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NOTICE

TO ALL HOLDERS OF ARCPA

All recipients of Supreme Court Order No. 66 attached hereto are reminded that the Alaska Rules of Court Procedure and Administration (Michie edition, copyright 1962) as promulgated by Supreme Court Order No. 49 of December 21, 1962 and as supplemented by First Supplement of September 1963, were previously to said Order No. 66 amended by the following orders:

Supreme Court Order No. 59, effective 1/1/64, amending Rules 11, 14, 16 and 54, Rules Governing the Administration of all Courts; amending Rules 9(m) and 26(b), Rules of the Supreme Court of Alaska.

Supreme Court Order No. 61, effective 1/30/64, amending Rule 11(d), Rules of the Supreme Court of Alaska.

Supreme Court Order No. 62, effective 2/14/64, amending Rule 46, Rules Governing the Administration of all Courts.

Supreme Court Order No. 64, dated 4/7/64, and effective 6/1/64 promulgating the Rules of the Alaska Bar Association.

The rule changes promulgated under these orders and under Order No. 66 attached hereto are being incorporated into the Second Supplement to the Alaska Rules now in preparation by the publishers. The Michie Company will send out direct notices to the members of the legal profession advising on date of availability and purchase price of the supplement.

THE SUPREME COURT OF THE STATE OF ALASKA

Order No. 66

Amending Rule 47, Rules
Governing the Administration
of all Courts; Amending Rules
4, 12 and 38, Rules of Civil
Procedure

IT IS HEREBY ORDERED:

That Rules Governing the Administration of all Courts and
Rules of Civil Procedure are amended as set out below:

Rule 47, Rules Governing the Administration of all Courts:

Is repealed in its entirety and re-enacted to read as follows:

"Rule 47. Electronic Recording Equipment--
Official Court Record--Responsibility for Record.

(a) Electronic recording equipment shall be installed in all superior courts for the purpose of recording all proceedings required by rule to be recorded. Such electronic recordings shall constitute the official court record. It shall be the responsibility of each superior court judge to require that the electronic recording equipment in his court be operated only by qualified personnel in such manner and under such conditions as to insure the production of a readable record of all proceedings.

(b) Before commencing any proceedings required to be recorded the judge shall satisfy himself that the electronic recording equipment is functioning properly and during all proceedings shall require the clerk or deputy clerk to supervise the operation of and constantly monitor the input to the equipment and immediately notify him when the quality of the recording is doubtful. Where extraneous noises, interference, poor enunciation or other factors create doubt that the electronic record is sufficiently clear to permit full transcription, it shall be the responsibility of the judge to cause the doubtful proceeding to be repeated.

(c) The courtroom clerk or deputy clerk shall be responsible for maintaining a detailed,

accurate and thoroughly legible written record of all proceedings recorded on each magnetic tape. The maintenance of such record shall be according to instructions of the administrative director of courts.

(d) The administrative director of courts shall issue specific instructions to court personnel regarding proper monitoring and transcription and providing for a uniform safe method of preservation of magnetic tapes and logs for at least five (5) years and for the keeping of logs by the court deputies."

Rule 4(d)(4), Rules of Civil Procedure: Is amended to read as follows:

"(4) Corporations. Upon a domestic or foreign corporation, by delivering a copy of the summons and of the complaint to an officer, a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process."

Rule 4(d), Rules of Civil Procedure: Is further amended by adding to the said subdivision (d) a new section, Civil Rule 4(d) (11) to read as follows:

"(11) Officer or Agency of State as Agent for Non-governmental Defendant. Whenever, pursuant to statute, an officer or an agency of the State of Alaska has been appointed as agent to receive service for a non-governmental defendant, or whenever, pursuant to statute, an officer or agency of the State of Alaska, has been deemed, considered or construed to be appointed as agent for a non-governmental defendant by virtue of some act, conduct or transaction of such defendant, service of process shall be made in the manner provided by statute."

Rule 12(a), Rules of Civil Procedure: Is amended to read as follows:

"(a) When Presented. A defendant shall serve his answer within 20 days after the service of the summons and complaint upon him, unless otherwise directed when service of process is made pursuant to Rule 4(e). A party served with a pleading stating a cross-claim against

him shall serve an answer thereto within 20 days after the service upon him. The plaintiff shall serve his reply to a counterclaim in the answer within 20 days after service of the answer or, if a reply is ordered by the court, within 20 days after service of the order, unless the order otherwise directs. The state or an officer or agency thereof shall serve an answer to the complaint or to a cross-claim, or a reply to a counterclaim, within 40 days after the service upon the attorney general of the pleading in which the claim is asserted. A non-governmental party shall serve an answer to the complaint or to a cross-claim, or a reply to a counterclaim within 40 days after service upon an officer or agency of the state appointed, authorized or designated as agent to receive service for such party pursuant to statute. The service of a motion permitted under this rule alters these periods of time as follows, unless a different time is fixed by order of the court: (1) if the court denies the motion or postpones its disposition until the trial on the merits, the responsive pleading shall be served within 10 days after notice of the court's action; (2) if the court grants a motion for a more definite statement the responsive pleading shall be served within 10 days after the service of the more definite statement."

