

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 669

Adding for two year period experimental Civil Rule 16.1 referred to as the "Fast Track Rule" relating to reducing litigation delay.

IT IS ORDERED:

Alaska Rule of Civil Procedure 16.1 is added as follows:
Rule 16.1. Special Procedures for Reducing Litigation Delay.

(a) General.

This rule has been adopted by the Alaska Supreme Court on a provisional basis for the purpose of enabling trial courts in designated locations to adopt special procedures for the reduction of delay in civil litigation. More specifically, it is the intent of this rule to resolve more swiftly and in a less costly manner the majority of civil cases.

(b) Cases to Which Rule Applies.

(1) Civil cases to which this rule shall presumptively apply shall be those civil cases identified in an appropriate administrative order issued by the Presiding Judge of the Judicial District in which this rule has been invoked.

(2) Cases filed after the adoption and implementation of this rule will be assigned to appropriate calendars promptly after they are filed. For this purpose, plaintiffs and/or their counsel shall file and serve with their complaints a "case-characterization form," to be provided by the Clerk's Office. Such form shall indicate the type of case, number of parties, estimated trial time and other pertinent information.

Any party objecting to the plaintiff's characterization of the case may file and serve an opposition to plaintiff's case characterization, along with the answer or responsive pleading. Such opposition shall specifically set forth defendant's characterization of the case, estimate of trial time and number of parties and other related information.

(3) Contested case characterizations and/or calendaring assignments shall be promptly resolved by the Presiding Judge of the Judicial District in which this rule has been invoked.

The Presiding Judge may request a recommendation from the trial judge to whom the case was initially assigned. The decision of the Presiding Judge on the issue shall be final.

(c) Motion to Set Trial and Certificate. A Motion to Set Trial may not be filed until 105 days after service of the summons and complaint. A party seeking to obtain a trial date must serve and file a Motion to Set Trial together with a Certificate, signed by counsel, stating:

(1) That the issues in the case have actually been joined;

(2) That all parties have completed discovery or will have a reasonable opportunity to do so within the next 60 days;

(3) That the procedure for listing witnesses and exhibits and providing exhibit copies, as set forth in paragraph (d) of this Rule has been completed;

(4) Whether trial by jury has been timely demanded;

(5) The estimated number of days for the trial, including estimates for each party's case and for jury selection;

(6) The names, addresses and telephone numbers of all attorneys and pro se parties who are responsible for the conduct of the litigation;

(7) Which, if any, statute or rule entitles the case to preference on the trial calendar;

(8) That the parties have complied with paragraph (k) of this Rule.

(d) Witness and Exhibit List and Exhibit Copies. A party desiring to file a Motion to Set Trial must first serve on all other parties and file with the court a list of witnesses and exhibits expected to be used at trial. Evidence to be used solely for impeachment is excepted. This service and filing may not occur until 90 days after service of the summons and complaint. Within 15 days after service of the witness and exhibit list and exhibit copies all other parties shall file their lists of witnesses and exhibits and exhibit copies. For good cause shown, the trial court may extend the foregoing time period for the filing of parties' witness and exhibit lists and

exhibit copies. After all necessary filings under this section are made or the time for such filings has expired, any party may serve and file a Motion to Set Trial and Certificate under paragraph (c) of this Rule.

(e) Opposition Certificate. Within 10 days after a Motion to Set Trial and Certificate have been filed any other party may file an Opposition Certificate. It shall not exceed two pages in length. The Opposition Certificate shall identify the specific statements in the Certificate which are objected to and provide a concise statement of reasons for the objection.

(f) Active Calendar. If an Opposition Certificate has been timely filed, the court shall decide without oral argument the motion and opposition. Where the opposition is without good cause, the assigned judge shall immediately set a trial setting conference date on the earliest calendar opening within at least 60 days. A later date may be set only where good cause therefor is found in the Opposition Certificate. If an Opposition Certificate has not been filed, the court shall proceed as if the opposition is without good cause.

(g) Inactive Calendar and Dismissal. Where a Motion to Set Trial and Certificate have not been filed within 270 days after the service of the summons and complaint, the case shall be transferred to the Inactive Calendar by the clerk of the court. The clerk shall promptly notify counsel in writing of the transfer. All cases which remain on the inactive calendar for more than 60 days shall be dismissed, unless within that period: (1) A proper Motion to Set Trial and Certificate is filed; or (2) the Court on motion for good cause orders a case continued on the inactive calendar for a specified additional period of time. Notwithstanding Civil Rule 41(b), the dismissal does not operate as an adjudication upon the merits unless a previous dismissal has been entered by the court under this rule, or by the plaintiff or parties under Civil Rule 41(a)(1). If a case dismissed under this rule is filed again, the court may make such order for the payment of costs of the case previously dismissed

as it may deem proper, and may stay the proceedings in the case until the party has complied with the order.

(h) Setting for Trial. The trial shall be calendared for the first available date within at least 120 days following the trial setting conference held pursuant to paragraph (f) of this rule. Preference shall be accorded cases entitled by law to priority on the trial calendar and cases estimated to require not more than two hours of trial. Counsel and pro se parties shall be provided not less than 60 days advance written notice of the trial date.

(i) Continuances. When a case has been set for trial no continuance of the trial may be granted except on motion and for extraordinary good cause.

(j) Amendments to Pleadings. Motions to amend pleadings shall be made as provided in Civil Rule 15.

(k) Discovery. Each party shall furnish to the other parties, without formal request or motion or court order therefor, the following items or information otherwise discoverable under Civil Rule 34, and shall do so not later than 75 days after service of the summons and complaint.

(1) All relevant contracts and all written and recorded communications, memoranda and notes which contain evidence relevant to the interpretation of such contracts and any claimed breaches thereof.

(2) All written documents evidencing any general, special, and consequential damages being claimed.

(3) All written and recorded statements from parties and witnesses.

(4) All investigative reports.

(5) All photographs of persons, objects, scenes and occurrences in issue.

(6) All diagrams prepared by parties, witnesses and investigators, which portray objects, scenes and occurrences in issue.

(7) Federal income tax returns for the preceding five years from all parties claiming past or future damages for lost income or income producing ability.

(8) Insurance policies and binders.

All other discovery shall be governed by the provisions of the Alaska Civil Rules, and shall have been completed by the deadline set forth in the pretrial order issued in each case.


(l) Conflict with other Civil Rules. In cases in which this Rule has been invoked, the provisions of this Rule shall supersede the provisions of any other Civil Rule in those instances in which a provision of this Rule conflicts with a provision of another Civil Rule. In all other instances, however, the provisions of all other Civil Rules shall remain in full force and effect.

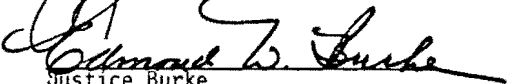
(m) Forms. The clerk's office shall develop and disseminate all appropriate forms for the implementation of this Rule.


Such forms shall include the Case Characterization Form, Notice of Transfer to Inactive Calendar and of Intent to Dismiss, Order of Dismissal with Prejudice, Motion to Set Trial, Certificate of Readiness, Order Invoking Civil Rule 16.1, and modified Pretrial Order.

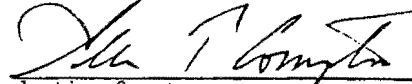
DATED: February 21, 1986


EFFECTIVE DATE: February 24, 1986


Chief Justice Rabinowitz


Justice Burke


Justice Matthews


Justice Compton


Justice Moore