

United States District Court
District of Alaska

Local Rules
(Civil)

[*EFFECTIVE OCTOBER 1, 2002*]

WITH AMENDMENTS THROUGH
DECEMBER 1, 2003

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Rule 1.1 Scope and Purpose of the Rules.

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

(b) **Scope.** These rules apply to all civil proceedings governed by Rule 1, Federal Rules of Civil Procedure.

(c) **Purpose.**

(1) These rules will be administered and construed:

[A] to secure the just, speedy, and inexpensive determination of every action; and

[B] wherever appropriate, in a manner consistent with the Alaska Rules of Civil Procedure.

(2) 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.

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

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

(2) The following definitions 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 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, District Court Judge, or judge of the International Court of Trade, on active, senior, or retired status, designated to act as a District Court Judge for the District of Alaska for one or more cases under the provisions of 28 U.S.C. §§132(c), 291(b), 292(b) and (d), 293(a), or 294;

(iii) a United States Magistrate Judge for the District of Alaska; and

(iv) to the degree these rules apply to bankruptcy proceedings, a United States Bankruptcy Judge for the District of Alaska or a bankruptcy judge on active or recalled status, designated to act as a bankruptcy judge for the District of Alaska under the provisions of 28 U.S.C. § 155.

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

Related Provisions:

1 U.S.C. § 1	Words denoting number, gender and so forth
1 U.S.C. § 2	"County" as including "parish", and so forth
1 U.S.C. § 3	"Vessel" as including all means of water transportation
1 U.S.C. § 4	"Vehicle" as including all means of land transportation
1 U.S.C. § 5	"Company" or "association" as including successors and assigns
28 U.S.C. § 132	Creation and Composition of district courts
28 U.S.C. § 152	Appointment of bankruptcy judges
28 U.S.C. § 155	Temporary transfer of bankruptcy judges
28 U.S.C. § 291	Circuit Judges
28 U.S.C. § 292	District Judges
28 U.S.C. § 293	Judges of the Court of International Trade
28 U.S.C. § 294	Assignment of retired Justices or judges to active duty
28 U.S.C. § 631	Appointment and tenure [Magistrate Judges]
28 U.S.C. § 2071	Rule-making power generally

Rule 1.2 Availability of the Local Rules.

- (a) **Locations.** Copies of these rules, as amended, will be maintained by the clerk of court and:
- (1) kept available for inspection and copying—
 - [A] in the federal law library in Anchorage, and
 - [B] 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; and
 - (2) posted on the court website.
- (b) **Amendments.** Notice of amendments will 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.

Rule 1.3 Sanctions.

- (a) **Imposition.** 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.
- (b) **Sanctions.**
- (1) Sanctions may include:
 - [A] fines, costs, and attorney's fees awards;
 - [B] establishment and preclusion orders;
 - [C] default;
 - [D] dismissal; and
 - [E] other appropriate sanctions.
 - (2) For matters of form not affecting substance or prejudicing parties or the court, sanctions will generally be limited to fines, costs, or attorney's fees awards.
 - (3) For possible violations of ethical standards, the court may refer the matter for appropriate action to the relevant bar association(s).

Related Provisions:

F.R.Civ.P. 11 Signing of Pleadings, Motions, and Other Papers; Representations to Court; Sanctions
Alaska Rules of Professional Conduct

Rule 3.1 Papers to Accompany Initial Filing.

- (a) **Civil Cover Sheet.** Every complaint or other document initiating a civil action or removing a civil action to this court must 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.
- (b) **Fees.**
- (1) Except for *in forma pauperis* proceedings, all fees required by law must be paid at the time of filing a complaint or pleading for which a fee is required.
 - (2) The schedule of fees will be posted by the clerk and copies of the schedule made available upon request.

Related Provisions:

28 U.S.C. § 1914	District court; filing and miscellaneous fees; rules of court
F.R.Civ.P. 2	One Form of Action
F.R.Civ.P. 3	Commencement of Action.
F.R.Civ.P. 4	Summons
D.Ak. LR 3.2	Payment of Fees by <i>in Forma Pauperis</i> Litigants
D.Ak. LR 3.3	Venue and Place of Trial
D.Ak. LR 4.1	Summons

Rule 3.2 Payment of Fees by *in Forma Pauperis* Litigants.

(a) Forms; Presentation of Applications to Judge.

(1) The clerk will provide all necessary forms for litigants to proceed without payment of fees.

(2) All *in forma pauperis* applications must be presented for approval to a judge authorized to make the determination.

(b) In *Forma Pauperis* Status Under 28 U.S.C. § 1915(b).

(1) *Frivolous Claims.*

[A] The judge may not grant an application if a review of the pleadings indicates that the claim is frivolous.

[B] 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.*

[A] For incarcerated litigants, ability to pay will be based in part upon the applicant's inmate account statement.

[B] An incarcerated litigant must attach certified copies of the litigant's inmate account statement as required by 28 U.S.C. § 1915.

[C] In the case of a state prisoner who is newly incarcerated or has recently transferred from a local jail or federal penitentiary, the prisoner must provide the court with the name of the institution transferred from, and any account statements currently available from the present place of incarceration.

[D] The court may, in its discretion, seek further information from the prisoner or the institution(s).

(3) *Service of Orders; Updates of Financial Information.*

[A] The clerk must serve a copy of the orders on all defendants.

[B] Every litigant allowed to proceed *in forma pauperis* must report all significant changes in financial condition to the court.

[C] A significant change is any increase in income or decrease in expenses, or a combination thereof, that results in a net increase of income over expenses equal to or greater than ten percent (10%).

Related Provisions:

28 U.S.C. § 1915 Proceedings *in forma pauperis*

Rule 3.3 Venue and Place of Trial.

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

(b) Removed Actions.

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

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

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

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

(c) Filing of Pleadings.

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

(2) in all other cases, complaints and subsequent pleadings may be filed in either Anchorage or the location of the court in which venue lies.

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

Related Provisions:

- 28 U.S.C. § 81A Alaska
- 28 U.S.C. § 1391 Venue
- 28 U.S.C. § 1441 Actions removable generally
- 28 U.S.C. § 1446 Procedure for removal

Rule 4.1 Summons.

Except for the date of issuance and signature, a summons presented to the clerk for issuance must be complete in all respects.

Related Provisions:

- F.R.Civ.P. 4 Summons
- F.R.Civ.P., Appendix of Forms, Form 1 — Summons

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

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

- (1) the recipient's acknowledgment of service; or
- (2) through certification of the person making the service, which certification must include—
 - [A] the person or persons upon whom it was served,
 - [B] the means of service, and
 - [C] the date it was served.
- (3) [A] Unless impractical, proof of service should be reflected on the document served, not on a separate document.
 - [B] Where a document includes attachments, e.g., exhibits, affidavits, or a proposed order, a separate certificate of service is not required for the attachments provided they are specifically referenced in the certificate of service for the principal document.

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

(c) **Electronic Service.**

(1) Written consent to service by electronic transmission must be filed with the court and served on the other party(ies) to the action.

(2) The consent to service by electronic transmission should indicate:

[A] the method of electronic service acceptable;

[B] whether the party consents to service by facsimile of pleadings and documents in excess of twenty-five (25) pages;

[C] whether the party will accept service of pleadings by e-mail in a format other than Adobe Acrobat portable document format ("pdf"), and, if so, the alternative format that is acceptable;

[D] the number of the party's facsimile machine; and

[E] the party's e-mail address.

(d) **Special Conditions.**

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

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

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

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

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

Related Provisions:

28 U.S.C. § 1746 Unsworn declarations under penalty of perjury

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

F.R.Civ.P. 6 Time

Rule 5.2 Service Upon Parties by the Court.

(a) **Orders.** Unless otherwise ordered by the court, the clerk of the court will serve all orders and other papers prepared by the court and filed in a case upon all parties to that case by mailing a copy to the party's attorney of record, if represented, or to the party if appearing without counsel.

(b) **Multiple Attorneys.** Where a party is represented by more than one attorney, service will be upon the attorney first appearing for the party, unless otherwise ordered by the court.

(c) **Proof of Service.** Proof of mailing is established by notation of the names of the attorneys, or litigants who are not represented by counsel, to whom a mailing was made, the date thereof, and the initials of the deputy clerk on the foot of each order or other paper served.

Related Provisions.

F.R.Civ.P. 5 Serving and Filing Pleadings and Other Papers
F.R.Civ.P. 6 Time

Rule 7.1 Motion Practice.

