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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF ALASKA

Rule

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UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF ALASKA

Effective July 26, 1982

GENERAL RULES

Rule 1. Times for Holding Sessions of Court.

(A) Regular Sessions. The court at Anchorage shall be in continuous session for transacting judicial business on all business days throughout the year, unless adjourned by the judge.

(B) Special Sessions. Special sessions of the Court shall be held at Ketchikan, Juneau, Fairbanks and Nome, and may be held at such other places in the district as the nature of the business may require.

Rule 2. Time of Convening Court.

Court shall convene at 9:30 a.m. and 1:30 o'clock p. m. unless otherwise ordered by the Court.

Rule 3. Attorneys.

(A) Eligibility.

(1) An attorney at law, upon presenting satisfactory proof to the Clerk of this Court of having the requisite qualifications to practice as an attorney and counselor at law before the Courts of the State of Alaska, is eligible for admission to practice in the United States District Court for the District of Alaska except as provided in Rule 3A(2) following.

(2) No one serving as a law clerk or secretary to a member of this Court or employed in any other capacity under this Court shall engage in the practice of law while continuing in such position; nor shall such person, after separating from that position, practice as an attorney in connection with any case pending in this Court during his or her term of service, permit his or her name to appear on a brief filed in connection with any such case, or engage in any activity as an attorney or advisor in connection with any such case.

(B) Procedure for Admission.

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

(2) Each applicant for admission shall file with the clerk a petition stating all names by which the applicant has been known, residence and office addresses, and the names and addresses of all courts before which the applicant has been admitted to practice. The petition shall state the dates of admission, and the dates of suspension or other such action on account of disability or otherwise in any of the jurisdictions or courts before which the applicant has practiced.

(3) The petition shall be accompanied by proof of the requisite qualifications to practice as an attorney and counselor in the courts of the State of Alaska. The petition shall be accompanied by proof of service on the Alaska Bar Association.

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

(5) After a 20 day period for the filing of objections has elapsed, the court shall determine whether to order admission, and if admission is ordered, the clerk shall issue a certificate of admission. The court may, on its own motion or in response to an objection, make further inquiry of the applicant or others, and determine what response to objection, hearing, or other procedures are appropriate. Service of the petition on the Alaska Bar Association, proof of service, and the objection period, shall not apply, for new admittees to the Alaska Bar Association, if the petition for admission is filed in this court within 60 days of the date the Alaska Bar Association certifies the person for admission to the Alaska Supreme Court.

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

(C) Nonresident Attorneys.

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

(2) A member in good standing of the bar of another jurisdiction, who is not an active member of the bar of this court, may be permitted by the court to appear and participate on behalf of a party, but except on a showing of good cause to the contrary, will be required to associate with an active member of the bar of this court. The court may permit a member in good standing of the bar of another jurisdiction, on a sufficient showing, to appear and participate without association with an active member of the bar of this court.

(3) If a motion pursuant to Rule 3(c)(2) is filed, the attorney applying may appear and participate from the time of filing as though it had been approved, unless the court orders otherwise, and approvals shall be deemed to be effective as of the time of filing of the motion, unless otherwise ordered. The motion shall either designate a member of the bar of this court, in accord with the above subsections, or else show cause why, in accord with the above subsections, no association should be required. Motions for leave to participate without local counsel will not be approved as a matter of course, and if denied, the parties represented by nonlocal counsel will ordinarily be given a reasonable period within which to associate local counsel. Any attorney so appearing shall become familiar with and shall conform to the Local Rules of the District and the Alaska rules governing professional responsibility.

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

(D) Attorneys for the United States Government. Any attorney representing the United States Government (or any agency thereof) may appear and participate in particular cases in an official capacity without submitting a petition for admission. If the attorney representing the United States is not a resident of this District, then the United States Attorney in this district shall be associated initially, but upon application demonstrating good cause, the court may dispense with association of the United States Attorney within this district. The court may at any time during the proceeding, sua sponte or on motion, for good cause, require association of the United States Attorney in this district with nonlocal counsel representing the United States.

(E) Appearances, Substitution and Withdrawal.

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

(2) Corporations may not appear in propria persona.

(3) Withdrawal as counsel requires leave of the court. A motion for leave to withdraw shall be accompanied by: (a) written consent of the client; (b) substitution of counsel and formal appearance of substituting counsel; or (c) other showing of good cause. Any party or attorney may oppose the motion, and the court may deny such a motion even if consented to or unopposed. If the withdrawal would leave the formerly represented party without an attorney of record, the motion shall provide the party's last known address and telephone number, and the attorney proposing to withdraw shall arrange a hearing and give the client at least twenty days written notice of the hearing, unless he shows good cause why such a hearing should not be required.

(F) Disbarment and Suspension. Whenever it appears to the Court that any member of its Bar or any non-resident attorney permitted to appear or who has applied to appear has been disbarred, suspended from practice, or convicted of a felony, such attorney shall be suspended forthwith from practice before this Court and, unless upon notice mailed to his last known place of residence good cause to the contrary is shown within five (5) days, there shall be entered an order of disbarment, or of suspension, for such time as the Court fixes.

(G) Contact with Jury Venire. No attorney admitted to practice before the United States District Court for the District of Alaska may seek out, contact, or interview at any time any juror of the jury venire of this Court. No attorney without prior approval of the Court may allow, cause, permit, authorize or in any way participate in any contact or interview with any juror relating to any case in which the attorney has entered an appearance. This subsection shall be posted in the jury rooms of this District and jurors shall be instructed fully as to this matter.

[Amended, effective 11-16-90. The Rules Committee's Comments read as follows:

"The lettering and numbering of subsections is revised to conform to the usual style.

"Section b is expanded to clarify and regulate the procedure for obtaining information and resolving objections to admission, as, for example, in the case of an individual seeking admission to practice before the district court, after having been suspended before the Alaska courts. 3(b)(2) is expanded to give the court information about discipline, withdrawal from the bar, and suspension and other actions. 3(b)(3) assures the bar association of notice. 3(b)(5) puts a time limit on the objection process. The former 30 day limit for resolving objections has been eliminated since that amount of time might be insufficient to schedule necessary hearings.

"The major change in the rule is in subsection c. It is changed to eliminate residency requirements which may raise constitutional concerns under Supreme Court of New Hampshire v. Piper, 470 U.S. 274 (1985), Frazier v. Heebe, 482 U.S. 461 (1987), and Barnard v. Thorstenn, — U.S. —, 109 S.Ct. 1294 (1989), and to bring requirements for association of local counsel into closer accord with the purposes of court regulation of associate and the practicalities of the relationship between local and associated counsel.

"Traditionally, an attorney admitted to the bar of this court may represent clients, without association with local counsel, anywhere in the district, and an attorney not so admitted must associate with one admitted to the bar of this court. The increasingly national character of some areas of law practice, the size of Alaska, and the customs in the bar regarding the relationship between local and nonlocal counsel, have combined to make exceptions to this traditional approach desirable. The rule is changed in order to avoid needless burdens to counsel and their clients, and also to fit the restrictions of the rule more closely to the needs of the court and opposing counsel.

"We especially note 'opposing counsel,' because, although the rule is often rationalized in terms of its impact on the court, the greatest burdens of associated counsel often fall on their adversaries, who encounter undue difficulty getting telephone calls returned by highly peripatetic 'national' attorneys, obtaining routine stipulations, and negotiating. Telephone and fax solve problems where both sides want them solved, but sometimes one side limits its availability for communications for tactical reasons, or simply has a lawyer at his desk too rarely for routine two-way communication. The court also needs to be able to have attorneys physically present on short notice for some hearings, especially in criminal cases. Counsel representing other parties sometimes need an attorney physically available for service of papers, discovery proceedings, and other matters.

"The rule allows for more flexibility for non-Alaska attorneys to represent parties without association of local counsel, but also allows for the privilege to be lost if the court or opposing counsel encounter undue communications or scheduling difficulties. The provision for nunc pro tunc orders and filings by nonlocal attorneys without prior judicial approval in 3(c)(3) is particularly designed to avoid unnecessary problems of compliance with the statute of limitations by non-local attorneys, and Rule 11 concerns for local attorneys asked to

associate in the filing of a complaint shortly before the statute of limitations might bar the action.

"One occasion of 'good cause' for representation by nonlocal counsel without associated local counsel may be in small cases which cannot support two fees or division of a fee. The desirability may also arise in some large cases involving little local law expertise, where non-local counsel perform all substantive work. Where association is required, the amendments eliminate the requirement that local counsel be 'at the place within the District at which the action is pending,' because usually an attorney from one town will be able to handle a proceeding in another. Sometimes because of the immense distances and occasional travel and telephone difficulties in Alaska, an attorney in one town within the district cannot perform his duties without unduly inconveniencing the court or opposing counsel located in another town. Where this occurs, the court now can require association of local counsel in the place where the action is pending, regardless of whether non-Alaska counsel is associated.

"The rule gives the court discretion to require non-Alaska counsel to associate with local counsel where problems arise. For example, if non-local counsel has not made himself available for telephone contact and routine stipulations with local counsel, or has been unavailable for hearings at which personal presence was desirable, or for other reasons the remote representation causes undue difficulties for the court or for other parties and their attorneys, association may be required. Even with Alaska counsel, association or replacement with local counsel might occasionally be required for similar reasons, where the case was at a different location within the district.

"In 3(c)(2), we eliminate the requirement that local counsel sign all papers. Often the non-local attorney acts as lead counsel, but local counsel, receiving papers a few hours before they are to be filed, must sign, under the traditional rule. Since the 1983 amendments to Rule 11 of the Federal Rules of Civil Procedure, this is too onerous a burden on an attorney who cannot, as a practical matter, control or adequately review the content of the documents he signs.

"The committee is considering possible future revision of Rule 3 to take account of the concerns raised in Dondi Properties Corporation v. Commerce Savings & Loan Assn., 121 F.R.D. 284, 288 (N.D. Texas 1988), but prefers to await more experience in other districts before proceeding."]

Rule 3.1. Student Practice Rule.

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

B. An eligible student must:

(1)(a) Be certified by the state Bar as a law student intern, or

(b) Be enrolled and in good standing in an American Bar Association approved or state accredited law school; have completed one-half of the legal studies required for graduation, or be a recent graduate of such school awaiting the result of a state Bar examination; and

(2) Have knowledge of and be familiar with the Federal Rules of Civil and Criminal Procedure, Evidence; the Code of Professional Responsibility; and the rules of this Court;

(3) Be certified by the dean of the law school as being adequately trained to fulfill all responsibilities as a law student intern to the Court;

(4) Not accept compensation for his legal services directly from a client; and

(5) File with the Clerk all documents required to comply with this rule.

C. The supervising attorney shall:

(1) Be admitted to practice before the highest Court of any state for 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. The dean's certification of the student:

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

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

(3) May be withdrawn by the dean with notice to the Court.

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

(1) Assist in the preparation of briefs, motions and other documents pertaining to a case before this Court; and

(2) Appear and make oral presentations before this Court when accompanied by the supervising attorney.

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

Rule 4. Assignment of Civil Cases, Setting Cases for Trial, Calendars.

A. Assignment. All civil cases when filed, shall be numbered consecutively by the Clerk and immediately assigned to a Judge. The Clerk's assignment is to be by sealed lot in a manner that distributes a substantially equal number of cases to each Judge.

B. Setting of Cases for Trial; Certificate. Cases may be set for trial by the Court upon its own initiative or upon written motion by any party. A motion under this rule shall comply with the applicable requirements of Rule 5 and shall bear the certificate of counsel for the movant that:

(1) The case is at issue for trial;

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

(3) 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;

(4) Settlement of the case is not possible.

C. Trial at Places Other than Anchorage. When a motion complying with the provisions of Rule 4(B) is filed with the Clerk of Court at Ketchikan, Juneau, Fairbanks or Nome and the motion is not opposed, the Court will endeavor to set the case for trial within sixty (60) days from the date of such motion.

D. Calendars. In calendaring civil matters for hearing or trial, consideration will be given not only to compliance with all applicable rules and statutes, but to the posture of criminal cases under the Speedy Trial Act.

