

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
FOURTH JUDICIAL DISTRICT AT FAIRBANKS

IN THE MATTER OF:

Child in Need of Aid Proceedings

Presiding Judge's Standing Order
17-03
Amended October 1, 2020

**PRESIDING JUDGE'S STANDING CASE MANAGEMENT ORDER GOVERNING
CHILD IN NEED OF AID CASES IN THE FOURTH JUDICIAL DISTRICT**

1. **SCOPE.** All Child in Need of Aid cases in the Fourth Judicial District shall be governed by this case management order and shall be conducted according to the terms of this order, unless otherwise ordered in an individual case. Pretrial orders adopting this order by reference will enter in each case.
2. **SCHEDULING DATES AND TIMES.** The dates and times for hearings shall be set by pretrial order in each case. Adjudication must be completed within 120 days after a finding of probable cause is entered, unless the court finds good cause to continue the hearing. A trial on a petition to terminate parental rights shall be held within six months after the date on which the petition to terminate parental rights is filed, unless the court finds that good cause is shown for a continuance. When determining whether to grant a continuance for good cause, the court shall take into consideration the age of the child and the potential adverse effect that the delay may have on the child.
3. **EMERGENCY PETITIONS AND TEMPORARY CUSTODY HEARINGS.**
 - A. Upon the filing of an emergency petition, the court will appoint attorneys for the parents and a Guardian Ad Litem for the children, pursuant to Presiding Judge's Order No. 05-05. A putative father shall be appointed counsel at public expense, upon order of the court, if there is probable cause to believe they are the natural or adoptive parent of the child. The appointed agencies shall resolve conflicts prior to the probable cause hearing if possible and shall switch clients in their own discretion if doing so resolves the conflict in accordance with Presiding Judge's Order No. 05-05.
 - B. Prior to the probable cause hearing, the State shall deliver to the parents attorneys and the GAL limited initial discovery regarding the removal including any readily available police reports, any safety plan or other supervision agreements that may have been in place at the time of removal, and the names of witnesses present at removal or who have immediate knowledge of the conduct or conditions that caused the child to be taken into custody, subject to any confidentiality objection which shall be heard by the assigned judicial officer.
 - C. Upon the filing of an emergency petition, the court will set an initial hearing within 48 hours, including weekends and holidays, of when the court is notified by the filing of a petition that emergency custody was taken pursuant to CINA Rule 6(a)

or (b), or within a reasonable time following the filing of a petition when emergency custody has not been taken.

- D. The first probable cause hearing will generally be set before the assigned Superior Court judge or if unavailable, any other available judicial officer. The hearing shall proceed pursuant to CINA Rule 10. Unless a continuance is requested and ordered, the contested probable cause hearing will go forward at that time.
- E. A continuance of two business days will be allowed at the first hearing. No more than two business days will be allowed unless good cause is shown. If any party knows that they are resolved to contest probable cause at the next hearing they should so indicate. If so, the next hearing will be scheduled as a contested probable cause hearing before the assigned Superior Court judge if available or another available judge if the assigned judge is not available for a contested hearing. Otherwise the next hearing will be considered a status hearing and scheduling conference and will be set before the assigned Superior Court judge or if unavailable, any other available judicial officer.
- F. At the second hearing, unless the parties stipulate to findings of probable cause, the matter must be set for a contested probable cause hearing within two business days. The contested probable cause hearing will be set before the assigned Superior Court judge if possible or any other available judge if the assigned judge is not available. If the parties stipulate to probable cause, then the matter will be set for a trial date setting before the assigned Superior Court judge within two weeks.
- G. The contested probable cause hearing will be scheduled for no more than one hour. The hearing may be continued to a second hour upon order of the court for good cause. The hearing will begin with the petitioner being sworn and adopting the petition. The court will then make preliminary inquiries into the petition including addressing hearsay that may be included. The court will then indicate whether a prima facie case for probable cause is stated. If a prima facie case is stated, then the party challenging probable cause will begin the questioning of the petitioner if they so choose and will be expected to otherwise call witnesses and present evidence to rebut the preliminary finding that a prima facie case is stated. The hearing may not be used to perpetuate testimony for later proceedings or as a discovery deposition. Evidence will be limited to issues relevant to probable cause.
- H. If the assigned Superior Court judge conducts the hearing, then scheduling further proceedings as necessary will take place at the conclusion of the hearing. If the hearing was not conducted by the assigned judge and future dates are needed and cannot be obtained, then a trial date setting will be set within two weeks before the assigned judge.
- I. If temporary custody is granted to the department, the court shall determine what the preliminary permanency progress plan is for the child and, prior to the conclusion of the temporary custody hearing, shall establish the following on the record:

- a. what the parent child contact plan is;
 - b. what the parents must do to begin to remedy their conduct;
 - c. what efforts the department will make to assist the parents; and
 - d. what the likely components of the case plan will be such as safety planning, drug testing, and referral to services.
4. **FILING DEADLINES.** When a filing date is set forth in a governing pretrial order by which a pleading is due, the pleading must be filed by that date. Mailing or signing by that date is not sufficient unless previously approved by the court.
5. **AMENDMENTS TO PLEADINGS.** A petition may be amended by leave of the court and with reasonable notice on all parties at any time before the adjudication or termination order. Amendments, with appropriate continuances, will be permitted to promote the interests of justice and the welfare of the child and the family.
6. **INITIAL DISCLOSURES.** On or before the date set forth in the pretrial order, except to the extent otherwise directed by order or rule, a party shall, without awaiting a discovery request, provide to other parties the following information, excluding any privileged material:
 - (A) The Department shall make available all information pertaining to the child prepared by or in the possession of the Department;
 - (B) A parent shall provide the name, address, or other information pertaining to the identity and location of the other parent of the child, if the parent has not already been identified and located;
 - (C) If the child has been removed, a parent shall provide the names, addresses, or other contact information pertaining to the location of grandparents and other adult relatives so placement options may be explored;
 - (D) A parent shall provide the names and addresses of any schools attended by the child and the names and addresses of any medical, mental health, and other treatment providers of the child;
 - (E) A parent shall provide the name and location of any Indian tribe as defined in CINA Rule 2(j) in which the parent has reason to believe the child is a member or may be eligible for membership;
 - (F) A guardian ad litem shall disclose a list of the types of information the guardian ad litem has gathered regarding the case, including records from specified sources and the names and contact information for persons interviewed or surveyed who are not parties, yet have provided information about the case, subject to any confidentiality objection which shall be heard by the assigned judicial officer; and
 - (G) A tribe that has intervened in the proceedings shall disclose names and contact information for extended family of the child, a list of potential placements under 25 U.S.C. § 1915, and a summary of any tribal services or tribal court actions involving the family.

Unless otherwise directed by the court, these disclosures shall be made within 45 days of the date of service of the petition for adjudication or termination, or for tribes, the date of the order granting intervention. A party shall make its initial disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures.

7. **MEETING OF PARTIES.** On or before the date set forth in the pretrial order, the parties shall meet, either telephonically or in person, to ensure that an appropriate case plan is in place for the child and the family and to address the topics that will be discussed at the omnibus hearing and pretrial conference. The meeting will be held at the time specified by the court, subject to reasonable rescheduling by the parties, or, if no time is specified, at least 20 days before the omnibus hearing. The attorneys of record and all unrepresented parties who have appeared in the case are jointly responsible for arranging and being present at the meeting.
8. **REPORT OF THE MEETING OF PARTIES.** On or before the date set forth in the pretrial order, or if no date is set, within 10 days after the meeting of the parties, the attorneys of record and all unrepresented parties who have appeared in the case are jointly responsible for submitting to the court a written summary of the meeting. The report shall include the following:
 - (A) date of case conference;
 - (B) parties present;
 - (C) current and future placement;
 - (D) ICPC status (if applicable);
 - (E) visitation plan;
 - (F) paternity issues;
 - (G) identification of tribe (if applicable);
 - (H) grandparents status;
 - (I) case plan services (with attached copy of case plan);
 - (J) legal issues; and
 - (K) any other issues the parties deem appropriate.
9. **PERMANENCY PROGRESS AND OMNIBUS HEARING.** A permanency progress and omnibus hearing shall be held on the date and time set forth in the pretrial order (90 days), to review permanency progress and address preparations for trial. At the hearing the court and parties shall:
 - (A) Review permanency progress to determine:
 - 1) the safety of the child,
 - 2) the continuing necessity for and appropriateness of the placement,

