

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 30

It is ORDERED:

The Rules of Civil Procedure, Rules of Criminal Procedure and Rules Governing the Administration of All Courts are amended as indicated below. Old pages should be removed and these new pages inserted in their place as follows:

<u>CIVIL RULES</u>	<u>Remove Old Pages</u>	<u>Insert New Pages</u>
16(c)	25-26	25-26
55(c) (2)	85-86	85-86
62	93-94	93-94
65(c)	99-100	99-100
93(a) (5)	129-30	129-30
105	139-40	139-40
107	141-142	141-142
<u>CRIMINAL RULES</u>		
6(1)	9-10	9-10
35	33-34	33-34a
39(b)	37-38	37-38
<u>RULES OF ADMINISTRATION</u>		
27(c)	15-16	15-16
30-31	17-20	17-20
40(a)	25-26	25-26
56	- - -	35
Index		Insert after Rule 56.

In addition, the following changes have been made in the Rules of Administration, and should be indicated with pen on the applicable pages:

Supreme Court Order Number	Page	Rule	Change
21	iv	- -	Add "56" under the column headed "Rule," then add on the same line "Marriage Commissioners," followed by "34" under the column headed "Page".
23	10	15(a)	Change "\$75.00" to "\$30.00".

Finally, in the Rules of Civil Procedure, strike the second sentence of note (1), on page 155.

Distribution:

DATED: February 1, 1961.

S/C Justs. (2)
 Sup/C Judgs. (3)
 Dist. Mags. (2)
 Dep. Mags.
 Adm. Dir. (200)
 Clks/Ct. (5)
 ABA (2)
 All Members ABA (2)
 Gov. (3)
 Sec./State (2)
 Dept. Adm. (2)
 Dept. Law:
 Anchorage (5)
 Fairbanks (5)
 Juneau (10)
 Ketchikan (2)
 Nome (1)
 Dept. F&G (5)
 Sup/C Clk. (100)
 Dept. H & W (10)
 Vital Stat. (3)
 Pub. Sfty. (20)
 Attorneys:
 Anchorage (3)
 Fairbanks (3)
 Juneau (2)
 Ketchikan (2)

/s/ Ruell A. Nesbett
 Chief Justice

/s/ John H. Dimond
 Associate Justice

/s/ Harry O. Arend
 Associate Justice

of right ~~it~~ has been allowed by order of the court, must be re-typed or reprinted and filed so that it will be complete in itself, including the exhibits, without reference to the superseded pleading. No pleading will be deemed to be amended until this subdivision of this rule has been complied with. All amended pleadings shall contain copies of all exhibits referred to in such amended pleadings. Permission may be obtained from the court, if desired, for the removal of any exhibit or exhibits attached to prior pleadings, in order that the same may be attached to the amended pleading.

Rule 16. Pre-Trial Procedure - Formulating Issues.

(a) In General. In any action a pre-trial conference on a day certain may be ordered pursuant to the motion of any party, or by the court upon its own motion, to consider the following:

- (1) The simplification of the issues.
- (2) The necessity or desirability of amendments to the pleadings.
- (3) The possibility of obtaining admissions of fact and of documents which will avoid unnecessary proof.
- (4) The limitation of the number of expert witnesses.
- (5) The advisability of a preliminary reference of issues to a master for findings to be used as evidence when the trial is to be by jury.
- (6) Such other matters as may aid in the disposi-

tion of the Union.

(b) Pre-Trial Calendar.

(1) The judge in whose court any action or proceeding, jury or non-jury, is pending, may place the same, whether or not at issue, on the calendar for pre-trial procedure at such time and for such purpose or purposes as he may deem proper, upon at least 20 days notice to the parties thereto or their attorneys of record.

(2) At any time after any pending action or proceeding is at issue, any party thereto may request the judge in writing to place the same upon the calendar for such pre-trial procedure as may be indicated in such request and as permitted by this rule. Upon the granting by the judge of such request, the clerk shall serve and file, not less than five days prior to the hearing, unless otherwise ordered by the court, a written notice thereof to all parties theretofore appearing in such action.

(c) Pre-Trial Memorandum. No later than 3 days prior to the pre-trial conference each attorney shall serve and file a typewritten memorandum covering such of the following items as are appropriate:

(1) A brief statement of what the plaintiff expects to prove in support of his claim.