E. Application for Orders. Except as otherwise provided in Rule 63, Federal Rules of Civil Procedure, application for any order in an action or proceeding, including any order in regard to appellate proceedings, shall be made to the judge to whom such action or proceeding is assigned. If, however, the judge to whom such cause is assigned is not accessible, application for an order may be presented to the Chief Judge, or in his absence to any other available judge within the district, upon good cause shown, and orders may then be signed by the judge to whom such application and showing has been made. This section shall not, however, apply to findings, judgments and orders based upon decisions theretofore announced by a judge, except in the event of the disability of such judge as provided in Rule 63, Federal Rules of Civil Procedure.

F. Continuances.

(1) All cases set for trial or for pre-trial shall be heard on the date set unless by order of the Court on cause shown the same are continued.

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

(3) When parties and counsel are present in Court and ready for trial on the day set, but the case is not reached on that day, they will retain their relative position on the calendar. Their case will be entitled to precedence on the next open trial day over cases set for trial on that day.

G. Demand for Jury Trial. Any party may demand trial by jury as provided by Rule 38(b), Federal Rules of Civil Procedure, but such demand shall be filed as a separate written document signed by the party making the demand or by counsel.

Rule 5. Motions and Other Matters.

(A) Motions, etc., to be Served on Opposing Party. All motions, objections, orders to show cause, petitions, applications, and every other such matter

shall be served upon all parties, or, after any party has appeared by counsel, upon counsel for such party.

(B) Requirements for Submission.

(1) There shall be served and filed as a part of the motion or other application:

(a) Legible copies of all documentary evidence which the moving party intends to submit in support of the motion or other application. When a motion is supported by affidavit, the affidavit shall be served with the motion, unless otherwise ordered by the Court, and

(b) a clear, concise, complete and candid written statement of the reasons in support thereof, together with an adequate brief of the points and authorities upon which the moving party relies.

(2) Each party opposing a motion or other application shall, within fifteen (15) days of service of the motion or other application upon that party:

(a) Serve and file legible copies of all documentary evidence upon which the party intends to rely; and

(b) Serve and file a clear, concise, complete and candid written statement of the reasons in opposition thereto and an adequate opposing brief of points and authorities; or

(c) Serve and file a written statement of non-opposition to said motion.

The above will not be necessary if otherwise ordered by the Court or if otherwise stipulated in writing by the parties, such stipulation subject to the approval of the Court.

(3) If desired, the moving party within five (5) days after the service upon that party of the points and authorities of the adverse party, may serve and file a reply brief.

(4) Failure to file briefs within the time prescribed (or within any extension of time granted by order of the Court) shall subject such motions to summary ruling by the Court sua sponte. Failure to file a brief by the moving party shall be deemed an admission that, in the opinion of counsel, the motion is without merit. Failure to file a brief by the adverse party shall be deemed an admission that, in the opinion of counsel, the motion is well taken.

(C) Oral Argument.

(1) A written request for oral argument filed by counsel within three (3) days of the date of filing the final brief will constitute a certificate that oral argument is necessary. When request has been filed by one party, the right to oral argument, if granted, will extend to all parties. However, the Court, to expedite its business, may order the submission and determination of motions without oral hearing.

(2) When oral argument has been requested or granted by the Court and all briefs required by this rule have been filed with the Clerk, the Court, upon finding that oral argument is necessary, will schedule a hearing and notice all parties at least ten (10) days in advance of such hearing, or upon shorter notice as special or unusual circumstances may require.

(3) When oral argument is heard by the Court, counsel are required to present a meaningful and candid discussion and to avoid reading or restating material appearing in the briefs, records, or authorities.

(D) Motions Submitted. Unless one of the parties files a written request that oral argument be heard, a motion is deemed submitted for the Court's consideration when all briefs required by this rule have been filed with the Clerk, or the time for filing such briefs has passed.

(E) Discovery Motions.

(1) If the matter arises under the Federal Rules of Civil Procedure, Depositions and Discovery, Rules 26 through 37, inclusive, and if the matter is opposed, counsel shall prepare, serve and file a certificate that they have conferred with respect to the pending matter and enumerate therein the matters remaining for determination by the Court.

(a) The Court will not consider a motion, objection, order to show cause, petition or other similar matter arising under these cited rules until such certificate of compliance is filed.

(b) Counsel for the moving party shall arrange for such conferences.

(c) Should opposing counsel fail or refuse to confer with counsel for the moving party when requested to do so, this fact shall be reported promptly in writing to the Court.

(2) If the motion or other matter subsequently is heard and the Court finds the same (or the opposition thereto) to be without substantial justification, or that counsel for any party refused to meet and confer, or having met, refused or failed to confer in good faith, the Court may assess costs, including attorney's fees, if appropriate, against the offending party.

(F) Motions for Summary Judgment.

(1) A motion for summary judgment may be accompanied by affidavits setting forth concise statements of material facts made upon personal knowledge in support of the motion. With each such motion a brief must be served and filed asserting that the moving party is entitled to judgment as a matter of law.

(2) Any party opposing the motion shall simultaneously serve and file with the brief in opposition a "statement of genuine issues" setting forth clearly, concisely, completely and candidly those contested material facts which must be tried.

(3) Any party moving for summary judgment or opposing such motion shall comply with the provisions of paragraph (B) of this rule.

(G) Motion for Shortened Time. The moving party may apply to the Court for an order shortening time, and serve such motion for shortened time upon all other parties to the action. The motion shall be accompanied by an affidavit which sets forth facts justifying shortened time.

(H) Frivolous and Unnecessary Motions; Penalty. The presentation to the Court of frivolous or unnecessary motions or opposition to motions which, in the judgment of the Court, unduly delay the progress of the action or proceedings, or the filing of any motion to dismiss or motion to strike for the purpose of delay where no reasonable ground appears therefor, subjects counsel presenting or filing such to imposition of costs and attorney's fees.

(I) Interlocutory Applications; Evidence. Upon the hearing of any application for an interlocutory or injunctive order, the facts shall be presented by affidavit or other documentary evidence; unless the Court upon application or upon its own motion permits oral evidence to be introduced.

(J) Motion for Rehearing or Reconsideration.

(1) A motion for rehearing or reconsideration shall be filed within ten (10) days of service of the order or ruling upon which rehearing or reconsideration is being requested.

(2) Any party moving for rehearing or reconsideration or opposing such motion shall comply with the provisions of paragraph (B) of this rule.

[Rule amended 7-30-85.]

Rule 6. Form of Pleadings, Amended Pleadings and Documents Filed.

(A) Compliance. No document shall be filed by the Clerk which does not comply with this rule, unless waiver is obtained from the Court. All documents shall be filed in the Division in which the action is pending, unless otherwise ordered by the Court upon good cause shown.

(B) Paper. All pleadings, motions, affidavits, briefs, points and authorities, and other papers and documents (including all exhibits thereto) presented for filing with the Clerk or intended for use by the judge shall be flat or unfolded, upon either legal or letter size white paper until December 31, 1982 and thereafter only upon letter size white paper, without back, of good quality, reasonably opaque and other than onion skin.

(C) Ink. The typing or printing on the original and copies of documents (including exhibits thereto) shall be in black or dark blue ink and only on one side of the paper.

(D) Spacing.

(1) The body of all documents shall be double-spaced.

(2) Quotations shall be indented.

(3) With the exception of the title page, each sheet of all pleadings or papers filed shall have a margin at the top and bottom of not less than one and one-half (1 ½") inches.

(E) Legibility. All documents (including exhibits thereto and copies) shall be clear and legible. There shall be no interlineations unless noted by the Clerk by marginal initials at the time of filing. Clerical errors and omissions may be corrected in the Clerk's office on the day of filing. After the day of filing, any such errors or omissions must be corrected by the filing of an errata.

(F) Exhibits to Documents. All exhibits to pleadings shall be numbered progressively at the bottom of each page according to the number of the page of the exhibit, followed by the number of identification of the exhibit, or vice versa (e.g., Page 1—Ex A, or Ex A—Page 1). All exhibits shall be so permanently attached to the pleadings to which they belong as to be easily accessible and easily readable without detaching same from the principal document. Exceptions to progressive paging of exhibits and double-spacing in exhibits may be permitted by the Court where photostatic copies and printed or typewritten copies of the original documents make it impracticable to comply with said requirements. Exhibits too bulky for attachment shall be clearly identified by the case number, title and the document number.

(G) Copies. An unexecuted but conformed copy of all papers or pleadings (including exhibits) filed with the Clerk shall be furnished for the use of the judge hearing such matter. Both originals and copies shall be filed with the Clerk who shall deliver the copy to the judge to whom the case is assigned. Said copy need not be retained as a part of the original file. If the case is a three-judge case, the original and three copies shall be filed.

(H) Title Page. The following information shall be stated upon the first page of every document and may be single spaced:

(1) The name, address and telephone number of the attorney appearing and whether the attorney appears for the plaintiff, defendant, or other party, or the name, address and telephone number of a party appearing in propria persona shall be typewritten or printed in the space to the left of the center of the page and beginning not less than 1 ½ inches from the top of the first page. The space to the right of the center of the page above the title of the Court shall be reserved for the filing marks of the Clerk.

(2) The title of the Court shall commence not less than four (4) inches from the top of the page.

(3) The title of the action or proceeding shall be inserted below the title of the Court in the space to the left of the center of the paper. If the parties are too numerous for all to be named on the first page, the names of the parties only may be continued on the second or successive pages. In the space to the right of the center, there shall be inserted (a) the number of the action or proceeding, (b) a brief designation of the nature of the document, and (c) mention of any affidavits or memorandum in support. The names of all parties to be contained on the title page applies only to the original pleading and summons as provided in the Federal Rules of Civil Procedure, Rule 10(a); but in other pleadings it is sufficient to state the names of the first party on either side with appropriate indications of other parties.

(4) Names shall be typed underneath signatures to all pleadings or other documents filed.

(I) Contents.

(1) A pleading which sets forth a claim for relief (whether an original claim, counterclaim, cross-claim or third party claim) shall contain in the first paragraph the matters required by Rule 8, Federal Rules of Civil Procedure, and in addition shall contain a citation of any law, constitution, treaty or other authority under which the jurisdiction of this Court is being invoked.

(2) Where practicable, reference to other portions of the same pleadings or paper should be made to avoid repetition.

(3) In any action brought upon or any proceeding involving serial notes, bonds, coupons or obligations for the payment of money which are of the same form, tenor and effect, and are issued under the same law, or by the same authority, and differing only in number, date of maturity or amount, it will be sufficient for the plaintiff to set forth in one count of his complaint one of such notes, bonds, coupons or obligations, either in haec verba or according to legal effect, and the remaining notes, bonds, coupons or obligations may be pleaded, in the same or another count of the complaint, by a

general reference or description sufficient to identify them with like effect as if they had been set forth in haec verba.

(4) Similar practice may be followed in any answer or other pleading where any two or more documents of similar form, tenor or effect are set forth. Any such document pleaded in any complaint, answer or other pleading, may be set forth either in the body of the pleading or in an exhibit attached thereto.

(J) Amended Pleadings.

(1) No motion to amend pleadings will be considered unless the moving party has lodged a copy of the proposed amended pleadings with the Court. The copy shall be attached to the motion to amend and shall be served upon all parties in the manner provided by Rule 7 of these rules.

(2) Unless otherwise permitted by the Court, every pleading to which an amendment is permitted as a matter of right or has been allowed by the order of the Court, must be retyped or reprinted and filed so that it is complete in itself (including exhibits), without reference to the superseded pleading. No pleading will be deemed to be amended until compliance with this section of this rule has been satisfied. All amended pleadings shall contain copies of all exhibits referred to in such amended pleadings. Permission may be obtained from the Court for the removal of any exhibit or exhibits attached to prior pleadings in order that those exhibits may be attached to the amended pleading.

(K) Briefs or Memoranda.

(1) That, unless otherwise ordered by the Court, principal briefs or memorandum of law filed in the district court in civil and criminal cases, or appeals from the Bankruptcy or Magistrates' courts shall not exceed fifty (50) pages, and reply briefs shall not exceed twenty-five (25) pages, exclusive of pages containing a table of contents, tables of citations, and any addendum containing statutes, rules, regulations, etc.

