U.S. District Court Local Rules
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LR 1.1 **Scope and Purpose of the Rules.**

(a) **Title and Citation.** These rules shall be known as the Local Rules of the United States District Court for the District of Alaska. They may be cited as "D. Ak. LR _____."

(b) **Effective Date.** These rules become effective July 17, 1995.

(c) **Scope of Rules.**

(1) **Civil Proceedings.** These rules shall apply in all civil proceedings governed by Rule 1 of the Federal Rules of Civil Procedure.

(2) **Admiralty, Bankruptcy, Criminal, *Habeas*, and Other Proceedings.** These rules may be applied in admiralty, bankruptcy, criminal, and *habeas* proceedings, and other proceedings where procedure is set out by statute, to the degree their application is not inconsistent with specific provisions of the federal or local admiralty, bankruptcy, criminal, and *habeas* rules, or with statutes governing such proceedings, when:

[A] These rules specifically so provide;

[B] The federal or local admiralty, bankruptcy, criminal, or *habeas* rules or statutes governing such proceedings so provide; or

[C] There is no specific provision of the federal or local admiralty, bankruptcy, criminal, or *habeas* rules or statutes governing such proceedings that controls the issue before the court, and these rules would provide guidance in resolving the issue.

(d) **Purpose of Rules.** These rules shall be administered and construed to secure the just, speedy, and inexpensive determination of every action. In any matter not covered by these rules, the court may regulate its practice in any manner not inconsistent with the Federal Rules of Civil Procedure and these rules. These rules are designed to be administered and construed wherever appropriate in a manner consistent with the Alaska Rules of Civil Procedure.

(e) **Relationship to Prior Rules and Orders; Actions Pending on Effective Date.** These rules supersede the former Local Rules and all miscellaneous general orders inconsistent with these rules. These rules shall apply to proceedings brought after their effective date. They shall also apply to all proceedings pending at the time of their effective date, except to the extent that, in the opinion of the court, the application thereof would not be feasible or would work injustice, in which event the former local rules shall govern.

(f) **Rules of Construction and Definitions.**

(1) The United States Code, title 1, sections 1 through 5, shall, as far as applicable, govern the construction of these rules.

(2) The following definitions shall apply:

[A] "Former local rules" means the General Rules for the United States District Court for the District of Alaska in effect immediately prior to the adoption of these rules on July 17, 1995.

[B] The terms "judge" or "court," unless specifically indicated otherwise, mean:

[i] a United States District Court Judge for the District of Alaska on active or senior status;

[ii] a United States Court of Appeals or District Court Judge, on active, senior, or retired status, designated to act as a District Court Judge for the District of Alaska for one or more cases pursuant to the provisions of 28 U.S.C. §§ 132(c), 291(b), 292(b) and (d), 293(a), or 294; or

[iii] a United States Magistrate Judge for the District of Alaska.

To the degree these rules apply to bankruptcy proceedings, the terms "judge" or "court" include a United States Bankruptcy Court Judge.

(3) If a party is appearing in an action unrepresented by counsel, all references in these rules to "counsel" or "attorneys" shall be construed to refer to the party.

(4) The numbering of these rules and the ordering of the subject matter of each rule generally follows that suggested by the Local Rules Project of the Committee on Rules of Practice and Procedure of the Judicial Conference of the United States in their uniform numbering system for local rules (1989).

LR 1.2 **Availability of the Local Rules.**

Copies of these rules, as amended, shall be maintained by the clerk of court and kept available for inspection and copying in the federal law library in Anchorage, and at the offices of the clerk of court for the United States District Court in Fairbanks, Juneau, Ketchikan, and Nome during their regular open hours. Notice of amendments shall be posted for a reasonable period of time on bulletin boards in the federal buildings in the cities where the court sits and published in a periodical of the Alaska Bar Association.

LR 1.3 **Sanctions.**

The court may impose sanctions for violations of local rules after notice and a reasonable opportunity to respond on the part of the person accused of a violation. Sanctions may include fines, costs and attorney's fees awards, establishment and preclusion orders, default, dismissal, and other appropriate sanctions; however, 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. For possible violations of ethical standards, the court may refer the matter for appropriate action to the relevant bar associations.

LR 3.1 **Papers to Accompany Initial Filing.**

Every complaint or other document initiating a civil action or removing a civil action to this court shall be accompanied by a completed civil cover sheet, on a form available from the clerk, and a notice of related cases, if required by D. Ak. LR 40.2. This requirement is for administrative purposes, and entries on the cover sheet do not affect the legal status of the action.

LR 3.2 **Venue and Place of Trial.**

(a) An action in which venue is proper in the United States District Court for the District of Alaska may be commenced in any of the locations specified by 28 U.S.C. § 81A. The court will decide on motion or *sua sponte* whether the action should be transferred to another location for case management or trial.

(b) If an action was commenced in state court and is removed to federal court, the notice of removal may be filed in any statutory location, provided the clerk shall promptly thereafter transfer the removed action to the statutory location in the same state judicial district as the state court in which it was filed. Additionally, it shall be transferred to the same city if there is a federal statutory location in the same city. The court will decide on motion or *sua sponte* whether the action should be transferred to another location for case management or trial.

LR 4.1 **Payment of Fees.**

Except for *in forma pauperis* proceedings, the clerk shall require payment of all fees required by law before the filing of cases or other action for which a fee is required. The clerk shall post the schedule of fees and shall make copies of the schedule available upon request.

LR 4.2 **Payment of Fees by *in Forma Pauperis* Litigants.**

(a) **Forms; Presentation of Applications to Judge.** The clerk shall provide such forms as are necessary for litigants to proceed *in forma pauperis* without prepayment of fees. The clerk shall present any such applications for approval to the judge who is authorized to make these determinations.

(b) ***In Forma Pauperis* Status Pursuant to 28 U.S.C. § 1915(d).**

(1) **Determination of Frivolousness.** The judge shall not grant an application if a review of the pleadings indicates that the claim is frivolous. If the pleadings indicate that the claim is not frivolous, the judge may order, as a condition of continuing the lawsuit, that the person filing *in forma pauperis* pay a partial filing fee, or other partial fees, commensurate with ability to pay.

(2) **Determination of Ability to Pay by Incarcerated Litigants.** For incarcerated litigants, ability to pay shall be based in relevant part upon the applicant's inmate account statement. Such litigants shall attach verified copies of their inmate account statement for the three-month period preceding submission of the complaint. In the case of a state prisoner who is newly incarcerated or has recently transferred from a local jail or federal penitentiary, the prisoner is to provide the court with the name of the institution transferred from, and any account statements currently available from the present place of incarceration. The court may, in its discretion, seek further information from the prisoner or the institutions.

(3) **Service of Orders; Updates of Financial Information.** The clerk shall serve a copy of the judge's orders on all defendants. Every litigant allowed to proceed *in forma pauperis* shall be ordered to report all significant changes in financial condition to the court.

LR 5.1 **Form of Pleadings and Other Papers — Filing.**

(a) **Form in General.** All pleadings, motions, affidavits, memoranda, instructions, and other papers and documents presented for filing with the clerk or intended for the use of the judge

(1) shall be upon letter size (8½0 by 110) white paper of good quality, of at least 16-pound weight, and not onionskin, except where ripple finish or other opaque paper is used, in which event the weight shall be at least 13 pound;

(2) shall be two-hole punched at the center of the top of each page;

(3) shall be either in original clear and legible typewriting with black ribbon, or in clear and legible printing in black ink;

(4) shall be in either double-spaced or one-and-one-half spaced typewriting or printing, except that lengthy quotations shall be single-spaced and indented;

(5) shall have margins all around of at least one inch, exclusive of identification printed on the stationery;

(6) shall, if consisting of more than one page, have each consecutive page numbered at the bottom center of each page; and

(7) all printed matter must appear in at least eleven point type, ten-pitch (10 characters per inch).

(b) **Chamber Copies.** Every paper filed shall be accompanied by a complete and legible copy for use by the judge in chambers. The clerk shall deliver the chambers copies to the judge to whom the case is assigned. The chambers copies shall not be treated as part of the official file in the case. They are subject to being marked up and discarded by the judge and law clerks and are not open to public inspection.

(c) **Exhibits.** All exhibits to pleadings shall be numbered progressively according to the number of the page of the exhibit, followed by the number or identification of the exhibit, e.g., "Ex. A, p. 1." All exhibits shall be permanently attached to the pleadings to which they belong so as to be easily accessible and readable without detaching them from the principal document. Exceptions to progressive numbering of exhibits may be permitted by the court where acceptable copies of original documents make it impractical to comply with the requirement.

(d) **Interlineation — One Side of Paper to Be Used.** All pleadings and other papers shall be without interlineation unless noted by the court, and shall be 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, affidavit, brief, judgment, order, and instructions shall be prepared as follows:

(1) The name, address, telephone number, and facsimile number (if available) of the attorney appearing for a party to an action or proceeding, or of a person appearing in propria persona, shall be typewritten or printed in the space to the left of center of the paper and beginning at least 1¼ inches below the top edge, or the attorney's name, address, and telephone number may be printed on the left-hand margin of the paper. In addition, such attorney shall identify the party the attorney represents.

(2) The title of the court shall be centered on the paper and shall 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 in propria persona if this appears at the top of the page as provided in paragraph (e)(1).

(3) A space below the title of the court and to the right of center on the page shall be reserved for the filing marks of the clerk. Below that shall be inserted the file number of the action or proceeding, including the initials of the judge assigned.

(4) Below the title of the court and to the left of center of the page the title of the action or proceeding shall be inserted. In the event all defendants cannot be named on the first page, the names of defendants only may appear on the second page. Except for complaints and summons, cumbersome captions may be reduced to indicate a single-named party as plaintiff followed by "et al." and a single-named party as defendant followed by "et al."

(5) Below the title of the court and file number, and either centered or to the right of center of the page, there shall be inserted a brief designation of the nature of the paper and, where relief is sought, the nature thereof.

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

(1) Names shall be typed beneath signatures to pleadings and other papers.

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

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

(h) **Reference to Other Parts of Pleading.** Where practical, reference to other portions of the same pleadings or other papers should be made to avoid repetition. In any action brought upon or any proceeding involving serial notes, bonds, coupons or obligations for the payment of money which 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 will be sufficient for the plaintiff to set forth in one claim of the complaint one of such notes, bonds, coupons, or obligations, either verbatim or according to legal effect. 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. Similar practice may be followed in any pleading where any two or more documents of similar form, tenor or effect are set forth. Any such document referred to in any pleading may be set forth either in the body of the pleading or in an exhibit attached thereto.

(i) **Replacing Papers Lost or Withheld.** If an original paper or pleading is lost or withheld by any person, the court may order a verified copy thereof to be filed and used in lieu of the original.

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

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

(l) **Length**. Unless otherwise ordered, principal briefs or memoranda of law in civil and criminal cases (including appeals) shall not exceed 50 pages and replies shall not exceed 25 pages, exclusive of pages containing a table of contents, table of citations, or reproductions of statutes, rules, regulations, ordinances, etc.

LR 5.2 **Filing and Proof of Service When Service is Required by Fed. R. Civ. P. 5.**

(a) **Proof of Service.** Proof of service pursuant to Fed. R. Civ. P. 5 shall be made by the recipient's acknowledgment of service or through certification of the person making the service. The certification shall include the persons upon whom it was served, the means of service, and the date it was served. Unless impractical, proof of service should be reflected on the document served, rather than on a separate document. Where a document includes attachments such as exhibits, affidavits, or a proposed order, the attachments do not need a separate certificate of service so long as they are specifically referenced in the certificate of service for the principal document.

(b) **Facsimile Filing and Service.** Pleadings may not be filed by facsimile transmission to the court, unless specifically authorized in advance by the court. The parties may, by written stipulation filed with the court, agree to service by fax. The stipulation may provide that service by fax alone is sufficient, or may require a follow-up hard copy. The stipulation should state which documents may be served by fax. If the parties stipulate to service by facsimile, the time periods under these rules commence with the date of the facsimile, provided that facsimile service shall not be used to extend time beyond that which would apply to service by mail. A stipulation for fax service does not require judicial approval to become effective. Service by fax is not service in the absence of such stipulation. Documents may not be filed with the court by fax unless so ordered.

(c) **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. Timely filing or service of a document by an inmate confined in an institution may be shown by a notarized statement or declaration in compliance with 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. For purposes of calculating response times under these rules and the Federal Rules of Civil Procedure, parties responding to a document mailed out 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.

LR 5.3 **Copies Required for Three-Judge Court.**

If a case is before a three-judge court, each party shall file three copies of each original paper filed for use by the judges in chambers.

LR 5.4 **Proposed Orders.**

(a) **Dispositive Motions.** Unless otherwise ordered by the court, parties may, but are not required to, serve and lodge with a dispositive motion, or opposition to a dispositive motion, a proposed order for the court to issue. "Dispositive" motions are motions to dismiss made pursuant to Fed. R. Civ. P. 12 and motions for summary judgment made pursuant to Fed. R. Civ. P. 56. The court may allow parties to submit proposed orders for dispositive motions on a computer disk in a computer language that is compatible with the court's computer system.

(b) **Routine Motions.** Parties shall file proposed orders with routine non-dispositive motions.

(c) **Form of Order.** A proposed order shall be self-explanatory and shall not require a review of the motion to understand the order. If the proposed order is for an extension of time or modification of time deadlines, it shall include a date certain by which the matter sought to be extended shall be accomplished.

LR 5.5 **Service Upon Parties by the Court**.

Unless otherwise ordered by the court, the clerk of court shall serve all orders and other papers generated by the court and filed in a case upon all parties to that case by mailing a copy thereof to the party's attorney of record, if represented, or to the party if appearing *pro se*. Where a party is represented by more than one attorney, such service shall be upon the attorney first appearing for the party, unless otherwise ordered by the court. Proof of such mailing shall be established by notation of the names of the attorneys (or *pro se* litigants) to whom a mailing was made and the date thereof on the foot of each such order or other paper.

LR 7.1 **Motion Practice.**

(a) **Motion and Opposition**.

A motion shall be initiated by the filing and service of a single document, and the motion and any opposition to a motion shall include or be accompanied by:

(1) A concise statement of the decision sought by the movant or opponent;

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

(3) Legible copies of affidavits, deposition excerpts, and properly authenticated documents or other exhibits as set forth in paragraph (4) below upon which the movant or opponent relies. Documents and depositions should be appropriately excerpted so that only the portions which the judge needs to read in order to make the decision are filed with the motion papers.

