

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA

*In the matter of*

AMENDED LOCAL (CIVIL) RULES ; LOCAL  
CRIMINAL RULES; LOCAL ADMIRALTY  
RULES; LOCAL MAGISTRATE RULES; and  
LOCAL HABEAS RULES; and LOCAL  
BANKRUPTCY RULES FOR THE DISTRICT  
OF ALASKA

MISCELLANEOUS  
GENERAL ORDER  
NO. 09-09

IT IS HEREBY ORDERED THAT, under the authority of 28 U.S.C. § 2071 and Federal Rule of Civil Procedure 82, the amendments to the below listed Local (Civil) Rules, Local Criminal Rules, Local Admiralty Rules, Local Habeas Rules, Local Magistrate Rules, and Local Bankruptcy Rules appended hereto, are hereby adopted as part of the Local Rules for the District of Alaska effective December 1, 2009.

Local (Civil) Rules 3.3, 5.1, 5.3, 5.4 [new], 5.5 [new], 7.1, 7.2, 10.1, 11.1, 16.3, 39.2, 39.3, 40.2, 40.3, 47.1, 50.1 [new], 51.1, 52.2 [new], 53.1, 54.1, 55.1, 58.1, 59.1, 59.2 [new], 67.2, and 83.1;

Local Criminal Rules 1.1, 11.1, 32.1, 32.1.1, 32.2, 44.2, 46.1, 46.2, 47.1, and 58.1;

Local Admiralty Rules (c)-1, (c)-2, (c)-3, (c)-4, (d)-1, (e)-8, (e)-9, (e)-12, and (e)-14;

Local Habeas Rules 4.1, 7.1, and 8.2;

Local Magistrate Rules 5 and 6; and

Local Bankruptcy Rules 8009-1, 8009-2, 8010-1, 8012-1, 8017-1, 9015-2, and 9033-1.

DATED at Anchorage, Alaska this 17th day of July, 2009.

Distribution:

District Judges	Magistrate Judges (Full Time)
Senior District Judges	Magistrate Judges (Part Time)
Clerk of the Court	Court Librarian
Court Rules Attorney	U.S. Probation & Pretrial Services
U.S. Marshal	U.S. Attorney
Federal Public Defender	

s/ John W. Sedwick  
JOHN W. SEDWICK, Chief Judge  
United States District Court

s/ Ralph R. Beistline  
RALPH R. BEISTLINE, Judge  
United States District Court

s/ Timothy M. Burgess  
TIMOTHY M. BURGESS, Judge  
United States District Court

LOCAL (CIVIL) RULES

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

Paragraph (c)(4) is amended to read:

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

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

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

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

Rule 5.1 is amended by deleting therefrom Subsection (e) “Filings Under Seal”.

**Rule 5.3 Electronic Case Filing**

Paragraph (d)(5) is amended to read:

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

Related Provisions are amended to read:

**Related Provisions:**

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

New Rule 5.4 is adopted:

**Rule 5.4. Filing Documents Under Seal, *Ex Parte*, or *In Camera***

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

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

[A] Set forth the factual basis for sealing the document and citation to supporting authority;

[B] Identify the pleading or motion of which the document is or intended to be a part; and

[C] Certify that it is not feasible or practicable to file a redacted version of the document.

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

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

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

[A] specifically so stated in the order; and

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

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

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

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

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

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

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

(b) ***Ex Parte* Filings.** Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, no pleading, motion, or other paper may be filed *ex parte* without first obtaining leave of the court.

(1) Any motion to file a document *ex parte* must:

[A] Identify the pleading, motion, or paper to be filed *ex parte*; and

[B] Set forth the factual basis for filing the document *ex parte* and citation to supporting authority.

(2) [A] A motion to file a document *ex parte* may be filed *ex parte* without prior court order

[B] Unless otherwise ordered by the court, if a motion to file a document *ex parte* is denied, the motion will become part of the public record.

(3) [A] When the basis for the *ex parte* filing no longer exists, the party filing a document *ex parte* must file with the court a request to remove the *ex parte* status of the document.

