

UNITED STATES DISTRICT COURT
for the
District of Alaska

In the Matter of

AMENDED LOCAL CIVIL and
MAGISTRATE JUDGE RULES

MISCELLANEOUS
GENERAL ORDER
NO. 22-17

IT IS HEREBY ORDERED THAT:

In accordance with Federal Rule of Civil Procedure 83(a), after consultation with an Advisory Committee, the Local Civil and Magistrate Judge Rules for the District of Alaska have been amended for brevity and clarity. The Court now adopts these revisions effective January 1, 2023. The updated Local Civil and Magistrate Judge Rules are attached hereto, and are found on the District Court's website.

DATED at Anchorage, Alaska, this 14th day of December, 2022.

/s/ Sharon L. Gleason

Hon. Sharon L. Gleason, Chief Judge
United States District Court

/s/ Joshua M. Kindred

Hon. Joshua M. Kindred
United States District Court

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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA
LOCAL CIVIL RULES

2023 REVISED EDITION

EFFECTIVE JANUARY 1, 2023

(SUPERSEDES DECEMBER 2020 EDITION)

[[TO GO TO DESIRED RULE, CLICK ON RULE NUMBER IN TABLE OF CONTENTS](#)]

SUMMARY OF 2023 AMENDMENTS

Local Civil Rule 1.1(b) – Definition of “Lodged document” removed, as the term has been removed entirely from the Local Civil Rules.

Local Civil Rule 5.1(c) – Modified to clarify that SEALED filings must be served on the opposing party, as they are not served via CMECF.

Local Civil Rule 5.3(c) – Modified to remove facsimile filing option. Provisions regarding service by fax and email removed as outdated.

Local Civil Rule 5.4 – Removed, as chambers copies are no longer required by Local Rule. Individual judges will issue standing orders.

Local Civil Rule 7.3(f) – Subsection (10) added to cross-reference Local Civil Rule 5.1(c)(4).

Local Civil Rule 7.3(g)(4) – Modified to clarify disposal of *in camera* materials.

Local Civil Rule 7.3(h)(5) – Modified for clarity.

Local Civil Rule 11.1(b)(3) – Clarifies that the court may dismiss *pro se* matter for failure to update address.

Local Civil Rule 11.1(c) – Cross-reference added for withdrawal of a limited entry of appearance.

Local Civil Rule 41.1 – Clarifying potential for dismissal for failure to follow Local Rules or court orders.

Local Civil Rule 54.1 – Clarifying Clerk’s procedure for Bill of Costs.

Local Civil Rule 54.2 – Clarifying/modifying attorney fee awards for out-of-state counsel.

Local Civil rule 79.2(c) – New subsection addressing return of original *pro se* filings.

Local Civil Rule 80.1(b) – Modified to clarify transcript/audio requests.

Local Civil Rule 83.1(b) – Modified to accurately represent the Clerk’s procedure for admission to appear in District Court.

Local Civil Rule 83.1(c) – Modified to clarify Limited Entry of Appearance.

Local Civil Rule 83.1(e) – Modified to include *pro hac vice* exemptions for CJA attorneys and those representing individuals granted *in forma pauperis* status.

Local Civil Rule 83.1(j) – Text modified to accommodate changes in filing fees, and entire provision moved to Local Civil Rule 83.1(b)(4).

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Local Civil Rule 1.1 Scope and Purpose of Local Rules/Definitions/Civility

(a) Scope and Purpose

- (1) Each Local Civil Rule addresses the same subject as the corresponding Federal Rule of Civil Procedure (“Fed. R. Civ. P.”).
- (2) These Local Civil Rules supplement the Federal Rules of Civil Procedure and must be construed consistent with those rules to promote the just, efficient, and economical determination of every action and proceeding.
- (3) All parties, including self-represented parties, must comply with these Local Rules and the Federal Rules of Civil Procedure. References in these rules to “counsel” or “attorneys” also refer to self-represented parties.
- (4) The court may by order entered on its own initiative or on motion, change, dispense with, or waive any of these Local Civil Rules in the interest of justice.

(b) Definitions

The following definitions apply:

- (1) “Clerk” refers to the Clerk of Court or a deputy clerk designated to act in the clerk’s capacity.
- (2) “CM/ECF” refers to the electronic filing system used by the United States District Court for the District of Alaska.
- (3) “Court’s website” refers to the internet address for the United States District Court for the District of Alaska: <http://www.akd.uscourts.gov>.
- (4) “*Electronic Filing Procedures Guide*” refers to the United States District Court for the District of Alaska’s [Electronic Filing Procedures Guide](#) available on the court’s website.
- (5) “Filed conventionally” refers to physically filing a document (i.e. a paper copy) or other item (such as a thumb drive or other physical exhibit) directly with the Clerk, rather than filing electronically via CM/ECF.
- (6) “Judge” refers to:
 - (A) any United States District Judge or other judicial officer acting in a matter assigned to a United States District Judge;
 - (B) any full-time or part-time United States Magistrate Judge; and
 - (C) when these rules apply to bankruptcy proceedings, to a United States Bankruptcy Judge or other judicial officer acting in a matter assigned to a United States Bankruptcy Judge.

(7) "Sealed documents" are documents viewable only by case participants. See Local Civil Rule 7.3(f).

(8) "Stricken documents" refer to:

(A) "documents stricken from the record": documents that the court has ordered stricken from the record. The document is referenced on the docket with the notation "STRICKEN" at the beginning;

(B) "documents stricken and removed from the record": documents that the court has ordered stricken from the record and, additionally, has directed the clerk to remove from the record. Removing a document from the record means that it has been deleted from the court's server and is no longer available for viewing. The docket text remains on the docket with the notation "STRICKEN AND REMOVED FROM THE RECORD;" and

(C) discovery documents refused by the clerk pursuant to Fed. R. Civ. P. 5(d)(1). The refusal must be referenced in the docket.

(c) Civility

(1) Parties and their lawyers must treat all persons involved in the legal process with courtesy and respect.

(2) Parties and their lawyers must take particular care to avoid treating persons discourteously or disrespectfully because of the person's race, gender, or other personal characteristic.

(3) Parties and their lawyers must work cooperatively to achieve the purpose of these rules.

(4) Parties and their lawyers must advocate with candor and fairness and at all times conform to applicable codes and rules of ethics and professional responsibility.

Local Civil Rule 1.2 Access and Citation to Local Rules

(a) Availability

The Local Civil Rules and pertinent Miscellaneous General Orders (MGOs) will be kept available for inspection and copying at:

(1) the federal law library in Anchorage;

(2) the clerk's office in Anchorage, Fairbanks, Juneau, Ketchikan, and Nome during regular office hours; and

(3) the court's website.

(b) Amendments

(1) Notice of proposed amendments to the Local Civil Rules informing the public of the opportunity to comment will be posted for a reasonable period on the court's website and provided to the Alaska Bar Association.

(2) Notice of amendments to the Local Civil Rules will be posted on the court's website and provided to the Alaska Bar Association.

(c) Official Rules

The Local Civil Rules as posted on the court's website are the official Local Rules.

(d) Citation

The Local Civil Rules may be cited as L.Civ.R.

Local Civil Rule 3.1 Commencement of an Action

(a) Civil Cover Sheet

Every civil action initiated in or removed to the United States District Court for the District of Alaska must be accompanied by a completed Civil Cover Sheet, Form JS44, available on the court's website and at the clerk's office.

(b) Identification of Related Cases

The Civil Cover Sheet must list all related cases, open or closed, in this or any other federal or state court, of which the filer is aware. Cases are related when they:

(1) concern substantially the same parties, claims, property, transaction, events, or substantially identical facts and legal issues; and

(2) are likely to create an unduly burdensome duplication of labor and expense or the potential for conflicting results if assigned to different judges.

Plaintiff must also file a Notice of Related Cases pursuant to Local Rule 16.1(e).

(c) Fees/Waiver of Fees

(1) All fees required by law must be paid at the time of filing a complaint or other document for which a fee is required, except for parties seeking to proceed *in forma pauperis* under 28 U.S.C. § 1915.

(2) The schedule of fees will be posted on the court's website and at the clerk's office.

(3) Applications to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 must be fully completed and signed before an application to waive prepayment of fees will be considered. Prisoners must include a certified copy of their prison trust account statement, dating back six months. The clerk's office will provide all necessary forms.

(4) Refunds of duplicate filing fees made via electronic filing and payment are considered pursuant to Miscellaneous General Order 12-02.

(d) Case Assignment

Unless otherwise ordered:

- (1) upon commencement of a case and upon any subsequent recusal, all actions, causes, and proceedings in this district must be randomly assigned to the judges.
- (2) related cases that are consolidated pursuant to Fed. R. Civ. P. 42 will be assigned to the judge assigned to the case first filed.

Local Civil Rule 3.2 Venue

(a) Venue within the District of Alaska

An action in which venue is proper in the United States District Court for the District of Alaska may be initiated in or removed to any of the 5 court locations specified in 28 U.S.C. § 81A.