(4) The evidence ordinarily presented, in support of or in opposition to any motion, includes affidavits, declarations pursuant to 28 U.S.C. § 1746, deposition excerpts, admissions, verified interrogatory answers, and other similar documentary exhibits. Bulky, heavy or otherwise sensitive exhibits, such as controlled substances or firearms, shall be photographed and the photograph submitted, or leave of court shall be obtained for the submission. 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, shall be firmly attached as one document where practicable. Proposed orders shall not be stapled to motions or oppositions.

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

(c) **Citation of Unpublished Decisions; Judicial Notice.** Decisions not intended for publication shall not be cited in briefs or referred to in argument, except that unpublished decisions on the same issue by judges of this district, and unpublished decisions in the same or related case by another court, may be cited, provided complete copies of the decisions, or transcripts if the decisions were oral, are attached as exhibits to the relevant brief. The court may take judicial notice of the contents of case files within the District of Alaska to establish that other proceedings have taken place, that the same or similar claims have been raised and adjudicated, and other like matters. 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 that is 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 above shall subject motions to summary ruling by the court *sua sponte*. If the failure is by the movant, it may be deemed an admission that the motion is without merit, and, if by the opponent, that the motion is well taken. No 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.** Unless otherwise ordered by the court, an opposition shall be due within 15 days of service of the motion, and replies within 5 days of service of the opposition.

(f) **Format.** Format is controlled by the local rule on format of papers presented for filing, D. Ak. LR 5.1. Copies of proposed orders are controlled by the rule on that subject, D. Ak. LR 5.4.

(g) **Facsimile Copies.** Clear and legible faxed copies of documents in support of, or opposition to, a motion such as affidavits may be filed. A separate motion for leave to file a fax copy shall not be made. Originals shall be filed within 5 days after the fax copy has been filed. Faxes on thermal paper shall 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 shall file a motion requesting permission to do so and shall attach the original and a copy of the pleading or brief to the motion. If the motion is granted the clerk shall file the proposed pleading or brief, and if it is denied they shall be returned to the party. 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 2 pages, setting forth the citation, docket number, and page numbers of the brief to which the citation pertains. No argument can be included in such a notice.

(2) **Factual Materials.** Supplemental factual materials, such as 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. Such motions for leave shall reference by docket number the motion papers to which they pertain. Leave shall not be routinely granted. The court will consider, among other things, whether the material was available to the party when the briefs were due, and whether the pertinence of the material was established at the times for briefing. Leave may be conditioned as the court deems appropriate.

(i) **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 3 days after the date the last paper on that motion is filed. Any such request shall not be subject to withdrawal except by stipulation of all parties. The court will set the date and time for argument and notify the parties. The court may order oral argument without request, and may determine that argument is unnecessary and deny the request, in the exercise of its discretion. A late request shall be based upon a showing of good cause and will be addressed to the discretion of the court. Counsel should be familiar with the briefs and the record and should be prepared for a colloquy with the court regarding tentative views the court may have reached. Counsel should avoid reading briefs or a scripted argument aloud.

(j) **Motion Submitted**. A motion will be treated as submitted and ripe for decision after oral argument or after all briefs permitted by rule have been filed, or the times for such filing have elapsed, and no request for oral argument has been made within the time allowed.

(k) **Shortened Time.** A party may move for hearing or consideration of a matter on a time schedule shorter than contemplated under the rules. The motion for shortened time shall be accompanied by an affidavit explaining why shortened time is needed, what efforts have been made to work out the problem with counsel for other parties, the positions counsel for the other parties take, and what dates are of significance. The clerk shall immediately bring such motion to the judge's attention. The court may, if such a motion is granted, act *ex parte*, arrange a hearing, order briefing on shortened time, or take such other action as may be appropriate in the circumstances. The motion shall be accompanied by proof of service by a means reasonably likely to allow counsel for other parties opportunity to see the papers at least as soon as the judge, or by an affidavit explaining why service of the motion upon the opposing party under the circumstances should not be required.

(l) **Motions for Reconsideration.** Within 5 days of the notice of the ruling, a party may seek reconsideration of the ruling by filing a motion, limited to 5 pages, and, where appropriate, affidavits, deposition excerpts, or other factual materials. The date for notice of an oral ruling is the date the ruling is announced from the bench, or for parties not represented or present when the ruling is announced from the bench, 5 days from service by the clerk of the minutes of the proceeding, unless the judge then announces his intention to prepare a written ruling. The date for notice of a written ruling is the date the clerk serves such written ruling. An opposition to a motion for reconsideration may not be filed unless requested by the court, but the court will not grant reconsideration without first requesting an opposition. Any opposition is also limited to 5 pages. There shall be no reply unless requested by the court.

(m) **Motions Requiring Evidentiary Hearing.** If counsel believes that testimony must be heard or other evidence presented at a hearing, such as a motion for preliminary injunction or temporary restraining order, a motion for leave to present evidence may be filed. Ordinarily the motion for leave will be heard and decided at the hearing on the briefs and documentary evidence filed therewith. If the motion for leave is granted, a separate hearing will be scheduled. If counsel believe that the testimony should be heard at the initial hearing, a motion for shortened time may be filed for an evidentiary hearing at the same time as the hearing on the briefs. If any party obtains leave, all other parties may present evidence at the same hearing. In the absence of an order setting on an evidentiary hearing, it should be presumed that hearings are solely for the purpose of hearing arguments. All parties who intend to present testimony must, reasonably in advance of such hearing, file with the court and all other parties, a list of witnesses, together with a summary of what those witnesses will say, and an estimate of time needed, except where counsel files a written certification that a requirement of prior disclosure would risk serious injustice. If one of the parties appears at the hearing telephonically, any party intending to present or refer to documentary evidence shall serve copies of such documents on the party appearing telephonically so that the documentary evidence is received prior to the hearing, where possible.

(n) **Postponement of Submission.** All motions should be decided by the court as soon as practicable after all permitted pleadings or briefs have been filed, and, in any event, within 6 months from the filing of the motion. It is the responsibility of counsel to effect completion of the briefing of motions in accordance with the schedule contained in this rule, except where there is good cause to stipulate for the postponement of the briefing or postponement of formal submission to the court for a decision. Where one or more stipulations for postponement will make it impossible for the court to rule upon a motion within 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.

LR 7.2 **Telephonic Participation in Civil Cases.**

(a) **Authorization for Telephonic Participation.** The court may allow one or more parties, counsel, witnesses or the judge to participate telephonically in any hearing or deposition for good cause and in the absence of substantial prejudice to opposing parties. Requests to have incarcerated litigants appear telephonically should ordinarily be granted unless the litigant has a right to be personally present and declines to waive that right. Authorization for a witness to telephonically participate in a deposition does not bar the witnesses' testimony from being videotaped under D. Ak. LR 30.3, nor does it bar a party or attorney from being present at the site at which the witness is physically present.

(b) **Procedure.** The following procedure must be observed concerning telephonic participation in court hearings:

(1) When telephonic participation is requested, the court, before the hearing, shall designate the party responsible for arranging the call and the party or parties responsible for payment of the call. The party convenienced by holding a hearing telephonically shall pay the telephone cost of the hearing. The court shall pay the telephone cost if the judge is able to avoid traveling to the hearing. The defendant shall pay the cost if the civil defendant, defense attorney or defense witness is able to avoid traveling to the hearing. The plaintiff shall pay the cost if the plaintiff, plaintiff's attorney, or witness for the plaintiff is able to avoid traveling to the hearing. When a hearing is set telephonically at the request of or for the convenience of more than one party, the court may order one of those parties to pay the cost and order the other convenienced parties to compensate that party for a portion of the cost.

(2) At least one business day in advance of the hearing, the designated party shall contact the court's case management clerk for instructions on how to proceed.

(3) Upon convening a telephonic proceeding, the judge or the court reporter shall:

[A] Recite the case name, case number, names and locations of parties and counsel, and the type of hearing;

[B] Ascertain that all statements of all parties are audible to all participants;

[C] Give instructions on how the hearing is to be conducted, including notice that in order to preserve the record speakers must identify themselves each time they speak.

(4) A verbatim record must be made in accord with D. Ak. LR 80.1.

(c) **Public Access.** The right of public access to court proceedings must be preserved in accordance with law.

LR 9.1 **Social Security Number in Social Security Cases.**

Any person seeking judicial review of a decision of the Secretary of Health and Human Services under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g)) shall provide, on a separate paper attached to the complaint served on the Secretary of Health and Human Services, the social security number of the worker on whose wage record the application for benefits was filed. The person shall also state, in the complaint, that the social security number has been attached to the copy of the complaint served on the Secretary of Health and Human Services. Failure to provide a social security number to the Secretary of Health and Human Services will not be grounds for dismissal of the complaint.

LR 9.2 **Request for Three-Judge Court.**

(a) In any action or proceeding which a party believes is required to be heard by a three-judge district court, the words "Three-Judge District Court Requested" or the equivalent shall be included immediately following the title of the first pleading in which the cause of action requiring a three-judge court is pleaded. Unless the basis for the request is apparent from the pleading, it shall be set forth in the pleading or in a brief statement attached thereto. The words "Three-Judge District Court Requested" or the equivalent is a sufficient request under 28 U.S.C. § 2284.

(b) In any action or proceeding in which a three-judge court is requested, parties shall file the original and three copies of every pleading, motion, notice, or other document with the clerk until it is determined either that a three-judge court will not be convened or that the three-judge court has been convened and dissolved, and the case remanded to a single judge. The parties may be permitted to file fewer copies by order of the court.

(c) A failure to comply with this local rule is not a ground for failing to convene or for dissolving a three-judge court.

LR 9.3 **Habeas Corpus Petitions and Motions.**

(a) Petitions for writ of *habeas corpus* and motions pursuant to 28 U.S.C. §§ 2254 and 2255, brought by or on behalf of persons in custody, shall be written, signed, and verified. The clerk shall provide forms which may be used for such petitions and motions. Incomplete forms shall be returned for completion within such time as the clerk directs. The clerk shall retain a copy of the petition.

(b) In order to show inability to pay fees and costs, the petitioner shall complete an *in forma pauperis* affidavit substantially in the form supplied by the clerk. See also D. Ak. LR 4.2.

(c) Petitions and motions should be sent to the clerk of the court, and shall include an original and two copies of each paper. Any such paper sent to an individual judge will be referred to the clerk.

(d) Upon order of the court, in *habeas corpus* proceedings under 28 U.S.C. § 2254, one copy of state court documents, pleadings, opinions, and transcripts shall be lodged with the court. Only the notice of lodging shall be served on the other party; the lodged documents shall not be served. Documents and records which are confidential under Alaska law or court rule, or were filed under seal in state court, may be filed under seal by filing a "Notice of Filing Under Seal" which identifies the nature of the documents and the basis for confidentiality. Documents and records filed under seal are not open for public inspection. Lodged documents are part of the official file and may not be marked up or discarded.

LR 15.1 **Motions to Amend.**

A party who moves to amend a pleading shall attach the original and one copy of the amended pleading to the motion. Any amendment to a pleading, whether filed as a matter of course or upon a motion to amend, must, except by leave of court, reproduce the entire pleading as amended, and may not incorporate any prior pleading by reference.

LR 16.1 **Pre-Trial Procedures.**

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

(1) IRS 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; and

(9) actions in which no service upon defendants was effected within 120 days of filing of the complaint.

LR 16.2 **Alternative Dispute Resolution.**

(a) **Policy Favoring Settlement by ADR Methods.**

(1) **Mediation.** The court favors resolution of cases by negotiation to reduce litigation expense. To this end, the court promotes the use of mediation.

(2) **Other ADR Processes.** Other Alternative Dispute Resolution (ADR) processes may be used where agreed by the parties, including early neutral evaluation, arbitration, settlement conference, summary jury trial, and mini trial. It should be noted that the court will not make its personnel or facilities available for summary jury trials or mini trials and will not summon jurors to participate in such proceedings.

(b) **Use of ADR Processes.**

(1) **Early Consideration of ADR Processes.** At an early stage in every case, the parties must actively consider mediation or other ADR processes to facilitate, less costly resolution of the litigation.

(2) **Coordination of ADR With Case Management Rules.** At the meeting of parties pursuant to F. R. Civ. P. 26(f) and D. Ak. LR 26.2(f) and any conference regarding case management under F. R. Civ. P. 16 and D. Ak. LR 16.1, litigants shall discuss the advisability of using mediation or other ADR processes.

(c) **Adoption of ADR Process in a particular Case.**

(1) **Mediation.** The court may order mediation upon request of the parties, or one of them, or on the court's own motion.

(2) **Other ADR Processes.** In addition to mediation, the parties may stipulate, subject to court approval (and, in the case of arbitration, 28 U.S.C. §§ 654-658), to the use of any appropriate ADR process.

(d) **Timing of Mediation.** Unless otherwise ordered, mediation ordered by the court must be conducted within 90 days after the issuance of the initial case management order.

(e) **Conduct of Mediation.**

(1) **Use of Agreed Upon Mediator; Order.** Where the parties agree to mediate and on the choice of mediator, the parties shall lodge a proposed order setting forth:

[A] **Mediator.** The name and address of the mediator;

[B] **Parties' Statements.** Whether mediation statements are to be submitted to the mediator, whether they are to be shared or confidential, any limitation in length, when they are to be submitted (note: mediation statements submitted to the mediator in confidence or shared with other mediation parties may not be disclosed to anyone else without the parties' express consent and are not admissible in evidence in any proceeding related to subject matter of the mediation);

[C] **Cost of Mediation.** The mediator's fee schedule and required payment arrangements, including how the parties will allocate those costs;

[D] **Time and Place of Mediation.** The time and place the mediation is to commence and time available; and

[E] **Name of Principal Who Will Attend.** The name and position of the principal who will attend, who will normally be someone with authority to approve a settlement or one with substantial influence in whether a settlement should be approved (in which case, someone with authority should be readily available to ratify a settlement).

(2) **Selection of Mediator by the Court; Order.**

[A] **Judges.** If the parties cannot agree upon the mediator, the court may order that they mediate before a United States district, bankruptcy or magistrate judge, including a senior judge or a retired judge, who is not assigned to the case and who consents to serve. The judge will have the same duties, powers and rights as any other mediator under these rules, except as otherwise noted in this rule or as required by statute.

[B] **Order Regarding the Mediation.** Upon selection, the parties must meet with the mediating judge and lodge an order similar to that required under paragraph (e)(1), except the order will not provide for payment of compensation to the judge for acting as a mediator.

(3) **Mediator's Report of Results of Mediation.** Upon conclusion of the mediation, the mediator shall 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 which all parties have agreed in writing should be included in the report. The parties or their counsel must sign the mediator's report and any separate document setting forth their agreement, which, following an appropriate motion, the court may allow to be filed under seal.

