

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1908

Amending Civil Rule 41 and Appellate Rule 511 and adding Notes to implement the direct court rule amendments made by Chapter 6, SLA 2017 (HB 104).

IT IS ORDERED:

1. Civil Rule 41(a) is amended to read as follows:

Rule 41. Dismissal of Actions.

(a) Voluntary Dismissal – Effect Thereof.

(1) *By Plaintiff—By Stipulation.* Subject to the provisions of Rule 23(e), of Rule 66, and of any statute of the state, an action may be dismissed by the plaintiff without an order of the court: (A)[a] by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs; or (B)[b] by filing a stipulation of dismissal signed by all parties who have appeared in the action. A notice of dismissal must include a certification signed by or on behalf of the plaintiff that the plaintiff has submitted the information required under AS 09.68.130 and (a)(3) of this rule to the Alaska Judicial Council or that the case is exempt from this requirement. A stipulation of dismissal must include a certification signed by or on behalf of all parties who have appeared in the action. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court

of this state, or of any other state, or in any court of the United States, an action based on or including the same claim.

* * * *

(3) *Information about the Resolution of Civil Cases.* If an action is voluntarily dismissed under paragraph (a) of this rule, each party or, if a party is represented by an attorney, the party's attorney must submit the information described in AS 09.68.130(a) to the Alaska Judicial Council. The information must be submitted within 30 days after the case is finally resolved as to that party and on a form specified by the Alaska Judicial Council. The following types of cases are exempt from this requirement:

- (A) divorce and dissolution;
- (B) adoption, custody, support, visitation, and emancipation of children;
- (C) children in need of aid cases under AS 47.10 or delinquent minors cases under 47.12;
- (D) domestic violence protective orders under AS 18.66.100–18.66.180;
- (E) estate, guardianship, and trust cases filed under AS 13;
- (F) small claims under AS 22.15.040;
- (G) forcible entry and detainer cases;
- (H) administrative appeals; and
- (I) motor vehicle impound or forfeiture actions under municipal ordinance.

* * * *

2. The following note is added to the end of Civil Rule 41:

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. The added revision to paragraph (a)(1) of Rule 41 is to eliminate its reference to the now rescinded paragraph (a)(3).

3. Appellate Rule 511 is amended to read as follows:

Rule 511. Dismissal of Causes.

* * * *

(c) *Certification.* An agreement or motion for dismissal filed under (a) or (b) of this rule must include a certification that the settlement information required under AS 09.68.130 and (e) of this rule has been submitted, or will be submitted within the time period allowed by subsection (e) of this rule, to the Alaska Judicial Council or that the case is exempt from this requirement.

(cd) *Voluntary Dismissal by Criminal Defendant.* * * * *

(e) *Information about the Resolution of Civil Cases.* If a proceeding is dismissed under paragraph (a) or (b) of this rule, each party or, if a party is represented by an attorney, the party's attorney must submit the information described in AS 09.68.130(a) to the Alaska Judicial Council. The information must be submitted within 30 days after the proceeding is finally resolved as to that party and on a form specified by the Alaska Judicial Council. The following types of cases are exempt from this requirement:

- (1) divorce and dissolution;
- (2) adoption, custody, support, visitation, and emancipation of children;
- (3) children-in-need-of-aid cases under AS 47.10 or delinquent minors cases under 47.12;
- (4) domestic violence protective orders under AS 18.66.100 – 18.66.180;
- (5) estate, guardianship, and trust cases filed under AS 13;
- (6) small claims under AS 22.15.040;
- (7) forcible entry and detainer cases;
- (8) administrative appeals; and
- (9) motor vehicle impound or forfeiture actions under municipal ordinance.

(df) *Mandate Not Required. * * * **

4. The following note is added to the end of Appellate Rule 511:

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.

DATED: June 7, 2017

EFFECTIVE DATE: *nunc pro tunc* May 11, 2017

/s/
Chief Justice Stowers

/s/
Justice Winfree

/s/
Justice Maassen

/s/
Justice Bolger

/s/
Justice Carney