

THE SUPREME COURT OF THE STATE OF ALASKA

Order No. 236

Amending Rule 77,
Rules of Civil Procedure.

IT IS ORDERED:

Rule 77, Rules of Civil Procedure is amended to read:

Rule 77. Motions.

(a) All motions, orders to show cause, petitions, applications and every other such matter shall be served upon the adverse party, or, after the adverse party has appeared by counsel, upon counsel for the adverse party.

(b) There shall be served and filed with the motion

(1) legible copies of all photographs, affidavits and other documentary evidence which the moving party intends to submit in support of his motion;

(2) a brief, complete written statement of the reasons in support of the motion, which shall include a memorandum of the points and authorities upon which the moving party will rely; and

(3) an appropriate order for the court's signature in the event that the motion is granted.

(c) Each party opposing the motion or other application shall, within ten days after service of the motion or other application upon him, unless otherwise ordered by the court, or otherwise stipulated to by the parties with court approval, either

(1) serve and file legible copies of all photographs, affidavits and other documentary evidence upon which the party intends to rely; and

(2) serve and file a brief, complete written statement of the reasons in opposition to the motion, which shall include an adequate answering brief of points and authorities; and

(3) serve and file an appropriate order for the court's signature in the event that the motion is denied; or

(4) serve and file a written statement that he will not oppose the motion.

In cases of motions to dismiss, motions for summary judgment and motions for judgment on the pleadings, the time otherwise specified herein is 15 days.

(d) If the moving party desires oral argument on the motion, he shall file together with his motion a notice of hearing. The notice of hearing shall include a certificate by counsel that in his opinion oral argument is necessary. The hearing date shall be set not less than 15 nor more than 25 days from the date of filing or the date of service of the motion, whichever date is later. In cases of motions to dismiss, motions for summary judgment and motions for judgment on the pleadings, the hearing date shall be set not less than 25 days nor more than 40 days from the date of filing or the date of service of the motion, whichever date is later.

(e) If the opposing party desires oral argument on the motion, and the motion has not otherwise been noticed on for hearing, he shall file a notice of hearing with his opposition. The notice of hearing shall include a certificate by counsel that in his opinion oral argument is necessary. The hearing date shall be set not less than seven nor more than 14 days from the date of filing or the date of service of the opposition, whichever date is later. In cases of motions to dismiss, motions for summary judgment and motions for judgment on the pleadings, the hearing date shall be set not less than ten nor more than 20 days from the date of filing or the date of service of the opposition, whichever date is later.

(f) The amount of time to be allowed for oral argument shall be set by the judge. Oral argument on discovery motions shall be granted only in the discretion of the judge.

(g) Reply and supplemental materials and memoranda, if any, may be served and filed by the moving party within three days of the date of the service of the opposition to the motion.

(h) If oral argument is not heard, the court shall promptly rule on the motion and comply with Administrative Rule 3.

(i) The presiding judge in each judicial district shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business at which oral argument may be heard on motions; but any judge, at any time and on such notice, if any, as he considers reasonable, may order the hearing of motions at times other than on motion days.

(j) The moving party may apply to the court for an order setting the hearing on shortened time by filing and serving a motion for hearing on shortened time. The motion for hearing on shortened time shall

(1) state the time for hearing the motion on shortened time; and

(2) include the certificate of counsel justifying oral argument on the principal motion as required by (d) of this rule unless earlier filed; and

(3) include an affidavit showing facts which justify accelerating the time for hearing.

Service on the adverse party shall be completed at least 24 hours prior to the time set for the hearing on the motion for shortened time. If the adverse party is not timely served, counsel for the moving party shall file, prior to or at the time set for the hearing, a certificate explaining why service was not timely made.

At the hearing on the motion for shortened time, the court will set the time for hearing the principal motion.

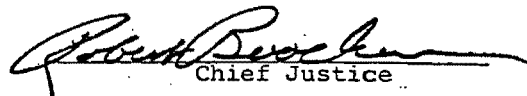
(k) Stipulations between counsel may be submitted in support of motions, but are not binding on the court unless otherwise specifically provided by rule.

(l) The presentation to the court of frivolous or unnecessary motions or frivolous or unnecessary opposition to motions, which unduly delay the course of the action or proceeding, or the filing of any motion to dismiss or motion to strike for the purpose of delay where no reasonable ground appears therefore, subjects counsel presenting or filing such, at the discretion of the court, to imposition of costs and attorney's fees to the opposing party, to be fixed by the court and paid to the Clerk of Court, and any other sanctions, which may be authorized by rule of law.

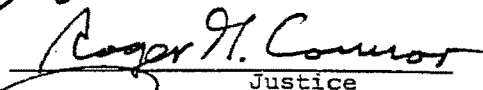
(m) A motion to reconsider the decision may be made within ten days of the date that the decision has been entered and shall be governed by Appellate Rule 27 except as otherwise provided herein. The motion for reconsideration shall be decided by the court without oral argument within ten days of the date of filing of the motion. If the motion for reconsideration has not been ruled upon by the court within 20 days from the date of the filing of the motion, it shall be taken as denied for the purposes of the record.

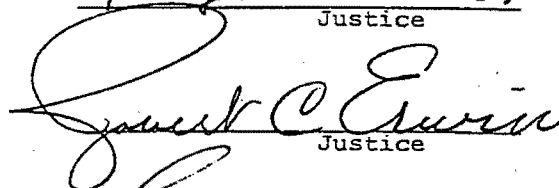
EFFECTIVE DATE: March 1, 1976

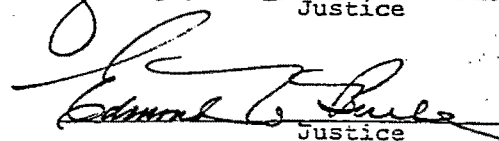
DATED: February 4, 1976


Chief Justice


Justice


Justice


Justice


Justice

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[Justices Erwin and Burke dissent from the adoption of this order to the extent that it permits oral argument as a matter of right. In all other respects, they concur with the order.]