- 3) the establishment of a written case plan, the parents' receipt and understanding of the case plan, the appropriateness of the case plan, and the extent of compliance with the case plan, and
- 4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and
- 5) to project a likely date by which the child may be
 - a) returned to and safely maintained in the home or
 - b) placed for adoption or legal guardianship, and,
 - c) for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

(B) Review the status of preparations for trial including:

- (A) ensure that discovery due under the rules is complete and conclude any unresolved discovery matters ripe for decision;
- (B) resolve pending motions;
- (C) schedule any necessary hearings;
- (D) obtain case management information from the parties, including the expected length of trial, the likelihood of trial, and any anticipated scheduling difficulties;
- (E) consider efforts to locate and serve all parties;
- (F) simplify the issues;
- (G) consider amendments to the pleadings;
- (H) discuss settlement and the use of special procedures to assist in resolving the case;
- (I) consider the possibility of obtaining admissions and stipulations of fact and documents which will avoid the introduction of unnecessary evidence;
- (J) identify unnecessary proof and cumulative evidence, and limitations or restrictions on the use of expert testimony;

Parties have a continuing obligation to update information provided during the permanency progress and omnibus hearing.

The permanency progress and omnibus hearing must be attended by the assigned OCS caseworker, the assigned GAL, trial counsel, and the parents.

10. **DISCOVERY.** All discovery shall be completed by the date set forth in the pretrial order. Any interrogatories or requests for production or admission must be served sufficiently ahead of this date so that responses are due on or before the date

discovery closes. Requests that do not allow response by this date are deemed untimely and no response need be given.

11. **DISCOVERY FROM THE GUARDIAN AD LITEM.** A party may obtain discovery of documents in the possession, custody, or control of the guardian ad litem as set forth in CINA Rule 8. The documents must be discoverable under Civil Rule 26(b)(1). Trial preparation materials as defined in Civil Rule 26(b)(3) are discoverable only as permitted by that rule. If the guardian ad litem has served notice that the guardian ad litem intends to testify, a party may obtain discovery from the guardian ad litem about the substance of this testimony. A party may obtain other discovery from a guardian ad litem only as permitted by the court upon a showing of good cause. The court may permit a party to question a guardian ad litem about the guardian ad litem's professional qualifications and experience or the guardian ad litem's performance in the case. But this inquiry must be conducted in the presence of the court.
12. **DEPOSITIONS.** Depositions may be taken in accordance with the Civil Rules and CINA Rule 8(f), except that no child under 16 years of age may be deposed except upon court order.
13. **SUPPLEMENTATION OF DISCLOSURES AND RESPONSES TO DISCOVERY.** A party who has made disclosures or responses to discovery under CINA Rule 8 or this case management order is under a duty to supplement or correct the disclosures or responses to include information thereafter acquired if the party learns that the information disclosed or the response given is incomplete or incorrect in some material respect, and that the additional or corrective information has not otherwise been made known to the other parties during the discovery process or in writing. This duty to supplement or correct disclosures and responses extends to information provided in expert disclosures.
14. **EXPERT WITNESS LIST AND DISCLOSURES.** On the date set forth in the pretrial order, counsel shall file and serve an Expert Witness List showing the names, current mailing addresses, physical addresses, telephone numbers, and area of expertise of expert witnesses which the parties actually intend to call at the trial. Counsel must disclose timely any information known to counsel regarding changes in address or telephone number. Counsel must make expert disclosures consistent with CINA Rule 8 as follows:
 - (A) *Retained Experts.* Except as otherwise stipulated or directed by the court, a party shall disclose the identity of an expert witness whom the party intends to call at trial and who has been retained, with or without compensation, to provide expert testimony or whose duties as an employee of the party regularly involve giving expert testimony. For such witnesses, the party shall provide:
 - (1) the expert's curriculum vitae; and
 - (2) a written summary of the substance of the anticipated testimony of the expert, the expert's opinion, and the underlying basis of the opinion.