(2) That counsel, or litigants appearing pro-per, endeavor at all times to file briefs or memoranda as concise as possible. [Added, eff. 2-4-85]

(L) Use by Court. At the trial of any issue of law or fact, or upon the hearing of any motion, the original file shall be for the use of the court, except as may appear necessary.

(M) Accompaniment to Civil Action Filing. Every civil action filed in the Court shall be accompanied by:

(1) A civil cover sheet, Form JS-44;

(2) Summons on complaint prepared for issuance by the Clerk with a copy for the Court. Summons shall include complete case caption and address for service of an answer within the District of Alaska;

(3) For service by the U.S. Marshal, a U.S. Marshal Form 285,

(4) For service by certified mail by the Clerk of Court, pursuant to the Federal Rules of Civil Procedure, postpaid envelope and return receipt for delivery to addressee only. All return delivery receipts shall be so addressed that they are returned to the party requesting the summons or that party's attorney. Proof of service shall be made to the Court by affidavit. [Amended 2-28-83.]

(N) Service of summons and complaint must be accompanied by Notice and Consent Form to defendants regarding consent to U.S. Magistrate jurisdiction, which form of notice will be provided to the plaintiff or his attorney by the Clerk of Court. [Added 2-28-83.]

Rule 6.1. Removal.

A petition for removal may be presented for filing at any divisional Clerk's office within the district; however, if the case is being removed from a Superior Court located in a U.S. District Court division other than the location of the Clerk's Office where the petition is presented, the Clerk will assign the removed case to the division representing the Superior Court where the State action was pending.

Rule 7. Service of Papers.

(A) Manner of Service. Service of all papers requiring service under these rules other than the original summons, complaint, and writs of execution may be made in the manner specified in Rule 5(b), Federal Rules of Civil Procedure If any paper is served by delivery of a copy, the delivery may be performed by any person of suitable age and discretion unless otherwise expressly provided in the Federal Rules of Civil Procedure. Service of the original summons and complaint shall be made in the manner specified in Rule 4, Federal Rules of Civil Procedure. Service of writs of execution shall be made only by the U.S. Marshal. [Amended 2-28-83.]

(B) Proof of Service.

(1) Proof of service of all papers required or permitted to be served, other than those for which a particular method of proof is prescribed in the Federal Rules of Civil Procedure—such as jurisdictional notices, shall be filed promptly in the Clerk's office and before action is to be taken by the Court or the parties. The proof shall show the day and manner of service and may be written acknowledgment of service, by certificate of a member of the bar of this Court, by affidavit of the person who served the papers or by any other proof satisfactory to the Court.

(2) If an affidavit of mailing or service is attached to the original pleading, that affidavit shall be attached underneath the pleading so that the character of that pleading is easily discernible.

(3) Failure to make proof of service required by the subdivision of this rule does not affect the validity of service; and the Court may at any time allow the proof of service to be amended or supplied unless it clearly appears that to do so would result in material prejudice to the substantial rights of any party.

(C) Service of Summons by Mail. In addition to other methods of service provided for in a civil action, summons may also be served by the U.S. Marshal within this state, the United States or any of its possessions. This service may be by registered or certified mail upon an individual other than an infant or an incompetent person, or upon a corporation, partnership, or unincorporated association. Copies of the summons and complaint shall be mailed by the Marshal for restricted delivery only to the party to whom the summons is directed or to the person authorized under federal regulations to receive such person's restricted delivery mail. All return delivery receipts shall be addressed

to return to the U.S. Marshal, and such receipts shall be attached to the Marshal's return of service at the time of filing the original summons with the Clerk.

Rule 8. Depositions and Discovery.

(A) Depositions, interrogatories, requests for admission, production or inspection and any responses thereto shall not be filed with the Court. This rule shall not preclude their use as exhibits or as evidence on a motion or at trial and it shall be counsel's responsibility to so provide at that time. [Amended 8-1-83.]

(B) Depositions received as evidence shall be kept separately and not placed in the original file folder of the case. [Amended 8-1-83.]

(C) Written Interrogatories.

(1) Pursuant to Rule 26 of the Federal Rules of Civil Procedure, written interrogatories are limited to twenty (20) questions which shall include all subparagraphs and sub-subparagraphs. Upon completion of depositions and application to the Court, further written interrogatories may be permitted.

(2) Any party desiring to serve additional interrogatories shall submit to the Court a written memorandum setting forth the proposed additional interrogatories and the reasons for their use.

(3) Answers and objections to interrogatories (pursuant to Rule 33, Federal Rules of Civil Procedure) shall identify and quote each interrogatory in full immediately preceding the statement of any answer or objection thereto.

(D) Responses and Objections to Requests for Admissions. Responses and objections to requests for admissions, pursuant to Rule 36, Federal Rules of Civil Procedure, shall identify and quote each request for admission in full immediately preceding the statement of any answer or objection thereto.

(E) Motion for Discovery. A motion for an order compelling discovery, pursuant to Rule 37, Federal Rules of Civil Procedure, shall have attached thereto all relevant papers relating to said motion.

Rule 9. Pre-trial Procedure.

(A) All civil and criminal cases are subject to pre-trial procedures and all will be pre-tried unless the Court otherwise directs.

(B) Scheduling Conference and Order in Civil Cases. Scheduling conferences may be set by the judge upon the motion of any party or upon the court's own motion. The court shall direct in its order for scheduling conference the subject matter to be discussed, the manner in which the conference shall be conducted, and further directing that plaintiff or his counsel serve notice of the scheduling conference on any nonappearing party or seek default or dismissal if appropriate. The Court shall enter a scheduling order in every case except for those categories of actions exempted by subsection (C) below. [Amended 7-29-85.]

(C) Exception to Mandatory Scheduling Orders. Scheduling orders shall not be mandatory in the following categories of cases:

(1) IRS enforcement actions;
(2) Eminent domain proceedings;
(3) Forfeitures;
(4) Habeas corpus petitions;

(5) Freedom of Information Act actions;

(6) Actions to enforce out-of-state judgments;

(7) Those proceedings referred to the magistrate under Local Magistrate Rules 9 and 11;

(8) Action by the United States for the collection of debts;

(9) Cases determined to be exceptionally complex;

(10) Cases in which no service upon defendant(s) has been effected within one hundred twenty (120) days of filing of the complaint;

(11) Those cases filed in locations in the District other than Anchorage in which travel by the Court to those locations within the time limit set is not feasible or possible;

(12) Other cases in which court review of the file indicates the burden of a scheduling order would exceed the administrative efficiencies to be gained.

(D) Settlement Conference. Any party may move for a settlement conference at any time. The court may set a settlement conference upon its own motion at any time.

(E) Pretrial Conferences. Any party may move for a pretrial conference if required to expedite the progress of the case. The court, of its own motion, may set a pretrial conference at any time.

(F) Final Pretrial Conferences. Final Pretrial conferences may be held as close to the time of trial as reasonable under the circumstances.

[Amended 11-22-83, 12-7-83.]

Rule 10. Exhibits.

(A) Review and Marking—Prior to Trial.

(1) No later than ten (10) days before the commencement of trial, counsel or pro per litigants shall meet with a courtroom deputy of this District Court for the purpose of reviewing trial exhibits. It shall be the responsibility of the plaintiff to arrange a time for this exhibit review. At the time of the exhibit review all contemplated exhibits will be available for inspection and examination by opposing counsel and the courtroom deputy. The trial of the case will not be interrupted, delayed or recessed to permit counsel to read or examine such exhibits. Any large exhibits or models that cannot be produced at this time must be accounted for.

(2) Before the review parties shall obtain from the deputy clerk the necessary number of exhibit labels and instructions for their completion in order that every trial exhibit may be marked prior to the exhibit review. Plaintiff's exhibits shall be marked in sequence by number, and defendant's exhibits shall be marked in sequence by capital letters of the alphabet.

(3) After examination by counsel parties may stipulate to the admittance of certain exhibits and those exhibits shall at that time be marked admitted ("ADM"). Exhibits not admitted shall be noted for identification only. No exhibit will be received into evidence that is not clearly legible.

(4) Within three days following this exhibit review, exhibit lists, indicating those exhibits admitted and those marked for identification only, shall be prepared by counsel or pro per litigants and filed with the Court. These exhibit lists shall give a brief description of each exhibit following the number or letter of such exhibit. At the time of filing the final exhibit lists

an extra copy of all exhibits which can be photocopied shall be lodged for use by the Court.

(5) Exhibits not presented as herein ordered will not be admitted into evidence on the trial of the case except by order of the Court upon a showing of good and sufficient cause.

(B) Exhibit Custody—Prior to Trial. Following review and marking, exhibits shall be returned to and remain in the custody of counsel or pro per litigant to be presented during trial as appropriate.

(C) Exhibit Custody—During Trial.

(1) It shall be counsel or pro per litigant's responsibility to retain custody of all exhibits during a trial, to see that they are promptly and properly marked when identified and/or admittance during trial and to have them readily available for the use of the Court, counsel and witnesses during trial.

(2) The Court will provide an exhibit receptacle for each party's use during trial.

(D) Exhibit Availability—Conclusion of Trial. It will be counsel or pro per litigant's further responsibility to have immediately available at the conclusion of a trial, those exhibits admitted on their behalf which are to be considered by the jury during deliberation or the Court.

(E) Exhibit Custody—Conclusion of Trial. Immediately after a verdict by a jury or decision by the court all exhibits shall be returned to the custody of respective counsel or pro per litigant and shall be retained pending appeal and ultimate disposition of the case.

(F) Evidentiary Hearings and Criminal Trials. Subsections (C), (D), and (E) above shall apply to exhibits received at evidentiary hearings and criminal trials.

(G) Nothing in this rule shall prevent the Court ordering other disposition with respect to any exhibits as it may deem advisable.

[Amended 7-24-85.]

Rule 11. List of Witnesses to be Filed with Clerk.

Unless a list of witnesses has been previously filed with the Clerk, each party in the case—at least ten (10) days prior to the date of trial shall prepare, serve and file with the Clerk the names and addresses of all expert and other witnesses which the party intends to call on the trial of the case. Witnesses whose names do not appear on the list filed with Clerk in conformance with this rule will not be permitted to testify on the trial of the case except on rebuttal or by order of the Court.

Rule 12. Briefs to be Submitted Prior to Trial.

After an order has been entered setting a case for trial (unless an adequate brief covering all questions of law and evidence has previously been filed), each party shall prepare, serve and file with the Clerk at least ten (10) days in advance of trial, duplicate copies of an adequate brief covering all questions of law and evidence which the party intends to assert at the trial of the case. General or routine questions need not be included in this brief. The trial briefs shall contain a clear, concise, complete and candid statement of reasons in support of each question of law or evidence, together with an adequate citation or authorities.

Rule 13. Findings of Fact and Conclusions of Law.

(A) Unless otherwise ordered by the Court, each party within fifteen (15) days from the date that a case tried by the Court is taken under submission, shall prepare, serve and submit to the Court for its consideration, the original and one copy of proposed findings of fact and conclusions of law which shall be stated separately, clearly, concisely and candidly.

(B) After each proposed finding of fact, there shall be listed the name of each witness and the name of each exhibit that support such finding of fact.

(C) After each proposed conclusion of law there shall be listed adequate citations of supporting authorities.

Rule 14. Jurors.

(A) In civil cases the jury shall consist of six (6) members.

(B) Voir dire examination of trial jurors shall be conducted by the Court. The jury panel shall be questioned as a whole, provided that the Court may address specific questions to a single prospective juror if deemed necessary.

(C) No later than five (5) days prior to trial, counsel for any party may file with the Clerk questions touching upon unique or unusual issues of the case which that counsel desires the Court to address to the jury panel.

(D) At the conclusion of voir dire and the discharge of jurors excused for cause, the names of the balance of the jurors on the panel shall be placed in the jury selection box by the Clerk.

(E) The Clerk shall randomly draw from the box the names of twenty-eight (28) jurors if the case is criminal, and twelve (12) if the case is civil. The Clerk shall call the names aloud as they are drawn and list them on a jury sheet which has been previously numbered.

(F) After the names have been drawn and listed, the first twelve (12) shall be seated in the jury box and the remainder in order shall be seated in the courtroom as directed by the judge. Each juror upon the list shall be requested by the Court to stand, and state his or her name, residence, occupation and, if married, occupation of his or her spouse.