(b) Transfer of Removed Actions

When an action that is initiated in state court is removed to federal court, the removed action will proceed in:

- (1) the court location in the same Alaska judicial district as the original state court action; and
- (2) if possible, the same city as the original state court action.

(c) Intra-District Transfer

On motion of a party or on its own initiative, the court may transfer a case to another court location within the District of Alaska for some or all purposes.

Local Civil Rule 4.1 Summons A summons presented to the court for issuance must be complete in all respects, except for the date of issuance, the defendant's address if unknown, and the signature of the clerk.

Local Civil Rule 5.1 Electronic Service and Filing

(a) Electronic Filing Procedures

- (1) The filing of documents in electronic format and the payment of fees must be in accordance with this rule and the CM/ECF [Electronic Filing Procedures Guide](#) available on the court's website.

(2) The filing of documents in accordance with CM/ECF System Procedures constitutes entry on the docket under the Federal Rules of Civil and Criminal Procedure.

(b) Electronic Filing Upon Payment of Fees

An electronic filing is deemed filed on the date all fees required by law are received by the clerk's office. Any fee not paid electronically must be mailed or hand delivered to the clerk's office.

(c) Notice of Electronic Filing and Proof of Service

(1) *Notice to Filing Party.* Whenever a document is filed electronically in accordance with CM/ECF System Procedures, the System will automatically generate a "Notice of Electronic Filing" by electronic means at the time of docketing.

(2) *Effect of Notice.* Except in the case of documents first filed conventionally and subsequently submitted electronically, a document filed electronically is deemed filed on the date at the time stated on the Notice of Electronic Filing.

(3) Proof of service on the parties by electronic means or by mail is documented by the "Notice of Electronic Filing" in the CM/ECF System.

(4) *Sealed Filings.* A document filed SEALED must be served on the opposing party by other appropriate means (e.g., email, conventional service) as SEALED filings are not served via CM/ECF and no Notice of Electronic Filing is generated. Proof of other means of service must be reflected in the Certificate of Service.

(d) Attorneys Required to Use CM/ECF

Unless exempted, each attorney appearing in a matter before the District of Alaska must participate in the CM/ECF system. Attorneys may be exempted from participating in the CM/ECF system on motion for good cause shown, to be determined by the Chief Judge.

(e) Signatures

(1) Registered User

(A) A signature block on an electronically filed document by a registered user of the CM/ECF System constitutes the signature of the user for all purposes for which a signature is required in connection with proceedings before the court.

(B) A registered user may, if authorized to so do by another person, sign a document that is to be filed electronically on behalf of that other person as follows: "James Smith for Jane Doe." Proof of service of the document on the person who authorized such signature is required.

(2) *Court Orders*. A signature block placed on an electronically filed order or other document by, or at the direction of, a judge or the Clerk of Court constitutes the signature of the court official.

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

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

(f) Filing of Related Documents

Except as otherwise provided in these rules:

(1) documents that are related to a motion or other filing that are filed at the same time as the motion or other filing (*e.g.*, a proposed order, a supporting affidavit or declaration, and exhibits) must be filed as attachments to the main document under the same docket number, and not as separate docket entries (*i.e.* at Docket 47-1 to the main motion at Docket 47, and not at Docket 48); and

(2) if a party seeks to address two motions in a single filing (*e.g.*, an opposition to summary judgment and a cross-motion for summary judgment), a separate filing for each document must be made. However, the second filing may simply indicate that it incorporates by reference the first filing, and need not duplicate the first filing in its entirety.

Local Civil Rule 5.2 Service of Orders and Other Documents by the Court

(a) Unless otherwise ordered, the court will serve all orders and other court documents either:

(1) electronically to attorneys participating in the CM/ECF system; or

(2) by mail to self-represented parties and attorneys exempted from the CM/ECF system.

(b) Entry of a court document in accordance with CM/ECF System Procedures constitutes entry on the docket under the Federal Rules of Civil and Criminal Procedure.

(c) Routine orders may be issued as “text-only” on the docket, without an attached document.

Local Civil Rule 5.3 Other Means of Filing and Service

(a) Filing and Service for non-CM/ECF Users

A party filing documents conventionally must file and serve documents in the manner provided for in the Federal Rules of Civil Procedure, including Fed. R. Civ. P. 5, 5.2, and 6, and Local Civil Rule 7.5(a). When practical, conventionally filed documents will be converted into electronic records by the Clerk. When filed electronically, the electronic record is the official record pursuant to Fed. R. Civ. P. 79.

(b) Inmate Filing and Service

- (1) A document filed or served by an inmate confined in an institution is deemed filed or served when deposited in the institution's internal mail system.
- (2) Filing or service of a document by an inmate confined in an institution must 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.
- (3) For purposes of calculating response times under these rules and the Federal Rules of Civil Procedure, the postmark date shall be the date of service by mail and not the date that the inmate deposited the document in the prison's internal mail system.

(c) Facsimile and Email Filing

- (1) The Court does not accept filing by facsimile.
- (2) Documents must not be filed by e-mail unless specifically authorized in advance by the court or clerk's office.

Local Civil Rule 7.1 General Motion Practice

(a) Motions and Oppositions

All written motions and oppositions must include:

- (1) a brief statement of the requested relief;
- (2) a brief discussion of applicable points and authorities; and
- (3) supporting admissible evidence with deposition evidence restricted to relevant excerpts. Evidence unsuitable for electronic filing must be filed conventionally in accordance with Local Civil Rule 7.3(c).

(b) Proposed Orders

(1) **Dispositive Motions.** A proposed order does not need to be filed with a motion to dismiss made under Fed. R. Civ. P. 12, or a motion for summary judgment under Fed. R. Civ. P. 56.

(2) **Non-Dispositive Motions.** A proposed order must be filed with all non-dispositive motions and oppositions to the motion.

(3) Form of Proposed Order

(A) A proposed order must be self-explanatory and must not require a review of the motion to understand the order.

(B) If the proposed order is for an extension of time or modification of deadlines, it must include a date certain by which the matter sought to be extended will be accomplished. See *a/so* Local Civil Rule 7.3(b).

(C) The name of the presiding judge for the case must be typed immediately under a signature line.

(c) Replies

Reply memoranda are optional and restricted to rebuttal of factual and legal arguments raised in the opposition.

(d) Supplemental Materials

Supplemental briefing and factual materials will be permitted only as follows:

(1) if pertinent and significant legal authorities come to a party's attention after the party's last brief has been filed, or after oral argument but before decision, a party may promptly advise the court by filing and serving a notice setting forth the citations. The notice must state the reasons for the supplemental citations, referring either to the page(s) of the briefing or to a point argued orally. The notice must not exceed 350 words. Any response must be filed and served within 7 days of the notice, and must be similarly limited.

(2) after briefing of a motion is complete, supplementation of factual materials may occur only by motion for good cause. The motion must have the proposed factual materials attached as an exhibit and address the reasons earlier filing was not possible or their relevance was not appreciated. Such motions will not routinely be granted.

(e) Multiple Motions

Except for alternative requests for relief or as otherwise provided by rule or order of the court, each motion must be filed separately. See *a/so* Local Civil Rule 5.1(f)(2).

(f) Requests for Oral Argument

Oral argument is discretionary and must be requested either by placing “Oral Argument Requested” immediately below the title of a motion or the response to a motion or by separate filing within 5 days of the last filing pertaining to a motion. An oral argument is not an evidentiary hearing.

(g) Motions for Evidentiary Hearing

A party may move for an evidentiary hearing on a motion within 5 days of the last filing pertaining to the motion. The motion, and any responses to the motion, must include a list of proposed witnesses, summary of anticipated testimony from each witness, and an estimate of required time, including anticipated cross examination.

(h) Failure to Oppose Motions

The failure to respond to a non-dispositive motion as required by this rule subjects the motion to summary ruling by the court and may be deemed an admission that the motion is well taken.

(i) Digital Evidence Presentation System (DEPS)

Each party seeking to use DEPS at an oral argument, evidentiary hearing, or trial must:

- (1) contact the clerk’s office to arrange for any necessary training. More information regarding training opportunities is available on the court’s website; and
- (2) file a notice of intent to use DEPS that includes the date and location of the court proceeding not less than 7 days in advance of the proceeding.

Local Civil Rule 7.2 Time Limits for Motions, Oppositions, and Replies

Unless otherwise ordered by the court, or provided by statute or rule:

- (a) Time limits for filing certain pretrial motions can be found in Local Civil Rule 16.1(c).
- (b) Time limits for responding to motions are as follows:
 - (1) oppositions to motions brought under Fed. R. Civ. P. 12(b), 12(c), or 56 must be filed and served within 21 days of service of the motion; oppositions to all other motions must be filed within 14 days of service; and
 - (2) if filed, reply memoranda for motions under Fed. R. Civ. P. 12(b), 12(c), or 56 must be filed and served within 14 days; replies for all other motions, if filed, must be filed within 7 days of service of the opposition.

Local Civil Rule 7.3 Specific Motions

(a) Motion for Expedited Consideration

A party may request expedited consideration of a motion by filing a separate motion that specifies the date on which a decision on the principal motion is needed.