- (B) *Other Experts.* For all other experts, if a party intends to call an expert witness who has had involvement with the family, but has not been retained solely for the purpose of providing an expert opinion, the party shall disclose to other parties the identity of that witness and shall provide any existing reports or written statements of these experts. For experts identified in this paragraph, parties are not required to provide the information in paragraph (A) except upon request.
- (C) Expert disclosures shall be made at the times and in the sequence directed by the court.
15. **LAY WITNESS LIST.** On or before the date set forth in the pretrial order, counsel shall file and serve a Witness List showing the names, current mailing and physical addresses, and telephone numbers of all witnesses other than expert witnesses which the parties actually intend to call at the trial. Counsel must disclose timely any information known to counsel regarding changes in address or telephone number.
16. **MOTIONS TO PUBLISH.** Counsel shall file all motions to publish on or before the date set forth in the pretrial order. The motion shall include an affidavit of diligent inquiry and must state whether the party is aware of any opposition to the motion.
17. **MOTIONS FOR RELEASE OF RECORDS.** Counsel shall file all motions for release of records on or before the date set forth in the pretrial order.
- (A) Records Subject to the Psychotherapist-Patient Privilege. The psychotherapist-patient privilege, Evidence Rule 504, applies only to the extent described in CINA Rule 9. The privilege applies to the child unless the child or the child's guardian ad litem waives the privilege, or the party seeking disclosure shows that the need for the requested disclosure outweighs the child's interest in confidentiality. The privilege does not apply to the parent unless the parent shows that the parent's interest in confidentiality outweighs the need for the requested disclosure.
- (B) Motions to Disclose or Protect Records Subject to the Psychotherapist-Patient Privilege. Motions seeking to disclose or protect records or any other communication subject to the psychotherapist-patient privilege shall address the following:
- (1) the content and nature of the communication;
 - (2) the purposes of AS 47.10, as expressed by AS 47.05.060, and of Evidence Rule 504;
 - (3) whether there is any other effective way to obtain the information; and
 - (4) whether the public interest and need for disclosure outweighs the potential injury to the patient and the patient's psychotherapist relationship. Before ruling on such a request, the court may inspect records in camera. The court may allow, limit, or prohibit disclosure and use of the communication.
- (C) Orders to Disclose or Protect Records Subject to the Psychotherapist-Patient Privilege. All motions seeking to disclose or protect records or any other

communication subject to the psychotherapist-patient privilege shall be accompanied by an appropriate order which:

(1) limits disclosure to those parts of the child's records which are essential to fulfill the purpose of the disclosure;

(2) limits disclosure to those persons whose need for the information is the basis for the order; and

(3) includes such other measures as are necessary to limit disclosure for the protection of the child and the psychotherapist-patient relationship.

18. **OTHER MOTIONS.** Counsel shall file all other motions, including motions in limine and motions for protective orders, prior to the pretrial conference. The provisions of Civil Rule 77 shall apply to any such motions.

19. **MEDIATION.** Written or oral motions for mediation should be made prior to the pretrial conference.

(A) Request for Mediation. A motion for mediation should address how the mediation is to be conducted. The motion should include the names of any acceptable mediators, the issues to be subject to mediation, a date by which the initial mediation conference must commence, and any changes to mediation procedures provided for in this order or court rule.

(B) Challenge of Mediator. Each party has the right once to challenge peremptorily any mediator appointed by the court if the "Notice of Challenge of Mediator" is timely filed pursuant to Civil Rule 42(c).

(C) Mediation Briefs. Any party may provide a confidential brief to the mediator explaining their view of the dispute. If a party elects to provide a brief, the brief may not exceed five pages in length and must be provided to the mediator not less than three days prior to the mediation. A party's mediation brief may not be disclosed to anyone without the party's consent and is not admissible in evidence.

(D) Mediation Conference. Mediation will be conducted in informal conferences at a location agreed to by the parties or, if they do not agree, at a location designated by the mediator. All parties shall attend the initial conference at which the mediator shall first meet with all parties. Thereafter the mediator may meet with the parties separately. Counsel for a party may attend all conferences attended by that party.

(E) Termination of Mediation. After the initial joint conference and the first round of separate conferences if separate conferences are required by the mediator, a party may withdraw from mediation, or the mediator may terminate the process if the mediator determines that mediation efforts are likely to be unsuccessful. Upon withdrawal by a party or termination by the mediator, the mediator shall notify the court that mediation efforts have been terminated.

(F) Confidentiality. Mediation proceedings shall be held in private and are confidential. The mediator shall not testify as to any aspect of the mediation

proceedings. Evidence of conduct or statements made in the course of court-ordered mediation is inadmissible to the same extent that conduct and statements are inadmissible under Alaska Rule of Evidence 408. This rule does not relieve any person of a duty imposed by statute.

