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PART I. ORGANIZATION OF THE APPELLATE COURTS

Rule 101. Title of the Courts; Definitions.

(a) Part One of these rules (Rules 101 through 105) applies to the supreme court of the state of Alaska, referred to in these rules as the "supreme court," and to the court of appeals of the state of Alaska, referred to in these rules as the "court of appeals."

(b) As used in these rules, "appellate court" means the supreme court or the court of appeals. Unless the context clearly indicates otherwise, as used in these rules "justice" means a justice of the supreme court, including the chief justice, and "judge" means a judge of the court of appeals, including the chief judge.

(SCO 439 effective November 15, 1980; amended by SCO 888 effective July 15, 1988)

Rule 102. Clerk.

(a) The clerk of the appellate courts, referred to in these rules as the "clerk," is clerk of the supreme court and clerk of the court of appeals.

(b) The principal office of the clerk is located in Anchorage. The clerk shall also maintain offices in Juneau and at such other locations as the supreme court may designate.

(c) The clerk may not practice law in any court.

(d) The clerk shall, before entering office, take and subscribe to the oath set forth in section 5, article XII of the state Constitution and such further oaths or affirmations as may be prescribed by the legislature, and shall give bond in the sum to be fixed, and with sureties to be approved by the supreme court, faithfully to discharge the duties of the office. The bond shall be deposited for safekeeping as the supreme court may direct. The supreme court may permit the clerk to be covered under the blanket bond provided in Rule 34 of the Rules Governing the Administration of All Courts, in lieu of giving a separate bond.

(e) The clerk may not permit any original record or paper to be taken from the appellate courts, without an order from the appropriate court, except as otherwise provided in these rules.

(f) The clerk may reject a brief or other paper or document submitted for filing which fails to conform to the requirements of these rules. Upon the rejection of a submittal under the authority of this paragraph, the clerk shall notify the party and, where appropriate, specify the defect and provide a time for the filing of a corrected brief, paper or document.

(g) The clerk is appointed by, and serves at the pleasure of, the supreme court. The annual compensation of the clerk is on salary range 25 of the pay plan for classified and partially exempt employees.

(h) The clerk shall prepare and sign all judgments and orders of the appellate courts unless otherwise directed by the appropriate court.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 1153 effective July 15, 1994; by SCO 1522 effective October 15, 2003; and by SCO 1656 effective April 15, 2008)

Rule 103. Attorneys and Counselors.

(a) All attorneys admitted to practice law in the state of Alaska are qualified to practice in the appellate courts.

(b) On motion to either appellate court, other attorneys may be permitted to practice in that court pursuant to Civil Rule 81(a)(2) and (3). The clerk may determine motions filed under this section.

(c) If an attorney has been permitted to practice in the trial court under Civil Rule 81(a)(2), that attorney may be permitted to practice in the appellate court in the same action or proceeding without motion, upon filing with the clerk of the appellate courts a copy of the trial court's order permitting the attorney to practice, a copy of the certificate of good standing which was furnished to the trial court, and a statement of the name, address and telephone number of the local counsel with whom the attorney is associated.

(Amended by SCO 439 effective November 15, 1980; and by SCO 590 effective March 1, 1984)

Rule 104. Clerks to Justices Not to Practice.

No person serving as a law clerk, secretary, or other full-time officer or employee of the appellate courts or of a justice or judge of the appellate courts may engage in the private practice of law while continuing in that position; nor may the person ever participate, by way of any form of professional consultation or assistance, in any case which was pending in the court by which the person was employed during the period that the person held such position.

(SCO 439 effective November 15, 1980; amended by SCO 1153 effective July 15, 1994)

Rule 105. Quorum.

(a) A quorum of the supreme court consists of three justices. A quorum of the court of appeals consists of two judges.

(b) Pro tempore justices or judges shall be counted for purposes of a quorum.

(c) If a quorum does not attend on a day on which a session of court is scheduled, any justice or judge who does attend may adjourn the court from time to time, or in the absence of any justice or judge, the clerk may adjourn the court from day to day.

(d) A justice or judge attending when less than a quorum is present may make all necessary orders touching any pending proceeding.

(SCO 439 effective November 15, 1980; amended by SCO 888 effective July 15, 1988)

Rule 106. Precedential Effect of Certain Supreme Court Decisions.

(a) **Equally Divided Court.** In an appeal to the supreme court, any issue or point on appeal on which the justices are equally divided is affirmed in that appeal, but the issue or point decided by an equally divided court shall not have precedential effect.

(b) **Two-to-One Vote in Supreme Court.** In an appeal that is decided with only three of five supreme court justices participating, any issue or point on appeal that the court decides by a two-to-one vote is decided only for purposes of that appeal, and shall not have precedential effect.

(Added by SCO 1742 effective November 10, 2010; amended by SCO 1759 effective July 21, 2011)

PART II. PROCEDURE ON APPEALS AS OF RIGHT

Rule 201. Scope of Part Two.

(a) Part Two of these Rules (Rules 201 through 220) applies to appeals as of right, whether to the court of appeals under AS 22.07.020 or to the supreme court under AS 22.05.010. The "court" or "appellate court" referred to in Part Two of these rules is the court of appeals, if the appeal is taken to that court, or the supreme court, if the appeal is taken to that court.

(b) The "trial court" referred to in Part Two of these rules is the district court, if that court entered the judgment being appealed, or the superior court, if that court entered the judgment being appealed.

(SCO 439 effective November 15, 1980; amended by SCO 537 effective October 1, 1982; by SCO 581 effective February 1, 1984; by SCO 926 effective January 15, 1989; and by SCO 1279 effective July 31, 1997)

Rule 201.1. Appeals from the Alaska Workers' Compensation Appeals Commission.

(a) Part Two of these rules (Rules 201 through 220) applies to appeals as of right to the supreme court from a final decision of the Alaska Workers' Compensation Appeals Commission under AS 23.30.129.

(b) The "trial court" referred to in Part Two of these rules includes the Alaska Workers' Compensation Appeals Commission, if that commission entered the decision being appealed under AS 23.30.129.

(c) The "judgment" referred to in Part Two of these rules includes the final decision of the Alaska Workers' Compensation Appeals Commission, if that commission entered the decision being appealed under AS 23.30.129.

(SCO 1671 effective October 15, 2008)

Rule 202. Judgments from Which Appeal May Be Taken.

(a) An appeal may be taken to the supreme court from a final judgment entered by the superior court, in the circumstances specified in AS 22.05.010, or from a final decision entered by the Alaska Workers' Compensation Appeals Commission in the circumstances specified in AS 23.30.129.

(b) An appeal may be taken to the court of appeals from a final judgment entered by the superior court or the district court, in the circumstances specified in AS 22.07.020.

(SCO 439 effective November 15, 1980; amended by SCO 1204 effective July 15, 1995; and by SCO 1671 effective October 15, 2008)

Rule 203. Supervision and Control of Proceedings.

The supervision and control of the proceedings on appeal is in the appellate court from the time the notice of appeal is filed with the clerk of the appellate courts, except as otherwise provided in these rules. The appellate court may at any time entertain a motion to dismiss the appeal, or for directions to the trial court, or to modify or vacate any order made by the trial court in relation to the prosecution of the appeal, including any order fixing or denying bail.

(SCO 439 effective November 15, 1980; amended by SCO 572 effective February 1, 1984; by SCO 1155 effective July 15, 1994; and by SCO 1671 effective October 15, 2008)

Rule 204. Appeal: Time—Notice—Bonds.

(a) **When Taken—Appeals and Cross-Appeals.**

(1) *Appeals.* The notice of appeal shall be filed within 30 days from the date shown in the clerk's certificate of distribution on the judgment appealed from, unless a shorter time for filing a notice of appeal applies as provided by Rules 216-219, or unless a different time applies as provided in AS 23.30.128(g).

(2) *Subsequent Appeals.* If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the date shown in the clerk's certificate of distribution on the judgment, whichever period expires last. A post-judgment order awarding or denying costs, attorney's fees, prejudgment interest, or restitution, or a final judgment that has been amended to award or deny costs, attorney's fees, prejudgment interest, or restitution, may be appealed by filing either a notice of appeal or a motion to amend the points on appeal under subparagraph (a)(5)(A) of this rule within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the

date shown in the clerk's certificate of distribution on the order, whichever period expires last.

(3) *Motions That Terminate Time for Filing Appeals in Civil Cases.* In a civil case, the running of the time for filing an appeal is terminated by a timely motion filed in the trial court pursuant to those rules of civil procedure enumerated in this section or by AS 23.30.128. The full time for an appeal by any party begins to run again on the date of notice, as defined in Civil Rule 58.1 (c), of any of the following orders made on timely motion:

(A) Granting or denying a motion for judgment under Civil Rule 50(b);

(B) Granting or denying a motion to amend or make additional findings of fact under Civil Rule 52 (b) whether or not an alteration of the judgment would be required if the motion is granted;

(C) Granting or denying a motion to alter or amend a judgment under Civil Rule 59;

(D) Denying a new trial under Civil Rule 59;

(E) Granting or denying a motion for reconsideration filed in the trial court under Civil Rule 77(k) on the date of notice as defined by Civil Rule 58.1(c) or on the date of denial of the motion pursuant to Civil Rule 77(k)(4), whichever is earlier;

(F) Granting or denying a request for reconsideration filed in the Alaska Workers' Compensation Appeals Commission under AS 23.30.128(f) or on the date the request is deemed denied pursuant to that section, whichever is earlier; or

(G) Granting or denying a petition for rehearing under Appellate Rule 506 in an appeal from an administrative agency other than the Alaska Workers' Compensation Appeals Commission.

(4) *Motions That Terminate Time for Filing Appeals in Criminal Cases.* In a criminal case, if a timely motion for a new trial or in arrest of judgment, or a timely motion for reconsideration has been filed in the superior court, or if a motion for reduction, correction, or suspension of sentence under Criminal Rule 35 has been made within the 30-day period following the date shown in the clerk's certificate of distribution on the judgment, an appeal from a judgment may be filed within 30 days after the date of notice of the order deciding the motion. Date of notice is defined in Criminal Rule 32.3(c). A timely motion for reconsideration filed in the trial court under Criminal Rule 42(k) is decided on the date of notice of the order deciding the motion, or on the date of denial of the motion pursuant to Criminal Rule 42(k)(4), whichever is earlier.

(5) *Effect of Taxing of Costs and Prejudgment Interest and Awarding of Attorney's Fees; Effect of Pending Restitution Determination.*

(A) The running of the time for filing an appeal is not terminated by proceedings related to the taxing of costs pursuant to Civil Rule 79, while awaiting calculation of prejudgment interest or proceedings related to the award of attorney's fees, or while awaiting determination of restitution under Criminal Rule 32.6 or Delinquency Rule 23.2. However, the statement of points on appeal filed pursuant to Appellate Rule 204(e) and the designation of transcript filed pursuant to Appellate Rule 210(b)(1) may be amended on motion by an appellant or cross-appellant to include the award or denial of costs and attorney's fees or prejudgment interest or issues relating to the determination of restitution and pertinent portions of the electronic record. These subjects will thereafter be considered part of the appeal if covered in the brief of appellant or cross-appellant. If no appeal is pending, a post-judgment order awarding or denying costs, attorney's fees, prejudgment interest, or restitution may be considered a final judgment subject to an appeal limited to issues of costs, attorney's fees, prejudgment interest, or restitution. Any subsequent appeals of this order allowed under paragraph (a)(2) of this rule also will be limited to issues of costs, attorney's fees, prejudgment interest, or restitution unless the period for filing a notice of appeal on the underlying judgment has not yet expired.

(B) Notwithstanding Rule 203, the pendency of an appeal shall not divest the trial court of jurisdiction to consider the matters of costs and attorney's fees pursuant to Civil Rules 79 and 82 or AS 23.30.008(d), or issues relating to the determination of restitution.

(6) *Premature Appeals.* If a notice of appeal is filed after the announcement of a decision but before the date shown in the clerk's certificate of distribution on the judgment, the notice of appeal shall be treated as filed on the date shown in the clerk's certificate of distribution on the judgment.

(b) **Appeal—How Taken.** A party may appeal from a final order or judgment by filing a notice of appeal with the clerk of the appellate courts. The notice of appeal must identify the party taking the appeal, the final order or judgment appealed from, and the court to which the appeal is taken. The party must file the notice of appeal accompanied by the documents listed below:

(1) a completed docketing statement in the form prescribed by these rules, which includes a list of the parties to the appeal;

(2) a copy of the final order or judgment from which the appeal is taken and, if the order is a partial final judgment entered under Civil Rule 54(b), the Civil Rule 54(b) order;

(3) a statement of points on appeal as required by Rule 204(e);

(4) unless the party is represented by court-appointed counsel, the party is the state or an agency thereof, or the party is a prisoner found by the court to be eligible to pay less than full fees under AS 09.19.010,

(A) the filing fee required by Administrative Rule 9(a);

(B) a motion for waiver of filing fee pursuant to Administrative Rule 9(f)(1); or

(C) a motion to appeal at public expense pursuant to Rule 209;

(5) unless the party is represented by court-appointed counsel, the party is the state, municipality, or officer or agency thereof, or the party is an employee appealing denial of compensation by the Alaska Workers' Compensation Appeals Commission or denial of benefits under AS 23.20 (Employment Security Act),

(A) the cost bond or deposit required by Rule 204(c)(1);

(B) a copy of a superior court order approving the party's supersedeas bond or other security in lieu of bond or a copy of the party's motion to the superior court for approval of a supersedeas bond or other security;

(C) a motion for waiver of cost bond; or

(D) a motion to appeal at public expense pursuant to Rule 209;

(6) a designation of transcript if the party intends to have portions of the electronic record transcribed pursuant to Rule 210(b); and

(7) proof of service of the notice of appeal and all required accompanying documents, except the filing fee, on all other parties to the appeal.

A party may move for an extension of time to file the statement of points on appeal and the designation of transcript. The clerk of the appellate courts shall refuse to accept for filing any notice of appeal not conforming to this paragraph and accompanied by the items specified in (1)-(7) or a motion to extend the time for filing item (3) or (6).

(c) **Bond on Appeal.**

(1) Unless a party is exempted by law, a bond for costs on appeal shall be filed with the notice of appeal in a civil case. The bond shall be in the sum of seven hundred fifty dollars ($750.00), unless the appellate court fixes a different amount or unless a supersedeas bond is filed, in which event no separate bond on appeal is required. The bond on appeal shall have sufficient surety and shall be conditioned to secure the payment of costs if the appeal is dismissed or the judgment affirmed, or such costs as the supreme court may award if the judgment is modified. If a bond on appeal in the sum of seven hundred fifty dollars ($750.00) is given, no approval thereof is necessary. After a bond on appeal is filed, an appellee may by motion raise objection to the form or amount of the bond or to the sufficiency of the surety, which shall be determined by the appellate court. In lieu of filing such cost bond, the appellant may deposit in the office of the clerk of the appellate courts a sum of money reasonably sufficient to cover such costs, the amount thereof to be fixed by the appellate court.

(2) Notwithstanding paragraph (1), a bond for costs on appeal shall not be required in an appeal from a decision of the trial court in any criminal case or any civil case where an indigent party is entitled to court-appointed counsel, and a bond shall not be required from an employee appealing from a denial of compensation by the Alaska Workers' Compensation Appeals Commission or from a denial of a claim for benefits under AS 23.20 (Employment Security Act).

(d) **Supersedeas Bond.** Whenever in a civil case an appellant entitled thereto desires a stay on appeal, the appellant may present to the superior court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be conditioned for the satisfaction of the judgment in full, together with costs and interest, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs and interest as the supreme court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, and interest, unless the superior court, after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the court or the state troopers or when the proceeds of such property of a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure the amount recovered for the use and detention of the property, the cost of the action, costs on appeal, and interest, unless the superior court, after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond. The state or an officer or agency thereof or a municipality or an officer or agency thereof desiring a stay on appeal is exempted from the requirement of posting supersedeas bond imposed by this subsection.

(e) **Statement of Points.** At the time of filing the notice of appeal, the appellant shall serve and file a concise statement of the points on which appellant intends to rely in the appeal. The appellate court will consider only points included in the statement, and points that the court can address effectively without reviewing untranscribed portions of the electronic record. On motion in the appellate court, and for cause, the statement of points may be supplemented.

(f) **Judgment Against Surety.** By entering into an appeal or supersedeas bond given pursuant to subdivisions (c) and (d) of this rule, the surety submits to the jurisdiction of the superior court and irrevocably appoints the clerk of that court as the surety's agent upon whom any papers affecting the surety's liability on the bond may be served. The surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the superior court prescribed may be served on the clerk of the superior court who shall forthwith mail copies to the surety if the surety's address is known.

(g) **Parties to the Appeal.** All parties to the trial court proceeding when the final order or judgment was entered are parties to the appeal. A party who files a notice of appeal, whether separately or jointly, is an appellant under these rules. All other parties are deemed to be appellees, regardless of their status in the trial court, unless otherwise ordered by the court.

An appellee may elect at any time not to participate in the appeal by filing and serving a notice of non-participation. The filing of a notice of non-participation shall not affect whether the party is bound by the decision on appeal.

(h) **Service of Documents.** Papers filed or served in the appeal must be served on all parties, except appellees who have elected not to participate in the action.

(i) **Joint or Consolidated Appeals.** If two or more parties are entitled to appeal from a judgment or order of a court and their interests are such as to make joinder practical, they may file a joint notice of appeal. Appeals may be consolidated by order of the appellate court upon its own motion or upon motion of a party.

(SCO 439 effective November 15, 1980; amended by SCO 461 effective June 1, 1981; by SCO 510 effective August 30, 1982; by SCO 513 effective October 1, 1982; by SCO 554 effective April 4, 1983; by SCO 573 effective February 1, 1984; by SCO 574 effective February 1, 1984; by SCO 575 effective February 1, 1984; by SCO 726 effective December 15, 1986; SCO 794 effective March 15, 1987; by SCO 830 effective August 1, 1987; by SCO 847 effective January 15, 1988; by SCO 987 effective January 15, 1990; by SCO 995 effective January 15, 1990; by SCO 1019 effective July 15, 1990; by SCO 1069 effective July 15, 1991; by SCO 1153 effective July 15, 1994; by SCO 1155 effective July 15, 1994; by SCO 1162 effective July 15, 1994; by SCO 1238 effective July 15, 1996; by SCO 1248 effective July 15, 1996; by SCO 1272 effective July 15, 1997; by SCO 1279 effective July 31, 1997; by SCO 1284 effective January 15, 1998; by SCO 1470 effective October 15, 2002; by SCO 1671 effective October 15, 2008; by SCO 1747 effective October 14, 2011; by SCO 1893 effective August 10, 2016; by SCO 1877 effective October 15, 2016; by SCO 1885 effective October 15, 2016; and by SCO 1911 effective October 16, 2017)

Note: AS 10.06.633, as enacted by ch. 166, § 1, SLA 1988, amended Appellate Rule 204 by requiring that certain documents must be filed in the notice of appeal from an involuntary dissolution of a corporation. AS 10.06.863, as enacted by ch. 166, § 1, SLA 1988, amended Appellate Rule 204 by requiring that certain documents must be filed in the notice of appeal from a revocation of a certificate of authority of a foreign corporation to transact business in Alaska. AS 10.06.915, as enacted by ch. 166, § 1, SLA 1988, amended Appellate Rule 204 by requiring that certain documents must be filed in the notice of appeal from the failure to approve articles of incorporation and certain other administrative actions.

Docketing Statements. The court system has prepared docketing statement forms, which are available from the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, (907) 264-0612. Parties may prepare their own docketing statements instead of using the court system forms. However, such statements must include all of the information which appears on the court system forms and must follow the same numbering system. Parties should contact the Clerk of the Appellate Courts for further instructions on preparing their own docketing statements.

Note to SCO 1238. Ch. 79 § 1 SLA 1995 amends AS 09 by adding a new chapter related to prisoner litigation against the state. AS 09.19.010 prohibits the court from accepting any filing in an action governed by AS 09.19 until the filing fee required by AS 09.19.010 has been paid.

Section 17 of chapter 79 amends Appellate Rule 204(b)(4) to include the language "or the party is a prisoner whom the court finds is eligible to pay less than full fees under AS 09.19.010." Section 1 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Note: Ch. 77 SLA 2002 (HB 157), Section 2, adds new Chapter 26 to Title 6 of the Alaska Statutes, concerning providers of fiduciary services. According to Section 9 of the Act, AS 06.26.760(b)(2) has the effect of amending Appellate Rule 204 by postponing the deadlines for the filing of appeals to the supreme court and the court of appeals by a trust company when the Department of Community and Economic Development has taken possession of a trust company.

Rule 205. Stays Pending Appeal in Civil Cases.

In a civil case, the supreme court or a justice thereof may stay the enforcement or effect of the judgment appealed from or the proceedings in the trial court upon such terms as to bond or other matters as may be proper. A motion for a stay will normally not be considered by the supreme court unless application has previously been made to the trial court and has been denied, or has been granted on conditions other than those requested.

(SCO 439 effective November 15, 1980)

Rule 206. Stay of Execution and Release Pending Appeal in Criminal Cases.

(a) **Stay of Execution.**

(1) *Imprisonment.* A sentence of imprisonment shall be stayed if an appeal is taken and the defendant is released pending appeal.

(2) *Fine.* A sentence to pay a fine or a fine and costs, if an appeal is taken, may be stayed by the trial court or by the appellate court upon such terms as the court deems proper. The court may require the defendant pending appeal to deposit the whole or any part of the fine and costs in the registry of the trial court or to give bond for the payment thereof, or to submit to an examination of assets, and it may make any appropriate order to restrain the defendant from dissipating assets.

(3) *Probation.* An order placing the defendant on probation shall be stayed if an appeal is taken and the defendant received a suspended imposition of sentence or was sentenced to a composite term of imprisonment that is suspended in its entirety. The defendant may move the sentencing court to commence probation immediately. If the defendant's motion is granted, the sentencing court shall issue an order specifying when the defendant's probation will commence.

(4) *Other Sentence.* Other terms or conditions of a sentence, including but not limited to the revocation or suspension of a license, may be stayed by the trial court pending appeal upon such terms as the court deems proper. If the trial court does not grant the relief requested, the appellant may renew the motion in the appellate court.

(b) **Release Pending Appeal.** When an appeal on the merits is pending, an appeal under AS 12.30.030 from an order refusing bail pending appeal or imposing conditions of release pending appeal shall be in the form of a motion filed in the merit appeal. The motion must be filed with the clerk of the appellate courts within 30 days after the date of the notice of the order from which review is sought. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). The motion shall comply with Rule 503, and shall contain specific factual information relevant to the factors set forth in AS 12.30.011 (c), including but not limited to the following:

(1) The full name of the appellant; the trial court case number; the offenses of which the appellant was convicted, if applicable; the date of sentencing; and the complete terms of the sentence;

(2) That application for release pending appeal has been made to the trial court, the reasons given by the trial court for denying the application in whole or in part, and facts and reasons demonstrating why the action of the trial court on the application was erroneous or an abuse of discretion;

(3) A concise statement of the question or questions to be raised on the appeal with a showing that the question or questions were raised in the trial court;

(4) Family: marital status; length of marriage; children, and their ages; other relatives in the area of residence;

(5) Employment and financial circumstances: name of employer at time of arrest and during pre-trial release; type of work; how long so employed; any offer or promise of employment if released pending appeal; assets of the appellant or of relatives or friends relevant to the ability to post money bail;

(6) Health: history of mental illness, alcoholism, or addiction to drugs, if any;

(7) Residence: length of residence in the city or town in which the appellant resided at the time of arrest;

(8) Criminal history: criminal convictions within ten years prior to the present arrest; if the appellant has ever forfeited bail, or had release, probation, or parole revoked, the date, the name and location of the court, and a brief description of the circumstances; whether the present offense was committed while the appellant was on bail or other release or on probation or parole; any other criminal charges pending against the appellant at the time the motion is filed.

(c) The decision of the court of appeals on any application under this rule is a "final decision" within the meaning of Rule 302, governing when petitions for hearing are permitted. The decision of the court of appeals concerning release pending appeal takes effect on the day it is issued, notwithstanding the filing of a petition for hearing in the supreme court.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; SCO 1153 effective July 15, 1994; by SCO 1507 effective April 15, 2004; by SCO 1668 effective April 15, 2008; by SCO 1732 effective nunc pro tunc to July 1, 2010l; by SCO 1777 effective October 15, 2013; and by SCO 1973 effective April 15, 2022)

Note: Chapter 19, section 28, SLA 2010 (HB 324), effective July 1, 2010, amended Appellate Rule 206(b) relating to release before trial, before sentence, and pending appeal, as reflected in section 3 of this Order. The changes to Appellate Rule 206 are adopted for the sole reason that the legislature has mandated the amendments.

Rule 207. Appeals Relating to Release Prior to Judgment.

An appeal authorized by AS 12.30.030(a), relating to the release of a criminal defendant prior to the entry of final judgment, shall be determined promptly. The appeal shall take the form of a motion and shall comply with Rules 206(b) and 503. The appellee may respond as provided in Rule 503(d). The court of appeals or a judge thereof may order the release of the appellant pending such an appeal. The decision of the court of appeals on such an appeal is a "final decision" within the meaning of Rule 302, governing when petitions for hearing are permitted. The decision of the court of appeals concerning release pending final judgment takes effect on the day it is issue, notwithstanding the filing of a petition for hearing in the supreme court.

(SCO 439 effective November 15, 1980; and by SCO 1973 effective April 15, 2022)

Rule 208. Custody of Prisoners in Post-Conviction Relief Proceedings.

(a) **Release of Applicant Pending Review of Order Denying Release.** The court having jurisdiction over the appeal of a denial of an application for post-conviction relief may not grant bail or release the applicant pending appeal. If the appellate court determines the post-conviction relief should be granted, the case shall be remanded to the trial court for a bail hearing.

(b) **Release of Applicant Pending Review of Decision Ordering a New Trial.** If an appeal of an order granting an applicant a new trial is pending, Appellate Rule 206(b) shall govern an appeal from an order that denies bail pending appeal or imposes conditions of release pending appeal.

