

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1200

Amending Civil Rules 14, 82,  
and 79 to address the joinder  
of parties for purposes of  
equitable apportionment under  
AS 09.17.080.

IT IS ORDERED:

1. Civil Rule 14 is amended to include a new paragraph (c) to read:

(c) Equitable Apportionment. For purposes of apportioning damages under AS 09.17.080, a defendant, as a third-party plaintiff, may follow the procedure of paragraph (a) to add as a third-party defendant any person whose fault may have been a cause of the damages claimed by the plaintiff. Judgment may be entered against a third-party defendant in favor of the plaintiff in accordance with the third-party defendant's respective percentage of fault, regardless of whether the plaintiff has asserted a direct claim against the third-party defendant.

2. Civil Rule 82 is amended to include a new paragraph (e) to read:

(e) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, the fees awarded to the plaintiff under (b)(1) of this rule must also be apportioned among the parties according to their respective percentages of fault. If the plaintiff did not assert a direct claim

against a third-party defendant brought into the action under Civil Rule 14(c), then

(1) the plaintiff is not entitled to recover the portion of the fee award apportioned to that party; and

(2) the court shall award attorney's fees between the third party plaintiff and the third party defendant as follows:

(A) if no fault was apportioned to the third party defendant, the third party defendant is entitled to recover attorney's fees calculated under (b)(2) of this rule;

(B) if fault was apportioned to the third party defendant, the third party plaintiff is entitled to recover under (b)(2) of this rule 30 or 20 percent of that party's actual attorney's fees incurred in asserting the claim against the third party defendant.

3. Existing paragraph (e) of Civil Rule 82 is re-lettered as (f).

4. Civil Rule 79 is amended to include a new paragraph (e) as follows:

(e) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, costs must be apportioned and awarded according to the provisions of Civil Rule 82(e).

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DATED: May 4, 1995

EFFECTIVE DATE: July 15, 1995

/s/  
Chief Justice Moore

/s/  
Justice Rabinowitz

/s/  
Justice Matthews

/s/  
Justice Compton

/s/  
Justice Eastaugh