advance of the intended travel except upon showing of good cause justifying shorter notice.

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule 47.1 Criminal Motion Practice**

**(a) General.** Except as otherwise ordered by the court or as specified in these rules, written motions in criminal proceedings are governed by D.Ak. LR 5.1, L.R. 7.1, and L.R. 7.2.

**(b) Time for Opposition.** Unless otherwise ordered by the court, oppositions to motions in criminal cases must be served and filed within seven (7) days of service of the motion.

**(c) Reply.** Unless otherwise ordered by the court, no reply memorandum will be filed.

#### Related Provisions:

F.R.Cr.P. 45	Time
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule 58.1 Misdemeanor Appeals from Magistrate Judge**

In an appeal from a judgment of a magistrate judge under Rule 58, Federal Rules of Criminal Procedure.

(1) [A] Appellant's opening brief must be served and filed within thirty (30) days after the date the certificate of the record is filed;

[B] appellee must serve and file a brief within thirty (30) days after service of a copy of appellant's brief, and

[C] appellant may serve and file a reply brief within fourteen (14) days after service of a copy of appellee's brief.

(2) Unless otherwise ordered by the court, seventy (70) days after the certificate of record is filed, the appeal will be set for hearing by the court, if a hearing is deemed required.

Related Provisions:

F.R.Cr.P 58(g)      Appeal  
F.R.A.P 28          Briefs

COMMENT: Amended to conform to and implement the amendment to Fed. R. Crim. P. 45(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

LOCAL MAGISTRATE RULES

**Rule 5. Review of Magistrate Judge Civil Pretrial Orders.**

**(a) Nondispositive Matters under Rule 72(a), Federal Rules of Civil Procedure.**

(1) Unless other wise ordered by a district judge:

[A] not later than fourteen (14) days after the objection is filed, the objecting party must serve and file a brief;

[B] not later than fourteen (14) days after service of the objecting party's brief, the opposing party must file an opposing brief; and

[C] the objecting party may serve and file a reply brief within seven (7) days after service of the opposing party's brief.

(2) Unless leave of court is obtained, for good cause shown:

[A] objections are limited to those matters fairly presented to or raised before the magistrate judge; and

[B] new matters or issues may not be raised for the first time in an objection to the decision of a magistrate judge.

(3) Preparation of briefs is governed by D. Ak.LR 5.1.

(4) Unless otherwise ordered, forty (40) days after the objection is filed if a hearing is deemed required it will be set for hearing by the court.

**(b) Dispositive Motions and Prisoner Petitions under Rule 72(b), Federal Rules of Civil Procedure.**

(1) Unless otherwise ordered by the district judge, no briefs, other than the objection and reply provided in Rule 72(b), Federal Rules of Civil Procedure, will be permitted.

(2) The court may, on its own motion or the motion of any party, set the matter for a further evidentiary hearing either before the district court or it may remand the matter to the magistrate judge to take such further evidence as the district judge may deem necessary.

(3) A party requesting a further evidentiary hearing must serve and file a motion not later than seven (7) days after the transcript of the record is certified, which motion must:

[A] describe the nature of the evidence to be proffered and its relevance to the specific objections; and

[B] contain a statement of the reason the proffered evidence could not be presented to the magistrate judge.

Related Provisions:

F.R.Civ.P. 72

Magistrate Judges; Pretrial Orders

D.Ak.LR 10.1

Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

**Rule 6. Objections to Matters under 28 U.S.C. § 636(b)(1) in Criminal Cases**

(a) **Objections and Replies.** Unless otherwise ordered:

(1) an objection to non-dispositive orders entered under 28 U.S.C. § 636(b)(1)(A) or initial findings and recommendations entered under 28 U.S.C. § 636(b)(1)(B) must be filed within the time specified in Federal Rule of Criminal Procedure 59;

(2) any reply to the objection must be filed within seven (7) days after any objection is filed; and

(3) no briefs, other than the objection and reply will be permitted.

(b) **Initial Review by Magistrate Judge.** Unless otherwise ordered, an objection to a dispositive matter referred under §636(b)(1)(B) will be routed to the magistrate judge who:

(1) will promptly examine the pleadings and documents related to the objection;

(2) may—

[A] conduct such further hearings as deemed necessary, and

[B] make additional, supplemental or substitute findings and recommendations; and

(3) will, when the action deemed appropriate has been taken—

[A] forward final findings and recommendations to the district judge, and

[B] mail a copy to the parties.

(c) **Review by District Judge.**

(1) Unless leave of court is obtained, for good cause shown:

[A] objections are limited to those matters fairly presented to or raised before the magistrate judge; and

[B] new matters or issues may not be raised for the first time in an objection to the decision or findings and recommendations of a magistrate judge.

