

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 745

Amending District Court Civil
Rule 17 to provide for judgments
when there are multiple claims
or parties and to provide for
dismissal for lack of prosecution

IT IS ORDERED:

1. Paragraphs (d), (e), (f), (g) and (i) of District Court Civil Rule 17 are renumbered to (g), (h), (i), (j) and (l), respectively.

2. New paragraphs (d), (e) and (f) are added to District Court Civil Rule 17 as follows:

(d) When more than one claim for relief is presented in an action, whether as a claim, counterclaim, cross-claim, or third-party claim, or when multiple parties are involved, the court may direct the entry of a final judgment as to one or more but fewer than all of the claims or parties only upon an express determination that there is no just reason for delay and upon an express direction for the entry of judgment. In the absence of such determination and direction, any order or other form of decision, however designated, which adjudicates fewer than all of the claims or the rights and liabilities of fewer than all the parties shall not terminate the action as to any of the claims or parties, and the order or other form of decision is subject to revision at any time before the entry of judgment adjudicating all the claims and the rights and liabilities of all the parties.

(e) A default judgment shall not be different in kind from or exceed in amount that prayed for in the demand for judgment. Except as to a party against whom a default judgment is entered, every final judgment shall grant the relief to which the party in whose favor it is rendered is entitled, even if the party has not demanded such relief in his pleadings.

(f) Actions which have been pending before the court for more than six months without any proceedings taken may

be dismissed for want of prosecution or by the court on its own motion or on motion of a party to the action. Before such a dismissal is granted, a notice shall be sent to the parties to show cause in writing why the action should not be dismissed. If good cause is not shown within 33 days of the mailing of this notice, the action may be dismissed.

3. District Court Civil Rule 17(h) is renumbered 17(k) and amended to provide:

The court or the clerk may order a money judgment payable in installments and stay levy of execution upon stipulation of the parties. In the event the judgment is ordered payable in installments, it shall bear interest as provided by law. If the terms of a judgment made payable in installments are violated, execution may issue for the balance of the judgment remaining unpaid.

DATED: August 28, 1986

EFFECTIVE DATE: December 15, 1986

Chief Justice Rabinowitz

Justice Burke

Justice Matthews

Justice Compton

Justice Moore