(SCO 439 effective November 15, 1980; amended by SCO 1153 effective July 15, 1994; repealed and reenacted by SCO 1238 effective July 15, 1996)

Note to SCO 1238: Appellate Rule 208 was repealed and reenacted by ch. 79 § 18 SLA 1995. Section 3 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Rule 209. Appeals at Public Expense.

(a) **Civil Matters.**

(1) A party to a civil action may file in the supreme court a motion to appeal or to petition for review at public expense. The motion shall be accompanied by a sworn financial statement on a form provided by the clerk of the appellate courts.

(2) In considering the motion to appeal or petition for review at public expense, the court shall determine the indigence or nonindigence of the party.

(3) If the motion is granted:

[a] The court shall specify in the order granting the motion which of the following costs or partial costs are to be covered at public expense:

[1] Filing fees,

[2] Transcript fees,

[3] Costs of printing briefs,

[4] Other costs;

[b] Any costs and attorney fees awarded to the appellant or petitioner as a prevailing party in the supreme court shall accrue to the state to reimburse it for costs relating to the appeal or petition for review.

(4) Leave to file at public expense may be conditioned on repayment of costs to the state. The conditions may include the imposition of liens in favor of the state on costs, attorney fees and other recoveries awarded to the indigent appellant or petitioner.

(5) An appeal or petition for review at public expense will be allowed without additional motion in cases where the appellant is represented by court-appointed counsel.

(6) The provisions of this paragraph do not apply to the filing fees in a prisoner's appeal against the state or an officer, agent, employee, or former officer, agent, or employee of the state that is governed by the provisions of AS 09.19. A prisoner may request a filing fee reduction in an appeal governed by AS 09.19 by submitting an application which satisfies the requirements of AS 09.19.010 with the prisoner's notice of appeal and the items specified in Appellate Rule 204(b).

(b) **Criminal Matters.**

(1) In criminal matters the appellate court shall authorize appeals and petitions for review at public expense on behalf of defendants who are "indigent," as defined by statute, in accordance with the rules and decisions of the appellate courts of Alaska, and where such proceedings are required to be provided by state courts by decisions of the Supreme Court of the United States. Where an appeal or petition for review at public expense is authorized by the court, the costs which shall be borne at public expense include those of providing counsel and of preparing a transcript and briefs.

(2) If a defendant is allowed to proceed at public expense, the clerk of the appellate courts shall send the defendant a written notice and order, to the address provided under Appellate Rule 204(b), that

(A) advises defendant that, if the defendant's conviction is not reversed, the defendant will be ordered to repay the prosecuting authority for the cost of appointed appellate counsel, in accordance with the schedule of costs set out in subparagraph 209(b)(6); and

(B) orders the defendant to apply for permanent fund dividends every year in which the defendant qualifies for a dividend until the cost is paid in full.

(3) A defendant authorized to proceed at public expense in the trial court is presumed to be entitled to appeal or petition for review at public expense.

(4) Counsel appointed to represent a defendant in the trial court pursuant to Criminal Rule 39 shall remain as appointed counsel throughout an appeal or petition for review at public expense authorized under this paragraph and shall not be permitted to withdraw except upon the grounds authorized in Appellate Rule 517.1. An attorney appointed by the court under Administrative Rule 12(b)(1)(B) will be permitted to withdraw upon a showing that either the Public Defender Agency or the Office of Public Advocacy is able to represent the defendant in the appellate proceeding.

(5) At the conclusion of the appellate proceeding, the clerk of the appellate courts shall enter judgment against the defendant for the cost of appointed appellate counsel unless the defendant's conviction was reversed by the appellate court. The amount of the judgment shall be determined by reference to the schedule in subparagraph 209(b)(6). Before entering judgment, the clerk shall mail, to the defendant's address of record, a notice that sets out the amount of the proposed judgment. The defendant may oppose entry of the judgment by filing a written opposition within 45 days after the date shown in the clerk's certificate of distribution on the notice. The opposition shall specifically set out the grounds for opposing entry of judgment. The prosecuting authority may oppose the amount of the judgment by filing a written opposition within the same deadline. Criminal Rule 39(c)(1)(B)-(C) and (c)(2) shall apply to judgments entered under this subparagraph.

(6) The following schedule governs the cost of appointed appellate counsel:

Type of Appellate Proceeding	**Misdemeanor**	**Felony**
Sentence Appeal or Petition for Sentence Review	$ 250	$ 500
Merit Appeal or Appeal from Post-Conviction Relief Proceedings		

	750	1,500
Combined Merit Appeal and Sentence Appeal or Petition for Sentence Review	1,000	2,000
Other Appellate Actions (Petition for Review, Petition for Hearing, etc.)	500	1,000

(c) **Costs.** Costs, attorney's fees, damages, and interest may be allowed as in other cases, but the state shall not be liable for any of them.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 847 effective January 15, 1988; by SCO 1088 effective July 1, 1992; by SCO 1145 effective October 1, 1993; by SCO 1153 effective July 15, 1994; by SCO 1155 effective July 15, 1994; by SCO 1211 effective July 15, 1995; by SCO 1226 effective January 22, 1996; by SCO 1235 effective July 15, 1996; by SCO 1238 effective July 15, 1996; and by SCO 1868 effective April 15, 2016)

Dissent to SCO 1088:

RABINOWITZ, Chief Justice, with whom COMPTON, Justice, joins, dissenting:

I am not persuaded that either existing Criminal Rule 39, or Appellate Rule 209, requires amendment. I think it can be safely predicted that these amendments will have a chilling effect on an indigent defendant's obtaining the services of appointed counsel as well as on an indigent defendant's decision whether or not to seek review or to appeal.

Note: AS 18.85.170(4) defines "indigent person" for purposes of public defender appointments as "a person who, at the time need is determined, does not have sufficient assets, credit, or other means to provide for payment of an attorney and all other necessary expenses of representation without depriving the party or the party's dependents of food, clothing, or shelter and who has not disposed of any assets since the commission of the offense with the intent or for the purpose of establishing eligibility for assistance under this chapter."

Note to SCO 1238: Ch. 79 § 1 SLA 1995 amends AS 09 by adding a new chapter related to prisoner litigation against the state. AS 09.19.010 prohibits the court from accepting any filing in an action governed by AS 09.19 until the filing fee required by AS 09.19.010 has been paid.

Section 19 of chapter 79 amends Appellate Rule 209(a) to add subparagraph (a)(6) which states that the provisions of paragraph (a) do not apply in a prisoner's appeal that is governed by AS 09.19. Section 5 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Rule 210. Record on Appeal.

(a) **Composition of Record.** The record on appeal consists of the entire trial court file, including the original papers and exhibits filed in the trial court, the electronic record of proceedings before the trial court, and transcripts, if any, of the trial court proceedings. Except as otherwise ordered by the appellate court, the record does not include documents or exhibits filed after, or electronic records or transcripts of proceedings occurring after, the filing date of the notice of appeal, and does not include transcripts not designated under subsection (b)(1) of this rule unless those transcripts were filed with the trial court prior to the filing date of the notice of appeal. Filings, exhibits, electronic recordings, or transcripts presented to the trial court after the filing date of the notice of appeal may be added to the record on appeal only upon motion pursuant to subsection (i). Material never presented to the trial court may not be added to the record on appeal.

(b) **Preparation of Transcript.**

(1) *Designation of Parts of Record to be Transcribed.*

(A) At the time the notice of appeal is filed, the appellant shall file and serve on the other parties to the appeal a designation of the parts of the electronic record which appellant intends to transcribe. The appellant shall designate all parts which are essential to a determination of the issues on appeal. If appellant claims that the written findings of fact or conclusions of law are insufficient or erroneous, the designation shall include any oral findings of fact and conclusions of law. Within 10 days after service of appellant's designation, any other party to the appeal may file and serve a designation of additional parts of the electronic record to be transcribed.

(B) If a party designates an entire trial or hearing, the party's designation shall include only the nature and dates of the proceeding. If a party designates parts of a trial or hearing, the party's designation shall include the nature and dates of the proceeding, the CD or tape number and log numbers or time where these parts appear [CD (#), at Time 00:00:00 or Tape (#), at Log 00:00:00], and a narrative description of the portions requested. If a party designates a portion of a witness' testimony, it must appear from the party's narrative description that part of the witness' testimony has been omitted.

(2) *Preparation at Public Expense.* The clerk of the appellate courts shall arrange for preparation of the transcript in cases in which the transcript is prepared at public expense. The transcript shall include all parts of the electronic record designated by the parties to the appeal; however, the voir dire examination of jurors and jury instructions shall not be transcribed unless a party has specifically requested these portions of the trial.

(3) *Preparation Not at Public Expense.* In cases in which the transcript is not prepared at public expense, the appellant shall arrange for preparation of a transcript of all parts of the electronic record designated by the parties to the appeal. Upon request, the clerk of the trial courts shall provide to the transcriber a copy of the designations, a copy of the electronic record or parts thereof, a copy of the log notes and other information necessary for preparation of the transcript. Unless

the parties agree otherwise by stipulation, or unless otherwise ordered by the appellate court, the person designated to prepare the transcript shall not be a relative, employee, or attorney of any of the parties, or a relative or employee of that attorney, or be financially interested in the action. Apart from contracting for the preparation of the transcript within a given period of time and at a given price, neither the party nor the party's attorney may exercise control over the preparation of the transcript.

(4) *Time for Completion.* Preparation of the transcript shall be completed within 40 days after filing of the notice of appeal. If the transcript is not being prepared at public expense and the transcriber is unable to complete the transcript within this time, the appellant shall move the appellate court for an extension of time. The motion shall comply with Appellate Rule 503, shall also be served on the clerk of the trial courts, and shall be considered a routine motion within the meaning of Rule 503.5(b).

(5) *Filing and Distribution.* Upon completion of the transcript, the transcriber shall promptly notify the parties in writing that the transcript has been completed and shall file with the clerk of the appellate courts (i) the original transcript; and (ii) an electronic version of the transcript in the form and format prescribed by administrative bulletin. No other copies of the transcript are required unless otherwise specified by the clerk.

(6) *Costs.* If the transcript is not being prepared at public expense, the cost of preparing the original transcript, the copy filed with the court and the computer diskette shall be paid by the appellant. This cost may be taxed as a cost in the case, but if any party causes parts of the electronic record to be transcribed unnecessarily, the court may impose the cost of transcribing such parts on that party.

(7) *Form of Transcript.* Transcripts shall be in the form and format prescribed by administrative bulletin.

(8) *Statement in Lieu of Transcript.* If there is no electronic recording from which a transcript can be prepared, the appellant may prepare a statement of the evidence of proceedings from the best available means, including the appellant's recollection, for use instead of a stenographic or electronically recorded transcript. This statement shall be served on the appellee, who may serve objections or proposed amendments, and shall be submitted to the court from which the appeal is being taken for settlement and approval. As settled and approved, the statement shall be filed with the clerk of that court and transmitted to the appellate court in lieu of a transcript.

(c) **Excerpts of Record.**

(1) *Duty to Prepare.*

(A) Each party shall file and serve an excerpt of record with the party's brief.

(B) In cases involving multiple appellants or appellees, each side shall prepare a single excerpt of record. In a case involving multiple appellants who are filing separate briefs, the appellant who filed the first notice of appeal shall prepare and file the excerpt for the appellants, unless the appellants otherwise agree. In a case involving multiple appellees who are filing separate briefs, the appellees shall decide among themselves which appellee shall prepare and file the excerpt for the appellees. Ten days prior to the date on which a side's briefs are due, the parties who are not responsible for preparation of the excerpt shall transmit to the responsible party a list of documents to be included in the excerpt. The responsible party shall include in the excerpt all documents which are specified by the other parties, provided such documents are in the record. A party who fails to transmit a list of documents to the responsible party by the 10 day deadline waives the right to designate documents for inclusion in the excerpt. The responsible party shall mail a copy of the excerpt to each of the other parties on that side six days before the date the briefs are due, or deliver a copy of the excerpt three days before the date the briefs are due, so that the other parties may include the appropriate citations in their briefs. The cost of copying and mailing the excerpt shall be borne equally by all parties on the side.

(C) A cross-appellant or cross-appellee who elects to file a single brief shall file a single excerpt with that brief. A cross-appellant who makes this election shall include in the excerpt those documents that are properly included in an appellee's excerpt under Rule 210(c)(2). A cross-appellant who elects to file separate briefs shall file and serve notice of this election within 10 days after service of the notice of the due date for appellant's brief. If a cross-appellant makes this election, the cross-appellant and the appellant shall be treated as co-appellants filing separate briefs and shall prepare and submit a combined excerpt as required by Rule 210(c)(1)(B). The cross-appellee and the appellee shall be treated as co-appellees filing separate briefs for purposes of that rule.

(2) *Contents.*

(A) *Appellant's Excerpt.* The appellant's excerpt of record must contain the following parts of the record:

(i) all charging documents, or the petition or complaint, counterclaim, crossclaim, and answer setting out the issues to be tried;

(ii) the judgment or interlocutory order from which the appeal is taken;

(iii) other orders or rulings sought to be reviewed;

(iv) supporting opinions, findings of fact, conclusions of law, or other statements showing the reasoning of the trial court and, if appellant claims that the written findings of fact or conclusions of law are insufficient or erroneous, a copy of the pages of the transcript at which any relevant oral findings of fact and conclusions of law are recorded;

(v) if the appeal is from the grant or denial of a motion, relevant portions of briefs, memoranda, and documents filed in support of and in opposition to the motion;

(vi) if the appellant is challenging the admission or exclusion of evidence, the giving or failure to give a jury

instruction, or another oral ruling or order, a copy of the pages of the transcript at which the evidence, offer of proof, ruling, or order and relevant discussion by the court, and any necessary objection are recorded;

(vii) if the appeal is from a final decision in a child-in-need-of-aid proceeding under AS 47.10.080(c) or a case involving the termination of parental rights under AS 25.23.180, the predisposition report prepared in the case; and

(viii) specific portions of other documents in the record, including documentary exhibits, that are referred to in appellant's brief and essential to the resolution of an issue on appeal.

(B) *Appellee's Excerpt.* The appellee's excerpt of record must contain those parts of the record required under (c)(2)(A) and relied on by appellee that were not included in the appellant's excerpt.

(C) *Portions of the Transcript.* Parties may also include in the excerpt selected pages of the transcript that are critical to the appeal.

(D) *Items Not to Be Included in the Excerpts.* Pages of the transcript and briefs and memoranda filed in the trial court may only be included in the excerpts if required under (c)(2)(A) or permitted under (c)(2)(C). The fact that parts of the record are not included in the excerpts does not prevent the parties or the appellate court from relying on those parts.

(3) *Supplemental Excerpts.* Appellant may file and serve a supplemental excerpt of record with appellant's reply brief or within the time specified for filing a reply brief. No other supplemental excerpt may be filed except by leave of the appellate court granted on motion, or at the request of the appellate court. A supplemental excerpt may not include parts of the record that appear in another excerpt filed in the appeal.

(4) *Form, Filing and Service.* Each party's excerpt of record must be arranged in chronological order, must be bound separately from the party's brief, and must contain a table of contents at the beginning of the first volume. The excerpt and the table of contents must be in the form specified in the Clerk's Instructions for Preparation of Excerpts published in these rules. One copy of the excerpt must be filed and served with the party's original brief. Eight copies of the excerpt must be filed with the bound copies of the brief, and one copy must be served on counsel for each party separately represented, unless a different number is specified by the clerk.

(5) *Excerpts to be Abbreviated.* The parties shall include in the excerpts only those parts of the record that are essential to a determination of the questions presented on appeal. For any infraction of this rule, the appellate court may impose sanctions and withhold or impose costs as the circumstances of the case and discouragement of like conduct in the future may require.

(6) *Costs.* Subject to (c)(5), the prevailing party is entitled to recover the cost of copying its excerpt of record under Appellate Rule 508(d).

(d) **RESERVED.**

(e) **Preparation of the Trial Court File.**

(1) *Page Numbering.* Upon receiving the notice of appeal, the regional appeals clerk shall number the pages of the record, assembled in accordance with subsection (a) of this rule, in a single consecutive sequence throughout all volumes. Page numbering must be completed within 40 days after filing of the notice of appeal. In an appeal from the Alaska Workers' Compensation Appeals Commission, the commission's record should be numbered beginning with the number immediately following the number of the last page in the record prepared by the Workers' Compensation Board.

(2) *Confidential Materials.* Papers filed under seal in the trial court and exhibits submitted or introduced at closed hearings in the trial court shall be maintained under seal while they constitute part of a record on appeal, and access to them shall be governed by Rule 512.5(c).

(f) **Briefing Schedule.** Upon filing of the transcript and completion of the page numbering, the clerk of the trial courts shall notify the clerk of the appellate courts that the case is ready for briefing. Upon receiving this notice, the clerk of the appellate courts shall give notice of the due date for the appellant's brief.

(g) **Transmission of the Record.**

(1) *Transmission to Appellate Court.* Upon notification that briefing is complete, the clerk of the trial courts shall transmit the record, excluding physical exhibits, to the clerk of the appellate courts. Physical exhibits shall be retained by the trial court unless specifically requested by the appellate court. As used in this paragraph, "physical exhibits" includes exhibits other than documents or photographs, and also includes documents or photographs of unusually large size or unusual bulk or weight.

(2) *Transfer to Other Court Locations.* The clerk of the appellate courts may direct that the record be temporarily transferred to another court location within the state for the accommodation of counsel in the preparation of briefs.

(h) **Several Appeals.** When more than one appeal is taken to the appellate court from the same judgment, there shall be a single record on appeal. In preparing the record, deadlines which run from filing of the notice of appeal shall run from filing of the last notice of appeal.

(i) **Power of Court to Correct, Modify, or Supplement.** It is not necessary for the record on appeal to be approved by the trial court or a judge thereof except as provided in paragraph (b)(8) and in Rule 211, but if any difference arises whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to that court's decision. If anything material to either party is omitted from the record on appeal by error or accident by court personnel, or is misstated therein, the parties by stipulation, the trial court, or the appellate court, on a proper suggestion or of its own initiative, may direct that the omission or misstatement

shall be corrected. All other questions as to the content and form of the record shall be presented to the appellate court. Materials (including filings, exhibits, electronic recordings, or transcripts) filed with the trial court after the filing date of the notice of appeal may be added to the record on appeal only upon motion designating by title, description, and filing date the materials sought to be added, and are limited to the following:

(1) materials pertaining to attorney's fees, costs, or prejudgment interest;

(2) amended judgments, and all materials pertaining to those judgments;

(3) oppositions or replies responding to, or orders determining, motions that were filed on or before the filing date of the notice of appeal, and materials pertaining to those documents;

(4) any orders listed in Rule 204(a)(3), together with any motions, oppositions, and replies leading to such orders, and any materials pertaining to those documents;

(5) materials to be added to the record upon entry of an order amending or supplementing the points on appeal; and

(6) materials to be added to the record for other good cause found by the appellate court.

On motion in the appellate court, and for cause, an excerpt of record may also be modified or supplemented to correct omissions by counsel.

(j) **Return of Record After Final Disposition.** Unless the court otherwise orders, the clerk shall return original exhibits to the trial court upon return of jurisdiction as provided by Rule 507.

(SCO 439 effective November 15, 1980; amended by SCO 461 effective June 1, 1981; by SCO 510 effective August 30, 1982; by SCO 554 effective April 4, 1983; by SCO 577 effective February 1, 1984; by SCO 578 effective February 1, 1984; by SCO 631 effective September 15, 1985; by SCO 736 effective December 15, 1986; by SCO 768 effective March 15, 1987; by SCO 795 effective March 15, 1987; by SCO 883 effective July 15, 1988; by SCO 926 effective January 15, 1989; by SCO 928 effective January 15, 1989; by SCO 988 effective January 15, 1990; by SCO 1153 effective July 15, 1994; rescinded and repromulgated by SCO 1155 effective July 15, 1994; by SCO 1183 effective July 15, 1995; by SCO 1279 effective July 31, 1997; by SCO 1360 effective September 1, 1999; by SCO 1388 effective April 15, 2000; by SCO 1432 effective October 15, 2001; by SCO 1472 effective October 15, 2002; by SCO 1482 effective October 15, 2002; by SCO 1541 effective April 15, 2004; by SCO 1553 effective October 15, 2004; by SCO 1609 effective October 15, 2006; by SCO 1659 effective April 15, 2008; by SCO 1671 effective October 15, 2008; by SCO 1893 effective August 10, 2016; by SCO 1885 effective October 15, 2016; and by SCO 1989 effective April 17, 2023)

Note to Appellate Rule 210(b)(5) and (b)(7): See Administrative Bulletin 31 and the Manual of Transcript Procedures.

Rule 211. Record on Agreed Statement.

When the questions presented by an appeal can be determined without an examination of all the pleadings, evidence and proceedings in the trial court, the parties may prepare and sign a statement of the case showing how the questions arose and were decided in the trial court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the questions by the appellate court. The statement shall include a copy of the judgment appealed from, a copy of the notice of appeal with its filing date, and concise statement of the points to be relied on by appellant. If the statement conforms to the truth, it, together with such additions as the trial court may consider necessary to fully present the questions raised by the appeal, shall be approved by the trial court and shall then be certified to the appellate court as the record on appeal.

(SCO 439 effective November 15, 1980)

Rule 212. Briefs.

(a) **Filing and Serving Briefs.**

(1) *Initial Submission.*

(A) *Time for Serving and Filing Briefs.* The appellant shall serve and file the appellant's brief within 30 days after the court gives notice under Rule 210(f) of the due date for appellant's brief. The appellee shall serve and file the appellee's brief within 30 days after service of the appellant's brief. Within 20 days after service of the appellee's brief, appellant shall serve and file either a reply brief or a notice that no reply brief will be filed. In cases involving multiple appellants or appellees who are filing separate briefs, including parties who are deemed to be co-parties under Rule 210(c)(1)(C), the time for filing these briefs shall be extended by 10 days if the parties are preparing excerpts of record in order to allow compliance with Rule 210(c)(1)(B).

(B) *Number of Copies.* On or before the date the party's brief is due, the party shall file with the clerk the original plus one copy of the brief, printed or written on only one side of each page, together with proof of service on all parties.

(C) *Compliance Check.* The court will review the brief for compliance with (b) and (c) of this rule and return the original to the party, with a notice of rejection, conditional acceptance, or acceptance, for correction or for duplication and binding.

(D) *Changes Not Permitted.* After a brief is returned for correction or binding, the party shall make no changes to the brief other than those required by the binding process or required by the court in any notice of rejection or conditional acceptance. The party may also correct spelling and typographical errors and correct and update citations for cases already cited in the originally submitted brief.

(2) *Bound Copies of Briefs.*

(A) *Time for Service; Number of Copies.* Within ten days after the clerk returns the brief, the party shall serve two bound copies on each party and shall file with the clerk ten bound copies in an appeal before the supreme court or seven bound copies in an appeal before the court of appeals, unless a different number is specified by the clerk.

(B) *Form of Bound Copies.* Bound copies must be printed or written on both sides of the paper and securely bound along the left margin in a manner that does not obscure the text, and that permits the brief to lie reasonably flat when open. Unless otherwise permitted by the clerk, the copies must be bound using comb or spiral binding, but not staples or metal fasteners. The copies must have a suitable cover consisting of heavy paper in the color indicated:

- brief of appellant—ivory or light tan;
- brief of appellee—blue;
- reply brief—green; and
- brief of intervenor or amicus curiae—red.

(b) **Form.** The form of a brief is governed by Rule 513.5(b)(1)-(5) and (c) and by this rule. The left and right margins of a brief must each be one inch. The front cover of a brief must contain: (1) the name of the court and the number of the case; (2) the title of the case; (3) the nature of the proceeding (e.g., appeal, petition for review); (4) the name of the court or agency below, the name of the individual who rendered the decision below, and the case number below; (5) the title of the document (e.g., brief of appellant); and (6) the names, addresses, telephone numbers, and bar numbers of counsel for the party concerned and the name of the law firm or organization with whom counsel is affiliated. In criminal cases, the front cover must also include a certificate indicating whether the brief contains information that is confidential under AS 12.61.100 through 12.61.150. The administrative director shall specify the form and content of the certificate.

(c) **Substantive Requirements.**

(1) *Brief of Appellant.* The appellant's brief shall contain the following items under appropriate headings. The items shall be presented in the order here indicated, except the statement of the case may be divided so that the description of the lower court proceedings relevant to a particular issue is paired with the arguments pertaining to that issue:

(A) A table of contents, including the titles and subtitles of all arguments, with page references.

(B) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(C) The constitutional provisions, statutes, court rules, ordinances, and regulations principally relied upon, set out in full or in pertinent part.

(D) A jurisdictional statement of the date judgment was entered, whether the judgment is final and disposes of all claims by all parties or whether it is a partial final judgment entered under Civil Rule 54(b), and of legal authority of the appellate court to consider the appeal.

(E) A list of all parties to the case, without using "et al.," or any similar indication, unless the caption of the case on the cover of the brief contains the names of all parties. This list may be contained in a footnote.

(F) A statement of the issues presented for review. In cases involving a cross-appeal, the cross-appellant may present a statement of the issues presented for review that would require determination if the case is to be reversed and remanded for further proceedings in the trial court.

(G) A statement of the case, which shall provide a brief description of the facts of the case and the trial court proceedings pertinent to the issues presented on appeal. For each issue, other than those concerning the sufficiency of the evidence, the statement of the case must explain whether, and if so, when and how, that issue was raised and argued in the lower court. For each issue, the statement of the case must identify whether, and if so, when and how, the lower court ruled on that issue. All assertions in the statement of the case must be supported by references to the record as required by paragraph (c)(8).

(H) An argument section, which shall explain the contentions of the appellant with respect to the issues presented on appeal, and the legal and factual support for those contentions, with citations to the authorities, statutes, and parts of the record relied on. References to the record shall conform to the requirements of paragraph (c)(8).

For each issue presented, the party must identify the standard of review governing the appellate court's consideration of that issue. For any issue not raised or ruled on in the lower court, the appropriate argument section must address the applicability of the plain error doctrine.