Rule 38, Rules of Civil Procedure: Is repealed in its entirety and is re-enacted to read as follows:

"Rule 38. Jury Trial of Right--Securing Costs of Jury.

(a) Right Preserved. The right of trial by jury as declared by section 16 of article I of the constitution, or as given by a statute of the state, shall be preserved to the parties inviolate.

(b) Demand. Any party may demand a trial by jury of any issue triable of right by a jury by serving upon the other parties a demand therefor in writing at any time after the commencement of the action and not later than 10 days after the service of the last pleading directed to such issue. Such demand shall be made in a separate written document signed by the party making the demand or by his attorney.

(c) Demand--Specification of Issues. In his demand a party may specify the issues which he wishes so tried; otherwise he shall be deemed to have demanded trial by jury for all of the issues so triable. If he has demanded trial by jury for only some of the issues, any other party within 10 days after service of the

demand or such lesser time as the court may order, may serve a demand for trial by jury of any other or all of the issues of fact in the action.

(d) Posting Bond. The party first demanding a trial by jury shall, concurrently with the filing of the demand, post with the clerk of court or magistrate a bond executed by an approved corporate surety sufficient in amount to cover the actual cost to the state of providing jurors for the trial. Cash may be deposited in lieu of the bond as provided in Civil Rule 80(g). The bond, or the agreement accompanying a cash deposit, shall guarantee payment to the clerk or magistrate by the demanding party of the cost to the state of providing jurors for the trial. The provisions of Civil Rule 80 shall be applicable.

(e) Amount of Bond or Deposit. The amount of the bond or cash deposit shall be determined on the basis of the number of days of trial, as estimated in the demand for a jury trial, at the rate of \$10 per day per juror, inclusive of one alternate juror in the superior court; however, the minimum amount of the bond or cash deposit shall be \$600 in the superior court or \$200 in the magistrate court. If a stipulation for a jury of less than twelve in the superior court is made under Civil Rule 47(f), the court may allow a reduction in the amount of the bond or deposit in proportion to the reduced number of jurors but not below a minimum amount of \$300.

(f) Payment of Jury Costs. Upon completion of the trial the clerk or magistrate shall serve on the party at whose request a jury trial was had a statement of the total jury costs incurred by the state. Payment of the costs shall be made within 10 days after service of the statement, and in case of failure to do so the clerk or magistrate may proceed against the surety or cash deposit as provided in Civil Rule 80(f) and (g).

(g) Taxation of Costs. The jury costs referred to in subdivision (f) may be included as taxable costs by the prevailing party when appropriate and as provided in Civil Rule 79.

(h) Relief from Security Deposit. Upon motion of a party demanding trial by jury, the judge in his discretion may relieve the party from compliance with subdivision (d) of this rule if it is shown to the satisfaction of the court that the party is financially unable to post the required bond or deposit in cash or otherwise to comply with this subdivision, and that the party is prosecuting the action diligently toward the protection of a substantial

interest. The court must also be satisfied that jury trial in the particular case is necessary in the interests of justice and that allowing it without security deposit will not unnecessarily delay trial to the substantial detriment of the interests of other parties. Subdivisions (f) and (g) of this rule shall not be applicable to a party relieved from compliance with subdivision (d) of this rule unless the party so relieved is the prevailing party.

(i) Waiver of Jury Trial.

(1) The failure of a party to serve a demand as required by this rule and to file it as required by Rule 5(d) constitutes a waiver by him of trial by jury. A demand for trial by jury made as herein provided may not be withdrawn without the consent of the parties.

(2) The failure of a party to comply with subdivision (d) of this rule constitutes a waiver by the party of jury trial, unless relief from the security deposit requirements has been granted under subdivision (h).

(j) Actions before Deputy Magistrates. The provisions of this rule are not applicable to jury trials before a deputy magistrate."

IT IS FURTHER ORDERED:

Applicability of Rule 38, Rules of Civil Procedure to Pending Actions: The parties to pending actions in which jury trials have been demanded shall have sixty (60) days after the effective date of these amendments within which to furnish bonds or make cash deposits as provided by this rule.

EFFECTIVE DATE: July 1, 1964.

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/s/ Puell A. Nesbett
Chief Justice

/s/ John H. Dimond
Associate Justice

/s/ Harry O. Arend
Associate Justice