

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 2028

Amending Appellate Rules 201.1 and 202 concerning the finality of an attorney's fee order in workers' compensation appeals; amending Appellate Rules 210 and 604 concerning procedures for preparing the record and transcripts in trial court and administrative agency appeals; and amending Appellate Rule 508 concerning the time to file an attorney's fees motion.

IT IS ORDERED:

1. Appellate Rule 201.1 is amended to read as follows:

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. For purposes of appeal, an attorney's fee order issued by the Alaska Workers' Compensation Appeals Commission is a final decision.

* * * *

//
//

2. Appellate Rule 202 is amended to read as follows:

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 or Appellate Rule 201.1.

* * * *

3. Appellate Rule 210 is amended to read as follows:

Rule 210. Record on Appeal.

* * * *

(b) Preparation of Transcript.

* * * *

(4) *Time for Completion.* Preparation of the transcript shall be completed within 40 days after ~~filing of the notice of appeal issuance of the opening notice.~~ 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).~~

* * * *

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

(1) *Transmission to Appellate Court.* Upon receipt of the opening notice, the clerk of the trial court shall gather all parts of the record and assemble the file. The clerk of the trial court shall transmit the record to the clerk of the appellate courts. The record to be transmitted includes standard size documents, photographs, audio and video exhibits, and all electronically filed documents and exhibits. Other physical exhibits shall be retained by the trial court unless specifically requested by the appellate court. As used in this paragraph, “physical exhibits” includes documents or photographs of unusually large size or unusual bulk or weight.

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

(3)(1) *Page Numbering.* Upon receiving the notice of appeal receipt of the record from the trial court, the regional appeals clerk clerk of the appellate courts shall number the pages of the record, assembled in accordance with subsections subsection (a) and (e)(1) 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 Appeals Commission clerk commission’s record should be numbered must number the record beginning with the number immediately following the

number of the last page in the record prepared by the Workers' Compensation Board.

(4) *Time for Completion.* Receipt of the record and page numbering must be completed within 40 days after issuance of the opening notice.

~~(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 completion of the prepared record and receipt of the transcript, 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.~~

~~(g)(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.~~

* * * *

4. Appellate Rule 508 is amended to read as follows:

Rule 508. Costs and Fees.

* * * *

(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 after ~~of~~ the date of notice 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. Date of notice is defined in Civil Rule 58.1(c). An adverse party may file an opposition under Rule 503(d).

(3) *Rehearing*. If a timely petition for rehearing is filed, costs and attorney's fees shall not be awarded ~~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.

* * * *

5. Appellate Rule 604 is amended to read as follows:

Rule 604. Record.

* * * *

(b) Appeals from Administrative Agencies.

(1) *Record on Appeal.*

* * * *

(B) Appellate Rule 210 shall apply except that:

* * * *

(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~~ service of the notice for preparation of the record.

* * * *

DATED: August 16, 2024

EFFECTIVE DATE: April 15, 2025

/s/
Chief Justice Maassen

/s/
Justice Carney

/s/
Justice Borghesan

/s/
Justice Henderson

/s/
Justice Pate