

**IN THE SUPREME COURT OF THE STATE OF ALASKA**  
**ORDER NO. 1659**

Amending Appellate Rule  
210(a), (b), (c) and (i)  
concerning the record on  
appeal, and

Amending Appellate Rule 212(c)  
concerning references in briefs.

**IT IS ORDERED:**

1. Appellate Rule 210 is amended to read as follows:

**Rule 210. Record on Appeal.**

(a) **Composition of Record.** The record on appeal consists of the entire trial superior-court file, including the original papers and exhibits filed in the trial superior-court, ~~and~~ the electronic record of proceedings before the trial superior-court, and transcripts, if any, of the trial court proceedings. Except as otherwise ordered by the appellate court, the record does not include documents or exhibits filed after, or electronic records or transcripts of proceedings occurring after, the filing date of the notice of appeal, and does not include transcripts not designated under subsection (b)(1) of this rule unless those transcripts were filed with the trial court prior to the filing date of the notice of appeal. Filings, exhibits, electronic recordings, or transcripts presented to the trial court after the filing date of the notice of appeal may be added to the record on appeal only upon motion pursuant to subsection (i). Material never presented to the trial court may not be added to the record on appeal.

(b) **Preparation of Transcript.**

(1) *Designation of Parts of Record to be Transcribed.*

(A) \* \* \* \*

(B) If a party designates an entire trial or hearing, the party's designation shall include only the nature and dates of the proceeding. If a party designates parts of a trial or hearing, the party's designation shall include the nature and dates of the proceeding, the CD or tape number and log numbers or time where these parts appear [CD (#), at Time 00:00:00 or Tape (#), at Log 00:00:00], and a narrative description of the portions requested. If a party designates a portion of a witness' testimony, it must appear from the party's narrative description that part of the witness' testimony has been omitted.

\* \* \* \*

(2) *Preparation at Public Expense.* The clerk of the appellate trial—courts shall arrange for preparation of the transcript in cases in which the transcript is prepared at public expense. The transcript shall include all parts of the electronic record designated by the parties to the appeal; however, the voir dire examination of jurors and jury instructions shall not be transcribed unless a party has specifically requested these portions of the trial.

\* \* \* \*

(5) *Filing and Distribution.* Upon completion of the transcript, the transcriber shall promptly notify the parties in writing that the transcript has been completed and shall file with the clerk of the appellate trial—courts (i) the original and one copy of the

transcript; and (ii) an electronic version of the transcript in the form and format prescribed by administrative bulletin.

\* \* \* \*

(8) *Statement in Lieu of Transcript.* ~~In the event no stenographic report or electronic recording of the evidence or proceedings at a hearing or trial was made~~ If there is no electronic recording from which a transcript can be prepared, the appellant may prepare a statement of the evidence of proceedings from the best available means, including the appellant's recollection, for use instead of a stenographic or electronically recorded transcript. This statement shall be served on the appellee, who may serve objections or proposed amendments, and shall be submitted to the court from which the appeal is being taken for settlement and approval. As settled and approved, the statement shall be filed with the clerk of that court and transmitted to the appellate court in lieu of a transcript.

(c) **Excerpts of Record.**

\* \* \* \*

(2) *Contents.*

\* \* \* \*

(C) *Portions of the Transcript.* ~~In an appeal to the supreme court, a party~~ Parties may also include in the excerpt selected pages of the transcript that are critical to the appeal.

(d) **RESERVED.**

(e) **Preparation of the Trial Court File.**

(1) *Page Numbering.* Upon receiving the notice of appeal, the clerk of the trial courts shall number the pages of the trial court file record, assembled in accordance with subsection (a) of this rule, in a single consecutive sequence throughout all volumes. Page numbering must be completed within 40 days after filing of the notice of appeal.

\* \* \* \*

(f) **Briefing Schedule.** \* \* \* \*

(g) **Transmission of the Record.** \* \* \* \*

(h) **Several Appeals.** \* \* \* \*

(i) **Power of Court to Correct, Modify, or Supplement.** It is not necessary for the record on appeal to be approved by the trial court or a judge thereof except as provided in subparagraph (b)(8) and in Rule 211, but if any difference arises whether the record truly discloses what occurred in the trial court, the difference shall be submitted to and settled by that court and the record made to conform to that court's decision. If anything material to either party is omitted from the record on appeal by error or accident by court personnel, or is misstated therein, the parties by stipulation, the trial court, or the appellate court, on a proper suggestion or of its own initiative, may direct that the omission or misstatement shall be corrected. All other questions as to the content and form of the record shall be presented to the appellate court. Materials (including filings, exhibits, electronic recordings, or transcripts) filed with the trial court after the filing date of the notice of appeal may be added to the record on appeal only upon motion designating by title, description, and

filing date the materials sought to be added, and are limited to the following:

(1) materials pertaining to attorney's fees, costs, or prejudgment interest;

(2) amended judgments, and all materials pertaining to those judgments;

(3) oppositions or replies responding to, or orders determining, motions that were filed on or before the filing date of the notice of appeal, and materials pertaining to those documents;

(4) any orders listed in Rule 204(a)(3), together with any motions, oppositions, and replies leading to such orders, and any materials pertaining to those documents;

(5) materials to be added to the record upon entry of an order amending or supplementing the points on appeal; and

(6) materials to be added to the record for other good cause found by the appellate court.

On motion in the appellate court, and for cause, an excerpt of record may also be modified or supplemented to correct omissions by counsel.

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

**Rule 212. Briefs.**

\* \* \* \*

**(c) Substantive Requirements.**

\* \* \* \*

(8) *References in Briefs to the Record.*

(A) *References in Cases in Which Excerpts are Prepared.* References in the briefs to parts of the record reproduced in an excerpt shall be to the pages of the excerpt at which those parts appear. The form for references to pages of the excerpt is [Exc. \_\_\_\_ ]. Briefs may reference parts of the record not reproduced in an excerpt. The form for references to pages of the transcript is [Tr. \_\_\_\_ ] and to pages of the trial court file is [R. \_\_\_\_ ]. The form for references to untranscribed portions of the electronic record is [CD (#), at Time 00:00:00 or Tape (#), at Log 00:00:00].

\* \* \* \*

DATED: December 6, 2007

EFFECTIVE DATE: April 15, 2008

/s/  
Chief Justice Fabe

/s/  
Justice Matthews

/s/  
Justice Eastaugh

/s/  
Justice Carpeneti