(2) A brief statement of what the defendant expects to prove as a defense thereto.

(3) Similar statements as to any counterclaim or cross-claim of a defendant.

of damages or to establish the truth of any averment by evidence or to make an investigation of any other matter, the court may conduct such hearings or order such references as it deems necessary and proper.

(2) When application is made to the court for a default judgment, counsel shall file a memorandum of the default, showing when and against what parties it was entered and the pleadings to which no defense has been made. If any party against whom judgment by default is sought is shown by the record to be an infant or incompetent person, or in the military service of the United States, counsel shall also file a memorandum stating whether or not that person is represented in the action by a general guardian, committee, conservator, attorney or such other representative who has appeared therein. If the party against whom judgment by default is sought has appeared in the action or proceeding, the memorandum shall also indicate whether or not the record shows that notice has been served as required by paragraph (1) of this subdivision.

(3) If the amount of damages claimed in an application to the court for judgment by default is unliquidated, the applicant may submit evidence by affidavit showing the amount of damages and if, under the provisions of paragraph (1) of this subdivision, notice of the application is necessary, the parties against whom judgment is sought may submit affidavits in opposition.

(d) Response to Pleading. A party may respond to any pleading at any time before a default is entered.

(e) Setting Aside Default. For good cause shown the court may set aside an entry of default and, if a judgment by default has been entered, may likewise set it aside in accordance with Rule 60 (b).

(f) Plaintiffs, Counterclaimants, Cross-Claimants. The provisions of this rule apply whether the party entitled to the judgment by default is a plaintiff, a third-party plaintiff, or a party who has pleaded a cross-claim or counterclaim. In all cases a judgment by default is subject to the limitations of Rule 54 (c).

(g) Judgment Against the State. No judgment by default shall be entered against the state or an officer or agency thereof unless the claimant establishes his claim or right to relief by evidence satisfactory to the court.

Rule 56. Summary Judgment.

(a) For Claimant. A party seeking to recover upon a claim, counterclaim or cross-claim or to obtain a declaratory judgment may, at any time after the expiration of 20 days from the commencement of the action or after service of a motion for summary judgment by the adverse party, move for a summary judgment in his favor upon all or any part thereof.

(b) For Defending Party. A party against whom a claim, counterclaim or cross-claim is asserted or a declaratory judgment is sought may, at any time, move for a summary judgment in his favor as to all or any part thereof.

(c) Motion and Proceedings Thereon. The motion shall be served at least 10 days before the time fixed for the hear-

able that the judgment should have prospective application; or

(6) any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time, and for reasons (1), (2) and (3) not more than one year after the judgment, order or proceeding was entered or taken. A motion under this subdivision (b) does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding, or to grant relief to a defendant not personally served, or to set aside a judgment for fraud upon the court. Writs of coram nobis, coram vobis and audita querela are abolished, and the procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

Rule 61. Harmless Error.

No error in either the admission or the exclusion of evidence and no error or defect in any ruling or order or in anything done or omitted by the court or by any of the parties is ground for granting a new trial or for setting aside a verdict or for vacating, modifying or otherwise disturbing a judgment or order, unless refusal to take such action appears to the court inconsistent with substantial justice. The court at every stage of the proceeding must disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

Rule 62. Stay of Proceedings to Enforce a Judgment.

(a) Automatic Stay - Exceptions. Except as stated herein, no execution shall issue upon a judgment nor shall proceedings be taken for its enforcement until the expiration of 10 days after its entry. Unless otherwise ordered by the court, an interlocutory or final judgment in an action for an injunction or in a receivership action shall not be stayed during the period after its entry and until an appeal is taken or during the pendency of an appeal. The provisions of subdivision (c) of this rule govern the suspending, modifying, restoring, or granting of an injunction during the pendency of an appeal or proceedings for review.

(b) Stay on Motion for New Trial or for Judgment. In its discretion and on such conditions for the security of the adverse party as are proper, the court may stay the execution of or any proceedings to enforce a judgment pending the disposition of a motion for a new trial or to alter or amend a judgment made pursuant to Rule 59, or of a motion for relief from a judgment or order made pursuant to Rule 60, or of a motion for judgment in accordance with a motion for a directed verdict made pursuant to Rule 50, or of a motion for amendment to the findings or for additional findings made pursuant to Rule 52 (b).