(G) The Court then shall call upon counsel in appropriate order to announce their peremptory challenges, which shall be directed only to those jurors seated in the jury box. As jurors are excused from the box upon peremptory challenge, the next juror in order on the list shall be seated in the box in place of the challenged juror.

(H) When all parties have waived challenge as to the jurors in the box or exhausted all peremptory challenges, the jurors then seated in the box shall constitute the jury chosen to try the case.

(I) Alternate jurors shall be the next in order upon the jury list or, if the list is exhausted, additional names may be drawn from the remainder of the panel. Peremptory challenges remaining from the original twelve (12) in criminal cases and six (6) in civil cases, shall be exercised.

(J) After the alternates have been drawn and seated, the Clerk shall swear the jury to try the case.

(K) The above requirements may be varied by the Court in its discretion if special or unusual circumstances so require.

Rule 14.1. Names of Grand Jurors.

The names of grand jurors shall not be disclosed except upon special order of the Court.

Rule 14.2. Grand Jury Process and Motions.

(A) Unless otherwise ordered by this Court, all grand jury related process and motions shall be sealed documents in order to afford protection against the disclosure of grand jury business.

(B) All hearings on motions to quash subpoenas, motions for protective orders, or other contested matters affecting grand jury proceedings prior to the indictment stage shall be heard by the Court in closed courtrooms.

Rule 15. Requested Instructions to be Submitted in Advance of Trial.

(A) At least five (5) days prior to the date set for the jury trial of any civil or criminal case, the parties may file their written requests that the Court instruct the jury on the law set forth in their requests.

(B) The requested instructions shall be numbered consecutively, shall indicate which party presents them, and shall embrace but one subject. The principle of law embraced in any requested instruction shall not be repeated in subsequent requests. Each request shall contain an adequate citation of authorities in support of the instruction. Requests that do not comply with the terms of this rule will not be considered by the Court.

Rule 16. Default.

A party may respond to any pleading at any time before a default is entered in conformity with Rule 55, Federal Rules of Civil Procedure.

Rule 17. Stipulations.

Stipulations between parties or their counsel will be recognized only when made in open court or in writing filed with the Clerk and approved by the Court, except in instances where such approval is not required by the Federal Rules of Civil Procedure. If a stipulation in writing requires approval by the Court, counsel shall lodge a form of order for the Court's consideration.

Rule 18. Conduct of Trial.

(A) Only one attorney for each party may examine or cross-examine a witness, and not more than two attorneys on each side may argue the merits of the action unless the Court otherwise permits. When a lectern is available, counsel are requested to use it when examining or cross-examining witnesses and when addressing arguments to the Court or jury.

(B) If counsel for either party offers himself or herself as a witness on behalf of such counsel's client and gives evidence on the merits of the trial, such counsel shall not argue the case to the jury, unless by permission of the Court.

(C) Unless specifically ordered, no longer than one-quarter hour shall be allowed by each party for argument upon any motion, or hearing, other than a final hearing on the merits. Unless otherwise specifically ordered no more than one hour shall be allowed on each side for argument on a final hearing or jury trial. In both cases, available time may be divided between counsel by agreement.

(D) To maintain decorum in the Courtroom when Court is in session, counsel will strictly abide by the following rules:

(1) Counsel will stand when addressing the Court but may remain seated when examining or cross-examining witnesses.

(2) Counsel will not address questions or remarks to opposing counsel without first obtaining permission from the Court to do so.

(3) The examination and cross-examination of witnesses shall be limited to questions addressed to the witnesses. Counsel shall refrain from making statements, comments or remarks prior to asking a question or after a question has been answered.

(4) Counsel for the respective parties shall at all times refrain from indulging in personalities, in making snide, needling, provoking or insulting remarks. Counsel shall confine their questions, remarks, or statements to the issues then before the Court.

(5) In making an objection, counsel shall state plainly and briefly the basis or reason for the objection and shall not engage in argument unless requested or permitted by the Court to do so.

(6) Counsel shall remain at counsel table facing the Court and witnesses, and shall not wander about the Courtroom or approach a witness, the jury, the Clerk or the Judge unless permitted by the Court to do so.

(7) Only one attorney for each party shall make objections to the testimony of a witness being questioned by an opposing party. The objections shall be made by the attorney who is to conduct the cross-examination of the witness.

(8) Counsel shall present the case with candor and fairness and shall at all times conduct themselves in conformance with the provisions of the Canons of Professional Ethics of the American Bar Association.

(9) Counsel will refrain from asking leading or suggestive questions on the direct examination of witnesses.

(10) When appearing in Court, male counsel shall be properly attired and shall be dressed in a conventional business suit, shirt, necktie and footwear. Female counsel shall be properly attired in a dress or pants suit and proper footwear. If, for any valid reason, Counsel are unable to comply with this rule, such fact should be made known in advance to the judge before whom they are to appear.

Rule 19. Appointment of Independent, Impartial Experts.

(A) In any case involving complicated or technical issues, the Court may on its own motion (or on the motion of any party) enter an order to show cause why expert witnesses should not be appointed. The Court may request the parties to submit nominations, and may appoint any expert witness agreed upon by the parties, or may appoint witnesses of its own selection. An expert witness shall not be appointed by the Court unless that witness consents to appointment. An appointed witness shall advise the Court and parties of such witness' findings (if any). That witness' deposition may be taken by any party and the witness may be called to testify by the Court or any party. The witness shall be subject to cross-examination by each party, including the party calling him or her as a witness.

(B) Compensation. Appointed expert witnesses are entitled to reasonable compensation in whatever sum the Court may allow. The compensation fixed is payable from funds which may be provided by law in criminal cases and cases involving just compensation under the Fifth Amendment. In other civil cases, the compensation shall be paid by the parties in such proportion and at such times as the Court directs, and thereafter charged in a like manner as other costs.

(C) Disclosure of Appointment. The Court when necessary may authorize disclosure to the jury of the fact that the Court appointed the expert witness.

(D) Parties' Experts of Own Selection. Nothing in this rule limits the parties in calling expert witnesses of their own selection.

Rule 20. Orders and Judgments.

(A) Preparation.

(1) All judgments shall be prepared, signed and entered as provided in Rule 58, Federal Rules of Civil Procedure.

(2) All findings, conclusions of law; orders affecting title to, creating or affecting a lien upon real or personal property; appealable orders; and other orders as the Court may direct shall be prepared in writing by the attorney or attorneys for the successful party. The same shall embody the Court's decision.

(B) Order Upon Stipulation. When a party desires an order of Court pursuant to stipulation, said party shall endorse at the close of that order the words, "It is so ORDERED," with the date and blank line for the signature of the judge. The words "United States District Judge" shall be typed under the signature line.

(C) Instruments on Which Judgment Entered. In all cases in which a judgment is entered upon a written instrument, that instrument shall be admitted into evidence and marked as an exhibit and it shall be cancelled by marks and writing upon the face thereof. The Clerk shall retain the same in the files unless otherwise directed by the Court.

(D) Orders Grantable by the Clerk. The Clerk is authorized to sign and enter the orders listed below without further direction by the Court. The Clerk will notify the judge before whom the case is pending of the order taken. Any order so ordered by the Clerk may be subsequently suspended, altered or rescinded by the Court. The orders authorized for the Clerk to enter and sign are:

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

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

(3) Orders entering default for failure to plead or otherwise defend (as provided in Rule 55(a), Federal Rules of Civil Procedure); and

(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. [Added 7-20-84.]

(E) Settlement of Default Judgments.

(1) When application is made to the court under Rule 55(b)(2), FRCP, for a default judgment, the clerk shall furnish the judge with a memorandum of the default, showing when and against what parties it was entered, and the

pleadings to which no defense has been made. If any party against whom judgment by default is sought is shown by the record to be an infant or incompetent person, or in the military service of the United States, the clerk shall also furnish the court with a memorandum stating whether or not that person is represented in the action by a general guardian, committee, conservator, attorney, or such other representative who has appeared in the case. If the party against whom judgment by default is sought has appeared in the action or proceeding, the memorandum shall also indicate whether or not the record shows that notice has been served as required by Rule 55(b)(2), FRCP.

(2) If the amount of damages claimed in an application to the court for judgment by default is unliquidated, the applicant may submit by affidavit, evidence showing the amount of damages. If, under the provisions of Rule 55(b)(2), FRCP, notice of the application is necessary, the parties against whom judgment is sought may submit affidavits in opposition. Other proceedings necessary or appropriate to the entry of judgments by default will be taken as provided in Rule 55(b)(2), FRCP.

(F) Judgments by the Clerk. In the following instances, judgments shall be entered forthwith by the clerk without further direction from the judge, except that the allowance and fixing of attorneys' fees, where appropriate, shall be determined by the court:

(1) Judgments upon the verdict of a jury, or upon a decision by the court that a party shall recover only money or costs or that all relief shall be denied in the circumstances specified in Rule 58, FRCP.

(2) Judgments upon a decision by the court granting other relief, or upon a special verdict or a general verdict accompanied by answers to interrogatories, when approved by the court.

(3) Judgments by default in the circumstances and upon the proof specified in Rule 55(b)(1), FRCP, an affidavit that the person against whom judgment is sought is not an infant or an incompetent person, and an affidavit under the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, that defendant is not in the armed forces.

(4) Confessions or consents of judgment shall be after commencement of action and shall be accompanied by the plaintiffs' assent together with a prepared form of judgment.

(5) Judgments on offers of judgment in the circumstances as set forth in Rule 68, Federal Rules of Civil Procedure. The filing of the offer and notice of acceptance together with proof of service shall be accompanied by the parties' prepared form of judgment.

(G) Entry of Judgments and Orders.

(1) The Clerk shall make the entry of judgments and orders in the civil docket at the earliest practicable time. The entry of judgments shall not be delayed pending taxation of costs, but a blank space shall be left in the form of judgment for insertion of costs by the Clerk after they have been taxed.

(2) Orders under subdivision (D) of this rule shall be noted in the civil docket at the earliest practicable time after the Clerk has signed them.

(H) Computations by Parties for Entry of Judgment.

(1) In cases in which the judgment, decree or order of the Court as to the amount of money or interest to be awarded (or in tax cases the amount of overpayment or deficiency) will involve an extended computation, the Clerk shall withhold entry of judgment, decree or order for the purpose of permitting the parties to submit computations pursuant to the Court's determination of the issues showing the correct amount to be entered. Any interest allowed shall be computed to and including a date certain and the computation shall also indicate the amount of the daily interest which will be added to the amount determined if the document containing the entry of that amount is not signed on the date certain.

(2) If the parties are in agreement as to the amount to be entered pursuant to the opinion of the court and so stipulate, judgment, decree or order may be entered in the usual manner. Such stipulation will not be a waiver of any of the legal rights of the parties and will be a stipulation only as to the accuracy of the computation made in accordance with the pleadings and the opinion of the court.

(3) Within five (5) days after such service the opposite party may file objections thereto accompanied by an alternate computation and, if this is not done, judgment, decree or order may then be entered in the usual manner and in accordance with the computation already submitted. In case objections with alternate computations are filed, the Court, upon finding that oral argument is necessary, will schedule a hearing and notice all parties. The parties will then be afforded an opportunity to be heard and the Court will determine the correct amount on which judgment will be entered.

(4) Any argument under this rule must be confined strictly to the consideration of the correct computation of the amount resulting from the Court's opinion determining the issues of the case. No argument will be heard upon, or consideration given to, the issues or matters already disposed of by such opinion or to any new issues. This rule is not to be regarded as affording an opportunity for rehearing or reconsideration.

Rule 21. Costs.

(A) In General.

(1) The party in whose favor a judgment or decree for costs is awarded or allowed by law and who claims his costs, after verdict (or after the making of an order for judgment or decree), shall serve on the attorney for the adverse party and file with the Clerk a bill of costs and disbursements on a form which may be obtained from the Clerk. That form shall contain a notice when application will be made to the Clerk to tax the same. Such service and filing shall in no event be later than ten (10) days after notice of the entry of the decree or judgment.

When taxable costs are incurred in post-judgment proceedings the ten (10) day service and filing time limit shall commence to run from the date of the entry of the court's confirmation of such proceedings.

