

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 259

Amending Rules 2(e), 3, 7,
7(a), 7(b), 7(d), 8, 9(b),
9(g), 9(m), 11(a), 11(b)(3),
11(b)(6), 11(b)(9), 11(b)(10),
11(b)(11), 14, 18(a), 19(a),
23(e), 24(b), 24(c), 24(d),
25(a), 27, 29(a), 32(c), 37 -
and 38(b), Rules of Appellate
Procedure

IT IS ORDERED:

Rule 2, Rules of Appellate Procedure is amended by
adding a new section (e) to read:

(e) The clerk has authority to reject a brief or
other paper or document submitted for filing which fails to
conform to the requirements of these rules. Upon the
rejection of a submittal under the authority of this para-
graph, the clerk shall notify the party and, where appropriate,
specify the defect and provide a time for the filing of a
corrected brief, paper or document.

Rule 3, Rules of Appellate Procedure is amended as
follows:

(a) All attorneys duly admitted to practice law
in the State of Alaska are qualified to practice in this court.

(b) On motion to this court, other attorneys may
be permitted to practice in this court pursuant to the pro-
visions of Civil Rule 81(a)(2) and (3).

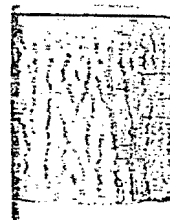
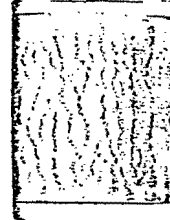
Rule 7(a), Rules of Appellate Procedure is amended
as follows:

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

(1) Appeals. The time within which an appeal
may be taken to the supreme court is 30 days from the entry
of the judgment appealed from.

Whenever the word "judgment" is used in these rules,
it includes an administrative order, unless the context pro-
vides otherwise.

(2) Cross-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 date the first notice of
appeal was filed, or within 30 days from the entry of the
judgment, whichever period expires last.



Rule 7(a) continued.

(3) Extensions of Time in Superior Court. Upon a showing of excusable neglect based on a failure of a party to learn of the entry of judgment, the court from which the appeal is taken may extend the time for appeal for not more than 30 days.

(4) Motions That Terminate Time for Filing Appeal. The running of the time for filing an appeal is terminated by a timely motion filed in superior court pursuant to those rules of civil procedure enumerated in this section and the full time for appeal is computed from the entry of any of the following orders made on timely motions:

[a] granting or denying a motion for judgment under Civil Rule 50(b);

[b] granting or denying a motion to amend or make additional findings of fact under Civil Rule 52(b), whether or not an alteration of the judgment would be required if the motion is granted;

[c] granting or denying a motion to alter or amend a judgment under Civil Rule 59; or

[d] denying a new trial under Civil Rule 59.

(5) Effect of Taxing of Costs and Prejudgment Interest. The running of the time for filing an appeal is not terminated by proceedings relating to the taxing of costs pursuant to Civil Rule 79 or while awaiting calculation of prejudgment interest. However, the Statement of Points on Appeal filed pursuant to Appellate Rule 9 may be amended by an appellant or cross-appellant to include the subjects of costs and attorney's fees or prejudgment interest and these subjects will thereafter be considered part of the appeal if covered in the brief of appellant or cross-appellant. If no appeal or cross-appeal is pending, the allowance of costs and attorney's fees or the award of prejudgment interest shall be considered a final judgment subject to separate appeal limited to the subject of costs, attorney's fees or prejudgment interest.

Rule 7(b), Rules of Appellate Procedure is amended as follows:

(b) Notice of Appeal. A party may appeal from a judgment by filing with the court from which the appeal is being taken a notice of appeal in duplicate with sufficient additional copies for all parties. The notice of appeal shall specify the parties taking the appeal, shall designate the judgment or part thereof appealed from, and shall name the court to which the appeal is taken. Notification of the filing of the notice of appeal shall be given by the clerk of the superior court by mailing copies thereof to all the parties to the judgment other than the party or parties taking the appeal, but his failure to do so does not affect the validity of the appeal. The notification to a party shall be given by

mailing a copy of the notice of appeal to his attorney of record or, if the party is not represented by an attorney, then to the party at his last known address. The duplicate notice of appeal shall be forwarded immediately by the clerk of the court whose judgment is being appealed to the clerk of this court. The duplicate notice of appeal sent to this court shall be accompanied by a copy of the judgment from which the appeal is taken.