Each major contention shall be preceded by a heading indicating the subject matter. The argument section may be preceded by a summary.

(I) A short conclusion stating the precise relief sought.

(J) If the appeal concerns a property division in a divorce case, an appendix consisting of a table listing all assets and liabilities of the parties as reflected in the record, including the trial court's findings as to the nature (marital or individual), value, and disposition of each asset or liability.

(2) Brief of Appellee. The appellee's brief shall conform to the requirements of subdivisions (1)(A) through (1)(I) except that a statement of jurisdiction, of the issues, or of the case need not be made unless the appellee is dissatisfied with the statement of the appellant, and a list of all parties need not be included.

(3) Reply Brief. The appellant may file a brief in reply to the appellee's brief. The reply brief shall conform to the requirements of subdivisions (1)(A), (1)(B), (1)(C), (1)(H), and

(1)(I). This brief may raise no contentions not previously raised in either the appellant's or appellee's brief. If the appellee has cross-appealed and has not filed a single brief under (c)(6) of this rule, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except with leave of the court..

(4) *Length.* Exclusive of appendices, the appellant's and appellee's briefs may not exceed 50 numbered pages each. Numbered pages for purposes of this paragraph begin with the jurisdictional statement required by (c)(1)(D) of this rule. The appellant's reply brief may not exceed 20 pages. A motion for leave to file a brief longer than permitted by this paragraph must be accompanied by a copy of the over-length brief proposed to be filed.

(5) *Brief in Cases of Multiple Parties.* In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another.

(6) *Briefs in Cases Involving Cross-Appeals.*

(A) Cross-Appellant. An appellee who is also a cross-appellant may elect to file a single brief that both discusses the appellee's claims of error and answers the original appellant. Such a single brief shall be filed on the date the appellee's brief is due. It shall be divided into two sections: the first section shall contain the issues and arguments involved in the cross-appeal and shall be prepared in accordance with (c)(1) of this rule; the second section shall contain the answer to the brief of the appellant and shall be prepared in accordance with (c)(2) of this rule. The single brief may not exceed 50 numbered pages. If the cross-appellant elects to file a single brief, the right to file a reply brief to the answer to the cross-appeal is waived. If the cross-appellant does not elect to file a single brief, the schedule and form for filing briefs in the cross-appeal shall be in accordance with the procedures for an original appeal.

(B) Cross-Appellee. If the appellee/cross-appellant elects to file a single brief under (A), the appellant/cross-appellee may file a single brief containing its reply on the appeal and its response to the cross-appeal. This combined brief may not exceed 50 numbered pages. The portions of the combined brief that comprise the reply may not exceed 20 numbered pages. The combined brief must be filed within 30 days of the appellee/cross-appellant's single brief.

(7) *References in Briefs and in Oral Arguments to Parties.* In briefs and oral arguments, counsel are expected to minimize references to parties by such designations as "appellant" and "appellee." It promotes clarity to use the designations used in the trial court or in the agency proceedings, or the actual names of parties, or descriptive terms such as "the employee," the "injured person," "the taxpayer," and so forth.

(8) References in Briefs to the Record or Excerpt. References in the briefs to parts of the record reproduced in an excerpt shall be to the pages of the excerpt at which those parts appear. The form for references to pages of the excerpt is [Exc._____]. Briefs may reference parts of the record not reproduced in an excerpt. The form for references to pages of the transcript is [Tr. _____] and to pages of the trial court file is [R._____]. The form for references to untranscribed portions of the electronic record is [CD (#), at Time 00:00:00 or Tape (#), at Log 00:00:00 or Date at Time 00:00:00].

(9) *Brief of an Amicus Curiae.* A brief of an amicus curiae may be filed only if accompanied by written consent of all the parties, or by leave of the appellate court granted on motion, or at the request of the appellate court. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Unless all parties otherwise consent, any amicus curiae shall file its brief within the time allowed to the party whose position as to affirmance or reversal the amicus brief will support, unless the court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. The brief shall be in the form prescribed by this rule and shall be duplicated and served pursuant to the requirements of Rule 212(a)(2). A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons.

(10) *Failure to File Brief.* When the appellant's opening brief is not filed as required, Rule 511.5 shall apply. When the appellee's brief is not filed as required, appellee will not be heard at oral argument except on consent of the appellant, or by request of the court.

(11) *Defective Briefs.* When a brief fails to comply with the requirements of these rules, the appellate court, on application of any party or on its own motion, and with or without notice as it may determine appropriate, may:

(A) Order the brief to be returned to counsel for correction by interlineation, cancellation, revisions or replacement in whole or in part, and to be refiled with the clerk within a time specified in the order; or

(B) Order the brief stricken from the files, with leave to file a new brief within a specified time; or

(C) Disregard defects and consider the brief as if it were properly prepared.

The authority to return briefs under this section may be exercised by the clerk of court pursuant to Rule 102 (f).

(12) *Citation of Supplemental Authorities.* When pertinent authorities come to the attention of a party after the party's brief has been filed, or after oral argument but before decision, the party may promptly advise the clerk of the court, by letter, with a copy to adversary counsel, setting forth the citations. The party must file an original and the same number of copies of the letter that subparagraph (a)(2)(A) requires for filing bound briefs.

There shall be a reference either to the page of the brief or to a point argued orally to which the citations pertain, but the

letter shall contain no argument or explanations. Any response shall be made promptly and shall be similarly limited.

(SCO 439 effective November 15, 1980; amended by SCO 510 effective August 30, 1982; by SCO 727 effective December 15, 1986; by SCO 737 effective December 15, 1986; by SCO 769 effective March 15, 1987; by SCO 861 effective July 15, 1988; by SCO 868 effective July 15, 1988; by SCO 925 effective January 15, 1989; by SCO 1020 effective July 15, 1990; by SCO 1091 effective July 15, 1992; by SCO 1120 effective July 15, 1993; by SCO 1153 effective July 15, 1994; by SCO 1155 effective July 15, 1994; by SCO 1157 effective July 15, 1994; by SCO 1210 effective July 15, 1995; by SCO 1279 effective July 31, 1997; by SCO 1407 effective October 15, 2000; by SCO 1408 effective October 15, 2000; by SCO 1477 effective April 15, 2003; by SCO 1540 effective October 15, 2004; by SCO 1597 effective October 15, 2006; by SCO 1659 effective April 15, 2008; by SCO 1747 effective October 14, 2011; by SCO 1781 effective October 15, 2012; by SCO 1893 effective August 10, 2016; by SCO 1885 effective October 15, 2016; and by SCO 1973 effective April 15, 2022)

Rule 213. Oral Argument.

The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505.

(SCO 439 effective November 15, 1980; amended by SCO 1279 effective July 31, 1997, by SCO 1598 effective October 15, 2006; and by SCO 1893 effective August 10, 2016)

Rule 214. Summary Disposition of Appeals.

(a) The court may determine that an appeal shall be disposed of by summary order and without formal written opinion. To assist the court in making this determination, the parties may request in writing that an appeal be so decided. The request shall be signed by all parties and may be filed any time after the filing of the notice of appeal.

(b) In a criminal case, a summary order under this rule shall contain, at a minimum, a statement of the issues considered by the appellate court. This statement of issues may be made by reference to a trial court opinion. For purposes of this rule, "criminal case" includes all collateral criminal proceedings listed in AS 22.07.020(a).

(c) Nothing in this rule limits the right of the parties to oral argument pursuant to Rule 505.

(d) Citation of Unpublished Decisions.

(1) Citation of unpublished decisions in briefs and oral arguments is freely permitted for purposes of establishing res judicata, estoppel, or the law of the case. Citation of unpublished decisions for other purposes is not encouraged. If a party believes, nevertheless, that an unpublished decision has persuasive value in relation to an issue in the case, and that there is no published opinion that would serve as well, the party may cite the unpublished decision.

(2) If a party cites an unpublished decision that is available in a publicly accessible electronic database, the citation must specify that it is unpublished in a parenthetical following the citation, and must also specify where the decision is available. If a party cites an unpublished decision that is not available in a publicly accessible electronic database, the party must specify that it is unpublished in a parenthetical following the citation and must also file and serve a copy of that unpublished decision with the brief or other document in which it is cited.

(3) For purposes of this rule, "unpublished decision" means any judicial opinion, order, judgment, or other written disposition that is not published in a national or state law reporter and that has been designated as "unpublished," "not for publication," "non-precedential," "not precedent," "memorandum opinion and judgment," "memorandum opinion," or by another similar term.

(SCO 439 effective November 15, 1980; amended by SCO 1654 effective April 15, 2008; and by SCO 1972 effective October 15, 2021)

Rule 215. Sentence Appeal.

(a) **Appellate Review of Sentence.**

(1) *Defendant's Right to Appeal Sentence as Excessive.* A defendant may appeal an unsuspended sentence of imprisonment that exceeds two years for a felony offense or 120 days for a misdemeanor offense on the ground that the sentence is excessive, unless the sentence was imposed in accordance with a plea agreement that provided for imposition of a specific sentence or a sentence equal to or less than a specified maximum sentence. If a sentence is imposed in accordance with a plea agreement that provides for a minimum sentence, a defendant may appeal as excessive only the part of the sentence that exceeds the minimum sentence by more than two years for a felony offense or 120 days for a misdemeanor offense.

(2) *Defendant's Right to Appeal Sentence on Grounds Other Than Excessiveness.* A defendant may appeal a sentence of any length on grounds other than excessiveness, including but not limited to: illegality of the sentence; erroneous findings by the trial court that affect the statutory range of sentences to which the defendant is subject; and procedural errors in the sentencing proceeding.

(3) *Prosecuting Authority's Right to Appeal Sentence.* The prosecuting authority may appeal a sentence of any length as provided in AS 22.07.020.

(4) *Where Appeal is Taken.* An appeal under subparagraphs (a)(1)-(3) must be taken to the court of appeals.

(5) *Right to Seek Discretionary Review for Excessiveness.* A defendant may seek discretionary review of an unsuspended sentence of imprisonment which is not appealable under subparagraph (a)(1) by filing a petition for review in the supreme court under Appellate Rule 402. A defendant who is filing a sentence petition and a sentence

appeal, or a sentence petition and a merit appeal, must follow the procedure set out in paragraph (j).

(6) *Victim's Right to Seek Discretionary Review of Defendant's Sentence*. A victim as defined in AS 12.55.185 may seek discretionary review of an unsuspended sentence of imprisonment that is below the applicable presumptive sentencing range by filing a petition for review in the court of appeals under Appellate Rule 402.

(b) **Notification of Right to Seek Review of Sentence.** At the time of imposition of any sentence of imprisonment, the judge shall inform the defendant

(1) of the defendant's right to appeal or petition for review of the sentence under paragraph (a);

(2) that the appellate court may reduce or increase the sentence, and that by appealing or petitioning for review of the sentence under this rule, the defendant waives the right to plead that by a revision of the sentence resulting from the appeal or review the defendant has been twice placed in jeopardy for the same offense; and

(3) that if the defendant wants counsel and is unable to pay for the services of an attorney, the court will appoint an attorney to represent the defendant in an appeal or petition for review.

(c) **Notice of Appeal.** A notice of appeal taken only from a sentence shall be filed with the clerk of the appellate courts not later than 30 days after the date shown in the clerk's certificate of distribution on the written judgment, except as provided for in Appellate Rule 204(a)(4). The notice of appeal need only state that the sentence which is being appealed is too lenient or excessive. When filed, the notice of appeal shall be accompanied by the items specified in Appellate Rule 204 (b)(1), (2), (4), (6), and (7).

(d) **Termination of Appeal.** Any appeal of a sentence initiated by the defendant may be terminated by the defendant filing within 30 days from the filing of the notice of appeal a notice of intent to terminate the appeal. Such a termination shall prevent any increase in the sentence or sentences imposed.

(e) **Indigent's Right to Counsel on Sentence Appeal.** An indigent defendant is entitled to the assistance of counsel in prosecuting an appeal on the ground that the sentence is excessive. Where an appeal is taken by the prosecution pursuant to AS 12.55.120(b) on the ground that the sentence is too lenient, and the defendant has not appealed, the appellate court in its discretion may appoint counsel for an indigent defendant.

(f) **Record on Appeal.**

(1) Except as provided in paragraph (2), Appellate Rule 210 governs the content and preparation of the record on appeal.

(2) The parties must designate transcripts as set forth in Rule 210(b). The designation in a sentence appeal must include at least the entire sentencing hearing at which the sentence was imposed. If the sentence appeal is from a probation revocation proceeding, the designation must also include the original sentencing hearing and all prior probation revocation sentencing hearings.

(g) **Memoranda on Appeal.**

(1) *By Appellant.* Within 15 days after service of copies of the record on appeal provided for in (f) of this rule, the appellant shall file with the appellate court the original and three copies of a memorandum in support of the appeal.

(2) *By Appellee.* Within 15 days after service of a copy of the appellant's memorandum, the appellee may file with the appellate court the original and three copies of a memorandum in opposition to the appeal.

(3) *Reply Memorandum.* No reply memorandum shall be filed unless ordered by the court.

(4) *Form and Contents of Memoranda.* Memoranda shall comply with Appellate Rule 513.5(b)(6)-(7) and shall also comply with Appellate Rule 212(b)-(c), except:

(A) memoranda need not comply with Rule 212(c)(1)(A)-(E);

(B) no memorandum shall exceed 25 pages without permission of the court; and

(C) the front page of each memorandum shall include the information that Appellate Rule 212(b) requires on the cover of a brief.

(5) *Service of Memoranda.* A party's memorandum shall be accompanied by proof of service on opposing counsel.

(h) **Oral Argument.** The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505. In cases where sentence appeals are consolidated with appeals on the merits, a timely request for argument on the merits is deemed to include a request for argument on the sentence appeal.

(i) **Bail Pending Appeal.** A sentence appealed on the sole ground that the sentence is excessive does not confer or enlarge the right to bail pending appeal.

(j) **Combining of Sentence Appeals, Sentence Petitions, and Merit Appeals.** A party filing a sentence appeal and a sentence petition shall combine the two, and the procedures for sentence appeals shall govern the case. A party filing a merit appeal shall combine that appeal with any sentence appeal or sentence petition, and the procedures for merit appeals shall govern the case. All combined proceedings must be taken initially to the court of appeals, and the court of appeals shall decide all issues within its jurisdiction.

(k) **Referral of Issues Outside Jurisdiction of Court of Appeals.** In a combined appeal, upon final adjudication of all issues within the jurisdiction of the court of appeals, the court of appeals shall refer the case to the supreme court for discretionary review of any remaining sentence issues which

are reviewable by the supreme court under subparagraph (a)(5) of this rule.

(SCO 439 effective November 15, 1980; amended by SCO 515 effective October 1, 1982; by SCO 554 effective April 4, 1983; by SCO 575 effective February 1, 1984; by SCO 781 effective March 15, 1987; by SCO 827 effective August 1, 1987; by SCO 829 effective August 1, 1987; by SCO 862 effective July 15, 1988; by SCO 940 effective January 15, 1989; by SCO 1021 effective July 15, 1990; by SCO 1153 effective July 15, 1994; and by SCO 1155 effective July 15, 1994; by SCO 1226 effective January 22, 1996; by SCO 1316 effective July 15, 1998; by SCO 1368 effective April 15, 2000; by SCO 1473 effective October 15, 2002; by SCO 1475 effective October 15, 2002; by SCO 1482 effective October 15, 2002; by SCO 1474 effective October 15, 2003; by SCO 1543 effective October 15, 2004; by SCO 1598 effective October 15, 2006; by SCO1655 effective April 15, 2008; by SCO 1973 effective April 15, 2022; and by SCO 2034 effective December 18, 2024)

Note to SCO 1655: Chapter 65, section 4, SLA 2005 (HB 54) amended AS 12.55.120 by adding a new subsection (e) to provide that a victim of the crime for which a defendant has been convicted and sentenced may petition for review in an appellate court of a sentence that is below the sentencing range for the crime. New paragraph (6) of Appellate Rule 215(a) is adopted for the sole reason that the legislature made that statutory change.

Rule 216. Expedited Appeals.

(a) **Scope.** This rule applies to the following classes of appeals, and supersedes the other appellate rules to the extent that they may be inconsistent with this rule:

(1) Extradition appeals;

(2) Peremptory challenge appeals.

(b) **Definitions.**

(1) An appeal from an order of the superior court granting or denying an application for a writ of habeas corpus filed under AS 12.70.090 by a person arrested on a governor's warrant under the Uniform Criminal Extradition Act, is an "extradition appeal." An appeal from any other final judgment of the superior court relating to the extradition of a person charged in this state or elsewhere with a crime is also an "extradition appeal," except that any appeal from a final judgment convicting a person of a crime is not an "extradition appeal."

(2) A "peremptory challenge appeal" is an appeal by a criminal defendant from an order denying the defendant's motion for change of judge under Criminal Rule 25(d).

(c) **Jurisdictional Limitation.** This rule does not permit an extradition appeal to be taken in any circumstances in which an appeal would not be permitted by Rule 202.

(d) **Notice of Appeal.**

(1) A notice of appeal under this rule shall be filed with the clerk of the appellate courts within 10 days after the date shown in the clerk's certificate of distribution on the order or judgment. The notice of appeal shall be accompanied by the items specified in Appellate Rule 204(b)[1]-[4] and [7].

(2) The notice must indicate that the appeal is being filed pursuant to this rule, but the court of appeals will apply this rule to cases within its scope whether they are so identified or not.

(e) **Record on Appeal.** The entire superior court file shall serve as the record on appeal, together with an electronic recording of any hearing held in superior court if deemed necessary by the court of appeals. The papers in the record on appeal need not be numbered at the bottom consecutively. Promptly upon the filing of the appellee's memorandum, the clerk of the trial courts shall transmit the original and copies of the record to the clerk of the appellate courts in the same manner as for other appeals. Appellate Rule 210(c) shall not apply.

(f) **Memoranda on Appeal.**

(1) *By Appellant.* Within 10 days after filing a notice of appeal under this rule, the appellant shall file with the court of appeals the original and three copies of a memorandum in support of the appeal together with proof of service on all other parties.

(2) *By Appellee.* Within 10 days after service of the appellant's memorandum, the appellee may file with the court of appeals the original and three copies of a memorandum in opposition to the appeal.

(3) *Reply Memorandum.* No reply memorandum may be filed unless ordered by the court.

(4) *Form and Contents of Memoranda.* Memoranda shall comply with Appellate Rule 513.5(b)(6)-(7) and shall also comply with Appellate Rules 212(b)-(c), except:

(A) memoranda need not comply with Rule 212(c)(1)(A)-(E);

(B) no memorandum shall exceed 20 pages without permission of the court; and

(C) the front page of each memorandum shall include the information that Appellate Rule 212(b) requires on the cover of a brief.

(g) **Disposition of Appeals.** Appeals under this rule will be disposed of expeditiously by the court of appeals. If oral argument is requested, it may be held on an expedited basis or telephonically under Rule 505(g) as necessary to ensure an expeditious resolution. The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505.

(SCO 439 effective November 15, 1980; amended by SCO 511 effective August 18, 1982; by SCO 554 effective April 4, 1983; by SCO 575 effective February 1, 1984; by SCO 827

effective August 1, 1987; by SCO 828 effective August 1, 1987; by SCO 926 effective January 15, 1989; by SCO 928 effective January 15, 1989; by SCO 1155 effective July 15, 1994; by SCO 1433 effective October 15, 2001; by SCO 1543 effective October 15, 2004; by SCO 1555 effective October 15, 2004; by SCO 1598 effective October 15, 2006; and by SCO 1752 effective April 15, 2011)

Rule 216.5. Expedited Appeals and Petitions in Election Redistricting Cases.

(a) **Scope.** This rule applies to appeals and petitions from the superior court involving challenges to decisions of the Redistricting Board under art. VI, sec. 11, Constitution of the State of Alaska, and supersedes the other appellate rules to the extent that they may be inconsistent with this rule.

(b) **Notice of Appeal.**

(1) A notice of appeal under this rule shall be filed with the clerk of the appellate courts within 2 days from the date shown in the clerk's certificate of distribution on the order or judgment appealed from. The notice of appeal shall be accompanied by the items specified in Appellate Rule 204(b)[1]-[4] and [7]. A notice of cross-appeal shall be filed within 1 day from the date the notice of appeal is filed.

(2) The notice must indicate that the appeal is being filed pursuant to this rule, but the supreme court will apply this rule to cases within its scope whether or not they are so identified.

(3) In addition to service required under Rule 204(h), service of the notice of appeal shall be made on the Redistricting Board, the Office of the Attorney General, and the Office of the Lieutenant Governor.

(c) **Scheduling Conference.** The clerk of the appellate courts shall hold a mandatory scheduling conference within 2 days from the date the first notice of appeal is filed under paragraph (b) above. All parties to the superior court proceedings from which a redistricting appeal arises shall attend the conference. The court may permit telephonic participation. At the scheduling conference, the clerk shall enter a scheduling order that establishes the following:

(1) the dates by which the parties shall file their memoranda on appeal and excerpts of record as described in paragraph (f) below, the last date of which shall be no later than 90 days before the statutory filing deadline for the first statewide election in which the challenged redistricting plan is scheduled to take effect;

(2) the last date for oral argument, unless waived by the parties, which shall be no later than 75 days before the statutory filing deadline described in subparagraph (c)(1).

(d) **Record on Appeal.** Rule 210 shall not apply. The record on appeal consists of the entire superior court file, including the original papers and exhibits filed in the superior court, with pages numbered consecutively. The record on appeal also includes the electronic record of proceedings before the superior court and transcripts, if any. The appeals clerk shall complete the record on appeal within 5 days from the first notice of appeal, and shall notify the clerk of the appellate courts. The clerk of the appellate courts shall serve a notice of certification of the record on all parties to the appeal.

(e) **Excerpts of Record.** Each party shall file and serve an excerpt of record with the party's memorandum on appeal. In cases involving multiple appellants or appellees, each side shall prepare a single excerpt according to the procedure described in Appellate Rule 210(c)(1)(B). Appellants' excerpt must contain a true and correct copy of each document in the record that is cited in their memoranda and is essential to the resolution of an issue on appeal. Appellees' excerpt must contain a true and correct copy of each document in the record relied on in their memoranda but not included in the appellants' excerpt. The form of excerpts is governed by Appellate Rule 210(c)(4).

(f) **Memoranda on Appeal.**

(1) Unless otherwise specified in the scheduling order, no later than 10 days from the scheduling conference the appellant shall file the original and seven copies of a typewritten memorandum in support of the appeal and the excerpt of record as provided in paragraph (e), together with proof of service on all other parties,

(2) Unless otherwise specified in the scheduling order, no later than 5 days after service of the appellant's memorandum the appellee shall file the original and six copies of a typewritten memorandum in opposition to the appeal and the excerpt of record as provided in paragraph (e), together with proof of service on all other parties.

(3) No reply memorandum may be filed unless ordered by the court.

(4) The memoranda must comply with Rule 513.5, but need not comply with the requirements of Rule 212 unless ordered by the court.

(g) **Oral Argument.** Unless waived by the parties at the scheduling conference, oral argument will be scheduled on an expedited basis and may be held telephonically as necessary to ensure the participation of all parties to the appeal. The number of counsel allowed to present argument, and the length of argument allowed to each side, shall be determined by the court, and shall ordinarily not exceed one-half hour for each side.

(h) **Petitions for Review.** If the superior court's decision remands the case to the Redistricting Board, any petition for review shall be filed within 5 days of the superior court's decision, and any response shall be filed within 5 days thereafter.

(i) **Disposition of Appeals.** Appeals and petitions under this rule will be decided as expeditiously as possible, and shall have priority over all other matters pending before the court. A decision or order of this court shall be rendered no later than 60 days before the statutory filing deadline for the first statewide election in which the challenged redistricting plan is scheduled to take effect.

(j) **Extensions of Time.** An extension of time under this rule will not be granted without a showing of extraordinary circumstances.

(k) **Personal Same-Day Filing and Service Required.** All documents shall be filed by personal delivery to the office of the Clerk of the Appellate Courts. All service of documents filed under this rule must be achieved by personal delivery on the same day the documents are filed, unless otherwise ordered by the court.

(Adopted by SCO 1456 effective November 15, 2001; amended by SCO 1885 effective October 15, 2016)

Rule 217. Appeals from District Court.

(a) This rule applies to proceedings in the court of appeals in direct appeals from judgments of the district court under AS 22.07.020(c), and in such appeals supersedes the other appellate rules to the extent that they may be inconsistent with this rule. This rule does not apply to sentence appeals, which are governed by Rule 215, or to appeals from the district court to the superior court, which are governed by Part Six of these rules.

(b) The notice of appeal shall be filed with the clerk of the appellate courts within 30 days after the date shown in the clerk's certificate of distribution on the judgment being appealed. The provisions of Appellate Rule 204(a)(4) shall apply to appeals from the district court. The notice of appeal shall be accompanied by the items specified in Appellate Rule 204(b)(1)-(4) and (6-7).

(c) The composition of the record on appeal shall be governed by Appellate Rule 210(a), and the preparation of the transcript shall be governed by Appellate Rule 210(b). Appellate Rule 210(c) shall not apply.

(d) The appellant's brief shall be served and filed within 20 days after notice of the certification of the record has been served. The appellee's brief shall be served and filed within 20 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 10 days after the service of the brief of the appellee.

(e) Unless otherwise ordered by the court of appeals, the appellant's and appellee's briefs may not exceed 25 numbered pages each, exclusive of appendices. The appellant's reply brief may not exceed 10 pages.

(f) In lieu of filing a brief, any party may instead serve and file a notice that the party wishes to submit the case for decision based on the legal memoranda filed in the district court, without further briefing. An election by one party to submit the case without filing a brief does not obligate any other party to do so. If the appellee files a brief, the appellant may file a reply brief.

The court of appeals may, however, require a brief to be submitted by a party who has filed a notice under this paragraph if it appears that the issues raised on appeal are unclear, that the legal memoranda filed in the district court are inadequate, or that submission of formal briefs would otherwise facilitate disposition of the appeal or serve the interests of justice.

(g) Except as provided in paragraphs (d) and (e) of this rule, briefs shall be prepared, served, filed, and duplicated in the manner prescribed by Rule 212.

