

THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 332

Adopting Appellate
Rule 44.1, Relating
to Certification of
Questions of State
Law.

IT IS ORDERED:

The Rules of Appellate Procedure are amended by adding Rule 44.1 to read:

Rule 44.1 CERTIFICATION OF QUESTIONS OF STATE LAW.

(a) The Supreme Court may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or a United States District Court, when requested by the certifying court if there are involved in any proceeding before it questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the supreme court of this state.

(b) This rule may be invoked by an order of any of the courts referred to in Section (a).

(c) A certification order shall set forth

- (1) the questions of law to be answered; and
- (2) a statement of all facts relevant to the questions certified and showing fully the nature of the controversy in which the questions arose.

(d) The certification order shall be prepared by the certifying court, signed by the judge presiding over the cause, and forwarded to the supreme court by the clerk of the certifying court under its official seal. The supreme court may require the certifying court to file the original or copies of all or any portion of the record before the certifying court if, in the opinion of the supreme court, the record or portion

thereof may be necessary in answering the questions.

(e) Notice of the supreme court's decision whether to answer the questions certified to it shall be given to the certifying court by the clerk of the supreme court. Further proceedings, if any, in the supreme court shall be in accordance with the provisions of these rules governing briefs and arguments, unless otherwise ordered by the court.

(f) The written opinion of the supreme court stating the law governing the questions certified shall be sent by the clerk of the supreme court to the certifying court and to the parties. The answer to the certified questions shall be res judicata as to the parties and have the same precedential force as any other appellate decision of the supreme court.

DATE: September 14, 1978

EFFECTIVE DATE: January 1, 1979

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**We would limit the application of this rule to questions of law arising under the Alaska Constitution.