Failure of the appellant to take any of the further steps to secure the review of the judgment appealed from does not affect the validity of the appeal, but is ground only for such remedies as are specified in these rules, or, when no remedy is specified, for such action as the supreme court deems appropriate, which may include dismissal of the appeal.

Rule 7(d), Rules of Appellate Procedure is amended as follows:

(d) Supersedeas Bond. Whenever an appellant entitled thereto desires a stay on appeal, he may present to the superior court for its approval a supersedeas bond which shall have such surety or sureties as the court requires. The bond shall be conditioned for the satisfaction of the judgment in full together with costs and interest, if for any reason the appeal is dismissed or if the judgment is affirmed, and to satisfy in full such modification of the judgment and such costs and interest as the supreme court may adjudge and award. When the judgment is for the recovery of money not otherwise secured, the amount of the bond shall be fixed at such sum as will cover the whole amount of the judgment remaining unsatisfied, costs on the appeal, and interest, unless the court after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond. When the judgment determines the disposition of the property in controversy as in real actions, replevin, and actions to foreclose mortgages or when such property is in the custody of the marshal or state police or when the proceeds of such property or a bond for its value is in the custody or control of the court, the amount of the supersedeas bond shall be fixed at such sum only as will secure the amount recovered for the use and detention of the property, the cost of the action, costs on appeal, and interest, unless the court after notice and hearing and for good cause shown, fixes a different amount or orders security other than the bond.

Rule 7, Rules of Appellate Procedure is amended by adding a new subsection (g) to read:

(g) Joint or Consolidated Appeals. If two or more persons are entitled to appeal from a judgment or order of a court and their interests are such as to make joinder practical, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the supreme court upon its own motion or upon motion of a party, or by stipulation of the parties to the appeals.

Rule 8, Rules of Appellate Procedure is repealed and replaced as follows:

Rule 8. Stays.

The supreme court or a justice of the supreme court may stay the enforcement or effect of the judgment appealed from or the proceedings in the court below upon such terms as to bond or other matters as may be proper. Application for a stay to this court or a justice of this court normally will not be entertained unless application has first been made to the court below and has been denied, or unless the security offered below has been disappointed.

Rule 9(b), Rules of Appellate Procedure is amended as follows:

(b) Transcript. If there is to be included in the record on appeal any evidence or proceedings that were stenographically reported or electronically recorded, the appellant shall incorporate in his designation a description in the best practical manner of the particular parts of the evidence or proceedings to be included. At the time of filing the request for the preparation of the transcript, the appellant shall state the type of proceedings and the number of days of trial involved. Appellant shall also deposit with the clerk of the trial court the following amounts at the time of filing the request for preparation of transcripts:

If the number of trial dates listed on the request is	Then deposit is
1 or not applicable -----	\$ 150.00
2 -----	300.00
3 -----	450.00
4 -----	600.00
5 -----	750.00
6 -----	900.00
7 or more -----	1,000.00
unspecified (e.g., request for entire proceedings) -----	750.00

When a cross-appeal is filed and additional transcript is requested by the cross-appellant, the cross-appellant shall deposit the amount per trial date requested as set out above in the schedule, but in no case less than \$150.00 for the additional transcript.

If the cost of preparation of the requested transcript exceeds the deposit made by appellant or cross-appellant, the supervisor of the transcript department shall notify the parties in writing of the additional amount required. If the amount is not paid within 30 days from the date of the notification, the appeal may be dismissed by the superior court on its own motion or upon motion of a party to the appeal. If the cost of preparation of the requested transcript is less than the deposit made by appellant or cross-appellant, the excess amount of the deposit shall be refunded by the supervisor of the transcript department.