(c) Injunction Pending Appeal or Review. When an appeal is taken or review sought from an interlocutory or final judgment or order or decision granting, dissolving or denying an injunction, the court in its discretion may suspend, modify, restore or grant an injunction during the pendency of the appeal or the proceedings for review upon such terms as to bond

out notice or on such shorter notice to that party as the court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

(c) Security. No restraining order or preliminary injunction shall issue except upon the giving of security by the applicant, in such sum as the court deems proper, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained. No such security shall be required of the state or of an officer or agency thereof, or unless otherwise ordered by the court, in domestic relations actions or proceedings.

A surety upon a bond or undertaking under this rule submits himself to the jurisdiction of the court and irrevocably appoints the clerk of the court as his agent upon whom any papers affecting his liability on the bond or undertaking may be served. His liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the court prescribes may be served on the clerk of the court who shall forthwith mail copies to the persons giving the security if their addresses are known.

(d) Form and Scope of Injunction or Restraining Order. Every order granting an injunction and every restraining order shall set forth the reasons for its issuance; shall be specific in terms; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees, and attorneys, and upon those persons in active concert or partici-

pation with whom who receive actual notice of the offer by personal service or otherwise.

Rule 66. Receivers.

An action wherein a receiver has been appointed shall not be dismissed except by order of the court. The practice in the administration of estates by receivers or by other similar officers appointed by the court shall be in accordance with the practice set forth by statute. In all other respects the action in which the appointment of a receiver is sought or which is brought by or against a receiver is governed by law and these rules.

Rule 67. Deposit in Court.

In an action in which any part of the relief sought is a judgment for a sum of money or the disposition of a sum of money or the disposition of any other thing capable of delivery, a party, upon notice to every other party, and by leave of court, may deposit with the court all or any part of such sum or thing. Money paid into court under this rule shall be deposited and withdrawn in accordance with the provisions of rules governing the administration of the courts.

Rule 68. Offer of Judgment.

At any time more than 10 days before the trial begins, a party defending against a claim may serve upon the adverse party an offer to allow judgment to be taken against him for the money or property or to the effect specified in his offer, with costs then accrued. If within 10 days after the service

PART XI. DISTRICT MAGISTRATES

Rule 93. Scope of Rules - Construction.

(a) Scope of Rules.

(1) The procedure in civil actions and proceedings before a district magistrate shall be governed by the rules governing the procedure in the superior court to the extent that such rules are applicable.

(2) The following rules are inapplicable in their entirety to proceedings before a district magistrate:

<u>Rule</u>	<u>Title</u>
Rule 27	Depositions Before Action or Pending Appeal.
Rule 57	Declaratory Judgments.
Rule 65	Injunctions.
Rule 66	Receivers.
Rule 70	Judgment for Specific Acts - Vesting Title.
Rule 72	Condemnation of Property.

(3) The following proceedings before a district magistrate shall not be governed by these rules:

(i) Proceedings for establishing the fact of death of any person as prescribed by law (Ch. 89 SLA 1953).

(ii) Proceedings under the Village Incorporation Act of 1957 (Ch. 150 SLA 1957).

(iii) Proceedings concerning minors under the age of 18 years under statutes relating to juvenile courts (Ch. 145 SLA 1957).

(4) These rules are not applicable to proceedings relating to forceable entry and detainer except to the extent that the practice in such proceedings is not set forth in the statutes relating to that subject.

(5) Where a civil action or proceeding before a district magistrate is one which would be within the jurisdiction of a deputy magistrate, the simplified rules of procedure for actions and proceedings before a deputy magistrate shall be applicable.

(b) Construction. Where the words "court" or "judge" are used in these rules, they shall be construed to include a district magistrate, and where functions and duties are prescribed for the clerk, they shall be performed by the magistrate or his clerk.

Rule 94. Record of Proceedings.

In actions and proceedings before a district magistrate — the provisions for keeping a stenographic or electronic record as required by Rule 75 (a) shall be permissive rather than mandatory.

Rule 95. Notice of Orders or Judgments.