(2) The court may, on its own motion or the motion of any party, set the matter for a further evidentiary hearing before the district judge or it may remand the matter to the magistrate judge to take such further evidence as the district judge may deem necessary.

(3) A party requesting a further evidentiary hearing must serve and file a motion not later than three (3) days after the transcript of the record is certified, which motion must:

[A] describe the nature of the evidence to be proffered and its relevance to the specific objections; and

[B] contain a statement of the reason the proffered evidence could not be presented to the magistrate judge.

Related Provisions:

28 U.S.C. § 636	Jurisdiction, powers, and temporary assignment
F.R.Cr.P. 59	Matters Before a Magistrate Judge
D.Ak. LR 10.1	Form of Pleadings and Other Papers
D.Ak. LMR 3	Criminal Matters Routinely Assigned to Magistrate Judges

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

LOCAL ADMIRALTY RULES

**Rule (c)-1 Funds or Intangible Property**

**(a) Contents of Summons.**

(1) A summons issued for the arrest, attachment, garnishment or seizure of funds or intangible property under Supplemental Rule C(3) must direct the person having control of the funds or intangible property to comply with the provisions of subsection (b) not later than fourteen (14) days after service.

(2) A judicial officer for good cause shown may lengthen or shorten the time for a response by the person served.

**(b) Response.** The person who is served must either:

(1) deliver or pay over to the Marshal the funds or intangible property proceeded against to the extent sufficient to satisfy the plaintiff's claim; or

(2) show cause as provided in Supplemental Rule C(3)(c) why the property should not be delivered to the court.

Related Provisions:

Supplemental Rule B	In Personam Actions; Attachment and Garnishment
Supplemental Rule C	In Rem Actions: Special Provisions

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

### **Rule (c)-2 Publication of Notice of Action and Arrest**

(a) **Publication.** The notice required by Supplemental Rule C(4) is to be published once in a paper of general circulation in the District and once in a paper of local circulation in the area where the property was arrested, if any.

(b) **Contents.** The notice must, to the extent applicable, contain:

- (1) Court, title, and number of the action;
- (2) date of the arrest;
- (3) identity of the property arrested;
- (4) nature of the action and the amount demanded;
- (5) name, address, telephone number, and e-mail address of the attorney for the plaintiff;
- (6) a statement that the claim of a person who is entitled to possession or who claims an interest under Supplemental Rule C(6) must be filed with the Clerk of the Court and served on the attorney for the plaintiff—

[A] in the case of an *in rem* forfeiture for violation of a federal law, within twenty-one (21) days after the date of publication, or

[B] in any other case, within fourteen (14) days after the date of publication, or within such additional time as may be allowed by the court;

(7) a statement that an answer to the complaint must be filed and served within twenty-one (21) days after publication, or such other time as the court may order, otherwise, default may be entered and condemnation ordered; and

(8) a statement that applications for intervention under Rule 24, Federal Rules of Civil Procedure, by persons claiming maritime liens or other interests must be filed within the time fixed by the court.

(c) **Filing with Court.** A copy of the notice published must be filed with the court.

#### Related Provisions:

46 U.S.C. § 31325 Preferred mortgage liens and enforcement

46 U.S.C. § 31342 Establishing maritime liens

Supplemental Rule C In Rem Actions: Special Provisions

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule (c)-3 Notice Required for Default and Default Judgment in Action in Rem**

(a) **Publication.** A party seeking a default judgment in an action in rem must show that due notice of the action and arrest of the property has been made by publication under D.Ak. LAR (c)-2.

(b) **Service of Notice.** Not less than seven (7) days notice by service under Rule 5(b), Federal Rules of Civil Procedure upon:

- (1) the master or other person having custody of the property;
- (2) every other party who has appeared in the action;
- (3) every person who has not appeared in the action and is known to have an interest in the property, including—

[A] if the defendant property is a vessel documented under the laws of the United States, all persons identified in the United States Coast Guard Office of Vessel Documentation as having an interest in defendant vessel, or

[B] if the defendant property is a vessel numbered as provided in 46 U.S.C. Chapter 123 (Numbering Undocumented Vessels), to the persons named in the records of the issuing authority.

(4) Service is presumed to be effective under paragraph (b)(3) if sent or delivered to the address shown on the official records of the United States Coast Guard or issuing authority.

(c) **Service Excused.** Service upon persons described in paragraph (b)(3) may be excused upon a showing that diligent effort was made to give the notice, without success.

(d) **Effect of Failure to Give Notice.** Failure to give notice as provided by this rule constitutes grounds for setting aside the default under applicable rules, but does not affect property sold under a judgment.