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

- (1) A concise statement of the decision sought by the moving or opposing party.
- (2) A brief statement of points and authorities relevant to the relief requested.
- (3) [A] Legible copies of affidavits, deposition excerpts, and properly authenticated documents or other exhibits as provided in paragraph (a)(4) upon which the moving or opposing party relies.

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

- (4) [A] The evidence ordinarily presented, in support of or in opposition to any motion, includes:
 - (i) affidavits;
 - (ii) declarations under 28 U.S.C. § 1746;
 - (iii) deposition excerpts;
 - (iv) admissions;
 - (v) verified interrogatory answers; and
 - (vi) other similar documentary exhibits.

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

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

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

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

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

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

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

[B] unless the decision is published in the National Reporter System or a National Loose-Leaf Reporter, a copy of a decision cited must be attached to the brief.

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

[A] other proceedings have taken place;

[B] the same or similar claims have been raised and adjudicated; and

[C] like or similar matters.

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

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

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

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

(e) **Time Limits.** Unless otherwise ordered by the court, provided by statute, or rule, an opposition must be served and filed within fifteen (15) days of service of the motion, and replies within five (5) days of service of the opposition.

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

(g) **Facsimile Copies.**

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

(2) Originals must be filed within five (5) days after the facsimile copy has been filed.

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

(h) **Supplemental Materials.**

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

[A] (i) If the motion is granted, the clerk will file the proposed pleading or brief, or

(ii) if the motion is denied, the proposed pleading or brief will be returned to the party.

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

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

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

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

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

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

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

(i) **Motion Submitted.** A motion will be treated as submitted and ripe for decision after:

(1) the time for filing opposition has elapsed and no opposition has been filed;

(2) opposition has been filed, the reply filed or the time for filing a reply has elapsed, and no request for oral argument or evidentiary hearing has been made within the time allowed;

(3) opposition has been filed, the reply filed or the time for filing a reply has elapsed, and request for oral argument or evidentiary hearing has been made and denied; or

(4) at the conclusion of oral argument or a hearing if one has been granted.

(j) **Postponement of Submission.** All motions should be decided by the court as soon as practicable after all pleadings or briefs have been filed, and, in any event, within six (6) months from the filing of the motion.

(1) It is the responsibility of counsel to complete briefing of motions in accordance with the schedule contained in this rule, except where there is good cause to stipulate to extend the time for briefing or postponement of formal submission to the court for a decision.

(2) Where one or more stipulations for postponement will make it impossible for the court to rule upon a motion within six (6) months from the date the motion was filed, the court may, in its discretion, deny the motion with leave to summarily renew the same.

Related Provisions:

28 U.S.C. § 1746	Unsworn declarations under penalty of perjury
F.R.Civ.P. 6	Time
F.R.Civ.P. 7	Pleadings Allowed; Form of Motions
F.R.Civ.P. 10	Form of Pleadings
F.R.Civ.P. 12	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
F.R.Civ.P. 56	Summary Judgment
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.4	Proposed Orders
D.AK. LR 10.1	Form of Pleadings and Other Papers

Rule 7.2 Hearings.

(a) **Oral Argument.** Any party may request oral argument by filing a separate paper making the request, and specifying the motion on which oral argument is sought, within three (3) days after the date the last paper on that motion is filed, or the time for filing has elapsed.

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

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

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

[A] order oral argument without request; or

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

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

(5) At oral argument counsel should:

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

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

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

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

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

(1) In those matters where testimony must be heard or other evidence presented at a hearing, a motion for leave to present evidence must be filed not later than three (3) days after the party has filed the motion or opposition to the motion.

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

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

- [A] a list of witnesses, together with a summary of what those witnesses will say; and
- [B] an estimate of time needed.

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

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

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

[A] an affidavit explaining—

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

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

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

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

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

[A] act *ex parte*;

[B] set a hearing;

[C] order briefing on shortened time; or

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

Related Provisions:

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

Rule 7.3 Telephonic Participation in Civil Cases.

(a) **Authorization for Telephonic Participation.** The court may allow one or more parties, counsel, witnesses or the court to participate telephonically in any hearing or deposition for good cause and in the absence of substantial prejudice to any party.

(1) Requests to have incarcerated litigants appear telephonically will ordinarily be granted unless the litigant has a right to be personally present and declines to waive that right.

(2) Authorization for a witness to telephonically participate does not bar:

[A] the witnesses' testimony from being presented by audio-visual deposition taken under Rule 30(b), Federal Rules of Civil Procedure; nor

[B] 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, will designate the party responsible for arranging the call and the party or parties responsible for payment of the call under the following criteria:

[A] the party at whose convenience a telephonic hearing is held will pay the telephone cost of the hearing;

[B] the court will pay the telephone cost if the judge is able to avoid traveling to the hearing;

[C] the defendant will pay the cost if the civil defendant, defense attorney or defense witness is able to avoid traveling to the hearing;

[D] the plaintiff will pay the cost if the plaintiff, plaintiff's attorney, or witness for the plaintiff is able to avoid traveling to the hearing; or

[E] 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 parties to compensate that party for a portion of the cost.

(2) At least two (2) business days in advance of the hearing, the designated party must 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 will:

[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; and

[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 accordance with D. Ak. LR 80.1.

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

Related Provisions:

F.R.Civ.P. 43 Taking of Testimony

D.Ak. LR 7.2 Hearings

Rule 7.4 Proposed Orders.

(a) **Dispositive Motions.**

(1) 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.

(2) "Dispositive" motions are:

[A] motions to dismiss made under Rule 12, Federal Rules of Civil Procedure; and

[B] motions for summary judgment under Rule 56, Federal Rules of Civil Procedure.

(3) The court may allow parties to submit proposed orders for dispositive motions on a computer disk in a computer language compatible with the court's computer system.

(b) **Routine Motions.** A proposed order must be filed with routine non-dispositive motions or oppositions to the motion.

(c) **Form of Order.**

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

(2) If the proposed order is for an extension of time or modification of time deadlines, it must include a date certain by which the matter sought to be extended will be accomplished.

Related Provisions:

D.Ak. LR 7.1 Motion Practice

D.Ak. LR 7.2 Hearings

Rule 9.1 Social Security Cases.

(a) **Social Security Number and Decision.** Any person seeking judicial review of a decision of the Commissioner of Social Security under Section 205(g) of the Social Security Act (42 U.S.C. § 405(g)) must:

(1) provide, the social security number of the wage earner on whose wage record the application for benefits was filed; and

(2) attach to the complaint a copy of the final decision of the Commissioner.

(b) **Failure to Provide.** Failure to provide a social security number or to attach a copy of the decision of the Commissioner of Social Security will not be grounds for dismissal of the complaint.

Related Provisions:

42 U.S.C. § 405 Evidence, procedure and certification for payments

Rule 9.2 Three-Judge Court.

(a) **Notification in First Pleading.** In any action or proceeding in which a hearing by a three-judge district court is requested, the words "Three-Judge District Court Requested," or the equivalent, must be included immediately following the title of the first pleading in which the cause of action requiring a three-judge court is pleaded.

(1) Unless the basis for the request is apparent from the pleading, it must be set forth in the pleading or in a brief statement attached thereto.

(2) The words "Three-Judge District Court Requested" or the equivalent is a sufficient request under 28 U.S.C. § 2284.

(b) **Number of Copies.** Unless otherwise ordered by the court, in any action or proceeding in which a three-judge court is requested, parties must file the original and three copies of every pleading, motion, notice, or other document with the clerk until:

[1] it is determined either that a three-judge court will not be convened; or

[2] that the three-judge court has been convened and dissolved, and the case remanded to a single judge.

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

Related Provisions:

28 U.S.C. § 2284 Three-judge court; when required; composition; procedure

Rule 10.1 Form of Pleadings and Other Papers

(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 by the court must:

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

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

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

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

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

(6) if consisting of more than one (1) page, have each consecutive page numbered at the bottom center of each page; and

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

(b) Chambers Copies.

(1) Every pleading, document, or paper filed must be accompanied by a complete and legible copy for use by the judge in chambers.

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

(c) Exhibits.

(1) All exhibits to pleadings must be:

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

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

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

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

(3) All exhibits should be permanently attached to the pleadings to which they apply in a manner to be easily accessible and readable without detaching from the principal document.

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

(e) Information to Be Placed on First Page. The first page of each pleading, motion, affidavit, brief, judgment, order, and instructions must be prepared as provided in this subsection.

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

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

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

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

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

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

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

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

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

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

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

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

(f) Information to be Placed on Signature Page.

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

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

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

(h) Reference to Other Parts of Pleading.