(4) **Implementing A Settlement.** If the mediation results in a settlement, the parties must lodge 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 mediator's report. Upon written request filed within 30 days, the court may enlarge the time within which to file the appropriate closing papers.

(f) **Confidentiality of Mediation Communications.**

(1) **Communications by the Mediator.** No communication by a mediator may be disclosed by any person unless all parties to the mediation and the mediator consent. This applies to communications during, preliminary to, or after all mediation sessions.

(2) **Communications by Others.** A communication made by a person other than the mediator may be disclosed by a person other than the mediator only if all parties consent in writing. This applies to communications during, preliminary to, or after all mediation sessions.

(3) **Unprotected Communications.** Notwithstanding para- graphs (f)(1) and (f)(2), a communication is not protected to the extent that disclosure is required by state or federal law.

(4) **Court May Authorize Disclosure.** Notwithstanding subsections (f)(1) and (f)(2), a communication may be disclosed if the court, after a hearing, determines that (a) disclosure does not circumvent F.R.E. 408 and F. R. Civ. P. 68; (b) disclosure is necessary in the particular case to prevent a manifest injustice; and (c) the necessity for disclosure is of sufficient magnitude to outweigh the importance of protecting the general requirement of confidentiality in mediation proceedings.

(5) **Rules Applies to Associates and Staff.** Disclosure of confidential information to the staff and associates of the parties, of their counsel, or of the mediator, may be necessary to accomplish the mediation. All staff and associates are subject to this confidentiality rule.

(g) **Conflicts of Interest.**

(1) **Definition.** A conflict of interest for a mediator is a dealing or relationship that might reasonable be thought to create an appearance of bias.

(2) **Disclosure; Further Proceedings.** The mediator has a responsibility to disclose all dealings and relationships defined in paragraph (g)(1). If all parties agree, in writing, to mediate after being informed of all actual, apparent, or potential conflicts of interest, the mediator may proceed with the mediation; otherwise the mediator must decline to proceed.

(h) **Immunity of Neutrals.** All private persons serving as neutrals under this local rule are deemed to be performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity. United States district judges, bankruptcy judges, magistrate judges, senior judges and retired judges are entitled to absolute judicial immunity while serving as neutrals.

(i) **Compensation.** Unless the parties agree or the court orders otherwise, the cost of mediation will be borne equally by the parties. The mediator will advise the parties of the mediator's fee schedule and required payment arrangements so the parties can include this information in the proposed order required by paragraph (e)(1). If the expense of mediation or any matter regarding compensation creates issues that the parties, among themselves or with the mediator cannot agree upon, the parties or the mediator may ask the court to resolve the matter. In doing so, the court will take into consideration the financial conditions of the parties.

(j) **Administrator.** The chief judge of the district will designate an employee or judicial officer of the district to act as the Administrator of the court's mediation program.

(k) **Selection of Mediators and Other Neutrals; Roster of Neutrals.** The court recognizes that the parties have control over their own neutrals. The court expects any private person who agrees to serve as a neutral to have training or experience commensurate with the responsibility undertaken. In court-connected and other forms of mediation, it is desirable that the mediators selected by the parties have the requisite training and experience. The court lacks the resources to, and does not, investigate and approve mediators and other neutrals. Similarly, the court lacks the resources to create and maintain a roster of neutrals.

(l) **Definitions.** The term Alternative Dispute Resolution (ADR) refers to any method other than litigation for resolution of disputes. Definitions of some common ADR terms follow:

Neutral. The term "neutral" as used in these rules refers to an impartial person who facilitates discussions and dispute resolution between disputants in mediation, case evaluation or early neutral evaluation, and arbitration, or who presides over a settlement conference, summary jury trial or mini trial.

Mediation. Mediation is a process in which a neutral facil- itates settlement discussions between parties. The neutral has no authority to make a decision or impose a settlement upon the parties. The neutral attempts to focus the attention of the parties upon their needs and interests rather than upon rights and positions. Although in court-annexed or court-referred mediation programs the parties may be ordered to attend a mediation session, any settlement is entirely voluntary. In the absence of settlement, the parties do not lose the right to a jury trial.

Arbitration. Arbitration differs from mediation in that an arbitrator or panel of arbitrators renders a decision after hearing an abbreviated version of the evidence. In non-binding arbitration, either party may demand a trial within a specified period. The essential difference between mediation and arbitration is that arbitration is a form of adjudication, whereas mediation is not.

Case Evaluation or Early Neutral Evaluation. Case evaluation or early neutral evaluation is a process in which a lawyer with expertise in the subject matter of the litigation acts as a neutral evaluator of the case. Each side presents a summary of its legal theories and evidence. The evaluator assesses the strength of each side's case and assists the parties in narrowing the legal and factual issues in the case. This conference occurs early in the discovery process and is designed to "streamline" discovery and other pretrial aspects of the case. The early neutral evaluation of the case may also provide a basis for settlement discussions.

Summary Jury Trial. The summary jury trial is a non-binding abbreviated trial by mock jurors. A neutral selected by the parties presides, acting in the fashion of a judge. Principals with authority to settle the case attend. The resulting advisory jury verdict is intended to facilitate settlement negotiations.

Mini Trial. The mini trial is similar to the summary jury trial in that it is an abbreviated trial presided over by a neutral. Attorneys present their best case to party representatives with authority to settle. Generally, no decision is announced by the neutral. After the hearing, the party representatives begin settlement negotiations, perhaps calling on the neutral for an opinion as to how a court might decide the case.

LR 24.1 **Procedures for Notification of Any Claim of Unconstitutionality.**

(a) In any action, suit, or proceeding in which the United States or any agency, officer, or employee thereof is not a party and in which the constitutionality of an Act of Congress affecting the public interest is drawn in question, or in any action, suit, or proceeding in which a state or any agency, officer, or employee thereof is not a party, and in which the constitutionality of any statute of that state affecting the public interest is drawn in question, the party raising the constitutional issue shall notify the court of the existence of the question, either by checking the appropriate box on the Civil Cover Sheet or by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality" or the equivalent.

(b) Failure to comply with this rule will not be grounds for waiving the constitutional issue or for waiving any other rights the party may have. Any notice provided under this rule, or lack of notice, will not serve as a substitute for, or as a waiver of, any pleading requirement set forth in the Federal Rules of Civil Procedure or federal statutes.

LR 26.1 **General Discovery Rules.**

Pursuant to the authorization set forth in Fed. R. Civ. P. 26, the United States District Court for the District of Alaska has modified certain provisions of that rule. For clarity, the entire rule, as modified, is set forth in D. Ak. LR 26.2.

LR 26.2 **General Provisions Governing Discovery; Duty of Disclosure.**

(a) **Required Disclosures; Methods to Discover Additional Matter.** Disclosure under paragraphs (a)(1), (2) and (3) of this rule is required in all civil actions, except in those categories of cases exempted from the requirement of scheduling conferences and scheduling orders by D. Ak. LR 16.1 and in civil actions in which one of the parties is incarcerated.

(1) **Initial Disclosures.** Except to the extent otherwise directed by order, a party shall, without waiting for a discovery request, provide to other parties:

[A] the factual basis of each of its claims or defenses;

[B] the name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information and whether the attorney-client privilege applies;

[C] the name and, if known, the address and telephone number of each individual who has made a written or recorded statement and, unless the statement is privileged or otherwise protected from disclosure, either a copy of the statement or the name and, if known, the address and telephone number of the custodian;

[D] subject to the provisions of D. Ak. LR 26.2(b)(3), a copy of, or a description by category and location of, all documents, data compilations, and tangible things that are relevant to disputed facts alleged with particularity in the pleadings;

[E] subject to the provisions of D. Ak. LR 26.2(b)(3), all photographs, diagrams, and videotapes of persons, objects, scenes and occurrences that are relevant to disputed facts alleged with particularity in the pleadings;

[F] each insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment; and

[G] all categories of damages claimed by the disclosing party, and a computation of each category of special damages, making available for inspection and copying as under Fed. R. Civ. P. 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such claims are based, including materials bearing on the nature and extent of injuries suffered.

Unless otherwise directed by the court, these disclosures shall be made at or within 10 days after the meeting of the parties under subsection (f). A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

(2) **Disclosure of Expert Testimony.**

[A] In addition to the disclosures required by paragraph (a)(1), a party shall disclose to other parties the identity of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence.

[B] Except as otherwise stipulated or directed by the court, this disclosure shall, with respect to a witness who is retained or specially employed to provide expert testimony in the case or whose duties as an employee of the party regularly involve giving expert testimony, be accompanied by a written report prepared and signed by the witness. The report shall contain a complete statement of all opinions to be expressed and the basis and reasons therefor; the data or other information considered by the witness in forming the opinions; any exhibits to be used as a summary of or support for the opinions; the qualifications of the witness, including a list of all publications authored by the witness within the preceding 10 years; the compensation to be paid for the study and testimony; and a listing of any other cases in which the witness has testified as an expert at trial or by deposition within the preceding 4 years.

[C] These disclosures shall be made at the times and in the sequence directed by the court. In the absence of other directions from the court or stipulation by the parties, the disclosures shall be made at least 90 days before the trial date or the date the case is to be ready for trial or, if the evidence is intended solely to contradict or rebut evidence on the same subject matter identified by another party under subparagraph (a)(2)[B], within 30 days after the disclosure made by either party. The parties shall supplement these disclosures when required under paragraph (e)(1).

[D] No more than 1 independent expert witness may testify for each side as to the same issue in any given case. For purposes of this rule, an independent expert is an expert from whom a report is required under subparagraph (a)(2)[B]. The court may, upon a showing of good cause, increase the number of independent experts to be called.

(3) **Pre-Trial Disclosures.** In addition to the disclosures required in the preceding paragraphs, a party shall provide to other parties the following information regarding the evidence that it may present at trial other than solely for impeachment purposes:

[A] the name and, if not previously provided, the address and telephone number of each witness, separately identifying those whom the party expects to present and those whom the party may call if the need arises;

[B] the designation of those witnesses whose testimony is expected to be presented by means of a deposition and, if not taken stenographically, a transcript of the pertinent portions of the deposition testimony; and

[C] an appropriate identification of each document or other exhibit, including summaries of other evidence, separately identifying those which the party expects to offer and those which the party may offer if the need arises.

These disclosures shall be made at the times and in the sequence directed by the court. Within 14 days thereafter, unless a different time is specified by the court, a party may serve and file a list disclosing any objections to the use under Fed. R. Civ. P. 32 of a deposition designated by another party under subparagraph (a)(3)[B] and any objection, together with the grounds therefor, that may be made to the admissibility of materials identified under subparagraph (a)(3)[C]. Objections not so disclosed, other than objections under Rules 402 and 403 of the Federal Rules of Evidence, shall be deemed waived unless excused by the court for good cause shown.

(4) **Form of Disclosures.** Unless otherwise directed by the court, all disclosures under paragraphs (a)(1)-(3) shall be made in writing, signed, and served in accordance with D. Ak. LR 5.2.

(5) **Methods to Discover Additional Matter.** Parties may obtain discovery by one or more of the following methods: depositions upon oral examination or written questions; written interrogatories; requests for production of documents or things; requests for permission to enter upon land or other property for inspection and other purposes; requests for physical and mental examinations; and requests for admission.

(b) **Discovery Scope and Limits.** Unless otherwise limited by order of the court in accordance with these rules, the scope of discovery is as follows:

(1) **In General.** Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things, and the identity and location of persons having knowledge of any discoverable matter. The information sought need not be admissible at the trial if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) **Limitations.** The court may alter the limits in these rules on the number of depositions and interrogatories, the length of depositions under D. Ak. LR 30.1, and the number of requests under Fed. R. Civ. P. 36. The frequency or extent of use of the discovery methods otherwise permitted under these rules shall be limited by the court if it determines that: [A] the discovery sought is unreasonably cumulative or duplicative, or is obtainable from some other source that is more convenient, less burdensome, or less expensive; [B] the party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or [C] the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving the issues. The court may act upon its own initiative after reasonable notice or pursuant to a motion under subsection (c) of this rule.

(3) **Trial Preparation: Materials.** Subject to the provisions of paragraph (b)(4) of this rule, a party may obtain discovery of documents and tangible things otherwise discoverable under paragraph (b)(1) of this rule and prepared in anticipation of litigation or for trial by or for another party or by or for that other party's representative (including the other party's attorney, consultant, surety, indemnitor, insurer, or agent) only upon a showing that the party seeking discovery has substantial need of the materials in the preparation of the party's case and that the party is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of such materials when the required showing has been made, the court shall protect against disclosure of the mental impressions, conclusions, opinions or legal theories of an attorney or other representative of a party concerning the litigation.

A party may obtain without the required showing a statement concerning the action or its subject matter previously made by that party. Upon request, a person not a party may obtain without the required showing a statement concerning the action or its subject matter previously made by that person. If the request is refused, the person may move for a court order. The provisions of D. Ak. LR 37.1(a)(4) apply to the award of expenses incurred in relation to the motion. For purposes of this paragraph, a statement previously made is [A] a written statement signed or otherwise adopted or approved by the person making it, or [B] a stenographic, mechanical, electrical, or other recording, or a transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded.

(4) **Trial Preparation: Experts.**

[A] A party may depose any person who has been identified as an expert whose opinions may be presented at trial. If a report from the expert is required under subparagraph (a)(2)[B], the deposition shall not be conducted until after the report is provided.

[B] A party may, through interrogatories or by deposition, discover facts known or opinions held by an expert who has been retained or specially employed by another party in anticipation of litigation or preparation for trial and who is not expected to be called as a witness at trial only as provided in Fed. R. Civ. P. 35(b) or upon a showing of exceptional circumstances under which it is impracticable for the party seeking discovery to obtain facts or opinions on the same subject by other means.

[C] Unless manifest injustice would result, [i] the court shall require that the party seeking discovery pay the expert a reasonable fee for time spent in responding to discovery under this paragraph; and [ii] with respect to discovery obtained under subparagraph (b)(4)[B] of this rule, the court shall require the party seeking discovery to pay the other party a fair portion of the fees and expenses reasonably incurred by the latter party in obtaining facts and opinions from the expert.

(5) **Claims of Privilege or Protection of Trial Preparation Materials.** When a party withholds information otherwise discoverable under these rules by claiming that it is privileged or subject to protection as trial preparation material, the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that, without revealing information itself privileged or protected, will enable other parties to assess the applicability of the privilege or protection.