Rule 9(b) continued.

If the appellant's designation includes only part of the evidence or proceedings, the appellee, in his designation referred to in subdivision (a) of this rule, shall in like manner designate such additional parts thereof as he desires to have added. If it is impractical to describe with precision those portions which the parties desire to have included in the record on appeal, amended or supplemental designations may be filed at the time a transcript has been prepared.

The request for the preparation of a transcript shall be:

- 1) in writing;
- 2) served on the other parties to the appeal;
- 3) accompanied by proof of service; and
- 4) filed in duplicate with the clerk. The duplicate copy shall be forwarded immediately by the clerk to the clerk of the supreme court.

If a copy of the transcript or of the necessary portions thereof is already on file, the appellant shall not be required to file any additional copies.

All transcripts shall be in typewritten form upon paper 8 1/2 x 11 inches, bound on the left-hand margin, and shall be indexed.

Rule 9(g), Rules of Appellate Procedure is amended as follows:

(g) Time for Completion of Record: Filing. The preparation of the record on appeal shall be completed within 40 days from the date of filing the notice of appeal. After completion, the record shall be retained in the clerk's office for a length of time sufficient to permit the preparation of briefs in accordance with Rule 11, and shall be filed with the supreme court at a time designated by the clerk of that court. Upon motion and notice, the clerk of the supreme court may extend the time for the completion of the record on appeal, but in no event may the additional period of time exceed 50 days.

Rule 9(m), Rules of Appellate Procedure is amended as follows:

(m) Transfer of Record on Appeal. If it is impractical for Alaska counsel for a party to prepare his brief because he resides in a judicial district other than the district where the record on appeal is situated, the clerk of the supreme court may direct the transfer of the record for the accommodation of counsel in the preparation of briefs.

Rule 11(a), Rules of Appellate Procedure is amended as follows:

(a) Time for Serving and Filing Briefs. The appellant shall serve and file his brief within 30 days after notice of filing of the record has been mailed. The appellee shall serve and file his brief within 30 days after service of the brief of the appellant. The appellant may serve and file a reply brief within 20 days after service of the brief of the appellee. At the time a brief is filed with the supreme court, it must be accompanied by proof of service on all other parties except when more than four parties are required to be served, in which case all briefs shall be filed with the supreme court and service shall be accomplished by the clerk of that court.

Rule 11(b)(3), Rules of Appellate Procedure is amended as follows:

(b) Briefs.

(3) Reply Brief. The appellant may file a brief in reply to the brief of the appellee, and if the appellee has cross-appealed and has not filed a single brief under (b)(6) of this rule, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except with leave of the court.

Rule 11(b)(6), Rules of Appellate Procedure is amended as follows:

(b) Briefs.

(6) Briefs in Cases Involving Cross-Appeals.

[a] Cross-Appellant. An appellee who is also a cross-appellant may elect to file a single brief that both discusses his claims of error and answers the original appellant. The single brief shall be filed on the date appellee's brief is due. The single brief shall be divided into two sections: the first section shall contain the issues and arguments involved in the cross-appeal and shall be prepared in accordance with (b)(1) of this rule; the second section shall contain the answer to the brief of the appellant and shall be prepared in accordance with (b)(2) of this rule. If the cross-appellant elects to file a single brief, the right to file a reply brief to the answer to the cross-appeal is waived. If the cross-appellant does not elect to file a single brief, the schedule and form for filing briefs in the cross-appeal shall be in accordance with the procedures for an original appeal.

[b] Cross-Appellee. If the cross-appellant files a single brief, appellant, as cross-appellee, may reply thereto in a separate section of his reply brief.

Rule 11(b)(9), Rules of Appellate Procedure is amended as follows:

(b) Briefs.

