

IN THE SUPREME COURT FOR THE STATE OF ALASKA

ORDER NO. 883

Adopting Appellate Rule 512.5 concerning confidentiality of appellate pleadings and making corresponding amendments in Appellate Rules 210(f)(7) and (9).

IT IS ORDERED:

1. A new Appellate Rule 512.5 is adopted to provide:

Appellate Rule 512.5. Public Documents.

(a) Records on Appeal. A record on appeal is open to public inspection except that papers filed under seal in the trial court, recordings or transcripts of closed hearings held in the trial court, and exhibits submitted or introduced at closed hearings in the trial court, will be maintained under seal while they constitute part of a record on appeal.

(b) Other Papers.

(1) Papers filed in the appellate courts, other than records on appeal, shall be open to public inspection unless the appellate court in which the case is pending otherwise orders, or except as hereafter provided in this subparagraph.

If the trial court has restricted disclosure of information, and it is necessary to refer to that information in an interlocutory petition or application to an appellate court, the trial court may order that the petition or application be filed under seal. Pursuant to such an order, the petition or application shall remain under seal until the close of business on the fifth business day after it is filed, unless the appellate court otherwise orders. If during that 5-day period a motion

to maintain the document under seal is filed in the appellate court, paragraph (b)(4) of this rule will apply.

(2) Counsel in appellate matters arising out of closed proceedings in the trial courts shall, wherever possible, avoid the use of full names of parties or other detailed identifying information in briefs, motions, and other papers filed with the appellate courts. Descriptive terms ("the oldest daughter," "the prospective adoptive father"), pseudonyms ("Jane Doe"), first names or initials should be used instead.

(3) A motion to file a paper under seal in the appellate court, the response to such a motion, and the order ruling on such a motion, are open to public inspection and shall not themselves be filed under seal. The motion must explain why the procedure described in subparagraph (b)(2) of this rule could not be used and will only be granted for good cause shown. A motion to file a paper under seal, whether or not opposed, is not a "routine" motion within the meaning of Rule 503(e).

(4) A paper may be lodged with the court along with a motion to file it under seal. Unless the court otherwise orders, it is not open to public inspection while the motion to file it under seal is pending. If the motion is denied, and the paper has been lodged along with the motion, the movant has the option of withdrawing the paper or leaving it on file open to public inspection.

(c) General Provisions.

(1) Papers filed under seal in the appellate courts may be examined or copied only by counsel of record in the case, their agents or employees designated by them, and those personnel of the Alaska Court System having need to examine the papers in the performance of their duties.

(2) If further restrictions are ordered for good cause (for example, privileged material to which counsel for one party but not the other are entitled to access), the clerk of the appellate courts shall enforce those restrictions, including restrictions placed by the trial court upon materials filed with the trial court and included in the record on appeal.

(3) A paper shall not be withheld from public inspection because other papers included in the same case file or the same record on appeal have been filed under seal and are not open to public inspection.

2. Appellate Rule 210(f) is amended to add a new paragraph (9):

(9) Papers filed under seal in the trial court, recordings or transcripts of closed hearings held in the trial court, and exhibits submitted or introduced at closed hearings in the trial court, must be included in the record on appeal if designated by a party or required by these rules to be included. Such papers must be maintained under seal while they constitute part of a record on appeal, and access to them shall be governed by Rule 512.5(c).

3. Appellate Rule 210(f)(7) is amended to provide:

(7) Paragraphs (3), (4), (5), (6), (8), and (9) of this subsection apply to all records on appeal, including supplemental records prepared pursuant to subsection (h) or some other provision of these rules, and including

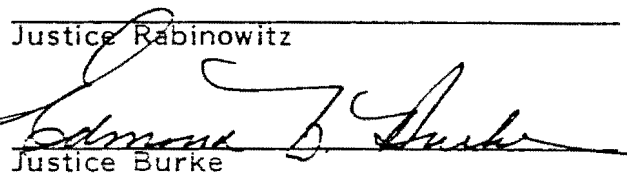
records prepared pursuant to Rule 215(g), 216(f),
217(c), or 218(e).

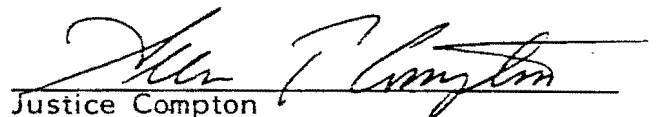
4. The amendments in this order are effective as follows:
- a. Paragraphs (a) and (c) of Rule 512.5, and the amendments to Rule 210(f), apply to all cases pending in the appellate courts on or after July 15, 1988.
 - b. Paragraph (b) of Rule 512.5 applies:
 - (i) To appeals in which the record is certified on or after July 15, 1988;
 - (ii) To all other appellate matters, including petitions, filed in the appellate courts on or after July 15, 1988; and
 - (iii) To any other case in which all counsel, including the guardian ad litem if any, agree in writing that it shall apply.

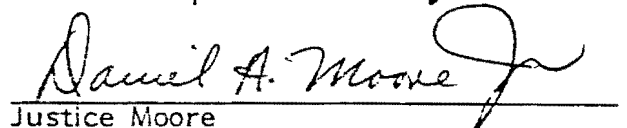
DATED: February 4, 1988

EFFECTIVE DATE: July 15, 1988


Chief Justice Matthews

Justice Rabinowitz

Justice Burke


Justice Compton


Justice Moore