

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1597

Amending Appellate Rule
212(a) and (c) concerning
brief requirements

IT IS ORDERED:

Appellate Rule 212 is amended to read as follows:

Rule 212. Briefs.

(a) Filing and Serving Briefs.

(1) Initial Submission.

(A) Time for Serving and Filing Briefs. The appellant shall serve and file the appellant's brief within 30 days after the court gives notice under Rule 210(f) of the due date for appellant's brief. The appellee shall serve and file the appellee's brief within 30 days after service of the appellant's brief. Within 20 days after service of the appellee's brief, appellant shall serve and file either a reply brief or a notice that no reply brief will be filed. In cases involving multiple appellants or appellees who are filing separate briefs, including parties who are deemed to be co-parties under Rule 210(c)(1)(C), the time for filing these briefs shall be extended by 10 days if the parties are preparing excerpts of record in order to allow compliance with Rule 210(c)(1)(B).

(B) Number of Copies. On or before the date the party's brief is due, the party shall file with the clerk the original plus one copy of the brief, printed or written on only one side of each page, together with proof of service on all parties.

(C) Compliance Check. The court will review the brief for compliance with (b) and (c) of this rule and return the original to

the party, with a notice of rejection, conditional acceptance, or acceptance, for correction or for duplication and binding.

(D) *Changes Not Permitted.* After a brief is returned for correction or binding, the party shall make no changes to the brief other than those required by the binding process or required by the court in any notice of rejection or conditional acceptance. The party may also correct spelling and typographical errors and correct and update citations for cases already cited in the originally submitted brief.

(2) *Bound Copies of Briefs.*

(A) *Time for Service; Number of Copies.* Within ten days after the clerk returns the brief, the party shall serve two bound copies on each party and shall file with the clerk eight bound copies in an appeal before the supreme court or seven bound copies in an appeal before the court of appeals. The clerk may specify a different number of copies or a different time period than required by this rule.

(B) *Form of Bound Copies.* Bound copies must be printed or written on both sides of the paper and securely bound along the left margin in a manner that does not obscure the text, and that permits the brief to lie reasonably flat when open. Unless otherwise permitted by the clerk, the copies must be bound using comb or spiral binding, but not staples or metal fasteners. The copies must have a suitable cover consisting of heavy paper in the color indicated:

- brief of appellant – ivory or light tan;
- brief of appellee – blue;
- reply brief – green; and
- brief of intervenor or amicus curiae – red.

(b) **Form.**

* * * *

(c) **Substantive Requirements.**

(1) *Brief of Appellant.* The brief of the appellant shall contain the following items under appropriate headings and in the order here indicated:

(A) A table of contents, including the titles and subtitles of all arguments, with page references.

(B) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where they are cited.

(C) The constitutional provisions, statutes, court rules, ordinances, and regulations principally relied upon, set out verbatim or their pertinent provisions appropriately summarized.

(D) A jurisdictional statement of the date on which judgment was entered and of the legal authority of the appellate court to consider the appeal.

(E) A list of all parties to the case, without using "et al.," or any similar indication, unless the caption of the case on the cover of the brief contains the names of all parties. This list may be contained in a footnote.

(F) A statement of the issues presented for review. In cases of cross-appeal, the cross-appellant may present a statement of the issues presented for review which would require determination if the case is to be reversed and remanded for further proceedings in the trial court. In the event that the decision is affirmed on the appeal, such issues on the cross-appeal may be deemed waived by the appellate court.

(G) A statement of the case, which shall provide a brief description of the case and a concise statement of the course of proceedings in, and the decision of, the trial court. Appellant shall state the facts relevant to each issue, with references to the record as required by paragraph (c)(8), in this section or in the appropriate argument sections.

(H) A discussion of the applicable standard of review. (If the brief concerns several issues with different standards of review, the discussion of each issue should be preceded by a discussion of the standard of review applicable to that issue).

(I) An argument section, which shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefor, with citations to the authorities, statutes, and parts of the record relied on. The section may be preceded by a summary. Each major contention shall be preceded by a heading indicating the subject matter. References to the record shall conform to the requirements of paragraph (c)(8).

(J) A short conclusion stating the precise relief sought.

(K) If the appeal concerns a property division in a divorce case, an appendix consisting of a table listing all assets and liabilities of the parties as reflected in the record, including the trial court's findings as to the nature (marital or individual), value, and disposition of each asset or liability.

(2) *Brief of Appellee.* The brief of the appellee shall conform to the requirements of subdivisions (1)(A) through (1)(J) except that a statement of jurisdiction, of the issues, or of the case need not be made unless the appellee is dissatisfied with the

statement of the appellant, and a list of all parties need not be included.

(3) *Reply Brief.* The appellant may file a brief in reply to the brief of the appellee. The reply brief shall conform to the requirements of subdivisions (1)(A), (1)(B), (1)(C), (1)(I), and (1)(J). This brief may raise no contentions not previously raised in either the appellant's or appellee's briefs. If the appellee has cross-appealed and has not filed a single brief under (c)(6) of this rule, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except with leave of the court.

* * * *

DATED: April 24, 2006

EFFECTIVE DATE: October 15, 2006

/s/
Chief Justice Bryner

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Carpeneti