(h) A party may request oral argument whether the party has filed a brief or has instead filed a notice under subsection (f) of this rule. The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505.

(SCO 481 effective September 8, 1981; amended by SCO 511 effective August 18, 1982; by SCO 554 effective April 4, 1983; by SCO 781 effective March 15, 1987; by SCO 928 effective January 15, 1989; by SCO 1153 effective July 15, 1994; by SCO 1155 effective July 15, 1994; by SCO 1234 effective July 15, 1996; by SCO 1323 effective July 15, 1998; by SCO 1555 effective October 15, 2004; by SCO 1598 effective October 15, 2006; and by SCO 1824 effective October 15, 2014)

Rule 218. Expedited Appeals in Cases Involving Children.

(a) **Scope.** This rule applies in the following classes of appeals, and in such appeals supersedes the other appellate rules to the extent that they may be inconsistent with this rule:

(1) appeals from final judgments for custody of children, including judgments under AS 25.24.150, AS 25.20.060 or AS 25.20.110;

(2) appeals from final judgments and decrees in adoption proceedings under AS 25.23;

(3) appeals from final judgments in child-in-need-of-aid proceedings under AS 47.10;

(4) appeals from final judgments in injunctive actions relating to domestic violence under AS 25.35.010, if the presence or absence of a provision relating to the custody of children in the judgment is an issue on the appeal;

(5) appeals from final judgments rendered under the Uniform Child Custody Jurisdiction and Enforcement Act, AS 25.30;

(6) appeals from final judgments concerning the guardianship of minors under AS 13.26.030 - 085.

(b) **Jurisdictional Limitation.** This rule does not permit an appeal to be taken in any circumstances in which an appeal would not be permitted by Rule 202.

(c) **Bifurcation of Appeals.**

(1) An appeal from the same final judgment which includes points related to the custody of children and points which do not relate to the custody of children (for example, property division or spousal support) will be treated as a single appellate action under this rule unless the court orders that the appeal be treated as two separate appeals for good cause

shown.

(2) If the appeal is bifurcated, the portion of the appeal relating to custody of children shall be treated as a separate appeal under this rule. The remainder of the appeal shall be treated as a separate appeal under the other appellate rules relating to appeals in civil actions generally. For purposes of Rule 203, each portion is a separate action, and the pendency of one portion in the appellate court shall not divest the trial court of jurisdiction over the other portion.

(d) **Notice of Appeal and Cross Appeal.** The notice of appeal in an appeal under this rule shall be filed with the clerk of the appellate courts within 15 days after the date shown in the clerk's certificate of distribution on the order or judgment. The notice of appeal shall be accompanied by the items specified in Appellate Rule 204(b)(1)-(7). The notice must indicate that the appeal is being filed pursuant to this rule, but the supreme court will apply this rule to cases within its scope whether they are so identified or not. A notice of cross appeal may be filed within 14 days after the notice of appeal is filed.

(e) **Time for Completion of Record.** Rule 210 shall apply except that the time for completion of the transcript and page numbering shall be within 30 days after filing of the notice of appeal.

(f) **Serving and Filing Briefs.**

(1) Notwithstanding Rule 212(a)(1), the time for serving and filing the appellant's brief shall be 20 days after notice of certification of the record has been served, the time for service and filing of the appellee's brief shall be 20 days, and the time for service and filing of the reply brief shall be 10 days.

(2) The briefs shall be in the form prescribed by Rule 212(b) and (c).They shall be filed and printed as provided in Rule 212(a). The remaining ten copies shall be filed, and two copies served on each party, within ten days after the original is returned to counsel for duplication and binding.

(g) **Oral Argument.** If oral argument is requested, it may be held on an expedited basis or telephonically under Rule 505(g) as necessary to ensure an expeditious resolution. The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505.

(h) **Disposition of Appeals.** Appeals under this rule will be decided expeditiously by the court.

(i) **Extensions of Time.** A motion to extend a time period referred to in this rule is not a "routine" motion within the meaning of Rule 503(e).

(j) **Waiver.** If an appeal is within the scope of paragraph (a) of this rule, the court will not entertain a motion to waive this rule and consider the appeal under the other appellate rules relating to civil actions generally, unless the motion is filed with a timely notice of appeal and all parties to the appeal, including the guardian ad litem, if any, consent to the motion.

(SCO 579 effective February 1, 1984; amended by SCO 825 effective August 1, 1987; by SCO 888 effective July 15, 1988; by SCO 1004 effective January 15, 1990; by SCO 1112 effective January 15, 1993; by SCO 1155 effective July 15, 1994; by SCO 1369 effective April 15, 2000; by SCO 1433 effective October 15, 2001; by SCO 1598 effective October 15, 2006; by SCO 1765 effective October 14, 2011; and by SCO 1885 effective October 15, 2016)

Rule 219. Juvenile Appeals.

(a) **Scope.** This rule applies to the following classes of appeals, and in such appeals supersedes the other appellate rules to the extent that they may be inconsistent with this rule.

(1) appeals from final judgments in juvenile delinquency proceedings under AS 47.12.120(b); and

(2) appeals from orders under AS 47.12.100(a) finding that a minor is not amenable to treatment under AS 47.12.

(b) **Jurisdictional Limitation.** This rule does not permit an appeal to be taken in any circumstances in which an appeal would not be permitted by Rule 202.

(c) **Notice of Appeal.** The notice of appeal under this rule shall be filed with the clerk of the appellate courts within 15 days after the date shown in the clerk's certificate of distribution on the order or judgment. The notice shall identify the appeal as an appeal under this rule, but the court of appeals will apply this rule to cases within its scope whether they are so identified or not. The notice of appeal shall be accompanied by the items specified in Appellate Rule 204(b)(1)-(4), (6), and (7).

(d) **Time for Completion of Record.** Rule 210 shall apply except that the time for completion of the transcript, if ordered, and page numbering shall be within 30 days after filing the notice of appeal. The clerk of the trial courts shall take such steps as may be necessary to ensure timely completion of records in cases under this rule, including but not limited to giving the preparation of transcripts in cases under this rule priority over the preparation of transcripts in criminal cases. However, unless otherwise ordered by the Court of Appeals, the record of the trial court proceeding will consist of electronic recordings rather than transcripts. Written transcripts may not be prepared except by order of the Court of Appeals.

(e) **Briefs.** Briefs shall be prepared, served, and filed in the manner prescribed in Rule 212.

(f) **Oral Argument.** If oral argument is requested, it may be held on an expedited basis or telephonically under Rule 505(g) as necessary to ensure an expeditious resolution. The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505.

(g) **Disposition of Appeals.** Appeals under this rule will be decided expeditiously by the court.

(h) **Extensions of Time.** A motion to extend a time period referred to in this rule is not a "routine" motion within the meaning of Rules 503(e) and 503.5.

(Added by SCO 926 effective January 15, 1989; amended by SCO 1155 effective July 15, 1994; by SCO 1433 effective October 15, 2001; by SCO 1482 effective October 15, 2002; by SCO 1555 effective October 15, 2004; and by SCO 1598 effective October 15, 2006)

Rule 220. Judicial Bypass Appeals. (Rescinded)

(Added by SCO 1279 effective July 31, 1997; by SCO 1748 effective December 14, 2010; amended by SCO 1755 effective nunc pro tunc to December 14, 2010; by SCO 1829 effective October 15, 2014; and rescinded by SCO 1893 effective August 10, 2016)

Rule 221. Settlement Discussions in Civil Appeals.

The attorneys for all parties to a civil appeal to the supreme court shall discuss the possibilities for prompt settlement of all or part of the appeal. This discussion must occur by the date specified in the opening notice issued by the clerk of the appellate courts. The discussion may be conducted by telephone. If the parties reach settlement on any issue on appeal, they shall immediately file an appropriate notice with the clerk of the appellate courts. Otherwise, they shall file a certificate signed by all attorneys that the attorneys, with the knowledge of their clients, have discussed settlement as required by this rule. A settlement discussion is not required in an appeal filed under Rule 218(a)(3) or pursuant to AS 47.30.765 or AS 47.30.839, in an appeal in which a party is appearing pro se, or in an appeal that is exempted by the court.

(Added by SCO 1374 effective April 15, 2001; and amended by SCO 1825 effective October 15, 2014)

Rule 222. Settlement Conferences in Civil Appeals.

(a) **Motion for Settlement Conference.** At any time after a notice of appeal is filed, a party may file a motion with the court requesting a settlement conference. The court may order the parties to participate in a settlement conference in response to such a motion, or on its own motion.

(b) **Settlement Officers.** The court may appoint a retired justice or judge, an active judge, or a private neutral to serve as the settlement officer. If the court appoints a private neutral, costs will be borne equally by the parties unless the parties otherwise agree or the court orders costs to be apportioned differently.

(c) **Confidentiality.** Settlement confer-ences will be held in private and are confidential. The settlement officer may report required attendance but shall not otherwise disclose or testify as to any aspect of the conference. The settlement officer shall not participate in subsequent judicial decisions related to the case, unless the parties have waived this disqualification. All conferences, submissions, and statements made in the course of the settlement proceedings required by this rule constitute offers to compromise and statements made in compromise negotiations and are inadmissible pursuant to Evidence Rule 408. This rule does not relieve any person of a duty imposed by statute.

(d) **Conduct of the Conference.**

(1) *Conferences.* The settlement conference will be conducted informally at a location designated by the settlement officer. The parties shall not submit settlement briefs unless requested to do so by the settlement officer. If briefs are requested, they must be submitted directly to the settlement officer, who will return them to the parties who submitted them at the conclusion of the settlement proceedings. A party's brief may not be disclosed to anyone, including any other party, without the submitting party's consent and will not be available to the court. Counsel for a party may attend all conferences attended by that party.

(2) *Termination.* After the initial joint conference and the first round of any separate conferences, a party may withdraw from the settlement proceedings, or the settlement officer may terminate the process if the officer determines that settlement efforts are likely to be unsuccessful. Upon withdrawal by a party or termination by the settlement officer, the settlement officer shall notify the court that settlement proceedings have been terminated.

(e) **Postponement of Briefing and Preparation of the Record.** Settlement proceedings under this rule will not delay preparation of the record, briefing, or excerpts, except by order of the court.

(f) **Results.** If the appeal is resolved or partially resolved as a result of the settlement conference, the parties shall seek an order of dismissal under Appellate Rule 511 as to all or part of the appeal. The parties shall take this action within fifteen days after the settlement proceedings have concluded.

(SCO 1374 effective April 15, 2001)

PART III. PETITION FOR HEARING

Rule 301. Scope of Part Three.

(a) Part Three of these rules (Rules 301 through 305) applies to requests to the supreme court to exercise its discretionary jurisdiction provided in AS 22.05.010(d) to review decisions of the court of appeals.

(b) Part Three also applies to requests to the supreme court to exercise its discretionary jurisdiction provided in AS 22.05.010(d) to review decisions of the superior court in appeals from the district court.

(c) Part Three also applies to requests to the court of appeals to exercise its discretionary jurisdiction provided in AS 22.07.020(e) to review decisions of the superior court in appeals from the district court.

(SCO 439 effective November 15, 1980; amended by SCO 888 effective July 15, 1988)

Rule 302. Petition for Hearing—When Permitted.

(a) **From the Court of Appeals.**

(1) A petition for hearing may be filed in the supreme court with respect to any final decision of the court of appeals, as defined in AS 22.07.030. "Final decision" includes any decision or order of the court of appeals, other than a dismissal by consent of all parties, which closes a matter in the court of appeals, whether or not it contemplates further proceedings in a trial court. "Final decision" also includes a decision of the court of appeals made under Rules 206 or 207. Unless specified otherwise in the particular order in question, it includes but is not limited to, opinions, memorandum opinion and judgments, orders denying petitions for review, orders denying petitions for hearing filed under AS 22.07.020(e), dismissals on motion of the appellee or respondent, and sua sponte dismissals pursuant to Rule 511.5 or another rule.

(2) When a petition for hearing is filed under this subsection, for purposes of Part Three the supreme court is the "court of discretionary review," the court of appeals is the "intermediate appellate court," and the court which entered the judgment which was appealed to the intermediate appellate court is the "trial court."

(b) **From the Superior Court.**

(1) A petition for hearing may be filed in the appellate court having statutory jurisdiction, with respect to any final decision of the superior court on an appeal or petition for review from the district court. "Final decision" is defined in AS 22.07.020(e) and includes any decision or order of the superior court, other than a dismissal by consent of all parties, which closes the matter in the superior court, whether or not it contemplates further proceedings in the district court or before an administrative agency. Unless specified otherwise in the particular order in question, it includes but is not limited to, opinions, memorandum opinion and judgments, orders denying petitions for review, dismissals on motion of the appellee or respondent, and sua sponte dismissals pursuant to Rule 511.5 or another rule.

(2) When a petition for hearing is filed under this subsection, for purposes of Part Three the court in which the petition is filed is the "court of discretionary review," the superior court is the "intermediate appellate court," and the district court is the "trial court."

(SCO 439 effective November 15, 1980; amended by SCO 493 effective January 4, 1982; by SCO 510 effective August 30, 1982; by SCO 989 effective January 15, 1990; and by SCO 1022 effective July 15, 1990)

Rule 303. Procedure on Petition for Hearing.

(a) **Filing.**

(1) A petition for hearing must be filed within 30 days after the date of notice of the opinion, order, or memorandum opinion and judgment of the intermediate appellate court. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). The original of the petition shall be filed, together with a completed docketing statement in the form prescribed by these rules, and proof of service on all parties to the proceeding in the intermediate appellate court. An additional nine copies of a petition for hearing before the supreme court or four copies of a petition for hearing before the court of appeals shall also be filed, unless otherwise specified by the clerk.

(2) If a timely petition for rehearing is filed in the intermediate appellate court the full 30-day period for filing a petition for hearing begins to run upon the date of notice of the final order of the intermediate appellate court resolving the matter on rehearing. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). Any petition for hearing filed prior to that time will not be entertained.

(3) *Cross-Petitions.* When a petition is filed any other party may file and serve a cross-petition for hearing within 30 days after service of the petition. Otherwise, the provisions of this rule referring to petitions for hearing also apply to cross-petitions for hearing.

(b) **Format, Length and Contents.** The petition for hearing shall be in the format prescribed by Rule 513.5 (b), shall not exceed fifteen pages in length, excluding the decision of the intermediate appellate court, and shall contain in the following order:

(1) A caption identifying the party filing the petition as the petitioner, and all other parties to the action in the intermediate appellate court as respondents;

(2) A prayer for review;

(3) A short statement of facts relevant to the appeal, but it is not necessary to restate facts correctly stated in the opinion of the intermediate appellate court;

(4) A statement of the points relied on for reversal of the decision of the intermediate appellate court, including appropriate authorities;

(5) A statement of concrete reasons, apart from those asserted for reversal, explaining why the issues presented have importance beyond the particular case and require decision by the court of discretionary review, and referring to specific paragraphs of Rule 304; and

(6) A complete copy of the opinion, memorandum opinion and judgment, or order of the intermediate appellate court.

(c) **Response.** Within 30 days after service, all other parties to the proceeding in the intermediate appellate court shall file either an original response, together with proof of service on all parties to the proceeding in the intermediate appellate court, or a notice that no response will be filed. An additional nine copies of a response to a petition for hearing before the supreme court or four copies of a response to a petition for hearing before the court of appeals shall be filed, unless a different number is specified by the clerk. The response shall not exceed fifteen pages in length. Motions to dismiss a petition for hearing will not be received; all objections to exercise of the discretionary power shall be contained in the response. The party filing a petition for hearing may not file a reply to the response without leave of

the court of discretionary review. Consideration of the petition for hearing will not be delayed on account of the filing of a motion for leave to file a reply. Oral argument will not be held on the question whether a petition for hearing should be granted.

(d) **Extensions of Time.** The time periods in this rule may be extended for up to 15 days by filing a notice. Motions for extensions beyond 15 days will be considered only in extraordinary circumstances.

(e) **Petition for Rehearing.** A petition for rehearing may not be filed in connection with the grant or the denial of a petition for hearing.

(SCO 439 effective November 15, 1980: amended by SCO 554 effective April 4, 1983: by SCO 582 effective February 1, 1984; by SCO 584 effective February 1, 1984; by SCO 770 effective March 15, 1987; by SCO 1133 effective July 15, 1993; by SCO 1212 effective July 15, 1995; by SCO 1412 effective October 15, 2000; by SCO 1718 effective April 15, 2010; by SCO 1823 effective October 15, 2014; by SCO 1885 effective October 15, 2016; and by SCO 1972 effective October 15, 2021)

Rule 304. Grounds for Granting Petition for Hearing.

The granting of a petition for hearing is not a matter of right, but is within the discretion of the court of discretionary review. The following, while neither controlling nor fully measuring that court's discretion, indicates the character of reasons which will be considered:

(a) The decision of the intermediate appellate court is in conflict with a decision of the Supreme Court of the United States or the supreme court of the state of Alaska, or with another decision of the court of appeals.

(b) The intermediate appellate court has decided a significant question concerning the interpretation of the Constitution of the United States or the Constitution of Alaska, which question has not previously been decided by the Supreme Court of the United States or the supreme court of the state of Alaska.

(c) The intermediate appellate court has decided a significant question of law, having substantial public importance to others than the parties to the present case, which question has not previously been decided by the supreme court of the state of Alaska.

(d) Under the circumstances, the exercise of the supervisory authority of the court of discretionary review over the other courts of the state would be likely to have significant consequences to others than the parties to the present case, and appears reasonably necessary to further the administration of justice.

(SCO 439 effective November 15, 1980)

Rule 305. Procedure When Hearing Granted.

(a) Unless the order granting a hearing specifies otherwise,

(1) hearing is granted as to all points raised in the petition (see Rule 303(b) (4)), and

(2) the case shall be briefed in the manner prescribed in Rule 212. The parties may request a scheduling conference under Rule 503.5(e) within ten days of the order granting the petition.

(b) The parties' right to oral argument and the procedures governing oral argument are set out in Rule 505.

(c) The party which filed the initial petition for hearing shall be entitled to open and close the argument. Where there are cross-petitions, the petition and cross-petition shall be argued together. In such cases, the order of oral argument shall be determined by the court of discretionary review at the request of either party or upon its own motion.

(SCO 439 effective November 15, 1980; amended by SCO 582 effective February 1, 1984; by SCO 1153 effective July 15, 1994; by SCO 1598 effective October 15, 2006; and by SCO 1842 effective April 15, 2015)

PART IV. PETITIONS FOR REVIEW, ORIGINAL APPLICATIONS FOR RELIEF, AND OTHER SPECIAL PROCEEDINGS

Rule 401. Scope of Part Four.

Part Four of these rules (Rules 401 through 408) governs requests for appellate review in circumstances in which there has been no final judgment within the meaning of Rule 202, or when appellate review is not otherwise available.

(SCO 439 effective November 15, 1980; amended by SCO 1226 effective January 22, 1996)

Rule 401.1. Review of Non-Appealable Orders or Decisions from the Alaska Workers' Compensation Appeals Commission.

(a) Part Four of these rules (Rules 401 to 408) applies to petitions for review of non-appealable orders or decisions from the Alaska Workers' Compensation Appeals Commission.

(b) The court referred to in Part Four of these rules includes the Alaska Workers' Compensation Appeals Commission, if that commission entered the order or decision for which review is sought.

(c) For petitions for review covered by this rule, the procedures governing the Workers' Compensation Appeals Commission should be referenced when Part Four refers to a particular Alaska Rule of Civil Procedure.

(Added by SCO 1778 effective April 15, 2014)

Rule 402. Petitions for Review of Non-Appealable Orders or Decisions.

(a) **When Available.**

(1) An aggrieved party, including the State of Alaska, may petition the appellate court as provided in Rule 403 to review any court order or decision that is not appealable under Rule 202 and is not subject to a petition for hearing under Rule 302. In addition, a defendant may petition the supreme court as provided in Rule 403(h) to review an unsuspended sentence of imprisonment that is not appealable under Appellate Rule 215(a)(1), and a victim as defined in AS 12.55.185 may petition the court of appeals as provided in Rule 403(i) to review an unsuspended sentence of imprisonment that is below the applicable presumptive sentencing range. An order from an individual judge of the court of appeals is not reviewable under this rule.

(2) A petition for review shall be directed to the appellate court that would have jurisdiction over an appeal or petition for hearing from a final judgment or decision of the court in the action or proceeding in which it arises.

(b) **When Granted.** Review is not a matter of right, but will be granted only where the sound policy behind the rule requiring appeals or petitions for hearing to be taken only from final judgments or decisions is outweighed because:

(1) Postponement of review until appeal may be taken from a final judgment will result in injustice because of impairment of a legal right, or because of unnecessary delay, expense, hardship or other related factors; or

(2) The order or decision involves an important question of law on which there is substantial ground for difference of opinion, and an immediate review of the order or decision may materially advance the ultimate termination of the litigation, or may advance an important public interest which might be compromised if the petition is not granted; or

(3) The court has so far departed from the accepted and usual course of proceedings, or sanctioned such a departure, as to call for the appellate court's power of supervision and review; or

(4) The issue is one that might otherwise evade review, and an immediate decision by the appellate court is needed for guidance or is otherwise in the public interest.

(SCO 439 effective November 15, 1980; amended by SCO 493 effective January 4, 1982; by SCO 1226 effective January 22, 1996; by SCO 1655 effective April 15, 2008; and by SCO 1778 effective April 15, 2014.)

Note to SCO 1655: Chapter 65, section 4, SLA 2005 (HB 54) amended AS 12.55.120 by adding a new subsection (e) to provide that a victim of the crime for which a defendant has been convicted and sentenced may petition for review in an appellate court of a sentence that is below the sentencing range for the crime. The changes to Appellate Rule 402(a)(1) are adopted for the sole reason that the legislature made that statutory change.

Rule 403. Petitions for Review—Procedure.

(a) **Filing.**

(1) *Petitions.*

(A) A petition for review must be filed with the clerk of the appellate courts within 10 days after the date of notice of the order or decision of which review is sought. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). An appellate judge or justice, for good cause shown, may extend the time for filing. The original of the petition must be filed, together with a completed docketing statement in the form prescribed by these rules, and proof of service on the court from whose order the petition is taken and all parties to the action in that court when the order or decision was entered. An additional five copies of a petition for review before the supreme court or three copies of a petition for review before the court of appeals shall be filed, unless a different number is specified by the clerk. The party seeking review shall be known as the petitioner. All other parties to the proceeding shall be named as respondents.

(B) The running of the time for filing a petition for review is terminated by a timely motion for reconsideration of the order or decision. The full time for a petition for review by any party begins to run again on the date of notice, as defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c), or the date of denial of the motion pursuant to Civil Rule 77(k)(4), whichever is earlier.

(2) *Cross-petitions.* When a petition is filed under this rule, any other party may file a cross-petition for review of the same order. Cross-petitions must be filed within ten days from service of the petition for review.

(3) *Petitions from Multiple Orders.* Where orders or decisions arising from different cases or proceedings pending in the same court are sought to be reviewed, and where they involve identical or closely-related questions, a single petition covering all the cases or proceedings may be filed.

(4) *Notice to Court.* Upon the filing of a petition for review, the clerk of the appellate courts shall promptly notify the court of the date and identity of the order sought to be reviewed, the name of the party filing the petition, and the docket number assigned to the petition in the appellate court. The clerk of the appellate courts shall also promptly notify the court of the action taken by the appellate court on the petition.

(b) **Contents of Petition or Cross-Petition.**

(1) The petition or cross-petition shall contain a:

(A) statement of facts necessary to an understanding of the question or questions determined by the court order or decision;

(B) statement of the question itself;

(C) statement of the trial date, if scheduled;

(D) discussion of the reasons, under Rule 402, why review should not be postponed until appeal may be taken from a final judgment;

(E) discussion of the reasons why the decision below is alleged to be erroneous;

(F) statement of the precise relief sought; and

(G) if the petitioner or cross-petitioner requests relief by a specific date, a statement of the date by which a decision is needed and the reasons why a decision is needed by that date.

(2) The petition or cross-petition shall not exceed 15 pages in length, exclusive of appendices, and shall include or have annexed thereto:

(A) a copy of the order or decision of which review is sought or a statement of the substance of the order or decision, if it was rendered orally, showing the date of notice as defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c); and

(B) copies of any findings of fact, conclusions of law, and opinions related to the order or decision.

(c) **Response.** Within ten days after service of the petition or cross-petition, each respondent shall file either a response together with proof of service on all parties to the action when the court order or decision was entered, or a notice that no response will be filed. An additional five copies of a response to a petition for review before the supreme court or three copies of a response to a petition for review before the court of appeals shall be filed, unless a different number is specified by the clerk. The response shall not exceed 15 pages in length, exclusive of appendices. No reply may be filed by the petitioner unless ordered by the appellate court. A motion to dismiss the petition will not be received. Objections to the exercise of the appellate court's power of discretionary review must be included in the response.

(d) **Form.** Petitions, cross-petitions and responses shall be prepared in accordance with Rule 513.5(b). All attachments must be listed in an index submitted with the attachments.

(e) **Inadequacy of the Petition.** The failure of the petitioner to include any matter required by subsection (b) of this rule, or otherwise to present briefly and clearly whatever is essential to a ready and adequate understanding of the questions presented for review, will be a sufficient reason for denying the petition.

(f) **Consideration by the Court and Grant of Petition.**

(1) As soon as practicable, the appellate court will decide whether to grant or deny the petition. Oral argument will not be held on the question of whether the petition should be granted.

(2) If the petition is granted, the order granting the petition will specify any further actions to be required. If further briefing is ordered, the parties may request a scheduling conference under Rule 503.5(e) within ten days of the order granting the petition. Oral argument will be governed by the procedures set out in Rule 505.

(g) **Denial of Petition.** If the petition is denied, no mandate shall be issued: the clerk of the appellate courts shall furnish a copy of the order denying review to the court that issued the order or decision involved. A petition for rehearing of the denial of a petition for review may not be filed.