- (G) Stipulation upon Successful Mediation. Unless otherwise agreed, the party requesting mediation shall prepare a stipulation incorporating the parties' agreement for all or such portions of the action as have been concluded by mediation as agreed upon at the mediation.

20. **JUDICIAL SETTLEMENT CONFERENCE.** Any motion for a judicial settlement conference should be made prior to the pretrial conference. If a judicial settlement conference is set on, two weeks before the scheduled settlement conference, each party shall file in the settlement judge's chambers a settlement brief of not more than five (5) pages plus any documents the party wants to have reviewed. The settlement brief must include the following: (a) a short statement of the case; (b) three candid reasons why the party believes it should prevail; and (c) three candid reasons why the party believes it might not prevail. The settlement brief will not be served on or disclosed to the trial judge. Following the settlement conference, the settlement conference judge will destroy all settlement briefs received. The parties, as well as the attorneys, must be present at the settlement conference. Waiver of this requirement or telephonic participation may only be granted by the settlement judge.

21. **DEPOSITION DESIGNATIONS.** Trial use of depositions shall be governed by Civil Rule 32. On or before the Exhibit Exchange date specified in the pretrial order, the proponent of the testimony of any witness who is testifying by deposition shall specifically designate those portions which are proposed to be read or shown, by page and line. Objections to the use of the designated portion of the deposition or counter designation of portions to be used shall be filed on or before the date set forth in the pretrial order. Replies to the objections or counter designations shall be filed on or before the date set forth in the pretrial order. Copies of the complete depositions to be used shall be delivered to the trial judge's chambers on the Exhibit Exchange date in the pretrial order.

22. **EXHIBITS.** Exhibits will be handled pursuant to Administrative Bulletin No. 9, Civil Rule 43.1, and as follows:

- (A) Parties shall exchange a labeled, numbered set of exhibits on or before the date set forth in the pretrial order.
- (B) All exhibits and original exhibit lists shall be brought to court the day of trial.
- (C) Exhibits must be clearly legible or they will not be submitted at trial.
- (D) Exhibits not submitted as herein ordered will not be admitted at trial except by order for good cause shown.
- (E) Any known objections to exhibits should be made in the pretrial memoranda.
- (F) Each party shall deliver a labeled, numbered set of exhibits for the judge by the exhibit date set forth in the pretrial order.

23. **PRETRIAL MEMORANDA.** On or before the date set forth in the pretrial order, counsel for each party shall file and serve, with a copy to chambers, a pretrial memorandum covering the following matters:
- (A) Trial Brief. This shall contain the following:
 - (1) A short, plain and candid statement of each contested issue of fact which remains to be litigated.
 - (2) A short, plain and candid statement of each contested issue of law which remains to be litigated.
 - (3) A short, plain and candid statement of the facts of the case.
 - (4) A legal brief supporting the party's position as to each contested issue of law stated in paragraph (2) above, and each question of law or evidence which the party should reasonably anticipate may arise during the course of the trial. Pertinent, persuasive, and controlling authority shall be cited. In presenting matters of law to the court, counsel shall disclose controlling legal authority which is known to counsel to be directly adverse to the position of counsel's client.
 - (5) Each parties' pretrial memorandum should be detailed enough to provide a basis for the order of relief they are requesting.
 - (B) Objections to Documents and Exhibits. Any known objections to exhibits should be made in the pretrial memoranda:
 - (1) Each objection to any document or exhibit shall identify the document or exhibit by number, and shall be set forth separately and specifically, with a clear statement of the objection.
 - (2) Following the objection there shall be listed a citation of authorities in support of the objection.
 - (3) Documents and exhibits to which no objection is made shall be admitted at trial.
 - (C) Stipulations. Counsel shall specify those relevant facts admitted in pleadings, requests for admissions or other records on file for which no proof need be offered at trial.
 - (D) Offer of Proof. Counsel intending to rely on an offer of proof shall set forth that offer of proof in the pretrial memorandum.
24. **STIPULATED RESOLUTION.** If the case resolves by stipulation of the parties prior to trial, the stipulation shall be filed with the court and must include:
- (A) a waiver of the OCS predisposition report;
 - (B) a waiver of the Guardian Ad Litem report; and
 - (C) the date requested for setting of the permanency hearing or annual review.

25. **REPORTS IN AID OF DISPOSITION.** On or before the date set forth in the pretrial order, unless waived by the parties with the approval of the court, the Department shall submit a predisposition report satisfying AS 47.10.081(b) and as follows:

(A) Predisposition Reports.