(9) Brief of an Amicus Curiae. A brief of an amicus curiae may be filed only if accompanied by written consent of all the parties, or by leave of the court granted on motion, or at the request of the court. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an amicus curiae is desirable. Unless all parties otherwise consent, any amicus curiae shall file its brief within the time allowed to the party whose position as to affirmance or reversal the amicus brief will support unless the court for cause shown shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. The brief shall be in the form prescribed by this rule and shall be duplicated and served by the clerk, unless otherwise ordered. A motion of an amicus curiae to participate in the oral argument will be granted only for extraordinary reasons.

Rule 11(b)(10), Rules of Appellate Procedure is amended as follows:

(b) Briefs.

(10) Failure to File Briefs. When the brief for appellant is not filed as required, the court may forthwith, on its own motion or on motion of appellee, take appropriate action, which may include dismissal of the appeal. The authority to dismiss an appeal under this section may be exercised by the clerk of court. When the brief is not filed as required, appellee will not be heard on the argument except on consent of his adversary, or by request of the court.

Rule 11(b)(11), Rules of Appellate Procedure is amended as follows:

(b) Briefs.

(11) Defective Briefs. When a brief fails to comply with the requirements of these rules, this court, on application of any party or on its own motion, and with or without notice as it may determine, may:

(1) order the brief to be returned to counsel for correction by interlineation, cancellation, revisions or replacement in whole or in part, and to be refiled with the clerk within a time specified in the order; or

(2) order the brief stricken from the files, with leave to file a new brief within a specified time; or

(3) disregard defects and consider the brief as if it were properly prepared. The authority to return briefs under this section may be exercised by the clerk of court pursuant to Appellate Rule 2(e).

Rule 14, Rules of Appellate Procedure is amended
as follows:

(a) What to Include: Service. Each motion or application to the court must be filed with the court and shall be served on all adverse parties unless otherwise provided by Appellate Rule 37. The original typewritten copy of the motion or other application shall be filed with the court and shall be prepared in conformity with Appellate Rule 12. There shall be filed and served with the motion or other application:

(1) a brief, complete statement of the reasons in support of the motion or other application;

(2) an affidavit where the facts relating to the motion are not otherwise proven;

(3) the points and authorities on which the moving party relies; and

(4) an appropriate order for execution by the court should the motion be granted.

(b) Opposition to Motion: Disposition. Except as otherwise allowed under Appellate Rule 37, adverse parties have seven days after service of a motion within which to file and serve memoranda in opposition, counter motions and affidavits. As soon as practical after expiration of the seven-day period, the court will consider the motion. A reply memorandum may not be filed by the moving party unless otherwise ordered. Oral argument will not be heard on motions unless otherwise ordered. Motions for reconsideration of orders granting or denying motions will be accepted only on a showing of good cause.

(c) Unopposed Motions. Routine, unopposed motions may be presented to and determined by the clerk without reference to the court. If a motion presented to the clerk under this subsection is denied, the motion may be resubmitted for the consideration of a single justice pursuant to Appellate Rule 37(a) or for the consideration of the full court.

Rule 18(a), Rules of Appellate Procedure is amended
as follows:

(a) Waived Unless Requested. Unless one of the parties to an appeal makes a written request to this court for oral argument, the court will consider that the case has been submitted for determination on the briefs. Requests for oral argument of cases on appeal shall be summarily granted. When request has been made by one party, the right to oral argument shall extend to all parties. The original of such written request, accompanied by proof of service on all parties, shall be made not later than 40 days after the filing of appellant's brief.

Rule 19(a), Rules of Appellate Procedure is amended
as follows:

(a) Notice of Appeal. A party may appeal from a judgment by filing with the court from which the appeal is being taken a notice of appeal in duplicate with sufficient additional copies for all parties. The notice of appeal shall:

- 1) specify the parties taking the appeal;
- 2) designate the judgment or part thereof appealed from; and
- 3) name the court to which the appeal is taken.