(c) **Protective Orders.** Upon motion by a party or by the person from whom discovery is sought, accompanied by a certification that the movant has in good faith conferred or attempted to confer with other affected parties in an effort to resolve the dispute without court action, and for good cause shown, the court in which the action is pending or, alternatively, on matters relating to a deposition, the court in the district where the deposition is to be taken may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) that the disclosure or discovery not be had;

(2) that the disclosure or discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery;

(4) that certain matters not be inquired into, or that the scope of the disclosure or discovery be limited to certain matters;

(5) that discovery be conducted with no one present except persons designated by the court;

(6) that a deposition, after being sealed, be opened only by order of the court;

(7) that a trade secret or other confidential research, development, or commercial information not be revealed or be revealed only in a designated way; and

(8) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or other person provide or permit discovery. The provisions of D. Ak. LR 37.1(a)(4) apply to the award of expenses incurred in relation to the motion.

(d) **Timing and Sequence of Discovery.**

(1) **Non-Exempted Actions.** Except when authorized under these rules, by order of the court, or by agreement of the parties, a party may not seek discovery from any source before the parties have met and conferred as required by subsection (f) of this rule.

(2) **Sequence of Discovery.** Unless the court upon motion, for the convenience of parties and witnesses and in the interests of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's discovery.

(e) **Supplementation of Disclosures and Responses.** A party who has made a disclosure under subsection (a) or responded to a request for discovery with a disclosure or response is under a duty to supplement or correct the disclosure or response to include information thereafter acquired if ordered by the court or in the following circumstances:

(1) A party is under a duty to supplement at appropriate intervals its disclosures under subsection (a) if the party learns that in some material respect the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. With respect to testimony of an expert from whom a report is required under subparagraph (a)(2)[B], the duty extends both to information contained in the report and to information provided through a deposition of the expert, and any additions or other changes to this information shall be disclosed by the time the party's disclosures under D. Ak. LR 26.2(a)(3) are due.

(2) A party is under a duty seasonably to amend a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing.

(f) **Meeting of Parties: Planning for Discovery.** Except in actions exempted from the requirement of pre-trial scheduling conferences under D. Ak. LR 16.1, civil actions where one of the parties is incarcerated, or when otherwise ordered, the parties shall, as soon as practicable and in any event at least 14 days before a scheduling conference is held or a scheduling order is due, meet to discuss the nature and basis of their claims and defenses and the possibilities for a prompt settlement or resolution of the case, to make or arrange for the disclosures required by paragraph (a)(1), and to develop a proposed discovery plan. The plan shall indicate the parties' views and proposals concerning:

(1) what changes should be made in the timing or form of disclosures under subsection (a), including a statement as to when disclosures under paragraph (a)(1) were made or will be made, and what are appropriate intervals for supplementation of disclosure under D. Ak. LR 26.2(e)(1);

(2) the subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues;

(3) what changes should be made in the limitations on discovery imposed under these rules and what other limitations should be imposed;

(4) whether a scheduling conference is necessary; and

(5) any other orders that should be entered by the court under subsection (c) or under Fed. R. Civ. P. 16.

The attorneys of record and all unrepresented parties that have appeared in the case are jointly responsible for arranging and being present or represented at the meeting, for attempting in good faith to agree on the proposed discovery plan, and for submitting to the court within 10 days after the meeting a written report outlining the plan.

(g) **Signing of Disclosures, Discovery Requests, Responses, and Objections.**

(1) Every disclosure made pursuant to paragraph (a)(1) or (a)(3) shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the disclosure and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the disclosure is complete and correct as of the time it is made.

(2) Every discovery request, response, or objection made by a party represented by an attorney shall be signed by at least one attorney of record in the attorney's individual name, whose address shall be stated. An unrepresented party shall sign the request, response, or objection and state the party's address. The signature of the attorney or party constitutes a certification that to the best of the signer's knowledge, information, and belief, formed after a reasonable inquiry, the request, response, or objection is:

[A] consistent with these rules and warranted by existing law or a good faith argument for the extension, modification, or reversal of existing law;

[B] not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation; and

[C] not unreasonable or unduly burdensome or expensive, given the needs of the case, the discovery already had in the case, the amount in controversy, and the importance of the issues at stake in the litigation.

If a request, response, or objection is not signed, it shall be stricken unless it is signed promptly after the omission is called to the attention of the party making the request, response or objection, and a party shall not be obligated to take any action with respect to it until it is signed.

(3) If without substantial justification a certification is made in violation of the rule, the court, upon motion or upon its own initiative, shall impose upon the person who made the certification, the party on whose behalf the disclosure, request, response, or objection is made, or both, an appropriate sanction, which may include an order to pay the amount of the reasonable expenses incurred because of the violation, including a reasonable attorney's fee.

LR 26.3 **Discovery Authorized in Exempted Actions.**

In actions exempted from D. Ak. LR 26.2, i.e., actions exempted from scheduling conferences under D. Ak. LR 16.1 and civil actions where one of the parties is incarcerated, to the degree the rules of discovery apply, discovery may take place as follows:

(1) For depositions upon oral examination pursuant to Fed. R. Civ. P. 30 and D. Ak. LR 30.1, a defendant may take depositions at any time after the commencement of the action. The plaintiff must obtain leave of court only if he seeks to take a deposition prior to the expiration of 30 days after service of the summons and complaint upon any defendant or service by publication if authorized, except that leave is not required [i] if a defendant has served a notice of taking deposition or otherwise sought discovery or [ii] the plaintiff seeks to take the deposition pursuant to D. Ak. LR 30.1(a)(2)[C]. The taking of depositions by all parties are further restricted by the provisions of D. Ak. LR 30.1(a)(2).

(2) For depositions upon written questions pursuant to Fed. R. Civ. P. 31 and D. Ak. LR 31.1, all parties may serve questions at any time after the commencement of the action, subject also to the provisions of D. Ak. LR 31.1(a)(2).

(3) For interrogatories, requests for production, and requests for admission pursuant to Fed. R. Civ. P. 33, 34, and 36, discovery requests may be served upon the plaintiff at any time after the commencement of the action, and upon a defendant after the defendant has been served with a copy of the summons and complaint, been served by publication if authorized, or entered an appearance in the action.

LR 26.4 **Filing of Discovery Documents.**

Disclosures pursuant to D. Ak. LR 26.2(a)(1)-(3), depositions, interrogatories, requests for production, requests for admissions, and responses thereto, shall not be filed in court. Counsel may attach such documents or excerpts as exhibits to motions where appropriate and may provide and use them at trial as exhibits.

LR 30.1 **Depositions Upon Oral Examination.**

(a) **When Depositions May Be Taken; When Leave Required.**

(1) A party may take the testimony of any person, including a party, by deposition upon oral examination without leave of court except as provided in paragraph (a)(2) and D. Ak. LR 26.3(1). The attendance of witnesses may be compelled by subpoena as provided in Fed. R. Civ. P. 45.

(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in D. Ak. LR 26.2(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties,

[A] a proposed deposition would result in more than 3 depositions being taken under this rule or D. Ak. LR 31.1 by the plaintiffs, or by the defendants, or by third-party defendants, of witnesses other than

[i] parties, which means any individual identified as a party in the pleadings and any individual whom a party claims in its disclosure statements is covered by the attorney-client privilege;

[ii] independent expert witnesses expected to be called at trial;

[iii] treating physicians; and

[iv] document custodians whose depositions are necessary to secure the production of documents or to establish an evidentiary foundation for the admissibility of documents;

[B] the person to be examined already has been deposed in the case; or

[C] a party seeks to take a deposition before the time specified in D. Ak. LR 26.2(d) or D. Ak. LR 26.3(1) unless the notice contains a certification, with supporting facts, that the person to be examined is expected to leave the United States and be unavailable for examination in this country unless deposed before that time.

(b) **Notice of Examination: General Requirements; Production of Documents and Things; Deposition of Organization; Deposition by Telephone.**

(1) A party desiring to take the deposition of any person upon oral examination shall give reasonable notice in writing to every other party to the action. The notice shall state the time and place for taking the deposition and the name and address of each person to be examined, if known, and, if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs. If a *subpoena duces tecum* is to be served on the person to be examined, the designation of the materials to be produced as set forth in the subpoena shall be attached to, or included in, the notice.

(2) [See D. Ak. LR 30.3.]

(3) With prior notice to the deponent and other parties, any party may designate another method to record the deponent's testimony in addition to the method specified by the person taking the deposition. The additional record or transcript shall be made at that party's expense unless the court otherwise orders.

(4) [See D. Ak. LR 30.3.]

(5) The notice to a party deponent may be accompanied by a request made in compliance with Fed. R. Civ. P. 34 for the production of documents and tangible things at the taking of the deposition. The procedures of Fed. R. Civ. P. 34 shall apply to the request.

(6) A party may in the party's notice and in a subpoena, name as the deponent a public or private corporation or a partnership or association or governmental agency and describe with reasonable particularity the matters on which examination is requested. In that event, the organization so named shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, and may set forth, for each person designated, the matters on which the person will testify. A subpoena shall advise a non-party organization of its duty to make such a designation. The persons so designated shall testify as to matters known or reasonably available to the organization. This paragraph does not preclude taking a deposition by any other procedure authorized in these rules.

(7) The parties may stipulate in writing or the court may upon motion order that a deposition be taken by telephone or other remote electronic means. For purposes of this rule and Fed. R. Civ. P. 28(a), D. Ak. LR 37.1(a)(1) and 37.1(b)(1), a deposition taken by such means is taken in the judicial district and at the place where the deponent is to answer questions.

(c) **Examination and Cross-Examination; Record of Examination; Oath; Objections.** Examination and cross-examination of witnesses may proceed as permitted at the trial under provisions of the Federal Rules of Evidence. The officer before whom the deposition is to be taken shall put the witness on oath or affirmation and shall personally, or by someone acting under the officer's direction and in the officer's presence, record the testimony of the witness. For an audio or audio-visual deposition, any officer authorized by the laws of this state to administer oaths shall swear the witness. The recording machinery may be operated by such officer, or someone acting under the officer's direction and in the officer's presence, even where such officer is also an attorney in the case. The testimony shall be taken stenographically or recorded by audio or audio-visual means. A party may arrange at the party's own expense to have any portion of the record typewritten.

All objections made at the time of the examination to the qualifications of the officer taking the deposition, to the manner of taking it, to the evidence presented, to the conduct of any party, or to any other aspect of the proceedings, shall be noted by the officer upon the record of the deposition; but the examination shall proceed, with the testimony being taken subject to the objections. In lieu of participating in the oral examination, parties may serve written questions in a sealed envelope on the party taking the deposition and the party taking the deposition shall transmit them to the officer, who shall propound them to the witness and record the answers verbatim.

(d) **Schedule and Duration; Motion to Terminate or Limit Examination.**

(1) Any objections to evidence during a deposition shall be stated concisely and in a non-argumentative and non-suggestive manner. No specification of the defect in the form of the question or the answer shall be stated unless requested by the party propounding the question. A party may instruct a deponent not to answer only when necessary to preserve a privilege, to enforce a limitation on evidence directed by the court, or to present a motion under paragraph (d)(3). Off-the-record conferences between the deponent and counsel following the propounding of a question and prior to the answer are prohibited.

(2) Depositions shall be of reasonable length. Oral depositions shall not, except pursuant to stipulation of the parties or court order, exceed 6 hours in length for parties, independent expert witnesses, and treating physicians, and 3 hours in length for other deponents. The court shall allow additional time consistent with D. Ak. LR 26.2(b)(2) if needed for a fair examination of the deponent or if the deponent or another party impedes or delays the examination. In deciding whether to allow additional time for fair examination of a deponent or class of deponents, the court may take into account, among other factors, the complexity of the case, the number of parties likely to examine a deponent, and the extent of relevant information possessed by the deponent. If the court finds that there has been an impediment, delay, or other conduct that has frustrated the fair examination of the deponent, it may impose upon the persons responsible an appropriate sanction, including the reasonable costs and attorney's fees incurred by any parties as a result thereof.

(3) At any time during a deposition, on motion of a party or of the deponent and upon a showing that the examination is being conducted in bad faith or in such manner as unreasonably to annoy, embarrass, or oppress the deponent or party, the court in which the action is pending or the court in the judicial district where the deposition is being taken may order the officer conducting the examination to cease forthwith from taking the deposition, or may limit the scope and manner of the taking of the deposition as provided in D. Ak. LR 26.2(c). If the order made terminates the examination, it shall be resumed thereafter only upon the order of the court in which the action is pending. Upon demand of the objecting party or deponent, the taking of the deposition shall be suspended for the time necessary to make a motion for an order. The provisions of D. Ak. LR 37.1(a)(4) apply to the award of expenses incurred in relation to the motion.

(e) **Review by Witness; Changes; Signing.** If requested by the deponent or a party before completion of the deposition, the deponent shall have 30 days in which to review the transcript or recording after being notified by the officer that the transcript or recording is available and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by paragraph (f)(1) whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

(f) **Certification and Transmission by Officer; Exhibits; Copies; Notice of Transmission.**

(1) The officer shall certify that the witness was duly sworn by the officer and that the deposition is a true record of the testimony given by the witness. This certificate shall be in writing and accompany the record of the deposition. The officer shall securely seal the deposition in an envelope or package endorsed with the title of the action and marked “Deposition of [here insert name of witness]” and shall promptly send it to the attorney who arranged for the transcript or recording, who shall store it under conditions that will protect it against loss, destruction, tampering, or deterioration.

Documents and things produced for inspection during the examination of the witness, shall, upon the request of a party, be marked for identification and annexed to the deposition, and may be inspected and copied by any party, except that if the person producing the materials desires to retain them the person may [A] offer copies to be marked for identification and annexed to the deposition and to serve thereafter as originals if the person affords to all parties fair opportunity to verify the copies by comparison with the originals, or [B] offer the originals to be marked for identification, after giving to each party an opportunity to inspect and copy them, in which event the materials may then be used in the same manner as if annexed to the deposition. Any party may move for an order that the original be annexed to and returned with the deposition to the court, pending final disposition of the case.

(2) Unless otherwise ordered by the court or agreed by the parties, the officer shall retain stenographic notes of any deposition taken stenographically or a copy of the recording of any deposition taken by another method. Upon payment of reasonable charges therefor, the officer shall furnish a copy of the transcript or other recording of the deposition to any party or to the deponent.

(3) The party taking the deposition shall give prompt notice of its receipt from the officer to all other parties.

(4) A party dismissed from an action shall deliver original depositions in the party's possession to the plaintiff or another party remaining in the action and shall promptly certify to the court that all depositions have been delivered and identify the party now responsible for their safekeeping.

(g) **Failure to Attend or to Serve Subpoena; Expenses.**

(1) If the party giving the notice of the taking of a deposition fails to attend and proceed therewith and another party attends in person or by attorney pursuant to the notice, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees.