Notice of the entry of an order or judgment shall be given by the magistrate as provided by Rule 73 (d). Lack of notice of the entry by the magistrate does not affect the time to appeal or to petition for review or relieve or authorize the magistrate to relieve a party for failure to appeal or petition for review within the time allowed, except as permitted in Rules 101 and 113.

(b) Time for Filing Record in Superior Court. The record on appeal shall be forwarded by the magistrate to the clerk of the superior court promptly upon the expiration of 30 days from the entry of the judgment appealed from.

(c) Power of Court to Correct or Modify Record. If any difference arises as to whether the record on appeal truly discloses what occurred in the magistrate court, the difference shall be submitted to and settled by the superior court and the record made to conform to it. If anything material to either party is omitted from the record on appeal by error or accident or is misstated therein, the parties by stipulation, or the superior court on motion or of its own initiative may direct that the omission or misstatement shall be corrected, and if necessary that a supplemental record shall be certified and transmitted by the magistrate court.

Rule 105. Supervision by Superior Court.

The supervision and control of the proceedings on appeal shall be in the superior court from the time the record on appeal is filed with that court. The court may at any time, upon notice, entertain appropriate motions which shall include motions to dismiss the appeal, for directions to the magistrate, or to modify or vacate any order or action of the magistrate in relation to the appeal.

Rule 106. Dismissal of Appeal.

(a) Dismissal By Agreement - Magistrate Court. If the record on appeal has not been filed with the superior court the parties, with the approval of the magistrate, may dismiss the appeal by stipulation filed with the magistrate, or the magistrate may dismiss the appeal upon the motion and notice by the appellant.

(b) Dismissal By Agreement - Superior Court. Whenever the parties shall file with the clerk of the superior court an agreement in writing that an appeal be dismissed, specifying the terms with respect to costs, and shall pay to the clerk of that court any fees that may be due him, the clerk shall enter an order of dismissal of the appeal without further reference to the court.

(c) Dismissal By Appellant. Whenever an appellant shall file with the clerk of the superior court a motion to dismiss an appeal, with proof of service as prescribed by these rules, and shall tender to the clerk any fees and costs that may be due, the adverse party, within 10 days after service thereof, may file an objection. Within 5 days thereafter the party moving for dismissal may file a reply, after which time the matter shall be presented to the superior court for its determination. If no objection is filed, the clerk shall enter an order of dismissal without further reference to the court.

(d) Dismissal in Other Cases. At any time the superior court may entertain a motion to dismiss an appeal for failure to prosecute the same or for failure to comply with these rules.

(e) Costs. If an appeal is dismissed by order of the superior court, the court may make such order for the payment of costs as it may deem proper.

Rule 107. Hearing Appeal on Record - Trial De Novo - Authority of Superior Court.

(a) Hearing Appeal on Record. All appeals shall be on the record unless the superior court, in its discretion, shall grant a trial de novo, in whole or in part.

(b) Trial De Novo. If the superior court shall grant a trial de novo, in whole or in part, the action shall be considered as having been commenced in that court at the time the record on appeal is filed. All further proceedings in such action shall be governed by the rules governing procedure in the superior court, except that no summons nor any amended or additional pleadings shall be served unless authorized or required by the court. The hearing or trial of the action shall be upon the record thus filed and upon such evidence as may be produced in the superior court.

(c) Authority of Superior Court. Upon consideration of such appeal, the superior court may affirm, modify, vacate, set aside or reverse the judgment of the magistrate court, and may remand the action and direct the entry of such appropriate judgment or order, or require further proceedings to be had, as may be just under the circumstances.

Rule 108. Death of a Party.

(a) Substitution. The death of a party shall not affect any appeal taken or the right to take an appeal, except as limited by subdivision (b) of this rule. The proper representatives

of the estate, or in the personalty or realty, of the deceased party, according to the nature of the case, may voluntarily appear and be substituted as parties for the decedent, or substitution may be effected as in the case of death of a party pending an action in the superior court. Thereupon proceedings shall be had as in other cases.

(b) Time. The times specified in these rules for taking an appeal, or for taking any of the further steps to secure a review of the judgment appealed from, shall be extended for the time necessary to enable such representatives to be substituted for the deceased party; provided, that such time shall not extend for more than sixty (60) days after the date of death of such party. If substitution is not effected within such period, the rules relating to the time for taking an appeal, or for taking such further steps to secure review of the judgment appealed from, shall be as fully applicable as in other cases.

