

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1610

Amending Civil Rule 27 and 28
concerning procedures for obtaining a
commission for deposition in a foreign
jurisdiction.

IT IS ORDERED:

1. Civil Rule 27 is amended to read as follows:

Rule 27. Depositions Before Action or Pending Appeal.

* * * *

(c) [Deleted.]

2. Civil Rule 28 is amended to read as follows:

**Rule 28. Persons Before Whom Depositions May be
Taken; Foreign Commissions and Letters
Rogatory.**

(a) **Within the State.** Within the state, depositions shall be taken before an officer authorized by the laws of this state to administer oaths, or before a person appointed by the court in which the action is pending. A person appointed has power to administer oaths and take testimony.

(b) **In Foreign Jurisdictions.** In all jurisdictions outside Alaska, depositions may be taken (1) on notice before a person authorized to administer oaths in the place in which the examination is held, either by the law thereof or by the law of the United States, or (2) before a person commissioned by the court, and a person so commissioned shall have the power by virtue of the commission to administer any necessary oath and take

testimony, or (3) pursuant to a letter rogatory. A commission or letter rogatory shall be issued on application and notice and on terms that are just and appropriate. It is not requisite to the issuance of a commission or a letter rogatory that the taking of the deposition in any other manner is impracticable or inconvenient; and both a commission and a letter rogatory may be issued in proper cases. A notice or commission may designate the person before whom the deposition is to be taken either by name or descriptive title. A letter rogatory may be addressed "To the Appropriate Authority in [here name the jurisdiction]." Evidence obtained in a foreign country in response to a letter rogatory need not be excluded merely for the reason that it is not a verbatim transcript or that the testimony was not taken under oath or for any similar departure from the requirements for depositions taken within the United States under these rules.

(c) **Testimony for Use in Foreign Jurisdictions.** When the deposition of any person is to be taken in this state pursuant to the laws of another jurisdiction outside Alaska for use in proceedings in that other jurisdiction, the court upon motion may order issuance of a subpoena in aid of taking such deposition, as provided in Rule 45(d).

(d) **Disqualification for Interest.** No deposition shall be taken before a person who is a relative or employee or attorney or counsel of any of the parties, or is a relative or employee of such attorney or counsel, or is financially interested in the action, except that in the case of an audio or audio-visual deposition, an attorney involved in the case may also operate or direct the operation of the recording machinery.

DATED: November 29, 2006

EFFECTIVE DATE: April 16, 2007

/s/
Chief Justice Fabe

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Bryner

/s/
Justice Carpeneti