(1) The motion must be supported by:

(A) a declaration or affidavit showing good cause for a determination on expedited consideration, including any efforts to resolve the matter between the parties and the respective positions of each party; and

(B) proof of immediate service of the motion on other parties or a declaration or affidavit explaining why such service was not possible.

(2) The party filing the motion must immediately advise the clerk's office of the filing as provided in the CM/ECF [Electronic Filing Procedures Guide](#).

(3) The clerk's office will immediately bring the motion to the judge's attention so that the judge may decide whether expedited consideration of the principal motion is warranted.

(b) Unopposed Motion for Extension of Time

When all parties agree, an unopposed motion for extension of time may be filed. The motion must state the reason(s) for the extension and certify that all parties consent to the extension. See *also* Local Civil Rule 7.1(b)(3)(B).

(c) Conventional Filing for Registered CM/ECF Users

If an exhibit cannot be filed electronically, a party may file it conventionally as follows:

(1) A "Notice of Filing Conventional Materials" must be filed electronically in the case, including a brief description of the materials.

(2) The filer must include a page in the appropriate place sequentially in the electronic document to which the exhibit pertains, with a conspicuous notation in the middle of the page "Exhibit (insert brief description of the exhibit) to be filed conventionally."

(3) When an exhibit is filed conventionally, two copies of the exhibit must be delivered to the clerk's office. One copy will be retained by the clerk's office as part of the official court file, the other copy will be forwarded to chambers.

(d) Motion for Judicial Notice

Requests that the court take judicial notice pursuant to Federal Rule of Evidence 201 must be made in a separate motion.

(e) Motion to File *Ex Parte* (seeking to prevent all other parties and the public from accessing a document)

- (1) Except as otherwise provided, leave of court is required prior to the *ex parte* filing of any document.
- (2) A motion to file a document *ex parte* must:
 - (A) set forth the basis for *ex parte* filing;
 - (B) file the document that is the subject of the motion as an attachment to the motion; and
 - (C) set forth the duration that the filed document should remain *ex parte*.
- (3) A motion to file a document *ex parte* may be filed *ex parte* without a prior court order.
- (4) Unless otherwise ordered by the court, if a motion to file a document *ex parte* is denied, the motion and attachment will be stricken but a public docket entry that the motion was filed will be entered.
- (5) If the motion to file *ex parte* is granted, the *ex parte* document should be filed by the moving party.

(f) Motion to File Under Seal (seeking to prevent the public, but not the parties, from accessing a document)

- (1) Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, a document must not be filed under seal without first obtaining leave of the court.
- (2) A motion to file a document under seal must:
 - (A) be docketed in the public record;
 - (B) be supported by a declaration or affidavit that is separately docketed and filed under seal that must:
 - (i) state the basis for sealing the document;
 - (ii) identify the filings associated with the document;
 - (iii) certify that filing the document with redaction is not practicable; and
 - (iv) include as an attachment a copy of the document that is proposed to be filed under seal.
- (3) A document to be filed under seal that the court has allowed to be filed conventionally must include a cover sheet displaying the notation "DOCUMENT FILED UNDER SEAL."

- (4) The proposed order authorizing the filing of a document under seal must:
 - (A) specifically identify the document to be filed under seal; and
 - (B) state the basis for filing the document under seal.
- (5) If a motion to file under seal is not granted in full, the filed document may not be filed under seal.
- (6) If a motion to file under seal is granted, the filed document may be filed under seal by the moving party.
- (7) The court may order the unsealing or redaction of any sealed document for the public record.
- (8) Where a filing consists of multiple documents, e.g., exhibits to a motion, 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.
- (9) 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.
- (10) Service of SEALED filings is governed by Local Civil Rule 5.1(c).

(g) Motion to Submit Documents for *In Camera* Review (seeking to provide a document for review only by the presiding judge)

- (1) Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, a document must not be submitted to the court for *in camera* review without first obtaining leave of the court.
- (2) A motion to submit a document *in camera* may be filed under seal without prior court order and shall be supported by a declaration or affidavit that is separately docketed and filed under seal that must:
 - (A) identify the document(s) proposed to be reviewed *in camera*; and
 - (B) state the basis for *in camera* review.
- (3) If granted, all documents that are submitted *in camera* shall, within 7 days, be filed via CM/ECF using the “*Ex Parte* Document” event. A courtesy copy also shall be delivered to the presiding judge’s chambers in a sealed envelope conspicuously marked “Submitted *In Camera*” and containing the following information on the envelope:

(A) the case caption and case number; and

(B) the name of the presiding judge.

(4) After completing the *in camera* inspection, the court will cause the courtesy copies either to be destroyed or returned to the offering party with appropriate instructions.

(h) Motion for Reconsideration

(1) A court ordinarily will deny a motion for reconsideration absent a showing of one of the following:

(A) manifest error of the law or fact;

(B) discovery of new material facts not previously available; or

(C) intervening change in the law

(2) A motion for reconsideration is limited to 5 pages, and must be filed and served:

(A) not later than 7 days after the entry of the order, for motions asserted under subsection (1)(A); or

(B) within 14 days of the discovery or change in law, for motions asserted under subsections (1)(B) or (1)(C).

(3) No response to a motion for reconsideration may be filed unless requested by the court. Unless otherwise ordered, a response must be filed within 7 days of entry of the order requesting a response and is limited to 5 pages.

(4) No reply may be filed unless requested by the court. Unless otherwise ordered, a reply must be filed within 7 days of the order requesting a reply and is limited to 5 pages.

(5) A motion seeking relief from or amendment of an appealable order or judgment must be filed pursuant to Federal Rule of Civil Procedure 59 or 60.

(i) Motion for Telephonic Participation

The court may allow parties, counsel, or witnesses, to participate telephonically in any court proceeding, including trial, for good cause and in the absence of substantial prejudice to any party.

(j) Motion to File Late Document

(1) A document may be filed after the time for filing has lapsed only by leave of the court.

(2) Leave of court must be obtained by motion and, unless otherwise ordered, no opposition to the motion shall be filed.

(3) The motion must set forth:

(A) that the moving party has conferred with the other party(ies) to the case and whether the motion is opposed;

(B) the date the document was due; and

(C) whether any previous extensions had been granted to file the document.

(4) The motion must be accompanied by:

(A) an affidavit or declaration stating the reasons for seeking leave to file the document late; and

(B) a copy of the document proposed to be filed.

Local Civil Rule 7.4 Document Management

(a) Page/Word Limits

Unless otherwise ordered, motions, oppositions, and replies must be either page or word limited.

(1) For motions brought under Fed. R. Civ. P. 12(b), 12(c), and 56, motion and opposition memoranda must not exceed 35 pages or 10,000 words, with replies not exceeding 20 pages or 5,700 words.

(2) For all other motions, motion and opposition memoranda must not exceed 20 pages or 5,700 words, with replies not exceeding 10 pages or 2,750 words.

(3) If used, word counts must be certified at the end of the document.

(4) Page/word limits do not include the case caption, signature blocks, table of contents, table of citations, or reproduction of statutes, rules, regulations, and ordinances.

(b) References to Other Parts of Record

(1) A party asserting a fact must support the assertion by citing to particular parts of materials in the record, including depositions, affidavits or declarations, stipulations, discovery responses, or other materials.

(2) Where practical, reference to previously filed portions of the record should be made to avoid repetition. The reference must include, when available, the document number and page number assigned by the CM/ECF System.

(c) Exhibits to Motions

- (1) All exhibits to documents must be marked as described in Local Civil Rule 39.3 with the exhibit number or letter followed by the page number of the exhibit, e.g., “Ex. A, p. 1.”
- (2) If more than 5 exhibits are attached, the exhibits must be preceded by a table of contents identifying each exhibit by number and description.
- (3) Exhibits filed electronically must be filed as a related document as provided in Local Civil Rule 5.1(f)(1).
- (4) For registered CM/ECF users, exhibits that cannot be electronically filed may be filed conventionally only upon order of the court. See Local Civil Rule 7.3(c).

Local Civil Rule 7.5 Formatting of Court Filings (Exemplar follows this rule)

(a) Form in General

- (1) All documents filed with the court must:
 - (A) be double-spaced, except quotations longer than 50 words or 5 lines should be single-spaced and indented;
 - (B) have margins of at least 1 inch around all text, including footers;
 - (C) if more than 1 page, include at the bottom of each page:
 - (i) a page number; and
 - (ii) a footer including the case name and number;
 - (D) use at least 13-point, proportionally-spaced font, or the equivalent; and
 - (E) be without interlineation unless noted by the court, and printed or written on only one side of the paper.
- (2) Conventionally filed documents must be:
 - (A) on letter size (8½” by 11”) white paper of good quality; and
 - (B) typed or legibly written in black ink.
- (3) Electronically filed documents must be:
 - (A) in Adobe Acrobat Portable Document Format (“.pdf”); and
 - (B) word searchable.

(b) Information to be Placed on First Page

The first page of each document filed with the court must contain the following information.

