

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1425

Amending Civil Rule 16(b)(1) concerning
challenges to admissibility of expert
witness testimony.

IT IS ORDERED:

I. Paragraph (b)(1) of Civil Rule 16 is amended to read as follows:

(b) Scheduling Order; Mandatory Scheduling Conference.

(1) Except in categories of actions exempted under Rule 16(g), the judge shall, after receiving the report from the parties under Rule 26(f), enter a scheduling order that limits or establishes the time:

(A) to join other parties and to amend the pleadings;

(B) to file motions;

(C) to disclose expert witnesses and reports required under Rule 26(a)(2);

(D) to supplement disclosures required under Rule 26(a);

(E) to identify witnesses and exhibits;

(F) to complete discovery; and

(G) for trial or the trial setting conference.

The scheduling order may also address:

(H) modification of the discovery limitations contained in these rules, including the length of depositions in light of the factors listed in Rule 30(d)(2), and the extent of discovery to be permitted;

(I) the date or dates for conferences before trial;

(J) the use and timing of an alternative dispute resolution procedure; ~~and~~

(K) the time to file any challenges to the reliability of scientific evidence; and

~~(L)~~ any other matters appropriate in the circumstances of the case.

The order shall issue as soon as practicable but in any event within 90 days after the appearance of the defendants. A schedule shall not be modified except upon a showing of good cause and by leave of court.

II. The following use note shall be added to the base of Civil Rule 16:

Note: Civil Rule 16(b)(1)(K) is intended specifically to govern challenges to scientific evidence brought under the standard set forth in *State v. Coon*, 974 P.2d 386 (Alaska 1999) (discussing *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993)).

DATED: February 8, 2001

EFFECTIVE DATE: April 15, 2001

/s/
Chief Justice Fabe

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Bryner

/s/
Justice Carpeneti