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

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

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

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

(3) Any document referred to in any pleading 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 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, should 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 Rule 8(a), Federal Rules of Civil Procedure, should be at the beginning of the complaint, with citations to any federal statutes or constitutional provisions upon which jurisdiction may be based.

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

Related Provisions:

F.R.Civ.P. 6	Time
F.R.Civ.P. 7	Pleadings Allowed; Form of Motions
F.R.Civ.P. 8	General Rules of Pleading

F.R.Civ.P. 9	Pleading Special Matters
F.R.Civ.P. 10	Form of Pleadings
F.R.Civ.P. 12	Defenses and Objections—When and How Presented—By Pleading or Motion—Motion for Judgment on the Pleadings
F.R.Civ.P. 13	Counterclaim and Cross-Claim
F.R.Civ.P. 14	Third-Party Practice
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 15.1	Motions to Amend
D.Ak. LR 38.1	Notation of Jury Demand in Pleading

Rule 11.1 Appearance by Attorney.

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

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

Rule 15.1 Motions to Amend.

(1) A party who moves to amend a pleading must attach the signed original and one copy of the amended pleading to the motion.

(2) 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.

Related Provisions:

F.R.Civ.P. 15	Amended and Supplemental Pleadings
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Rule 16.1 Pre-Trial Procedures.

(a) **Exempted Matters.** Unless otherwise ordered by the court, the following categories of cases are exempted from the requirement of scheduling conferences and scheduling orders:

- (1) Internal Revenue Service enforcement actions;
- (2) eminent domain proceedings;
- (3) bankruptcy appeals;
- (4) habeas corpus petitions;
- (5) Freedom-of-Information-Act actions;
- (6) actions to enforce out-of-state judgments;
- (7) social security appeals;
- (8) Administrative Procedure Act appeals; and
- (9) actions in which no service upon defendants was effected within 120 days of filing of the complaint.

(b) **Pre-Trial Scheduling and Planning Conference.**

(1) Unless otherwise ordered by the court, not later than sixty (60) days after the last named defendant has appeared in the action, counsel for the parties must file the report required by Rule 26(f), Federal Rules of Civil Procedure, which report must:

[A] be in form substantially similar to AK LCF 26(f), Scheduling and Planning Conference Report;

[B] be signed by counsel for the parties; and

[C] clearly specify—

(i) those matters, if any, on which the parties were unable to reach agreement, and

(ii) the respective positions of each party on each matter on which agreement could not be reached.

(2) The court may enter a scheduling and pretrial order without a hearing or set a pre-trial conference.

(c) **Standard Pretrial Procedures and Times.** Unless otherwise ordered by the court, the procedures and times set forth in this subsection apply to all pretrial matters.

(1) Preliminary disclosure of potential witnesses (a preliminary witness list) will be made contemporaneously with the disclosures required by Rule 26(a)(1), Federal Rules of Civil Procedure.

(2) Counsel for each party must contemporaneously prepare and maintain a written record of all disclosures and supplementation of disclosures or responses made to requests for discovery under Rule 26(a) and (e), Federal Rules of Civil Procedure.

(3) If discovery is not completed by the date specified in the Pretrial Scheduling Order:

[A] the parties may stipulate to a continuance of not more than two (2) months for the completion of discovery, which stipulation does not require court approval, provided that the stipulation states with particularity—

(i) the discovery that remains to be accomplished, and

(ii) when discovery will be accomplished; or

[B] if more than two months is required to complete discovery, the parties must request a discovery conference with the court.

(4) The deadline for completion of discovery set in the Pretrial Scheduling Order is applicable to all depositions, including depositions referred to as “perpetuation” depositions.

(5) [A] Motions addressing matters specified in Rule 12(b), Federal Rules of Civil Procedure, must be filed not later than forty-five (45) days after the date the Pretrial Scheduling Order is entered.

[B] Other preliminary motions, especially those raising legal issues that have the potential for reducing necessary discovery, should be served and filed at the earliest time possible commensurate with the development of discovery, if any, necessary to support the motion.

(6) Motions to amend pleadings or add parties must be filed not later than sixty (60) days after the date the Pretrial Scheduling Order is entered.

(7) Motions under the discovery rules must be filed not later than thirty (30) days after the date set for the close of discovery.

(8) Motions in limine and dispositive motions must be filed not later than thirty (30) days after the date set for the close of discovery.

(9) Subject to the provisions of paragraph (c)(3), the parties may, by agreement, extend the time for a party to respond to any discovery request propounded by any other party.

(d) **Pre-Trial Conferences.** Status, discovery, settlement, or other pre-trial conferences may be scheduled upon motion of a party or on the court's own motion.

(e) **Certification of Readiness for Trial.** In the event that all discovery is completed more than forty-five (45) days before the discovery close date set in the Pretrial Scheduling Order and no dispositive motions are to be made by any party, counsel for plaintiff should file a certification that the matter is ready for trial as provided in D.Ak. LR 40.3(b).

Related Provisions:

F.R.Civ.P. 16 Pretrial Conferences; Scheduling; Management
D.AK. LR 40.3 Calendaring Cases for Trial

Rule 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.*

[A] 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.

[B] 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 those 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 under Rule 26(f), Federal Rules of Civil Procedure, and any conference regarding case management under Rule 16, Federal Rules of Civil Procedure, litigants must 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:

[A] upon request of the parties, or one of them; or

[B] 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 use any appropriate ADR process.

(d) Timing of Mediation. Unless otherwise ordered, mediation ordered by the court must be conducted within ninety (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 must lodge a proposed order setting forth:

[A] the name and address of the mediator;

[B] whether mediation statements—

(i) are to be submitted to the mediator,

(ii) are to be shared or confidential,

(iii) any limitation in length, and

(iv) when they are to be submitted;

[C] the mediator's fee schedule and required payment arrangements, including how the parties will allocate those costs;

[D] the time and place the mediation is to commence and time available; and

[E] 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] 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 retired judge, who is not assigned to the case and who consents to serve.

[B] 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.

[C] 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.*

[A] Upon conclusion of the mediation, the mediator must promptly file a report indicating whether the case has settled in whole or in part, whether any follow up is scheduled, and any additional information that all parties have agreed in writing should be included in the report.

[B] 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.*

[A] If the mediation results in settlement, the parties must lodge appropriate closing papers, or in the case of a partial settlement, papers appropriate to accomplish the partial settlement, within thirty (30) days from the filing of the mediator's report.

[B] Upon written request filed within thirty (30) days, the court may enlarge the time within which to file the appropriate closing papers.

(f) **Confidentiality of Mediation Communications.** This subsection applies to communications, during, preliminary to, or after all mediation sessions.

(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.

(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.

(3) *Mediation Statements.* Mediation statements submitted to the mediator in confidence or shared with other mediation parties:

[A] may not be disclosed to anyone else without the parties' express consent; and

[B] are not admissible in evidence in any proceeding related to subject matter of the mediation.

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

(5) *Court May Authorize Disclosure.* Notwithstanding paragraphs (f)(1) and (f)(2), a communication may be disclosed if the court, after a hearing, determines that:

[A] disclosure does not circumvent Rule 408, Federal Rules of Evidence and Rule 68, Federal Rules of Civil Procedure;

[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.

(6) *Application to Associates and Staff.*

[A] Disclosure of confidential information to the staff and associates of the parties, their counsel, or the mediator, may be necessary to accomplish the mediation.

[B] 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 reasonably be thought to create an appearance of bias.

(2) *Disclosure; Further Proceedings.*

[A] The mediator has a responsibility to disclose all dealings and relationships defined in paragraph (g)(1).

[B] 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.

(1) Any private person serving as a neutral under this rule is deemed to be performing a quasi-judicial function and is entitled to the immunities and protections that the law accords to persons serving in that capacity.

(2) 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.

(1) 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).

(2) [A] 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.

[B] In doing so, the court will take into consideration the relative financial condition 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.

(1) The court expects any private person who agrees to serve as a neutral to have training or experience commensurate with the responsibility undertaken.

(2) In court-connected and other forms of mediation, it is desirable that the mediators selected by the parties have the requisite training and experience.

(3) The court does not:

[A] investigate and approve mediators and other neutrals; or

[B] 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 parties 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 facilitates 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, 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.