Related Provisions:

46 U.S.C. § 12101 <i>et seq</i>	[Documentation of Vessels]
46 U.S.C. § 12301 <i>et seq</i>	[Numbering Undocumented Vessels]
46 U.S.C. § 31321	Filing, recording, and discharge
46 U.S.C. § 31322	Preferred mortgages
46 U.S.C. § 31325	Preferred mortgage liens and enforcement
46 U.S.C. § 31342	Establishing maritime liens
46 U.S.C. § 31343	Recording and discharging liens on preferred mortgage vessels
F.R.Civ.P. 5	Service and Filing of Pleadings and Other Papers
F.R.Civ.P. 55	Default
D.Ak. LAR (c)-2	Publication of Notice of Action and Arrest
D.Ak. LAR (c)-4	Entry of Default and Default Judgment in Actions in Rem
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Time in subsection (b) for serving notice changed from 3 to 7 days. The time coincides with the notice time required in Fed. R. Civ. P. 55.

**Rule (c)-4 Entry of Default and Default Judgment in Actions in Rem**

**(a) Entry of Default.**

(1) After the time for filing an answer has expired, the plaintiff may move for entry of default under Rule 55(a), Federal Rules of Civil Procedure.

(2) Default will not be entered unless it is shown that:

[A] notice as required by D.Ak LAR (c)-3 has been given or excused;

[B] the time for answer has expired; and

[C] the person against whom default is to be entered has not served and filed an answer or other responsive pleading.

**(b) Entry of Default Judgment.**

(1) The plaintiff may move for default judgment under Rule 55(b), Federal Rules of Civil Procedure, at any time after default has been entered.

(2) Any person who has appeared and does not join in the motion for default judgment must be given seven (7) days notice of the motion.

Related Provisions:

F.R. Civ.P. 5	Serving and Filing Pleadings and Other Papers
F.R.Civ.P. 55	Default
D.Ak. LAR (c)-3	Notice Required for Default and Default Judgment in Action in Rem
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

**Rule (d)-1 Return Date**

In a possessory action under Supplemental Rule D, the court may order that:

- (1) the claim and answer be filed within a time longer or shorter than twenty-one (21) days after arrest; or
- (2) the matter be set for expedited hearing.

Related Provisions:

Supplemental Rule D Possessory, Petitory, and Partition Actions

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

**Rule (e)-8 Security for Costs**

(a) **Order upon Motion.** Upon motion of a party and notice to all parties, in an action under the Supplemental Rules, the court may order an adverse party to post security for costs with the Clerk of the Court under Supplemental Rule E(2)(b).

(1) Unless otherwise ordered by the court, the amount of security will be five hundred dollars (\$500.00).

(2) Upon motion of a party, for good cause shown, the court may increase the amount of security for costs.

**(b) Posting of Security and Effect of Non-Compliance.**

(1) Unless otherwise ordered by the court, the party ordered to post security must do so within seven (7) days after the order is entered.

(2) Unless otherwise ordered by the court, a party that fails to post security when due may not participate further in the proceedings.

Related Provisions:

Supplemental Rule E	Actions in Rem and Quasi in Rem: General Provisions
F.R.Civ.P. 5	Service and Filing of Pleadings and Other Papers
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LR 7.1	Motion Practice
D.AK. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

**Rule (e)-9 Adversary Hearing**

(a) **Scheduling.** Unless otherwise ordered by the court, the adversary hearing following arrest, attachment or garnishment under Supplemental Rule E(4)(f) will be conducted by a judicial officer within (7) days.

(b) **Notice.** The person(s) requesting the hearing must notify all other persons known to have an interest in the property of the time and place of the hearing.

Related Provisions:

Supplemental Rule E Actions in Rem and Quasi in Rem: Special Provisions.

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Time in subsection (a) changed from 3 court days to 7 days.

**Rule (e)-12 Intervenor’s Claims**

(a) **Presentation of Claim.** Unless otherwise ordered by the court, anyone pursuing a claim against the vessel or property that has been arrested, attached or garnished, and is in the hands of the Marshal or a person substituted for the Marshal, is required to file an intervening complaint and obtain a warrant of arrest, rather than file an original complaint. No formal motion is required.

(b) **Service.**

(1) The intervening party must:

[A] serve a copy of the intervening complaint and warrant of arrest upon all parties to the action under the otherwise applicable Rules of Civil Procedure; and

[B] forthwith deliver a conformed copy of the complaint and warrant of arrest to the Marshal.

(2) The U.S. marshal must deliver the copies to the vessel or custodian of the property.

(3) The intervenor will thereafter be subject to the rights and obligations of the parties, and the vessel or property stands arrested, attached, or garnished by the intervenor.