(h) **Defendant's Petition for Sentence Review.**

(1) Except as provided in (h)(2), a defendant seeking relief from a sentence under Appellate Rule 215(a)(5) must file a notice of intent to file a petition for sentence review no later than 30 days after the date shown in the clerk's certificate of distribution on the written judgment. If the defendant is indigent, a request for preparation of a transcript of the sentencing proceeding must accompany the notice. The petition itself must be filed no later than 45 days after the date shown in the clerk's certificate of distribution on the written judgment or, if the court is preparing the transcript, no later than 15 days after service of the transcript on the petitioner. The following items must be filed with the petition:

(A) copies of all charging documents;

(B) a copy of the judgment being appealed;

(C) a transcript of the entire sentencing proceeding;

(D) copies of all reports, documents, motions and memoranda pertaining to sentencing which were available to the sentencing court.

(2) If the defendant is filing a combined petition and appeal under Appellate Rule 215(j), a notice of intent to file a petition is not required. Instead, the procedure for perfecting the appeal shall govern, as provided by Rule 215(j).

(3) Paragraphs (e), (h), and (i) of Appellate Rule 215 apply to petitions for sentence review. Appellate Rule 215(d) also applies, except, if the defendant is proceeding under subparagraph (h)(1) of this rule, the notice of intent to terminate must be filed within 30 days after filing of the notice of intent to file a petition for sentence review.

(i) **Victim's Petition for Sentence Review.** A victim as defined in AS 12.55.185 seeking review of a sentence under Appellate Rule 215(a)(6) must file a notice of intent to file a petition for sentence review no later than 10 days after the date of sentencing or 10 days after notice of the defendant's sentence is provided to the victim under AS 12.61.015(a)(3), whichever is later. The petition itself must be filed no later than 45 days after the date the victim received notice unless otherwise ordered. The items specified in (A) through (D) of Appellate Rule 403(h)(1) must be filed with the petition, unless the court grants the victim's motion to waive these items. The petition and any response shall each not exceed 15 pages in length. The victim must serve the state and the defendant with all pleadings.

(SCO 439 effective November 15, 1980; amended by SCO 492 effective January 4, 1982; by SCO 554 effective April 4, 1983; by SCO 584 effective February 1, 1984; by SCO 724 effective December 15, 1986; by SCO 725 effective December 15, 1986; by SCO 796 effective March 15, 1987; by SCO 852 effective January 15, 1988; by SCO 996 effective January 15, 1990; by SCO 1023 effective July 15, 1990; by SCO 1092

effective July 15, 1992; by SCO 1153 effective July 15, 1994; by SCO 1212 effective July 15, 1995; by SCO 1226 effective January 22, 1996; by SCO 1271 effective July 15, 1997; by SCO 1302 effective January 15, 1998; by SCO 1412 effective October 15, 2000; by SCO 1553 effective October 15, 2004; by SCO 1598 effective October 15, 2006; by SCO 1628 effective April 16, 2007; by SCO 1655 effective April 15, 2008; by SCO 1718 effective April 15, 2010; by SCO 1778 effective April 15, 2014; by SCO 1842 effective April 15, 2015 by SCO 1868 effective April 15, 2016; and by SCO 1885 effective October 15, 2016)

Note: Ch. 77 SLA 2002 (HB157), Section 2, adds new Chapter 26 to Title 6 of the Alaska Statutes, concerning providers of fiduciary services. According to Section 9 of the Act, AS 06.26.760(b)(2) has the effect of amending Appellate Rule 403 by postponing the deadline for the filing of petitions for review or cross-petitions for review by a trust company when the Department of Community and Economic Development has taken possession of the trust company.

Note to SCO 1655: Chapter 65, section 4, SLA 2005 (HB 54) amended AS 12.55.120 by adding a new subsection (e) to provide that a victim of the crime for which a defendant has been convicted and sentenced may petition for review in an appellate court of a sentence that is below the sentencing range for the crime. New subsection (i) is added to Appellate Rule 403 for the sole reason that the legislature made that statutory change.

Rule 404. Original Applications.

(a) **When Filed.**

(1) An original application for relief may be filed with the appellate court or a judge or justice thereof in any matter within its jurisdiction, whenever relief is not available from any other court and cannot be obtained through the process of appeal, petition for review, or petition for hearing. Grant of the application is not a matter of right but of sound discretion sparingly exercised.

(2) An original application for relief, if seeking relief in connection with an action or proceeding in a trial court, shall be directed to the appellate court which would have jurisdiction over an appeal from the final judgment of the trial court in that action or proceeding.

(3) An original application for relief, if not ancillary to an action or proceeding in a trial court, may be directed to any appellate court having jurisdiction under the applicable statutes.

(b) **Procedure.** A party who seeks original relief shall proceed as follows:

(1) The party must file with the clerk of the appellate courts an original application, together with such portion of the record and proceedings of the court below as is needed for the purpose of determining whether the relief sought will be granted, a completed docketing statement in the form prescribed by these rules, and proof of service. An additional five copies of an original application before the supreme court or three copies of an original application to the court of appeals shall be filed, unless a different number is specified by the clerk. The application must state the precise nature of the relief sought, and why that relief is not available in any other court, or by petition for review or by appeal. If the applicant requests relief by a specific date, the application must contain a statement of the date by which a decision is needed and the reasons why a decision is needed by that date.

(2) The application must be served on all other parties to the proceeding in respect of which relief is sought and, if the application pertains to a proceeding in a trial court, on the trial court. If the applicant seeks an order from the appellate court commanding or restraining an act of a person, agency, or tribunal not a party to the proceedings, the application must also be served on such persons, agencies, or tribunals.

(3) If the application seeks a writ of habeas corpus, it shall comply with the requirements of Civil Rule 86(b), and shall state the reason for not making application to the superior court. The application shall also specifically set forth how the applicant has exhausted all other remedies available by law or rule.

(c) **Response.** Within ten days after service of the application, each respondent shall serve and file either a response, or a notice that no response will be filed. An additional five copies of a response to an original application before the supreme court or three copies of a response to an original application before the court of appeals shall be filed, unless otherwise specified by the clerk. The court or a judge or justice thereof may, for good cause shown, extend the time for filing. If the application seeks the issuance of a writ of habeas corpus, response shall be made in accordance with Civil Rule 86(g). When the response is filed, it shall be accompanied by proof of service. Replies and supplemental memoranda will not be received unless ordered by the court. A motion to dismiss the application will not be received. Objections to the exercise of the discretionary power of the court must be included in the response.

(d) **Form.** The preparation of all original applications and responses thereto shall be governed by Rule 513.5(b).

(e) **Consideration by the Court.** As soon as practicable, the court will decide whether to grant or deny the application. Oral argument will not be held on the question of whether the application should be granted. If the application is granted, the order granting the application will specify any further actions to be required. If the court orders further briefing, oral argument will be governed by the procedures set out in Rule 505.

(f) **Petition for Rehearing.** A petition for rehearing of the denial of an original application may not be filed.

(SCO 439 effective November 15, 1980; amended by SCO 492 effective January 4, 1982; by SCO 493 effective January 4, 1982; by SCO 584 effective February 1, 1984; by SCO 1153 effective July 15, 1994; by SCO 1212 effective July 15, 1995; by SCO 1598 effective October 15, 2006; by SCO 1628

effective April 16, 2007; by SCO 1718 effective April 15, 2010; and by SCO 1885 effective October 15, 2016)

Rule 405. Relief Available; Applications for Stay.

(a) **Relief Available.** Relief in the nature of writs of review, mandamus, prohibition, certiorari, or other writs, shall be sought by petition for review under Rule 402 or original application under Rule 404, as may be appropriate. On the granting of a petition for review or original application, the appellate court will grant such relief as may be appropriate in the circumstances, in accordance with Rule 520.

(b) **Stay.** Court proceedings or the enforcement of any court order or decision shall not be stayed by the filing of a petition for review or of an original application for relief unless that court or the appellate court, or a justice or judge thereof, so orders. Application for stay will be granted by the appellate court or a justice or judge thereof only in accordance with Rule 205 or 206.

(SCO 439 effective November 15, 1980; and amended by SCO 1778 effective April 15, 2014)

Rule 406. Review of Commission on Judicial Conduct Recommendations for Discipline.

(a) The Commission on Judicial Conduct shall file its recommendation for reprimand, censure, suspension, removal, or retirement of a judge with the clerk of the appellate courts and serve a copy of the recommendation on the judge. The commission shall also file and serve any minority report submitted under AS 22.30.068, the public portions of the commission record as designated by AS 22.30.060(b)(3), and a recording of the commission hearing in a format suitable for transcription. The court shall prepare the transcript on an expedited basis.

(b) Within 30 days of the court's distribution of the transcript, the judge may petition the supreme court to modify or reject the recommendation. The petition shall specify the grounds relied on and shall be accompanied by the petitioner's brief and proof of service on the commission. Within 30 days of service of the petition, the commission may file and serve a respondent's brief. Within 20 days of service of the respondent's brief, the judge may file and serve a reply brief. Oral argument is governed by the procedures set out in Rule 505.

(c) If no petition is filed, the matter may be considered on the merits based upon the record filed by the commission and the transcript.

(d) The rules governing appeals from the superior court in civil cases shall apply to proceedings in the supreme court for review of a recommendation of the commission except where express provision is made to the contrary or where the application of a particular rule would be clearly impracticable, inappropriate, or inconsistent.

(e) The records of all proceedings in the supreme court shall be public from the time of filing the commission recommendation in the supreme court.

(f) When the proceedings involve a supreme court justice, no justice may participate in the review, and the chief justice shall appoint a panel from among the court of appeals and superior court judges as justices pro tempore to review the proceedings. If the proceedings involve the chief justice, the justice having the longest tenure on the supreme court who has not participated in the proceedings shall appoint the panel.

(SCO 439 effective November 15, 1980; amended by SCO 569 effective June 1, 1983; by SCO 1153 effective July 15, 1994, by SCO 1298 effective January 15, 1998; and by SCO 1818 effective April 14, 2014)

Rule 407. Certification of Questions of State Law.

(a) The supreme court may answer questions of law certified to it by the Supreme Court of the United States, a court of appeals of the United States, a United States district court, a United States bankruptcy court or United States bankruptcy appellate panel, when requested by the certifying court if there are involved in any proceeding before it questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the supreme court of this state.

(b) This rule may be invoked by an order of any of the courts referred to in Section (a).

(c) A certification order shall set forth:

(1) The questions of law to be answered; and

(2) A statement of all facts relevant to the questions certified and showing fully the nature of the controversy in which the questions arose.

(d) The certification order shall be prepared by the certifying court, signed by the judge presiding over the cause, and forwarded to the supreme court by the clerk of the certifying court under its official seal. The certifying court shall also provide copies of all or any relevant portion of the record before the certifying court.

(e) Notice of the supreme court's decision whether to answer the questions certified to it shall be given to the certifying court by the clerk of the supreme court. Further proceedings, if any, in the supreme court shall be in accordance with the provisions of these rules governing briefs and arguments, unless otherwise ordered by the court.

(f) The written opinion of the supreme court stating the law governing the questions certified shall be sent by the clerk of the supreme court to the certifying court and to the parties. The answer to the certified questions shall be res judicata as to the parties and have the same precedential force as any other appellate decision of the supreme court.

(SCO 439 effective November 15, 1980; amended by SCO 1068 effective July 15, 1991; and by SCO 1878 effective October 15, 2016)

Rule 408. Transfer of Appellate Cases.

(a) When the supreme court transfers a case to the court of appeals pursuant to AS 22.05.015(a), the clerk shall serve a copy of the transfer order on all parties. The court of appeals or the clerk shall thereupon advise the parties of the course of proceedings to be followed in the court of appeals.

(b) When the court of appeals certifies to the supreme court that a case should be decided by the supreme court, pursuant to AS 22.05.015(b), a copy of the certificate, and of the order of the supreme court accepting or rejecting it, shall be served on all parties. Unless the supreme court orders to the contrary, pleadings from the parties addressing the question whether or not the supreme court should accept the certificate, will not be received. Requests that the court of appeals issue such a certificate should be addressed to the court of appeals, must be accompanied by proof of service on all parties, and must state clearly and concisely why the case fits within the statutory standards. The court of appeals may in its discretion request responses from the other parties. A decision of the court of appeals refusing to issue such a certificate may not be the subject of a petition for hearing in the supreme court.

(c) When a case is transferred between appellate courts pursuant to AS 22.05.015(c), the transferring court or the clerk shall advise the parties of the reasons for the transfer, and the transferee court or the clerk shall advise the parties of the course of proceedings which will be followed in the transferee court.

(SCO 439 effective November 15, 1980)

PART V. GENERAL PROCEDURES

Rule 501. Scope of Part Five.

Part Five of these rules (Rules 501 through 523) applies to all proceedings in the supreme court and the court of appeals.

(SCO 439 effective November 15, 1980)

Rule 501.1. Appeals from the Alaska Workers' Compensation Appeals Commission.

(a) The "trial court" referred to in Part Five of these rules includes the Alaska Workers' Compensation Appeals Commission, if that commission entered the decision being appealed under AS 23.30.129.

(b) The "judgment" referred to in Part Five of these rules includes the final decision of the Alaska Workers' Compensation Appeals Commission, if that commission entered the decision being appealed under AS 23.30.129.

(SCO 1671 effective October 15, 2008)

Rule 502. Time—Computation and Extension.

(a) **Computation.** In computing any period of time prescribed or allowed by these rules, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run is not to be included. The last day of the period is to be included, unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than seven days, not counting any period added for mailing under subsection (c) of this rule, intermediate Saturdays, Sundays and holidays shall be excluded in the computation. A half holiday shall be considered as other days and not as a holiday.

(b) **Extensions of Time.** When by these rules or by a notice given thereunder or by order of the appellate court an act is required or allowed to be done at or within a specified time, the appellate court may in its discretion, either on motion of a party, showing good cause, or sua sponte:

(1) Extend the time period, either before or after its expiration or

(2) Validate an act done after the expiration of the time period.

Motions to extend a time period, or to validate an act done after the expiration of the time period, must comply with Rule 503. Time periods specified in the Appellate Rules, including time periods for doing an act or filing a document in the trial court, may be extended only by the appellate courts and not by the trial court. In a matter requesting review of or appealing a criminal conviction or sentence, this rule does not authorize an appellate court, or the superior court acting as an intermediate appellate court, to validate the filing of a notice of appeal, petition for review, or petition for hearing more than 60 days after the expiration of the time specified in the rule or statute or in the last extension of time previously granted.

(c) **Additional Time After Service or Distribution by Mail.** Whenever a party has the right or is required to act within a prescribed number of days after the service or distribution of a document, and the document is served or distributed by 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.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 1153 effective July 15, 1994; by SCO 1155 effective July 15, 1994; by SCO 1341 effective September 10, 1998; by SCO 1524 effective October 15, 2005; by SCO 1639 effective October 15, 2007; by SCO 1681 effective January 1, 2009; by SCO 1694 effective October 15, 2009; by SCO 1875 effective July 1, 2016; by SCO 1884 effective August 1, 2016 and by SCO 1875 effective March 9, 2021; and by SCO 1995 rescinded SCO 1875 effective November 29, 2022)

Note to SCO 1341: Appellate Rule 502(b) was amended by § 10, ch. 95 SLA 1998 to prohibit the court from allowing an appeal or request for review of a criminal conviction or sentence to be filed more than 60 days after the expiration of the time specified in the rule or statute or in the last extension of time previously granted. Section 1 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Note: Ch. 77 SLA 2002 (HB157), Section 2, adds new

Chapter 26 to Title 6 of the Alaska Statutes, concerning providers of fiduciary services. According to Section 9 of the Act, AS 06.26.760(b)(2) has the effect of amending Appellate Rule 502 by postponing the deadlines set in the Alaska Rules of Appellate Procedure for the filing of documents by a trust company when the Department of Community and Economic Development has taken possession of the trust company.

Note: SCO 1875 and SCO 1875 (Amended) are rescinded by SCO 1995. SCO 1875 (Amended) provided the following:

> Civil Rule 6(a), Criminal Rule 40(a), and Appellate Rule 502(a) are amended on a temporary basis as follows:
>
> > Any filing that is due on a day that the court is closed for either a full day or a partial day will be considered timely filed if it is filed by close of business on the next regular business day. Any day the court is closed for a full weekday or partial weekday will be considered a "legal holiday" for the purposes of time computation.
>
> Court closures will be announced on the Alaska Court System website at http://courts.alaska.gov/.

During a transition period until January 1, 2023, any filing that is due on a Friday in December 2022 will be deemed timely filed if filed by the close of business on the next regular business day. Also, those Fridays are deemed a "legal holiday" for the purposes of time computation.

of Documents.

(a) **Filing with the Court.** Documents may be filed in the appellate courts either

(1) by delivering them to the office of the clerk of the appellate courts in Anchorage; or

(2) by mailing them to: Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501; or

(3) by electronic mail as permitted by administrative order of the chief justice or chief judge of the court concerned.

If a document is filed by mailing, and if the date of mailing is shown by a postmark affixed by the United States Postal Service or by other proof from the Postal Service, the date of filing will be deemed to be the date of mailing. If the document is mailed but it is postmarked by any other means (such as a private postage meter, the internet, or a Postal Service self-service kiosk), the document will be deemed filed on the date of its receipt by the clerk's office.

(b) **Distribution of Documents by the Court**. An appellate court may use electronic mail to distribute notices, orders, and other documents as permitted by administrative order of the chief justice or chief judge of the court concerned.

(SCO 1884 effective August 1, 2016; amended by SCO 1876 effective October 15, 2016)

Rule 503. Motions.

(a) **General.** An application for relief of any kind from either appellate court ancillary to a case in that court shall be made by written motion. A stipulation is not sufficient.

(b) **Format.** A motion filed in the appellate courts must be in the form prescribed by Rule 513.5(b). The motion must include:

(1) a brief, complete statement of the reasons in support of the motion;

(2) an affidavit where the facts relating to the motion are not otherwise proven;

(3) if the motion is for an extension of a time period prescribed in these rules, a statement of each extension of that time period previously granted to that party, indicating the length of each extension;

(4) the points and authorities on which the moving party relies;

(5) an appropriate order for execution by the court should the motion be granted; and

(6) if the moving party requests relief by a specific date, a statement of the date by which a decision is needed and the reasons why a decision is needed by that date.

(c) **Filing and Service.** The original of all motions and responses must be filed with the clerk, together with proof of service on all other parties. The following copies must be submitted with the original:

(1) five copies of a motion that must be decided by the full supreme court pursuant to Appellate Rule 503(g) or a response to such motion;

(2) three copies of a motion that must be decided by the full court of appeals pursuant to Appellate Rule 503(g) or a response to such motion.

(d) **Opposition to Motion—Disposition.** Adverse parties have seven days after service of a motion within which to file and serve memoranda in opposition, counter motions and affidavits. As soon as practical after expiration of the seven-day period, the motion will be considered. A reply memorandum may not be filed by the moving party unless otherwise ordered. Oral argument will not be heard on motions unless otherwise ordered. If a motion is decided before expiration of the time for opposition, the filing of a timely opposition requires that the motion be considered de novo.

(e) **Motions Determined by the Clerk.** Routine, unopposed motions may be ruled upon by the clerk without referral to an individual judge or justice or the full court. Unopposed non-routine motions for extensions of time under Rule 503.5(c)(1) for filing briefs may be ruled upon by the clerk. The clerk may not determine a motion to extend the time for filing a notice of appeal, petition for review, petition for rehearing, or petition for hearing. The clerk may not determine a motion for extension of time to file a document if the time period specified in these rules for filing the document,

including any previous extensions, has already expired when the motion is filed. The clerk has the discretion to refer motions that may be determined by the clerk to an individual justice or judge for decision.

(f) **Motions Determined by an Individual Justice or Judge.** Any motions not described in paragraph (g) may be determined by an individual justice or judge without referral to the full court. A justice or judge has the discretion to refer such a motion to the full court for decision.

(g) **Motions Determined by Full Court.** A motion that would have the effect of determining the merits of a proceeding, or a motion referred to the full court by a justice or judge, shall be considered by the full court. An individual justice or judge may, in connection with such a motion, enter such orders as may be necessary to prevent irreparable harm prior to the time that the full court is able to consider the motion.

(h) **Motions for Reconsideration.**

(1) *Filing.* A party who is aggrieved by an order may move for reconsideration of the order. A motion for reconsideration must be filed within ten days after the date of notice of the order, as defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c).

(2) *Determination.* Motions for reconsideration under this rule shall be determined as follows:

(A) a motion for reconsideration of an order entered by the clerk under subparagraph (e) shall be determined by an individual justice or judge;

(B) a motion for reconsideration of an order entered by an individual justice or judge under subparagraph (f) shall be determined by the full court; and

(C) a motion for reconsideration of an order entered by the full court under subparagraph (g) shall be determined by the full court.

(3) *Response.* The non-moving party may respond to a motion for reconsideration to be determined under subparagraphs (h)(2)(A) or (h)(2)(B) by filing an opposition within seven days after the motion is served. No response may be made to a motion for reconsideration to be determined under subparagraph (h)(2)(C) unless requested by the court, but a motion for reconsideration will ordinarily not be granted without affording the non-moving party an opportunity to respond.

(SCO 439 effective November 15, 1980; amended by SCO 516 effective October 1, 1982; by SCO 561 effective May 2, 1983; by SCO 584 effective February 1, 1984; by SCO 827 effective August 1, 1987; by SCO 869 effective July 15, 1988; by SCO 870 effective July 15, 1988; by SCO 1153 effective July 15, 1994; by SCO 1166 effective July 15, 1994; by SCO 1167 effective July 15, 1994; by SCO 1409 effective October 15, 2000; by SCO 1440 effective October 15, 2001; by SCO 1628 effective April 16, 2007; by SCO 1842 effective April 15, 2015; and by SCO 1885 effective October 15, 2016)

Note: See Appellate Rule 508(f)(2) for motions for reconsideration of orders awarding costs or attorney's fees under Appellate Rule 508.

Rule 503.5. Extensions of Time for Filing Briefs.

(a) **General.** Unless otherwise ordered by the court, this rule applies to extensions of time for filing briefs. This rule also applies to memoranda filed under Appellate Rules 215(g), 216, and 216.5.

(b) **Routine Extensions of Time by Notice.**

(1) Except as provided in subparagraph (b)(3), by filing notice, an appellant may obtain routine extensions not to exceed 30 days for the opening brief and 15 days for the reply brief; and an appellee may obtain routine extensions not to exceed thirty days.

(2) The notice must be filed on or before the due date and must state:

(A) the original due date for the brief;

(B) the current due date, if that is a different date;

(C) the length of extension; and

(D) the new due date.

(3) Routine extensions by notice may not be filed in the following matters:

(A) appeals filed under Rules 215, 216, 216.5, 218, and 219;

(B) appeals filed by the prosecution challenging the dismissal of an indictment or challenging the dismissal of criminal charges;

(C) matters relating to attorney discipline or disability; and

(D) any other expedited matter.

(c) **Non-Routine Extensions of Time by Motion.** An extension of time not addressed by subsection (b) must be requested by motion. A party may request an extension of time by motion under paragraph (1) or (2) at any time before the party's brief is due, either originally or as extended.

(1) *Motion for Non-Routine Extension Based Upon a Showing of Diligence and Substantial Need.* A party may obtain up to 30 additional days for the opening or the appellee's brief and the appellant may obtain up to 15 additional days for the reply brief upon a showing of diligence and substantial need. A conclusory statement as to the press of business does not constitute a showing of diligence and substantial need.

(2) *Motion for Non-Routine Extension Based upon a Showing of Extraordinary and Compelling Circumstances.* An extension that would extend the time for filing a brief beyond the time allowed under subsection (b) and paragraph (c)(1) will

be granted only upon a showing of extraordinary and compelling circumstances. Along with the requirements stated in paragraph (3), the affidavit accompanying the motion must include a detailed explanation of the extraordinary and compelling circumstances that prevent completion of the brief within the time allowed. Factors the court may consider in determining the existence of extraordinary and compelling circumstances include: the nature and foreseeability of intervening events, pre-existing commitments, the extent of the party's or attorney's control over the circumstances that prevent completion of the brief, the nature of the case, and any prejudice to the parties.

(3) *General Requirements*. The motion must be filed on or before the due date, and must be accompanied by an affidavit stating:

(A) when the brief is due;

(B) when the brief was first due and the number and length of previous extensions;

(C) the length of the requested extension and requested due date;

(D) a detailed explanation of the reason that an extension is necessary; and

(E) that the brief will be filed within the time requested.

(4) A motion without a compliant affidavit will be rejected by the clerk of court.

(5) Motions for non-routine extensions of time will be decided by a single justice or judge.

(d) **Oppositions to Motions for Extension.** If a timely opposition to a motion for extension is received after the motion for extension is granted, the opposition will be treated as a motion for reconsideration and will be assigned to a justice or judge for determination pursuant to Rule 503(f).

(e) **Request for Scheduling Conference in Exceptional Circumstances.** Within 30 days of the notice of appeal, any party may request a scheduling conference with the clerk of court if, due to unusual scheduling issues or the complexity of the case, the party believes that the schedule for briefing and this rule's provisions for extensions are not adequate or should not apply. Following a scheduling conference, the clerk of court may issue a briefing schedule that deviates from the standard deadlines.

(SCO 871 effective July 15, 1988; amended by SCO 926 effective January 15, 1989; by SCO 1209 effective July 15, 1995; by SCO 1279 effective July 31, 1997; by SCO 1410 effective October 15, 2000; by SCO 1842, effective April 15, 2015; and by SCO 1893 effective August 10, 2016)

Rule 504. Emergency Motions.

