

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 225

Replacing Part II,  
District Court Rules  
of Civil Procedure,  
and Adopting Small  
Claims Rules.

IT IS ORDERED:

1. Part II, District Court Rules of Civil Procedure, consisting of Rules 8 through 12, inclusive, is deleted.

2. The following District Court Rules of Civil Procedure are adopted as set out in the attached Rules 8 through 22, and are designated as Part II, Small Claims Rules:

- Rule 8. Scope and Applicability.
- Rule 9. Informality.
- Rule 10. Pleadings.
- Rule 11. Process.
- Rule 12. Venue.
- Rule 13. Defenses and Objections--When and How presented.
- Rule 14. Joinder of Parties and Claims.
- Rule 15. Attorneys--Interns.
- Rule 16. Trial.
- Rule 17. Judgment.
- Rule 18. Appeal.
- Rule 19. Relief from Judgment.
- Rule 20. Remedies.
- Rule 21. Assistance to Litigants--Handbook.
- Rule 22. Legal Effect of Rules.

3. The following District Court Rules of Civil Procedure are renumbered:

- Rule 13 shall be Rule 23. Appeal: Time--Notice--Cost Bond.
- Rule 14 shall be Rule 24. Stay of Proceedings to Enforce Judgment--Supersedeas Bond.
- Rule 15 shall be Rule 25. Cost and Supersedeas Bonds: Failure to File--Insufficiency--Application of Civil Rule 80.
- Rule 16 shall be Rule 26. Record on Appeal.
- Rule 17 shall be Rule 27. Supervision on Appeal in Superior Court.
- Rule 18 shall be Rule 28. Dismissal of Appeal.
- Rule 19 shall be Rule 29. Hearing on Appeal--Power of Disposition.
- Rule 20 shall be Rule 30. Death of a Party.
- Rule 21 shall be Rule 31. Petition for Review.
- Rule 22 shall be Rule 32. Presumption of Death.
- Rule 23 shall be Rule 33. Title.

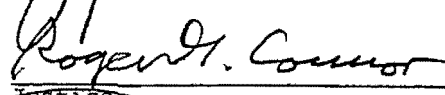
Rule 24 shall be Rule 34. Effective Date.  
Rule 25 shall be Rule 35. Legal Effect of Rules--  
Procedural Portions of Statutes Superseded.

DATED: November 17, 1975

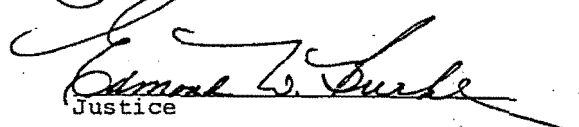
EFFECTIVE DATE: February 2, 1976

  
Chief Justice

  
Justice

  
Justice

  
Justice

  
Justice

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PART II. SMALL CLAIMS RULES

Rule 8. Scope and Applicability.

(a) Procedure in small claim actions, as defined by AS 22.15.040, is governed by these rules and other rules specifically incorporated herein by reference, when all parties to the action elect to be governed by them. Part I of the District Court Rules of Civil Procedure governs small claim actions when the parties do not elect small claim procedure.

(b) A party having a claim or claims exceeding the maximum amount of a small claim as defined by AS 22.15.040 may waive his right to recover the excess amount and elect to proceed under this Part II, by filing a written waiver of the excess amount.

(c) The court may, on its own motion, order the rules in Part I to apply in any action when important or difficult questions of fact or law are involved.

n. The maximum amount of a small claim under AS 22.15.040 is \$1,000.

Rule 9. Informality.

Formality in pleadings, motions, and the introduction of evidence is not required. A writing filed as a complaint, answer, or application shall be legible and brief.

Rule 10. Pleadings.

(a) A small claim action is commenced by filing a complaint. The complaint is a short, plain written statement showing the nature of the claim for relief, signed by the plaintiff. The complaint shall contain a statement that the plaintiff elects to have the claim treated as a small claim and waives the right to jury trial and the right to proceed formally. A complaint which does not contain a waiver of the right to jury trial and formal proceedings is governed by Part I of the District Court Rules of Civil Procedure. The plaintiff's mailing address shall be shown on the complaint. When the complaint is based upon a written document, the document or a copy of it shall be attached to the complaint.

(b) A party defending against a claim shall file an answer. The answer is a short, plain statement showing the nature of the defense and any claim that the defendant has against the plaintiff arising from the same transaction or occurrence and shall conform with Rule 5 of these rules. The answer must be filed with or mailed to the court where the action was commenced and be signed by the defendant. When the answer or counterclaim is based upon a written document, the document or a copy of it shall be attached to the answer. The defendant's mailing address shall be shown on the answer. The clerk or magistrate shall mail a copy of the answer to the plaintiff, and shall maintain a record of the mailing.