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

(A) The name, address, telephone number, and e-mail address of the attorney(s) or firm 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 1 inch below the top edge; **or**

(B) The attorney or firm's name, address, telephone 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) The title of the court is to be centered on the paper and commence not less than 1 inch 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 (b)(1)(A).

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

(A) A space at the top right of the page must be reserved for any filing marks of the Clerk's office.

(B) The case number should be included below the title of the court on the right side of the paper, including the initials of the judge assigned to the case.

(4) Title of Action or Proceeding (Case Caption).

(A) Below the title of the court and to the left of center of the page, the title of the action or proceeding must be inserted.

(B) In the event all defendants cannot be named on the first page, the names of defendants may appear on the second page.

(C) Except for complaints and summonses, lengthy case captions may be reduced to indicate the first named party plaintiff and/or defendant followed by "et al."

(D) 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) Title of Document. Below the title of the court and the case number, and centered on the page, the title of the document (i.e., complaint, motion, etc.) must be inserted. See *also* Local Civil Rules 7.1(f), 8.1(a), and 38.1(a).

(c) Information to be Placed on Signature Page

(1) Names and Alaska bar numbers, if applicable, are to be typed beneath signatures to documents.

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

Local Civil Rule 7.5 Exemplar

Lawyer Name / Party name, Pro Se
Lawyer Firm Name
Lawyer Address / Party Address
Lawyer Phone / Party Phone
Lawyer Fax / Party Fax
Lawyer Email / Party Email
Attorney for Party Name

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

JOHN J. DOE,)
)
 Plaintiff,)
 v.)
)
 JANE ROE,)
)
 Defendant.) Case No. 0:00-cv-00000-JJJ

NAME OF DOCUMENT

[Substance of filing]

...

[End of Document]

DATED _____, 20__.

[does not apply to self-represented litigants:
LAWYER NAME
LAW FIRM NAME
Attorneys for Party name]

By: /s/ Attorney or Self-Represented Litigant
Lawyer Name, Alaska Bar Number (if applicable)
or Lawyer Name, *Pro Hac Vice*

Local Civil Rule 8.1 General Rules of Pleading

(a) 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 immediately below the title of the pleading.

(b) Jurisdictional Statement

The short and plain statement of jurisdictional grounds required by Fed. R. Civ. P. 8(a) must be at the beginning of the body of the complaint, with citations to any federal statutes or constitutional provisions upon which jurisdiction may be based.

Local Civil Rule 10.1 Form of Pleadings

The form of pleadings is governed by Local Civil Rules 7.5 and 8.1.

Local Civil Rule 11.1 Appearances, Substitution, and Withdrawal of Counsel

(a) Entry of Appearance.

- (1) Filing a document on behalf of a party constitutes an entry of appearance on behalf of the party; no separate entry of appearance is required.
- (2) A non-attorney may not appear on behalf of any other person or entity.
- (3) A party who has appeared by counsel may not thereafter act on the party's own behalf in the action unless an order of withdrawal of counsel has been entered by the court.

(b) Notification of Change of Address.

- (1) An attorney who has entered an appearance must file and serve on all parties a notice of change of address, telephone number, and/or e-mail address within 7 days of such change.
- (2) Self-represented parties must keep the court and other parties advised of the party's current address and telephone number.
- (3) If a court order or other mail served on a *pro se* plaintiff at their address of record is returned by the Postal Service as undeliverable and the *pro se* party has not filed a notice of change of address within 14 days of the service date of the order or other court document, the court may dismiss the action with or without prejudice for failure to prosecute pursuant to Local Civil Rule 41.1.

(c) Substitution and Withdrawal.

- (1) A motion for leave to withdraw must be accompanied by:
 - (A) written consent of the client;
 - (B) substitution of counsel and formal appearance of substituting counsel; or
 - (C) a showing of good cause.
- (2) Any party or attorney may oppose a motion to withdraw.
- (3) The court may deny the motion even if consented to or unopposed.
- (4) 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 21 days written notice of the hearing, unless good cause is shown why a hearing should not be required.
- (5) 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, including the full name, mailing address, telephone number, and e-mail address of the substituting attorney.
- (6) Withdrawal of a Limited Entry of Appearance is governed by Local Civil Rule 83.1(c).

Local Civil Rule 11.2 Sanctions

(a) Imposition

The court may impose sanctions for violations of Local Civil Rules after notice and an opportunity to respond on the part of the person accused of a violation.

(b) Types of Sanctions

- (1) Sanctions may include:
 - (A) fines, costs, and attorney's fees awards;
 - (B) establishment and preclusion orders;
 - (C) default;
 - (D) dismissal; and
 - (E) other appropriate sanctions.
- (2) For matters of form not affecting substance or prejudicing parties or the court, sanctions will generally be limited to fines, costs, or attorney's fees awards.

(3) For possible violations of ethical standards, the court may refer the matter for appropriate action to the relevant bar association(s).

Local Civil Rule 15.1 Motions to Amend Pleadings

(a) A party moving to amend a pleading must attach the proposed amended pleading as an exhibit to the motion. The proposed amended pleading must clearly indicate how it differs from the pleading it amends, by bracketing or striking through the text to be deleted and underlining the text to be added. The proposed amended pleading must not incorporate by reference any prior pleading, including exhibits.

(b) Unless otherwise ordered, the moving party must file a complete, clean copy of the amended pleading, including exhibits, within 7 days of the order granting the motion.

Local Civil Rule 16.1 Pretrial Procedures

(a) Matters Exempted from Standard Pretrial Procedures

Unless otherwise ordered by the court, the following categories of cases are exempted from the requirement of scheduling conferences and scheduling orders:

- (1) Internal Revenue Service enforcement actions;
- (2) eminent domain proceedings;
- (3) bankruptcy appeals;
- (4) habeas corpus petitions;
- (5) Freedom-of-Information-Act actions;
- (6) actions to enforce out-of-state judgments;
- (7) Social Security appeals;
- (8) Administrative Procedure Act appeals;
- (9) actions filed by self-represented prisoners;
- (10) actions in which the defendant has not been served within 90 days after the complaint was filed; and
- (11) actions to enforce ERISA plans.

(b) Pretrial Scheduling and Planning Report

Unless otherwise ordered, the report required by Fed. R. Civ. P. 26(f) must:

- (1) be in a form substantially similar to AK LCF 26(f), Scheduling and Planning Conference Report;

- (2) be signed by counsel for each party and any self-represented party; and
- (3) clearly specify:
 - (A) those matters, if any, on which the parties have been unable to reach agreement; and
 - (B) the respective positions of each party on each matter on which agreement could not be reached.

(c) Standard Pretrial Procedures and Times

Unless otherwise ordered, the following applies to all pretrial matters.

- (1) Preliminary motions, especially those raising legal issues that have the potential for reducing necessary discovery, should be filed at the earliest time possible.
- (2) Motions to amend pleadings or add parties must be filed not later than 60 days after the date the Pretrial Scheduling Order is entered. Thereafter, a party may seek leave of the court to modify this deadline. See Fed. R. Civ. P. 16(b)(4).
- (3) Each party must maintain a record of all disclosures and discovery responses required by the Federal Rules of Civil Procedure.
- (4) The parties may, by agreement, extend the time for a party to respond to any discovery request propounded by any other party.
- (5) Final discovery witness lists must be filed not later than 45 days before the close of discovery.
- (6) The deadline for completion of discovery in the Pretrial Scheduling Order is applicable to all depositions.
- (7) Motions under the discovery rules must be filed not later than 14 days after the close of discovery.
- (8) Motions to exclude expert testimony must be filed not later than 30 days after the close of expert discovery.
- (9) Dispositive motions must be filed not later than 30 days after the close of discovery.

(d) Scheduling Cases for Trial

See Local Civil Rule 40.1.

(e) Notice of Related Case

Whenever a party has reason to believe that a civil action is related to another matter, as defined in Local Rule 3.1, the party must promptly file a Notice of Related Case. Other parties have 14 days to respond to a Notice of Related Case and may file and serve a response supporting or opposing the notice. The Notice of Related Case must include:

- (1) the court, title, case number, and filing date of each matter believed to be related;
- (2) a brief statement of the relationship; and
- (3) a statement whether a common judicial assignment or consolidation is requested.

If consolidation is requested, a separate motion must be filed promptly.

(f) Magistrate Judges are authorized to issue Pretrial Scheduling Orders in cases assigned to them by consent.

Local Civil Rule 16.2 Alternative Dispute Resolution

(a) Policy Favoring Settlement by Alternative Dispute Resolution

The court favors resolution of cases by alternative dispute resolution (ADR).

(b) Alternative Dispute Resolution Processes

- (1) *Early Consideration of Mediation or Settlement Conference.* At an early stage in every case, the parties must actively consider mediation or a settlement conference to facilitate less costly resolution of the litigation.
- (2) *Coordination with Case Management Rules.* At the meeting of parties under Fed. R. Civ. P. 26(f) and any conference regarding case management under Fed. R. Civ. P. 16, litigants must discuss the advisability of engaging in ADR.