Whenever a party requests expedited action on a motion on the ground that, to avoid irreparable harm, relief is needed in less time than would normally be required for the court to receive and consider a response:

(a) The motion shall comply with Appellate Rule 503(b)* except as that rule may be specifically inconsistent with this one;

(b) The word "Emergency" shall be placed at the top of the first page of the motion;

(c) The motion shall include the telephone numbers and office addresses of moving and opposing counsel;

(d) The motion shall be accompanied by a written statement of facts showing the nature of the emergency and the date and hour before which a decision is needed;

(e) The motion shall state whether all grounds advanced in support thereof were submitted to the trial court and, if not, why the motion should not be remanded to the trial court for reconsideration;

(f) The motion shall be accompanied by a written statement by the movant or the movant's attorney, indicating when and how opposing counsel was notified of the motion, or, if opposing counsel was not notified, indicating what efforts were made to notify opposing counsel and why it was not practicable to notify opposing counsel in a manner and at a time that counsel could respond to the motion;

(g) The court will not grant the motion prior to written or oral notice to opposing counsel unless it clearly appears from specific facts in the motion papers or the court records that immediate and irreparable injury, loss or damage would result to the applicant before notice could be given and opposing counsel given a reasonable opportunity to respond.

If an emergency motion is granted without notice to opposing counsel and opposing counsel thereafter files a motion to vacate or reconsider the order thus entered, the court will take into account the fact that the original order was entered without notice.

If it appears appropriate in the circumstances, the court or the judge or justice to whom the matter is assigned may permit the opposing party to respond to the motion orally rather than in writing. As provided in Rule 503 (d), oral argument of emergency motions is not permitted unless ordered by the court or a judge or justice.

(SCO 439 effective November 15, 1980; amended by SCO 1153 effective July 15, 1994)

***Editors Note:** The citation to Appellate Rule 503(b), originally designated as Rule 503(c), was corrected during publication to conform to the court's intent.

Rule 505. Oral Argument.

(a) **Oral Argument; Requests for Oral Argument.** Unless otherwise ordered by the court, oral argument will be held only as provided in this subsection.

(1) In expedited election appeals under Rule 216.5, oral argument will automatically be held unless it is affirmatively waived under Rule 216.5(g).

(2) In all other appeals governed by Part Two of these rules, oral argument will be held if it is timely requested. A request for oral argument is timely if it is made not later than 10 days after the due date of the reply brief or, if no reply brief is allowed, not later than 10 days after the due date of the appellee's brief.

(3) In all petitions or applications for discretionary review governed by Parts Three and Four of these rules, the parties have no right to oral argument unless the appellate court grants review and orders further briefing. If review is granted and further briefing is ordered, oral argument will be held if a party timely requests it. A request for oral argument is timely if it is made not later than 10 days after the due date of the reply brief or, if no reply brief is allowed, not later than 10 days after the due date of the respondent's brief.

(4) When the parties have a right to oral argument, a timely request for oral argument by any party will give all parties the right to orally argue the case, except for appellees who fail to file a brief, as provided in Rule 212(c)(10).

(b) **Scheduling.** The clerk shall prepare the calendars of cases for oral argument, under the direction of the courts. The clerk shall give written notice to counsel of record of the time and place at which argument is scheduled.

(c) **Postponement.** Once a case has been placed on the calendar for oral argument, argument will not be postponed except upon filing of a motion accompanied by an affidavit of counsel or the party or both showing good cause for postponement. Notwithstanding Rule 503(e), such a motion shall not be ruled upon by the clerk.

(d) **Limitation of Counsel.** Unless otherwise ordered by the court, no more than two counsel will be heard for each party on the argument of the case.

(e) **Length of Arguments.** The length of oral argument shall be prescribed by the clerk at the direction of the court.

(f) **Opening and Conclusion.** The appellant, petitioner, or applicant shall be entitled to make opening and rebuttal arguments. When there is a cross-appeal, the appeal and cross-appeal shall be argued together, and the order of oral argument shall be determined by the court at the request of either party or upon its own motion. No surrebuttal argument will be allowed unless the court directs otherwise.

(g) **Expedited Appeals; Preference.** If a party requests oral argument in an expedited appeal or in a case that is entitled to preference by law, court rule, or order, the court may, upon motion of a party or on its own initiative, schedule oral argument on an expedited basis, and the argument may be held telephonically as necessary to ensure the participation of all parties.

(SCO 439 effective November 15, 1980; amended by SCO 582 effective February 1, 1984; by SCO 1433 effective October 15, 2001; by SCO 1598 effective October 15, 2006; by SCO 1638 effective October 15, 2007; and by SCO 1893 effective August 10, 2016)

Rule 506. Rehearing.

(a) **Grounds for Petition.** The court may order a rehearing of a matter previously decided if, in reaching its decision:

(1) The court has overlooked, misapplied or failed to consider a statute, decision or principle directly controlling; or

(2) The court has overlooked or misconceived some material fact or proposition of law; or

(3) The court has overlooked or misconceived a material question in the case.

A rehearing will not be granted if it is sought merely for the purpose of obtaining a reargument on and reconsideration of matters which have already been fully considered by the court.

(b) **Time for Filing—Form of Petition.** An original petition for rehearing must be filed within 10 days after the date of notice of the opinion or other decision. An additional five copies of a petition for rehearing before the supreme court or three copies of a petition for rehearing before the court of appeals shall be filed, unless a different number is specified by the clerk. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). The petitioner shall specifically state which of the grounds for rehearing specified in paragraph (a) exists, and shall specifically designate that portion of the opinion, the brief, or the record, or that particular authority, which the petitioner wishes the court to consider. The petition shall be prepared in conformity with Rule 513.5(b) and when filed shall be accompanied by proof of service on all parties. No petition for rehearing shall exceed five typewritten pages. No memoranda or briefs in support of a petition for rehearing, and no response to a petition for rehearing, shall be received unless requested by the court.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 584 effective February 1, 1984; by SCO 688 effective May 1, 1986; by SCO 718 effective September 15, 1986; by SCO 827 effective August 1, 1987; and by SCO 1885 effective October 15, 2016)

Rule 507. Judgment and Return of Jurisdiction.

(a) The opinion of the appellate court, or its order summarily disposing of the appeal under Appellate Rule 214, or an order from the appellate court or the clerk of the appellate courts dismissing the appeal, shall constitute its judgment. No mandate shall be issued.

(b) Unless the opinion or order states otherwise, the appellate court's judgment takes effect and full jurisdiction over the case returns to the trial court on the day specified in subsections (c), (d), and (e).

(c) In a case decided by the supreme court,

(1) if a timely petition for rehearing or motion for reconsideration is filed, then jurisdiction returns on the day after the supreme court disposes of the case on rehearing or reconsideration;

(2) if no timely petition for rehearing or motion for reconsideration is filed, then, subject to subsection (f), jurisdiction returns on the day after the deadline for filing a petition for rehearing or motion for reconsideration expires; or

(3) if the supreme court denies a petition for hearing, then jurisdiction returns on the day after the court denies the petition for hearing.

(d) In a case decided by the court of appeals,

(1) if no petition for hearing is filed, then jurisdiction returns on the day after the deadline for filing a petition for hearing expires; or

(2) if a timely petition for hearing is filed, then return of jurisdiction is governed by subsection (c).

Subsection (d) does not apply to an appeal filed under Rule 206 or 207.

(e) In a case decided by the superior court under its appellate authority, return of jurisdiction is as follows:

(1) *Appeals from District Court*. Return of jurisdiction is governed by subsection (d)(1) – (2).

(2) *Appeals from Administrative Agencies.*

(A) If no notice of appeal is filed, then jurisdiction returns on the day after the deadline for filing a notice of appeal expires.

(B) If a timely notice of appeal is filed, then return of jurisdiction is governed by subsection (c).

(f) An untimely filing in the appellate court after jurisdiction has returned to the lower court or administrative agency has no effect on the jurisdiction that has been returned under this rule, unless the appellate court orders otherwise.

(g) Any motion to stay the effect of the judgment of the appellate court, or otherwise alter the timelines in this rule, shall be made first to that court.

(SCO 439 effective November 15, 1980; amended by SCO 551 effective February 1, 1983; amended by SCO 729 effective December 15, 1986; and by SCO 1973 effective April 15, 2022)

Rule 508. Costs and Fees.

(a) **Dismissal or Denial.** If an appeal is dismissed or petition denied by the appellate court, costs shall not be allowed to the appellee or respondent, unless otherwise ordered by the court.

(b) **Affirmance of Judgment.** In all cases of affirmance of a judgment or any order or decision of the superior court, costs shall be allowed to the appellee or respondent unless otherwise ordered by the court or not permitted by law.

(c) **Reversal or Partial Reversal.** In cases of reversal of any judgment, order or decision of the superior court, costs shall be allowed the appellant or petitioner unless otherwise ordered by the court or not permitted by law. In cases of partial affirmance and partial reversal, the court will determine which party, if any, shall be allowed costs.

(d) **Costs to be Awarded.** When costs are awarded in the appellate court, they shall include, unless the court otherwise orders and subject to Rules 210(b)(6) and (c)(6), the filing fee, the costs of preparing the transcript, premiums for any bond under Rule 204(c) or 204(d), and the costs of duplicating and mailing briefs and excerpts of records. Duplicating costs will not be awarded in excess of the rate generally charged by printers in the city in which counsel is located. In administrative appeals to the superior court, costs, when awarded, shall also include the costs borne by the appellant under Rule 604(b)(1)(B)(iv) of preparing the court's copy of the agency file. If the superior court conducted a trial de novo, in whole or in part, the superior court shall award costs under Civil Rule 79 for the de novo proceedings.

(e) **Attorney's Fees.** Attorney's fees shall not be awarded unless

(1) attorney's fees are provided by statute, caselaw, or contract;

(2) the court determines that the appeal or cross-appeal is frivolous or has been taken in bad faith;

(3) the court determines that an award of fees is necessary in the interest of justice; or

(4) the appeal was taken under Rule 601, in which case the court shall award the prevailing party 20% of its actual attorney's fees that were necessarily incurred, except in cases where

(A) paragraphs (1), (2), or (3) apply; or

(B) the court determines that an award of fees would be so onerous to the non-prevailing party that it would deter similarly situated litigants from the voluntary use of the courts if not reduced.

(f) **Procedure.**

(1) *Bill of Costs.* At the time an opinion or an order under Rule 214 is filed, the clerk shall notify the party or parties entitled to recover costs under subsections (b) and (c) of this rule. That party or parties shall serve and file an itemized and verified bill of costs within 10 days after the date of notice of the opinion or order. Date of notice is defined in Civil Rule 58.1(c). The bill of costs shall be limited to the items specified in subsection (d) of this rule. Objections to the bill of costs may be filed within 7 days after service of the bill. Promptly after expiration of the time for filing objections, the clerk shall issue an itemized award of costs. A hearing on the bill of costs shall not be held unless requested by the clerk. The clerk may not delegate to a deputy clerk the authority to award costs in cases in which objection is filed, except with the approval of the chief justice. Return of the record shall not be delayed pending the award of costs.

(2) *Attorney's fees.* A party may file a motion for attorney's fees within 10 days of the date of the opinion or the

order under Rule 214, specifying the provision of subsection (e) under which fees are sought, and attaching an affidavit of services rendered on appeal. An adverse party may file an opposition under Rule 503(d).

(3) *Rehearing.* If a timely petition for rehearing is filed, the clerk shall not award costs until the court has disposed of the case on rehearing. A supplemental or amended bill of costs may not be filed after disposition of a petition for rehearing unless requested by the court.

(g) **Execution.** The bond on appeal filed under Rule 204(c) may be applied to an award of costs and attorney's fees made under this rule. Upon proper application, the clerk of the trial court may issue writs of execution upon the award of costs and attorney's fees made under this rule, without the approval of a judge of the trial court.

(SCO 439 effective November 15, 1980; amended by SCO 507 effective July 1, 1982; by SCO 508 effective July 1, 1982; by SCO 512 effective October 1, 1982; by SCO 552 effective February 1, 1983; by SCO 554 effective April 4, 1983; by SCO 562 effective May 2, 1983; by SCO 583 effective February 1, 1984; by SCO 619 effective June 15, 1985; by SCO 847 effective January 15, 1988; by SCO 1024 effective July 15, 1990; by SCO 1155 effective July 15, 1994; by SCO 1279 effective July 31, 1997; by SCO 1440 effective October 15, 2001; by SCO 1482 effective October 15, 2002; by SCO 1671 effective October 15, 2008; by SCO 1776 effective April 16, 2012; by SCO 1820 effective April 14, 2014; by SCO 1843 effective April 15, 2015; by SCO 1893 effective June 4, 2015; and by SCO 1893 effective August 10, 2016)

Note to SCO 1843: With the amendments to subsection (e) recognizing that statute, caselaw, or contract may otherwise provide for awards of attorney's fees, it is not necessary to retain a separate discussion of fee awards in appeals from the Workers' Compensation Appeals Commission or appeals from a denial of a claim of benefits under the Employment Security Act. The fee-award scenarios discussed in subsection (g) of the previous version of the rule are now covered by the amended subsection (e). Similarly, former subsection (g)'s limitations on cost awards are captured by the minor changes to the amended subsections (b) and (c). The new rule structure does not abrogate the substantive rights addressed in the prior subsection (g).

Rule 509. Interest.

If a judgment for money in a civil case is affirmed, interest at the rate prescribed by law shall be payable from the effective date of the judgment of the trial court. If in a civil case a judgment is modified or reversed with directions that a judgment for money be issued by the trial court, interest on the new judgment at the rate prescribed by law shall be payable from the effective date of the prior judgment which was modified or reversed.

(SCO 439 effective November 15, 1980; amended by SCO 509 effective July 1, 1982)

Rule 510. Monetary Sanctions.

(a) **When Appeal Brought for Delay.** Where an appeal or petition for review shall delay the proceedings in the trial court or the enforcement of the judgment or order of the trial court, and shall appear to have been filed merely for delay, monetary sanctions may be awarded in addition to interest, costs, and attorney's fees.

(b) **Infraction of Rules.** For any infraction of these rules, the appellate court may withhold or assess costs or attorney's fees as the circumstances of the case and discouragement of like conduct in the future may require; and such costs and attorney's fees may be imposed upon offending attorneys or parties.

(c) **Fines.** In addition to its authority under (a) and (b) of this rule and its power to punish for contempt, the appellate court may, after reasonable notice and an opportunity to show cause to the contrary, impose a fine not to exceed $1000 against any attorney who practices before it for failure to comply with these rules or any other rules promulgated by the Supreme Court.

(SCO 439 effective November 15, 1980; amended by SCO 476 effective August 17, 1981; and by SCO 1842 effective April 15, 2015)

Rule 511. Dismissal of Causes.

(a) **Dismissal by Agreement.** Whenever the parties, by their attorneys of record, shall file with the clerk of the appellate court an agreement in writing that an appeal or petition be dismissed, specifying the terms with respect to costs, and shall pay to the clerk any fees that may be due the clerk, the clerk shall enter an order of dismissal without further reference to the court.

(b) **Dismissal by Appellant or Petitioner.**

(1) Whenever an appellant or petitioner in the appellate court, by the appellant's or petitioner's attorney of record, shall file with the clerk of that court a motion to dismiss a proceeding to which such appellant or petitioner is a party, with proof of service as prescribed by these rules, and shall tender to the clerk any fees and costs that may be due, the adverse party, within seven days after service thereof, may file an objection, after which time the matter shall be determined by the court.

(2) If no objection is filed, the clerk shall enter an order of dismissal without further reference to the court.

(c) **Voluntary Dismissal by Criminal Defendant.** A motion or stipulation for the voluntary dismissal of an appeal by a criminal defendant under paragraph (a) or (b) shall not be granted unless the motion or stipulation includes either:

(1) A signed statement by the defendant stating that the defendant understands the consequences of the dismissal and consents to it, or

(2) Explicit certification by counsel for the defendant that counsel has explained the consequences of dismissal to the client and is satisfied that the client understands the consequences of dismissal and consents to it.

(d) **Mandate Not Required.** No mandate shall issue on a dismissal under this rule or Rule 511.5 without an order of the court. However, the clerk shall notify the court whose judgment was appealed.

(SCO 439 effective November 15, 1980; amended by SCO 510 effective August 30, 1982; by SCO 728 effective December 15, 1986; by SCO 1153 effective July 15, 1994; by SCO 1283 effective September 2, 1997; by SCO 1301 effective January 15, 1998; by SCO 1361 effective October 15, 1999; by SCO 1726 effective April 15, 2011; and by SCO 1908 effective nunc pro tunc May 11, 2017)

Note: Chapter 6, SLA 2017 (HB 104) repeals AS 09.68.130 and its requirements that the Alaska Judicial Council collect information about certain civil litigation from parties. Section 1 of the act repeals Civil Rule 41(a)(3) and Appellate Rule 511(c) and (e), effective May 11, 2017. Those rule provisions had required compliance with AS 09.68.130. This rule change is adopted for the sole reason that the legislature has mandated the amendment.

Rule 511.5. Dismissal for Failure to Prosecute.

(a) If an appellant or an appellant's counsel fails to comply with these rules, the clerk shall notify the appellant and the appellant's counsel in writing that the appeal will be dismissed for want of prosecution unless the appellant remedies the default within 14 days after the date of notification, time to be computed in accordance with Rule 502 (c). If the appellant fails to comply within the 14-day period, the clerk shall issue an order dismissing the appeal for want of prosecution. In no case, except by order of the court on a motion to reinstate the appeal, shall the appellant be entitled to remedy the default after the appeal has been dismissed under this rule.

(b) The dismissal of an appeal under subsection (a) shall not limit the authority of the court to impose monetary sanctions under Rule 510.

(c) The court may, upon motion of a party or its own motion, dismiss an appeal for failure to comply with these rules, whether or not prior notice of default has been given.

(SCO 510 effective August 30, 1982; amended by SCO 1153 effective July 15, 1994)

Rule 512. Record and Other Papers after Final Disposition.

(SCO 439 effective November 15, 1980; amended by SCO 551 effective February 1, 1983; rescinded by SCO 1973 effective April 15, 2022)

Rule 512.5. Public Documents; Sealed and Confidential Documents.

(a) **Records on Appeal.** A record on appeal is open to public inspection except that (1) papers filed under seal in the trial court, recordings or transcripts of closed hearings held in the trial court, and exhibits submitted or introduced at closed hearings in the trial court, will be maintained under seal while they constitute part of a record on appeal; and (2) papers, recordings, transcripts, exhibits, and other items designated as confidential in the trial court will be maintained as confidential while they constitute part of a record on appeal.

(b) **Other Papers.**

(1) Papers, including excerpts of record filed under Rule 210(c), filed in the appellate courts, other than records on appeal, shall be open to public inspection unless the appellate court in which the case is pending otherwise orders, or except as hereafter provided in this subparagraph. If the trial court has restricted disclosure of information, and it is necessary to refer to that information in an interlocutory petition or application to an appellate court, the petitioner or applicant must attach to the petition or application the trial court order that restricted the information. The information will be maintained as sealed or confidential during the pendency of the petition or application, unless the trial court or appellate court orders otherwise. In addition, the petition or application must be written in a manner that does not disclose non-public information.

(2) Counsel in appellate matters arising out of closed proceedings in the trial courts shall, wherever possible, avoid the use of full names of parties or other detailed identifying information in briefs, motions, and other papers filed with the appellate courts. Descriptive terms ("the oldest daughter," "the prospective adoptive father"), pseudonyms ("Jane Doe"), first names or initials should be used instead.

(3) A motion to file a paper under seal or to treat a paper as a confidential document in the appellate court, the response to such a motion, and the order ruling on such a motion, are open to public inspection and shall not themselves be filed under seal. A motion to file a paper under seal or to treat a paper as a confidential document, whether or not opposed, is not a "routine" motion within the meaning of Rule 503(e).

(4) A paper may be lodged with the court along with a motion to file it under seal or to treat it as a confidential document. Unless the court otherwise orders, it is not open to public inspection while the motion to file it under seal or confidentially is pending. If the motion is denied, and the paper has been lodged along with the motion, the movant has the option of withdrawing the paper or leaving it on file open to public inspection.

(c) **General Provisions.**

(1) Papers that are confidential in the appellate courts may be examined or copied only by the parties to the case, counsel of record in the case, their agents or employees designated by them, those with a written court order authorizing access, and those personnel of the Alaska Court System having need to examine the papers in the performance of their duties, as provided by Administrative Rule 37.5(c)(4). Access to papers filed under seal in the appellate courts is restricted to the justices or judges of the court in which the papers were filed, the law clerks and staff attorneys assisting them in deciding the case, and persons authorized by written court order, as provided by Administrative Rule 37.5(c)(5).

(2) If further restrictions are ordered for good cause (for example, privileged material to which counsel for one party but not the other are entitled to access), the clerk of the appellate courts shall enforce those restrictions, including restrictions placed by the trial court upon materials filed with the trial court and included in the record on appeal.

(3) A paper shall not be withheld from public inspection because other papers included in the same case file or the same record on appeal have been filed under seal or are confidential and are not open to public inspection.

(SCO 883 effective July 15, 1988; amended by SCO 1279 effective July 31, 1997; by SCO 1746 effective April 15, 2011; and by SCO 1893 effective August 10, 2016)

Rule 513. Translations.

Whenever any record transmitted to the appellate courts shall contain any document, paper, testimony or other proceeding in a foreign language, and the record does not also contain a translation of such document, paper, testimony or other proceeding made under the authority of the trial court or admitted to be correct, the record shall not be filed, but the case shall be reported to the appellate court by the clerk, and the court will thereupon remand it back to the trial court in order that a translation may be supplied and inserted in the record.

(SCO 439 effective November 15, 1980)

Rule 513.5. Form of Papers.

(a) **Scope.** This rule governs the form of all papers filed in the appellate courts except briefs, transcripts and excerpts of record. Briefs are governed by subparagraphs (b)(1)-(5) and paragraph (c) of this rule and by Rule 212(b); transcripts are governed by administrative bulletin as provided in Rule 210(b)(7); and excerpts of record are governed by Rule 210(c).

(b) **Form in General.** Except as provided in subsection (a), all documents presented for filing with the clerk must be:

(1) on 8-1/2 x 11 inches opaque, unglazed white paper of good quality and at least sixteen pound weight.

(2) in clear and legible black typeface or hand-printing in black ink;

(3) double-spaced (line-spacing "**2**" if proportionally spaced typeface is used), except that headings and footnotes must be single-spaced and quotations of more than two lines must be single-spaced and indented at least one-half inch on both sides;

(4) if longer than one page, numbered consecutively at the bottom center of each page;

(5) no more than 6-1/2 x 9-1/2 inches of printed or written matter on a page;

(6) printed or written on one side of the paper; and

(7) two-hole punched at the center of the top of each page.

(c) **Typeface.** (1) The text of documents, including headings and footnotes, must be at least

(A) 13 point (proportionally spaced) Times New Roman, Bookman Old Style, CG Times, New Century Schoolbook, Palatino Linotype or substantially similar serifed, roman text style; or

(B) 12.5 point (proportionally spaced) Arial, Helvetica, Univers, or substantially similar non-serifed text style.

(2) If the only reasonably available typeface is Courier or a substantially similar monospaced text style, the party may use this typeface with at least 12 point size (10 monospaced characters per inch). The party filing the document must also file a certificate that identifies the typeface and point size used in the document. If the party uses Courier or a substantially similar monospaced text style, the party must state in the certificate that Courier or a similar monospaced font is the only available font.

(d) **Exhibits.** Exhibits to motions, petitions and other documents must be clear and legible and must comply with subparagraph (b)(1) of this rule. Exhibits that do not comply with subparagraph (b)(1) must be reduced if necessary and copied onto paper of the required size and quality. Each page of an exhibit must be numbered progressively and marked with the number or letter of the exhibit (e.g., Ex. A, p. 1). Exhibits must be permanently attached to the principal document in a manner that allows them to be easily accessible and readable without detaching them from the principal document.

(e) **Information to Be Placed on First Page.** The first page of each paper or document must be prepared in conformity with Civil Rule 76(d), except that the name and address of the law firm or organization with whom an attorney is affiliated and the attorney's bar number must also be shown. Alternatively, the bar number must be shown on the signature page. If a party is not represented by counsel, the name, mailing address, and contact telephone number of the party must be shown on the first page of each paper or document filed by that party, unless otherwise ordered by the court. In criminal cases, the first page must also include a certificate indicating whether the paper or document contains information that is confidential under AS 12.61.100 through 12.61.150. The administrative director shall specify the form and content of the certificate. If a party requests relief by a specific date in a petition for review, cross-petition for review, original application, or motion, the date by which a decision is needed must also appear on the first page of the document.

(SCO 584 effective February 1, 1984; amended by SCO 686 effective May 1, 1986; by SCO 927 effective January 15, 1989; by SCO 1120 effective July 15, 1993; by SCO 1155 effective July 15, 1994; by SCO 1210 effective July 15, 1995; by SCO 1482 effective October 15, 2002; by SCO 1628 effective April 16, 2007, by SCO 1720 effective April 15, 2010; and by SCO 1989 effective April 17, 2023)

Rule 514. Service—Signing of Documents.

(a) **In General.** All documents filed with the appellate courts shall be served upon all other parties, unless otherwise ordered by the court. If a party is represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court.

(b) **Service.** Service shall be made by

(1) delivering a copy to the attorney or party; or

(2) by mailing it to the attorney's or party's last known address or, if no address is known, by leaving it with or mailing it to the clerk of the appellate courts; or

(3) by facsimile or by electronic mail in the manner provided by Civil Rule 5.1(c), as supplemented or modified by administrative order of the chief justice or chief judge of the court concerned.

For purposes of paragraph (1), "delivery" of a copy means handing it to the person to be served, or leaving it at the person's office with a clerk or other person in charge, or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at the person's dwelling or usual place of abode with some person of suitable age and discretion who is residing there. For purposes of paragraph (2), service by mail is complete upon mailing. For purposes of paragraph (3), service by facsimile or electronic mail is complete upon transmission.

(c) **Proof of Service.** If service is by delivery or by mail, proof of service shall be made in conformity with Civil Rule 5(f). If service is by facsimile or electronic mail, proof of service shall be made in conformity with Civil Rule 5.1(c)(6). The proof of service shall be filed with the clerk in conformity with Appellate Rule 502.1(a).

(d) **Signing of Documents.** All documents presented to the court, other than records, must bear the manuscript signature of the self-represented party or counsel of record for the party concerned. The individual names of other counsel and their addresses may be added.