Related Provisions:

9 U.S.C. § 5	Appointment of arbitrators or umpire
9 U.S.C. § 6	Application heard as motion
9 U.S.C. § 7	Witnesses before arbitrators; fees; compelling attendance
9 U.S.C. § 9	Award of arbitrators; confirmation; jurisdiction; procedure
9 U.S.C. § 10	Same; vacation; grounds; rehearing
9 U.S.C. § 11	Same; modification or correction; grounds; order
9 U.S.C. § 12	Notice of motions to vacate or modify; service; stay of proceedings
9 U.S.C. § 13	Papers filed with order on motions; judgment; docketing; force and effect; enforcement
28 U.S.C. § 455	Disqualification of justice, judge, or magistrate
28 U.S.C. §§ 651–658	Alternative Dispute Resolution
F.R.Civ.P. 68	Offer of Judgment
F.R.E. 408	Compromise and Offers to Compromise
F.R.E. 501	General Rule [Privileges]

Rule 24.1 Procedures for Notification of Any Claim of Unconstitutionality.

(a) **Actions to Which Applicable.** A party raising a constitutional issue must notify the court of the existence of the question, by checking the appropriate box on the Civil Cover Sheet and by stating on the pleading that alleges the unconstitutionality, immediately following the title of that pleading, "Claim of Unconstitutionality," or the equivalent in any action, suit, or proceeding in which:

(1) 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

(2) 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.

(b) Noncompliance.

(1) 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.

(2) Any notice provided under this rule, or lack of notice, does 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.

(c) Notice to Governmental Attorneys. The Clerk will give notice as required by 28 U.S.C. § 2403.

Rule 30.1 Depositions.

(a) Audio-Visual Depositions.

(1) Unless it is otherwise impracticable under the conditions of the taking of the deposition, an audio-visual deposition must depict the witness waist-up, seated at a table.

(2) The camera and lens may not be varied except as necessary to follow natural body movements of the witness or to present exhibits or describe evidence being used during the deposition.

(b) Depositions Held by Dismissed Party. A party dismissed from an action must deliver original depositions in the party's possession to the plaintiff or another party remaining in the action, and promptly certify to the court that all depositions have been delivered, identifying the party now responsible for their safekeeping.

Related Provisions:

F.R.Civ.P. 30 Depositions Upon Oral Examination

Rule 32.1 Use of Depositions.

(a) Publication not Required.

(1) Parties may use depositions or deposition excerpts without orders for publication.

(2) If any party seeks to maintain confidentiality for all or any part of a deposition, the party may move for a protective order.

(b) Introduction as Exhibit. Depositions that counsel anticipates employing for purposes other than impeachment during trial:

(1) will be marked for identification as an exhibit under D.Ak. LR 39.3; and

(2) may be admitted in whole or in part either upon stipulation or application during trial.

Related Provisions:

F.R.Civ.P. 32 Use of Depositions in Court Proceedings

D.Ak. LR 39.3 Exhibits

Rule 37.1 Sanctions for Discovery Violations.

(a) Certification of Attempt to Confer. Any motion seeking to compel discovery or for sanctions under Rule 37, Federal Rules of Civil Procedure, must include in the first paragraph a statement that the moving party has in good faith conferred or attempted to confer with the party not making the disclosure or failing to make discovery in an effort to secure compliance without court action.

(b) Standard for Imposition of Sanctions. Prior to entering an order under Rule 37, Federal Rules of Civil Procedure, the court will consider:

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

[2] the prejudice to the opposing party;

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

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

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

(c) **Dismissal, Establishment, or Preclusion.** The court will not enter an order that has the effect of establishing or dismissing a claim or defense or determining or precluding a central issue in the litigation unless the court finds that the party acted willfully.

Related Provisions:

F.R.Civ.P. 37 Failure to Make Disclosure or Cooperate in Discovery; Sanctions

Rule 38.1 Notation of Jury Demand in the Pleading.

(1) 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 ten (10) days after service of the last pleading directed to the issue.

(2) If contained in a complaint or answer, the demand must be placed conspicuously on the first page of the complaint or answer.

Related Provisions:

28 U.S.C. §§ 1861–1878 Juries; Trial by Jury

F.R.Civ.P. 38 Jury Trial by Right

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

Rule 39.1 Opening Statements and Closing Arguments.

(a) **Time Allotted.**

(1) Unless otherwise ordered, one-half (½) hour per side will be allowed for opening statements, and one (1) hour per side for closing arguments.

(2) Where multiple parties are on the same side, they may divide their time by agreement.

(3) A side entitled to rebuttal argument may divide its time as it chooses between argument in chief and rebuttal.

(b) **Use of Exhibits.** Exhibits may not be displayed in opening statement unless leave has been granted, or the exhibit has been admitted under a stipulation or order.

Rule 39.2 Trial Briefs.

(a) **Time for Filing.** Unless otherwise ordered by the court, not less than twenty (20) days prior to the scheduled trial date in civil cases, each party will file and serve on all other parties a trial brief.

(b) **Length and Format.** The brief may not exceed twenty-five (25) pages and should contain:

(1) a summary identifying the—

[A] parties, and

[B] theories of recovery and defenses that have been pled;

(2) a designation of the appropriate pleadings and any pre-trial rulings or stipulations by docket number;

(3) a designation of which claims and which parties remain for disposition;

- (4) a summary, organized by claim, of—
 - [A] the anticipated evidence on liability and damages, with
 - [B] a spreadsheet or itemized list of relief requested, including anticipated dollar amounts where applicable;
- (5) citations to controlling statutes and cases;
- (6) a summary of what is likely to be most at issue; and
- (7) a summary, with references to controlling authorities, of issues likely to arise regarding evidence.

Related Provisions:

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

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

Rule 39.3 Exhibits.

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

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

(2) Plaintiff will arrange the time for this exhibit review.

(3) [A] (i) At the time set, all exhibits must be available for inspection by opposing counsel and the deputy clerk.

(ii) Trial will not be recessed or delayed to permit counsel to read or examine exhibits.

[B] (i) Large or bulky exhibits that cannot be readily transported to the office of the deputy clerk must be made available at a reasonable time and location prior to the meeting with the deputy clerk for examination by opposing counsel.

(ii) If available, photographs or other representations of large or bulky exhibits must be included with the exhibits marked under this rule.

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

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

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

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

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

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

(6) Within three (3) days after the exhibit review session:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) Digital Evidence Presentation System. To utilize the Digital Evidence Presentation System ("DEPS"), a party must:

(1) contact the court Automation Specialist (907-677-6112) not less than two (2) weeks in advance of the hearing or trial to arrange for necessary training and familiarization; and

(2) file a notice of intent to use DEPS not less than three (3) business days before the hearing or trial including in the notice—

[A] the date, and

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

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

Rule 39.5 Courtroom Conduct.

(a) **General.** Counsel must present the case with candor and fairness and 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.

(b) Addressing Court; Examination of Witnesses.

(1) Unless the court otherwise directs, counsel must stand when addressing the court but may sit when questioning witnesses.

- (2) Unless leave of court is granted, counsel may not address questions or remarks to opposing counsel.
- (3) Examination and cross-examination of witnesses is:
 - [A] limited to questions addressed to witnesses; and
 - [B] counsel may not make statements, comments or remarks prior to questions or after the answers.
- (4) Counsel:
 - [A] may not make personal, provoking or insulting remarks; and
 - [B] questions, remarks, and statements must be confined to matters properly before the court.
- (5) In objecting, counsel should:
 - [A] refer in summary form to the applicable rule or principle; and
 - [B] except by leave of court or out of the presence of the jury—
 - (i) make any argument, or
 - (ii) elicit any description of the evidence.
- (6) Counsel:
 - [A] must remain at the appropriate lectern or counsel table;
 - [B] may not wander about the courtroom; or
 - [C] unless leave is granted, may not approach—
 - (i) a witness,
 - (ii) the jury,
 - (iii) the clerk, or
 - (iv) the bench.
- (c) **Attire.** Counsel will dress at the level of formality appropriate for appearing in a federal court:
 - (1) business suits, ties and footwear for men; and
 - (2) analogous business clothing for women.

Rule 40.1 Judicial Assignments.

- (a) **Assignment of Cases.** Unless otherwise directed by the court, all civil cases when filed will be numbered consecutively by the clerk and immediately assigned to a judge in a random manner that distributes an equal number of cases to each judge.
- (b) **Application for Orders.**
 - (1) 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, must be made to the judge to whom the action or proceeding is assigned.
 - (2) If the judge to whom the cause is assigned is not accessible, application for an order may be presented to:
 - [A] the chief judge; or, in the absence of the chief judge;
 - [B] any other available judge within the district, upon good cause shown; and
 - [C] orders may then be signed by the judge to whom application has been made.
 - (3) Paragraph (b)(2) does not apply to findings, judgments, and orders based upon decisions previously announced by a judge, except in the event of the inability of the judge to proceed as provided in Rule 63, Federal Rules of Civil Procedure.