(j) Discharge and Excuse. A grand jury shall serve until discharged by the presiding superior court judge of the judicial district but no grand jury may serve more than 5 months, unless for good cause such period is extended. The tenure and powers of a grand jury are not affected by the beginning or expiration of a term of court. At any time for cause shown the presiding judge may excuse a juror either temporarily or permanently, and in the latter event said judge may impanel another person in place of the juror excused.

(k) Other Powers and Duties. The grand jury shall have such other powers and duties, not inconsistent with these rules, as are provided by law.

(l) Delegation of Duties. Where a superior court is sitting in a location other than that in which the presiding judge is sitting, the presiding judge may delegate his duties under this rule to another superior court judge.

Rule 7. The Indictment and Information.

(a) Use of Indictments and Informations. An offense which may be punished by imprisonment for a term exceeding one year shall be prosecuted by indictment, unless indictment is waived. Any other offense may be prosecuted by indictment or information. An information may be filed without leave of court.

(b) Waiver of Indictment. An offense which may be punished by imprisonment for a term exceeding one year may be prosecuted by information if the defendant, after he has been advised of the nature of the charge and of his rights, waives in open court prosecution by indictment.

(c) Nature and Contents. The indictment or the information shall be a plain, concise and definite written statement

of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to such statement. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that he committed it by one or more specified means. The indictment or information shall state for each count the official or customary citation of the statute, rule, regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to his prejudice. When an indictment is found the names of all witnesses examined before the grand jury must be inserted at the foot of the indictment, or endorsed thereon, before it is presented to the court.

(d) Surplusage. The court, on motion of the defendant, may strike surplusage from the indictment or information.

(e) Amendment of Information. The court may permit an information to be amended at any time before verdict or finding if no additional or different offense is charged and if substantial rights of the defendant are not prejudiced.

(f) Bill of Particulars. The court shall direct the filing of a bill of particulars when the indictment or information is not sufficiently specific to enable the defendant to prepare his defense. A motion for a bill of particulars may be made only within ten (10) days after arraignment or at such other time before or after arraignment as may be prescribed by rule or order. A bill of particulars may be amended at any

court may grant the motion only on remand of the case. A motion for a new trial based on any other grounds shall be made within 5 days after verdict or finding of guilty, or within such further time as the court may fix during the 5-day period.

Rule 34. Arrest of Judgment.

A motion in arrest of judgment following a plea or verdict of guilty may be founded on one or more of the following grounds, and not otherwise:

First. That the grand jury by which the indictment was found had no legal authority to inquire into the crime charged, or that the court was without jurisdiction of the offense charged.

Second. That the facts stated in the indictment or information do not constitute a crime.

Third. That the defendant has been formerly convicted or acquitted of the same offense.

The motion shall be made within five days after verdict or finding of guilt, or within such further time as the court may fix during the 5-day period.

Rule 35. Reduction, Correction or Suspension of Sentence - Motion Attacking Sentence.

(a) Correction or Reduction of Sentence. The court may correct an illegal sentence at any time. The court may reduce a sentence within 60 days after the sentence is imposed, or within 60 days after receipt by the court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, or within 60 days after receipt of an order of the supreme court of the state or of the United States denying an application for relief.

(b) Motion Attacking Sentence. A prisoner in custody under sentence of the District Court for the District (Territory) of Alaska or the superior court of the State of Alaska claiming the right to be released upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States or the Constitution or laws of Alaska, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence or its successor, to vacate, set aside or correct the sentence.

A motion for such relief may be made at any time.

Unless the motion and the files and records of the case conclusively show that the prisoner is entitled to no relief, the court shall cause notice thereof to be served upon the State District Attorney, grant a prompt hearing thereon, determine the issues and make findings of fact and conclusions of law with respect thereto. If the court finds that the judgment was rendered without jurisdiction, or that the sentence imposed was not authorized by law or otherwise open to collateral attack, or that there has been such a denial or infringement of the constitutional rights of the prisoner as to render the judgment vulnerable to collateral attack, the court shall vacate and set the judgment aside and shall discharge the prisoner or resentence him or grant a new trial or correct the sentence as may appear appropriate.

