

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1544

Amending Alaska Rule of Professional
Conduct 1.2 and Civil Rule 81
regarding limitation of representation;
and adding Alaska Comments to
Alaska Rules of Professional Conduct
4.2 and 4.3.

IT IS ORDERED:

- I. Alaska Rule of Professional Conduct 1.2 is amended to read as follows:

Rule 1.2. Scope of Representation.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client consents after consultation.

(1) If a written fee agreement is required by Rule 1.5, the agreement shall describe the limitation on the representation.

(2) The lawyer shall discuss with the client whether a written notice of representation should be provided to other interested parties.

(3) An otherwise unrepresented person to whom limited representation is being provided or has been provided in accordance with this rule is considered to be unrepresented for purposes of Rules 4.2 and 4.3 unless the opposing lawyer knows of or has been provided with:

(A) a written notice stating that the lawyer is to communicate only with the limited representation lawyer as to the subject matter of the limited representation; or

(B) a written notice of the time period during which the lawyer is to communicate only with the limited representation lawyer concerning the subject matter of the limited representation.

II. Alaska Rule of Professional Conduct 4.2 is amended by adding an Alaska Comment to read as follows:

ALASKA COMMENT

See Rule 1.2(c) regarding communications when limited representation is provided.

III. Alaska Rule of Professional Conduct 4.3 is amended by adding an Alaska Comment to read as follows:

ALASKA COMMENT

See Rule 1.2(c) regarding communications when limited representation is provided.

IV. Civil Rule 81 is amended to read as follows:

Rule 81. Attorneys

(c) **Appearance by Party.** Except as otherwise ordered by the court, or except as provided in Rule 81(d) and 81(e)(1)(D), a party who has appeared by an attorney may not thereafter appear or act in the party's own behalf in any action or proceeding, unless order of substitution shall have been made by the court after notice to such attorney.

(d) **Limited Appearance By Counsel.** A party in a non-criminal case may appear through an attorney for limited purposes during the course of an action, including, but not limited to, depositions, hearings, discovery, and motion practice, if the following conditions are satisfied:

(1) The attorney files and serves an entry of appearance with the court before or during the initial action or proceeding that expressly states that the appearance is limited, and all parties of record are served with the limited entry of appearance; and

(2) The entry of appearance identifies the limitation by date, time period, or subject matter.

(e) **Withdrawal of Attorney.**

(1) An attorney who has appeared for a party in an action or proceeding may be permitted to withdraw as counsel for such party only as follows:

(A) For good cause shown, upon motion and notice of hearing served upon the party in accordance with Rule 77 and after the withdrawing attorney provides to the court the last known address and telephone number of the attorney's client; or

(B) Where the party has other counsel ready to be substituted for the attorney who wishes to withdraw; or

(C) Where the party expressly consents in open court or in writing to the withdrawal of the party's attorney and the party has provided in writing or on the record a current service address and telephone number; or

(D) In accordance with the limitations set forth in any limited entry of appearance filed pursuant to Civil Rule 81(d). Withdrawal under this section shall be accomplished by filing a notice with the court, served on all parties of record, stating that the attorney's limited representation has concluded; certifying that the attorney has taken all actions necessitated by the limited representation; and providing a current service address and telephone number. Upon the filing of such notice, the withdrawal shall be effective, without court action or approval.

(2) An attorney shall be considered to have properly withdrawn as counsel for a party in an action or proceeding in which a period of one year has elapsed since the filing of any paper or the issuance of any process in the action or proceeding, and

(A) The final judgment or decree has been entered and the time for filing an appeal has expired, or

(B) If an appeal has been taken, the final judgment or decree upon remand has been entered or the mandate has issued affirming the judgment or decree.

This subparagraph (2) shall not apply to an attorney who files and serves a notice of continued representation.

V. A use note is added to the base of Civil Rule 81, to read as follows:

Note: An entry of appearance filed under (d) of this rule must identify the limitation of representation. For example, a limitation by date may state “representation is provided through December 31, 2004;” a limitation by time period may state “representation is provided through the end of discovery;” or a limitation by subject matter may state “representation is provided only for the purpose of drafting an opposition to summary judgment and appearing at oral argument on summary judgment.”

DATED: August 12, 2004

EFFECTIVE DATE: October 15, 2004

Chief Justice Bryner

Justice Matthews

Justice Eastaugh

Justice Fabe

Justice Carpeneti