Related Provisions:

F.R.Civ.P. 63 Inability of a Judge to Proceed

Rule 40.2 Notice of Related Case.

(a) Duties of Counsel.

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

(2) Notice must:

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

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

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

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

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

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

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

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

(c) Procedure after Filing.

(1) Within ten (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.

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

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

Related Provisions:

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

Rule 40.3 Calendaring Cases for Trial.

(a) Setting Cases for Trial; Certification.

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

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

[A] the case is at issue for trial;

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

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

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

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

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

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

(c) **Continuances.**

(1) Where application is made for the continuance of the final pre-trial conference or trial of a case, the application, unless otherwise permitted, must be filed at least fifteen (15) days before the day set for the final pre-trial conference or trial.

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

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

Related Provisions:

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

Rule 41.1 Dismissal of Actions.

(a) **Cases Pending Longer than One Year.**

(1) The clerk will issue an order to show cause why a case pending for longer than one (1) year without action should not be dismissed for want of prosecution.

(2) Failure to show good cause within thirty (30) days of the clerk's order will result in dismissal.

(b) **Orders to Show Cause; Motions for Failure to Prosecute.**

(1) The court may issue an order to show cause in any circumstance where it appears to the court that the action should be dismissed.

(2) A party may move for a dismissal for failure to prosecute at any time.

Related Provisions:

F.R.Civ.P. 41 Dismissal of Actions
D.Ak. LR 7.1 Motion Practice
D.Ak. LR 7.2 Hearings
D.Ak. LR 7.4 Proposed Orders

Rule 43.1 Examination of Witnesses.

Only one (1) 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.

Rule 45.1 Subpoenas in Non-District Cases

(a) **Motion to Quash or Enforce.**

(1) Except as otherwise specifically provided in these rules, a motion to quash or enforce a subpoena issued in this district for a case pending in another district will be determined in accordance with the rules and controlling authority of the district in which the action is pending.

(2) [A] It is the responsibility of the party seeking application of the rules and controlling authority of the district in which the action is pending to provide the necessary information to the court of the rules and controlling authority of the district in which the action is pending; and

[B] in the absence of evidence of the rules and controlling authority of the district in which the action is pending, the court will apply the rules and controlling law of this district.

(b) **Appearance by Issuing Attorney.** D.Ak. LR 83.1 notwithstanding, unless otherwise ordered by the court, the attorney who issued a subpoena in a case pending in another district or who represented the party who requested issuance of the subpoena, may appear in any proceeding to enforce or quash the subpoena brought in this district.

Rule 47.1 Voir Dire.

(a) **Submission of Questions.** Unless otherwise ordered by the court, not later than five (5) days before trial, any party may file questions that the party requests be asked of the panel.

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

Related Provisions:

28 U.S.C. § 1870 Challenges

F.R.Civ.P. 47 Selection of Jurors

Rule 51.1 Jury Instructions.

(a) **Time For Filing.** Except as the court may otherwise direct, the parties must file requested jury instructions not later than ten (10) days before trial.

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

- (1) be numbered consecutively;
- (2) indicate which party requests them;
- (3) embrace but one subject;
- (4) not repeat the principle of law embraced in the instruction in subsequent requests; and
- (5) state what form it copies or on what authorities it relies.

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

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

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

(1) Except as the court may otherwise direct, not later than fifteen (15) days before trial, the parties must meet and confer on instructions to be given the jury.

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

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

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

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

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

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

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

Related Provisions:

F.R.Civ.P. 51 Instructions to Jury; Objection
Ninth Circuit Manual of Model Civil Jury Instructions
Ninth Circuit Manual of Model Criminal Jury Instructions
Ninth Circuit Manual on Jury Trial Procedures
Alaska Pattern Civil Jury Instructions

Rule 52.1 Proposed Findings.

(a) **Submission.** Unless directed by the court, proposed findings of fact and conclusions of law are not to be submitted.

(b) **Computer Disks.** The court may allow parties to submit proposed findings of fact and conclusions of law on a computer disk in a computer language compatible with the court's computer system.

Related Provisions:

F.R.Civ.P. 52 Findings by the Court; Judgment on Partial Findings

Rule 53.1 Discovery Masters.

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

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

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

(b) **Conflicts.**

(1) The master must disclose any possible conflicts between the master and any party within ten (10) days of appointment.

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

(3) A motion to disqualify a master must be made within ten (10) days of the master's disclosure of the conflict.

(c) **Authority.**

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

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

[A] resolve all discovery disputes between the parties;

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

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

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

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

(d) **Rulings.**

(1) Rulings of the discovery master must be:

[A] in writing;

[B] served on the parties; and
[C] filed with the court.

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

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

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

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

Related Provisions:

28 U.S.C. § 957 Clerks ineligible for certain offices

F.R.Civ.P. 26 – 37 Depositions and Discovery

F.R.Civ.P. 53 Masters

Rule 54.1 Taxation of Costs.

(a) **Filing, Time**

(1) Not later than ten (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] a cost bill; together with

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

(2) The date and time of the hearing must be scheduled with the clerk's office and may not be more than seven (7) days from the date of the notice.

(b) **Cost Bill.**

(1) Cost bills must include:

[A] the statutory verification;

[B] photocopies of invoices;

[C] proofs of payment; and

[D] other supporting documents as necessary or appropriate.

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

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

(c) **Objections.**

(1) Objections may be filed either in writing or orally at the cost hearing.

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

(d) **Hearing.**

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

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

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

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

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

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

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

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

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

(2) *Trial Transcripts.*

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

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

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

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

[B] all postage costs are taxable;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Related Provisions:

28 U.S.C. § 1821 Per diem and mileage generally; subsistence

28 U.S.C. § 1824 Mileage fees under summons as both witness and juror

28 U.S.C. § 1920 Taxation of Costs

28 U.S.C. § 1921 United States marshal's fees

28 U.S.C. § 1922 Witness fees before United States commissioners

28 U.S.C. § 1923 Docket fees and costs of briefs

28 U.S.C. § 1924 Verification of bill of costs

28 U.S.C. § 2412 Costs and Fees

F.R.Civ.P. 54 Judgments; Costs

Rule 54.3 Award of Attorney's Fees.

(a) **Motion.** A motion for attorney's fees under Rule 54(d)(2), Federal Rules of Civil Procedure, must:

(1) state the amount requested;

(2) set forth the authority for the award, whether Rule 82, Alaska Rules of Civil Procedure, a federal statute, contractual provision, or other grounds entitling the moving party to the award; and

(3) be accompanied by an affidavit that provides—

[A] total number of hours worked,

[B] the amount charged to the client, if any, and

[C] has attached as exhibits bills sent or other detailed itemization as may be appropriate.

(b) **Diversity Cases.** In a diversity case the court will apply Rule 82, Alaska Rules of Civil Procedure, existing at the time judgment is entered.

Related Provisions:

28 U.S.C. § 1875 Protection of juror's employment

28 U.S.C. § 1927 Counsel's liability for excessive costs

28 U.S.C. § 2412 Costs and Fees

28 U.S.C. § 2465 Return of property to claimant; liability for wrongful seizure; attorney fees, costs and interest

F.R.Civ.P. 54 Judgments; Costs

Alaska Civ.R 82 Attorney's Fees

Rule 55.1 Entry of Judgment Upon Default.

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

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

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

(i) infant,

(ii) incompetent, or

(iii) in the military service of the United States; or

[B] if the person is in one of these categories, that the person is represented.

(2) If a money award is sought, the applicant must file with the application an affidavit with such attachments as may be appropriate:

[A] showing entitlement to the amount sought; and

[B] that provides a computation of the amounts to be filled in by the clerk on the judgment.

(b) **Entry of Default Judgment.** Upon application for default judgment, the clerk will:

(1) enter judgment if appropriate under Rule 55(b)(1), Federal Rules of Civil Procedure; or, if not,

(2) refer the application to the judge for disposition.

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

Related Provisions:

F.R.Civ.P. 55 Default

Rule 58.1 Judgments.

(a) **Costs.** Entry of judgment by the clerk will not be delayed for the taxing of costs or computation of pre-judgment interest.

(1) Where appropriate, the clerk or the party preparing the judgment, will leave a blank space in the form of judgment for insertion of costs, attorney's fees, and interest, and the total.