(c) An answer form shall be served with the complaint and shall advise the defendant of his right to proceed informally under this Part II or formally under Part I of these rules. The form shall contain a statement that when the defendant requests informal proceedings, he waives the right to trial by jury and to proceed formally. A plaintiff against whom a counterclaim is filed shall have ten days after such claim is mailed to him to withdraw his election to proceed under Part II, and failure to withdraw his election waives his right to trial by jury and formal procedure as to the counterclaim.

(d) A defendant who does not wish to contest the claim against him may default by failing to file an answer or may file an answer agreeing with the complaint. The latter shall be a sufficient basis for entry of judgment on the pleadings in a small claim action.

Rule 11. Process.

(a) The summons shall be issued, and the summons and complaint served, according to the procedures of Civil Rule 4, except that service by publication or posting shall not be allowed. Service according to the Landlord-Tenant Act, AS 34.03.340, is permitted.

(b) A copy of the Alaska Small Claims Handbook adopted with these rules and a blank answer form shall be served with the summons and complaint.

(c) The summons and complaint may be served within the state by registered or certified mail. Copies of the summons and complaint shall be mailed by the district judge, magistrate or clerk for delivery only to the party to whom the summons is directed. A delivery receipt returnable to the district court shall be required and must be signed by the party to whom the summons is directed. All returned delivery receipts shall be attached to the copy of the summons retained by the court.

(d) All parties shall inform the court and other parties of any change in mailing address during the pendency of the action. The parties are deemed to have received all documents mailed to them at the addresses furnished by them.

(e) Service of any pleading or process, including the summons and complaint, shall be valid even though refused by the recipient and returned after such refusal. Upon receiving a returned refused mailing, the clerk shall mail to the refusing party by first class mail a copy of the mailing refused and a notice that service of the original was valid upon refusal and that the case will proceed as if the recipient had accepted the original mailing.

(f) Civil Rule 45(a), (b), (c), (e), and (f), concerning subpoenas is incorporated in these rules for the purpose of securing the attendance of witnesses at trial.

Rule 12 Venue.

(a) The action shall be filed and the complaint shall contain a statement that it is filed:

(1) at the nearest place to the residence or place of employment of an individual defendant; or

(2) at the place where the defendant's alleged wrongful conduct caused personal injury or damage to the plaintiff's property; or

(3) at a place where the defendant does or solicits business; and

(4) at a place which will not cause unnecessary expense or inconvenience to the defendant.

(b) The answer shall contain any application of the defendant for change of place of trial. The change shall be granted if the action is not filed in accordance with Rule 12(a). An effective waiver of Rule 12(a) can be made only after the commencement of the action.

(c) The plaintiff shall have twenty days from the date of mailing receipt of the answer by the clerk or magistrate to file a statement opposing an application for change of place of trial. The court shall consider the application upon the statements of the parties, and shall issue an order granting or denying the application. A copy of the order shall be sent to the parties by first class mail at the addresses shown on their pleadings. When the application is granted, the file shall be transferred. When the application is denied, the court shall set the action for trial.

Rule 13 Defenses and Objections--When and How Presented.

(a) A defendant shall file or state his answer within 20 days after service of the summons and complaint upon him. A counterclaim shall be deemed denied by the plaintiff.

(b) When an answer is plainly insufficient to state a defense, the court may on its own motion enter judgment on the pleadings without trial. A judgment on the pleadings shall state the reasons for its entry.



Rule 14. Joinder of Parties and Claims.

(a) Minors and other persons under legal disability may appear only through guardians, guardians ad litem, or conservators.

(b) Any person having a claim or against whom a claim is made arising from the same transaction or occurrence which gave rise to the complaint may be joined as a party to the action.

(c) Persons having a joint interest in the subject matter of the action and other persons whose participation is necessary for the court to give complete relief to those already parties shall be joined in the action if the court can obtain jurisdiction over them.

(d) Parties may be added or dropped by order of the court on application of any party or on its own motion at any stage of the action and on such terms as are just. A person not already a party to the action added by the court shall be served copies of all pleadings and a summons in the manner provided by these rules unless such service is waived.

(e) A party may join any number of claims arising from any number of transactions and occurrences against an opposing party, so long as the total amount of the claims does not exceed the small claim jurisdictional limitation.

(f) The court may order any claim against any party to be served and proceed to try it separately.

Rule 15. Attorneys--Interns.

(a) A corporation may be represented by any officer or employee authorized in writing to represent it, AS 22.20.040 notwithstanding.

(b) Any party to a small claims action may be represented at any stage of the proceedings by an attorney at law or a legal intern.

(c) Any party, except an attorney at law, asserting a claim as an assignee thereof, whether for collection, fee, or value, shall be represented at all stages of an action upon the claim by an attorney at law, or a legal intern. On application of a party or on its own motion, the court shall dismiss without prejudice any action filed or proceeded with in violation of this rule.

(d) Representation of a party by a legal intern at any stage of an action shall be governed by Part IV of the Alaska Bar Rules.

Rule 16. Trial.

(a) All small claim actions shall be tried to the court without a jury.