[B] If a document filed *ex parte* is also to be filed under seal—

(i) the request to remove the *ex parte* status must clearly state that the document is to remain under seal, and

- (ii) sealing must be authorized under subsection (a) of this rule.
- (c) **Filing Documents *In Camera*.** Except as otherwise specifically provided by statute, court rule, case law, or published policy and procedures, no pleading, motion, or other paper may be filed *in camera* without first obtaining leave of the court.
- (1) A motion to file a document *in camera* may be made under seal without prior court order.
- (2) Documents filed *in camera* are to be delivered to the court in a sealed envelope conspicuously marked “Filed *in Camera*” and containing the following information on the envelope:
- [A] the caption of the case and case number; and
- [B] name of presiding judge.
- (d) **Notation in Caption.** A document filed under seal must include in the caption immediately below the title of the document the notation “Filed Under Seal per (authority for filing under seal).”

Related Provisions:

Fed. R. Civ. P. 5.2	Privacy Protection for Filings Made with the Court
Fed. R. Civ.P. 26	Duty to Disclose; General Provisions Governing Discovery
Fed. R. Civ. P. 11	Signing Pleadings, Motions and Other Papers; Representations to the Court; Sanctions
Fed. R. Civ. P. 45	Subpeona
Fed. R. Crim. P. 6	The Grand Jury
Fed. R. Crim. P. 12.2	Notice of an Insanity Defense; Mental Examination
Fed. R. Crim. P. 12.3	Notice of a Public-Authority Defense
Fed. R. Crim. P. 16	Discovery and Inspection
Fed. R. Crim. P. 26.2	Producing a Witness’s Statement
Fed. R. Crim. P. 49.1	Privacy Protection for Filings Made with the Court
Fed. R. Evid. 412	Sex Offense Cases; Relevance of Alleged Victim’s Past Sexual Behavior or Alleged Sexual Predisposition
Fed. R. Bank. P. 6011	Disposal of Patient Records in Health Care Business Cases
Fed. R. Bank. P. 9018	Secret Confidential, Scandalous, or Defamatory Matter
Fed. R. Bank. P. 9037	Privacy Protection for Filings Made with the Court
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LCrR 11.2	Plea Agreements
D.Ak. LCrR 32.1	Sentencing Procedure
D. Ak. Plan for Implementing the Criminal Justice Act of 1964 (as Amended), § 6.03 “ <i>Ex parte</i> Applications)	
D.Ak. CJA Compensation Policy Manual, § 2.3 “Confidentiality of CJA Documents”	

New Rule 5.5 is adopted:

**Rule 5.5 Service Prior to an Event**

- (a) **Timely Receipt.** Whenever under a rule or an order of the court service is required to be made upon a party seven (7) days, or less, prior to an event, service is not completed timely unless received by the party upon whom service is required by the due date.
- (b) **Presumption of Timely Receipt.** For the purposes of this rule, service is presumed to have been completed timely:
- (1) if service is effected under Federal Rule of Civil Procedure 5(b)(2)(A), (B), (E), or (F); or
- (2) if service is effected under Federal Rule of Civil Procedure 5(b)(2)(C), deposited with the U.S. Postal Service not less than three (3) business days preceding the due date.

Related Provision:

F.R.Civ.P. 5

Serving and Filing Pleadings and Other Papers

**Rule 7.1 Motion Practice**

Subsection (e) is amended to read:

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

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

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

Paragraph (g)(2) is amended to read:

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

**Rule 7.2 Hearings**

Subsection (a) is amended to read:

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

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

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

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

[A] order oral argument without request; or

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

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

(5) At oral argument counsel should:

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

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

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

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

Paragraph (b)(1) is amended to read:

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

Paragraph (b)(3) is amended to read:

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

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

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

Paragraph (e)(4) is amended by adding thereto new subparagraph [C]:

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

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

Subsection (b) is amended to read:

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

Paragraph (c)(3) is amended to read:

- (3) If the withdrawal would leave the party without an attorney of record, the motion must:
- [A] provide the party's last known address and telephone number, and
  - [B] the attorney proposing to withdraw must arrange a hearing and give the client at least twenty-one (21) days written notice of the hearing, unless good cause is shown why a hearing should not be required.