(1) In addition to the requirements of AS 47.10.081(b), the report must include the current case plan and should also include the following information: the child's family background and educational history; past contacts by the Department with the child and the child's family; the child's medical, psychological and psychiatric history; and recommendations regarding the disposition which would be in the best interests of the child. If the child is placed out of the home, the report must describe the efforts made to comply with the placement preference under the Indian Child Welfare Act or state law, as applicable.

(2) Unless waived by the parties with the approval of the court, the guardian ad litem shall submit a predisposition report. The report shall be child-focused and fact-based, and shall include the guardian ad litem's position regarding legal custody, placement, visitation, the child's case plan, and the parents' case plan. If there is a conflict between the guardian ad litem's position and the child's preference, that conflict must be disclosed in the report.

(3) Unless otherwise ordered by the court, the Department must file and serve its predisposition report on the parties fifteen days before the disposition hearing, and the guardian ad litem must file and serve its predisposition report on the parties ten days before the disposition hearing.

(4) The court will accept a stipulation to waive preparation of a predisposition report only if the parties have agreed to present adequate information upon which to enter an informed disposition order, including the current case plan.

(5) Other parties may submit their own reports in aid of disposition. Any such reports must be made available to the persons entitled to receive them at least ten days prior to the disposition hearing.

(B) Supplemental Materials. Upon proper motion the court may order mental and physical examinations of the child and the child's parents, guardian and Indian custodian. Upon proper motion the court may order studies of the home of any person with whom the child might be placed, and may order any other reports to aid disposition.

(C) Disclosure of Reports. Unless otherwise ordered, copies of predisposition reports and supplementary materials must be served on all parties. The court may enter an order prohibiting release of all or part of a report to the child if disclosure would be likely to cause psychological harm to the child. The court shall inspect the reports in camera prior to entering a limitation on disclosure, and such a limitation does not bar the child's attorney or guardian ad litem from access to the material withheld from the child. The court may enter orders prohibiting release of the material by the attorney or guardian ad litem to the child.

26. **PRETRIAL CONFERENCE.** A pretrial conference shall be held on the date and time set forth in the pretrial order, to consider trial procedure matters, objections to documents and exhibits, and all other matters that may tend to expedite the trial of this case. At the pretrial conference, the court and parties may:
- (A) consider efforts to locate and serve all parties;
 - (B) simplify the issues;
 - (C) consider amendments to the pleadings;
 - (D) conclude any unresolved discovery matters;
 - (E) resolve pending motions;
 - (F) discuss settlement and the use of special procedures to assist in resolving the case;
 - (G) consider the possibility of obtaining admissions and stipulations of fact and documents which will avoid the introduction of unnecessary evidence;
 - (H) identify unnecessary proof and cumulative evidence, and limitations or restrictions on the use of expert testimony;
 - (I) determine whether the child will be present and testify at adjudication and, if so, under what conditions;
 - (J) establish a reasonable limit on the time allowed for presenting evidence;
 - (K) identify which witnesses will actually be called and in what order at trial; and
 - (L) consider such other matters as may aid in the resolution of the proceeding.

Parties have a continuing obligation to update information provided during the pretrial conference. The pretrial conference must be attended by the assigned OCS caseworker, the assigned GAL, trial counsel, and the parents.

27. **SIX MONTH CASE REVIEW HEARING.** A six month case review hearing shall be held on the date and time set forth in the pretrial order to review permanency progress and to satisfy the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675. At the hearing the court and parties shall review permanency progress in order to determine:
- 1) the safety of the child,
 - 2) the continuing necessity for and appropriateness of the placement,
 - 3) the extent of compliance with the case plan, and
 - 4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and
 - 5) to project a likely date by which the child may be
 - a) returned to and safely maintained in the home or
 - b) placed for adoption or legal guardianship, and,

- c) for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

At the conclusion of the case review hearing, the court shall issue findings and conclusions sufficient to meet the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675.