A court may entertain and determine such motion without requiring the production of the prisoner at the hearing.

The sentencing court, or its successor, shall not be required to entertain a second or successive motion for similar relief on behalf of the same prisoner.

appeal may be taken to the supreme court from the order entered on the motion as from a final judgment on application for a writ of habeas corpus.

An application for a writ of habeas corpus in behalf of a prisoner who is authorized to apply for relief by motion pursuant to this subdivision, shall not be entertained if it appears that the applicant has failed to apply for relief, by motion, to the court which sentenced him, or its successor, or that such court has denied him relief, unless it also appears that the remedy by motion is inadequate or ineffective to test the legality of his detention.

(c) Suspension of Sentence and Probation After Judgment. Within sixty days after judgment of conviction of any offense, the court may entertain an application for suspension of sentence or probation in the cases prescribed by law.

Rule 36. Clerical Mistakes.

Clerical mistakes in judgments, orders or other parts of the record, and errors in the record arising from oversight or omission, may be corrected by the court at any time and after such notice, if any, as the court orders.

PART VIII. SPECIAL PROCEEDINGS

Rule 37. Search and Seizure.

(a) Search Warrant; Issuance and Contents. A search

discretion may entertain the motion at the trial or hearing.

(d) Return of Papers to Clerk. The judge or magistrate who has issued a search warrant shall attach to the warrant a copy of the return, inventory and all other papers in connection therewith and shall file them with the clerk of the superior court in the judicial district in which the property was taken.

PART IX. GENERAL PROVISIONS

Rule 38. Presence of the Defendant.

The defendant shall be present at the arraignment, at every stage of the trial including the impaneling of the jury and the return of the verdict, and at the imposition of sentence, except as otherwise provided by these rules. In prosecutions for any offense, the defendant's voluntary absence after the trial has been commenced in his presence shall not prevent continuing the trial to and including the return of the verdict. A corporation may appear by counsel for all purposes. In prosecutions for offenses punishable by fine or by imprisonment for not more than one year or both, the court, with the written consent of the defendant, may permit arraignment, plea, trial and imposition of sentence in the defendant's absence. The defendant's presence is not required at any hearing for reduction or correction of sentence under Rule 35.

Rule 39. Appearance by Counsel.

(a) Informing Defendant of Right to Counsel. If the defendant appear for arraignment or trial without counsel, the court shall advise him of his right to have counsel, and he must be asked if he desires the aid of counsel.

(b) Assignment of Counsel. If the defendant states that he desires the aid of counsel and is unable to employ counsel, and upon his making affidavit that he is without sufficient funds to employ counsel, the court shall assign counsel to represent him at every stage of the proceedings, who shall be allowed such fee for his services as may be fixed by the supreme court, to be paid by the state on approval by the administrative director. In the absence of a request by the defendant, the court, in its discretion, may also assign counsel when it deems it in the best interests of justice to do so.

Rule 40. Time.

(a) Computation. In computing any period of time the day of the act or event after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Sunday or legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday. When a period of time prescribed or allowed is less than 7 days, intermediate Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(b) Enlargement. When an act is required or allowed to be done at or within a specified time, the court for cause shown may at any time in its discretion (1) with or without motion or notice, order the period enlarged if application thereof is made before the expiration of the period originally prescribed or as extended by a previous order or (2) upon motion

generally observed throughout the state by all classes of business and all classes of persons.

Rule 24. Sittings of Courts.

(a) Court Hours. The supreme court and the superior courts shall sit from 10:00 a.m. to 12:00 noon, and from 2:00 p.m. to 4:00 p.m., unless the chief justice or the judge shall order otherwise. The district magistrate courts shall sit at the times and places designated by Rule 32 unless otherwise directed by the chief justice.

(b) Court Days. The superior court shall sit Monday through Friday, inclusive, for the conduct of its business. District magistrates and deputy magistrates shall sit on such days each week as are designated by Rule 32 or by the chief justice.

Rule 25. Proceedings in Open Court.

So far as practicable, all judicial business involving the trial of causes and conferences with members of the Bar or litigants shall be transacted in open court.

