

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1766

Amending Civil Rule 5.1
concerning service by electronic
mail and court's authority to
accept documents by electronic
mail; and

Amending Civil Rule 6(c)
concerning computation of time.

IT IS ORDERED:

1. Civil Rule 5.1 is amended to read as follows:

**Rule 5.1. Filing and Service by Facsimile Transmission and
Electronic Mail.**

(a) Filing by Facsimile Transmission and Electronic Mail.

(1) A party may file documents by fax or electronic mail as permitted by administrative order of the presiding judge or with prior written consent of the judge assigned to the case. Unless the court orders that the original document be filed, a party filing a document by fax or electronic mail shall retain the original and shall produce it for inspection upon request of another party to the action or as ordered by the court.

(2) An administrative order permitting documents to be filed by fax or electronic mail may set limits on the size of electronic documents that can be accepted, the format of the documents, the frequency with which a party may file documents, and may establish other particular requirements and limitations.

(3) Documents filed by fax or electronic mail that are received by the court before 4:30 p.m. on a day that the court is open for regular business are deemed to have been filed on that business day; documents filed by fax or electronic mail that are received by the court after 4:30 p.m. are deemed to have been filed on the next day that is not a Saturday, Sunday, or a judicial holiday listed in Administrative Rule 16.

(b) Filing Foreign Domestic Violence Protective Orders by Facsimile Transmission. Notwithstanding any general administrative orders concerning fax filings issued under (a) of this rule, a court shall accept faxed certified copies of domestic violence protective orders issued by other states, tribes, or territories if (1) the order is faxed by the issuing court, and (2) the facsimile contains a certification that the faxed order is a true and correct copy of the original order on file with the issuing court.

(c) Service by Facsimile Transmission and Electronic Mail.

(1) *Application of this Rule.* This rule governs the service of documents by fax or electronic mail. It applies only to documents that may be served under Civil Rule 5(b). It does not apply to documents that must be served under Civil Rule 4. It applies to service by parties and by the court.

(2) *Method of Service.* Service by fax is made by successfully transmitting the document to the facsimile machine telephone number of a person who has consented to be served in this manner. Service by electronic mail is made by successfully sending an electronic file to an electronic mail address of a person who has consented to be served in this manner.

Additional service by mail is not required; however, a copy of the document must be mailed to the person upon request.

(3) *Consent to Service.* A person who is willing to accept service by fax or electronic mail in an action shall so indicate beneath the signature in the person's initial filing or by serving and filing a separate notice of consent. A party may revoke consent by serving and filing a separate notice that consent has been revoked.

(4) *Page Limit.* A person may serve by fax a total of 25 pages per recipient per day unless the parties have agreed to a different page limit. Cover sheets and separators do not count toward the page limit.

(5) *When Service is Complete.* Service by electronic mail is complete upon receipt in the party's electronic mail account. Service by fax is complete upon receipt of the entire document by the receiving party's facsimile machine. Service that occurs in whole or in part after 4:30 p.m. shall be deemed to have occurred at the opening of business on the next day that is not a Saturday, a Sunday, or a judicial holiday listed in Administrative Rule 16. (6) *Proof of Service.* If service is made by fax or electronic mail, proof of service must be made by affidavit of the person making service, or by certificate of an attorney, an authorized agent of the attorney, or a pro se litigant. The affidavit or certificate must include the following information:

(A) the date and time of the transmission;

(B) the telephone number of the transmitting facsimile machine if service is made by fax, or the electronic mail address from which the electronic mail was sent, if the service was made by electronic mail;

(C) the recipient's name and facsimile machine telephone number, or electronic mail address;

(D) the number of pages transmitted; and

(E) a statement that the document was transmitted by facsimile transmission or electronic mail and the person signing the affidavit or certificate believes the transmission to have been complete and without error.

In lieu of including this information, the person signing the affidavit or certificate may attach a copy of the transmission report issued by the transmitting facsimile machine if the report is an accurate record of the transmission.

2. Civil Rule 6(c) is amended to read as follows:

Rule 6. Time.

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(c) **Additional Time After Service or Distribution by Non-Electronic Mail.** Whenever a party has the right or is required to act within a prescribed period after the service or distribution of a document, other than documents served under Civil Rule 4(h), and the document is served or distributed by non-electronic mail, three calendar days shall be added to the prescribed period.

However, no additional time shall be added if a court order specifies a particular calendar date by which an act must occur.

DATED: September 29, 2011

EFFECTIVE DATE: October 14, 2011

/s/
Chief Justice Carpeneti

/s/
Justice Fabe

/s/
Justice Winfree

/s/
Justice Christen

/s/
Justice Stowers