(2) Such bill of costs and attached supporting documents shall set forth distinctly each item thereof so that the nature of the charge can be readily understood. Such bill shall be verified by the oath of the party, his or her agent or attorney or by the clerk of such attorney. Such bill shall state that

the items are correct, the services have been actually and necessarily performed, and the disbursements have been necessarily incurred in the action or proceeding. Such bill shall cite, where necessary the subsection of this rule under which the costs are allowable.

(3) The notice shall specify that the hour at which application to the Clerk to tax the costs will be made is 9:00 a.m. on a day certain not less than three (3), nor more than seven (7), days from the date of the notice. Upon a failure to file such bill of costs and notice to tax, the costs shall be deemed waived.

(4) If no objections are filed one day prior to hearing, the Clerk will tax costs pursuant to these rules.

(B) Items Taxable as Costs.

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

(2) Trial Transcripts. The costs of the originals furnished the Court of a trial transcript, a daily transcript or of a transcript of matters prior or subsequent to trial are taxable when either requested by the Court or prepared pursuant to stipulation. Mere acceptance by the Court does not constitute a request. Copies of transcripts for counsels' own use are not taxable in the absence of a special order of the Court.

(3) Deposition Costs. The reporter's charge for the original of a filed deposition is taxable. On a taxed deposition the reasonable expenses of the deposition reporter and the notary or other official presiding at the taking of the deposition are taxable, including travel and subsistence; all postage costs are taxable; fees for the witness at the taking of the deposition are taxable at the same rate as for attendance at trial and the witness need not be under subpoena; a reasonable fee for a necessary interpreter at the taking of the deposition is taxable. Counsels' copies are not taxable regardless of which party took the deposition. Counsels' fees, expenses in arranging for taking and expenses in attending the taking of a deposition are not taxable except as provided by statute or by the Federal Rules of Civil Procedure. [Amended 9-2-83.]

(4) Witness Fees, Mileage and Subsistence.

(a) The rate of witness fees, mileage and subsistence is fixed by 28 USC 1821. Such fees are taxable even though the witness does not take the stand, provided the witness necessarily attends Court. Such fees are taxable even though the witness attends voluntarily upon request, and is not under subpoena. If the travel is by common carrier, witnesses shall be entitled to the cost of the most economical accommodations available, including jet coach for travel in Alaska and outside Alaska in proceeding to or from Alaska. Receipts or other evidence of actual payment shall be furnished whenever practicable. Witness fees and subsistence are taxable only for the reasonable period during which the witness was within or without the district.

(b) Subsistence to the witness is allowable if the distance from the court to the residence of the witness is such that mileage fees would be

greater than subsistence fees, if the witness were to return to his residence from day to day. If the witness appears on the same day in related cases requiring his appearance in the same court, one set of fees is taxable, the single set as taxed to be divided equally among the related cases.

(c) No party shall receive witness fees for testifying in his own behalf. Witness fees for officers of a corporation are taxable if the officers are not defendants and recovery is not sought against the officers individually. Fees for expert witnesses are not taxable in a greater amount than that statutorily allowable for ordinary witnesses except as provided by Rule 19. Allowance of fees to a witness on a deposition shall not depend on whether or not the deposition is admitted in evidence.

(d) The reasonable fee of a competent interpreter is taxable if the fee of the witness involved is taxable.

(5) Exemplification and Copies of Papers.

(a) The costs of copies of an exhibit attached to a document filed and are taxable. The cost of one copy of a document is taxable when admitted into evidence in lieu of an original which is either not available for introduction in evidence or is not introduced at the request of opposing counsel. The cost of copies submitted in lieu of originals because of the convenience of offering counsel or his or her client is not taxable. The fee of an official for certification or proof of nonexistence of a document is taxable. The reasonable fee of a competent translator is taxable if the document translated is taxable. Notary fees are taxable if actually incurred, but only for documents which are required to be notarized and which are necessarily filed.

(b) The cost of patent file wrappers and prior art patents are taxable at the rate charged by the patent office. Expenses for services of persons checking patent office records to determine what should be ordered are not taxable.

(6) Maps, Charts, Models, Photographs, Summaries, Computations and Statistical Summaries. The cost of maps and charts is taxable if they are admitted into evidence. The cost of photographs, 8 × 10 in size or less, is taxable if admitted into evidence, or attached to documents necessarily filed and served on opposing counsel. Enlargements greater than 8 × 10 are not taxable except by order of the court. Costs of models are not taxable except by order of the court. The cost of compiling summaries, computations, and statistical comparisons is not taxable.

(7) Docket Fees to Attorneys and Proctors. The statutory docket fees for counsel (28 USC § 1923) are taxable in default cases as well as contested cases. Statutory docket fees for counsel are attorney's fees which are not taxable against the United States in Federal Tort Claims cases.

(8) Fees to Masters, Receivers and Commissioners. Fees to masters, receivers and commissioners ordered by the Court are taxable as costs.

(9) Premiums on Undertakings, Bonds or Security Stipulations. The party entitled to recover costs shall ordinarily be allowed premiums paid on undertakings, bonds or security stipulations where the same have been furnished by reason of express requirement of the law, on order of the court or a

judge thereof, or where the same is necessarily required to enable the party to secure some right accorded in the action or proceeding.

(10) Removed Cases. In a case removed from the state court, costs incurred in the state court prior to removal, including but not limited to the following, are taxable in favor of the prevailing party in this court:

(a) Fees paid to the clerk of the state court;

(b) Fees for services of process in the state court;

(c) Costs of documents attached as exhibits to documents necessarily filed in the state court;

(d) Fees for witnesses attending depositions before removal.

(C) Method of Taxation of Costs.

(1) One day prior to the time specified in the notice, the party objecting to any item of costs contained in the bill of costs shall present objections (either orally or in writing) specifying each item to which objection is made and the grounds for such objection. Said party shall file any affidavit or other evidence necessary to support such objections.

(2) At the time specified in the notice, the Clerk shall proceed to tax the costs and allow such items specified in the bill of costs as are properly chargeable. The Clerk shall, within two (2) days after the costs are finally fixed, insert the costs in a blank left in the judgment or decree for that purpose and then made a similar insertion of the costs in the copies and docket of the judgment or decree. The taxation of costs made by the Clerk shall be final, unless modified on review as provided in the following subdivision of this rule.

(D) Review of Costs.

(1) A review of the decision of the Clerk in the taxation of costs may be taken by the Court on motion to retax by either party pursuant to Rule 54(d), Federal Rules of Civil Procedure. This motion may be made orally when notice is waived or upon written notice served and filed with the Clerk within five (5) days after the costs have been taxed in the Clerk's office.

(2) When taken upon notice, the notice or motion to retax shall specifically specify the ruling of the Clerk excepted to. No other exceptions will be considered in the hearing.

(3) The motion will be heard upon the same papers and evidence used before the Clerk and upon such additional memorandum of points and authorities as the Court may require.

(E) Appellate Costs. The District Court does not tax or retax appellate costs except as provided in the Federal Rules of Appellate Procedure. The mandate or judgment of the Court of Appeals is sufficient for issuance by the Clerk of the District Court of a writ of execution to recover costs taxed by the Appellate Court.

Rule 21.1. Attorney Fees.

Within thirty (30) days of entry of final judgment in any case, a party requesting the award of attorney fees may file a motion for such fees, and serve a copy upon all other counsel or pro-per litigants. The motion shall be accompanied by a statement of authority for the award of such fees, and set forth the amount claimed. Insofar as practicable, State Rule 82 shall constitute guidance as to reasonable amounts of attorney fees under this rule.

The Court may waive the time limit under this rule for good cause shown.

Rule 22. Bonds and Undertakings.

(A) Approved by Clerk, in Certain Cases. The clerk is authorized to approve all undertakings, bonds and stipulations of security given in the form and amount prescribed by statute or the order of court where these are executed by approved surety companies, except when the same are required by law to be approved by a judge.

(B) Affidavits of Sureties. Except as to approved corporate sureties, no bond or undertaking will in any case be approved by the Court or Clerk unless it is accompanied by the affidavits of sureties justifying in the manner and amount required of sureties upon attachment bonds. No attorney, clerk, marshal or deputy will be accepted as surety on any bond. Bonds of corporate sureties shall be accompanied by affidavits showing authority of the agent and compliance with all statutory requirements.

(C) Justification of Sureties.

(1) In all cases where sureties on any bond or undertaking are required by law or rule of Court to justify their qualifications, evidence relating to such justification may be taken before the nearest United States Magistrate who shall have authority to approve or reject the justification and endorse his or her findings upon the bond.

(2) Sureties on any such bond or undertaking will include information as may be required by the judge or other approving officer, upon forms provided by the Clerk of Court.

(D) Summary Judgment Against Sureties.

(1) Every recognizance, bond, stipulation or undertaking shall contain the consent and agreement by the sureties that, in case of default or contumacy on the part of the principal or sureties, the Court may, (upon notice to them in not less than ten (10) days) proceed summarily and render judgment against both of them (or either of them) in accordance with their obligation, and award execution.

(2) Any indemnitee or party in interest seeking a judgment as provided for in this rule shall proceed by motion and shall make service as provided in Rule 5(b), FRCP, in case of personal sureties, and as provided in Section 7 of Title 6, United States Code, in case of corporate sureties.

(E) Cash Deposit in Lieu of Bond. A cash deposit of the required amount may be made with the Clerk in lieu of furnishing a personal surety or a surety bond. At the time of such cash deposit, the party shall file a written instrument property executed and acknowledged by the owner of the cash or by his or her attorney or authorized agent. This written instrument shall set forth the conditions under which the deposit is made, the ownership of the fund, and that said fund is subject to the provisions of this local rule.

(F) Bond on Removal. In civil cases removed from the State to Federal Court, the removing party shall serve and file a removal bond in the sum of two hundred fifty dollars ($250.00). Such bond may be increased by the Court for good cause shown.

(G) Security for Costs.

(1) By Nonresident. In every action filed by a plaintiff who is not a resident of the District of Alaska, the defendant (after answer to the com-

plaint) may, by motion and for good cause shown, have an order entered against the plaintiff requiring the deposit of security for costs. These costs shall be in such sum, in such manner and within such period of time as determined by the Court upon hearing the motion—all proceedings to stay meanwhile. If security for costs is not provided as ordered, the Court shall dismiss the action.

(2) By Other Parties. The Court, on motion, may order any party to an action to provide security for costs in such amount and so conditioned as designated by the Court.

Rule 23. New Trials.

(A) The general language of Rule 59, FRCP, includes, but is not necessarily limited to, the following grounds:

(1) Irregularity in the proceedings of the court, jury or adverse party; any order of the court; or abuse of discretion by which the losing party was prevented from having a fair trial;

(2) Misconduct of the jury;

(3) Accident or surprise which ordinary prudence could not have guarded against;

(4) Newly discovered evidence or material for the party making the application which could not (with reasonable diligence) have been discovered and produced at the trial;

(5) Excessive or inadequate damages which appear to have been given under the influence of passion or prejudice;

(6) Insufficiency of the evidence to justify the verdict or other decision, or that such evidence is contrary to the law; or

(7) Error in law occurring at the trial.

(B) The procedure to obtain a new trial shall be as follows:

(1) Within the time provided in Rule 59(b), Federal Rules of Civil Procedure, the applicant shall serve upon the adverse party and file with the Clerk a motion for a new trial stating the grounds relied upon and indicating the documents upon which the application is based. If a ground of the motion is an error in law occurring at the trial, the motion shall specify the particular error or errors relied upon and a transcript of the pertinent part of the record shall be supplied. If a ground is insufficiency of evidence, the motion shall specify the particulars wherein the evidence is claimed to be insufficient. If the motion does not contain the above-mentioned specifications, the unspecified ground will be disregarded.

(2) The motion shall be heard upon the pleadings and papers on file and upon "the minutes of the Court" which shall include not only the Clerk's minutes and any notes and memoranda which may have been kept by the judge, but also the reporter's transcript of his or her shorthand notes. If the motion is on any ground other than errors in law or sufficiency of the evidence, any necessary fact or circumstance not appearing in the pleadings and papers on file, or the "minutes of the Court" may be shown by affidavits.

