

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1374

Adopting new Appellate Rules 221 and 222 concerning settlement discussions and settlement conferences in civil appeals.

IT IS ORDERED:

The Appellate Rules are amended to include new Appellate Rules 221 and 222, which read as follows:

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 a case in which a party is appearing pro se or in a case that is exempted by the court.

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 conferences 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.

DATED: September 7, 2000

EFFECTIVE DATE: April 15, 2001

/s/
Chief Justice Fabe

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Bryner

/s/
Justice Carpeneti