(2) The clerk will fill in the appropriate amounts (or zeros) in the appropriate blanks, perform the addition, and fill in the total amount:

[A] upon final award of interest, costs, and attorney's fees; or

[B] the termination of the period allowed for application without application having been made,

(b) **Judgment on Jury Verdicts; Sum Certain.** For judgments denoted under clause (1) of Rule 58, Federal Rules of Civil Procedure, the clerk will prepare the judgment on the appropriate Administrative Office Form, using language similar to that in form 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) **Service.** The clerk will serve the judgment by depositing it in a U.S. mail receptacle prior to the last pickup of the day on the same day as the judgment is entered.

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

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

[A] the method of computation; and

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

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

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

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

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

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

Related Provisions:

28 U.S.C. § 1961 Interest

28 U.S.C. § 2516 Interest on claims and judgments

F.R.Civ.P. 58 Entry of Judgment

F.R.Civ.P. 79 Books and Records Kept by the Clerk and Entries Therein

F.R.Civ.P., Appendix of Forms, Form 31

F.R.Civ.P., Appendix of Forms, Form 32

Rule 58.2 Satisfaction of Judgments.

(a) **Acknowledgment of Satisfaction.** When a judgment is satisfied or partially satisfied, the judgment creditor or the judgment creditor's attorney must deliver or file an acknowledgment of satisfaction or partial satisfaction of judgment, upon payment in cash, or within thirty (30) days after payment if payment is made in any other manner.

b) **Motion to Compel Entry.** Upon motion, the court may either order entry of satisfaction or compel an acknowledgment of satisfaction from the judgment creditor.

(c) **Partial Satisfaction.** A partial satisfaction of judgment must show the amount paid.

Rule 59.1 Motions for Reconsideration of Non-Appealable Orders.

(a) **Applicability.** This rule does not apply to final judgments and appealable orders governed by Rule 59, Federal Rules of Civil Procedure.

(b) **Time for Filing.**

(1) Except as provided in paragraph (b)(2), a motion for reconsideration of an order must be filed not later than five (5) days after entry of the order.

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

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

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

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

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

(d) **Opposition and Replies.**

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

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

[B] Any opposition is limited to five (5) pages.

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

Related Provisions:

F.R.Civ.P. 59 New Trials; Amendment of Judgments

Rule 67.1 Deposit of Funds in the Registry Account; Certificate of Cash Deposit.

(a) **Cash.** Cash tendered to the clerk for deposit into the Registry Account of this court must be accompanied by a written statement titled "Certificate of Cash Deposit". The certificate must 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, is to be made; and
- (7) a signature block for the clerk to acknowledge receipt of the cash tendered, which signature block must not be set forth on a separate page, but must 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 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) **Refusal of Tender.** The clerk may refuse cash tendered without the certificate of cash deposit required by this rule.

Related Provisions:

- 28 U.S.C. § 2041 Deposit of money's in pending or adjudicated cases
- 28 U.S.C. § 2042 Withdrawal
- 28 U.S.C. § 2044 Payment of fine with bond money
- F.R.Civ.P. 67 Deposit in Court
- D.Ak. LR 67.2 Investment of Funds on Deposit

Rule 67.2 Investment of Funds on Deposit.

(a) **Investment.**

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

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

[A] the name of the bank or financial institution where the funds are to be invested;

[B] the type of account or instrument and the terms of investment where a timed instrument is involved; and

[C] language that directs the clerk to deduct from income earned on the investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(b) Service of Order.

(1) Counsel obtaining an order under this rule must personally serve a copy of the order on the clerk or the chief deputy, and the financial deputy.

(2) A supervisory deputy clerk may accept service on behalf of the clerk, chief deputy or financial deputy in their absence.

(c) Deposit by Clerk. The clerk will take all reasonable steps to deposit funds into interest-bearing accounts or instruments not more than fifteen (15) days after a copy of the order for the investment is served.

(d) Verification by Party.

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

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

(e) Responsibility of Counsel.

(1) It is the responsibility of counsel to notify the clerk regarding disposition of funds at maturity of a timed instrument not less than fifteen (15) days before the stated maturity date.

(2) In the absence of notice, funds invested in a timed instrument subject to renewal will be reinvested for a like period of time at the prevailing interest rate.

(3) Funds invested in a timed instrument not subject to renewal will be re-deposited by the clerk into the Registry Account of the court, which is a non-interest-bearing account.

(f) Change in Terms and Conditions. Any change in terms or conditions of an investment will be by court order only, and counsel will be required to comply with subsections (a) and (b).

(g) Payment from Account.

(1) No funds may be paid out of an interest-bearing account or interest-bearing instrument except by order of the Court.

(2) The order must:

[A] distinctly set forth the funds in question and name the payee;

[B] should the named payee be other than the depositor of the funds, that fact must be reflected;

[C] identify by name, address and social security or taxpayer's identification number the individual entitled to the interest accumulated; and

[D] direct the clerk to deduct from income earned on investment a fee, not exceeding that authorized by the Judicial Conference of the United States and set by the Director of the Administrative Office.

(3) The clerk will deliver a copy of the order to the private institution where the deposit was made.

Related Provisions:

28 U.S.C. § 2041 Deposit of money's in pending or adjudicated cases

28 U.S.C. § 2042 Withdrawal

28 U.S.C. § 2044 Payment of fine with bond money

F.R.Civ.P. 67 Deposit in Court

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

Rule 68.3 Settlements and Judgments in Favor of a Minor.

(a) Power to Execute a Release, Stipulation, or Acknowledgment of Satisfaction of Judgment.

(1) 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.

(2) Any release, stipulation, or acknowledgment is 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 that has the effect of resolving or dismissing any claim by a minor must be approved by the Superior Court for the State of Alaska under Rule 90.2, Alaska Rules of Civil Procedure.

(1) The Superior Court must approve:

[A] the terms of any settlement, release or stipulation; and

[B] the plan of disbursement, including the provisions for expenses, costs, and fees.

(2) No judgment or order of dismissal will issue unless and until a certified copy of the order of the Superior Court of the State of Alaska approving the settlement, release or stipulation under Rule 90.2 is filed with this court.

(c) Judgments. Subject to the provisions of subsection (d), upon the rendering of a final judgment in favor of a minor, the parent or guardian asserting the claim on behalf of the minor must file a petition with the Superior Court for the State of Alaska seeking approval, under Rule 90.2, Alaska Rules of Civil Procedure, of a plan of disbursement of the proceeds.

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

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

(d) Non-Resident Parents and Guardians.

(1) Where a parent or legal guardian subject to this rule is not a resident of the State of Alaska, and where the state of the parent or guardian's residence has a procedure similar to Rule 90.2, Alaska Rules of Civil Procedure, the court may, upon application, approve the substitution of a similar procedure for compliance with subsection (b).

(2) In the absence of any similar procedure, the court may adopt such procedure as it deems appropriate for approval of a settlement, taking guidance from Rule 90.2.

Related Provisions:

Ak.Civ.R 90.2 Settlement and Judgments in Favor of a Minor

Rule 69.1 Judicial Sales: Confirmation.

(1) [A] No judicial sale made under an order of this court may be confirmed if, before or at the time set for confirmation, a bid is presented that is ten percent (10%), or more, in excess of the highest bid received at the sale.

[B] In that event, a new sale will be held by the court at the time of hearing of the motion or petition for confirmation.

(2) 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 ten percent (10%).

Related Provisions:

28 U.S.C. §§ 2001 – 2007 Executions and Judicial Sales

Rule 77.1 Orders and Judgments by the Clerk.

(a) **General.** The clerk is authorized to sign and enter the orders listed below without further direction by the court.

(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 Rule 55(a), Federal Rules of Civil Procedure;

(4) Any other order, which under Rule 77(c) Federal Rules of Civil Procedure, 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 under D. Ak. LR 41.1; and

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

(b) **Notification of Judge.** The clerk will notify the judge before whom the case is pending of the action taken.

Related Provisions:

F.R.Civ.P. 54 Judgments; Costs

F.R.Civ.P. 77 District Courts and Clerks

Rule 77.6 Court Library.

(a) **Access.**

(1) 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.

(2) Judges, their staff, clerk of court personnel, and probation and parole personnel may make use of the library anytime by key.

(3) The library is 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.

[A] Judges' staff may be located in the library for official court business messages.

[B] 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 similar equipment may be brought into and used in the library provided the 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 may subject the violator to loss of all library privileges.

Rule 79.2 Books and Records of the Clerk.

(a) **Clerk's Custody.** Except as otherwise provided by this rule or order of the court, no record or paper belonging to the files of the court may be taken from the office or custody of the clerk.

