

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 510

Amending Appellate Rules  
204, 210, 212, 302, 511,  
and 602, and adding Appellate  
Rule 511.5, relating to the  
dismissal of appeals.

IT IS ORDERED:

1. Appellate Rule 204(b) is amended to read:

(b) Notice of Appeal.

[(1)] A party may appeal from a judgment by filing with the court from which the appeal is being taken a notice of appeal in duplicate with sufficient additional copies for all parties. The notice of appeal must specify the parties taking the appeal, designate the judgment or part thereof appealed from, and name the court to which the appeal is taken. Notification of the filing of the notice of appeal shall be given by the clerk of the trial court by mailing copies thereof to all the parties to the judgment other than the party or parties taking the appeal, but the clerk's failure to do so does not affect the validity of the appeal. The notification to a party shall be given by mailing a copy of the notice of appeal to his attorney of record or, if the party is not represented by an attorney, then to the party at his last known address. The duplicate notice of appeal shall be forwarded immediately by the clerk of the trial court to the clerk of the appellate court. The duplicate notice of appeal sent to the appellate court shall be accompanied by a copy of the judgment from which the appeal is taken.

[(2)] FAILURE OF THE APPELLANT TO TAKE ANY OF THE FURTHER STEPS TO SECURE THE REVIEW OF THE JUDGMENT APPEALED FROM DOES NOT AFFECT THE VALIDITY OF THE APPEAL, BUT IS GROUND ONLY FOR SUCH REMEDIES AS ARE SPECIFIED IN

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THESE RULES, OR, WHEN NO REMEDY IS SPECIFIED, FOR SUCH  
ACTION AS THE APPELLATE COURT DEEMS APPROPRIATE, WHICH MAY  
INCLUDE DISMISSAL OF THE APPEAL.]

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2. Appellate Rule 210(g)(3) is amended to read:

(3) Ultimate responsibility for compliance with the time periods of this subsection shall be with the appellant. Sanctions for non-compliance may be imposed as provided in Rule 511.5 [204(B)(2)].

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3. Appellate Rule 212(c)(10) is amended to read:

(10) Failure to File Briefs. When the appellant's opening brief [FOR APPELLANT] is not filed as required, Rule 511.5 shall apply. [THE COURT MAY FORTHWITH, ON ITS OWN MOTION OR ON MOTION OF APPELLEE, TAKE APPROPRIATE ACTION, WHICH MAY INCLUDE DISMISSAL OF THE APPEAL. THE AUTHORITY TO DISMISS AN APPEAL UNDER THIS SECTION MAY BE EXERCISED BY THE CLERK OF COURT.] When the appellee's brief is not filed as required, appellee will not be heard at oral argument except on consent of the appellant, [HIS ADVERSARY,] or by request of the court.

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4. Appellate Rule 302(a)(1) is amended to read:

(1) A petition for hearing may be filed in the supreme court with respect to any final decision of the court of appeals, as defined in AS 22.07.030. "Final decision" includes any decision or order of the court of appeals, other than a dismissal by consent of all parties, which closes a matter in the court of appeals, whether or not it contemplates further proceedings in a trial court. Unless specified otherwise in the particular order in question, it includes but is not limited to, opinions, memorandum opinion and judgments, orders denying petitions for review, orders denying petitions for hearing filed under AS 22.07.020(e), dismissals on motion of the appellee or respondent, and sua sponte dismissals pursuant to Rule 511.5 [204(B)(2), 212(C)(10),] or another rule.

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5. Appellate Rule 302(b)(1) is amended to read:

(1) A petition for hearing may be filed in the appellate court having statutory jurisdiction, with respect to any final decision of the superior court on an appeal or petition for review from the district court. "Final decision" is defined in AS 22.07.020(e) and includes any decision or order of the superior court, other than a dismissal by consent of all parties, which closes the matter in the superior court, whether or not it contemplates further proceedings in the district court. Unless specified otherwise in the particular order in question, it includes but is not limited to, opinions, memorandum opinion and judgments, orders denying petitions for review, dismissals on motion of the appellee or respondent, and sua sponte dismissals pursuant to Rule 511.5 [204(B)(2), 212(C)(10),] or another rule.

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6. Appellate Rule 511(c) is rescinded.

7. Appellate Rule 511(d) is redesignated as Rule 511(c) and is amended to read:

[(D)] (c) Mandate Not Required. No mandate [OR OTHER PROCESS] shall issue on a dismissal under this rule or Rule 511.5 without an order of the court. However, the clerk shall notify the court whose judgment was appealed.

8. Appellate Rule 511.5 is added, to read:

Rule 511.5. Dismissal for Failure to Prosecute.

(a) If an appellant or his counsel fails to comply with these rules, the clerk shall notify the appellant and the appellant's counsel in writing that the appeal will be dismissed for want of prosecution unless the appellant remedies the default within 14 days after the date of notification, time to be computed in accordance with Rule 502(c). If the appellant fails to comply within the 14-day period, the clerk shall issue an order dismissing the appeal for want of prosecution. In no case, except by order of the court on a motion to reinstate the appeal, shall the appellant be entitled to remedy the default after the appeal has been dismissed under this rule.

(b) The dismissal of an appeal under subsection (a) shall not limit the authority of the court to impose monetary sanctions under Rule 510.

(c) The court may, upon motion of a party or its own motion, dismiss an appeal for failure to comply with these rules, whether or not prior notice of default has been given.



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9. Appellate Rule 602(b)(1) is amended to read:

(1)[a] The contents of the notice of appeal shall be as set forth in Rule 204 (b) [204(B)(1)]. The notice of appeal and filing fee shall be filed in the superior court.

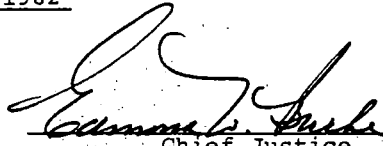
[b] In an appeal from the district court, the clerk of the trial courts shall notify all other parties in the manner specified in Rule 204(b) [204(B)(1)]. The clerk of the trial courts shall also forthwith mail or deliver a copy of the notice of appeal to the district court involved and, unless he or she is also clerk of that court, shall notify the district court of the date by which it must prepare the record on appeal in accordance with Rules 210 and 604.

[c] In an appeal from an administrative agency, the clerk shall send a copy of the notice of appeal to the agency and request the agency to submit a list of the names and addresses of all counsel who appeared in the matter before the agency, and of all persons who appeared therein pro se. The agency shall file the list with the clerk within ten days of service of the request. Upon receipt of the list, the clerk shall notify all other parties in the manner specified in Rule 204(b) [204(B)(1)]. In an appeal from an agency, the 14-day period specified in Rule 204(a)(2) shall begin to run upon service of this notice by the clerk. The clerk shall also notify the agency of the date by which it must prepare the record in accordance with Rules 210 and 604.

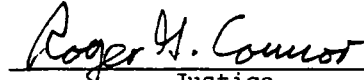
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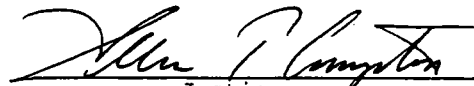
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Chief Justice

  
Justice

  
Justice

  
Justice

  
Justice

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