

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1691

Amending Civil Rule 85 concerning
dismissal of FED cases by clerk.

IT IS ORDERED:

Civil Rule 85 is amended to read as follows:

Rule 85. Forcible Entry and Detainer.

(a) **Practice and Procedure.** In an action for the possession of any land, tenement or other real property brought under the forcible entry and detainer provisions of law, the practice and procedure shall be as in other civil actions, subject to the following:

(1) *Complaint.* The premises claimed shall be described in the complaint with such certainty that the defendant will be distinctly advised of their location so that possession thereof may be delivered according to that description. The complaint must contain a notice describing the circumstances under which the clerk may dismiss the case under subsection (a)(6) of this rule. This notice will be printed in the forcible entry and detainer complaint forms approved by the administrative director. If the plaintiff files an action without using the court form, the complaint must nonetheless contain a notice that is identical to that which appears in the court form. The notice shall serve as the actual notice to all parties that is required by paragraph (a)(6) of this rule.

(2) *Summons.* * * * *

(3) *Continuances.* * * * *

(4) *Appearance by Defendant.* * * * *

(5) *Service - How Made.* * * * *

(6) *Dismissal of Action for Want of Prosecution.*

(A) *By Clerk - Additional Notice to Parties Not Required.* A forcible entry and detainer case may be dismissed by the clerk for want of prosecution without further notice to the parties and without further order if

(i) the case has been pending for more than 180 days from the date the complaint was filed;

(ii) no trial or hearing is scheduled;

(iii) no application for default judgment has been filed; and

(iv) the parties had actual notice that the case could be dismissed under this paragraph; actual notice of the procedure for dismissal of a forcible entry and detainer case shall be provided in all forcible entry and detainer complaints as provided in subsection (a)(1) of this rule.

(B) *By Order of Court.* The court on its own motion or on motion of a party to the action may enter a judgment of dismissal if the plaintiff fails to appear for a scheduled trial or hearing.

(C) *Dismissal Without Prejudice.* A case dismissed for want of prosecution under this rule is dismissed without prejudice unless otherwise ordered by the court. Any party may, as a matter of right, reopen a case that was dismissed for want of prosecution without refiling the action by making a request in writing to the clerk of court no later than one year after dismissal.

(b) **Referral to District Courts for Trial.** Any such action filed in the superior court may be referred by the court to a district court for trial when the amount does not exceed the jurisdiction of district court.

DATED: January 7, 2010

EFFECTIVE DATE: April 15, 2010

/s/
Chief Justice Carpeneti

/s/
Justice Fabe

/s/
Justice Winfree

/s/
Justice Christen

/s/
Justice Stowers