(c) Motion for ADR

Upon the request of one or all parties, or on the court's own motion, the court may order:

- (1) a settlement conference before a United States district, bankruptcy, or magistrate judge, including a senior judge or retired judge, who is not assigned to the case and who consents to serve as settlement judge; or
- (2) mediation with a privately-retained mediator agreeable to all parties.

(d) Conduct of Judicial Settlement Conference

- (1) Upon appointment, the settlement conference judge will establish the timing and other terms applicable to the settlement conference.
- (2) Upon conclusion of a settlement conference, the settlement conference judge will promptly file a report indicating whether the case has settled in whole or in part, whether any follow up is scheduled, and any additional information that all parties have agreed in writing should be included in the report.
- (3) If the settlement conference results in a settlement, the parties must file appropriate closing papers, or in the case of a partial settlement, papers appropriate

to accomplish the partial settlement, within 30 days from the filing of the settlement conference judge's report.

Local Civil Rule 16.3 Administrative Agency Appeals

(a) Applicability

Unless otherwise ordered, this rule applies to all proceedings for judicial review

- (1) under the Administrative Procedure Act, 5 U.S.C. §§ 701–706; and
- (2) under the Social Security Act, 42 U.S.C. § 405 (g).

(b) Agency Record

(1) The agency must serve and file the agency record not later than 60 days after the agency's initial appearance as specified below:

(A) If the agency record is 5000 pages or less:

- (i) the agency must serve and electronically file the agency record; and
- (ii) in addition to the electronically filed copy of the agency record, the agency must submit a paper copy of the agency record for use by the judge, which is not part of the court record.

(B) If the agency record exceeds 5000 pages:

- (i) the agency must serve the entire agency record on plaintiff and electronically file a certified list of the contents of the agency record with the court; the agency must also file the entire agency record, either electronically or conventionally.
- (ii) the parties must prepare an appendix containing copies of those portions of the agency record that are cited or otherwise relied upon by the parties in their briefs; they must not burden the appendix with excess material from the agency record that does not relate to the issues raised in the briefs;
- (iii) the parties must electronically file the appendix, as well as provide any chamber copy required by Local Rule 5.4, not later than 14 days after the final brief is filed; and
- (iv) pages in the appendix must retain the original pagination from the administrative record; the parties must cite to the record in their briefs using this pagination.

(2) A motion to supplement the agency record must be filed not later than 21 days after the agency record or certified list of its contents has been filed with the court.

(c) Briefing Schedule

- (1) Plaintiff's opening brief must be filed not later than 30 days following the filing of the agency record or 30 days after the court's ruling on a motion to supplement the agency record, whichever is later. Failure to timely file the opening brief may result in dismissal of the appeal.
- (2) Defendant's brief in opposition must be filed not later than 30 days after plaintiff has filed and served plaintiff's opening brief.
- (3) Plaintiff may file a reply to defendant's brief not later than 14 days after service of the defendant's brief.
- (4) No additional briefs may be filed without leave of the court.
- (5) One extension of time of up to 14 days will be routinely granted for each brief. Any additional extension of time requires a showing of good cause.
- (6) Page and word limitations of Local Rule 7.4(a) apply.

Local Civil Rule 26.1 Discovery

(a) Motions for Protective Orders

A party filing a motion for a protective order under Fed. R. Civ. P. 26(c) must comply with the duty to confer in Local Civil Rule 37.1(a).

(b) Filing of Conference Report

The court may require the written report outlining the discovery plan as set forth in Fed. Rule Civ. P. 26(f)(3) to be filed within 7 days after the parties' planning conference.

Local Civil Rule 30.1 Audio-Visual Depositions

- (a) If feasible, an audio–visual deposition must depict the witness seated at a table.
- (b) The direction of the camera and lens may not be varied except as necessary to follow natural body movements of the witness or to present exhibits or describe evidence being used during the deposition.

Local Civil Rule 32.1 Use of Depositions in Court Proceedings

- (a) Parties may use depositions without orders for publication.
- (b) If any party seeks to maintain confidentiality for all or any part of a deposition, the party may move for a protective order.

(c) A copy of each deposition that a party anticipates using in court must be provided to the court when a copy of the exhibit list is filed. See Local Civil Rule 39.3.

Local Civil Rule 33.1 Excess Interrogatories

(a) Duty to Answer

If a party is served with more interrogatories than permitted by Fed. R. Civ. P. 33(a)(1), the responding party must answer or object to all permitted interrogatories in the order presented.

(b) Response to Excess Interrogatories

The responding party may either answer an excess interrogatory or object by referencing Fed. R. Civ. P. 33(a)(1).

Local Civil Rule 35.1 Physical and Mental Examinations

A party filing a motion to compel a physical or mental examination under Fed. R. Civ. P. 35 must either:

(a) represent that the opposing party does not object to the entry of the order; or

(b) comply with the requirements of Local Civil Rule 37.1.

Local Civil Rule 36.1 Requests for Admission

Unless otherwise stipulated or ordered by the court, a party may serve on any other party no more than 25 requests for admission.

Local Civil Rule 37.1 Discovery Motions/Duty to Confer

The certification required by Fed. R. Civ. P. 37(a)(1) must be in the first paragraph of a discovery motion.

Local Civil Rule 38.1 Jury Demand

If a demand for jury trial is set forth in a pleading pursuant to Fed. R. Civ. P. 38, rather than in a separate filing, the demand must be placed conspicuously on the first page of the pleading.

Local Civil Rule 39.1 Final Pretrial Conference

The court may, in its discretion, schedule a final pretrial conference. Counsel who will have primary responsibility for trying the case for each party must attend, as well as any self-represented party. At the final pretrial conference, the court may address the following: opening statements; limiting and defining the issues; resolving objections and other matters related to witnesses and exhibits; resolving any pending motions; and, in jury cases, discussing the jury selection process and jury instructions.

Local Civil Rule 39.2 Trial Briefs

(a) Time for Filing. Unless otherwise ordered, each party must file and serve a trial brief not less than 21 days prior to the scheduled trial date.

(b) Length and Format. The brief may not exceed 25 pages and must contain:

- (1) a listing by docket number of the operative complaint and each substantive pre-trial order;
- (2) a description of each claim that is at issue for the trial, together with a summary, by claim, of the anticipated evidence;
- (3) a discussion of relevant legal authority; and
- (4) a summary of anticipated evidentiary issues.

Local Civil Rule 39.3 Trial Exhibits

(a) Marking Exhibits and Exhibit List

Exhibits must be marked using court-approved labels. The parties must agree on a numbering convention for identifying exhibits. Individual pages of each exhibit must be numbered. Each exhibit must be identified in an exhibit list on a court-approved form.

(b) Exhibit Exchange; Filing of Exhibits and Depositions

- (1) At least 14 days before trial the parties must:
 - (A) physically or electronically exchange Trial Exhibits and Lists; and
 - (B) confer regarding stipulations as to authenticity, admissibility, and minimization of duplicate exhibits.
- (2) At least 7 days before trial each party must file its Trial Exhibit List identifying stipulations as to authenticity and admissibility.
- (3) Unless otherwise ordered, copies of each party's exhibits and each deposition a party anticipates using at trial must be delivered to the Clerk for the judge's use at

trial with the filing of the Trial Exhibit List. The copy must contain a cover page listing the exhibits and the exhibits must be separated by tabs.

(c) Exhibit Use During Trial

- (1) Exhibits are not admitted until ordered by the court.
- (2) Each party must maintain custody of its exhibits to allow use by all parties.
- (3) Prior to jury deliberations, the courtroom deputy shall ensure that only admitted exhibits are presented to the jury.
- (4) At the conclusion of trial, unless otherwise ordered, custody of exhibits will be returned to the parties for preservation until final disposition.

(d) Other Evidentiary Proceedings

The court may apply this rule to evidentiary proceedings other than trials.

(e) Digital Evidence Presentation Systems (DEPS)

See Local Civil Rule 7.1(i).

Local Civil Rule 39.4 Opening Statements/Use of Exhibits

Exhibits must not be displayed during opening statements unless leave has been granted or the court has admitted the exhibit into evidence.

Local Civil Rule 39.5 Contact with Trial Jurors

(a) Before or During Trial

No party, attorney, or other interested person may contact or communicate with, directly or indirectly, any juror, prospective juror, or member of such juror's or prospective juror's family.

(b) After Trial

After the jury concludes its deliberations and is discharged, a party, attorney, or other interested person may communicate with a juror who first initiates contact. Unless otherwise ordered, no party, lawyer, investigator, or other agent for a party shall attempt to initiate contact with any trial juror, including any alternate juror. Jurors are free to, but are under no obligation to, discuss the trial in which the juror has been a participant.

(c) Notice

Subsections (a) and (b) will be posted in the jury rooms of this District and jurors will be instructed fully as to this matter.

Local Civil Rule 40.1 Scheduling Cases for Trial

(a) Scheduling Order

Trial scheduling shall be addressed in the Local Civil Rule 16.1 Scheduling Order either by a date certain or following a Certification Order.