(2) If the party giving the notice of the taking of a deposition of a witness fails to serve a subpoena upon the witness and the witness, because of such failure, does not attend, and if another party attends in person or by attorney because that party expects the deposition of that witness to be taken, the court may order the party giving the notice to pay to such other party the reasonable expenses incurred by that party and that party's attorney in attending, including reasonable attorney's fees.

LR 30.2 **Depositions.**

(a) Depositions shall not be routinely filed with the clerk of court.

(b) Motions to publish depositions shall not be made, and parties may use depositions or deposition excerpts without orders for publication. If any party seeks to maintain confidentiality for all or any part of a deposition, that party may move for a protective order.

(c) Depositions which counsel anticipate employing for purposes other than impeachment during trial shall be marked for identification as though an exhibit, pursuant to D. Ak. LR 39.3, and may be admitted in whole or in part upon application during trial.

LR 30.3 **Audio and Audio-Visual Depositions.**

(a) **Authorization of Audio-Visual Depositions.**

(1) As authorized by Fed. R. Civ. P. 30(b)(2), any deposition upon oral examination may be recorded by audio or audio-visual means without a stenographic record. Any party may make at its own expense a simultaneous stenographic or audio record of the deposition. Upon a party's request and at such party's expense, any party is entitled to an audio or audio-visual copy of the audio-visual recording.

(2) The audio or audio-visual recording is an official record of the deposition. A transcript prepared in accordance with Fed. R. Civ. P. 30(b)(4) or 30(c) is also an official record of the deposition.

(3) On motion for good cause the court may order the party taking, or who took, a deposition by audio or audio-visual recording to furnish at such party's expense a transcript of the deposition.

(b) **Use.** An audio or audio-visual deposition may be used for any purpose and under any circumstances in which a stenographic deposition may be used.

(c) **Notice.** The notice for taking an audio or audio-visual deposition and the subpoena for attendance at that deposition must state that the deposition will be recorded by audio or audio-visual means. If a court reporter will not be used to record the deposition, the notice must also state this fact.

(d) **Procedure.** The following procedure must be observed in recording an audio or audio-visual deposition:

(1) The deposition must begin with an oral statement which includes:

[A] the operator's name and business address;

[B] the name and business address of the operator's employer;

[C] the date, time, and place of the deposition;

[D] the caption of the case;

[E] the name of the witness;

[F] the party on whose behalf the deposition is being taken; and

[G] any stipulations by the parties.

(2) Counsel shall identify themselves on the recording.

(3) The oath must be administered to a witness on the recording.

(4) The videotaped deposition shall depict the witness in a waist-up shot, seated at a table. The camera and lens shall not be varied except as may be necessary to follow natural body movements of the witness or to present exhibits or describe evidence that is being used during the deposition.

(5) If the length of the deposition requires the use of more than one recording tape or other unit, the end of each such tape or unit and the beginning of each succeeding one must be announced on the recording.

(6) At the conclusion of the deposition, a statement must be made on the recording that the deposition is concluded. A statement may be made on the recording setting forth any stipulations made by counsel concerning the custody of the recording and exhibits or other pertinent matters.

(7) Audio depositions must be indexed by a brief written log notation of the recorder counter number at the beginning of each examination whether direct, cross, re-direct, etc. The log must be attached to the tape or other unit.

(8) Audio-visual depositions may be indexed by a time generator or similar method.

(9) Objections must be made as they would in stenographic depositions.

(10) Unless otherwise ordered by the court, the original audio or audio-visual recording of a deposition shall be held by the party noticing the deposition.

(11) If the court issues an editing order, the original audio or audio-visual recording must not be altered.

(e) **Standards.** The clerk of court may establish standards for audio or audio-visual equipment and guidelines for taking and using audio or audio-visual depositions. Incompatible audio or audio-visual recordings must be conformed to the standards at the expense of the proponent. Conformed recordings may be used as originals.

LR 31.1 **Depositions Upon Written Questions.**

(a) **Serving Questions; Notice.**

(1) A party may take the testimony of any person, including a party, by deposition upon written questions without leave of court except as provided in paragraph (a)(2) and D. Ak. LR 26.3(2). The attendance of witnesses may be compelled by the use of subpoena as provided in Fed. R. Civ. P. 45.

(2) A party must obtain leave of court, which shall be granted to the extent consistent with the principles stated in D. Ak. LR 26.2(b)(2), if the person to be examined is confined in prison or if, without the written stipulation of the parties,

[A] a proposed deposition would result in more than 3 depositions being taken under this rule or D. Ak. LR 30.1 by the plaintiffs, or by the defendants, or by third-party defendants, of witnesses other than

[i] parties, which means any individual identified as a party in the pleadings and any individual whom a party claims in its disclosure statements is covered by the attorney-client privilege;

[ii] independent expert witnesses expected to be called at trial;

[iii] treating physicians; and

[iv] document custodians whose depositions are necessary to secure the production of documents or to establish an evidentiary foundation for the admissibility of documents;

[B] the person to be examined already has been deposed in the case; or

[C] a party seeks to take a deposition before the time specified in D. Ak. LR 26.2(d) or D. Ak. LR 26.3(2).

(3) A party desiring to take a deposition upon written questions shall serve them upon every other party with a notice stating

[A] the name and address of the person who is to answer them, if known, and if the name is not known, a general description sufficient to identify the person or the particular class or group to which the person belongs, and [B] the name or descriptive title and address of the officer before whom the deposition is to be taken. A deposition upon written questions may be taken of a public or private corporation or a partnership or association or governmental agency in accordance with the provisions of D. Ak. LR 30.1(b)(6).

(4) Within 30 days after the notice and written questions are served, a party may serve cross questions upon all other parties. Within 10 days after being served with cross questions, a party may serve re-direct questions upon all other parties. Within 10 days after being served with re-direct questions, a party may serve re-cross questions upon all other parties. The court may, for cause shown, enlarge or shorten the time.

(b) **Officer to Take Responses and Prepare Record.** A copy of the notice and copies of all questions served shall be delivered by the party taking the deposition to the officer designated in the notice, who shall proceed promptly, in the manner provided by D. Ak. LR 30.1(c), (e), and (f), to take the testimony of the witness in response to the questions and to prepare, certify, and deliver the deposition to the party taking the deposition, attaching thereto the copy of the notice and the questions received by him.

(c) **Notice of Transmission.** When the completed and certified deposition is received by the party taking it pursuant to the provisions of subsection (b), that party shall promptly give notice thereof to all other parties.

LR 37.1 **Failure to Make Disclosure or Cooperate in Discovery: Sanctions.**

(a) **Motion for Order Compelling Disclosure or Discovery.** A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling disclosure or discovery as follows:

(1) **Appropriate Court.** An application for an order to a party may be made to the court in which the action is pending, or, on matters relating to a deposition, to the court in the judicial district where the deposition is being taken. An application for an order to a deponent who is not a party shall be made to the court in the judicial district where the deposition is being taken.

(2) **Motion.**

[A] If a party fails to make a disclosure required by D. Ak. LR 26.2(a), any other party may move to compel disclosure and for appropriate sanctions. The motion must include a certification stated in the first paragraph of the motion that the movant has in good faith conferred or attempted to confer with the party not making the disclosure in an effort to secure the disclosure without court action.

[B] If a deponent fails to answer a question propounded or submitted under D. Ak. LR 30.1 or 31.1, or a corporation or other entity fails to make a designation under D. Ak. LR 30.1(b)(6) or 31.1(a), or a party fails to answer an interrogatory submitted under Fed. R. Civ. P. 33, or if a party, in response to a request for inspection submitted under Fed. R. Civ. P. 34, fails to respond that inspection will be permitted as requested or fails to permit inspection as requested, the discovering party may move for an order compelling an answer, or a designation, or an order compelling inspection in accordance with the request. The motion must include a certification stated in the first paragraph of the motion that the movant has in good faith conferred or attempted to confer with the person or party failing to make the discovery in an effort to secure the information or material without court action. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before applying for an order.

(3) **Evasive or Incomplete Disclosure, Answer, or Response.** For purposes of this subsection an evasive or incomplete disclosure, answer, or response is to be treated as a failure to disclose, answer, or respond.

(4) **Expenses and Sanctions.**

[A] If the motion is granted or if the disclosure or requested discovery is provided after the motion was filed, the court shall, after affording an opportunity to be heard, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct or both of them to pay to the moving party the reasonable expenses incurred in making the motion, including attorney's fees, unless the court finds that the motion was filed without the movant's first making a good faith effort to obtain the disclosure or discovery without court action, or that the opposing party's non-disclosure, response or objection was substantially justified, or that other circumstances make an award of expenses unjust.

[B] If the motion is denied, the court may enter any protective order authorized under D. Ak. LR 26.2(c) and shall, after affording an opportunity to be heard, require the moving party or the attorney filing the motion or both of them to pay to the party or deponent who opposed the motion the reasonable expenses incurred in opposing the motion, including attorney's fees, unless the court finds that the making of the motion was substantially justified or that other circumstances make an award of expenses unjust.

[C] If the motion is granted in part and denied in part, the court may enter any protective order authorized under D. Ak. LR 26.2(c) and may, after affording an opportunity to be heard, apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

(b) **Failure to Comply With Order.**

(1) **Sanctions by Court in Judicial District Where Deposition is Taken.** If a deponent fails to be sworn or to answer a question after being directed to do so by the court, the failure may be considered a contempt of that court.

(2) **Sanctions by Court in Which Action is Pending.** If a party or an officer, director, or managing agent of a party or a person designated under D. Ak. LR 30.1(b)(6) or 31.1(a) to testify on behalf of a party fails to obey an order to provide or permit discovery, including an order made under subsection (a) of this rule or Fed. R. Civ. P. 35, or if a party fails to obey an order entered under Fed. R. Civ. P. 16 or D. Ak. LR 26.2(f), the court in which the action is pending may make such orders in regard to the failure as are just, and, among others, the following:

[A] An order that the matters regarding which the order was made or any other designated facts shall be taken to be established for the purposes of the action in accordance with the claim of the party obtaining the order;

[B] An order refusing to allow the disobedient party to support or oppose designated claims or defenses, or prohibiting that party from introducing designated matters in evidence;

[C] An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

[D] In lieu of any of the foregoing orders or in addition thereto, an order treating as a contempt of court the failure to obey any orders except an order to submit to physical or mental examination;

[E] Where a party has failed to comply with an order under Fed. R. Civ. P 35(a) requiring that party to produce another for examination, such orders as are listed in subparagraphs [A], [B], and [C] of this paragraph, unless the party failing to comply shows that that party is unable to produce such person for examination.

In lieu of any of the foregoing orders or in addition thereto, the court shall require the party failing to obey the order or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

(3) **Standard for Imposition of Sanctions.** Prior to making an order under subparagraphs [A], [B], or [C] of paragraph (b)(2) the court shall consider:

[A] the nature of the violation, including the willfulness of the conduct and the materiality of the information the party refused to disclose;

[B] the prejudice to the opposing party;

[C] the relationship between the information the party refused to disclose and the proposed sanction;

[D] whether a lesser sanction would adequately protect the opposing party and deter other discovery violations; and

[E] other factors deemed appropriate by the court or required by law.

The court shall not make an order that has the effect of establishing or dismissing a claim or defense or determining a central issue in the litigation unless the court finds that the party acted willfully.

(c) **Failure to Disclose; False or Misleading Disclosure; Refusal to Admit.**

(1) A party that without substantial justification fails to disclose information required by D. Ak. LR 26.2(a) or 26.2(e)(1) shall not, unless such failure is harmless, be permitted to use as evidence at a trial, at a hearing, or on a motion any witness or information not so disclosed. In addition to or in lieu of this sanction, the court, on motion and after affording an opportunity to be heard, may impose other appropriate sanctions. In addition to requiring payment of reasonable expenses, including attorney's fees, caused by the failure, these sanctions may include any of the actions authorized under subparagraphs [A], [B], and [C] of paragraph (b)(2) of this rule and may include informing the jury of the failure to make the disclosure.

(2) If a party fails to admit the genuineness of any document or the truth of any matter as requested under Fed. R. Civ. P. 36, and if the party requesting the admissions thereafter proves the genuineness of the document or the truth of the matter, the requesting party may apply to the court for an order requiring the other party to pay the reasonable expenses incurred in making that proof, including reasonable attorney's fees. The court shall issue the order unless it finds that either [A] the request was held objectionable pursuant to Fed. R. Civ. P. 36(a), [B] the admission sought was of no substantial importance, [C] the party failing to admit had reasonable ground to believe that the party might prevail on the matter, or [D] there was other good reason for the failure to admit.

(d) **Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection.** If a party or an officer, director, or managing agent of a party or a person designated under D. Ak. LR 30.1(b)(6) or 31.1(a) to testify on behalf of a party fails (1) to appear before the officer who is to take the deposition, after being served with a proper notice, or (2) to serve answers or objections to interrogatories submitted under Fed. R. Civ. P. 33, after proper service of the interrogatories, or (3) to serve a written response to a request for inspection submitted under Fed. R. Civ. P. 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and, among others, it may take any action authorized under subparagraphs [A], [B], and [C] of paragraph (b)(2) of this rule. Any motion specifying a failure under paragraphs (2) or (3) of this subsection shall include a certification that the movant has in good faith conferred or attempted to confer with the party failing to answer or respond in an effort to obtain such answer or response without court action. In lieu of any order or in addition thereto, the court shall require the party failing to act or the attorney advising that party or both to pay the reasonable expenses, including attorney's fees, caused by the failure, unless the court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust.

The failure to act described in this paragraph may not be excused on the ground that the discovery sought is objectionable, unless the party failing to act has a pending motion for a protective order as provided by D. Ak. LR 26.2(c).

(e) [Reserved]

(f) [Reserved]

(g) **Failure to Cooperate in Discovery or to Participate in the Framing of a Discovery Plan.** If a party or a party's attorney engages in unreasonable, groundless, abusive, or obstructionist conduct during the course of discovery or fails to participate in good faith in the development and submission of a proposed discovery plan as required by D. Ak. LR 26.2(f), the court may, after opportunity for hearing, require such party or attorney to pay to any other party the reasonable expenses, including attorney's fees, caused by the conduct.

LR 38.1 **Notation of Jury Demand in the Pleading.**

A demand for jury trial may be reflected in the complaint or answer or may be filed by a party as a separate written document within 10 days after service of the last pleading directed to such issue. If contained in a complaint or answer, the demand shall be placed conspicuously on the first page of the complaint or answer.

