

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1461

Amending Civil Rule 85(a) concerning
appearance, service and dismissal in
Forcible Entry and Detainer cases

IT IS ORDERED:

Civil Rule 85(a) is amended to read as follows:

Civil 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) *Description of Premises.* 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.

(2) *Summons.* Summons shall be served not less than two days before the day of the eviction hearing. The date set for the eviction hearing shall be not more than 15 days from the date of filing of the complaint unless otherwise ordered by the court.

(3) *Continuances.* No continuance shall be granted for a longer period than 2 days, unless the defendant applying therefor shall give an undertaking to the adverse party, with sureties approved by the court,

conditioned to the payment of the rent that may accrue if judgment is rendered against defendant.

(4) *Appearance by Defendant.* An appearance by a defendant at the eviction hearing is an appearance in the entire matter for purposes of Civil Rule 55(a).

(5) *Service—How Made.* A defendant cannot be served under Civil Rule 5 by mailing a copy of the document to the address from which the defendant was evicted unless the defendant's current mailing address and whereabouts are not readily ascertainable.

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

(A) *By Clerk.* A forcible entry and detainer case may be dismissed by the clerk for want of prosecution under the procedures set out in Civil Rule 41(e)(2) and (3) 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; and

(iii) no application for default judgment has been filed.

(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.

DATED: November 29, 2001
EFFECTIVE DATE: April 15, 2002

Chief Justice Fabe

Justice Matthews

Justice Eastaugh

Justice Bryner

Justice Carpeneti