Rule 26. Power of Court to Provide Proper Facilities for Transaction of Business in Court; Payment of Expenses.

If the state does not provide proper rooms in which to hold the court and for the accommodation of the officers of the court, together with attendants, furniture, fuel, lights, and stationery, suitable and sufficient for the transaction of business, the chief justice may direct the administrative director

of courts to provide them. The expenses thereof, certified by the chief justice to be correct, shall be paid out of the state treasury.

Rule 27. Chief Clerk - Supreme Court.

(a) Appointment. The supreme court shall appoint a clerk of that court to serve at the pleasure of the court at a salary to be set by the court.

(b) Duties. The clerk of the supreme court shall perform such duties as are or may be required of him by the rules and practices of the supreme court.

(c) When Clerk's Office is Open. The clerk's office with the clerk or a deputy in attendance shall be open during business hours on all days except judicial holidays and Saturday afternoons.

Rule 28. Traveling Expenses of Superior Court Judges.

Each superior court judge shall, upon his certificate, be paid all necessary traveling expenses and per diem as provided by law while attending court or transacting official business at a place other than his official station.

The official station of each superior court shall be that place where a regular session of the superior court is held and at or near which the judge performs a substantial portion of his judicial work, which is nearest the place where he maintains an actual abode in which he customarily lives.

Rule 29. Superior Court, Sessions.

(a) Regular Sessions. Except as otherwise provided by special order of the supreme court, regular sessions of the superior courts shall be held in each judicial district at the places hereinafter designated commencing on a date to be announced by order of the court;

(1) First judicial district: regular sessions shall be held at Juneau and Ketchikan.

(2) Second judicial district: regular sessions shall be held at Nome.

(3) Third judicial district: regular sessions shall be held at Anchorage.

(4) Fourth judicial district: regular sessions shall be held at Fairbanks.

(b) Special Sessions. Special sessions shall be held at such other times and places as may be prescribed by order of the chief justice after appropriate notice.

Rule 30. Clerk - Superior Court - Appointment - Duties.

(a) Appointment. A majority of the superior court judges of each district, where the courts are all located in the same city, shall appoint a clerk of the superior court for that district. Where the courts are located in different cities of the same district, each superior court judge shall appoint the clerk for his court. Clerks shall hold office and be removable at the pleasure of the appointing authority.

(b) Duties. The clerk of the superior court shall:

(1) Attend sessions of the superior court in

his district and upon a judge or judges of the court in chambers when required.

(2) Keep such indexes as will insure ready reference to any action or proceeding filed in the court. There shall be separate indexes of plaintiffs and defendants in civil actions and of defendants in criminal actions. The name of each plaintiff and defendant shall be indexed, and there shall appear opposite each name indexed the number of the action or proceeding and the name or names of the adverse litigant or litigants.

(3) Issue all process and notices required to be issued.

(4) Keep the minutes and maintain such other records of the court as are required by the rules and the administrative director.

(5) Safely keep or dispose of, according to law or rule of the supreme court, all papers and records filed or deposited in any action or proceeding before the court.

(6) Perform such duties as are or may be required of him by the superior court and by the rules of the supreme court.

Rule 31. Number and Location of District Magistrates and Deputy Magistrates.

(a) District Magistrates. The district magistrate court in each judicial district shall have the number of district magistrates as set forth below:

First Judicial District - 4

Second Judicial District - 1

Third Judicial District - 4

Fourth Judicial District - 2

The number of district magistrates may be changed from time to time by the supreme court as circumstances require.

(b) Deputy Magistrates. Deputy Magistrates shall be appointed to serve at the places indicated below:

First Judicial District

Wrangell	Haines	Kake
Petersburg	Hoonah	Skagway
Craig	Hyder	Yakutat

Second Judicial District

Candle	Barrow	Fortuna Ledge
Kotzebue	Unalakleet	

Third Judicial District

Cold Bay	Iliamna	Seldovia
Shemya	Whittier	Seward
Dillingham	Kenai	Talkeetna
Copper Center	Kodiak	Unalaska
Cordova	Naknek	Valdez
Homer	Palmer	

Fourth Judicial District

Bethel	McGrath	Galena
Ophir	Rampart	Big Delta
Tanana	Manley Hot Springs	Fort Yukon
Aniak	Nenana	Tok

The number and location of deputy magistrates may be changed from time to time by the supreme court as circumstances require.