LR 39.1 **Opening Statements and Closing Arguments.**

Unless otherwise ordered, a half hour per side shall be allowed for opening statements, and an hour per side for closing arguments. Where multiple parties are on the same side, they may divide their time by agreement. A side entitled to rebuttal argument may divide its time as it chooses between argument in chief and rebuttal. Exhibits shall not be displayed in opening statement unless leave has been granted, or the exhibit has been admitted pursuant to stipulation or order.

LR 39.2 **Trial Briefs.**

Unless otherwise ordered by the court, each party shall file a trial brief 20 days prior to the scheduled trial date in civil cases. The brief shall not exceed 25 pages. It shall contain:

(1) a summary identifying the parties and the theories of recovery and defenses that have been pled. The brief should designate the appropriate pleadings as well as any pre-trial rulings or stipulations by docket number, and designate which claims and which parties remain for disposition.

(2) a summary of the anticipated evidence on liability and damages, with a spreadsheet or itemized list of relief requested, including anticipated dollar amounts where applicable, organized by claim;

(3) citations to controlling statutes and cases;

(4) a summary of what is likely to be most at issue; and

(5) a summary, with references to controlling authorities, of issues likely to arise regarding evidence.

LR 39.3 **Exhibits.**

Except as may be otherwise ordered by the court, exhibits shall be managed as follows:

(1) Counsel shall meet with a deputy clerk to review trial exhibits at least 14 days before trial or at least 3 days prior to the deadline for submission of exhibits pursuant to a pretrial order in the case, whichever is sooner. Plaintiff shall arrange the time for this exhibit review. At the time set, all exhibits shall be available for inspection by opposing counsel and the deputy clerk. Trial will not be recessed or delayed to permit counsel to read or examine such exhibits. Large or bulky exhibits which cannot be readily transported to the office of the deputy clerk shall be made available at a reasonable time and location prior to the meeting with the deputy clerk for examination by opposing counsel. If available, photographs or other representations of such large or bulky exhibits shall be included with the exhibits marked pursuant to this rule.

(2) Prior to the exhibit review, parties shall obtain from the deputy clerk exhibit labels which counsel shall affix to their proposed exhibits, marking the same with numbers for plaintiff and letters for defendant in the approximate order of anticipated use of the exhibits. By stipulation, and 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. Depositions and deposition excerpts which are to be used for any purpose at trial shall be marked as exhibits and included on an exhibit list as provided by this rule.

(3) The parties shall stipulate at the exhibit review meeting to admissibility of those exhibits for which there will be no objection, and these shall be marked "ADM." Exhibits not admitted by stipulation shall be marked for identification only, "ID." Exhibits marked "ADM" are evidence, without need for foundation or further offer at trial, and no objections shall be heard regarding their admissibility.

(4) Within 3 days after the exhibit review session,

[A] Each party shall 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 which can be photocopied, including depositions, shall be lodged for use by the court, and a copy shall be provided to opposing counsel. The copies for the court and opposing counsel shall be photocopied subsequent to the exhibit review meeting bearing all of the information required by (2) and (3) of this rule. Original labels should not be used on the court's copy of exhibits.

(5) Exhibits not presented according to this rule will not be admitted except by order of the court upon a showing of good cause.

(6) Exhibits shall be retained by the parties between the marking session and trial, and will not be stored by the court.

(7) Counsel shall maintain custody of all exhibits during trial, shall see that they are properly marked when identified and admitted, and shall keep them organized for ready access by opposing counsel, the court, and witnesses during trial. All exhibits admitted on a party's behalf shall be immediately available at the conclusion of trial for submission to the jury or the court during deliberations. Prior to submission of the exhibits to the jury, counsel shall meet with the clerk and shall review all parties' exhibits to assure that all admitted exhibits are segregated for submission, and no non-admitted exhibits are submitted.

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

(9) The pre-trial exhibit marking procedures apply only to civil cases, not criminal cases. The provisions for exhibits during and after trial apply to criminal cases and to evidentiary hearings other than trials.

LR 39.5 **Courtroom Conduct.**

(a) Counsel shall stand when addressing the court but may sit when questioning witnesses, unless the court otherwise directs.

(b) Counsel shall not address questions or remarks to opposing counsel without first obtaining leave from the court.

(c) Examination and cross-examination of witnesses shall be limited to questions addressed to witnesses. Counsel shall not make statements, comments or remarks prior to questions or after the answers.

(d) Counsel shall not make personal, provoking or insulting remarks. Counsel shall confine their questions, remarks, and statements to matters properly before the court.

(e) In objecting, counsel shall refer in summary form to the applicable rule or principle. No argument shall be made by either side, and no description of the evidence is to be elicited, except by leave of court, or out of the presence of the jury.

(f) Counsel shall remain at the appropriate lectern or counsel table and shall not wander about the courtroom or approach a witness, the jury, the clerk or the judge unless leave is granted.

(g) Counsel shall present the case with candor and fairness and shall at all times conform to the codes and rules of ethics and professional responsibility as may be adopted from time to time by the Alaska Supreme Court.

(h) Counsel shall dress at the level of formality appropriate for appearing in a federal court, such as business suits, ties and footwear for men, and analogous business clothing for women.

LR 40.1 **Judicial Assignments.**

(a) **Assignment of Cases**. All civil cases when filed shall be numbered consecutively by the clerk and immediately assigned to a judge. The clerk's assignment will be random in a manner that distributes a substantially equal number of cases to each judge.

(b) **Application for Orders**. Except as otherwise provided in the Federal Rules of Civil Procedure, application for any order in an action or proceeding, including any order in regard to appellate proceedings, shall be made to the judge to whom such action or proceeding is assigned. If, however, the judge to whom such cause is assigned is not accessible, application for an order may be presented to the chief judge, or, in his absence, to any other available judge within the district, upon good cause shown, and orders may then be signed by the judge to whom such application and showing has been made. This section shall not, however, apply to findings, judgments, and orders based upon decisions theretofore announced by a judge, except in the event of the disability of such judge as provided in the Federal Rules of Civil Procedure.

LR 40.2 **Notice of Related Case.**

(a) **Duties of Counsel.** 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 shall promptly file and serve a Notice of Related Case. The Notice shall also be served on all known parties in each related action or proceeding. It shall state the court, title, case number, and filing date of each action or proceeding believed to be related, together with a brief statement of their relationship. If the related case is pending in this court, it shall also give reasons why assignment to a single judge is or is not likely to affect economies.

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 of Related Action.** An action or proceeding is related to another when both:

(1) Involve some of the same parties and are based on the same or similar claims;

(2) Involve the same property, transaction, or event; or

(3) Involve substantially the same facts and the same questions of law.

(c) **Procedure after Filing.** Within 10 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. A timely response will be considered when the court determines what action may be appropriate to coordinate the cases formally or informally.

(d) **Judicial Communication.** The judge to whom the case is assigned may confer informally with the parties, and with the judge to whom such related case is assigned, to determine the feasibility and desirability of joint discovery orders and other informal or formal means of coordinating proceedings in the cases.

LR 40.3 **Calendaring Cases for Trial.**

(a) **Setting Cases for Trial; Certification**. Cases may be set for trial by the Court upon its own initiative or upon written motion by any party. A motion under this rule shall bear the certificate of counsel for the movant that:

(1) the case is at issue for trial;

(2) all depositions and other discovery procedures necessary to adequately prepare for trial have been completed; and

(3) all preliminary and pre-trial conferences necessary to carry into effect the purpose of Fed. R. Civ. P. 16 have been held.

(b) **Setting Cases for Trial; Notice from Clerk.** Unless otherwise instructed by the court, no later than 30 days following the date set for close of discovery in a civil case, the clerk shall routinely call upon the parties to certify the case ready for trial. Upon receipt of this order, counsel shall confer and, unless otherwise directed, counsel for plaintiff shall prepare, serve, and file a report as to the status of discovery, motion practice, and settlement. Unless the case is potentially not ready to be calendared for trial, counsel shall propose 2 agreeable alternative trial dates, at least one of which should be approximately 6 months subsequent to the date of the report.

(c) **Continuances**. Where application is made for the continuance of the final pre-trial conference or trial of a case, such application, unless otherwise permitted, shall be made to the Court at least 15 days before the day set for the final pre-trial conference or trial. Such application must be supported by affidavit setting forth all reasons for continuance and sworn to by the applicant. If such case is not tried upon the date set, the Court may, in addition to the imposition of such terms as it may see fit, require the payment of jury fees and other costs by the party upon whose request the continuance is ordered.

LR 41.1 **Dismissal of Actions.**

(a) The court may dismiss an action for want of prosecution as to any plaintiff failing to appear for trial.

(b) The clerk shall issue an order to show cause why a case pending for longer than 1 year without action shall not be dismissed for want of prosecution. Failure to show good cause within 30 days of the clerk's order shall result in dismissal.

(c) The court may also issue an order to show cause in any circumstance where it appears to the judge that the action should be dismissed. A party may move for a dismissal for failure to prosecute at any time.

LR 43.1 **Examination of Witnesses.**

Only one attorney for a party may examine a witness on direct or cross-examination or object to or respond to objections regarding that witness's testimony.

LR 47.1 **Voir Dire.**

No later than 5 days before trial, any party may file questions which that party requests be asked to the panel, unless otherwise ordered by the court in the final pre-trial order. Objections to proposed voir dire questions may be made orally, provided they are made before the court commences voir dire.

LR 51.1 **Jury Instructions.**

Except as the court may otherwise direct, the parties shall file their requested jury instructions 10 days before trial. The requested instructions shall be numbered consecutively, shall indicate which party requests them, and shall embrace but one subject. The principle of law embraced in any requested instruction shall not be repeated in subsequent requests. Each request shall state what form it copies or on what authorities it relies. Requests that do not comply with the terms of this rule will not be considered by the court. Each side may also submit a set of instructions on a computer disk in a computer language compatible with the court's computer system.

LR 52.1 **Proposed Findings.**

The parties shall not lodge proposed findings of fact and conclusions of law unless directed to do so by the court. The court may allow parties to submit proposed findings on a computer disk in a computer language that is compatible with the court's computer system.

LR 53.1 **Discovery Masters.**

(a) 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. As a condition of such appointment, and especially in complex cases involving numerous, significant disputes, the court may require the parties to pay the fees of the discovery master. In other cases, the court may call upon local counsel who have agreed to take discovery master assignments on a *pro bono* basis.

(b) The master shall disclose any possible conflicts between the master and any party within 10 days of appointment. The discovery master shall rule originally on any motion to disqualify for such conflict. Such motion, if made, must be made within 10 days of the master's disclosure of the conflict.

(c) The authority of the discovery master shall be set forth in the order of appointment. In the absence of anything to the contrary in that order, or if the order is silent as to the authority of the master, the discovery master shall have the authority to:

(1) resolve all discovery disputes between the parties;

(2) respond to all discovery requests and motions of the parties;

(3) call discovery conferences pursuant to Fed. R. Civ. P. 16 at the request of a party or on the master's own motion;

(4) recommend to the District Court Judge, but not impose, sanctions; and

(5) set procedures for the timing and orderly presentation of discovery disputes for resolution, including fax filing motions with the discovery master, provided all motions to the discovery master shall be filed with the United States District Court pursuant to D. Ak. LR 7.1, with a copy served on the discovery master.

(d) Rulings of the discovery master shall be in writing and shall be served on the parties and filed with the court. Rulings of the discovery master shall be subject to review by the court by motion it made not more than 10 days following the date of service of the ruling by the master. That motion shall plainly state the issue, the applicable authorities, and appellant's argument.

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

LR 53.2 **Mediation.**

(a) **Application.** At any time after a complaint is filed, a party may file a motion with the court requesting mediation for the purpose of achieving a mutually agreeable settlement. The motion must address how the mediation should be conducted as specified in subsection (b), including the names of any acceptable mediators. The court may order mediation in response to such a motion, or on its own motion, whenever it determines that mediation may result in an equitable settlement.

(b) **Order.** An order of mediation must state:

(1) the name of the mediator, or how the mediator will be decided upon;

(2) any changes in the procedures specified in subsections (c) and (e), or any additional procedures;

(3) that the costs of mediation are to be borne equally by the parties unless the court apportions the costs differently between the parties; and

(4) a date by which the initial mediation conference must commence.

(c) **Challenge of Mediator.** Each party has the right once to challenge peremptorily any mediator appointed by the court if the "Notice of Challenge of Mediator" is filed within 5 days of notice of the order appointing the mediator.

(d) **Mediation Briefs.** Any party may provide a confidential brief to the mediator explaining its view of the dispute. If a party elects to provide a brief, the brief may not exceed 5 pages in length and must be provided to the mediator not less than 3 days prior to the mediation. A party's mediation brief may not be disclosed to anyone without the party's consent and is not admissible in evidence.

(e) **Conferences.** Mediation will be conducted in informal conferences at a location agreed to by the parties or, if they do not agree, at a location designated by the mediator. All parties shall attend the initial conference at which the mediator shall first meet with all parties. Thereafter, the mediator may meet with the parties separately. Counsel for a party may attend all conferences attended by that party.

(f) **Termination.** After the initial joint conference and the first round of separate conferences, if separate conferences are required by the mediator, a party may withdraw from mediation, or the mediator may terminate the process if the mediator determines that mediation efforts are likely to be unsuccessful. Upon withdrawal by a party or termination by the mediator, the mediator shall notify the court that mediation efforts have been terminated.

(g) **Confidentiality.** Mediation proceedings shall be held in private and are confidential. The mediator shall not testify as to any aspect of the mediation proceedings. This rule does not relieve any person of a duty imposed by statute.

(h) **Dismissal Stipulation.** If the mediation is successful, the party requesting mediation shall prepare a stipulation for dismissal which dismisses all or such portions of the action as have been concluded by mediation as agreed upon at the mediation.

LR 54.1 **Taxation of Costs.**

(a) Within 10 days after the date of the entry of judgment, a prevailing party may serve on each of the other parties to the action a cost bill, together with a notice of the date and time of the cost bill hearing at which the clerk will tax costs. The date and time of the hearing shall be scheduled with the clerk's office and shall not be less than 3 nor more than 7 days from the date of the notice.

(b) Cost bills shall include the statutory verification, photocopies of invoices, proofs of payment, and other supporting documents. Costs shall be broken out by subsection of the statute pursuant to which they are sought. Parties may use the Bill of Costs Form AO 133 available from the clerk's office (and appended to these rules).

(c) Objections can be filed either in writing or orally at the cost hearing, or both. The clerk may review all items regardless of whether objection is made.

(d) At the time set for the taxation hearing, the clerk shall proceed to tax the costs and shall allow the items specified in the cost bill which are properly taxable by the clerk. At the conclusion of the tax hearing, the clerk will prepare and enter minutes of the taxation hearing and insert the amount of costs awarded on the judgment. The action of the clerk in taxing costs may be reviewed by the court at the instance of any party upon motion served not later than 5 days after the entry of costs and service of minutes of taxation hearing.