(3) If a ground of the application is newly discovered evidence, the motion shall be supported by affidavit of the party, agent, or officer within whose charge or knowledge are the facts. The motion shall also be supported by an affidavit or affidavits of the moving party's attorney showing that the

evidence was in fact newly discovered, why it could not with reasonable diligence have been produced at the trial, what diligence was used, and if the newly discovered evidence consists of oral testimony. If the evidence consists of oral testimony, there shall be filed an affidavit of the new witnesses that they would give the testimony in question. If the newly discovered evidence is documentary, the motion shall be accompanied by the documents themselves or duly authenticated copies. If that is impracticable the motion shall be accompanied by satisfactory evidence of the documents' contents.

(4) If no affidavits are to be filed, the motion shall be deemed to be ready for hearing as soon as it is filed. If affidavits are to be filed, the motion will be deemed to be ready for hearing as soon as all affidavits have been filed. When the motion is ready for hearing, the hearing shall be set by this Court if deemed to be required.

(5) If a new trial is granted, the judgment and all proceedings thereon will be voided and set aside. The case shall be placed on the calendar of the next trial setting date as if no judgment or trial had taken place. If the motion is denied, any stay of proceeding that may have been granted by the Court shall cease.

(6) The motion will be heard by the judge who presided at the trial, if practicable, unless that judge requests some other judge to hear the matter or the matter is to be heard by some other judge pursuant to Rule 63, Federal Rules of Civil Procedure.

(7) Upon the filing of a motion for new trial, a copy of the motion shall be immediately delivered by the Clerk to the judge before whom the trial or hearing took place.

Rule 24. Dismissal for Want of Prosecution.

Cases which have been pending in this Court for more than one year without any proceedings having occurred may be dismissed by the Court for failure to prosecute. Such cases may also be dismissed by the Court at any time for want of prosecution on motion of any party noticing other parties.

Rule 25. Records.

(A) Records and Files Not to be Taken.

(1) Clerk's Custody—Receipt Upon Delivery.

(a) No record or paper belonging to the files of the Court may be taken from the office or custody of the Clerk. After final judgment and after the time for appeal and motion for a new trial has passed, all models, diagrams and exhibits filed shall be returned to the party or person to whom they belong. A request for such return is not necessary.

(b) After final judgment—upon the filing of a stipulation waiving and abandoning the right to appeal and to a new trial—all models, diagrams and exhibits may be withdrawn from the Clerk's office by the party or person to whom they belong without the necessity of filing a request. If these items are not withdrawn as indicated above, the Clerk may destroy all such models, diagrams and exhibits, or may make such other disposition of them as the Court may approve.

(c) Large physical exhibits unsuitable for filing with the case file shall be retained following trial by the party introducing the same into

evidence until judgment is final. The parties shall be responsible for producing the exhibits if required for an appeal record.

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

(2) Delivery to Court Officers. If it is necessary for a judge, magistrate, master, examiner, commissioner, law clerk or court reporter to use pleadings or papers for purposes of the action or proceedings at places other than the Clerk's office, courtroom or judge's chambers, the pleadings or papers may be taken from the office of the Clerk upon the delivery of a receipt signed by the officer who desires the use of such papers.

(3) Documents Presented Ex Parte. Every document presented by counsel to the Court ex parte in support of an order, when signed by the Court, will be deemed to be in custody of the Court; and each such document shall be delivered by presenting counsel to the Clerk for filing, unless the judge or his secretary desires to retain any such document in chambers for delivery to the Clerk.

(B) Official Records not Available as Evidence. Unless otherwise ordered upon good cause shown, parties are limited to certified copies of originals in making proof of instruments recorded in the office of the recorder of any recording district, or forming part of the official files or records of a public office or court other than this Court. However, if an original instrument is no longer a part of the public records or files, such original instrument may be used in evidence.

(C) [Deleted 10-6-83.]

Rule 25.1. Record of Proceedings, Reporting, Transcripts, Tapes, Fees.

(A) Record of Proceedings. The manner of reporting each session of Court shall be by either a Court Reporter or Electronic Court Recorder Operator, unless otherwise provided by rule or order.

(B) Official Record—Transcripts, Tape Recordings.

(1) Court Reporter. No transcripts of the proceedings of the Court shall be considered as official except those made from the records certified by the reporter or other individual designated to produce the record.

(2) Electronic Court Recorder Operator. No transcripts or duplicate tape recordings of the proceedings of the Court shall be considered as official except those made from the records certified by the Electronic Court Recorder Operator or other individual designated to produce the record.

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

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

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

(D) Requests for Daily Transcripts.

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

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

(3) The Clerk shall immediately determine if the matter for which a daily transcript is requested is to be reported by a Court Reporter or Electronic Court Recorder Operator and so advise the requesting party who shall thereafter make whatever fee arrangements are necessary.

(E) Fees—Transcripts, Tape Recordings. All fees for transcripts and tape recordings shall not exceed the maximum amount as set by the Judicial Conference of the United States.

(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 transcript, the reporter may bill the party for travel and subsistence costs of other reporters or auxiliary personnel. These costs may not exceed the amount of travel and subsistence that a government employee may be reimbursed for the same travel. Compensation for reporters and auxiliary personnel as an attendance fee, however, is not billable to the party.

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

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

[Added 7-31-85.]

Rule 26. Evidence in Possession of Adverse Party; Demand.

Where instruments or other evidence are in the possession of an adverse party, a demand for them must be made without undue delay. A demand for such instruments and evidence during the course of a trial, without previous notice and under conditions making sudden production burdensome, will not be sustained.

Rule 27. Fees and Funds Paid Into the Court.

(A) Fees. The Clerk shall require payment of all fees required by law before the filing of all civil and criminal cases or petitions in bankruptcy.

(1) Proceedings in Forma Pauperis; Seamen.

(a) In any action or proceeding in which the plaintiff wishes to file in forma pauperis, the complaint shall first be presented to the Clerk who shall inspect that complaint and note thereon that it conforms to the rules as to form satisfactory for filing. The complaint, together with the affidavit in forma pauperis and proposed order, may then be presented ex-parte to the Chief Judge, or if he is absent, to one of the other judges or to the U.S. Magistrate.

(b) Upon the granting of the order, the complaint and other papers shall be immediately returned to the Clerk who shall then file, number and initial the action.

(c) In any action or proceeding prosecuted or defendant in forma pauperis, or by seamen, wherein pursuant to law the fees and costs of officers of the Court have not been prepaid, such action or proceeding shall not be dismissed or terminated until the fees and costs of the officers of the Court have been paid. The Court may at any time direct by whom the fees and costs shall be paid, and whether or not those fees and costs shall be taxed in favor of the party or parties so paying them.

(B) Funds.

(1) Any funds deposited with the Court which are not governed by Rule 67, Federal Rules of Civil Procedure, shall be deposited into the Registry Account of the Court.

(a) No such funds may be accepted by the Clerk which are not in accordance with an order of the Court and substantiated by a separate filed pleading.

(b) No funds may be paid out of the Registry Account except by order of the Court. Any such order shall distinctly set forth the funds in question and name the payee. Should the named payee be other than the depositor of the funds, that fact must be reflected in the order.

(2) Any funds deposited with the Court which are governed by Rule 67, Federal Rules of Civil Procedure, shall be deposited in an interest-bearing account or invested in an interest-bearing instrument approved by the Court.

(a) No such funds may be accepted by the Clerk unless accompanied by a separate pleading filed at the time the deposit is made and further accompanied by motion and form of order setting forth the manner of the deposit of said funds in an interest-bearing account or investment in an interest-bearing instrument. Said motion and proposed order shall set out with particularity the following information:

(1) the name and address of the private institution where the deposit is to be made;

(2) the form of deposit;

(3) the compliance by the private institution of posting additional collateral in the event coverage is insufficient;

(4) such other information that may be deemed appropriate under the facts and circumstance of the particular case.

(b) The party presenting such order shall deliver a copy either personally or by certified mail, to the Clerk, or in the absence of the Clerk,

the Chief Deputy. Further, it shall be incumbent upon the presenting party to confirm that the appropriate action has been accomplished by the Clerk in accordance with the provisions of the particular order.

(c) No funds may be paid out of an interest-bearing account or an interest-bearing instrument except by order of the Court. Such order shall distinctly set forth the funds in question and name the payee. Should the named payee be other than the depositor of the funds that fact must be reflected in the order. The order shall also identify by name, address and social security or taxpayer's identification number the individual entitled to the interest accumulated. The Clerk shall deliver a copy of said order to the private institution where the deposit was made. The party presenting such order shall comply with (b) above. [Amended 7-20-85.]

(3) The above procedures for the receipt and handling by the Clerk of any funds deposited with the Court will not be waived except by order of the Court. Any such order submitted for the Court's consideration must reflect the Clerk's signature.

Rule 28. Naturalization Proceedings.

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

Rule 29. Judicial Sales: Confirmation.

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

Rule 30. Law Library.

(A) Access. The Law Library has been established for the use of the Court. Members of the Bar may be extended the courtesy of its use for legal research. Access is restricted to members of the Bar, their secretaries and clerks, law students, and such other persons as may be specially permitted the use of its facilities by the judges and, in their absence, by the Clerk of the Court or a deputy clerk.

(B) Restrictions.

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

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

(3) Each person who takes books from the shelves must replace such books.

(4) Typewriters may not be used. Dictating machines are permitted only if used quietly so others are not disturbed.

(5) No material of any kind may be checked out or removed from the library premises.

(C) Violations. Any violation of this rule may subject the violator to the loss of all library privileges.

Rule 31. Appeals.

(A) Magistrate Judgments in Civil Cases Disposed of by Consent of the Parties.

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

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

(a) Notice of Appeal. A Notice of Appeal to the District Court shall be filed with the Clerk within thirty (30) days. In the event a motion for a new trial is filed, the time for appeal shall commence to run upon the ruling on the motion.

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

(c) Briefs. The appellant, within fifteen (15) days of the filing of the Notice of Appeal, shall serve and file a brief. The appellee shall serve and file a brief within fifteen (15) days after the receipt of a copy of the appellant's brief. The appellant may serve and file a reply brief within five (5) days after receipt of a copy of appellee's brief.

(d) Record on Appeal. The record on appeal to a judge shall consist of the original papers and exhibits filed with the Court and the transcript of any proceedings before the Magistrate.

(e) Hearing. Unless otherwise ordered, forty (40) days after the filing of the Notice of Appeal, the appeal shall be set by the Court if a hearing is deemed to be required.

(f) Subsequent Appeal. Any subsequent appeal to the Circuit Court is permitted only upon petition for leave to appeal.

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

(1) Briefs. The appellant, within fifteen (15) days of the filing of the Notice of Appeal, shall serve and file a brief. The appellee shall serve and file a brief within fifteen (15) days after receipt of a copy of appellant's brief. The appellant may serve and file a reply brief within five (5) days after receipt of a copy of appellee's brief. Briefs filed to be in accordance with General Rule 6(K). [Amended, eff. 2-4-85].

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

(C) Bankruptcy. In an appeal from a judgment or decision of the Bankruptcy Court certified to this Court, the appellant within fifteen (15) days from the certification of the record, shall serve and file a brief. The appellee shall

serve and file a brief within fifteen (15) days after receipt of a copy of the appellant's brief. The appellant may serve and file a reply brief within five (5) days after receipt of a copy of appellee's brief. Unless otherwise ordered, forty (40) days after filing the certified record, oral argument shall be set by the Court if deemed required. Briefs filed to be in accordance with General Rule 6(K). [Amended, eff. 2-4-85]

Rule 32. Matters Not Covered by Rules.

(A) 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.

(B) The Court, upon its own motion or the motion of any party, may change or dispense with any of these rules if the interests of justice so require.

(C) All motions submitted for waiver to these rules will only be approved if the moving party clearly demonstrates that there is good cause for such waiver.

Rule 33. Free Press—Fair Trial in Civil Cases.

Criminal Rule 4, relating to release of information by attorneys for the prosecution or the defense in criminal cases shall (insofar as applicable) apply to the trial of civil cases.

Rule 34. Petitions for Habeas Corpus and Motions Pursuant to 28 USC § 2255 (Attacking a Sentence Imposed by This Court), by Persons in Custody.

