

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1212

Amending Appellate Rules 303,
403, and 404 concerning
petitions for hearing,
petitions for review, and
original applications.

IT IS ORDERED:

1. Subparagraph (1) of Appellate Rule 303(a) is amended to read:

(a) **Filing.**

(1) ~~The A~~ petition for hearing ~~shall~~ must be filed within 15 days after the date of notice of the opinion, order, or memorandum opinion and judgment of the intermediate appellate court. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). The original of the petition shall be filed, together with ~~five~~ eight complete copies, a completed docketing statement in the form prescribed by these rules, and proof of service.

2. Subparagraph (1) of Appellate Rule 403(a) is amended to read:

(a) **Filing.**

(1) *Petitions.*

(A) A petition for review ~~may be~~ instituted by filing an original petition and five legible copies must be filed with the clerk of the appellate courts within 10 days after the date of notice, ~~as defined in Civil~~

~~Rule 58.1(e) and Criminal Rule 32.3(e), of the order or decision of which review is sought, along with proof of service on all parties to the action in the trial court. The court may require that additional copies be furnished. Date of notice is defined in Civil Rule 58.1(c) and Criminal Rule 32.3(c). An appellate judge or justice, for good cause shown, may extend the time for filing. The original of the petition must be filed, together with five legible copies, a completed docketing statement in the form prescribed by these rules, and proof of service on the court from whose order the petition is taken and all parties to the action in that court. The party seeking review shall be known as the petitioner. All other parties to the proceeding shall be named as respondents. A notice of review need not be filed with the trial court.~~

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3. Appellate Rule 404 is amended to read:

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(b) **Procedure.** A party who seeks original relief shall proceed as follows:

(1) ~~There~~ party must ~~be~~ filed with the clerk of the appellate courts an original and five legible copies of the application, together with 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, a completed docketing statement in the form prescribed by these rules, and proof of service. The application must state the precise nature of the relief sought, and why that relief is not available in any other court, or by petition for review or by appeal.

(2) The application ~~shall~~ must be served on all other parties to the proceeding in respect of which relief is sought, ~~and when filed shall be accompanied by proof of service,~~ if the application pertains to a proceeding in a trial court, on the trial court. If the petitioner seeks an order from the appellate court commanding or restraining an act of a person, agency, or tribunal not a party to the proceedings, the ~~petition shall~~ application must also be served on such persons, agencies, or tribunals.

(3) If the application seeks a writ of habeas corpus, it shall comply with the requirements of Civil Rule 86(b), and shall state the reason for not making application to the superior court. The application shall also specifically set forth how the applicant has exhausted all other remedies available by law or rule.

~~(4) If the original application pertains to a proceeding in a trial court, the clerk of the appellate courts shall comply with Rule 403(a)(4).~~

(c) **Response.** Each respondent shall have ten days after service of the application upon the respondent within which to serve and file an original and five legible copies of the response. The court or a judge or justice thereof may, for good cause shown, extend the time for filing. If the application seeks the issuance of a writ of habeas corpus, response shall be made in accordance with Civil Rule 86(g). When the response is filed, it shall be accompanied by proof of service. Replies and supplemental memoranda will not be received unless ordered by the court. A motion to dismiss the application will not be received. Objections to the exercise of the discretionary power of the court must be included in the response.

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(f) Petition for Rehearing. A petition for rehearing of the denial of an original application may not be filed.

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DATED: April 13, 1995

EFFECTIVE DATE: July 15, 1995

/s/
Chief Justice Moore

/s/
Justice Rabinowitz

/s/
Justice Matthews

/s/
Justice Compton

/s/
Justice Eastaugh