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

(1) Clerk's and Marshal's Fees. Clerk's and Marshal's fees are allowable by statute. Fees for the service of process not served by the Marshal are taxable. Expenses of caring for property attached, replevied, libelled or held pending stay of execution are taxable.

(2) Trial Transcripts. 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 pursuant to stipulation. Mere acceptance by the court does not constitute a request. Copies of transcripts for counsels' own use are not taxable in the absence of a special order of court.

(3) Depositions costs. The reporter's charge for a deposition used is taxable. 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; all postage costs are taxable; 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 a reasonable fee for a necessary interpreter at the taking of the deposition is taxable. Counsels' fees, expenses in arranging for taking, and expenses in attending the taking of a deposition are not taxable except as provided by statute or by the Federal Rules of Civil Procedure.

(4) Witness Fees, Mileage, and Subsistence.

[A] The rate of witness fees, mileage, and subsistence is fixed by 28 U.S.C. § 1821. Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends court. Such fees are taxable even though the witness attends voluntarily upon request and is not under subpoena. If the travel is by common carrier, witnesses shall be 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. Receipts or other evidence of actual payment shall be furnished whenever practicable. Witness fees and subsistence are taxable only for the reasonable period during which the witness was within or without the district.

[B] 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. 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] No party shall receive witness fees for testifying in his or her own behalf. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that 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. Allowance of fees to a witness on a deposition shall 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. May include 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 are taxable as costs.

(7) Premiums on Undertakings, Bonds or Security Stipulations. The party entitled to recover costs shall ordinarily be allowed premiums paid on undertakings, bonds or security stipulations where the same have been furnished by reason of express requirement of the law, on order of the court or a judge thereof, or where the same is necessarily required to enable the party to secure some right accorded in the action or proceeding.

LR 54.3 **Award of Attorney's Fees.**

Motions for attorney's fees shall be filed within 14 days after entry of judgment, unless an applicable statute provides another time limit. The motion shall state the amount requested and the justification therefor. In a diversity case the court shall apply Alaska R. Civ. P. 82 existing at the time of judgment. The motion shall set forth the authority for the award, whether Alaska R. Civ. P. 82 in a diversity case, a federal statute, or other grounds entitling the moving party to the award. The affidavit in support shall provide a total number of hours worked and the amount charged to the client, if any, and shall attach as exhibits bills sent or other detailed itemization as may be appropriate.

LR 55.1 **Entry of Judgment Upon Default.**

(a) All applications for default judgment shall be made in writing, identifying the pleadings to which no defense has been made and against what parties default judgment is sought. The application shall be accompanied by an affidavit showing that no person against whom default judgment is sought is an infant, incompetent, or in the military service of the United States, or if the person is in one of these categories, the affidavit shall show that the person is represented. If a money award is sought, the applicant shall file with the application an affidavit with such attachments as may be appropriate showing entitlement to the amount sought, and shall provide a computation of the amounts to be filled in by the clerk on the judgment.

(b) Upon application for default judgment, the clerk shall enter judgment if appropriate under Fed. R. Civ. P. 55(b)(1), or, if not, shall furnish the judge with the application.

(c) If notice is required under Fed. R. Civ. P. 55(b)(2), the parties against whom default judgment is sought may submit affidavits and other evidence in opposition within 3 days of service of the application.

LR 58.1 **Judgments.**

(a) Entry of judgment by the clerk shall not be delayed for the taxing of costs or computation of pre-judgment interest. Where appropriate, the clerk shall leave a blank space in the form of judgment for insertion of the amounts of costs, attorney's fees, and interest, and a blank for the total. Upon final award of interest, costs, and attorney's fees, or the termination of the period allowed for application without any such application having been made, the clerk shall fill in the appropriate amounts or zeros in the appropriate blanks, perform the addition, and fill in the total amount.

(b) For judgments denoted under clause (1) of Fed. R. Civ. P. 58, the clerk shall prepare the judgment on the appropriate Administrative Office Form, using language similar to that in form 31 or form 32 of the Appendix of Forms in the Federal Rules of Civil Procedure as those forms are amended from time to time.

(c) The clerk shall 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 clerk enters the judgment.

(d) Where pre-judgment interest is appropriate, within 10 days of the entry of judgment the prevailing party shall provide a computation of interest, showing the method of computation and the total amount to be filled in by the clerk in the blank for interest. If any party disagrees with the computation, that party shall file an alternative computation within 5 days of service of the prevailing party's computation. Submission of an alternative computation does not concede correctness of the judgment or waive any objections to the judgment. If the file shows no disagreement, then the clerk shall fill in the interest on the judgment. If there is a disagreement, the clerk shall refer the matter to the judge for decision.

(e) The clerk shall fill in the post-judgment interest rate at entry of judgment, if available, or on request by any party.

LR 58.2 **Satisfaction of Judgments.**

When a judgment is satisfied or partially satisfied, the judgment creditor or the judgment creditor's attorney shall deliver or file an acknowledgment of satisfaction or partial satisfaction of judgment, upon payment in cash, or within 30 days after payment if payment is made in any other manner. Upon motion, the court may either order entry of satisfaction or compel an acknowledgment of satisfaction from the judgment creditor. A partial satisfaction of judgment shall show the amount paid.

LR 65.1 **Security; Proceedings Against Sureties.**

Every recognizance, bond, stipulation, or undertaking with sureties shall contain the written consent and agreement by the sureties that each surety submits to the jurisdiction of the court and irrevocably appoints the clerk of the court as the surety's agent upon whom any papers affecting the surety's liability on the bond or undertaking may be served. The surety's liability may be enforced on motion without the necessity of an independent action.

LR 67.1 **Deposit and Investment of Funds in the Registry Account; Certificate of Cash Deposit.**

(a) Cash tendered to the clerk for deposit into the Registry Account of this court shall be accompanied by a written statement titled "certificate of cash deposit". The certificate shall contain the following information:

(1) the amount of cash tendered for deposit;

(2) the party on whose behalf the tender is being made;

(3) the nature of the tender, e.g., interpleader funds deposit, cash bond in lieu of corporate surety in support of temporary restraining order, etc.;

(4) whether the cash is being tendered pursuant to statute, rule, or court order;

(5) the conditions of the deposit signed and acknowledged by the depositor;

(6) the name and address of the legal owner to whom a refund, if applicable, shall be made; and

(7) a signature block whereon the clerk can acknowledge receipt of the cash tendered. Said signature block shall not be set forth on a separate page, but shall appear approximately one inch (1") below the last typewritten matter on the left-hand side of the last page of the certificate of cash deposit and shall read as follows:

"RECEIPT
Cash as identified herein is hereby acknowledged as being received this date.
Dated:_____
CLERK, U.S. District Court
BY:_____
Deputy Clerk"

(b) The clerk may refuse cash tendered without the certificate of cash deposit required by this rule.

LR 67.2 **Investment of Funds on Deposit.**

(a) Funds on deposit in the Registry Account of the court pursuant to 28 U.S.C. § 2041 will not be invested in the absence of an order by the court. All motions or stipulations for an order directing the clerk to invest Registry Account funds in an interest-bearing account shall contain the following:

(1) the name of the bank or financial institution where the funds are to be invested;

(2) the type of account or instrument and the terms of investment where a timed instrument is involved; and

(3) 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) Counsel obtaining an order under these rules shall cause a copy of the order to be served personally on the clerk or the chief deputy and the financial deputy. A supervisory deputy clerk may accept service on behalf of the clerk, chief deputy or financial deputy in their absence.

(c) The clerk shall take all reasonable steps to deposit funds into interest-bearing accounts or instruments within, but not more than, 15 days after having been served with a copy of the order for such investment.

(d) Any party who obtains an order directing investment of funds by the clerk shall, within 15 days after service of the order on the clerk, verify that the funds have been invested as ordered.

(e) Failure of the party or parties to personally serve the clerk, the chief deputy, and financial deputy, or in their absence a supervisor deputy clerk with a copy of the order, or failure to verify investment of the funds, shall release the clerk from any liability for the loss of earned interest on such funds.

(f) It shall be the responsibility of counsel to notify the clerk regarding disposition of funds at maturity of a timed instrument. In the absence of such notice funds invested in a timed instrument subject to renewal will be reinvested for a like period of time at the prevailing interest rate. 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 noninterest-bearing account.

(g) Service of notice by counsel as required by D. Ak. LR 67.2(f) shall be made as provided in D. Ak. LR 67.2(b) not later than 15 days prior to maturity of the timed instrument.

(h) Any change in terms or conditions of an investment shall be by court order only, and counsel will be required to comply with D. Ak. LR 67.2(a) and (b).

(i) No funds may be paid out of an interest-bearing account or interest-bearing instrument except by order of the Court. Such order shall contain language that:

(1) Distinctly set forth the funds in question and name the payee. Should the named payee be other than the depositor of the funds that fact must be reflected in the order.

(2) The order shall also identify by name, address and social security or taxpayer's identification number the individual entitled to the interest accumulated. The clerk shall deliver a copy of said order to the private institution where the deposit was made.

(3) Directs 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.

LR 68.3 **Settlements and Judgments in Favor of a Minor.**

(a) **Power to Execute a Release, Stipulation, or Acknowledgment of Satisfaction of Judgment.** A parent or legal guardian of a minor who asserts a claim on behalf of the minor against another person in the United States District Court has the power to execute a release, a stipulation for entry of judgment, or an acknowledgment of satisfaction of judgment. Any such release, stipulation, or acknowledgment shall be effective only if executed in compliance with the provisions of this rule.

(b) **Settlements.** Subject to the provisions of subsection (d), a settlement agreement, release, or stipulation which has the effect of resolving or dismissing any claim by a minor shall be effective only if approval of the settlement agreement, release, or stipulation is obtained by the Superior Court for the State of Alaska pursuant to Alaska R. Civ. P. 90.2. The order of the Superior Court must approve the terms of any settlement, release or stipulation, and must also approve the plan of disbursement, including the provisions for expenses, costs, and fees. A certified copy of the order of the Superior Court for the State of Alaska establishing compliance with Rule 90.2 and establishing approval by the Superior Court for the State of Alaska of the settlement, release, or stipulation, shall be filed with this court. No judgment or order of dismissal shall issue unless and until the certified copy of the order of the Superior Court of the State of Alaska establishing compliance with Rule 90.2 is filed with this court.

(c) **Judgments.** Upon the rendering of a final judgment in favor of a minor, the parent or guardian asserting the claim on behalf of the minor shall file a petition with the Superior Court for the State of Alaska seeking approval, pursuant to Alaska R. Civ. P. 90.2, of a plan of disbursement of the proceeds. No acknowledgment of satisfaction of the judgment shall be effective until a certified copy of the order of the Superior Court approving the plan of disbursement is filed with this court. The order of the Superior Court must approve the plan of disbursement contemplated, including the provisions for expenses, costs, and fees.

(d) **Non-Resident Parents and Guardians.** Where a parent or legal guardian subject to this rule is not a resident of the State of Alaska, and where the state of such parent or guardian's residence has a procedure similar to Alaska R. Civ. P. 90.2, the court may, upon application, approve the substitution of such similar procedure for compliance with subsection (b) of this rule. In the absence of any such similar procedure, the court may adopt such procedure as it deems appropriate for approval of a settlement, taking guidance from Alaska R. Civ. P. 90.2.

LR 69.1 **Judicial Sales: Confirmation**.

No judicial sale made pursuant to order of this court may be confirmed if, before or at the time set for confirmation, a bid is presented which is 10 percent or more in excess of the highest bid received at the same. In this event, a new sale will be held by the court at the time of hearing of the motion or petition for confirmation. However, this rule does not prevent the court from refusing to confirm and hold a new sale if a higher bid is presented although the amount of increase is less than 10 percent.

LR 74.1 **Appeals**.

(a) **Judgments by Magistrate Judges in Consent Cases.**

(1) Appeal to the Court of Appeals. An appeal of the judgment of a magistrate judge in a civil case disposed of by consent of the parties directly to the Court of Appeals shall be in the same manner as an appeal from any other judgment of the District Court.

(2) Appeal to the District Court. In an appeal of the judgment of a magistrate judge in a civil case disposed of by consent of the parties directly to the District Court, the District Court will endeavor to make the appeal expeditious and inexpensive in the following manner:

[A] Notice of Appeal. See Federal Rule of Civil Procedure 74(a) and (b).

[B] Service of the Notice of Appeal. The Clerk shall serve the notice of appeal by mailing a copy thereof to counsel of record for all parties, or if a party is not represented by counsel, to the party at his or her last known address.

[C] Briefs. The appellant, within 15 days of the filing of the notice of appeal, shall serve and file a brief. The appellee shall serve and file a brief within 15 days after the receipt of a copy of the appellant's brief. The appellant may serve and file a reply brief within 5 days after receipt of a copy of the appellee's brief.

[D] Record on Appeal. The record on appeal to a district court judge shall consist of the original papers and exhibits filed with the court and the transcript of any proceedings before the magistrate judge.

[E] Hearing. Unless otherwise ordered, 40 days after the filing of the notice of appeal, the appeal shall be set by the court if a hearing is deemed to be required.

[F] Subsequent Appeal. Any subsequent appeal to the Circuit Court is permitted only upon petition for leave to appeal.

(b) **Magistrate Decision.** In an appeal from a magistrate decision or order determining a non-dispositive motion or matter, the District Court will endeavor to make the appeal expeditious and inexpensive in the following manner:

(1) Briefs. The appellant, within 15 days of the filing of the notice of appeal, shall serve and file a brief. The appellee shall serve and file a brief within 15 days after receipt of a copy of appellant's brief. The appellant may serve and file a reply brief within 5 days after receipt of a copy of appellee's brief. Briefs filed shall be prepared in accordance with D. Ak. LR 5.1.

(2) Hearing. Unless otherwise ordered, 40 days after the filing of the notice of appeal, the appeal shall be set by the court if a hearing is deemed required.

(c) **Bankruptcy**. In an appeal from a judgment or decision of the Bankruptcy Court certified to this court, the appellant, within 15 days from the certification of the record, shall serve and file a brief. The appellee shall serve and file a brief within 15 days after receipt of a copy of appellant's brief. The appellant may serve and file a reply brief within 5 days after receipt of a copy of appellee's brief. Unless otherwise ordered, 40 days after filing the certified record, oral argument shall be set by the court if deemed required. Briefs filed shall be prey
pared in accordance with D. Ak. LR 5.1.