(A) Petitions for a writ of habeas corpus and motions filed, pursuant to 28 USC Sections 2254 and 2255, by persons in custody shall be written, signed and verified. Such petitions and motions shall be on forms supplied by the Court.

(B) Where a petition or motion is taken in forma pauperis, the petitioner shall complete the forma pauperis affidavit attached to the back of the form and shall set forth information which establishes that he or she will be unable to pay the fees and costs thereof.

(C) Petitions and motions shall be addressed to the Clerk. Petitioners shall send to that Clerk an original and two copies of the completed petition or motion. A petition or motion addressed to an individual judge shall be directed to the Clerk for assignment pursuant to the rules of this Court, provided that such motions under 28 USC Section 2255 shall, if possible, be assigned to the sentencing judge.

Rule 35. Complaint Form for 42 USC § 1983 Actions by Incarcerated Persons.

All actions under 42 USC Section 1983 filed in this district by incarcerated persons shall be submitted on Court-approved forms supplied by the Clerk. However, a district judge or magistrate, upon finding that the complaint is understandable and that it conforms with local rules and the Federal Rules of Civil Procedure, can accept for filing a complaint that is not submitted on the approved form.

Rule 36. Expedition of Court Business—Sanctions and Penalties.

(A) If the Court determines at the time of trial that any party has wilfully failed to reveal the name of a witness or disclose an exhibit in the pre-trial order

or during pre-trial proceedings, the Court may direct that the testimony of such witness and such exhibit, or both, is inadmissible.

(B) Attorneys are expected to advise the Clerk promptly when the case is settled or when (for other reasons) the case will not be ready for trial at the time set. An attorney who fails to give the Clerk such prompt advice may be subject to such discipline as the Court deems appropriate, including the imposition of costs or of a fine.

(C) Failure of an attorney for any party to appear at preliminary pre-trial or at pre-trial conferences, to complete necessary preparations to meet and confer if directed to do so, or to appear or be prepared for trial on the date assigned, may be considered an abandonment or failure to prosecute or defend diligently. Judgment may then be entered against the defaulting party either regarding a specific issue or the entire case.

(D) An attorney who without just cause fails to comply with any of the Federal Rules of Civil or Criminal Procedure, these rules, or orders of the Court; who presents to the Court unnecessary motions or unwarranted opposition to motions, who fails to prepare for presentation to the Court, or who otherwise so multiplies the proceedings in any case as to increase the costs of the case unreasonably and vexatiously; may be required by the Court to satisfy personally such excess costs. Such attorney may be subject to such other discipline as the Court may deem appropriate.

(E) The Court, after the reasonable notice and an opportunity to show cause to the contrary; and after hearing if requested, may take any appropriate disciplinary action against any attorney who practices before it for conduct unbecoming a member of the Bar or for failure to comply with the Federal Rules of Criminal Procedure or any rule of the Court.

Rule 37. Amendment and Repeal.

(A) These rules have been adopted by the Court pursuant to Rule 83, Federal Rules of Civil Procedure and Rule 57, Federal Rules of Criminal Procedure. These rules shall govern all pending matters except to the extent that, in the opinion of the Court, their application in an action pending on July 26, 1982, would not be feasible or might work an injustice. In this event the former local rules shall apply. Except as otherwise limited, all prior local rules are hereby abrogated.

(B) This Court by action of a majority of the judges thereof may from time to time, after giving appropriate public notice and an opportunity to comment, make and amend rules governing its practice. A local rule so adopted shall take effect upon the date specified by the district court and shall remain in effect unless amended by the district court or abrogated by the judicial council of the circuit in which the district is located. [Amended 7-31-85.]

ADMIRALTY RULES

Rule 1. Title and Scope of Rules for Admiralty and Maritime Claims.

These rules apply to claims governed by the Supplemental Rules for certain Admiralty and Maritime claims of the Federal Rules of Civil Procedure, which are referred to herein as Supplemental Rules A through F. They may be cited as

"Local Admiralty Rules." The General Rules and Civil Rules apply to all civil cases, including admiralty and maritime proceedings, but if in any instance one of those rules is inconsistent with an Admiralty Rule, the Admiralty Rule shall control where applicable.

Rule 2. Verification of Pleadings and Claims to Property.

(A) Verification of pleadings and claims to property, as required by the rules, shall be by the parties, or one of them, and, if a corporate party, by an officer. The attorney for said party or corporation may verify the complaint in accordance with AR 4(A) and 5 below. If the personal oath or the solemn affirmation of a party be demanded, the Court may on good cause require the same and stay the proceedings a reasonable time for the securing thereof.

(B) The affidavit verifying a complaint or other pleading which includes a prayer for process under Supplemental Rules B or C, if made by a person who does not have personal knowledge of the facts alleged as grounds for plaintiff's claim, shall state the circumstances making it necessary for that person to make the verification and shall also state the sources of that person's information.

Rule 3. Process Generally.

(A) Instructions to Issue. A party who files a pleading and requires process to be issued shall also state on the forms furnished by the Marshal for such purpose the party's instructions to the Marshal specifying the process to be issued.

(B) Process Held in Abeyance. If a party files a pleading seeking relief in rem or quasi in rem, and the party does not wish the process to be issued at that time, the party shall file a notice with the Court that process be held in abeyance. It will not be the responsibility of the Clerk to ensure that process is issued at a later date. [Amended, eff. 2-4-85]

(C) Intangible Property.

(1) Issuance and Effect of Summons. The summons issued pursuant to Supplemental Rule C(3) and these rules shall direct the person having control of the funds or other intangible property to show cause, no later than 10 days after service, why the funds or other property should not be delivered to the Court to abide the judgment. The Court for good cause shown by plaintiff may shorten the time to a period of less than 10 days. Service of the summons has the effect of an arrest of the property and brings it within the control of the Court.

(2) Payment to Marshal. The person who is served may deliver or pay over to the Marshal the property or funds proceeded against or a part thereof sufficient to satisfy plaintiff's claim. If such payment is made, the person served is excused from any duty to show cause.

(3) Manner of Showing Good Cause. The claimant of the property may show cause why the property should not be delivered to the court by serving and filing a claim as provided in Supplemental Rule C(6), within the time allowed to show cause, and serving and filing an answer to the complaint within 20 days thereafter.

(4) Effect of Failure to Show Cause. If a claim is not filed within the time stated in the summons, or an answer is not filed within the time allowed under this rule, the person who was served shall deliver or pay over

to the Marshal the property or funds proceeded against or a part thereof sufficient to satisfy plaintiff's claim.

(D) Marshal's Return. The person serving or executing process shall promptly file proof of service with the Clerk, and the Marshal shall mail a copy of the return to the attorney at whose request the service or execution was effected.

(E) Seizure of Property Already in Custody of an Officer of the United States. Where property in the custody of an officer or employee of the United States is to be arrested or attached, the Marshal shall deliver a copy of the complaint and warrant for arrest or summons and process of attachment to such officer or employee or, if the officer or employee is not found within the district, then to the custodian of the property within the district. The Marshal shall notify such officer, employee or custodian not to relinquish such property from custody until ordered to do so by the Court.

Rule 4. Process for In Rem Arrest.

(A) Pleadings. A complaint which includes a prayer for process under Supplemental Rule C shall set forth with particularity sufficient facts which give rise to plaintiff's maritime lien. Plaintiff shall also file an affidavit(s) based on personal knowledge detailing the facts concerning the lien, exigent circumstances justifying the arrest prior to a hearing, whether the owners or operators are subject to in personam jurisdiction, and whether demand or notice has been given. If the affidavit(s) are not based on personal knowledge, the person(s) shall state the circumstances making it necessary for that person to make the affidavit and shall also state the sources of that person's knowledge.

(B) Order Authorizing Clerk to Issue Process. Before the Clerk will issue a summons and/or warrant for arrest under Supplemental Rule C, the complaint, request for issuance of warrant on a separate document, and accompanying affidavit(s) must be reviewed by a judge or magistrate. If the court finds that the complaint states a valid maritime lien and that in personam jurisdiction cannot be obtained over the owners or operators, or that owner of the property waived any right to pre-arrest notice and hearing, the court will sign an order authorizing the Clerk to issue process. If in personam jurisdiction can be obtained over the owners or operators of the property, the Court will determine if exigent circumstances exist which justify the immediate arrest of the property. In determining if exigent circumstances exist, the Court may consider, among other things: the vessel's registration and home port; plaintiff's inability to determine the identity of the owners or operators; the type of property; the likelihood the property will remain or return to the jurisdiction. If exigent circumstances are found, the Court shall order the Clerk to issue process. Alias process may thereafter be issued by the Clerk upon application without further order for thirty (30) days. If exigent circumstances do not exist, the court shall set a time for a pre-arrest hearing, and require plaintiff to notify the owner or any person known to have an interest in the property of the hearing. [Amended 2-20-85.]

In actions by the United States for forfeitures for federal statutory violations the clerk, upon filing of the complaint, shall forthwith issue a summons and warrant for the arrest of the vessel or other property without requiring a certification of exigent circumstances. [Added 7-26-85.]

(C) Security for Costs. If the court orders process to issue without a prearrest hearing, the court shall order plaintiff to post adequate security for costs in accordance with Supplemental Rule E(2)(b) unless plaintiff shows why such security is not necessary.

(D) Pre-Arrest Hearing. If a pre-arrest hearing is ordered by the court, plaintiff shall have the burden of showing by a preponderance of the evidence the probable validity of its maritime lien against the property justifying the arrest. Any claimant shall have the opportunity to present affirmative defenses. If plaintiff meets the burden of showing a valid lien the judge or magistrate will sign an order authorizing the Clerk to issue process. Alias process may thereafter be issued by the Clerk upon application without further order of the Court for a period of thirty (30) days.

(E) Post-Arrest Hearing. If the property is arrested without a pre-arrest hearing, any person(s) other than plaintiff claiming an interest in the property shall be entitled to a hearing before a judge or magistrate on request to the court and written notice to plaintiff. The hearing shall occur as soon as practicable, but no more than three (3) days after the request is filed with the court unless the claimant requests the hearing be held at a later date. The person(s) requesting the hearing shall notify all other persons known to have an interest in the property of the time and place of the hearing. The person(s) claiming the interest in the property shall be entitled to an order vacating the arrest forthwith and granting other appropriate relief unless plaintiff shows cause by a preponderance of the evidence the probable validity of its maritime lien and why such an order should not be granted. Any claimant should have the opportunity to present any affirmative defenses. If the arrest is not vacated, the Court shall fix the amount of the bond or stipulation in accordance with Rule E(5)(a).

(F) Notice. Any notice of a hearing required under this rule shall be by personal service or by certified mail with return receipt requested. Whenever possible, notice of hearing shall also be given by telephone.

(G) Referral to Magistrate. Unless otherwise ordered by a judge of this Court, all requests for process for in rem arrest pursuant to this rule are hereby referred for determination to the United States Magistrate for the division in which the complaint has been filed. [Added 7-19-84.]

Rule 5. Process for Attachment and Garnishment.

(A) Affidavit Showing Defendant's Absence. The affidavit required by Supplemental Rule B, accompanying the complaint, shall state with particularity the efforts made to locate the defendant in the district.

(B) Order Authorizing Clerk to Issue Process. Before the Clerk will issue a summons and process of attachment and garnishment under Supplemental Rule B, the complaint and accompanying affidavit must be reviewed by a judge or magistrate. If the judge or magistrate finds that probable cause has been shown, the judicial officer will sign an order authorizing the Clerk to issue process. Alias process may thereafter be issued by the Clerk upon application without further order of the Court for a period of thirty (30) days.

(C) Hearing. Whenever property is attached, any person claiming an interest in the property shall be entitled to a hearing before a judge or magistrate on request to the Court and written notice to plaintiff. The hearing shall occur within three (3) days of the request being filed with the Court unless the

claimant requests the hearing be held at a later date. The person requesting the hearing shall notify all other persons known to have an interest in the property of the time and place of the hearing. The person claiming the interest shall be entitled to an order vacating the attachment forthwith and granting other appropriate relief unless plaintiff shows cause at the hearing why such an order should not be granted. Any person claiming an interest in the property shall have the opportunity to present affirmative defenses.