### **Rule 16.3 Administrative Agency Appeals**

Subsection (b) is amended to read:

(b) **Agency Record.**

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

(2) A request to augment the agency record must be filed not later than fourteen (14) days after notice is given that the agency record has been filed with the court.

Subsection (c) is amended to read:

(c) **Briefing Schedule.**

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

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

(3) Plaintiff may file a reply to defendant's opposition not later than fourteen (14) days after service of the opposition.

Paragraph (d)(1) is amended to read:

(1) The parties may, by written stipulation, extend the time under subsections (b) and (c) by not more than fourteen (14) days, which extension need not be approved by the court.

Paragraph (e)(2) is amended to read:

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

### **Rule 39.2 Trial Briefs**

Subsection (a) is amended to read:

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

### **Rule 39.3 Exhibits**

Paragraph (a)(1) is amended to read:

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

Paragraph (a)(6) is amended to read:

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

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

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

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

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

Subsection (c) is amended to read:

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

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

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

[A] the date, and

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

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

Paragraph (c)(1) is amended to read:

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

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

Paragraph (c)(1) is amended to read:

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

#### **Rule 47.1 Voir Dire**

Subsection (a) is amended to read:

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

New Rule 50.1 is adopted:

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

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

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

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

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

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

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

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

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

Related Provisions:

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

**Rule 51.1 Jury Instructions**

Subsection (a) is amended to read:

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

Paragraph (e)(1) is amended to read:

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

New Rule 52.2 is adopted:

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

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

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

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

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

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

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

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

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

Related Provisions:

F.R.App.P. 4	Appeal as of Right—When Taken
F.R.Civ.P. 6	Time
F.R.Civ.P. 52	Findings and Conclusions by the Court; Judgment on Partial Findings
D.Ak. LR 7.1	Motion Practice

D.Ak. LR 7.2	Hearings
D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers

### **Rule 53.1 Discovery Masters**

Paragraph (b)(1) is amended to read:

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

Paragraph (b)(3) is amended to read:

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

Rule 53.1 is further amended by abrogating Subsection (d) "Rulings".

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

Subsection (a) is amended to read:

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

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

[A] a cost bill; together with

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

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

Paragraph (c)(1) is amended to read:

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

### **Rule 55.1 Entry of Judgment Upon Default**

Subsection (c) is amended to read:

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

## Rule 58.1 Judgments

Subsection (b) is amended to read:

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

Paragraph (d)(1) is amended to read:

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

[A] the method of computation; and

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

Subparagraph (d)(2)[A] is amended to read:

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

Related Provisions are amended to read:

Related Provisions:

28 U.S.C. § 1961 Interest

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

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

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

F.R.Civ.P., Appendix of Forms, Form 70

F.R.Civ.P., Appendix of Forms, Form 71

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

Paragraph (b)(1) is amended to read:

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

Subsection (d) is amended to read:

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

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

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

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

Rule 59.1 is further amended by adding thereto new Subsection (e):

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

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

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

Related Provisions are amended to read:

Related Provisions:

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

New Rule 59.2 is adopted:

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

(a) **Motion.** A motion for a new trial or to amend a judgment under Federal Rule of Civil Procedure 59 is limited to ten (10) pages, and, where appropriate, affidavits, deposition excerpts, or other factual materials.

(b) **Response.** No response to a motion for a new trial or to amend a judgment may be filed unless requested by the court.

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

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

(3) Generally, the court will not grant a motion for new trial or to amend a judgment without first requesting a response.