LR 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. The clerk will notify the judge before whom the case is pending of the order taken. Any order entered by the clerk may be subsequently suspended, altered, or rescinded by the court.

The orders authorized for the clerk to enter and sign are:

(1) Orders on consent for the substitution of attorneys;

(2) Orders on consent satisfying a judgment, withdrawing stipulations, annulling bonds, or exonerating sureties;

(3) Orders entering default for failure to plead or otherwise defend, as provided in Fed. R. Civ. P. 55(a);

(4) Any other order which under Fed. R. Civ. P. 77(c) does not require special direction by the court;

(5) Orders on stipulations for the extension of time, if filed before the deadline sought to be extended;

(6) Orders dismissing actions pursuant to D. Ak. LR 41.1; and

(7) Such orders as the court may from time to time by miscellaneous general order or order of individual judges in individual cases authorize the clerk to grant.

LR 77.5 **Naturalization Petitions.**

Hearings on petitions for naturalization shall be held at such times and at such places as may be determined and directed by the court.

LR 77.6 **Court Library.**

(a) **Access.** The library located in the United States District Court for the District of Alaska has been established for the use of the District, Circuit, Bankruptcy, and Magistrate Judges of the District. The local Library Committee has determined that judges, their staff, clerk of court personnel, and probation and parole personnel may make use of the library anytime by key. The library shall be available for use by the general public for research and copying purposes during open staffed hours and as otherwise provided by the court.

(b) **Restrictions.**

(1) The library is not to be utilized as an office or place to conduct business.

(2) The library may not be used as a conference or debate room.

(3) Patrons who remove books and/or other library materials from the shelves must re-shelve those books and/or materials before leaving the library for the day.

(4) Briefcases, packages, backpacks, and purses are subject to examination by a member of the library staff when leaving the library.

(5) The library telephone is for business use by library staff only. Judges' staff will be located in the library for official court business messages. No others may receive messages, or use the library phone to place or receive calls.

(6) No smoking, eating, or drinking will be permitted in the library.

(7) Typewriters, dictating machines, computers, cellular phones, and other such equipment may be brought into and used in the library so long as their use does not interfere with proper library etiquette.

(8) Only court personnel may check out and remove books and other materials from the library.

(9) Proper library etiquette is to be used at all times.

(10) The librarian, consistent with this rule, may make and enforce other reasonable rules and policies for proper safekeeping, maintenance, and use of the library and may request anyone to leave the library to maintain proper working conditions.

(c) **Violations.** Any violation(s) of this rule will subject the violator to loss of all library privileges.

LR 79.2 **Books and Records of the Clerk.**

(a) **Clerk's Custody.**

(1) Except for use by judges, magistrate judges, and law clerks, in chambers or on the bench, and such others as may be designated by the judge to whom the case is assigned, no record or paper belonging to the files of the court may be taken from the office or custody of the clerk. If any record or paper in the court files is needed for an exhibit, the clerk shall prepare a certified copy for such use upon payment of the appropriate fee.

(2) After entry of final judgment, the completion of any post-judgment proceedings, the filing of any mandates, and the expiration of any time limits for additional proceedings, all models, diagrams, and exhibits not already in the custody of the parties, shall be returned to the party or person to whom they belong, except as may otherwise be ordered by the court pursuant to D. Ak. LR 7.1 and D. Ak. LR 39.3. If these items are not retrieved by the parties within a reasonable time after the clerk has provided notice, the clerk may destroy all such models, diagrams, and exhibits or may make such other disposition of them as the court may approve.

(3) Large physical exhibits unsuitable for filing with the case file shall be retained following trial by the party introducing them into evidence until judgment is final. The parties shall be responsible for producing the exhibits if required for an appeal record.

(4) Nothing in this rule shall prevent the court from ordering other disposition with respect to any files, models, and exhibits as may be deemed advisable.

(b) **Use of Files by Judges, Law Clerks, and Court Personnel.** If it is necessary for a judge, magistrate judge, law clerk, or other person upon approval of the court to use materials in a file at a place other than the clerk's office, either the clerk or the person checking out the materials shall prepare a checkout slip so that the file can quickly be located. Original files and papers from files shall remain in the clerk's office, judge's chambers, or courtroom, except as may be ordered by the judge to whom the case is assigned. Files shall remain in the locality where the case was filed, or to which venue was changed, except as may otherwise be ordered by the judge to whom the case is assigned.

(c) **Documents Presented For *In Camera* Review.** Where papers are filed or lodged for in camera review, a cover paper providing some general description shall be attached, except where that would compromise essential secrecy, so that the clerk can make a descriptive docket entry. The papers themselves shall be provided in sealed envelopes or other sealed containers, with the words prominently written on them, “To be opened only by or at the direction of the judge,” or “... or by the magistrate judge” as may be appropriate. Anyone who opens such an envelope shall reseal it and shall write his or her identity and the date of opening and resealing on the envelope. No one shall open such an envelope or package except the judicial officer assigned to the case or pursuant to an order of the judicial officer assigned to the case. Personnel in the clerk's office and in the judge's chambers are not permitted to open such a package except by express direction of the judicial officer assigned to the case. Attorneys shall not quote or reveal the substance of in camera materials in papers filed unsealed.

LR 80.1 **Record of Proceedings.**

(a) **Manner of Reporting Proceedings.** All court proceedings shall be electronically recorded unless another form of recording is ordered.

(b) **Official Transcripts.**

The court shall not consider for any purpose transcripts of proceedings which have not been certified by an official recorder, reporter or transcriber from the official records of the court.

(c) **Preparation of Official Record — Transcripts, Tape Recordings.**

(1) **Court Reporter.** Arrangements for preparation of a transcript of a proceeding reported by a court reporter shall be made directly with the court reporter unless the court reporter is no longer employed with the court, in which event arrangements shall be made through the clerk's office.

(2) **Electronic Court Recorder Operator.** Arrangements for the preparation of a transcript or duplicate tape of a proceeding reported by an electronic court recorder operator shall be made through the clerk's office.

(d) **Requests for Daily Transcripts.**

(1) A request for a daily transcript of any matter shall be made no less than 2 weeks prior to the date the matter is scheduled for hearing.

(2) A copy of the request for daily transcript shall, at the time of filing, be supplied to the clerk of court by the party making the request.

(3) The clerk shall immediately determine if the matter for which a daily transcript is requested is to be reported by a court reporter or electronic court recorder operator and so advise the requesting party who shall thereafter make whatever fee arrangements are necessary.

(e) **Fees — Transcripts, Tape Recordings.** All fees for transcripts and tape recordings shall not exceed the maximum amount as set by the Judicial Conference of the United States. A current schedule of the fees, as established by the Judicial Conference, shall be posted by the clerk in the clerk's office and shall be provided on request by the clerk's office and also by official court reporters.

(f) **Permissible Extra Fees.**

(1) **Subsistence Cost for Reporters.** In areas where the court's reporter may need to hire reporters from outside the area to help produce expedited, daily, or hourly transcripts, the reporter may bill the party for travel and subsistence costs of other reporters or auxiliary personnel. These costs may not exceed the amount that a government employee would be reimbursed for the same travel. Compensation for reporters and auxiliary personnel as an attendance fee, however, is not billable to the party.

(2) **Subsistence Cost for Electronic Transcribers.** When the court's official electronic transcriber resides outside the area and is requested to produce expedited, daily or hourly transcripts, or where the court's electronic transcriber may need to hire transcribers from outside the area to help produce said transcripts, the transcriber may bill for travel and subsistence costs of transcribers or auxiliary personnel. These costs may not exceed the amount that a government employee may be reimbursed for the same travel. Compensation for auxiliary personnel as an attendance fee, however, is not billable to the party.

(3) **Extraordinary Delivery Costs.** If parties in unusual circumstances require delivery which fosters unusual costs, such as overnight mail services, messenger services, or other special delivery methods, the court reporter or electronic transcriber may bill for the difference between ordinary delivery costs and the cost of the special delivery.

LR 82.1 **Photographs, Video or Audio Recorders, Broadcasts Prohibited.**

(a) 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, including proceedings before a United States Magistrate Judge, whether or not court is actually in session, is prohibited. A judge may, however, permit (1) the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record, and (2) the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings. As used herein, "judicial proceedings" means (1) any trial, naturalization proceeding or ceremonial occasion in any United States District Court, (2) any proceedings before any Bankruptcy Judge, or United States Magistrate Judge, (3) sessions of the grand jury, or (4) the recording of any person participating in a judicial proceeding (including petit and grand jurors).

(b) This rule shall not prohibit recordings by a court reporter. However, no court reporter or any other person shall use or permit to be used, any part of any recording of a court proceeding on or in connection with any radio or television broadcast of any kind.

LR 83.1 **Attorneys.**

(a) **Eligibility.**

(1) Any attorney at law, upon presenting satisfactory proof to the clerk of this court of having the requisite qualifications to practice as an attorney and counselor at law 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 except as provided in D. Ak. LR 83.1(a)(2).

(2) No one serving as a law clerk to a judge of this court shall 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 his or her term of service before the judge for whom that person worked shall be limited by Rule 1.11 of the Alaska Rules of Professional Conduct.

(b) **Procedure for Admission.**

(1) All attorneys at law admitted to practice before the former District Court for the Territory of Alaska on February 20, 1960, shall be deemed admitted to practice in this court without further procedure for admission.

(2) Each applicant for admission shall file with the clerk a petition stating all names by which the applicant has been known, residence and office addresses, and the names and addresses of all courts before which the applicant has been admitted to practice. The petition shall state the dates of admission and the dates of 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 shall be accompanied by proof of the requisite qualifications to practice law in the courts of the State of Alaska. The petition shall be accompanied by proof of service on the Alaska Bar Association.

(4) Such proof shall consist of a certificate signed by a justice or the clerk of the Alaska Supreme Court or the Executive Director of the Alaska Bar Association, and the certificate shall bear a date no more than 90 days prior to the date of the application.

(5) After a 20-day period for the filing of objections has elapsed, the court shall determine whether to order admission, and, if admission is ordered, the clerk shall issue a certificate of admission. 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. Service of the petition on the Alaska Bar Association, proof of service, and the objection period shall not apply for new admittees to the Alaska Bar Association if the petition for admission is filed in this court within 60 days of the date the Alaska Bar Association certifies the person for admission to the Alaska Supreme Court.

(6) An accepted applicant shall 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.

(c) **Non-Resident Attorneys.**

(1) 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.

(2) A member in good standing of the bar of another jurisdiction, who is not an active member of the bar of this court, may be permitted by the court on motion 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. 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.

(3) If a motion pursuant to D. Ak. LR 83.1(c)(2) is filed, the attorney applying may appear and participate from the time of filing as though it had been approved unless the court orders otherwise, and approvals shall be deemed to be effective as of the time of filing of the motion unless otherwise ordered. The motion shall either designate a member of the bar of this court in accord with the above paragraphs or else show cause why, in accord with the above paragraphs, no association should be required. Motions for leave to participate without local counsel will not be approved as a matter of course, and if denied, the parties represented by non-local counsel will be given a reasonable period within which to associate local counsel.

(4) 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, *sua sponte* or on motion, for good cause, require association of local counsel.

(d) **Attorneys for the United States Government and the Federal Public Defender Agency.** 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, so long as he or she is admitted to practice and in good standing before the highest court of any state. If such attorney is not a resident of this District, then the resident United States Attorney or Federal Public Defender, as the case may be, shall be associated initially, but upon application demonstrating good cause, the court may dispense with such association.

(e) **Appearances, Substitution, and Withdrawal.**

(1) Whenever a party has appeared by counsel, such party may not thereafter appear or act in his or her own behalf in the action unless an order of substitution has been entered by the court, after notice to the attorney of such party and to all other parties. The court may exercise its discretion to hear a party in open court notwithstanding the fact that such party has appeared or is represented by counsel.

(2) Partnerships, corporations, and associations may not appear *in propria persona*, but must be represented by an attorney.

(3) Withdrawal as counsel requires leave of the court. A motion for leave to withdraw shall be accompanied by: (A) written consent of the client; (B) substitution of counsel and formal appearance of substituting counsel; or (c) other showing of good cause. Any party or attorney may oppose the motion, and the court may deny such a motion even if consented to or unopposed. If the withdrawal would leave the formerly represented party without an attorney of record, the motion shall provide the party's last known address and telephone number, and the attorney proposing to withdraw shall arrange a hearing and give the client at least 20 days written notice of the hearing, unless he shows good cause why such a hearing should not be required. Notwithstanding the foregoing provisions, attorneys employed by a governmental entity may substitute as counsel without leave of court and without written consent of their client so long as all parties to the action are immediately notified of such substitution, with such notice including the full name, telephone number, and mailing address of the substituting attorney.

(4) Parties appearing *pro se* (without an attorney) are bound by these rules and the Federal Rules of Civil Procedure. A party proceeding *pro se* shall at all times keep the court and opposing parties advised as to current address and telephone number.

(f) **Disbarment and Suspension.**

(1) Whenever it appears to the court that any member of its bar or any non-resident attorney permitted to appear or who has applied to appear 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, such attorney shall be suspended forthwith from practice before this court. Unless good cause to the contrary is shown within 5 days after notice has been mailed to the attorney's last known place of residence, there shall be entered an order of suspension or disbarment 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 others courts where the suspended attorney practices, an order of reinstatement may be entered.

(g) **Contact with Trial Jurors.** No attorney admitted to practice before the United States District Court for the District of Alaska may seek out, contact, or interview at any time any juror of the jury venire of this court. No attorney without prior approval of the court may 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. This subsection shall be posted in the jury rooms of this District and jurors shall be instructed fully as to this matter.

(h) **Professional Conduct.** Every member of the bar of this court and any attorney admitted to practice in this court under D. Ak. LR 83.1(c)-(d) shall 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 such rules and decisions shall be otherwise inconsistent with federal law; maintain the respect due courts of justice and judicial officers; and perform with the honesty, care, and decorum required for the fair and efficient administration of justice.

LR 83.2 **Student Practice Rule.**

(a) An eligible law student acting under the supervision of a member of a bar of this court may 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) An eligible student must:

(1) [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; have completed one-half of the legal studies required for graduation, or be a recent graduate of such school awaiting the result of a state Bar examination; and

(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) The supervising attorney shall:

(1) be admitted to practice before the highest court of any state for 2 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;

(5) assist and counsel the student in the preparation of the student's work in matters before the court.

(d) The dean's certification of the student:

(1) shall be filed with the clerk of court and unless sooner withdrawn, shall remain in effect until publication of the results of the first bar examination following graduation;

(2) may be withdrawn by the court at any time in the discretion of the court and without cause shown; and

(3) may be withdrawn by the dean with notice to the court.

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

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