(b) Certification Order

If a trial date has not been scheduled, then upon the later of the deadline for filing dispositive motions or rulings on such motions, the court will order the parties to certify the case as ready for trial and advise as to their availability for trial, or report as to the actions necessary for the case to be ready for trial.

Local Civil Rule 40.2 Continuance of Trial

Motions for continuance of trial must be supported by a showing of good cause. The motion shall include the proposed length of the continuance.

Local Civil Rule 41.1 Dismissal of Actions

Failure to prosecute or to otherwise comply with the Federal Rules of Civil Procedure, the Local Civil Rules, or with any court order may result in imposition of sanctions authorized by law, including dismissal.

Local Civil Rule 47.1 Jury Selection

Unless otherwise ordered, proposed questions for potential jurors must be filed 7 days prior to trial. See *also* Local Civil Rule 39.1.

Local Civil Rule 51.1 Jury Instructions

(a) Meeting of Parties

Unless otherwise ordered, no later than 21 days before trial, the parties must meet and confer on jury instructions.

(b) Time for Filing

Unless otherwise ordered, the parties must file proposed jury instructions no later than 14 days before trial. The parties may file joint instructions on which the parties agree.

(c) Form

(1) A party may simply reference a Ninth Circuit Model Jury Instruction if no modification is requested.

- (2) All other proposed instructions must:
- (A) be numbered consecutively;
 - (B) indicate the party requesting the instruction;
 - (C) address only one subject each; and
 - (D) state the legal authority on which it relies.

Local Civil Rule 54.1 Taxation of Costs

(a) Time to File/Waiver

A bill of costs must be filed and served no later than 14 days after entry of judgment or an applicable order. Otherwise, claims for costs are waived.

(b) Contents of Bill of Costs

See Bill of Cost Form AO 133. A bill of costs, supported by invoices and other relevant materials, must be filed in CM/ECF.

(c) Objections to Bill of Costs

Objections must be filed and served within 7 days of filing the bill of costs.

(d) Taxation of Costs/Review by Court

Unless requested by the Clerk, costs will be decided with no hearing. A party disagreeing with the Clerk's decision must file a motion seeking review by the court within 7 days of the decision.

(e) Taxable Costs

See 28 U.S.C. § 1920 *et seq.* and commentary to Fed. R. Civ. P. 54. Taxable costs include:

- (1) marshal fees, see 28 U.S.C. § 1921 and other reasonable service of process fees;
- (2) transcripts when prepared pursuant to stipulation or order;
- (3) reasonable deposition costs, including transcript and interpreter's fee;
- (4) non-party witness fees, mileage, and subsistence, including parties subpoenaed by adverse parties; see 28 U.S.C. § 1821;
- (5) interpreter fees;
- (6) reasonable cost of copying and exhibit preparation, excluding demonstrative exhibits;
- (7) docket fees; see 28 U.S.C. § 1923;

- (8) fees for masters, receivers, and commissioners ordered by the court;
- (9) state court filing fees for removal jurisdiction actions;
- (10) postage; and
- (11) other costs specifically required by court order.

Local Civil Rule 54.2 Award of Attorney's Fees

A motion for attorney's fees under Fed. R. Civ. P. 54(d)(2) must:

- (a) state the amount requested;
- (b) set forth the authority for the award, whether a federal statute, Alaska Rule of Civil Procedure 82, a contractual provision, or other grounds; and
- (c) be accompanied by a declaration or affidavit that demonstrates the reasonableness of the requested award and includes:
 - (1) the total number of hours worked and billing rate for each lawyer and paraprofessional;
 - (2) the customary fee charged in similar matters in the District of Alaska;
 - (3) the amount charged to the client, if any; and
 - (4) itemized billing records.

Local Civil Rule 55.1 Entry of Default and Default Judgment

(a) Entry of Default. Motions for entry of default must include proof of service of the complaint per Fed. R. Civ. P. 4 and notice to appearing parties.

(b) Judgment Following Default.

(1) Attorney's Fees. For purposes of Fed. R. Civ. P. 55(b)(1), a claim for "reasonable attorney's fees" is not a claim for a sum certain.

(2) Supporting Evidence. Motions for judgment following entry of default must be supported by declarations and evidence establishing the right to relief, including but not limited to:

- (A) calculations supporting the amount of judgment;
- (B) relevant contract documents;
- (C) the facts supporting any claim for prejudgment interest, including the applicable interest rate and calculation of interest due, see 28 U.S.C. § 1961;

(D) the facts supporting any claim for attorney's fees, including the amount of fees sought, the actual time spent, and actual fees incurred; and

(E) compliance with the Service Members Civil Relief Act, 50 USC §§ 3901-4043.

Local Civil Rule 58.1 Judgments

(a) Timing

(1) Entry of judgment will not be delayed for the taxing of costs or computation of prejudgment interest.

(2) When appropriate, the Clerk will leave blank spaces in the judgment for costs, attorney's fees, and interest.

(3) The Clerk will amend the judgment when interest, costs, and attorney's fees are awarded.

(b) Service

The Clerk will serve the judgment on the same day that the judgment is entered.

(c) Prejudgment Interest

When prejudgment interest is sought:

(1) Within 14 days of the entry of judgment, the prevailing party must file and serve the following:

(A) a computation of interest; and

(B) the statutory or other basis for the interest rate.

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

Local Civil Rule 58.2 Satisfaction of Judgments

(a) Acknowledgment of Satisfaction

Upon request of the judgment debtor, the judgment creditor must file and serve an acknowledgment of satisfaction or partial satisfaction of judgment within 14 days of such request.

(b) Partial Satisfaction

A partial satisfaction of judgment must state the amount paid.

Local Civil Rule 67.1 Deposit of Funds in the Registry Account

(a) Receipt of Funds

- (1) No money will be sent to the court or its officers for deposit in the court's registry without a court order signed by the presiding district or magistrate judge in the case or proceeding.
- (2) The party making the deposit or transferring funds to the court's registry will serve the order permitting the deposit or transfer on the Clerk of Court.
- (3) Unless provided for elsewhere in this Local Rule, all money ordered to be paid to the court or received by its officers in any case pending or adjudicated will be deposited with the Treasurer of the United States in the name and to the credit of this court pursuant to 28 U.S.C. § 2041 through depositories designated by the Treasury to accept such deposit on its behalf.

(b) Investment of Registry Funds

- (1) Unless otherwise ordered by a district judge, all funds deposited in the registry of the court in which the principal equals or exceeds \$5000 are to be placed in an interest-bearing account. The Court Registry Investment System ("CRIS"), administered by the Administrative Office of the United States Courts under 28 U.S.C. § 2045, will be the only investment mechanism authorized.
- (2) Interpleader funds deposited under 28 U.S.C. § 1335 meet the IRS definition of a Disputed Ownership Fund ("DOF"), a taxable entity that requires tax administration. Unless otherwise ordered by the court, interpleader funds shall be deposited in the DOF established within the CRIS and administered by the Administrative Office of the United States Courts, which shall be responsible for meeting all DOF tax administration requirements.
- (3) The Director of the Administrative Office of the United States Courts is designated as custodian for CRIS. The Director or the Director's designee will perform the duties of custodian. Funds held in the CRIS remain subject to the control and jurisdiction of the court.
- (4) Money from each case deposited in the CRIS will be "pooled" together with those on deposit with the Treasury to the credit of other courts in the CRIS and used to purchase Government Account Series securities through the Bureau of Public Debt, which will be held at the Treasury, in an account in the name and to the credit of the Director of the Administrative Office of the United States Courts. The pooled funds will be invested in accordance with the principals of the CRIS Investment Policy as approved by the Registry Monitoring Group.
- (5) An account for each case will be established in the CRIS titled in the name of the case giving rise to the investment of the fund. Income generated from fund

investments will be distributed to each case based on the ratio each account's principal and earnings has to the aggregate principal and income total in the fund. Reports showing the interest earned and the principal amounts contributed in each case will be prepared and distributed to each court participating in the CRIS and made available to litigants and/or their counsel.

(6) For each interpleader case, an account shall be established in the CRIS Disputed Ownership Fund, titled in the name of the case giving rise to the deposit invested in the fund. Income generated from fund investments will be distributed to each case after the DOF fee has been applied and tax withholdings have been deducted from the fund. Reports showing the interest earned and the principal amounts contributed in each case will be available through the FedInvest/CMS application for each court participating in the CRIS and made available to litigants and/or their counsel. On appointment of an administrator authorized to incur expenses on behalf of the DOF in a case, the case DOF funds should be transferred to another investment account as directed by court order.

(c) Fees and Taxes

(1) The custodian is authorized and directed by this Order to deduct the CRIS fee of an annualized 10 basis points on assets on deposit for all CRIS funds, excluding the case funds held in the DOF, for the management of investments in the CRIS. According to the Court's Miscellaneous Fee Schedule, the CRIS fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases.

(2) The custodian is authorized and directed by this Order to deduct the DOF fee of an annualized 20 basis points on assets on deposit in the DOF for management of investments and tax administration. According to the Court's Miscellaneous Fee Schedule, the DOF fee is assessed from interest earnings to the pool before a pro rata distribution of earnings is made to court cases. The custodian is further authorized and directed by this Order to withhold and pay federal taxes due on behalf of the DOF.

