

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1440

Amending Appellate Rules 503 and 508
concerning motions for reconsideration

IT IS ORDERED:

1. Appellate Rule 503(e)-(h) is amended to read as follows:

Rule 503. Motions.

(e) Motions Determined by the Clerk.

Routine, unopposed motions may be ruled upon by the clerk without reference referral to the court or a an individual judge or justice or the full court. Routine Mmotions for extensions of time for filing briefs may be ruled upon by the clerk pursuant to Appellate Rule 503.5. ~~A party who is aggrieved by the decision of the clerk on a motion may file a motion for reconsideration of the clerk's order, which motion will be determined by an individual justice or judge.~~ The clerk may not determine a motion to extend the time for filing a notice of appeal, petition for review, petition for rehearing, or petition for hearing. The clerk may not determine a motion for extension of time to file a document if the time period specified in these rules for filing the document, including any previous extensions, has already expired when the motion is filed. The clerk has the discretion to refer motions that may be determined by the clerk to an individual justice or judge for decision.

(f) Motions Determined by an Individual Justice or Judge. Any motions not described in paragraph (g), ~~which would not have the effect of determining the merits of a proceeding, and which is not~~

~~appropriate for determination by the clerk, may be determined by an individual justice or judge without reference~~ referral to the full court. ~~Motions shall be referred to justices and judges by the clerk under the direction of the court.~~ A justice or judge has the discretion to refer such a motion for ~~decision by~~ to the full court for decision.

(g) **Motions Determined by Full Court.** A motion ~~which~~ that would have the effect of determining the merits of a proceeding, ~~a motion for reconsideration of an order entered by an individual justice or judge,~~ or a motion referred to the full court by a justice or judge, shall be considered by the full court. An individual justice or judge may, in connection with such a motion, enter such orders as may be necessary to prevent irreparable harm prior to the time that the full court is able to consider the motion.

(h) **Motions for Reconsideration.**

(1) Filing. A party who is aggrieved by an order ~~on a motion~~ may move for reconsideration of the order. A motion for reconsideration must be filed within ten days after the date of notice of the order, as defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c).

(2) Determination. Motions for reconsideration under this rule shall be determined as follows:

(A) a motion for reconsideration of an order entered by the clerk under subparagraph (e) shall be determined by an individual justice or judge;

(B) a motion for reconsideration of an order

entered by an individual justice or judge under subparagraph (f) shall be determined by the full court; and

(C) a motion for reconsideration of an order entered by the full court under subparagraph (g) shall be determined by the full court.

(3) Response. The non-moving party may respond to a motion for reconsideration to be determined under subparagraphs (h)(2)(A) or (h)(2)(B) by filing an opposition within seven days after the motion is served. No response may be made to a motion for reconsideration of an order entered by the full court to be determined under subparagraph (h)(2)(C) unless requested by the court, but a motion for reconsideration will ordinarily not be granted in the absence of such a request. without affording the non-moving party an opportunity to respond.

2. The following use note shall be added to the base of Appellate Rule 503:

Note: See Appellate Rule 508(f)(2) for motions for reconsideration of orders awarding costs or attorney's fees under Appellate Rule 508.

3. Paragraph (f) of Appellate Rule 508 is amended to read as follows:

(f) **Procedure.**

(1) *Bill of Costs.* At the time an opinion or an order under Rule 214 is filed, the clerk shall notify the party or parties entitled to recover costs under subsections

(b) and (c) of this rule. That party or parties shall serve and file an itemized and verified bill of costs within 10 days after the date of notice of the opinion or order. Date of notice is defined in Civil Rule 58.1(c). The bill of costs shall be limited to the items specified in subsection (d) of this rule. Failure to file a timely bill of costs is a waiver of the right to recover costs. Objections to the bill of costs may be filed within 7 days after service of the bill. Promptly after expiration of the time for filing objections, the clerk shall issue an itemized award of costs. A hearing on the bill of costs shall not be held unless requested by the clerk. The clerk may not delegate to a deputy clerk the authority to award costs in cases in which objection is filed, except with the approval of the chief justice. Return of the record shall not be delayed pending the award of costs.

(2) Reconsideration. ~~Promptly after expiration of the time for filing objections, the clerk shall issue an itemized award of costs.~~ A party aggrieved by the clerk's action in an order awarding costs under subsection (f)(1) of this rule or an order awarding attorney's fees under subsection (e) of this rule may file a motion for reconsideration ~~of the clerk's award, which motion~~ within ten days after the date of notice of the order. The non-moving party may file a response within seven days after service of the motion. Reconsideration of an award of costs or attorney's fees under (f)(1) or (e) will be determined by an individual justice or judge. Full court reconsideration of such individual justice's or judge's decision may be sought pursuant to Appellate Rule

~~503(b). A hearing on the bill of costs shall not be held unless requested by the clerk. The clerk may not delegate to a deputy clerk the authority to award costs in cases in which objection is filed, except with the approval of the chief justice. Return of the record shall not be delayed pending the award of costs.~~

(3) Rehearing. If a timely petition for rehearing is filed, the clerk shall not award costs until the court has disposed of the case on rehearing. Supplemental or amended bills of costs may not be filed after disposition of a petition for rehearing unless requested by the court.

DATED: May 24, 2001

EFFECTIVE DATE: October 15, 2001

/s/
Chief Justice Fabe

/s/
Justice Matthews

/s/
Justice Eastaugh

/s/
Justice Bryner

/s/
Justice Carpeneti