(e) **Notice of Question of Constitutionality of Statute.** When the constitutionality of a state statute is drawn in question in any appeal or other proceeding in the appellate courts to which the state or an officer, agency, or employee thereof is not a party, the party raising the question shall give immediate notice in writing to the court of the existence of the question. The clerk of court shall notify the Attorney General of Alaska of the case raising the question.

(f) **Changes in Contact Information.** While a case is pending, all attorneys of record and all self-represented parties must immediately inform the court and all other attorneys of record and self-represented parties, in writing, of any changes in their mailing addresses, e-mail addresses, and contact telephone numbers, except as provided in Civil Rule 65.1.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 872 effective July 15, 1988; by SCO 1120 effective July 15, 1993; by SCO 1153 effective July 15, 1994; by SCO 1720 effective April 15, 2010; by SCO 1868 effective April 15, 2016; and by SCO 1884 effective August 1, 2016)

Rule 515. Process—How Returnable.

A person serving the process of the appellate courts shall make proof of service thereof to the court promptly and in any event within the time during which the person served must respond to process. If service is made by a person other than a marshal, a marshal's deputy, a state police officer, or other officer of the court so designated, the person making service shall make affidavit thereof. Failure to make proof of service shall not affect the validity of the service.

(SCO 439 effective November 15, 1980; amended by SCO 1153 effective July 15, 1994)

Rule 516. Death of a Party.

(a) **Substitution.** The death of a party in a civil action or proceeding shall not affect any appeal taken or petition for review made, or the right to take an appeal or to seek review, except as limited by paragraph (b) of this rule. The proper representatives of the estate, or in the personalty or realty, of the deceased party, according to the nature of the case, may voluntarily appear and be substituted as parties for the decedent, or substitution may be effected as in the case of death of a party pending an action in the superior court. Thereupon proceedings shall be had in the supreme court as in other cases.

(b) **Time.** The times specified in these rules for taking an appeal or petitioning for review, or for taking any of the further steps to secure a review of the judgment appeal from or the order in respect to which review is sought, shall be extended for the time necessary to enable such representatives to be substituted for the deceased party; provided, that such time shall not extend for more than 60 days after the date of death of such party. If substitution is not effected within such period, these rules relating to the time for taking an appeal or petitioning for review, or for taking such further steps to secure review, shall be as fully applicable as in other cases.

(SCO 439 effective November 15, 1980)

Rule 517. Substitution of Parties.

(a) **Parties.** Except as provided in subsection (b), whenever a substitution of parties to a pending appeal is necessary other than by reason of death, it shall be made by proper proceedings instituted for the purpose in the trial court. On motion and the filing of a copy of the trial court's order of substitution, the appellate court shall enter a like order of substitution.

(b) **Public Officers.** When a public officer is a party to an action in an official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and the officer's successor is automatically substituted as a party. Proceedings following the substitution shall be in the

name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the absence of such an order shall not affect the substitution.

(SCO 439 effective November 15, 1980 and by SCO 1868 effective April 15, 2016)

Rule 517.1. Attorneys.

(a) **Presumptive Role of Attorney of Record.**

(1) The attorney of record for a party in the proceeding from which the appeal or petition is being taken shall be presumed to be the appellate attorney for that party unless

(A) a different attorney files the notice of appeal or petition or response on behalf of the party;

(B) a different attorney files an entry of appearance on behalf of the party;

(C) the attorney of record files a notice of non-representation of the appellee or respondent; the notice must include the last known address and telephone number of the party;

(D) the party personally files a notice of appeal, petition, or other document indicating that the party intends to proceed self- represented; or

(E) the appellate court grants a motion to withdraw under subsection (f).

(2) Subparagraphs (a)(1)(C) and (D) of this rule do not apply to criminal cases or post-conviction relief actions under Criminal Rule 35.1 or in any case in which the attorney has filed a document in the appellate proceeding.

(b) **Limited Appearance by Counsel in Criminal Cases.** An attorney in a criminal case or in an appeal from a post-conviction relief proceeding under Criminal Rule 35.1 may appear for limited purposes only with the permission of the appellate court and for good cause shown. Withdrawal from cases under this subsection requires a motion pursuant to subparagraph (f)(1)(A) or a substitution of counsel under paragraph (f)(2).

(c) **Limited Appearance By Counsel in Civil Cases.** An attorney in a civil appeal may appear on behalf of a party for limited purposes without court approval if the following conditions are satisfied:

(1) the attorney files an entry of appearance with the court before, or at the same time as, the attorney takes any action on behalf of the party in the appellate case;

(2) the title of the entry of appearance indicates that the appearance is limited and the document identifies the limitation by date, time period, or subject matter; and

(3) the attorney is not appointed under Administrative Rule 12.

Withdrawal from cases under this subsection requires a notice pursuant to subparagraph (f)(1)(B) or a substitution of counsel under paragraph (f)(2).

(d) **Superseding Entry of Appearance.** When an attorney in the same law firm or agency as the attorney of record assumes responsibility for the case, the new attorney must file and serve a superseding entry of appearance. Court approval is not required.

(e) **When Attorney Leaves Law Firm.** When an attorney of record leaves the employment of a law firm and the attorney will continue representing the party in a pending appeal, the attorney must file a notice with the court listing the attorney's new address and contact information. If a notice is not filed, the law firm is presumed to continue to represent the party, and an attorney in that firm must file a superseding entry of appearance under subsection (d) of this rule.

(f) **Withdrawal or Substitution.**

(1) *Withdrawal.* An attorney may withdraw as counsel for a party under one of the following provisions.

(A) The appellate court may allow an attorney to withdraw for good cause with or without the consent of the party.

(i) The attorney must file and serve upon the party a motion and a list of pending court deadlines. The motion must include the current service address and telephone number of the party. The attorney must file proof that the motion and the list of deadlines were served on the party.

(ii) The attorney for a person who seeks appellate review of a final judgment in a criminal case or a final order resolving a post-conviction relief action under Criminal Rule 35.1 will not be permitted to withdraw until the notice of appeal or petition and the documents required to be filed with the appeal or petition by Appellate Rule 204, Appellate Rule 215, or Appellate Rule 403(h) have been accepted for filing by the clerk of the appellate courts, or unless the court otherwise allows.

(B) If an attorney has filed a limited entry of appearance in a civil case pursuant to subsection (c) of this rule, the attorney may withdraw without court approval by filing and serving on all other parties a notice certifying that the attorney has (1) taken all actions necessitated by the limited representation, and (2) provided to the party a list of deadlines. The notice must also state that the attorney's limited representation has concluded and provide a current service address and telephone number for the party.

(2) *Substitution of Counsel.* If the party has other counsel ready to be substituted for the attorney who wishes to withdraw, the attorneys may file and serve on all other parties a stipulation for substitution of counsel. The stipulation must be signed by the withdrawing attorney and the substituting attorney. Court approval is not required. In the absence of a stipulation, the substituting attorney must file a motion requesting substitution of counsel. In cases where both attorneys are paid at public expense, substitution of counsel can be accomplished by having the new attorney file a superseding entry of appearance.

(g) **Trial Court Representation Not Affected.** An entry of appearance, limited entry of appearance, superseding entry of appearance, substitution, or withdrawal of an attorney in the

appellate courts does not affect the representation of a party in the trial court.

(SCO 1868 effective April 15, 2016; and by SCO 1972 effective October 15, 2021)

Rule 518. Self-Represented Parties.

(a) If a party is self-represented in an appellate proceeding, all references in these rules to counsel shall be construed as referring to the party personally. All documents filed by such a party shall include an address at which that party can be served.

(b) A party who is represented by an attorney in an appellate proceeding may not appear or act in the party's own behalf in that appellate proceeding, unless the attorney has withdrawn under Appellate Rule 517.1(f) or the court otherwise orders.

(SCO 439 effective November 15, 1980 and by SCO 1868 effective April 15, 2016)

Rule 519. Clerical Mistakes.

Clerical mistakes in judgments, orders or other parts of the record and errors in the record arising from oversight or omission may be corrected by the appellate court at any time of its own initiative and after such notice, if any, as the court orders, or on motion of any party and after such notice, if any, as the court orders.

(SCO 439 effective November 15, 1980)

Rule 520. General Authority of Appellate Courts.

(a) In any matter lawfully brought before it for review, the supreme court, upon motion and notice of a party or upon its own motion, may at any time modify or vacate any order made by a trial court or the court of appeals in relation to the prosecution of an appeal or a petition for review.

(b) In any matter lawfully brought before it for review, the court of appeals may similarly modify or vacate any order made by a trial court in relation to the prosecution of an appeal or petition for review.

(c) The appellate court may affirm, modify, vacate, set aside or reverse any judgment, decree, decision or order of a court lawfully brought before it for review, and may remand the cause and direct the entry of such appropriate judgment, decree or order; or require such further proceedings to be had as may be just under the circumstances.

(SCO 439 effective November 15, 1980)

Rule 521. Construction.

These rules are designed to facilitate business and advance justice. They may be relaxed or dispensed with by the appellate courts where a strict adherence to them will work surprise or injustice. In a matter involving the validity of a criminal conviction or sentence, this rule does not authorize an appellate court or the superior court, when acting as an intermediate appellate court, to allow

(1) the notice of appeal to be filed more than 60 days late; or

(2) a petition for review or petition for hearing to be filed more than 60 days late.

(SCO 439 effective November 15, 1980; amended by SCO 1238 effective July 15, 1996)

Note to SCO 1238: The limitation on the court's power to accept late appeals or petitions was added by ch. 79 § 21 SLA 1995. Section 7 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Rule 522. Legal Effect of Rules—Procedural Portions of Statutes Superseded.

These rules are promulgated pursuant to constitutional authority granting rulemaking power to the supreme court, and to the extent that they are inconsistent with any procedural provisions of any statute not enacted for the specific purpose of changing a rule, shall supersede such statute to the extent of such inconsistency.

(SCO 439 effective November 15, 1980)

Rule 523. Title.

These rules shall be known and cited as the "Rules of Appellate Procedure."

(SCO 439 effective November 15, 1980)

PART VI. SUPERIOR COURT AS AN APPELLATE COURT

Rule 601. Scope of Part Six.

(a) Part Six of these rules (Rules 601 through 612) applies to requests to the superior court to review decisions of the district court or an administrative agency under AS 22.10.020(d) and AS 22.15.240(a), either by appeal or by petition for review.

(b) An appeal may be taken to the superior court from a final judgment entered by the district court, in the circumstances specified in AS 22.15.240, or from a final decision of an administrative agency, except that appeals from decisions of the Alaska Workers' Compensation Appeals Commission shall be taken to the supreme court under AS 23.30.129 and are governed by parts Two and Five of these rules.

(c) On any point not addressed in Part Six, procedure in appeals to the superior court shall be governed by the provisions of Parts Two and Five of these rules, and procedure in petitions for review and petitions for judicial relief in administrative matters under AS 44.62.305 to the superior court shall be governed by the provisions of Part Four of these rules.

(SCO 439 effective November 15, 1980; amended by SCO 848 effective January 15, 1988; by SCO 1015 effective July 15, 1990; by SCO 1245 effective July 15, 1996; by SCO 1671 effective October 15, 2008; and by SCO 1672 effective April 15, 2009)

Rule 602. Time—Venue—Notice—Bonds—Parties—Filing—Service—Distribution

(a) **When Taken.**

(1) *Appeals from the District Court.* An appeal may be taken to the superior court from the district court within 30 days from the date shown in the clerk's certificate of distribution on the judgment.

(2) *Appeals from Administrative Agencies.* An appeal may be taken to the superior court from an administrative agency within 30 days from the date that the decision appealed from is mailed or otherwise distributed to the appellant. If a request for agency reconsideration is timely filed before the agency, the notice of appeal must be filed within 30 days after the date the agency's reconsideration decision is mailed or otherwise distributed to the appellant, or after the date the request for reconsideration is deemed denied under agency regulations whichever is earlier. The 30-day period for taking an appeal does not begin to run until the agency has issued a decision that clearly states that it is a final decision and that the claimant has thirty days to appeal. An appeal that is taken from a final decision that does not include such a statement is not a premature appeal.

(3) Rule 204(a)(2)–(6) concerning the timing of appeals applies to appeals to superior court.

(b) **Venue.**

(1) *Appeals from the District Court.* Venue for an appeal from a district court decision shall be at the superior court location within the same judicial district as the district court that would best serve the convenience of the parties.

(2) *Appeals from Administrative Agencies.* Unless otherwise provided by law, venue for an appeal from an administrative agency decision shall be at the superior court location that would best serve the convenience of the parties.

(c) Notice of Appeal.

(1) A party may appeal from a judgment or agency decision by filing a notice of appeal with the superior court. The notice of appeal must specify the parties taking the appeal and their current addresses, designate the judgment, agency decision or part thereof appealed from, and name the court to which the appeal is taken. At the time the notice of appeal is served and filed, it must be accompanied by:

(A) a statement of points on which appellant intends to rely on appeal. The grounds for appeal stated in the statement of points on appeal constitute the sole basis for review by the superior court. On motion in the superior court, and for cause, the statement of points may be supplemented;

(B) if required, the filing fee as provided by Administrative Rule 9;

(C) if required, a bond for costs on appeal as provided by paragraph (e) of this rule;

(D) a copy of the district court judgment or agency decision from which the appeal is taken; and

(E) proof of service on all parties to the appeal. In an appeal from an agency decision, the notice of appeal must be served on the head of the agency and, if the agency is a state agency, on the Attorney General of Alaska, at Juneau, Alaska. The notice of appeal must also be served on the Chief Administrative Law Judge of the Office of Administrative Hearings, if that office heard the matter.

(2) An appellant seeking to have the cost bond waived or reduced, an extension of time to file the bond, or to appeal at public expense shall file an appropriate motion at the time the notice of appeal is filed.

(3) The clerk of the superior court shall refuse to accept for filing any notice of appeal not conforming with the requirements of this rule.

(d) **Notification by Clerk.**

(1) In an appeal from a district court which is not at the same location as the superior court, the clerk shall send a copy of the notice of appeal to the district court and shall notify the district court of the date by which it must forward the record on appeal as provided by Rule 604(a)(1).

(2) In an appeal from an administrative agency, the clerk shall send a copy of the notice of appeal to the agency and request the agency to submit a list of the names and addresses of all counsel who appeared in the matter before the agency, and of all persons who appeared therein pro se. The agency shall file the list with the clerk within ten days of service of the request. The clerk also shall notify the agency of the date by which it must prepare the record in accordance with Rule 604(b)(1).

(e) **Cost Bond.**

(1) In a civil case or an appeal from an administrative agency, unless a party is exempted by law, or has filed an approved supersedeas bond under Rule 603(a)(2), a bond for costs on appeal must be filed in superior court with the notice of appeal. The amount and terms of the bond are governed by Rule 204(c)(1) and Civil Rule 80.

(2) The cost bond exemptions provided by Rule 204(c)(2) apply in appeals to superior court.

(f) **Supersedeas Bond.** The appellant may file a supersedeas bond pursuant to Rule 603(a)(2) in lieu of a cost bond.

(g) **Cash Deposit.** The appellant may deposit cash in the amount of the bond with the court in lieu of filing a cost or supersedeas bond. At the time of the deposit, appellant also

shall file a written instrument properly executed and acknowledged by the owner of the cash, or by the owner's attorney or the owner's authorized agent, setting forth the ownership of the fund; agreement to the terms of Civil Rule 80(f); and satisfaction of the conditions specified in Rule 204(c)(1) if the deposit is in lieu of a cost bond, or Rule 204(d) if the deposit is in lieu of a supersedeas bond.

(h) **Parties to the Appeal.** All parties to the trial court or agency action when the final order or judgment was entered are parties to the appeal. A party who files a notice of appeal, whether separately or jointly, is an appellant under these rules. All other parties, including the agency in an appeal from an administrative agency decision, are deemed to be appellees. An appellee may elect at any time not to participate in the appeal by filing and serving a notice of non-participation. The filing of a notice of non-participation shall not affect whether the party is bound by the decision on appeal.

(i) **Joint or Consolidated Appeals.** If two or more parties are entitled to appeal from a judgment or order of a court or agency and their interests are such as to make joinder practical, they may file a joint notice of appeal. Appeals may be consolidated by order of the appellate court upon its own motion or upon motion of a party.

(j) **Filing and Service of Documents.** Documents may be filed either by delivering them or mailing them to the clerk of the superior court at the court location where the appeal is filed, unless otherwise ordered. Documents may be filed by electronic mail only as permitted by administrative order of the presiding judge. Documents mailed to the superior court will be deemed filed on the date of receipt by the clerk. Documents filed or served in the appeal must be served on all parties, except appellees who have elected not to participate in the action. Service upon a party by facsimile or electronic mail may be made as provided by Civil Rule 5.1(c).

(k) **Distribution by the Court**. The court may use electronic mail to distribute documents as provided in Civil Rule 5.3.

(SCO 439 effective November 15, 1980; amended by SCO 460 effective June 1, 1981; by SCO 495 effective January 4, 1982; by SCO 510 effective August 30, 1982; by SCO 514 effective October 1, 1982; by SCO 554 effective April 4, 1983; by SCO 575 effective February 1, 1984; by SCO 847 effective January 15, 1988; by SCO 888 effective July 15, 1988; by SCO 1015 effective January 15, 1990; by SCO 1250 effective July 15, 1996; by SCO 1284 effective January 15, 1998; by SCO 1385 effective April 15, 2000; by SCO 1411 effective October 15, 2000; by SCO 1476 effective October 15, 2002; by SCO 1719 effective April 15, 2010; by SCO 1884 effective August 1, 2016; SCO 1939 effective January 1, 2019; and by SCO 1930 effective April 15, 2019)

Note: Ch. 77 SLA 2002 (HB157), Section 2, adds new Chapter 26 to Title 6 of the Alaska Statutes, concerning providers of fiduciary services. According to Section 9 of the Act, AS 06.26.760(b)(2) has the effect of amending Appellate Rule 602 by postponing the deadlines for the filing of appeals to the superior court from a district court of an administrative agency by a trust company when the Department of Community and Economic Development has taken possession of the trust company.

Note: Chapter 60, SLA 2013 (HB 57), effective July 1, 2014, adopted the Alaska Entity Transactions Act, effective July 1, 2014. According to section 30 of the Act, AS 10.55.607(a), enacted by section 10 of the Act, has the effect of amending: Alaska Rule of Appellate Procedure 602(b)(2), by establishing special venue rules for appealing the refusal of the Department of Commerce, Community, and Economic Development to file a document; and Alaska Rule of Appellate Procedure 602(c), by requiring that certain documents be filed with a petition appealing the refusal of the Department of Commerce, Community, and Economic Development to file a document.

Note: Chapter 65, SLA 2018 (HB 170) enacted comprehensive changes to securities laws. According to section 30(e) of the Act, AS 45.56.675(a), enacted by section 25 of the Act, have the effect of changing Appellate Rule 602, effective January 1, 2019, by changing the time for filing a notice of appeal in certain cases.

Rule 603. Stays.

(a) **Civil Appeals.**

(1) *Automatic Stay.* An automatic two day stay of execution or enforcement of district court judgments is provided for in District Court Civil Rule 24(a). A motion for stay and bond are not required for this stay.

(2) *Stay Upon Appeal—Supersedeas Bond.*

(A) *Stay.* When an appeal is taken, the appellant may obtain a stay of proceedings to enforce the judgment by filing a supersedeas bond. The stay is effective when the supersedeas bond is approved. The filing of a supersedeas bond does not prohibit the court from considering the public interest in deciding whether to impose or continue a stay on that portion of an administrative or district court judgment which is not limited to monetary relief.

(B) *Request for Approval.* A supersedeas bond, with a Request for Approval of Supersedeas Bond, must be served and filed with the district court, or with the superior court in administrative appeals. The bond may be filed at or after the time for filing the notice of appeal.

(C) *Amount and Form.* The amount of the supersedeas bond is 125% of the district court or administrative agency judgment (including any prejudgment interest, costs and attorney's fees), except that the court may specify a different amount based on the standard provided by Rule 204(d) upon motion by any party to the appeal. The form and conditions of the bond are governed by Civil Rule 80 and Appellate Rule 204(d).

(D) *Objections—Reconsideration.* An appellee may by motion raise objections to the form or amount of the bond or to the sufficiency of the surety. However, approval of the bond

will not be delayed to allow objections to be filed. Objections filed after the supersedeas bond has been approved will be treated as a motion to rescind or modify the approval to be decided by the judge.

(E) *Approval.* The clerk may approve a supersedeas bond upon filing if: (i) the bond is in the form prescribed above; (ii) the amount of the bond is 125% of the judgment or, if the judge has ordered a different amount, in the amount ordered by the judge; and (iii) the bond is in cash pursuant to Rule 602(g) or is executed by approved surety companies. Otherwise, the judge must decide whether to approve the bond.

(F) *Exemption.* The state or an officer or agency thereof or a municipality or an officer or agency thereof desiring a stay on appeal is exempt from the requirement of filing a supersedeas bond.

(3) *Stay in License Revocation Appeals.* The court may not stay a license revocation ordered under AS 28.15.166 unless the court finds that there is a reasonable probability that the appellant will prevail on the merits, that the appellant will suffer irreparable harm if the order is not stayed, and, in a case where the appellant operates a commercial motor vehicle, that the public can be adequately protected by conditions imposed by the court.

(4) *Proceedings on Stay.* When an appeal is taken, the district court judge or magistrate judge shall enter a written order indicating whether or not the proceedings to enforce a judgment have been stayed. If the proceedings are stayed, and process has been issued to enforce the judgment, the judge or magistrate judge must recall the process by written notice to the officer holding the process. Thereupon the process must be returned to the court, and all property seized or levied upon by virtue of such process must be released if it has not been sold, and in cases of civil arrest, the person arrested must be released from custody. This subdivision of this rule will not be construed as making any stay retroactive or as invalidating any proceedings or levies prior to the time the stay becomes effective.

(5) *Stay in Prisoner Disciplinary Appeals.* The court may not stay imposition of sanctions arising from a disciplinary decision of the Department of Corrections unless the court finds that the prisoner has alleged a violation of a fundamental constitutional right and is likely to succeed on the merits of the appeal, that the prisoner faces irreparable harm if a stay is not granted, that the Department of Corrections can be adequately protected if a stay is granted, and that a stay will not adversely affect the public interest in effective penal administration. In evaluating the stay motion, the court may consider documents and affidavits offered by either party, and shall consider the stay motion without waiting for the record to be prepared.

(b) **Criminal Appeals.** If a sentence of imprisonment is imposed, the court may admit the defendant to bail and stay the sentence as provided by law and by these rules, pending appeal. A sentence to pay a fine or a fine and costs may be stayed, if an appeal is taken, by the district judge or magistrate judge or by the superior court upon such terms as the court deems proper. During appeal the court may require the defendant to deposit the whole or any part of the fine and costs in the registry of the superior court, or to give bond for the payment thereof, or to submit to an examination of assets, and it may make an appropriate order to restrain the defendant from dissipating his or her assets. An order placing the defendant on probation will be stayed if an appeal is taken.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 957 effective March 30, 1989; by SCO 1015 effective January 15, 1990; by SCO 1109 effective January 15, 1993; by SCO 1238 effective July 15, 1996; by SCO 1385 effective April 15, 2000; by SCO 1671 effective October 15, 2008; by SCO 1732 effective nunc pro tunc to July 1, 2010; and by SCO 1829 effective October 15, 2014)

Note: AS 28.15.166(n), added by § 3 ch. 77 SLA 1983 and amended by § 10 ch. 119 SLA 1990 and by § 6 ch. 3 SLA 1992, amended Appellate Rule 603 by prohibiting an automatic stay of the administrative revocation of a driver's license pending appeal and by limiting the power of the court to stay the administrative revocation of a driver's license. Subparagraph 603(a)(4) was added by SCO 1109 in order to incorporate the legislative changes to the rule. In the event the legislation mandating the changes is invalidated by a court of competent jurisdiction, SCO 1109 shall be considered automatically rescinded.

Note to SCO 1238: Appellate Rule 603(a)(6) was added by ch. 79 § 22 SLA 1995. Section 9 of this order is adopted for the sole reason that the legislature has mandated the amendment.

Note: Chapter 19, section 29, SLA 2010 (HB 324), effective July 1, 2010, amended Appellate Rule 603(b) relating to release before trial, before sentence, and pending appeal, as reflected in section 5 of this Order. The changes to Appellate Rule 603 are adopted for the sole reason that the legislature has mandated the amendments.

Rule 604. Record.

(a) **Appeals from District Court.**

(1) *Record on Appeal.*

(A) The record on appeal consists of the entire district court file, including the original papers and exhibits filed in the district court and the record of proceedings before the district court.

(B) The record of proceedings before the district court will include electronic recordings rather than transcripts unless the superior court orders the submission of transcripts. In the absence of an agreement between the parties or an order of the court to the contrary, all reasonable costs incurred in connection with preparing a transcript will be borne by the appellant.

(C) Within 40 days after filing of the notice of appeal, the clerk of the superior court shall assemble the record and prepare and distribute notice of the due date for appellant's

brief. The papers in the record need not be numbered and a table of contents need not be prepared.

(2) *Power of Court to Correct or Modify Record of District Court.* If any differences arise as to whether the record on appeal truly discloses what occurred in the district court, the difference must be submitted to and settled by the superior court and the record made to conform to it. If anything material to either party is omitted from the record on appeal by error or accident or is misstated therein, the parties by stipulation, the district court, or the superior court, on motion or of its own initiative, may direct that the omission or misstatement be corrected.

(3) *Return of Record*. Unless the court otherwise orders, the clerk shall return the original record to the district court upon return of jurisdiction as provided by Rule 507(e)(1).

(b) Appeals from Administrative Agencies.

(1) Record on Appeal.

(A) The record on appeal consists of the original papers and exhibits filed with the administrative agency, and a typed transcript of the record of proceedings before the agency. In an appeal from the revocation of a driver's license by the Division of Motor Vehicles or from a prisoner disciplinary decision of the Department of Corrections, the record of proceedings will include electronic recordings rather than transcripts unless otherwise ordered by the court.

(B) Appellate Rule 210 shall apply except that:

(i) Appellate Rule 210(b)(1) and (2) shall not apply.

