

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 468

Amending Subparagraph (h)(4) and Paragraph (k) of Rule 72, Alaska Rules of Civil Procedure, Relating to Attorney's Fees in Condemnation Cases.

IT IS ORDERED:

1. Subparagraph (4) of paragraph (h) of Rule 72, Alaska Rules of Civil Procedure, is amended to read:

(4) Appeal and Trial De Novo. [A PARTY WHO HAS APPEARED OR ANSWERED BEFORE THE FILING OF A MASTER'S REPORT MAY APPEAL WITHIN TEN (10) DAYS AFTER BEING SERVED WITH NOTICE OF THE FILING OF THE MASTER'S REPORT.] The plaintiff may appeal within ten (10) days after being served with notice of the filing of the master's report. Any defendant who has appeared or answered before the filing of a master's report may appeal within fifteen (15) days after being served with notice of the filing of the master's report. Any other interested person desiring to appeal from a master's report must take his appeal within [TEN (10)] fifteen (15) days after the filing of such report.

2. Paragraph (k) of Rule 72, Alaska Rules of Civil Procedure, is amended to read:

(k) Costs. Costs and attorney's fees incurred by the defendant shall not be assessed against the plaintiff, unless:

(1) the taking of the property is denied; or

(2) the plaintiff appeals from the allowance of the master and the defendant does not appeal; or

[2](3) the award of the court was at least ten (10) percent larger than the amount deposited by the condemning authority or the allowance of the master from which an appeal was taken by the defendant; or

[3](4) the action was dismissed under the provisions of [SUBDIVISION] paragraph (i) of this rule; or

[4](5) allowance of costs and attorney's fees appears necessary to achieve a just and adequate compensation of the owner.

Attorney's fees allowed under this
[SUBDIVISION] paragraph shall be commensurate
with the time committed by the attorney to the
case throughout the entire proceedings.

DATED: May 7, 1981

EFFECTIVE: June 1, 1981

/s/ Jay A. Rabinowitz
Chief Justice

/s/ Roger G. Connor
Justice

/s/ Edmond W. Burke
Justice

/s/ Warren W. Matthews
Justice

/s/ Allen T. Compton
Justice

cc: as usual