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

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

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

Related Provisions:

F.R.App.P. 4	Appeal as of Right—When Taken
F.R.Civ.P. 6	Time
F.R.Civ.P. 59	New Trials; Amendment of Judgments
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.3	Telephonic Participation in Civil Cases
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 10.1	Form of Pleadings and Other Papers
D.Ak. LR 59.1	Motions for Reconsideration of Non-Appealable Orders

## Rule 67.2 Investment of Funds on Deposit

Subsection (c) is amended to read:

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

Paragraph (d)(1) is amended to read:

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

Paragraph (e)(1) is amended to read:

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

## Rule 83.1 Attorneys

Subparagraph (g)(1)[B] is amended to read as follows:

[B] Unless good cause to the contrary is shown within twenty-one (21) days after notice has been mailed to the attorney's last known place of business or residence, an order of suspension or disbarment will be entered for such time as the court fixes.

### LOCAL CRIMINAL RULES

## Rule 1.1 Scope

Related Provisions are amended to read:

### Related Provisions:

D.Ak. LR 3.3	Venue; Place of Trial; and Filing in Satellite Offices
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LR 5.2	Service on Parties by the Court
D.Ak. LR 5.3	Electronic Case Filing
D.Ak. LR 5.4	Filing Documents Under Seal, <i>Ex Parte</i> or <i>In Camera</i>
D.Ak. LR 5.5	Service Prior to an Event
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.2	Hearings
D.Ak. LR 7.4	Proposed Orders
D.Ak. LR 9.2	Request for a Three-Judge Court
D.Ak. LR 10.1	Form of Pleadings and Other Papers
D.Ak. LR 11.1	Appearances, Substitution and Withdrawal
D.Ak. LR 39.3	Exhibits
D.Ak. LR 39.5	Courtroom Conduct

D.Ak. LR 43.1	Examination of Witnesses
D.Ak. LR 47.1	Voir Dire
D.Ak. LR 51.1	Jury Instructions
D.Ak. LR 79.1	Court Record; Notice of Electronic Filing; Docketing
D.Ak. LR 79.2	Books and records of the Clerk; Access and Copies
D.Ak. LR 81.1	Applicability
D.Ak. LR 83.1	Attorneys
D.Ak. LCrR 2.1	Purpose and Construction
D.Ak. LCrR 61.1	Title and Citation
D.Ak. LMR 2	Authority of Magistrate Judges
D.Ak. LMR 3	Criminal Matters Routinely Assigned to Magistrate Judges
D.Ak. LMR 6	Objections to Dispositive Matters Under 28 U.S.C. § 636(b)(1)(B) in Criminal Matters

### **Rule 11.1 Change of Plea**

Subsection (a) is amended to read:

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

### **Rule 32.1 Sentencing Procedure**

Subsection (c) is amended to read:

(c) **Final Presentence Report.** Not less than fourteen (14) days prior to the sentencing date, the final presentence report will be disclosed to counsel.

Subsection (d) is amended to read:

(d) **Sentencing Memoranda.**

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

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

[A] indicate if there is no disagreement with the presentence report;

[B] indicate whether or not it is contended that a sentence within the Sentencing Guideline range is reasonable;

[C] cite all controlling authority relevant to disputed guideline issues; and

[D] may be supported by affidavits, statements, and records as appropriate.

Rule 32.1 is further amended by adding thereto new Subsection (e):

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

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

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

Rule 32.1 is further amended by redesignating current Subsections (e), (f) and (g) as (f), (g) and (h), respectively.

Subparagraph (f)(2)[A], as redesignated, is amended to read:

[A] is to be included in the Supplemental Sentencing Memoranda; and

Subsection (g), as redesignated, is amended to read:

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

(1) a motion for an evidentiary hearing is to be served and filed on shortened time; and

(2) the court advised of—

[A] the nature and extent of the evidence, and

[B] an estimate of time necessary for the hearing.

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

Subparagraph (a)(2)[A] is amended to read:

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

Subparagraph (c)(2)[A] is amended to read:

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

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

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

Paragraph (e)(2) is amended to read:

(2) Unless otherwise ordered by the court:

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

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

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

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

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

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

### **Rule 32.2 Disclosure of Pretrial Services and Presentence Reports**

Paragraph (e)(3) is amended to read:

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

### **Rule 44.2 Appointed Counsel**

Paragraph (a)(1) is amended to read:

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

- [A] elects to proceed without counsel; and
- [B] signs and files the court-approved form of waiver of right to counsel.