(1) If any record or paper in the court files is needed as an exhibit or other purpose, the clerk will prepare a certified copy upon payment of the appropriate fee.

(2) After 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:

[A] all models, diagrams, and exhibits not already in the custody of the parties, will be returned to the party or person to whom they belong, except as may otherwise be ordered by the court under D. Ak. LR 7.1 and D. Ak. LR 39.3; and

[B] if items are not retrieved by the parties within a reasonable time after the clerk has provided notice, the clerk may destroy all 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 must:

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

[B] the parties are responsible for producing the exhibits if required for an appeal record.

(4) Nothing in this rule prevents 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.**

(1) 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 will prepare a checkout slip so that the file can quickly be located.

(2) Original files and papers from files must 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.

(3) Files must 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.**

(1) Except where it would compromise essential secrecy, when papers are filed or lodged for in camera review, a cover paper providing some general description must be attached, so that the clerk can make a descriptive docket entry.

(2) The papers must 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.

(3) No one, including personnel in the clerk's office and the judge's chambers, may open a sealed envelope or package except the judge assigned to the case or by order of the judge assigned to the case

(4) Anyone who opens a sealed envelope must:

[A] reseal it; and

[B] write on the envelope or container—

(i) the identity of the person opening the sealed documents or papers, and

(ii) the date(s) of opening and resealing.

(5) Attorneys must not quote or reveal the substance of in camera materials in papers filed unsealed.

Related Provisions:

28 U.S.C. § 1734 Court record lost or destroyed, generally
F.R.Civ.P. 26 General Provisions Governing Discovery; Duty of Disclosure
F.R.Civ.P. 79 Books and Records Kept by the Clerk and Entries Therein
D.Ak. LR 39.3 Exhibits

Rule 80.1 Record of Proceedings.

(a) Manner of Reporting Proceedings.

(1) All court proceedings will be electronically recorded unless another form of recording is ordered by the court.

(2) A request for a real-time court reporter must be filed not later than thirty (30) days before the date set for the trial or hearing.

(b) **Official Transcripts.** The court will not consider for any purpose transcripts of proceedings that 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 are to be made directly with the court reporter unless the court reporter is no longer employed with the court, in which event arrangements are to 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 are to be made through the clerk's office.

(d) Requests for Daily Transcripts.

(1) A request for a daily transcript of any matter must be made not less than two (2) weeks prior to the date the matter is scheduled for hearing.

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

(3) The clerk will 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 must thereafter make whatever fee arrangements are necessary.

(e) Fees—Transcripts, Tape Recordings.

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

(2) A current schedule of the fees, as established by the Judicial Conference, will be posted by the clerk in the clerk's office and be provided on request by the clerk's office and 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.

[A] These costs may not exceed the amount that a government employee would be reimbursed for the same travel.

[B] Compensation for reporters and auxiliary personnel as an attendance fee, 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.

[A] These costs may not exceed the amount that a government employee may be reimbursed for the same travel.

[B] Compensation for auxiliary personnel as an attendance fee is not billable to the party.

(3) *Extraordinary Delivery Costs.* If parties in unusual circumstances require delivery that fosters unusual costs, *e.g.*, 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.

Rule 81.1 Applicability.

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 those proceedings, when:

(1) These rules specifically so provide;

(2) The federal or local admiralty, bankruptcy, criminal, or *habeas* rules or statutes governing those proceedings so provide; or

(3) There is no specific provision of the federal or local admiralty, bankruptcy, criminal, or *habeas* rules or statutes governing those proceedings that controls the issue before the court, and these rules provide guidance in resolving the issue.

Rule 81.2 Naturalization Petitions.

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

Related Provisions:

8 U.S.C. § 1447 Hearings on denials of applications for naturalization

8 U.S.C. § 1448 Oath of renunciation and allegiance

8 U.S.C. § 1448a Address to newly naturalized citizens

8 U.S.C. § 1449 Certificate of naturalization; contents

8 U.S.C. § 1450 Functions and duties of clerks and records of declarations of intention and applications for naturalization

Rule 83.1 Attorneys.

(a) Eligibility.

(1) Except as otherwise provided in this rule, any attorney admitted to practice as an attorney and counselor at law before the courts of the State of Alaska, is eligible for admission to practice in the United States District Court for the District of Alaska.

(2) Active members of the bar of this court may appear and act in all respects on behalf of parties anywhere in the District of Alaska unless the court finds good cause to require association with an active member of the bar of this court residing in the place within the district where the case is pending.

(b) **Law Clerks.** No individual serving as a law clerk to a judge of this court may engage in the practice of law while continuing in such position. After separating from that position, practice as an attorney in connection with any case pending during the individual's term of service before the judge for whom the individual worked will be limited by Rule 1.11, Alaska Rules of Professional Conduct.

(c) **Procedure for Admission.**

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

(2) Each applicant for admission must file with the clerk a petition stating:

[A] all names by which the applicant has been known;

[B] residence and office addresses; and

[C] the names and addresses of all courts before which the applicant has been admitted to practice and dates of—

(i) admission, and

(ii) suspension or other such action on account of disability or other reason in any of the jurisdictions or courts before which the applicant has practiced.

(3) The petition must be:

[A] accompanied by a certificate signed by a justice or the clerk of the Alaska Supreme Court or the Executive Director of the Alaska Bar Association bearing a date not more than ninety (90) days prior to the date of the application; and

[B] served on the Alaska Bar Association.

(4) After a twenty-day period for the filing of objections has elapsed, the court will determine whether to order admission, and, if admission is ordered, the clerk will issue a certificate of admission.

(5) The court may, on its own motion or in response to an objection, make further inquiry of the applicant or others and determine what response to objection, hearing, or other procedures are appropriate.

(6) Service of the petition on the Alaska Bar Association and the objection period does not apply for new admittees to the Alaska Bar Association if the petition for admission is filed in this court within sixty (60) days of the date the Alaska Bar Association certifies the person for admission to the Alaska Supreme Court.

(7) An accepted applicant must take an oath substantially in the form as may be prescribed from time to time by the Administrative Office of the United States Courts or by miscellaneous general order of this court.

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

(1) [A] A member in good standing of the bar of another jurisdiction, who is not an active member of the bar of this court, may, upon motion, be permitted by the court to appear and participate on behalf of a party, but non-local counsel will ordinarily be required to associate with an active member of the bar of this court.

[B] The court may permit a member in good standing of the bar of another jurisdiction, on a sufficient showing, to appear and participate without association with an active member of the bar of this court.

(2) [A] Unless otherwise ordered by the court:

(i) the attorney applying may appear and participate from the time of filing as though it had been approved, and

(ii) approvals will be deemed to be effective as of the time of filing of the motion.

[B] The motion must either designate a member of the bar of this court in accord with the above paragraphs or show cause why, in accord with the above paragraphs, no association should be required.

[C] Motions for leave to participate without local counsel will not be approved as a matter of course, and if denied, a party represented by non-local counsel will be given a reasonable period within which to associate local counsel.

(3) If a non-local attorney appears for a party, whether from outside the district of Alaska or outside the location within the district where the proceeding is located, the court may at any time during the proceeding, on motion of a party or its own motion, for good cause, require association of local counsel.

(e) Attorneys for the United States Government and the Federal Public Defender Agency.

(1) Any attorney representing the United States Government, or any agency thereof, or any attorney employed by the Federal Public Defender's Office may appear and participate in particular cases in an official capacity without submitting a petition for admission, provided the attorney is admitted to practice and in good standing before the highest court of any state.

(2) If the attorney is not a resident of this District, the resident United States Attorney or Federal Public Defender, as the case may be, must be associated initially, but upon application demonstrating good cause, the court may dispense with such association.

(f) Appearances, Substitution, and Withdrawal.

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

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

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

(3) Withdrawal as counsel requires leave of the court.

[A] A motion for leave to withdraw must be accompanied by:

(i) written consent of the client;

(ii) substitution of counsel and formal appearance of substituting counsel; or

(iii) a showing of good cause.

[B] (i) Any party or attorney may oppose the motion, and

(ii) the court may deny the motion even if consented to or unopposed.

[C] If the withdrawal would leave the party without an attorney of record, the motion must:

(i) provide the party's last known address and telephone number, and

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

[D] Notwithstanding the foregoing, attorneys employed by a governmental entity may substitute as counsel without leave of court and without written consent of the client provided all parties to the action are immediately notified of the substitution, with notice including the full name, mailing address, telephone and facsimile numbers of the substituting attorney.