**(c) Marshal's Fees and Expenses.**

(1) Unless otherwise ordered by the court, an intervenor will not be required to advance a security deposit to the Marshal under D.Ak. LAR (e)-11.

(2) An intervenor will owe a debt to any party that has previously advanced funds to cover the expenses of the Marshal, enforceable on motion, consisting of the intervenor's share of the Marshal's fees and expenses in the proportion that the intervenor's claim bears to the sum of all the claims.

(3) If a party plaintiff permits the vacation of an arrest, attachment, or garnishment, the remaining plaintiffs will share the responsibility to the Marshal for fees and expenses in proportion to the remaining claims and for the duration of the Marshal's custody because of each claim.

Related Provisions:

Supplemental Rule E	Actions in Rem and Quasi in Rem: General Provisions
Fed.R.Civ.P. 4	Summons
D.Ak. LAR (e)-11	Security Deposit for Seizure of Vessels
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Adaptation of Model Local Admiralty Rule E(11) promulgated by the Maritime Law Association of the United States (2008). As amended, subsection (a) this rule dispenses with the current necessity for filing a motion to intervene under Fed. R. Civ. P. 24. A claimant may now file a complaint in intervention without first obtaining leave of court. The amendment also adds the provisions of ¶¶ (c)(2) and (c)(3) regarding the obligations of the intervenor for costs and expenses incurred and the obligation of a claimant who dismisses a claim against the vessel suggested by the Maritime Law Association.

**Rule (e)-14 Sale of Property**

**(a) Order of Sale.**

(1) Except as required by Supplemental Rule E(9)(a), an order for the sale of a vessel or other property must state the:

[A] date;

[B] time; and

[C] location for the sale.

(2) The party seeking the order of sale must coordinate the sale date, time and location with the Marshal's Office.

(3) Offset bids will be allowed only if provided for in the Order of Sale.

**(b) Notice** Unless otherwise ordered upon good cause shown or as provided by law, notice of sale of property in an action *in rem* must:

(1) be published at least four (4) times prior to the day of the sale so the last required notice is published not less than five (5) days prior to the day of the sale; and

(2) state whether written bids will be accepted.

(c) **Written Bids.** The Marshal is authorized to accept written sealed bids.

(1) Bids must be received at the Marshal's office in Anchorage by 4:00 o'clock p.m. local time the day preceding the sale.

(2) Unless the bid is an offset bid, each written bid must be accompanied by a certified or cashier's check for the amount indicated in LAR(e)-13(e).

(d) **Payment of Bid.** Except to the extent otherwise provided in the Order of Sale, the provisions of this subsection apply to all sales of property governed by the Supplemental Rules.

(1) Payment must be made in cash, by certified check or by cashier's check.

(2) The person whose bid is accepted:

[A] if the bid is one thousand dollars (\$1,000.00) or less, must immediately pay the full purchase price; or

[B] if the bid exceeds one thousand dollars (\$1,000.00), the bidder must—

(i) within a reasonable time set by the Marshal, pay a deposit of at least one thousand dollars (\$1,000.00) or ten percent (10%) of the bid, whichever is greater, and

(ii) pay the balance within seven (7) days after the day on which the bid was accepted, provided that if an objection to the sale is filed within that seven-day period, the bidder is excused from paying the balance of the purchase price until seven (7) days after the sale is confirmed.

(e) **Late Payment.**

(1) A successful bidder who does not pay the balance of the purchase price within the time allowed under these rules is responsible for paying the Marshal the cost of keeping the property from the due date until the balance is paid or until the property is released upon confirmation of sale.

(2) The Marshal may refuse to release the property until the cost of keeping the property is paid.

(f) **Default.**

(1) If the successful bidder does not pay the balance of the purchase price within the time allowed under D.AK. LAR (e)-13(d), any interested party may move on expedited consideration to hold the bidder in default.

(2) Upon default, the judicial officer may accept the second highest bid at the option of the second highest bidder or arrange a new sale on such terms as the court may order.

(3) The defaulting bidder's deposit will be:

[A] applied to any additional cost incurred by the Marshal because of the default; and

[B] any balance retained in the registry of the court pending further order of the court.

(g) **Report of Sale by Marshal.**

(1) At the conclusion of the sale, the Marshal must immediately:

[A] file a written report with the Clerk of the Court of the fact of sale, setting forth—

(i) date of the sale,

(ii) price obtained,

(iii) name and address of the successful bidder, and

(iv) any other pertinent information; and

[B] upon confirmation of sale, pay over all monies received together with a bill of the Marshal's charges.

(2) When directed by the court, the Clerk of the Court will tax the charges and pay them to the Marshal out of the sales proceeds.