Notification of the filing of the notice of appeal shall be given by the clerk of the superior court by mailing copies thereof to all the parties to the judgment other than the party or parties taking the appeal, but his failure to do so does not affect the validity of the appeal. The notification to a party shall be given by mailing a copy of the notice of appeal to his attorney of record, or if the party is not represented by an attorney, then to the party at his last known address. The duplicate notice of appeal shall be forwarded immediately by the clerk of the court whose judgment is being appealed, to the clerk of this court. The duplicate notice of appeal sent to this court shall be accompanied by a copy of the judgment from which the appeal is taken.

Failure of the appellant to take any of the further steps to secure the review of the judgment appealed from does not affect the validity of the appeal, but is ground only for such remedies as are specified in these rules, for such action as the supreme court deems appropriate, which may include dismissal of the appeal.

Rule 23(e), Rules of Appellate Procedure is amended
as follows:

(e) Where postponement of review until normal appeal may be taken from a final judgment will result in injustice because of impairment of a legal right, or because of unnecessary delay, expense, hardship or other related factors.

Relief, heretofore available by writs of review, certiorari, mandamus, prohibition, and other writs necessary or appropriate to the complete exercise of this court's jurisdiction, may be obtained by petition for review, and the procedure for obtaining such relief shall be as prescribed in Part VI of these rules.

Rule 24(b), Rules of Appellate Procedure is amended
as follows:

(b) Filing. A petition from an interlocutory order may be sought by filing an original petition and six copies with the clerk of the supreme court within ten days after the entry of such order in the superior court, along with proof of service on all parties to the action in the superior court or district court. The court may require

Rule 24(b) continued.

that additional copies be furnished. A justice of this court, for good cause shown, may extend the time for filing in such cases for an additional period of ten days. A notice of review need not be filed with the superior court. When a petition is filed under this rule, any other party may file a cross-petition for review from the same order. Cross-petitions must be filed within five days from service of the petition for review.

Rule 24(c), Rules of Appellate Procedure is amended as follows:

(c) Contents of Petition or Cross-Petition and Answers. The petition or cross-petition shall contain a:

- (1) statement of fact necessary to an understanding of the controlling question of law determined by the order or decision of the superior court;
- (2) statement of the question itself, and
- (3) statement of the reasons why a substantial basis exists for a difference of opinion on the question, and why an immediate appeal may materially advance the termination of the litigation.

Where orders or decisions arising from different cases or proceedings pending in the same court are sought to be reviewed, and where they involve identical or closely related questions, a single petition covering all the cases or proceedings may be filed.

The party seeking review shall be known as the petitioner. All other parties to the proceeding shall be named as respondents. The petition or cross-petition shall not exceed 15 pages in length, exclusive of appendices, and shall include or have annexed thereto, a copy of the order from which appeal is sought showing the date that it was signed or entered, and copies of any findings of fact, conclusions of law and opinion related thereto. Within seven days after service of the petition or cross-petition, an adverse party may file an original and six copies of the answer in opposition. The answer in opposition shall not exceed 15 pages in length, exclusive of appendices. No reply brief will be filed unless ordered by the court. Petitions, cross-petitions and answers shall be prepared in accordance with Appellate Rule 12(b). The application and answer shall be submitted without oral argument unless otherwise ordered. Motions to dismiss a petition or cross-petition will not be received. Objections to the exercise of the discretionary power of the court to grant a petition or cross-petition must be included in memoranda in opposition.

Rule 24(d), Rules of Appellate Procedure is amended as follows:

(d) Procedure When Review Granted. If review is granted by the court, the court may order the petitioner or cross-petitioner to file a bond for costs as required by Appellate Rule 7(c). The court, on request or on its own

Rule 24 (d) continued.

motion, may require that the record in the trial court, or a portion of the record, be filed in this court. If additional briefs are ordered by the court, they shall be prepared and filed as provided in Appellate Rule 11 unless otherwise ordered by the court and shall be served by the clerk of court. If additional briefs are ordered, petitioner shall furnish the clerk with the names and addresses of all parties to be served with the briefs.