(D) Security for Costs. The Court shall require plaintiff to post adequate security for costs in accordance with Supplemental Rule E(2)(b) unless plaintiff shows why such security is not necessary.

(E) Notice. Notice of hearing required under this rule shall be by personal service or by certified mail with return receipt requested. Whenever possible, notice of hearing shall also be given by telephone.

Rule 6. Security for Costs and Marshal's Fees.

(A) Costs Generally. In an action governed by Supplemental Rule E, a party may serve upon an adverse party and file a demand for security for costs. Unless otherwise ordered by the court, the amount thereof shall be $500. The party notified shall post security within five (5) days after service. The party who fails to post security when demanded may not participate further in the proceedings, except for the purpose of seeking relief from this rule.

(B) Costs in Action for Limitation of Liability. The amount of the security for costs required by Supplemental Rule F(1) is $500. Unless otherwise ordered by the Court, the security for costs may be combined with the security for value and interest.

(C) Marshal's Fees.

(1) Deposit Required Before Seizure. A party who seeks arrest or attachment of property in an action governed by Supplemental Rule E shall deposit a sum with the Marshal sufficient to cover the Marshal's estimated fees and expenses of seizing and keeping the property for at least 10 days. The Marshal is not required to execute process until the deposit is made.

(2) Additional Deposit Required After Seizure. A party who has caused the Marshal to arrest or attach property shall advance additional sums from time to time as requested, to cover the Marshal's estimated fees and expenses until the property is released or disposed of as provided in Supplemental Rule E. Any party who fails to make an advance when demanded may not participate further in the proceedings, except for the purpose of seeking relief from this rule.

(D) Judicial Relief. A party may apply to the Court for an order increasing the amount of security for costs. The Marshal shall notify the Court if a party fails to advance sums as requested, after property has been seized, and may apply to the Court for directions if a question arises concerning the obligation of a party to advance monies required under this rule. A party may also apply to the Court for an order relieving that party from the requirement to (1) give security for costs, or (2) make an additional deposit. An application to the Court for relief under this rule shall be made by motion with notice to the Marshal and the other parties who have appeared. The motion may be heard summarily.

Rule 7. Publication of Notice of Action and Arrest.

The Notice required by Supplemental Rule C(4) shall be published once in a paper of general circulation in the areas where the property was arrested and once where the owner may be located. The Notice shall contain the following:

(a) Title and number of the action;

(b) Date of the arrest;

(c) Nature of the action, and the amount demanded;

(d) Identity of the property arrested;

(e) Name and address of the attorney for plaintiff;

(f) A statement that claims of persons entitled to possession pursuant to Supplemental Rule C(6) must be filed with the Clerk and served on the attorney for plaintiff within 10 days after the date of first publication or within such additional time as may be allowed by the Court; and

(g) A statement that answers to the complaint must be filed and served within 20 days after the filing of claims, and that in lieu thereof default may be noted and condemnation ordered.

Rule 8. Judgment of Default in Action In Rem.

(A) Notice Required. A party seeking a default judgment in an action in rem must show to the satisfaction of the Court that due notice of the action and arrest of the property has been given:

(1) By publication, as required in Rule 7;

(2) By service, on the master or other person having custody of the property;

(3) By delivery, to every other person who has not appeared in the action and is known to have an interest in the property.

The party seeking a default judgment may be excused, however, for failing to give notice to such "other person" upon a showing to the satisfaction of the Court that diligent effort was made to give the notice, without success. Failure to give notice as provided by this Rule shall be grounds for setting aside the default under applicable rules, but shall not affect title to property sold under a judgment.

(B) Persons with Recorded Interests.

(1) If the defendant property is a vessel documented under the laws of the United States, plaintiff must obtain current certificate of ownership from the Coast Guard and give notice to the persons named therein who appear to have an interest.

(2) If the defendant property is a vessel numbered as provided in the Federal Boat Safety Act, plaintiff must obtain information from the issuing authority and give notice to the persons named in the records of such authority who appear to have an interest.

(C) Manner of Giving Notice. A required notice, other than by publication, of the action and arrest of the property shall be given by delivering a copy of the complaint and warrant of arrest. The delivery may be made by personal service or by certified mail with return receipt requested.

(D) Entry of Default. Upon a showing that no one has appeared to claim the property and give security and that due notice of the action and arrest of property has been given, plaintiff may move for entry of default at any time after the time for answer has expired.

(E) Motion for Default Judgment. If no one has appeared plaintiff may have an ex parte hearing and judgment without notice. If any person has appeared and does not join in the motion for judgment, such person shall be given five (5) days' notice of the motion.

[Amended 9-14-83.]

Rule 9. Custody of Property.

(A) Safe Keeping of Property When Seized. When a vessel or cargo is seized the Marshal shall take custody and arrange for adequate and safe moorage and necessary security for the safe keeping of the vessel, which may include in the Marshal's discretion the placing of keepers on the vessel, or the appointment of a shipyard, terminal, yacht club, marina, harbor master or similar facility as custodian of the vessel for the Marshal.

(B) Petition for Change in Arrangements. After a vessel or cargo has been taken into custody by the Marshal, any party then appearing may petition the Court to dispense with keepers, or to remove to or place the vessel or cargo at a specified shipyard, terminal, yacht club, marina or similar facility, to designate a substitute custodian for the vessel or cargo, or for similar relief. Upon arrest or attachment of a vessel, no cargo or machinery handling, repairs or movement of the vessel may be made without a court order. Notice of the petition shall be given to the Marshal and to counsel for all parties who have appeared. The petition may be brought on for summary hearing, at which time the Court will determine whether such a facility or substitute custodian is capable of and will safely keep the vessel or cargo. The order entered by the Court after hearing the petition may fix reasonable towage, storage, moorage and any other authorized fee or charge incurred by or through the Marshal in arranging for keepers, for shifting or movement of the vessel or cargo, or for a substitute custodian. The order may also provide for deposit with the Marshal in advance, thus enabling payment of any charges when and as incurred. After a vessel has been taken into custody by the Marshal, no one other than the Marshal, or designated vessel keeper, may board the seized vessel without first submitting to the court a completed hold harmless agreement and waiver of liability against the U.S. Marshal, his keeper, the United States of America, and the substitute custodian. [Amended, eff. 2-4-85].

(C) Claim by Supplier for Payment of Charges. A person who furnishes services or supplies to a vessel or cargo while in custody, and has not been paid, and claims the right to payment as an expense of administration, should submit an invoice to the Marshal without delay. The Marshal may decline to pay an invoice unless it is ordered paid by the Court. The supplier has a right to submit the invoice to the Court for approval, in the form of a verified claim, at any time before the vessel is released. The supplier must serve copies of the claim on the Marshal and the attorneys for all parties appearing in the action. The Court may decline to consider the claim until a hearing is conducted to decide other claims against the property. [Amended, eff. 7-31-85]

Rule 10. Release of Property.

(A) Appraisal. An order for appraisal of property so that security can be given will be entered by the Clerk at the request of any interested party. If the parties do not agree in writing upon an appraiser, the Court will appoint the

ıraiser. The appraiser shall be sworn to the faithful and impartial discharge :he appraiser's duties before any federal or state officer authorized by law to ninister oaths. The appraiser shall give one day's notice of the time and place naking the appraisal to the attorneys who have appeared in the action. The ıraiser shall file the appraisal with the Clerk as soon as it is made.

(B) Proof that Fees Have Been Paid. Before any vessel or other property eleased by the Marshal, the party seeking dismissal of the action or release of property before sale shall obtain an endorsement by the Marshal on the ıer being presented to the Clerk or the judge showing that all expenses and ı due the Marshal have been paid or provided for.

le 11. Sale of Property.

(A) Order of Sale. An order for the sale of a vessel shall state the specific ıe for the sale which time may be obtained from the Marshal's office. [Added, 2-6-85]

(B) Notice. Unless otherwise ordered as provided by law, notice of sale of ıperty in an action in rem shall be published daily, in a paper of general ɔulation, in the area where the sale will occur, for a period of six (6) days prior the day of sale.

(C) Written Bids. The Marshal is authorized to accept written sealed ls. The bids must be received at the Marshal's office in Anchorage by close of ɜiness the business day preceding the sale. Each written bid must be accom-ıied by a certified or cashier's check for the amount indicated in (D) below. .e notice of sale shall include a reference to written bids.

(D) Payment of Bid. The person whose bid is accepted shall immediately y the Marshal the full purchase price, if the bid is no more than $500, or a ɔosit of at least $500, or 10 % of the bid, whichever sum is greater, if the bid ɔeeds $500. The bidder shall pay the balance of the purchase price within 10 ys thereafter, excluding Saturdays, Sundays, and holidays. If an objection to ɔ sale is filed within that time, the bidder is excused from paying the balance the purchase price until the sale is confirmed, and for a period of 10 days ɜreafter. Payments to the Marshal shall be made in cash, or by certified check cashier's check. The Court may specify different terms in any order of sale.

(E) Penalty for Failing to Pay Balance of Bid.

(1) Late Payment. A successful bidder who fails to pay the balance of the bid within the time allowed under these rules, or a different time specified in an order by the Court, shall also pay the Marshal the cost of keeping the property, from the date payment of the balance was due to the date the bidder takes delivery of the property. The Marshal may refuse to release the property until this additional charge is paid.

(2) Default. A person who fails to pay the balance of a bid within the time allowed is deemed to be in default, and the Court may at any time thereafter order a sale to the second highest bidder, or order a new sale, as seems appropriate. Any sum deposited by the bidder in default shall be forfeited and applied to pay any additional costs incurred by the Marshal by reason of the forfeiture and default, including costs incident to a resale. The balance of the deposit, if any, shall be retained in the registry subject to further order of the Court.

(F) Accounting by Marshal. At the conclusion of the sale the Marshal shall forthwith file a written account to the Court of the fact of sale, the date thereof, the price obtained, and the name and address of the buyer, and pay over all monies received with a bill of his charges. When directed by the Court, the Clerk shall tax the charges and pay them to the Marshal out of such monies.

(G) Confirmation.

(1) Without Objection. A sale shall stand confirmed as of course, by the Court, unless (a) a written objection is filed within the time allowed under these rules, or (b) the purchaser is in default for failing to pay the balance due the Marshal.

(2) On Motion. If an objection has been filed, or if the successful bidder is in default, the Marshal, the objector, the successful bidder, or a party may move the Court for relief. The motion will be heard summarily. The person seeking a hearing shall apply to the Court for an order fixing the date of the hearing and directing the manner of giving notice, and shall give written notice of the motion to the Marshal and all persons who have an interest. The Court may confirm the sale, order a new sale, or grant such other relief as justice requires.

(H) Objection to Sale.

(1) Manner and Time for Objecting. A person may object to the sale by filing a written objection with the Clerk and depositing a sum with the Marshal which will pay the expense of keeping the property for at least 10 days. Payment to the Marshal shall be made in cash, or by certified check or cashier's check. The objector must give written notice of the objection to the successful bidder and the parties to the action. The written objection must be endorsed by the Marshal with an acknowledgment of receipt of the deposit prior to filing. The objection must be filed within 10 days after the sale, excluding Saturdays, Sundays, and Holidays.

(2) Disposition of Deposits. (a) If the objection is sustained, sums deposited by the successful bidder will be returned to the bidder forthwith. The sum deposited by the objector will be applied to pay the fees and expenses incurred by the Marshal in keeping the property until it is resold, and any balance remaining will be returned to the objector without delay. The objector will be reimbursed for the expense of keeping the property from the proceeds of a subsequent sale. (b) If the objection is overruled, the sum deposited by the objector will be applied to pay the expense of keeping the property from the day the objection was filed until the day sale is confirmed, and any balance remaining will be returned to the objector forthwith.

(I) Title to Property Sold. Failure of a party to give required notice of the action and arrest of the vessel, or required notice of the sale, may afford grounds for objecting to the sale, but does not affect the title of the purchaser of the property.

Rule 12. Rate of Prejudgment Interest Allowed.

Unless the Court directs otherwise, an award of prejudgment interest shall be computed at the same rate authorized in 28 USC § 1961, providing for interest on judgments.