(d) Disbursement of Registry Funds

(1) Upon the entry of a judgment, funds, if any, on deposit in the registry of the court will be disbursed only by order of the court after the time for appeal has expired, or upon written stipulation by all parties approved by the court.

(2) Each order directing the Clerk to disburse funds must be clearly entitled "order to disburse funds" and must be without conditions to be met prior to disbursement of said funds. It must indicate which parties are entitled to principal and any accrued interest. The order must also contain the name and mailing address of the party

entitled to said funds, in which case the information may be redacted and/or provided directly to the Clerk's financial office.

(3) Taxpayer identification numbers for the check payees must be delivered directly to the Clerk's financial office prior to disbursement.

Local Civil Rule 68.1 Settlements and Judgments in Favor of a Minor

(a) Authority to Settle a Minor's Claim

Settlement, compromise, or other resolution of a minor's claim by a parent or legal guardian of a minor must comply with this rule.

(b) Settlements

A settlement agreement, release, or stipulation that resolves or dismisses a minor's claim must be approved by the Superior Court for the State of Alaska under Alaska Rule of Civil Procedure 90.2.

(1) The Superior Court must approve:

(A) the terms of any settlement, release or stipulation; and

(B) the plan of disbursement, including the provisions for expenses, costs, and fees.

(2) No judgment or order of dismissal will be issued until the Superior Court's order approving the settlement, release or stipulation under Rule 90.2 is filed with this court.

(c) Judgments

Upon judgment in favor of a minor, the parent or guardian asserting the claim on behalf of the minor must seek approval of any plan of disbursement of the proceeds from the Superior Court for the State of Alaska under Alaska Rule of Civil Procedure 90.2.

(1) The Superior Court must approve the plan of disbursement contemplated, including the provisions for expenses, costs, and fees.

(2) No final judgment will be issued until a copy of the order of the Superior Court approving the disbursement plan is filed with this court.

(d) Non-Resident Parents and Guardians

(1) When a parent or legal guardian is not a resident of the State of Alaska, if the state where the parent or guardian resides has a procedure similar to Alaska Rule of Civil Procedure 90.2, the court may order the parent or legal guardian to obtain approval of the settlement or judgment using that state's procedure.

(2) In the absence of a similar procedure, the court may adopt such procedure as it deems appropriate for approval of a settlement.

Local Civil Rule 77.1 Orders and Judgments by the Clerk

The Clerk is authorized to sign and enter the orders listed below without further direction by the court.

- (a) Orders on consent for the substitution of attorneys
- (b) Orders on consent satisfying a judgment, annulling bonds, or exonerating sureties;
- (c) Orders authorized by Fed. R. Civ. P. 77(c)(2); and
- (d) Orders authorizing admission under Local Civil Rule 83.1(d).

Local Civil Rule 77.2 Court Library

The US Courts Alaska branch law library is maintained in the United States District Court Anchorage location. The general public may make use of the library during the hours posted online and outside the library.

The librarian will enforce reasonable policies for proper safekeeping, maintenance, and use of the library. Violators of library policies are subject to loss of library privileges.

Local Civil Rule 79.1 Official Record

When a document has been filed electronically or is filed conventionally and scanned into the CM/ECF System by the Clerk of Court, the official record is the electronic recording of the document as stored by the court, and the filing party is bound by the document as filed.

Local Civil Rule 79.2 Books and Records of the Clerk; Access and Copies

(a) Clerk's Custody

Except as otherwise provided by this rule or order of the court, no record or paper belonging to the files of the court may be taken from the office or custody of the Clerk.

- (1) If any record or paper in the court files is needed as an exhibit or other purpose, the Clerk will prepare a certified copy upon payment of the appropriate fee.
- (2) After the completion of any post-judgment proceedings, the filing of any mandates, and the expiration of any time limits for additional proceedings:

(A) all materials and exhibits, including electronic media, not already in the custody of the parties, will be returned to the party or person to whom they belong, except as may otherwise be ordered; and

(B) if items are not retrieved by the parties within 30 days after the Clerk has provided notice, the Clerk may destroy them.

(3) Exhibits unsuitable for the Clerk's custody must:

(A) be retained following trial by the party introducing them into evidence until judgment is final; and

(B) the parties are responsible for producing the exhibits if required for an appeal record.

(b) Access to Public Records; Copies

(1) A person may review at the Clerk's office all filings that have not been sealed by the court, whether retained in paper or electronic format.

(2) Paper copies and certified copies of documents may be obtained from the Clerk's office.

(3) A fee for copying and certification will be charged and collected in accordance with the Miscellaneous Fee Schedule promulgated by the Judicial Conference of the United States.

(c) Pro Se Materials

(1) Self-represented litigants must file all documents conventionally, unless otherwise permitted by the court's order. Once a document is uploaded into the CM/ECF system by the Clerk, the docketed CM/ECF becomes the official court record.

(2) Self-represented litigants are required to retain a copy of any conventionally filed paper documents, which will not be returned to litigants unless a litigant motions the court for its return.

(3) A Motion for Return should be made at the time of filing or no later than 120 days from docketing. The Clerk of Court may dispose of any conventionally filed documents by a self-represented litigant no earlier than 180 days after docketing.

Local Civil Rule 80.1 Record of Proceedings

(a) Manner of Reporting Proceedings

(1) All court proceedings will be electronically or stenographically recorded.

(2) The court will consider only official transcripts of court proceedings that have been certified by an official court reporter, recorder, or transcriber. The Guide to Judiciary

Policy with respect to court reporting methods is found in Chapter Three of <http://www.uscourts.gov/rules-policies/judiciary-policies/court-reporting-guidance>.

(3) A request for a real-time court reporter and daily transcripts must be filed not later than 30 days before the date set for the trial or hearing. The requesting party must thereafter make whatever fee arrangements are necessary.

(b) Preparation of Official Record—Transcripts, Tape Recordings

(1) Arrangements for preparation of a transcript of a court proceeding are to be made by filing [AO Form 435 Transcript Order Form](#) in CM/ECF. If on appeal, [US District Court of Alaska Form 46 Transcript Designation Form](#) is to be filed in CM/ECF in addition, as an attachment to AO FORM 435.

(2) Arrangements for preparation of a duplicate recording of an electronic record are to be made by filing [AO FORM 436 Audio Recording Form](#) in CM/ECF. The Clerk's Office will then make arrangements for transcription or provide a duplicate recording according to the form submitted.

(c) Fees—Transcripts, Tape Recordings

(1) All fees for transcripts and tape recordings may not exceed the maximum amount set by the Judicial Conference of the United States.

(2) A current schedule of the fees, as established by the Judicial Conference, will be posted by the Clerk and be provided on request by the Clerk's office and official court reporters. The Guide to Judiciary Policy with respect to court reporting fees is found in Chapter Five of <http://www.uscourts.gov/rules-policies/judiciary-policies/court-reporting-guidance>.

Local Civil Rule 81.1 Applicability

These rules may be applied in admiralty, bankruptcy, criminal, or *habeas* proceedings, to the degree their application is not inconsistent with those rules or with statutes governing those proceedings.

Local Civil Rule 83.1 Attorneys

(a) Eligibility

Any attorney admitted to practice before the courts of the State of Alaska is eligible for admission to practice in the United States District Court for the District of Alaska.

(b) 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 in the form and with the attachments required by the Clerk. See www.akd.uscourts.gov/admissions.
- (3) 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.
- (4) Each applicant applying for admission to practice in this district, other than an applicant who is practicing law in the State of Alaska under Alaska Bar Rule 43 or 43.1 or who is otherwise exempt under these Local Rules, must pay the current fees found at <https://www.akd.uscourts.gov/fees> at the time of application for admission.

(c) Appearance by Volunteer Pro Bono Attorney in Civil Cases

- (1) A presiding judge may request a volunteer pro bono attorney to represent a self-represented litigant unable to afford counsel in a civil case pursuant to 28 U.S.C. § 1915(e)(1).
- (2) A volunteer pro bono attorney's representation may be all-purpose or limited in scope. A Limited Entry of Appearance may be made for a discrete purpose such as amendment of a pleading, participating at a settlement conference, filing or opposing a dispositive motion, attending a hearing(s), attending a deposition(s), conducting or responding to discovery, or attending trial. Alternatively it may be made for a specified period of time. A Limited Entry of Appearance shall specify each purpose of the appearance.
- (3) Upon conclusion of a Limited Entry of Appearance, the volunteer attorney may withdraw by filing and serving a Notice of Withdrawal. Such notice must provide the party's last known address and telephone number.

(d) Out of State Attorneys

- (1) 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 *pro hac vice* on behalf of a party. The court may order such counsel to associate with an active member of the bar of this court.
- (2) Unless otherwise ordered by the court, the attorney applying may appear from the time of filing the motion as though it had been approved, and approvals will be deemed to be effective as of the time of filing of the motion.
- (3) The motion must be submitted on the form provided by the Clerk.

