

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1999

Amending Civil Rule 77(m),
Criminal Rule 44(g), and
Administrative Rule 37
concerning microphotographic
film and archiving.

IT IS ORDERED:

1. Civil Rule 77 is amended to read as follows:

Rule 77. Motions.

* * * *

(m) **Filings in Microfilmed and Archived Cases.** If a motion, petition or request is filed in a case that has been microfilmed or archived and destroyed pursuant to the Records Retention Schedule, the attorney or party must attach (1) a copy of any relevant orders, judgments and other documents necessary for the court's ruling, and (2) either proof of notice pursuant to Civil Rule 5(g) or an affidavit that Rule 5(g) is not applicable. If such documents are not attached, the clerk will notify counsel that such documents must be submitted before the court will consider the motion, petition or request.

2. Criminal Rule 44 is amended to read as follows:

Rule 44. Service and Filing of Papers.

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(g) **Filings in Microfilmed and Archived Cases.** If a motion, petition or request is filed in a case that has been microfilmed or archived and destroyed pursuant to the Records Retention Schedule, the attorney or party must attach (1) a copy of any

relevant orders, judgments and other documents necessary for the court's ruling, and (2) either proof of notice pursuant to Civil Rule 5(g) or an affidavit that Rule 5(g) is not applicable. If such documents are not attached, the clerk will notify counsel that such documents must be submitted before the court will consider the motion, petition or request.

3. Administrative Rule 37 is amended to read as follows:

Rule 37. Records Retention.

(a) The administrative director may adopt a schedule for the retention, destruction, and archiving ~~microphotographic reproduction~~ of any records, papers, or documents maintained by the Alaska Court System.

(b) Each presiding judge or area court administrator shall, upon approval by the administrative director, destroy or provide for the destruction of all pleadings, papers, instruments, depositions, and transcripts filed in any action or proceeding in the superior or district court if all of the following conditions exist:

(1) The action or proceeding is no longer pending or on appeal in any court and all appeal periods have elapsed;

(2) The presiding judge or area court administrator has certified that the destruction of the records is permitted by the Records Retention Schedule;

(3) There is maintained for the use of the public an archived ~~a microphotographic film print or copy~~ of each document required by the Records Retention Schedule to be permanently retained and a process for the public to view an archived copy ~~together with a mechanical device by which such film may be conveniently examined~~;

(4) The archived copy must be ~~At least one original negative of each microphotographic film is~~ stored in such a manner and place as will reasonably assure its preservation indefinitely against loss, theft, defacement, or destruction;

(5) At the time of the taking of the archived copy ~~microphotographic reproduction~~, the person under whose supervision the same was taken has attached to or incorporated in the archived copy ~~microphotographic reproduction~~ a certification that the copy is a correct copy of the original or of a specified part hereof, as the case may be, the date or dates on which it was taken and the fact that it was taken under that person's direction; and

(6) The records have been reviewed under (d) of this rule and have been determined to have no historical ~~or archival~~ value.

(c) The administrative director shall prescribe the archival ~~microphotographic~~ processes and procedures to be used under (b) of this rule and the methods of destruction of records described in (b)(1) through (6) of this rule.

(d) On or before January 15th of each year each judicial officer shall, regarding the cases that were assigned to that judicial officer and closed during the preceding calendar year, provide the administrative director with a list identifying and designating any original case documents or records contained in those cases which have present or potential historical ~~or archival~~ value. The administrative director shall provide for the archiving ~~microphotographing~~ and safekeeping of all original case documents and records so identified.

(e) A photographic reproduction of any of the records described in this rule, the archival copy, or the negative or film of which has been certified by the person in charge of such reproduction as a correct copy of the original, shall be received in evidence in all courts in like manner as the original.

DATED: February 6, 2023

EFFECTIVE DATE: February 6, 2023

/s/
Chief Justice Winfree

/s/
Justice Maassen

/s/
Justice Carney

/s/
Justice Borghesan

/s/
Justice Henderson