28. **TWELVE MONTH PERMANENCY AND CASE REVIEW HEARING.** A permanency and twelve month case review hearing shall be held on the date and time set forth in the pretrial order to review permanency progress, to satisfy the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675, and to satisfy the requirements of CINA Rule 17.2. At the hearing the court and parties shall:

(A) Review permanency progress in order to determine:

- 1) the safety of the child,
- 2) the continuing necessity for and appropriateness of the placement,
- 3) the extent of compliance with the case plan, and
- 4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and
- 5) to project a likely date by which the child may be
 - a) returned to and safely maintained in the home or
 - b) placed for adoption or legal guardianship, and,
 - c) for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

At the conclusion of the case review hearing, the court shall issue findings and conclusions sufficient to meet the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675.

(B) Establish a permanency plan for each child committed to state custody under AS 47.10.080(c)(1) and to ensure that findings with respect to the plan are made as required by state and federal laws.

29. **EIGHTEEN MONTH CASE REVIEW HEARING.** An eighteen month case review hearing shall be held on the date and time set forth in the pretrial order to review

permanency progress and to satisfy the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675. At the hearing the court and parties shall review permanency progress in order to determine:

- 1) the safety of the child,
- 2) the continuing necessity for and appropriateness of the placement,
- 3) the extent of compliance with the case plan, and
- 4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and
- 5) to project a likely date by which the child may be
 - a) returned to and safely maintained in the home or
 - b) placed for adoption or legal guardianship, and,
 - c) for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

At the conclusion of the case review hearing, the court shall issue findings and conclusions sufficient to meet the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675.

30. **TWENTY-FOUR MONTH PERMANENCY AND CASE REVIEW HEARING.** A permanency and twenty-four month case review hearing shall be held on the date and time set forth in the pretrial order to review permanency progress, to satisfy the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675, and to satisfy the requirements of CINA Rule 17.2. At the hearing the court and parties shall:

(A) Review permanency progress in order to determine:

- 1) the safety of the child,
- 2) the continuing necessity for and appropriateness of the placement,
- 3) the extent of compliance with the case plan, and
- 4) the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and
- 5) to project a likely date by which the child may be
 - a) returned to and safely maintained in the home or
 - b) placed for adoption or legal guardianship, and,
 - c) for a child for whom another planned permanent living arrangement has been determined as the permanency plan, the steps the State agency is taking to ensure the child's foster family home or child care institution is

following the reasonable and prudent parent standard and to ascertain whether the child has regular, ongoing opportunities to engage in age or developmentally appropriate activities (including by consulting with the child in an age-appropriate manner about the opportunities of the child to participate in the activities).

At the conclusion of the case review hearing, the court shall issue findings and conclusions sufficient to meet the requirements of 42 U.S.C.A. § 671 and 42 U.S.C.A. § 675.

(B) Establish a permanency plan for each child committed to state custody under AS 47.10.080(c)(1) and to ensure that findings with respect to the plan are made as required by state and federal laws.

31. **SERVICE OF FILINGS.** Pretrial Memoranda, Deposition Designations, Objections and Reply to Objections to Depositions, and Exhibits must be served in a manner which will allow actual receipt by all counsel on the date of filing set forth in the pretrial order. Service upon all represented parties may be by electronic means.
32. **FACSIMILE AND EMAIL FILINGS.** The court will accept emailed filings from out of town attorneys, OCS representatives, GALs and tribes. Emailed filings from attorneys, OCS representatives, or GALs not out of town may be accepted with prior approval. Emailed filings shall be made at 4FACINA@akcourts.us.
33. **RESPONSIBILITY FOR COMPLIANCE.** It is the responsibility of each party to comply with the dates set forth in the pretrial order. A document not filed on time shall be lodged with a motion to accept late filing with an accompanying memorandum supported by affidavits or other verifiable evidence establishing good cause.

Pursuant to Civil Rule 16, if a party or party's attorney fails to obey this case management order, a scheduling order, or a pretrial order, or if no appearance is made on behalf of a party at a scheduling or pretrial conference, or if a party or party's attorney is substantially unprepared to participate in the conference, or if a party or party's attorney fails to participate in good faith, the judge, upon motion or the judge's own initiative, may make such orders with regard thereto as are just, and among others any of the orders provided in Rule 37(b)(2)(B), (C), (D). In lieu of or in addition to any other sanction, the judge shall require the party or the attorney representing the party or both to pay the reasonable expenses incurred because of any noncompliance, including attorney's fees, unless the judge finds that the noncompliance was substantially justified or that other circumstances make an award of expenses unjust.

DATED this 1st day of October, 2020 at Fairbanks, Alaska.



Michael A. MacDonald
Presiding Judge