(4) An attorney need not be admitted to this court to address motions related to subpoenas issued in this district in cases pending outside the District of Alaska.

(e) Attorneys Not Subject to *Pro Hac Vice* Fees

The following attorneys may appear 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:

- (1) Any attorney representing the United States, or any agency thereof;
- (2) Any attorney employed by the Federal Public Defender's Office or appointed pursuant to the Criminal Justice Act; and
- (3) Any attorney representing an individual granted *in forma pauperis* status.

(f) Disbarment, Suspension, and Reinstatement

- (1) 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.
- (2) Unless good cause to the contrary is shown within 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 entered for such time as the court fixes.
- (3) 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.

(g) Contact with Trial Jurors

See Local Civil Rule 39.5.

(h) Professional Conduct

The standards of the Alaska Rules of Professional Conduct apply to any attorney admitted to practice in this court.

(i) Current Address

All persons admitted to practice before the United States District Court for the District of Alaska should notify the Clerk of Court, in writing, of any change in address, telephone number, facsimile number, or e-mail address not later than 7 days after the change in address, telephone or facsimile number, and/or e-mail address becomes effective.

Local Civil Rule 83.2 Student Practice Rule

(a) General

An eligible law student acting under the supervision of a member of a bar of this court may be permitted to appear before the United States District Court for the District of Alaska on behalf of any client including federal, state, or local government bodies if the client has filed a written consent with the court.

(b) Eligibility

An eligible student must:

- (1) Satisfy one or more of the following criteria:
 - (A) be certified by the state Bar as a law student intern, or
 - (B) be enrolled and in good standing in an American Bar Association approved or state accredited law school, and have completed one-half of the legal studies required for graduation, or
 - (C) be a recent graduate of such school awaiting the result of a state Bar examination;
- (2) have knowledge of and be familiar with the Federal Rules of Civil and Criminal Procedure; the Federal Rules of Evidence; the Code of Professional Responsibility; and the rules of this court;
- (3) be certified by the dean of the law school as being adequately trained to fulfill all responsibilities as a law student intern to the court;
- (4) not accept compensation for his legal services directly from a client; and
- (5) file with the Clerk all documents required to comply with this rule.

(c) Duties of Supervising Attorney

The supervising attorney must:

- (1) be admitted to practice before the highest court of any state for two years or longer and have been admitted to practice before this court;
- (2) appear with the student in any oral presentations before the court;
- (3) sign all documents filed with the court;
- (4) assume professional responsibility for the student's work in matters before the court; and
- (5) assist and counsel the student in the preparation of the student's work in matters before the court.

(d) Dean’s Certification

The dean’s certification of the student:

- (1) must be filed with the Clerk and, unless sooner withdrawn, remain in effect until publication of the results of the first bar examination following graduation;
- (2) may be withdrawn by the dean with notice to the court.

(e) Scope of Functions

Upon fulfilling the requirements of this rule, the student may:

- (1) assist in the preparation of briefs, motions, and other documents pertaining to a case before this court; and
- (2) Appear and make oral presentations before this court when accompanied by the supervising attorney.

(f) Exceptions

The court retains the authority to establish exceptions to this rule in any case.

Local Civil Rule 83.3 Photographs, Video or Audio Recorders, Broadcasts

Unless otherwise ordered by the court, the taking of photographs and operation of video or audio recorders in the courtroom or its environs and/or radio or television broadcasting from the courtroom or its environs during the progress of, or in connection with judicial proceedings, whether or not court is actually in session, is prohibited.

Local Civil Rule 84.1 Forms

The forms contained in the Federal Rules of Civil Procedure, Appendix of Forms, should be used with appropriate or necessary modifications wherever applicable.

Local Civil Rule 86.1 Amendments to Local Rules

Amendments to these rules, including new rules, govern:

- (a) all proceedings commenced on or after the effective of the amendment; and
- (b) all existing, open proceedings from and after the effective date to the extent that the newer amended rule does not unreasonably prejudice the rights of any party.

UNITED STATES DISTRICT COURT

DISTRICT OF ALASKA

LOCAL MAGISTRATE JUDGE
RULES

2023 REVISED EDITION

EFFECTIVE JANUARY 1, 2023

(SUPERSEDES DECEMBER 2010 EDITION)

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Local Magistrate Judge Rule 1 Title and Citation

These rules are the Local Magistrate Judge Rules of the United States District Court for the District of Alaska and may be cited as “LMJR ____.”

Local Magistrate Judge Rule 2 Authority of Magistrate Judges

A magistrate judge appointed by this court is, with respect to matters assigned or referred to that judge, authorized to exercise all powers and perform all duties conferred expressly or by implication upon magistrate judges by, and in accordance with, procedures now or hereafter provided in the United States Code, rules promulgated by the Supreme Court, and the rules of this court.

Local Magistrate Judge Rule 3 Consent to Trial in a Civil Case

Upon the written consent of all parties to the matter as provided in Rule 73, Federal Rules of Civil Procedure, magistrate judges in this district are authorized to exercise the authority provided by 28 U.S.C. § 636(c).

Local Magistrate Judge Rule 4 Criminal Matters Routinely Assigned to Magistrate Judges

Unless otherwise ordered by a district judge, all criminal matters that may be heard by a magistrate judge by statute or the Federal Rules of Criminal Procedure will be assigned to magistrate judges, including but not limited to:

- (1) issuance of search warrants;
- (2) issuance of arrest warrants;
- (3) initial appearances;
- (4) preliminary examinations;
- (5) motions to appoint counsel;
- (6) waivers of indictment;
- (7) return of indictments;
- (8) warrants and summonses upon indictment or information;
- (9) arraignments;
- (10) pretrial release and detention hearings;
- (11) pretrial motions within the scope of 28 U.S.C. § 636(b)(1)(A), except motions related to scheduling the time and place of trials;

- (12) pre-trial motions within the scope of 28 U.S.C. § 636(b)(1)(B) for reports and recommendations;
- (13) mental competency hearings for reports and recommendations;
- (14) Class B and Class C misdemeanor cases, and infractions in their entirety;
- (15) Class A misdemeanor cases in their entirety upon consent of the defendant;
- (16) change of plea hearings upon consent of the defendant;
- (17) removal hearings;
- (18) extradition proceedings under 18 U.S.C. § 3184; and
- (19) petitions to revoke supervised release and petitions to revoke probation pursuant to Federal Rule of Criminal Procedure 32.1.

Local Magistrate Judge Rule 5 Civil Matters Routinely Assigned to Magistrate Judges

Unless otherwise provided by order of a district judge, the following civil matters will be assigned to magistrate judges for disposition or findings and recommendations as appropriate:

- (1) administrative inspection warrants;
- (2) matters relating to nonpayment of seaman's wages;
- (3) *habeas corpus* petitions under 28 U.S.C. § 2254;
- (4) preferred ship mortgage foreclosures;
- (5) matters relating to the arrest, seizure, or release of vessels and other property under the Supplemental Rules for Certain Admiralty and Maritime Claims;
- (6) matters relating to the enforcement of administrative subpoenas;
- (7) prisoner petitions challenging conditions of confinement; and
- (8) judgment debtor examinations.

Local Magistrate Judge Rule 6 Review of Magistrate Judge Civil Pretrial Orders

(a) Unless otherwise ordered:

- (1) within fourteen (14) days of being served with a copy of the recommended disposition, a party may serve and file specific objections to the proposed findings and recommendations;
- (2) a response to the objections may be filed with fourteen (14) days after any objection is filed; and
- (3) unless ordered by the district judge, no reply shall be filed to the response.

(b) Unless leave of court is obtained, for good cause shown, objections are limited to those matters fairly presented to the magistrate judge.

(c) The court may, on its own motion or the motion of any party, set the matter for a further evidentiary hearing 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.

(d) 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:

(1) describe the nature of the evidence to be proffered and its relevance to the specific objections; and

(2) contain a statement of the reason the proffered evidence could not be presented to the magistrate judge.

Local Magistrate Judge Rule 7 Review of Matters under 28 U.S.C. § 636(b)(1) in Criminal Cases

(a) Objections and Replies: Unless otherwise ordered:

(1) objections to orders entered under 28 U.S.C. § 636(b)(1)(A) or findings and recommendations entered under 28 U.S.C. § 636(b)(1)(B) must be filed within fourteen (14) days after service of the order or findings and recommendations;

(2) a response to the objections may be filed within seven (7) days after any objection is filed; and

(3) unless ordered by a district judge, no reply shall be filed to the response.

(b) Unless leave of court is obtained, for good cause shown, objections are limited to those matters fairly presented to the magistrate judge.

(c) For objections to findings and recommendations entered under 28 U.S.C. § 636(b)(1)(B), 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.

(d) A party requesting a further evidentiary hearing must serve and file a motion not later than three (3) business days after the transcript of the record is certified, which motion must:

(1) describe the nature of the evidence to be proffered and its relevance to the specific objections; and

(2) contain a statement of the reason the proffered evidence could not be presented to the magistrate judge.