

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1306

Amending Civil Rule 79
concerning costs.

IT IS ORDERED:

Civil Rule 79 is rescinded and readopted to read:

Rule 79. Costs — Taxation and Review.

(a) **Allowance to Prevailing Party.** Unless the court otherwise directs, the prevailing party is entitled to recover costs allowable under paragraph (f) that were necessarily incurred in the action. The amount awarded for each item will be the amount specified in this rule or, if no amount is specified, the cost actually incurred by the party to the extent this cost is reasonable.

(b) **Cost Bill.** To recover costs, the prevailing party must file and serve an itemized and verified cost bill, showing the date costs were incurred, within 10 days after the date shown in the clerk's certificate of distribution on the judgment. Failure of a party to file and serve a cost bill within 10 days, or such additional time as the court may allow, will be construed as a waiver of the party's right to recover costs. The prevailing party must have receipts, invoices, or other supporting documentation for each item claimed. This documentation must be available to other parties for inspection and copying upon request and must be presented to the clerk upon request. Documentation may be

filed only if requested by the clerk or in response to an objection.

(c) **Objection and Reply.** A party may object to a cost bill by filing and serving an objection within 7 days after service of the cost bill. The prevailing party may respond to an objection by filing and serving a reply within 5 days after service of the objection.

(d) **Taxing of Costs by Clerk.** Promptly upon expiration of the time for filing objections, or if an objection is filed, the time for filing a reply, the clerk shall issue an itemized award of costs allowable under this rule. No cost bill hearing will be held unless requested by the clerk. If a hearing is held, it will be limited to issues identified by the clerk in the notice of hearing. The clerk may deny costs requested by the prevailing party on grounds that

(1) the cost is not allowed under paragraph (f);

(2) the party failed to provide an adequate description or adequate supporting documentation following a request by the clerk or another party; or

(3) the amount claimed by the prevailing party is unreasonable.

The clerk may not deny costs on grounds that the costs were not necessarily incurred in the

action. If a party objects on this basis, the party must seek review under paragraph (e) of the clerk's action in awarding the cost.

(e) **Review by Court.** A party aggrieved by the clerk's action in awarding costs may file a motion for review of the clerk's award. The motion must be filed and served within five days after the date shown on the clerk's certificate of distribution on the award. The motion must particularly designate each ruling of the clerk to which objection is made. Matters not so designated will not be considered by the court. Costs awarded by the clerk are presumed to be reasonable.

(f) **Allowable Costs.** The following items are the only items that will be allowed as costs:

(1) the filing fee;

(2) fees for service of process allowable under Administrative Rule 11 or postage when process is served by mail;

(3) other process server fees allowable under Administrative Rule 11;

(4) the cost of publishing notices required by law or by these rules;

(5) premiums paid on undertakings, bonds, or security stipulations where required

by law, ordered by the court, or necessary to secure some right accorded in the action;

(6) the cost of taking and transcribing a deposition allowed by Civil Rule 30(a) or 31(a) (including a deposition that is ordered by the court or agreed to by the parties under those rules), as follows:

(A) the court reporter's fee and travel expenses to communities where a local court reporter is not available;

(B) expenses allowed by Civil Rule 30.1(e) for recording, editing, or using an audio or audio-visual deposition; and

(C) the cost of the original plus one copy of the transcript;

(7) witness fees allowed under Administrative Rule 7;

(8) the fee of an interpreter or translator for a witness when that witness is entitled to a fee under Administrative Rule 7;

(9) travel costs allowed under paragraph (g) of this rule;

(10) long distance telephone charges for telephonic participation by an attorney or party at court proceedings, depositions, the meeting of the parties required by Civil Rule

26(f), and interviews of witnesses other than the party;

(11) charges paid by the prevailing party's attorney for computerized legal research;

(12) copying costs for paper copies, photographs, and microfilm, the cost of scanning, imaging, coding, and creating electronic media files, such as computer diskettes or tapes, and the cost of duplicating text files or otherwise copying documents or data in an electronic medium, as follows:

(A) for copies from the court, a copy center, or a person or entity other than the prevailing party's attorney, the amount charged for the copies; and

(B) for copies from the prevailing party's attorney, the amount charged by the attorney or \$.15 per copy, whichever is less.

(13) exhibit preparation costs;

(14) the cost of transcripts ordered by the court; and

(15) other costs allowed by statute.

(g) **Travel Costs.** (1) Travel costs will be allowed for

(A) one attorney to attend trial, hearings on dispositive motions, settlement conferences, and the meeting of the parties required by Civil Rule 26(f), but only if no local attorney is present; if more than one out-of-town attorney attends a proceeding at which no local attorney is present, travel costs will be allowed for the attorney who traveled the shortest distance to the trial site;

(B) one attorney to attend depositions, interviews of witnesses who are not deposed, and meetings to review documents produced in the course of discovery;

(C) one legal assistant or investigator to interview witnesses who are not deposed or to review documents produced in the course of discovery; and

(D) witnesses to the extent permitted by Administrative Rule 7.

(2) Travel costs are subject to the following limitations:

(A) air fare is allowed at the coach class fare or the actual fare, whichever is less;

(B) ground transportation, including car rental, is allowed outside the traveler's home city; and

(C) food and lodging is allowed at the same per diem rate allowed for court employees.

(3) In unusually complex cases, the court may allow a prevailing party to recover travel costs for more than one attorney to participate in the activities described in section (g)(1)(A) of this rule. To request travel costs for more than one attorney, the prevailing party must file a motion for court review of the clerk's award as provided in paragraph (e) and must include supporting documentation for each item claimed. These costs should not be included in the cost bill filed with the clerk.

(4) To recover travel costs, the prevailing party must include the following information for each trip: the name of the traveler, whether the traveler is an attorney, legal assistant, or investigator, the reasons for the travel, and the travel dates.

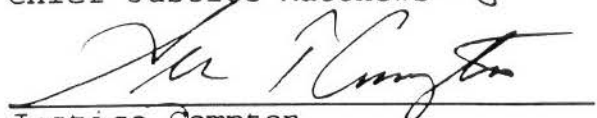
(h) Equitable Apportionment Under AS 09.17.080. In a case in which damages are apportioned among the parties under AS 09.17.080, costs must be apportioned and awarded according to the provisions of Civil Rule 82(e).

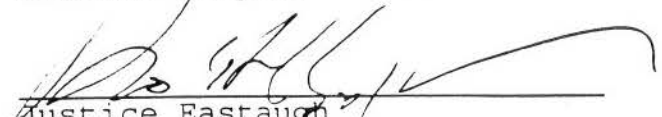
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DATED: October 30, 1997

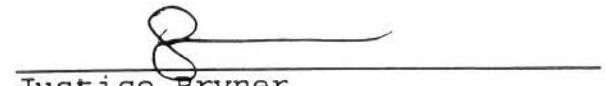
EFFECTIVE DATE: January 15, 1998


Chief Justice Matthews


Justice Compton


Justice Eastaugh


Justice Fabe


Justice Bryner