(h) **Time and Procedure for Objection to Sale.** An interested person may object to the sale by filing a written objection with the Clerk of the Court within seven (7) days following the sale.

(1) The objection must be served on:

- [A] all parties of record;
- [B] the successful bidder; and
- [C] the Marshal.

(2) The objection must be accompanied by proof that the objecting party has deposited with the Marshal, by cash, certified check or cashier's check, a sum sufficient to pay the expenses of keeping the property for not less than fourteen (14) days.

(3) Time for objection to sale may not be extended.

(i) **Upset Bids.** No judicial sale under court order may be confirmed if, before or at the time set for confirmation, a bid is presented that is ten percent (10%), or more, in excess of the highest bid received at the sale ("upset bid").

(1) If an upset bid is received:

[A] a new sale will be held by the Court at the time of hearing on the motion or petition for confirmation; and

[B] only the upset bidder(s) and the party who made the highest bid at the original sale will be allowed to bid at the new sale.

(2) This rule does not prevent the Court from refusing to confirm and holding a new sale if a higher bid is presented that does not exceed ten percent (10%) of the highest bid at the original sale.

(j) **Confirmation of Sale.** The party seeking the sale of a vessel must lodge a proposed order with the Clerk of the Court confirming the sale within seven (7) days after the date of sale.

(1) The Clerk of the Court will immediately present the proposed Order to the judicial officer for signature.

(2) The judicial officer will sign the order within fourteen (14) days, but no sooner than seven

(7) days after the sale, unless:

[A] an objection to the sale has been filed;

[B] the purchaser has failed to pay the balance due the Marshal; or

[C] an upset bid has been filed.

(3) If an objection is filed, a hearing on the confirmation of the sale will be held.

(4) Upon receipt of a confirmation order, the Marshal will issue a bill of sale to the purchaser.

(k) **Disposition of Deposits.**

(1) *Objection Sustained.* If an objection is sustained:

[A] sums deposited by the successful bidder will be immediately returned to the bidder; and

[B] the sum deposited by the objector will be:

(i) applied to the fees and expenses incurred by the Marshal in keeping the property until it is resold, and

(ii) any balance remaining returned to the objector.

[C] The objector will be reimbursed for the custodial expenses of keeping the property from the proceeds of a subsequent sale.

(2) *Objection Overruled.* If the objection is overruled, the sum deposited by the objector will be applied:

[A] to pay the expense of keeping the property from the day the objection was filed until the day the sale is confirmed; and

[B] any remaining balance immediately returned to the objector .

(l) **Title to Property.** Failure of a party to give the required notice of the action and arrest of the vessel, cargo or other property, or required notice of the sale, may afford grounds for objecting to the sale; but once sale is confirmed does not affect the title of the purchaser of the property.

Related Provisions:

- 46 U.S.C. § 31326 Court sales to enforce preferred mortgage liens and maritime liens and priority of claims  
46 U.S.C. § 31329 Court sales of documented vessels

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

*Exception:* Deleted the word calendar in (b)(1), (b)(2), (d)(2)[B](ii), (h), (j), and (j)(2); and the word “business” in (c)(1). With the elimination of the intervening weekend/holiday provision, the word calendar/business in this rule is superfluous. This change is technical and does not make any substantive change to the times in those provisions.

Time in (d)(2)[B](ii) paying the balance of the purchase price in the event an objection is filed is changed from 7 court days to 7 days.

LOCAL HABEAS RULES

**Rule 4.1 Appointment of Counsel**

(a) **Upon Filing of Petition/Motion.** The court will notify each petitioner appearing without counsel of any right to appointed counsel at the time the petition is filed, and direct the petitioner to file either a request for counsel or a notice of intent to proceed without counsel within thirty (30) days.

(b) **Upon Granting Leave for Discovery.** In the event the court grants leave to invoke the processes of discovery under Rule 6 of the Section 2254 Rules or Rule 6 of the Section 2255 Rules, the court will notify each petitioner or moving party appearing without counsel of any right to appointed counsel, and direct the petitioner to file either a request for counsel or a notice of intent to proceed without counsel within twenty-one (21) days.

(c) **Upon Granting Setting Evidentiary Hearing.** In the event the court determines an evidentiary hearing is required under Rule 8 of the Section 2254 Rules or Rule 8 of the Section 2255 Rules, the court will notify each petitioner or moving party appearing without counsel of any right to appointed counsel, and direct the petitioner to file either a request for counsel or a notice of intent to proceed without counsel within twenty-one (21) days.

(d) **Determination by Court.**

(1) The court will promptly evaluate any request for appointment of counsel by petitioner.

(2) An order appointing counsel for petitioner and a copy of the petition, answer, responsive pleadings, and orders entered, if any, will be immediately forwarded by the clerk to the Federal Defender for the District of Alaska for designation of counsel.