Rule 32. District Magistrate Courts - Time and Place of Sitting.

(a) Regular Sessions. Except as otherwise provided by order of the supreme court, the district magistrate court in each judicial district shall sit at the places hereinafter designated:

- (1) First judicial district: Juneau, Sitka and Ketchikan
- (2) Second judicial district: Nome
- (3) Third judicial district: Anchorage
- (4) Fourth judicial district: Fairbanks

(b) District Magistrates - When Open for Business.
The district magistrate courts shall always be open for the transaction of business, except on judicial holidays; provided, however, that the courts may at any time:

- (1) Exercise their powers in a criminal action, or in a proceeding of a criminal nature, including the issuance of orders pertaining to bail,
- (2) Receive a verdict or discharge a jury,
- (3) Issue writs of habeas corpus,
- (4) Issue warrants of arrest and summons and search warrants.

(c) District Magistrates - Time of Sitting - Office Hours. The district magistrates shall sit in the conduct

to the status of the calendars of all deputy magistrate courts in the district and shall visit the deputy magistrate courts of the district as often as required by the presiding superior court judge for the purpose of trying accumulated cases beyond the jurisdiction or ability of the deputy magistrates. The traveling magistrate shall make such examinations, inspections and reports on the deputy magistrate courts and other functions performed by those officials as may be required by the administrative director. The traveling magistrate shall act as master for any superior court judge when required, in order to expedite the efficient handling of judicial matters in outlying areas.

Rule 40. Deputy Magistrates May Accept Cases for Filing - To Furnish Calendar Data - To Act as Clerks of Court for District Magistrate.

(a) Deputy magistrates may accept for filing civil cases beyond their jurisdiction but within the jurisdiction of the district magistrate. Such civil cases, along with any pending criminal cases, will be tried by the traveling district magistrate on periodic visits to the area. In all matters relating to such cases, both civil and criminal, the deputy magistrates shall act as clerks of court for district magistrates.

(b) Deputy magistrates shall immediately notify the presiding superior court judge of their district in writing, with a copy to the presiding district magistrate of their district, as soon as any case beyond their jurisdiction becomes at issue. Such notification shall contain a brief description of the case, whether jury or non-jury, and an estimate of the length of time required for trial.

(c) If in the course of any preliminary proceedings connected with a case, or during the trial, or after judgment, a

deputy magistrate for any reason feels technically unqualified to proceed further, he may, without prejudice to the rights of the parties, refer the matter to the traveling district magistrate for further proceedings.

Rule 41. Magistrates and Deputy Magistrates to Act as Magistrates for Political Subdivision.

(a) A district magistrate shall preside over any court heretofore operated by a political subdivision in or near the city where a district magistrate is assigned. The district magistrate shall hold such sessions of court as are required by the laws of the political subdivision and shall cooperate in every reasonable manner with the officials and enforcement officers of the political subdivision to the end that magistrate services rendered and available are equal or superior to those previously existing.

(b) If no district magistrate is stationed near a court heretofore operated by a political subdivision, then a deputy magistrate shall preside in such court. The deputy magistrate shall hold such sessions of court as are required by the laws of the political subdivision and shall cooperate in every manner with the officials and enforcement officers of the political subdivisions to the end that magistrate services rendered and available are equal or superior to those previously existing.

(c) Where more than one magistrate or deputy magistrate is assigned to a district magistrate court rendering magistrate services to a political subdivision, all such magistrates are to be considered equally available to enforcement officers in emergencies.

Rule 56. Marriage Commissioners - Fees to be Charged -
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(a) Fees to be Charged. Marriage commissioners shall charge the following fees for the services indicated:

(1) Issuance of marriage license and marriage certificate - \$5.00.

(2) Performance of marriage ceremony - not to exceed \$10.00.

(b) Disposition of Fees. Of the \$5.00 fee received for issuance of the marriage license and marriage certificate, \$2.50 shall be remitted to the appropriate recording magistrate. All other fees collected shall be retained by the marriage commissioner as compensation for his services.

[Adopted by Supreme Court Order No. 21, dated May 25, 1960.]

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