

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 1128

Amending Civil Rules 3 and 4
concerning filing of complaints
and service of process.

IT IS ORDERED:

1. Paragraph (a) of Civil Rule 3 is amended to read:

(a) A civil action is commenced by filing a complaint with the court. The complaint, in order to be accepted for filing, must be accompanied by a completed case description on a form provided by the clerk of court. The complaint shall also be accompanied by an envelope addressed to the plaintiff with sufficient postage to mail the envelope and all summonses that will be issued in the case [PLAINTIFF'S COPY OF THE SUMMONS].

2. Paragraph (a) of Civil Rule 4 is amended to read:

(a) **Summons--Issuance.** Upon the filing of the complaint, the clerk shall forthwith issue a summons and deliver it to the plaintiff or the plaintiff's attorney, who shall cause the summons and a copy of the complaint to be served in accordance with this rule [FOR SERVICE TO A PEACE OFFICER OR TO A PERSON SPECIALLY APPOINTED TO SERVE IT]. Upon request of the plaintiff separate or additional summonses shall issue against any defendants.

3. Paragraph (f) of Civil Rule 4 is amended to read:

(f) **Return.** The person serving the process shall give proof of service thereof to

the party requesting issuance of the process or to the party's [HIS] attorney promptly and in any event within the time during which the person served must respond to the process. Within 120 days after filing of the complaint, the party shall file and serve an affidavit identifying the parties who have been served, the date service was made and the parties who remain unserved. If service is made by a person other than a peace officer, the person [HE] shall make affidavit thereof, proof of service shall be in writing and shall set forth the manner, place, date of service, and all pleadings or other papers served with the process. Failure to make proof of service does not affect the validity of the service.

4. Paragraph (h) of Civil Rule 4 is amended to read:

(h) **Service of Process by Mail.** In addition to other methods of service provided for by this rule, process may also be served within this state or the United States or any of its possessions by registered or certified mail, with return receipt requested, upon an individual other than an infant or an incompetent person and upon a corporation, partnership, and unincorporated association. In such case, copies of the summons and complaint or other process shall be mailed [BY THE CLERK] for restricted delivery only to the party to whom the summons or other process is directed or to the person authorized under federal regulation to receive his restricted delivery mail. All receipts shall be so

addressed that they are returned to the party serving [REQUESTING] the summons or process or his attorney. [PROOF OF SERVICE SHALL BE MADE BY AFFIDAVIT FORTHWITH.] Service of process by mail under this paragraph is complete when the return receipt is signed.

5. Civil Rule 4 is amended by adding new paragraph (j) to read:

(j) Summons--Time Limit for Service.
The clerk shall review each pending case 120 days after filing of the complaint to determine whether all defendants have been served. If any defendant has not been served, the clerk shall send notice to the plaintiff to show good cause in writing why service on that defendant is not complete. If good cause is not shown within 30 days after distribution of the notice, the court shall dismiss without prejudice the action as to that defendant. The clerk may enter the dismissal if the plaintiff has not opposed dismissal. If the court finds good cause why service has not been made, the court shall establish a new deadline by which plaintiff must file proof of service or proof that plaintiff has made diligent efforts to serve.

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DATED: April 14, 1993

EFFECTIVE DATE: July 15, 1993

Chief Justice Moore

Justice Rabinowitz

Justice Burke

Justice Matthews

Justice Compton