### **Rule 46.1 Bail Hearings, Pretrial Release**

Paragraph (e)(1) is amended to read:

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

- ▶ request for third-party investigations;
- ▶ home confinement and electronic investigations;
- ▶ residential treatment program investigations;
- ▶ halfway house placement investigations; and
- ▶ any other non-routine investigations deemed necessary by the court.

Paragraph (f)(3) is amended to read:

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

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

Rule 46.2 is amended to read:

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

## Rule 47.1 Criminal Motion Practice

Subsection (a) is amended to read:

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

Subsection (b) is amended to read:

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

Related Provisions is amended to read:

### Related Provisions:

F.R.Cr.P. 45	Time
D.Ak. LR 5.1	Filing and Proof of Service When Service is Required by Rule 5, Federal Rules of Civil Procedure
D.Ak. LR 5.4	Filing Documents Under Seal, <i>Ex Parte</i> , or <i>In Camera</i>
D.Ak. LR 5.5	Service Prior to an Event
D.Ak. LR 7.1	Motion Practice
D.Ak. LR 7.2	Hearings
D.Ak. LR 10.1	Form of Pleadings and Other Papers

## Rule 58.1 Misdemeanor Appeals from Magistrate Judge

Subparagraph (1)[C] is amended to read:

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

### LOCAL MAGISTRATE RULES

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

Paragraph (a)(1) is amended to read:

(1) Unless otherwise ordered by a district judge:

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

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

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

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

Paragraph (a)(2) is amended to read:

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

### LOCAL ADMIRALTY RULES

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

Paragraph (a)(1) is amended to read:

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

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

Paragraph (b)(5) is amended to read:

(5) name, address, telephone number, and e-mail address of the attorney for the plaintiff;

Paragraph (b))(6) is amended to read:

(6) a statement that the claim of a person who is entitled to possession or who claims an interest under Supplemental Rule C(6) must be filed with the Clerk of the Court and served on the attorney for the plaintiff—

[A] in the case of an *in rem* forfeiture for violation of a federal law, within twenty-one (21) days after the date of publication, or

[B] in any other case, within fourteen (14) days after the date of publication, or within such additional time as may be allowed by the court;

(7) a statement that an answer to the complaint must be filed and served within twenty-one (21) days after publication, or such other time as the court may order, otherwise, default may be entered and condemnation ordered; and

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

Subsection (b) is amended to read:

(b) **Service of Notice.** Not less than seven (7) days notice by service under Rule 5(b), Federal Rules of Civil Procedure upon:

(1) the master or other person having custody of the property;

(2) every other party who has appeared in the action;

(3) every person who has not appeared in the action and is known to have an interest in the property, including—

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

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

(4) Service is presumed to be effective under paragraph (b)(3) if sent or delivered to the address shown on the official records of the United States Coast Guard or issuing authority.

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

Paragraph (b)(2) is amended to read:

(2) Any person who has appeared and does not join in the motion for default judgment must be given seven (7) days notice of the motion.

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

Paragraph (1) is amended to read:

(1) the claim and answer be filed within a time longer or shorter than twenty-one (21) days after arrest; or

#### **Rule (e)-8 Security for Costs**

Paragraph (b)(1) is amended to read:

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

#### **Rule (e)-9 Adversary Hearing**

Subsection (a) is amended to read:

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

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

Rule (e)-12 is amended to read:

(a) **Presentation of Claim.** Unless otherwise ordered by the court, anyone pursuing a claim against the vessel or property that has been arrested, attached or garnished, and is in the hands of the Marshal or a person substituted for the Marshal, is required to file an intervening complaint and obtain a warrant of arrest, rather than file an original complaint. No formal motion is required.

