

**IN THE SUPREME COURT OF THE STATE OF ALASKA**  
**ORDER NO. 1685**

Amending Civil Rule 53(d) and  
Probate Rule 2(b) concerning  
master reports.

**IT IS ORDERED:**

1. Civil Rule 53(d) is amended to read as follows:

**Civil Rule 53. Masters.**

\* \* \* \*

**(d) Report.**

(1) *Contents and Filing.* The master shall prepare a report upon the matters submitted to the master by the order of reference and, if required to make findings of fact and conclusions of law, the master shall set them forth in the report. The master shall file the report with the clerk of the court and in an action to be tried without a jury, unless otherwise directed by the order of reference, shall file with it ~~a transcript of the proceedings and of the evidence and~~ the original exhibits. The clerk shall forthwith mail to all parties notice of the filing.

(2) *In Non-Jury Actions.* Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for an action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 77. In an action to be tried without a jury,

(A) if no party files objections to the report, the court

~~may~~ shall accept the master's findings without conducting an independent review of the evidence presented to the master, unless clearly erroneous. ~~Within 10 days after being served with notice of the filing of the report any party may serve written objections thereto upon the other parties. Application to the court for an action upon the report and upon objections thereto shall be by motion and upon notice as prescribed in Rule 77.~~

(B) if any party files objections to the report, the court shall obtain and review a transcript or electronic recording of the portions of the proceedings that relate to the objections. The court must consider under a de novo standard of review all objections to findings of fact made or recommended in the report, and must rule on each objection. However, the parties may stipulate with the court's consent that the master's findings will be reviewed for clear error or that the master's findings will be final.

The court may adopt the report, or may modify it, or may reject it in whole or in part, or may receive further evidence, or may recommit it with instructions.

\* \* \* \*

CROSS REFERENCES: See CINA Rule 4, Probate Rule 2, Adoption Rule 3, and Delinquency Rule 4 for Appointment and Authority of Masters.

USE NOTE to subsection (d): "Independent review" means de novo review; that standard of review does not require a new or supplementary evidentiary hearing unless the trial court in its discretion determines that such additional proceedings are necessary.

2. Probate Rule 2(b) is amended to read as follows:

**Probate Rule 2. Appointment and Authority of Masters.**

(a) **Appointment.** \* \* \* \*

(b) **Authority, Order of Reference.**

\* \* \* \*

2. The following proceedings may be referred to a master:

- A. all decedent estate hearings;
- B. guardianship and conservatorship hearings under Title 13;
- C. mental commitment, alcohol or substance abuse commitment, and medication consent hearings under Title 47; for mental commitment, alcohol or substance abuse commitment, and medication consent hearings under Title 47, the master must file a transcript or electronic recording of the proceedings with the master's report;
- D. hearings on trusts;
- E. hearings on emancipations;
- F. authorization of emergency life-saving procedures pursuant to AS 13.26.140(f); and
- G. hearings in proceedings to bypass parental consent to an abortion under AS 18.16.030 and Probate Rule 20.

3. A master's report is not binding until approved by a superior court judge pursuant to Civil Rule 53(d) and paragraph (f) of this rule, except:

A. a master may enter orders without further approval of the superior court pursuant to Civil Rule 53(b) and (c), and paragraph (d) of this rule;

B. a master's order of removal of a personal representative and appointment of a successor personal representative is effective pending superior court review;

C. a master's order of commitment to a treatment facility is effective pending superior court review;

D. a master's determination of a patient's capacity to give informed consent to medication under AS 47.30.839 is effective pending superior court review; and

E. a master's authorization of emergency life-saving procedures pursuant to AS 13.26.140(f) is effective pending superior court review.

\* \* \* \*

DATED: December 19, 2008

EFFECTIVE DATE: December 19, 2008

/s/  
Chief Justice Fabe

/s/  
Justice Matthews

/s/  
Justice Eastaugh

/s/  
Justice Carpeneti

/s/  
Justice Winfree