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

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

(g) Disbarment and Suspension.

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

[B] Unless good cause to the contrary is shown within five (5) days after notice has been mailed to the attorney's last known place of business or residence, an order of suspension or disbarment will be entered for such time as the court fixes.

(2) If a suspended attorney requests, in writing, reinstatement to practice before the court, and the court has received notification that the attorney has been reinstated to practice before the courts of the State of Alaska or such other courts where the suspended attorney practices, an order of reinstatement may be entered.

(h) Contact with Trial Jurors.

(1) No attorney admitted to practice or appear before this court may:

[A] seek out, contact, or interview at any time any juror of the jury venire of this court; or

[B] without prior approval of the court, allow, cause, permit, authorize or in any way participate in any contact or interview with any juror relating to any case in which the attorney has entered an appearance.

(2) This subsection will be posted in the jury rooms of this District and jurors will be instructed fully as to this matter.

(i) Professional Conduct. Every member of the bar of this court and any attorney admitted to practice or appear in this court must:

(1) be familiar with and comply with the Standards of Professional Conduct required of the members of the State Bar of Alaska and contained in the Alaska Rules of Professional Conduct and decisions of any court applicable thereto, except insofar as those rules and decisions are otherwise inconsistent with federal law;

(2) maintain the respect due courts of justice and judicial officers; and

(3) perform with the honesty, care, and decorum required for the fair and efficient administration of justice.

(j) Current Address. All persons admitted to practice before the United States District Court for the District of Alaska should notify the clerk of the court, in writing, of any change in address, telephone or facsimile number not later than thirty (30) days after the change in address, telephone or facsimile number becomes effective.

Related Provisions:

Alaska Rules of Professional Conduct

Rule 83.2 Student Practice Rule.

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

(b) Eligibility. An eligible student must:

(1) [A] be certified by the state Bar as a law student intern, or

- [B] (i) be enrolled and in good standing in an American Bar Association approved or state accredited law school, and
- (ii) have completed one-half of the legal studies required for graduation, or
- [C] be a recent graduate of such school awaiting the result of a state Bar examination;
- (2) have knowledge of and be familiar with the Federal Rules of Civil and Criminal Procedure; the Federal Rules of Evidence; the Code of Professional Responsibility; and the rules of this court;
- (3) be certified by the dean of the law school as being adequately trained to fulfill all responsibilities as a law student intern to the court;
- (4) not accept compensation for his legal services directly from a client; and
- (5) file with the clerk all documents required to comply with this rule.
- (c) **Duties of Supervising Attorney.** The supervising attorney must:
- (1) be admitted to practice before the highest court of any state for two years or longer and have been admitted to practice before this court;
- (2) appear with the student in any oral presentations before the court;
- (3) sign all documents filed with the court;
- (4) assume professional responsibility for the student's work in matters before the court;
- (5) assist and counsel the student in the preparation of the student's work in matters before the court.
- (d) **Deans Certification.** The dean's certification of the student:
- (1) must be filed with the clerk of court and, unless sooner withdrawn, remain in effect until publication of the results of the first bar examination following graduation;
- (2) may be withdrawn by the 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) **Scope of Functions.** Upon fulfilling the requirements of this rule, the student may:
- (1) assist in the preparation of briefs, motions, and other documents pertaining to a case before this court; and
- (2) appear and make oral presentations before this court when accompanied by the supervising attorney.
- (f) **Exceptions.** The court retains the authority to establish exceptions to this rule in any case.

Rule 83.3 Photographs, Video or Audio Recorders, Broadcasts Prohibited.

(a) **Court Room and Environs.**

- (1) The taking of photographs and operation of video or audio recorders in the courtroom or its environs and/or radio or television broadcasting from the courtroom or its environs during the progress of, or in connection with judicial proceedings, whether or not court is actually in session, is prohibited.
- (2) A judge may permit:
- [A] the use of electronic or photographic means for the presentation of evidence or the perpetuation of a record; and
- [B] the broadcasting, televising, recording, or photographing of investitive, ceremonial, or naturalization proceedings.
- (3) As used herein, "judicial proceedings" means:
- [A] any trial, naturalization proceeding or ceremonial occasion in any United States District Court;
- [B] any proceedings before any United States District Judge, Bankruptcy Judge or Magistrate Judge;

[C] sessions of the grand jury; or

[D] the recording of any person participating in a judicial proceeding (including petit and grand jurors).

(b) **Court Reporters.** This rule does not prohibit recordings by a court reporter; provided, however, no court reporter or any other person may 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.

Rule 84.1 Forms.

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

Related Provisions:

F.R.Civ.P. 84 Forms

F.R.Civ.P., Appendix of Forms

Rule 86.1 Effective Date of Amendments.

(a) **Effective Date of Amendments.** Amendments to these rules become effective on the date specified in the general order adopting the amendments.

(b) **Applicability of Amendments.** Amendments to these rules, including new rules, govern:

(1) all proceedings commenced on or after the effective of the amendment; and

(2) to all existing, open proceedings from and after the effective date to the extent that the new or amended rule does not unreasonably prejudice the rights of any party.

LOCAL FORMS

Form 26(f)

(Name, Address, &
Telephone Number of
Attorney for Plaintiff)

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

)	
)	
Plaintiff(s),)	
)	Case No.
v.)	
)	SCHEDULING AND PLANNING
)	CONFERENCE REPORT
)	
Defendant(s).)	
_____)	

- Meeting.** In accordance with F.R.Civ.P. 26(f), a meeting was held on (date) and was attended by:
 (name of attorney), attorney for the plaintiff(s)
 (name of attorney), attorney for defendant (name of party)
 (name of attorney), attorney for defendant (name of party)
 (name of attorney), attorney for defendant (name of party)

The parties recommend the following:

- Pre-Discovery Disclosures.** The information required by F.R.Civ.P. 26(a)(1):
G have been exchanged by the parties
G will be exchanged by the parties by (date)

Preliminary witness lists

G have been exchanged by the parties

G will be exchanged by the parties by (date)

3. **Contested Issues of Fact and Law.** Preliminarily, the parties expect the following issues of fact and/or law to be presented to the court at trial in this matter:

4. **Discovery Plan.** The parties jointly propose to the court the following discovery plan.

A. Discovery will be needed on the following issues:

B. All discovery commenced in time to be completed by (date)("discovery close date").

C. Interrogatories.

G No change from F.R.Civ.P. 33(a)

G Maximum of (number) Interrogatories by each party to any other party.

Responses due in (number) days.

D. Requests for Admissions.

G No change from F.R.Civ.P. 36(a).

G Maximum of (number) requests. Responses due in (number)days.

E. Depositions.

- G No change from F.R.Civ.P. 30(a), (d).
- G Maximum of (number) depositions by each party.
- G Depositions not to exceed (number) hours unless extended by agreement of all parties.

F. Reports from retained experts.

- G Not later than 90 days before the close of discovery subject to F.R.Civ.P 26(a)(2)(C).
- G Reports due:
 - From plaintiff (date)
 - From defendant (date)

G. Supplementation under F.R.Civ.P. 26(e) due at (number)-day intervals.

5. **Pretrial Motions .**

- G No change from D.Ak. LR 16.1(c).

The following changes to D.Ak. LR 16.1(c). [Check and complete all that apply]

- G Motions addressing matters specified in F.R.Civ.P 12(b) to be filed not later than (date).
- G Motions to amend pleadings or add parties to be filed not later than (date).
- G Motions under the discovery rules must be filed not later than (date).
- G Motions in limine and dispositive motions must be filed not later than (date).

6. **Other Provisions :**

- A. G The parties do not request a conference with the court before entry of the scheduling order.

G The parties request a scheduling conference with the court on the following issue(s):

- B. The parties request a pretrial conference in (date).

C. Settlement:

- Likely
- Unlikely
- Can not be evaluated at this time.

D. Alternative Dispute Resolution.

This matter is not considered a candidate for court-annexed alternative dispute resolution.

The parties will file a request for court-annexed alternative dispute resolution not later than (date).

E. The parties do do not consent to trial before a magistrate judge.

7. **Trial.**

A. The matter will be ready for trial:

- 45 days after the discovery close date.
- not later than (date).

B. The matter is expected to take (number) days to try.

C. Jury Demanded: Yes No

Dated: (Date) (Attorney Firm)

By:
(Signature)
Attorney for Plaintiff

Dated: (Date) (Attorney Firm)

By:
(Signature)
Attorney for Defendant _____

Dated: (Date) (Attorney Firm)

By:
(Signature)
Attorney for Defendant _____