(ii) The original transcript shall be filed with the administrative agency. The agency shall forward the transcript to the clerk of the superior court within 40 days after filing of the notice of appeal.

(iii) The administrative agency shall number the pages of the agency file consecutively throughout all volumes. The agency shall forward a copy of the numbered file to the clerk of the superior court with the transcript. Physical exhibits will be retained by the agency unless specifically requested by the court. As used in this rule, "physical exhibits" includes exhibits other than documents or photographs, and also includes documents or photographs of unusually large size or unusual bulk or weight.

(iv) In the absence of an agreement between the parties or an order of the court to the contrary, all reasonable costs incurred in connection with preparing the transcript and the court's copy of the agency file shall be borne by the appellant. The preparing agency may require advance payment of the costs as reasonably estimated by the agency.

(v) Upon receipt of the transcript and a copy of the agency file, the clerk of the superior court shall prepare and distribute notice of the due date for appellant's brief.

(2) *Return of Record*. Unless the court otherwise orders, the clerk shall return all original papers and physical exhibits to the administrative agency upon return of jurisdiction as provided by Rule 507(e)(2).

(SCO 439 effective November 15, 1980 as amended by SCO 767 effective March 15, 1987; by SCO 826 effective August 1, 1987; by SCO 873 effective July 15, 1988; by SCO 928 effective January 15, 1989; by SCO 1015 effective January 15, 1990; by SCO 1155 effective July 15, 1994; by SCO 1238 effective July 15, 1996; corrected January 1998; by SCO 1555 effective October 15, 2004; and by SCO 1973 effective April 15, 2022)

Note to SCO 1238: Appellate Rule 604(b)(1) (A) was amended by ch. 79 § 23 SLA 1995 to allow the use of cassette tapes in prisoner disciplinary appeals. Section 11 of this order is adopted for the sole reason that the legislature has mandated the amendment. The clerk will also accept other forms of electronic recording, such as CDs.

Rule 605. Briefs and Memoranda.

(a) **Appeals from Administrative Agencies.** Unless the superior court orders to the contrary:

(1) the time for service and filing briefs is governed by Rule 212(a)(1);

(2) the form of briefs is governed by Rule 212(b), except the briefs must be two-hole punched at the center of the top of each page rather than bound, the brief covers need not be on colored paper, and the briefs may be in clear and legible black printing rather than typewritten;

(3) the substantive requirements of briefs are governed by Rule 212(c); and

(4) the filing of a single copy of the brief with proof of service is sufficient, without the necessity of duplication as provided by Rule 212(a)(2).

(b) **Appeals from District Court.** Unless the superior court orders to the contrary, the parties may file memoranda on appeal as specified by this paragraph instead of briefs. Unless otherwise ordered:

(1) the time for service and filing of memoranda is governed by Rule 212(a)(1);

(2) the form of memoranda is governed by Rule 513.5;

(3) the length of appellant's and appellee's opening memoranda may not exceed 20 numbered pages, and the length of appellant's reply memoranda may not exceed 10 numbered pages;

(4) the memoranda must include a statement of issues presented for review, a summary of facts, a discussion of the law and its application to the facts, and a short conclusion stating the precise relief sought;

(5) the filing of a single copy of the memoranda with proof of service is sufficient without the necessity of duplication as provided by Rule 212(a)(2); and

(6) the consequences of submitting defective memoranda or the failure to file memoranda, and the citation of supplemental authorities are governed by Rule 212(c)(10)—(12).

(SCO 439 effective November 15, 1980; amended by SCO 1015 effective January 15, 1990; by SCO 1155 effective July 15, 1994; and by SCO 1157 effective July 15, 1994)

Rule 605.5. Oral Argument.

(a) **Request.** Either party may serve and file a written request for oral argument not later than 10 days after the date on which appellant's reply brief or memorandum is due, pursuant to Rule 605, or pursuant to any extension of that time granted under Rule 502 or 503. If no appellee's brief or memorandum is filed, the appellant's request for oral argument must be filed within 10 days after the due date of the appellee's brief or memorandum. No response to a request for oral argument may be filed.

(b) **Right to Oral Argument.** In an appeal from a civil case where the controversy on appeal concerns less than $300 or from a minor offense as defined by District Court Criminal Rule 8(b), oral argument will be scheduled only if ordered by the superior court for good cause shown. In all other appeals, oral argument will be scheduled automatically if timely requested by either party.

(c) **Time Allowed.** The time allowed for oral argument, unless otherwise ordered, is 15 minutes per side.

(SCO 810 effective August 1, 1987; amended by SCO 1015 effective January 15, 1990; and by SCO 1806 effective July 1, 2014)

Note: Chapter 60, SLA 2013 (HB 57), effective July 1, 2014, adopted the Alaska Entity Transactions Act, effective July 1, 2014. According to section 30 of the Act, AS 10.55.607(b), enacted by section 10 of the Act, has the effect of amending Alaska Rule of Appellate Procedure 605.5, by allowing the superior court to summarily order the filing, because a summary order may not allow for oral argument.

Rule 606. Dismissal.

(a) **By Parties or Court.** Dismissal of appeals by parties is governed by Rule 511. Dismissal of appeals by the superior court or clerk of the superior court is governed by Rule 511.5.

(b) **Nonpayment of Costs.** If the costs for preparation of the record or transcript on appeal are not paid within 30 days of notification that such costs are due, the appeal may be dismissed by the superior court on its own motion or on the motion of opposing counsel.

(SCO 439 effective November 15, 1980; amended by SCO 929 effective January 15, 1989)

Rule 607. Conflicts with Other Procedures in Administrative Appeal.

These rules supersede all other procedural methods specified in Alaska statutes for appeals from administrative agencies to the courts of Alaska.

(SCO 439 effective November 15, 1980; as amended by SCO 1015 effective January 15, 1990)

Rule 608. Sentence Appeal.

A sentence appeal to the superior court is governed by Rule 215. That rule will in case of inconsistency prevail over Part Six of these rules, except that (1) the notice of appeal must be filed in the superior court; and (2) as provided by Rule 604, the record on appeal consists of the entire district court file, including the original papers and exhibits filed in the district court, and the electronic record of proceedings before the district court. It is only necessary to file with the court the original memorandum on appeal; no additional copies are required.

(SCO 439 effective November 15, 1980; amended by SCO 554 effective April 4, 1983; by SCO 928 effective January 15, 1989; by SCO 930 effective January 15, 1989; by SCO 1015 effective January 15, 1990; by SCO 1067 effective July 15, 1991; and by SCO 1155 effective July 15, 1994)

Rule 609. Powers of the Superior Court.

(a) **Powers of Superior Court.** After notice of appeal to the superior court has been given, the superior court may make such orders as are necessary and proper to aid its appellate jurisdiction.

(b) **De Novo Trial.**

(1) In an appeal from an administrative agency, the superior court may in its discretion grant a trial de novo in whole or in part. If a trial de novo is granted, the action will be considered as having been commenced in that court at the time that the record on appeal is received by the superior court.

(2) All further proceedings in such action are governed by the rules governing procedure in the superior court, except that no summons nor any amended or additional pleadings shall be served unless authorized or required by the court. The hearing or trial of the action shall be upon the record thus filed and upon such evidence as may be produced in the superior court.

(c) **Change of Judge as a Matter of Right.**

(1) Any party to an appeal from an administrative agency to the superior court may peremptorily challenge the judge to whom the appeal is assigned, pursuant to the limitations and procedures in Civil Rule 42(c). The notice of change of judge is timely if filed within five days after notice to the party of the assignment.

(2) No peremptory challenge of the judge to whom an appeal is assigned is allowed in an appeal from the district court to the superior court.

(SCO 439 effective November 15, 1980; amended by SCO 1015 effective January 15, 1990)

Note: AS 10.06.633, as enacted by ch. 166, § 1, SLA 1988, amended Appellate Rule 609 by requiring that an appeal from an involuntary dissolution of a corporation be tried de novo by the superior court. AS 10.06.863, as enacted by ch. 166, § 1, SLA 1988, amended Appellate Rule 609 by requiring that an appeal from a revocation from a certificate of authority of a foreign corporation to transaction business in Alaska be tried de novo by the superior court. AS 10.06.915, as enacted by ch. 166, § 1, SLA 1988, amended Appellate Rule 609 by requiring that an appeal from the failure to approve articles of incorporation and certain other administrative decisions be tried de novo by the superior court.

Rule 610. Petitions for Review of Nonappealable Orders or Decisions.

(a) **When Available.** An aggrieved party, including the state of Alaska, may petition the superior court to review any order or decision not appealable under Rule 602 of a district court or of an administrative agency in a proceeding in which the superior court has appellate jurisdiction.

(b) **When Granted.** Review is not a matter of right, but will be granted only when the sound policy behind the general rule of requiring appeals to be taken only from final judgments is outweighed because;

(1) Postponement of review until appeal may be taken from a final judgment will result in injustice because of impairment of a legal right or because of unnecessary delay, expense, hardship or other related factors;

(2) The order or decision involves a controlling question of law on which there is a substantial ground for difference of opinion, and an immediate review of the order may materially advance the termination of the proceeding in the other forum; or

(3) The district court so far departed from the accepted and usual course of judicial proceedings, or the administrative agency has so far departed from the accepted and usual course of administrative adjudication, as to call for the superior court's power of supervision and review.

(SCO 439 effective November 15, 1980; as amended by SCO 1015 effective January 15, 1990)

Rule 611. Petitions for Review—Procedure.

(a) **Filing.**

(1) A petition for review of a district court order or decision, with the filing fee, must be filed with the clerk of the superior court within 10 days after the date of notice of the challenged order or decision, along with proof of service on all parties. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). The clerk of the superior court shall proceed in accordance with Rule 403(a)(4).

(2) A petition for review of an order or decision of an administrative agency, with the filing fee, must be filed with the clerk of the superior court within 10 days after the date of mailing or other distribution of the order or decision, along with proof of service on all parties, including the administrative agency that issued the order or decision. A copy of the petition for review must also be served on the Chief Administrative Law Judge of the Office of Administrative Hearings, if that office heard the matter.

(3) The running of the time for filing a petition for review is terminated by a timely motion for reconsideration in the district court. The full time for a petition for review by any party begins to run again on the date of notice, as defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c), or the date of denial of the motion pursuant to Civil Rule 77(k)(4), whichever is earlier.

(4) A judge of the superior court, for good cause shown, may extend the time for filing. The party seeking review will be known as the petitioner. All other parties to the proceedings will be named as respondents.

(b) **Other Matters.**

(1) Cross Petitions and Petitions for Review of Multiple Orders may be filed in accordance with the provisions of Appellate Rule 403(a)(2) and (3).

(2) The Petition or Cross Petition shall conform to Appellate Rule 403(b) through (e), except that the statement of reasons why review should be granted is governed by Rule 610.

(c) Consideration by the Court. As soon as practicable, the appellate court will decide whether to grant or deny the petition. Oral argument will not be held on the question whether the petition should be granted. If the petition is granted, the order granting the petition will specify any further actions to be required. If further briefing is ordered, oral argument will be governed by the procedures set out in Rule 505.

(d) **Stay.**

(1) *Judicial Proceeding.* When a petition for review has been filed, the superior court in its discretion may stay further proceedings by the district court and the operation or enforcement of the order or decision sought to be reviewed upon such terms as to bond or otherwise as the court considers proper for the security of the rights of the adverse party.

(2) *Administrative Proceeding.* When a petition for review has been filed, the superior court may stay further proceedings in an administrative agency and the operation or enforcement of the order or decision sought to be reviewed when the party seeking review establishes that irreparable injury will result if the stay is not granted.

(e) **Relief Available.** Upon consideration of a petition for review, the superior court may affirm, modify, vacate, set aside or reverse any order or decision of a district court or administrative agency, and may remand the action or proceeding and direct the entry of such appropriate judgment or order, or require such further proceedings to be had, as may be just under the circumstances.

(SCO 439 effective November 15, 1980; amended by SCO 494 effective January 4, 1982; by SCO 554 effective April 4, 1983; by SCO 1015 effective January 15, 1990; by SCO 1113 effective January 15, 1993; SCO 1779 effective October 15, 2012; and by SCO 1930 effective April 15, 2019)

Note: AS 28.15.166(n), as amended by § 10 ch. 119 SLA 1990, amended Appellate Rule 603 and Appellate Rule 611 by prohibiting an automatic stay of the administrative revocation of a driver's license pending appeal or petition for review and by limiting the power of the court to stay the administrative revocation of a driver's license. AS 28.15.166(n) was also amended by § 6 ch. 3 SLA 1992 to require that the court make an additional finding before staying the revocation of a commercial vehicle license. When the legislature adopted this change, it took the steps necessary to revise Appellate Rule 603 but did not attempt to amend Appellate Rule 611.

Note: Ch. 77 SLA 2002 (HB157), Section 2, adds new Chapter 26 to Title 6 of the Alaska Statutes, concerning providers of fiduciary services. According to Section 9 of the Act, AS 06.26.760(b)(2) has the effect of amending Appellate Rule 611 by postponing the deadlines set in the Alaska Rules of Appellate Procedure for the filing of petitions for review to the superior court from a district court of an administrative agency by a trust company when the Department of Community and Economic Development has taken possession of the trust company.

Rule 612. Motions and Authority of the Clerk.

(a) **Applicability of Rule 503.** Motions to the superior court are governed by Rule 503, except as provided below.

(b) **Motions Determined by the Clerk.** The clerk may approve a supersedeas bond pursuant to Rule 603(a)(2)[e]. The superior court clerk may rule upon the following motions, if unopposed, without reference to the judge assigned to the appeal:

(1) motions for extensions of time for filing briefs as provided by paragraph (c) below;

(2) motions for extension of time for transmitting the record in administrative appeals;

(3) an appellant's motion to dismiss the appeal; and

(4) motions to supplement the record if filed prior to the filing of any brief.

(c) **Length of Extensions.** The clerk may not grant extensions totalling more than 30 days for the appellant's brief, 30 days for the appellee's brief, and 15 days for the appellant's reply brief. The clerk may not determine a motion for extension of time to file a document if the time period specified in these rules for filing the document, including any previous extensions, has already expired when the motion is filed.

(d) **Reconsideration of Clerk's Order.** A party who is aggrieved by the decision of the clerk on a motion may file a motion for reconsideration of the clerk's order. This motion will be determined by the judge assigned to the appeal.

(SCO 1015 effective January 15, 1990)

APPENDIX

CLERK'S INSTRUCTIONS FOR PREPARATION OF EXCERPTS

A. **APPELLANT'S EXCERPT OF RECORD**

1. An excerpt of record must be bound on the left-hand side in the same manner as a brief. All excerpts, whether submitted by appellant or appellee, must have a pink cover. The cover must be the same weight and quality as the cover of a brief. The cover must contain the same information that appears on the front cover of the brief, but must be labeled "APPELLANT'S EXCERPT OF RECORD" instead of "BRIEF OF APPELLANT." It must also contain the volume number, e.g., "Volume 1 of 1."
EXAMPLE:

IN THE SUPREME COURT OF THE STATE OF ALASKA

JANE A. DOE,)
Appellant,)
)
vs.)
)
JOHN B. DOE,)
Appellee) Supreme Court No. S-5741
_____) Superior Court No. 3AN-92-4375 CI

APPEAL FROM THE SUPERIOR COURT,
THIRD JUDICIAL DISTRICT AT ANCHORAGE,
THE HONORABLE J. WILLIAM JONES, PRESIDING

APPELLANT'S EXCERPT OF RECORD
VOLUME 1 OF 1

JAMES SMITH (AK Bar No. 234567)
100 A Street, Suite 100
Anchorage, Alaska 99000
(907) 333-3333
Attorney for Appellant
Jane A. Doe

Filed in the Supreme Court of
the State of Alaska, this ____
day of _____, 2004.

Marilyn May, Clerk

By: _____
Deputy Clerk

2. Documents in the excerpt of record must be arranged in chronological order by document execution date, with the document with the earliest date on top.

A memorandum filed in support of a motion should be placed immediately following the motion. Exhibits or attachments to the memorandum should follow the memorandum—even if the exhibit or attachment had an earlier execution date than the memorandum.

If pages of the transcript are included in the excerpt, these pages should appear together at the end of the excerpt, in numerical order (e.g., pp. 45-48, 87, 151-152).

See Section E on confidential documents.

3. Documents in the excerpt must be copied on both sides of the paper (i.e., double-sided copies).

4. Pages must be numbered in a single consecutive sequence throughout all volumes (e.g., if volume 1 contains pages 1 through 200, then volume 2 would begin with page 201). Page numbers must appear at the bottom of the page.

5. Each excerpt must contain a full table of contents at the beginning of the first volume. A party submitting a multi-volume excerpt must duplicate the full table of contents at the beginning of each volume. The table of contents must be prepared as follows:

a. Each document in the excerpt must be listed by title, execution date, document creator's name (unless the creator is obvious), and the page on which the document begins.

EXAMPLE (multi-defendant case):
Complaint, November 12, 1990 1
Smith's Answer, December 8, 1990..... 38
Johnson's Answer, December 10, 1990 55

b. When there is more than one volume of the excerpt, each document filed in a particular volume must be listed under the volume heading.

EXAMPLE:
Affidavit of Mary Smith, March 15, 1991 197
Volume 2
Affidavit of William Johnson, April 3, 1991 199

c. See Section E on confidential documents.

B. **APPELLEE'S EXCERPT OF RECORD**

The rules outlined above for Appellant's Excerpt of Record apply except that the first page of the first document in Appellee's excerpt must begin with the number immediately following the number of the last page in Appellant's excerpt (e.g., if Appellant's excerpt ends with page 237, then Appellee's excerpt would begin with page 238).

See Section E on confidential documents.

C. **SUPPLEMENTAL EXCERPT OF RECORD**

The rules outlined above apply except that the title of the file should be "Appellant's Supplemental Excerpt of Record" or "Appellee's Supplemental Excerpt of Record." In addition, the first page of the first document in a supplemental excerpt must begin with the number immediately following the number of the last page of the last excerpt filed in the case (e.g., if the last volume of Appellee's excerpt of record ends with page 225, then a supplemental excerpt filed with Appellant's reply brief would begin with page 226).

D. **CITATION GUIDELINES**

1. DOCUMENTS IN AN EXCERPT OF RECORD: [Exc. 126].

2. TRANSCRIPT: [Tr. 109].

3. DOCUMENTS IN THE RECORD, BUT NOT IN AN EXCERPT: [R. 78].

Note: When citing testimony presented by deposition, do not cite to the deposition. Instead, include the relevant pages of the deposition in the excerpt and cite to the excerpt.

E. **CONFIDENTIAL DOCUMENTS**

1. Confidential documents must be arranged in chronological order by document execution date, with the document with the earliest date on top.

2. Pages must be numbered consecutively, beginning with the number immediately following the number of the last page of the last non-confidential document in Appellant's excerpt. Page numbers must appear at the bottom of the page.

3. Confidential documents must be placed in a manila envelope marked "APPELLANT'S EXCERPT - CONFIDENTIAL." The case name and the appellate case number must be written on the front of the envelope. The envelope must be placed at the end of the last volume of the party's excerpt.

4. Confidential documents must be listed at the end of the table of contents under the heading "Confidential Envelope."

EXAMPLE:
Judgment and Commitment, November 2, 1992 67
Confidential Envelope
Presentence Report, August 30, 1992 68
Updated Presentence Report, September 15, 1993 76

5. The first page of the first document in Appellee's excerpt begins with the number immediately following the number of the last page of the last document in Appellant's confidential envelope (e.g., if the last confidential document in Appellant's confidential envelope ends with page 95, then Appellee's excerpt would begin with page 96).

F. **AGENCY APPEALS TO THE SUPERIOR COURT.**

An excerpt of record is required in an appeal from an administrative agency to the superior court. **See** Appellate Rule 604(b)(1)(B). These instructions govern the form of excerpts filed in the superior court, except that

1. documents in an excerpt must be copied on one side of the paper (**not** duplexed) and two-hole punched at the top center of each page;

2. each volume of the excerpt must stapled or bound **at the top** with a metal fastener (e.g., an Acco fastener);

3. the cover of the excerpt must be on **white** paper of the same weight and quality as other documents in the excerpt; and

4. only one copy of the excerpt must be filed with the court.

G. **PURPOSE OF EXCERPTS.**

Submitting a proper excerpt is essential to the court's efficient understanding of a case. An excerpt which is indiscriminately over-inclusive may divert the court's attention from those few documents which may be dispositive. Parties are urged to ensure that the critical documents potentially dispositive of the appeal are contained in the excerpt, and that the brief or the excerpt adequately advises the court exactly which documents are critical.

STANDING ORDER No. 12
Relating to Extensions of Time
For Filing Briefs in the Court of Appeals

1. Court of Appeals Standing Order No. 6 is hereby rescinded.

2. The provisions of this Standing Order apply to all appeals governed by Appellate Rules 204, 217, or 215. The provisions of this Standing Order also apply to a petition or application governed by Appellate Rules 302, 402, or 404 if the Court has granted the petition or application and has ordered formal briefing.

3. The Court of Appeals shall publish a schedule of briefing extension limits, prescribing the maximum amount of extension that will normally be allowed for a brief, and describing the periods of time that will be exempted from the calculation of the extension limits. The extension limits established in this schedule may vary according to the type of case, the type of brief, and the date on which the party's last request for an extension was filed. This schedule shall be included in the Alaska Rules of Court as an appendix to the Appellate Rules.

4. Notwithstanding the provisions of Appellate Rule 503.5(b) and (c), if a party requests a briefing extension that falls within the applicable limit established in the Court's schedule of extension limits, the party's motion will be accepted without a supporting affidavit and without a statement regarding the other party's position on the request. The party's motion must specify:

- the original due date for the brief;
- the proposed new due date;
- any exempted periods of time that do not count against the extension limit; and
- what the total briefing extension will be if the motion is granted.

5. If a party's requested extension exceeds the applicable limit established in the Court's schedule of extension limits, the party's motion must be supported by affidavit, and in addition to the information listed in paragraph 4, the motion must also specify:

- how much the requested extensions exceeds the applicable extension limit;
- the other party's position on the requested extension; and
- the extraordinary and unforeseeable circumstances that justify extending the briefing deadline beyond the Court's limits. (When appropriate, this explanation can be submitted in a separate confidential affidavit.)

Dated: February 6, 2015

Effective Date: February 6, 2015

APPENDIX
to STANDING ORDER No. 12
Court of Appeals Schedule of Briefing Extension Limits
(last modified: April 1, 2024)

Introduction: Over the past several years, this Court observed that the briefing of criminal appeals was taking longer and longer. By the end of calendar year 2013, the briefing of a felony appeal was taking close to two years.

Our law guarantees a right of appeal to all criminal defendants, and there is no closure to a criminal case until the appeal is decided. Excessive appellate delay harms the interests of all the participants in the criminal justice system — not only the defendants and victims and their families, but also the police agencies who investigated the crime, and the community affected by the crime. This Court owes a duty to all of these people, and a duty to the public at large, to maintain the health and effectiveness of the criminal justice system. Accordingly, we will no longer grant any briefing extensions beyond the deadlines set forth in this schedule, absent truly extraordinary circumstances.

Briefing Extension Limits:

The Court will apply the following briefing extension limits to all requests for extension filed within the specified dates. The Court can relax these limits, but the Court will do so only for extraordinary circumstances.

Note regarding reply briefs:

The extension limits specified in this Appendix apply only to the appellant's opening brief and the appellee's brief in a case. If a reply brief is allowed, motions to extend the filing deadline for that reply brief are governed by Appellate Rule 503.5. Under Appellate Rule 503.5(b)(1), a party can obtain a "routine" extension of 15 days for filing a reply brief. Extensions exceeding 15 days are considered "non-routine", and any request for such an extension must be accompanied by the supporting statements specified in Appellate Rule 503.5(c).

For extension requests filed from February 1, 2014 to August 31, 2014:
total for the opening brief: 530 days
total for the appellee's brief: 250 days

For extension requests filed from September 1, 2014 to February 28, 2015:
total for the opening brief: 500 days
total for the appellee's brief: 230 days

For extension requests filed from March 1, 2015 to August 31, 2015:
total for the opening brief: 465 days
total for the appellee's brief: 230 days (unchanged)

For extension requests filed from September 1, 2015 to February 29, 2016:
total for the opening brief: 430 days
total for the appellee's brief: 210 days

For extension requests filed from March 1, 2016 to August 31, 2016:
total for the opening brief: 395 days
total for the appellee's brief: 205 days

For extension requests filed from September 1, 2016 to May 31, 2023:
total for the opening brief: 390 days
total for the appellee's brief: 200 days

For extension requests filed from June 1, 2023 to November 30, 2023:
total for the opening brief: 350 days
total for the appellee's brief: 195 days

For extension requests filed from December 1, 2023 to June 30, 2024:
total for the opening brief: 320 days
total for the appellee's brief: 185 days

For extension requests filed from July 1, 2024 to present:
total for the opening brief: 280 days
total for the appellee's brief: 170 days

Explanatory Notes: How the Court of Appeals calculates the total briefing extension

1. The Court calculates the total extension by taking the currently requested due date and subtracting the original due date.
2. Because the Court automatically adjusts for weekends and holidays when itgrants an extension request, the total extension (as calculated under paragraph 1) will sometimes be a little larger than the sum of the previous requests for extension. .

   For example, if a party requests an extension of 45 days, and if the 45th day falls on a Saturday, the due date will be set for Monday. If the brief is actually filed by that Monday, the Court will count that brief as having been filed within the requested 45 days. But if the party then files another request for an additional extension of time, the Court will treat the party's previous extension as a 47-day extension for purposes of calculating the new total.
3. When the Court calculates the total extension for a brief, we will not countperiods of interruption for events that must take place before briefing can continue — for example, interruptions to allow for the preparation of a supplemental transcript, or to allow for a representation hearing or other supplemental proceeding in the trial court.

   When a party files a motion asking for a delay of briefing for one of these reasons, the exempted period will begin on the day the motion was filed, and the Court will normally exempt 30 additional days from the time the supplemental transcript or trial court hearing is completed (to allow the attorney to work the case back into their schedule).