(b) The court shall admit any evidence which is relevant and material, despite the fact that such evidence might be inadmissible under formal rules of evidence.

(c) The court may investigate the controversy between the parties either in or out of court. The investigation must be made in the presence of the parties and the findings of fact resulting from the investigation must be stated on the record or reduced to writing and placed in the case file by the court.

(d) Testimony shall be given under oath and may be given in narrative fashion, and the examination of witnesses shall be informal. An adverse party has the right to cross-examine a party or witness. The court may take an active role in the examination of witnesses.

(e) The court may, at any time, consult with the parties on the record for the purpose of reaching a compromise or conciliation.

(f) The date set for trial shall be not less than 15 nor more than 30 days from the date the court mails notice of the trial date to the parties.

Rule 17. Judgment.

(a) If the defendant fails to answer the complaint within 20 days after service of process or fails to attend trial, he is in default. Judgment by default shall then enter only upon proof under oath made upon personal knowledge that the defendant is not an infant or otherwise incompetent, and that he is not in the active military service of the United States. The court shall also require proof under oath, made upon personal knowledge or based on business records, of the truth of every essential element of the claim for relief. If the defendant answers but fails to appear at trial, the court may nevertheless consider any relevant and material evidence filed with the answer.

(b) Judgment on the pleadings may be entered pursuant to Rules 13(b) and 10(d).

(c) If the plaintiff fails to attend the trial, he is in default. When neither party appears, the court may dismiss the action with prejudice. When the defendant appears and the plaintiff does not, the court shall inquire of the defendant concerning the validity of his defense and his knowledge, if any, of the reasons for the plaintiff's absence. The court may then, in its discretion, enter judgment dismissing the claim with prejudice. If the defendant has asserted a counterclaim, it shall be disposed of according to paragraph (a) of this rule.

(d) Judgment of dismissal with or without prejudice may be entered at any time by agreement of the parties, or upon written notice by the plaintiff at any time before the defendant has filed an answer. A dismissal with prejudice bars action in any court based on the claim dismissed.

(e) Judgment by confession may be entered pursuant to Civil Rule 57. Judgment pursuant to a compromise may be entered by written agreement of the parties or by oral declarations on the record at trial.

(f) After trial, the court shall enter judgment. The judgment need not be supported by findings of fact or conclusions of law. The judgment shall specify the exact relief given.

(g) If the judgment is entered upon a written instrument, the instrument shall be filed with the court and cancelled by marks or writing across its face, unless the court orders otherwise.

Rule 17 (Continued)

(h) The court may order a money judgment payable in installments and stay levy of execution upon stipulation of the parties. In the event the judgment is ordered payable in installments, it shall bear interest as provided by law. If the terms of a judgment made payable in installments are violated, execution may issue for the balance of the judgment remaining unpaid.

(i) Notice of entry of judgment shall be mailed on the day of entry by the court to all parties to the action.

Rule 18. Appeal.

Either party may appeal a judgment or an order refusing to relieve any party from a default where the amount in controversy exceeds \$50 exclusive of costs. The procedure on appeal shall be governed by the rules for appeal of judgments of the district court to the superior court, except that the superior court shall grant trial de novo if the proceedings in the district court were not of record.

Rule 19. Relief from Judgment.

Civil Rule 60 applies to motions for relief from judgment in small claim actions.

Rule 20. Remedies.

(a) A small claims judgment may be enforced in the same manner as other judgments. No execution shall issue for two days after entry of judgment.

(b) No attachment or garnishment shall issue before judgment in a small claim action.

(c) Costs shall be allowed as of course to a prevailing party. A party entitled to costs may be allowed the filing fee and other charges made by the court, the expense of service of process, witness fees, and reasonable attorney's fees.

(d) A party may deposit with the court all or any part of any sum of money or any other thing capable of manual delivery which is sought in the action or due under a judgment. The party making the deposit shall inform all other parties to the action of the deposit. The court shall be governed by Rule 6, Rules of Administration, and shall release the deposit to the party entitled to it when the party becomes entitled to it. No interest shall accrue against a party making a deposit, to the extent of the deposit, after it is made.



Rule 21. Assistance to Litigants-Handbook.

Magistrates and clerks of any district court are authorized, where necessary, to assist litigants in the preparation of complaints and answers. First recourse should be had to the Alaska Small Claims Handbook, which shall be available for distribution to prospective litigants at all seats of any court empowered to handle small claims actions, and shall be served upon the defendant with the summons and complaint. When a party is illiterate or otherwise unable to write his pleading, the clerk or magistrate shall write it on the appropriate form. A form written by the clerk or magistrate shall be signed by the party or bear his witnessed mark. The clerk shall note upon its face the method of preparing the pleading under this rule.

Rule 22. Legal Effect of Rules.

(a) The forms published by the supreme court to accompany these rules are legally sufficient and are intended to indicate the simplicity and brevity which the rules contemplate.

(b) The Alaska Small Claims Handbook published by the supreme court to accompany these rules is not a rule of court.