Rule 25(a), Rules of Appellate Procedure is amended as follows:

(a) Original Applications for Relief. The granting by this court or a justice thereof on original application of relief heretofore available by writs authorized by law, is not a matter of right but of sound discretion sparingly exercised. The procedure for obtaining such relief shall be as follows:

(1) There must be filed with the court or a justice thereof: [a] such portion of the record and proceedings of the court below as is needed for the purpose of determining whether the relief sought will be granted, and [b] an original and six legible copies of the petition prepared in conformity with Appellate Rule 12(b), accompanied by proof of service where service is required by this rule.

(2) The petition shall set forth with particularity why the relief sought is not available in any other court, or cannot be had through appellate processes of appeal or petition for review.

(3) Except as provided in paragraph (6) of this rule, the petition shall be served on opposing parties and when filed shall be accompanied by proof of service. If the petitioner seeks relief heretofore available by writ of prohibition or mandamus or both in the alternative, it shall be served on the persons to whom the order granting relief is sought to be directed, and in addition, shall be served on every other party to the proceedings in respect of which relief is desired.

(4) Unless otherwise ordered by the court or a justice thereof, each respondent shall have seven days after service of the petition upon him within which to serve and file an original and six legible copies of a memorandum in opposition prepared in conformity with Appellate Rule 12(b). When such memorandum is filed, it shall be accompanied by proof of service.

(5) Timely reply or supplemental memoranda will be considered, but a determination of the matter will not be delayed pending the filing of such memoranda.

(6) If the petition seeks issuance of a writ of habeas corpus, it shall comply with the requirements of statutes relating to habeas corpus, and shall state the reason for not making application to the superior court. The petition shall also specifically set forth how and wherein the petitioner has exhausted all other remedies available to him by law or rule. Proceedings under this paragraph (6) shall be ex parte, unless the court or a justice thereof otherwise orders.

Rule 25(a) continued.

(7) A motion to dismiss a petition will not be received. Objections to the exercise of the discretionary power of the court to grant a petition must be included in the memorandum in opposition.

(8) As soon as practical after the time has expired for filing a memorandum in opposition to an original application, the matter shall be considered by the court, and unless otherwise ordered, without oral argument. If the court or a justice thereof orders the cause set for argument, the parties will be notified whether additional briefs or memoranda are required, when they must be filed, and how much time has been allotted for oral argument.

(9) The preparation, and service of all original applications and memoranda shall be governed by Appellate Rule 12(b).

Rule 27, Rules of Appellate Procedure is amended as follows:

(a) Grounds for Petition. The court may order a rehearing of a matter previously decided if, in reaching its decision:

(1) the court has overlooked, misapplied or failed to consider a statute, decision or principle directly controlling; or

(2) the court has overlooked or misconceived some material fact or proposition of law; or

(3) the court has overlooked or misconceived a material question in the case.

A rehearing will not be granted if it is sought merely for the purpose of obtaining a reargument on and reconsideration of matters which have already been fully considered by the court.

(b) Time for Filing: Form of Petition. An original copy of a petition for a rehearing must be filed within ten days after the filing of the opinion or other decision. The petition must be supported by certificate of counsel that in his judgment it is well founded and that it is not interposed for delay. The petitioner shall specifically state which of the above grounds for rehearing exists, and shall specifically designate that portion of the opinion, the brief, the record, or particular authority which the petitioner wishes the court to consider. The petition shall be prepared in conformity with Appellate Rule 12(b) and when filed shall be accompanied by proof of service on all parties. No petition for rehearing shall exceed three typewritten pages. No memoranda or briefs in support of or in opposition to a petition for rehearing shall be received unless requested by the court.

Rule 37 continued.

(10) for dismissal under Appellate Rule 32;

(11) to extend the time allowed for filing a designation of record or a statement of points on appeal; and

(12) motions relating to other routine matters of similar nature.

