

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 1747

Amending Appellate Rules 204
and 212 concerning partial final
judgments and appeals from post-
judgment orders.

IT IS ORDERED:

1. Appellate Rule 204 is amended to read as follows:

Rule 204. Appeal: Time—Notice—Bonds.

(a) When Taken—Appeals and Cross-Appeals.

(1) *Appeals.* The notice of appeal shall be filed within 30 days from the date shown in the clerk's certificate of distribution on the judgment appealed from, unless a shorter time for filing a notice of appeal applies as provided by Rules 216-220, or unless a different time applies as provided in AS 23.30.128(g).

(2) *Subsequent Appeals.* If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days from the date shown in the clerk's certificate of distribution on the judgment, whichever period expires last. A post-judgment order awarding or denying costs, attorney's fees, or prejudgment interest, or a final judgment that has been amended to award or deny costs, attorney's fees, or prejudgment interest, may be appealed by filing either a notice of appeal or a motion to amend the points on appeal under subparagraph (a)(5)(A) of this rule within 14 days of the filing of any timely notice of appeal by any other party, or within 30 days

from the date shown in the clerk's certificate of distribution on the order, whichever period expires last.

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(5) *Effect of Taxing of Costs and Prejudgment Interest and Awarding of Attorney's Fees.*

(A) The running of the time for filing an appeal is not terminated by proceedings related to the taxing of costs pursuant to Civil Rule 79 or while awaiting calculation of prejudgment interest or proceedings related to the award of attorney's fees. However, the statement of points on appeal filed pursuant to Appellate Rule 204(e) and the designation of transcript filed pursuant to Appellate Rule 210(b)(1) may be amended by motion by an appellant or cross-appellant to include the award or denial of costs and attorney's fees or prejudgment interest and pertinent portions of the electronic record. These subjects will thereafter be considered part of the appeal if covered in the brief of appellant or cross-appellant. If no appeal is pending, a post-judgment order awarding or denying costs, attorney's fees, or prejudgment interest may be considered a final judgment subject to an appeal limited to issues of costs, attorney's fees, or prejudgment interest. Any subsequent appeals of this order allowed under paragraph (a)(2) of this rule also will be limited to issues of costs, attorney's fees, or prejudgment interest, unless the period for filing a notice of appeal on the underlying judgment has not yet expired.

(B) Notwithstanding Rule 203, the pendency of an appeal shall not divest the trial court of jurisdiction to consider

the matters of costs and attorney's fees pursuant to Civil Rules 79 and 82 or AS 23.30.008(d).

* * * *

(b) **Appeal—How Taken.** A party may appeal from a final order or judgment by filing a notice of appeal with the clerk of the appellate courts. The notice of appeal must identify the party taking the appeal, the final order or judgment appealed from, and the court to which the appeal is taken. The party must file the original and one copy of the notice of appeal accompanied by the original and one copy of the documents listed below:

(1) a completed docketing statement in the form prescribed by these rules, which includes a list of the parties to the appeal;

(2) a copy of the final order or judgment from which the appeal is taken and, if the order is a partial final judgment entered under Civil Rule 54(b), the Civil Rule 54(b) order;

* * * *

(g) **Parties to the Appeal.** All parties to the trial court proceeding when the final order or judgment was entered are parties to the appeal. A party who files a notice of appeal, whether separately or jointly, is an appellant under these rules. All other parties are deemed to be appellees, regardless of their status in the trial court, unless otherwise ordered by the court. An appellee may elect at any time not to participate in the appeal by filing and serving a notice of non-participation. The filing of a notice of non-participation shall not affect whether the party is bound by the decision on appeal.

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2. Appellate Rule 212 is amended to read as follows:

Rule 212. Briefs.

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(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, whether the judgment is final and disposes of all claims by all parties or whether it is a partial final judgment entered under Civil Rule 54(b), and the legal authority of the appellate court to consider the appeal.

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DATED: July 21, 2011

EFFECTIVE DATE: October 14, 2011

/s/
Chief Justice Carpeneti

/s/
Justice Fabe

/s/
Justice Winfree

/s/
Justice Christen

/s/
Justice Stowers