Related Provisions:

- Rule 4, Section 2254 Rules Preliminary Consideration by Judge  
Rule 4, Section 2255 Rules Preliminary Consideration by Judge  
Rule 6, Section 2254 Rules Discovery  
Rule 6, Section 2255 Rules Discovery  
Rule 8, Section 2254 Rules Evidentiary Hearing

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

### Rule 7.1 Expansion of Record

(a) **General.** The court may order expansion of the record either on its own motion or the motion of a party.

(b) **Request by Party.**

(1) The petitioner must file a motion for expansion of the record not later than twenty-one (21) days after the answer is served and filed by the respondent.

(2) The respondent may file a motion for expansion of the record not later than fourteen (14) days after the petitioner has filed a request for expansion of the record, or twenty-one (21) days after the answer is filed, whichever is later.

(3) A motion for expansion must:

[A] be accompanied by the materials it is requested be included in the record, or  
[B] if the materials do not accompany the request,

(i) a description of the material to be added to the record and a statement of its relevance to the issues fairly presented by the petition and the answer, and

(ii) if known, name of the court or agency having the materials or the identity of the custodian of the material.

(4) Unless ordered by the court, no opposition or response to a motion to expand the record may be filed.

#### Related Provisions:

Rule 7, Section 2254 Rules Expansion of Record

Rule 7, Section 2255 Rules Expansion of Record

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

*Exception:* Time in ¶ (b)(1) for petition to file a motion for expansion of the record increased from 15 to 21 days. This departure from the “rule” that 14 is substituted for 15 eliminates the incongruous disparity between the time allotted to a petitioner and that allotted to the respondent (a majority of prisoners seeking habeas relief are appearing *pro se*).

### Rule 8.2 Merit Briefs

Unless otherwise ordered by the court, briefs addressing the merits of a petition must be served and filed as follows:

- (1) Petitioner's/moving party's opening brief not later than thirty (30) days after the date the respondent files an answer;
- (2) Respondent's answering brief not later than thirty (30) days after service of the petitioner's opening brief; and
- (3) Petitioner's/moving party's reply brief or a notice that a reply brief will not be filed not later than twenty-one (21) days after respondent's brief is filed.

COMMENT: Amended to conform to and implement the amendment to Fed. R. Civ. P. 6(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

## LOCAL BANKRUPTCY RULES

### Rule 8009-1 Extension of Time to File Briefs

(a) **By Stipulation.** The parties may, by written stipulation filed with the court, extend the time for filing any brief for a period not to exceed fourteen (14) days, which stipulation does not require approval by the court.

(b) **By Motion.**

(1) A party requesting an extension of time within which to file a brief, other than as provided in subdivision (a), must do so by motion.

(2) A motion to extend the time for filing a brief must be served and filed on or before the date the brief is due.

(3) The moving party must set forth in the motion:

(A) that the moving party has conferred with the other party(ies) to the appeal and advise the court whether the motion is opposed or unopposed;

(B) the date the brief is due;

(C) whether any other extensions have been granted;

(D) the reason(s) the extension is requested; and

(E) the amount of time requested.

(4) A party opposing the motion for an extension may serve and file a written opposition within seven (7) days after the motion is served.

#### Related Provisions:

FRBP 8009	Briefs and Appendix; Filing and Service
FRBP 9006	Time
AK LBR 8009-2	Failure to Timely File Briefs

COMMENT: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### **Rule 8009-2 Failure to Timely File Briefs**

#### **(a) Leave to File Late Brief.**

(1) A brief may be filed after the time for filing a brief, including any extensions of time for filing, has lapsed only by leave of the court.

(2) Leave of court must be obtained by motion and, unless otherwise ordered by the court, no opposition to the motion may be served and filed.

(3) The moving party must set forth in the motion:

(A) that the moving party has conferred with the other party(ies) to the appeal and must advise the court whether the motion is opposed or unopposed;

(B) the date the brief was due;

(C) whether any extensions were given to file the brief; and

(4) The motion must be accompanied by:

(A) an affidavit or declaration under penalty of perjury stating the reason for seeking leave to file the brief late; and

(B) a copy of the brief proposed to be filed.

(b) **Failure by Appellant to File Brief.** In the event the appellant fails to file appellant's principal brief by the time the principal brief is due, including any extensions of time for filing, the clerk will issue a notice that unless, within ten (10) days after notice is sent, the brief, together with a motion under subsection (a) is filed, or good cause for the failure to file the brief be shown, the clerk will enter an order dismissing the appeal.

(c) **Failure By Appellee to File Brief.** Failure by an appellee to file appellee's principal brief may be deemed by the court as an admission that the appeal is well-taken.

