

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1283

Amending Civil Rule 41 and
Appellate Rule 511 concerning
dismissal.

IT IS ORDERED:

1. Subparagraph (a)(1) of Civil Rule 41 is amended to read:

**(a) Voluntary Dismissal — Effect
Thereof.**

(1) *By Plaintiff — By Stipulation.* Subject to the provisions of Rule 23(c), 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] 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] by filing a stipulation of dismissal signed by all parties who have appeared in the action. The notice or stipulation must include a certification that the settlement information required under AS 09.68.130 and (a)(3) of this rule has been submitted to the Alaska Judicial Council or that the case is exempt from this requirement because it is one of the types listed in (a)(3) or because all causes of action accrued before August 7, 1997. 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.

2. Paragraph (a) of Civil Rule 41 is amended by adding a new subparagraph (3) to read:

(3) [Applicable to causes of action accruing on or after August 7, 1997.] Settlement Information. If a voluntary dismissal under this rule is the result of compromise or other settlement of the parties, the parties shall submit to the Alaska Judicial Council the information required under AS 09.68.130. 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.

3. Existing paragraph (c) of Appellate Rule 511 is relettered as paragraph (f):

~~(e)~~ (f) Mandate Not Required. No mandate 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.

4. Appellate Rule 511 is amended by adding a new paragraph (c) to read:

(c) 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 to the Alaska Judicial Council or that the case is exempt from this requirement because it is one of the types listed in (e) or because all causes of action accrued before August 7, 1997.

5. Appellate Rule 511 is amended by adding a new paragraph (e) to read:

(e) [Applicable to causes of action accruing on or after August 7, 1997.] Settlement Information. If a dismissal under (a) or (b) of this rule is the result of a compromise or other settlement between the parties, the parties shall submit to the Alaska Judicial Council the information required under AS 09.68.130. 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.

6. The amendments adopted by paragraphs 2 and 5 of this order apply to causes of action that accrue on or after August 7, 1997.

DATED: August 7, 1997

EFFECTIVE DATE: September 2, 1997

/s/
Chief Justice Matthews

/s/
Justice Compton

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Bryner