All motions presented under this rule must be prepared in accordance with Appellate Rule 12 and shall be accompanied by a form of order for the relief sought and the other papers required by Appellate Rule 14.

(b) Routine Motions: Extensions of Time. The first motion for an extension of time to file a brief or a petition for review, cross-petition for review, memorandum in opposition or a petition for rehearing or other document may be presented to and determined by an individual justice without notice to other parties if the requested extension of time is for cause shown and does not exceed 20 days. All other motions for extension of time to file must conform with (d) of this rule. However, additional extensions are not encouraged and will be only reluctantly granted for cause shown. A motion for extension of time must include a list of each extension previously granted and the length of each extension.

(c) Routine Motions: Excessive Pages. A motion to file a brief or petition for review or cross-petition for review, memorandum in opposition, petition for rehearing or other document with an excessive number of pages may be presented to and determined by an individual justice without notice to other parties.

(d) Other Routine Motions. Other routine motions presented to an individual justice under this rule shall be served on all adverse parties and when a motion is filed it must be accompanied by proof of service.

(e) Applications to Clerk. Unopposed motions and motions filed without notice pursuant to this rule may also be determined by the clerk of court in accordance with the provisions of Appellate Rule 14(c).

(f) Other Cases. An individual justice may issue orders to show cause, grant stays and any orders in relation thereto, issue writs of habeas corpus, and determine other matters which may be properly considered by him.

(g) Oral Argument. Unless otherwise ordered, a motion presented to an individual justice shall be determined without oral argument.

(h) Reference to Court. A motion submitted to an individual justice or to the clerk of court may be submitted by a justice or clerk to the court for determination.

Rule 29(a), Rules of Appellate Procedure is amended
as follows:

(a) Dismissal or Denial. If an appeal is dismissed or petition denied by this court, costs shall not be allowed to the appellee or respondent, unless otherwise ordered by the court.

Rule 32(c), Rules of Appellate Procedure is amended as follows:

(c) Dismissal by Appellant or Petitioner.

(1) Whenever an appellant or petitioner in this court, by his attorney of record, shall file with the clerk of this court a motion to dismiss a proceeding to which such appellant or petitioner is a party, with proof of service as prescribed by these rules, and shall tender to the clerk any fees and costs that may be due, the adverse party, within seven days after service thereof, may file an objection, after which time the matter shall be determined by the court.

(2) If no objection is filed, the clerk shall enter an order of dismissal without further reference to this court.

Rule 37, Rules of Appellate Procedure is amended as follows:

(a) Routine Motions: Generally. The following motions may be presented to and determined by an individual justice without reference to the court:

- (1) to extend or shorten time for filing briefs, petitions for review, motions, records or other papers;
- (2) to file briefs or petitions or memoranda with excess number of pages;
- (3) to correct clerical and other technical errors in the record and in documents filed in the court;
- (4) to supplement the statement of points on appeal;
- (5) to supplement the designation of record before the record is certified;
- (6) to strike a portion of the designation of record before the record is certified;
- (7) to withdraw as an attorney of record in civil matters;
- (8) to expedite briefing schedules;
- (9) to file reply briefs or memoranda in addition to those allowed by these rules;


Rule 38(b), Rules of Appellate Procedure is amended as follows:

(b) Extensions of Time. When by these rules or by a notice given thereunder or by order of the court an act is required or allowed to be done at or within a specified time, this court for cause shown may at any time in its discretion (1) with or without motion or notice order the period enlarged if request therefore is made before the expiration of the period originally prescribed or as extended by a previous order, or (2) upon motion made after the expiration of the specified period, permit the act to be done where the failure to act was the result of excusable neglect. Motions for extension of time to file documents must be made in accordance with Appellate Rule 37(b).

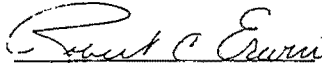
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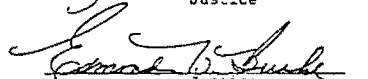
DATED: September 15, 1976


Chief Justice


Justice


Justice


Justice


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