(b) **Service.**

(1) The intervening party must:

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

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

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

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

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

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

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

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

Related Provisions:

Supplemental Rule E	Actions in Rem and Quasi in Rem: General Provisions
Fed.R.Civ.P. 4	Summons
D.Ak. LAR (e)-11	Security Deposit for Seizure of Vessels
D.Ak. LR 10.1	Form of Pleadings and Other Papers

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

Paragraph (b)(1) is amended to read:

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

Paragraph (c)(1) is amended to read:

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

Subparagraph (d)(2)[B] is amended to read as follows:

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

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

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

Subsection (h) is amended to read:

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

(1) The objection must be served on:

- [A] all parties of record;
- [B] the successful bidder; and
- [C] the Marshal.

(2) The objection must be accompanied by proof that the objecting party has deposited with the Marshall, by cash, certified check or cashier's check, a sum sufficient to pay the expenses of keeping the property for not less than fourteen (14) days.

(3) Time for objection to sale may not be extended.

Subsection (j) is amended to read:

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

(1) The Clerk of the Court will immediately present the proposed Order to the judicial officer for signature.

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

- [A] an objection to the sale has been filed;
- [B] the purchaser has failed to pay the balance due the Marshal; or
- [C] an upset bid has been filed.

(3) If an objection is filed, a hearing on the confirmation of the sale will be held.

(4) Upon receipt of a confirmation order, the Marshal will issue a bill of sale to the purchaser.

## LOCAL HABEAS RULES

### Rule 4.1 Appointment of Counsel

Subsection (b) is amended to read:

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

Subsection (c) is amended to read:

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

## **Rule 7.1 Expansion of Record**

Subsection (b) is amended to read:

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

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

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

(3) A motion for expansion must:

[A] be accompanied by the materials it is requested be included in the record, or

[B] if the materials do not accompany the request,

(i) a description of the material to be added to the record and a statement of its relevance to the issues fairly presented by the petition and the answer, and

(ii) if known, name of the court or agency having the materials or the identity of the custodian of the material.

(4) Unless ordered by the court, no opposition or response to a motion to expand the record may be filed.

## **Rule 8.2 Merit Briefs**

Paragraph (3) is amended to read:

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

### LOCAL BANKRUPTCY RULES

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

Subsection (a) is amended to read:

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

Paragraph (b)(4) is amended to read:

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

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

Subsection (b) is amended to read:

(b) **Failure by Appellant to File Brief.** In the event the appellant fails to file appellant's principal brief by the time the principal brief is due, including any extensions of time for filing, the clerk will issue a notice that unless, within ten (10) days after notice is sent, the brief, together with a motion under subsection (a) is filed, or good cause for the failure to file the brief be shown, the clerk will enter an order dismissing the appeal.

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

### **(a) Form of Briefs.**

Paragraph (b)(3) is amended to read:

(3) A motion to file an overlength brief extends the time to file the brief for the time the motion is pending before the district judge plus seven (7) days after the motion is granted or denied.

Paragraph (b)(4) is amended to read:

(4) A motion to file an overlength brief not acted upon by the district judge within fourteen (14) days after the date the motion is filed will be deemed denied and the brief conforming to the rules must be filed within seven (7) days thereafter.

## **Rule 8012-1 Oral Argument**

Paragraph (a)(1) is amended to read:

(1) Unless the court determines oral argument is not needed, the court will set the matter for oral argument on not less than twenty-eight (28) days notice to the parties.

Subsection (b) is amended to read:

(b) **Request for Oral Argument.** Any party desiring oral argument on all, or any part of, the issues presented on appeal must, within fourteen (14) days of the date notice is given under paragraph (a)(2), serve and file a request for oral argument, specifying the reason(s) oral argument is deemed necessary.

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

Paragraph (b)(1) is amended to read:

(1) A party opposing the motion for a stay pending further appeal may file a written opposition to the motion within fourteen (14) days after the date of service of the motion.

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

Paragraph (c)(2) is amended to read:

(2) Within fourteen (14) days after the status report is lodged, the bankruptcy court will, by endorsement thereon, indicate either:

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

or

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

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

Subparagraph (c)(2)[A] is amended to read:

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