#### Related Provisions:

AK LBR 8009-1      Extension of Time to File Briefs

COMMENT: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Time to respond to notice of a delinquent brief increased from 7 to 10 days. With the elimination of excluding intervening holidays and weekends the current 7-day period becomes unrealistically short.

### **Rule 8010-1 Form of Briefs; Length**

#### **(a) Form of Briefs.**

(1) Briefs must conform to Rule 8010, Federal Rules of Bankruptcy Procedure and D.Ak LR 10.1(a).

(2) References to the record on appeal must be made to:

(A) the docket entry number and page of the pleading; or

(B) the volume and page of the transcript of any oral proceedings.

**(b) Request to File Overlength Brief.**

(1) A request to file an overlength brief must be made by motion not later than the date the brief is due and set forth with particularity the reason(s) it is necessary to file an overlength brief.

(2) Unless otherwise ordered by the court, no opposition to a motion to file an overlength brief may be filed.

(3) A motion to file an overlength brief extends the time to file the brief for the time the motion is pending before the district judge plus seven (7) days after the motion is granted or denied.

(4) A motion to file an overlength brief not acted upon by the district judge within fourteen (14) days after the date the motion is filed will be deemed denied and the brief conforming to the rules must be filed within seven (7) days thereafter.

Related Provisions:

FRBP 8009	Briefs and Appendix; Filing and Service
FRBP 8010	Form of Briefs; Length
D.Ak LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

**Rule 8012-1 Oral Argument**

**(a) Setting of Oral Argument.**

(1) Unless the court determines oral argument is not needed, the court will set the matter for oral argument on not less than twenty-eight (28) days notice to the parties.

(2) In the event the court deems oral argument is not needed, the court will give the parties notice of the determination and, unless a request for oral argument is made under subdivision (b) and granted by the court, the matter will be submitted on the briefs without oral argument.

**(b) Request for Oral Argument.** Any party desiring oral argument on all, or any part of, the issues presented on appeal must, within fourteen (14) days of the date notice is given under paragraph (a)(2), serve and file a request for oral argument, specifying the reason(s) oral argument is deemed necessary.

Related Provisions:

FRBP 8012	Oral Argument
-----------	---------------

COMMENT: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

## Rule 8017-1 Stay Pending Appeal to Court of Appeals

### (a) Motion.

(1) A party filing a motion for stay pending further appeal to the court of appeals must set forth in the motion:

(A) the date that the notice of appeal to court of appeals was filed or is expected to be filed;

(B) whether a stay pending appeal to the district court was requested and the ruling thereon;

(C) that the moving party has conferred with the other party(ies) to the appeal and advise the court whether the stay is opposed or unopposed;

(D) with particularity the irreparable injury or harm that will result to the moving party in the event the stay is not granted;

(E) any known or anticipated harm or injury to any other party to the appeal or the public interest: and

(F) the moving party's suggestion regarding any condition, bond or security to be imposed as a condition of granting a stay.

(2) Any evidentiary matter referred to in the motion that is not a matter of record must be presented by affidavit or declaration under penalty of perjury.

### (b) Opposition to Motion for Stay.

(1) A party opposing the motion for a stay pending further appeal may file a written opposition to the motion within fourteen (14) days after the date of service of the motion.

(2) The opposition to a motion for stay must set forth:

(A) with particularity the reasons for the opposition; and

(B) the opposing party's suggestion of any conditions, bond or security to be imposed as a condition of granting a stay.

(c) **Hearing.** Unless otherwise ordered by the court, a motion for a stay pending further appeal to the court of appeals will be submitted for decision without oral argument.

### Related Provisions:

FRAP 8	Stay or Injunction Pending Appeal
FRBP 7062	Stay of Proceedings to Enforce a Judgment
FRBP 8017	Stay of Judgment of District Court or Bankruptcy Appellate Panel
FRBP 9006	Time
D.Ak. LR 10.1	Form of Pleadings and Other Papers

COMMENT: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21days; and 25-day periods become 28 days.

## Rule 9015-2 District Court Jury Trials — Pretrial Procedures

(a) **Core Proceedings.** In any core proceeding as defined in 28 U.S.C. § 157(b)(2), if no timely consent to have a jury trial conducted by a bankruptcy judge is made under LBR 9015-1(c), or any party files a notice of nonconsent, the proceeding will not be transferred to the district court except

upon the granting of a motion to withdraw the reference under Rule 5011, Federal Rules of Bankruptcy Procedure or as provided in subsection (d).

(b) **Non-Core Proceedings** In any proceeding that is not a core proceeding as defined in 28 U.S.C. § 157(b) where the parties have not consented to the entry of final orders under 28 U.S.C. § 157(c)(2) or (e), unless the reference is withdrawn or as otherwise ordered by the district court, on its own motion or on the motion of any party, all pretrial matters remain referred to the bankruptcy court for hearing and determination as provided in AK LBR 9033-1.

(c) **Status Report to District Court**

(1) Unless otherwise ordered by the district court, not later than one hundred twenty (120) days after the last responsive pleading is filed, the parties must prepare and lodge with the bankruptcy court a joint status report, setting forth:

[A] that the matter is ready for trial or the date by which the parties expect to be ready for trial;

[B] the current status of discovery and, if discovery has not been completed, the date by which it is expected discovery will be completed;

[C] the current status of any pending motions; and

[D] any motions expected to be filed and the date by which such motions are to be filed.

(2) Within fourteen (14) days after the status report is lodged, the bankruptcy court will, by endorsement thereon, indicate either:

[A] all matters submitted for determination have been determined by the bankruptcy court; or

[B] the date by which all matters under submission are expected to be determined.

(3) Upon entry of the endorsement by the bankruptcy court, the clerk of the bankruptcy court will forthwith transmit the status report to the clerk of the district court.

(d) **Certificate of Readiness for Trial and Transfer to District Court.**

(1) Unless the reference has been earlier withdrawn, when all pre-trial matters have been completed and the proceeding is ready for trial, the bankruptcy court will certify that fact to the district court in writing.

(2) Upon certification of readiness for trial by the bankruptcy court, the clerk of the bankruptcy court will forthwith transmit the certificate of readiness together with the proceeding files to the clerk of the district court.

Related Provisions:

28 U.S.C. § 157	Procedures
FRBP 7008	General Rules of Pleading
FRBP 7012	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
FRBP 9033	Review of Proposed Findings of Fact and Conclusions of Law in Non-Core Proceedings
AK LBR 9015-1	Jury Trials
AK LBR 9033-1	Non-Core Proceedings

COMMENT: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

### Rule 9033-1 Non-Core Proceedings

(a) **General** In any proceeding that is not a core proceeding as defined in 28 U.S.C. § 157(b)(2) where the parties have not consented to entry of final orders by the bankruptcy court under 28 U.S.C. § 157(c)(2) or (e), the proceeding will not be transferred to the district court except upon the granting of a motion to withdraw the reference under Rule 5011, Federal Rules of Bankruptcy Procedure or as provided in AK LBR 9015-2.

(b) **Dispositive Matters.** Except as otherwise provided by statute or the Federal Rules of Bankruptcy Procedure, in any non-core proceeding referred to the bankruptcy court, motions made under Rules 12(b), 12(c), 12 (f), and 56, Federal Rules of Civil Procedure, are governed by Rule 9033, Federal Rules of Bankruptcy Procedure; provided, however, that the bankruptcy court may rule on any Rule 12(b) motion if the defect may be cured by amendment of the pleading and leave to amend is granted.

(c) **Nondispositive Matters.**

(1) Except as otherwise provided by statute, the Federal Rules of Bankruptcy Procedure, or ordered by the district court, nondispositive matters in a non-core proceeding referred to the bankruptcy court will be heard and determined by the bankruptcy court; provided, however, that any order imposing dismissal or the striking of a claim or defense as a sanction is deemed a dispositive matter.

(2) [A] Within fourteen (14) days after being served with a copy of the order of the bankruptcy judge, a party may serve and file objections to the order; a party may not thereafter assign as error a defect in the bankruptcy judge's order to which objection was not timely made.

[B] The district judge to whom the matter is assigned will consider the objection and must modify or set aside any portion of the bankruptcy judge's order found to be clearly erroneous or contrary to law.

#### Related Provisions:

28 U.S.C. § 157	Procedures
FRCP 12	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
FRCP 44.1	Determination of Foreign Law
FRCP 56	Summary Judgment
FRCP 72	Magistrate Judges; Pretrial Orders
FRBP 7008	General Rules of Pleading
FRBP 7012	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleading
FRBP 9033	Review of Proposed Findings of Fact and Conclusions of Law in Non-Core Proceedings
AK LBR 9015-1	Jury Trials
AK LBR 9015-2	District Court Jury Trials—Pretrial Procedures

Comment: Amended to conform to and implement the amendment to Fed. R. Bank. P. 9006(a) (effective 12/1/09) and the manner in which time is computed under this rule. Except where otherwise specifically noted, each deadline in the rule is amended to substitute a deadline that is a multiple of seven days. 5-day periods become 7 days; 10-day periods become 14 days; 15-day periods become 14 days; 20-day periods become 21 days; and 25-day periods become 28 days.

DRAFT